CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, June 14, 2007
10:00am – 1:30pm
CSAC Conference Center, Sacramento

A G E N D A

Presiding: Frank Bigelow, President

10:00am ***PROCEDURAL ITEMS***

1. Roll Call — Page 1

2. Approval of Minutes of March 29, 2007 — Page 3

10:10am ***ACTION ITEMS***

3. Eminent Domain Efforts/Campaign — Page 10
   - *Steve Keil, CSAC Interim Executive Director*
   - *Jean Hurst, CSAC staff*

4. Administration of Justice Policy Committee Report — Page 50
   - *Elizabeth Howard, CSAC staff*

5. Agriculture & Natural Resources Policy Committee Report — Page 64
   - *Supervisor Jeff Morris, Policy Committee Chair*
   - *Karen Keene, CSAC staff*

6. Appointments to California Statewide Communities Development Authority (CSCDA) — Page 65
   - *Norma Lammers, Finance Corporation Executive Director*

11:30pm ***INFORMATION ITEMS***

7. National Assocation of Counties (NACo) Report — Page 67
   - *Supervisor Valerie Brown, NACo 2nd Vice President*

8. Institute for Local Government (ILG) Report — Page 71
   - *JoAnne Speers, ILG Director*

9. CSAC Constitution Revision Task Force Report
   - *Supervisor Rich Gordon, Task Force Chair*

12:00pm ***LUNCH***

12:30pm ***INFORMATION ITEMS (cont.)***

10.	CSAC Finance Corporation Report ▪ *Supervisor Greg Cox, Finance Corp. Board Member* ▪ *Norma Lammers*	Handout
11.	Health Reform Update ▪ *Kelly Brooks, CSAC staff*	Page 73
12.	Proposition 1B and Proposition 42/Spillover Proposal Update ▪ *DeAnn Baker, CSAC staff*	Page 81
13.	State Budget/Legislative Update ▪ *Steve Keil*	
14.	Other Items	

1:30pm ***ADJOURN***

ROSTER

CALIFORNIA STATE ASSOCIATION OF COUNTIES

Board of Directors

2007

Section	County	Director
U	Alameda County	Keith Carson
R	Alpine County	Terry Woodrow
R	Amador County	Louis Boitano
S	Butte County	Curt Josiassen
R	Calaveras County	Merita Callaway
R	Colusa County	Thomas Indrieri
U	Contra Costa County	Federal Glover
R	Del Norte County	David Finigan
R	El Dorado County	James Sweeney
S	Fresno County	Henry Perea
R	Glenn County	Tom McGowan
S	Humboldt County	Roger Rodoni
S	Imperial County	Gary Wyatt
R	Inyo County	Susan Cash
S	Kern County	Jon McQuiston
R	Kings County	Tony Oliveira
R	Lake County	Ed Robey
R	Lassen County	Robert Pyle
U	Los Angeles County	Don Knabe
R	Madera County	Vern Moss
S	Marin County	Susan Adams
R	Mariposa County	Dianne Fritz
R	Mendocino County	Michael Delbar
S	Merced County	Mike Nelson
R	Modoc County	Mike Dunn
R	Mono County	Vikki Magee-Bauer
S	Monterey County	Fernando Armenta
S	Napa County	Brad Wagenknecht
R	Nevada County	Ted Owens
U	Orange County	Pat Bates
S	Placer County	Jim Holmes
R	Plumas County	William Powers
U	Riverside County	John Tavaglione

U	Sacramento County	Roger Dickinson
R	San Benito County	Reb Monaco
U	San Bernardino County	Paul Biane
U	San Diego County	Greg Cox
U	San Francisco City & County	Jake McGoldrick
S	San Joaquin County	Victor Mow
S	San Luis Obispo County	Harry Ovitt
U	San Mateo County	Jerry Hill
S	Santa Barbara County	Joni Gray
U	Santa Clara County	Liz Kniss
S	Santa Cruz County	Tony Campos
S	Shasta County	Glenn Hawes
R	Sierra County	Arnold Gutman
R	Siskiyou County	LaVada Erickson
S	Solano County	Barbara Kondylis
S	Sonoma County	Valerie Brown
S	Stanislaus County	Dick Monteith
R	Sutter County	Larry Munger
R	Tehama County	Bob Williams
R	Trinity County	Jeff Morris
S	Tulare County	Allen Ishida
R	Tuolumne County	Richard Pland
U	Ventura County	Kathy Long
S	Yolo County	Mike McGowan
R	Yuba County	Mary Jane Griego

President: Frank Bigelow, Madera County
First Vice President: Richard Gordon, San Mateo
Second Vice President: Gary Wyatt, Imperial
Immed. Past President: Connie Conway, Tulare County

SECTION: U=Urban S=Suburban R=Rural

1/16/07

MINUTES OF MARCH 29, 2007

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, March 29, 2007
CSAC Conference Center, Sacramento

MINUTES

Presiding: Frank Bigelow, President

1. ROLL CALL

Alameda	Keith Carson	Orange	absent
Alpine	Terry Woodrow	Placer	Jim Holmes
Amador	Louis Boitano	Plumas	William Powers
Butte	absent	Riverside	absent
Calaveras	Merita Callaway	Sacramento	Roger Dickinson
Colusa	absent	San Benito	Reb Monaco
Contra Costa	Federal Glover	San Bernardino	absent
Del Norte	absent	San Diego	Greg Cox
El Dorado	James Sweeney	San Francisco	absent
Fresno	Henry Perea	San Joaquin	absent
Glenn	Tom McGowan	San Luis Obispo	Harry Ovitt
Humboldt	Roger Rodoni	San Mateo	Richard Gordon
Imperial	Gary Wyatt	Santa Barbara	Joni Gray
Inyo	Susan Cash	Santa Clara	Liz Kniss
Kern	absent	Santa Cruz	Mark Stone
Kings	Alene Taylor	Shasta	Glenn Hawes
Lake	absent	Sierra	absent
Lassen	Robert Pyle	Siskiyou	LaVada Erickson
Los Angeles	absent	Solano	Barbara Kondylis
Madera	Bigelow/Moss	Sonoma	Valerie Brown
Marin	Susan Adams	Stanislaus	absent
Mariposa	Dianne Fritz	Sutter	absent
Mendocino	Michael Delbar	Tehama	Bob Williams
Merced	Mike Nelson	Trinity	Jeff Morris
Modoc	absent	Tulare	Conway/Ishida
Mono	Vikki Magee-Bauer	Tuolumne	Richard Pland
Monterey	Fernando Armenta	Ventura	Kathy Long
Napa	Brad Wagenknecht	Yolo	Mike McGowan
Nevada	Ted Owens	Yuba	absent

The presence of a quorum was noted.

2. APPROVAL OF MINUTES

The minutes of February 22, 2007 were approved as previously mailed.

3. PROPOSED CSAC BUDGET FOR FY 2008

Steve Keil presented the proposed CSAC Budget for FY 2008 as contained in the briefing materials. Some highlights/issues include:

- salaries are below budget due to some unfilled staff positions;
- revenues from Finance Corporation are at an all-time high ($2.285 million);
- Corporate Associates revenues are down, but aggressive efforts are planned to elevate membership and sponsorships;
- meetings and magazine budgets took a loss, but magazine is slated for redesign and upgrades;
- $50,000 for Legislative Counsel pilot project;
- Ransohoff building loan pay down of $500,000.

Motion and second to adopt the CSAC Budget for FY 2008 as presented. Motion carried unanimously.

4. PROPOSED LITIGATION COORDINATION PROGRAM BUDGET FOR FY 2007-08

Jennifer Henning, Executive Director of the County Counsels' Association, presented the CSAC Litigation Coordination program budget for 2007-08 as contained in the briefing materials. The budget includes a reduction in certain office-related expenses such as communications and publications, and an increase in retirement, employee group insurance and salaries to better reflect the actual costs of the program.

Motion and second to approve Litigation Coordination program budget for FY 2007-08. Motion carried unanimously.

5. GRANT TO CAOAC FOR PROFESSIONAL DEVELOPMENT PROGRAM

The Board of Directors was asked to approve a grant from the CSAC Finance Corporation to the County Administrative Officers Association of California (CAOAC) in the amount of $15,000 to help fund professional development training programs. The CAOAC conducted a training program during CSAC's annual conference in November and a second one as part of the CSAC legislative conference.

Motion and second to approve the CSAC Finance Corporation grant to CAOAC in the amount of $15,000. Motion carried unanimously.

6. APPOINTMENT OF INTERIM COMMISSIONER TO CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (CSCDA)

The California Statewide Communities Development Authority (CSCDA) is a JPA established by CSAC and the League of California Cities in 1987 to promote economic development through the provision of financial services to local governments. It is the entity through which the Finance Corporation conducts all pooled financings as well as serving as a conduit issuer of nonprofit and multi-family bonds.

Jim Keene served as a CSCDA commissioner in his capacity as Executive Director of CSAC. Until CSAC is able to appoint a new executive director, staff recommended that Jean Hurst, CSAC Legislative Representative for revenue and taxation issues, be appointed to fill this vacancy.

Motion and second to appoint Jean Hurst as interim commissioner to CSCDA. Motion carried unanimously.

7. CSAC POLICY COMMITTEE REPORTS

Housing, Land Use & Transportation. Supervisor Mike McGowan, chair of the CSAC Housing, Land Use & Transportation policy committee, presented the committee's report form the meeting held on March 28. The policy committee considered a request from Ventura County to support legislation to protect mobile home park residents from losing their local rent control protection due to owners subdividing parks – SB 900 and AB 1542 – and recommended that the Board of Directors support the legislation. Copies of the Ventura County resolution and bill language were distributed to the Board.

Motion and second to approve the policy committee recommendation to support SB 900 and AB 1542. Motion carried unanimously.

Health & Human Services. Staff presented recommendations regarding State-Level Universal Health Care Reform. The draft position paper was included in the briefing materials. The document was amended by the policy committee and distributed to the Board. The position paper was developed by the CSAC Health Reform Task Force to be used in discussions with the Legislature and Administration regarding health care reform.

Motion to adopt the recommendations regarding State-Level Universal Health Care Reform as presented.

Substitute Motion to strike the word "strongly" in first sentence of the recommendations regarding State-Level Universal Health Care Reform and adopt as amended. Motion carried (22 to 18).

Government Finance & Operations. Supervisor Kathy Long, Chair of the Government Finance & Operations policy committee, presented the committee report from their March 29 meeting. The policy committee considered draft Emergency Management County Policy Guidelines and brought forth a recommendation that the Board of Directors adopt the guidelines. The draft guidelines were contained in the briefing materials. Amendments were made by the policy committee and distributed to the Board (attached). The guidelines were developed by a working group of experts in an effort to coordinate strategies among county and state agencies and promote education and training. The guidelines will enable CSAC staff to respond to legislative and administrative proposals regarding a wide range of emergency management issues.

Motion and second to adopt the CSAC Emergency Management Policy Guidelines as presented. Motion carried unanimously.

CSAC staff has been participating in discussions with a broad range of stakeholders to develop an eminent domain reform measure to present to voters in 2008. The concept being developed by the coalition includes constitutional restrictions that prohibit owner-occupied residences from being taken by eminent domain for transfer to a private entity. The coalition has filed a ballot initiative with the Attorney General's office as an "insurance policy", offering a meaningful alternative to other measures that have already been filed or could be filed with the Attorney General. This is not the preferred approach and the coalition's immediate focus is securing the passage of a legislative solution.

Staff announced that the Secretary of State would be conducting a review of electronic voting equipment. CSAC is currently opposed to this. Additional details are available on CSAC's web site.

Economic Development. Supervisor Liz Kniss, Chair of the Economic Development policy committee, presented the report from their March 29 meeting. The committee heard presentations from three speakers on economic development legislation, military affairs and the state's efforts to quantify all economic development programs.

Agriculture & Natural Resources. Supervisor Jeff Morris, Chair of the Agriculture & Natural Resources policy committee, presented the report from their March 28 meeting. The committee heard a presentation from A. G. Kawamura, California Secretary of Food & Agriculture, regarding elements of the federal Farm Bill such as energy, nutrition, international trade and food safety. The committee also discussed global warming, the Trinity County Community Forest Stewardship, U.S. Forest Service fire protection, AB 576 (Allensworth State Park/Dairy dispute), and received a report from the CSAC Flood Protection Working Group.

Administration of Justice. The Administration of Justice policy committee met on March 28 to discuss several issues such as: implementation of new booking fee legislation; a new Department of Corrections and Rehabilitation policy regarding parolees with mental health issues; a report from the March 19 statewide summit on the placement of sex offenders; a NACo advocacy effort regarding medical benefits for detainees; and an update on several legislative issues.

In addition, the policy committee discussed the Governor's Corrections Reform proposal and considered corrections reform principles to further guide advocacy efforts on elements related to adult and juvenile components as follows:

- State formal opposition to the Governor's proposed realignment of adult offenders to county custody and control;
- Seek amendments, as appropriate based on the expected reformulation of the Governor's adult reform proposal, to address counties' key areas of concern: funding mechanism, staffing/security, service delivery/capacity, match requirement, additional incentives, siting issues, feasibility of timing, practical application, and other general process questions;
- Further evaluate county interest in and viability of juvenile realignment proposal and determine best means for coordinating county strategies and approach with CPOC to ensure the operational and fiscal feasibility of the realignment model from the broad county perspective; and
- Direct staff to work with representative boards of supervisor members and county administrative officers to ensure questions of fiscal and operational feasibility are addressed.

Motion and second to approve policy committee recommendation as outlined in above bullet points. Motion carried unanimously.

8. EMERGING ROLE OF PUBLIC HEALTH IN THE LAND USE PROCESS

Judy Corbett, Executive Director of the Local Government Commission, discussed the need to bring county health directors and county planning departments together to create better plans for healthy communities. She distributed copies of two relevant documents: *"The Awhanee Principles"* which were developed to provide a blueprint for elected officials to create compact,

mixed-use, walkable, transit-oriented developments in their communities; and *"Improving Access to Healthy Foods,"* a guide for policymakers to assist them in adopting policies that help communities improve access to affordable, healthy foods.

9. INSTITUTE FOR LOCAL GOVERNMENT (ILG) UPDATE

JoAnne Speers, Director of ILG, reported that the "Land Use 101" workshop, organized by ILG and the County Administrative Officers Association, was a success. This session was held in conjunction with the CSAC legislative conference and provided participants with information on land use planning framework, laws relating to land use decision-making, intergovernmental relations, and elements of good decision-making.

ILG has received grants to produce *"A Local Official's Guide to Developing Effective Youth Commissions"* which includes online web dialogues that will allow youth commissioners from around the state to discuss matters of interest and relevance to these commissions.

10. CSAC CORPORATE ASSOCIATES REPORT

Staff distributed a recently created recruitment portfolio, which contains information on the various levels of corporate membership available as well as program benefits.

11. OTHER ITEMS

Tarrant County Judge Glen Whitley, candidate for NACo 2nd Vice President, discussed his qualifications for the position. He is currently a member of the NACo Board of Directors, Large Urban County Caucus, Transportation Steering Committee and Finance Committee. The election will take place during NACo's annual conference in Richmond, Virginia, July 13 – 17.

Twenty-eight applications have been received for the CSAC Executive Director position. The Executive Committee will interview candidates in early May.

Meeting adjourned.

Emergency Management
County Policy Guidelines

Preamble

It is the overarching policy of the California State Association of Counties (CSAC) to support legislative and regulatory proposals that maximize California counties' ability to effectively mitigate, prepare for, respond to, and recover from natural and man-made disasters and public health emergencies, protecting both physical and fiscal health. Such proposals must recognize that the 58 California counties have unique characteristics, differing capacities, and diverse environments. In addition, emergency management and homeland security policies, practices, and funding should be designed to promote innovation at the local level and to permit maximum flexibility, so that services can best target individual community needs, hazards, threats, and capacities.

The following policy statements are to be utilized by CSAC staff as a foundation for lobbying efforts on behalf of counties.

Policy Guidelines

- Support adherence to the Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS) processes, especially as they relate to the operational area concept.

- Support restructuring of the Office of Emergency Services (OES) and Office of Homeland Security (OHS) that results in a clear definition of each agencies' roles and responsibilities and eliminates duplicative and/or conflicting statutory/regulatory requirements. Support affirmation by OES and OHS of the California taxpayers' interest in obtaining and retaining federal funds for support of both emergency services and homeland security.

- Advocate for broad county access to technologies that offer effective and wide-ranging communications capabilities for alerting the public in emergency situations.

- Work to ensure that proposals that impose responsibilities upon counties are accompanied by full and flexible funding.

- Advocate for improved coordination between state and local offices of emergency services and state and local departments with health and safety-related responsibilities (e.g. California Health and Human Services Agency, Department of Health Services, and the Emergency Medical Services Authority, and county offices of emergency services, county health agencies and local emergency services agencies).

- Support full and flexible funding for on-going emergency preparedness and all hazard planning.

- Support grant processes, procedures, and guidelines that allow full funding for personnel in order to carry out emergency management and homeland security mandates.

- Support efforts to reform the existing state and federal grant funding structure that result in a streamlined and flexible process for the protection of Californians' physical and fiscal health and wellbeing.

- Support full and flexible funding for on-going emergency preparedness exercises and training, focusing on an all hazards approach, at the state and local level.

- Support full and flexible funding for emergency communication system interoperability between all local government agencies and the State of California.

- Advocate at the federal level for policies and requirements that are practically achievable by local governments.

Adopted by the CSAC Board of Directors on Thursday, March 29, 2007

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May 31, 2007

To: CSAC Board of Directors

From: Steve Keil, Interim Executive Director
Jean Kinney Hurst, Legislative Representative

Re: Expenditures for Eminent Domain Efforts/Campaign – ACTION ITEM

Recommended Action. Staff recommends that the Board of Directors approve the proposed expenditure plan for purposes of developing and securing legislative approval of an eminent domain reform proposal for a 2008 ballot. The CSAC Executive Committee approved this expenditure plan at its meeting on May 24, 2007.

Background. As you know, CSAC has been working with a broad range of stakeholders – taxpayer, homeowner, local government, business, environmental, legislators and other groups – with the hope of developing a responsible eminent domain measure that could be presented to voters in 2008. This coalition, which includes the League of California Cities, the California Redevelopment Association (CRA), and the California League of Conservation Voters, among others, has been working on a number of fronts to avoid another expensive defense of legitimate government regulation.

Since January, this coalition has been advised by a team of legal and political advisors, all of which were involved in the "No on Prop 90" campaign. Of course, such advice comes with a cost. The following proposal outlines a plan for CSAC's participation in such costs through the end of the legislative session (August), based on an estimated budget:

Bicker, Castillo and Fairbanks Political consulting, coalition-building, and press relations (Represents 1/3 of monthly costs (January-August), shared with League, CRA, and CSAC.)	$10,000/mo.	$80,000 total
Nielsen-Merksamer Legal advising (Represents ½ of campaign-related monthly costs (April-August), shared with League.)	$10,000/mo.	$50,000 total
Winner and Mandabach Campaigns Campaign strategy and advising (Represents ½ of all costs, shared with League.)		$25,000
Contingency (Represents ½ of all costs, shared with League.)		$25,000

CSAC has been jointly funding the activities of Bicker, Castillo and Fairbanks with the League and CRA since January. We will also split the cost of the Winner and

Mandabach contract with the League for services in April and May. These activities are funded through the "Professional Services" line item in the 2006-07 CSAC budget. We expect costs through the end of the current fiscal year to be as budgeted, $80,000.

For the 2007-08 fiscal year, CSAC again has funding available through the "Professional Services" line item in the budget for such activities. Given that we expect these activities to essentially end in August, we estimate costs at approximately $100,000. $80,000 is currently budgeted for such expenditures. We anticipate that the remaining $20,000 can be covered by cash reserves.

The expenditure plan for CSAC's participation in the eminent domain reform effort totals an estimated $180,000.

Additionally, we have been asked to forgive $9,935 in CSAC expenditures billed to the "No on Prop 90" campaign account.

Coalition costs have also been borne by our partners, including additional forgiveness of expenditures to the "No on Prop 90" campaign account, funds for additional legal expenses, and polling. Specifically, CRA will continue to fund the bulk of Nielsen-Merksamer legal costs (an estimated $320,000) and a share of the Bicker, Castillo and Fairbanks cost, as well as forgiving $16,559 in expenditures billed to the "No on Prop 90" campaign account. In addition to the League's contributions outlined above, it will forgive $145,441 in expenses billed to the "No on Prop 90" campaign account.

Public and Non-Public Funds. It is important to remember that many activities that may be associated with our effort may not be funded with public funds. CSAC and our vendors carefully monitor activities and expenditures to ensure that campaign-related costs are billed to the campaign account and paid for with non-public funds. Costs associated with securing the title and summary and fiscal analysis for a ballot measure, signature-gathering, and the like must be funded through non-public funds.

Alternatively, our efforts at developing both a ballot measure and a legislative measure, Capitol lobbying, and coalition-building around a specific legislative proposal may be funded with public funds and paid directly by the associations.

While it is clearly our preference to move a bill through the legislative process and avoid a costly campaign, we must be mindful that a ballot measure campaign may be the only option and prepare for such an eventuality. Of course, such an effort must be funded with non-public funds.

It is also important to consider that this is only the initial step in the process. After the conclusion of the legislative session, our coalition will still have a ballot measure to get passed. Estimating the costs involved in such an effort is difficult, as there are a number of considerations to take into account. Certainly, a measure placed on the ballot by the Legislature that has the support of a broad coalition and "occupies the field" will likely be far less expensive than a measure that requires signature-gathering and is put to voters at the same time as a more draconian alternative. Also, costs will vary depending on the ballot on which our measure appears. Presidential and state politics will play a significant role in determining turnout, advertising costs, and fundraising success. There are many scenarios available to us and we want to ensure now that the Executive Committee is prepared for what may come in 2008.

Policy Considerations. Eminent domain reform has been on the forefront of CSAC's legislative agenda for many months. Even before the initial filing of what would become Proposition 90 in 2006, CSAC has been engaged with a broad coalition, determined to address voters' concerns about eminent domain abuses, while maintaining counties' authority to address community priorities and needs through appropriate regulation. Our efforts to date have been successful: Proposition 90 did not meet voters' approval and, so far, we have been able to avoid a ballot box showdown with a "Son of Prop 90" measure. Staff recommends our continued financial participation in the coalition efforts, not only to ensure the ultimate success of an eminent domain reform measure, but also to ensure that counties have an equal seat at the table with our coalition partners when negotiating through the process.

The Board of Directors must also consider the fiscal implications of such a plan. Funds dedicated to this process could certainly be used for another purpose. However, staff suggests that the proposed expenditure plan is far less costly than fighting another measure, as we did in the "No on Prop 90" campaign last fall.

Action Requested. Staff is requesting your approval of the proposed plan for expenditures for purposes of developing and securing passage of an eminent reform proposal for a 2008 ballot. If there are any changes to this expenditure plan, staff will bring those changes to the Executive Committee for approval. Additionally, staff will return to the Executive Committee and Board of Directors with an expenditure plan once a measure is set for the 2008 ballot.

Staff Contact. Please contact Jean Kinney Hurst (jhurst@counties.org or (916) 327-7500 x515) or Steve Keil (skeil@counties.og or (916) 327-7500 x521) for additional information.

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May 30, 2007

To: CSAC Board of Directors

From: Steve Keil, Interim Executive Director
Jean Kinney Hurst, CSAC Legislative Representative

Re: **Eminent Domain Update – INFORMATIONAL ITEM**

Recommended Action. This is an item for your information. No action is required.

Background. The Board of Directors will recall CSAC's ongoing involvement in the coalition to advocate for a reasonable and practical eminent domain reform measure to go before the voters in 2008. Our efforts continue to be focused on securing a legislative measure that offers appropriate protections for homeowners and small business owners.

Legislative Efforts. As you are also aware, the coalition, which includes the League of California Cities, the California Redevelopment Association, and the California League of Conservation Voters, has also been working with the Howard Jarvis Taxpayers' Association to work toward a joint effort in the Legislature. That legislative package has been introduced by Assembly Member Hector De La Torre (D-South Gate). Draft language is attached for your review. The measures have not yet been formally introduced in the Legislature.

We have also attached a number of informational materials on this legislative package, including the press packet, which includes draft language, a side-by-side comparison of the package with current law, a "Questions and Answers" document, and two opinion editorials in support of our efforts from the Los Angeles Times and the Long Beach Press-Telegram.

We are involved in regular lobbying efforts with members of the Assembly, including key members of the Assembly Republican Caucus, which has formed a working group to vet our proposal. The working group includes Assembly Members Rick Keene, Shirley Horton, Sharon Runner, Cameron Smyth, and Mimi Walters. This working group will meet soon with coalition representatives to go over the measure's language and intent.

Initiative Efforts. The Howard Jarvis Taxpayers Association, along with the California Farm Bureau Federation and the California Alliance to Protect Private Property Rights, had filed numerous measures with the Attorney General's office. The most recent measure had received title and summary and was certified for

signature gathering on April 20. The title and summary received was very similar to that of Proposition 90, indicating to voters that, not only did the measure contain eminent domain restrictions and a strict prohibition on rent control, but included compensation for property owners as a result of basic government regulation, commonly referred to as "regulatory takings."

However, on May 1, HJTA and its partners filed a new measure (attached) and withdrew its prior measure from the Attorney General. This new measure contains eminent domain restrictions and a prohibition on rent control, but attempts to eliminate provisions that deal with regulatory takings. While the compensation provisions are clearly not in the new measure, it is less clear how the measure deals with certain regulatory actions. (See Section 19 (b)(3).) Our legal advisors are currently working on a detailed analysis of the measure, so we have a full understanding of its meaning.

It is important to note that there is no possibility that there will be an eminent domain/regulatory takings measure on the February 2008 ballot. The time required for title and summary and fiscal analysis, plus signature-gathering and signature verification, would indicate that the earliest possibility that this measure or one like it could be certified would be the June 2008 ballot.

We understand that HJTA and its partners have had initial discussions with a pollster and a signature-gathering firm and are rumored to have secured some financial commitments. Thus, our coalition is taking this measure very seriously.

The coalition has also filed initiative language with the Attorney General for title and summary, also attached. This language is similar to language we had filed and received title and summary on earlier this year. However, filing this additional measure now puts us on the same time frame as the new Jarvis measure.

Again, it is our preference to move the legislative package through the Legislature and avoid signature-gathering. However, it is important that we maintain our options during the process.

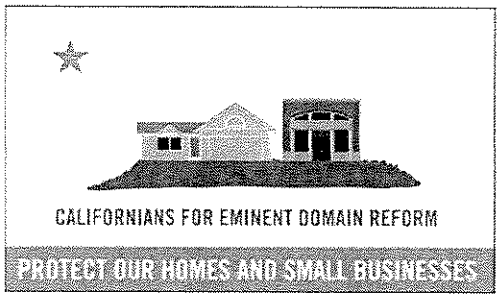
Of course, staff is in regular communications with the officers and the Executive Committee on these issues. We will continue to keep the Board of Directors informed of our activities and may call on you to contact your legislative delegation in support of our efforts.

Policy Considerations. Last November, your Board of Directors approved "Redevelopment and Eminent Domain County Policy Principles," which includes a statement that says, in part, "...counties also recognize the importance of protecting private property from eminent domain for purposes of private development." Staff believes that the legislative package sponsored by the coalition, Californians for Eminent Domain Reform, meets that policy goal. We

will continue to work with stakeholders to address concerns in the hopes of reaching a compromise agreement that can be placed on a ballot for voter consideration in 2008.

Action Requested. There is no action requested at this time. This memo is provided for informational purposes only.

Staff Contact. Please contact Jean Kinney Hurst (jhurst@counties.org or (916) 327-7500 x515) or Steve Keil (skeil@counties.og or (916) 327-7500 x521) for additional information.



www.EminentDomainReform.com

FOR IMMEDIATE RELEASE
May 21, 2007

CONTACT: KATHY FAIRBANKS
916.443.0872

Broad Coalition Introduces Eminent Domain Reform Package

Group Introduces ACA 8 and a Companion Statutory Measure to Protect Homeowners and Small Businesses from Eminent Domain

Sacramento, CA – A broad coalition of homeowner groups, small business representatives, labor, environmental, community and ethnic organizations today joined Assemblyman Hector De La Torre (D-South Gate) in unveiling a package of eminent domain reforms that would provide homeowners and small businesses with new, strong protections against eminent domain. Authored by De La Torre, Assembly Constitutional Amendment 8 and a companion statutory measure (soon to be amended) are in direct response to the U.S. Supreme Court's "*Kelo*" decision. They include a constitutional prohibition on the use of eminent domain to take an owner-occupied home to convey to another private party, as well as new restrictions on the taking of small business properties for conveyance to private parties. ACA 8, the constitutional amendment, is aimed for the 2008 ballot.

"Today we are unveiling a package that would provide California homeowners and small businesses with new and unprecedented protections against eminent domain," said **Assemblymember De La Torre**, author of the legislative package. "Two years ago, the U.S. Supreme Court's infamous 'Kelo' decision sparked a nationwide outrage focusing on abuses of eminent domain. This package is in direct response to that decision."

Ken Willis, president of the League of California Homeowners said, "If passed by the legislature and approved by the voters, this package would provide California homeowners long overdue protections from eminent domain for private development. The League of California Homeowners wholeheartedly supports this package and will work with our legislators to place the constitutional amendment before the voters in 2008 and to pass the companion statutory measure."

ACA 8, a constitutional amendment to be placed on the 2008 ballot would:

- Prohibit the State or local governments from using eminent domain to acquire an owner-occupied home (including townhomes and condos) for transfer to another private party.
- Prohibit government from using eminent domain to acquire a small business to transfer to another private party, except as part of a comprehensive plan to eliminate blight and only after the small business owner is first given the opportunity to participate in the revitalization plan.
- Right to Repurchase. A home or small business property acquired by eminent domain must be offered for resale to the original owner if the government doesn't use the property for a public use.

(more)

The package also includes a companion statutory measure that would provide enhanced protections for small business owners confronted with eminent domain. Key provisions of this measure include:

- If the small business does not participate in the revitalization plan it can choose between relocating or receiving the value of the business. If the small business relocates, it will receive fair market value of the real property (if owned by the small business); plus all reasonable moving expenses; plus expenses to reestablish the business at a new location, up to $50,000; plus compensation for the increased cost of rent or mortgage payments for up to 3 years.

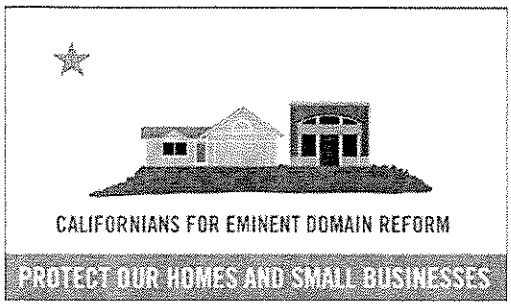
- If the small business does not relocate and instead is bought out, it will receive fair market value of the real property (if owned by the small business) and 125% of the value of the business if the business could not have been relocated and remain economically viable.

"Combined, this package will provide small business owners with strong protections against eminent domain, and ensure fairness and responsible compensation when a small business owner does not choose to participate in the new development project," **said Betty Jo Toccoli, President of the California Small Business Association** which represents more than 203,000 small business owners through 78 affiliate small business organizations.

Frank Moreno, President of the California Mexican American Chamber of Commerce, said: "This package is about fairness for minority small businesses, and all small businesses confronted with eminent domain. It will ensure these entrepreneurs are adequately represented, given options to participate in the new business plan, and given fair compensation if they choose not to participate."

Tom Adams, board president of the California League of Conservation Voters, said: "This is a responsible and honest eminent domain reform package. It's time to take care of the eminent domain issue once and for all so that California doesn't continue to be vulnerable to special interests who want to use the issue of eminent domain as a stalking horse to undermine environmental protection like Proposition 90 and some of the eminent domain measures we've seen filed with the Attorney General this year."

###



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Yes on Eminent Domain Reform

Protect Our Homes and Small Businesses!

Following the 2005 U.S. Supreme Court decision in *Kelo vs. the City of New London*, much attention has been focused on abuses of eminent domain. In that case, the Supreme Court permitted a city to use eminent domain to take the home of a Connecticut woman for the sole purpose of economic development. To provide California homeowners and small businesses with additional protections from eminent domain abuse, a broad-based coalition of homeowners, small businesses, taxpayer, local government, environmental and public safety leaders is supporting a responsible package of eminent domain reforms.

Solution: The Eminent Domain Reform Act of 2007/2008

Assemblymember Hector De La Torre (D-South Gate) is authoring Assembly Constitutional Amendment 8 (to be placed on the 2008 ballot) and a companion statutory measure (to be amended soon). Together, this package would:

✓ **Protect Homeowners from Eminent Domain by:**

- Prohibiting the State or local governments from using eminent domain to acquire an owner-occupied home for transfer to another private party. This provision would prohibit the taking of owner-occupied homes, townhomes and condos through eminent domain to make way for a private development. (ACA 8)

✓ **Protect Small Businesses from Eminent Domain by:**

- Prohibiting the State and local governments from using eminent domain to acquire property where a small business is located to transfer to another private party, except as part of a comprehensive plan to eliminate blight and only after the small business owner is first given the opportunity to participate in the revitalization plan. (ACA 8)

- If the small business does not participate in the revitalization plan it can choose between relocating or receiving the value of the business. If the small business relocates, it will receive:
  - Fair market value of the real property (if owned by the small business).
  - All reasonable moving expenses.
  - Expenses to reestablish the business at a new location, up to $50,000.
  - Compensation for the increased cost of rent or mortgage payments for up to 3 years.

(Statutory Measure)

- If the small business does not elect to relocate it will receive:
  - Fair market value of the real property (if owned by the small business).
  - 125% of the value of the business if the business could not have been relocated and remain economically viable.

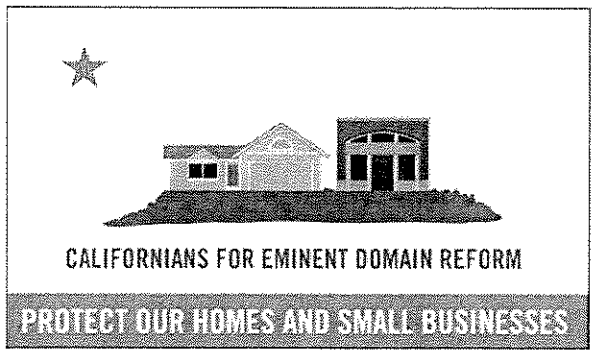
(Statutory Measure)

✓ **Owner's Right to Repurchase Acquired Property.**

- A home or small business acquired by eminent domain must be offered for resale to the original owner if the government does not use the property for a public use. The state or local government shall use reasonable diligence to locate the property owner.

(ACA 8)

Californians for Eminent Domain Reform ▫ 1121 L Street, Suite 803 ▫ 916.443.0872
www.EminentDomainReform.com



FOR IMMEDIATE RELEASE
May 18, 2007

CONTACT: KATHY FAIRBANKS
916.443.0872

BROAD COALITION UNVEILS EMINENT DOMAIN REFORM PACKAGE

Group Introduces Two Bills to Protect Homeowners and Small Businesses from Eminent Domain

WHEN/WHERE: **Monday, May 21, 2007, 10:00 a.m., Rm. 317, State Capitol**
Conference call at 10:45 a.m. for those unable to attend in Sacramento
CONFERENCE CALL IS FOR MEDIA ONLY
Call in number: (866) 261-2650; pass code: Eminent Domain Reform

WHO:

- Assemblymember Hector De La Torre (D-South Gate), author of package
- Ken Willis, President, League of California Homeowners
- Betty Jo Toccoli, President, California Small Business Association
- Frank Moreno, President, State of California Mexican American Chamber of Commerce
- Tom Adams, board chair, California League of Conservation Voters
- Robert L. Balgenorth, President, State Building and Construction Trades Council of California
- Jim Madaffer, Council Member, City of San Diego, First Vice President, League of California Cities

WHAT: A broad coalition of homeowner groups, small business representatives, labor, environmental, community and ethnic organizations join Assemblymember Hector De La Torre to unveil a package of eminent domain reforms that would give homeowners and small businesses new, strong protections against eminent domain for private development. The two measures are in direct response to the US Supreme Court's "Kelo" decision, and include a prohibition on the use of eminent domain to take an owner-occupied home to convey to another private party, as well as new restrictions on taking small business properties for conveyance to a private party.

Eminent Domain Reform – Constitutional Amendments*

(*As Submit to Legislative Counsel, Not Yet in Bill Form)

Amendments to Article I, Section 19 of the California Constitution
Legislative Proposal

SECTION 1. Section 19 of Article I of the California Constitution is amended to read:

Sec. 19. *(a)* (1) Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

(2) Prior to the commencement of eminent domain proceedings, the public use for which the private property is taken must be stated in writing.

(b) The State and local governments are prohibited from acquiring by eminent domain an owner-occupied residence for the purpose of conveying it to a private person.

(c) The State and local governments are prohibited from acquiring by eminent domain real property on which a small business is operated for the purpose of conveying it to a private person.

(d) Notwithstanding subdivision (c), real property which is within the area included in a comprehensive plan to eliminate blight and on which a small business is operated may be acquired by eminent domain for the purpose of conveying it to a private person only if the small business owner is first provided a reasonable opportunity to participate in the plan. If the small business owner does not participate in the plan, the owner shall be paid reasonable relocation expenses or an amount not less than the fair market value of the small business, at the option of the small business owner.

(e) Subdivisions (b) and (c) of this Section do not apply when the stated public use is a Public work or improvement; provided, if an owner-occupied residence or property on which a small business is located is acquired by eminent domain for a Public work or improvement, the owner from whom it was acquired shall have a reasonable opportunity to repurchase the property, in accordance with subdivision (g), before its conveyance for a use other than a Public work or improvement.

(f) When any private property was acquired by eminent domain for public use, and the State or local government determines that such property is no longer required for public use, the owner from whom the property was acquired shall have a reasonable opportunity to repurchase the property in accordance with subdivision (g), before its conveyance by the State or a local government for other than a public use.

(g) The opportunity to repurchase shall be subject to all of the following:

(1) The State or local government shall use reasonable diligence to locate the former owner.

(2) The opportunity to repurchase shall be at the then current fair market value; provided that if the property acquired by eminent domain was an owner-occupied residence, then the opportunity to repurchase shall be at a price equal to the assessed value to be enrolled for the property under subdivision (3), increased by the fair market value of any improvements, fixtures, or appurtenances added by the State or local government.

(3) Upon reacquisition by the property owner from whom the property was acquired, the assessed value of the property shall be the value in the year of acquisition by the State or local government, adjusted as authorized by subdivision (b) of Section 2 of Article XIIIA. If the property is reacquired by the property owner, then neither the acquisition by the State or local government, nor the reacquisition by the property owner shall constitute a "change of ownership" for purposes of subdivision (a) of Section 2 of Article XIIIA.

(4) The opportunity to repurchase applies only to the property owner from whom the property was acquired, and does not apply to any heirs or successors of the owner; or, if the owner was not a natural person, to an entity which ceases to legally exist. The opportunity to repurchase may be waived in writing.

(5) The Legislature may provide a procedure that constitutes a reasonable opportunity to repurchase, and may specify the contents of written notice of the opportunity to repurchase.

(h) For purpose of this section:

(1) "Conveyance" means a transfer of real property whether by sale, lease, gift, franchise, or otherwise.

(2) "Local government" means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.

(3) "Owner-occupied residence" means real property that is improved with a single family residence such as a detached home, condominium,

or townhouse and that is the owner or owners' principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. Owner-occupied residence also includes a residential dwelling unit attached to or detached from such a single family residence which provides complete independent living facilities for one or more persons.

(4) "Person" means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.

(5) "Public work or improvement" means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports and seaports; utility, common carrier or other similar projects such as energy-related, communication-related, water-related and wastewater-related facilities or infrastructure; projects identified by a State or local government for recovery from natural disasters; and private uses incidental to, or necessary for, the Public work or improvement.

(6) "Small business" means a business employing no more than the equivalent of twenty-five full-time employees but does not include the owner of the real property that is acquired if the primary business of that owner is to lease the real property acquired to others.

(7) "State" means the State of California and any of its agencies or departments.

(i) Subdivisions (b) and (c) of this Section do not apply when State or local government exercises the power of eminent domain for the purpose of protecting public health and safety; preventing serious, repeated criminal activity; responding to an emergency; or remedying environmental contamination that poses a threat to public health and safety.

(j) No payment made pursuant to subdivision (d) shall duplicate any other payment to which the small business may be entitled for the same purpose under law.

SECTION 2. The amendments made by this initiative shall not apply to the acquisition of real property if the initial written offer to purchase the property was made on or before January 1, 2008, and a resolution of necessity to acquire the real property by eminent domain was adopted on or before December 31, 2008.

SECTION 3. The words and phrases used in the amendments to Section 19, Article 1 of the California Constitution made by this initiative which are not defined in subdivision (h), shall be defined and interpreted in a manner that is consistent with the law in effect on January 1, 2007 and as that law may be amended thereafter.

SECTION 4. The provisions of this measure shall be liberally construed in furtherance of its intent to provide homeowners and small businesses with protection against exercises of eminent domain in which property is subsequently conveyed to a private person.

SECTION 5. The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Eminent Domain Reform – Statutory Measure*

(*As Submit to Legislative Counsel, Not Yet in Bill Form)

Amendments to California Redevelopment Law

SECTION 1. *Section 33391.5 is hereby added to the Health and Safety Code to read as follows:*

33391.5. Prior to adopting a resolution to acquire property by eminent domain pursuant to Code of Civil Procedure Section 1245.210 et seq., on or after January 1, 2008, an agency shall comply with the provisions of Section 33431.5, if applicable.

SECTION 2. *Section 33431.5 is hereby added to the Health and Safety Code to read as follows:*

33431.5 (a) An agency shall mail by first class mail to the owner and tenant of each parcel of real property within the area that may be subject to acquisition by the agency the notice described in subdivision (b) at least 45 days prior to taking any of the following actions:

(1) A solicitation for the redevelopment of any portion of the project area through a request for proposals, request for qualifications or other similar method.

(2) The approval of an agreement to negotiate exclusively or other agreement having the effect of limiting the negotiation for the sale or lease of specified real property to an identified party or parties where the agency has not previously notified property owners and tenants pursuant to subparagraph (1).

(3) The approval of a disposition and development agreement, owner participation agreement or other agreement having the effect of obligating the agency to acquire or consider the acquisition of real property for conveyance to a private person or entity where the agency has not previously notified property owners and tenants pursuant to subparagraph (1) or (2).

(b) The notice required by subdivision (a) shall:

(1) describe the proposed action;

(2) explain the agency's obligation to:

(i) provide reasonable opportunities for participation in the redevelopment of property in the project area by the owners of all or part of such property if the owners agree to participate in the redevelopment in conformity with the redevelopment plan, and

(ii) extend reasonable preferences to persons who are engaged in business in the project area to reenter business within the redeveloped area if they otherwise meet the requirements prescribed by the redevelopment plan;

(3) invite the owner and tenant to submit to the agency:

(i) a proposal to redevelop their real property and/or other real property within the project area in conformity with the redevelopment plan, including any design for development, design guidelines or other development criteria adopted by the agency pursuant to the redevelopment plan, together with a description of the owner's development experience, qualifications and financial resources, and/or

(ii) a proposal to reenter business within the redeveloped area.

(4) Notify any small business owner of the agency's obligation to pay certain attorneys fees, as prescribed in subdivision (g).

The agency shall provide the owner and tenant with a minimum of thirty (30) days from the date of the written notification to respond.

(c) The notice required by subdivision (a) shall be mailed to property owners and tenants as shown on the records of the county assessor and to such other tenants as have requested such notice in writing. If the agency has acted in good faith to comply with the notice requirements of this section, the failure of the agency to provide the required notice to owners or tenants unknown to the agency shall not invalidate any subsequent action of the agency.

(d) Prior to authorizing the execution of an agreement to negotiate exclusively, disposition and development agreement, owner participation agreement or similar agreement, an agency shall consider in good faith and either accept or reject a proposal submitted by an owner or tenant in response to the notification required by subdivision (a) based upon objective criteria, which may include, without limitation: (1) the extent to which the proposal would further the purposes or objectives of the agency as set forth in the redevelopment plan or in any design for development, design guidelines or other design or development criteria adopted by the agency pursuant to the redevelopment plan, (2) conformity of the proposal with the agency's adopted owner participation rules and (3) the owner's or tenant's experience, qualifications and financial resources. The agency may consider the need to assemble multiple parcels into sites large enough to accommodate modern development patterns, the conversion of property from private to public use and other factors which have the effect of reducing the number of, or limiting the type of, owner participation or business reentry opportunities.

(e) An agency may adopt developer selection guidelines that establish reasonable preferences for non-profit developers of residential and mixed-use

developments that include housing affordable to persons and families of low- and moderate-income.

(f) This section shall not apply where the property to be acquired will be used for a Public work or improvement and private uses incidental to, or necessary for, the Public work or improvement.

(g) A small business to which an agency is required to give notice pursuant to subdivision (a) shall receive from the agency its reasonable attorneys' fees actually incurred, not to exceed five thousand dollars ($5,000), for advising the small business owner or tenant concerning: (1) the preference extended to businesses to reenter into business within the redeveloped area; (2) the opportunity afforded owners and tenants to participate in the redevelopment of the project area in accordance with the redevelopment plan; and (3) the proposed action described in the notice. An agency shall make payment to the small business upon receipt of an itemized statement describing the services performed and fees charged by the attorney. For the purposes of this section, "small business" means a business employing no more than the equivalent of twenty-five (25) full-time employees.

SECTION 3. *Section 33415.5 is hereby added to the Health and Safety Code to read as follows:*

33415.5. (a) Whenever an agency acquires real property for conveyance to a private person or entity that will result in the displacement of a small business, and the small business does not participate in the project, the following rules shall apply:

(1) If a small business relocates, the small business shall be paid:

(i) its actual and reasonable expenses necessary to reestablish the small business, but not to exceed fifty thousand dollars ($50,000); plus

(ii) an amount which will compensate a displaced small business tenant for the increased cost of renting a comparable replacement business location for a period not to exceed three (3) years; or

(iii) an amount which will compensate a displaced small business property owner for any increased interest costs which the owner is required to pay for financing the acquisition of a comparable replacement business location for a period not to exceed three (3) years.

(2) If the small business does not relocate, the owner of the small business may elect to be paid either:

(i) an in-lieu payment equivalent in amount to that authorized by subdivision (c) of Section 7262 of the Government Code;

(ii) an amount equal to the fair market value of the small business; or

(iii) an amount equal to one hundred twenty-five percent (125%) of the fair market value of the business, if the small business demonstrates to the satisfaction of the agency that it cannot be relocated and remain economically viable.

(iv) the payment received pursuant to this subsection (a)(2) shall be in lieu of a payment under subsection (a)(1).

(b) For the purposes of this section, "small business" shall mean a business having twenty-five (25) or fewer full-time equivalent employees. "Small business" does not include the owner of the real property that is acquired by the agency, the primary business of which is to lease the real property acquired to others.

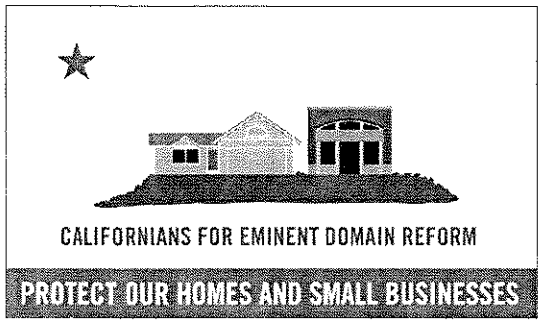
(c) No payment required by this section shall duplicate any other compensation received by the small business tenant or owner for the same purpose pursuant to Chapter 16 of Division 7 of Title 1 of the Government Code (commencing with Section 7260) or Title 7 of Part 3 (commencing with Section 1230.010) of the Code of Civil Procedure.

COMPARISON OF COALITION PROPOSAL (ACA 8 and Companion Statutory Measure) vs CURRENT LAW

	CURRENT LAW	COALITION PROPOSAL
USE OF EMINENT DOMAIN	▪ Only for public use and when just compensation provided; ▪ Government can take private property for conveyance to a private party as part of comprehensive redevelopment plan to eliminate blight. "Blight" is defined in the Community Redevelopment Law and the definition was narrowed in 1993 (AB 1290) and 2006 (SB 1206).	▪ Only for stated public use and compensation provided; ▪ Constitutional prohibition on taking of owner-occupied homes, including town homes and condominiums, for conveyance to private party. ▪ No property on which small business is located can be acquired to convey to private party, unless property is located within a blighted area for which a redevelopment plan has been adopted and new constitutional conditions for owner participation, relocation or buyout are met. Sec. 19(a),(c) and (d).
HOMEOWNER PROTECTIONS	▪ Government can take owner occupied homes for conveyance to a private party as part of comprehensive redevelopment plan to eliminate blight.	▪ Constitutional prohibition against taking owner occupied homes (including townhomes and condos) for conveyance to another private person. ▪ Owner occupied homes <u>cannot be taken</u> to convey to private person even as part of plan to eliminate blight.
SMALL BUSINESS PROTECTION	▪ Government can use eminent domain to take property on which small businesses are operated for conveyance to a private party as part of comprehensive redevelopment plan to eliminate blight.	▪ NEW constitutional requirement that small business owner must be given opportunity to participate in newly developed area before eminent domain can be used to eliminate blight; ▪ NEW constitutional requirements stating that "*If the small business owner does not participate in the plan, the owner shall be paid reasonable relocation expenses or an amount not less than the fair market value of the small business, at the option of the small business owner.*" Sec. 19(d). ▪ NEW statutory requirements detailing procedures that must be followed by redevelopment agencies to provide owners and tenants with participation opportunities.

SMALL BUSINESS COMPENSATION	▪ Just compensation for interest in real property acquired. ▪ Relocation expenses per Relocation Assistance Act. ▪ Compensation for loss of business goodwill, if any. ▪ NO provisions to buyout value of business in existing law for owners who cannot be relocated to remain economically viable.	▪ In addition to compensation required under existing law and NEW constitutional requirements (above), also NEW statutory requirements enhancing relocation compensation paid to small business owners when eminent domain is used. Includes: o An increase in the allowance for expenses to reestablish the business at a new location, from $10,000 to $50,000. o Compensation for the increased cost of rent or mortgage payments for up to 3 years. ▪ Statutory requirements enhancing "buyout" compensation if small business owner elects not to be relocated. In such instances, small business owner shall receive, at its election, one of the following : o In lieu of relocation payment authorized under existing Relocation Assistance Act; o An amount equal to the fair market value of the small business; or o 125% of the value of the business if the business could not have been relocated and remain economically viable.
FARMLAND	▪ Existing law prohibits inclusion of Williamson Act land and other land in agricultural use larger than 2 acres in a redevelopment project area.. ▪ Redevelopment project areas must be in predominately urban areas.	▪ No changes to current law. Existing farmland protections maintained.
TRADITIONAL PUBLIC WORKS LIKE SCHOOLS, ROADS, INFRASTRUCTURE	▪ Property may be taken through eminent domain for public work such as schools, roads, infrastructure, so long as property owners are paid just compensation. ▪ Current law permits public/private partnerships for traditional public works projects like roads and transit. ▪ Existing law permits private uses incidental to the public use for which the property is taken, such as a snack bar in a public park or ground floor retail in a public parking structure.	▪ No changes to law impacting ability of agencies to use eminent domain to acquire property for traditional public works or infrastructure. ▪ No change to existing laws dealing with public/private partnerships for traditional public works projects like roads and transit. ▪ No change to existing law permitting private uses incidental to the public use.

RIGHT OF RE-PURCHASE.	▪ SB 1650 (adopted in 2006) provides that a public agency that acquires property by eminent domain and does not use the property for the purpose for which it was acquired within 10 years must offer the former owner a right of first refusal to purchase the property.	▪ NEW Constitutional requirement that original owner has reasonable opportunity to re-purchase property that is no longer required for public use at current fair market value. ▪ Property owners eligible to purchase property at fair market value determined by value at the time property is re-purchased, unless property was an owner-occupied residence, in which case price of property is owner's previous assessed value adjusted under Prop 13 as though property had never been taken. Secs. 19(f) and (g).
EMINENT DOMAIN TO PROTECT PUBLIC HEALTH AND SAFETY.	▪ Eminent domain may be used to protect public health and safety.	▪ Measure preserves ability to protect public health and safety. ▪ Limitations on the use of eminent domain to acquire owner-occupied, single family residences and property on which small businesses are operated are qualified by specifically permitting the use of eminent domain to protect public health and safety; preventing serious and repeated criminal activity (structures used for meth labs, for example); response to an emergency; and remedy environmental contamination (toxic waste, for example). Sec 19(i).



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Yes on Eminent Domain Reform

Protect Our Homes and Small Businesses!

Questions and Answers About The Eminent Domain Reform Act of 2007/2008

Following the 2005 U.S. Supreme Court decision in *Kelo vs. the City of New London*, much attention has been focused on abuses of eminent domain. In that case, the Supreme Court permitted a city to use eminent domain to take the home of a Connecticut woman for the sole purpose of economic development. To provide California homeowners and small businesses with additional protections from eminent domain abuse, a broad-based coalition of homeowners, small businesses, taxpayer, local government, environmental and public safety leaders is supporting a responsible package of eminent domain reforms.

Q. What is the Eminent Domain Reform Act and what do these measures do?

A. This package would provide California homeowners and small businesses with new and unprecedented protections against the use of eminent domain for private development. It contains two measures, a constitutional amendment (ACA 8) and a statutory measure (soon to be amended).

ACA 8, the constitutional amendment would:

- Prohibit the use of eminent domain to take an owner occupied home (including townhomes and condos) to convey to another private party.
- Prohibit the use of eminent domain to take a small business property to convey to another private party except as part of a comprehensive plan to eliminate blight and only after the small business owner is first given the opportunity to participate in the revitalization plan.
- Place into our constitution a "right to repurchase" provision. A home or small business property acquired by eminent domain must be offered for resale to the original owner if the government does not use the property for its original stated public use.

The companion statutory measure would:

- Increase fairness for small businesses owners confronted with eminent domain. Among the key provisions of this measure:
  - If the small business does not participate in the revitalization plan it can choose between relocating or receiving the value of the business.
  - If the small business relocates, it will receive fair market value of the real property plus all reasonable moving expenses, expenses to reestablish the business at a new location, and compensation for the increased cost of rent or mortgage payments for up to 3 years.
  - If the small business does not elect to relocate or cannot be relocated and remain economically viable, it will be bought out and provided fair market value of the real property (if owned by the small business) and 125% of the value of the business.

Q. How are the constitutional and statutory pieces related?

A. These measures are a package. We provide protections for homes and small businesses in the constitutional measure. But the compensation issues for small businesses need to be dealt with by statute.

Q. What ballot are you aiming for?

A. Our goal is to get this on the ballot in 2008. We need to work with the legislature to determine what election makes the most sense.

Q. Will this gain enough legislative support to reach 2/3 vote required to place the constitutional amendment on the ballot?

A. This package contains strong reforms that should appeal to members of both sides of the aisle. This is not a partisan issue. We're confident that members on both sides of the aisle are ready to vote for honest and strong eminent domain reforms.

Q. How does this package provide "new" protections?

A. The new protections in this package are significant. For the first time, we're providing a constitutional prohibition on the taking of homes for private development. We're also placing constitutional restrictions on the taking of small businesses for conveyance to a private party, and mandating new compensation requirements for small businesses. If this package passes the legislature and is approved by voters, these provisions would provide ironclad, constitutional protections for homeowners and small businesses that currently do not exist.

Q. Why didn't you outright prohibit using eminent domain on small businesses?

A. Our measure provides strong, constitutional protections for small businesses they currently do not have. We are placing a requirement in the constitution that before a small business in a blighted area is acquired by eminent domain, the small business must first be given a reasonable opportunity to participate in the redevelopment of the area. At the same time, this measure still allows communities to revitalize downtrodden and blighted areas, where social and economic deterioration, including serious criminal activity, needs to be cleaned up.

Eminent domain became a front burner issue because of the U.S. Supreme Court *Kelo* decision in 2005. Even though Kelo could not have even happened in California, we know voters want ironclad protections against having homes taken by eminent domain and being turned over to a private developer. We are giving them those protections AND also going further to provide additional small businesses protections. We believe this is a solid eminent domain reform package. We think California voters will see that too.

Q. You define small business as 25 or fewer employees. Won't that exclude many small businesses?

A. According to the California Employment Development Department, small businesses with fewer than 20 employees represent 89% of all businesses in California. http://www.calmis.ca.gov/file/indsize/Chart-SOB2005.pdf. Thus, our measure provides protections for nearly 90% of all businesses in the state and is particularly focused on those smaller businesses that typically don't have the resources or time to adequately represent themselves in eminent domain proceedings.

Q. ACA 8 continues to allow the taking of a small business in order to eliminate blight. That's the existing standard. Doesn't that mean small businesses aren't really given new protections under this package?

A. ACA 8 sets up a NEW constitutional standard and adds a NEW layer of protection for small businesses from the use of eminent domain. ACA 8 includes a NEW constitutional requirement that a small business owner must be given an opportunity to participate in new development area before eminent domain can be used to eliminate blight. That's a significant revision to existing law. ACA 8 and the companion statutory measure also establish new requirements mandating increased compensation or relocation expenses be paid when a small business owner chooses not to participate, or is unable to participate, in the new revitalization plan.

Q. Can't a home still be taken and given to a private individual if it is "incidental to or necessary for a public work or improvement"?

A. This is a smokescreen by opponents. ACA 8 provides an ironclad, constitutional protection against taking a home by eminent domain for conveyance to another private party. Existing law permits private uses incidental to the public use for which the property is taken. Public facilities frequently include some relatively minor private uses such as street-level retail shops in a public parking garage or private concessions in parks. Under existing law, the presence of these incidental private uses does not negate the public character of the use and eminent domain may be used to acquire the property even though there may be some incidental private benefit in connection with the public facility. This provision of the measure merely confirms that this common sense rule in existing law is not being changed.

Q. There is an exception in the provisions of ACA 8 for public health and safety. Isn't that a broad loophole?

A. No. Existing law permits a public agency to use the power of eminent domain to protect its citizens from an immediate threat to the public health and safety. Examples could include a structure used repeatedly for serious criminal activity (e.g., a "crack house") or property that is the source of environmental contamination that may spread to adjoining neighborhoods. This provision merely affirms that this power of public agencies to protect citizens from an immediate harm is not limited by the measure.

Q. Why aren't you protecting farmland in this measure?

A. Farmland is already protected from being taken by eminent domain for redevelopment. Existing law prohibits inclusion of Williamson Act land and other land in agricultural use larger than 2 acres in a redevelopment project area. Redevelopment project areas must also be in predominately urban areas, and farmland is rarely – if ever – the target of eminent domain to convey to another private party.

Q. Why aren't you protecting churches in this measure?

There are legitimate policy reasons we did not include churches in this measure. In particular, there are two problems: (1) What is a church? and (2) What is worship? We are very reluctant to get government into the business of defining these terms because of traditional notions of separation of church and state.

Q. Why aren't rental properties included?

A. Under existing law, renters are provided relocation assistance and may be provided an opportunity to move back into a revitalized housing development. And this measure preserves the ability of local governments to deal with problem properties in blighted areas where the property owner is absentee or a slumlord. For instance, in Sacramento, eminent domain was used as a last resort to acquire Franklin Villas, a violent and socially distressed neighborhood that was plagued by routine homicides, car jackings, drive-by shootings, gang activity, and illegal drugs. Families were living in over-crowded and substandard housing conditions. Today, crime is down by nearly 40 percent and seniors and families are living in completely refurbished affordable apartments.

Q. Does your new (expansive) definition of local government actually expand the number of agencies that can use eminent domain?

A. No, quite the contrary. The definition of "local government" in ACA 8 is intended to be all-inclusive and ensure the provisions of the measure restrict ALL local government entities' use of eminent domain. Similar language defining local governments was found in Proposition 90.

Q. Are there any guidelines as to what the government can ask for a resale price when they don't use a property for a public use and resell to the original owner? What is to keep the government from purchasing property under eminent domain, retaining the property for a number of years, and reselling it for a profit, at the expense of the original owner?

A. A home or small business acquired by eminent domain must be offered for resale to the original owner if the government does not use the property for a public use. For homes, the resale price would be the value of the home at the time it was acquired by the government plus the capped valuation growth as set forth by Prop. 13. In other words, the original owner would be allowed to buy the home back at essentially the same price as if they had owned it the entire time with the minor annual increase in value as set forth by Prop. 13.

Q. Several eminent domain reform measures have been filed with the Attorney General by groups that you say are supportive of the legislative efforts. If they are supportive, why are they pursuing their own measures?

A. We've crafted a responsible and strong package of eminent domain reforms that will provide real protections for homeowners and small businesses. That's why many groups support our initiative. We believe our measure is the preferred vehicle to enact strong and responsible eminent domain reforms.

Q. How does this compare to other eminent domain reform measures now pending at the AG's office?

A. We've crafted a responsible and strong package of eminent domain reforms that will provide real protections for homeowners and small businesses, plain and simple. Some of the other measures pending go much further than just eminent domain reform. Voters rejected Prop. 90 in November because it contained unrelated and extreme provisions. We believe Californians want – and they deserve – honest and strong eminent domain reforms, without any unrelated provisions. And that's what we're trying to do with this package.

Q. What happens if you don't get it through the Legislature this year?

A. We're putting a lot of effort behind this and don't intend to fail. We believe that the Legislature is the best place to achieve responsible eminent domain reform and this package contains provisions that should gain the support of both Democrats and Republicans.

EDITORIAL

Say no to home wreckers

Since a Supreme Court case ruled against homeowners in 2005, protections against eminent domain abuse are making their way to the ballot.

May 29, 2007

THE SUPREME COURT'S 2005 Kelo ruling upholding government power to seize peoples' houses and turn them over to private developers sent a chill through homeowners. It also sent a thrill through property rights activists who saw an opportunity to hitch the more radical parts of their agendas to ballot measures advertised simply as protection against home-stealing developers and politicians.

Last November, for example, California's ballot included a measure to block Kelo-like eminent domain but also, by the way, to effectively end basic zoning and environmental regulation. Fortunately, voters saw Proposition 90 for the Trojan horse that it was and rejected it.

But there will be other Kelo-fighting measures on at least one of the all-too-many California ballots next year. One proposal likely will pair protection against eminent domain abuse with a phaseout of rent-control laws. Rent stabilization would apply to current tenants but would elapse once they vacated their apartments. Voters must deal with that one, when the time comes, with eyes open and full awareness of its effect.

Meanwhile, Assemblyman Hector De La Torre (D-South Gate) has proposed a more modest ballot measure that directly takes on the Kelo threat without attempting to turn it into a broader, and unwarranted, political revolution. The language is not yet final and must get legislative approval before proceeding to the ballot. But its principles are sound: It would bar state or local government from condemning an owner-occupied home and transferring it to another private party.

The virtue of De La Torre's plan is that it recognizes the special status our society places on a home. No amount of money can adequately compensate for the emotional investment in a home, especially when it is lost to a government that has determined, for whatever reason, that some other private owner is better suited to have the real estate.

Small businesses would be able to choose between staying on as part of a revitalization plan, receiving the value of the business or receiving relocation funds and the full value of the property. Investment properties, of course, should also be protected from eminent domain abuse. In the end, though, their loss can be monetized and the owner compensated.

The details of this proposal are still taking shape, and those details may tell volumes about whether it deserves to become law. It should escape no one's attention that one of its sponsors, the League of California Cities, represents governments that use, and sometimes abuse, eminent domain. But its narrow, targeted approach is worthy of support.

De La Torre's compromise

South Gate pol offers realistic eminent domain restrictions.

Article Launched:05/29/2007 08:45:24 PM PDT

We supported Proposition 90, a November ballot initiative aimed at limiting government's ability to seize private property and hand it to developers. Voters didn't like the concept and turned back the referendum, albeit by a tiny margin.

Though the initiative had wording problems in areas, Proposition 90 was on the right track following the Supreme Court's Kelo decision, which allows property "takings" in the name of economic development. The government's thirst for tax revenue - as legal as it may be - just isn't a good enough reason to tear down an old woman's house to put up a multiplex and cafe.

Assemblyman Hector De La Torre, D-South Gate, recently put eminent domain back on the table with a compromise ballot initiative that would restrict property takings in many situations, but not eliminate them. On first blush, this sounds like a decent compromise that voters may actually approve, if legislators put it on the ballot.

The assemblyman's initiative would prevent the government from seizing owner-occupied private property and handing it over to a private party. That means your home or apartment building - if you lived on site - couldn't be taken for a private development.

The measure would still allow eminent domain for projects that benefit the public good: freeways, roads, flood control channels and other necessities.

De La Torre's proposal would also extend a few added protections for commercial property and business owners.

The property-rights purists among us would argue that the law doesn't go quite far enough, and that if government wants a piece of land it should do what everyone has to do: Buy it. But we realize that we don't live in a world where political philosophy, no matter how sound, rules the day. What matters in the case of a ballot measure is whether voters would actually approve it.

We also know from our experiences with downtown Long Beach that the threat of eminent domain - though never exercised - convinced some owners of rundown properties to sell. Eminent domain, at least in the example where it was used as an unspoken threat, helped the city harness improving market forces and transform downtown.

That said, we believe everyone has their price, and, when they don't, government can find a new location for its projects. Also, the "fair market" value paid in property takings tends to increase when a developer is eyeing a parcel, but the values are usually just based on comparable real estate prices, or "comps." Proposition 90 tried to address that issue by tying takings to future values.

Though his initiative is still being crafted, De La Torre has our preliminary support. Enter whichever cliche you like about political compromise here, but a watered-down property rights measure is better than no measure at all.

De La Torre needs to get his bill through a government made up of people who, in many cases, came from city or county government before they were elected to the Legislature. De La Torre himself served on the South Gate City Council (don't confuse him with the bad apples of years past; he was one of the white hats during the scandals).

De La Torre isn't going to please property rights advocates on the far right - they've issued statements criticizing his proposal - but he may provide an added layer of protection needed following the Kelo decision. That may be enough to get protections through voters this time.

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07-0018

May 10, 2007

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

Attention: Patricia Galvan, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Brown:

I am one of the proponents of the attached initiative constitutional amendment. Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared. Enclosed is a check for $200.00. My residence address is attached. I also withdraw Initiative No. 07-0006.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814; Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Kenneth Willis, Proponent

Enclosure: Proposed Initiative

TITLE: This measure shall be known as the "Homeowners and Private Property Protection Act."

SECTION 1: PURPOSE AND INTENT

By enacting this measure, the people of California hereby express their intent to:

A. Protect their homes from eminent domain abuse.

B. Prohibit government agencies from using eminent domain to take an owner-occupied home to transfer it to another private owner or developer.

C. Amend the California Constitution to respond specifically to the facts and the decision of the U.S. Supreme Court in *Kelo v. City of New London*, in which the Court held that it was permissible for a city to use eminent domain to take the home of a Connecticut woman for the purpose of economic development.

D. Respect the decision of the voters to reject Proposition 90 in November 2006, a measure that included eminent domain reform but also included unrelated provisions that would have subjected taxpayers to enormous financial liability from a wide variety of traditional legislative and administrative actions to protect the public welfare.

E. Provide additional protection for property owners without including provisions, such as those in Proposition 90, which subjected taxpayers to liability for the enactment of traditional legislative and administrative actions to protect the public welfare.

F. Maintain the distinction in the California Constitution between Section 19, Article I, which establishes the law for eminent domain, and Section 7, Article XI, which establishes the law for legislative and administrative action to protect the public health, safety and welfare.

G. Provide a comprehensive and exclusive basis in the California Constitution to compensate property owners when property is taken or damaged by state or local governments, without affecting legislative and administrative actions taken to protect the public health, safety and welfare.

SECTION 2: AMENDMENT TO THE CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is hereby amended to read:

Sec. 19. *(a)* Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

(b) The State and local governments are prohibited from acquiring by eminent domain an owner-occupied residence for the purpose of conveying it to a private person.

(c) Subdivision (b) of this Section does not apply when State or local government exercises the power of eminent domain for the purpose of protecting public health and safety; preventing serious, repeated criminal activity; responding to an emergency; or remedying environmental contamination that poses a threat to public health and safety.

(d) Subdivision (b) of this Section does not apply when State or local government exercises the power of eminent domain for the purpose of acquiring private property for a Public work or improvement.

(e) For the purpose of this Section:

1. *"Conveyance" means a transfer of real property whether by sale, lease, gift, franchise, or otherwise.*

2. *"Local government" means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.*

3. *"Owner-occupied residence" means real property that is improved with a single family residence such as a detached home, condominium, or townhouse and that is the owner or owners' principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. Owner-occupied residence also includes a residential dwelling unit attached to or detached from such a single family residence which provides complete independent living facilities for one or more persons.*

4. *"Person" means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.*

5. *"Public work or improvement" means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports and seaports; utility, common carrier or other similar projects such as energy-related, communication-related, water-related and wastewater-related facilities or infrastructure; projects identified by a State or local government for recovery from natural disasters; and private uses incidental to, or necessary for, the Public work or improvement.*

6. *"State" means the State of California and any of its agencies or departments.*

SECTION 3. By enacting this measure, the voters do not intend to change the meaning of the terms in subdivision (a) of Section 19, Article I of the California Constitution, including, without limitation, "taken," "damaged," "public use," and "just compensation," and deliberately do not impose any restrictions on the exercise of power pursuant to Section 19, Article I, other than as expressly provided for in this measure.

SECTION 4. The provisions of Section 19, Article I, together with the amendments made by this initiative, constitute the exclusive and comprehensive authority in the California Constitution for the exercise of the power of eminent domain and for the payment of compensation to property owners when private property is taken or damaged by state or local government. Nothing in this initiative shall limit the ability of the Legislature to provide compensation in addition to that which is required by Section 19 of Article I to property owners whose property is taken or damaged by eminent domain.

SECTION 5. The amendments made by this initiative shall not apply to the acquisition of real property if the initial written offer to purchase the property was made on or before the date on which this initiative becomes effective, and a resolution of necessity to acquire the real property by eminent domain was adopted on or before 180 days after that date.

SECTION 6. The words and phrases used in the amendments to Section 19, Article I of the California Constitution made by this initiative which are not defined in subdivision (d), shall be defined and interpreted in a manner that is consistent with the law in effect on January 1, 2007 and as that law may be amended or interpreted thereafter.

SECTION 7. The provisions of this measure shall be liberally construed in furtherance of its intent to provide homeowners with protection against exercises of eminent domain in which an owner-occupied residence is subsequently conveyed to a private person.

SECTION 8. The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 9. In the event that this measure appears on the same statewide election ballot as another initiative measure or measures that seek to affect the rights of property owners by directly or indirectly amending Section 19, Article I of the California Constitution, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and each and every provision of the other measure or measures shall be null and void.

07-0015

HOWARD JARVIS TAXPAYERS ASSOCIATION

HOWARD JARVIS, Founder (1903-1986)
ESTELLE JARVIS, Honorary Chairwoman
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs

May 1, 2007

Ms. Patricia Galvan, Initiative Coordinator
Attorney General's Office
1515 K Street, 6th Floor
Sacramento, CA 95814

Re: California Property Owners and Farmland Protection Act

Dear Ms. Galvan:

By this letter, we respectfully request the Attorney General to prepare a title and summary of the chief purpose and points of the California Property Owners and Farmland Protection Act, a copy of which is attached. The undersigned are the proponents of this measure. **We also hereby withdraw Initiative No. 07-0003.** Although our previous initiative and the attached proposal both deal with eminent domain and property rights, there are substantial differences between the two.

Any correspondence regarding this initiative should be directed to Howard Jarvis Taxpayers Association, 921 Eleventh Street, Suite 1201, Sacramento, CA 95814 (916) 444-9950. The proponents' resident addresses are attached to this letter.

Enclosed is the required $200 filing fee as well as the certification as required by Elections Code Section 18650.

Thank you for your cooperation.

Sincerely,

Doug Mosebar
President, California Farm Bureau Federation

Sincerely,

Jon Coupal
President Howard Jarvis Taxpayers Association

Sincerely,

Jim Nielsen
Chairman, Cal. Alliance to Protect Private Property Rights

SACRAMENTO OFFICE: 921 11th Street, Suite 1201, Sacramento, CA 95814 • (916) 444-9950, Fax: (916) 444-9823

LOS ANGELES OFFICE: 621 South Westmoreland Avenue, Suite 202, Los Angeles, CA 90005-3971 • (213) 384-9656, Fax: (213) 384-9870

SECTION 1. STATEMENT OF FINDINGS

(a) Our state Constitution, while granting government the power of eminent domain, also provides that the people have an inalienable right to own, possess, and protect private property. It further provides that no person may be deprived of property without due process of law, and that private property may not be taken or damaged by eminent domain except for public use and only after just compensation has been paid to the property owner.

(b) Notwithstanding these clear constitutional guarantees, the courts have not protected the people's rights from being violated by state and local governments through the exercise of their power of eminent domain.

(c) For example, the U.S. Supreme Court, in Kelo v. City of New London, held that the government may use eminent domain to take property from its owner for the purpose of transferring it to a private developer. In other cases, the courts have allowed the government to set the price an owner can charge to sell or rent his or her property, and have allowed the government to take property for the purpose of seizing the income or business assets of the property.

(d) Farmland is especially vulnerable to these types of eminent domain abuses.

SECTION 2. STATEMENT OF PURPOSE

(a) State and local governments may use eminent domain to take private property only for public uses, such as roads, parks, and public facilities.

(b) State and local governments may not use their power to take or damage property for the benefit of any private person or entity.

(c) State and local governments may not take private property by eminent domain to put it to the same use as that made by the private owner.

(d) When state or local governments use eminent domain to take or damage private property for public uses, the owner shall receive just compensation for what has been taken or damaged.

(e) Therefore, the people of the state of California hereby enact the "California Property Owners and Farmland Protection Act."

SECTION 3. AMENDMENT TO CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is amended to read:

SEC. 19(a) Private property may be taken or damaged only for a stated public use and when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation. Private property may not be taken or damaged for private use.

(b) For purposes of this section:

(1) "Taken" includes transferring the ownership, occupancy, or use of property from a private owner to a public agency or to any person or entity other than a public agency, or limiting the price a private owner may charge another person to purchase, occupy or use his or her real property.

(2) "Public use" means use and ownership by a public agency or a regulated public utility for the public use stated at the time of the taking, including public facilities, public transportation, and public utilities, except that nothing herein prohibits leasing limited space for private uses incidental to the stated public use; nor is the exercise of eminent domain prohibited to restore utilities or access to a public road for any private property which is cut off from utilities or access to a public road as a result of a taking for public use as otherwise defined herein.

(3) "Private use" means:

(i) transfer of ownership, occupancy or use of private property or associated property rights to any person or entity other than a public agency or a regulated public utility;

(ii) transfer of ownership, occupancy or use of private property or associated property rights to a public agency for the consumption of natural resources or for the same or a substantially similar use as that made by the private owner; or

(iii) regulation of the ownership, occupancy or use of privately owned real property or associated property rights in order to transfer an economic benefit to one or more private persons at the expense of the property owner.

(4) "Public agency" means the state, special district, county, city, city and county, including a charter city or county, and any other local or regional governmental entity, municipal corporation, public agency-owned utility or utility district, or the electorate of any public agency.

(5) "Just compensation" means:

(i) for property or associated property rights taken, its fair market value;

(ii) for property or associated property rights damaged, the value fixed by a jury, or by the court if a jury is waived;

(iii) an award of reasonable costs and attorney fees from the public agency if the property owner obtains a judgment for more than the amount offered by a public agency as defined herein; and

(iv) any additional actual and necessary amounts to compensate the property owner for temporary business losses, relocation expenses, business reestablishment costs, other actual and reasonable expenses incurred and other expenses deemed compensable by the Legislature.

(6) "Prompt release" means that the property owner can have immediate possession of the money deposited by the condemnor without prejudicing his or her right to challenge the determination of fair market value or his or her right to challenge the taking as being for a private use.

(7) "Owner" includes a lessee whose property rights are taken or damaged.

(8) "Regulated public utility" means any public utility as described in Article XII, section 3 that is regulated by the California Public Utilities Commission and is not owned or operated by a public agency. Regulated public utilities are private property owners for purposes of this article.

(c) In any action by a property owner challenging a taking or damaging of his or her property, the court shall consider all relevant evidence and exercise its independent judgment, not limited to the administrative record and without deference to the findings of the public agency. The property owner shall be entitled to an award of reasonable costs and attorney fees from the public agency if the court finds that the agency's actions are not in compliance with this section. In addition to other legal and equitable remedies that may be available, an owner whose property is taken or damaged for private use may bring an action for an injunction, a writ of mandate, or a declaration invalidating the action of the public agency.

(d) Nothing in this section prohibits a public agency or regulated public utility from entering into an agreement with a private property owner for the voluntary sale of property not subject to eminent domain, or a stipulation regarding the payment of just compensation.

(e) If property is acquired by a public agency through eminent domain, then before the agency may put the property to a use substantially different from the stated public use, or convey the property to another person or unaffiliated agency, the condemning agency must make a good faith effort to locate the private owner from whom the property was taken, and make a written offer to sell the property to him at the price which the agency paid for the property, increased only by the fair market value of any improvements, fixtures, or appurtenances added by the public agency, and reduced by the value attributable to any removal, destruction or waste of improvements, fixtures or appurtenances that had been acquired with the property. If property is repurchased by the former owner under this subdivision, it shall be taxed based on its pre-condemnation enrolled value, increased or decreased only as allowed herein, plus any inflationary adjustments authorized by subdivision (b) of Section 2 of Article XIIIA. The right to repurchase shall apply only to the owner from which the property was taken, and does not apply to heirs or successors of the owner or, if the owner was not a natural person, to an entity which ceases to legally exist.

(f) Nothing in this section prohibits a public agency from exercising its power of eminent domain to abate public nuisances or criminal activity;

(g) Nothing in this section shall be construed to prohibit or impair voluntary agreements between a property owner and a public agency to develop or rehabilitate affordable housing.

(h) Nothing in this section prohibits the California Public Utilities Commission from regulating public utility rates.

(i) Nothing in this section shall restrict the powers of the Governor to take or damage private property in connection with his or her powers under a declared state of emergency.

SECTION 4. IMPLEMENTATION AND AMENDMENT

This section shall be self-executing. The Legislature may adopt laws to further the purposes of this section and aid in its implementation. No amendment to this section may be made except by a vote of the people pursuant to Article II or Article XVIII.

SECTION 5. SEVERABILITY

The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 6. EFFECTIVE DATE

The provisions of this Act shall become effective on the day following the election ("effective date"); except that any statute, charter provision, ordinance, or regulation by a public agency enacted prior to January 1, 2007, that limits the price a rental property owner may charge a tenant to occupy a residential rental unit ("unit") or mobile home space ("space") may remain in effect as to such unit or space after the effective date for so long as, but only so long as, at least one of the tenants of such unit or space as of the effective date ("qualified tenant") continues to live in such unit or space as his or her principal place of residence. At such time as a unit or space no longer is used by any qualified tenant as his or her principal place of residence because, as to such unit or space, he or she has: (a) voluntarily vacated; (b) assigned, sublet, sold or transferred his or her tenancy rights either voluntarily or by court order; (c) abandoned; (d) died; or he or she has (e) been evicted pursuant to paragraph (2), (3), (4) or (5) of Section 1161 of the Code of Civil Procedure or Section 798.56 of the Civil Code as in effect on January 1, 2007; then, and in such event, the provisions of this Act shall be effective immediately as to such unit or space.

May 10, 2007

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

Attention: Patricia Galvan, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Brown:

I am one of the proponents of the attached initiative constitutional amendment. Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared. Enclosed is a check for $200.00. My residence address is attached. I also withdraw Initiative No. 07-0006.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814; Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Christopher K. McKenzie, Proponent

Enclosure: Proposed Initiative

07-0018

May 10, 2007

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

Attention: Patricia Galvan, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

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All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814; Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Susan Smartt, Proponent

Enclosure: Proposed Initiative

ADMINISTRATION OF JUSTICE POLICY COMMITTEE REPORT

Administration of Justice Policy Committee

Wednesday, June 6, 2007 · 1:00 to 2:30 p.m.

Dial-in number: (800) 867-2581 · Access code: 5874509#

[Limited in-person attendance available*.]

Supervisor John F. Silva, Solano County, Chair
Supervisor Ronn Dominici, Madera County, Vice Chair

1:00	I.	**Welcome and Introductions** *Supervisor John Silva, Solano County*
1:05	II.	**Corrections Reform Update** *Elizabeth Howard, CSAC Legislative Representative; Rosemary Lamb, CSAC Legislative Analyst*
1:15	III.	**Sentencing Commission – ACTION ITEM** *Elizabeth Howard, CSAC Legislative Representative*
1:30	IV.	**Proposed Transfer of Juvenile Offenders – ACTION ITEM** *Elizabeth Howard, CSAC Legislative Representative; Rosemary Lamb, CSAC Legislative Analyst*
2:00	V.	**Booking Fees Update** *Elizabeth Howard, CSAC Legislative Representative*
2:15	VI.	**Policy Development: Subcommittee on Sex Offenders** *Rosemary Lamb, CSAC Legislative Analyst*
2:30 p.m.	VII.	**Closing Remarks and Adjournment** *Supervisor John Silva, Solano County*

** If you wish to attend this meeting in person, we will have limited seating available at a CSAC facility. Please contact Stanicia Boatner (sboatner@counties.org or 916/327-7500 x541) to confirm in-person attendance and to get location details.*

May 30, 2007

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500
Facsimile
916.441.5507

TO: CSAC Administration Of Justice Policy Committee

FROM: Elizabeth Howard, CSAC Legislative Representative

RE: Sentencing Commission: Request From Contra Costa County – ACTION ITEM

Requested Action. Recommend to the Board of Directors that CSAC remain neutral on the establishment of a Sentencing Commission given historical policy and practice that generally governs this area.

Background. In a memo dated May 24, 2007 (attached), the Contra Costa County Board of Supervisors requested that the CSAC Board of Directors support an appropriation advanced in the Governor's January budget proposal to create a Sentencing Commission, one element of the Governor's overall corrections reform proposal. Under the January proposal, the Sentencing Commission would be established as a permanent body to review and recommend changes to current and future sentencing structures. The commission would be made up of 17 members — including the Attorney General, the Secretary of the California Department of Corrections and Rehabilitation (CDCR), four legislators recommended by legislative leadership, a state judge, and representatives from law enforcement and crime victims' groups; each member would serve a four-year term.

As proposed, the Sentencing Commission would solicit input and recommended improvements to existing sentencing guidelines, with annual reports to the Legislature. The Commission would focus during its first year on the state parole system, would serve as a clearinghouse for research on sentencing policy, and would analyze legislative bills that sought to make sentencing changes. The Governor's January Budget proposed a $457,000 appropriation to fund four positions to staff the permanent commission.

Over 20 states in the country have Sentencing Commissions. In California, this proposal has proven to be very controversial, with proponents viewing it as a key to addressing prison overcrowding by facilitating "smarter" decisions regarding whom to incarcerate and for how long; opponents have decried the proposal as an effort to roll back tough-on-crime laws. It should be noted that the passage of AB 900 — the corrections reform package signed into law by Governor Schwarzenegger on May 3 — did not contain several of the key elements initially proposed in the January reform plan. The Sentencing Commission was one such element. In the Governor's May Revision, the modest appropriation that would have funded start-up staffing for the Commission was eliminated. It is our understanding that the Administration has indicated that it will not independently pursue establishing a Sentencing Commission and will await Legislative action

on this issue. At this point, it does not appear that the Budget Conference Committee will hear this issue.

Legislative Background. There are currently two separate legislative proposals that would create a Sentencing Commission: AB 160, by Assembly Member Sally Lieber, and SB 110, by Senator Gloria Romero. Each measure is briefly summarized below.

AB 160 (Lieber)	SB 110 (Romero)
• 16-member commission chaired by Chief Justice of the California Supreme Court • Other members include: the Attorney General; CDCR director; director of the Department of Finance, the state Public Defender; a prosecuting attorney; a chief of police or sheriff; a parole or probation officer; public defenders; legal scholars; and public members • Staggered terms, with length of term depending on the entity making the appointment • Duties include: devising sentencing guidelines; reviewing history of determinate and indeterminate sentencing; devising system to grant or rescind sentence credits; conducting studies and monitoring prison system's capacity; analyzing legislation and making recommendations to the Legislature • Specifies first report due to Legislature on January 1, 2009, with subsequent reports required every two years	• 20-member commission chaired by Chief Justice of the California Supreme Court • Other members include: CDCR secretary, the Attorney General; a sitting or retired appellate court justice; two sitting or retired trial court judges; district attorney; sheriff; county mental health director; public defender, chief probation officer, crime victims representative, line staff of state prison facility; other attorneys and scholars; and specified legislative leaders as ex officio, non-voting members • Staggered terms, with members eligible for reappointment • Physically sited with Administrative Office of the Courts and funded through judicial branch, but operationally an independent entity • Duties include: developing a new sentencing system; serving as a resource and information center; upon request of the Legislature, provide fiscal analysis of legislative measures or initiatives; establish specified subcommittees; publishing specified reports

Both measures are set for a fiscal hearing in their respective houses of origin on May 31.

Policy Considerations. We take very seriously the request of the Contra Costa Board of Supervisors and its belief that reexamination of California's sentencing structure is an important element to addressing overcrowding in our state and local detention facilities. It is the Board's view that the Sentencing Commission has merit and that financial support for its establishment should be supported.

However, to put this discussion in a broader context, it should be noted that CSAC has historically remained neutral on questions of appropriateness of punishment. We do not weigh in on bills or initiatives that seek primarily to create new crimes, change existing sentencing practices, or create a new penalty enhancement. By way of example, CSAC took no position on either the Three Strikes Law in the 1990s or the more recent Jessica's Law (Proposition

83). CSAC's practice and long-standing policy seeks to respect the diversity of our county perspectives on questions of crime and punishment and is based largely on the fact that a consensus position on such questions does not typically exist either among the 58 counties or among various local criminal justice system partners. Our historic position does not preclude a county or any of our affiliate associations to advocate for or against legislative measures or voter initiatives that seek changes to the state's penal or sentencing systems.

Recommended Action. Given CSAC's historic policy governing issues generally related to crime and sentencing, we do not recommend that CSAC advocate for the creation of a Sentencing Commission. However, we will take great care to assess the two current legislative proposals — and any future such proposals — for direct implications on county services to the extent that a Sentencing Commission could be charged with developing alternatives to incarceration that contemplate a local impact.

Attachments

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

May 30, 2007

TO: CSAC Board of Directors

FROM: Elizabeth Howard, CSAC Legislative Representative
Rosemary Lamb, CSAC Legislative Analyst

RE: CSAC Administration of Justice Policy Committee (June 6, 2007) – TWO ACTION ITEMS

Requested Action. Review and consider two action items from the CSAC Administration of Justice Policy Committee scheduled for June 6 relating to (1) juvenile justice realignment proposal and (2) a California Sentencing Commission.

Background. The CSAC Administration of Justice (AOJ) Policy Committee will meet on Wednesday, June 6 to cover several informational items, including an update on adult corrections reform efforts following passage of AB 900 (Chapter 7, Statutes of 2007), implementation of a new booking fee construct, and plans for further policy development work in the area of sex offenders.

Further, the AOJ committee will consider two action items: (1) the budget proposal that would transfer to counties control and supervision responsibilities for a limited number of juvenile offenders now committed to state juvenile detention facilities (Division of Juvenile Justice – DJJ, formerly known as the California Youth Authority) and (2) a request from the Contra Costa County Board of Supervisors to advocate for fiscal and policy support for a Sentencing Commission.

The two action items with relevant background materials are attached. It is hoped that additional information on the juvenile justice realignment proposal will be available for consideration by the AOJ Committee and CSAC Board of Directors at the time of their respective meetings. The budget item is before the Budget Conference Committee, with an expectation that discussions currently underway among key legislative staff will shape the final outcome of this proposal.

Staff Contact. For additional details on this item, feel free to contact Elizabeth Howard (916/327-7500 x537 or ehoward@counties.org) or Rosemary Lamb (916/327-7500 x503 or rlamb@counties.org).

Attachments

The Board of Supervisors

County Administration Building
651 Pine Street, Room 106
Martinez, California 94553

John Gioia, 1st District
Gayle B. Uilkema, 2nd District
Mary N. Piepho, 3rd District
Susan A. Bonilla, 4th District
Federal D. Glover, 5th District

Contra Costa County

John Cullen
Clerk of the Board
and
County Administrator
(925) 335-1900

May 24, 2007

Mr. Steve Keil
Interim Director
California State Association of Counties
1100 K Street, Suite 101
Sacramento, CA 95814

RE: **California Sentencing Commission Funding**

Dear Mr. Keil:

At the Contra Costa County Board of Supervisors meeting of May 22, 2007, the Board received a report on the status of Corrections Reform. We were briefed on the corrections reform elements in the Governor's May Revision budget, as well as the Public Safety and Offender Rehabilitation Services Act of 2007 (AB 900) passed by the state legislature on April 25, 2007.

The Board of Supervisors is concerned about the elimination of funding support for a Sentencing Commission in both the Governor's May Revision and AB 900. The Governor's January budget had contained a provision for the creation of the "California Sentencing Commission" with a proposal of $457,000 to fund the permanent commission. We believe this proposal has merit and should be reconsidered by the Legislature.

According to our data, twenty other states have sentencing commissions. A sentencing commission would evaluate California's sentencing structure to ensure that violent criminals who pose a risk to public safety stay behind bars, while non-violent, non-serious offenders serve appropriate sentences. Currently, California's determinate sentencing structure requires the majority of serious and violent offenders, including many sex offenders, be released from prison when their set term is served. Conversely, thousands of low-level offenders are serving lengthy mandatory sentences with little opportunity for rehabilitation because of overcrowded conditions.

Until there is a substantial investment in rehabilitation programs and substantive improvements to the current sentencing guidelines, we will find ourselves facing the same over-crowding problems of today in the foreseeable future. We simply cannot build ourselves out of this problem at the expense of our education system and other vital public services.

Therefore, we respectfully request that the CSAC Board of Directors consider taking a position of support for the funding of a sentencing commission.

We would appreciate your advancement of this request to the Board of Directors. We will make a similar request to our legislative delegation.

Cordially,

Mary N. Piepho
Chair, Board of Supervisors

cc: Assembly Member Mark DeSaulnier
Assembly Member Loni Hancock
Assembly Member Guy Houston
Senator Tom Torlakson
Members, Contra Costa County Board of Supervisors

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May 30, 2007

TO: CSAC Administration Of Justice Policy Committee

FROM: Elizabeth Howard, CSAC Legislative Representative

RE: Juvenile Justice Realignment Proposal – ACTION ITEM

Requested Action. Direct staff to continue pursuing efforts to ensure maximum operational and fiscal feasibility of proposed juvenile justice realignment proposal.

Background. At its March 2007 meeting, the CSAC Administration of Justice Policy Committee discussed the Governor's January budget proposal to transfer responsibility for certain juvenile offenders from the state to counties. Specifically, the proposal would stop intake on July 1, 2007 for certain non-violent offenders[1] into the state's juvenile detention facilities operated by the Division of Juvenile Justice (DJJ, formerly known as the California Youth Authority). Staff was given direction to (1) further evaluate county interest in and viability of the juvenile realignment proposal and (2) determine the best means for coordinating county strategies and approaches with the Chief Probation Officers of California (CPOC) to ensure the operational and fiscal feasibility of the realignment model from the broad county perspective.

This memo seeks to provide an update on the budget issue and analysis of efforts to date as well as to reaffirm the advocacy approach being pursued in light of indications that this proposal has significant momentum behind it.

Status of Issue in Budget Context. The juvenile justice realignment proposal is before the Budget Conference Committee, with an expectation that discussions currently underway among key legislative staff will help shape the final outcome of the proposal. It is important to note that the framework presently being discussed differs in several significant ways from the Governor's proposal and, by all accounts, contemplates that counties would keep a relatively small number of juveniles at the local level — perhaps as few as 250 or 300 statewide on an annual basis.

While details on the specifics of the proposed realignment have not yet emerged, CSAC and CPOC staff have participated in a number of discussions in recent weeks with key legislative staff — both policy and budget —that have revealed a significant commitment on the part of the state to seeing this policy change through. It is quite apparent that a number of key policy makers believe that counties are better suited to provide services to youthful offenders and see great value in maintaining community and familial ties, which can be better facilitated through local placement options.

[1] Defined as "non-707 (b)s," that is youthful offenders who are committed to DJJ for offenses other than those set forth in Welfare and Institutions Code Section 707 (b). See page 4 of this memo for the relevant code section reference.

Over the last several months, CSAC staff has worked at a number of levels to develop costs estimates for providing appropriate treatment and housing options for youthful offenders. We have worked through the CSAC Executive Steering Committee on Corrections Reform and in collaboration with the County Administrative Officers Association of California, the Urban Counties Caucus, the Regional Council of Rural Counties, and the Chief Probation Officers of California to seek maximum feedback on the proposed population transfer. As would be expected, county reaction to this proposal has been somewhat mixed and cost estimates vary (ranging generally from $125,000 to $150,000 in annual per-ward costs). We have provided the Legislature both verbal and written testimony on the proposal throughout the budget process, including a recent letter (attached) to Senator Mike Machado, who serves as the Senate budget subcommittee chair with jurisdiction over DJJ, submitted jointly with UCC. In all advocacy efforts, CSAC presses principally on the need for maximum fiscal and operational feasibility to enable counties to carry out programming and housing responsibilities successfully.

The table below attempts to outline the elements of the Governor's initial proposal as well as areas where that proposal potentially may be modified. Until a proposal emerges out of the Budget Conference Committee many of the specific details will remain unknown.

Assumptions of Governor's January Budget Proposal	**Potential Areas of Modification**
State could return juveniles currently in DJJ custody to counties	Counties could opt-in to take back some or all of its current population committed to the DJJ, with funding being provided for each offender
Starting July 1, 2007 the DJJ will no longer accept intake for any of the following youthful offenders: • All female juvenile offenders (irrespective of commitment offense) • All male non-WIC 707(b) offenders	Both female and male non-707 (b) offenders would be kept at the local level beginning on a date to be determined (July 1, 2007 remains on the table, but a delayed implementation has been raised)
State will provide to counties $94,000 per juvenile + any cost savings that county will accrue given avoidance of sliding scale fees (amount of funding returned to counties to "follow" juveniles); counties to receive funding in perpetuity)	Per-ward amount not yet determined, but is believed to be justifiably higher than $94,000 per year; some questions remain as to how to appropriately "score" sliding scale savings
Funds will be block granted to counties using an as-yet undetermined distribution methodology, but certainly one that is based on juvenile population numbers to be kept locally after 7/1/07 relative to a county's percent of overall CYA/DJJ commitments over 10-year period	Consideration being given to using another distribution mechanism, perhaps basing each county's allocation on the at-risk population (aged 10-17) plus a factor that takes into account juvenile crime (such as total number of felony juvenile dispositions) as well as assuring a minimum per-county grant
State intends to release an RFP to contract with a provider (e.g., CBO, county, private entity) to offer housing/services to female juvenile offenders to allow females currently in DJJ jurisdiction to complete their commitments; counties could contract back with state, under this model, for female offender placements	No changes anticipated; RFP process is underway

Assumptions of Governor's January Budget Proposal	Potential Areas of Modification
State would provide bond funds counties could access to build up to 5,000 juvenile beds at the local level	Unknown commitment of resources for construction/infrastructure investment for juvenile facilities

Other elements in the mix include financial support for counties taking over the supervision function for the youthful offenders who either are returned from DJJ to county control pursuant to a county opt-in or are not committed to the DJJ once intake is cut off. Also, the concept of planning grants is being considered to allow counties to maximize resources by adopting regional efforts to treat and house the youths that will remain in county custody going forward.

Policy Considerations. Understandably, counties are concerned with having sufficient resources to carry out new duties and responsibilities and with securing appropriate protections for ongoing funding. There are, however, a number of considerations that make a case for continuing to pursue the best possible deal we are able to negotiate. First, there is existing law that would appear to give the state the ability to make a finding that a ward would not "materially benefit" from the programs and services available at the DJJ. (See Welfare and Institutions Code Section 736 on page 5 below.) While we are seeking further legal analysis of the implications of this section, it is our understanding from probation sources that the state has increasingly been making use of this prerogative. Secondly, Assembly Member Sally Lieber has a measure that would incrementally abolish the DJJ as of January 1, 2009 and all youth would be returned to local custody. This measure will be considered as part of the Assembly Appropriations Committee's Suspense File on May 31, and its potential movement could signal that the Legislature is willing to consider other more extreme alternatives.

Requested Action. Should any additional details emerge regarding this proposal, that information will be provided to the AOJ Committee for its consideration in advance of our June 8 meeting. However, based on the information known to date, it is recommended that the Administration of Justice Policy Committee direct staff to continue pursuing efforts to ensure maximum operational and fiscal feasibility of the juvenile justice realignment proposal now before the Budget Conference Committee.

Attachments

Welfare and Institutions Code Section 707 (b)

Note that the youthful offenders (i.e., non-707 (b)s) who would no longer be accepted for intake into state detention facilities would be those committed for offenses ***other than those listed below.***

Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

(1) Murder.

(2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.

(3) Robbery.

(4) Rape with force or violence or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) Any offense specified in subdivision (a) of Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purpose of robbery.

(11) Kidnapping with bodily harm.

(12) Attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) Any offense described in Section 1203.09 of the Penal Code.

(17) Any offense described in Section 12022.5 or 12022.53 of the Penal Code.

(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) Any violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which would also constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from any county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping, as punishable in subdivision (d) of Section 208 of the Penal Code.

(27) Kidnapping, as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 12034 of the Penal Code.

(29) The offense described in Section 12308 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

Welfare and Institutions Code Section 736.

(a) The Division of Juvenile Justice shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefited by its reformatory and educational discipline, and if it has adequate facilities, staff, and programs to provide that care. A person subject to this section shall not be transported to any facility under the jurisdiction of the Division of Juvenile Justice until the director thereof has notified the committing court of the place to which that person is to be transported and the time at which he or she can be received.

(b) To determine who is best served by the Division of Juvenile Justice and who would be better served by the State Department of Mental Health, the Chief Deputy Secretary of the Division of Juvenile Justice and the Director of the State Department of Mental Health shall, at least annually, confer and establish policy with respect to the types of cases that should be the responsibility of each department.

CALIFORNIA STATE
ASSOCIATION OF COUNTIES

URBAN COUNTIES
CAUCUS

May 24, 2007

The Honorable Mike Machado
Chair, Senate Budget and Fiscal Review Subcommittee No. 4
State Capitol, Room 5066
Sacramento, CA 95814

Dear Senator Machado:

When Senate Subcommittee #4 heard the issue of the Department of Juvenile Justice (DJJ) population realignment earlier this week you expressed concerns about the lack of detail in the Administration's proposal but noted that it will hopefully start the process of improving outcomes for youthful offenders. You also stressed the need for a continuum of care that weaves the state and local elements of the Juvenile Justice system together and provides consistency across the State. I concluded from your remarks that rather than counties focusing on the inadequacy of the proposed funding, they need to provide more specific information about what would be necessary to implement a realignment proposal. This letter is an attempt to let you know about information we have gathered from many of our counties, questions that counties have raised, and uncertainties that prevent us from being more helpful in this process.

Information gleaned from the DJJ census on February 1, 2007 indicates that of the 230 non 707 (b) offenders under age eighteen, 52 percent or 119 were referred from an urban county. Of the 676 wards eighteen or over, 416 or 61.5 percent were from urban counties. For purposes of this discussion, we will use the 12 most populous counties as an example, as we have received more detailed feedback from these counties as a group. The 12 "urban" counties comprise 76 percent of the State's population, and one would conclude that our counties have already been making a concerted effort to avoid referrals of non 707 (b) youths to DJJ. This is consistent with county reports that in recent years they have tried to send only those youths to DJJ for whom they have run out of options or for whom they lack appropriate facilities. Funding from the Juvenile Justice Crime Prevention Grant Program has been highly instrumental in counties being able to bring together resources from across the community to develop local programs and services for these youths. Continuation of this funding stream would be critical to counties' ability to continue and expand this practice. This data also illustrates that initially the urban counties will most likely not be dealing with a large number of additional wards. However, as these offenders turn eighteen, the statutory requirement to separate them from the younger wards will complicate the housing situation and probably require additional facilities.

We asked our counties to try to determine what they thought it would cost to maintain youthful offenders in this population category in local facilities (assuming they are available). We noted that these youths will need additional services, including mental health, beyond those provided to the current local population. As expected, we got a range of responses, varying from $124,000 to $150,000. Since we included a sample methodology for making this calculation developed by one of our counties, we assume that these numbers back out the current sliding scale fees. As you noted in Subcommittee, there should be consistency between the State plan being developed and local programs. Therefore, depending on the expectations of the

continuum of care, and the severity of the issues and service needs of the wards, these numbers could vary.

We also queried our counties about whether they currently have capacity to house the population proposed for realignment. Only one county responded affirmatively. However, three others have living units that are not presently in use but could be renovated for this purpose if funding is available. Further, one county has offered to turn an old facility into a regional rehabilitation center for youth from other neighboring counties if it receives the "brick and mortar" funds to do so. Therefore, in order for counties to appropriately house these youths, especially those over eighteen, facility funding is needed. The variety of county capacity also appears to call for a planning process to best determine how to deliver services across the state and to maximize the benefit of regionalization.

Counties recognize that many of these youths will require an intensive level of services, particularly with respect to their mental health and substance abuse needs. This will necessitate in many cases the addition of specialized professional staff. We have concerns that given the current and escalating staffing situations at the Department of Corrections and Rehabilitation and Department of Mental Health it may be difficult for counties to recruit and retain appropriate staff to meet this need. Therefore, counties and the state should partner on programs to develop professionals that can fill these positions into the future.

Some suggestions for alleviating the impacts of the proposed realignment that counties have offered include enabling those counties with capacity to contract with other counties who lack space. Further, delaying the implementation until a date certain to give counties an opportunity to ascertain their needs and develop a plan to meet them would better enable counties to succeed. This is important if counties are expected to provide programs consistent with a State plan. It is also critical to enable counties to meet standards and expected outcomes. Finally, in order for counties to be successful in this partnership, they will need assurances that they will have an adequate and secure revenue stream that increases over time to reflect growth in operating costs and state expectations. This is particularly critical for county ability to contract with community organizations that can help to provide "wrap-around" services to these youths and to ramping up staffing to care for these youths.

What ultimately will make the juvenile justice realignment successful is appropriate timing and resources for counties to further the continuum of services at the local level for juvenile offenders. A potential long-term benefit of this realignment, if structured and funded appropriately, is that counties can develop a more robust prevention and intervention system that does a better front end job of diverting youth from criminality.

We appreciate your continued dedication to improving the care of and opportunities for our youthful offenders. Thank you for your consideration of our suggestions and concerns. If I can provide you with further information, please contact me at 327-7531 or Elizabeth Howard at 916/327-7500 x537.

Sincerely,

Casey Kaneko
Executive Director
UCC

Elizabeth Howard
Legislative Representative
CSAC

AGRICULTURE & NATURAL RESOURCES POLICY COMMITTEE REPORT

Agriculture and Natural Resources Policy Committee

Wednesday, June 13, 2007 · 10 :00 a.m. – 1:30 p.m.
CSAC Offices – 1100 K Street, Suite 101
First Floor Conference Room

Supervisor Jeff Morris, Trinity County, Chair
Supervisor Mike Nelson, Merced County, Vice Chair

TENTATIVE AGENDA

10:00 - 10:10	I.	**Welcome and Introductions** Supervisor Jeff Morris, Trinity County, Chair Supervisor Mike Nelson, Merced County, Vice-Chair
10:10 - 10:30	II.	**UC Cooperative Extension Food Safety Actions** Linda Harris, UC Cooperative Extension
10:30 - 10:45	III.	**Introducing the Western Plant Health Association (WPHA)** Renee Pinel, WPHA
10:45 - 11:05	IV.	**Committee Discussion of County Williamson Act Issues**
11:05 – 11:25	V.	**Statewide Flood Control Needs Assessment** County Engineers Association of California Representative (tba)
11:25 – 11:40	VI.	**CSAC Climate Change Working Group Update** Supervisor Jeff Morris, Trinity County, Working Group Chair Supervisor Diane Dillon, Napa County, Working Group Vice Chair Cara Martinson, CSAC Legislative Analyst
11:40 – Noon	VII.	**Legislative & Budget Update** Karen Keene, CSAC Legislative Representative
Noon	VIII.	**Lunch**
1:00 – 1:20	VIIII.	**Other Items**
1:20 – 1:30	X.	**Closing Remarks** Supervisor Jeff Morris, Trinity County, Chair Supervisor Mike Nelson, Merced County, Vice Chair

APPOINTMENTS TO CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

June 14, 2007

To: CSAC Board of Directors

From: Greg Cox, CSAC Finance Corporation Board Member
Norma Lammers, CSAC Finance Corporation Executive Director

Re: **Appointment of CSAC Executive Director as Commissioner and Jean Hurst as Alternate Commissioner to California Statewide Communities Development Authority, a Joint Powers Authority**
ACTION ITEM

Recommendation: It is recommended that the Board:

- Appoint the new CSAC Executive Director as Commissioner for the California Statewide Communities Development Authority, effective upon his starting date with CSAC.
- Appoint Jean Hurst to serve as Alternate Commissioner for the California Statewide Communities Development Authority, effective upon the same date.

Background: California Statewide Communities Development Authority (Authority) is a JPA established in 1987 by CSAC and the League of California Cities (League) to promote economic development through the provision of financial services to local governments. It is the entity through which we conduct all of our pooled financings – TRAN, VLF Gap Loan, Pension Obligation Bonds, Tobacco bonds, Water/Wastewater bonds, as well as serving as a conduit issuer of nonprofit and multi-family housing bonds.

According to the Joint Powers agreement, the Authority is governed by a seven-person Commission. Four members of that Commission are appointed by the "governing body of CSAC," and three by the governing body of the League. Three of the four CSAC appointees are Steve Keil, Norma Lammers, and Paul Hahn, Deputy County Executive Officer from Sacramento County. The fourth person has always been the CSAC Executive Director. Based on action taken by this Board on March 29th, Jean Hurst, Legislative Representative, has been serving as commissioner on an interim basis until a new CSAC Executive Director was appointed. Jean's very capable interim service has ensured that we have had excellent input on behalf of county fiscal issues and we appreciate the time and expertise she brought to that service.

The JPA agreement also provides that each of CSAC and the League may appoint an alternate member of the Commission for each regular member it appoints. With three of the CSAC appointed commissioners leaving within one year – Jim Keene, Steve Keil, Norma Lammers, asking Jean Hurst to remain on

the Authority as an Alternate Commissioner would help provide continuity in a time of transition.

Action Requested: We recommend the CSAC Board of Directors appoint the new CSAC Executive Director to serve as a Commissioner for the California Statewide Communities Development Authority. All Commissioners automatically become members of the Executive Board of the U.S. Communities Government Purchasing Program. Together, these two programs account for over $3 million or 80% of the revenues to the CSAC Finance Corporation. It is important that the CSAC Executive Director be a participant in the policies and decisions of both these entities. Additionally we recommend that you appoint Jean Hurst to serve as Alternate Commissioner for the California Statewide Communities Development Authority.

NATIONAL ASSOCIATION OF COUNTIES (NACo) REPORT

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California
95814

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Facsimile
916.441.5507

May 31, 2007

TO: CSAC Members attending NACo Annual Conference

FROM: Steve Keil, Interim Executive Director

SUBJECT: ***National Association of Counties (NACo) Annual Conference***
July 13 – 17, 2007, Richmond, Virginia

As you know, the 2007 NACo Annual Conference is being held in Richmond, VA on July 13 – 17. This correspondence will provide you with general information about the conference as well as specific information regarding the scheduled CSAC functions.

Conference/Transportation Information

The NACo conference will be held at the Richmond Convention Center, 403 N. Third Street, Richmond. For directions and parking information, please click on the following link: www.richmondcenter.com/parking-directions.html

The Richmond Marriott, 500 East Broad Street, is adjacent to the Convention Center. NACo will provide shuttle service to and from all other conference hotels.

California Caucus

CSAC will convene a California Caucus on Monday, July 16, 4:30pm – 5:30pm, in Room B13 of the Convention Center. The meeting will feature an update on federal issues by staff from Waterman Associates as well as casting California's vote for NACo 2nd Vice President.

California Delegation Dinner

All California county attendees are invited to a reception and dinner at Sam Miller's restaurant, following the California Caucus on Monday. The restaurant is located at 1210 E. Cary Street, in the historic Shockoe Slip area of Richmond (directly across from the Omni Hotel). The reception will begin at 6:00pm, followed by dinner at 7:00pm. ***Please return the enclosed RSVP form to confirm your attendance.***

Area Activities

In between meetings, you may want to enjoy some other interesting things to do in and around Richmond such as visiting the Jamestown Settlement or beaches along the Eastern Shore. Information on these and other activities can be found at www.virginia.org/.

We look forward to seeing all of you in Richmond. If you have questions about CSAC events during the conference, please feel free to contact me or Sue Ronkowski of my staff at (916) 327-7500 ext. 508 or sronkowski@counties.org.

Attachment: Dinner invitation

California State Association of Counties
(CSAC)
cordially invites you and a guest to the
California Delegation Dinner

Monday, July 16, 2007
Reception at 6:00 p.m.
Dinner at 7:00 p.m.

Sam Miller's
1210 East Cary Street
Richmond, VA 23219
(804) 644-5465

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&
CSAC Finance Corporation

____ *I will attend the Delegation Dinner*

____ *I will be bringing a guest*
*Guest Name:*_____

____ *No, I will not be able to attend the Delegation Dinner*

*Name:*_____
*Affiliation:*_____

Please RSVP to Amanda Yang at CSAC by Friday, July 6: ayang@counties.org or fax information sheet to (916) 321.5045

May 31, 2007

TO: Supervisor Valerie Brown

FROM: Karen Keene, CSAC Legislative Representative

RE: Secure Rural Schools and Community Self-Determination Act (County Payments program).

The following information includes a brief background on the Secure Rural Schools and Community Self-Determination Act, and a status report regarding recent actions taken by Congress on the Act's reauthorization. The status report was developed by Joe Krahn of Waterman & Associates. Please contact me if you need additional information or if you have any questions.

BACKGROUND:

In 1908, Congress passed legislation that created a funding mechanism to offset the effects of removing National Forest System lands from economic development. The Act specified that 25 percent of all revenues generated from the multiple-use management of the National Forests would be shared with counties to support public roads and public schools.

The initial revenue sharing mechanism worked well from 1908 to about 1986. After 1986, however, the multiple-use management of the National Forests sharply dropped, as have the revenues. In response to this revenue short fall, county and school officials banded together in 1998 to form the National Forest Counties and Schools Coalition.

Largely as a result of the Coalition's effort, Congress approved in 2000 the SRSCSDA. The Act stabilizes the share of national forest receipts for counties by allowing participating jurisdictions to collect 25 percent of the current year's receipts or the average of the highest three years since 1986, whichever is greater. Counties may spend the funds for a variety of projects, including forest-related education and road maintenance and rehabilitation.

It should be noted that the SRSCSDA expired on September 30, 2006, with the final payments dispersed in late December of last year. All told, $385 million in fiscal year 2006 forest receipt program funding was provided to counties across the country, with California receiving over $66 million of the total allocation.

STATUS REPORT:

Last Friday President Bush signed the fiscal year 2007 emergency supplemental appropriations bill into law (the president had vetoed a previous version of the legislation due to his objection to troop withdrawal language). The final spending package (HR 2206; PL 110-28) includes a one-year extension of the Secure Rural Schools and Community Self-Determination Act (County Payments program). The funding ensures that rural counties and school districts will be able to address critical budgetary needs in the current year.

Absent from the final bill is the five-year reauthorization of the County Payments program/PILT funding that had been approved by the Senate as part of the previous spending legislation. Although proponents of the multi-year plan fought to include the proposal in the reconfigured bill, those efforts were ultimately turned back due to several concerns shared by members of the House leadership.

For one, House Appropriations Committee Chairman Dave Obey (D-WI) - the author of the war supplemental - strongly opposed including the multi-year County Payments/PILT package in the spending measure. According to leadership staff, Congressman Obey, as chairman of the Appropriations panel, did not want to create a unique precedent by including a multi-year, multi-billion reauthorization plan in a supplemental appropriations bill. Incidentally, this view was shared by other members of the House leadership. (It should be noted that Mr. Obey was initially reluctant to include even a one-year County Payments "fix" in the supplemental. However, Mr. Obey ultimately agreed to include the stop-gap language in the original House bill.)

The fight to secure a long-term County Payments reauthorization is far from over, as proponents of the program are already beginning a renewed effort aimed at passing a multi-year bill. At this point, however, it remains to be seen whether a stand-alone bill or other must-pass package will be the vehicle of choice. Additionally, it is not clear whether the spending offsets that had been identified by the Senate will still be available when a new bill is identified.

Finally, the multi-year County Payments reauthorization plan enjoyed widespread, bipartisan support from the CA congressional delegation. We continue to work with our CA members, as well as other key offices outside of the state's delegation in an effort to advance a long-term solution.

INSTITUTE FOR LOCAL GOVERNMENT (ILG) REPORT

INSTITUTE FOR LOCAL GOVERNMENT

Update on Activities
June 2007

Institute Launches California Communities Climate Action Program

The Institute is thrilled to report that funding is coming in for its program addressing climate change: the California Communities Climate Action Program. The program, launched with seed money from CSAC's and the League's core financial support for the Institute, involves:

1. Providing quality information on a variety of strategies that can be applied in individual communities to make a difference on climate change issues, and

2. Creating an awards and recognition program for those local agencies implementing climate action best practices in their own operations and throughout the community.

Local agency climate-friendly strategies include such policies and practices relating to urban forestry, energy conservation, alternative fuel vehicles, recycling, land use planning and public facilities design.

Southern California Edison has stepped in with a grant of $95,000; the Waste Management Company's Foundation has provided another $40,000. Requests are pending with Pacific Gas and Electric and Sempra Energy Utilities to match Southern California Edison's support.

Productive conversations regarding the program have occurred with the Assembly Speaker's office, the Administration's Climate Action Team, the Integrated Waste Management Board and others. Institute staff will be discussing the program with CSAC's climate change task force on June 8.

The Institute has established a section on website devoted to climate change information and resources at www.ca-ilg.org/climatechange. Check it out for resources related to a variety of local government/climate change issues.

County Administrative Officers Association Rep Welcomed to ILG Board

Yolo County Administrator Sharon Jensen joined the Institute board at its May board meeting, offering a number of helpful suggestions on direction for Institute programs. The Institute board is looking forward to also welcoming the new CSAC executive director to its board. Greg Cox continues to serve as a liaison between the CSAC and Institute boards of directors.

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Communities for Healthy Kids

This new Institute program is staffing up. The voluntary program helps city and county officials collaborate to identify and enroll kids from working families who are eligible for no or low cost health insurance. An advisory panel has been established to offer feedback and suggestions on outreach strategy, written materials, and best practices. County representatives on the panel include Supervisor Helen Thomson of Yolo County, Supervisor Liz Kniss of Santa Clara County, as well as a representative from the County Welfare Directors Association. The panel had a very productive first meeting on May 18th. CHK anticipates distributing an "Invitation to Participate" in early to mid-June to all cities and counties.

INSTITUTE PROJECT STAFF

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Housing and Land Use Program

The program organized the land use component of CSAC's new supervisors' training, featuring Professor Tom Jacobs from Sonoma State University.

Collaborative Governance Initiative (CGI)

Tulare and Kings Counties have been included among the Central Valley city and county sites to be identified to receive support for inclusive public engagement activities. Resources available include website translation capacity, meeting translation equipment, and access to expert advice and assistance. This support was made possible by the James Irvine and Community Technology Foundations.

Our current survey of local government needs in the area of civic engagement includes solicitation of opinions and views of county supervisors, executives and planning directors.

Ethics Program

The ethics program delivered two AB 1234 training sessions since the last CSAC board meeting to: 1) the State Association of County Retirement Systems, and 2) the Latino Leadership Institute in Bakersfield. An article on the law and ethics of gifts to public agencies has been posted to www.ca-ilg.org/everydayethics; June's posting is about the complexities of state law relating interests in contracts.

ILG MISSION

Serving as a trusted and forward-thinking source of information to assist local officials in their service to their communities

HEALTH REFORM UPDATE

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May 30, 2007

To: CSAC Board of Directors

From: Kelly Brooks, CSAC Legislative Representative
Farrah McDaid Ting, CSAC Legislative Analyst

Re: Health Reform Update

As you are aware, health reform continues to be a topic of discussion within the Legislature and the Administration.

Governor's Proposal
To date, the Governor's plan has not surfaced in bill form, although the Governor's staff is working on drafting language for inclusion in a bill. The Governor's Office hosted work group meetings on coverage this spring, in which CSAC participated. These meetings highlighted a number of shortcomings and county concerns regarding the Governor's proposal. To date, the Governor's staff has not shared their proposed language broadly with stakeholders, and it is unclear when, or if, they will resume work group meetings to share language and additional detail. CSAC continues to be in contact with members of the Administration and the CSAC Health Reform Task Force in preparation for reviewing any language that might surface.

Please recall that the Governor's proposal has a number of components, including:

- An individual mandate to purchase health insurance;
- Employer mandate to spend 4 percent of payroll on health insurance for employees or pay into a pool (pay or play);
- Health market reforms, including guaranteed issue (anyone who wants to purchase insurance in the individual market could not be prevented from purchasing insurance because of a pre-existing condition);
- Expansion of Healthy Families Program to all children up to 300% of the federal poverty level (FPL);
- Expansion of Medi-Cal to adults, including childless adults;
- Creation of a subsidized purchasing pool for low-income Californians (under 250% FPL);
- Fees on providers (2%) and hospitals (4%);
- $1 billion county contribution.

Part of the Governor's argument for health reform is the "hidden tax" on premiums that Californians pay resulting from the costs of the uninsured and the underfunding of the Medi-Cal program. In late May, the Hoover Institution released a report entitled "The Uninsured's Hidden Tax on Health Insurance Premiums in California: How Reliable is the Evidence?". The Hoover report contends that "the total burden of uncompensated care for the uninsured amounts to only 2.8 percent of premiums," whereas the Governor touts a rate of approximately 10% based upon an analysis by the New America

Foundation. The Hoover report calls into question part of the basis for the Governor's proposal.

In late April, the Governor's Office provided the most specific detail to date on how they are proposing to take $1 billion in county funds to finance their health proposal. Please note that the Administration is no longer proposing to take Realignment funds. Rather, they are asking for a county contribution, without directing from what fund source that contribution should come.

The general concept is that counties would be assessed a share of cost for each new enrollee in health care that would have otherwise been a county responsibility. Although the Administration has not shared language, they are talking about some kind of relief for medically indigent adults (which they are trying to separate from Welfare and Institutions Code Section 17000 responsibilities). The Administration has structured the proposal so that counties would essentially be fronting the state funds until a more detailed assessment of enrollment is made.

In the first year, the $1 billion would be shared among counties based on each county's estimated share of uninsured individuals who would be served through newly created or expanded state programs. Data would be based on the total number of uninsured by county, net of adults without green cards. The Year 1 estimated contribution per person would be established based on the estimated number of newly eligible persons for health insurance including: parents in the purchasing pool and childless adults in the pool and newly eligible for Medi-Cal.

In Year 2, the $1 billion would be adjusted to increase for inflation. They are using the medical Consumer Price Index as their inflator.

In Year 3, the Administration would look back at Year 1 to compare what counties paid and actual enrollment. There would be a "settle up" process. In Year 4, the Administration would look back to Year 2 to compare the county share with actual enrollment. This retroactive settlement would continue in perpetuity.

The Administration also shared additional information about how the rate increase for public hospitals (proposed to be $599 million) would be distributed by hospital. However, the Administration has been unable to share information about hospital or county impacts of the loss of Safety Net Care Pool Funds and the imposition of the 2 and 4 percent fees on providers and hospitals.

Attached is a county-by-county breakdown of the proposed contribution and how it compares to current realignment funding for health purposes.

Legislative Action
Both Speaker Nuñez's and President Pro Tempore Perata's proposals (AB 8 and SB 48 respectively), are anticipated to move off the Appropriations Suspense files by the June 1 deadline. Their proposals contain many similar elements, including:

- Employer mandate to spend 7.5 percent of payroll on health insurance for employees or pay into a pool (pay or play);
- Health market reforms, including guaranteed issue (anyone who wants to purchase insurance in the individual market could not be prevented from purchasing insurance because of a pre-existing condition);
- Expansion of Healthy Families Program to all children up to 300% of the FPL;
- Creation of a subsidized purchasing pool for low-income Californians (under 300% FPL).

At this point the main difference between the two measures is that Senator Perata's proposal includes a modified individual mandate. As of May 30, SB 48 requires that individuals with incomes above 400 percent of federal poverty purchase insurance. Labor and consumer groups oppose the individual mandate. Senator Perata's measure also has more generous implementation timelines for the provisions (in some cases up to the year 2011).

Both leaders asked Dr. John Gruber, health economist with MIT who developed a model to provide estimates about the Governor's proposal, to model their proposals. On May 15, Dr. Gruber provided additional information about the modeling he did for Legislatve leadership on AB 8 (Nuñez) and SB 48 (Perata). Below is a brief overview of what the Gruber model shows.

	AB 8 (Nuñez)	**SB 48 (Perata)**
How many uninsured would be covered?	3.4 million or 69% of the state's 4.9 million uninsured.	3.4 million or 69% of the state's 4.9 million uninsured.
Minimum employer contribution for health expenditures.	7.5% of total Social Security wages (capped at $97,500 on health expenditures for both full time and part time employees.	7.5% of total Social Security wages (capped at $97,500 on health expenditures for both full time and part time employees.
Number of Californians in statewide purchasing pool	In AB 8, Cal-CHIPP is the purchasing pool. 3.23 million are projected to enroll in Cal-CHIPP.	In SB 48, the Connector is the purchasing pool. 4.1 million are projected to enroll in the Connector (3.6 million adults, 500,000 children).
Estimated premiums for individuals	Individuals would pay between 0 and 2.8 percent of income for coverage. Families would pay up to 4.5 percent of income on coverage.	Individuals would pay between 0 and 2.8 percent of income for coverage. Families would pay up to 4.5 percent of income on coverage.
Fiscal Impact	$380 million reserve Revenues:	$610 million reserve Revenues:

	AB 8 (Nuñez)	SB 48 (Perata)
	➢ individual contributions ➢ federal matching funds ➢ employer payroll fees	➢ individual contributions ➢ federal matching funds ➢ employer payroll fees

CSAC Efforts
The Health and Human Services Policy Committee continues to meet weekly, as it has since mid-January, to discuss developments in both legislative and the Administration's proposals. Additionally, the CSAC Health Reform Task Force continues to meet to discuss the Governor's funding proposal and potential legislative interest in county funds. Please recall that the CSAC Health and Human Services Policy Committee created a Health Reform Task Force to develop recommendations on health care reform.

Attached is a document developed by the Task Force that lists county issues and questions regarding the Governor's funding proposal. The Governor's Office has asked for follow-up meetings to discuss the county funding piece of their proposal in more detail. A meeting is scheduled for May 31.

Staff Comments
It is unclear at this point how the legislative process will unfold. Legislative leadership has the option of convening a conference committee to work on differences between the two measures – AB 8 and SB 48. At a conference committee, SB 840 – Senator Kuehl's single payer measure – and even the Governor's proposal, although not in bill form, could be discussed. It is quite possible that the two leaders may come to resolution on the differences between AB 8 and SB 48 without convening a conference committee.

It also unclear how the Governor will insert himself in the negotiations with Legislative leadership. The Legislature is clearly frustrated by how long it has taken the Administration to provide detail and information about their proposal. The Governor recently publicly criticized Speaker Nuñez and Senator Perata's proposals at a California Chamber meeting. He believes their 7.5 percent employer fee is too high. The other fees in the Governor's proposals require a 2/3 vote of the Legislature, making the employer fee the only option for a majority vote bill.

	Proposed Contribution Under Governor's Proposal	2006-07 Base Health Realignment Funding	Difference	% Difference	Proposed Medi-Cal Payment to Public Hospital
Alameda	$34,826,000	$61,677,500.74	$26,851,500.74	56.46%	28,460,000
Alpine	$31,000	$168,192.09	$137,192.09	18.43%	
Amador	$936,000	$2,153,127.92	$1,217,127.92	43.47%	
Butte	$6,249,000	$13,999,343.73	$7,750,343.73	44.64%	
Calaveras	$1,120,000	$2,207,468.51	$1,087,468.51	50.74%	
Colusa	$1,716,000	$1,744,613.66	$28,613.66	98.36%	
Contra Costa	$19,425,000	$31,415,740.46	$11,990,740.46	61.83%	13,970,000
Del Norte	$534,000	$2,068,690.44	$1,534,690.44	25.81%	
El Dorado	$2,636,000	$8,009,648.44	$5,373,648.44	32.91%	
Fresno	$36,659,000	$38,707,870.17	$2,048,870.17	94.71%	
Glenn	$1,706,000	$1,985,233.81	$279,233.81	85.93%	
Humboldt	$5,319,000	$13,932,982.77	$8,613,982.77	38.18%	
Imperial	$7,361,000	$13,912,368.24	$6,551,368.24	52.91%	
Inyo	$447,000	$2,697,608.97	$2,250,608.97	16.57%	
Kern	$26,447,000	$26,318,308.85	-$128,691.15	100.49%	17,770,000
Kings	$3,460,000	$6,967,992.03	$3,507,992.03	49.66%	
Lake	$1,745,000	$3,081,767.46	$1,336,767.46	56.62%	
Lassen	$665,000	$2,174,620.50	$1,509,620.50	30.58%	
Los Angeles	$325,478,000	$492,846,917.36	$167,368,917.36	66.04%	168,950,000
Madera	$3,937,000	$6,883,262.35	$2,946,262.35	57.20%	
Marin	$2,973,000	$15,998,467.58	$13,025,467.58	18.58%	
Mariposa	$443,000	$1,156,975.98	$713,975.98	38.29%	
Mendocino	$2,495,000	$4,440,131.20	$1,945,131.20	56.19%	
Merced	$7,328,000	$8,946,981.67	$1,618,981.67	81.90%	
Modoc	$180,000	$1,278,253.95	$1,098,253.95	14.08%	
Mono	$335,000	$1,834,652.52	$1,499,652.52	18.26%	
Monterey	$11,259,000	$12,719,690.92	$1,460,690.92	88.52%	8,800,000
Napa	$2,357,000	$6,774,601.78	$4,417,601.78	34.79%	
Nevada	$3,529,000	$4,314,079.53	$785,079.53	81.80%	
Orange	$75,936,000	$87,597,205.58	$11,661,205.58	86.69%	
Placer	$5,318,000	$5,546,312.43	$228,312.43	95.88%	
Plumas	$384,000	$1,822,809.98	$1,438,809.98	21.07%	
Riverside	$54,465,000	$49,442,034.84	-$5,022,965.16	110.16%	27,080,000
Sacramento	$25,137,000	$51,345,744.28	$26,208,744.28	48.96%	
San Benito	$1,492,000	$2,594,998.37	$1,102,998.37	57.50%	
San Bernardino	$64,677,000	$56,246,152.12	-$8,430,847.88	114.99%	40,450,000
San Diego	$80,649,000	$99,852,146.33	$19,203,146.33	80.77%	
San Francisco	$16,106,000	$94,002,096.30	$77,896,096.30	17.13%	25,940,000
San Joaquin	$17,282,000	$21,969,992.03	$4,687,992.03	78.66%	15,560,000
San Luis Obispo	$5,104,000	$7,122,310.49	$2,018,310.49	71.66%	
San Mateo	$11,929,000	$21,901,627.28	$9,972,627.28	54.47%	1,200,000
Santa Barbara	$10,747,000	$13,098,990.64	$2,351,990.64	82.04%	
Santa Clara	$29,417,000	$52,785,689.07	$23,368,689.07	55.73%	58,210,000
Santa Cruz	$6,417,000	$8,837,409.52	$2,420,409.52	72.61%	
Shasta	$7,608,000	$12,016,580.32	$4,408,580.32	63.31%	
Sierra	$64,000	$425,867.94	$361,867.94	15.03%	
Siskiyou	$837,000	$3,361,873.30	$2,524,873.30	24.90%	

Solano	$6,531,000	$17,198,859.61	$10,667,859.61	37.97%	
Sonoma	$9,195,000	$27,518,749.16	$18,323,749.16	33.41%	
Stanislaus	$11,664,000	$17,572,184.75	$5,908,184.75	66.38%	
Sutter	$2,229,000	$6,598,431.58	$4,369,431.58	33.78%	
Tehama	$1,661,000	$4,455,829.42	$2,794,829.42	37.28%	
Trinity	$258,000	$1,894,293.30	$1,636,293.30	13.62%	
Tulare	$14,253,000	$15,957,762.09	$1,704,762.09	89.32%	
Tuolumne	$1,399,000	$3,446,498.87	$2,047,498.87	40.59%	900,000
Ventura	$24,090,000	$20,567,030.52	-$3,522,969.48	117.13%	17,480,000
Yolo	$2,095,000	$5,671,307.82	$3,576,307.82	36.94%	
Yuba	$1,734,000	$5,481,035.77	$3,747,035.77	31.64%	
TOTAL	**$1,000,274,000**	**$1,506,748,917.34**			**424,770,000**

County Financial Contributions to Governor's Health Reform Plan: County Issues

1. Mandate relief for counties must be included before transfer of any county funds.

- Would Section 17000 be repealed?
- If not, how would residual county obligations under Section 17000 be clarified?
- If the mandate under Realignment is not repealed, would county payments count towards current county Maintenance of Effort (MOE)?

2. Counties must have adequate funding for remaining (and undefined) responsibilities.

- The Governor's proposal addresses how to fund the newly insured population, but does not take into consideration the cost of remaining county responsibilities, including the unknown numbers of people who will remain uninsured and the need to continue to assure access to care, emergency/trauma services, specialty care and other services unique to safety net facilities.
- The proposal lacks sufficient data for counties to determine the appropriate/ necessary role of the CMSP or MISP programs under the Governor's plan. The size of "frictionally" uninsured and who would remain a county responsibility are necessary to define and cost out the residual obligations for counties.
- Will counties be held harmless for future legal decisions that impact the level, scope or eligibility for services under this residual obligation?

3. A more complete financial analysis is required in order to assess a county-by-county impact. The current analysis lacks:

- Impact of reduction of Safety Net Pool funds going to counties
- Impact of 2% physician and 4% hospital fees on county facilities.
- Impact of the Coverage Initiative funds allocated to ten counties
- Would some or all of the CMSP base funds be assigned to CMSP counties for their use in meeting their contributions if CMSP as a program is used to meet counties residual obligation?

4. There are concerns regarding the Administration's "data points" used to estimate current county expenditures.

- Figures provided are macro, statewide amounts, and do not take into consideration county-by-county variations in both available revenue and current indigent health expenditure.
- Why was a statewide 43% established for potential eligibles? A statewide percentage assumes that there are no significant variations in demographics among counties. This could result in significant under-overpayments even if all of the individuals that the plan envisions will actually enroll in Medi-Cal and the Pool.
- Realignment equity issues are sure to surface because under-equity counties will be concerned that this exacerbates current inequities.
- In many counties this transfer would dramatically reduce public health funding. Funding for county public health programs must be protected.
- How would counties meet their financial obligation if revenues do not keep up with medical CPI? Will the State reduce services to the transferred populations if

there are downturns in revenues, or does this constitute a new entitlement funded by county revenues?

5. The cost estimates are inexact.

- Is the proposed contribution a monthly per-member contribution ("PMPM") or "share of cost?"
- The projected "PMPM" costs appear to be based on the necessary financial component to draw down federal funds, and are not actuarially based. Are the counties "at risk" for any expenditures for the transferred population over the proposed "PMPM"?
- Are there limitations on per-member contributions? Are these solely based on the Medical CPI growth?
- Are there any proposed caps on enrollment?
- How will the projected service populations under the new program, especially those at the county-by-county level be verified? (CHIS data may be unreliable, especially for smaller counties). Will these be annually adjusted?

6. The up front collection of revenues from counties with out-year reconciliation is problematic.

- Payment of county contributions to the State should be made after the close of State health program's fiscal year (e.g. six-month post close) to assure accurate accounting of costs and revenues by county and determination of individual county payments.
- Payment upfront would create major cash flow issues for counties.
- Will counties receive interest for payments made up-front before uninsured are enrolled in programs?

7. Counties use county funds spent on health care to pull down federal matching funds through a variety of programs. The transfer of $1 billion in county funds could reduce the amount of federal funds currently pulled down by counties.

- Public hospitals currently use these funds as their non-federal share of CPE/IGT in the Hospital Financing Waiver. What does the State plan on as the non-federal share for the Disproportionate Share Hospital (DSH) and Safety Net Care Pool (SNCP) that the public hospitals will be drawing down? Does this impact the Coverage Initiative for those ten counties?
- Counties pull down Federal Financial Participation (FFP), such as MAA/TCM, to augment a variety of programs, including mental health, maternal and child health, Medi-Cal outreach, etc. Therefore, the transfer of county funds could have far reaching impact on many county health programs.

PROPOSITION 1B AND PROPOSITION 42/SPILLOVER PROPOSAL

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May 30, 2007

To: CSAC Board of Directors

From: DeAnn Baker, Legislative Representative

Re: Proposition 1B: Local Streets and Roads Budget Request & Proposition 42/Spillover Proposal
INFORMATION ITEM

Proposition 1B: $2 billion Local Streets and Roads Account

Background. The Governor's May Revise includes a three-year appropriation from the Local Streets and Roads Account contained in Proposition 1B ($600 million in FY 2007-08; $300 million in FY 2008-09; and $150 million in FY 2010-11) for cities and counties to split evenly. This would mean $300 million for counties in FY 2007-08. CSAC made a budget request to both the Senate and the Assembly Budget Subcommittees for $500 million for counties in FY 2007-08 (see attached letter). We made this larger request for a number of reasons including; 1) the Legislature indicated they were rejecting the Governor's multi-year approach, 2) because of the great need for additional funding for the local roadway system and, 3) without significant funding in the 2007-08 Proposition 42 "gap" year, cities and counties would not receive any money for local streets and roads.

While the Assembly Budget Subcommittee #5 approved the Governor's proposed FY 2007-08 appropriation of $600 million for cities and counties, the Senate Budget Subcommitte #4 took the opposite action and reduced the Governor's proposed appropriation by $200 million, thus reducing the county share to $200 million. This issue will ultimately be resolved in the Budget Conference Committee.

Proposition 42/Spillover Proposal

Background. The Assembly Budget Subcommittee #5 also unveiled and passed a very contentious proposal related to the Governor's cuts to transit funding. The objective of the proposal – to seek a permanent fix for protection of the transit revenues referred to as the "spillover" – is not a problem, but the approach unveiled is very problematic. The proposal captures the spillover under Proposition 42 but also revises the current split between the STIP, counties, cities and transit. A more detailed discussion of this proposal is attached.

This proposal will also be resolved in the Budget Conference Committee.

Staff Contact. Please contact DeAnn Baker (dbaker@counties.org or 916/327-7500 x509) or Kiana Buss (kbuss@counties.org or 916/327-7500 x566) for additional information.

May 21, 2007

The Honorable Mike Machado
Chair, Senate Budget Subcommittee #4
State Capitol, Room 5066
Sacramento, CA 95814

Re: Department of Transportation
Proposition 1B: $2 Billion for Local Streets and Roads
Item No. 2660

Dear Senator Machado:

The California State Association of Counties (CSAC), the League of California Cities (League), and the Regional Council of Rural Counties (RCRC) are writing to urge the subcommittee to support a $500 million appropriation for counties and $1 billion appropriation for cities in the fiscal year 2007-08 state budget from the Proposition 1B (Prop 1B) account for local streets and roads.

Consistent with the project purposes approved in Prop 1B by the voters, California's cities and counties are ready and able to put these monies to immediate use for traffic congestion relief, preservation, transit, traffic safety, and other projects to improve the local transportation system. A main goal in implementing the various infrastructure bonds is to keep faith with the promise to put the bond proceeds to good use in a timely, efficient, and effective manner. While many programs and projects contained in Prop 1B are not ready to commence construction for several years, cities and counties have the ability to start construction on projects in a very visible manner in every local community across the state.

This is due in part to two factors. First, cities and counties have a great need for additional funding for the local roadway system. Riverside County alone has a backlog of $250 million with an annual need of $50 million in addition to current revenue sources just to bring their roadway system to a "good" condition. Furthermore, a survey conducted by CSAC and the League in December 2006 showed an ability to put these monies into projects. In all, 45 counties and 205 cities responded to the survey representing small, medium and large jurisdictions, which offers a good representation of cities and counties of all sizes statewide.

Second, without significant funding in the 2007-08 Proposition 42 "gap" year, cities and counties will not receive any money for local streets and roads. The appropriation requested in the FY 2007-08 budget will allow cities and counties to continue to fund important transportation projects without interruption. Further, counties are requesting that the remaining $500 million be appropriated in annual increments over the next several years to augment their Proposition 42 funding. Appropriating the local streets and roads monies at this level is essential for local public works departments to keep up a consistent level of staff and provide predictability for a dependable schedule for local transportation projects. A delay in bond funds will not only cause project delays, but will also devalue the purchasing power of the bonds.

We also stress the importance of a dependable allocation schedule into the future, which will allow public works departments to plan ahead, as they develop their budgets prior to the adoption of the state budget. Since accountability and oversight criteria will likely include a requirement that all local projects to be funded with Prop 1B funds be included in a local budget, it is essential for the development of local budgets that appropriation levels are known in advance. More efficient and effective projects will result from a predictable and dependable allocation schedule.

The local system is a critical component to a seamless statewide transportation system for the traveling public, whether by vehicle or transit, for commerce or, for farm to market needs. Our members are committed to providing the safest, most efficient transportation network for the citizens of California. We look forward to working with you to achieve this goal.

Thank you for your consideration of our appropriation request.

Sincerely,

DeAnn Baker
Legislative Representative
California State Association of Counties

Liisa Lawson Stark
Legislative Representative
League of California Cities

Paul Smith
Director of Legislation
Regional Council of Rural Counties

Cc: Members and Consultants, Senate Budget Subcommittee #4
The Honorable Denise Ducheny, Chair, Senate Budget Committee

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Prop 42/Spillover Proposal
May 25, 2007

The Proposal: The Assembly Budget Subcommittee #5 passed a proposal to capture the transit/spillover revenues under Prop 42 and change the formula between the state (STIP), cities, counties and transit beginning in 2008-09. This proposal will now go before the Budget Conference Committee.

The proposal would change the current Prop 42 formula split in the following manner:

- Reduce the STIP share from 40% to 35%
- Reduce the cities share from 20% to 15%
- Reduce the counties share from 20% to 15%, and
- Increase the transit share from 20% to 35%.

Proponents of the proposal argue that the addition of the spillover revenue to Prop 42 will offset the reduction in the share for cities, counties and the STIP.

What is Spillover?
In its simplest terms spillover is the revenue from the gap between the growth in sales tax on gasoline when compared to the growth in sales tax on other taxable goods. Thus when gas prices and/or consumption increase the spillover typically increases. It has occurred 20 years since its inception in 1971, ranging from $1.7 million in 1978-79 to a projected $827 million in 2007-08 and close to $1 billion in 2008-09. From a historical perspective, transit received these monies for ten years from 1975 to 1985, but did not receive them in the previous three years and received half or $343 million last year due to diversions to the General Fund and other programs.

Implications of the Proposal:
The background information from Assembly Sub #5 only provided 3 years of spillover projections estimated at nearly $1 billion annually, which would supplement Prop 42 revenues estimated at $1.62 billion in 2008-09, $1.70 billion in 2009-10 and $1.79 billion in 2010-11. While in the short-term this added spillover revenue may compensate for the reduced shares for the STIP and cities and counties as proponents argue, there are several concerns with this proposal that have come to light.

First, we have no ability to accurately project spillover in the long-term, which is dependent upon the price and consumption of gas and the sales tax growth on other taxable goods. In fact, this revenue stream has been very volatile in recent history, while Prop 42 revenues are slated for steady and significant growth. Looking at a recent 5-year period Prop 42 revenues have or will increase by 5% annually and will double in just 15 years. It is difficult to imagine that spillover can sustain the same growth expected from Proposition 42.

Second, the spillover would not be equally protected since the voters constitutionally protected Prop 42 in November 2006. This statutory change to capture spillover under Prop 42 could be overturned by the Legislature statutorily.

Third, the proposal contains no hold harmless provision in years in which the STIP and city/county share would be less under this proposal than our combined 80% of the growing Prop 42 revenues.

CSAC Policy:

- **CSAC Supports protecting spillover revenues for transportation purposes.** Transit remains an important component of the overall transportation system. Transit has not received these revenues in recent years due to budget shifts with the exception of half or $343 million last year. Increased demand and needs necessitate further protection of these revenues for transit purposes.
- **CSAC Supports protecting the current Prop 42 formula distributions.** Current Prop 42 revenues are predictable, slated to grow significantly, and constitutionally protected. This revenue stream is critical for the state, cities, counties and transit at the formulas approved by the voters in 2002 and again in 2006 thru the passage of Prop 1A. **Any statutory change to bring spillover under Prop 42 must protect the existing formulas passed by the voters of 40% STIP, 20% cities, 20% counties and 20% transit for the base value of Prop 42.**

Budget Conferees: The Senate Budget Conferees include: Senators Denise Ducheny, Mike Machado and Dennis Hollingsworth. We do not have confirmation regarding the Assembly Conferees, but if tradition continues they would include Assembly Members John Laird, Mark Leno and Roger Niello.