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To: Members of the Budget Conference Committee

From: Elizabeth Howard Espinosa, CSAC Legislative Representative

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RE: **Judicial Branch (0250) – Issue 0250-111-0001**
SECTION VI, Page 1
Parking Penalty Trailer Bill Language – SUPPORT

On behalf of the California State Association of Counties (CSAC), we urge your support for the parking penalty trailer bill language described on page 1 of Section VI of the Budget Conference Committee agenda. CSAC views this as a technical correction to address an unintended consequence of statutory changes codified in a public safety omnibus bill in 2007 (SB 425, Margett). As detailed below, the Judicial Council also is in support of this proposal.

The proposed trailer bill language would effectively create an audit “safe harbor” during the 2008 year by prohibiting the State Controller’s Office from assessing monetary penalties against counties and other entities that did not submit to the State Court Facilities Construction Fund the \$1.50 parking penalty assessment pursuant to Government Code Section 70372(b) for the 2008 calendar year.

Government Code Section 70372 (b) requires the imposition, collection and remittance of a \$1.50 penalty on every parking offense to support state court construction. However, prior to 2008, Government Code Section 70375 allowed the counties to reduce the amount remitted to the state by the amount deposited into the local courthouse construction fund.

In 2007, the Judicial Council sponsored a portion of SB 425 (Margett) in order to address the holding of *People v. Chavez* (2007) 150 Cal.App.4th 1288, which was intended to clarify the calculation of penalty assessments imposed on fines for criminal defendants so that the plain language of the statutes would conform to the current understanding and practice of how fines and penalties are imposed by the courts. The amendments sponsored by the Judicial Council unintentionally eliminated a cross reference in Government Code section 70375, which had allowed the parking enforcement agencies not to remit the \$1.50 parking penalty. Due to the unintended nature of the statutory change, the new requirement that local agencies remit the \$1.50 parking enforcement penalty beginning on January 1, 2008, was not recognized by or communicated to the counties until the fall of 2008.

The requirement to remit the \$1.50 parking penalty was discussed during numerous outreach and educational activities carried out by the Administrative Offices of the Courts in the fall of 2008 regarding implementation of SB 1407 (Stats. 2008, ch. 311). During discussions with the California State Association of Counties, it was agreed upon that the Judicial Council would not seek to recover the parking penalties not remitted, but would require the remittance beginning January 1, 2009.

Government Code section 70372(b) provides an added state court construction penalty of \$1.50 shall be included in the total penalty.

Prior to SB 425, Section 70375 allowed the amount authorized by 70372 to be reduced by the amount collected for deposit into the local courthouse construction fund. SB 425 changed that to say the amount authorized by subdivision (a) of section 70372 may be so reduced - eliminating the authority to reduce the amount collected by subdivision (b). Because of the change, the \$1.50 could not be reduced by the amount submitted to the local courthouse construction, but had to be remitted to the State Court Facilities Construction Fund (SCFCF). Failure to understand the impact of this change — by the counties and the Judicial Council — until late 2008 meant that during calendar year 2008, with a very few exceptions, the \$1.50 was not remitted. Rather, it was retained in the local courthouse construction fund. CSAC and the Judicial Council have jointly focused on ensuring that, beginning January 1, 2009, all local governments are submitting the \$1.50, in addition to the new \$3.00 required by the enactment of SB 1407 (Perata, 2008).

It should be noted that regardless of the specific disposition of this revenue resulting from the changes in SB 425, the funds were dedicated to court facility purposes. Either the money would have been retained in local courthouse construction funds or directed to the state courthouse construction fund, both with the same purpose – to support the maintenance, rehabilitation, or construction of court facilities. And, it should be recalled, counties were statutorily constrained – following the passage of SB 256 (Escutia, 2003) – by requirements to seek approval of the Administrative Office of the Courts prior to expending otherwise unencumbered local courthouse construction funds.

We believe that granting the reprieve from audit penalties for the 2008 calendar year is appropriate given the history of this unintended and, regrettably, overlooked change in the law. CSAC has discussed this proposal with the State Controller's Office and they identified no concerns with this proposed approach.

We hope this additional background is useful to you when you consider the issue. Please do not hesitate to contact me at 916/650-8131 or ehoward@counties.org if I can provide you with any additional information. Thank you.