

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, March 19, 2009
10:00am – 1:30pm
CSAC Conference Center, Sacramento

A G E N D A

Presiding: Gary Wyatt, President

10:00am PROCEDURAL ITEMS

- | | | |
|----|---|--------|
| 1. | Roll Call | Page 1 |
| 2. | Approval of Minutes of December 3, 2008 | Page 3 |

10:15am ACTION ITEMS

- | | | |
|----|---|--------------------|
| 3. | Adoption of CSAC Legislative Priorities for 2009
▪ <i>Jim Wiltshire and Karen Keene, CSAC staff</i> | Page 10 |
| 4. | Consideration of Amendments to California County Platform
Administration of Justice
▪ <i>Supervisor Ronn Dominici, Policy Committee Chair</i>
▪ <i>Elizabeth Howard, CSAC staff</i> | Page 15
Page 16 |
| | Agriculture & Natural Resources
▪ <i>Supervisor Mike Nelson, Policy Committee Chair</i>
▪ <i>Karen Keene, CSAC staff</i> | Page 29 |
| | Government Finance & Operations
▪ <i>Jean Hurst & Eraina Ortega, CSAC staff</i> | Page 48 |
| | Health & Human Services
▪ <i>Supervisor Liz Kniss, Policy Committee Chair</i>
▪ <i>Kelly Brooks, CSAC staff</i> | Page 75 |
| | Housing, Land Use & Transportation
▪ <i>Supervisor Mike McGowan, Policy Committee Chair</i>
▪ <i>DeAnn Baker, CSAC staff</i> | Page 98 |
| 5. | Consideration of May 19, 2009 Special Election Ballot Measures
(Possible Action)
▪ <i>Paul McIntosh, CSAC Executive Director</i> | Page 117 |

11:30am INFORMATION ITEMS

- | | | |
|----|--|----------|
| 6. | Update on Fiscal Reform Efforts
▪ <i>Paul McIntosh</i> | Page 127 |
| 7. | Institute for Local Government (ILG) Report
▪ <i>Steve Sanders and Yvonne Hunter, ILG staff</i> | Page 140 |
| 8. | National Association of Counties' (NACo) Report
▪ <i>Supervisor Valerie Brown, NACo President</i> | |

12:00pm LUNCH

12:45pm	INFORMATION ITEMS (cont.)	
9.	CSAC Finance Corporation Report	Page 142
	▪ <i>Supervisor Joni Gray, Finance Corp. Board Member</i>	
	▪ <i>Tom Sweet, Finance Corp. Executive Director</i>	
10.	Legislative Update	
	▪ <i>Jim Wiltshire, CSAC staff</i>	
11.	CSAC/County Welfare Directors Association (CWDA) Report on Human Services Investments	Page 143
	▪ <i>Kelly Brooks, CSAC staff</i>	
12.	CSAC Corporate Associates Report	Page 146
	▪ <i>Lindsay Pangburn, CSAC staff</i>	
13.	Litigation Coordination Program Update	Page 147
	▪ <i>Jennifer Henning, County Counsels' Association Director</i>	
14.	Other Items	
1:30pm	ADJOURN	

CALIFORNIA STATE ASSOCIATION OF COUNTIES
Board of Directors
2009

<u>Section</u>	<u>County</u>	<u>Director</u>
U	Alameda County	Keith Carson
R	Alpine County	Terry Woodrow
R	Amador County	Louis Boitano
S	Butte County	Bill Connelly
R	Calaveras County	Merita Callaway
R	Colusa County	Mark Marshall
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	John Viegas
S	Humboldt County	Mark Lovelace
S	Imperial County	Gary Wyatt
R	Inyo County	Susan Cash
S	Kern County	Jon McQuiston
R	Kings County	Tony Oliveira
R	Lake County	Anthony Farrington
R	Lassen County	Robert Pyle
U	Los Angeles County	Don Knabe
R	Madera County	Ronn Dominici
S	Marin County	Susan Adams
R	Mariposa County	Lyle Turpin
R	Mendocino County	Carre Brown
S	Merced County	Mike Nelson
R	Modoc County	Jeff Bullock
R	Mono County	Duane "Hap" Hazard
S	Monterey County	Fernando Armenta
S	Napa County	Brad Wagenknecht
R	Nevada County	Ted Owens
U	Orange County	John Moorlach
S	Placer County	Jim Holmes
R	Plumas County	Sherrie Thrall
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	vacant
S	San Joaquin County	Larry Ruhstaller
S	San Luis Obispo County	Bruce Gibson
U	San Mateo County	Rose Jacobs Gibson
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	Lee Adams
R	Siskiyou County	Michael Kobseff
S	Solano County	Mike Reagan
S	Sonoma County	Valerie Brown
S	Stanislaus County	Vito Chiesa
R	Sutter County	Larry Munger
R	Tehama County	Robert Williams
R	Trinity County	Judy Pflueger
S	Tulare County	Phillip Cox
R	Tuolumne County	Richard Pland
U	Ventura County	Kathy Long
S	Yolo County	Mike McGowan
R	Yuba County	Roger Abe

President: Gary Wyatt, Imperial
 First Vice President: Tony Oliveira, Kings
 Second Vice President: John Tavaglione, Riverside
 Immed. Past President: Richard Gordon, San Mateo

SECTION: U=Urban S=Suburban R=Rural

2/24/09

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
December 3, 2008
Grand Hyatt Hotel, San Diego, CA

MINUTES

Presiding: Richard Gordon, President

1. ROLL CALL

Alameda	absent	Orange	absent
Alpine	Terry Woodrow	Placer	Jim Holmes
Amador	Louis Boitano	Plumas	Bill Powers
Butte	absent	Riverside	John Tavaglione
Calaveras	Merita Callaway	Sacramento	Roger Dickinson
Colusa	Mark Marshall	San Benito	Reb Monaco
Contra Costa	absent	San Bernardino	absent
Del Norte	David Finigan	San Diego	Greg Cox
El Dorado	James Sweeney	San Francisco	absent
Fresno	Henry Perea	San Joaquin	Larry Ruhstaller
Glenn	Tom McGowan	San Luis Obispo	Harry Ovitt
Humboldt	Johanna Rodoni	San Mateo	Gordon/Jacobs Gibson
Imperial	Gary Wyatt	Santa Barbara	Joni Gray
Inyo	Susan Cash	Santa Clara	Liz Kniss
Kern	absent	Santa Cruz	Mark Stone
Kings	Tony Oliveira	Shasta	Mark Cibula
Lake	absent	Sierra	absent
Lassen	Robert Pyle	Siskiyou	Michael Kobseff
Los Angeles	absent	Solano	Mike Reagan
Madera	Bigelow/Dominici	Sonoma	Mike Keams
Marin	Susan Adams	Stanislaus	Dick Monteith
Mariposa	Lyle Turpin	Sutter	Larry Munger
Mendocino	Delbar/Wattenburger	Tehama	Bob Williams
Merced	Mike Nelson	Trinity	Judy Pflueger
Modoc	Mike Dunn	Tulare	Phillip Cox
Mono	"Hap" Hazard	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 September 11, 2008 were approved as previously mailed.

3. ELECTION OF 2009 CSAC EXECUTIVE COMMITTEE

The following members were elected to serve on the CSAC Executive Committee for 2009 (in addition to CSAC officers):

Urban Section

Greg Cox, San Diego
Roger Dickinson, Sacramento
Federal Glover, Contra Costa
Don Knabe, Los Angeles
Liz Kniss, Santa Clara
Kathy Long, Ventura
Paul Biane, San Bernardino (alternate)

Suburban Section

Susan Adams, Marin
Phil Cox, Tulare
Mike Nelson, Merced
Mike McGowan, Yolo (alternate)

Rural Section

Merita Callaway, Calaveras
Robert Williams, Tehama
Susan Cash, Inyo (alternate)

Ex-Officio Members

Valerie Brown, Sonoma, NACo President-Elect
Brian Dahle, Lassen, NACo WIR President

Advisors

Susan Muranishi, CAOAC President and Alameda County Administrator
Benjamin De Mayo, Orange County Counsel

4. CSAC POLICY COMMITTEE REPORTS

Administration of Justice. Supervisor Ronn Dominici, Chair of the CSAC Administration of Justice policy committee, presented the committee's report from the meeting held on December 2, 2008. The agenda included one action item for consideration by the Board of Directors. It was a report published by the Judicial Council assessing the state's delinquency court system, as contained in the briefing materials. The two-year study culminated in a series of 58 recommendations for improving case-level performance, hearings, youth services and sanctions, among other areas. The project's goal was to help improve both the administration of justice and the lives of youth, victims and other community members affected by the delinquency system by setting an agenda for system improvements over the coming years.

The policy committee recommended that the Board of Directors receive and accept the report and findings of the Juvenile Delinquency Court Assessment (JDCA). The "receive and accept" recommendation is interpreted to mean that the committee has (1) literally received the report, (2) generally acknowledges it as a quality piece of work with sound content, and (3) will

consider the content to the extent that it is relevant to them. Accepting and receiving the JDCA report does not mean that CSAC endorses any conclusions or recommendations.

Motion and second to approve the policy committee recommendation to "receive and accept" the JDCA report. Motion carried unanimously.

Agriculture and Natural Resources. Supervisor Mike Nelson, Chair of the CSAC Agriculture & Natural Resources policy committee, presented the committee's report from the meeting held on December 1, 2008. The agenda included one action item for consideration by the Board of Directors. It was a resolution in support of Extended Producer Responsibility (EPR). Extended Producer Responsibility is the extension of the responsibility of producers, and all entities involved in the product chain, to reduce impacts of a product and its packaging. Manufactured goods and packaging constitute approximately 75% of the materials managed by government jurisdictions (US EPA). Consumer products and packaging may contain toxins such as heavy metals, certain plastics, or harmful substances that pose a threat to human health and the environment. Current federal and state policies often make local government responsible for waste diversion, enforcing product disposal bans, hazardous waste collection, or other costly waste management programs, without providing funding.

The resolution supports a shift in financial and physical responsibility from local government to those benefiting economically from the sale of the products they produce. An "Extended Producer Responsibility Framework Approach" is a comprehensive environmental policy that addresses producer responsibility by using a set of criteria to evaluate products, along with established processes, plans and certifications to provide a consistent approach for a wide scope of products.

The policy committee recommended that the Board of Directors adopt the resolution as contained in the briefing materials. CSAC's Climate Change Principles currently contain support for greater manufacturer responsibility and product stewardship. Additionally, the National Association of Counties (NACo) adopted a similar resolution in July, 2008.

Motion and second to approve the policy committee recommendation to adopt the Resolution in Support of Extended Producer Responsibility Framework Approach (attached). Motion carried unanimously.

Government Finance & Operations. The CSAC Government Finance & Operations policy committee met on December 2, 2008. The agenda included two action items for consideration by the Board of Directors.

The first action was to recommend that the Board of Directors approve the formation of a task force to develop proposals to reform the state-local fiscal relationship. This was the result of a panel presentation on that issue. Panelists included: retired Chief Fiscal Policy Advisor for the Senate President pro Tempore Diane Cummins, Russ Gould of Wachovia Bank, retired Los Angeles County Administrative officer David Janssen, and Wisconsin Counties Association Executive Director Mark O'Connell.

Motion and second to accept policy committee recommendation to form a task force on state-local fiscal relationships. Motion carried unanimously.

The policy committee also received a presentation by *California Forward*, a bi-partisan organization that has developed principles and proposals to reform California's governance. Their goal is to work with the Legislature to reform California's governance. If that is ineffective,

they intend to put their issues on the ballot. The policy committee recommended that the Board of Directors endorse *California Forward's* reform principles as contained in the briefing materials.

Motion and second to endorse the *California Forward* principles.

Substitute Motion and second to approve the *California Forward* principles in concept and refer the item to the newly-created State-Local Fiscal Reform Task Force. Motion carried unanimously.

Health & Human Services. Supervisor Liz Kniss, Vice-chair of the CSAC health & Human Services policy committee, presented the committee's report from the meeting held on December 1, 2008. The committee received reports regarding mental health programs, Proposition 63, human services funding issues, the California Children's Services program, and the 2-1-1- system. The next policy committee meeting is scheduled for January 8, 2009, to further discuss changes to the CSAC Platform. No action items were brought forward for consideration by the board of Directors.

Housing, Land Use & Transportation. Supervisor Mike McGowan, Chair of the CSAC Housing, Land Use & Transportation policy committee, presented the committee's report from the meeting held on December 1, 2008. The committee received reports regarding climate change, transportation, and the Local Streets and Roads needs Assessment. No action items were brought forward for consideration by the Board of Directors.

5. CSAC PAC TASK FORCE RECOMMENDATIONS

The CSAC PAC Task Force recommended that the Board of Directors approve an amendment to the CSAC Policy and Procedures manual to incorporate a policy for the formation of issue-specific political action committees (PAC) and the process by which such a committee is formed and disbanded. This recommendation was approved by the Executive committee on October 9. Specific language follows:

Recognizing that there is an increasing trend toward resolving public policy issues at the ballot in California, CSAC is prepared to participate financially in campaigns for or against those measures that have a direct impact on counties' authority, function, or fiscal health. Staff recommendation for such participation will be presented to CSAC officers, who may then direct staff to bring the issue to the Executive Committee. The Executive Committee will evaluate the issue and make a recommendation for action to the Board of Directors based on existing CSAC Legislative Platform principles, or in the absence of clear existing policy, based upon direct impact, if any, to county government. Staff may also recommend options for financial participation in a campaign, such as the formation of a political action committee (PAC) for purposes of fundraising for such activities or other means of financial participation.

If the Board of Directors, with a 2/3 vote of the membership approving, approves financial participation for purposes of financially supporting or opposing a given issue, staff will establish a financial participation plan for approval. CSAC will abide by all state laws governing political reporting and use of funds and will rely upon legal counsel opinion and analysis to ensure that funds are identified and segregated in accordance with such laws and regulations. At no time will public funds be utilized in any manner in support of an issue campaign. CSAC shall segregate and account for public and private funds accordingly, ensuring that at no time will public funds be utilized for campaign-related activities, including overhead and other administrative costs. If the formation of a PAC is approved, the PAC will function to support CSAC activities related to the specific issue and may be discontinued upon resolution of the issue by a majority vote of the Board of Directors.

Motion and second to approve recommendation from the CSAC PAC Task Force to amend the CSAC Policy and Procedures manual incorporating above language related to the formation of an issue-specific PAC. Motion carried unanimously.

6. PROPOSED SCHEDULE OF 2009 BOARD OF DIRECTORS MEETINGS

President Gordon presented the following proposed 2009 Board of Directors meeting dates for approval: March 19, May 28, September 10, and November 19.

Motion and second to approve proposed schedule of meetings for 2009. Motion carried unanimously.

7. RESOLUTION AUTHORIZING EXECUTIVE DIRECTOR TO CONDUCT CSAC BUSINESS

President Gordon requested support of the annual resolution authorizing the Executive Director to conduct business on behalf of CSAC, as contained in the briefing materials.

Motion and second to adopt resolution authorizing the Executive Director to conduct CSC business. Motion carried unanimously.

8. INSTITUTE FOR LOCAL GOVERNMENT (ILG) UPDATE

JoAnne Speers, Director of the Institute for Local Government (ILG), presented a report regarding current activities. She distributed copies of ILG's most recent publications: *A Local Official's Guide to Intergovernmental Conflict Resolution*, and *A Local Official's Guide to Immigrant Civic Engagement*. Both of these publications are also available on the ILG website. The Institute has been collaborating with the Public Policy Institute of California (PPIC) on a study on local government efforts regarding climate change. The study, *Climate Policy at the Local Level*, was released in November and is available on the PPIC website.

9. CCS PARTNERSHIP REPORT

Connie Busse, Director of the Cities, Counties, Schools (CCS) Partnership provided a report on the activities of the Partnership which is in its 11th year of operation. She indicated that the Partnership focused on three areas during 2008. They were: expanding the collaboration of the partners, childhood obesity and the related policy issues, and foster youth.

CCS, in partnership with the California School Boards Association, is developing a guide titled *Building Collaboration: Tools and Ideas for Creating Active Living Health Eating Communities*, which will be published in spring 2009. Its purpose is to equip school board members with the tools to lead local collaborations on healthy living for children.

The Conditions of Children Task Force began its work in 2005. It is comprised of supervisors, council members and school board members. In 2008, the task force focused on foster youth and developed a report. That report will be presented to the CCS Partnership Board in February 2009. The task force will be suspended in 2009 to allow staff to focus on efforts to jointly address the California budget process. Also, it was noted that NACo is collecting "best practices" on this topic from counties throughout the country and will be posting them on the NACo website.

Ms. Busse announced that the CCS Partnership will be forming a joint task force on state-local fiscal relationships and requested CSAC participation. The Board of Directors agreed to authorize CSAC participation in the task force. However, it was noted that this action must be ratified at a later meeting since it was not originally slated as an action item.

10. NACO GOVERNANCE TASK FORCE REPORT

Supervisor Greg Cox, Chair of the NACo Governance Task Force, presented a report on the work of the NACo Governance Task Force. The task force was appointed by NACo President Don Stapley to focus on three major areas: leadership selection, leadership authority and organizational issues. It is comprised of 27 members from 21 states. Supervisor Cox outlined the current task force recommendations which will be presented to the NACo Board of Directors this week for review and input. A final set of recommendations will be considered by the NACo Board in July 2009.

President Gordon directed staff to bring the task force recommendations to the CSAC Executive Committee at their first meeting in 2009 for consideration. Any resulting feedback will then be forwarded to NACo.

11. CSAC FINANCE CORPORATION REPORT

Supervisor Joni Gray, CSAC Finance Corporation Board member, presented an update on Finance Corporation activities. CalTRUST, a public agency investment pool, currently has 63 active participants and assets exceeding \$519 million. Directors were urged to contact their county treasurer and encourage them to utilize the CalTRUST program if they are not already doing so.

12. CSAC CORPORATE ASSOCIATES PROGRAM REPORT

Staff reported that there are currently 83 private sector members in the CSAC Corporate Associates program. The program exceeded its annual meeting sponsorship fundraising goals for 2008. Many of this year's annual meeting exhibitors were Corporate Associates which contributed to the "sold out" status of the exhibit hall. A few of the corporate members were featured during the Wednesday luncheon session on energy issues.

13. STATE BUDGET UPDATE

In early November, the Governor called the Legislature into a fourth special session to deal with the current budget deficit. The Governor urged quick action to ensure that the state is able to meet its obligations through the fiscal year. Both houses of the Legislature convened, but very little public discussion has occurred. "Closed-door" discussions between the Governor and legislative leadership are ongoing. The Legislative Analyst's Office (LAO) released its report on the Governor's special session budget proposals and predicts a shortfall of \$28 billion for the current year and the upcoming budget year combined. Proposals to reduce and/or eliminate funding for county programs and services, in addition to deferrals of state payments to counties, will be considered at some point. It is anticipated that the CSAC State-Fiscal Reform Task Force will assist in guiding the association's position on these proposals as they surface.

CSAC and the Regional Council of Rural Counties (RCRC) are working on an educational program for new legislators.

Meeting adjourned.

Resolution in Support of Extended Producer Responsibility Framework Approach

Definition of Extended Producer Responsibility. Extended Producer Responsibility (EPR) is the extension of the responsibility of producers, and all entities involved in the product chain, to reduce the cradle-to-cradle impacts of a product and its packaging. The greatest responsibility lies with the producer, or brand owner, who makes design, marketing and packaging decisions.

Extended Producer Responsibility Policy Statement. The California State Association of Counties (CSAC) supports legislative and policy changes that shift responsibility for financing and managing products at the end-of-life away from local governments to the producers of products.

Producer responsibility removes the financial burden of product waste management from local governments, ratepayers and taxpayers and makes responsible management and recycling of products at the end of life a cost of doing business. Placing the responsibility with producers also provides an incentive to producers to redesign their products so as to reduce or eliminate their environmental impacts and to increase their recyclability. CSAC endorses producer financed and managed product take-back, in collaboration with retailers, to local government operated programs.



California State Association of Counties DRAFT 2009 State Priority

Approved by CSAC Executive Committee – January 2009

CSAC State Legislative Priority: Addressing the Fiscal Crisis

After consideration of a number of potential 2009 legislative priorities for the Association, the California State Association of Counties (CSAC) determined that, in this unprecedented economic climate, CSAC's legislative advocacy will focus on addressing the fiscal crisis that grips all levels of government and the citizens we collectively serve.

California counties are experiencing significant revenue shortfalls and rising caseload demands, and are taking dramatic steps to resolve their budget imbalances while maintaining services to the most vulnerable Californians. The economic crisis that has crippled the housing market, eroded consumer confidence, and resulted in dramatic job losses has led us to a single, unifying focus: rebuild the economy to grow public revenues, to reduce demand for public services, and to improve the quality of life for all Californians.

While local economies wither, counties are especially concerned about the severely constrained fiscal circumstances of the state and are committed to providing expertise and assistance to develop remedies that get the California economy back on track. With that goal in mind, CSAC has identified the following principles for addressing the fiscal crisis that all Californians are grappling with:

- **Protect the health and safety of all Californians.** During this time of economic crisis, demands for government health services, human services, and public safety services far outpace resources. Counties across the state are seeing a spike in health and human services caseloads – coming on the heels of eight years of underfunding. CSAC supports efforts to maintain core public services for those who need assistance the most.
- **Seek budget solutions that provide long-term results.** The state's chronic budget troubles require meaningful changes that survive the short-term problem. Cost shifts, borrowing, and other short-term "solutions" only serve to create additional budget stress in the out years and exacerbate the state's chronic budget imbalance. All levels of government must focus on the long-term objective of developing reliable, adequate revenue sources to fund priority programs and services that are efficient and effective. Reevaluating the state's revenue structure and reviewing program outcomes are the first steps to developing a sensible state budget.
- **Rebuild the economy.** Government has the ability to help restore the economic vitality of the state. CSAC endorses economic stimulus proposals that use government funds to produce infrastructure solutions that benefit the public at large, while creating jobs and stimulating demand for goods and services.
- **Focus on long-term reforms.** CSAC supports reforming the budget process to establish priorities and goals for government services and to create public services that are valued by citizens. Counties also welcome discussions with the state that seek to align accountability and responsibility for public services with the authority to effectively govern those services.



California State Association of Counties DRAFT 2009 Federal Priorities

Approved by CSAC Executive Committee – January 2009

CSAC's contract for federal affairs services with Waterman and Associates provides for a nine-issue agenda. CSAC staff, in consultation with Waterman and Associates, developed the following list of five federal issues of significance to California's counties, with four issues left in reserve to accommodate emerging topics.

NEW AUTHORIZATION OF THE NATION'S SURFACE TRANSPORTATION LAW (SAFETEA-LU)

SAFETEA-LU expires in September of 2009. Lawmakers held a series of hearings during the 110th Congress, with additional hearings expected early next year. Congressional authorizing committees will begin to draft the reauthorization legislation in the near future.

For its part, CSAC continues to actively promote its transportation reauthorization agenda with key policymakers. Among things, the association is recommending a more streamlined and flexible approach to allocating federal transportation funds to state, regional, and local agencies. This could take shape by reducing the current 108 programs under SAFETEA-LU into a smaller number of more flexible programs, such as the 10 new federal programs recommended by the National Surface Transportation Policy and Revenue Study Commission.

MEDICAID

The congressionally mandated moratorium on implementation of six of seven pending Medicaid regulations issued by the Bush Administration will expire in March. Lawmakers will need to decide the fate of those regulations, and may consider additional reforms to the Medicaid program as part of a broader health care package.

CSAC remains active in opposing Medicaid budget reductions that would harm health service delivery in California and supports an increase in the Federal Medical Assistance Percentage (FMAP) as part of any economic stimulus package.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP)

The SCAAP program is a critically important budget item for a large number of California's counties. CSAC is one of the leading local government organizations in the fight to protect and enhance funding for SCAAP, which continues to be underfunded by Congress. CSAC will continue to advocate for maximum funding levels to offset the cost of housing undocumented criminals in county detention facilities.

CLIMATE CHANGE

Although Senator Barbara Boxer's (D-CA) climate change legislation fell short in 2008, a stronger Democratic majority in the upper chamber likely means that the bill will have a better chance of advancing in 2009. Additionally, President Barack Obama has made climate change a major priority for his Administration.

Among other things, CSAC is urging Congress to provide financial incentives to states that adopt and set greenhouse gas emissions reductions targets. CSAC also is urging Congress to provide additional funding for the Energy Efficiency and Conservation Block Grant, which provides resources to local governments for a variety of energy efficiency programs.

FUELS MANAGEMENT

Although fuels management legislation from the 110th Congress does not carry over into next year, key lawmakers, including Senator Dianne Feinstein (D-CA), are expected to renew legislative efforts aimed at preventing and responding to wildland fires.

CSAC has actively supported legislation that would provide at-risk communities with incentives to improve fire prevention efforts. The association also has worked to defeat the Bush Administration's proposed budget reductions to federal programs that support fuels management, fire preparedness, and state and local fire assistance.

CSAC Internal Monitoring

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

REAUTHORIZATION OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP)

The current extension of SCHIP is slated to expire on March 31. Lawmakers and Administration officials are expected to discuss options for renewing the law early in the New Year. CSAC supports increased federal investment in the SCHIP program, as well as maximum flexibility with regard to setting program eligibility standards.

TRIBAL GAMING

The 111th Congress, like the last several Congresses, is expected to examine options for amending federal laws and regulations that govern tribal gaming activities. It remains to be seen how the Obama Administration plans to move forward on issues related to Indian gaming.

CSAC has been a leader in promoting legislation that would require tribes, counties and other local governments to reach judicially enforceable agreements that address mitigation of off-reservation impacts, service impacts, and public safety costs associated with tribal gaming and other related development.

CHILD SUPPORT ENFORCEMENT

Cuts to the child support enforcement program, instituted under the Deficit Reduction Act of 2005, continue to threaten the viability of the child support program. Key lawmakers are expected to continue efforts to restore the cuts as part of a possible economic stimulus plan or as part of a broader legislative package. CSAC strongly supports these efforts.

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

Like most other federal spending programs, the CDBG is frozen at fiscal year 2008 levels through March 6. Once lawmakers reconvene early next year, final funding figures for individual spending programs will be settled. CSAC has actively promoted full funding for the CDBG, which has been consistently zeroed out by the Bush Administration.

TELECOMMUNICATIONS REFORM

Unlike its predecessor, the 110th Congress did not consider major video franchising reform legislation. Looking ahead, it remains to be seen if the new 111th Congress – along with the Obama Administration – will promote a telecommunications overhaul.

For its part, CSAC has resisted efforts in Congress to grant the Federal Communications Commission with additional decision-making authority over state and local telecommunications matters. However, CSAC supports funding for increased broadband penetration to rural and hard-to-serve areas.

FOSTER CARE REFORM

The 111th Congress is expected to consider legislation to reform the foster care financing system, as well as provide additional resources to stabilize families and train and retain child welfare staff. CSAC supports additional programmatic flexibility along with an updated foster care payment methodology.

HOMELAND SECURITY

Funding for homeland security-related programs was one of the few areas of the fiscal year 2009 federal budget that was finalized by Congress. All told, lawmakers provided \$4.2 billion for first responder programs, or \$2 billion above the Bush Administration's request and \$24 million above 2008 levels.

CSAC has successfully advocated for increased funding for first responder programs, including the State Homeland Security Grant Program and Emergency Management Performance Grants. The association also has successfully lobbied to ensure that high-threat states, such as California, receive a greater share of homeland security grant funds.

BYRNE GRANT FUNDING

The Byrne Memorial Justice Assistance Grant (JAG) received a nearly two-thirds cut during final negotiations on the fiscal year 2008 budget. Since that time, a group of lawmakers has been working to restore the \$490 million reduction. CSAC strongly supports congressional efforts aimed at restoring funding for the JAG program.

IMMIGRATION REFORM

CSAC supports comprehensive immigration reform that recognizes the role that county governments play in the immigration arena. Any federal reform efforts should include the following elements: (1) a state and local impact grant program for health and education services; such a grant program should recognize that county governments – particularly along the southwest border – incur significant unreimbursed health care costs related to the provision of services to undocumented immigrants; (2) full funding for the State Criminal Alien Assistance Program (SCAAP); (3) border security strategic planning; (4) federal training dollars for county law enforcement officers targeted to jurisdictions along the borders; and (5) the promotion of access to health care.

CLEAN WATER ACT

Support amendments to Section 404 of the Clean Water Act to define maintenance of flood control channels or facilities as a non-prohibited activity thereby exempting maintenance from requiring Section 404 permits.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

Support increased funding for the U.S. Fish and Wildlife Service's Cooperative Endangered Species Conservation Fund from the \$73.8 million current-year level to \$125 million in FY2010. This will restore the fund to approximately its fiscal 2001 level, adjusted for inflation and provide much needed support to regional Habitat Conservation Plans (HCPs) in California and nationally.

DRAFT



March 4, 2009

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Facsimile
916.441.5507

TO: CSAC Board of Directors
FROM: Paul McIntosh, Executive Director
SUBJECT: Amendments to California County Platform

On the following pages you will find recommended amendments to the California County Platform. These amendments are being proposed by CSAC policy committees for your consideration.

Any modifications by the Board of Directors will be referred back to the appropriate policy committee, with final adoption of the entire 2009-10 California County Platform taking place at your May 28 meeting.



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DATE: March 4, 2009
TO: CSAC Board of Directors
FROM: Supervisor Ronn Dominici, Chair
Elizabeth Howard and Rosemary Lamb, Staff
Administration of Justice Policy Committee
RE: **Proposed Changes to the Administration of Justice (AOJ) Platform – ACTION REQUIRED**

Requested Action. The CSAC Administration of Justice (AOJ) policy committee recommends that the Board of Directors review and adopt the revisions outlined below to the justice section of the CSAC policy platform.

Background. The Administration of Justice (AOJ) policy committee met via conference call on February 5, 2009 to review its existing platform. The table below enumerates the proposed changes and the rationale behind each change.

Page/line number	Change	Rationale/Need
Page 1/line 29	Deleted comma	<i>Grammatical</i>
Page 2/line12	Deleted "counties" and added "local government"	<i>Grammatical/Substantive</i> To reflect that witnesses reside both within cities and counties, which is captured in "local government"
Page 2/line 46	Deleted "of" and inserted "as to"	<i>Grammatical</i>
Page 4/line 3	Insertion of "– if determined to be appropriate –"	<i>Grammatical</i> Acknowledges that due consideration must be given to population shifts.
Page 4/lines 4-7	Insertion of new sentence beginning "However, counties believe that..."	<i>Substantive</i> Asserts counties' position that a certain class of incarcerated juvenile offenders is best served at the state level
Page 4/line 26	Insertion of "and, where feasible, a risk assessment." at the end of the second paragraph in Treatment and Rehabilitation section	<i>Substantive</i> Recognizes value of risk assessments as key element of responsive and effective juvenile justice system, to the extent resources are available.
Page 4/lines 36-39	Insertion of new sentence beginning "Nevertheless, counties believe that..."	<i>Substantive</i> Reasserts counties' position that a certain class of incarcerated juvenile offenders is best served at the state level
Page 5/line 3	Changed "individuals" to "offenders"	<i>Grammatical</i> Clarifies that the population being discussed is the juvenile <i>offender</i> population.

Proposed Changes to Administration of Justice (AOJ) Platform
Page 2

Page/line number	Change	Rationale/Need
Page 5/lines 29-30	Insertion of phrase "...all detainees regardless of gender..." under Equal Treatment Section	<i>Substantive</i> Clarifies that this section under General Principles for Local Corrections applies to both juvenile and adult populations.
Page 5/lines 39-40	Insertion at the end of sentence under Community-Based Corrections Sentence "...and that community-based corrections programs"	<i>Substantive</i> Asserts that these programs are only successful if appropriate funding is provided.
Page 5/lines 44-45 & Page 6/lines 1-2	Makes minor grammatical changes to paragraph and adds some services to those which should be provided within local corrections when feasible in Relationship to Human Services Systems section.	<i>Substantive/Grammatical</i> Expands types of human services that should be included in any holistic approach adopted by the state in administering its corrections programs.
Page 6/line 8	Adds "...with a mental illness" to the end of sentence describing offenders.	<i>Grammatical</i> Corrects outdated terminology used to define offender population.
Page 6/line 18	Adds "- adult and juvenile-" in the last sentence of the Inmate Medical Services section	<i>Substantive</i> Clarifies that this section applies to the medical benefits for both juvenile and adult offenders.
Page 6/lines 26-27	Adds "...those whose conviction(s) require and/or results in local incarceration." to first sentence under Adult Correctional Institutions section	<i>Substantive</i> Clarifies that counties' detention responsibility should not extend beyond those who require a local commitment.
Page 6/lines 38-42	Added second sentence beginning "Counties should be given..." and added "unless such program...improvements." to end of third sentence.	<i>Substantive</i> Emphasizes the need for county authority to allocate resources for adult corrections in a manner that is reflective of the local community's needs; recognizes that shifting resources and responsibility to the local level may or may not result in improvements.
Page 7/lines 7-11	Added sentence beginning "Counties should be given..." and added "unless such program...improvements" to end of third sentence.	<i>Substantive</i> Acknowledges need for county authority to allocate resources for juvenile corrections (parallel to change made in adult context, above).
Page 7/lines 18-19	Changed "Department of Youth Authority" to "Division of Juvenile Justice"	<i>Substantive</i> Reflects change in designation for department that administers juvenile detention programs and institutions within the California Department of Corrections and Rehabilitation
Page 7/line 28	Deleted "be able to" within first sentence	<i>Grammatical</i>
Page 7/line 41	Deleted comma	<i>Grammatical</i>
Page 7/lines 46-47	Changed "which" to "that" twice in first sentence under Federal Criminal Justice Assistance	<i>Grammatical</i>
Page 8/lines 45-47 &	Deletion of large portion of text to be	<i>Substantive</i>

Page/line number	Change	Rationale/Need
Page 9/lines 1-2	replaced with "CSAC remains committed to raising awareness..." as well as adds early intervention to section.	These changes are consistent with platform changes previously adopted by the CSAC Health and Human Services policy committee earlier this year, in recognition of the fact that the CSAC Family Violence Task Force was retired in 2008. However, policy on this important issue is necessary to ensure CSAC's ongoing commitment to reducing the cause and instances of family violence in our communities; early intervention added to reflect its importance of early intervention services in efforts to prevent family violence.
Page 9/line 33	Changed "recent" to "previous"	<i>Grammatical</i> Acknowledges the passage of time since the CSAC research on insurance costs was undertaken.
Page 9/line 43	Changed capitalization of "governmental"	<i>Grammatical</i>
Page 9/lines 8-14	Notation of reference to other justice policies adopted by CSAC Board of Directors, which will be included in an appendix	<i>Technical</i> The 2009 CSAC platform revision will include incorporation of other CSAC policies by incorporation into an appendix.

The platform, containing page and line numbers referenced to each of the changes above, is attached for your review and reference.

Requested Action. The AOJ Policy Committee requests that the Board of Directors review and approve the changes set forth above and detailed in the attached platform chapter. During its February discussion, the policy committee unanimously approved these modifications, which are intended to modernize and, in certain areas, strengthen the platform statements.

Staff Contacts. Please contact Elizabeth Howard (ehoward@counties.org or 916-650-8131) or Rosemary Lamb (rlamb@counties.org or 916-650-8116) for additional information.

Attachment

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CHAPTER TWO

Administration of Justice

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Section 1: GENERAL PRINCIPLES

This chapter is intended to provide a policy framework to direct needed and inevitable change in our justice system without compromising our commitment to both public protection and the preservation of individual rights. CSAC supports improving the efficiency and effectiveness of the California justice systems without compromising the quality of justice.

13

A. The Role of Counties

14 The unit of local government that is responsible for the administration of the justice system must be
15 close enough to the people to allow direct contact, but large enough to achieve economies of scale.
16 While acknowledging that the state has a constitutional responsibility to enact laws and set
17 standards, California counties are uniquely suited to continue to have major responsibilities in the
18 administration of justice. However, the state must recognize differences arising from variations in
19 population, geography, industry, and other demographics and permit responses to statewide problems
20 to be tailored to the needs of individual counties.

21
22 We believe that delegation of the responsibility to provide a justice system is meaningless without
23 provision of adequate sources of funding.
24

25

Section 2: LEGISLATIVE AND EXECUTIVE MATTERS

26

A. Board of Supervisors Responsibilities

27 It is recognized that the state, and not the counties, is responsible for trial court operations costs and
28 any growth in those costs in the future. Nevertheless, counties continue to be responsible for justice-
29 related services, such as, but not limited to, probation, prosecutorial, and defense services, as well as
30 the provision of local juvenile and adult detention facilities. Therefore, county board of supervisors
31 should have budget control over all executive and administrative elements of local justice programs
32 for which we continue to have primary responsibility.
33

34

B. Law Enforcement Services

35 While continuing to provide the full range of police services, county sheriffs should move in the
36 direction of providing less costly specialized services, which can most effectively be managed on a
37 countywide basis. Cities should provide for patrol and emergency services within their limits or
38 spheres of influence. However, where deemed mutually beneficial to counties and cities, it may be
39 appropriate to establish contractual arrangements whereby a county would provide law enforcement
40 services within incorporated areas. Counties should maintain maximum flexibility in their ability to
41 contract with municipalities to provide public safety services.
42

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C. District Attorney Services

44 The independent, locally-elected nature of the district attorney must be protected. This office must
45 have the capability and authority to review suspected violations of law and bring its conclusions to
46 the proper court.

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D. Victim Indemnification

Government should be responsive to the needs of victims. Victim indemnification should be a state responsibility, and the state should adopt a program to facilitate receipt of available funds by victims, wherever possible, from the perpetrators of the crime who have a present or future ability to pay, through means that may include, but are not limited to, long-term liens of property and/or long-term payment schedules.

E. Witness Assistance

Witnesses should be encouraged to become more involved in the justice system by reporting crime, cooperating with law enforcement, and participating in the judicial process. A cooperative anonymous witness program funded jointly by local government and the state should be encouraged, where appropriate, in local areas.

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F. Grand Juries

Every grand jury should continue to have the authority to report on the needs of county offices, but no such office should be investigated more than once in any two-year period, unless unusual circumstances exist. Grand juries should be authorized to investigate all local government agencies, not just counties. Local government agencies should have input into grand jury reports on non-criminal matters prior to public release. County officials should have the ability to call the grand jury foreman and his or her representative before the board of supervisors, for the purpose of gaining clarification on any matter contained in a final grand jury report. Counties and courts should work together to ensure that grand jurors are properly trained and that the jury is provided with an adequate facility within the resources of the county and the court.

G. Public Defense Services

Adequate legal representation must be provided for indigent persons as required by constitutional, statutory, and case law. Such representation includes both criminal and mental health conservatorship proceedings. The mechanism for meeting this responsibility should be left to the discretion of individual counties.

Counsel should be appointed for indigent juveniles involved in serious offenses and child dependency procedures. The court-appointed or -selected attorney in these procedures should be trained specifically to work with juveniles.

Adult defendants and parents of represented juveniles who have a present and/or future ability to pay part of the costs of defense should continue to be required to do so as determined by the court. The establishment of procedures to place the responsibility for the cost of juvenile defense rightfully upon the parents should be encouraged. The state should increase its participation in sharing the costs of public defense services.

H. Coroner Services

The independent and investigative function of the coroner must be assured. State policy should encourage the application of competent pathological techniques in the determination of the cause of death.

The decision as to whether this responsibility should be fulfilled by an independent coroner, sheriff-coroner combination, or a medical examiner must be left to the individual boards of supervisors. In

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1 rural counties, the use of contract medical examiners shall be encouraged on a case-by-case basis
2 where local coroner judgment is likely to be challenged in court. A list of expert and highly
3 qualified medical examiners, where available, should be circulated to local sheriff-coroners.
4

5 **I. Pre-Sentence Detention**

6 **1. Adults**

7 **a. Facility Standards**

8 The state's responsibility to adopt reasonable, humane, and constitutional standards
9 for local detention facilities must be acknowledged.

10
11 Recognizing that adequate standards are dynamic and subject to constant review,
12 local governments must be assured of an opportunity to participate in the
13 development and modification of standards.
14

15 It must be recognized that the cost of upgrading detention facilities presents a nearly
16 insurmountable financial burden to most counties. Consequently, enforcement of
17 minimum standards must depend upon state financial assistance, and local costs can
18 be further mitigated by shared architectural plans and design.
19

20 **b. Pre-sentence Release**

21 Counties' discretion to utilize the least restrictive alternatives to pre-sentence
22 incarceration that are acceptable, in light of legal requirements and counties'
23 responsibility to protect the public, should be unfettered.
24

25 **c. Bail**

26
27 We support a bail system that would validate the release of pre-sentence persons. We
28 also believe that public protection should be a criterion considered when setting bail.
29

30 Any continuing county responsibility in the administration or operation of the bail
31 system must include a mechanism to finance the costs of such a system.
32

33 **2. Juveniles**

34 **a. General**

35 We view the juvenile justice system as being caught between changing societal
36 attitudes calling for harsher treatment of serious offenders and its traditional
37 orientation toward assistance and rehabilitation. Therefore, we believe a thorough
38 review of state juvenile laws is necessary. Any changes to the juvenile justice system
39 should fully involve and draw upon the experience of county officials and personnel
40 responsible for the administration of the present system. CSAC must be involved in
41 state-level discussions and decision-making processes regarding changes to the
42 juvenile justice system that will have a local impact. There must also be recognition
43 that changes do not take place overnight and that an incremental approach to change
44 may be most appropriate.

45 Counties must be given the opportunity to analyze the impact, assess the feasibility,
46 and determine the acceptability of any juvenile justice proposal that would realign
47 services from the state to the local level. As with any realignment, responsibility and

1 authority must be connected, and sufficient resources — with a built-in growth factor
2 adjustment — must be provided. Any shift in juvenile detention or incarceration
3 from large state-run facilities to local facilities — if determined to be appropriate —
4 must be pre-planned and funded by the state. However, counties believe that a class
5 of juvenile offenders exists that is best treated by the state. These juvenile offenders
6 are primarily those offenders whose behavioral problems, treatment needs, or
7 criminogenic profile are so severe as to outstrip the local ability to properly treat.

8 We support a juvenile justice system that is adapted to local circumstances and
9 increased state and federal funding support for local programs that are effective.

10
11 **b. Facility Standards**

12 The state's responsibility to adopt reasonable, humane, and constitutional standards
13 for juvenile detention facilities is recognized. The adoption of any standards should
14 include an opportunity for local government to participate. The state must recognize
15 that local government requires financial assistance in order to effectively implement
16 state standards, particularly in light of the need for separating less serious offenders
17 from more serious offenders.

18 **c. Treatment and Rehabilitation**

19 As with adult defendants, counties should have broad discretion in developing
20 programs for juveniles.

21 To reduce overcrowding of juvenile institutions and to improve the chances for
22 treatment and rehabilitation of more serious offenders, it is necessary that lesser
23 offenders be diverted from the formal juvenile justice system to their families and
24 appropriate community-based programs. Each juvenile should receive individual
25 consideration and, where feasible, a risk assessment.

26
27
28 Counties should pursue efficiency measures that enable better use of resources and
29 should pursue additional funding from federal, state, and private sources to establish
30 appropriate programs at the county level.

31
32 Prevention and diversion programs should be developed by each county or regionally
33 to meet the local needs and circumstances, which vary greatly among urban,
34 suburban, and rural areas of the state. Programs should be monitored and evaluated
35 on an ongoing basis to ensure their ability to protect public safety and to ensure
36 compliance with applicable state and federal regulations. Nevertheless, counties
37 believe that the state must continue to offer a commitment option for those juvenile
38 offenders with the most serious criminogenic profile and most severe treatment
39 needs.

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41 **d. Bail**

42 Unless transferred to adult court, juveniles should not be entitled to bail. Release on
43 their own recognizance should be held pending the outcome of the proceedings.

44
45 **e. Separation of Offenders**

46 We support the separation of juveniles into classes of sophistication. Separation
47 should be based upon case-by-case determinations, taking into account age, maturity,

1 need for secure custody among other factors, since separation by age or offense alone
2 can place very unsophisticated offenders among the more mature, sophisticated
3 offenders.

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5 In view of the high cost of constructing separate juvenile hall facilities, emphasis
6 should be placed on establishment of facilities and programs that facilitate
7 separation.

8
9 **f. Removal of Serious Offenders to Adult Court**

10 To the greatest extent possible, determinations regarding the fitness of serious
11 offenders should be made by the juvenile court on a case-by-case basis.

12
13 **g. Jury Trial for Serious Offenders**

14 Except when transferred to adult court, juveniles should not be afforded the right to a
15 jury trial — even when charged with a serious offense.

16
17 **J. General Principles For Local Corrections**

18 **1. Purpose**

19 We believe that swift and certain arrest, conviction, and punishment is a major deterrent to
20 crime. Pragmatic experience justifies the continuation of rehabilitative programs for those
21 convicted persons whom a court determines must be incarcerated and/or placed on probation.

22
23 **2. Definition**

24 Local corrections include maximum, medium and minimum security incarceration, work
25 furlough programs, home detention, county parole, probation, and community-based
26 programs for convicted persons.

27
28 **3. Equal Treatment**

29 Conditions, treatment and correctional opportunities that are equal for all detainees,
30 regardless of gender, are strongly supported. State policy must allow recognition of the
31 individual's right to privacy and the differing programmatic needs of individuals.

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32
33 **4. Community-Based Corrections**

34 The most cost-effective method of rehabilitating convicted persons is the least restrictive
35 alternative that is close to the individual's community and should be encouraged where
36 possible.

37
38 State policy must recognize that correctional programs must always be balanced against the
39 need for public protection and that community-based corrections programs are only
40 successful to the extent that they are sufficiently funded.

41
42 **5. Relationship to Human Services Systems**

43 State policy toward corrections should reflect a holistic philosophy, which recognizes that
44 most persons entering the correctional system should be provided welfare, medical, mental
45 health, vocational and educational services. Efforts to rehabilitate persons entering the

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1 | correctional system should involve these other services, based on the needs — and, when
2 | possible, a risk assessment — of the individual.

3 | 4 | **6. Relationship to Mental Health System: Mentally Ill Diversion Programs**

5 | Adequate mental health services can reduce criminal justice costs and utilization.
6 | Appropriate diagnosis and treatment services, as well as increased use of diversion programs,
7 | will result in positive outcomes for offenders with a mental illness. Ultimately, appropriate
8 | mental health services will benefit the public safety system. Counties continue to work across
9 | disciplines to achieve good outcomes for persons with mental illness and/or co-occurring
10 | substance abuse issues.

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11 | 12 | **7. Inmate Medical Services**

13 | CSAC supports efforts at the federal level to permit local governments to access third-party
14 | payments for health care provided in detention facilities, including medical services provided
15 | for those who are accused, but not yet convicted. CSAC also supports efforts to ensure
16 | continuity of benefits for those detained in county detention facilities — adult and juvenile —
17 | and for swift reenrollment in the appropriate benefits program upon a detainee's release.

18 | 19 | **8. Private Programs**

20 | Private correctional programs should be encouraged for those categories of offenders that can
21 | most effectively be rehabilitated in this manner.

22 | **K. Adult Correctional Institutions**

23 | Counties should continue to administer adult correctional institutions for those whose conviction(s)
24 | require and/or results in local incarceration.

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25 | The state and counties should establish a collaborative planning process to review the relationship of
26 | local and state corrections programs.

27 | Counties should continue to have flexibility to build and operate facilities that meet local needs.
28 | Specific methods of administering facilities and programs should not be mandated by statute.

29 | **L. Adult Probation**

30 | Counties should continue to provide adult probation services as a cost-effective alternative to post-
31 | sentence incarceration and to provide services—as determined appropriate—to persons released
32 | from local correctional facilities. Counties should be given flexibility to allocate resources at the
33 | local level according to the specific needs of their probation population and consideration should be
34 | granted to programs that allow such discretion. State programs that provide fiscal incentives to
35 | counties for keeping convicted offenders out of state institutions should be discouraged unless such
36 | programs — on balance — result in system improvements. State funding should be based upon a state-
37 | county partnership effort that seeks to protect the public and to address the needs of individuals who
38 | come into contact with the justice system. Such a partnership would acknowledge that final decisions
39 | on commitments to state institutions are made by the courts, a separate branch of government, and
40 | are beyond the control of counties. Some integration of county probation and state parole services
41 | should be considered. Utilization of electronic monitoring for probationers and parolees should be
42 | considered where cost-effective and appropriate for local needs.

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1 **M. General Principles For Juvenile Corrections**

2 We believe that efforts to curtail the criminal behavior of young people are of the highest priority
3 need within the correctional area. The long-term costs resulting from young offenders who continue
4 their criminal activities justifies extraordinary efforts to rehabilitate them.

5
6 Efforts should be made to force parents to assume greater responsibility for the actions of their
7 children, including fines and sanctions, if necessary. Counties should be given flexibility to allocate
8 resources at the local level according to the specific needs of their probation population and
9 consideration should be granted to programs that allow such discretion. State programs that provide
10 fiscal incentives to counties for keeping convicted offenders out of state institutions should be
11 discouraged unless such programs – on balance – result in system improvements. Any program
12 should recognize that final decisions on commitments to state institutions are made by the courts, a
13 separate branch of government, and are beyond the control of counties.

14
15 **N. Juvenile Correctional Institutions**

16 Counties should continue to administer juvenile correctional institutions and programs for the
17 majority of youths requiring institutionalization. Retention of youths at the local level benefits
18 the state by reducing demands on programs and institutions operated by the California Division
19 of Juvenile Justice.

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20
21 While counties believe that a state-operated rehabilitation and detention system is a necessary
22 component of the continuum of services for juvenile offenders, CSAC opposes efforts that would
23 require any additional county subsidy of that system. The state should provide subvention for
24 these activities at a reasonable level, with provisions for escalation so that actual expenses will be
25 met.

26
27 **O. Juvenile Probation**

28 Counties should continue to provide juvenile probation services as a cost-effective alternative to
29 post-adjudication and to provide juvenile probation services to individual youths and their families
30 after the youth's release from a local correctional facility.

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31
32 Truants, run-a-ways, and youths who are beyond the control of their parents should continue to be
33 removed from the justice system except in unusual circumstances. These youths should be the
34 responsibility of their parents and the community, not the government. Imposing fines and/or
35 sanctions on parents to prompt their participation in their children's lives and involvement in the
36 process should remain an option.

37
38 **P. Human Services System Referral of Juveniles**

39 State policy toward juvenile corrections must be built on the realization that a juvenile offender may
40 be more appropriately served in the human services system. Considering the high suicide potential
41 of youths held in detention facilities, and, acknowledging the fact that juvenile offenses are more
42 often impulse activities than are adult offenses, juvenile cases and placement decisions should be
43 reviewed more closely under this light.

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45 **Q. Federal Criminal Justice Assistance**

46 The federal government should continue to provide funding for projects that improve the operation
47 and efficiency of the justice system and that improve the quality of justice. Such programs should

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1 provide for maximum local discretion in designing programs that are consistent with local needs and
2 objectives.

3
4 **Section 3: JUDICIAL BRANCH MATTERS**

5 **A. Trial Court Management**

6 The recognized need for greater uniformity and efficiency in the trial courts must be balanced against
7 the need for a court system that is responsive and adaptable to unique local circumstances. Any
8 statewide administrative structure must provide a mechanism for consideration of local needs.

9
10 **B. Trial Court Structure**

11 We support a unified consolidated trial court system of general jurisdiction that maintains the
12 accessibility provided by existing trial courts. The state shall continue to accept financial
13 responsibility for any increased costs resulting from a unified system.

14
15 **C. Trial Court Financing**

16 Sole responsibility for the costs of trial court operations should reside with the state, not the counties.
17 Nevertheless, counties continue to bear the fiscal responsibility for several local judicial services that
18 are driven by state policy decision over which counties have little or no control. We strongly believe
19 that it is appropriate for the state to assume greater fiscal responsibility for other justice services
20 related to trial courts, including drug courts. Further, we urge that the definition of court operations
21 financed by the state should include the district attorney, the public defender, court appointed
22 counsel, and probation.

23
24 **D. Trial Court Facilities**

25
26 While counties continue to support efforts to ensure appropriate transfer of trial court facilities to the
27 state, the process for transfer must be both equitable and fair. Further, adequate time must be
28 provided to permit local negotiations for the transfer of these facilities, pursuant to an acceptable
29 agreement between counties and the state.

30
31 **E. Court Services**

32 Although court operation services are the responsibility of the state, certain county services provided
33 by probation and sheriff departments are directly supportive of the trial courts. Bail and own
34 recognizance investigations, as well as pre-sentence reports, should be provided by probation,
35 sheriff, and other county departments to avoid duplication of functions, but their costs should be
36 recognized as part of the cost of operating trial courts.

37
38 **F. Jurors and Juries**

39 Counties should be encouraged to support programs that maximize use of potential jurors and
40 minimize unproductive waiting time. These programs can save money, while encouraging citizens to
41 serve as jurors. These efforts must consider local needs and circumstances. To further promote
42 efficiency, counties support the use of fewer than twelve person juries in civil cases.

43
44 **Section 4: FAMILY VIOLENCE**

45 CSAC remains committed to raising awareness of the toll of family violence on families and
46 communities by supporting efforts that target family violence prevention, intervention and treatment.
47 Specific strategies for early intervention and success should be developed through cooperation

Deleted: The issue of family violence — and the effects it has on families, children, and county services — is of significant importance to CSAC. The CSAC Family Violence Task Force, in particular, focuses on building awareness among county supervisors and staff regarding family violence and highlighting efforts that can assist counties in addressing family violence prevention, intervention, and treatment. Recognizing the crosscutting impacts in the health and human services area as well as the justice system, the task force seeks to: (1) develop a continuum of services and treatment, focusing on early intervention; (2) support strong partnerships and collaboration with governmental and non-governmental agencies, and (3) establish best practices with an emphasis on reducing children's exposure to violence. CSAC, through the work of its task force, strives to inform counties about the issue of family violence and to implement coordinated strategies between first responders — law enforcement officers and human service workers — to provide strategies for countywide family violence prevention efforts. Specific strategies for success should be developed through cooperation between state and local governments as well as community and private organizations addressing family violence issues.

1 | [between state and local governments, as well as community, and private organizations addressing](#)
2 | [family violence issues.](#)
3

4 | **Section 5: GOVERNMENT LIABILITY**

5 | The current government liability system is out of balance. It functions almost exclusively as a source
6 | of compensation for injured parties. Other objectives of this system, such as the deterrence of
7 | wrongful conduct and protection of governmental decision-making, have been largely ignored.
8 | Moreover, as a compensatory system of ever-increasing proportions, it is unplanned, unpredictable
9 | and fiscally unsound – both for the legitimate claimant and for the taxpayers who fund public
10 | agencies.

11
12 | Among the principal causes of these problems is the philosophy – expressed in statutes and decisions
13 | narrowing governmental immunities under the Tort Claims Act – that private loss should be shifted
14 | to society where possible on the basis of shared risk, irrespective of fault or responsibility in the
15 | traditional tort law sense.

16
17 | The expansion of government liability over recent years has had the salutary effect of forcing public
18 | agencies to evaluate their activities in terms of risk and to adopt risk management practices.
19 | However, liability consciousness is eroding the independent judgment of public decision-makers. In
20 | many instances, mandated services are being performed at lower levels and non-mandated services
21 | are being reduced or eliminated altogether. Increasingly, funds and efforts are being diverted from
22 | programs serving the public to the insurance and legal judicial systems.

23
24 | Until recently, there appeared to be no end to expansion of government liability costs. Now,
25 | however, the "deep pocket" has been cut off. Insurance is either unavailable or cost prohibitive and
26 | tax revenues are severely limited. Moreover, restricted revenue authority not only curtails the ability
27 | of public entities to pay, but also increases exposure to liability by reducing funding for maintenance
28 | and repair programs. As a result, public entities and ultimately, the Legislature, face difficult fiscal
29 | decisions when trying to balance between the provision of governmental service and the continued
30 | expansion of government liability.

31
32 | There is a need for data on the actual cost impacts of government tort liability. As a result of
33 | [previous](#) CSAC efforts, insurance costs for counties are fairly well documented. However, more
34 | information is needed about the cost of settlements and awards and about the very heavy
35 | "transactional costs" of administering and defending claims. We also need more information about
36 | the programmatic decisions being forced upon public entities: e.g., what activities are being dropped
37 | because of high liability? CSAC and its member counties must attempt to fill this information gap.

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39 | CSAC should advocate for the establishment of reasonable limits upon government liability and the
40 | balancing of compensatory function of the present system with the public interests in efficient,
41 | fiscally sound government. This does not imply a return to "sovereign immunity" concepts or a
42 | general turning away of injured parties. It simply recognizes, as did the original Tort Claims Act,
43 | that: (1) government should not be more liable than private parties, and (2) that in some cases there
44 | is reason for government to be less liable than private parties. It must be remembered that
45 | government exists to provide essential services to people and most of these services could not be
46 | provided otherwise. A private party faced with risks that are inherent in many government services
47 | would drop the activity and take up another line of work. Government does not have that option.

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49 | In attempting to limit government liability, CSAC's efforts should bring governmental liability into
50 | balance with the degree of fault and need for governmental service.

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2 In advocating an "era of limits" in government liability, CSAC should take the view of the taxpayer
3 rather than that of counties per se. At all governmental levels, it is the taxpayer who carries the real
4 burden of government liability and has most at stake in bringing the present system into better
5 balance. In this regard, it should be remembered that the insurance industry is not a shield, real or
6 imagined, between the claimant and the taxpayer.

7
8 **Add to Platform Appendix**

9
10 CSAC Corrections Reform Policies and Principles (adopted by the CSAC Board of Directors
11 November 30, 2006; amended on May 22, 2008)

12
13 Sex Offender Management: County Principles and Policies (adopted by CSAC Board of Directors on
14 May 22, 2008)



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March 2, 2009

To: CSAC Board of Directors

From: Supervisor Mike Nelson, Agriculture and Natural Resources Policy
Committee, Chair
Supervisor John Vasquez, Agriculture and Natural Resources Policy
Committee, Vice Chair

Re: Updates to Chapters Three & Four of CSAC Platform

Recommendation: The CSAC Agriculture and Natural Resources (ANR) Committee recommends that the Board adopt the proposed revisions to chapters three and four of the County Platform.

Background. CSAC is in the process of its biannual update of the CSAC Platform, which consists of fourteen chapters of general principles and policy direction for the association. All revisions included in this document have been fully vetted by the CSAC ANR Policy Committee.

Policy Considerations. The CSAC ANR Committee approved chapters three and four of the platform at its policy committee meeting in December 2008, and additional changes were made at the January 28, 2009 meeting. The Committee also approved adding the existing climate change policy, which was adopted by the CSAC Board of Directors in 2007, to the platform as a separate chapter. See attached document for specific changes.

Staff Contact. Please contact Karen Keene (kkeene@counties.org, or (916)327-7500 x511) or Cara Martinson (cmartinson@counties.org or (916) 327-7500 x504) for additional information.

CHAPTER THREE

Agriculture and Natural Resources

Section 1: GENERAL PRINCIPLES

Counties recognize the necessity of balancing the need to develop and utilize resources for the support of our society and the need to protect and preserve the environment. Counties also recognize that climate change and the release of greenhouse gases (GHG) into the atmosphere have the potential to dramatically impact our environment, public health and economy. Due to the overarching nature of the climate change issues, all sections in this chapter should be viewed in conjunction with chapter fifteen.

Counties assert that solutions necessary to achieve this delicate balance can best be formulated at the local level in cooperation with public and private industry and state and federal government.

Over-regulation is not the answer. Processes must be adopted for all federal and state proposed rules and regulations that include a detailed environmental and economic cost/benefit analysis. Additionally, proposed and existing state rules and regulations that exceed federal standards should be evaluated and justified.

Section 2: AGRICULTURE

Counties recognize the importance of agriculture and its contribution to the state's economy. If California is to continue as the leading agriculture state in the nation, the remaining viable agricultural lands must be protected. In order to ensure that agricultural land protection is a statewide priority, the state, in cooperation with local governments, must continue to implement existing policies or adopt new policies which accomplish the following:

1. Provide innovative incentives that will encourage agricultural water conservation and retention of lands in agricultural production;
2. Encourage the development of new water resources;
3. Provide research and development for biological control and integrated pest management practices;
4. Ensure water and air quality standards are retained at a level that enables agricultural production to continue without significant lessening in the quantity or quality of production;
5. Support the continuation of statewide public education curricula that address the essential role that agriculture plays in California and world economics;
6. Promote California agriculture, protect it from pests and diseases and ensure the safety and wholesomeness of food and other agricultural products for the consumer;
7. Foster a decision-making environment based upon input from all interested parties and analysis of the best available information, science and technology;

8. Continue to build consumer and business confidence in the marketplace through inspection and testing of all commercial weighing and measuring devices;
9. Encourage low impact/sustainable agricultural practices;
10. Support the elimination of inheritance taxes on agricultural lands; and,
11. Support full funding for UC Cooperative Extension given its vital role in delivering research-based information and educational programs that enhance economic vitality and the quality of life in California counties.

A. Working with other Entities

In addition the University of California's Cooperative Extension Service, County Agriculture Commissioners, Sealers of Weights and Measures, Resource Conservation Districts (RCDs), local farm bureaus, Coordinated Resource Management Planning committees (CRMPs), and Resource Conservation & Development Councils (RC&Ds) are valuable resources that can be relied upon to assist state and local governments with the implementation of the policy directives noted above, as well as other programs supporting agricultural and natural resources. Given the long-standing relationship between local cooperative extension offices, county agricultural departments (i.e. County Farm Advisors and Agricultural Commissioners), RCDs, local farm bureaus, CRMPs, RC&Ds and individual counties, it is imperative that state and county officials develop ongoing support for these programs. Further, state and county officials are encouraged to remind other policy and decision makers of the importance of these entities and their value to agriculture, natural resources, the environment and community development.

B. Williamson Act

Counties support revisions to the California Land Conservation Act of 1965, also known as the Williamson Act, that provide property owners greater incentives to continue participation under the Act. Additionally, counties are committed to support other reasonable legislative changes which preserve the integrity of the Williamson Act and eliminate abuses resulting in unjustified and premature conversions of contracted land for development.

The state subventions to counties must be revised to recognize all local tax losses.

Section 3: FORESTS

Counties recognize the importance of forests to the state's economy. California is the second leading timber producing state in the nation. As with agriculture, to remain so, the state must protect and maintain its viable timberland base. Counties also recognize the importance of forestry in the context of climate change. Effectively managed forests have less of a probability of releasing harmful greenhouse gases into the atmosphere and increase the potential for carbon sequestration. To ensure protection of the viable timberland base, it must become a statewide priority to implement existing policies or adopt new policies that accomplish the following:

1. Continue reimbursement to counties for lost timber related revenues as currently provided under the Secure Rural Schools and Community Self-Determination Act of 2000;
2. Encourage sustainable forestry practices through the existing regulatory process;

3. Encourage continued reforestation on private timberlands;
4. Provide new and innovative incentives that will encourage good management practices and timberland retention;
5. Support the State Fire Safe Council's mission to preserve California's natural and man made resources by mobilizing all Californians to make their homes, neighborhoods and communities fire safe; and,
6. Oppose any net increase in state or federal land acquisition, unless otherwise supported by the affected local governments and until all of their issues and concerns are addressed or mitigated to their satisfaction.

A. Biomass

Counties recognize the problems and opportunities presented by biomass bi-product and accumulated fuels reduction efforts. The state of California must develop a coherent, integrated biomass policy that will guide regulation and investment for the next 20 years. The state must give highest priority in the near term to the retention of its unique biomass energy industry, which is in danger of disappearing as the result of electric services restructuring and changes in energy markets. By integrating State and local air quality goals, wildfire prevention and waste management strategies into a statewide biomass policy, California will solve several critical environmental problems and create viable private industries, which will serve the public need.

Section 4: MINERAL RESOURCES

The extraction of minerals is essential to the needs and continued economic well being of society. To ensure the viability of this important industry and to protect the quality of the environment, existing and new statewide policies concerning mineral resources must accomplish the following:

1. Encourage conservation and production of known or potential mineral deposits for the economic health and well being of society;
2. Ensure the rehabilitation of mined lands to prevent or minimize adverse effects on the environment and to protect public health and safety;
3. Recognize that the reclamation of mined lands will allow continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land;
4. Recognize that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological and social conditions are significantly different and that reclamation operations and the specifications thereof may vary accordingly;
5. Oversee surface, pit, in-stream and off-site mining operations so as to prevent or minimize adverse environmental effects;
6. Specify that determination of entitlements to surface mining operations is a local land use issue provided that reclamation plans are obtained and enforced.

Section 5: AIR QUALITY

Counties fully recognize that clean air laws have been enacted to protect the public from the adverse and deleterious health effects of air pollution. However, any rules and regulations aimed at improving California's air quality must not be developed without the input of local government. Rule makers working on air quality issues must ensure a balance between economic advancement, health effects and environmental impacts.

Counties assert that federal and state agencies, in cooperation with local agencies, have the ability to develop rules and regulations that implement clean air laws that are both cost-effective and operationally feasible. In addition, state and federal agencies should be encouraged to accept equivalent air quality programs, thereby allowing for flexibility in implementation without compromising air quality goals.

As it pertains to air quality regulations, distinctions need to be drawn between different types of open burning (i.e. wildland fuel reduction programs using prescribed fire v. agricultural burning). Efforts should continue to find economical alternatives to open burning in general.

Failure to meet air quality standards may jeopardize federal transportation funding statewide. Counties continue to work closely with congestion management agencies, air quality districts, metropolitan organizations and regional transportation agencies to ensure that transportation planning is coordinated with air quality objectives.

Many portions of the state have been formally identified by the California Air Resources Board (CARB) as receptors of particulate matter and ozone-related air pollution transported from other areas, counties, air basins and even other countries, such as Mexico. Although the California Air Resources Board is considering actions that will help mitigate air pollution transport, the receptor counties are still potentially subject to federal sanctions if they do not take sufficient steps to achieve and maintain healthy air quality. Federal sanctions can take many forms, including lowered New Source Review thresholds in the receptor districts as compared to transporting districts and through transportation conformity. Given the potential impacts on the receptor counties, additional state and federal legislation and/or policy measures must be enacted that provide reasonable sanction protection for counties impacted by air pollution transport from upwind areas, which may include transport from other countries. Other legislative or policy measures that would require the upwind areas to implement air pollution mitigation measures should also be considered.

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Given its longstanding support of local autonomy, CSAC opposes the addition of state appointees to local air districts. Such an action would result in a loss of local control without perceived improvements to the public process and clean air efforts. However, technical support services at the state level such as research, data processing and specialized staff support should be maintained and expanded to assist local air quality management efforts.

Section 6: WATER RESOURCE MANAGEMENT

A. Water Resources Development

Counties recognize the complexities of water use and distribution throughout the state, and therefore should be officially represented geographically on all federal, state, and/or regional water policy bodies and decision-making authorities (e.g. CALFED).

Counties further recognize that the transfer of surplus water from counties of origin to counties of need may be necessary. A comprehensive statewide water resource management plan – one that includes the upper watershed areas – is essential to the future of California. Such a plan should include a full assessment of needs for all users.

In relation to any specific water project, counties support statutory protection of counties of origin and watershed areas. These protections provide that only water that is surplus to the reasonable ultimate human and natural system needs of the area of origin should be made available for beneficial uses in other areas. A natural system includes the ecosystem, meaning a recognizable, relatively homogeneous unit that includes organisms, their environment, and all interactions among them. Additionally, the cost of water development to users within the areas of origin should not be increased by affecting a water export plan. Furthermore, in all federal and state legislation, county of origin protections should be reaffirmed and related feasibility studies should clearly identify and quantify all reasonable future needs of the counties of origin to permit the inclusion of specific guarantees. Existing water rights should be recognized and protected.

Counties must be compensated for any third party impacts, including, but not limited to, curtailed tax revenues and increases in costs of local services occasioned by an export project.

There currently exists a need for the development of new and expanded water resources to meet the growing needs of the state. The increased demand for water is due to the rapid population growth in the state, and new projects should be considered that will create new water supplies. In building any new water projects, the state must take into account and mitigate any negative socio-economic impacts on the affected counties.

Counties support the continued study and development of alternate methods of meeting water needs such as desalinization, wastewater reclamation, watershed management, the development of additional storage, and other water conservation measures.

Counties support the incorporation of appropriate recreational facilities into all water conservation and development projects to the extent feasible.

B. Water Rationing

Counties oppose statewide mandatory water rationing programs that would establish unrealistic and unnecessary restrictions on some areas of the state and which establish inadequate goals for other areas. Instead, counties support a voluntary approach to water conservation that promotes a permanent "conservation ethic" in California. If water rationing does become necessary in certain areas of the state, counties will need statutory authorization to impose water rationing decisions at the county government level.

C. Water Conservation

The Legislature has recognized the need for water conservation. Counties recognize the need for local programs that promote water conservation and water storage. Water conservation may include reuse of domestic and industrial wastewater, reuse of agriculture water, groundwater recharge, or economic incentives to invest in equipment that promotes efficiency. No conservation of water shall be recognized if the conservation arises from the fallowing of agricultural land for compensation, unless the board of supervisors of the county in which the water has been devoted to agricultural use consents to the fallowing.

The Regional Water Quality Control Boards need to direct staff to issue permits for direct discharge of properly treated wastewater to promote reuse.

D. Ground Water Management

It is CSAC's position that ground water management is necessary in California and that the authority for ground water management resides at the county level. Adequate management of water supply cannot be accomplished without effective administration of both surface and ground water resources within counties. Ground water management boundaries should recognize natural basins and responsibilities for administration should be vested in organizations of locally elected officials. Private property rights shall be addressed in any ground water management decisions.

Ground water management programs should maintain the flexibility to expeditiously address critical localized and basin-wide problems. Studies necessary to design ground water programs should be directed by local agencies with technical or economic support from state and federal programs.

E. Financing of Water Conservation and Ground Water Management

Area-wide water conservation and ground water management programs are costly. Those benefiting should pay a fair share of these costs. Local agencies should have the discretion to recover those costs.

F. Flood Control

The following policy guidance on flood control shall be followed in conjunction with CSAC's Flood Management Principles and Policy Guidelines.

Long-term flood control improvements are necessary in order to provide improved flood protection and minimize future damages. Local, state and federal agencies should work to improve communications, coordination and consistency prior to and following a flood disaster. Counties are encouraged to look for funding opportunities to move structures out of flood plains.

CSAC supports and encourages the U.S. Army Corps of Engineers, through the Waterways Experiment Stations, to adopt innovative geo-technical (high-tech) inspections systems to identify unexpected voids and saturated sand lenses in government-authorized levees. CSAC further supports follow up by the Army Corps with a recommendation for non-federal sponsors to add these techniques to their annual levee inspection programs.

Counties continue to experience frustration when applying for the state and federal permits that are required to repair, restore and maintain flood control facilities. Counties support streamlining of such permits or any other efforts that would allow expeditious implementation of such activities.

Counties recognize the need for environmental mitigation measures to protect endangered species. The unique need for ongoing and routine levee maintenance must be reconciled with reasonable mitigation requirements. Solutions could include a blanket "take permit" exempting levee maintenance from compliance and a more efficient process for routine maintenance.

Counties further recognize that providing habitat and flood control may not be mutually achievable goals within river, stream or ditch channels. However, ecosystem restoration projects may provide flood control benefits and will require detailed hydraulic and other engineering studies to assess the

individual and cumulative hydraulic impacts in floodways. Counties also recognize that habitat areas shall be maintained in such a manner as to not obstruct the flow of water through the channel. Further, the river, stream and ditch channels should also have blanket "take permits" issued to allow for proper cleaning of obstructions to the water flow and/or carrying capacity.

Federal and state agencies that have the expertise and have been funded to identify, protect and are responsible for species that would be harmed in the course of flood control projects – such as levee reconstruction, maintenance or repairs – must be charged with the rescue of these species and not the local government performing such activities. These local governments have little, if any, expertise in the identification and rescue procedures of threatened and endangered species. This identification and rescue should be accomplished in the most expedient time frame practicable. The federal agencies should be required to consult with the local action agencies within thirty days of any species rescue determination.

In respect to locally sponsored flood control projects, CSAC shall continue to urge the administration and the legislature to fully fund the State Flood Control Subvention Program.

G. Delta

CSAC believes that any proposed Delta solutions be implemented in a manner that:

- Respects the affected counties' land use authority, revenues, public health and safety, economic development, water rights, and agricultural viability.
- Promotes recreation and environmental protection.
- Ensures Delta counties' status as voting members of any proposed Delta governance structure.
- Improves flood protection for delta residents, property, and infrastructure.
- Improves and protects the Delta ecosystem, water quality, flows and supply.
- Ensures consistency with affected counties adopted policies and plans.
- Secures financial support for flood management, improved emergency response, preservation of agriculture, protection of water resources, and enhancement and restoration of habitat.
- Accords special recognition, and advances the economic vitality of "heritage" or "legacy" communities in the Delta.
- Demonstrates a clearly evidenced public benefit to any proposed changes to the boundaries of the Delta.
- Support development of adequate water supply, utilizing the concept of "Regional Self Sufficiency" whereby each region maximizes conservation and recycled water use, implements storage (surface and groundwater) and considers desalination, as necessary.

Section 7: PARKS AND RECREATION

Counties are encouraged to consider supporting the efforts of the California Association of Regional Park and Open Space Administrators to provide for the health, safety and quality of life for all Californians by protecting parkland and open space.

Section 8: SOLID WASTE MANAGEMENT

1. CSAC supports policies and legislation that aim to promote improved markets for recyclable materials, and encourages:
 - The use of recycled content in products sold in California;
 - The creation of economic incentives for the use of recycled materials; and,
 - The expansion of the Beverage Container Recycling Program.
2. CSAC shall oppose legislation that:
 - Preempts local planning decisions regarding solid waste facility siting;
 - Preempts local solid waste and AB 939 fee-setting authority; and,
 - Requires burdensome changes to locally adopted plans.
3. CSAC shall support legislation that:
 - Protects local solid waste franchising and fee-setting authority;
 - Provides for the use of performance standards and alternative daily cover for landfills; and,
 - Requires state facility cooperation with local jurisdictions on waste reduction to meet AB 939 goals.

CSAC does not oppose legislation that assesses fees on solid waste that is disposed of out of state, as long as the fees reflect the pro-rata share of California Integrated Waste Management Board services used.

In order to comply with the diversion requirements of the California Integrated Waste Management Act, local governments must continue to have the ability to direct the flow of waste. Given Federal and State court decisions which restrict this ability, counties are encouraged to consider supporting legislation which ensures local governments' authority to direct the flow of waste.

Section 9: ENDANGERED SPECIES

Because of widespread impacts of the state and federal endangered species acts on public projects, agriculture, timber and other industries in California, including the resulting impact on county revenues, both acts should be amended to provide for the following:

1. Recognition and protection of private property rights and local government's land use authority;
2. All those who benefit should pay the costs. It should be recognized that inequity exists concerning the implementation of the existing acts in that the cost of species protection on private property is borne by a few property owners for the benefit of all;

3. If Congress and the state legislature deem the protection of certain species is of national interest, then the responsibility for that protection, including the costs, should be assumed by all who benefit through federal and/or state funding, and a process should be adopted which is consistent with other public projects of national interest;
4. Applications for a listing should be required to include a map of critical habitat, a recovery plan and an economic and environmental analysis of costs and benefits;
5. The development of a delisting process that is as aggressively adhered to as the listing process;
6. The creation of a scientifically based and efficient process for delistings;
7. Include independent scientific peer review, local public hearings, and equal access to judicial review;
8. Delegation of implementation of the Federal Endangered Species Act to the state;
9. Full compensation to property owners when historical or future use of their land is diminished;
10. Use of public lands first for multi-species protection;
11. Prohibit the distribution of public grant funds to private entities for the primary purpose of supporting or opposing listings or delistings of endangered species;
12. Control of protected species that prey upon and reduce either the adult or juvenile population of any listed species;
13. Protection of current land uses;
14. Support recovery efforts of endangered species;
15. The ability to produce food, fiber, and all other agricultural products is not abridged;
16. Agricultural producers should not be held liable for any "take" that occurs during normal agricultural operations.

Section 10: PUBLIC LANDS

Plans for state and federal public lands shall be coordinated and compatible with local general plans and zoning. Private uses on public federal lands, exclusive of Native American lands, should be required to comply with applicable state and local laws. In addition, counties should be reimbursed for lost tax revenues when land is transferred for non-profit or public uses.

Counties should have an opportunity to review and comment on management decisions affecting their economies, general plans and resources. Public participation, including public hearings, should be required in land use planning on public lands to ensure that economic or environmental concerns are addressed.

Counties encourage the operation and ownership of land resources under private rather than governmental control. Lands acquired by government or utilities for particular purposes which are no longer essential should be returned to private ownership – with preference to previous owners where possible – and without reservation of water and mineral rights. Small isolated units of publicly held property should be offered for sale to private operators, with preference to adjacent owners.

Government should be required to demonstrate, using reliable data, an integrated program of land use and the need for the acquisition before being permitted to purchase, further expand or transfer land from one governmental agency to another. Management plans and budgetary information should be required on all lands proposed for acquisition by governmental agencies prior to such acquisition, so that they can be made part of the public hearing process.

The practice of government funding through grants or other means to organizations and foundations in order to purchase private land that will be resold or donated to some governmental entity threatens to diminish the tax base of local units of government. As a result, counties' tax base should be kept whole in the event of federal or state purchase of land.

Counties support the multiple use of public lands. Uses of these lands include grazing, mining, timber, wildlife and recreation. Lands under governmental control should be actively managed in concert with private activities to encourage the greatest use and improvement. Counties believe that timber harvest, mining, and grazing activities are a valuable component of ecosystem management in some instances and that recreational activities, impacts on wildlife and natural events like fires and floods must be considered. Properly managed land results in higher sustained yields of water, forage, timber, minerals, and energy. Grazing and logging are important elements of the multiple-use concept. Therefore, counties support efforts to minimize additional acreage designated as wilderness, unless otherwise supported by the affected local governments, and all of their issues and concerns are addressed or mitigated to their satisfaction.

Reforestation and continued management of public lands with suitable soils for producing forest crops are essential to maintaining a viable forest industry in California. Timber stand improvement is needed and required for producing maximum yields both for quality and quantity of timber products. Additionally, comprehensive fuels management programs are encouraged for the protection and sustainability of timber producing lands. Counties support economically and environmentally sound management of public forests for the production of forest products, which support local industry and, in the case of National Forests, maximize federal payments for support of local government.

A. Federal and State Compensation

Adequate compensation must be made available to local governments to offset the costs of providing services to public lands. Current federal compensation programs, such as PL 106-393, should be retained with respect to land where harvesting is severely limited or no longer occurs. Counties continue to support a per acre charge for any land which has historically received revenue timber receipts.

Information regarding county revenues generated from federal lands indicates that receipts are down, will continue to go down, and are not likely to change direction in the near future. In order to ensure that a system is in place that is fair and equitable, a revenue sharing and/or payment in-lieu of taxes system must meet three criteria:

1. **Equitable** - The federal government must compensate the state and counties at a level that is consistent with revenues that would be expected to be generated if such lands were not in federal ownership and management.
2. **Predictable** -- The system in place must provide some assurance and predictability of the level and timing of revenues; and,
3. **Sustainable** - Revenues should be maintained over time; and changes in federal policies in the future should not adversely affect local communities.

CSAC shall continue to pressure the state and the federal government to meet its statutory obligation to annually pay local agencies full in-lieu fees and payments in-lieu of taxes for state and federal purchased properties. CSAC supports the premise that no new state or federal acquisitions of private property shall occur until state in-lieu fees and federal payments in-lieu of taxes are fully funded. Federal legislation is needed to provide additional compensation for those public land counties that meet specified hardship criteria.

B. Forest Service and Bureau of Land Management Exchanges

Counties recognize that efficient management of public lands requires land adjustments to ensure manageable units and prevent conflicts with adjacent private land uses.

Land exchanges and purchases are the usual means available to the two federal agencies. Tripartite and direct timber for land exchange are permitted under federal law.

Counties will support the federal agencies in these exchange and consolidation efforts when:

1. Better and more productive management of public land will result;
2. Counties affected are consulted and given opportunity to help determine acquisition of local lands in exchange process and negative effects are fully mitigated;
3. County revenues, including PL 106-393 and payment in lieu of taxes (PILT) are protected or enhanced;
4. Areas slated for disposal in exchanges are included in the county general plan and classified as to probable use (e.g. residential, TPZ, commercial); and

5. Land-for-land exchanges enhance the counties and result in no net loss of value.

Counties support efforts to streamline and shorten the federal land exchange procedure so mutually beneficial consolidations will be more attractive and expeditious.

C. Local Use of Public Lands

Counties support legislation and land management policies to enable local agencies to acquire state and federal lands for public purposes.

D. Waste Disposal on Public Lands

Counties experience considerable difficulty locating and maintaining facilities to dispose of solid waste. Counties with large areas of state and federal lands used for recreation are required to assume the responsibility of disposing solid waste generated by these recreational activities. The entities that administer these public lands should assume responsibility for providing sites for solid waste disposal and funds for development, maintenance and operation of such sites.

E. Predator Control

Counties benefit from the established federal-state Cooperative Animal Damage control program through reduced livestock depredation, and property damage as well as public health protection.

Counties support predator control and promoting program efficiency through cooperative federal-state-county programs.

Changes in state law have removed many tools previously utilized by landowners and Animal Damage Control professionals for use in predator control. The result is an increased need for additional Animal Damage Control professionals.

Counties support expanded program funding through the current Federal-State Cooperative Animal Damage Control program and strongly support equal cost sharing between counties and cooperative agencies.

F. Fire Protection

Fires are best prevented and fought through long-term fuels management and other anticipatory actions. Such fire protection efforts must be integrated and supported by other natural resource programs and policies. Counties support the achievement of a sustainable ecosystem and the maintenance of healthy forests while providing defensible space for protection of life and property. Governmental agencies alone cannot achieve fire safe communities; private property owners are also obligated to take necessary actions to reduce their fire risk.

Counties further support an increase in state and federal funding for fuels management. However, given existing concerns expressed by counties regarding the allocation of fire protection resources, it is imperative that local governments be included in any effort to develop appropriate allocation of these resources between pre-fire management and fire suppression.

Fires are best fought by rapid response from trained firefighters. Counties support CDF's reconnaissance and rapid response systems. Counties support state funding of local fire agencies – both paid and volunteer – and local Fire Safe Councils for wildland fire response.

G. Prescribed Fire

The state of California should pursue alternate methods of biomass disposal that conserves energy in order to reduce the wildland fuel volumes consumed by prescribed fire.

Where alternative methods are not available, the state of California should assume greater responsibility in the development of a less restrictive program of prescribed fire for forest and range improvement, enhancement of wildlife, watershed management and reduction of major wildfire hazards.

Solutions must be found to the problems of liability when a county maintains a controlled burning program.

The State Department of Forestry and the State Air Resources Board should arrive at a joint policy concerning controlled burning so that counties will be dealing with one state government policy, rather than with two conflicting state agency policies.

H. Invasive Species Control

Counties support aggressive action by federal, state, and local agencies to limit the spread, and to enhance the eradication of, identified invasive plants and animal species, and support prioritizing the efforts that are most attainable and cost-effective.

Section 11: ENERGY

This section should be viewed in conjunction with Chapter 4, which includes CSAC's Energy Policy Guidelines.

It is CSAC's policy that the state and the 58 counties should seek to promote energy conservation and energy efficiency. Counties are encouraged to undertake vigorous energy action programs that are tailored to the specific needs of each county. When developing such action programs counties should: (1) assess available conservation and renewable energy options and take action to implement conservation, energy efficiency and renewable energy development when feasible; (2) consider the incorporation of energy policies as an optional element in the county general plan; and, (3) consider energy concerns when making land use decisions and encourage development patterns which result in energy efficiency.

In order to meet the state's energy needs, counties fully recognize the importance of establishing a cooperative relationship between other levels of government and the private sector. This includes working with public and private utilities that serve their areas to develop energy transmission corridors and to minimize delays in approvals and land use conflicts.

With respect to alternative and renewable energy sources, the state and counties should encourage use of agricultural, forestry and non-recyclable urban wastes for generating usable energy. They should also take into consideration the other benefits of waste-to-energy production. Additionally, the state should encourage, and counties should explore, the development of cogeneration projects at

the local level. In respect to public power options, counties support efforts that enhance local governments' ability to become community aggregators of electricity.

Counties support the encouragement of new generation facilities by the provision of increased incentives and a streamlined permitting process. However, state government needs to maintain regulatory oversight of these facilities. Lastly, counties oppose state acquisition and/or management of electric generating or transmission facilities.

CHAPTER FOUR

CSAC Energy Policy Guidelines

The following policy guidelines cover a wide range of energy issues of significant interest to county governments. This policy direction will assist CSAC with its efforts to represent county interests on energy proposals moving through the legislative process.

Section 1: TAX AND REVENUE IMPACTS

- Legislative, Public Utility Commission (PUC), and State Board of Equalization (SBE) decisions concerning energy issues shall include provisions to avoid negative impacts on local government and schools.
- Local governments rely on property tax revenues and franchise fees from utilities to provide essential public services. These revenues, as well as property tax revenues from alternative energy facilities, must be protected to ensure that local governments can continue to provide essential services, and, support statewide energy needs by siting new power plants, and alternative energy facilities, bringing old power plants back on line and enacting long-term conservation measures.

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Section 2: GENERATION

- Counties support efforts to ensure that California has an adequate supply of safe, reliable energy at the most competitive prices possible, while adhering to the state's expressed order of priorities of conservation, renewables, new generation and new transmission.
- Counties support establishing incentives that will encourage the development and use of alternative energy sources such as wind, solar, biomass, hydropower, and geothermal resources. Counties also support promoting the timely development of new infrastructure, such as new electric transmission, needed to facilitate renewable energy development. Such efforts will lead to the state realizing its goal of having 33% of its electricity supply come from renewable sources by 2020. To encourage local siting of renewable energy facilities, counties support restoring authority to assess alternative energy facilities such as commercial solar facilities currently exempt under AB 1451.
- While CSAC supports a statewide assessment and planning for future transmission needs, we oppose transmission corridor designations that ignore the local land use decision-making process.
- Counties support the construction and operation of biomass facilities through the establishment of state policies that will ensure sustainable long-term commitments to resource supply and electrical generation purchases at a price that supports resource-to-energy conversion.
- Counties shall commit to examine their own policies on alternative energy for any potential impacts that discourage the use of such systems.

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- Counties support efforts to allow local agencies to retain regulatory oversight over generators by statutorily changing the threshold from 50 megawatts to 100 megawatts.
- Counties support additional state grant funding for back-up generation for essential facilities.
- Counties support additional state grant funding for air quality compliance for emergency generation facilities.
- Provide incentives to local agencies to site energy facilities. Some of the financial incentives that would stimulate the development and siting of more energy generation facilities in California include:
 1. Funding to streamline the siting process at the local level. Funds would be available to reimburse cities and counties for the costs of permits, environmental review and other local expenses in order to expedite the process at the local level.
 2. Energy facility incentive payments to cities and counties that approve new generating facilities, and/or the expansion of existing generation facilities, to replace them with more efficient facilities, or to build renewable projects, including photovoltaics, fuel cells or cogeneration. Increased incentives would be given to those facilities that generate power beyond the demand of the host jurisdiction's facilities alone.
 3. Any city or county that approves siting of a privately developed generating facility should receive 100% of the property tax of that facility.
 4. To stimulate development of projects such as cogeneration facilities, standby charges for generating facilities should be waived.
 5. Streamlining of timeframes currently associated with the state and federal regulatory process for siting power generating facilities.
- Counties support an amendment to the California Integrated Waste Management Act to provide full diversion credit for cogeneration facilities to further encourage their development. The CIWM Act currently establishes a 10% limitation on solid waste diversion that occurs through transformation.
- Counties support streamlining the approval and environmental review process for new power plants and any building using alternative sources of energy.
- Counties support payments to qualified facilities consistent with state and federal standards for renewable energy sources.
- Counties oppose state ownership of power plants because of the impact on local government revenue streams, water rights, the re-operation of hydro facilities, and the efficient management of such systems, including the economic uncertainty associated with state ownership of power plants. In the event of state ownership, all impacts on local government shall be mitigated.

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Section 3: PUBLIC POWER

- Counties support measures that enhance public power options available to local governments.

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- Counties support measures that enhance local government's ability to become community aggregators of electricity.

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Section 4: CONSERVATION

- CSAC and its member counties are committed to reducing electricity use and increasing efficiency in their facilities.
- Counties support development of a statewide grant program to fund energy conservation and energy management equipment in local government facilities.
- Counties support a rate structure that recognizes conservation efforts.
- Counties support grants and loans that promote energy efficiency among businesses and homeowners.
- Counties support the adoption of real-time metering and time-of-use metering, allowing consumers to make choices about their consumption of electrical energy based on the real-time price of electricity.
- Counties support providing incentives, including the use of new technologies, for businesses that generate their own energy, and support encouraging them to make their excess capacity available to the utilities.

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Section 5: ECONOMIC DEVELOPMENT

- Counties support the development and implementation of a statewide "proactive" California business retention strategy, led by the California Business, Transportation and Housing Agency in partnership with local economic development organizations, including support of legislation that would provide funding for this effort through emergency legislation.
- Counties support the development and execution of a statewide, consistent and balanced message campaign that presents the true business climate in California.
- Counties support efforts to encourage alternative energy solutions to be instituted in businesses and residences.

Section 6: NOTIFICATION OF POWER OUTAGES

- Counties, as providers of essential services, must be provided with adequate notice regarding any planned rotating block outages.

Section 7: MISCELLANEOUS

- Counties support a utility market structure that ensures that energy supply and demand is not unreasonably constrained by artificially imposed price caps.



March 4, 2009

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To: CSAC Board of Directors

From: Jean Kinney Hurst, CSAC Legislative Representative, Revenue and Tax
Eraina Ortega, CSAC Legislative Representative, Employee Relations
Geoffrey Neill, CSAC Legislative Analyst, Revenue and Tax
Faith Conley, CSAC Legislative Analyst, Employee Relations

Re: **Update of CSAC Government Finance and Operations Platform
Chapters – ACTION ITEM**

Recommendation. The Government Finance and Operations Policy Committee recommends the Board adopt as CSAC policy the attached changes to the six chapters of the California County Platform under the purview of this policy committee.

Background. The CSAC Government Finance and Operations Policy Committee (GF&O) staff reviewed the following chapters of the California County Platform: General Provisions, Employee Relations, Retirement/OSHA, Government Operations, Financing County Services, and State Mandate Legislation. The two sections that deal with employee relations issues have been edited and consolidated into a single chapter titled "Public Employment and Retirement." All of the chapters, as revised, are attached for your review; they were edited with a word processing tracking tool that displays recommended changes in underlined text with deletions shown as strikethrough text. Most suggested edits clarify the platform's planks, or streamline the information presented, or relate more readily to the overarching principles of the California County Platform. The more substantive changes are discussed below.

Proposition 1A

Several sections now reference the gains made by Proposition 1A (2004). These include constitutional requirements for reimbursement of state mandates and the more stable county funding provided by that measure.

Workers' Compensation

Previously, CSAC's platform did not include policy pertaining to Workers' Compensation. The passage of Senate Bill 899 (Poochigian, Ch. 34) in 2004 provided necessary workers' compensation reforms that reduced employer costs and improved injured worker care. Since SB 899's passage, however, legislation has been introduced each year that would roll back the reforms that CSAC supported and increase and expand workers' compensation benefits at high costs to counties. In order to ensure that workers' compensation remains a fair policy that carries reasonable costs to county employers, CSAC staff

recommends a section dedicated to outlining our commitments to maintain the original intent of the Workers' Compensation Act be added to the platform.

Public Retirement

In 2005, CSAC adopted a set of guiding principles to assist staff in the public pension reform discussions of 2005-2006. After the defeat of legislative and initiative efforts, in 2006, Governor Arnold Schwarzenegger created the Public Employees Post-Employment Benefits Commission (Commission). In 2008, the commission issued its report and made recommendations to the Legislature to address public pension obligations and retiree health care funding issues in California. Expecting legislation to result from the commission report, CSAC made Other-than-Pension Post-Employment Benefits a legislative priority in 2008 and directed staff to remain vigilant in guarding the pension reform principles that were previously adopted. As a result of the commission's work, the Governor signed two bills this year that contain modest changes to the statutes that govern public disclosure and accountability for changes to retiree health care benefits. While it is unknown whether additional legislation or initiative efforts will be pursued in 2009, CSAC staff recommends key elements of the pension reform principles be permanently added to the Public Retirement section of the platform.

Equal Employment Opportunity

The section previously titled "Affirmative Action" has been renamed Equal Employment Opportunity. This section has been simplified to focus only on the key principles and actions important to counties. Sections related to "management roles and responsibilities", "goals and timetables", and "recruitment" were deleted so as to not create an appearance of conflict with Proposition 209, the 1996 state initiative that restricted affirmative action efforts.

State Mandate Legislation

The chapter on state mandate legislation was due for an overhaul following the passage of Proposition 1A, and only one sentence remains from the previous version. The first paragraph puts mandate legislation in its historical context; the principles that follow flow from and expand on the mandate provisions of Proposition 1A (2004). It also urges counties and the state to take advantage of processes that have been devised since then, such as the reforms contained in AB 1222 (2007).

Elections

The Secretary of State's recent actions decertifying and recertifying election systems made some parts of the Government Operations chapter irrelevant. In addition to deleting those sections, staff has added a paragraph advocating for all mail ballot elections at the local option. Many counties have asked for permission to conduct elections entirely by mail due to both the increased popularity of permanent vote by mail status and the cost savings that such a system could achieve.

Policy Considerations. Each policy committee of CSAC thoroughly reviews and, if necessary, revises their respective platforms on a biennial basis. The attached and above-described proposals are consistent with ongoing policy considerations of the association.

Action Requested. Following discussion of these proposed changes at its December meeting, the Government Finance and Operations Policy Committee requests that the Board of Directors review and adopt the attached platform chapters. Should the Board of Directors propose any modifications to the policy committee recommendations, the GF&O policy committee will review those changes at its Legislative Conference meeting scheduled for Spring 2009. The Board of Directors then will take final action on platform changes at its meeting during the CSAC Legislative Conference.

CHAPTER ONE

General Provisions

Section 1: PREAMBLE

The ~~amazing~~ strength and creativity of America's government institutions reflects the ability of a free people to create, control, and use their freedom for the purpose of self-government. The bedrock foundation of that strength and creativity is responsible and responsive local government. It is to local government – and particularly to county government – that citizens turn for day-to-day government needs. It is to the county that citizens turn for equal protection under the laws guaranteed by ~~other~~the state and federal constitutions, and locally provided by ~~to the sheriff, the courts, and even to~~ jails. Citizens look to the county for the protection ~~and correction~~ of health, the treatment of physical and mental illnesses and chemical dependency, and for help in times of ~~economic~~financial crisis. The county enhances ~~Economic well-being is enhanced by the county's efforts through its work in the~~ fields of transportation, business regulations, planning, public safety, agricultural advice, libraries, and the protection and improvement of the built and natural environment, ~~through regulation, to prevent overcrowding, excessive noise and traffic.~~

Yet decisions made by the California Legislature and electorate have restricted counties' ability to provide those services and others at the levels their communities desire. Beginning with its implementation of Proposition 13, the Legislature has entrusted counties with but not funded counties to provide the most important services to Californians. Counties now face the twin pressures of increasing service demands and statutory requirements on the one hand, and the inability to raise necessary resources to meet those demands on the other. The ability of county government to respond adequately and effectively to citizens' needs has been seriously hampered and eroded in recent times. With the pre-emption of tax resources by the electorate and higher levels of governments, counties are faced with the dilemma of increasing needs for more and better government and the inability to increase necessary resources to meet those needs. Increasingly, counties have had to seek those resources outside their own borders. Witness the constant battle to have the state meet its financial obligations in legislatively mandated programs. Insufficient funds and the proliferation of state mandates have limited counties' abilities to provide government services. They have also limited the ability of counties to meet problems to the satisfaction of local citizens. They have subtly eroded the strength of American government by restricting local county government from methods of self-reliance and confidence.

~~At this point in the history of counties, it is essential that the basic role of county government in California be subjected to a re-examination for the purpose of re-establishing the strength and viability of counties as an extension of the state and the foundation of effective local self-government. It is important that counties assert their proper role.~~

Local control is the chief principle underlying the California County Platform. Based on that principle, ~~the two~~three major planks of ~~the~~ California County Platform ~~become~~are: 1) to allow county government the fiscal resources ~~which~~that enable it to meet its obligations, and 2) to permit county~~ies~~ government the flexibility to provide services and facilities in a manner that resolves the day-to-day problems communities face, ~~to again be the primary source of the solution of day-to-day local government problems~~ and 3) to grant county government the ability to tailor the levels of local

revenues and services ~~these solutions to the~~ to citizens' satisfaction ~~of citizens~~.

This Platform is a statement of general principle and policy direction. It ~~is~~ recognizes that when dealing in a fast-changing political arena in a state with many local differences; almost any policy guideline ~~would~~ will occasionally require exceptions. Therefore, it is anticipated that both the CSAC Board of Directors and ~~the~~ Executive Committee ~~would~~ will support ~~appropriate~~ exceptions in ~~unique~~ appropriate situations ~~upon~~ a findings ~~that there exist~~ of compelling special conditions.

~~It is also recognized that~~ The Platform is incomplete in ~~the sense~~ that it is continually subject to review ~~and~~ analysis, revision, ~~and further development~~. The Platform chapters are arranged in a manner that facilitates additions and amendments without affecting remaining portions.

Section 2: LOCAL CONTROL

~~The phrase "Local Control" is a substitute for the traditional term of "Home Rule," but has much greater significance.~~ Local Control calls for the recognition of the differences that exist throughout the state and ~~provides~~ that local government should have the flexibility to develop systems by which services are provided and problems are resolved. It calls upon counties to resist externally imposed systems that ignore the differences among them ~~that exist~~.

~~Local Control also carries with it some important internal considerations, which must be recognized. Frequently, legislative proposals before the Association have only county-wide or area-wide implications.~~ Not only does Local Control fortify our counties' position that the state must recognize local differences, it also ~~provides~~ allows for ~~that~~ individual counties ~~are free~~ to adopt various alternatives ~~for themselves~~ that ~~may~~ might not be acceptable to other counties – provided that these alternatives are not imposed upon those who do not wish them.

Counties adopt the principle of Local Control, ~~which embodies the following:~~

- ~~1. The principle of Local Control is adopted~~ as the primary policy cornerstone of ~~the~~ CSAC.
- ~~2. The Association will strive to assure that all legislative proposals, policies, and regulations recognize the differences that exist throughout the state. The Association will strongly resist any externally imposed systems which that ignore the reality of statewide differences or which that further erode local determination.~~
- ~~3. The Association internally incorporates the principle of Llocal Ccontrol. In matters that are limited to county-wide or area-wide regional application, except when determined by the CSAC Board of Directors or the Executive Committee or to be matters of the gravest and most far-reaching precedent setting proportions, counties are free to determine their own solutions, except when the CSAC Board of Directors or the Executive Committee determines them to be of the gravest and most far-reaching proportions. to county-wide or area-wide matters.~~
- ~~4. Based upon the principle of Local Control, tThe Association will firmly support any county or counties seeking to oppose the external imposition of systems upon them, which erode local control.~~
- ~~5. Based upon the principle of Local Control, tThe Association will firmly support any county or counties seeking to resolve local or area-wide regional issues through the enactment of legislation or otherwise, providing that as long as the proposal is not contrary to the basic precepts of a strong~~

and viable county government.

Section 3: INTERGOVERNMENTAL RELATIONSHIPS

There are various issues and problems; ~~which that~~ transcend the boundaries of political subdivisions. ~~It is considered policy of CSAC, that~~ In implementing the Platform, CSAC will endeavor to foster an understanding of the appropriate levels of governmental responsibility ~~be defined and established in order~~ to promote efficient and effective governance for the citizens of the State of California. Within this context, it is essential that the roles of state, regional, and local agencies be recognized as distinct and separate. Areas of mutual concern do exist; however, the appropriate role of each agency ~~will vary~~s.

~~Therefore, counties should adopt the following intergovernmental relationship concepts:~~

~~1. Counties comprehensively plan for future growth, the management of natural resources, and the provision of public services; The state should establish the context for only add requirements to this local planning as those items in areas the Legislature explicitly adopted as areas finds to be of statewide concern by the state Legislature. One useful measure of statewide significance is the Legislature's financial commitment of funds authorized by the state Legislature to local government for related costs.~~

~~2. Counties stand ready to will fully implement state-mandated, and state-funded programs at the locally level. However, there is growing concern that doing so is not financially or operationally feasible when state regulations are overly burdensome, internally inconsistent, too inflexible to meet local concerns, and or generally under-funded. Therefore, CSAC supports the process for state of periodic legislative review of administrative regulations giving full recognition to locally adopted programs and plans to determine each mandated program's benefits, including the fiscal and operational feasibility of the program and related regulations.~~

~~3. Counties recognize that there is a distinction between providing direct public services and solving area-wide problems, and this distinction should be recognized in local government organizations.~~

~~4. Counties and, cities, and special districts are encouraged to should adopt formal policies which that encourage locally initiated systems to solve solutions to area-wide regional problems.~~

The Association will support reasonable proposals that encourage local agencies to resolve disputes without costly litigation and in a way that buoys public confidence in local government, for instance through non-binding mediation.

Section 4: EFFICIENCY, ECONOMY AND EFFECTIVENESS

~~To achieve efficiency, economy, and effectiveness, e~~ Counties also advocate the principle of L local C control to improve efficiency, economy, and effectiveness. ~~Many local services are well suited for the utilization of private contracts. When properly used, private contracts can be an effective method of increasing efficiency and reducing costs.~~

~~Therefore the following policies are adopted:~~

~~1. CSAC finds that consideration should be given~~ The Association will consider proposals to realigning responsibility for public services among levels of government. However, any realigned

program responsibility ~~should~~ must be accompanied by ~~a~~ revenue authority sufficient to ~~funding source that supports fund~~ the ongoing costs of the program.

The Association will support efforts to align program responsibility with revenue authority among various levels of government.

2.—Many local services are well-suited for the utilization of private contracts. When properly used, private contracts can be an effective method of increasing efficiency and economy. CSAC encourages expanded permission to use ~~of~~ private contracts ~~for the provision to provide~~ of local services in ~~certain~~ justifiable areas as a means of achieving efficiency and economy.

CHAPTER FIVE

Government Operations

Section 1: GENERAL PRINCIPLES

A. Local Control

As stated in Chapter I, Section 2, General Provisions, local control is the primary policy corner stone of CSAC.

B. County As State Agent vs. County As Local Entity

Those areas where counties act primarily as agents of the state in performing a state service - and do so with substantial state financing - should be distinguished from areas of local interest or state and local interest when determining the basis for applying statewide standards and supervision.

C. Scope Of Services

Each county should determine the scope and extent of the governmental services that it will render in response to the needs and desires of the local community. Each county should further examine its ability to support such services, always subject to the requirement to provide mandated services as state agents.

D. Uniformity In Services

In performing mandated duties, the degree of uniformity required should be carefully determined, with emphasis on the purpose of each requirement with the goal of uniformity not for uniformity's sake, but to serve a specific beneficial purpose. Progress can come only from the application of a variety of administrative approaches and methods.

E. Freedom To Devise Program Operating Policies

Counties should be free to devise their own operating policies for all government programs not financed wholly or substantially by federal or state funds.

F. Whole Responsibility With Board Of Supervisors

To be directly responsible to the people, general control of county government should be placed wholly with the board of supervisors.

G. Non-Partisan Nature Of County Government

The office of county supervisor should continue to be non-partisan, enabling the people to vote on the basis of local issues and to enable supervisors to solve local problems without binding allegiances to political parties.

Section 2: ELECTRONIC DATA PROCESSING (EDP)

A. General Principles

Counties are fully aware of the benefits that automation can provide for the improvement of government function and pledge their cooperation to the state and federal governments in developing the means to fully utilize electronic resources.

B. State And County EDP Policies

Differences in state and local applications of EDP must be fully recognized in order that efforts at excessive standardization will not reduce the effectiveness of the total system.

~~Section 3: CIVIL DEFENSE~~

~~Civil defense activity is urgently needed as insurance against disaster. Counties support the principle that realistic preparation is essential to ensure public safety.~~

Section 43: LOCAL GOVERNMENT ORGANIZATION

Emphasis must be given to the different government organizational structures that exist throughout the state and to the principle of "local control." Legal constraints and time-consuming restrictions have severely limited the use of the charter as a method of obtaining local control. The State Constitution and statutes should be revised to provide authorization for counties to independently organize by local control.

The principle of local control also applies to the issue of elected "ministerial" officials. The board of supervisors should have authority to submit proposals for appointment of elected officials to the voters.

Therefore, _____ counties

~~The following policies are therefore adopted:~~

~~Local government~~ should be allowed maximum flexibility to structure ~~its~~their organization through the process of "local option control."

Also, ~~Current laws should be changed to allow all~~ counties should be allowed to submit to their electorate the questions ~~as to~~of whether elected non-legislative officials, except District Attorney, should be appointed by the board of supervisors.

Section 54: LIBRARY SERVICES

A. General Principles

The continued vitality of our free and democratic society and the effective operation of government at all levels is dependent on an informed and knowledgeable citizenry. Therefore, it is the responsibility of all levels of government, including county government, to assure that all people have access to sources of knowledge and information that affect their personal and professional lives and society as a whole.

The public library is a supplement to the formal system of free public education and a source of

information and inspiration to persons of all ages, as well as a resource for continuing education. As such, public libraries deserve adequate financial support from all levels of government.

Counties are among the traditional providers of library and information services to the people. Counties form a natural region for the provision of this service. Citizens expect free library services that are responsive to local needs.

~~County library service is a regularly and favorably perceived service of county government. County library branches are often the visible identity of the community served, especially where there are no other public meeting places in the region. They are everyday evidence that county government cares about the local community.~~

B. Intergovernmental Relationships

The state is urged to recognize public libraries as part of the system of public education and should ~~consider~~continue providing financial assistance to support their operation. ~~County leadership is essential to the promotion of cooperative undertakings in order to achieve the most effective, equitable and economical efforts to assist libraries.~~

~~Cooperative undertakings are guided by CSAC's policy in Intergovernmental Relationships (Chapter I, Section 3).~~

C. Local Control

~~Library service is viewed as a locally provided service that is most effective when adapted to satisfy local needs.~~

D. Efficiency, Economy And Effectiveness

~~Quality library service is enhanced by the multi jurisdictional use of resources to provide the best service at the lowest cost.~~

~~County libraries provide economies of scale that help make economic and efficient library service available to all county residents. In small counties, it is frequently economically impractical to have any library except the countywide service. In larger counties with independent city or district libraries, the county library frequently can make available services or provide specialized expertise at a cost far less than the smaller libraries.~~

E. State Role In The Provision Of Library Services

~~The state should recognize its responsibility to county government by providing assistance, when appropriate, after considering the state's total revenue and expenditure situation for public library service in accordance with Chapter 1.5, Part II of the Education Code, Sections 18010 through 18031.~~

The state should also ~~provide~~continue and strengthen ~~adequate~~ funding ~~for the continuation and strengthening of support~~ for the interjurisdictional library cooperatives established under Education Code, Sections 18700 through 18766.

~~All state laws providing funding to counties for library services and to interjurisdictional library cooperatives in which counties are involved should be adequately funded.~~

~~F. Government Information~~

~~County library facilities provide an efficient and effective means to distribute information about government operations and services because of ready availability and easy accessibility to county residents. This capability is enhanced when library staff are trained in the provision of information, established communications and delivery links and a high public visibility.~~

CG. Privacy And Censorship

Recognizing the right of an individual to privacy, circulation records and other records identifying the names of library users with specific materials, including Internet usage, are to be confidential in nature.

~~Recognizing the responsibility of library service to provide materials for values of interest and information and enlightenment of all people of the community, in no case should library materials be excluded because of the race, nationality or the social, political, or religious views of the authors. Furthermore, libraries should provide books and other materials presenting all points of view concerning the problems and issues of our time. No library materials should be prescribed or removed from libraries because of partisan or doctrinal disapproval.~~

Section 65: SPECIAL DISTRICTS

See Chapter VII: PLANNING, LAND USE AND HOUSING, Section 5.

Section 76: ADMINISTRATION OF ELECTIONS

~~A. Voting System Certification~~

~~Counties will support efforts to reform the current certification process for voting systems. Counties have experienced significant delay and unexpected actions which have made it almost impossible to update their voting systems.~~

~~B. Distribution Of Federal And State Voting System Funding~~

~~The Help America Vote Act (HAVA) funds must be distributed to counties on a fair basis, through a formula agreed to by the counties, to provide certainty regarding the receipt of those funds.~~

~~CSAC will continue to closely monitor the Voting Modernization Board and their allocation of Proposition 41 funds. The Voting Modernization Board currently has an application deadline of January 1, 2006 in which counties must enter into a contract with a vendor in order to receive funds. Due to the delays in certification, the new requirement regarding the Accessible Voter Verified Paper Audit Trail (AVVPAT), counties may need additional time to decide which system to purchase in order to comply with HAVA.~~

CA. Reimbursement For Special And Vacancy Election Costs

Counties will ~~also~~ support efforts to reinstate language directing the state to provide reimbursement to counties that hold a special election to replace a member of Congress ~~and/or~~ a member of the state Legislature ~~due to~~ fill a vacancy, ~~or death.~~ ~~Also support efforts to create language that would~~

~~reimburse counties~~ as well as for the cost of special elections called for other reasons.

B. All Mail Ballot Elections

Given the increasing popularity of voting by mail and the increasing costs of administering elections due to state and federal regulations, and also considering the positive effect it would have on voter participation, counties support proposals that would give Boards of Supervisors the option of holding any election by mail.

CHAPTER VIII

PUBLIC EMPLOYMENT & RETIREMENT

Section 1: PUBLIC EMPLOYEE RELATIONS

A. GENERAL PRINCIPLES

~~Traditionally, county government has not dealt at arms length with its employees. Counties have been in the forefront of movements to~~ are committed to an employment system that provides public employees with protection against arbitrary and capricious loss of jobs, unfair hiring practices, and preferential promotions or job assignments. Counties believe in and support merit systems. For this purpose, they have provided personnel services, grievance procedures, health and safety protection, retirement and pension plans. ~~They have accepted and discharged their obligation to balance the legitimate desire of employees for greater compensation against the need of the entire community for economical and efficient government. Employees are now seeking a greater and more effective voice in making decisions that affect them through organization and methods as practiced in traditional private enterprise unions. Counties have responded to this need and now meet and confer. However, counties have not surrendered, and cannot voluntarily surrender, their~~ Foremost, however, counties have a fundamental obligation to all citizens to exercise the peoples' sovereign power in determining what government will do, at what cost to the taxpayer, and under what circumstances. Thus, the basic principle of county employer-employee relations is one of balancing the legitimate desires and needs of employees against the publics' right to economical, efficient, effective and stable government.

B. COLLECTIVE BARGAINING

Counties support collective bargaining legislation which:

1. Recognizes the right of each employee to join or not join organizations and bargain collectively or individually.
2. Recognizes the responsibility of local elected officials to govern and manage the organization and to implement public policy
3. Minimizes conflict over procedural matters.
4. Provides an acceptable method of resolving impasse resulting from negotiations. CSAC opposes compulsory, binding arbitration.

C. POLITICAL ACTIVITY BY EMPLOYEES

Employees whose job security is protected by civil service or merit systems or by agreement between the county and an employee organization cannot be permitted to engage in any political activity during times when they are paid to be performing the duties of their employment.

D. NEPOTISM RESTRICTION

CSAC supports nepotism restriction policies that are consistent with applicable state statutes. Specifically, we support policies that prohibit employment of immediate family members by county officers, or participation of county officers or employees in employment decisions affecting immediate family members. No person should be employed in a position where that position will be directly supervised by a member of the immediate family or where it is reasonable to believe and it can be shown that employment of immediate family members in the same department, division or facility involves potential conflicts of interest.

E. EMPLOYEE BENEFITS LEGISLATION

Counties strive to develop employee benefit plans that are affordable, responsive to the needs and desires of county employees, and reflect the values of the community. We are opposed to the state legislating salary, wages, or employee benefits for county employees. These issues must be determined only at the bargaining table; otherwise the **integrity**-foundation of the collective bargaining process is undermined.

F. WORKERS' COMPENSATION

CSAC supports preserving the original intent of the Workers' Compensation Act and legislation that would prevent or correct abuses within the system. We believe that timely and unprejudiced benefits should be provided to employees who suffer from work-related injuries or illnesses at a reasonable cost to county employers. CSAC opposes state policy which would erode the original intent of the Workers' Compensation Act or result in excessive costs to county employers and increased litigation.

CSAC supports:

1. Reasonable measures to assist employees in returning to suitable employment.
2. Promoting medical care treatment guidelines that are based on evidentiary medicine and designed to cure or relieve the effects of employment-related injury or illness.

3. The concept of apportionment for disability that is the result of other industrial or non-industrial injuries or conditions.
4. Maintaining objectivity in evaluating permanent disability standards.
5. The concept that tax exemptions on temporary disability should extend only to the statutory maximum, as outlined in Labor Code 4453.
6. Ensuring that the Workers' Compensation Appeals Board remains a forum for efficient resolution of claim issues.

CSAC Opposes:

1. Extending workers' compensation benefits to any person other than the employee as defined by law, except in the case of dependent death benefits.
2. Injury presumptions for only certain employee classifications.

G. COORDINATION OF GOVERNMENTAL EMPLOYERS

Counties, cities, and local governmental management are strongly encouraged to freely exchange information of a timely nature on employee demands over wages and employee benefits as well as settlements reached. In this manner, each employer can deal more effectively with its own "meet and confer" process.

While multi-employer bargaining is not possible now, there are many real benefits available if governmental units would keep adjoining and comparable agencies promptly informed of employer positions on salaries, employee demands and employee benefits. Governmental entities are continuously used for comparison of employee benefits sometimes at an "anticipated" rather than actual level.

H. CLOSED SESSIONS FOR NEGOTIATION DISCUSSIONS

Successful negotiations depend upon meaningful discussions at the bargaining table. Under no circumstances should closed sessions of the Board of Supervisors and its designated management representatives be required to be opened to the public.

I. NATIONAL LABOR RELATIONS LEGISLATION

Counties oppose the intrusion of the federal government into the field of state and local public labor relations legislation. States should be free to experiment with new legislative approaches and to adopt procedures tailored to meet the needs of their constituents.

However, should national labor relations legislation become inevitable, counties should encourage adoption of legislation which parallels their positions on state legislation.

Section 2: PUBLIC RETIREMENT

A. GENERAL PRINCIPLES

Public retirement systems should be established and maintained on actuarially sound principles and be fiscally responsible.

Local elected officials should be able to develop pension systems that meet the needs of their workforce, maintain principles of sound fiduciary management, and preserve their ability to recruit and retain quality employees for key positions that frequently pay less than comparable positions in the private sector. We oppose efforts to remove board of supervisor authority to determine retirement benefits since they are responsible for funding benefit changes. For 1937 Act county retirement systems, we are opposed to any legislation which would transfer authority now vested with the county board of supervisors to the county board of retirement. Such transfer could include, but is not limited to, adoption of salaries for retirement board members or employees, the extension of benefits, or decisions related to funding of the system.

Public pension systems provide an important public benefit by assisting public agencies to recruit and retain quality employees. Any fraud or abuse must be eliminated to ensure the public trust and to preserve the overall public value of these systems.

Public pension systems boards have a constitutional duty to (a) protect administration of the system to ensure benefits are available to members and (b) minimize employer costs. The constitutional provisions and state statutes governing such boards should promote responsible financial management and discourage conflicts of interest.

B. INDUSTRIAL DISABILITY RETIREMENT (IDR)

CSAC has traditionally supported the principle of provision of IDR to safety employees who are unable to continue their safety employment due to a bona fide job-connected disabling injury or illness. CSAC also has traditionally recognized that IDR can be

extremely expensive, and that responsible reforms may be warranted to limit the cost to truly legitimate claims.

Section 3: OCCUPATIONAL SAFETY AND HEALTH STANDARDS (OSHA)

A. GENERAL PRINCIPLES

The occupational safety and health standards and practices for counties should comply with Cal-OSHA.

B. SAFETY MEMBER CATEGORY

The safety member classification is intended to provide a retirement system for the class or classes of public employees whose duties consist of physically active functions in the protection and safety of the public. The purpose of such classification is to ensure that persons so employed will be agile and active and possess a high degree of physical alertness and stamina and it is designed to provide an opportunity for career employment and, at the same time, provide for and ensure separation from such service without financial hardship at a relatively younger age than other employees. The term "safety," as used in the retirement law, refers to the safety of the public.

Personal risk or the hazardous nature of job functions are not elements of the classification and shall have no bearing in determining the establishment of or eligibility for safety membership.

Section 4: COORDINATION OF PERSONNEL FUNCTIONS WITH CENTRAL ADMINISTRATION

Counties are encouraged to establish and maintain effective partnerships between ~~link directly to the~~ central administration ~~office and~~ the personnel functions and to link activities directly related to those functions. Counties recognize the success or failures of local government rests heavily on the quality of its personnel, and therefore support ~~encourage~~ the close organizational ties between the central administrative ~~on office~~ and the personnel function.

Section 5: ~~AFFIRMATIVE ACTION~~ EQUAL EMPLOYMENT OPPORTUNITY

A. GENERAL PRINCIPLES

The California State Association of Counties is committed to the concept of equal employment opportunity in public service as a basic merit system principle. Acceptance

of this principle does not end with mere prohibition of discriminatory practices. We recognize the obligation of counties to develop practical plans for specific steps to be taken to achieve more fully the goal of equal employment opportunity in county government. This includes positive efforts in recruitment, examination, selection, promotion, pay, job restructuring and due process protection so that appropriate numbers of protected group members achieve positions in county government and are provided promotional opportunities at all job classification levels.

B. MANAGEMENT ROLES AND RESPONSIBILITIES

~~Boards of Supervisors should clearly delineate roles, tasks and responsibilities to accomplish successful implementation of their affirmative action program. Education and training sessions should be held to insure the adequate awareness and understanding of the various roles and responsibilities.~~

C. GOALS AND TIMETABLES

~~Counties support the concept of internally developed goals and timetables in that they provide a measurable framework within which affirmative action efforts can be evaluated. Goals and timetables are a necessary management tool for the implementation of successful protected class hiring and promotion policies. Goals and timetables are measurable objective standards against which the effectiveness of an affirmative action program can be determined. Counties believe that protected class members should be available and present in the county personnel system both as candidates and employees and in generally the same percentage as they are present and available in the relevant labor market pool.~~

D. AFFIRMATIVE ACTION PLANS

~~Counties recognize that affirmative action plans are not ends in themselves, but rather management tools to accomplish equitable hiring and promotion of protected class members and correction of underutilization. Affirmative action plans should be developed with significant public input and contain practicable, achievable goals and timetables. The emphasis of each plan should be on achieving and maintaining equal employment opportunity.~~

E. AFFIRMATIVE ACTION OFFICER

~~Counties should designate an Affirmative Action Officer. The Affirmative Action Officer should be given the appropriate authority and responsibility to insure the development, implementation and maintenance of equal employment policies, practices and procedures.~~

FB. TESTING, SELECTION AND PROMOTION

~~Counties believe that affirmative action principles are consistent with merit system principles and that they add further dimension to developing hiring standards and selection instruments which are realistically related to job and professional requirements.~~
Initial selection and promotional devices used should eliminate artificial barriers, be job related and ensure job success. Special consideration should be given to facilitate the transfer and promotion of qualified employees and full utilization of human resources particularly in protected classes.

GC. LICENSING AND CERTIFICATION

The counties urge a review of all requirements for licenses or certificates for county employment to ensure they are realistically related to job performance. Counties should strive to prevent the requirement of licenses or certificates when those requirements create artificial barriers to employment and/or upward mobility.

H. RECRUITMENT

~~County recruitment practices should be designed to provide an applicant pool for open positions which reflect the protected group make up of the present and available population. Techniques such as utilization of media, contacts with community groups, and targeted aggressive, non-traditional recruitment methods should be considered in cases where there is a need to actively encourage qualified protected group applicants.~~

I. JOB RESTRUCTURING

~~Counties support efforts to restructure jobs and create new entry and sub-entry level positions in order to make sure that all persons with available skills are being utilized effectively. Job restructuring and the creation of new entry level positions are effective tools in facilitating the contributions which can be made by protected group members, particularly in areas of interpersonal relations and communications where bilingual skills or ethnic-cultural identifications may be essential.~~

J. WORK FORCE ANALYSIS

~~Counties should regularly conduct a utilization analysis of their work force to identify possible deficiencies or underutilization of protected group members in all occupational groups. Such an analysis should include a breakdown of each appropriate organizational unit by protected group characteristics.~~

KD. STATE DUPLICATION OF FEDERAL LAW AND REPORTING REQUIREMENTS

Counties are opposed to the adoption of state laws which duplicate, are inconsistent or conflict with federal law or regulations.

Counties are greatly concerned with the multitude of varying EEO reporting requirements coming from state and federal government. The time required to gather and report EEO data from the many different state and federal agencies, each requiring its own data, greatly reduces the time available to accomplish the objective of EEO. Counties urge state and federal government reporting requirements that are realistically related to necessary monitoring and evaluation activities.

Counties support the consolidation and integration of federal agencies with responsibilities for the monitoring, auditing or regulating of local affirmative action plans and activities. The federal government should initiate efforts to increase standardization and uniformity of their practices in these areas.

L. STATE LEGISLATION/STATE ENFORCEMENT

~~Counties resist special interest legislation that places unnecessary financial burdens or administrative restrictions on employers in apparent protection for special interest groups.~~

~~While counties encourage state enforcement activities that enhance affirmative action objectives, counties resist enforcement efforts which are punitive or which require excessive administrative response and delay.~~

M. STATE/FEDERAL EQUAL EMPLOYMENT OPPORTUNITY (EEO) REPORTING REQUIREMENTS

~~Counties are greatly concerned with the multitude of varying EEO reporting requirements coming from state and federal government. The time required to gather and report EEO data from the many different state and federal agencies, each requiring its own data, greatly reduces the time available to accomplish the objective of EEO. Counties urge state and federal government reporting requirements that are realistically related to necessary monitoring and evaluation activities.~~

N. FEDERAL REFORM

~~Counties support the consolidation and integration of federal agencies with responsibilities for the monitoring, auditing or regulating of local affirmative action plans~~

~~and activities. The federal government should initiate efforts to increase standardization and uniformity of their practices in these areas.~~

Section 6: WORKFORCE DEVELOPMENT ~~MANPOWER~~

CSAC recognizes and endorses the principles of prime sponsorship and accountability of county officials in the planning, administration and supervision of comprehensive local systems of ~~manpower~~ workforce training and employment--with a minimum of federal regulation.

CHAPTER TEN

Financing County Services

Section 1: GENERAL PRINCIPLES

California counties are the unit of government best suited to deliver public assistance, public protection, and some public works services, but counties have limited ability to adequately finance these responsibilities. In order to meet ~~their~~~~each~~~~unique~~ community's unique needs, counties must be given greater financial independence from the state and federal budget processes, including the authority to collect revenues at a level sufficient to provide the degree of local services the community desires. Counties will seek a level of financial independence that provides for the conduct of governmental programs and services, especially discretionary programs and services, at an adequate level.

Section 2: STATE POLICY OBJECTIVES

A. Program Realignment

Reforms of county finances need to involve agreement between the State and the counties on a realignment of responsibilities to provide social services, income maintenance, health care, ~~and~~ justice services, or any other service that the county is best suited to provide. Counties ~~should~~~~must~~ be given realistic and adequate revenue sources to pay for ongoing program and service responsibilities.

B. Financial Independence

Counties ~~do not~~ have neither the financial resources to operate state programs and also meet local needs, nor the ability to predict service levels beyond each legislative session. ~~The state government and the people of California should provide counties with the following:~~ Therefore, counties advocate aligning revenue authority with service responsibility, and support other measures that would grant counties financial independence.

~~1. Additional property tax revenues to provide critical county services. Property tax revenues are the most stable of local revenues and thus offer the predictability counties require to efficiently administer services to California citizens.~~

Counties strongly support the provisions of Proposition 1A (2004), which provides constitutional protection of local governments' property tax, sales tax, and Vehicle License Fee revenues. It also requires the Legislature to fully fund or else suspend reimbursable local mandates.

However, counties continue to advocate for a guarantee that the state will appropriate sufficient funds prior to requiring counties to provide new or increased services. (Also see Chapter XIII: STATE MANDATE LEGISLATION.) Counties also seek a guarantee that programs and services that are funded wholly or partially by the state will annually receive full adjustments for the increased cost of providing them, including inflation and population.

Counties will firmly oppose any attempt by the state to borrow property tax revenue from counties under the provisions of Proposition 1A. Such borrowing would cause counties increased costs in

several areas, including the cost of borrowing and lost investment income. Furthermore, borrowing to cover ongoing state costs is fiscally unwise, and would put negative pressure on state funding of county-provided services in the out-years.

~~2.—~~ Counties should be granted ~~E~~ enhanced local revenue-generating authority to respond to unique circumstances in each county to provide needed infrastructure and county services. Any revenue raising actions that require approval by the electorate should require a simple majority vote.

~~3.—~~ An absolute ~~Counties seek a~~ guarantee that the state will pay reimbursements and subventions ~~are paid~~ promptly, with the payment of interest to counties when it does not pay promptly ~~payment is not made.~~

~~4.—~~ Counties should have ~~T~~ the ability to adjust all fees, assessments, ~~or~~ and charges to cover the full costs of the services they support.

~~Additionally, counties strongly support the provisions of Proposition 1A. Passed in 2004, this measure provided constitutional protection of local governments' property tax, sales tax, and Vehicle License Fee revenues, as well as requiring the Legislature to fully fund or suspend reimbursable local mandates. However, counties continue to advocate for:~~

~~1.—~~ Constitutional protection of all local revenues.

~~2.—~~ An absolute guarantee that the state will appropriate sufficient funds prior to requiring counties to provide new or increased services.

~~3.—~~ An absolute guarantee that programs and services, funded in whole or in part by the state, will annually receive full adjustments for inflation to the corresponding state appropriation and will be adjusted annually for population changes to the extent that such changes are a factor in increased costs.

C. Existing Revenue Sources

The state should recognize that property tax revenues are a significant source of county discretionary funds. Counties oppose erosion of the property tax base through unreimbursed exemptions to property taxes. Any subventions to counties that are based upon property tax losses through state action should ~~annually~~ be adjusted for inflation annually.

The state should recognize that counties incur significant costs in administering the property tax system and in maintaining financial records for other government entities and jurisdictions. Counties should receive full reimbursement from all recipients – proportional to their benefit – for actual administrative costs ~~prior to the~~ upon distribution of property tax proceeds.

In 1991, the state and counties entered into a new fiscal relationship known as realignment. Realignment affects health, mental health, and social services programs and their funding. The state transferred control of certain programs to counties, altered program cost-sharing ratios, and provided counties with dedicated tax revenues from the sales tax and vehicle license fee to pay for these changes. Counties support full continuation of all dedicated realignment revenues. Counties also urge the state to pay counties for the increased annual costs of administering programs on its behalf, which is currently frozen at 2001 levels.

Counties support the provisions of revenue neutrality and encourage enhancements and improvements

to new city incorporation law. Property tax transfers resulting from municipal incorporations should be generally negotiated.

Any distribution formula for new sales tax revenue growth should not be limited to a situs-only distribution. Other options for distribution of new sales tax revenue growth should be fully explored. Also, counties oppose unreimbursed sales tax exemptions made by the state.

D. Efficient Government

The state ~~must~~should facilitate the efficient use of taxpayers' dollars by:

1. Streamlining or eliminating unnecessary planning, reporting, and administrative requirements in state-county partnership programs.
2. Reducing or eliminating regulations that seek to control the implementation of state-mandated programs and services.
3. Granting counties greater ~~authority to manage~~flexibility to manage county programs in a more efficient and effective manner and tailored to a community's individual needs.

~~4. Encouraging all units of local government to develop cost-effective service delivery systems.~~

~~4.5.~~ Allowing counties to use the least costly methods of providing services while meeting operational needs.

E. Equal Treatment

The allocation of new financial resources or needed reductions should treat all counties equally, based on service needs.

There should be ongoing efforts to discuss and negotiate equitable resolutions of conflicts between counties and other units of local government.

F. ~~Property Tax Equity~~Aligning Revenue Authority with Service Responsibility

The passage of Proposition 13 and implementing legislative and judicial decisions, along with myriad other actions since, have eliminated most connections between the payment of ~~property~~ taxes and the benefits received by the individual or business ~~property~~ taxpayer. ~~Efforts must be made to restore the basic principles of American public finance to the property tax system.~~ Counties support aligning revenue authority with the level of government responsible for providing services.

G. Master Settlement Agreement

Under the terms of a Memorandum of Understanding (MOU) with the state, California counties receive forty percent of proceeds from the Master Settlement Agreement between the tobacco industry and a number of states. The MOU specifies that these funds are discretionary. Counties oppose any effort to diminish their share of the tobacco settlement or to impose restrictions on its expenditure. Additionally, counties oppose any effort to lower or eliminate the state's support for programs with the expectation that counties will backfill the loss with tobacco settlement revenue.

Section 3: FEDERAL POLICY OBJECTIVES

A. Basic Service Levels

The federal government should finance a basic level of health, social service, and income maintenance services, including resultant county administrative costs. It must provide flexibility to adjust to local needs and circumstances and it must provide for long-term program planning and program stability.

B. Adequately Finance Specific Program Objectives

Federal efforts to address certain domestic needs as partners with counties must adequately provide for county administrative costs, provide flexibility to adjust to local needs and circumstances, provide for long-term program planning, and provide for program stability.

C. Shared Revenues

The federal government should continue to share the benefits of its greater and more equitable taxing ability with state and local government in a non-restrictive manner. When possible, the shared revenues should be provided in the form of block grants.

D. Encourage Public Investment

The maintenance and development of state and local infrastructure must be facilitated with federal tax exemptions for state and municipal debt and by special taxing and expenditure programs to meet priority needs.

E. Payments In Lieu Of Taxes

Payments in lieu of taxes (PILT) should be made in full whenever the federal government removes or withholds otherwise productive property from the property tax rolls. PILT payments should receive full cost of living adjustments annually.

F. Taxation Of Remote Sales

The federal government should endeavor to approve a nationwide system for sales taxation that ensures fairness between remote and brick-and-mortar retailers.

G. Telecommunications

Counties endorse promoting competition among telecommunications providers and treating like services alike. Any effort to reform the Telecommunications Reform Act of 1996 must maintain local ~~franchising authority and~~ management of the public rights-of-way, encourage investment in all communities and neighborhoods, preserve support funding for public education and governmental (PEG) channels and institutional networks (I-NET), and hold local governments fiscally harmless for any loss of fees or other revenue that result from franchise agreements.

CHAPTER THIRTEEN

State Mandate Legislation

Ever since SB 90 (1972) limited property tax rates, the state has been required to pay for new or higher levels of service it requires from counties and other local agencies. Propositions 4 (1979) and 1A (2004) strengthened that requirement and established it in the California Constitution. However, the issue of mandate reimbursement remains contentious, since mandates reside where the core principle of local control and the reality of counties as providers of state services intersect.

Mandates are particularly burdensome for counties because of the severe restrictions on raising county revenues to pay for new requirements.

Implementing programs and new levels of service is costly, so the Legislature should either fund a mandate annually or repeal it completely. Continually suspending mandates merely burdens counties with either funding the service out of its own general funds or absorbing the cost of repeatedly resetting service levels.

State mandates should only be imposed when there is a compelling need for statewide uniformity.

All state mandates should be funded prior to delivery of the new or higher level of service. The current policy of reimbursing established mandates two years after the fact constitutes a loan from counties to the state. The state should not require counties to provide a service for which it is unwilling to timely pay. Bills mandating new or increased levels of service should include a direct appropriation.

Local agencies and the state should endeavor to take advantage of Reasonable Reimbursement Methodology and Legislatively Determined Mandates. These processes will provide budgetary certainty to the state and counties, and help to decrease the extraordinary time and cost involved with determining reimbursement levels through the traditional Commission on State Mandates process.

The current mandate determination and processes must be reformed. The reforms must make the determination process more efficient, in terms of both time and cost, and less biased against local agencies. State audits of local claims must be timely, consistent, reasonable, and predictable.

It should not take seven years to determine whether the state has required a new or higher level of service. State Controller audits should not be able to cut reasonable claims by half or more based on technicalities or unreasonable records requirements.

~~On April 14, 1994, the CSAC Board of Directors adopted the following restatement of CSAC principles regarding state mandate legislation:~~

~~1. Efforts at relief from state-mandated program costs should follow the principles established by the CSAC Constitutional Amendment Task Force.~~

~~2. CSAC does not wish to return to the same process followed in 1993 by the Legislature, in which~~

~~"mandate relief" was granted and inflated fiscal value was attached to that action.~~

~~3. Relief from state program costs should be realistic and not subject to immediate court intervention.~~

~~4. Mandate relief efforts should not involve political ploys, which have little or no chance of garnering necessary legislative support. In the past, counties have been trapped in a process that leads to unfairly blaming them for not cooperating with mandate relief efforts.~~

~~5. Constitutional amendments should not exempt additional categories of state mandates from cost reimbursement. Also, voter approval of requirements or programs similar to those already established as reimbursable mandates should not be cause for the state to cease reimbursements.~~

~~6. Many counties have developed reports on state mandates which CSAC has amalgamated. We believe it is the responsibility of the administration and the Legislature to cooperatively select mandates for possible amendments and/or elimination. This effort should not be accomplished in a vacuum, but be part of efforts regarding realignment and restructuring of government.~~



March 3, 2009

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TO: CSAC Board of Directors

FROM: Supervisor Liz Kniss, Chair, CSAC Health and Human Services Policy Committee
Supervisor Terry Woodrow, Vice Chair, CSAC Health and Human Services Policy Committee
Kelly Brooks, CSAC Legislative Representative
Farrah McDaid Ting, CSAC Senior Legislative Analyst

Re: CSAC Health and Human Services Platforms – ACTION ITEM

This memo is intended to provide Board of Directors members with a brief overview of the proposed changes to the CSAC Health and CSAC Human Services Platforms as approved by the CSAC Health and Human Services Policy Committee on February 20.

Recommendation

Approve the Health Platform and the Human Services Platform as recommended by the CSAC Health and Human Services Policy Committee.

Background

CSAC maintains two separate platforms that fall under the purview of the CSAC Health and Human Services Policy Committee: the Health Platform and the Human Services Platform.

As part of the biennial process to update these policy documents, the CSAC Health and Human Services Policy Committee first began reviewing the platform documents in December of 2008, and subsequently convened two policy committee meetings in this calendar year for the express purpose of refining the documents (January 8 and February 20). County supervisors, county staff, and health and human services affiliates all participated in the process.

The attached versions of the platforms were approved by the committee on February 20 and are submitted to the Board today for final approval. Should the Board modify or seek clarification on the Health and Human Services Policy Committee's recommendations, the policy committee will again meet via conference call to comply with any inquiries.

Notable policy additions to the platforms include:

Health

- Inclusion of language outlining counties' support for preventative health efforts and healthy communities.
- Addition of language about the state's chronic underfunding of health and mental health programs. The language is intended to mirror language in the Human Services platform regarding the Human Services Funding Deficit.

- Inclusion of language regarding counties' role in responding to biomedical or terror attacks and the need for adequate, stable and sustainable funding for such efforts.
- The addition of a new Children's Health Section, with four major issue areas covered: the California Children's Services (CCS) program, the State Children's Health Insurance Program (SCHIP), Proposition 10/First 5 Commissions and AB 3632.
- The addition of a new Medicaid and Aging Issues section, reiterating county opposition to cost shifts for Medi-Cal Long Term Care and reaffirming county support for federal In-Home Supportive Services waivers that help streamline the program and save costs at the county level.

Human Services

- Inclusion of a Human Services Funding Deficit plank that outlines the effects of inadequate administrative funding for county-run human services programs. This component was developed in part by the CSAC Human Services Funding Deficit Work Group.
- Inclusion of language regarding county support for economic stimulus funding in programs for which counties have a share of cost.
- Inclusion of language regarding county support for efforts aimed at transitional and emancipated foster youth.
- Inclusion of language regarding county support for a reexamination of case- and workload standards in Child Welfare Services.
- A new Aging and Dependent Adults section, which encompasses Adult Protective Services (APS) and In-Home Supportive Services (IHSS). In both instances, counties support adequate state and federal funding in light of rising caseloads.

In addition to the changes detailed above, the Committee also addressed grammatical, technical, and stylistic changes to improve the platforms.

Conclusion

Both versions of the platforms are attached to this memo for your reference. Changes from the 2007 version are shown in blue or red text. All changes have been approved by the CSAC Health and Human Services Policy Committee.

Should you have any questions, please contact Kelly Brooks, CSAC Legislative Representative, at (916) 327-7500 Ext. 531 or kbrooks@counties.org.

CHAPTER SIX

Health Services

DRAFT 2009

Section 1: GENERAL PRINCIPLES

Counties serve as the front line defense against threats of widespread disease and illness and promote health and wellness among all Californians. This chapter deals specifically with health services and covers the major segments of counties' functions in health services. Health services in each county shall relate to the needs of residents within that county in a systematic manner without limitation to availability of hospital(s) or other specific methods of service delivery. The board of supervisors in each county sets the standards of care for its residents.

Local health needs vary greatly from county to county. Counties support and encourage the use of multi-jurisdictional approaches to health care. Counties support efforts to create cost-saving partnerships between the state and the counties in order to achieve better fiscal outcomes for both entities. Therefore, counties should have the maximum amount of flexibility in managing programs. Counties should have the ability to expand or consolidate facilities and services to provide a comprehensive level of services and achieve maximum cost effectiveness. Additionally, as new federal and state programs are designed in the health care field, the state needs to work with counties to encourage maximum program flexibility and to minimize disruptions in county funding from the transition to new reimbursement mechanisms.

Counties also support a continuum of preventative health efforts – including mental health services, drug and alcohol services, nutrition awareness and disease prevention – and healthy living models for all of our communities, families, and individuals. Preventative health efforts have proven to be cost effective and provide a benefit to all residents.

The State's chronic underfunding of health programs strains the ability of counties to meet accountability standards to provide access to quality health and mental health services. Freezing health program funding also shifts costs to counties and increases the county share of program costs, while at the same time running contrary to the constitutional provisions of Proposition 1A.

At the federal level, counties support economic stimulus efforts that help maintain services levels and access for the state's neediest residents. Counties are straining to provide services to the burgeoning numbers of families in distress. People who have never sought public assistance before are arriving at county health and human services departments. For these reasons, counties strongly urge that any federal stimulus funding must be shared directly with counties for programs that have a county share of cost. A. Public Health

The county public health departments and agencies are the only health agencies with direct day-to-day responsibility for protecting the health of every person within each county. The average person does not have the means to protect him or herself against contagious and infectious diseases. Government must assume the role of health protection against contagious and infectious diseases. It must also provide services to prevent disease and disability and encourage the community to do

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1 likewise. These services and the authority to carry them out become especially important in times of
2 disaster and public emergencies. To effectively respond to these local needs, counties must be
3 provided with full funding for local public health communicable disease control and surveillance
4 activities.

5
6 Counties also support a continuum of preventative health efforts – including mental health services,
7 drug and alcohol services, nutrition awareness and disease prevention – and healthy living models
8 for all of our communities, families, and individuals. Preventative health efforts, such as access to
9 healthy food and opportunities for safe physical activity, have proven to be cost effective and provide
10 a benefit to all residents.

11
12 County health departments are also charged with responding to terrorist and biomedical attacks,
13 including maintaining the necessary infrastructure – such as laboratories, hospitals, medical supply
14 and prescription drug caches, as well as trained personnel – needed to protect our residents. Counties
15 welcome collaboration with the federal and state governments on the development of infrastructure
16 for bioterrorism and other disasters. Currently, counties are concerned about the lack of funding,
17 planning, and ongoing support for critical infrastructure.

20 B. Health Services Planning

21
22 Counties believe strongly in comprehensive health services planning. Planning must be done
23 through locally elected officials both directly and by the appointment of quality individuals to serve
24 in policy and decision-making positions for health services planning efforts.

26 C. Mental Health

27
28 Counties support community-based treatment of mental illness. Counties also accept responsibility
29 for providing treatment and administration of such programs. It is believed that the greatest progress
30 in treating mental illness can be achieved by continuing the counties' role in supporting and assisting
31 the state in administering its programs. Programs that treat mental illness should be designed to
32 meet local requirements within statewide criteria and standards to ensure appropriate treatment of
33 persons with mental illness. However, counties are concerned about the erosion of state funding and
34 support for mental health services. Although the adoption of Proposition 63, the Mental Health
35 Services Act of 2004, will assist counties in service delivery, it is intended to provide new funding
36 that expands and improves the capacity of existing systems of care and provides an opportunity to
37 integrate funding at the local level. We strongly oppose additional reductions in state funding for
38 mental health services that will result in the state shifting its costs to counties. These cost shifts
39 result in reduced services available at the local level. We also strongly oppose any effort to redirect
40 the Proposition 63 funding to existing state services instead of the local services for which it was
41 originally intended.

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42
43 The realignment of health and social services programs in 1991 restructured California's public
44 mental health system. Realignment required local responsibility for program design and delivery
45 within statewide standards of eligibility and scope of services, and designated revenues to support
46 those programs to the extent that resources are available. Counties are committed to service delivery
47 that manages and coordinates services to persons with mental illness and that operates within a
48 system of performance outcomes that assure funds are spent in a manner that provides the highest
49 quality of care.

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1
2 California law consolidated the two Medi-Cal mental health systems, one operated by county mental
3 health departments and the other operated by the state Department of Health Services on a fee-for-
4 service basis, effective in fiscal year 1997-98. Counties supported these actions to consolidate these
5 two systems and to operate Medi-Cal mental health services as a managed care program. Counties
6 were offered the first opportunity to provide managed mental health systems, and every county chose
7 to operate as a Medi-Cal Mental Health Plan. This consolidated program provides for a negotiated
8 sharing of risk for services between the state and counties. However, counties oppose a managed
9 care model in which the state abdicates its funding responsibility to counties. Counties are paying for
10 an increasing share of the Medi-Cal Mental Health program. As state funding declines, counties will
11 reconsider providing managed mental health systems.

12
13 County mental health agencies provide necessary, child and family-centered high quality services to
14 special education pupils. This program is known as AB 3632 (Statutes of 1984). The State provided
15 inadequate funding for this mandate from fiscal year 2002-03 through 2004-05. *Since that time, the*
16 *state has provided a combination of federal Individuals with Disabilities Act (IDEA) funds, state*
17 *General Fund and mandate reimbursements.* Counties cannot assume the legal and financial risk for
18 this federal special education entitlement program. Counties *expect* the state to continue to fund
19 counties for the costs of providing the state mandated services under AB 3632 and to develop a
20 reasonable plan for repaying past due SB 90 claims. Alternatively, counties would also support
21 repealing the AB 3632 mandate on counties, recognizing that accountability for ensuring the
22 provision of mental health-related services under the IDEA rests with education – not local
23 government. If school districts become fiscally responsible for this mandate, the program must be
24 restructured so that schools are legally responsible for ensuring that mental health-related services
25 are provided to special education students pursuant to the federal IDEA. Under such a restructured
26 system, county mental health departments would remain committed to maintaining and enhancing
27 their effective collaborative partnerships with education, and to working with all interested
28 stakeholders in developing a system that continues to meet the mental health needs of special
29 education pupils.

30
31 In response to county concerns, state law also provides funds to county programs to provide specialty
32 mental health services to CalWORKs recipients who need treatment in order to get and keep
33 employment. Similar law requires county mental health programs to provide specialty mental health
34 services to seriously emotionally disturbed children insured under the Healthy Families Program.
35 Counties have developed a range of locally designed programs to serve California's diverse
36 population.

37
38 Adequate mental health services can reduce criminal justice costs and utilization. Appropriate
39 diagnosis and treatment services will result in positive outcomes for *offenders* with mental *illness*.
40 Ultimately, appropriate mental health services will benefit the public safety system. Counties
41 continue to work across disciplines to achieve good outcomes for persons with mental illness and/or
42 co-occurring substance abuse issues.

43 D. Children's Health

44 California Children's Services

45
46 Counties provide diagnosis and case management services to the approximately 175,000 children
47 enrolled in the California Children's Services (CCS) program, whether they are in Medi-Cal, Healthy
48 Families or the CCS-Only program. Counties also are responsible for determination of medical and
49
50

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1 financial eligibility for the program. Counties also provide Medical Therapy Program (MTP) services for
2 both CCS children and special education students, and have a share of cost for services to non-Medi-Cal
3 children.

4
5 Maximum federal matching funds for CCS program services must continue in order to avoid the
6 shifting of costs to counties.

7
8 Despite recent actions by the Legislature to lessen proposed cuts to the program, the Department of
9 Health Care Services has unilaterally implemented reductions to CCS County Administration and also
10 implemented a radically different methodology for funding both CCS County Administration and MTP.
11 This action, noticed to counties in November 2008, was taken because the Department had been
12 overspending their state budget appropriations for both CCS County Administration and MTP for a
13 number of years. Counties have consistently kept expenditures within their approved budgets and were
14 unaware that the total amount of the state approved county budgets actually exceeded state budget
15 appropriation levels. Counties have always operated within individual county budgets approved by the
16 Department, which allowed for reimbursement of the actual cost of providing services (at matching levels
17 applicable to each program). The new allocations represent a radically different method of funding
18 counties for both CCS County Administration and MTP, and threaten the viability of the program as a
19 whole. Counties cannot continue to bear the rapidly increasing costs associated with both program
20 growth and eroding state support, and for these reasons endorse a stakeholder process to redesign the
21 program with the goal of continuing to provide the timely care and services for these most critically ill
22 children.

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23
24
25 State Children's Health Insurance Program

26
27 The State Children's Health Insurance Program (SCHIP) is a federally funded program that allows
28 states to provide low- or no-cost health insurance to children up to 250 percent of the Federal
29 Poverty Level (FPL). California's SCHIP program is called the Healthy Families Program. CSAC
30 supports a reauthorization of the SCHIP program, including an eligibility increase of up to 300
31 percent of the FPL for the state's children.

32
33 Proposition 10

34
35 Proposition 10, the California Children and Families Initiative of 1998, provides significant
36 resources to enhance and strengthen early childhood development. Local children and families
37 commissions (First 5 Commissions), established as a result of the passage of Proposition 10, must
38 maintain the full discretion to determine the use of their share of funds generated by Proposition 10.
39 Further, local First 5 commissions must maintain the necessary flexibility to direct these resources to
40 the most appropriate needs of their communities, including childhood health, childhood
41 development, nutrition, school readiness, child care and other critical community-based programs.
42 Counties oppose any effort to diminish Proposition 10 funds or to impose restrictions on their local
43 expenditure.

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44
45 In recognition that Proposition 10 funds are disseminated differently based on a county's First 5
46 Commission structure and appropriated under the premise that local commissions are in a better
47 position to identify and address unique local needs, counties oppose any effort to lower or eliminate
48 the state's support for county programs with the expectation that the state or local First 5
49 commissions will backfill the loss with Proposition 10 revenues.

1 AB 3632

2
3 County mental health agencies provide necessary, child and family-centered high quality services to
4 special education pupils. This program is known as AB 3632 (Statutes of 1984). The State provided
5 inadequate funding for this mandate from fiscal year 2002-03 through 2004-05. Since that time, the
6 state has provided a combination of federal Individuals with Disabilities Act (IDEA) funds, state
7 General Fund and mandate reimbursements. Counties cannot assume the legal and financial risk for
8 this federal special education entitlement program. Counties expect the state to continue to fund
9 counties for the costs of providing the state mandated services under AB 3632 and to develop a
10 reasonable plan for repaying past due SB 90 claims. Alternatively, counties would also support
11 repealing the AB 3632 mandate on counties, recognizing that accountability for ensuring the
12 provision of mental health-related services under the IDEA rests with education – not local
13 government. If school districts become fiscally responsible for this mandate, the program must be
14 restructured so that schools are legally responsible for ensuring that mental health-related services
15 are provided to special education students pursuant to the federal IDEA. Under such a restructured
16 system, county mental health departments would remain committed to maintaining and enhancing
17 their effective collaborative partnerships with education, and to working with all interested
18 stakeholders in developing a system that continues to meet the mental health needs of special
19 education pupils.

20 E. Substance Abuse Prevention And Treatment

21
22 Counties have been, and will continue to be, actively involved in substance abuse prevention and
23 treatment. Counties believe the best opportunity for solutions are at the local level. Counties
24 continue to provide a wide range of substance abuse treatment services. However, counties are
25 concerned that treatment capacity cannot accommodate all persons needing substance abuse
26 treatment services.

27
28 Counties continue to support state and federal efforts to provide substance abuse benefits under the
29 same terms and conditions as other health services. Under current practice, insurance policies
30 routinely treat alcohol and other drug abuse or dependency differently than other illnesses.

31
32 With the enactment of Proposition 36, the Substance Abuse and Crime Prevention Act of 2000, **the**
33 **demand for** substance abuse treatment **and services on** counties continues to increase. Dedicated
34 funding for Proposition 36 expired in 2006, and since that time, counties have depended on a year-
35 to-year state budgeting process for funds. **However, the mandate to provide services under**
36 **Proposition 36 does not expire; and counties are increasingly unable to provide these voter-**
37 **mandated services without adequate dedicated funding. Due to the state budget deficit, funding for**
38 **Proposition 36 and the Offender Treatment Program has declined.**

39
40 Furthermore, even with Proposition 36 funding, state investment in non-offender substance abuse
41 and treatment services has been static for the last decade. This situation limits the array and amount
42 of services a county can administer to the non-offender population. Also, adequate early intervention
43 substance abuse prevention and treatment services have been proven to, reduce criminal justice costs
44 and utilization. Appropriate funding for diagnosis and treatment services will result in positive
45 outcomes for non-offenders and offenders alike with substance abuse problems. Therefore,
46 appropriate substance abuse treatment services will benefit the public safety system. Counties will
47 continue to work across disciplines to achieve good outcomes for persons with substance abuse
48 issues and/or mental illness.

49 F. Medi-Cal, California's Medicaid Program

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1
2 California counties have a unique perspective on the state's Medicaid program. Counties are
3 charged with preserving the public health and safety of communities. As the local public health
4 authority, counties are vitally concerned about health outcomes. Undoubtedly, changes to the
5 Medi-Cal program will affect counties. Counties are concerned about state and federal proposals
6 that would decrease access to health care and that would shift costs or risk to counties.

7 Counties are the foundation of California's safety net system. Under California law, counties are
8 required to provide services to the medically indigent. To meet this mandate, some counties own and
9 operate county hospitals and clinics. These hospitals and clinics also provide care for Medi-Cal
10 patients and rely heavily on Medicaid reimbursements. Medi-Cal reform that results in decreased
11 funding to county hospitals and health systems will be devastating to the safety net. The loss of
12 Medi-Cal funds translates into fewer dollars to help pay for remaining uninsured persons served by
13 county facilities. In recent years, county hospitals are serving more uninsured persons as a
14 percentage of total patients. Counties are not in a position to absorb or backfill the loss of additional
15 state and federal funds. Rural counties already have particular difficulty developing and maintaining
16 health care infrastructure and ensuring access to services.

17
18 Additionally, county welfare departments determine eligibility for the Medi-Cal program. County
19 mental health departments are the health plan for Medi-Cal Managed Care for public mental health
20 services.

21
22 Changes to the Medi-Cal program will undoubtedly affect the day-to-day business of California
23 counties. Counties recognize that the state and federal governments have budget deficits not unlike
24 our own. Because of our unique role with the Medi-Cal program, counties believe we can offer cost-
25 effective solutions. As such, counties must be involved in the development and implementation of
26 any Medi-Cal reform proposals.

27
28 **Therefore**, counties have agreed that any reform of the Medi-Cal program should be subject to the
29 following principles:

30
31 **Safety Net:** It is vital that reform efforts preserve the viability of the safety net and not shift
32 costs to the county safety net.

33
34 **Managed Care:** Expansion of managed care must not adversely affect the safety net and must
35 be tailored to each county's needs.

- 36
37 ▪ Movement of the aged, blind, and disabled into managed care is a major policy shift and the state
38 must recognize the full impact of such a change, including the loss of funds to public hospitals.
39 In counties with public hospitals currently receiving these payments, the loss of these funds
40 would destabilize the public health care safety net.
41 ▪ Adequate funding levels must be developed for public hospitals and qualified safety net hospitals
42 operating within a county organized health system (COHS) managed care framework.
43 ▪ Due to the unique characteristics of the health care delivery system in each county and variations
44 in health care accessibility and the demographics of the client population, counties believe that
45 managed care systems must be tailored to each county's needs.
46 ▪ The state should continue to provide options for counties to implement managed care systems
47 that meet local needs. The state should work openly with counties as primary partners in this
48 endeavor.

Deleted: State officials began discussing reforming Medi-Cal, California's Medicaid program, in 2004. Under the Bush Administration, federal officials changed the federal rules for how Medicaid functions. Undoubtedly, changes to the Medi-Cal program will affect counties. Counties are concerned about state and federal proposals that would decrease access to health care and that would shift costs or risk to counties. California counties have a unique perspective on the reform of the state's Medicaid program. Counties are charged with preserving the public health and safety of communities. As the local public health authority, counties are vitally concerned about health outcomes.

- 1 ▪ The state needs to recognize county experience with geographic managed care and make strong
- 2 efforts to ensure the sustainability of county organized health systems.
- 3 ▪ The Medi-Cal program should offer a reasonable reimbursement mechanism for managed care.

4
5 **Special Populations Served by Counties – Mental Health, Drug Treatment Services, and**
6 **California Children’s Services (CCS): Reform efforts must preserve access to medically**
7 **necessary mental health care, drug treatment services, and California Children’s Services.**

- 8
- 9 ▪ The carve-out of specialty mental health services within the Medi-Cal program must be
- 10 preserved, if adequately funded, in ways that maximize federal funds and minimize county risks.
- 11 ▪ Early and Periodic Screening Diagnosis and Treatment (EPSDT) services for children must be
- 12 preserved.
- 13 ▪ Maximum federal matching funds for CCS program services must continue in order to avoid the
- 14 shifting of costs to counties.
- 15 ▪ Counties cannot continue to bear the rapidly increasing costs associated with both CCS program
- 16 growth and eroding state support, and for these reasons endorse a stakeholder process to redesign the
- 17 CCS program in its entirety with the goal of continuing to provide the timely care and services for
- 18 these most critically ill children.
- 19 ▪ Counties are open to reforming the Drug Medi-Cal program in ways that maximize federal funds
- 20 and minimize county risks. Any reform effort should recognize the importance of substance
- 21 abuse **treatment and** services in the health care continuum.

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23 **Maximizing Funds:** Other states have received waivers for unique program elements not used

24 in California. The State should pursue all possible options for securing additional federal

25 funds.

- 26
- 27 ▪ Counties will not accept a share of cost for the Medi-Cal program.
- 28 ▪ Reform efforts must allow county health systems to maintain essential funding through Medi-Cal
- 29 Administrative Activities (MAA), Targeted Case Management (TCM) or other programs that
- 30 allow counties to maximize federal Medi-Cal funding.

31

32 **Simplification:** Reform efforts must simplify Medi-Cal eligibility requirements without

33 jeopardizing eligibility. Reform should not add to the complexity of the Medi-Cal Program.

- 34
- 35 ▪ Complexities of rules and requirements should be minimized or reduced so that enrollment,
- 36 retention and documentation and reporting requirements are not unnecessarily burdensome to
- 37 recipients, providers, and administrators and are no more restrictive or duplicative than required
- 38 by federal law.
- 39 ▪ Simplification should include removing barriers that unnecessarily discourage beneficiary or
- 40 provider participation.
- 41 ▪ Counties support simplifying the eligibility process for administrators of the Medi-Cal program.

42

43 **Continuity:** Reform efforts must preserve continuity of care and coverage.

- 44 ▪ The Medi-Cal program must retain categorical linkages to full benefits.
- 45 ▪ Counties also believe that Medi-Cal long-term care must remain a state-funded program and oppose
- 46 any cost shifts or attempts to increase county responsibility through block grants or other means.

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48 **Maintaining Access and Eligibility**

49

- 1 ▪ Any reform proposal must uphold Congress' clearly stated objectives of the Medicaid Act to: 1)
2 furnish medical assistance to limited income families with dependent children and the aged,
3 blind, and disabled, and 2) furnish rehabilitation and other services to help them attain/retain
4 independence or self care. **Individuals currently eligible for Medi-Cal should remain eligible.**
5 ▪ Benefits for eligible individuals **must remain available in order to preserve meaningful access to**
6 **medically necessary care and should not create differences in access based on levels of poverty.**
7
8 ▪ True reform must streamline eligibility requirements, expand access to care, preserve the safety
9 net, and improve quality, cost effectiveness and program efficiency, as well as encourage
10 preventative care and healthy outcomes for all served.
11 ▪ Policies that (in effect) result in a lapse or loss of coverage for those eligible for Medi-Cal or
12 other public health programs should be eliminated.
13 ▪ Policies that restrict access to care or make access more cumbersome or difficult should be
14 rejected.
15 ▪ A functional Medi-Cal program should provide access to qualified providers and ensure that
16 services are culturally and linguistically appropriate.
17 ▪ Any reform efforts should preserve safety net services and must not shift the burden of providing
18 uncompensated care to safety net providers, especially county health systems.
19 ▪ Reform efforts should ensure that costs imposed upon eligible individuals do not render
20 appropriate care inaccessible or unaffordable. **Deleted: ***
21 ▪ Increased cost-sharing requirements for those individuals who can least afford it should be
22 rejected, as current studies and data consistently indicate that cost-sharing impedes access to
23 medically necessary services or causes individuals to access care at more expensive entry points,
24 such as emergency departments.
25 ▪ Reform should offer a range of reimbursement to providers that reflect local economies, both for
26 managed care and fee for service plans.
27
28 ▪ Reform efforts must not **come** at the expense of vulnerable and special needs populations.
29 Coverage of immigrants, elderly, pregnant women and persons with disabilities must be
30 maintained, including full implementation of the *Olmstead* decision.

31
32 **Due Process: Reform efforts must not undermine existing due process rights and protections**
33 **of beneficiaries.**

34
35 **G. Medicare Part D** **Formatted: Bullets and Numbering**

36
37 In 2003, Congress approved a new prescription drug benefit for Medicare effective January 1, 2006.
38 The new benefit will be available for those persons entitled to Medicare Part A and/or Part B and for
39 those dually eligible for Medicare and Medi-Cal.

40
41 Beginning in the fall of 2005, all Medicare beneficiaries were given a choice of a Medicare
42 Prescription Drug Plan. While most beneficiaries must choose and enroll in a drug plan to get
43 coverage, different rules apply for different groups. Some beneficiaries will be automatically
44 enrolled in a plan. **Deleted: can start to choose a**

45
46 The Medicare Part D drug coverage plan eliminated state matching funds under the Medicaid
47 program and shifted those funds to the new Medicare program. The plan requires beneficiaries to pay
48 a copayment and for some, Medi-Cal will assist in the cost. **Deleted: new**
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1 | For counties, this change led to an increase in workload for case management across many levels of
2 | county medical, social welfare, criminal justice, and mental health systems. The potential for the use
3 | of county realignment funds to assist in the share of cost for co-payments exists to this day. Counties
4 | strongly oppose any change to realignment funding that may result and would oppose any reduction
5 | or shifting of costs associated with this benefit that would require a greater mandate on counties.

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7 | H. Medicaid and Aging Issues

8 |
9 | Furthermore, counties are committed to addressing the unique needs of older and dependent
10 | adults in their communities, and support collaborative efforts to build a continuum of services as
11 | part of a long-term system of care for this vulnerable but vibrant population. Counties also
12 | believe that Medi-Cal long-term care must remain a state-funded program and oppose any cost
13 | shifts or attempts to increase county responsibility through block grants or other means.

14 |
15 | Counties support the continuation of federal and state funding for IHSS, and oppose any efforts
16 | to shift IHSS costs to counties. Counties also strongly support the continuation of services to
17 | clients served through the IHSS Plus Waiver, which was granted by the federal Department of
18 | Health and Human Services in August of 2004. Furthermore, once the IHSS Plus Waiver expires,
19 | counties support working with the appropriate state departments and stakeholders to draft,
20 | submit, and implement a new plan to move the IHSS Plus Waiver population into regular Medi-
21 | Cal, thereby preserving the cost savings associated with the original waiver.

22 | Section 2: HEALTH CARE COVERAGE PRINCIPLES

23 |
24 |
25 |
26 | Counties support universal health care coverage in California, with the goal of a health care system
27 | that is fully integrated and offers access to all Californians. Universal health care coverage will
28 | ultimately allow the state to realize cost savings in publicly funded health care programs. However,
29 | the foundation of the publicly funded health care system needs immediate attention. The State of
30 | California must preserve and adequately fund existing publicly funded health care programs before
31 | expanding services. Counties' resources are limited and are not in a position to increase
32 | expenditures to pay for expanded health care coverage and access.

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33 | A. Access And Quality

- 34 |
- 35 |
- 36 | ▪ Counties support access to quality and comprehensive health care through universal
- 37 | coverage.
- 38 | ▪ Any universal health care program should provide a truly comprehensive package of
- 39 | health care services.
- 40 | ▪ Counties support a health care system that includes a component of health care services
- 41 | to prisoners and offenders, detainees, and undocumented immigrants.
- 42 | ▪ Reforms should address access to health care in rural communities and other underserved
- 43 | areas.
- 44 |

45 | B. Role Of Counties As Health Care Providers

- 46 |
- 47 | ▪ Counties strongly support maintaining a stable and viable health care safety net. An
- 48 | adequate safety net is needed to care for persons who remain uninsured as California

1 transitions to universal coverage and for those who may have difficulty accessing care
2 through a traditional insurance-based system.

- 3
- 4 ▪ The current safety net is grossly underfunded. Any diversion of funds away from
5 existing safety net services will lead to the dismantling of the health care safety net and
6 will hurt access to care for all Californians.
- 7
- 8 ▪ Counties believe that delivery systems that meet the needs of vulnerable populations and
9 provide specialty care, such as emergency and trauma care and training of medical
10 residents and other health care professionals, must be supported in any universal health
11 coverage plan.
- 12
- 13 ▪ Counties strongly support adequate funding for the public health system as part of a plan
14 to achieve universal health coverage. Counties recognize the linkage between public
15 health and health care. A strong public health system will reduce medical care costs,
16 contain or mitigate disease, and address disaster preparedness and response.
- 17

18 C. Financing And Administration

- 19
- 20 ▪ Counties support increased access to health coverage through a combination of
21 mechanisms that may include improvements in and expansion of the publicly funded
22 health programs, increased employer-based and individual coverage through purchasing
23 pools, tax incentives, and system restructuring. The costs of universal health care shall
24 be shared among all sectors: government, labor, and business.
- 25
- 26 ▪ Efforts to achieve universal health care should simplify the health care system – for
27 recipients, providers, and administration.
- 28
- 29 ▪ The federal government has an obligation and responsibility to assist in the provision of
30 health care coverage.
- 31
- 32 ▪ Counties encourage the state to pursue ways to maximize federal financial participation
33 in health care expansion efforts, and to take full advantage of opportunities to simplify
34 Medi-Cal, the Healthy Families Program, and other publicly funded programs with the
35 goal of achieving maximum enrollment and provider participation.
- 36
- 37 ▪ County financial resources are currently overburdened; counties are not in a position to
38 contribute additional resources to expand health care coverage.
- 39
- 40 ▪ A universal health care system should include prudent utilization control mechanisms
41 that are appropriate and do not create a barrier to necessary care.
- 42
- 43 ▪ Access to health education, preventive care, and early diagnosis and treatment will assist
44 in controlling costs through improved health outcomes.
- 45
- 46 ▪ D. Role Of Employers Counties, as both employers and administrators of health care
47 programs, believe that every employer has an obligation to contribute to health care
48 coverage. Counties are sensitive to the economic concerns of employers, especially
49 small employers, and employer-based solutions should reflect the nature of competitive

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1 industries and job creation and retention. Therefore, counties advocate that such an
2 employer policy should also be pursued at the federal level and be consistent with the
3 goals and principles of local control at the county government level.

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- 4
- 5 ■ Reforms should offer opportunities for self-employed individuals, temporary workers,
6 and contract workers to obtain health coverage.
- 7

8 **E. Implementation**

9
10 Counties recognize that California will not achieve a full universal health care system immediately,
11 and implementation may necessitate an incremental approach. As such, counties believe that
12 incremental efforts must be consistent with the goal and the framework for universal health care
13 coverage, and **also must** include counties in all aspects of planning and implementation.

14 **Section 3: CALIFORNIA HEALTH SERVICES FINANCING**

15
16 Those eligible for Temporary Assistance for Needy Families (TANF)/California Work Opportunity
17 and Responsibility to Kids (CalWORKs), should retain their categorical linkage to Medi-Cal as
18 provided prior to the enactment of the federal Personal Responsibility Work Opportunity
19 Reconciliation Act of 1996.

20
21 Counties are concerned **about** the erosion of state program funding and the inability of counties to
22 sustain current program levels. As a result, we strongly oppose additional cuts in county
23 administrative programs **as well as any attempts by the state to shift the costs for these programs to**
24 **counties.** Counties support legislation to permit commensurate reductions at the local level to avoid
25 any cost shifts to local government.

26
27 With respect to the County Medical Services Program (CMSP), counties support efforts to improve
28 program cost effectiveness and oppose state efforts to shift costs to participating counties, including
29 administrative costs and elimination of other state contributions to the program.

30
31 Counties believe that enrollment of Medi-Cal patients in managed care systems may create
32 opportunities to reduce program costs and enhance access. Due to the unique characteristics of each
33 county's delivery system, health care accessibility, and demographics of client population, counties
34 believe that managed care systems must be tailored to each county's needs. The state should
35 continue to provide options for counties to implement managed care systems that meet local needs.
36 Because of the significant volume of Medi-Cal clients that are served by the counties, the state
37 should work openly with counties as primary partners.

38
39 Where cost-effective, the state should provide non-emergency health services to undocumented
40 immigrants. The State should seek federal reimbursement for medical services provided to
41 undocumented immigrants.

42
43 Counties oppose any shift of funding responsibility from accounts within the Proposition 99
44 framework that will negatively impact counties. Any funding responsibilities shifted to the
45 Unallocated Account would disproportionately impact the California Healthcare for Indigents
46 Program/Rural Health Services (CHIP/RHS), **and** thereby potentially produce severe negative fiscal
47 impacts to counties.

1 Counties support increased funding for trauma and emergency room services. Trauma centers and
2 emergency rooms play a vital role in California's health care delivery system. Trauma services
3 address the most serious, life-threatening emergencies. Financial pressures in the late 1980s and
4 even more recently have led to the closure of several trauma centers and emergency rooms. The
5 financial crisis in the trauma and emergency systems is due to a significant reduction in Proposition
6 99 tobacco tax revenues, an increasing number of uninsured patients, and the rising cost of medical
7 care, including specialized equipment that is used daily by trauma centers. Although reducing the
8 number of uninsured through expanded health care coverage will help reduce the financial losses to
9 trauma centers and emergency rooms, critical safety-net services must be supported while
10 incremental progress is made on the uninsured.

11

12 A. Realignment

13

14 In 1991, the state and counties entered into a new fiscal relationship known as realignment.
15 Realignment affects health, mental health, and social services programs and funding. The state
16 transferred control of programs to counties, altered program cost-sharing ratios, and provided
17 counties with dedicated tax revenues from the sales tax and vehicle license fee to pay for these
18 changes.

19

20 Counties support the concept of state and local program realignment and the principles adopted by
21 CSAC and the Legislature in forming realignment. Thus, counties believe the integrity of
22 realignment should be protected. However, counties strongly oppose any change to realignment
23 funding that would negatively impact counties. Counties remain concerned and will resist any
24 reduction of dedicated realignment revenues or the shifting of new costs from the state and further
25 mandates of new and greater fiscal responsibilities to counties in this partnership program.

26

27 B. Hospital Financing

28

29 In 2008, 13 counties own and operate 17 hospitals statewide, including Alameda, Contra Costa,
30 Kern, Los Angeles, Modoc, Monterey, Riverside, San Bernardino, San Francisco, San Joaquin, San
31 Mateo, Santa Clara, and Ventura Counties. These hospitals are vital to maintaining health access to
32 low-income populations.

33

34 County hospitals could not survive without federal Medicaid funds. CSAC has been firm that any
35 proposal to change hospital financing must guarantee that county hospitals do not receive less
36 funding than they currently do, and are able to receive more federal funding in the future, as needs
37 grow. California's new federal Medicaid hospital financing waiver (implemented in SB 1100,
38 Chapter 560, Statutes of 2005) provides a baseline hold harmless mechanism for county hospitals for
39 five years. Counties believe implementation of the waiver is necessary to ensure that county
40 hospitals are paid for the care they provide to Medi-Cal recipients and uninsured patients.

41

42 Counties remain concerned about the huge ramifications associated with the changes to the new
43 financing structure under the certified public expenditure (CPE) model. We are concerned that
44 individual hospitals and county health systems may be negatively impacted. It is not clear that
45 hospitals will be able to access all of the federal funds available. Additionally, the audit structure
46 provides an opportunity for the federal government to further reduce the level of federal funding for
47 county hospitals without clear advance guidelines and rules as to allowable expenditures. CSAC
48 continues to work with the California Association of Public Hospitals and Health Systems on county
49 hospital issues.

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1
2 Counties are supportive of opportunities to reduce costs for county hospitals, particularly for
3 mandates such as seismic safety requirements and nurse-staffing ratios. Therefore, counties support
4 infrastructure bonds that will provide funds to county hospitals for seismic safety upgrades, including
5 construction, replacement, renovation, and retrofit.
6

7 **Section 4: FAMILY VIOLENCE**

8
9 CSAC remains committed to raising awareness of the toll of family violence on families and
10 communities by supporting efforts that target family violence prevention, intervention, and
11 treatment. Specific strategies for early intervention and success should be developed through
12 cooperation between state and local governments, as well as community, and private organizations
13 addressing family violence issues.

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CHAPTER TWELVE

Human Services

DRAFT 2009

Section 1: GENERAL PRINCIPLES

Counties are committed to the delivery of public social services at the local level. However, counties require adequate federal and state funding, maximum local authority, and flexibility for public social services.

Not funding program costs strains the ability of counties to meet accountability standards and avoid penalties, putting the state and counties at risk for hundreds of millions of dollars in federal penalties. Freezing program funding also shifts costs to counties and increases the county share of program costs above statutory sharing ratios, while at the same time running contrary to the constitutional provisions of Proposition 1A.

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At the federal level, counties support economic stimulus efforts that help maintain services levels and access for the state's neediest residents. Counties are straining to provide services to the burgeoning numbers of families in distress. People who have never sought public assistance before are arriving at county health and human services departments. Counties report long lines in their welfare departments as increasing numbers of people apply for programs such as Medicaid, Supportive Nutrition Assistance Program (Food Stamps), Temporary Assistance to Needy Families (TANF), and General Assistance. For these reasons, counties strongly urge that any federal stimulus funding must be shared directly with counties for programs that have a county share of cost.

Counties support federal economic stimulus efforts in the following areas: An increase in the Federal Medical Assistance Percentage (FMAP) for Medicaid and Title IV-E, and benefit increases for the Supplemental Nutrition Assistance Program (SNAP); Temporary Assistance for Needy Families (TANF); the Child Abuse Prevention and Treatment Act (CAPTA); Community Services Block Grants (CSBG); child support incentive funds; and summer youth employment funding.

Prior to Proposition 13 in 1978, property taxes represented a stable and growing source of funding for county-administered human services programs. Until SB 154 (1978) and AB 8 (1979), there was a gradual erosion of local control in the administration of human services due to legislation and regulations promulgated by the state, which included dictating standards, service levels and administrative constraints.

Despite state assumption of major welfare program costs after Proposition 13, counties continue to be hampered by state administrative constraints and cost-sharing requirements, which ultimately affect the ability of counties to provide and maintain programs. The state should set minimum standards, allowing counties to enhance and supplement programs according to each county's local needs. To the extent the state implements performance standards, it should also fully pay the costs for meeting such requirements.

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Counties also support providing services for indigents at the local level. However, the state should

1 assume the principal fiscal responsibility for administering programs such as General Assistance.
2 The structure of federal and state programs must not shift costs or clients to county level programs
3 without full reimbursement.

4

5 **Section 2: HUMAN SERVICES FUNDING DEFICIT**

6

7 While counties are legislatively mandated to administer numerous human services programs including
8 Foster Care, Child Welfare Services, CalWORKs, Adoptions, and Adult Protective Services, funding for
9 these services is frozen at 2001 cost levels. The state's failure to fund actual county cost increases has
10 led to a growing funding gap of nearly \$1 billion *annually*. This puts counties in the untenable position
11 of backfilling the gap with their own limited resources or cutting services that the state and county
12 residents expect us to deliver.

13

14 Not funding program costs strains the ability of counties to meet accountability standards and avoid
15 penalties, putting the state and counties at risk for hundreds of millions of dollars in federal penalties.
16 Freezing program funding also shifts costs to counties and increases the county share of program costs
17 above statutory sharing ratios, while at the same time running contrary to the constitutional provisions of
18 Proposition 1A.

19

20 Counties oppose instituting performance standards and giving counties a share in penalties without first
21 ensuring reasonable and predictable funding reflective of county statutory and programmatic
22 responsibilities. Counties call for a solution to this issue that provides fair, predictable and ongoing
23 funding for counties to deliver human services programs on behalf of the state.

24

25

26 **Section 3: CHILD WELFARE SERVICES/FOSTER CARE**

27

28 A child deserves to grow up in an environment that is healthy, safe, and nurturing. To meet this
29 goal, families and caregivers should have access to public and private services that are
30 comprehensive and collaborative.

31

32 The existing approach to budgeting and funding child welfare services was established in the mid-
33 1980's. Since that time, dramatic changes in child welfare policy have occurred, as well as
34 significant demographic and societal changes, impacting the workload demands of the current
35 system. Based on the results of the SB 2030 study which provided an updated social worker
36 workload/yardstick in 2000, California's method of budgeting and financing child welfare services
37 needs to be changed. The study confirms that the current financing does not meet the actual
38 workload demands. Additionally, these policy changes necessitate a reevaluation of the required
39 county contribution to child welfare services. Counties support state assumption of an additional
40 portion of non-federal child welfare services costs.

41

42 The ideal focus of children's services is to expand the capacity of families and caregivers to meet the
43 needs of their children. Counties believe that this focus continues to be in jeopardy. While there has
44 been some movement in recent years, the preponderance of spending for child welfare services
45 remains dedicated to court and placement activities, rather than supportive, family-based
46 interventions. Counties have and will continue to provide immediate leadership to focus and obtain
47 additional resources for family preservation and support services.

48

49 When, despite the provision of voluntary services, the family or caregiver is unable to minimally

1 ensure or provide a healthy, safe, and nurturing environment, a range of intervention approaches will
2 be undertaken. When determining the appropriate intervention approach, the best interest of the
3 child should always be the first consideration. These efforts to protect the best interest of children
4 and preserve families may include:

- 5
- 6 1. A structured family plan involving family members and all providers, with specific goals and
7 planned actions;
- 8 2. A family case planning conference;
- 9 3. Intensive home supervision; and/or
- 10 4. Juvenile and criminal court diversion contracts.

11

12 When a child is in danger of physical harm or neglect, either the child or alleged offender may be
13 removed from the home, and formal dependency and criminal court actions may be taken. Where
14 appropriate, family preservation and support services should be provided.

15

16 When parental rights must be terminated, counties support a permanency planning process that
17 quickly places children in the most stable environments, with adoption being the permanent
18 placement of choice. Counties support efforts to accelerate the judicial process for terminating
19 parental rights in cases where there has been serious abuse and where it is clear that the family
20 cannot be reunified. Counties also support adequate state funding for adoption services.

21

22 Furthermore, counties seek to obtain additional funding and flexibility at both the state and federal
23 levels to provide robust transitional services to foster youth such as housing, employment services,
24 and increased access to aid up to age 25. Counties also support such ongoing services for former and
25 emancipated foster youth to help ensure the future success of this vulnerable population.

26

27 With regards to case- and workload standards in child welfare, counties remain concerned about
28 increasing workloads and decreasing funding, both of which threaten the ability of county child
29 welfare agencies to meet their federal and state mandates in serving children and families impacted
30 by abuse and neglect.

31

32 Existing child welfare budgeting standards, based on 1984 workload considerations, are at best
33 outdated and at worst woefully inadequate. The SB 2030 Child Welfare Workload Study conducted
34 by the University of California at Davis established minimum and optimal caseload standards in
35 2000, and subsequent legislation required the development of a plan to implement the findings of the
36 SB 2030 Workload Study. This plan was released June 2002; however, budget constraints have
37 since prevented the state from allocating sufficient funding to implement the study's
38 recommendations even to the minimum level recommended. Counties support the implementation of
39 the study's recommendations as well as a reexamination of reasonable caseload levels at a time when
40 cases are becoming more complex, often more than one person is involved in working on a given
41 case, and when extensive records have to be maintained about each case. In the absence of
42 implementation, counties support ongoing augmentations for Child Welfare Services to partially
43 mitigate workload concerns and the resulting impacts to children and families in crisis.

44 As our focus remains on the preservation and empowerment of families, we believe the potential for
45 the public to fear some increased risk to children is outweighed by the positive effects of a research-
46 supported family preservation emphasis. Within the family preservation and support services
47 approach, the best interest of the child should always be the first consideration. The Temporary
48 Assistance for Needy Families (TANF) and California Work Opportunity and Responsibility to Kids

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1 (CalWORKs) programs allow counties to take care of children regardless of the status of parents.

2

3 **Section 4: EMPLOYMENT AND SELF- SUFFICIENCY PROGRAMS**

4

5 There is strong support for the simplification of the administration of public assistance programs.
6 The state should continue to take a leadership role in seeking state and federal legislative and
7 regulatory changes to achieve simplification, consolidation, and consistency across all major public
8 assistance programs, including Temporary Assistance for Needy Families (TANF), California Work
9 Opportunity and Responsibility to Kids (CalWORKs), Medicaid, Medi-Cal, and Food Stamps. In
10 addition, electronic technology improvements in welfare administration are an important tool in
11 obtaining a more efficient and accessible system.

12

13 California counties are far more diverse from county to county than many regions of the United
14 States. The state's welfare structure should recognize this and allow counties flexibility in
15 administering welfare programs. Each county must have the ability to identify differences in the
16 population being served and provide services accordingly, without restraints from federal or state
17 government. There should, however, be as much uniformity as possible in areas such as eligibility
18 requirements, grant levels and benefit structures. To the extent possible, program standards should
19 seek to minimize incentives for public assistance recipients to migrate from county to county within
20 the state.

21

22 A welfare system that includes time limits on assistance should also provide sufficient federal and
23 state funding for education, job training, child care, and support services that are necessary to move
24 recipients to self-sufficiency. There should also be sufficient federal and state funding for retention
25 services, such as childcare and additional training, to assist former recipients in maintaining
26 employment. Any state savings from the welfare system should be directed to counties to provide
27 assistance to the affected population for programs at the counties' discretion, such as General
28 Assistance, indigent health care, job training, child care, mental health, alcohol and drug services,
29 and other services required to accomplish welfare-to-work goals. In addition, federal and state
30 programs should include services that accommodate the special needs of people who relocate to the
31 state after an emergency or natural disaster. It is only with adequate resources and flexibility that
32 counties can truly address the fundamental barriers that many families have to self-sufficiency.

33

34 The state should assume the principal fiscal responsibility for the General Assistance program.

35

36 Welfare-to-work efforts should focus on prevention of the factors that lead to poverty and welfare
37 dependency including unemployment, underemployment, a lack of educational opportunities, food
38 security issues, and housing problems. Prevention efforts should also acknowledge the responsibility
39 of absent parents by improving efforts for absent parent location, paternity establishment, child
40 support award establishment, and the timely collection of child support.

41

42 California's unique position as the nation's leading agricultural state should be leveraged to increase
43 food security for its residents. Also, with the recent economic crisis, families and individuals are
44 seeking food stamps and food assistance at higher rates. Counties support increased nutritional
45 supplementation efforts at the state and federal levels, including increased aid, longer terms of aid,
46 and increased access for those in need.

47

48 Counties also recognize safe, dependable and affordable child care as an integral part of attaining

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1 and retaining employment and overall family self-sufficiency, and therefore support efforts to seek
2 additional funding to expand child care eligibility, access and quality programs.

3
4 Finally, counties support efforts to address housing supports and housing assistance efforts at the
5 state and local levels. Long-term planning, creative funding, and accurate data on homelessness are
6 essential to addressing housing security and homelessness issues.

7
8 **Section 5: CHILD SUPPORT ENFORCEMENT PROGRAM**

9
10 Counties are committed to strengthening the child support enforcement program through
11 implementation of the child support restructuring effort of 1999. Ensuring a seamless transition and
12 efficient ongoing operations requires sufficient federal and state funding and must not result in any
13 increased county costs. Further, the state must assume full responsibility for any federal penalties for
14 the state's failure to establish a statewide automated child support system. Any penalties passed on
15 to counties would have an adverse impact on the effectiveness of child support enforcement or other
16 county programs.

17
18 More recently, the way in which child support enforcement funding is structured prevents many
19 counties from meeting state and federal collection guidelines and forces smaller counties to adopt a
20 regional approach or, more alarmingly, fail outright to meet existing standards. Counties need an
21 adequate and sustainable funding stream to ensure timely and accurate child support enforcement
22 efforts, and must not be held liable for failures to meet guidelines in the face of inadequate and
23 inflexible funding.

24
25 Moreover, a successful child support enforcement program requires a partnership between the state
26 and counties. Counties must have meaningful and regular input into the development of state
27 policies and guidelines **regarding child support enforcement.**

28
29 **Section 6: PROPOSITION 10: THE FIRST FIVE COMMISSIONS**

30
31 Proposition 10, the California Children and Families Initiative **of 1998**, provides significant
32 resources to enhance and strengthen early childhood development. Local children and families
33 commissions (First 5 Commissions), established as a result of the passage of Proposition 10, must
34 maintain the full discretion to determine the use of their share of funds generated by Proposition 10.
35 Further, local First 5 commissions must maintain the necessary flexibility to direct these resources to
36 the most appropriate needs of their communities, including childhood health, childhood
37 development, nutrition, school readiness, child care and other critical community-based programs.
38 Counties oppose any effort to diminish Proposition 10 funds or to impose restrictions on their local
39 expenditure.

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40
41 In recognition that Proposition 10 funds are disseminated differently based on a county's First 5
42 Commission structure and appropriated under the premise that local commissions are in a better
43 position to identify and address unique local needs, counties oppose any effort to lower or eliminate
44 the state's support for county programs with the expectation that the state or local First
45 5 commissions will backfill the loss with Proposition 10 revenues.

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46
47 **Section 7: REALIGNMENT**

48

1 In 1991, the state and counties entered into a new fiscal relationship known as realignment.
2 Realignment affects health, mental health, and social services programs and funding. The state
3 transferred control of programs to counties, altered program cost-sharing ratios, and provided
4 counties with dedicated tax revenues from the sales tax and vehicle license fee to pay for these
5 changes.

6
7 Counties support the concept of state and local program realignment and the principles adopted by
8 CSAC and the Legislature in forming realignment. Thus, counties believe the integrity of
9 realignment should be protected. However, counties strongly oppose any change to realignment
10 funding that would negatively impact counties. Counties remain concerned and will resist any
11 reduction of dedicated realignment revenues or the shifting of new costs from the state and further
12 mandates of new and greater fiscal responsibilities in this partnership program.

13 14 **Section 8: FAMILY VIOLENCE**

15
16 CSAC remains committed to raising awareness of the toll of family violence on families and
17 communities by supporting efforts that target family violence prevention, intervention, and
18 treatment. Specific strategies for early intervention and success should be developed through
19 cooperation between state and local governments as well as community and private organizations
20 addressing family violence issues.

21 22 **Section 9: AGING AND DEPENDENT ADULTS**

23
24 California is already home to more older adults than any other state in the nation, and the state's
25 65 and older population is expected to double over the next 25 years, from 3.5 million in 2000 to
26 8.2 million in 2030. The huge growth in the number of older Californians will affect how local
27 governments plan for and provide services, running the gamut from housing and health care to
28 transportation and in-home care services. While many counties are addressing the needs of their
29 older and dependent adult populations in unique and innovative ways, all are struggling to
30 maintain basic safety net services in addition to ensuring an array of services needed by this
31 aging population.

32
33 Counties support reliable funding for programs that affect older and dependent adults, such as
34 Adult Protective Services and In-Home Supportive Services, and oppose any funding cuts, or
35 shifts of costs to counties, from either the state or federal governments. Furthermore, counties are
36 committed to addressing the unique needs of older and dependent adults in their communities,
37 and support collaborative efforts to build a continuum of services as part of a long-term system
38 of care for this vulnerable but vibrant population.

39 40 **Adult Protective Services**

41
42 The Adult Protective Services (APS) Program is the state's safety net program for abused and
43 neglected adults and is administered at the local level by counties. As such, counties provide
44 around-the-clock critical services to protect the state's most vulnerable seniors and dependent
45 adults from abuse and neglect. Timely response by local APS is critical, as studies show that elder
46 abuse victims are 3.1 times more likely to die prematurely than the average senior.

47

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1 Unfortunately, the APS program has been underfunded since its inception in 1999, and cut by 10
2 percent in 2008-09 (also proposed for 2009-10). The 10 percent cut resulted in a loss of 75
3 social workers and 18,775 reports of abuse and neglect going unanswered statewide. These
4 cuts come at a time of rising demand in reported cases of abuse and neglect for this population –
5 reports have increased by 34 percent since 2000. In 2006, statewide county APS programs
6 conducted 83,850 investigations, which represent a 31 percent increase in investigations since
7 2000. Additionally, there are a growing number of seniors being targeted by financial predators.
8 Since 2001, there has been a 21 percent increase in the number of financial abuse cases reported.
9 Additionally, the lack of funding adjustments for inflation exacerbates the funding shortfall,
10 resulting in an annual loss of \$49.0 million (\$31.5 million GF) to APS for direct services to
11 abused and neglected seniors and dependent adults.

12
13 Counties support efforts to increase funding for APS based on caseload and administrative costs
14 and strongly oppose any reductions to an already underfunded program. The consequences of
15 additional cuts will threaten the health and financial stability of older adults across the state, and
16 could ultimately result in untimely and undignified deaths. Additionally, cuts to APS will impact
17 other local agencies including local law enforcement and emergency services, such as paramedic
18 response, and may lead to premature placement into nursing home care at an increased cost to
19 taxpayers.

20 21 In-Home Supportive Services

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22
23 The In-Home Supportive Services (IHSS) program is a federal Medicaid program administered
24 by the state and run by counties that enables program recipients to hire a caregiver to provide
25 services that enable that person to stay in his or her home safely. Individuals eligible for IHSS
26 services are disabled, age 65 or older, or those who are blind and unable to live safely at home
27 without help. All Supplementary Income/ State Supplemental Payment recipients are also eligible
28 for IHSS benefits if they demonstrate an assessed need for such services.

29
30 County social workers evaluate prospective and ongoing IHSS recipients, who may receive
31 assistance with such tasks as housecleaning, meal preparation, laundry, grocery shopping,
32 personal care services such as bathing, paramedical services, and accompaniment to medical
33 appointments. Once a recipient is authorized for service hours, the recipient is responsible for
34 hiring his or her provider. Although the recipient is considered the employer for purpose of
35 hiring, supervising, and firing their provider, state law requires counties to establish an
36 “employer of record” for purposes of collective bargaining to set provider wages and benefits.
37 State law also governs cost-sharing ratios between the state and counties for provider wages and
38 benefits.

39
40 IHSS cases are funded by one of three programs in California: the Personal Care Services
41 Program (supported by federal Medicaid funds, state funds and county funds), the IHSS Residual
42 Program (supported by state and county funds), or the IHSS Plus Waiver (supported by federal
43 Medicaid funds, state funds and county funds). IHSS Program Administration is supported by a
44 combination of federal, state and local dollars.

45

1 Costs and caseloads for the program continue to grow. State General Fund costs for the IHSS
2 program have quadrupled over the last 10 years (1998-2008). Federal funds have almost
3 quadrupled. County costs have grown at slightly slower pace – tripling over ten years. According
4 to the Department of Social Services, caseloads are projected to increase between five and seven
5 percent annually going forward.

6
7 Funding to counties to administer the IHSS program has seriously eroded and threatens service
8 quality. Since 2001, counties have not received any funding to cover increases in the cost of
9 administering the IHSS program. The Governor’s veto of \$15 million in the 2008-09 budget
10 exacerbated this problem and will result in 100 fewer social workers to assess and serve needy
11 clients. Program cuts, combined with this failure to fund actual county costs to administer the
12 program, will result in annual under-funding of IHSS administration by \$72.3 million (\$30.1
13 million GF) in 2009-10. In addition, the State’s budgeting yardstick for the program, which was
14 inadequate when it was established in 1993, has remained relatively unchanged despite program
15 changes over the years. This yardstick assumes that county workers need only 11.58 hours per
16 client per year to provide a number of services to administer the program, including recipient
17 enrollment into the program, individualized in-home assessments, coordinating with other
18 service providers for care, and enrolling providers and processing provider timesheets. Factoring
19 in the lack of cost increases for the program reduces the funding level of service hours to just
20 over 8 hours per client per year.

21
22 Counties support the continuation of federal and state funding for IHSS, and oppose any efforts
23 to shift IHSS costs to counties. Counties also strongly support the continuation of services to
24 clients served through the IHSS Plus Waiver, which was granted by the federal Department of
25 Health and Human Services in August of 2004. Furthermore, counties are committed to working
26 with the appropriate state departments and stakeholders to draft, submit, and implement a new
27 plan to continue federal support of the program.

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March 2, 2009

To: CSAC Board of Directors

From: Supervisor Mike McGowan, Chair, CSAC Housing, Land Use, & Transportation Policy Committee

Re: **Biannual Update of the CSAC Platform: Housing, Land Use, & Transportation Related Revisions**

Recommendation: The CSAC Housing, Land Use, and Transportation (HLT) Policy Committee recommends the proposed revisions to chapters seven and eleven of the County Platform as well as the adoption of new platform chapters on Native American Issues and Climate Change.

Background. CSAC is in the process of its biannual update of the CSAC Platform, which consists of fourteen chapters of general principles and policy direction for the association. All revisions included in this document have been fully vetted by the CSAC HLT Policy Committee.

Policy Considerations. During the CSAC Annual Meeting in December 2008, the CSAC HLT Policy Committee met and discussed updates to Chapter Seven on Planning, Land Use, and Housing, Chapter Eleven on Transportation and Public Works, and newly created chapters on Native American Issues and Climate Change which are based in whole on existing CSAC policy. The Committee adopted all of staff's proposed changes and made two additional suggestions to be incorporated into the final revision being presented to the Board for action. See attached document for specific changes.

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.

Planning, Land Use and Housing

Section 1: GENERAL PRINCIPLES

General purpose local government performs the dominant role in the planning, development, conservation, and environmental processes. Within this context it is essential that the appropriate levels of responsibility of the various levels of government be understood and more clearly defined. These roles at the state, regional, county, and city level contain elements of mutual concern; however, the level of jurisdiction, the scale of the problem/issue, available funding and the beneficiaries of the effort do permit distinct and separate treatment.

The following policies attempt to capture these distinctions and are intended to assist government at all levels to identify its role, pick up its share of the responsibility, and refrain from interfering with the details of how other agencies carry out their responsibility.

The housing needs throughout the state, lack of revenue, and controversial planning law in the area of housing have resulted in the need for new focus on housing planning law. Housing principles are identified and included under a separate heading in this section.

Counties are charged with comprehensive planning for future growth, the management of natural resources and the provision of [a variety of public services both within the unincorporated and incorporated areas](#).

Although [Agriculture and Natural Resources](#) are in this Platform as a separate chapter, there is a correlation between Planning and Land Use, and [Agriculture and Natural Resources](#) (Chapter III). [These two](#) chapters are to be viewed together on matters where the subject material warrants.

[Additionally, climate change and the release of greenhouse gases \(GHGs\) into the atmosphere have the potential to dramatically impact our environment, land use, public health, and our economy. Due to the overarching nature of climate change issues this chapter should also be viewed in conjunction with Chapter XV, which outlines CSAC's climate change policy.](#)

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Counties have and should retain a primary responsibility for basic land use decisions.

Counties are concerned with the need for resource conservation and development, maintaining our economic and social well being, protecting the environment and guiding orderly population growth and property development.

Counties are responsible for preparing plans and implementing programs to address land use, transportation, housing, air quality, water distribution and quality, solid waste, and liquid waste, among other issues.

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Counties play a major role in facilitating inter-jurisdictional cooperation between all levels of government in order to achieve the balanced attainment of these objectives.

Counties must have sufficient funding from state sources to meet state mandated planning programs.

Counties define local planning needs based on local conditions and constraints.

Section 2: THE COUNTY ROLE IN LAND USE

A. General Plans and Development

Counties should protect vital resources and sensitive environment from overuse and exploitation. General and specific plans are intended to be policy documents to be administered and implemented at the local level. State guidelines can serve as standards to insure uniformity of method and procedure, but not content.

State requirements for general plan adoption should be limited to major planning issues and general plan mandates should include the preparation of planning elements only as they pertain to particular counties. Zoning and other implementation techniques should be a logical consequence to well thought out and locally certified plans. Counties support a general plan judicial review process which first requires exhaustion of remedies before the Board of Supervisors, within a set time period, with further judicial review to be limited to matters directly related to the initial hearing record and based upon a substantial evidence test.

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Land use and development problems and their solutions differ from one area to another and require careful analysis, evaluation, and appraisal at the local government level. Local government is the best level of government to equitably, economically and effectively solve such problems. Further, it is important that other public agencies, (e.g. federal, state, [regional](#), [cities](#), special districts, etc.) participate in the local general planning process to avoid conflicts with future local decisions that are consistent with the general plan.

Policy development and implementation should include meaningful public participation, full disclosure and wide dissemination in advance of adoption.

B. Public Facilities and Service

Within the framework of the general plan, counties should protect the integrity and efficiency of newly developing unincorporated areas and urban [cores](#) by prohibiting fringe area development, which would require services and compete with existing infrastructure. Counties should accept responsibility for community services in newly developing unincorporated areas where no other appropriate entity exists.

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In the absence of feasible incorporation, County Service Areas or Community Service Districts are appropriate entities to provide needed services for urbanizing areas. They work against proliferation of single purpose districts, allow counties to charge the actual user for the service, permit direct control by the Board of Supervisors, and set the basis of reformation of multi-purpose districts.

County authority to require land and/or in-lieu fees to provide public facilities in the amount needed to serve new development must be protected.

C. Environmental Analysis

Environmental Impact Reports (EIR) are intended to be important informational documents to be constructively used in decision-making processes, but not as predicates for legal action.

The EIR process and requirements should be simplified wherever possible including the preparation of a master environmental document and use of tiered EIRs. The length of environmental reports should be minimized without impairing the quality. Further, other public agencies (federal, state, [regional](#), [affected local jurisdictions](#), special districts, etc.) should participate in the environmental assessment process for plans and projects in order to provide a

thorough review and analysis up front and avoid conflicts in future discretionary actions.

Counties should continue to assume lead agency roles where projects are proposed in unincorporated territory requiring discretionary action by the county and other jurisdictions.

Most EIRs should include economic and social data when applicable; however, this data should not be made mandatory.

D. Coast Development

Preservation, protection, and enhancement of the California coastline is the planning responsibility of each county and city with shoreline within its boundaries. Planning regulation and control of land use are the implementation tools of county government whenever a resource is used or threatened.

Counties are committed to preserve and provide access to the beaches and support where appropriate beach activities, boating activities, and other recreational uses in developing and implementing precise shoreline plans and appropriate zoning. Comprehensive plans should also include preservation of open space, development of commercial and recreational small craft harbor facilities, camping facilities, and commercial and industrial uses.

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Counties should coordinate with the Association of Local Governments for protection and development of the coastline as implementation of Local Coastal Plans proceeds.*

Local jurisdictions must have the statutory and legal authority to implement coastline programs.

E. Open Space Lands

Counties support open space policy which states an intent to preserve open space lands and ensures that local government will be responsible for developing and implementing open space plans and programs.

In order for counties to fully implement open space plans, it will be necessary to have:

1. Condemnation powers for open space purposes.
2. Additional revenues for local open space acquisition programs.
3. Reimbursement to local agencies for property tax losses.
4. Greater use of land exchange powers.

5. Protection of current agricultural production lands through the purchasing of development rights.

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In some cases, open space easements should be created and used by local jurisdictions to implement open space programs. Timber preserve zones and timber harvesting rules should enhance protection of this long-term renewable resource.

Section 3: STATE ROLE IN LAND USE

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Local government recognizes that state government has a legitimate interest in proper land use planning and utilization of those lands which are of critical statewide concern. The state interest shall be statutorily defined and strictly limited to those lands designated to be critical statewide concern in concert with attainable and specified state goals and policies.

The state shall concisely determine the precise statewide interest in each designated area of critical statewide concern and its participation in land use decisions in those designated areas shall be strictly limited to insuring the defined state interest is protected at the local level. Any regulatory activity necessary to preserve the determined statewide interest shall be carried out by local government.

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Climate change is one such issue of statewide concern which requires a clear understanding of the roles and responsibilities of each level of government as well as the State's interest in land use decisions to ensure statewide climate change goals are met. Population growth in the state is inevitable, thus climate change strategies will affect land use decisions in order to accommodate and mitigate the expected growth in the state. Local government, as the chief land use decision-maker and integral part of the housing planning process, must have a clearly defined role and be supported with the resources to achieve the State's climate change goals.

In determining those lands of crucial statewide concern, a mechanism should be created which ensures significant local involvement through a meaningful state/local relationship. The state should prepare a statewide plan that reconciles the conflicts between the various state plans and objectives in order to provide local governments with greater certainty of areas of statewide concern. This is not intended to expand the State's authority over land use decisions; rather it should clarify their intent in relation to capital projects of statewide significance.

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Adequate financial resources shall be provided to insure local government has the ability to carry out state-mandated local requirements.

Section 4: REGIONAL GOVERNMENTS

Counties support voluntary participation within regional agencies as appropriate to resolve regional problems throughout the State. Regional approaches to planning and resolution to issues that cross-jurisdictional boundaries are increasingly important, particularly in light of the continuation of California’s expected population growth of 600,000 new residents annually.

Regional agencies in California play an important role in the allocation of regional housing need numbers, programming of Federal and State transportation dollars, in addressing air quality non-attainment problems, and climate change to name a few. Regional collaboration remains an important goal to address issues associated with growth in California, such as revenue equity issues, service responsibilities, a seamless transportation network, reducing GHGs and tackling climate change, job creation, housing, agricultural and resource protection, and open space designation.

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However, land use decisions shall remain the exclusive province of cities and counties based on zoning and police powers granted to them under the State Constitution. Further, cities and counties are responsible for a vast infrastructure system, which requires that cities and counties continue to receive direct allocations of revenues to maintain, operate and expand a variety of public facilities and buildings under their jurisdiction. As an example, cities and counties own and operate 82 percent of the State’s maintained miles, thus must retain direct allocations of transportation dollars to address the needs of this critical network and protect the public’s existing investment.

Regional approaches to tax sharing and other financial agreements are appropriate and often necessary to address service needs of future populations; however, cities and counties must maintain financial independence and continue to receive discretionary and program dollars directly. Counties, support voluntary revenue-sharing agreements for existing revenues at the regional level, and any mandated revenue sharing must be limited to new revenues.

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Regional agencies must consider financial incentives for cities and counties that have resource areas or farmland, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system, farm to market, and interconnectivity transportation needs.

Regional agencies should also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the GHG emissions reductions targets by implementing policies for growth to occur within their cities.

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Section 5: SPECIAL DISTRICTS

Local Agency Formation Commissions (LAFCOs) have been generally successful at regulating incorporations, annexations, and the formation of new special districts. The large number of independent special districts does constitute a fragmentation of local government. There are many fully justified districts, which properly serve the purpose for which they were created. However, there are districts whose existence is not "defensible." Nothing is served by rhetorically attacking "fragmentation." LAFCO should retain the authority to evaluate special districts to test their value to the community for whom they were initially formed to serve and identify those districts, which no longer serve the purposes for which they were created.

Section 6: HOUSING

Housing is an important element of economic development. The responsibility to meet the State's housing needs must be borne by all levels of government and the private sector. CSAC supports a role by the state Department of Housing and Community Development that focuses on assisting local governments in financing efforts and advising them on planning policies--both of which strive to meet the State's housing needs. HCD's role should focus on production of housing, rather than an onerous planning and compliance process that detracts from local governments' ability to seek funding and actually produce housing. Counties support the following principles in relation to housing:

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1. Reform housing element law. Existing housing element law must be improved. A greater emphasis should be placed on obtaining financing and enabling production, rather than undertaking and meeting extensive planning requirements now found in state law. A sweeping reform of the current requirements should be undertaken. The fair share housing needs currently identified by the state and regional agencies far exceed local governments' ability to meet those needs. CSAC supports the allocation of housing needs consistent with infrastructure investment at the regional level, as well as consideration of planning factors and constraints.

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Deleted: process between the regions and local governments, consideration should be given to other planning factors.

State law should contain uniform, measurable performance standards based on reasonable goals for construction, preservation, rehabilitation, the homeless and those with special needs, and land supply. In addition to the development of meaningful performance standards, state and federal laws, regulations and practices should be streamlined to promote local government flexibility and creativity in the adoption of local housing elements, comprehensive housing assistance strategies and local plans and programs.

2. Identify and generate a variety of financing resources and subsidy mechanisms for affordable housing. Greater funding and financing sources need to be developed to address California's housing needs, particularly with the reduction of federal and state contributions in recent years. The need for new housing units at all income levels exceed the number of new units for which financing and subsidies will be available each year. Therefore, additional funding is necessary to insure (a) production of new subsidized units, and (b) adequate funds for housing subsidies to households. Policies should be established to encourage continued flow of capital to market rate ownership housing in order to assure an adequate supply of low-cost, low-down payment mortgage financing. In addition, a need exists to educate the building and private financial community on the opportunities, which exist with the affordable housing submarket so as to encourage new investments.
3. Restructure local government funding to support housing affordability. The current property and sales tax systems in California are not supportive of housing development and work against housing affordability. In other words, housing is not viewed as a "fiscal winner" by local governments as they make land use and policy decisions. To the extent possible (given constitutional restrictions) local government finance should be restructured at the state level to improve the attractiveness and feasibility of affordable housing development at the local level. At a minimum, there should be better mechanisms to allow and encourage local governments to share tax revenues.
4. Promote a full range of housing in all communities. Local governments, builders, the real estate industry, financial institutions and other concerned stakeholders should recognize their joint opportunities to encourage a full range of housing and should work together to achieve this goal. This will require a cooperative effort from the beginning of the planning and approval process as well as creatively applying incentives and development standards, minimizing regulations and generating adequate financing. Using this approach, housing will become more affordable and available to all income groups.

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5. Establish federal and state tax incentives for the provision of affordable housing. The tax codes and financial industry regulations need to be revised to provide stimulus to produce affordable housing, particularly for median, low and very low-income households. The concept of household-based assistance, such as the current mortgage credit certificate, should be extended to all types of affordable housing.

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These principles must be taken as a whole, recognizing the importance of their interdependence. These principles provide a comprehensive approach to address the production of housing, recognizing the role of counties, which is to encourage and facilitate the production of housing. They should not be misinterpreted to hold counties responsible for the actual production of housing, instead they should recognize the need for various interests to cooperatively strive to provide affordable housing to meet the needs of California.

Deleted: The state Department of Housing and Community Development should be limited to an advisory role over local housing elements and planning policies.*

CHAPTER ELEVEN

Transportation and Public Works

Section 1: GENERAL PRINCIPLES

Transportation services and facilities are essential for the future well-being of the State of California. A balanced transportation system utilizes all available means of travel cooperatively and in a mutually complimentary manner to provide a total service for the needs of the community.

Transportation services should also responsibly meet the competing future needs of all segments of industry and society with maximum coordination and reasonable amounts of free choice for the consumer of the transportation service.

Balanced transportation does not simply mean the provision of highways or public transit devices. A balanced transportation system is a method of providing services for the mobility requirements of people and goods according to rational needs.

Transportation systems must be fully integrated with planned land use; support the lifestyles desired by the people of individual areas; and be compatible with the environment by considering air and noise pollution, aesthetics, ecological factors, cost benefit analyses, and energy consumption measures.

Counties also recognize that climate change and the release of greenhouse gases (GHGs) into the atmosphere have the potential to dramatically impact our environment, land use decisions, transportation networks, and the economy. Due to the overarching nature of climate change issues, all sections in this chapter should be viewed in conjunction with Chapter XV, which outlines CSAC's climate change policy.

Transportation systems should be designed to serve the travel demands and desires of all the people of the state, recognizing the principles of local control and the unique restraints of each area. Local control recognizes that organizational and physical differences exist and that governments should have flexibility to cooperatively develop systems by which services are provided and problems resolved.

Section 2: BALANCED TRANSPORTATION POLICY

A. System Policy and Transportation Principles

Government belongs as close to the people and their related problems as possible. The system of transportation services, similarly, must recognize various levels of need and function.

It is of statewide interest to provide for a balanced, [seamless, multi-modal](#) transportation system on a planned and coordinated basis consistent with social, economic, political, and environmental goals within the state.

Rural and urban transportation needs must be balanced so as to build and operate a single transportation system.

Transportation systems should be an asset to present and future environmental and economic development of the state within a framework of its ability to invest. All people of the state bear a share of the responsibility to ensure proper environmental elements of the transportation system.

Maintenance needs of transportation systems must be met in order to protect existing public investment (current revenues are not keeping pace with needs of [the local road or state highway or transit](#) systems).

The local road system, a large component of the State's transportation network, is critical in order to address congestion, meet farm to market needs, address freight and goods movement, and provide access to other public transportation systems.

Public safety, particularly access for public safety services, is dependent on a well-maintained local road network.

Analysis of the cost effectiveness of all modes of transportation, existing and proposed, is needed in order to provide the most coordinated and efficient transportation system.

Additionally, repairs to local access roads that are damaged in the course of emergency operations (for example, in fighting a fire or flood) should be eligible for reimbursement under the same programs as roads which are directly damaged by the event.

System process modifications are needed to expedite project delivery and minimize project cost.

B. Financing Policy and Revenue Principles

Transportation financing needs exceed existing and foreseeable revenues despite growing recognition of these needs at all levels of government. Additional funding is required and should be supported and any new sources of funding should produce enough revenue to respond significantly to transportation needs.

As the owner and operator of a significant portion of the local system counties support continued direct funding to local governments for preservation and safety needs of that system. Further, counties support regional approaches for transportation investment purposes for capital expansion projects of regional significance and local expansion and rehabilitation projects through regional transportation planning agencies, both metropolitan planning organizations and countywide transportation agencies.

Single transportation funds--comprised of state and federal subventions--should be available at each of the local, regional and statewide levels for financing the development, operation, and/or maintenance of highways, public transit, airports or any other modal system as determined by each area in accordance with local, regional, and statewide needs and goals. The cooperative mechanisms established by counties and cities to meet multi-jurisdictional needs should be responsible for the financing, construction, operation and maintenance of regional transportation systems utilizing--as appropriate--existing transportation agencies and districts.

Federal and state funds for safety and preservation purposes should be sent directly to applicable operational levels without involvement of any intermediate level of government. Pass-through and block grant funding concepts are highly desirable.

The cost of transportation facilities and services should be fairly shared by the users and also by indirect beneficiaries.

Transportation funding should be established so that annual revenues are predictable with reasonable certainty over several years to permit rational planning for wise expenditure of funds for each mode of transportation.

Financing should be based upon periodic deficiency reports by mode to permit adjustment of necessary funding levels. Additional elements such as constituent

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acceptance, federal legislative and/or administrative actions, programmatic flexibility, and cost benefit studies should be considered.

Efforts to obtain additional revenue should include an examination of administrative costs associated with project delivery and transportation programs.

Funding procedures should be specifically designed to reduce the cost of processing money and to expedite cash flow. Maximum use should be made of existing collection mechanisms when considering additional financing methods.

In the development of long-range financing plans and programs at all levels of government, there should be a realistic appreciation of limitations imposed by time, financing, availability, and the possibility of unforeseen changes in community interest.

Rural and urban transportation funding needs must be balanced so as to build and operate a single transportation system.

Existing funding levels must be maintained with historical shares of current funding sources ensured for counties (e.g. state and federal gas tax increases, etc.).

Although significant transportation revenues are raised at the local level through the imposition of sales taxes, additional state and federal revenue sources are needed such as additional gas and sales taxes, congestion pricing, public-private partnerships, and user or transaction fees to provide a diverse financing strategy. Further, additional revenue raising authority at the local and regional level is needed (i.e. a reduction of the voting threshold to impose a local sales tax, fee and tax authority, etc.) as well as other strategies as determined by individual jurisdictions and regions.

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Transportation revenues must be utilized for transportation purposes only and purposes for which they are dedicated. They should not be diverted to external demands and needs not directly related to transportation activities.

Revenue needed for operational deficits of transit systems should be found in increased user fees, implementation of operating efficiencies and/or new sources, rather than existing sources depended upon by other modes of transportation.

Future revenues must be directed to meet mobility needs efficiently and cost effectively with emphasis on current modal use and transportation choices for the public.

C. Government Relations Policy

The full partnership concept of intergovernmental relations is essential to achieve a balanced transportation system. Transportation decisions should be made comprehensively within the framework of clearly identified roles for each level of government without duplication of effort.

Counties and cities working through their regional or countywide transportation agencies, and in consultation with the State, should retain the ability to program and fund transportation projects that meet the needs of the region.

No county or city should be split by regional boundaries without the consent of that county or city.

Counties and cities in partnership with their regional and state government, should attempt to actively influence federal policies on transportation as part of the full partnership concept.

D. Management Policy

Effective transportation requires the definite assignment of responsibility for providing essential services including fixed areas of responsibility based upon service output.

Greater attention should be devoted to delivery of overall transportation products and services in a cost-effective manner with attendant management flexibility at the implementation level of the management system.

Special transportation districts should be evaluated and justified in accordance with local conditions and public needs.

The State Department of Transportation should be responsible for planning, designing, constructing, operating, and maintaining a system of transportation corridors of statewide significance and interest. Detailed procedures should be determined in concert with regional and local government.

Restrictive, categorical grant programs at federal and state levels should be abandoned or minimized in favor of goal-oriented transportation programs which can be adjusted by effective management to best respond to the social and economic needs of individual communities.

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Deleted: Where transportation problems cross jurisdictional boundaries, cooperative regionalism should be supported in preference to arbitrarily imposed regionalism which merely moves the decision-making process farther from the people to a less responsive level of government. Counties and cities, acting through a mechanism or mechanisms established for regional decision-making, are best equipped to resolve interjurisdictional issues.*

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Policies and procedures on the use of federal and state funds should be structured to minimize "red tape," recognize the professional capabilities of local agencies, provide post-audit procedures and permit the use of reasonable local standards.

Section 3: SPECIFIC MODAL TRANSPORTATION POLICIES

A. Aviation

Air transportation planning should be an integral part of overall planning effort and airports should be protected by adequate zoning and land use. Planning should also include consideration for helicopter and other short and vertical take-off aircraft.

State and federal airport planning participation should be limited to coordination of viable statewide and nationwide air transportation systems.

Local government should retain complete control of all airport facilities, including planning, construction, and operation.

B. Streets and Highways

Highway transit--in a coordinated statewide transportation system--will continue to carry a great percentage of the goods and people transported within the state. A program of maintenance and improvement of this modal system must be continued in coordination with the development of other modal components.

Efforts to maximize utilization of transportation corridors for multi-purpose facilities should be supported.

C. Public Transit

Counties and cities should be responsible for local public transit systems utilizing existing transportation agencies and districts as appropriate.

Multi-jurisdictional public transit systems should be the responsibility of counties and cities acting through mechanisms, which they establish for regional decision-making, utilizing existing transportation agencies, and districts as appropriate.

The State should be responsible for transportation corridors of statewide significance, utilizing system concepts and procedures similar to those used for the

state highway system. Contracts may be engaged with existing transit districts and public transportation agencies to carry out and discharge these state responsibilities.

Consideration of public transit [and intercity rail](#) should be an integral part of a local agency's overall planning effort and should maximize utilization of land for multi-purpose transportation corridors.

Public transit planning should include a continuing effort of identifying social, economic, and environmental requirements.

D. Rail

Railroads play a key role in a coordinated statewide transportation system. In many communities, they form a center for intermodal transportation.

Rail carries a significant portion of goods and people within and out of the state. The continued support of rail systems will help balance the state's commuter, recreational, and long distance transportation needs. [Support for a high-speed rail system in California is necessary for ease of future travel and for environmental purposes.](#)

Rail should be considered, as appropriate, in any local agency's overall planning effort when rail is present or could be developed as part of a community.

Research and development of innovative and safe uses of rail lines should be encouraged.

E. Other

Non-motorized transportation facilities, [such as pedestrian and bicycle facilities](#) are proper elements of a balanced transportation system. Facilities for non-motorized transportation should be financed through a combination of sources best suited to the needs of the community.

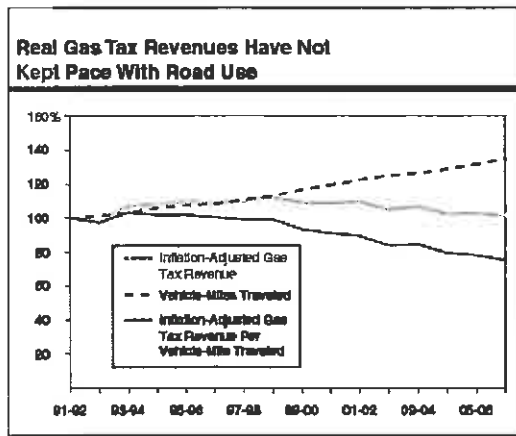
Research and development of new vehicles and propulsion units should be encouraged.

Section 4: CONCLUSION

Since 1970, transportation demands and needs have out-paced investment in the system. An examination of transportation revenues and expenditures compared to population, travel and other spending in the state budget, adjusted for inflation, shows a long period of under-investment in transportation continuing through the 1990s and into the next decade.

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Between 1990 (when the gas excise tax was increased) and 2004, California's population increased 20.6%, while travel in the state increased 36.3% and the number of registered vehicles in California increased 43.2%. According to the Legislative Analyst's Office, travel is outpacing gas tax revenue (see chart below).



Source: Legislative Analyst's Office, Budget Analysis 2006

Further, inflation has seriously eroded the buying power of gas tax dollars. While revenues from the gas tax increase in the 1990s roughly kept pace with miles traveled, with no increases since 1994, travel has now outpaced revenues, creating not only chronic congestion but also extreme wear and tear on the state highway and local road system. Further, the sufficiency of gas tax revenues to fund transportation has declined over time as cars have become more fuel efficient and as project costs have increased. Inflation-adjusted gas tax revenues declined 8% just in the last seven years.

The gas tax once funded most transportation programs in the state, including operations and construction. But the per-gallon fuel tax collected at both the state and federal levels and the state weight fees now do not even provide enough revenue to meet annual maintenance, operations, and rehabilitation needs for the state highway system (the State Highway Operation and Protection Program or SHOPP). Counties and cities dependent upon a portion of the State's gas tax revenues are in the same situation in that revenues are short of meeting their

preservation needs of the local system. Rehabilitation and preservation programs for California's aging system now consume 100% of gas tax revenues in most local jurisdictions.

The principal source of funding for improvements to the system and new capacity (the State Transportation Improvement Program or STIP) is now Proposition 42, the sales tax on gasoline. Just five years ago, the STIP was funded almost entirely from user fees. Proposition 42, however, provides no more than half the amount the State was making available for transportation improvements just a decade ago.

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The bottom line is that the current revenue system is not providing the funding necessary to maintain existing transportation systems, much less to finance operation, safety, and expansion needs.

The citizens of California have invested significant resources in their transportation system. This \$3 trillion investment is the cornerstone of the state's commerce and economic competitiveness. Virtually all vehicle, pedestrian, and bicycle trips originate and terminate on local streets and roads. Emergency response vehicles extensively use local roads to deliver public service. Public safety and mobility rely on a well-maintained transportation infrastructure. Transportation funding is important to the economy and the economic recovery of the state. Increased investment in the transportation network is essential to stimulate the economy, to improve economic competitiveness and to safeguard against loss of the public's existing \$3 trillion investment in our transportation system.

Deleted: Revenues per 100 VMT, which represent each driver's tax fee to travel 100 miles on the system, are now only 40 percent of what they were 25 years ago. Further, only 15 states have fuel tax rates lower than California's 18 cents per gallon. Only three of those, Michigan, Florida and New Jersey, are large enough to compete with California for economic development.

(The source of information for the statistics provided is from the Transportation California website and includes reports from the: California Transportation Commission (CTC), Legislative Analyst Office (LAO), United States Department of Transportation (USDOT), and Federal Highway Administration (FHWA)).

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March 5, 2009

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Telephone
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To: CSAC Executive Committee

From: CSAC Government Finance and Operations Policy Committee
CSAC Health and Human Services Policy Committee

Re: **Measures on May 19 Special Election Ballot**

Joint Policy Committee Recommendation. The CSAC Government Finance and Operations and Health and Human Services Policy Committees jointly recommend to the CSAC Executive Committee a position of "neutral" on the package of ballot measures slated for the May 19th ballot. Propositions 1A through 1F represent integral components of the budget agreement recently achieved in the Legislature and signed into law by Governor Schwarzenegger.

The Policy Committees met jointly on March 5 to discuss the measures as a package and adopted the staff recommendation of "neutral." After some discussion the committees also moved forward with considering the measures as a package, rather than individually.

Staff Comments. The staff recommendation of "neutral" was not considered lightly. After lengthy discussion about the merits of each individual measure and the political risks involved in taking affirmative or negative positions on each, staff believes that the association is unlikely to achieve consensus among its membership for a "support" or "oppose" position. In fact, we believe that for counties, along with many other affected stakeholders, the package was meant to be difficult to support or oppose in its entirety; these measures were delicately negotiated to achieve a result that would pass muster with legislators and with voters, but would also deter well-funded opposition. (We have outlined the measures' known supporters and opponents in the analysis that follows.)

Background. The 17-month budget agreement that the Governor recently signed into law includes as an integral part a special election on May 19, 2009. This election will give Californians the chance to decide several important issues before the beginning of the next fiscal year. The statewide ballot will include the six measures that the Legislature passed as part of the negotiated budget agreement; an additional measure was scheduled to be included, but has since been pushed back to the June 2010 election.

The six measures agreed to as part of the long-awaited budget compromise are:

- Proposition 1A – Creates a new, larger rainy day fund and puts new limits on state spending growth.
- Proposition 1B – Alters repayment schedule for Proposition 98 funds arguably owed by the state to K-14 districts, totaling \$9.3 billion.
- Proposition 1C – Allows state to borrow money for the General Fund, securitized by future revenue from the California Lottery.
- Proposition 1D – For five years, shifts between half and two-thirds of cigarette taxes away from the First 5 Program (Proposition 10) and into the General Fund.
- Proposition 1E – Amends the Mental Health Services Act (Proposition 63) to shift revenue funds from local programs to the benefit of the state General Fund.
- Proposition 1F – Forbids the California Citizens Compensation Commission from raising legislators' and state officers' salaries when the state is running a deficit.

The measure moved to June 2010 is:

- Proposition 13 – Excludes from reassessment structures retrofitted to better sustain earthquakes.

The six negotiated measures are closely tied to the whole budget agreement. Some of them, Propositions 1C, 1D, and 1E, provide money directly to the General Fund. Proposition 1A was a long-standing demand from both Republican caucuses for any type of budget agreement that included taxes; also, if this measure fails, the duration of the budget's tax hikes (personal income tax, sales and use tax, and vehicle license fee) is shortened to two years. Proposition 1B heads off legal and political challenges from the education community.

CSAC's Adopted Policies and Procedures

The CSAC Policy and Procedure Manual states that the CSAC Officers will assign qualified propositions to appropriate policy committees when they fall within existing policy as outlined in CSAC's Legislative Platform or pose a direct impact on county government. The officers have referred these measures to this joint meeting of the Government Finance and Operations and Health and Human Services Policy Committees. If the joint policy committees recommend a position on any measures, then those measures proceed to the CSAC Executive Committee for debate and action. If the Executive Committee votes to recommend a position on any measures, they move to the full Board of Directors for action. Any Board member can request the Board's consideration of a ballot measure not otherwise slated for discussion.

Policy Considerations.

The Measures Are a Package

Propositions 1A through 1F are an inextricable part of the budget agreement that the Governor signed earlier this month. There is no need to rehash here the long and

tortuous route that led to the agreement, except to note that the atmosphere inside the Capitol remains rancorous and the agreement is precarious. The Legislature placed these six measures on the ballot as part of the budget agreement, and they should therefore be considered as a package.

Due to CSAC's support for a balanced solution, and repeated urging to pass a budget as soon as possible to avoid fiscal meltdowns at the local level, a decision to support or oppose individual measures from this package could be taken badly by some of the legislators who negotiated and voted for the agreement. At the same time, some of the policies that the measures would implement would have a direct negative impact on counties; like all other budget stakeholders, counties did not come through the budget process unscathed.

Over this past year of budget-related wrangling, CSAC has refrained from opposing any but the most egregious proposals, with the understanding that pushing in one area merely causes another, possibly worse, proposal to surface elsewhere. In fact, CSAC indicated its support of a balanced solution several times to the Governor and legislative leaders throughout the process. The six measures described below are part of that balanced solution.

Proposition 1A

This measure changes the state's savings account from a year-to-year contingency fund to a rainy day fund that could smooth out revenue volatility. In doing so, it would cap General Fund spending increases in any year to the average growth of revenues over the previous ten years.

The rainy day fund, called the Budget Stabilization Fund (or BSF), would be filled by annual, automatic deposits of 3 percent of the state's General Fund revenue. The BSF would be considered full when it reached 12.5 percent of the General Fund.

Money could only be spent out of the BSF in certain circumstances. First, when revenues are not high enough to maintain the previous year's spending level, adjusted for population and inflation, the Legislature could appropriate enough of the BSF to reach that level. Second, BSF money could also be used to address an emergency like an earthquake.

Revenues above the growth rate of the previous ten years would have to be used in particular ways, which the measure prioritizes. They would first be used to pay funds required by Proposition 98, second to fill the BSF up to 12.5 percent of General Fund revenues, and third to pay off budgetary borrowing (such as loans authorized by local government's Proposition 1A) or other debt. If none of these are necessary, the Legislature can choose to use the money for either shoring up the BSF further, paying for infrastructure, one-time tax relief, or funding retiree liabilities like OPEBs.

The state can only avoid the automatic annual payment to the BSF if there was not enough revenue to maintain the previous year's spending level, adjusted for

population and inflation. However, if Proposition 1B passes, half of the automatic annual payment would go to schools to make up for recent budget cuts. After that, the Legislature could decide to use half of the payments to pay for infrastructure or state bond debt, possibly benefiting the General Fund.

If Proposition 1A passes, the Governor would gain new authority to make mid-year cuts without the Legislature's approval. He could reduce COLAs for any programs specified in the annual budget, though not for most state employees' salaries. He would also be allowed to reduce many types of spending for general state operations or capital outlay by up to seven percent.

Last, but certainly not least controversial, voter approval of Proposition 1A would extend three tax increases by either one or two years. The one cent sales and use tax increase would extend through 2011-12 instead of 2010-11; the VLF increase would extend through 2012-13 instead of 2010-11; and the personal income tax surcharge would extend through the 2012 tax year instead of 2010.

A portion of the VLF increase, 0.15% of the car's value, is dedicated to local public safety programs that were previously funded through the General Fund. These programs include COPS, JJCPA (juvenile justice grants), booking fees, Small and Rural County Sheriffs grants, juvenile probation, juvenile camps and ranches, and various local public safety assistance programs administered through Cal EMA (formerly OES). Of course, removing the appropriations for these programs from the General Fund, and therefore from the annual budget process, results in greater stability for their funding.

CSAC had concerns with previous versions of a cap on state spending. The chief issue has been with the fact that a spending cap does not adequately account for nearly a decade of state underappropriation for county-run social service programs. This Human Services Funding Deficit now reaches approximately \$1 billion per year, and those services would likely remain perpetually underfunded if spending is capped at current levels, absent a tax increase or significant restructuring of other state spending.

However, Proposition 1A would likely have beneficial effects in the long-term. For one thing, with a rainy day fund available for bad budget years, the Legislature would not likely be tempted to borrow property taxes as allowed by 2004's Proposition 1A. The measure would also be likely to reduce the volatility of General Fund revenues through economic cycles, providing more predictability for the state and the programs the state funds.

Two groups, Health Access and the Howard Jarvis Taxpayers Association, have filed a lawsuit claiming that the official summary of the measure is misleading, specifically that it does not mention the tax extensions associated with Proposition 1A's passage.

California Budget Reform Now, www.cabudgetreformnow.com, (an alliance of business interests including the California Chamber of Commerce, California Business Roundtable, and the California Alliance for Jobs), as well as the California State Sheriffs' Association (a CSAC affiliate), have come out in support of the measure. The budget reform group is currently leading the "Yes" campaign for all six budget-related special election ballot measures.

The argument against the measure is signed by representatives from the Congress of California Seniors, the California Faculty Association, and the Consumer Federation of California. The rebuttal to the argument for the measure is signed by representatives from Health Access California, the United Nurses Associations of California/Union of Health Care Professionals, and the Older Women's League of California.

Proposition 1A - Title & Summary
Proposition 1A - Legislative Analysis
Proposition 1A - Argument in Favor
Proposition 1A - Rebuttal to Argument in Favor
Proposition 1A - Argument Against
Proposition 1A - Rebuttal to Argument Against
Proposition 1A - Text of Proposed Law

Proposition 1B

This measure would direct a total of \$9.3 billion to K-14 districts over five years beginning in 2011-12, but only if Proposition 1A also passes. The money would be paid using funds that the Controller would otherwise deposit into the rainy day fund, as described above. Some claim that the state owes schools this much as a Proposition 98 'maintenance factor' for recent cuts.

California Budget Reform Now, www.cabudgetreformnow.com, an alliance of business interests including the California Chamber of Commerce, California Business Roundtable, and the California Alliance for Jobs, has come out in support of the measure. The group is currently leading the "Yes" campaign for all six budget-related special election ballot measures. The California Teachers Association also supports this measure.

No one submitted an argument against the measure.

Proposition 1B - Title & Summary
Proposition 1B - Legislative Analysis
Proposition 1B - Argument in Favor
Proposition 1B - Argument Against
Proposition 1B - Text of Proposed Law

Proposition 1C

This measure would allow the state to borrow against future lottery revenues (securitization) and changes the allocation of Lottery proceeds. It would also make changes to the Lottery Director's authority and the amount required to be paid to prizes.

California Budget Reform Now, www.cabudgetreformnow.com, (an alliance of business interests including the California Chamber of Commerce, California Business Roundtable, and the California Alliance for Jobs), as well as the California State Sheriffs' Association (a CSAC affiliate), have come out in support of the measure. The budget reform group is currently leading the "Yes" campaign for all six budget-related special election ballot measures.

The argument against the measure is signed by State Senator Bob Huff, as is the rebuttal to the argument for it.

Proposition 1C - Title & Summary
Proposition 1C - Legislative Analysis
Proposition 1C - Argument in Favor
Proposition 1C - Rebuttal to Argument in Favor
Proposition 1C - Argument Against
Proposition 1C - Rebuttal to Argument Against
Proposition 1C - Text of Proposed Law

Proposition 1D

This measure would redirect between half and two-thirds of the annual Proposition 10 (First 5) revenue for the fiscal years 2009-10 through 2013-14, to the benefit of the General Fund. The annual redirection would be \$268 million, for a five-year total of about \$1.4 billion. (Local First 5 commissions generally receive eighty percent of First 5 funds.) The measure states that the redirected funding would be applied to existing state early intervention and prevention services for infants and toddlers with developmental disabilities, child welfare services, adoption assistance, foster care, kinship guardianship assistance payments (Kin-GAP), and direct health care services upon appropriation by the Legislature as part of the annual budget process or in another statute. It would also transfer state First 5 reserves that are unencumbered as of July 1, 2009 to benefit the General Fund. The measure ensures that each county commission continues to receive at least \$400,000 annually.

While the annual sweep of local commission funding could be detrimental to local community programs, the funding will be directed by the state to similar – albeit existing – state-funded purposes. Furthermore, if the measure does not pass, the state may employ other methods, including additional cuts to child welfare services and health services, to address the budget crisis.

California Budget Reform Now, www.cabudgetreformnow.com, an alliance of business interests including the California Chamber of Commerce, California Business Roundtable, and the California Alliance for Jobs, has come out in support of the measure. The group is currently leading the "Yes" campaign for all six budget-related special election ballot measures.

As for opposition to the measure, the First 5 Association of California (a CSAC affiliate) has submitted a "No" statement for inclusion in the voter's guide. There is a Web site under development, www.NoOnProposition1D.com, that is expected to be live by early next week. The original supporters of Proposition 10 are expected to fund the opposition. The First 5 Association of California's board will meet March 13 to take a formal position on the measure.

Proposition 1D - Title & Summary
Proposition 1D - Legislative Analysis
Proposition 1D - Argument in Favor
Proposition 1D - Rebuttal to Argument in Favor
Proposition 1D - Argument Against
Proposition 1D - Rebuttal to Argument Against
Proposition 1D - Text of Proposed Law

Proposition 1E

This measure would redirect \$460.7 million of revenue from Proposition 63 (the Mental Health Services Act) over two fiscal years, 2009-10 and 2010-11. The money would pay for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services, which the state otherwise pays out of the General Fund. The EPSDT program provides mental health services to Medi-Cal eligible children and youth. Counties have begun providing new programs with revenue from Proposition 63, and now face the prospect of much of that money disappearing for two years. The Department of Finance estimates that Proposition 63 will generate \$981 million in fiscal year 2008-09 and \$887 million in 2009-10. The vast majority of these funds are allocated to counties by Proposition 63 to support local mental health programs and provide a broad continuum of prevention, early intervention, and other service needs, as well as the necessary infrastructure, technology, and training that support the system.

The two-year sweep of Proposition 63 funding to support state costs for the EPSDT program will be detrimental to local mental health programs. However, if the measure does not pass, the state may employ other methods, including additional cuts to local mental health funding streams, to address the budget crisis. The EPSDT program is a federal entitlement and has a legal history in California; these factors would make it difficult to cut funding for it.

Supporters of the measure include Senate President pro Tempore Darrell Steinberg and California Budget Reform Now, www.cabudgetreformnow.com, an alliance of business interests including the California Chamber of Commerce, California

Business Roundtable, and the California Alliance for Jobs. The group is currently leading the "Yes" campaign for all six budget-related special election ballot measures.

Opponents of the measure include Senator Lou Correa and the California Council of Community Mental Health Agencies (CCCMHA), who have created the following Web site: www.noprop1e.com.

In addition to leading the "No on Proposition 1E" campaign, the CCCMHA, along with Mental Health America of Los Angeles, filed a lawsuit on February 27 seeking changes to the official descriptions of the measure in the voter's guide, citing "misleading" language that may give voters the impression that passage of the measure "would protect hundreds of millions of dollars' worth of mental health programs, when in fact it cuts programs by that amount." On March 5, the parties settled on a new title and summary, as follows.

Original Ballot Title	Ensures Funding For Children's Mental Health Services. Helps Balance State Budget.
New Ballot Title	Mental Health Funding. Temporary Reallocation. Helps Balance State Budget.
Original Ballot Summary	MENTAL HEALTH FUNDING BUDGET. Helps balance the state budget and preserve funding for children's mental health services by providing temporary flexibility in the Mental Health Services Act to fund the Early and Periodic Screening, Diagnosis, and Treatment Program for children. Fiscal Impact: State General Fund savings of about \$230 million annually for two years (2009-10 and 2010-11). Corresponding reduction in funding available for Mental Health Services Act programs.
New Ballot Summary	MENTAL HEALTH FUNDING. TEMPORARY REALLOCATION. Helps balance state budget by amending the Mental Health Services Act (Proposition 63 of 2004) to transfer funds, for two years, to pay for mental health services provided through the Early and Periodic Screening, Diagnosis and Treatment program for children and young adults. Fiscal impact: State General Fund savings of about \$230 million annually for two years (2009-10 and 2010-11). Corresponding reduction in funding available for Mental Health Services Act programs.

- Proposition 1E - Title & Summary
- Proposition 1E - Legislative Analysis
- Proposition 1E - Argument in Favor
- Proposition 1E - Rebuttal to Argument in Favor
- Proposition 1E - Argument Against

Proposition 1E - Rebuttal to Argument Against
 Proposition 1E - Text of Proposed Law

Proposition 1F

This measure would prohibit pay increases for state constitutional officers and legislators in years that the Director of Finance forecasts the Special Fund for Economic Uncertainties to end the year with a negative balance.

California Budget Reform Now, www.cabudgetreformnow.com, supports the measure, as they do all of the others. The argument against is signed by an author named Pete Stahl.

- Proposition 1F - Title & Summary
- Proposition 1F - Legislative Analysis
- Proposition 1F - Argument in Favor
- Proposition 1F - Rebuttal to Argument in Favor
- Proposition 1F - Argument Against
- Proposition 1F - Rebuttal to Argument Against
- Proposition 1F - Text of Proposed Law

Overarching Impacts. The state programs funded in the 2009-10 budget and beyond are hinged to the passage of this package; if any one of them fails, the state's budget pressures only increase, exacerbating an already difficult budget situation, putting county programs funded by the state at risk, and potentially extending the state's cash crisis.

For example, if Proposition 1A passes, the tax measures in the budget package will be extended for either an additional one or two years (varies with each revenue source). Obviously, Proposition 1A fails there will be revenue shortfalls in future years. The following chart details the revenue impacts linked to Proposition 1A.

Revenue	Estimated Amount Generated in 2009-10	Expiration Date if Proposition 1A Passes	Expiration Date if Proposition 1A Fails
1¢ sales and use tax increase	\$4.5 billion	2011-12	2010-11
0.50% increase in VLF	\$1.7 billion	2012-13	2010-11
Personal income tax rate increase of 0.25%*	\$3.65 billion	Through the 2012 tax year	Through the 2010 tax year
Reduce tax credit for dependents from \$309 to \$99	\$1.4 billion	Through the 2012 tax year	Through the 2010 tax year

**Also tied to the federal economic stimulus trigger*

Additionally if Proposition 1A fails, then Proposition 1B – which provides additional funding to schools – would also fail.

If Proposition 1C fails and the state is unable to secure future lottery revenues, it would create a \$5 billion shortfall in the budget.

If Proposition 1D (First 5 revenue redirection) and Proposition 1E (Mental Health Services Act redirection) also fail, the state will be forced to revisit cuts – likely in health and human services programs. First 5 funds would offset \$268 million per year in state General Fund expenditures for five years and Mental Health Services Act funds would be directed to cover approximately \$230 million in General Fund spending on mental health.

Well over \$20 billion in revenues, borrowing, potential cuts, and increases in education spending are tied to the six May ballot measures. The package is intended to be complex. Clearly, there are elements in the package for counties to dislike – and some things to like.

Action Requested. Recommend to the CSAC Board of Directors a position of “neutral” on the entire package of measures, Proposition 1A through Proposition 1F.

**Cities, Counties & Schools Partnership
Fiscal Reform Task Force Meeting**

**Wednesday March 4, 2009
10:00 a.m. – 2:00 p.m.
California State Association of Counties
Conference Center
1029 11th Street, Sacramento, CA 95814**

Revised AGENDA

Presiding: Richard Gordon, Chair CCS Partnership; Immediate Past President California State Association of Counties; Supervisor San Mateo County

- I. **Welcome and Agenda Review**
- II. **Guest:** Assembly member Dan Logue (R) Third District, Vice Chair of Assembly Committee on Jobs, Economic Development and the Economy
- III. **Discussion**
 - A. Bay Area Council Summit on a Constitutional Convention
Public Attitudes Toward a State Constitutional Convention
http://www.bayareacouncil.org/docs/CCC_Poll.pdf
 - B. The State Budget
- IV. **Response to Request for Information**
 - A. Timeline for Constitutional Convention
http://www.bayareacouncil.org/docs/CCC_Process.pdf
 - B. 1996 Constitutional Commission
http://www.ca-ilg.org/resource_files/22394.Constitutional%20revision%20commission.htm
 - C. Chart of previous reform efforts
http://www.cacities.org/resource_files/22461.linked%20matrix.xls
 - D. Proportional Voting
- V. **Process and Timeline for Task Force Discussion**

Lunch

- VI. **Initial Ideas for Common Principles**
 - A. CSAC
 - B. CSBA
 - C. League
 - VII. **Next Meeting April 1, 2009**
 - League of California Cities
770 L Street, 8th Floor
Sacramento, CA 95817
- Adjournment**

Conference calling instructions for the Participants:

- 1. Dial the 800-867-2581
- 2. Enter the 7-digit access code: 1451567



March 4, 2009

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

To: CSAC Board of Directors

From: Paul McIntosh, CSAC Executive Director

Re: **Exploring a Constitutional Convention – History and Process**

At their meeting on January 29, the CSAC Executive Committee directed staff to explore support for a Constitutional Convention.

Background. Calling a Constitutional Convention requires a two-thirds vote of each house of the Legislature and a majority vote of the electorate. It is untested, but possible, that the electorate could amend the Constitution to allow itself to call a Constitutional Convention directly and vote to call the Convention, either on separate ballots or on the same ballot.

If the electorate approves the formation of a Constitutional Convention, then within six months the Legislature “shall provide for the convention.” This presumably includes drawing up a scheme for how many delegates there will be and appropriating any necessary funds. The Constitution only requires that the delegates “be voters elected from districts as nearly equal in population as may be practicable.” At least once, after Californians voted to convene a convention in 1933, the Legislature did not pass the enabling legislation.

The Constitutional Convention's product, a proposed new Constitution for the state, goes directly to a vote of the people at a statewide general election, and requires a majority of votes to be approved. The new Constitution is effective the following day.

Two legislators have introduced resolutions proposing to put the question of whether to call a Convention to the voters. Senate Concurrent Resolution 1 by Senator Mark DeSaulnier would simply put the question to the voters. Assembly Concurrent Resolution 1 by Mr. Sam Blakeslee does not only that, but also attempts to limit the scope of any resulting Convention to particular issues with particular goals, and attempts to set the number of delegates at 56. Other states, some of which have Constitutional Conventions fairly regularly, sometimes limit the scope of their conventions.

Assembly Member Blakeslee has a separate bill, Assembly Bill 4, that specifies that those 56 delegates are to be elected, fourteen from each Board of Equalization district. Delegates would be prohibited from holding elected or appointed office for four years following the Convention, and would be ineligible if their family members had held elected or appointed office in the previous ten years. If a Constitutional Convention were to begin looking more likely, other legislators would probably introduce bills with widely differing provisions.

California's first Constitution dates to 1849, one year before Congress admitted the state to the United States. Over the following twenty-eight years, the Legislature proposed a Constitutional Convention to the electorate four times, and finally succeeded in 1877. The Legislature provided for the Convention in 1878, and 152 delegates met in Monterey from September of that year until March of the following year. In May, the electorate ratified the new Constitution.

The voters turned down further calls for Conventions in 1898, 1914, 1928, and 1930, then approved one in 1933 as mentioned above.

In 1962, voters approved a new process for revising the Constitution, simply allowing the Legislature to propose it to the electorate by two-thirds votes in each house. The Legislature convened a Constitutional Revision Commission that lasted into the next decade, but relatively few recommendations of that Commission ever became law.

Members of the CSAC staff attended a February 24 summit on the subject, and will give the Board a verbal report on it. The attached presentation is from that summit.

Policy Considerations. Were the people of California vote to convene a Constitutional Convention, and were the Legislature to pass legislation providing for its effectiveness, everything would be up for grabs. Every effort at revision in this state has been highly political, and has required extraordinary skills of negotiation and compromise. Every issue would be open to change. It is likely that the language barring the Legislature from reallocating property tax revenues would not survive in its current form. But it is also possible that the language granting them the power to allocate property taxes in the first place would not make it in the new Constitution either. The opportunity to fix the issues counties see as critical is the same opportunity everyone else has, whether it is tax policy, social policy, local authority, the make-up of the Legislature, or school funding. As referenced above, it is most likely possible to limit the scope of a Constitutional Convention, so counties would have to take action to ensure that their issues were not excluded from consideration.

Finally, because the fortunes of counties are so closely staked to those of the state, any process that improves the state's governance and finance will almost certainly strengthen county governments.

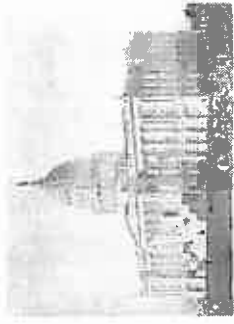
Requested Action. No action is necessary at this time.

California Constitutional Convention:



Process

**By: Andrew Giacomini, Managing Partner,
Hanson Bridgett LLP**



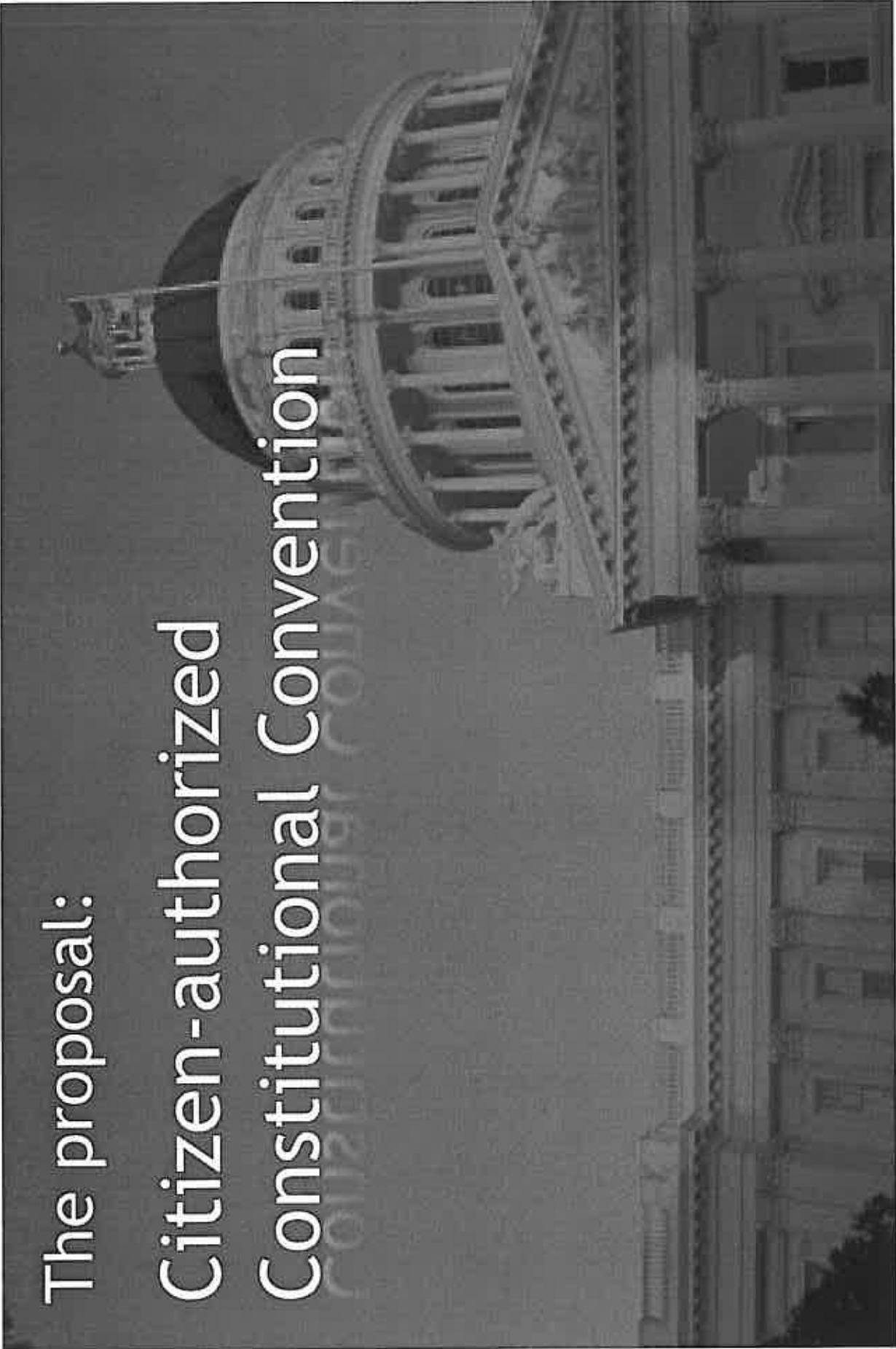
History of conventions in California

- First constitution written in 1849
- Constitutional Convention in 1878-1879
 - Produced current document
- 1933 voters called Convention *but legislature did not “provide”*
- 1960’s-1970’s: Constitutional Revision Commission shrinks size of document but no big changes
- 1990’s: Constitutional Revision Commission proposes changes that get nowhere.



Currently, only the legislature can call for a Constitutional Convention.

- 2/3rds vote of the Legislature puts question of Convention on ballot.
- 50% plus one vote of the people at next general election.
- Legislature “provides” for Convention.
 - Remember 1933



The proposal:
Citizen-authorized
Constitutional Convention

Citizen-authorized Constitutional Convention

- Same powers as a convention authorized by the legislature
- Revisions proposed would have to be approved by a majority of the voters of California.
- Note: A fundamental statement of the California Constitution –
 - All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require.

Why?

- We need a big package of reforms – only possible through constitutional “revisions.”
 - Due to “single-subject” rule, too expensive via initiative process.
 - Revisions only come from the Legislature or a Constitutional Convention.

Two Step process

- Step One:
Amend Constitution to allow the people to call a
Constitutional Convention
- Step Two:
Call Convention specifying issues to be covered
in Convention



Details - Delegate Selection Options

- Direct election in existing districts (existing constitutional protocol)
- Proposition 11 “apply and filter” approach
- Jury pool selection
- Support delegates with panel of experts

Details - Scope issues

- Ability to define scope of convention in implementing proposition
- Managing potential “competing” propositions with additional issues

Details - Timing and Implementation

- One election with retroactive implementation of amendment
- Amendment to allow voters to call CC in primary with implementing proposition in general election
- Consider implementing future conventions tied to census years



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Update on Activities

March 2009

Local Government 101

A new publication, *Understanding the Basics of Local Agency Decision-Making*, will be available at the board meeting. Generous support from the Liebert Cassidy Whitmore law firm made this resource possible. The publication will debut at the March 13 CSAC Institute for Excellence in County Government; copies will be sent to counties statewide and are available online at www.ca-ilg.org/decisionmaking.

Intergovernmental Conflict Resolution

The project's latest publication, *Alternative Dispute Resolution: Navigating Special Legal Issues in Public Agency Disputes*, helps local agencies address issues of transparency and fair processes in resolving interagency disputes. The Institute is grateful for the support of Renne Sloan Holtzman Sakai LLP on this effort. Copies will be available at the board meeting and distributed statewide. For more information, visit www.ca-ilg.org/intergovtconflictresolution.

California Climate Action Network (CCAN)

- The Institute is very grateful for CSAC's special support of the Institute's efforts to develop materials to assist local officials with voluntary efforts to reduce greenhouse gas emissions and implement SB 375 effectively.
- In the works are a variety of resources relating to green building, civic engagement, efficient transportation, land use and community design, waste reduction and recycling. Resources from the California Air Resources Board and the California Integrated Waste Management Board will supplement the effort. County input is welcome: we are especially interested in connecting with jurisdictions with commercial recycling ordinances.
- With funding from the Bay Area Air Quality Management District, the Institute is developing a pilot Web portal to provide local agencies with a state-of-the-art system to access and update climate change information on a regional basis. The goal is for the pilot effort to be expanded statewide.

Land Use and Healthy Communities

The Institute will publish a new *Understanding the Basics of Land Use Decision-making* series in 2009. Issues to be addressed include local planning, public participation, conservation and the environment, and housing. Anyone interested in serving as a peer reviewer prior to publication is encouraged to contact Steve Sanders, Land Use Program Director, at ssanders@ca-ilg.org.

Ethics Program

- In March, the Institute's Ethics Program is receiving the "Public Integrity Award" sponsored by American Society for Public Administration, International City/County Management Association, Council of State Governments, and Council on Governmental Ethics Laws. The award is presented annually to an organization that has made outstanding contributions to responsible conduct in public service.
- The Institute's "Ethical Dilemmas" webpage features an article on legal and ethical Issues associated with retirement recognitions (see www.ca-ilg.org/everydayethics). Upcoming is a piece on the new gift regulations.

Collaborative Governance Initiative (CGI)

- The first of a series of CGI "briefing papers" for county and city youth commissions focuses on ensuring health care coverage for eligible but uninsured children and youth.
- CGI will disseminate a report on neighborhood involvement in emergency preparedness efforts - with examples from San Mateo and Santa Clara counties - to county administrators.
- The Institute's column in the January/February *California Counties* includes information on immigrant civic engagement. The March/April column offers information on resident involvement in public works-related decision-making.
- CGI is collecting examples of civic engagement efforts organized by or with California counties for an in-depth article on that topic. Story ideas are invited and can be e-mailed to Terry Amsler at tamsler@ca-ilg.org.

Communities for Healthy Kids (CHK)

CHK is entering the third year of its three-year grant from the WellPoint Foundation. CHK has undertaken over 25 individual outreach and enrollment activities to let families know about the availability of affordable health insurance for their children. In 2009, CHK will focus on winding up existing projects and developing a web-based "how to" tool kit that will serve communities after the grant concludes. The material will help cities and counties that wish to assist parents get affordable health coverage for their children.

Institute for Local Government Mission

The Institute promotes well-informed, ethical, inclusive, effective and responsive local government in California through innovative (state of the art) resources, tools and programs.



CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

March 4, 2009

To: CSAC Board of Directors

From: Tom Sweet, Executive Director, CSAC Finance Corporation

RE: Finance Corporation Program Update
INFORMATION ITEM

The following are highlights of the numerous programs that the CSAC Finance Corporation offers to your counties:

CalTRUST

- CalTRUST currently has 65 active participants and current assets exceed \$560 million. This represents an increase during the last 45 days of approximately \$30 million.
- CalTRUST's two newest members are Madera County and Monterey Peninsula Recreation and Park District.

California Communities

- The TRANs (short-term cash-flow borrowing) program held informational webcasts on the 2009 CA Communities program on February 25th and 26th. The webcasts were well attended with 26 counties participating including 5 new users that have indicated an interest in the 2009 TRANs pool. Previously, our highest number of participants by counties was 22 in the year 2000.
- California Communities has recently released the 2008 update of "The California Communities Community Benefit Report," providing updated details on the benefits the program has delivered to California since inception in 1988. The report shows that in addition to being a conduit of low-cost, pooled finance programs for local agencies, California Communities also has a strong commitment to public benefit projects. A copy of the report was mailed to county officials and can be accessed online.
- Preliminary work is being done to position the Finance Corporation to address the shortfall in pension obligation for public entities. However, with the market still in turmoil, it may be some time before it is economically feasible for a pension obligation bond.

U.S. Communities

- Counties and other users are continuing to utilize this program that saves public entity dollars which in turn increases the revenue for the Finance Corporation. Last year counties in California are estimated to have saved over \$5 million.

General Information

- We are continuing to meet with individual counties and their department heads to present our programs and benefits. Please let us know if you would like a meeting set with your county's department heads.

If you have any questions regarding these programs or any other CSAC Finance Corporation programs please do not hesitate to contact me via phone, 916.327.7500 x556, or via email, tsweet@counties.org, or contact Laura Labanieh at 916.327.7500 x536 or llabanieh@counties.org.



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95814

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March 4, 2009

To: CSAC Board of Directors

From: Paul McIntosh, CSAC Executive Director
Kelly Brooks, CSAC Legislative Representative

Re: CSAC/CWDA Joint Report on Human Services Programs
Informational Item

CSAC and the County Welfare Directors Association (CWDA) will be issuing a joint report in early April focusing on the current state of human services programs.

While counties are legislatively mandated to administer numerous human services programs, funding for these services is frozen at 2001 cost levels. Failing to fund actual county cost increases for eight years has led to a growing funding gap of nearly \$1 billion *annually*. This funding crisis is coming to a head as counties are seeing an unprecedented demand for human services – particularly Food Stamps, CalWORKs, General Assistance and Medi-Cal. Many of the applicants for services are newly poor – formerly middle class families who have never accessed public safety net services. Eight years of state underinvestment in these programs is coming to a head as families have difficulty accessing critical services.

The report will also include an economic impact analysis by Beacon Economics and Berkeley Policy Associates. This analysis will focus on the economic multiplier of spending in human services – jobs created by dollars from food stamps, CalWORKs, etc. CSAC and CWDA will be using that data along with other data we have collected to paint a picture of what is currently going on in human services programs including unprecedented demand for services, and to make a case for further state investment. Clearly, the economic downturn and the state budget woes are not a one- or two-year issue – the state has been underfunding these programs for eight years. In addition, we want to make the case that investment in human services has an immediate impact on the local economy – money is spent locally and stimulates local economies. The report will be useful in educating the public, the media and the Legislature, and with future advocacy efforts.

As part of CSAC's education efforts, we are asking counties to make time at your board meetings on either April 7 or 14 (or 21) for a presentation of the report. Your CAO and welfare director have already been contacted by CSAC and CWDA. CSAC and CWDA will be developing a sample press release and PowerPoint presentation for the April board meetings. We will also be undertaking a statewide media effort to announce the release of the report and are developing a legislative strategy. CSAC will continue to contact you via e-mail as we develop materials for use in your county.

Attached is a brief summary of the report that was e-mailed to you in February.

**California State Association of Counties (CSAC)/County Welfare Directors
Association (CWDA)
“Human Services as Economic Stimulus” Report Preview
February 23, 2009**

CSAC and CWDA are currently developing a joint report, informed by an analysis of economic data being conducted by Beacon Economics and Berkeley Policy Associates, that is due to be released in the next month. This effort is based on our organizations' mutual need for greater public awareness of and legislative support for the resources counties need to administer state-mandated programs and meet the needs of our communities.

Importantly, the report will consider how investment in human services programs provides an immediate return for local economies and how such programs are an avenue for economic stimulus and recovery. The report will examine the macro-economic impacts and stimulus effect of human services spending nationally and in California, providing historical context for the role of county-administered human services programs during times of economic crisis, as well as the current state of human services programs – including recent funding cuts and service reductions and increased demand.

Some highlights will include:

Economic Decline, Unemployment Rate Increase, and Foreclosure Crisis

The economic recession which began in September 2007 is the worst in 25 years, and may continue to worsen in the coming months. For December 2008, the unemployment rate in California was 9.3 percent, dramatically higher than the 5.9 percent unemployment rate just one year ago, in December 2007. Meanwhile, the foreclosure crisis and decline in home values has destabilized the housing situation for many families.

Increased Need in Communities

Due to the severe recession and increased unemployment, counties have seen a surge in families applying basic assistance - Food Stamps, CalWORKs, Homeless Assistance, and Medi-Cal. Applications have increased by 20 to 40 percent, and even higher in some counties, from a year ago. Moreover, the higher level of demand for services continues to be sustained in 2009, and in some counties is even increasing.

One of the most significant aspects of this recession is its impact on middle-class families who have never before applied for public assistance. Some families applying for aid have assets and income that are somewhat higher than the maximum eligibility limits, thus resulting in a greater percentage of applications being denied than in the recent past. These families may return in a few months – in even greater need – once they spend down those resources.

Effect of State Budget Reductions

Just as applications and caseload are surging, state funding for human services has declined. In September 2008, the Governor vetoed \$86.4 million for county employment and eligibility services, including child care, on top of hundreds of millions of dollars of cuts and chronic underfunding of the actual costs of delivering these services. The

reduction in services, combined with the surge in applications and caseload, means that families will have to wait longer for help that they need now more than ever.

Economic Stimulus Effect of Human Service Programs - Helping struggling families is one of the most effective ways to preserve and create jobs, and improve the economy. Spending on human service programs has an immediate, positive impact on the local, state, and national economy.

The quickest, most efficient way to bolster demand and grow the economy is to put money in the hands of people who will spend it quickly — namely, people who need it to cover basic expenses such as housing, food, and transportation.

For example, increasing Food Stamp benefits is one of the most effective ways to stimulate the economy. For every \$1 in new Food Stamp benefits, there is an estimated \$1.84 spent in the community. According to Moody's Economy.com, temporarily increasing food stamp benefits is one of the most cost-effective stimulus measures, along with extending unemployment benefits.

Our goal is that the release of this report, and subsequent local presentations of its findings and implications for policymakers, will help to educate the public and our elected officials and to spur discussions at the local, state and national levels about the economic impact of both spending and cuts to human services programs.



Memorandum

March 4, 2009

To: CSAC Board of Directors

From: Paul McIntosh, CSAC Executive Director
Lindsay Pangburn, CSAC Corporate Relations Manager

Re: **Corporate Associates Program Updates
INFORMATION ITEM**

Following please find updates on the CSAC Corporate Associates program activities so far this year:

- The Corporate Associates Steering Committee held their annual planning in January in Sonoma County; the meeting agenda included the election of our 2009 program president: Bob Fisher, Vice President, Employee Relations, Inc.
- We are continuing to distribute regular communications to all Corporate Associates members, including a monthly e-newsletter as well as the Executive Director's Watch.
- Membership and sponsorship solicitation efforts for 2009 are underway, with current efforts geared towards California events at the NACo Annual Meeting in Nashville this July.
- We have already received 2009 membership commitments from more than 40 organizations, many of which are renewing members.
- The Exhibit Hall for the CSAC 2009 Annual Meeting in Monterey County is more than 20 percent committed for this year.
- Upcoming events:
 - Corporate Associates Business Meeting – May 27th, Sacramento
 - Corporate Associates Golf Tournament – May 29th, Sacramento

If you have any questions about the Corporate Associates program, please feel free to contact Lindsay Pangburn, at (916) 327-7500 ext. 528, or lpangburn@counties.org.



County Counsels' Association of California

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Jennifer B. Henning

MEMORANDUM

To: Supervisor Gary Wyatt, President, and
Members of the CSAC Board of Directors

From: Jennifer Henning

Date: March 19, 2009

Re: Litigation Coordination Program Update

Last October, the CSAC Executive Committee requested regular updates on the activities of the CSAC Litigation Coordination Program. This memorandum will provide you with information on the Program's most recent activities. If you have questions about any of these cases, please do not hesitate to contact me. I hope this information is useful to you.

I. New Amicus Case Activity Since October

Bernardi v. County of Monterey

167 Cal.App.4th 1379 (6th Dist. Sept. 30, 2008)(H031648), ordered published (Oct. 29, 2008), *petition for depublication denied* (Feb. 18, 2009)(S169318)

Monterey County appealed an award of approximately \$260,000 in attorney fees and costs to plaintiffs in a Public Records Act case. The award of attorney fees and costs was not reduced by the hours the plaintiff spent in fruitless pursuits that the court recognized were without basis in law and without merit. The Sixth Appellate District upheld the fee award. It disagreed with the county that fee awards must be commensurate with the degree of success achieved in the litigation, finding that applying such a rule in the PRA setting would discourage efforts to enforce the public's right to information. The county asked the California Supreme Court to depublish the case, which CSAC supported, but the request was denied on February 18.

Coffee Lane Alliance v. County of Sonoma

Pending in the First Appellate District (filed Nov. 28, 2008) (A119463/A119869)

A landowner filed for a grading permit to make improvements to an existing driveway on his property. The county granted the permit, but neighboring interests challenged the county's actions, arguing that issuance of the permit was discretionary and therefore subject to CEQA. The trial court agreed, finding that because the uniform code allows for soils testing before issuing the grading permit, it is a discretionary project and CEQA should have been followed. The county has appealed, and CSAC will file an amicus brief in support.

Fogarty-Hardwick v. County of Orange

Pending in the Fourth Appellate District, Div. 3 (filed Aug. 3, 2007)(G039045)

Plaintiff and her husband divorced and were involved in child custody proceedings in family court. After an allegation of sexual abuse of one of the children, the county's Department of Social Services filed a petition. The family court proceedings were stayed while the juvenile court acted on the petition. The children were initially placed with their mother, then in a group home and a foster home. The parties ultimately reached an agreement awarding custody to the father, and the juvenile court terminated jurisdiction in favor of informal monitoring. The family court then resumed its activities and also awarded the father custody with weekend visitation for mother. She then filed this action in Superior Court alleging the county violated her civil rights by deceiving the juvenile court, even though the social workers never recommended removing the children from their mother's custody. A jury found in mother's favor and awarded her nearly \$5 million. The court later awarded over \$1.6 million in attorney fees. The county has appealed, and CSAC will be filing an amicus brief in support.

Los Angeles Unified School Dist. v. Great American Insurance

Previously published at: 163 Cal.App.4th 944 (2d Dist. June 5, 2008)(B189133), *petition for review granted* (Sept. 17, 2008)(S165113)

In this breach of contract action, the contractor was hired to do a specified list of tasks. Thereafter, the contractor indicated that unforeseen circumstances required additional work and requested an advancement of additional funds. The school district conditionally advanced the funds, but requested back some \$1.1 million of the advancement upon concluding that the work should have been done as part of the original list of tasks. The school district initiated this action to get the money back, and the contractor cross-complained for breach of contract. The trial court ruled in favor of the school district, but the appellate court reversed, finding that the trial court should have considered evidence outside of the contract (documents and conversations) indicating that the school district misrepresented conditions on the project site. The California Supreme Court granted review and CSAC will be filing an amicus brief in support of the school district.

M.V. v. Superior Court (Orange County Social Services Agency)

167 Cal.App.4th 166 (4th Dist. Div. 3 Sept. 30, 2008)(G040676), *depublication request denied* (Dec. 10, 2008)(S168086)

In this juvenile dependency case, the mother of a very young minor was deported to Mexico following criminal violations. Though she initially began services in Mexico toward reunification, she failed to comply with much of her case plan. Six months after the minor was detained, the juvenile court terminated reunification services and set a hearing to consider termination of mother's parental rights. On appeal, the Fourth Appellate District found the juvenile court applied too strict a standard in terminating reunification services at the six month hearing. The court should have continued services if it found "a strong likelihood of a possibility of return." The court remanded back to the juvenile court for

consideration of the case based on the new standard. Orange County requested depublication, which CSAC support, but the request was denied.

Sunset Skyranch Pilots Assoc. v. County of Sacramento

Previously published at: 164 Cal.App.4th 671 (3d Dist. July 2, 2008)(C055224), *petition for review granted* (Oct. 1, 2008)(S165861)

The county granted a 5-year conditional use permit (CUP) to an airport that had been operating as a non-conforming use for many years. When the five years was close to running, the airport applied for a renewal of the permit, which the county denied. Without the CUP, the airport could no longer operate. The airport operator sued, alleging CEQA review was required. The county argued that there was no “project” under CEQA because the relevant statute and guidelines state that a denial is not a project. The trial court ruled in favor of the county, but the Third Appellate District reversed holding in relevant part that the closure was a project under CEQA that required review, including what use would be made of the abandoned hangers and the impact of transferring flights to other airports. The California Supreme Court has granted review. CSAC filed an amicus brief in support of Sacramento County.

United States v. City and County of San Francisco

Pending in the Ninth Circuit Court of Appeal (filed July 26, 2007)(07-16344)

The United States is seeking to recover its fire fighting costs for a fire that started on private land when a tree hit a power line owned by the city and ultimately spread to the Stanislaus National Forest. The case presents the issue of which statute of limitations applies—the state law provision of two years, or the federal provision of six years. The city argues state law applies, and the case should be dismissed because it was filed more than two years after its accrual. The federal district disagreed. It noted that the federal statute applies if the right to recover costs and damages is created by or through federal law. The court acknowledged it was a close question in this case because the United States is suing under provisions of state law that give a public agency the right to collect fire suppression costs and damages in certain circumstances. But because the United States is acting as the sovereign with the duty to maintain the federal park system, the court ultimately concluded the federal statute of limitations applies. San Francisco has appealed to the Ninth Circuit. CSAC will file an amicus brief in support.

Watkins v. County of Alameda

Pending in the First Appellate District (filed Oct. 21, 2008)(A123320/A122992)

This case involves a challenge to Alameda County’s definition of “employability” for purposes of the General Assistance, which allows counties to limit cash benefits to a portion of the GA population determined to be “employable.” (Approximately 36 counties limit benefits under this provision.) Earlier this year, Alameda County attempted to limit cash benefits to “employable” GA recipients so that they would receive benefits for 6 months during each 12 month period. The county defined “employable individuals” as those persons who lack a verified physical or mental disability that prevents them from performing work. The Public Interest Law Project challenged the county’s action and the

trial court ruled against the county, finding the county's definition of employable was impermissible because it did not take into account factors such as level of education, work experience, English language proficiency and the availability of jobs. The county has appealed, and CSAC will be filing an amicus brief in support.

II. Amicus Cases Decided October

Brown v. Ransweiler

--- Cal.App.4th ---, 2009 Cal.App.LEXIS 200 (4th Dist. Div. 1 Feb. 24, 2009)(D051983)

Outcome: Positive

In trying to apprehend a fleeing fugitive, two police officers fired at the fugitive's vehicle, which was headed toward them on a sidewalk at high speed. The felon was killed. Unfortunately, plaintiff was sitting in the waiting room of a nearby dentist's office while this took place, and she was struck by one of the bullets. She sued the two officers alleging negligence and assault and battery. The trial court dismissed the action as to one of the officers, but allowed the action to go forward against the other officer. The officer appealed and the Fourth District reversed, concluding that under the undisputed facts presented, the officer's shooting at the suspect was objectively reasonable as a matter of law, and that he therefore could not be held liable for plaintiffs' injuries. CSAC filed a brief in support of the officer.

County of Santa Clara v. Superior Court (California First Amendment Coalition)

170 Cal.App.4th 1701 (6th Dist. Feb. 5, 2009)(H031658)

Outcome: Negative

This case involves a Public Records Act request for an electronic version of Santa Clara County's Geographic Information System (GIS) basemap. The Department of Homeland Security designated the basemap as "Protected Critical Infrastructure Information" and the county ceased distribution. The California First Amendment Coalition (CFAC) requested electronic copies of the basemap, which the county would not provide in the requested format. CFAC sued and the trial court ordered the county to produce an electronic copy of the basemap at the direct cost of duplication. The appellate court affirmed, finding that the protected critical infrastructure information was not protected from disclosure because the county provided the information to the federal government, not the other way around. The court also found that on balance the interests protected by disclosure outweighed those protected by nondisclosure, and that the county's copyright assertions did not allow them to limit or condition disclosure. CSAC filed a brief in support of the county, and will support the county's request for depublication of the decision.

Supervisor Gary Wyatt, President, and
Members of the CSAC Board of Directors
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County of Santa Clara v. Superior Court (Naymark)

--- Cal.App.4th ---, 2009 Cal.App.LEXIS 176 (6th Dist. Feb. 17, 2009)(H031740)

Outcome: Negative

This case arose as a result of CalAware's 2007 audit of law enforcement agencies. The audit concluded that many agencies were not following the Public Records Act. Plaintiffs brought a taxpayer action (Code of Civil Procedure 526a) seeking a declaration that the policies and practices of the defendant cities and county violated the PRA and were an illegal expenditure of public funds. The trial court found that the taxpayer action was permissible, rejecting the defendants' argument that Sections 6258 and 6259 of the Public Records Act are the exclusive procedures for a member of the public to litigate the disclosure obligation of a public agency with regard to particular records. The Sixth District affirmed, finding that taxpayers actions under are not precluded under applicable Supreme Court precedent, and that permitting such suits furthers rather than obstructs the purposes of the Public Records Act. CSAC filed a brief in support of the county.

Equity Lifestyle v. County of San Luis Obispo

548 F.3d 1184 (9th Cir. Nov. 25, 2008)(05-55406)

Outcome: Positive

In 2002, Equity Lifestyle, the owner of a mobilehome park in San Luis Obispo County, filed a facial and as-applied regulatory takings challenge to the County's 1984 mobilehome rent ordinance. The Ninth Circuit granted judgment for the County on all claims. With respect to the facial regulatory takings challenge, however, the initially found that under *Palazzolo v. Rhode Island* (2001) 533 U.S. 606, the statute of limitations for such challenges did not commence in 1984 at the time the County adopted the ordinance, but rather restarted each time the property transfers to a new owner. On the county's petition for rehearing, the panel withdrew its decision and reissued this opinion, which still upholds the county's ordinance, but no longer contains the problematic statute of limitations holding. Instead, the decision merely states in a footnote that "the statute of limitations on a facial takings claim runs from the date when the statute is enacted." CSAC filed a brief in support of the county's petition for rehearing.

In re Corrine W.

45 Cal.4th 522 (Jan. 22, 2009)(S156898)

Outcome: Positive

This matter involves a dependent minor's request to the juvenile court to compel the county's Children and Family Services Bureau to pay her automobile liability insurance to allow her to obtain a driver's license and lawfully drive a car. The minor was a 17-year old high school senior at the time of the request, and she wished to drive herself to school and work. The juvenile court denied the request and the minor appealed, arguing that Welfare and Institutions Code section 11460(b) and 42 U.S.C. section 674(4)(a), which provide foster care payments for the care and support of dependent children to include "liability insurance with respect to a child," require the county to pay for car insurance. The First District affirmed, as did the California Supreme Court, which found: "We need not . . . go so far as to conclude that the DSS may not include automobile liability insurance in the

basic foster care reimbursement rate. We do, however, conclude that the term ‘liability insurance’ [in state and federal law] is insufficiently precise to compel the DSS to do so.”

Morongo Band of Mission Indians v. State Water Resources Control Board

--- Cal.App.4th ---, 2009 Cal.App.LEXIS 1009 (Feb. 9, 2009)(S155589)

Outcome: Positive

In a water rights permit revocation proceeding before the State Water Resources Control Board, the Office of Chief Counsel assigned a junior attorney to prosecute the proceeding. The prosecuting attorney had advised the Board as part of a hearing team in another, unrelated proceeding, which involved only minimal, sporadic interaction with the Board. Based on her role as an advisor to the Board in the unrelated matter, the Morongo Band challenged the prosecuting attorney's involvement with its permit hearing. The trial and appellate courts found that the prosecuting attorney's role as an advisor to the Board in the unrelated matter violated the Morongo Band's right to due process. But the California Supreme Court reversed, holding it does not violate a license holder's constitutional right to due process of law for the agency attorney prosecuting the matter before the Board to simultaneously serve as an advisor to that Board on an unrelated matter. The Court noted that when an administrative agency conducts adjudicative proceedings, due process requires a fair tribunal. The Court concluded, however, that the Morongo Band presented no evidence that the Board is actually prejudiced against it. The Court declined to adopt a rule that, even absent such evidence of bias, it is a violation of the license holder's constitutional right to due process of law for the agency prosecutor to advise the decision maker in a separate, unrelated matter. CSAC filed an amicus brief in support of the Board.

O.W.L. Foundation v. City of Rohnert Park

168 Cal.App.4th 568 (1st Dist. Nov. 19, 2008)(A114809)

Outcome: Positive

In 2005, the city adopted a Water Supply Assessment (WSA) pursuant to SB 610. SB 610 requires that for large projects, the water supplier assess whether water supplies will be sufficient for both the proposed project and existing and planned future uses. (See Water Code §§ 10631, 10910-10915.) Additional requirements are imposed when the supply includes ground water. Plaintiff challenged the city's WSA, and the superior court found the groundwater portion of the WSA was inadequate. According to the trial court, SB 610 requires that a local water supplier assess past and projected future pumping from all water uses in an entire groundwater basin. The city appealed, and the First District reversed. The court determined that a WSA need not analyze groundwater pumping by all users in an entire basin. The court also found that SB 610 does not specify a particular methodology for a sufficiency analysis, so the water supplier has substantial discretion in determining how to measure groundwater sufficiency. While the court noted the water supplier's discretion is not boundless, it was “satisfied the City acted well within its discretion in adopting the WSA.” CSAC filed an amicus brief in support of the city.

Spielbauer v. County of Santa Clara

--- Cal.4th ---, 2009 Cal.LEXIS 1010 (Feb. 9, 2009)(S150402)

Outcome: Positive

Plaintiff was dismissed from his employment with the county for making deceptive statements to a judge in the course of his employment, and committing insubordination by refusing to answer questions about the incident on grounds that his answers might incriminate him. The Sixth Appellate District found the termination was in error because “a public agency cannot penalize one of its employees for refusing to answer incriminating questions unless the state first grants or offers immunity, i.e., a binding undertaking not to use his answers in any criminal prosecution.” The California Supreme Court reversed. “United States Supreme Court decisions, followed for decades both in California and elsewhere, establish that a public employee may be compelled, by threat of job discipline, to answer questions about the employee’s job performance, so long as the employee is not required, on pain of dismissal, to waive the constitutional protection against criminal use of those answers. Here, plaintiff was not ordered to choose between his constitutional rights and his job. On the contrary, he was truthfully told that, in fact, no criminal use could be made of any answers he gave under compulsion by the employer. In the context of a noncriminal public employment investigation, the employer was not further required to seek, obtain, and confer a formal guarantee of immunity before requiring its employee to answer questions related to that investigation.” CSAC filed a brief in support of the county.

Vasquez v. State of California

45 Cal.4th 243 (Nov. 20, 2008)(S143710)

Outcome: Neutral

In 2003 as a result of a taxpayer action brought by plaintiff, the Fourth District found that under the Prison Inmate Labor Initiative (Prop. 139), the State had a duty to require private sector employers to pay comparable or prevailing wages to inmate employees. Plaintiff was then awarded \$1.2 million in attorney fees under the private attorney general statute (Civ. Code § 1021.5.) The Fourth District affirmed the fee award, finding in relevant part that plaintiff did not have to make reasonable attempts to settle her claim before resorting to litigation. The California Supreme Court affirmed, rejecting a categorical rule that anyone claiming fees under section 1021.5 must make reasonable attempts to settle before litigation. However, the Court held that in all cases, “section 1021.5 requires the court to determine that ‘the necessity and financial burden of private enforcement . . . are such as to make the award appropriate . . .’ In making this determination, one that implicates the court’s equitable discretion concerning attorney fees, the court properly considers all circumstances bearing on the question whether private enforcement was necessary, including whether the party seeking fees attempted to resolve the matter before resorting to litigation.” CSAC filed a brief in support of the State. While the decision did not adopt the position of the CSAC brief, it did include reasonable attempts to settle as a factor in determining attorney fees, which is preferable to the appellate court’s decision.