

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

A G E N D A

Presiding: Tony Oliveira, 1st Vice President

10:00am PROCEDURAL ITEMS

1. Roll Call *Page 1*
2. Approval of Minutes of May 28 and June 17, 2009 *Page 3*

10:15m SPECIAL PRESENTATION

3. Presentation by California Department of Corrections and Rehabilitation Secretary Matthew Cate *Page 14*

11:00am ACTION ITEM

4. Consideration of Williamson Act Contract Non-Renewal Proposal *Page 24*
 - Karen Keene, CSAC staff

11:15am INFORMATION ITEMS

5. Proposition 1A Securitization Update *Page 27*
 - Paul McIntosh, CSAC Executive Director
6. Major State Reform Initiatives Update *Page 35*
 - Paul McIntosh
7. State Budget/Legislative Report *Page 47*
 - Jim Wiltshire, CSAC staff
8. Institute for Local Government (ILG) Update *Page 50*
 - JoAnne Speers, ILG Executive Director

12:00pm LUNCH

The following items are contained in your briefing materials for your information, but no presentation is planned. Comments and/or questions are welcomed.

9. CSAC Institute for Excellence in County Government Update *Page 53*
10. CSAC Finance Corporation Report *Page 57*
11. CSAC Corporate Associates Report *Page 58*
12. CSAC Litigation Coordination Program Update *Page 59*
13. 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	Norma Santiago
S	Fresno County	Henry Perea
R	Glenn County	John Viegas
R	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	Jim Cook
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

6/28/09

CALIFORNIA STATE ASSOCIATION OF COUNTIES
 BOARD OF DIRECTORS
 May 28, 2009
 CSAC Conference Center, Sacramento

M I N U T E S

Presiding: Frank Bigelow, President

1. ROLL CALL

Alameda	Keith Carson	Placer	Jim Holmes
Alpine	Terry Woodrow	Plumas	absent
Amador	Louis Boitano	Riverside	John Tavaglione
Butte	Bill Connelly	Sacramento	Roger Dickinson
Calaveras	Merita Callaway	San Benito	Reb Monaco
Colusa	absent	San Bernardino	Brad Mitzefelt
Contra Costa	Federal Glover	San Diego	Greg Cox
Del Norte	David Finigan	San Francisco	absent
El Dorado	absent	San Joaquin	Larry Ruhstaller
Fresno	Henry Perea	San Luis Obispo	Bruce Gibson
Glenn	John Viegas	San Mateo	Rich Gordon
Humboldt	Mark Lovelace	Santa Barbara	Joni Gray
Imperial	Gary Wyatt	Santa Clara	Liz Kniss
Inyo	Susan Cash	Santa Cruz	Mark Stone
Kern	Jon McQuiston	Shasta	Glenn Hawes
Kings	Tony Oliveira	Sierra	Lee Adams
Lake	Anthony Farrington	Siskiyou	absent
Lassen	absent	Solano	Mike Reagan
Los Angeles	absent	Sonoma	Valerie Brown
Madera	Ronn Dominici	Stanislaus	Vito Chiesa
Marin	Susan Adams	Sutter	Larry Munger
Mariposa	Lyle Turpin	Tehama	Robert Williams
Mendocino	Carre Brown	Trinity	Judy Pflueger
Merced	Mike Nelson	Tulare	absent
Modoc	Jeff Bullock	Tuolumne	Richard Pland
Mono	Duane "Hap" Hazard	Ventura	Kathy Long
Monterey	Fernando Armenta	Yolo	Mike McGowan
Napa	Brad Wagenknecht	Yuba	Roger Abe
Nevada	Ted Owens	Advisor:	Susan Muranishi
Orange	John Moorlach	Advisor:	Steven Woodside

The presence of a quorum was noted.

2. APPROVAL OF MINUTES

The minutes of March 19, 2009 were approved as previously mailed.

3. REMARKS BY CANDIDATES FOR NACo SECOND VICE PRESIDENT

The 2009 candidates for NACo Second Vice President are Lou Magazzu from Cumberland County, New Jersey and Lenny Eliason from Athens County, Ohio. Both candidates addressed the Board of Directors regarding their credentials and background with NACo. The officer elections will take place during the NACo annual conference in Nashville, Tennessee on July 28.

4. GOVERNOR'S MAY REVISION OF THE 2009-10 STATE BUDGET

Mike Genest, Director of the State Department of Finance, presented a report on the Governor's May Revision of the State Budget. He outlined several program cuts currently being considered such as: eliminating CalWORKS and Healthy Families programs; decreasing funding for child welfare, mental health, prisons and courts; eliminating Cal Grants for higher education and General Fund support of state parks. These cuts and others were presented to the Legislative Budget Conference Committee.

5. NACo 2ND VICE PRESIDENT ENDORSEMENT

The Board of Directors discussed whether to endorse one of the NACo 2nd Vice president candidates at this time or wait until the California Caucus during the NACo conference in Nashville.

Motion and second to table the endorsement decision until the California Caucus in Nashville. Motion carried unanimously.

6. PROPOSED CSAC BUDGET FOR FY 2009-10

Supervisor Joni Gray, CSAC Treasurer, presented the proposed CSAC Budget for FY 2009-10, as contained in the briefing materials. It was noted that the proposed budget contains no dues increase and expenses were reduced by 2.4%.

The Executive Committee previously approved the proposed budget and recommended adoption by the Board of Directors.

Motion and second to adopt the CSAC Budget for FY 2009-10 as presented. Motion carried unanimously.

7. PROPOSED CSAC LITIGATION COORDINATION PROGRAM BUDGET FOR FY 2009-10

Jennifer Henning, County Counsel's Association Executive Director, presented the proposed CSAC Litigation Program Budget for FY 2009-10, as contained in the briefing materials. She noted that even though expenses have increased this year, a recently-vacated position will not be filled in order to maintain a budget with no fee increases.

The Executive Committee previously approved the proposed budget and recommended adoption by the Board of Directors.

Motion and second to adopt the proposed CSAC Litigation Coordination Program Budget for FY 2009-10 as presented. Motion carried unanimously.

8. AMENDMENT TO CSAC CONSTITUTION REGARDING CAUCUS MEMBERSHIP

In response to a request from Humboldt County to change caucus membership from the CSAC Suburban Caucus to the CSAC Rural Caucus in 2009, the Executive Committee authorized staff to draft an amendment to the CSAC Constitution. The current CSAC Constitution states that a change in caucus membership can be made each five years – once at the Annual meeting immediately after the release of the Decennial Census and once at the Annual meeting immediately after the release of the mid-Census population estimate. Under current rules, Humboldt County would not be eligible to change caucus membership this year.

Staff presented a proposed amendment to Article 5 of the CSAC Constitution for consideration as contained in the briefing materials. Under the proposal, counties are still limited to two caucus changes each ten years, but they may occur at any time between the release of each Decennial Census.

Motion and second to adopt amendment to Article 5 of the CSAC Constitution as presented. Motion carried unanimously.

9. PROPOSED CCS PARTNERSHIP SUMMIT ON STATE GOVERNANCE REFORM

The League of California Cities has invited CSAC and the California School Boards Association (CSBA) to join with them in sponsoring a summit on reforming the governance of California. The summit would build on the work of the Cities, Counties, Schools (CCS) Task Force on Fiscal Reform. Delegates to the summit would review and debate the major reforms identified by the CCS Task Force and California Forward. The event is scheduled for July 17 – 18 in Sacramento

Staff presented a resolution adopted by the League of California Cities endorsing convening a summit of local leaders, and a draft Statement of Principles, as contained in the briefing materials. The resolution was discussed with the Executive Committee at their April 23 meeting. The Executive Committee recommended the resolution to the Board of Directors and directed staff to work through the CCS Task Force to begin preparation of the summit.

Supervisor Gordon, Chair of the CCS Task Force on Fiscal Reform, outlined the proposed format of the two-day summit. It was recommended that the Board of Directors approve CSAC's participation and adopt the draft Statement of Principles as a starting point for discussion during the summit.

Motion and second to approve CSAC's participation in the Joint Summit on State Governance Reform and adopt the draft principles as presented. Motion carried unanimously.

10. CSAC POLICY COMMITTEE REPORTS

Administration of Justice. Supervisor Dominici, chair of the Administration of Justice policy committee, presented the report. The policy committee received informational presentations. Assistant CHP Commissioner Ramona Prieto discussed the Highway Patrol's targeted outreach efforts with local government and public safety partners. A representative from America Works, a for-profit employment firm, discussed its "work first" approach to placing ex-offenders into entry-level employment. Senator John Benoit and Stanislaus County Chief Probation Officer Jerry Powers discussed SB 678 (Leno and Benoit), a measure that would redirect savings to county probation departments based on an individual county's ability to reduce new prison commitments from among the felony probation population.

Agriculture & Natural Resources. Supervisor Mike Nelson, chair of the Agriculture & Natural Resources policy committee, presented the report. The committee received presentations on recent legislative activity aimed at addressing the State's water crisis. The Williamson Act was discussed with funding and compatibility issues of particular interest to the committee. The Secretary of California Food and Agriculture discussed California's county fairs, and the Assistant to the State Fire Marshall provided an overview of recently adopted regulations mandating the installation of residential fire sprinklers in new developments.

Government Finance & Operations. The policy committee discussed the cuts and deferrals facing counties, particularly the proposed Proposition 1A shift. A resolution urging the Legislature and Governor to reject cost shift proposals was presented to the Board of Directors for consideration (attached).

Motion and second to amend the resolution to include a provision to raise the vehicle license fee (VLF) to 2%. Motion failed (14 in favor/21 opposed).

Motion and second to adopt the resolution as originally presented. Motion carried unanimously.

Health & Human Services. Supervisor Kniss, chair of the Health & Human Services policy committee, presented the report. The policy committee discussed at length the May Revision state budget proposals that impact health and human services programs and where the state budget process may lead this year. The policy committee also received an update on federal health reform discussions. A resolution on the economic benefit of human services and the Human Services Funding Deficit was presented to the Board of Directors for consideration (attached).

Motion and second to adopt the resolution as contained in the briefing materials. Motion carried unanimously.

Housing, Land Use & Transportation. Supervisor McGowan presented the committee report. The policy committee discussed the impacts of the proposed state budget cuts, in particular the permanent reduction of the local share of the gas tax on local transportation programs. Committee members were also briefed on the comprehensive, transportation needs assessment just completed that identifies a \$71 billion shortfall for preservation of the local road system over the next decade. Additional amendments to the Planning, Land Use, and Housing and Transportation and Public Works Platform chapters were presented to the Board of Directors for consideration. Specifically, the additional amendments relate to healthy communities and complete streets.

Motion and second to adopt additional amendments to the Housing, Land Use & Transportation sections of the CSAC Platform. Motion carried unanimously.

11. STATE BUDGET/LEGISLATIVE REPORT

Staff discussed a recent report by the Legislative Analyst Office (LAO) regarding the Governor's May Revise. The LAO believes the deficit is about \$3 billion higher than the Governor's estimate of \$21 billion. The report also suggests that even if the Legislature adopts all of the Governor's recommendations, the state will still face a \$15 billion deficit in 2010-11 and bigger ones in the three following years. Staff also outlined the proposed cuts to health and human services programs.

It was noted that numerous state budget proposals will be presented in the Legislature during the next few weeks. In order for CSAC to provide immediate response to these proposals as they are developed, President Wyatt appointed the following supervisors to a special task force: Rich Gordon, Gary Wyatt, Tony Oliveira, John Tavaglione, Mike Reagan, Mike McGowan, Bruce Gibson, Kathy Long, Susan Cash, Mark Lovelace, Roger Dickinson and Sonoma County Counsel Steven Woodside. This task force will also help shape CSAC's message as preparations get underway for the CCS Partnership Local Government Summit on Governance Reform, July 17 – 18. The first meeting/conference call of the task force was scheduled for June 1, at 1:30pm.

12. PRESENTATION BY CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION SECRETARY MATT CATE

Secretary Cate was unavailable to attend the Board of Directors meeting due to a conflict. His Chief of Staff, Brett Morgan, attended in his place. However, because other items on the agenda took longer than expected, the presentation was rescheduled for a later meeting.

13. OTHER ITEMS

Reports on the Institute for Local Government, CSAC Finance Corporation, CSAC Corporate Associates program, and the Litigation Coordination Program were contained in the briefing materials, but no presentations were made.

Meeting adjourned.

CALIFORNIA STATE ASSOCIATION OF COUNTIES

Resolution urging the California Legislature and Governor to reject proposals that would shift billions of dollars of local revenue from counties

WHEREAS the Governor of California proposes to forcibly borrow billions of property tax dollars from counties and other local agencies as part of his state budget plan; and

WHEREAS California's adopted 2009-10 budget will delay through the entire first quarter of the fiscal year over one billion dollars in funds counties need to administer mandated health and human service programs and make federally required payments; and

WHEREAS the state's General Fund already benefits from over \$6 billion annually of property tax revenues from counties that have traditionally funded county services; and

WHEREAS the state made no effort to end this taking of local revenue even as the General Fund was flush with multi-billion dollar surpluses; and

WHEREAS property tax dollars comprise over twenty percent of counties' general revenue and are the primary general fund source for every county in the state; and

WHEREAS county tax revenues including property taxes, sales and use taxes, and vehicle license fees have recently declined dramatically due to the global economic recession; and

WHEREAS little authority is given to counties to raise revenues independently of the state; and

WHEREAS counties throughout the state are therefore dealing with the extraordinary economic downturn and balancing their budgets honestly by cutting critical services, laying off valuable employees, and living within their means; and

WHEREAS counties and other local agencies provide the services most immediate to the lives of Californians; and

WHEREAS applications for health and human service programs that counties provide on the state's behalf—such as food stamps, homeless assistance, CalWORKs, Medi-Cal, and general assistance—are rising rapidly; and

WHEREAS the state has not increased funding for providing human service programs in nearly a decade despite large increases in counties' costs to administer them; and

WHEREAS the state has made little effort to repay the approximately one billion dollars owed to counties and other local agencies for state-mandated programs performed before 2004; and

WHEREAS the state's process for determining which mandates are reimbursable is so understaffed, inefficient, and structurally biased against local agencies that counties provide mandated services for as long as a decade without any reimbursement; and

WHEREAS recent significant changes in credit markets will make it difficult for counties to borrow money to make up for the revenue they would lose under this proposal, even though no county in the state has ever defaulted on its debt obligations; and

WHEREAS the proposal to forcibly borrow county funds would have far-reaching, long-term consequences for counties and the services they provide to every Californian while doing nothing to resolve the real and continuing problems with the state budget; and

WHEREAS the proposal would cut real services on which millions of Californians rely in a manner that would not save but in fact cost the state money in the medium-term since the forced loan must be repaid with interest; and

WHEREAS the California Constitution would require the state to repay this forced loan just as the recently enacted tax increases expire; and

WHEREAS to solve its structural deficit the state—like counties, cities, and special districts—must either cut programs, raise revenue, or find willing creditors to borrow money from on mutually agreeable terms; and

WHEREAS the State Legislature and the Governor have failed to resolve the State's structural budget deficit through an entire business cycle; and

WHEREAS economists expect a continued decline in state revenues beyond the beginning of an economic recovery and therefore by enacting this proposal the state would merely be shifting their problem into future fiscal years that will be bad enough without it; and

WHEREAS eighty-four percent of voters in a high-turnout general election expressed their desire that local property tax dollars remain in their communities to provide local services by voting for Proposition 1A (2004); now therefore be it

RESOLVED that the California State Association of Counties will make extraordinary outreach efforts to educate the Governor, members of the Legislature, and all Californians—especially voters—about the exceptional consequences adopting this proposal would cause them; and be it

RESOLVED that the California State Association of Counties, representing every county in the state, unequivocally opposes any proposal to shift local revenue to the state, whether property tax, gas tax, a deferral of payments, or any other source.

Adopted by the CSAC Board of Directors on this 28th day of May, 2009:



Gary Wyatt, President



**A RESOLUTION ON THE ECONOMIC BENEFIT OF HUMAN SERVICES AND
THE HUMAN SERVICES FUNDING DEFICIT**

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WHEREAS, the California State Association of Counties and County Welfare Directors Association of California jointly examined California's safety-net programs and related economic benefits for communities.

WHEREAS, the study found human services such as Food Stamps, CalWORKs and General Assistance provide a boost to the state's economy, with an estimated \$1.32 in economic activity generated for every dollar spent.

WHEREAS, human services programs are an important factor in local economies and while such programs are largely funded with state and federal dollars, the benefits primarily stay local.

WHEREAS, demand for human services is up due to the state's poor economy and high unemployment, which has led to an increase in demand for public assistance, not only for newly eligible applicants but also for current participants whose exit from programs has been delayed.

WHEREAS, the increase in applications and caseload has been both rapid and dramatic and shows no signs of slowing.

WHEREAS, counties are grappling with a long-term state disinvestment in human services, now totaling nearly \$2 billion annually, and these deep cuts have resulted in reduced staffing levels, diminished access to and availability of services, and delayed benefits to eligible families who are struggling in the current economic downturn - straining counties abilities to provide these vital services.

WHEREAS, failure to fund these programs results in poor outcomes for children and families, creating an even greater long-term cost to the state.

NOW THEREFORE LET IT BE RESOLVED, human services programs need to be fully funded by the state, especially in light of the fact that demand will only continue to grow as the impacts of the current economic recession will linger for years;

BE IT FURTHER RESOLVED, the state of California needs to treat counties fairly as partners – which means relieving counties of mandates and penalties – if the state is not going to fully fund these programs.

Adopted by the CSAC Board of Directors this 28th day of May, 2009:

A handwritten signature in cursive script that reads 'Gary Wyatt'.

Gary Wyatt, President

CALIFORNIA STATE ASSOCIATION OF COUNTIES
SPECIAL BOARD OF DIRECTORS MEETING
Wednesday, June 17, 2009
Via Conference Call

MINUTES

Presiding: Gary Wyatt, President

1. ROLL CALL

Alameda	absent	Orange	absent
Alpine	absent	Placer	absent
Amador	absent	Plumas	absent
Butte	Bill Connelly	Riverside	John Tavaglione
Calaveras	Merita Callaway	Sacramento	Roger Dickinson
Colusa	Mark Marshall	San Benito	absent
Contra Costa	Federal Glover	San Bernardino	Paul Biane
Del Norte	David Finigan	San Diego	Greg Cox
El Dorado	absent	San Francisco	absent
Fresno	absent	San Joaquin	Larry Ruhstaller
Glenn	John Viegas	San Luis Obispo	Bruce Gibson
Humboldt	Mark Lovelace	San Mateo	Rich Gordon
Imperial	Gary Wyatt	Santa Barbara	Joni Gray
Inyo	Susan Cash	Santa Clara	Liz Kniss
Kern	Jon McQuiston	Santa Cruz	absent
Kings	Tony Oliveira	Shasta	absent
Lake	absent	Sierra	Lee Adams
Lassen	absent	Siskiyou	Jim Cook
Los Angeles	Don Knabe	Solano	Mike Reagan
Madera	absent	Sonoma	Valerie Brown
Marin	Susan Adams	Stanislaus	Vit Chiesa
Mariposa	Lyle Turpin	Sutter	absent
Mendocino	Carre Brown	Tehama	Robert Williams
Merced	absent	Trinity	Judy Pflueger
Modoc	Jeff Bullock	Tulare	Phillip Cox
Mono	"Hap" Hazard	Tuolumne	Richard Pland
Monterey	Fernando Armenta	Ventura	Kathy Long
Napa	Brad Wagenknecht	Yolo	Mike McGowan
Nevada	absent	Yuba	Roger Abe

The presence of a quorum was noted.

2. HIGHWAY USER TAX ACCOUNT (HUTA) FUNDING

Staff reported that the State Budget conference Committee (BCC) acted on Thursday, June 11 to "take" two years of nearly the entire local portion of the gas tax or Highway User Tax Account (HUTA) funding for general fund relief. This is equivalent to about \$1.7 billion, with this loss shared equally between cities and counties.

During the February State Budget negotiations, there was agreement between the Governor and all caucuses to increase the gas tax or HUTA by 12-cents with a significant amount initially directed towards debt service on the transportation bonds. The remaining amount was dedicated to the state system only. This was a major departure from past increases in the gas tax where a portion has always been dedicated towards the local system, which represents 82 percent of the state's maintained miles. This proposal was eliminated from the state budget package at the last minute in order to secure the final Senate vote.

The gas tax is considered a "user fee" with a strong nexus towards investment for transportation purposes related to automobile use. There is a concerted effort to revisit an increase in the gas tax in current state budget negotiations. Should a gas tax increase proposal be considered, counties are not expected to share in a portion of that increase without CSAC support.

On Monday, June 15, the CSAC Budget Task Force discussed the BCC action and concluded that the impacts and threat of the HUTA diversion may exceed that of the Proposition 1A borrowing. The Task Force recommended the following action:

CSAC opposes the HUTA takeaway and ongoing suspension. CSAC supports a fee or user tax as replacement revenue to service debt (5-cents) related to transportation bonds to mitigate the HUTA loss. Further, should such a proposal exceed the transportation debt service needs (12-15 cents), CSAC supports these additional fees or taxes in a manner that ensures equal distribution between the state and local governments.

A discussion ensued regarding the Task Force recommendation and it was decided to separate the recommendation into three parts.

Motion and second to reaffirm opposition to the Highway User Tax Account (HUTA) takeaway. Motion carried unanimously.

Motion and second to support a 5-cent increase in the gas tax as an alternative to the taking of the HUTA funds for two years to pay debt service and, if the 5-cent tax extends beyond the two-year taking, it should be shared equally between the state and cities and counties. Motion carried (18 in favor, 2 opposed, 19 abstained).

Motion and second to support recommendation that if a tax proposal exceeds the transportation debt service needs (12-15 cents), CSAC supports these additional fees or taxes in a manner that ensures equal distributed between the state and local governments. **Motion withdrawn.**

Staff was directed to negotiate with the Legislature to the best of their ability based on existing CSAC policy which is as follows:

“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 as well as other strategies as determined by individual jurisdictions and regions.”

Meeting adjourned.



August 25, 2009

TO: CSAC Board of Directors

FROM: Paul McIntosh, Executive Director

RE: Presentation by CDCR Secretary Matthew Cate – INFORMATIONAL ONLY

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In a reschedule of his May presentation, California Department of Corrections and Rehabilitation (CDCR) Secretary Matthew Cate will make an outreach presentation to the CSAC Board of Directors meeting on September 10. I met with Secretary Cate earlier this year to discuss issues of mutual interest and explore ways to strengthen the partnership between the state correctional agency and county governments. Secretary Cate's presentation before the Board is one of the ways to meet these objectives. Obviously with the Legislature's focus in the closing weeks of session on corrections reform and finding ways to achieve over \$1 billion in state corrections agency savings, the need for direct communication Secretary Cate is all the more timely.

To provide some context for Secretary Cate's presentation, I am providing you with a summary of the latest in Sacramento as it pertains to the corrections cost-cutting measure under consideration. The Legislature is facing rather significant pressure to find sizeable savings in the prison budget. Recall that the Governor imposed a \$400 million unallocated reduction to the Department of Corrections and Rehabilitation (CDCR) budget when the initial 2009–10 budget was enacted in February. The revised 2009–10 budget package approved in July carried out an additional cut of nearly \$800 million — for a total cut of approximately \$1.2 billion, but the specific framework for applying these reductions was left for the Legislature's determination when the houses regrouped after the summer recess. Before the Legislature returned, however, two events elevated these discussions. First, in early August, the federal three-judge panel in the prison overcrowding case issued its final opinion and order, which directs the state to reduce its prison population by approximately 40,000 over the next two years. Further, a riot at a CDCR reception center in Southern California resulted in injuries and significant facility damage, requiring the displacement of inmates, and aimed a spotlight on the difficult and explosive conditions that currently exist within the prison system.

The Legislature now is challenged to find an approach that will produce dramatic savings in one of the most expensive and controversial areas of state government operations. The following are the key elements of the Senate's cost-savings plan, which incorporates many of the policy components that have been under consideration for some time :

- **Alternative Custody Program** – creates a new custody status in the community for three eligible populations: (1) those with less than 12 months left on sentences; (2) those aged 60 or older; and (3) the medically infirm/incapacitated; participants in the

* Attached is a three-page summary from CDCR that outlines the population budget reduction proposals being advanced by the department and supported by the Administration.

alternative custody program would be on home arrest, GPS, or some other type of enhanced monitoring.

- **Adjustments to Property Crime Thresholds** – increases property crime thresholds for a variety of crimes primarily to account for inflation.
- **Community Corrections Performance Incentives Fund (CCPIF)** – incorporates the provisions of SB 678, a measure by Senators Leno and Benoit sponsored by the chief probation officers and supported by CSAC, which – based on a county's reduction in new prison admissions from among the felony probationer population – would direct state prison savings back to counties for investment in the adult probation system.
- **Conversion of Wobblers to Misdemeanors** – specifies that three specific offenses (check kiting, receiving stolen property, and petty theft with a prior) are misdemeanors and punishable by a term in county jail rather than state prison.
- **California Public Safety Commission** – creates a 13-member commission to review and develop a plan to revise sentencing guidelines by July 2012.
- **Summary Parole/Banked Caseloads** – establishes the Parole Reentry Accountability Program that will focus parole resources on more high-risk offenders; lower to moderate risk offenders will be placed on banked caseloads, subject to search and seizure, but not eligible for parole revocation.
- **Credit Earning Enhancements** – incentivizes completion of rehabilitation, vocation, education, and other programs with provision of enhanced credits.

A number of other savings – including, among others, commutation of sentences for undocumented criminal inmates and reduction of prison rehabilitation programming – can be achieved by CDCR either with its own administrative powers or those granted to the Governor in the Constitution; language to carry out these changes is not included in the cost-savings measure.

When the language of the corrections cost-cutting measure came to light last week, various interests groups raised concerns or opposition about pieces and parts of the bill. CSAC has focused its attention — outlined in a coalition letter (attached) cosigned by a variety of county affiliates and individual counties — primarily on the alternative custody program based on a variety of practical and operational concerns. In addition to apprehensions as to whether the status of individuals on “alternative custody” would, by definition, make them ineligible for Medi-Cal, Medicare, and/or SSI/SSP, counties also are concerned about the process and protocol for transitioning the elderly and medically infirm from state prisons back into the community. CSAC continues to work tirelessly with our county coalition affiliates to highlight our concerns regarding the alternative custody proposal at every opportunity and staff are meet with budget and policy staff regularly.

At this point, the situation is very fluid. It has been widely reported that the Assembly is working to reformulate the package and likely to eliminate or alter the following elements: (1) the alternative custody program; (2) the conversion of wobblers to misdemeanors; (3) the Public Safety Commission; and (4) updating property crime thresholds. The specifics of the proposal remain in flux, but we should have a better sense about the progress of the package prior to your September meeting. It is possible that the Assembly could approve a scaled-back set of cost savings measures and policy changes, leaving others – likely the sentencing commission, as one example – for a stand-alone bill to be considered separately.

We welcome the outreach by Secretary Cate and look forward to his discussion with the CSAC Board of Directors about the myriad issues facing California's corrections systems. In addition to the immediate concerns about the required budget cuts and accompanying policy discussions now underway, we anticipate that other topics of interest will be the implementation of correctional reforms begun under AB 900 (Chapter 7, Statutes of 2007), perspectives on the state and county role in the juvenile justice system, and general approaches to increasing collaboration between counties and the state corrections agency. Mr. Cate was confirmed by the California Senate as the CDCR Secretary in May; his biography is attached.

Attachment A: CDCR Population Budget Reduction Proposals Summary

Attachment B: County Coalition Letter Regarding Alternative Custody Proposal

Attachment C: CDCR Secretary Matthew Cate's Biography



CDCR Prison Population Reduction Package *By the Numbers*

The Administration has proposed a budget reduction package designed to reduce Average Daily Population (ADP) by approximately **27,300**, which is estimated to save up to **\$1.2 billion** if fully implemented in the 2009-10 fiscal year. This document lays out the estimated prison population reduction numbers for FY 2009-10 involved with each proposal:

POPULATION REDUCTIONS

- **Alternative Custody Options for Lower-Risk Offenders:** Proposal would provide alternative custody options for lower-risk offenders to reduce costs and strain on the state prison system. Certain offenders would be eligible to serve the last 12 months of their sentence under house arrest with GPS monitoring. House arrest may include placement in a residence, local program, hospital or treatment center. Statutorily eligible inmates would include inmates with 12 months or less remaining to serve, and elderly or medically infirm inmates. ***Estimated to reduce the prison population by 6,300 ADP.***
- **Risk-Based Parole Supervision and Lower Agent Caseloads:** Proposal would target active parole supervision to offenders with a serious or violent commitment history, sex offenders, and those assessed as high risk. The remaining offenders, largely low and moderate risk, nonviolent felons, would be placed on administrative or "banked" parole, but would continue to be subject to warrantless search and seizure by local police. CDCR will reduce parole caseload ratios from 70-1 to 45-1, improving supervision and services for those with the highest risk of reoffending. Parolees who commit certain parole violations will be eligible for placement on GPS supervision as an alternative to returning them to prison. ***Estimated to reduce the number of parole violators in prison population by 5,300 ADP.***
- **Commutation of Select Deportable Criminal Aliens:** The California Constitution provides the Governor the authority to commute prison sentences. The Governor will review the cases of criminal alien felons who are subject to deportation upon release on a case-by-case basis starting with the lowest level offenders. The first group to be considered for commutation will be those inmates who have never committed a violent or sex offense and who have only one felony in their entire adult criminal history. ***Could reduce the number of criminal alien felons in California prisons by up to 8,500 ADP.***
- **Adjusting Property Crime Thresholds and/or Changing Crimes to Misdemeanors:** Proposal would reduce from wobblers to misdemeanors property crimes associated with writing bad checks, petty theft with a prior, receiving stolen property, vehicle theft and grand theft crimes, and change the monetary threshold that determines whether the property crime is a misdemeanor or felony from \$400 to \$2,500. For wobblers where there is no monetary threshold specified (e.g., vehicle theft), a \$2,500 threshold would be added. ***Estimated to prospectively reduce the prison population by 5,600 ADP.***
- **Positive Behavior and Rehabilitation Program Credit Enhancements:** Proposal would allow inmates who participate in and complete rehabilitation programs such as GED, college degrees, and vocational training, to earn additional sentence credits. Credits would also be increased for discipline-free time served in county jail, during parole violations, or while waiting for programs to become available. ***Estimated to reduce the prison population by 1,600 ADP.***

####



Prison Population and Budget Reduction Package

July 2009

The Administration has proposed the following budget reduction package in response to the state's fiscal crisis. It is estimated to save up to **\$1.2 billion** if adopted by the Legislature in time to be fully implemented in the 2009-10 fiscal year.

New Population and Budget Reduction Proposals – The following proposals provide an outline for a new administrative and legislative budget package designed to reduce population and associated costs depending on the details and timing of implementation. Through these proposals, the Administration aims to reduce Average Daily Population (ADP) by **19,000**, and costs by an estimated **\$400 million**:

- **Adjusting Property Crime Thresholds and/or Changing Crimes to Misdemeanors:** The Administration proposes to change four misdemeanor/felonies, or "wobblers," punishable by either imprisonment in state prison or in county jail, to straight misdemeanors. These crimes include two types of petty theft, receiving stolen property and writing bad checks. In addition, the Administration proposes updating the monetary threshold that determines whether the crime is a misdemeanor or felony from \$400 to \$2,500. For vehicle theft where there is no monetary threshold specified a \$2,500 threshold would be added. A summary of changes:
 - Writing Bad Checks.
 - Petty theft crimes (currently punishable as a felony if the person has a prior petty theft conviction; proposal would make all petty thefts punishable as misdemeanors).
 - Receiving stolen property crimes.
 - Grand theft crimes raised to \$2,500. Vehicle theft crimes establish \$2,500 threshold.
- **Alternative Custody Options for Lower-Risk Offenders*:** The Administration proposes alternative custody options for lower-risk offenders to reduce costs and strain on the state prison system. Certain offenders would be eligible to serve the last 12 months of their sentence under house arrest with GPS monitoring. House arrest may include placement in a residence, local program, hospital or treatment center. Detailed criteria will be established through the regulatory process, thereby taking full advantage of input by law enforcement, victims groups and other concerned citizens. Statutorily eligible inmates include:
 - Inmates with 12 months or less remaining to serve
 - Elderly inmates
 - Medically infirm inmates
- **Commutation of Select Deportable Criminal Aliens:** The California Constitution provides the Governor the authority to commute prison sentences. For inmates who have been convicted of two or more felonies, the Governor's commutation must be supported by the California Supreme Court. This plan involves those inmates who are currently serving prison sentences but who have been identified by federal Immigrations and Customs Enforcement officials for deportation from the United States upon their release from state prison. If their sentences were commuted, these inmates would be taken into federal

custody to be deported to their country of origin. The Governor and Secretary would review these on a case-by-case basis starting with lowest level offenders. The first group to be considered will be those inmates who have never committed a violent or sex offense and who have only felony in their entire adult criminal history.

Program Funding Reduction – The Administration is proposing to eliminate funding for some inmate and parole programs that are not court-ordered. These proposals are estimated to reduce costs by over **\$175 million**. Impacted programs include a range of rehabilitative services, such as substance abuse counseling, vocational training, and educational programs. However, the Department is taking several innovative approaches to mitigate the reduction in funding. For example, CDCR will utilize a validated risk/needs assessment tool to focus resources on the inmates with the greatest risk to recidivate. This tool will also allow CDCR to place the right inmate in the needed program for only the prescribed period of time. In addition, CDCR will utilize distance learning, inmate tutors and fully-licensed inmate substance abuse counselors to greatly reduce the cost of providing education and substance abuse counseling.

Previous Budget Reduction Proposals – In April CDCR developed legislative proposals to address an unallocated cut to the agency budget ordered in the 2009-10 Budget Act. They could reduce CDCR's Average Daily Population by **8,000** inmates through a shift of funds from parole supervision of low level offenders to those who are serious and violent, and other cost savings. The combination of the following general components are estimated to result in **\$410 million** in savings in 2009-10.

- **Risk-Based Parole Supervision and Lower Agent Caseloads***: Active parole supervision would be targeted to offenders with a serious or violent commitment history, sex offenders, and those assessed as high risk. The remaining offenders, largely low and moderate risk, nonviolent felons, would be placed on administrative or "banked" parole, but would continue to be subject to warrantless search and seizure by local police. CDCR will reduce parole caseload ratios from 70-1 to 45-1. This will improve supervision and services for those with the highest risk of reoffending. There will also be additional parole resources directed toward Fugitive Apprehension Teams and gang suppression units, and an increase of GPS units on high risk parolees in order to increase supervision.
- **Staff Efficiencies through Elimination of Positions at DJJ and Headquarters**: The Division of Juvenile Justice (DJJ) will streamline and eliminate positions in 2009-10, with a comprehensive staffing analysis expected to allow for the elimination of more positions in coming budget years. Positions will also be reduced at CDCR headquarters in Sacramento through increasing efficiencies.
- **Positive Behavior and Rehabilitation Program Credit Enhancements***: Inmates who participate in and complete rehabilitation programs such as GED, college degrees, and vocational training, will be allowed to earn additional sentence credits. Credits will also be increased for discipline-free time served in county jail, during parole violations, or while waiting for programs to become available.
- **Using GPS as Alternative Sanction**: Parolees who commit certain parole violations will be eligible for placement on GPS supervision as an alternative to returning them to prison.

Additional Operational Savings – In addition to the new and previous budget and population reduction plans, the Administration will ask CDCR to come up with **\$100 million** in unspecified operational savings, along with **\$48 million** in savings by eliminating the Special Repairs Budget, **\$20 million** by shifting AB 900 funds to existing capital outlays and **\$50 million** in reductions to the contract medical budget.

** This proposal would require legislative action*



**CALIFORNIA STATE
ASSOCIATION OF
COUNTIES**

August 19, 2009

TO: Members of the Legislature

URBAN
COUNTIES
CAUCUS

**URBAN COUNTIES
CAUCUS**

FROM: Elizabeth Howard, CSAC
Jolena Voorhis, UCC
Paul Smith, RCRC
Patricia Ryan, CMHDA
Judith Reigel, CHEAC
Daniel Wall, County of Los Angeles
Michael Rattigan, County of Santa Clara



**REGIONAL COUNCIL
OF RURAL COUNTIES**

RE: **Corrections Cost-Savings Package (Budget Item 5225)
Alternative Custody Option/Release of Elderly/Medically
Infirm – CONCERNS**



**CALIFORNIA MENTAL
HEALTH DIRECTORS
ASSOCIATION**

The California State Association of Counties (CSAC), Urban Counties Caucus (UCC), Regional Council of Rural Counties (RCRC), California Mental Health Directors Association (CMHDA), the County Health Executives Association of California (CHEAC), the County of Los Angeles, and the County of Santa Clara write jointly to express our specific concerns regarding one component advanced by the California Department of Corrections and Rehabilitation (CDCR) to address its \$1.2 billion unallocated reduction. While we recognize the gravity of the fiscal crisis before the state and the need to address corrections costs, counties are extremely concerned that the full impacts of the “alternative custody option for lower-risk offenders” have not been adequately analyzed. Although the range of corrections cost-savings proposals under consideration has public safety implications, the alternative custody proposal has the potential, from the broad county perspective, to further degrade an already overwhelmed local safety net that counties administer on behalf of the state for all Californians.



**COUNTY
HEALTH EXECUTIVES
ASSOCIATION OF
CALIFORNIA**

The alternative custody option for lower-risk offenders includes the release of elderly and infirm inmates – presumably due to this population’s high-cost medical care and mental health needs. Based on CDCR’s very brief summary of the alternative custody concept, it appears this proposal likely would pose severe consequences for counties, the state, and California residents if it is not carried out correctly and in coordination with the local entities that will be affected. Regrettably, in the absence of specific information about the proposal, counties are left to make broad assumptions about how this particular element of the plan could be implemented.



**COUNTY OF LOS
ANGELES**

It is especially unclear as to how CDCR intends to statutorily define the status of the inmates released into “alternative custody.” The department has made clear that this population would remain under CDCR’s jurisdiction while in this “alternate custody” status or under some type of house arrest. However, the state also has expressed its clear intent to divest itself of all financial responsibility for the inmates’ health care. It is unclear what — if any — responsibilities counties have to provide these health services to newly released inmates.



**COUNTY OF SANTA
CLARA**

In addition, CDCR has not shared any current information on the types of inmates, their medical or behavioral profile, and/or acuteness of need, making the process of determining local impact difficult, if not impossible. Counties collectively feel it is our duty to inform the Legislature and the Administration that there should be no assumptions that these individuals can be better served by local health systems that — even before the addition of this population — are already overwhelmed by increased demand for services.

Counties have attempted to analyze what the alternative custody proposal entails, the extent to which counties have a legal responsibility to provide services to the population proposed for release, what services might be available to these individuals, and how the transfer from the state to the local community would optimally occur. While we can offer a general county perspective on this proposal, a more thorough analysis of the proposal's impact — and the challenges in absorbing this population into local health systems — is largely hindered without the following specific information on the population expected to be released under this proposal, including:

- How the status of these inmates will be defined;
- The profile of all those under consideration for early release;
- Demographic distribution across counties of infirm inmates to be released; and
- Medical history of those to be released, including whether those being considered for release were receiving any public benefits prior to their incarceration and whether or not they are eligible for any private insurance. (This proposal likely creates two classes of infirm patients: those that will need their benefits reinstated and those that will be first-time applicants for public assistance programs.)

Despite the absence of the above mentioned details, we outline for you below the most pressing concerns identified by counties regarding this proposal.

1. ***The proposal lacks any provisions for an inmate transition plan, including application for public programs.*** In order for this proposal to be successfully implemented, CDCR must begin implementing a transition plan for these individuals now. This effort would include applying for any public assistance program for which an inmate might be eligible: Medi-Cal, Medicare, and Supplemental Security Income (SSI). The process of applying for public assistance and being granted eligibility for these programs is complicated, particularly in cases with medical disabilities, and can take months. Without upfront work before discharge on eligibility determinations, elderly and medically infirm inmates could go without health care. Additionally, inmates should receive assistance in obtaining identification and social security cards.

CDCR needs to work with counties and local health systems in developing processes for determining and processing eligibility for public programs before inmates are released.

2. ***Community capacity for the provision of medical and mental health care as well as alcohol and drug treatment is at or above capacity; there should be no assumptions about community care options.*** CDCR should be engaged with counties and local health systems before releasing inmates. The current practice of dumping inmates with significant health and mental health issues at local hospitals

cannot continue. It jeopardizes public health, safety, and local health care systems — and is not sustainable if hundreds of inmates are released at the same time.

Most counties have existing waiting lists for alcohol and drug treatment and mental health services. It is unrealistic to assume that continuity of care is viable for this population once they are released back in their communities when it is presently not available to current residents.

Skilled nursing beds are limited and especially so for those without an identified payer source. The CDCR should serve as a guarantor for these inmates until their eligibility for Medicare, Medi-Cal or SSI can be established.

- 3. *Several legal and jurisdictional questions emerge from this proposal that operationally will make implementation difficult.*** Questions abound regarding the outstanding legal issues surrounding this proposal. It is our belief that this is an area severely lacking in detail that must be carefully thought out before adopting this proposal. Ultimately, who will have legal authority for these inmates? If the state maintains some version of alternate custody, are these individuals considered incarcerated? How will the definition of status impact their access to medical care? Who will make medical decisions for those individuals who are incapacitated and unable to make their own medical decisions? Does this become a responsibility of the public guardian? County public guardians currently manage high caseloads and do not have the capacity to assume additional cases without negatively impacting their ability to perform legally mandated functions.

Waiting until after this proposal is adopted to address some, if not all, of the issues raised above may be too late, and lives could be lost or significantly impacted. We are concerned that this proposal has been assembled in haste with little consultation with stakeholders and that the most fundamental questions about how this particular proposal would be implemented have not been addressed. The consequences of releasing very sick inmates — with very immediate health and mental health needs — will reverberate throughout local health systems and communities. We urge you to assess the impacts to local health systems when you consider this proposal.

Thank you for considering our perspective.

cc: Michael C. Genest, Director of Finance
Ana Matosantos, Chief Deputy, Department of Finance
Mac Taylor, Legislative Analyst
Craig Cornett, Office of Senate President pro Tem Darrell Steinberg
Shelley Curran, Office of Senate President pro Tem Darrell Steinberg
Danny Alvarez, Senate Budget and Fiscal Review Committee
Brian Brown, Senate Budget and Fiscal Review Committee
Seren Taylor, Senate Republican Fiscal Office
Chris Woods, Office of Assembly Speaker Karen Bass
Pedro Reyes, Office of Assembly Speaker Karen Bass
Christian Griffith, Assembly Budget Committee
Joe Stephenshaw, Assembly Budget Committee
Les Spahnn, Office of Assembly Member Juan Arambula
Peter Schaafsma, Assembly Republican Fiscal Office
Allan Cooper, Assembly Republican Fiscal Office



Matthew Cate Biography

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Matthew Cate was appointed by Governor Arnold Schwarzenegger on May 16, 2008, as Secretary of the California Department of Corrections and Rehabilitation.

Prior to this appointment, Mr. Cate was appointed as Inspector General by Governor Arnold Schwarzenegger in March 2004 and subsequently confirmed by the state senate to that position. As Inspector General, Mr. Cate was responsible for public oversight of the California Department of Corrections and Rehabilitation. Since 2007, he also served as the chair of the California Rehabilitation Oversight Board and in that capacity was responsible for reporting to the state legislature on the progress made by the California Department of Corrections and Rehabilitation in fulfilling its obligation to provide effective rehabilitative programs to California's inmates and parolees.

Prior to becoming California's Inspector General, Mr. Cate served as a state and local prosecutor. From 1996 to 2004, he served as a Deputy Attorney General at the California Department of Justice. In that capacity, he supervised a team of trial and appellate prosecutors, managed a criminal trial caseload of political corruption matters and provided counsel to county grand juries. In 2003, while working on federal fraud and corruption matters, Mr. Cate was cross-designated as a Special Assistant United States Attorney. From 1994 to 1996, Mr. Cate was a Deputy District Attorney for Sacramento County, last serving in a special assignment prosecuting juvenile rape and murder cases. Prior to joining the public sector, Mr. Cate worked as a business litigation attorney with Downey, Brand, Seymour & Rohwer. He has also held several positions as an instructor of legal and law enforcement-related topics, including standards training for peace officers.

Mr. Cate earned his Doctor of Jurisprudence from the University of Oregon School of Law and a bachelor of science degree in business administration from Linfield College, where he was a National Scholar Athlete. He is a member of the California State Bar.



August 24, 2009

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TO: CSAC Board of Directors

FROM: Supervisor Mike Nelson, Chair, CSAC ANR Committee
Supervisor John Vasquez, Vice Chair, CSAC, ANR Committee
Karen Keene, CSAC Legislative Representative
Cara Martinson, CSAC Legislative Analyst

RE: CSAC Agriculture and Natural Resources Committee 8/14 Meeting
Action Item -- Williamson Act Contract Non-Renewal Proposal

Recommendation: The CSAC Agriculture and Natural Resources (ANR) Policy Committee is recommending that CSAC not pursue the attached Williamson Act legislative proposal that would provide local governments with the ability to accelerate gradual re-inflation upon non-renewal of a contract immediately, as opposed to waiting four years in the event of a landowner protest.

Background. As reported in CSAC's Budget Action Bulletin, the Governor used his blue pencil to effectively eliminate the Williamson Act subventions, taking the Legislature's proposed appropriation from \$27.8 million to \$1,000. His veto cited the need to "provide a prudent reserve in the General Fund." Since this action by the Governor CSAC has received inquiries from counties regarding the handling of existing Williamson Act contracts. Given the policy implications of some of the ideas being suggested, a conference call was scheduled for Friday, August 14, 10 a.m. – 11:00 a.m. in order to obtain county input on potential options and next steps.

One particular option that the ANR committee considered is statutory language that would provide local governments with the ability to accelerate gradual re-inflation upon non-renewal of a contract immediately, as opposed to waiting four years in the event of a landowner protest.

Currently, when a Williamson Act contract is non-renewed, the property taxes gradually re-inflate from their Williamson Act value to their unrestricted (i.e., ordinary Prop. 13) value. However, if the landowner initiates non-renewal (or consents to a local government initiated nonrenewal), the gradual re-inflation begins immediately. If the local government initiates non-renewal and the landowner objects, the re-inflation does not begin for four years. That effectively penalizes local government-initiated non-renewals. It should be noted that no matter which side initiates the nonrenewal, the existing contract remains in effect "for the balance of the period remaining" since the original execution of the last renewal of the contract, as the case may be.

Following a lively discussion regarding the acceleration proposal, the ANR committee recommended that CSAC not pursue the proposed statutory change. Generally, the committee members were reluctant to support the proposed language because it would facilitate non-renewal and potentially reduce the pressure to restore funding for the program.

This item was referred to the CSAC Executive Committee for deliberation at their August 20 meeting. Following a discussion of the acceleration legislative proposal, the Executive Committee chose to refer the ANR committee recommendation to the CSAC Board of Directors for final action given the importance of the Williamson Act to all participating counties.

Action Requested. The CSAC Agriculture and Natural Resources (ANR) Policy Committee is recommending that CSAC not pursue the attached Williamson Act legislative proposal that would provide local governments with the ability to accelerate gradual re-inflation upon non-renewal of a contract immediately, as opposed to waiting four years in the event of a landowner protest.

Instead the committee directed CSAC to continue our efforts to have the funding restored; develop grass roots materials for the counties to rely upon when communicating the importance of the program; and continue to work with the Williamson Act Coalition on long-term reforms.

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

Williamson Act - Accelerated Re-inflation upon Nonrenewal

The following amendment would provide local governments with the ability to accelerate gradual re-inflation upon non-renewal of a contract immediately, as opposed to waiting four years in the event of a landowner protest.

426. (a) Notwithstanding any provision of Section 423 to the contrary, if either the county, city, or nonprofit organization or the owner of land subject to contract, agreement, scenic restriction, or open-space easement has served notice of nonrenewal as provided in Section 51091, 51245, or 51296.9 of the Government Code, and the county assessors shall, unless the parties shall have subsequently rescinded the contract pursuant to Section 51254 or 51255 of the Government Code, value the land as provided in this section.

(b) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal and the owner fails to protest as provided in Section 51091, 51245, or 51296.9 of the Government Code, subdivision (c) shall apply immediately. If the county, city, or nonprofit organization serves notice of nonrenewal and the owner does protest as provided in Section 51091, 51245, or 51296 of the Government Code, subdivision (c) shall apply when less than six years remain until the termination of the period for which the land is enforceably restricted. This subdivision shall only apply to contracts for which a notice of nonrenewal has been served, by either party, before January 1, 2010.

(c) Where any of the conditions in subdivision (b) apply, the owner of land, or the county, city, or nonprofit organization serves notice of nonrenewal on or after January 1, 2010, the board or assessor in each year until the termination of the period for which the land is enforceably restricted shall do all of the following:

(1) Determine the value of the land pursuant to Section 110.1. If the land is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if it were free of contractual restriction. If the land will be subject to a use for which this code provides a special restricted assessment, the value shall be determined as if it were subject to the new restriction.

(2) Determine the value of the land by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (b).

(3) Subtract the value determined in paragraph (2) of subdivision (c) by capitalization of income from the full value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 423, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the contract, agreement, scenic restriction, or open-space easement.

(5) Determine the value of the land by adding the value determined by capitalization of income as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratio prescribed in Section 401 to the value of the land determined in paragraph (5) to obtain its assessed value.



MEMORANDUM

August 27, 2009

1100 K Street
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To: Board of Directors
California State Association of Counties

From: Paul McIntosh
Executive Director

Re: **Proposition 1A (2004) Securitization**

In July, the California Legislature adopted a series of bills to resolve what had become a \$24 billion deficit in the 2009-10 state budget. Part of the package of bills adopted was ABX4 14 and ABX4 15 which suspended the constitutional protecting local property taxes by the state and set up a mechanism whereby the state would borrow 8% of the prior years property tax allocations from local agencies. The state has estimated that roughly \$1.9 billion in property taxes would be borrowed.

Under the legislation, the state's borrowing has to be repaid within three years with interest, and this constitutional requirement creates a receivable. The legislation authorizes a joint powers authority to purchase those receivables from local agencies, thereby holding them harmless from the property tax loss. The state will then pay the joint powers agency the cost of the receivables, plus bond issuance costs and interest, in 2013. In other words, local agencies have the ability to be held completely harmless from the borrowing through this securitization approach.

The California Statewide Community Development Authority (CSCDA or, California Communities), which is a joint powers agency created by CSAC and the League of California Cities, qualifies as the joint powers agency identified in statute. CSCDA has begun putting the financial team together and has begun drafting the necessary documents. Attached to this memorandum is a copy of Frequently Ask Questions (FAQs) put together by CSAC explaining the issue and information from California Communities about the program.

As of the writing of this memorandum, all but five counties have signed up with California Communities as "Interested Parties". Signing up does not obligate a county in any manner but it does ensure that California Communities has a roster and contact list of those who wish to be kept informed. The timing of this matter is such that steps will need to be taken quickly when it becomes time to commit. Los Angeles County hopes to issue bonds on their own, as they did with the Vehicle License Fee securitization.

Under ABX4 15, the first installment of property taxes would be transferred to the Supplemental Revenue Augmentation Fund by January 15, 2010. It is our goal to issue the bonds with which to purchase the Proposition 1A receivables by the end of November, thereby holding local agencies harmless from the impacts of the loan.

On or before September 28, 2009, the Director of the Department of Finance must establish a rate of interest at which the state would pay a local agency that did not sell their Proposition 1A receivable to California Communities. This rate must be higher than the current Pooled Money Investment Account rate, but no higher than 6%. Based upon the setting of that rate, counties will be able to determine whether or not they want to hold the receivable as an investment or participate in the pool to sell their receivable at 100% of value. The state will pay the interest on bonds, plus the cost of issuance, meaning the funds will be available to counties with no discount. Counties will have a window of about 30 days to make that decision, likely required by November 6, 2009.

There are a number of minor errors in ABX4 15 that need to be cleaned up before the securitization process can begin. CSAC has worked closely with representatives of the Administration and legislative leadership, as well as our bond counsel and financing team, to draft amendments to ABX4 15. A consensus on those amendments is very close and the amendments have been put into bill form by the Legislative Counsel. The next step will be for this bill to be amended into a committee bill in the Senate or Assembly and brought to the floors for a vote. CSAC is hopeful of bipartisan support and the ability to move forward quickly.

CSAC will work to keep all counties advised of major steps in the process and the timeline necessary to reach completion. At this time, it is anticipated that counties will need to enact a resolution authorizing the sale of their receivables (drafted by bond counsel) by the end of October and sale of the bonds would occur by the end of November.

Attachments



August 5, 2009

California Communities Announces Proposition 1A Loan Securitization Program

Under a program announced today by the California Statewide Communities Development Authority (“California Communities”), cities, counties and special districts will be able to receive advance repayment of Proposition 1A funds borrowed from them pursuant to the provisions of the 2009-2010 state budget package. Under that package, local agencies will be required to loan up to 8% of their property tax revenues to the state in exchange for a promise to repay by 2013. The California Communities Proposition 1A securitization program will provide local agencies and special districts an opportunity to exchange their anticipated state receivables for cash.

Authorization for the California Communities securitization was provided for in ABx4 15, which was signed into law on July 28, 2009. Under the terms of ABx4 15, the state will pay for the borrowing interest incurred and the costs of issuance required for each agency to participate. It is intended that local agencies participating in the securitization program will receive 100% of their respective Prop. 1A receivable (although final results may depend upon bond market conditions). Timing of the securitization funding has not yet been finalized pending certain clean-up amendments to the enabling legislation, but the current securitization target is November, 2009.

In 2005, California Communities conducted a similar securitization program for local agencies when the state borrowed Vehicle License Fee (VLF) revenues from cities and counties. California Communities securitized \$455 million in VLF payments due from the state to provide advance repayment to 146 participating cities and counties.

California Communities is a joint powers authority sponsored by the California State Association of Counties and the League of California Cities, and that has joined with the California Special Districts Association to make the Proposition 1A securitization program available to cities, counties, and special districts across the state. California Communities provides access to low-cost, tax-exempt financing for local governments, non-profits and private entities building public benefit projects. Since its inception in 1988, California Communities has issued more than \$40.2 billion in financing through more than 1,200 transactions.

Local agencies who may be interested in participating in the California Communities Proposition 1A securitization program are encouraged to sign up at www.cacommunities.org to receive additional information as it becomes available or you may contact James Hamill at (800) 635-3993, ext. 216, Richard Watson at (800) 635-3993, ext. 217, or Michael Chin at (800) 635-3993, ext. 224.



PROPOSITION 1A SUSPENSION AND SECURITIZATION FREQUENTLY ASKED QUESTIONS

Over the past few weeks, we heard from a number of you with questions about the suspension of Proposition 1A, authorizing the state to borrow property taxes from local agencies, and the authorization to securitize the state's repayment of the 1A "loan" in 2013. In an attempt to address some of these issues, CSAC has prepared the following Frequently Asked Questions document to assist you in preparing for the suspension/securitization.

Please don't hesitate to contact us with any additional questions that may arise. Also, please note that these answers to Frequently Asked Questions may change as a result of cleanup legislation likely to be considered by the Legislature prior to their adjournment on September 11, 2009.

PROPOSITION 1A GENERAL FAQ

What does the suspension of Proposition 1A mean to our county?

The Legislature passed and the Governor signed ABX4 14 and ABX4 15 as part of the 2009-10 budget package. ABX4 14 suspends the property tax protection provisions of Proposition 1A (2004). This means that Article XIII, Section 25.5 (a)(1)(A) is not in effect for the 2009-10 fiscal year.

ABX4 15 provides directions for calculation of the 8% property tax "loan," the constitutionally-required repayment provisions, as well as provisions authorizing the securitization of the state's repayment. Under the provisions of Proposition 1A, the state may "borrow" an amount up to 8% of local agencies' prior year property tax allocations. (Local agencies are defined as cities, counties, and special districts.) The state must repay that loan within a three-year period with interest.

How does our county's 8% "loan" amount get calculated?

ABX4 15 indicates that county auditor-controllers will calculate each local agency's loan amount at 8% of the total amount of ad valorem property tax revenue that was apportioned to the local agency during the 2008-09 fiscal year. The statute explicitly includes amounts that were transferred for the VLF Swap and the Triple Flip.

When will our county see the reduction in our property tax revenues?

County auditor-controllers are tasked with transferring the loan amount in two equal shares at the same time as regular property tax allocations (no later than January 15, 2010 and May 1, 2010).

When is the state required to repay the "loan"? And at what interest rate?

ABX4 15 indicates the state's deadline to repay the loan is June 30, 2013. The interest rate for those agencies that do not sell the receivable to the joint powers

authority will be set by the Director of Finance at a rate no less than the current Pooled Money Investment rate and capped at 6%. The Director of Finance must set this interest rate by September 28, 2009.

Are there any guarantees that the state will repay us?

The State Constitution requires that the state provide repayment within a three-year period. ABX4 15 sets the repayment deadline at June 30, 2013.

The repayment is also continuously appropriated in the General Fund and authorizes the State Controller to make the repayment. The repayment is a priority payment behind General Fund obligations to schools and general obligation bonds. If the state has not fully repaid local agencies by June 30, 2013, local agencies or the bond issuer may seek a writ of mandamus to compel the Controller to fully pay the amounts the state is obligated to pay. The petition for writ of mandamus has priority and preference in setting and review and may be filed in the California Supreme Court.

When can the state suspend Proposition 1A again?

The State Constitution indicates that the property tax protection provisions of Proposition 1A cannot be suspended more than twice in a 10-year period (the first year begins with the first suspension).

Further, the state cannot suspend Proposition 1A until all previous loans are paid in full.

What happens to the funds that are being “loaned” to the state?

The county auditor-controller is directed to deposit the loaned funds into a Supplemental Revenue Augmentation Fund (SRAF) that is then allocated to the county office of education. The county office of education, upon direction by the Department of Finance, will then transfer those funds to the State Controller to reimburse the state for costs of providing health care, trial court, correctional or other state-funded services and costs incurred within that county until the funds are exhausted. Any remaining funds will be held to fund state costs in the following fiscal year. Some funds may be transferred to the Educational Revenue Augmentation Fund (ERAF), but will only be transferred in amounts that allow the state to continue to meet its federal Maintenance of Effort (MOE) requirement to draw down federal stimulus funds for schools.

Are there hardship exemptions? How does our county apply for a hardship exemption?

Yes. For those communities experiencing extreme fiscal hardship, upon written request, the Director of Finance may decrease the reduction amount. Extreme fiscal hardship may include: whether the community is in bankruptcy proceedings or that the reduction would likely cause the local agency to seek bankruptcy protection; or whether the requesting local agency has available reserves and whether the reduction would impair the ability of the local agency to provide a basic level of core services. If the Director of Finance decreases a local agency’s reduction as a result of hardship, the amount of the decrease will be allocated proportionately among other local agencies within the county, not to exceed more than 10 percent of the total reduction amounts for all local agencies within the county.

In addition, two or more local agencies are able to reallocate their reduction amongst themselves.

We keep hearing about “cleanup” legislation - what will be included in a cleanup measure and what is the timing for getting such legislation approved?

Please note that CSAC and others have identified a number of provisions that require cleanup legislation in order to ensure timely issuance of bonds. Many of the dates that are in ABX4 15 will likely need to change, due to the lack of passage of another budget-related measure, ABX4 27. We will continue to keep counties apprised of activities in this area, but keep in mind that some answers to these Frequently Asked Questions may change.

PROPOSITION 1A SECURITIZATION FAQ

What is securitization?

Securitization is a tool which allows an agency to sell future "receivables", such as the state's constitutional obligation to repay local agencies for a 1A borrowing, in order to access the cash due from the receivables immediately. In the instance of the Proposition 1A securitization, the California Statewide Communities Development Authority (CSCDA) is authorized to purchase the receivables due to local agencies from the state as a result of the Proposition 1A borrowing.

Who is the California Statewide Communities Development Authority?

The California Statewide Communities Development Authority (CSCDA or California Communities) is a joint powers authority (JPA) sponsored by the California State Association of Counties (CSAC) and the League of California Cities (League). California Communities was created by CSAC and the League in 1988 to enable local government and eligible private entities access to low-cost, tax-exempt financing through a variety of pooled and stand-alone finance programs.

How does the Proposition 1A securitization work?

The legislation for the Proposition 1A securitization authorizes cities, counties, and special districts to sell their state repayment obligations to California Communities. In a simultaneous transaction, California Communities will issue taxable bonds and remit the cash proceeds to the participating local public agencies. Bondholders will receive their repayment from the state at a later date. The legislation provides that local agencies participating in the securitization program will receive 100% of their respective Proposition 1A receivables.

Do I need to become a member of California Communities to participate in the program?

No. All public agencies are eligible to participate in the program without having to join the California Communities JPA.

Is securitization voluntary? What if our county chooses not to securitize?

Yes, this is a voluntary program. Public agencies that do not participate in the Proposition 1A Securitization Program can expect to receive repayment plus interest from the state for its obligations by June 30, 2013. The interest rate to be paid by the state to those local public agencies that do not securitize will be set by the Director of Finance on or before September 28, 2009. That amount must be no less than the current Pooled Money Investment Account rate, but no higher than 6%.

How much will it cost our county to participate in the Proposition 1A Securitization Program?

There is no cost to participate. All bond issuance and interest costs will be paid by the state. This allows agencies to receive 100% of their receivables.

If our county securitizes, will we still get the repayment interest from the state?

No. In the case of securitization, the state will pay the interest due to bondholders and issuance costs associated with the transaction. Only agencies that do not securitize will receive interest from the state in 2013.

Will our county incur any liability by participating in the program?

No. The bonds issued by California Communities are not obligations of any of the local agency program participants. The California Communities joint powers agreement expressly provides that California Communities is an entity separate and apart from the participating public agencies, and "its debts, liabilities and obligations do not constitute debts, liabilities or obligations of any party to the joint powers agreement." Participating public agencies are not responsible for any repayment of debt, nor are they named in any of the bond documents.

Has California Communities conducted a program like this before?

Yes. In 2005, California Communities conducted a similar bond securitization program for local agencies when the state borrowed Vehicle License Fee (VLF) revenues from cities and counties. California Communities securitized \$455 million in VLF payments due from the state to provide advance repayment to 146 participating cities and counties.

How is the Proposition 1A securitization different from the VLF "gap loan" securitization?

Under the VLF financing program in 2005, local agencies in California were required to cover the costs of issuance and pay the interest cost. As a result, local agencies only received about 93 cents on the dollar from their loans to the state. Under the proposed Proposition 1A Securitization Program, the state will pay for the borrowing interest incurred and the costs of issuance required for each agency to participate, allowing local agencies the ability to receive 100% of their receivables.

Who is the financing team for the Proposition 1A Securitization Program?

Bond Counsel: Orrick, Herrington & Sutcliffe, LLP

Underwriters: Goldman Sachs, JP Morgan, Morgan Stanley, De La Rosa, and Stone & Youngberg

Trustee: To be determined – currently in RFP process

What is the application deadline to participate in the Proposition 1A Securitization Program?

All applications and participant documents must be submitted by November 6, 2009.

What is required from our county to participate?

Participating agencies will be required to have a resolution adopted by their governing board (provided by bond counsel) that authorizes the sale of the Proposition 1A receivables to California Communities. This resolution will need to be adopted by the end of October 2009.

Will our county have to go through a credit rating process? How will the credit rating for these bonds be assessed?

No. The bonds are secured by the State of California's constitutional obligation to repay the loan within the three-year time period. The ratings on the bonds will be determined by the rating agencies based upon their assessment of the credit worthiness of the transaction and the state's ability to pay.

Are there other ways to securitize aside from the California Communities program?

California Communities offers the only pooled Proposition 1A securitization program and is the only statutorily-authorized option that allows local agencies to securitize and have bond issuance and interest costs paid by the state.*

Where can I get more information?

Please visit California Communities online at www.cacommunities.org for more information and to sign up as an interested party. There is no obligation on behalf of an agency to express an interest. Informational webinars and regional workshops will be held in September/October.

*Excepting a county of the first class.



August 26, 2009

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To: CSAC Board of Directors

From: Paul McIntosh, Executive Director
Jim Wiltshire, Deputy Director

Re: **Update on Major State Reform Initiatives**

Attached please find a summary of major state reform initiatives underway, as well as additional materials from each of those organizations for your review. Each reform initiative effort has the potential to have a significant impact on state and local finances, the state budget process, and other important governance issues. What follows is an update as to activities of these efforts.

California Forward. *California Forward*, a bipartisan group focused on broad reforms to state and local finance, governance, and budgeting, has prepared specific recommendations to bring to the Legislature for reform. These efforts are currently focused on the Legislature, but *California Forward* has committed to go directly to the initiative process if it cannot achieve the outcomes it seeks via the legislative process. At its meeting in late August, the Executive Committee discussed *California Forward's* proposals, as well as its interest in working with CSAC and our local government partners to develop initiative language.

Additionally, the Executive Committee asked us how *California Forward* was funded. Its primary funding comes from five California foundations: The California Endowment, The Evelyn and Walter Haas, Jr. Fund, The William and Flora Hewlett Foundation, The James Irvine Foundation, and The David and Lucile Packard Foundation. *California Forward* also accepts contributions to a separate "California Forward Issues Action Fund" for purposes of preparing and supporting initiatives.

Repair California. Repair California is the entity sponsored by the Bay Area Council that is focused on convening a Constitutional Convention to resolve California's myriad problems. Repair California is in the process of preparing initiative language to (1) give the voters the right to call a Constitutional Convention and (2) call the Constitutional Convention and set the process that will be submitted to the Attorney General for title and summary. Once title and summary is received, then Repair California will begin the signature-gathering process to place the measures on the November 2010 ballot.

CCS Partnership. The Cities Counties Schools Partnership, a joint venture of CSAC, the League of California Cities, and the California School Boards Association, convened a summit in July to determine which reforms are most important to local officials. Attendees extensively discussed many different reform

proposals, and in the end recommended that CCS and its constituent organizations, including CSAC, support efforts to protect local revenue. They also expressed support for reforming term limits and making changes to local vote thresholds. The CCS Board, as well as the boards of CSAC, the League, and CSBA, now must decide whether to pursue those changes and, if so, in what form. The attendees were also encouraged to take the proposals back to their communities to build momentum for change.

League/Transportation Proposal. At the recent Executive Committee meeting, staff presented a proposal by the League of California Cities to join a coalition of interested parties in developing a potential initiative to protect a variety of local revenues, including local property taxes, highway users taxes (HUTA), transit funds, and Proposition 42 revenues. The League and its partners, the California Alliance for Jobs, and the California Transit Association, have completed initial polling and are embarking on the preliminary drafting process. They requested a commitment of \$25,000 to join the process.

Given the nature of the protections being considered and the interest in maintaining a strong relationship with our local government partners, the Executive Committee approved an expenditure up to \$25,000 for this purpose.

Major Reform Proposals

Name	California Forward	Repair California	CCS Partnership	League / Transportation Proposal
Website	www.caforward.org	www.repaircalifornia.org	www.ccspartnership.org	N/A
Who they are	Bi-partisan, foundation funded, public-interest group initiated	The Bay Area Council, their partners and supporters	CSAC, the League of Cities, CSBA	The League of Cities, CA Alliance for Jobs, CA Transit Assn (CSAC, CSDA, CRA also invited)
What they want	<p><i>Responsible State Budgets on Time</i></p> <ul style="list-style-type: none"> - Require new programs to ID funding source - Results-based budgeting - Two-year budgets - One-time use of one-time funds - Reduce 2/3 budget (not tax) vote requirement - Clarify fee vote <p><i>Government that's Closer to the People</i></p> <ul style="list-style-type: none"> - Protect specific local funds - Encourage local coordination and efficiency - Allow majority-vote approval for funds to pay for county/city/school collaborative long-term flexible plans <p><i>Constituent Access and Accountability</i></p> <ul style="list-style-type: none"> - Change term limits to 12 years total in any legislative office - Require legislators to spend part of every year in their districts 	<p><i>Constitutional Convention</i></p> <ul style="list-style-type: none"> - Pursuing two initiatives: <ul style="list-style-type: none"> - Allow citizens to call a Convention - Call a Convention - Limit Convention, likely to the following topics: <ul style="list-style-type: none"> - Governance (structure of legislative & executive branches) - Elections (initiative, referenda, campaign finance, term limits) - State budget (process, vote, term, balancing, mandated spending) - Revenue distribution (state and local) 	<p>545 local officials voted at the CCS Summit to support the following reforms:</p> <p><i>Protect Local Revenue</i> (the overwhelming favorite)</p> <p><i>Reform Term Limits</i> (a distant second)</p> <p><i>Change Requirements for Approval of Local Taxes</i></p> <p><i>Require New Funding Sources for Statewide Ballot Measures that Impose New Obligations</i></p>	<p><i>Protect Local Revenues</i></p> <ul style="list-style-type: none"> - Explicitly acknowledge local control of voter-approved taxes, inherent tax powers of counties and cities, prohibit state use and diversion - Ironclad protection of all local property taxes - Strong protection of HUTA - Strong protection of transit funds - Ironclad protection of Proposition 42 funds, including spillover - Exception for loans in case of major state natural disaster



THE CALIFORNIA FORWARD REFORM PLAN

California Forward is a bipartisan group of citizens from every walk of life who have come together to reclaim our power and make our government work again. Our goal is fundamental change: government that's small enough to listen, big enough to tackle real problems, smart enough to spend our money wisely in good times and bad, and honest enough to be held accountable for results.

RESPONSIBLE BUDGETS ON TIME

1. **Pay-As-You-Go.** Require that new programs identify a funding source for any new spending they require.
2. **Base Budgets on Results.** Require the Governor and lawmakers to set clear goals for programs, measure their results and effectiveness when making budget decisions, monitor performance to improve efficiency, and consider eliminating outdated and duplicative programs.
3. **Two-year Budget.** Require the Governor and Legislature to craft two-year budgets with midcourse correction authority, and provide long-term revenue forecasts and capital investment plans.
4. **One-Time Use of One-Time Revenues.** Reduce future budget shortfalls by prohibiting the use of unexpected spikes in revenues to increase spending on programs that continue year after year.
5. **Reduce the Budget Vote Requirement.** Reduce the likelihood of budget stalemates by changing the legislative vote requirement for state budget approval to a simple majority (to be adopted in conjunction with the plan's other fiscal reforms, and while retaining the two-thirds majority vote requirement for tax increases).
6. **Provide Certainty Regarding Passage of Fees.** Clarify the circumstances in which the Legislature and the Governor can impose fees without a two-thirds majority vote to those areas with a clear and justifiable nexus to the service provided.

GOVERNMENT THAT'S CLOSER TO THE PEOPLE

1. **Protect Local Revenue.** Give communities more control over community-related services and prevent the state from siphoning off local revenue by giving local governments legal ownership of specific funds for community services.
2. **Remove Barriers to Local Government Coordination.** Encourage community-level governments to coordinate, consolidate districts when this makes sense, and give county governments authority to redistribute local property taxes to improve efficiency, improve services and deliver better results.

- 3. Foster and Fund Long-Term Regional Collaboration.** Allow cities, counties and school officials who craft long-term flexible plans to address community needs, to seek majority-vote approval to provide funds to pay for them, while retaining the vote thresholds established under Proposition 218.

CONSTITUENT ACCESS AND ACCOUNTABILITY

- 1. Term Limit Reform.** Reducing the total time newly-elected state legislators are allowed to serve from 14 years to 12 years, regardless of whether the time is spent in the Assembly or Senate.
- 2. Constituent Access and Accountability.** Requiring legislators to spend part of every year in their district, in consultation with constituents and local leaders.

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Mission

California Forward's mission is to improve the quality of life for all Californians by creating more responsive, representative and cost-effective government.

Vision

Our vision is for a California where:

1. Government is closer to the people.
2. Fiscal systems are reliable, efficient and focused on results.
3. State leaders are held accountable for making improvements, and voters are empowered to understand and exercise their role in a strong democracy.

Values

To ensure success, *California Forward* and the projects it supports have the following characteristics:

- **Leadership that reflects California.** The leadership of *California Forward* includes broad ethnic and political diversity to build legitimacy, credibility and trust.
- **Results driven.** Projects clearly link structural reforms with the anticipated public benefits, as specific and as close to home as possible.
- **Publicly oriented.** Public engagement is a cornerstone of all activity—demonstrating the value public value of public involvement in making sound public policy improvements.
- **Opportunistic and persistent.** *California Forward* creates and accelerates projects based on changing external and political environments. Decision-making models are informed, transparent and efficient, and address obstacles and deficiencies until objectives are achieved.

How We Pursue Progress

California Forward is pursuing these goals through bipartisan, data-driven reforms. Reforms are developed and implemented through issue-specific projects with the following steps:

1. Fact-based assessments of governance problems that impact public outcomes. Identification of viable, bipartisan solutions consistent with the priorities of all Californians.

2. Meaningful engagement of diverse populations regarding problems and solutions, with attention to those who are inadequately served by programs or underrepresented in the political process.
3. Effective execution of political strategies and campaign tactics to ensure adoption and implementation of new policies – including legislation, ballot initiatives and administration actions, as well as local or regional reforms that can be scaled to have statewide impacts.

Through this public interest approach, *California Forward* is rallying the ambition, innovation and optimism of Californians to overcome the distrust and partisanship that have thwarted attempts to bolster democracy.

Origins and Support

For California to meet the challenges of the coming decades – in the areas of healthcare, education, the environment and economic growth, among others – the state will need to dramatically change how public decisions are made and how public dollars are spent.

In recognition of these challenges several major California foundations (The California Endowment, The Evelyn and Walter Haas Jr. Fund, The William and Flora Hewlett Foundation, The James Irvine Foundation, and The David and Lucile Packard Foundation) came together to ask four civic organizations to recommend a plan to achieve this change.

California Forward is the result. This new organization was created by California Common Cause, Center for Governmental Studies, New California Network and The Commonwealth Club of California's Voices of Reform Project. The goal of *California Forward* is to contribute to improving the quality of life for all Californians by creating more responsive, representative and cost-effective government.



Leadership Council

The Leadership Council is a diverse group of Californians who select and guide *California Forward's* portfolio of projects.

Thomas V. McKernan, Co-Chair

CEO of the Automobile Club of Southern California

Robert M. Hertzberg, Co-Chair

Chair & Founder of G24 Innovations

Robert L. Balgenorth

President of the State Building & Construction Trades Council of California, AFL-CIO

Phaedra Ellis-Lamkins

CEO of Green For All

R. William "Bill" Hauck

President of the California Business Roundtable

Antonia Hernández

President & CEO of the California Community Foundation

Fred Keelev

Former Assembly Speaker Pro Tempore

Stewart Kwoh

President & Executive Director of the Asian Pacific American Legal Center of Southern California

Donna Lucas

Former Deputy Chief of Staff for Strategic Planning & Initiatives for Governor Arnold Schwarzenegger

Sunne Wright McPeak

President & CEO of the California Emerging Technology Fund

Bruce McPherson

Former California Secretary of State

Charles "Chuck" Poochigian

Former State Senator & Assemblymember

Cruz Reynoso

Former Associate Justice of the California Supreme Court & the Third District Court of Appeal

Constance L. "Connie" Rice

Former Co-Director of the Los Angeles NAACP Legal Defense & Educational Fund

Eugene J. "Gene" Voiland

Former President & CEO of Aera Energy LLC

Previously Served

Leon E. Panetta

Former Co-Chair; Director of the Central Intelligence Agency

★ REPAIR CALIFORNIA

Californians Ask a State Constitutional Convention

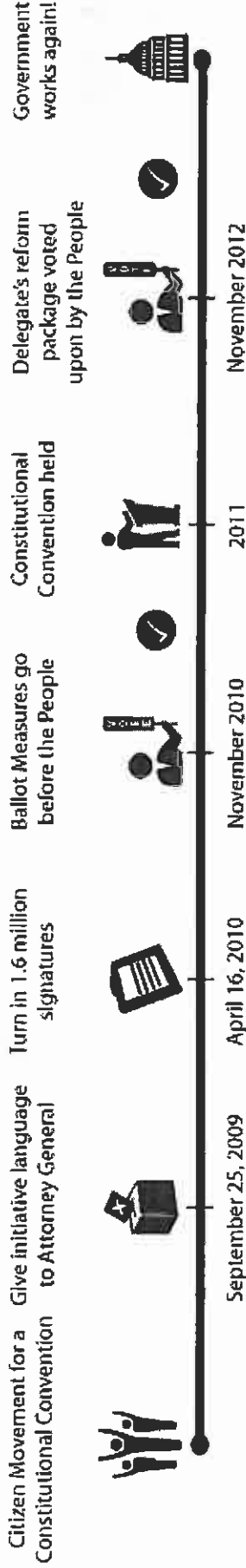
California Constitutional Convention

Day by day, evidence piles up demonstrating that California government is not only broken, it has become destructive to our future. The recent failure of the Legislature to negotiate a budget, in the direst of circumstances, is just another straw on the camel’s already-broken back.

Our state’s founders gave us the tool to take this step — with a constitutional convention.

Repair California proposes two ballot measures. One to empower the people to call for a Constitutional Convention and the other to call for the Convention and set the process.

Timeline for a Convention



On August 21, 2008, after the publication of an opinion piece in the San Francisco Chronicle calling for a Constitutional Convention, a movement was born. Currently Repair California is holding town hall meetings across the State to listen to what Californians want to see come out of a Constitutional Convention. Based on their feedback, the suggestions that come through this website and the many concerned citizens who have reached out to us, we will finalize our initiative language and submit the two measures to the Attorney General on September 25, 2009. The next step will involve gathering signatures for both measures. Those will be turned in on approximately April 16, 2010. The two measures will then go to the people in the general election in November of 2010. The first measure gives the people the right to call a Constitutional Convention, and the second measure will call a Convention and set the process. The measures require passage by a simple majority of the voters. The Convention would be held in 2011, and their suggested reforms will be placed on the ballot in November of 2012 for the approval of the voters.

California government has failed us

Jim Wunderman

Thursday, August 21, 2008

California's government suffers from drastic dysfunction - our prisons overflow, our water system teeters on collapse, our once proud schools are criminally poor, our financing system is bankrupt, our democracy produces ideologically extreme legislators who can pass neither budget nor reforms, and we have no recourse in the system to right these wrongs. Drastic times call for drastic measures.

It is our duty to declare that our California government is not only broken, it has become destructive to our future. Therefore, are we not obligated to nullify our government and institute a new one?

Those were the rights and responsibilities that Thomas Jefferson wrote of in the Declaration of Independence, stating that governments derive their power from the consent of the governed and that whenever a government becomes destructive to the governed, it is a people's solemn right and duty to alter or abolish it.

Our state's founders gave us the tool to take this step - with a constitutional convention. We can either be led to a convention by our elected leaders in the Legislature, who, as fed up as we are, can authorize a convention with a two-thirds vote, or we can bypass any gridlock in Sacramento with a "citizen's constitutional convention." Changes from either would go on the ballot for a majority vote.

As rash as an act as this might seem, this is not uncharted territory. Nearly 30 years after the state was founded, California received a new government from a constitutional convention. We also had a California Constitutional Revision Commission from 1964-1976 and the voters approved and codified the commission's revisions in separate pieces in 1966, 1970, 1972 and 1974. Jefferson also cautioned that governments should not be changed for light and transient causes. So let us consider the seriousness of the ills and their relationship to the Constitution. California is the only state that has not passed a budget this year. While the budget battle rages, no other legislative matter gets real attention, despite an armada of problems requiring state attention - water, education, roads, prisons, health care, housing, economic policies and more. If this were a rare occurrence, then we could look the other way, but it has happened 18 of the past 22 years! The chief reason is that only Rhode Island, Arkansas and California have a constitutional requirement of two-thirds legislative budget approval, which in California is nearly impossible. Republicans contend this threshold is their only check on Democrats' profligate spending, but if Democrats do overreach, more Republicans would be elected. Likewise, some states pass two-year budgets, freeing at least one year for pure legislative work, but California's Constitution prevents such sensible practice.

California's primary system and gerrymandered Assembly and Senate districts, both parts of the Constitution, consistently produce candidates from the ideological extremes. In such an atmosphere, party orthodoxy rules all, and crossing the line to compromise is political suicide. For this reason, real, desperately needed change is blocked at every turn, and only bills like regulating tanning booths actually escape alive.

California's system of taxation and spending is almost entirely hardwired into the Constitution. It produces wildly fluctuating revenue booms and busts that put state services on a cruel feast-or-famine roller coaster that drags the poor, the elderly, children and even the business community along for the painful ride. Similarly, local funding is hogtied to the state's, forcing our cities and counties to suffer as well from outdated laws in the Constitution. California's bureaucratic red tape is legendary, reflecting nothing of our 21st century economy, culture and society.

That is because so many state agencies, boards and commissions have been placed forever in our Constitution. Texas actually has a Sunset Commission in which nearly all of its 150 agencies are automatically abolished after 12 years, unless legislation is enacted to continue them. Alas, our state Constitution prevents this, too. California's Constitution was always meant to be a living document that could adjust to the times. The time has come to make serious adjustments. As Jefferson would remind us, this is not just a right, it is a patriot's solemn duty.

Jim Wunderman is the president and CEO of the Bay Area Council.

This article appeared on page **B - 7** of the San Francisco Chronicle

REBUILDING CALIFORNIA FROM THE GROUND UP

On Friday, July 17, and Saturday, July 18, more than 100 county supervisors, county administrative officers, and other county leaders joined their city and school board partners at the Local Government Summit on State Governance and Fiscal Reform in Sacramento. Nearly 550 total attendees participated in this important event.

The summit, titled "Rebuilding California—From the Ground Up," is an ongoing effort to hash out the changes the state needs to make to restore effective governance and a sensible fiscal system. It kicked off Friday afternoon with CSAC Past President and San Mateo County Supervisor Rich Gordon giving an overview of the summit agenda, a look at how the summit came about, and the work the Cities Counties Schools (CCS) Partnership has done to develop joint principles as a starting point for discussions. The CCS Partnership is ongoing partnership of CSAC, the League of California Cities and the California School Boards Association.

On Friday, participants heard from several speakers, including Fred Silva of California Forward, former legislator and current Board of Equalization member Bill Leonard, and Jim Wunderman, executive director of the Bay Area Council.

The principle element of the summit was a three-and-a-half hour session Saturday morning where local representatives broke into small groups and had detailed discussions about reform proposals. From those sessions, four top priorities emerged among the group discussions:

1. Protect local revenue.
2. Reform term limits.
3. Approve local taxes with <2/3 vote.
4. Require new funding sources for statewide ballot measures that impose new obligations.

The next steps include each association further discussing the priorities with their respective memberships. The CCS Partnership will also be further analyzing the summit discussions.



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August 25, 2009

TO: CSAC Board of Directors

FROM: Paul McIntosh, Executive Director
Jim Wiltshire, Deputy Director

Re: **State Budget – Strategy and Planning for 2010**

On August 20 the Executive Committee meeting began a discussion of how to strategize and plan for the upcoming state budget. At the Executive Committee's direction, the CSAC Budget Reform Task Force will be meeting over the fall to assist in developing recommendations for the Board's consideration in November.

The Task Force will provide recommendations to the Executive Committee for consideration in October. The Executive Committee will provide its recommendations to the Board of Directors on November 19.

A number of factors weighed into the Executive Committee's discussion about developing a statewide strategy for the state budget. Counties will continue to face difficulties in this current economic climate and with the state budget. The 2010-11 state budget is estimated to be out of balance by at least \$7 billion. Many threats to counties remain, including an additional HUTA take and further cuts to county administration of programs. As long as the Governor and Legislature believe counties can withstand further cuts and/or that counties will backfill, they will continue to make cuts. Advocacy and education on county issues remain difficult.

In addition, the Executive Committee recognized the need for their fellow supervisors to be actively engaged with the Legislature and the Administration in budget and legislative discussions. A clear plan and strategy may help all 58 counties engage in proactive efforts. A board-wide discussion about strategy may also help to demonstrate where the association has consensus.

Some examples of topics for discussion may include:

- The state's perpetual budget problems place counties in the crosshairs on a regular basis. There will likely be new efforts to target local revenues, like the HUTA, to shift state costs to counties, and to "do more with less." In light of this reality, where do we go from here?
- Health and human services cuts directly impact counties' ability to provide safety net services. Counties are exposed to lawsuits and penalties, as no statutory relief is ever considered. What is our role as the state's safety net provider? What are our obligations to the community?

- The Human Services Funding Deficit was dramatically expanded in the 2009-10 budget. Child welfare services alone comprise the vast majority of the now decade-long lack of adequate funding. Services to abused and neglected children are now at risk. How do we communicate this problem effectively and, in light of the state's chronic ongoing budget deficits, resolve it?
- Whatever outcome occurs from legislative discussions on corrections reform, it is highly likely that counties will be affected. The range of proposals under consideration — including sentencing, credit-earning, and parole reforms — will certainly have a public safety impact on local communities. Whatever the Legislature ultimately agrees upon, cost-shedding on the prison side translates into a cost shift to counties.
- This Legislature and this Governor have a penchant for calling special elections without providing any funding to counties to conduct them. As a result, we expend tens of millions of dollars to conduct an election and must go request funding from the Legislature months after the fact, with no guarantee that such reimbursement will ever occur.
- The constitutional protections for mandates and mandate reimbursement cannot protect us from a fundamental indifference at the state level about whether counties are ever reimbursed or adequately funded for required services. The mandate identification and funding systems are completely dysfunctional, and it seems to be in the state's interest to keep them that way.
- Counties have coordinated litigation, engaged the media, and reached out to other stakeholders. We continue to work with our local government partners – cities, special districts, and school boards – culminating in July's *Rebuilding CA From the Ground Up* summit, sponsored by the Cities, Counties, Schools Partnership. Still, we are expected to continue providing a wide variety of local services, with little state support, virtually no ability to raise revenues at the local level, and statutory requirements that effectively expect us to perform at the highest capacity.

The CSAC Budget Reform Task will be meeting through the fall and will discuss a wide variety of issues such as those outline above, including legislative and gubernatorial strategy, media and communications, administrative actions and legal options, as well as other specific options.

The membership of the CSAC Budget Reform Task Force is attached.

CSAC 2009 Budget Reform Task Force Members

County Supervisors

Gary Wyatt, Imperial
Tony Olivera, Kings
John Tavaglione, Riverside
Rich Gordon, San Mateo
Bruce Gibson, San Luis Obispo
Kathy Long, Ventura
Mark Lovelace, Humboldt
Mike McGowan, Yolo
Mike Reagan, Solano
Roger Dickinson, Sacramento
Susan Cash, Inyo

County Administrators and Executives

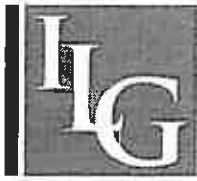
Bill Goodwin, Tehama County
Craig Pedro, Tuolumne
David Boesch, San Mateo
Greg Iturria, Butte
Larry Spikes, Kings
Mark Charlton, Modoc
Marty Robinson, Ventura
Matthew Hymel, Marin
Pat Leary, Yolo
Robert Bendorf, Yuba
Susan Muranishi, Alameda
Walt Ekard, San Diego

County Counsel

Steve Woodside, Sonoma

Other

John Sweeten, Executive Director, CAOAC



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INSTITUTE FOR LOCAL GOVERNMENT

Update on Activities

September 2009

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California Resources Agency

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Former Director of State Finance
State of California

New Website Launched

The Institute has launched its new website at www.ca-ilg.org. The new website will help local officials and others interested in local government more easily access the Institute's resources. The site's interactive capabilities enable users to exchange information with each other and provide feedback to the Institute.

Public Service Ethics

The Institute's new suite of ethics publications has been distributed to counties statewide and made available online at www.ca-ilg.org/trust. Copies will be available at the board meeting.

Because of the current difficult fiscal environment, we are making these resources available in a variety of ways to local agencies. This includes the opportunity to reproduce a digital version of the publication for a modest fee.

Understanding the Basics of Public Service Ethics includes five booklets designed to help local officials meet both the law's and the public's expectations for public service:

- *Personal Financial Gain Laws*
- *Perk Issues, Including Compensation, Use of Public Resources and Gifts*
- *Transparency Laws*
- *Fair Process Laws and Merit-Based Decision-Making*
- *Promoting Personal and Organizational Ethics*

At the suggestion of the chair of the CSAC Institute governing council, each booklet comes with a separate executive summary tab.

Key Ethics Law Principles for Public Servants is a four-page pamphlet that summarizes the kinds of issues and financial interests that ought to trigger a conversation with one's agency counsel about what the law requires.

This suite of publications reflects our ongoing effort to find ways to both alert local officials to the full range of ethics laws that affect their public service and to do so in a way that makes sense to the non-lawyer.

We are very grateful to our law firm partners, whose support made the development of these resources possible: Aleshire and Wynder; Best, Best and Krieger; Burke, Williams and Sorensen; Jenkins and Hugin; Kronick, Moskowitz, Tiedemann and Girard; Liebert Cassidy Whitmore, and Richards, Watson and Gershon.

County Supervisor Joins Institute Board

Salud Carbajal, First District Supervisor of Santa Barbara County, has joined the Institute's board of directors. His colleagues on the Institute board include Greg Cox, CSAC board liaison, and Paul McIntosh.

County Administrator Board Liaison Needed

The Institute is looking for candidates to fill the County Administrators Association liaison position left vacant by the recent retirement of Sharon Jensen, former CAO of Yolo County. The Institute is working with the Association to fill this vacancy.

Strengthening the Institute Brand

At its August meeting the Institute board of directors launched an effort to raise awareness of the Institute and its role in service to local agencies. In the coming weeks the Institute will be consulting with CSAC and other key partners for their help in strengthening the Institute's brand with local agencies and other. This will involve articulating what makes the Institute a leading source of research and information for local officials and how the Institute communicates its role in promoting good governance at the local level.

CSAC Institute for Excellence in County Government

The Institute has helped with the following CSAC Institute sessions:

- The Hidden Side of Labor Negotiations (July)
- Meeting Management (August)
- When Bad Things Happen (August)
- Leading by Values (November)

We also have provided handout materials for these sessions, as well as the sessions on county finance, the basics of local governance and negotiations (forthcoming).

Engaging the Public

Resources for Local Youth Commissions. The Institute's Collaborative Governance Initiative has just published its latest e-newsletter directed to the staff of California county and city youth commissions. Among the highlights are youth commission involvement in addressing climate change. A "briefing paper" for youth commissions suggesting ways that young people can support climate change efforts in their own communities is in the works.

New Publications Coming Soon. The Institute's Collaborative Governance Initiative has two new publications headed for the presses:

- *A Local Official's Guide to Engaging the Public in Budgeting*
- *A Local Official's Guide to Working with Clergy and Congregations*

California Climate Action Network

CCAN is wrapping up three projects that will provide resources for local agencies interested in reducing greenhouse gas emissions, conserving resources and engaging the public in developing climate change policies and programs.

- **Case Stories Available on Website.** Over 40 stories are now available on the CCAN website about local agency activities in the areas of green building, land use and community design, efficient transportation, commercial recycling and public engagement. These stories demonstrate the range of innovation underway at the local level to promote sustainability and reduce greenhouse gas emissions.
- **Public Participation and Climate Change.** *Harnessing the Power of Your Community to Address Climate Change: A Local Official's Guide* is a short publication outlining how local agencies can involve the public in developing local policies and programs to reduce greenhouse gas emissions. The publication builds upon the case stories mentioned above and provides insights into different types of community engagement activities.
- **Sample Commercial Recycling Ordinance.** CCAN is nearing completion of a sample commercial recycling ordinance that local agencies may adopt, if they wish. An advisory committee, which includes county and city officials and others, helped to identify key components and options for inclusion. The sample ordinance highlights policy choices and offers alternative provisions that can be adapted to reflect local conditions. Extensive commentary places specific provisions in context and provides key facts about special issues.

In progress are resources to help local officials understand the implications of cap and trade policies for local government, options for financing greenhouse emissions reduction activities and SB 375 explanatory materials (for local officials to use with the public).

CSAC Institute Update

CSAC Executive Committee

20 August 2009

14 Courses; 183 Participants

As of 20 August, the CSAC Institute will have offered 14 courses for county supervisors and senior executives. To date 183 county officials have attended at least one Institute course and many have attended multiple courses. Several county supervisors and county executives are working on their CSAC Institute Credential and have attended most of the Institute courses offered!

Full Semester of 19 Courses

The Institute is in the midst of the Summer/Fall Semester with 19 courses planned for July through December, 2009. This semester includes four courses offered in Southern California locations and four courses offered in conjunction with the CSAC Annual Conference in November. Courses cover practical knowledge competencies in such areas as labor negotiations, capital finance, performance measurement, and meeting management. They also cover important leadership competencies such as coping with ambiguity, values-based leadership, negotiations, and organizational leadership.

Courses Highly Rated

Every institute course is rated at the end of the class. On a six-point scale (with six being excellent), the overall rating of the courses offered through July has been a very positive 5.4. The Institute has placed a great deal of emphasis on selecting and preparing outstanding instructors which is reflected in the overall instructor rating of 5.6.

Institute courses are coordinated through three excellent institutions along with the CSAC Institute staff. The institutions include:

- ◆ USC-State Capitol Center School of Public Policy Planning and Development and the Marshall School of Business
- ◆ Sacramento State University Center for California Studies
- ◆ Institute for Local Government

Outstanding Feedback from Participants

The feedback from participants addresses the value of the Institute to California Counties:

I was planning to write to you over the weekend, to congratulate you on your work. When I reviewed the binder on Wednesday evening I was kicking myself at failing to bring some of my staff and for not pushing our CAO to have staff there. Now, having seen the program, feel stronger about that and also am looking at your other programs for the same purpose. You have something really good going here and you know how to deliver a quality product. Your program is badly needed. Our County Counsel internal education programs are specific and technical. The CSAC conferences are policy level and more advocacy than education. Your program fills a gap that is practical and interdisciplinary. Thanks for the opportunity to be

there and participate. Keep up the good work. – Richard E. Winnie, County Counsel, County of Alameda

This is the second course in a row that was excellent and well worth the time. – Rick Haffey, CEO, Nevada County

Another awesome, cutting edge, CSAC seminar! (county manager)

I now have the right questions to ask that will help our county planning process. – Supervisor Tom Sweeny, Alpine County

Yes, Absolutely valuable. In addition to being timely, it effectively helped in “seeing the forest for the trees” relative to state-county financing. – Kevin Carunchio, CEO, Inyo

Absolutely valuable. Incredible knowledge gained on history of county finance by a well-informed presenter. Makes current budget problems easier to understand – Supervisor Margie Barrios, San Benito

The instructors were very knowledgeable and seemed to really enjoy teaching the course content, which is important from a learner’s perspective. They also tried to get us to think more proactively about the role of counties in bringing people together to work on issues that involve many, many stakeholders, and in explaining the sometimes long and conflict-ridden democratic process to the public. – Reyna Farrales, Deputy County Manager, San Mateo County

Participation from Senior County Staff and Corporate Associates

The Institute is successfully integrating qualified instructors from county executives and corporate associates. CSAC Financial Corporation brought in a number of its private-sector members for the “County Finances” course. Corporate associate Liebert Cassidy Whitmore along with the Institute for Local Government produced the very timely “Labor Relations in Local Government” course. Institute staff is working with Vanir Corporation and several senior county staff to produce the upcoming “Capital Improvement Planning” and “Project Management” courses.

Continue to Spread the Word

As with any new opportunity, the key is making supervisors and senior staff aware of the Institute and the value of the courses. Word of mouth is spreading news about the Institute as are e-mail blasts and other communications. The Institute maintains a website for detailed information and registration at www.csacinstitute.org.

2009 SUMMER/FALL
COURSE SCHEDULE

JULY

153 Labor Relations in Local Government – The UnCOLA: Negotiating Contract Changes

How do you approach labor to change contracts? Why do employee costs continue to rise, even when COLA's are limited? This course examines the basics of labor negotiations and renegotiations, keys to concession bargaining, unfair practices, and employee benefits. Participants explore the Board role versus staff in negotiations, negotiating layoffs and furloughs, and strategies for negotiating contract changes and limiting contract costs. The class also examines the techniques for maintaining the ongoing relationships with employee organizations.

Friday, 10 July 2009 10:00-3:00
 Sacramento • \$75/member • 3 credits • Board/Execs

154 County Finances: It's A Whole New World

The world of financing California counties has changed dramatically in the last year. Some traditional methods remain, others are less productive and new methods are becoming available. This class will unravel the mysteries of bonds, securitization, trans, notes, credit swaps, derivatives, pension obligation bonds and examine where counties should be concerned; how have the markets and options changed; and what's in the future for county financing?

Thursday, 23 July 2009 10:00-3:00
 Sacramento • \$75/members • 3 credits • Board/Execs

AUGUST

150 Local Governance in California

California has a complex system of providing state, federal and local services through local governments. It is often difficult to understand or explain the broad responsibilities counties have to provide a vast range of often unrelated services. This course provides an overview of government structure and responsibilities in California with a focus on how it relates to counties.

Thursday, 13 August 2009 10:00-3:00
 San Diego • \$75/members • 3 credits • Board/Execs

351 Managing Effective Meetings

Dread the thought of chairing – or attending – another meeting? This class will help you make meetings more productive and valuable. Whether you are the chair or a participant this course will provide you with techniques and tips for making effective use of meetings: preparing agendas and people, moving the agenda, follow up, managing distractions and dealing with difficult situations and people ... and more. Counties spend a lot of resources at meetings. This class will help you make them constructive.

Friday, 14 August 2009 9:00-12:30
 Sacramento • \$50/members • 2 credits • Board/Execs

357 When Bad Things Happen

How well are you prepared for the unexpected? Most counties are ready for natural disasters. This course explores the

strategies when unanticipated crises occur that directly affect or are a result of county operations: death or resignation of elected or appointed officials, neglect in oversight, mistakes, fiscal emergency, and others. Strategies for planning, recovery, media and community relations, handling protests, and related issues are discussed.

Thursday, 20 August 2009 10:00-3:00
 Sacramento • \$75/members • 3 credits • Board/Execs

SEPTEMBER

155 Capital Improvement Planning and Financing

You've heard about "CIP." This class will help you better understand what it is, how they are developed, management of CIP programs, funding sources, and what questions you should be asking. The class is an in-depth examination of an important aspect of county capital improvements.

Friday, 11 September 2009 10:00-3:00
 Sacramento • \$75/members • 3 credits • Board/Execs

356 Negotiation and Collaboration in Complex Environments

Negotiation and collaboration in the public sector is difficult at best, but there are effective approaches you can employ with intergovernmental, labor, community groups and other negotiations to get results. This course is designed for senior staff and focuses on the strategies and techniques to negotiate agreements and collaborate together on problem solving when easy solutions don't work.

Thursday, 24 September 2009 10:00-3:30
 Sacramento • \$75/members • 3 credits • Board/Execs

OCTOBER

370 Performance Measurement

This class provides an overview to performance measurement and its techniques to measure and share with community on what citizens are getting for their money. The class highlights the benefits and costs of performance measurement, how it can be of value to counties, how to design and implement a measurement system, and the pitfalls to avoid. The session also examines resources available, such as the ICMA Center for Performance Measurement.

Friday, 2 October 2009 10:00-3:30
 Sacramento • \$75/members • 3 credits • Board/Execs

120 The Art & Practice of Organizational Leadership

This interactive course explores the art and practice of leadership in helping create a high-performing county organization, especially in tough financial times. Topics include key practices in formal and informal leadership, particularly in promoting change; employee engagement and team-building strategies; leadership when you are not in charge; and techniques for developing a vital workplace culture that supports organizational members.

Friday, 9 October 2009 10:00-3:30
 San Diego • \$75/members • 3 credits • Execs



To register for classes please visit: www.csacinstitute.org

LEARN . GROW . ACHIEVE

372 Problem Solving and Process Improvement

Before throwing more people and resources at a problem, try some proven techniques in problem solving and process improvement. Counties are often faced with complex and cumbersome processes and procedures. You know it could be better, but you're not sure where to start. This course examines a step-by-step approach to process improvement. Agencies have found amazing results; often seeding up processes such as records processing and building permits while at the same time reducing costs and staff. With the financial and staffing challenges facing counties today, part of the answer may come from more efficient processes.

Friday, 23 October 2009 10:00-3:30
Sacramento • \$75/members • 3 credits • Board/Execs

NOVEMBER

151 Financing California Counties

Have you found yourself overwhelmed trying to understand the financial reports from county programs? Or worse yet, trying to explain county finances and revenues to your constituents? This course provides an in-depth examination of the federal, state and local county funding sources and how those funds are typically spent. The class explores county discretionary levels with key funding sources and how the funds may be spent. Participants discuss various methods to communicate the challenges of county finances to the community.

Friday, 6 November 2009 10:00-3:30
Ventura • \$75/members • 3 credits • Board/Execs/Staff

COURSES AT CSAC ANNUAL CONFERENCE

122 Values-Based Leadership: Strategies for Success in Public Service

Understanding the relationship of values to decisions can be a helpful decision-making tool. Focusing on commonly held (although sometimes competing) values underlying difficult policy dilemmas can help leaders bridge differing perspectives—either while policies are being debated or after difficult decisions have been made and need to be explained. In addition, clearly articulated organizational values provide staff with important information on an organization's priorities. This course explores the role values play in both personal and organizational leadership, strategies to consider in modeling organizational values, and approaches to making and explaining difficult decisions.

Monday-Tuesday, 16-17 November 2009
Monday 1:00-4:30; Tuesday 8:30-noon
Monterey • \$75/members • 3 credits • Board/Execs

140 Interpersonal Effectiveness: Why Won't They Change for Me!?

The key to interpersonal effectiveness – and improving your interaction with others – is better understanding yourself. Effective elected officials and senior executives have discovered that the more they understand their reactions to others, know how to capitalize on their personal strengths, are able to exude an air of confidence, and have the ability to adopt their behavior to meet the needs of others – the more effective they become in achieving results with others. Learn how in this lively and insightful class.

Tuesday, 17 November 2009 9:30-noon
Monterey • \$25/members • 1 credit • Board/Execs

375 Coping with Ambiguity: Leadership for Challenging Times

Counties operate in complex and changing environments. Within these unpredictable economic contexts and unprecedented challenges, county leaders find themselves trying to make past practices and models fit current realities. But that may be a mistake in coping with ambiguity. This class provides a new way to think about applying leadership practices – at both elected and senior executive levels – to help your county organization and community find new realities and ways of effectively working in uncertain times.

Thursday, 19 November 2009 1:30-5:00
Monterey • \$50/members • 2 credits • Board/Execs

359 Beyond the Brochure: Recruiting & Hiring Senior Executives

How do counties attract and hire the best senior staff? This course is designed for county supervisors and human resource staff responsible for recruiting senior executive such as the CAO, county counsel and department directors. You can use a recruiter, but still how do you know it's the best person for the job? The class examines techniques to market your opening, determine cultural fit; assess skills; and go beyond references.

Friday, 20 November 2009 8:30-11:30
Monterey • \$50/members • 2 credits • Board/Execs

DECEMBER

309 Shaping Federal Legislation, Regulations and Rule Making

How are laws and rules made in Washington that affect counties? How California counties can lobby in Washington and make a difference with both Congress and federal agencies in rule making. This class will introduce you to the basics of federal law and rule making and provide tips and contacts for making your counties' voice heard in Washington ... even when you don't have a lobbyist!

Thursday, 10 December 2009 9:00-12:30
Sacramento • \$50/members • 2 credits • Board/Execs

140 Interpersonal Effectiveness: Why Won't They Change for Me!?

See previous description.

Thursday, 10 December 2009 1:00-3:30
Sacramento • \$25/members • 1 credit • Board/Execs

373 Project Management

Help make those projects come in on schedule and within budget with the techniques presented in this class. Ideal for project managers, this course explores the basic tools for managing county projects: planning tools, establishing and leading project teams (especially when you don't supervise the team members), problem solving tools, and techniques for managing projects in complex, multi-year environments.

Friday, 11 December 2009 9:00-3:00
Sacramento • \$75/members • 3 credits • Execs

370 Performance Measurement

See previous description.

Thursday, 17 December 2009 10:00-3:30
Southern California • \$75/members • 3 credits • Execs

To register for classes please visit: www.csacinstitute.org

UPDATED 20 June 2009



CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

August 26, 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

- On August 4th the CalTRUST Board of Trustees held a meeting. Paul McDonnell, Chief Financial Officer of Riverside County tendered his resignation (he remains on the Finance Corporation Board). Two new trustees were appointed to the board; Don Kent, Treasurer-Tax Collector of Riverside County and John Colville, Senior Investment Officer of City of Sacramento.
- A new Money Market Fund has been established for the CalTRUST pool and will be launched on September 1st. The new Fund provides a third active account option, in addition to the short and medium term accounts, and provides more flexibility as it allows for same-day liquidity. Initial investments amounting to \$100 million.
- New CalTRUST members include the City of Sacramento and College of the Sequoias, the initial community college participant.
- CalTRUST currently has 74 participants and current assets exceed \$647 million.

California Communities

- California Communities will be very involved with the securitization of the Prop 1A portion of the budget agreement. We are working closely with California Communities to help educate counties on the program and market it proactively.

U.S. Communities

- U.S. Communities second quarter purchasing reports are in and show a 9% increase over second quarter 2008.

Nationwide Retirement Solutions

- Maria Pe, Assistant Treasurer-Tax Collector, San Diego County, was appointed by Valerie Brown to serve on the NACo Deferred Compensation Committee. Maria manages San Diego County's deferred compensation programs.
- Special thanks to Ron Komers, Human Resources Director, Riverside County, who previously served on the Committee for his service to CSAC, NACo, and county employees and for his contributions in the area of deferred compensation.

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 or any other CSAC Finance Corporation programs please do not hesitate to contact us via phone, 916.327.7500 x556, or via email, tsweet@counties.org; Laura Labanieh at 916.327.7500 x536 or llabanieh@counties.org; Laura Li at 916.327.7500 x560 or lli@counties.org.



MEMORANDUM

August 26, 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:

- Membership and sponsorship solicitation efforts for 2009 remain underway; we currently have 77 member organizations, and total membership and event sponsorship income for the year to-date stands at \$255,150.
- The program has gained nine new members so far this year, including two at the new Small Business level. The Small Business membership was introduced earlier this year, to offer sole proprietors and small businesses that work with California Counties an opportunity to join the program at a special, discounted rate for their first year.
- Plans are in place for two Annual Meeting sessions featuring Corporate Associates members: a major session presentation dealing with healthcare reform, as well as a workshop on privacy rights and background checks.
- The Exhibit Hall for the 2009 CSAC Annual Meeting in Monterey County is approximately 60 percent committed, and we anticipate another sold-out hall for this year.
- We are continuing to distribute regular communications to all Corporate Associates members, including a monthly e-newsletter, *Around Our Counties* Newsletter, *California Counties* magazine and the Executive Director's Watch.
- Upcoming events:
 - 1) CSAC Board of Directors/Corporate Associates Event – September 9, CSAC Conference Center, Sacramento
 - 2) Annual Meeting "President's Cup" Golf Tournament – November 16, Poppy Hills Golf Course, Carmel

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 Counselors' Association of California

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MEMORANDUM

**To: Supervisor Gary Wyatt, President, and
Members of the CSAC Board of Directors**

From: Jennifer Henning, Litigation Coordinator

Date: September 10, 2009

Re: Litigation Coordination Program Update

This memorandum will provide you with information on the Litigation Coordination Program's activities since your last meeting in May. If you have questions about any of these cases, please do not hesitate to contact me.

I. New Amicus Case Activity Since May, 2009

Crime, Justice & America, Inc. v. Reniff

Pending in the Ninth Circuit Court of Appeals (filed Apr. 21, 2009)(09-15768)

Plaintiffs are a magazine called *Crime, Justice & America* (essentially an advertisement for bail bond companies and defense attorneys), and its owner. Plaintiff asked the Butte County Sheriff to distributed unsolicited copies of the magazine to inmates in the county jail. The Sheriff refused, and plaintiff brought this action in federal district court alleging a violation of his First Amendment rights. The court agreed with the county that the Sheriff's refusal to distribute the publication is rationally related to legitimate penological interests. Plaintiff has appealed to the Ninth Circuit, and CSAC approved amicus support.

California Redevelopment Association v. Genest

Pending in the Third District Court of Appeal (filed May 26, 2009)
(C062011)

CRA filed this action against the State challenging last year's budget trailer bill. The bill language redefines redevelopment to include operating expenses for schools (finding that good schools are necessary to meet the goals of redevelopment) and then shifts redevelopment funds from redevelopment agencies to schools. The petition argued the budget trailer bill contravenes the constitutional requirements related to redevelopment funding, as well as the federal takings clause and provisions against impairment of contract. The court found that the legislative findings on the relationship between the economic

development and adequate funding of school programs was entitled to deference. But the court concluded “that the required payments by RDAs to their county ERAFs during the 2008-2009 fiscal year are inconsistent with the intent of section 16 to use tax increment revenue for the financing of redevelopment projects insofar as tax increment revenues paid into the ERAF are unlikely to be distributed from the ERAFs for educational purposes related to the redevelopment projects.” The State has appealed. CSAC will file a brief in support of CRA. A briefing schedule has not yet been set.

EHP Glendale v. County of Los Angeles

Pending in the Second District Court of Appeal (filed June 17, 2009)(B217036)

This case raises the question of the proper appraisal method for a change in ownership of a franchise hotel. LA County reassessed the Glendale Hilton after it was purchased by plaintiff. Plaintiff appealed to the Assessment Appeals Board, which affirmed. On appeal, the trial court noted that under the Revenue and Taxation Code, intangible assets are excluded from property tax even when they are in connection with real property. The court ruled against the county, finding that the valuation method used by the county (known as a “going concern” valuation) failed to provide for a return on the non-taxable operating assets in the total amount deducted from the hotel’s income stream. LA County has appealed and CSAC will file a brief in support.

Greene v. Marin County Flood Control and Water Conservation District

Previously published at: 171 Cal.App.4th 1458 (1st Dist. Mar. 11, 2009)(A120228),
petition for review granted (June 24, 2009)(S172199)

A county flood control and water conservation district held a Prop. 218 election on whether to impose a new storm drainage fee. In the district’s election, voters’ names and addresses were printed on the ballots and voters were directed to sign their ballots. The fee was approved. However, a voter contested the election, claiming the election procedures violated the voting secrecy requirement of article II, section 7 of the California Constitution. The superior court denied the election contest. The First District reversed, holding that in approving article XIII D, section 6, subdivision (c) of the California Constitution, the voters intended the fee elections to be secret. The court set aside the district’s election results because voters’ names were printed on the ballots and ballots had to be signed, yet voters were provided no assurances that their votes would be kept secret. The California Supreme Court has granted review. CSAC filed a letter in support of review and will file an amicus brief on the merits.

In re C.C.

172 Cal.App.4th 1481 (Apr. 13, 2009)(B208675), *request for depublication denied* (July 15, 2009)

In this juvenile dependency case, the juvenile court denied mother visitation with her son. Mother appealed the court's decision, but during the pendency of the appeal, the juvenile dependency case resolved and the court terminated jurisdiction. The appellate court nevertheless decided to rule on the merits of the appeal because of the possibility that the juvenile court's findings would have a prejudicial impact on family court proceedings. The appellate court ultimately concluded that the juvenile court's order denying visitation was not supported by the necessary finding that visitation would jeopardize the minor's safety. Los Angeles County, along with several other counties, requested that this case be depublished and CSAC filed a letter in support. Unfortunately the request was denied.

Phelps v. Orange County Assessment Appeals Board No. 1

175 Cal.App.4th 448 (4th Dist. Div. 3 May 27, 2009)(G040428), *ordered published* (June 24, 2009), *petition for review pending* (filed July 7, 2009)(S174418)

This case involves a reassessment on change of ownership. A trust held some commercial real estate from which it derived income, which was distributed to its beneficiaries. The income from the property was distributed to the trustor's three children and his widow. When one of the children (Wilson) died, his four children become entitled to his share of the income. The Orange County Assessor concluded that this transfer of interest income rights from Wilson to his children was a change in ownership under Revenue and Taxation Code section 60. The Appeals Board affirmed, and this appeal followed. In an unpublished decision, the Fourth District Appellate Court ruled in the County's favor. It found that the transfer met all three prongs of the change in ownership test in section 60—Wilson held a present interest in improvements that had been made on the property, he had beneficial use of the property, and the value of the lifetime interest in income from the property is substantially equal to the value of a fee interest. Orange County requested publication and CSAC filed a letter in support. The request was granted on June 24.

Tracfone Wireless, Inc. v. City of Los Angeles

Pending in the Second District Court of Appeal (filed Apr. 14, 2008)(B207288)

This case presents the issue of whether the Government Claims Act (Gov. Code 900 et seq.) preempts the tax refund provisions of the city's municipal code. In the case, Tracfone voluntarily paid a local tax on behalf of its customers, but did not collect the tax as required by ordinance. The city argued plaintiff had no standing to sue for a refund because (1) volunteer tax collectors have no standing to sue for a tax owed by others, and (2) that the local ordinance required certain collection and refund requirements be met prior to initiating a refund claim. TracFone raised for the first time in its reply brief on appeal that the local ordinance is preempted by the Claims Act. The court then ordered supplemental briefing on that issue, specifically whether the local collection and refund provisions at issue are viable under home rule powers, including (1) whether there is truly a conflict between the ordinance and the claims presentment requirements of the Claims Act,

and (2) if there is a conflict, do the local tax collection and refund provisions regulate a genuine municipal affair. Recognizing the statewide importance of the issue, the court specifically invited amicus participation. CSAC will file a brief in support of Los Angeles.

United Farm Workers v. Administrator, EPA

Pending in the Ninth Circuit Court of Appeals (filed June 19, 2008)(08-35528)

The Federal Insecticide, Fungicide & Rodenticide Act requires all pesticides registered with the EPA before 1984 to go through a reregistration process. This case is a challenge to the EPA's decision to reregister a pesticide known as AZM for certain applications. The statutory scheme provides different appeal mechanisms depending on whether the EPA held a "public hearing" prior to issuing its decision. Where a public hearing is held, an appeal can only be made by a party to the proceeding, and must be made within 60 days directly in the Court of Appeals. Where there is no public hearing, any person adversely impacted by the decision can appeal to a district court within normal statutory timelines, generally 6 years. For the AZM reconsideration, the EPA took public comments on the proposal but held no adjudicative proceedings. Plaintiffs challenged the action in district court, but the court dismissed finding the "public hearing" element had been satisfied and any appeal should have been raised within 60 days in a Court of Appeal. This appeal followed. Santa Clara County has filed an amicus brief supporting a longer appeal period for challenging EPA decisions and CSAC joined the brief.

II. Amicus Cases Decided Since May, 2009

Ardon v. City of Los Angeles

174 Cal.App.4th 369 (2d Dist. May 28, 2009)(B201035)

Outcome: Positive

This case is a class action challenge to the application of the city's phone tax. The primary question raised by the case is whether plaintiff was entitled to present a single claim to the city on behalf of himself and the entire class, or whether each member of the purported class is required to file an individual claim with the city prior to filing suit. The court found plaintiff could not assert a class claim under section 910 for a tax refund. In so holding, the court overruled *County of Los Angeles v. Superior Court (Oronoz)* (2008) 159 Cal.App.4th 353, which found in part that class actions against local taxes and fees are permitted. CSAC filed a brief in support of the city.

Building Industry Association of Central California v. City of Patterson

171 Cal.App.4th 886 (5th Dist. Jan. 30, 2009)(F054785), *ordered published* (Mar. 2, 2009), *request for review and depublication denied* (June 17, 2009)(S171536)

Outcome: Negative

A developer obtained a development agreement and tentative subdivision maps for the construction of two residential subdivisions. At the time those documents were approved, the city allowed developers to pay a fee of \$734 per house in lieu of building affordable housing. About three years later, the city increased this fee to \$20,946 per house

and sought to apply the increased fee to Developer's two residential projects. Developer sued, arguing it had a vested right in the smaller fee and that the fee increase required voter approval. The trial court upheld the city's action, but the Fifth District reversed concluding the city was contractually limited by the development agreement's requirement that the fees be "reasonably justified." The court found the city failed to show that the increase was "reasonably justified" as required by the development agreement. CSAC requested depublication, which was denied.

County of Santa Clara v. Superior Court (California First Amendment Coalition)
170 Cal.App.4th 1701 (6th Dist. Feb. 5, 2009)(H031658), *request for depublication denied*
(May 13, 2009)(S171023)
Outcome: Negative

This case of first impression involves a Public Records Act request for an electronic version of Santa Clara County's Geographic Information System (GIS) basemap, which is comprised of the Assessor parcel map, street centerlines and aerial photos. After the Department of Homeland Security designated the basemap as "Protected Critical Infrastructure Information," the county ceased distribution. The trial court ordered the county to produce an electronic copy of the basemap at the direct cost of duplication and the Sixth District affirmed. The court found that while federal law protects critical infrastructure information by limiting its public disclosure under the Freedom of Information Act, that protection only applies when the information has been provided to a State or local government, not where, as here, the information is provided by the county. The court also found that Government Code section 6255 did not weigh in favor of nondisclosure, and that the county's copyright assertions did not allow it to limit or condition disclosure. CSAC filed a brief in support of the county, and filed a letter in support of depublication.

County of Santa Clara v. Superior Court (Naymark)
171 Cal.App.4th 119 (6th Dist. Feb. 17, 2009)(H031740), *petition for review denied* (June 10, 2009)(S171566)
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 under the Revenue and Taxation Code against several law enforcement agencies seeking a declaration that their policies and practices violated the PRA and were illegal expenditures of public funds. The Sixth District affirmed a trial court ruling that taxpayer actions are permitted under the PRA, rejecting the law enforcement agencies' argument that the provisions of the PRA itself (Gov. Code sections 6258 and 6259) are the exclusive procedures for a member of the public to litigate the disclosure obligation of a public agency with regard to a particular record. CSAC filed a letter brief in support of the county's writ and filed a letter in support of Supreme Court review.

County of Sonoma v. Superior Court (Sonoma County Law Enforcement Assoc.)
173 Cal.App.4th 322 (Apr. 24, 2009)(A122450), *petition for review pending* (filed June 1,
2009)(S173345)

Outcome: Positive

In the first appellate decision on the issue, the First Appellate District has found that SB 440, requiring interest arbitration after impasse with public safety unions, violates the California Constitution. In the case, Sonoma County and its law enforcement union reached an impasse in the negotiation of its MOU. After impasse mediation was unsuccessful, the union requested arbitration under Code of Civil Procedure § 1299 (SB 440). The county denied the request and this action was filed. The trial court determined that SB 440 is not facially unconstitutional and the county filed a writ petition. The First District granted the writ, concluding SB 440 intrudes upon the County's constitutional authority to establish compensation and terms of employment for county employees. The court noted that compensation of county employees is a local, not statewide, concern. And while the Legislature can impose procedures regarding labor relations, it cannot impose substantive requirements that interfere with the county's ultimate right to set compensation. The court concluded that SB 440 was substantive in that interest arbitration may "push the arbitrator into the realm of social planning and fiscal policy," requiring the county to make subsequent cuts or seek to raise taxes to fund the interest arbitration award. In other words, it "affects matters ordinarily falling within the legislative powers of a county board of supervisors. The fixing of the salaries of county employees is unquestionably a legislative function." CSAC filed a brief in support of Sonoma County.

Guzman v. County of Monterey
46 Cal.4th 887 (June 22, 2009)(S157793)

Outcome: Positive

This case addresses the statutes and regulations associated with the operation of small water systems. Although the regulations apply directly to the State, they become applicable to counties where the State delegates its authority contractually through a "Local Primacy Agreement." In general, the regulatory scheme places the responsibility for monitoring compliance with water quality standards, testing, and notice requirements on the operator of the water system. The Sixth District found an implied mandatory duty for the county to assume the specified responsibilities of the water system and insure that system users are notified of contaminant levels in excess of MCLs. The California Supreme Court reversed, finding that in order to impose a mandatory duty on a public entity, the duty must be phrased in explicit and forceful language. The Court remanded the case to determine whether plaintiffs have alleged any express mandatory duties that would, in and of themselves, give rise to an action against the county under Government Code section 815.6. CSAC filed a brief in support of the county.

Hernandez v. City of Pomona

46 Cal.4th 501 (May 28, 2009)(S149499)

Outcome: Positive

The California Supreme Court has held that a judgment for defendants in a federal court action under Section 1983 alleging excessive force in violation of the Fourth Amendment precludes a state court action for negligence against the same defendants by the same plaintiffs. The Court concluded that collateral estoppel precludes relitigating identical issues decided in prior proceedings. CSAC filed a brief in support of the city.

Lonberg v. City of Riverside

571 F.3d 846 (9th Cir. June 26, 2009)(06-55781)

Outcome: Positive

This case presents an issue of first impression in the Ninth Circuit: Whether an individual can challenge an ADA transition plan. Americans with Disabilities Act regulations require public entities to develop a transition plan in the event structural changes to facilities will be undertaken to achieve program accessibility. In this case, plaintiff sued under Title II of the ADA challenging the city's transition plan. The district court found plaintiff could maintain a private right of action to challenge the plan, but the Ninth Circuit reversed. The court noted that there is a split among the courts that have considered this issue, but concluded that the regulations here were meant to implement Section 202 of Title II of the ADA, which prohibits discrimination by public entities based on disability. Section 202 does not refer to a public entity's obligation to draft any plans or create a private right to a plan. Further, Section 202 does not state that a person's remedy lies in private enforcement of Section 35.150(d)'s transition plan requirements. CSAC filed an amicus brief in support of the city.

Sprint Telephony PCS, L.P. v. County of San Diego

543 F.3d 571 (9th Cir. Sept. 10, 2008)(05-56076)(en banc), *petition for cert. denied* (June 29, 2009)

Outcome: Positive

In 2003, San Diego County enacted a wireless telecommunications ordinance (WTO) that required one of four different types of permits for a wireless facility depending on the placement, visibility, and height of the proposed structure. The WTO states that before a use permit is granted, the county must find that "the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residences, or structures." Sprint challenged the WTO, arguing that it was prohibited under the literal language of Section 253(a) of the federal telecommunications act, which bars all state and local regulations that "prohibit or have the effect of prohibiting" the ability of any entity to provide interstate or intrastate telecommunication services. But the full Ninth Circuit Court of Appeals overruled earlier precedent and reversed, holding that a plaintiff suing a municipality under section 253(a) must show actual or effective prohibition, rather than the mere possibility of prohibition. CSAC filed multiple briefs in support of San Diego at the Ninth Circuit.