

Monday, June 22, 2026

Commission on State Mandates  
980 9<sup>th</sup> Street, Suite 300  
Sacramento, CA 95814

**RE: CARE Act County Legal Counsel, 25-TC-02**  
**Response: Finance's Comments on the Test Claim filed May 22, 2026**

Dear Chair Stephenshaw and Members of the Commission on State Mandates,

The California State Association of Counties (CSAC) submits these subsequent comments on the pending matter of the Community Assistance, Recovery, and Empowerment (CARE) Act County Legal Counsel test claim (25-TC-02). The primary purpose of CSAC is to represent county government before the California Legislature, California administrative agencies, and the federal government. This includes advocating on the value and need for county programs and services and for adequate funding to provide those services.

This letter concerns the role, nature, and responsibilities of the position of county counsel within county governmental organization. The county counsel serves as the chief civil law officer of the county, providing legal services to the board of supervisors, county and court officials, and other local agencies and districts. The county counsel plays a crucial role in safeguarding the county's legal interests, ensuring compliance with laws, and overseeing civil litigation and other judicial procedures involving the county and its officers. County counsels provide legal opinions and advice to county officials and agencies, ensuring compliance with laws and regulations.

Specifically, CSAC wishes to provide the following comments in response to the comment letter submitted by the California Department of Finance<sup>1</sup> (DOF) on May 22, 2026, to clarify the role and responsibilities of county counsel:

- 1. DOF Comment:** "While the CARE Act specifically directs CBHAs [County Behavioral Health Agencies] or a representative of CBHAs to participate in the CARE process, there is no statutory requirement that CBHAs must be represented by or receive legal advice by its legal counsel throughout this process."

**CSAC Response:** This is not correct. County counsel is required by law to provide legal services to the county in ***all civil matters where the county board of supervisors or a***

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<sup>1</sup> [Finance's Comments on the Test Claim filed May 22, 2026](#)

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**county officer is concerned or is a party in their official capacity.**<sup>2</sup> County officers for which county counsel are statutorily required to provide legal counsel are enumerated in California Government Code<sup>3</sup> and include county health officers, county public guardians, district attorneys, sheriffs (as first responders), and other such offices specifically directed by statute to participate in the CARE Act process. County behavioral health directors, by the nature of their role, are parties to the CARE Act process no matter who files an initial CARE Act petition, and therefore must receive supportive legal services and representation from the county counsel's office throughout proceedings.<sup>4</sup>

- 2. DOF Comment:** "The CBHAs are not plaintiffs or defendants in the CARE process. The only statutory requirement regarding mandated legal representation is that the respondent—not CBHAs—is entitled to be represented by counsel at all stages of a proceeding commenced under this chapter, regardless of the ability to pay."

**CSAC Response:** This statement is an oversimplification of mental health proceedings in California and misstates the obligations imposed upon county counsels by statute. First, legal representation in CARE Act proceedings is not limited only to the respondent. The CARE Act statutes require CBHA participation in these proceedings. County counsel is required to prosecute or defend not only those actions in which a county officer is a party, but also those in which the officer is "concerned."<sup>5</sup> By creating a process that is court hearing-intensive and requires CBHA participation, the CARE Act statutes necessarily also created a proceeding in which a county officer is concerned, triggering an obligation for county counsel representation. Further, as described in the claimant's test claim<sup>6</sup>, the CARE Act statutes enact a new program that generates new activities and legal services that county counsel is required to provide to CBHAs. A county's good faith compliance with the CARE Act requires seeking the advice and guidance of counsel. Indeed, the designation of "counsel"<sup>7</sup> for public sector attorneys is not an arbitrary title. The primary role of county counsel is to act as a "counselor" of legal advice to their clients—the county elected officials, appointees, and hired employees—in the interest of faithfully executing their role as public servants by ensuring that state law is upheld. As such, CSAC asks that the Commission not interpret the statutory requirements of county counsel to be narrowly defined.

- 3. DOF Comment:** "An additional mandate specific to county counsel is not legally compelled, and should not be inferred as practically compelled, as the use and amount of reliance on county counsel is discretionary for CBHAs."

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<sup>2</sup> [Gov. Code, § 26529](#)

<sup>3</sup> [Gov. Code, §§ 24000 - 24012](#)

<sup>4</sup> [Welf. & Inst. Code, §§ 5977 - 5978](#)

<sup>5</sup> [Gov. Code, § 26529](#)

<sup>6</sup> [CARE Act County Legal Counsel, 25-TC-02](#), pages 8-10

<sup>7</sup> [Gov. Code, §§ 27640 - 27647](#)

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**CSAC Response:** Public officials have an obligation to the public to faithfully execute the powers of their office or position, and are therefore compelled to consult their county counsel when performing tasks to carry out state-directed programs. This is particularly true for a program like the one created by the CARE Act statutes where noncompliance subjects the county to a fine of up to \$25,000 for each individual violation.<sup>8</sup> CSAC is concerned by DOF's inference that county officers (i.e. hundreds of thousands of local public servants statewide) do not have a duty by the nature of their employment as public servants to confer with professional legal counsel to ensure compliance with state law when carrying out the state's programs or when navigating legal proceedings such as the CARE Act process, particularly when noncompliance may involve court ordered penalties.

CSAC urges the Commission to recognize that legal services provided by county counsel to county officers and parties thereof are not discretionary in nature. We agree with the claimant that test claim 25-TC-02 creates mandated new and higher levels of service for county counsel that are eligible for reimbursement from the state pursuant to the California Constitution.<sup>9</sup>

Thank you for your consideration of our comments. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,



Emma Jungwirth  
Senior Legislative Advocate  
California State Association of Counties  
[ejungwirth@counties.org](mailto:ejungwirth@counties.org)

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<sup>8</sup> [Welf. & Instit. Code, § 5979, subd. \(b\)](#)

<sup>9</sup> [Cal. Const., art. XIII B, § 6](#)