



**Administration of Justice Policy Committee**  
**Joint session with Health and Human Services Policy**  
**Committee**

**Thursday, May 6, 2010 • 11:00 – 11:30 a.m. • VIA Conference Call\***  
**Call-in number: 800-867-2581; Access code: 7500531#**

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\* There will be limited seating available in the Peterson Conference Room in the CSAC Office in Sacramento (1100 K Street, First Floor).

**Please Note:**

*The purpose of the May 6 joint meeting of CSAC's Administration of Justice (AOJ) and Health and Human Services (HHS) Policy Committees is to consider the Local Taxpayers, Public Safety and Transportation Protections Act of 2010, a ballot initiative sponsored primarily by the League of California Cities. Both policy committees have been asked to review and recommend a position on this measure to the CSAC Board of Directors.*

**AGENDA**

**Supervisor Federal Glover, Contra Costa County, AOJ Chair**  
**Supervisor Merita Callaway, Calaveras County, AOJ Vice Chair**

- 11:00 a.m.            I.    **Welcome and Introductions – Joint Meeting**  
*Supervisor Liz Kniss, Santa Clara County, HHS Policy Committee Chair;*  
*Supervisor Federal Glover, Contra Costa County, AOJ Policy Committee Chair*
- 11:05 – 11:30 a.m.   II.    **ACTION ITEM: The Local Taxpayers, Public Safety, and Transportation Protection Act of 2010**  
*Jean Kinney Hurst, CSAC Legislative Representative;*  
*Kelly Brooks, CSAC Legislative Representative;*  
*Elizabeth Howard Espinosa, CSAC Legislative Representative*

*The Health and Human Services Policy Committee meeting will continue with presentations on various informational items through 12 noon.*

**ATTACHMENTS**

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- Agenda Item II..... **Review of the Local Taxpayers, Public Safety and Transportation Protection Act of 2010 – ACTION ITEM**
  - CSAC Analysis and Recommended Position
  - Text of Initiative



April 30, 2010

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CSAC Health and Human Services Policy Committee  
CSAC Housing, Land Use, and Transportation Policy Committee

FROM: Elizabeth Howard Espinosa and Rosemary Lamb, AOJ Committee  
Jean Kinney Hurst and Geoffrey Neill, GFO Policy Committee  
Kelly Brooks and Farrah McDaid Ting, HHS Policy Committee  
DeAnn Baker and Kiana Buss, HLT Policy Committee

RE: **Recommended Position on the Local Taxpayers, Public Safety and  
Transportation Protection Act of 2010 – ACTION ITEM**

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**Recommendation:** Given the disparate potential impacts on broad array of county services that would likely result if the Local Taxpayers, Public Safety and Transportation Act were passed by the voters, CSAC staff recommends that the four policy committees assigned to review the initiative advance a **“neutral” position** to the CSAC Board of Directors.

#### Background

The League of California Cities, along with their partners — primarily the California Alliance for Jobs, which represents heavy construction companies and union workers — is working to qualify a ballot initiative for the November 2010 statewide ballot. On Thursday, April 30, the initiative sponsors submitted 1.1 million signatures to the Secretary of State, which all but assures its qualification.

The initiative would more thoroughly secure certain revenue streams that partly or completely flow to local agencies, mostly related to redevelopment, transportation, and transit. Specifically, the measure:

- Prohibits the suspension of Proposition 1A (2004).
- Prohibits property tax transfers to pay for new local mandates.
- Prohibits paying for new local mandates by reallocating 0.65 percent VLF rate.
- Specifies that all net revenues from state excise taxes on motor vehicle fuels, or any successor tax, be deposited in the Highway Users Tax Account (HUTA), which is declared a trust fund to be used solely for public transit infrastructure and for streets and roads costs.
- Requires 2/3 legislative vote to modify the allocation of HUTA from June 30, 2009 formulas.
- Prohibits borrowing, deferring, delaying, or otherwise inhibiting HUTA allocation to locals; for the Legislature to modify the formulas, the California Transportation Commission (CTC) must hold at least four public hearings, publish a report of the hearings, and wait 90 days.
- Limits HUTA use for bonds to 1/4 of state revenues for state bonds and 1/4 of revenues for local bonds.
- Restores traditional (pre-2001) Public Transportation Account (PTA) allocations and declares it a trust fund.
- Prohibits any allocation of Bradley-Burns sales tax to local transportation funds from being reduced below 2008 allocation percentage.

- Requires Proposition 42 sales tax on gas, or any successor tax (such as the new gas excise tax) to go quarterly to a Transportation Investment Fund, which is declared a trust fund, and allocates revenues according to formula; modifying formulas requires the same CTC process as described above for HUTA modifications.
- Protects redevelopment property taxes from state redirection.

This measure has its source in several recent legislative events. As the state's fiscal situation has continued to deteriorate, the Governor and Legislature have invented more ways to use local revenues to help solve their budget deficits, including, relevant to this measure, suspending the recently voter-approved Proposition 1A, proposing to eliminate the local share of HUTA, shifting transit money to the state's General Fund, shifting redevelopment money to the state's General Fund, and significantly and repeatedly delaying various payments to local agencies. Unsurprisingly, these actions have led to growing anger among local officials. They have also led to lawsuits challenging the legality of the redevelopment and transit shifts.

The initiative website lists over 600 organizations and individuals in support – ranging from local law enforcement to city governments and special districts, labor groups, chambers of commerce, councils of governments, and transportation agencies. At this time, the only known opponent is the California Professional Firefighters (CPF), which outlines as its primary concern that locking down state general funds would further constrain resources, likely to the detriment of local public safety. CPF also opposes constitutional locking in of redevelopment provisions.

In addition, the counties of San Bernardino and Stanislaus as well as at least one individual county supervisor have formally endorsed the initiative.

### **Broad Effects**

The possible benefits of this measure for cities, counties, and redevelopment agencies are clear: it would lock down several important revenue streams by eliminating the suspension provisions of Proposition 1A and providing stronger protection for a variety of transportation revenues for transit, state highways, and local streets and roads. Indeed, for cities, as municipal corporations, it would essentially divorce their finances completely from the vagaries of the state's fiscal fortunes, including the economic development funds they gather through the redevelopment tax increment.

As county officials are acutely aware, no other type of entity is as entwined with the state government as are county governments. As legal subdivisions of the state, counties are responsible for the general health and welfare of all California residents. Over time, counties have come to provide nearly all of the important state services on the state's behalf except for prisons and most education functions, making them the buffer between the state's decisions and their effect on residents. And in fact, recent decisions and proposals have even shifted, and would further shift, some prison responsibilities to counties.

In addition to these duties as the state's service providers, counties provide traditionally local services, including road maintenance, criminal prosecution, indigent defense, sheriff and probation services, libraries, parks, and planning and zoning.

Because counties provide so many services in partnership with the state, and because counties serve every California resident, they are almost always the entities most affected

by budget proposals to reduce services, cut funding for state services, and shift responsibilities for state services elsewhere. These proposals usually involve either increased responsibility with no new revenue or a cut in funding with no corresponding decrease in responsibilities, and occasionally a proposal will crop up that both cuts funding and increases county responsibilities.

As noted above, the two major state services in which counties are not involved are education and prisons. Funding for K-14 education is protected by the California Constitution (Proposition 98). The state has cut funding for higher education dramatically in recent years, and tuition has commensurately skyrocketed leading to widespread, vocal outrage. Funding for state incarceration is largely outside of state control due in part to escalating sentencing requirements, gross overcrowding, and the commensurate staff requirements, and in part to several federal court requirements imposed on the adult and juvenile systems, including the medical receivership.

So, the state's budget options are already severely constrained, to say the least. If the proposed initiative qualifies for the ballot and passes, it will further limit the choices available to state decision-makers as they face the next several years of budget deficits.

When some areas are excluded from cuts, cuts in other areas must be that much deeper to achieve the same savings. In this case, the initiative would remove transportation and redevelopment, as well as property tax borrowing, from the budget equation, so the Legislature would have to either cut even more deeply in health, human services, public safety, and land conservation programs, for instance, or else raise taxes by that much more. And based on past experience, the Legislature would likely try to mitigate the deeper cuts as much as possible by making counties responsible for at least some of what was previously the state's responsibility.

This is not an argument in favor of the state cutting funding for transportation and redevelopment, but an acknowledgment that, to achieve a balanced budget, completely excluding them from consideration requires deeper cuts other places that would specifically affect counties' finances. Existing CSAC policy supports a balanced approach to solving the state budget problem, and this proposal is antithetical to that policy. The initiative would also prohibit the state from borrowing property taxes pursuant to Proposition 1A. The state did suspend Proposition 1A last year, and even in the midst of the worst borrowing environment yet seen, local agencies were able to securitize the debt and all participating local agencies experienced no actual change in revenue.

Supporting this measure makes a certain sense for cities and redevelopment agencies because it would, for all intents and purposes, utterly remove them from the state's budget debate. For counties though, supporting this measure would be stating that counties specifically and permanently prioritize transportation services and redevelopment funding over health services, human services, local public safety and jail services, and the myriad other programs that counties deliver on the state's behalf and, with dwindling discretionary funds, on their own.

Pros	Cons
<ul style="list-style-type: none"> <li>- Strengthens protection of transportation and transit funding.</li> <li>- Strengthens protection of redevelopment funds.</li> <li>- Prohibits suspension of Prop. 1A.</li> </ul>	<ul style="list-style-type: none"> <li>- Locking some areas of budget leads to deeper cuts elsewhere, program or responsibility shifts, or larger tax increases.</li> <li>- Deeper cuts and program shifts will almost certainly fall on counties.</li> <li>- Permanently prioritizes transportation and redevelopment over other government services.</li> </ul>

### CSAC Policy Review Process

At its February meeting, the CSAC Reform Task Force considered and discussed the initiative and recommended an “oppose” position, based on the “cons” outlined above. Subsequent to that recommendation, the CSAC Executive Committee referred the initiative to the following four policy committees for consideration and recommendation to the Board of Directors: Administration of Justice; Government Finance and Operations; Health and Human Services; and Housing, Land Use, and Transportation. All four policy committees will meet between early May and early June: the AOJ and HHS committees will consider the matter at a joint meeting on May 6, and the GFO and HLT committees at their separate meetings on June 2. The CSAC Board of Directors will consider the recommendations of the policy committees at its June 3 meeting.

This memo has been prepared jointly by the CSAC staff to each of the four policy committees noted above. It seemed appropriate to lay out the full range of impacts in a single memo so that each policy committee has the benefit of considering the entirety of implications across county programs and services.

### Policy Implications by Subject Matter Area

For each policy area, we outline the likely impacts of the initiative, as well as other relevant considerations. We also have assigned an overall assessment of the impacts on each policy area: negative (↓), positive (↑), or a little of both (↔).

#### Administration of Justice

**Overall Impact:** ↓

In the justice area, local public safety entities’ reliance on state General Fund subventions has been significant. Counties and cities historically received approximately \$500 million in state General Fund subventions for a variety of local assistance programs, including the Citizens’ Option for Public Safety (COPS), the Juvenile Justice Crime Prevention Act (JJCPA), other core probation functions, and booking fees, among others. Last February, the Legislature approved a new funding mechanism for these critical public safety programs by dedicating a portion of the Vehicle License Fee increase to a newly created Local Safety and Protection Account. This funding construct, absent future legislative action to either extend the VLF increase or to find a substitute revenue source, will lapse in July 2011. None of these resources would be protected under the initiative.

Given the state’s continued financial crisis, local public safety funding may be particularly vulnerable were the initiative to pass. With very limited budget options, the Governor or Legislature could see fit to redirect the VLF public safety increment to the state General

Fund or other program priorities, or they could simply let the authority for the increase to lapse. Any further compartmentalization of the state General Fund will put an additional squeeze on very limited discretionary dollars, making all program areas — including local public safety — subject to increased risk. At a time when the state corrections agency is experiencing pressures from many sources to reduce its costs and prison population, the threat of a significant influx of inmates into our communities is real. It is difficult to imagine how counties could be expected to cope with a wave of the formerly incarcerated without additional resources than are made available today; the prospect of potentially losing financial support for programs now funded through VLF (a declining revenue, as it turns out) because of restricted budgeting options is indeed alarming.

It also is important to recall that in 2008, the CSAC Board of Directors considered two ballot initiatives that would have, through very different approaches, also resulted in locked-up state General Fund resources. They were Proposition 5, a proposed expansion of drug treatment that built upon the framework of Proposition 36 of 2000, and Proposition 6, a public safety initiative that would have dedicated nearly \$1 billion annually in state general funds to new and existing public safety programs and services. For both Propositions 5 and 6, there would have been identifiable county benefits: expanded drug treatment and potential lessening of jail and prison costs over time for Proposition 5; and enhanced investment in local prevention, intervention, and enforcement activities for Proposition 6, which also could have resulted in lowered rates of recidivism and easing of jail population pressures. However, each also had similar offsetting effects to the extent that the initiatives would have locked in state General Fund expenditures for specified purposes, leaving even fewer discretionary resources to dedicate to other shared county-state priorities. For these reasons — both in terms of an overall approach to state budgeting and of potential reductions other county programs could suffer — the CSAC Board of Directors took an “oppose” position for both propositions. That same rationale could certainly apply to the initiative in question.

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**Government Finance and Operations****Overall Impact:** ⇔

From a general government perspective, the initiative provides additional constitutional protections for local revenues that have been subject to state taking, borrowing, deferral, and outright elimination. For county budget managers, these protections would create some certainty in preparing for counties’ annual expenditures, as counties could rely on these revenues without fear of state interference.

At the same time, that concern would only be shifted to the remainder of the county budget, recognizing that the state, when faced with a fiscal crisis, would have fewer options with which to manage its budget problems. As outlined in this memo, there are a variety of means by which the state could act to reduce, eliminate, or shift its responsibilities for a variety of programs.

Using the enacted 2009-10 budget, staff attempted to assess the extent to which the state’s budget is already constrained. While it is difficult to place exact dollar figures on the impact in the future, some relevant experience may prove useful in evaluating the extent to which certain budget items are protected.

**2009-10 Budget Act: Total State General Fund \$84.6 billion**

<i>Protected (existing)</i>		
Proposition 98 Guarantee	\$50.4 billion	This is an estimate. Proposition 98 funding is not certified until the end of the fiscal year.
Proposition 98 Maintenance Factor	\$1.2 billion	This represents the payment due on an outstanding balance of \$11.2 billion.
Corrections	\$8.2 billion	Expenditure reductions of \$1.2 billion in the 2009-10 budget are not expected to be met.
<i>Partly Protected (existing)</i>		
Transit Spillover Revenues	\$876 million	Transit interests successfully challenged the diversion of their spillover revenues in court.*
Redevelopment Tax Increment	\$1.7 billion	The 2009-10 redevelopment property tax shift is being challenged in court with an expected decision on May 3.
<i>Proposed Protected</i>		
Proposition 1A: Local Property Taxes	\$2 billion	The 2009-10 budget suspended the provisions of Proposition 1A; legislation authorized local agencies to securitize this suspension, holding local governments harmless for the loss.
Proposition 42 to Cities and Counties	\$600 million	Proposition 42 funds were delayed for a six-month period in 2009-10 to assist the state in meeting its cashflow needs.*
Proposition 42 to State Transportation Improvement Program (STIP)	\$600 million	*
Proposition 42 to Transit	\$300 million	*
State HUTA	\$2 billion	
HUTA to Cities and Counties	\$1.1 billion	The proposal to eliminate the local share of HUTA failed in the Assembly. Instead, HUTA revenues were deferred for nine months during 2009-10 to assist the state in meeting its cashflow needs.

*\*This chart does not reflect the changes to transportation funding that resulted from the transportation tax swap approved earlier this year. The initiative would protect replacement revenues for the spillover and Proposition 42 components of the chart, an estimated \$450 million in transit revenues from the sales tax on diesel and an estimated \$2.52 billion in revenues from the new 17.3-cent excise tax on gasoline. The revenue from the new replacement gas tax will vary from year to year, but after 2010-11 will be dedicated to transportation bond debt (about \$1 billion annually), \$745 million for STIP, \$745 million for local streets and roads, and \$203 million for freeway maintenance and safety (SHOPP).*

*The replacement revenue under the swap will generate about \$3 billion annually, which the initiative would protect and which is synonymous with the Proposition 42 and spillover revenues noted above. The initiative would more strongly protect an additional \$3.1 billion in existing state and local HUTA for a total of about \$6 billion.*

**Health and Human Services**

**Overall Impact:** ↓

Counties, as subdivisions of the state, are tasked with financing and providing a wide array of health and human services to all California residents. These services include, but are not limited to, public health programs, mental health care, medical care, indigent care, general assistance, and child welfare services. Over the last decade the state has eroded state contributions to jointly administered and financed health and human service programs.

The state's chronic underfunding of health and human service programs strains the ability of counties to meet accountability standards, and shifts costs to counties through either outright increases in sharing ratios or deep program cuts that force counties to backfill the costs of necessary programs.

If the state's fiscal choices are further constrained by dictating the expenditures for single-issue services, as prescribed in the Local Taxpayers, Public Safety and Transportation Protection Act of 2010, then counties have both history and reason to believe that the state will try to eliminate or seek spending reductions in other "unprotected" programs.

The Local Taxpayers, Public Safety and Transportation Protections Act of 2010 will lock down more parts of the state budget, akin to what Proposition 98 has done for education funding. The measure will leave health and human service programs more vulnerable than they are today to state cuts. During state budget deficits, counties should expect the state to cut funding for jointly-administered and financed health and human services programs. The state will continue its de facto cost shifts to counties. To further constrain the state's budget flexibility, particularly with state budget deficits projected through the foreseeable future, is not in the best interest of counties or the residents they serve.

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

**Overall Impact:** ↑

The three important and interrelated policy areas of housing, land use, and transportation, while not typically general fund dependent, do depend on state subventions (e.g., gas tax revenues) and other state financial support (e.g., bond proceeds for housing and transportation purposes). As a result, these areas have experienced a significant lack of state financial support, though policy, planning, and regulatory responsibilities continue to be passed on to the local level.

Further, in the transportation area, local governments are responsible for 82 percent of the state's maintained miles and as such receive state subventions to the tune of over \$1.5 billion annually (currently generated by a combination of per gallon sales taxes [Proposition 42] and state excise taxes [Highway User Tax Account or HUTA], but beginning in July under the transportation tax swap will be generated solely from the excise taxes). Due to the state's fiscal instability, counties have lost all certainty of infrastructure revenue streams. Recent budget proposals considered and acted upon have ranged from borrowing, raiding, or outright taking both the local HUTA and Proposition 42 funds. Additionally, cities and counties will lose significant constitutional protection currently guaranteed by Proposition 42 when the transportation tax swap becomes effective July 1, 2010.

Reform that provides greater stability and certainty in state subventions would greatly improve local agencies' ability to plan and build viable, livable, and healthy communities.

Within the specific purview of this committee, the Local Taxpayers, Public Safety and Transportation Protection Act of 2010 would certainly meet the CSAC policy objective of providing greater certainty for transportation revenue streams in order to plan for and meet transportation needs.

### **Summary**

While the Local Taxpayers, Public Safety and Transportation Protections Act of 2010 offers identifiable benefits for counties in the form of greater revenue protection and certainty for transportation funding, those benefits do not by any means reach the totality of counties'

responsibilities. How future governors and legislators would respond to accommodate the further constraints on what arguably is a wholly dysfunctional state budget process is difficult to predict. But it is certainly reasonable to assume that state funding for county health and human service programs could experience further reduction, which could have resulting deleterious effects at the local level for residents and communities in need. Further, this initiative could put at risk public safety resources that counties – and cities – rely on for core programs and services, not to mention subventions and reimbursement for mandates, elections, libraries and other services.

Counties are complex animals. Given our involved and convoluted relationship with the state, it would be impossible for counties to wall ourselves off from the state budget. Despite the potential benefits of avoiding future Proposition 1A borrowing and other revenue protections offered by this initiative, other county programs and services would be exposed to far more intense risk as a result. This initiative would elevate the priority of certain services' revenue sources over other critical public services, particularly in the public safety and safety net program areas. CSAC represents the full range of county interests, and it does not seem appropriate to favor one significant and critical component of counties' broad set of responsibilities over another.

For ease of reference, the overarching impacts by policy committee are as follows:

Administration of Justice	Overall Impact: ↓
Government Finance and Operations	Overall Impact: ↔
Health and Human Services	Overall Impact: ↓
Housing, Land Use, and Transportation	Overall Impact: ↑

### **Recommended Action**

For these reasons, CSAC staff recommends to the AOJ, GFO, HHS, and HLT policy committees a **“neutral” position** on the Local Taxpayers, Public Safety and Transportation Protections Act of 2010.

### **Staff Contacts**

For questions about the policy implications of the Local Taxpayers, Public Safety and Transportation Protection Act of 2010 on a particular program and policy area, please contact one of the CSAC staff at 916/327-7500 (extensions given below) or by email:

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