CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, September 5, 2013
10:00am - 1:30pm
CSAC Conference Center, Sacramento, CA

AGENDA

Times for agenda items listed herein are approximate. Matters may be considered earlier than published time.

Presiding: David Finigan, President

10:00am ***PROCEDURAL ITEMS***

1. Roll Call — Page 1

2. Approval of Minutes of May 30, 2013 Meeting — Page 3

10:10am ***ACTION ITEMS***

3. Request for Authorization to File Comments regarding Federal Tribal Acknowledgement Process — Page 7
   - *Kiana Buss, CSAC staff*

4. Consideration of Policy Regarding CSAC Affiliates — Page 9
   - *Matt Cate, CSAC Executive Director*

5. Consideration of Amended Policy Committee Operating Procedures — Page 12
   - *DeAnn Baker, CSAC staff*

6. Consideration of Policy Regarding Candidate Campaign Contributions — Page 15
   - *Matt Cate, CSAC Executive Director*

11:20am ***INFORMATION ITEMS***

7. County Administrative Officers Assoc. of Calif. (CAOAC) Report
   - *Bill Goodwin, CAOAC President*

8. Institute for Local Government (ILG) Report — Page 16
   - *JoAnne Speers, ILG Executive Director*

9. Report on SB 594 (Hill): Use of Public Resources — Page 21
   - *Jean Kinney-Hurst, CSAC staff*

10. Legislative Report
    - *DeAnn Baker & CSAC Legislative Staff*

11. *The following items are contained in the briefing material for information, but no presentation is planned:*
    - ❖ CSAC Litigation Coordination Program Update — Page 24
    - ❖ CSAC Finance Corporation Update
    - ❖ CSAC Corporate Associates Program Update

12:30pm ***LUNCH***

1:30pm ***ADJOURN***

NOTE: The next **CSAC Board of Directors** meeting is **November 21**, in San Jose, Santa Clara County

CALIFORNIA STATE ASSOCIATION OF COUNTIES
Board of Directors
2013

Section	County	Director
U	Alameda County	Keith Carson
R	Alpine County	Terry Woodrow
R	Amador County	Louis Boitano
S	Butte County	Maureen Kirk
R	Calaveras County	Merita Callaway
R	Colusa County	Kim Dolbow Vann
U	Contra Costa County	Federal Glover
R	Del Norte County	Michael Sullivan
R	El Dorado County	Norma Santiago
S	Fresno County	Henry Perea
R	Glenn County	John Viegas
R	Humboldt County	Virginia Bass
S	Imperial County	Ryan Kelley
R	Inyo County	Jeff Griffiths
S	Kern County	Mike Maggard
R	Kings County	Doug Verboon
R	Lake County	Anthony Farrington
R	Lassen County	Jim Chapman
U	Los Angeles County	Don Knabe
R	Madera County	Max Rodriguez
S	Marin County	Susan Adams
R	Mariposa County	John Carrier
R	Mendocino County	Carre Brown
S	Merced County	Hubert "Hub" Walsh
R	Modoc County	Jim Wills
R	Mono County	Larry Johnston
S	Monterey County	Fernando Armenta
S	Napa County	Brad Wagenknecht
R	Nevada County	Ed Scofield
U	Orange County	John Moorlach
S	Placer County	Jim Holmes
R	Plumas County	Jon Kennedy
U	Riverside County	John Tavaglione

U	Sacramento County	Susan Peters
R	San Benito County	Margie Barrios
U	San Bernardino County	Josie Gonzales
U	San Diego County	Greg Cox
U	San Francisco City & County	Eric Mar
S	San Joaquin County	Bob Elliott
S	San Luis Obispo County	Bruce Gibson
U	San Mateo County	Carole Groom
S	Santa Barbara County	Doreen Farr
U	Santa Clara County	Ken Yeager
S	Santa Cruz County	Bruce McPherson
S	Shasta County	Leonard Moty
R	Sierra County	Lee Adams
R	Siskiyou County	Ed Valenzuela
S	Solano County	Linda Seifert
S	Sonoma County	David Rabbitt
S	Stanislaus County	Vito Chiesa
R	Sutter County	Larry Munger
R	Tehama County	Robert Williams
R	Trinity County	Judy Pflueger
S	Tulare County	Steve Worthley
R	Tuolumne County	Randy Hanvelt
U	Ventura County	Kathy Long
S	Yolo County	Matt Rexroad
R	Yuba County	Roger Abe

President:	David Finigan, Del Norte
First Vice President:	John Gioia, Contra Costa
Second Vice President:	Efren Carrillo, Sonoma
Immed. Past President:	Mike McGowan, Yolo

SECTION: U=Urban S=Suburban R=Rural

2/13

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
May 30, 2013
CSAC Conference Center, Sacramento

MINUTES

Presiding: David Finigan, President

1. ROLL CALL

Alameda	Keith Carson	Placer	absent
Alpine	Terry Woodrow	Plumas	Jon Kennedy
Amador	Louis Boitano	Riverside	Tavaglione/Benoit
Butte	Bill Connelly	Sacramento	Susan Peters
Calaveras	Merita Callaway	San Benito	Margie Barrios
Colusa	Kim Dolbow Vann	San Bernardino	Josie Gonzales
Contra Costa	Gioia/Mitchoff	San Diego	Greg Cox
Del Norte	Finigan/Sullivan	San Francisco	Eric Mar
El Dorado	Norma Santiago	San Joaquin	Bob Elliott
Fresno	Henry Perea	San Luis Obispo	Bruce Gibson
Glenn	John Viegas (audio)	San Mateo	Carole Groom
Humboldt	Virginia Bass	Santa Barbara	Doreen Farr
Imperial	Ryan Kelley	Santa Clara	Ken Yeager
Inyo	Jeff Griffiths	Santa Cruz	Bruce McPherson
Kern	absent	Shasta	Les Baugh
Kings	Doug Verboon	Sierra	Lee Adams
Lake	Anthony Farrington (audio)	Siskiyou	Ed Valenzuela
Lassen	Jim Chapman	Solano	Linda Seifert
Los Angeles	absent	Sonoma	Carrillo/Rabbitt
Madera	Max Rodriguez	Stanislaus	Vito Chiesa
Marin	Susan Adams	Sutter	absent
Mariposa	John Carrier	Tehama	Robert Williams
Mendocino	Carre Brown	Trinity	Judy Pflueger
Merced	Hubert Walsh	Tulare	Steve Worthley
Modoc	Jim Wills	Tuolumne	Randy Hanvelt
Mono	Larry Johnston	Ventura	Kathy Long
Monterey	Fernando Armenta	Yolo	McGowan/Rexroad
Napa	Brad Wagenknecht	Yuba	Roger Abe
Nevada	Ed Scofield	Advisors: Bill Goodwin & Charles McKee	
Orange	John Moorlach		

The presence of a quorum was noted.

2. APPROVAL OF MINUTES

The minutes of February 21 and March 28, 2013 were approved as previously mailed.

3. CSAC CORPORATE ASSOCIATES REPORT

Marty Dettelbach with Coast2Coast Rx addressed the Board of Directors regarding the discount prescription program currently underway in many California counties. Rob Bilo of Nationwide Retirement Solutions (NRS) spoke about the long-term partnership that NRS has had with CSAC in providing deferred compensation services to counties. Both Coast2Coast and NRS are premier members of the CSAC Corporate Associates program.

4. GOVERNOR'S MAY REVISION OF THE 2013-14 STATE BUDGET

Ana Matosantos, Director of the State Department of Finance, provided an overview of the Governor's May Revise. She indicated that the budget is very similar to the Governor's January proposed budget. The bulk of the revenues will be directed to schools through Proposition 98. She also noted that property tax revenues are up because of the dissolution of redevelopment agencies. Ms. Matosantos discussed the Governor's plan to redirect 1991 health realignment funds from counties via a mechanism that identifies savings associated with implementation of the Affordable Care Act. Details of the Governor's plan are contained in CSAC's Budget Action Bulletin.

5. CSAC REPORT ON THE GOVERNOR'S MAY REVISION

The CSAC Officers and staff have been meeting with the Governor and Director Matosantos regarding implementation of the Affordable Care Act. CSAC is concerned about the amount of county funds the state wants to take as well as the proposal to shift of CalWorks child care programs to counties. Negotiations are continuing. Staff has also been meeting with county stakeholders to craft a proposal. Once a deal is finalized, staff will provide a report to the Board of Directors.

6. AB 109 ALLOCATION REPORT

In early 2011, the County Administrative Officers Association of California (CAOAC) named a 9-member Realignment Allocation Committee (RAC), at CSAC's request, to tackle the 58-county distribution of AB 109 and related funds. That committee is chaired by Susan Mauriello, Santa Cruz County Administrative Officer. She and two members of the RAC, Bill Goodwin and Larry Spikes, provided a report to the Board of Directors. To date, the committee has recommended – and the Legislature approved – two temporary formulas that direct the allocation of funds for the first three years of implementation.

The Department of Finance has requested a recommendation on a growth allocation methodology so the RAC is currently focusing on the distribution of estimated growth, which includes elements such as a guaranteed minimum for each county; establishment of appropriate minimum allocations for small counties; adjustments for variation between estimated and actual caseloads, and efforts to implement public safety realignment consistent with legislative intent. The RAC surveyed all 58 counties for input and is now developing a recommended approach.

Following the RAC's conclusion of its work associated with a recommended distribution of growth, it will begin devising a longer-term allocation formula that would apply beginning in 2014-15. To help in this effort, the RAC convened a Data Advisory Committee, comprised of representatives from at least 15 counties, to provide input on recommended elements for consideration in a long-term formula. The Advisory Committee is developing recommendations on elements for inclusion in a more permanent formula. These elements fall in three general categories: workload, performance and modifiers. The RAC is working toward a late Fall timeframe for recommending a longer-term funding formula.

7. CSAC POLICY COMMITTEE REPORTS

Health & Human Services. Supervisor Kathy Long, Chair of the CSAC Health & Human Services policy committee, provided a report from the May 30 meeting. The meeting primarily focused on California's implementation of the Affordable Care Act, including reports from coalition partners and county affiliates regarding specific impacts.

The committee also received a report from Senator Steinberg's office regarding his mental health proposal, which would pump nearly $200 million into mental health services. The Senate has approved the proposal and it will be part of the state budget negotiations in the coming weeks.

Housing, Land Use & Transportation. Supervisor Phil Serna, Chair of the CSAC Housing, Land Use & Transportation policy committee, provided a report from the May 30 meeting. The policy committee approved CEQA Reform Principles and recommended adoption by the Board of Directors. An amended version was distributed to the Board for review. The principles were developed so CSAC can properly and effectively engage should legislative efforts gain traction in the current legislative session.

> Motion and second to adopt CEQA Reform Principles as amended by CSAC's Housing, Land Use & Transportation policy committee. Motion carried unanimously.

A second item that was originally slated for action by the Board of Directors was consideration of the GoRail Resolution. However, the policy committee instead took action to support exploring and potentially developing further CSAC policy on freight rail and other rail issues of importance to counties such as commuter rail. The policy committee requested that staff consider the policy implications of pursuing rail issues in more depth and recommended that CSAC work with NACo as they have more extensive policy on freight and commuter rail issues.

The policy committee also received reports on Transportation Finance and a new Federal Tribal Possessory Interest Regulation.

Government Finance & Operations. Supervisor Bruce Gibson, Chair of the CSAC Government Finance & Operations policy committee, presented a report from the meeting held on May 30. The committee received reports regarding CalPERS, the State Budget, the fiscal side of health care implementation and a legislative update. No action items were brought forward for consideration.

Agriculture & Natural Resources. Supervisor Kim Vann, Chair of the CSAC Agriculture & Natural Resources policy committee, presented a report from the meeting held on May 30. The committee received reports on Sonoma County's Climate Strategy for Land Conservation, Cal Fire, current legislative issues, and the Working Lands Coalition proposal to fund a comprehensive agricultural land and open space protection program. No action items were brought forward for consideration.

Administration of Justice. Staff provided a report from the policy committee meeting held on May 30. The committee received presentations on a variety of topics related to juvenile justice, the upcoming parole revocation transfer from the state to the courts, and creating employment opportunities for offenders. No action items were brought forward for consideration.

8. PROPOSED CSAC BUDGET FOR FY 2013-14

Supervisor Terry Woodrow, CSAC Treasurer, presented the draft CSAC Budget for FY 2013-14, as contained in the briefing materials. The budget calls for an additional $631,000 in dues revenue, in order to provide a higher level of service and meet the goals set by the Board of Directors. In addition, CSAC staff will be absorbing a share of retirement contributions. Travel costs are being reduced and one health benefit provider option is being eliminated. This proposed budget was unanimously approved by the Executive Committee on April 18.

> Motion and second to adopt proposed CSAC Budget for FY 2013-14 as presented. Motion carried (2 no votes).

9. PROPOSED LITIGATION COORDINATION PROGRAM BUDGET FOR FY 2013-14

Jennifer Henning, Executive Director of the County Counsels Association, presented the proposed Litigation Coordination budget for FY 2013-14, as contained in the briefing materials. The proposed budget includes a 3% salary increase, per direction of the County Counsels Board of Directors, and an 11% fee increase to allow the program to continue to provide high quality coordination to counties and court representation to CSAC for the upcoming fiscal year. The proposed budget was unanimously approved by the Executive Committee on April 18.

Motion and second to adopt the proposed Litigation Coordination Program Budget for FY 2013-14 as presented. Motion carried unanimously.

10. CSAC FINANCE CORPORATION REPORT

The briefing materials contained a report on the highlights of the CalTRUST and CSAC Finance Corporation annual meetings held in April.

11. INFORMATION ITEMS

Informational reports on the Institute for Local Government (ILG), CCS Partnership, CSAC Litigation Coordination program, and the CSAC Institute for Excellence in County Government, were contained in the briefing materials.

Meeting adjourned.

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August 21, 2013

To: CSAC Board of Directors

From: Kiana Buss, CSAC Legislative Representative

Re: Proposed CSAC Comments on BIA's Preliminary Discussion Draft on Potential Improvements to the Federal Tribal Acknowledgement Process – Action Item

Recommendation. Staff recommends that the Board of Directors authorize CSAC to file written comments, consistent with the recommendations outlined below, in response to the Bureau of Indian Affair's (BIA) *Preliminary Draft Discussion* on the *Procedures for Establishing that an American Indian Group Exists as an Indian Tribe*.

Background. The Bureau of Indian Affairs (BIA) undertakes an administrative process, guided by federal regulations known as the *Procedures for Establishing that an American Indian Group Exists as an Indian Tribe*, to "federally acknowledge" an Indian Tribe. Federal recognition grants Tribes the rights to certain benefits, including the right to self-government, sovereignty, and self-determination as well as funding and services provided by the federal government. There are currently 109 federally recognized Tribes in California. Further, there are 79 petitions for federal recognition for California Tribes in various stages of the acknowledgement process pending with the BIA.

The Office of Federal Acknowledgement (OFA) makes recommendations to the Assistant Secretary of Indian Affairs (Assistant Secretary) whether to acknowledge tribal existence or deny the petitioning group based on a review and verification of anthropological, genealogical and historical information provided by the petitioning Tribe. The acknowledgement process is a long one and it can take many years to finalize a decision, with the ability for petitioners and interested parties to appeal or request reconsideration of a final decision. However, the earliest opportunity for input from interested parties (which includes impacted local government entities) and the public is at the very least 2-years after a petitioning Tribe submits a Letter of Intent. The public comment period is 6-months (with an optional extension of 6-months) and is noticed in the Federal Register at the same time the Assistant Secretary makes a proposed finding on the petition. At the end of the public comment period and subsequent response period, a final determination is published in the Federal Register.

On June 21, the BIA released a *Preliminary Discussion Draft* on the *Procedures for Establishing that an American Indian Group exists as an Indian Tribe*. The stated purpose for the *Preliminary Discussion Draft* is to identify potential improvements in the process to improve the integrity of the BIA's decisions to acknowledge particular groups as Indian Tribes. Public comments are due September 25th.

Policy Considerations. . As previously mentioned, federal acknowledgment grants Tribes a number of rights and privileges, only one of which includes the ability to have the federal government take land into trust on a Tribe's behalf. The scope of federal programs available to federally recognized Tribes is extensive and includes a range of services comparable to the programs of state and local government, e.g., education, social services, law enforcement, courts, real estate services, agriculture and range management, and resource protection. While federal acknowledgement is a necessary step for a Tribe to take land into trust, recognition does not guarantee that a Tribe will seek trust lands. Since the acknowledgement process can be a precursor to tribes taking land into trust for gaming and other non-gaming development and activities, counties have an indirect interest in the regulations governing decisions related to federal acknowledgement.

CSAC does not have policy specifically related to the federal tribal acknowledgement process. While some counties have a positive working relationship with their Tribe(s) – federally recognized or not – other counties experience frustration and share the same concerns with the acknowledgment process as with the federal fee-to-trust process. The existing federal acknowledgement process only provides for limited opportunity for input from interested parties and counties are often left in the dark about acknowledgement applications until decisions have already been made. The regulations do not require the BIA to directly outreach to impacted local agencies for consultation and public comment. Counties must monitor the Federal Register in order to be made aware of acknowledgement applications. Regardless of an individual counties' position on an acknowledgment petition, some counties believe that they have a valuable insight into the factors the BIA is considering when contemplating petitions, and that by the time BIA has published a proposed finding, the opportunity to have meaningful input has passed.

The County Counsels' Association, in its analysis of the *Preliminary Discussion Draft*, has identified a number of potential changes that would result in a relaxation of the evidentiary showing needed to qualify for federal acknowledgement. The proposed changes to the regulations would allow a previously denied tribal applicant to re-petition for acknowledgement if a change in the regulations warrants reversal of the final decision. Essentially, final decisions will not necessarily be final in perpetuity under the *Preliminary Discussion Draft*.

CSAC's proposed comments focus on recommendations to improve the acknowledgement process from the local government perspective and are consistent with our recommendations to improve the federal fee-to-trust process. Specifically, given that counties have important information to contribute to the acknowledgement process, CSAC would recommend the following to achieve greater transparency in the existing process:

1. Proactively solicit input from and convene consultation meetings with local governments, including counties, at the earliest possible opportunity;
2. Facilitate and encourage constructive public participation in the review process; and
3. A stringent and transparent fee-to-trust process must compliment the acknowledgement process.

Action Requested: Staff requests that the Board of Directors take action to direct CSAC to file written comments consistent with the aforementioned recommendations in response to the BIA's *Preliminary Discussion Draft*.

Staff will also work with the CSAC Housing, Land Use, and Transportation Policy Committee to explore the interest and need to develop CSAC policy on other federal tribal issues outside of the fee-to-trust process, which is the focus of existing federal tribal policy.

Staff Contact. Please contact Kiana Buss (kbuss@counties.org or (916) 327.7500 x566) for additional information.

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August 22, 2013

TO: CSAC Board of Directors

FROM: Matt Cate, CSAC Executive Director
DeAnn Baker, Director of Legislative Affairs

RE: CSAC Affiliates Policy

Currently the CSAC Policy and Procedure Manual outlines brief policy regarding CSAC Affiliates. The current Manual was adopted by the CSAC Board of Directors on November 15, 2007. Since that time significant policy and budget discussions involving the State/County relationship have ensued with both the Executive and Legislative branches. These discussions directly involve many of the CSAC affiliates who typically remain responsible for implementation of new laws and associated service and infrastructure delivery associated with them. This is particularly true in the recent realignment debate over both public safety and health and human services.

CSAC affiliate organizations are very diverse and range from representing directly elected county officials to county department heads. The governance and staff support structure also varies significantly with some having significant governance structure with independent executive directors and lobbying staff to those with little to no organizational structure or independent staff. The draft Affiliate's policy before you attempts to accommodate these differences and outlines the structure, role and appropriate relationship of the CSAC Affiliates to the CSAC Board of Directors and the CSAC organization as a whole.

We also included a recommendation to grant the CSAC Executive Director authority to modify an Affiliate membership to address instances where Affiliates take a legislative or regulatory position of statewide interest that is contrary to CSAC's adopted positions and policies.

The CSAC Executive Committee reviewed this policy and subsequently we outreached to the Affiliates for their input as well. Some minor changes were made to provide an opportunity for associations that represent elected county officials to become CSAC Affiliates and to clarify that CSAC Affiliates do not need to seek CSAC approval to take positions on legislative, regulatory or budget issues as long as those positions are not in conflict with CSAC established positions.

Recommendation: Support inclusion of this revised Affiliates' policy in the CSAC Policy and Procedure Manual.

CSAC Affiliate Members
Draft 8-21-13

There are currently over 40 associations that represent county-government officials in California. The members of these associations represent a host of elected and appointed county leaders who, in turn, represent the needs of various county service-delivery personnel and the services they provide. Some Affiliate members have formed independent associations or organizations that have found it necessary to acquire their own staff, while others have little to no formal structure or independent staff. The vast majority of Affiliate organizations are made up of county officials appointed by the county Board of Supervisors (Board) and serve under the Board's direct authority and supervision. These associations are typically funded through membership dues, which are paid by the association members with county funds appropriated by the Board. Because the members of these associations work for the elected supervisors and are typically funded by the supervisors, they are defined as being "Affiliates" of CSAC. County associations made up of independently-elected officials or those appointed by the courts may choose to attain CSAC Affiliate status and receive the associated advantages and opportunities with an agreement to abide by the guidelines outlined in this policy.

CSAC Affiliate members play a significant role in statewide policy development and remain critical to the implementation of numerous legislative and regulatory program changes. Affiliates in good standing have the privilege of full participation in the CSAC policy committee process, which ultimately results in the adoption of CSAC's legislative platform. Affiliates not only provide technical assistance CSAC policy committee process, but are encouraged to influence policy development and identify impacts to county government. Early participation by Affiliates in the policy committee process will inform decisions made by the CSAC Board of Directors. Affiliates have full access to CSAC advocacy staff and are encouraged to partner with CSAC to analyze legislation, discuss potential impacts, help set strategic goals and work together to influence the Legislature and Administration. This collaborative relationship between CSAC and Affiliates is critical to ensure counties remain positioned to meet the various needs of our residents, from revenue to public safety to infrastructure to health and human services.

While many Affiliates have a long record of working collaboratively with CSAC, it is imperative that these relationships continue in a manner that acknowledges the responsibility of the elected boards of supervisors as the primary decision makers and advocates on behalf of California's 58 counties. Affiliates must retain a strong role in providing technical support regarding the impacts of legislative and budget actions on their ability to meet their obligations as public servants and they are critical allies in CSAC's lobbying efforts. However, when advocating on a statewide level, Affiliates should be careful to support the policy decisions and legislative positions taken by the CSAC Board of Directors. In particular, an Affiliate must not publicly advocate a position contrary to an established position of the CSAC Officers, Executive Committee or the Board of Directors. Should an Affiliate knowingly take a public position that contradicts

the elected supervisors' position on a matter of statewide importance, the Executive Director shall have the authority to temporarily suspend that association's status as an Affiliate and may notify the Legislature and Administration as necessary to clarify that the association is not affiliated with CSAC and does not speak for the elected supervisors. Subsequently, the former Affiliate association may seek to be readmitted as an Affiliate in good standing by applying to the Executive Committee and making an explanation of the circumstances.

CSAC Affiliate members are generally recognized through action by the CSAC Executive Committee or Board of Directors. Prospective Affiliate members must submit a written request for Affiliate status to the CSAC Executive Director. CSAC may request additional supporting materials for Board action, including but not limited to organization membership rosters, bylaws and policy platforms. This CSAC Affiliate policy should not be interpreted to require that Affiliates obtain approval from CSAC staff or the CSAC Board of Directors of positions they take on administrative, legislative, regulatory and budget issues as long as those positions are not in conflict with the positions established by the CSAC Board of Directors.

~end~

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DATE: August 22, 2013

TO: CSAC Board of Directors

FROM: DeAnn Baker
Director of Legislative Affairs

RE: Operating Procedures for Policy Committees

Background:

The CSAC Policies and Procedures Manual was created back in 2007. The purpose of the document is to formalize the internal procedures and structure associated with the various administrative aspects of the Association.

The document before you only proposes changes to the operating procedures that apply to the CSAC Policy Committees. The proposed changes found in red were drafted by staff to accurately reflect current practice with respect to policy committee meetings and procedures. The proposed changes are primarily technical in nature. Note that we are proposing to eliminate the Economic Development Policy Committee as legislation relevant to that area is considered by a number of the longstanding Policy Committees (i.e. Government Finance and Operations, Housing, Land Use and Transportation, etc.).

The proposed changes before you were considered by the CSAC Executive Committee. As a result of that discussion we plan to review the various issues we actively lobby on under the purview of the 5 standing Policy Committees. We will report back to the Policy Committees to ensure there is a full understanding of the various issues that fall under the purview of each Committee and to ensure the current titles reflect those major policy areas.

Recommended Action:

Support adoption of attached changes to the Operating Procedures for CSAC Policy Committees.

POLICY COMMITTEES

OPERATING PROCEDURES FOR POLICY COMMITTEES

These guidelines define the role and operational ~~rules~~ procedures for all policy committees of the California State Association of Counties.

ROLE

Policy Committees provide a smaller, focused, and more frequent setting for discussion and potential recommendations on matters of importance to California counties. Policy Committees are charged with reviewing the County Platform
that guides CSAC policy positioning on issues and legislation and recommending
amendments; reviewing legislation and ballot propositions, as needed; and serving as a forum for discussing issues within the policy arena, often helping clarify CSAC positions on legislation in the interim between Executive Committee and/or Board of Director meetings. Any changes to the platform and to existing policy through action of the Policy committee, however, must be forwarded to the Executive Committee and then to the Board of Directors for action at their next meeting(s).

COMPOSITION

There are five ~~six~~ policy committees within the California State Association of Counties, as currently established by the Executive Committee:

Administration of Justice Agriculture and Natural Resources
~~Economic Development~~
Government Finance and Operations Health and Human Services
Housing, Land Use and Transportation
Each policy committee may have a number of subcommittees and/or task forces that are responsible for policy development and recommendations to the full committee. The number and type of subcommittees vary according to the specific needs of each policy committee.

NUMBER OF MEETINGS

Each policy committee usually meets at least ~~three~~ two times per year at the CSAC Legislative Conference and at the Annual Meeting but may meet more often, at the call of the chair, as circumstances and issues may dictate ~~as follows:~~

~~InJanuary or February, at the CSAC spring legislative conference; and at the annual meeting. The first meeting is normally the organizational meeting at which time the committee establishes its priorities for the year, rules of order, work plan, its chapter of the CSAC Platform, etc. Subcommittees can begin their work in February and make recommendations at the legislative conference and annual meeting, as appropriate. Policy committees may meet more often, at the call of the chair, as circumstances and issues may dictate.~~

POLICY COMMITTEE CHAIR

Committee chairs and vice chairs, ~~and subcommittee chairs~~ are appointed annually by the CSAC ~~p~~President following the annual meeting in November and ratified by the Executive Committee. Although geographic distribution should play a role in the appointments, other factors such as policy area expertise, political expertise, leadership abilities, commitment to work, and ability to testify should be given weight in the selection. Committee chairs and/or vice chairs, accompanied by CSAC staff, make their reports and recommendations in person to the CSAC Executive Committee and the CSAC Board of Directors at their meetings held throughout the year.

POLICY COMMITTEE MEMBERSHIP

Since policy committees form the foundation for the CSAC policy development process, which guides CSAC staff action, active participation by supervisors is key to a strong and effective statewide association.

Committee chairs and vice chairs are responsible for encouraging supervisors to become members who are knowledgeable in the specific policy area and who will actively participate in policy development and lobbying. CSAC encourages each county to assign ~~board of~~ supervisors from their county to serve on each of the ~~six~~ five policy committees. This is a practice that has proven effective at expanding participation in CSAC policy setting by those counties who use it.

Committee membership is open to all board of supervisor members. Supervisors may serve on more than one policy committee. New supervisors are encouraged to participate. ~~Policy committee membership rosters are updated after the CSAC annual conference.~~

AFFILIATE GROUP REPRESENTATION

The role of affiliate groups is to advise and recommend. Each affiliate group shall have one voting representative on each appropriate policy committee and that representative shall speak for the interests of his/her group. Affiliate groups have a vote on policy committees, subcommittees and task forces as outlined in the Policy Committee Voting Procedure (below). Affiliate groups are also actively involved with CSAC staff in the technical aspects of policy development, interpretation and implementation.
~~The Corporate Associates may have one non-voting liaison to each policy committee.~~

COUNTY ADMINISTRATIVE OFFICERS ASSOCIATION OF CALIFORNIA (CAOAC)

The CAOAC shall have one voting representative on each policy committee as outlined in the Policy Committee Voting Procedure (below).

CORPORATE ASSOCIATES

~~The Corporate Associates Program was created to foster a closer working relationship between business and local government. This program provides opportunities for private sector companies to join with public officials on topics of mutual interest.~~

The Corporate Membership and Sponsorship Program are designed to foster meaningful interactions and build relationships between key county decision-makers and private sector companies that do business with California's counties. The wealth of knowledge and experience these companies bring to the table assist county leaders in providing their residents with efficient and effective services. The Corporate Associates may have one non-voting liaison to each policy committee.

POLICY COMMITTEE VOTING PROCEDURE

Each member of a policy committee (supervisor, county administrator and affiliate group representative) shall have one vote on all policy committee actions. However, if a supervisor member of a policy committee requests a roll call vote on any action before the policy committee, only supervisor members of the policy committee shall vote on that action. Only one vote per county is allowed on a roll call vote.

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August 22, 2013

TO: Members, CSAC Board of Directors

FROM: Matt Cate, CSAC Executive Director

SUBJECT: CSAC Staff Campaign Contribution Policy

Recommended action: Adopt the CSAC Staff Campaign Contribution Policy as described below.

CSAC Staff Campaign Contribution Policy

CSAC staff has the right to voluntarily contribute their time or money to any political campaign. However, in order to avoid the appearance that such contributions are compulsory, county supervisors shall not directly solicit contributions from CSAC staff for all elections. Mass mailing or e-mail solicitations are not considered direct solicitations.

The above policy reflects amendments approved by the CSAC Executive Committee on August 8, 2013.

INSTITUTE FOR LOCAL GOVERNMENT℠

Promoting Good Government at the Local Level

Update on Activities (August 2013)

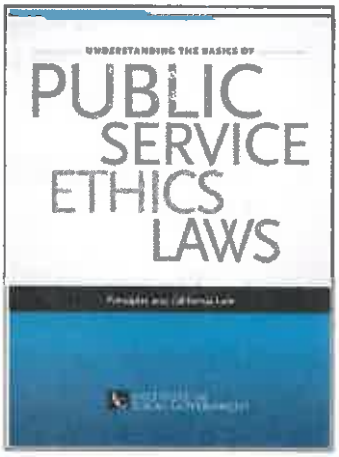
Background: *Founded in 1955, the Institute for Local Government (ILG) serves as the nonprofit, 501(c)(3) research affiliate of the California State Association of Counties and the League of California Cities.*

The Institute's mission is to support good government at the local level with practical, impartial and easy-to-use materials.

The following highlights some of ILG's activities since the last CSAC board meeting.

Supporting Member Outreach and Education Efforts

- **Promoting the Value of CSAC Membership**



  - **Promoting Public Trust and Confidence in Local Government.** *Understanding the Basics of Public Service Ethics Laws* is now available in an updated form (www.ca-ilg.org/EthicsLaws). This plain language explanation of California's ethics laws helps local officials avoid missteps in this area. The resource has been publicized on the county counsels listserve and the CSAC blog (http://blogs.csac.counties.org/index.php/2013/08/new-and-free-resource-for-counties-on-ethics-laws/). Additional communications to county officials to encourage them to access this resource are in the works.

  - **Local Government 101**. The CSAC blog also ran a wonderful post on the Institute's resources on nuts and bolts information on meeting management: http://blogs.csac.counties.org/index.php/2013/08/institute-for-local-government-a-go-to-resource-for-local-officials/. This followed on a successful session at the New Supervisors Institute earlier this year on

meeting management and then a session on public engagement at a CSAC Institute session.

- **Land Use Resources.** The Institute's resources on land use issues were featured in a recent CSAC Institute program on the same topic. The Institute's land use basics publications (including its predecessor publication the *Planning Commissioner Handbook*) is one of the Institute's more popular publications. To access this information, visit www.ca-ilg.org/document/understanding-basics-land-use-and-planning-series. An Institute funder is helping with the update; suggestions welcome.

- **E-Newsletters.** County officials (and their staffs) can receive subject specific information through ILG e-newsletters. Active newsletters include sustainability and public engagement. To sign up, please contact: sustainability@ca-ilg.org and publicengagement@ca-ilg.org.

- **New Resource on Communicating about Public Engagement.** This tip sheet offers advice on communication strategies before, during and after the agency's public engagement effort. www.ca-ilg.org/PEStrategicCommunications.

- **Brown Act Webinar for County Clerk of the Board of Supervisors Association**. The Institute partnered with the County Clerk of the Board of Supervisors Association on a Brown Act webinar with more than 130 participants. The recorded webinar and associated documents are available online: www.ca-ilg.org/webinar/brown-act-webinar-keeping-clerks-ahead-curve.

Supporting and Highlighting the Good Work Being Done at the Local Level

- The Institute continues to highlight local agencies' sustainability accomplishments in local media, on the ILG website and through other communications outlets. These activities include:

  - **Beacon Award.** Four counties (San Diego, Sonoma, San Luis Obispo and Yolo) are among the 50 local agencies participating in the Beacon Award program, which celebrates voluntary activities at the local level to save energy and reduce greenhouse emissions. San Diego and Sonoma counties will receive Spotlight Awards for their accomplishments. www.ca-ilg.org/BeaconAward

  - **"Celebrating Local Leadership in Sustainability."** This new report highlights accomplishments of Beacon participants in a way that reinforces the concepts of voluntary leadership at the local level and how local actions contribute to California's greenhouse reduction goals. Copies of the report will be available at the CSAC Board meeting.

- **Sustainability Best Practices Framework.** The updated Sustainability Best Practices Framework, the first comprehensive revision since 2009, highlights options to consider for activities in ten sustainability areas. Copies of the Framework will be available at the CSAC Board meeting. www.ca-ilg.org/SustainabilityBestPractices

- **New Project Started with CalRecycle.** In June, ILG began a two year project, funded through a contract with CalRecycle (the state agency that oversees California's solid waste and recycling programs), to develop options and information for local officials related to financing solid waste and recycling activities and infrastructure, and options related to planning, approving and siting recycling facilities and manufacturing facilities that use recycling materials. ILG is working with CSAC staff to include county officials on the project's advisory committee and to learn about county experiences, information needs, and perspectives.

- **New Google Map for Local Agency Public Engagement Efforts.** The Institute for Local Government has created and collected stories that illustrate successful public engagement efforts throughout California. Readers can access stories by city, county or topic area.

- **Purple**: Broadening Participation
- **Orange**: Difficult Situation in Public Engagement
- **Green**: Planning, Housing and Sustainability
- **Dark Blue**: Budgeting
- **Aqua Blue**: Health and Human Services
- **Red**: Reentry, Emergency Preparedness and Public Safety
- **Brown**: Public Works
- **Black**: Online Public Engagement & Technology
- **Gray**: Sustaining Public Engagement
- Counties are indicated by a square
- Cities are indicated by a star

CCS Partnership

Background: *A collaborative effort among the League of California Cities, the California Association of Counties and the California School Boards Association, the Cities Counties Schools Partnership is a non-profit 501(c)(3) corporation. Its mission is to improve the conditions of children, families and communities at the local level by promoting and encouraging coordination, integration and increased efficiency of local services and joint facilities use among cities, counties and schools in all California communities.*

The Institute serves as staff for CCS. www.ccspartnership.org

- **CSAC Board Representatives.** Each partner association appoints representatives to the CCS board of directors. The following individuals are the CSAC and county representatives:

  - John Gioia (Contra Costa)
  - Dave Cortese (Santa Clara)
  - Don Saylor (Yolo)
  - Matt Cate (CSAC)
  - Brad Wagenknecht (Napa)
  - Alan Fernandez (Los Angeles)

- **Safe Routes to Schools Toolkit Completed.** The Safe Routes to Schools Decision-Makers Toolkit was completed and is available for local officials. The Toolkit is an online guide that explains active transportation and the conditions in a community that support safe walking and bicycling to schools and other neighborhood destinations. It offers tools for local governments to support active transportation. Because decisions about transportation investments in California occur across an array of agencies, the guide explains the regional and state context within which local county, city and school leaders will collaborate to create safer walking and bicycling environments. www.ca-ilg.org/SRTS-toolkit

- **Community Schools Partnerships Toolkit under Development.** The online Community Schools Partnership Toolkit is well on its way to becoming a useful tool for county, city and school officials. It will include examples of successful programs, lessons learned, examples of different governance structures and stories. Responses to a survey sent out by CSAC to county officials have yielded numerous examples of successful programs. The preliminary version of the toolkit will be available in October.

- **Next Board Meeting.** The CCS Partnership board will meet on October 18 to discuss food access and obesity prevention and to receive an update and provide feedback on the development of a community schools partnerships toolkit for local agency officials. www.ccspartnership.org/resources/community-schools-partnerships

INSTITUTE PROJECT STAFF CONTACT INFORMATION
WE WELCOME YOUR THOUGHTS

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Office Address: 1400 K Street, Suite 205, Sacramento, CA 95814

August xx, 2013

To: **Governor Jerry Brown**
Members, California State Senate
Members, California State Assembly

Re: **Opposition to Senate Bill 594 (Hill): A Last Minute Gut-and-Amend that Would Shut Police Chiefs, County Sheriffs, School Boards, Cities, Counties, Community Colleges and Other Nonprofits Out of the State and Local Ballot Initiative Process**

Our organizations represent California's police chiefs, county sheriffs, school boards, school districts, community colleges, cities, counties, special districts, district attorneys, the business community and others. **We are writing to express our strong opposition to Senate Bill 594 (Hill), despite the August 21, 2013 amendments.** The recent amendments do not change the fundamental problems with the bill.

- Nonprofit organizations like ours will be shut out of the state and local ballot initiative process – silencing the voices of trusted organizations on matters of critical importance to our constituents and the residents of California.

- SB 594 contains broad language that would stop our organizations from participating in state and local ballot campaigns that have a direct impact on our members and the services they provide to the public. This effectively eliminates our political voice on ballot measures that involve many of California's most important issues.

- This last minute gut-and-amend is promoted by a few special interests wishing to increase their influence by silencing important and engaged organizations that may not always agree with their political positions. SB 594 was gutted and amended on August 7. Not only does this disrespect the legislative process and preclude legislators and the public from fully digesting the measure and its far-reaching implications, but it also directly contradicts the proponents' main argument – that the bill was intended to increase transparency in the political process.

- SB 594 is a solution in search of a problem. Our organizations never use public funds for political purposes. California already has strong laws on the books that prohibit the use of public funds in political campaigns. Violations of the Political Reform Act are subject to steep fines and criminal prosecution. Our organizations take great care to ensure we are not expending public resources on campaigns.

- Lastly, SB 594 creates vast new responsibilities for the Attorney General to conduct biennial audits of thousands of nonprofit organizations that receive more than 20 percent of their annual revenues from one or more local agencies. This would create a new and costly bureaucracy at the Attorney General's office, as well as time-consuming and costly audits for nonprofit organizations.

We hope you will join us in opposing this egregious, last-minute gut-and-amend that would have grave consequences for our members, the citizens we serve, and the political process in California.

(more)

Sincerely,

Chief Kim J. Raney
President
California Police Chiefs Association

Gregory J. Ahern
President
California State Sheriffs' Association

Brian M. Rivas
Legislative Advocate
California School Boards Association

Danielle Higgs
Legislative Director
Chief Probation Officers of California

Carol Leveroni
Executive Director
California Peace Officers' Association

Catherine Smith
Executive Director
Fire Districts Association of California

Wes Smith
Executive Director
Association of California School Administrators

Ron Alves
President
California Emergency Services Association

Cory Salzillo
Director of Legislation
California District Attorneys Association

Rosario Garza
Executive Director
California Library Association

Amber Wiley
Senior Legislative Advocate
Association of California Healthcare Districts

Patricia Ryan
Executive Director
California Mental Health Directors Association

Jeffrey A. Vaca
Deputy Executive Director of Governmental Relations
California Association of School Business Officials

Paul Smith
Senior Legislative Advocate
Rural County Representatives of California

Frank J. Mecca
Executive Director
County Welfare Directors Association of California

Darla Guenzler, Ph.D.
Executive Director
California Council of Land Trusts

Rico Mastrodonato
Senior Government Relations Manager
Trust for Public Land

Edward Thompson Jr.
California Director
American Farmland Trust

Matthew Cate
Executive Director
California State Association of Counties

Chris McKenzie
Executive Director
League of California Cities

Gary Toebben
President & CEO
Los Angeles Area Chamber of Commerce

Jim Lazarus
Senior Vice President of Public Policy
San Francisco Chamber of Commerce

Neil McCormick
Executive Director
California Special Districts Association

Mario Guerra
Mayor of Downey and President Elect
Independent Cities Association

(more)

Sincerely,

Jolena Voorhis
Executive Director
Urban Counties Caucus

Steve Tye
President
California Contract Cities Association

Carol Griese
Executive Director
California Association of Public Cemeteries

Robert Doyle
General Manager
East Bay Regional Park District

Jamison Watts
Executive Director
Marin Agricultural Land Trust

Jill Bays
Director
Transition Habitat Conservancy

Nita Vail
Chief Executive Officer
California Rangeland Trust

Walter T. Moore
President
Peninsula Open Space Trust

Jeff Darlington
Executive Director
Placer Land Trust

Thomas Maloney
Executive Director
Tejon Ranch Conservancy

Janet Selby
Secretary
California Association of Joint Powers Authorities (CAJPA)

James F. Anderson, CAE
President & CEO
California Society of Association Executives

MEMORANDUM

To: **Supervisor David Finigan, President, and Members of the CSAC Board of Directors**

From: **Jennifer Henning, Litigation Coordinator**

Date: **September 5, 2013**

Re: **Litigation Coordination Program Update**

This memorandum will provide you with information on the Litigation Coordination Program's activities since you received your last regular update on May 30, 2013. If you have questions about any of these cases, please do not hesitate to contact me.

I. New Amicus Case Activity Since May

420 Caregivers v. City of Los Angeles
Previously published at: 207 Cal.App.4th 703 (2d Dist. July 3, 2012)(B230436), *petition for review granted* (Sept. 19, 2012)(S204684), *dismissed and remanded* (July 31, 2013)

Plaintiff challenged an ordinance adopted by the City of Los Angeles that limited that number of marijuana dispensaries in the city to 70, and gives first priority to those dispensaries that registered as required and were in existence at the time an interim ordinance was adopted. All other collectives were required to close, though a second registration period would be available if the city did not reach 70 dispensaries out of the first batch of registrants. Plaintiffs challenged the ordinance as preempted by state law and on Equal Protection grounds based on the distinction between those collectives that earlier registered and those that did not. The trial court enjoined the ordinance, but the Court of Appeal reversed. On the Equal Protection claim, the court found that plaintiffs simply did not meet the very high bar for concluding that an ordinance is facially unconstitutional. The theoretical unconstitutional applications presented by plaintiff did not amount to an Equal Protection violation. The court also concluded that the ordinance is not preempted by State law. The court similarly concluded the ordinance does not violate due process or the right to privacy. The Supreme Court granted review, but then dismissed in light of its decision in *City of Riverside v. Inland Empire Patient's Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729. Despite the dismissal, the opinion remains unpublished under the Court's rule. CSAC, therefore, has requested publication.

Calguns Foundation v. County of San Mateo
218 Cal.App.4th 661 (1st Dist. July 15, 2013)(A136092), *ordered published* (Aug. 2, 2013)

Plaintiff challenged the county's ordinance banning guns in county parks as preempted by state registration and licensing requirements. The First Appellate District upheld the ordinance, concluding it "has nothing at all to do with 'the registration and licensing of firearms' and hence cannot be considered preempted by Government Code section 53071." The court went on to hold that State law "cannot be construed as precluding a California county from regulating the usage of firearms in its parks and recreation areas, as the County of San Mateo has opted to do by the challenged ordinance." CSAC's publication request was granted.

City of Clovis v. County of Fresno
Pending in the Fifth Appellate District (filed May 21, 2010)(F060148)

A number of cities filed this action against Fresno County challenging the method used by the county to calculate the property tax administration fee (PTAF) charged to the cities. The case was stayed after the Supreme Court granted review of the PTAF case filed in Los Angeles County (City of Alhambra v. County of Los Angeles). After the Supreme Court decided Alhambra in the cities' favor, the parties in this case agreed that Alhambra was dispositive of the PTAF dispute's merits, and that the only remaining issue related to the trial court's order of pre- and post-judgment interest. On that issue, Fresno County has taken the position endorsed by the County Counsels' Association's Ad Hoc PTAF Committee that the judgment related to a misallocation of property taxes is not an action for "damages" that can result in prejudgment interest. Similarly, such action is not a "money judgment" that can support post-judgment interest. The cities responded by arguing that the County had waived the issue on appeal, but that if the court wanted to decide the merits, interest was proper because the order was for a reallocation of a fee and not a tax. The League of California Cities filed an amicus brief forwarding the argument that has been made by many cities negotiating the PTAF remedy with cities around the State—that the interest award was proper under Civil Code section 3287. CSAC filed a brief in support of Fresno County.

George v. Morris
--- F.3d ---, 2013 U.S.App.LEXIS 15579 (9th Cir. July 30, 2013)(11-55956)

The question in this case is whether a reviewing court can review the record as a whole to determine whether a law enforcement officer involved in a shooting is entitled to qualified immunity, or whether a court must base its decision on the facts alleged by plaintiff, even if the record as a whole dispute plaintiff's account. In the case, sheriff deputies were dispatched to a domestic dispute involving a gun. When they arrived, the wife informed the officers that her husband was on the patio with a loaded gun. Officers found him on the porch with a gun in one hand and his walker in the other. At some point, they fired shots and he later died from his wounds. The wife then brought this action, raising an unreasonable seizure claim on behalf of her husband. The trial court denied qualified immunity to the officers, and the Ninth Circuit Court of Appeals affirmed, concluding that they must take all facts in the light most favorable to the plaintiff, and may

not examine that record as a whole. Santa Barbara County is seeking rehearing, and CSAC has filed an amicus letter in support.

Goldstein v. City of Long Beach
715 F.3d 750 (9th Cir. May 8, 2013)(10-56787), *petition for rehearing en banc denied* (July 2, 2013)

Plaintiff was convicted of murder and served 24 years based largely upon the perjured testimony of an unreliable jailhouse informant. He brought a section 1983 action against Los Angeles County (the city of Long Beach has since settled out of the case), alleging that the District Attorney's Office failed to create any system for the deputy district attorneys handling criminal cases to access information pertaining to the benefits provided to jailhouse informants, and failed to train deputy district attorneys to disseminate that information. The Ninth Circuit held: "California district attorneys acted as local policymakers when adopting and implementing internal policies and procedures related to the use of jailhouse informants, and, thus, a county could be held liable for those actions under § 1983." The opinion is in direct conflict with the California Supreme Court, which found in 1998 that "the district attorney represents the state, not the county, when preparing to prosecute and when prosecuting crimes, and when establishing policy and training employees in these areas." (*Pitts v. County of Kern* (1998) 17 Cal.4th 340.) CSAC supported Los Angeles County's request for rehearing, but the request was denied.

Los Angeles Unified School District v. County of Los Angeles
217 Cal.App.4th 597 (2d Dist. June 26, 2013)(B243849), *petition for review pending* (filed Aug. 5, 2013)(S212534)

In 2010, the Second Appellate District issued an opinion stating that schools were to be credited with the receipt of ERAF dollars for purposes of computing their passthrough shares in redevelopment project areas, which is based on the amount of property tax revenue each taxing entity receives in the project area. Upon remand, the trial court ruled that while schools are to be credited with ERAF dollars, they are only to be credited with the funds actually received, which excludes money diverted from ERAF as a result of the VLF swap and Triple Flip. On appeal, LAUSD argued that its property tax allocation base must also include its share of the property tax revenue that was diverted from the ERAF's by the Triple Flip and VLF Swap legislation. The Second District agreed with LAUSD: "The relevant property tax allocation statutes and the California Supreme Court's analysis of the Triple Flip and VLF Swap legislation in City of Alhambra v. County of Los Angeles (2012) 55 Cal.4th 707 (City of Alhambra) support LAUSD's contention that its share of the diverted ERAF revenue must be included in the calculation of its property tax allocation base, which will result in a corresponding increase in its share of passthrough payments under Health and Safety Code section 33607.5." LA County is seeking Supreme Court review, and CSAC will file a letter in support.

Littlefield v. County Humboldt
218 Cal.App.4th 243 (1st Dist. June 28, 2013)(A135628), *ordered published* (July 25, 2013)

Humboldt County Sheriff Deputies seized and destroyed approximately 1,500 pounds of marijuana under cultivation in a remote area of the County. Four plaintiffs, each of whom had written physician recommendations for 2 ounces of medical marijuana per day, brought this action against the County for conversion and violation of their constitutional and statutory rights to be free from unreasonable search and seizure, and deprivation of property without due process. In an unpublished opinion, the Court of Appeal affirmed a trial court ruling in favor of the County. The court concluded that the sheriff deputies had probable cause for the seizure, that the County lawfully destroyed the cannabis, and that plaintiffs failed to proffer admissible evidence that their possession was lawful. Specifically, the court found that while the law may allow possession of a reasonable amount of marijuana with a doctor's recommendation, that reasonable amount is not without reasonable limits, including consideration of quantity. Here, because the quantity was so far beyond what could have been reasonable for use by four individuals, the officers, using a reasonable person standard, had probable cause to seize the plants. CSAC's publication request was granted.

Lockaway Storage v. County of Alameda
216 Cal.App.4th 161 (1st Dist. May 9, 2013)(A130874), *petition for review pending* (filed June 19, 2013)(S211470)

In November 2000, voters adopted "Measure D," which limited development, including new storage facilities, in part of the county. The Measure exempted existing development, and also stated that it would not apply if doing so would deprive a landowner of his or her constitutional rights. Prior to adoption of Measure D, plaintiff purchased a parcel that was subject to a conditional use permit allowing a storage facility. The CUP expired before the project was constructed, but the owner applied for a grading permit and alleged that the county assured it that the work already taken toward the grading and building permits constituted implementing the CUP prior to its expiration. Ultimately, however, the county determined that Measure D prohibited the project and refused to issue building permits. This takings and due process case followed. The First District concluded, among other things, that the county was liable for a temporary taking based upon errors the court found the county made in its application of Measure D. In reaching that conclusion, the court essentially held that *Landgate v. California Coastal Commission* (1998) 17 Cal.4th 1006 [development delay resulting from a regulatory taking error due to a "bona fide" legal dispute does not constitute a temporary taking] is no longer good law following the United States Supreme Court's holding in *Lingle v. Chevron* (2005) 544 U.S. 528. CSAC filed a letter supporting Alameda County's petition for review.

San Diego Citizenry Group v. County of San Diego
Unpublished Opinion of the Fourth Appellate District, Division One, 2013 Cal.App.Unpub.LEXIS 5342 (4th Dist. Div. 1 July 30, 2013)(D059962)

In order to encourage the growth of local grapes and the wine industry in San Diego County, the Board of Supervisors adopted regulatory amendments streamlining the winery approval process and allowing small boutique wineries "by right." The approval included certification of a final environmental impact report (FEIR) for the Tiered Winery Zoning Ordinance Amendment Project. Plaintiffs, a group formed to oppose the project, challenged the Board's actions under CEQA. In an unpublished opinion, the Fourth District upheld the project approval. The court found that substantial evidence supported the county's decision, particularly the fact that the county used information from the experiences of other counties to evaluate the magnitude of impacts that could be expected to result from allowing boutique wineries by-right, and used that information to analyze impacts to air quality, noise, traffic trip generation and water supplies. Finally, the court found that the Board did not err in rejecting project alternatives or additional mitigation measures, noting that the fact that plaintiff has "disagreement with the BOS's policy determination is not a basis for setting aside the FEIR." CSAC has requested that the opinion be published.

State of Calif., DHCS v. Office of Admin. Hearings
Pending in the Sacramento County Superior Court (filed July 10, 2013)(Case No. 34-2013-80001557)

A severely disabled student was receiving occupational and physical therapy from the California Children's Services Program (CCS) in Calaveras County. The CCS sought reimbursement from the Calaveras County Office of Education for (CCOE) those aspects of the child's therapy there are included in his individualized education program (IEP) and a due process hearing decision, but which are not medically necessary. The CCOE denied the request, and the Office of Administrative Hearings issued an opinion in favor of the CCOE. The OAH concluded that CCS's request for funding amounted to a request to reduce services, which can only be done by going through an IEP process. In short, the OAH focused on whether the student was entitled to the therapy services (which the CCS did not dispute), as opposed to which agency has the obligation to pay for the services that are not medically necessary. The Department of Health Care Services has filed a writ petition, which is pending in the Sacramento County Superior Court. CSAC will file an amicus brief on the funding issue.

II. Amicus Cases Decided Since Last Executive Committee Meeting

In addition to the new amicus cases already decided, which are discussed above, the following amicus cases have been decided since the last litigation report:

Building Industry Associations of the Bay Area v. City of Santa Rosa
Unpublished Opinion of the First Appellate District, 2013 Cal.App.Unpub.LEXIS 338 (1st Dist. Jan. 15, 2013)(A132839), *request for publication denied* (May 15, 2013)
Outcome: Negative

On behalf of its members, the BIA challenged an ordinance that required applicants for discretionary development approvals to annex to the City's Special Tax District. The trial court granted summary judgment in favor of the BIA, holding that the ordinance was unconstitutional because it essentially compelled developers to agree to be taxed in order to develop their property. The BIA was then granted over $240,000 in attorney fees under CCP 1021.5. The city appealed the attorney fee award, arguing that a trade association that is funded by members with a direct pecuniary interest in the outcome of the litigation is not entitled to fees under 1021.5. The First District affirmed in an unpublished opinion. The court acknowledged that the BIA "did have some incentive to litigate, as at least three of its members were ready to develop homes in the City and would have been subjected to the Ordinance. But the court did not abuse its discretion by rejecting the City's claim that the case was 'clearly based on the private financial interests of its members in not incurring additional costs of development' and concluding instead that it concerned voting rights." CSAC filed a brief in support of the city. Plaintiff's publication request was denied.

Citizens for Ceres v. Superior Court (City of Ceres)
217 Cal.App.4th 889 (5th Dist. July 8, 2013)(F065690)
Outcome: Mixed

In preparing the administrative record for a CEQA challenge to a Walmart project, the city did not include documents protected by the attorney-client privilege or work product doctrine. Some of the excluded documents consisted of communications by the city attorney with city staff, but the city also asserted that the attorney-client or work product privileges protected certain communications with Walmart under the common interest doctrine. The trial court denied petitioner's motion to augment the record with the privileged documents. Petitioner then took the matter to the Fifth District contending, among other things, that Public Resources Code section 21167.6 abrogates the attorney-client privilege and work product doctrine in CEQA cases. Petitioner also challenged the adequacy of the city's privilege log, and whether documents exchanged between the city attorney and the project applicant remained privileged under the common interest doctrine.

The Fifth District affirmed in part and reversed in part. In the published portion of the opinion, the court held: (1) CEQA's provisions defining the administrative record do not abrogate privileges; and (2) the common interest doctrine only applies to communications made after a project is approved, but not prior to project approval. In the unpublished portion of the decision, the court further found: (1) the trial court is not permitted to conduct an in-camera review of documents to determine whether an asserted privilege has been waived; (2) the applicability of the work product doctrine is determined on an item-by-item basis, rather than the dominant relationship between the attorney and the client; (3) a document sent between two persons with a "cc:" to an attorney can be subject to the attorney-client privilege if the purpose in copying the attorney was to obtain legal advice or an opinion from the attorney. CSAC filed an amicus brief in the case.

City of Los Angeles v. Superior Court (Engineers & Architects Association)
56 Cal.4th 1086 (June 20, 2013)(S192828), *petition for rehearing pending* (filed June 26, 2013)
Outcome: Negative

To address a budget deficit, the city council approved an ordinance directing the mayor to adopt a plan to furlough city civilian employees for up to 26 days per fiscal year. After the mayor adopted such a plan, many employees filed grievances challenging the furloughs. The grievances were denied and the employees requested arbitration. The city refused to arbitrate. The union filed a petition to compel arbitration, which the trial court granted. But the Second District granted the city's writ petition. The Supreme Court granted review to consider whether a charter city may arbitrate disputes over collectively bargained wage and hour provisions without unlawfully delegating to the arbitrator its discretionary budgeting and salary-setting authority, and whether, under the MOUs at issue here, the city has a contractual duty to arbitrate the employee furloughs dispute. The Court reversed the Second District's decision to grant the city's writ petition, holding "first, that arbitration of the dispute at issue here does not constitute an unlawful delegation of discretionary authority to the arbitrator and, second, that the city is contractually obligated to arbitrate the employee furloughs dispute." CSAC filed an amicus brief in support of the city. A petition for rehearing is pending.

City of Riverside v. Inland Empire Patient's Health and Wellness Center
56 Cal.4th 729 (May 6, 2013)(S198638)
Outcome: Positive

The City of Riverside's zoning code prohibits medical marijuana dispensaries, and also states that any use prohibited by state and/or federal law is strictly prohibited. Any violation of Riverside's municipal code is deemed a public nuisance. In 2009, defendant opened a medical marijuana dispensary as a nonprofit collaborative association of patient members who collectively cultivate medical marijuana and redistribute it to each other. After defendant did not respond to a letter advising it of the zoning code violation, the city filed this public nuisance abatement action, requesting injunctive relief. The trial court granted the injunction, and the Fourth District affirmed. The Supreme Court granted review, and also affirmed: "We have consistently maintained that the CUA and the MMP

are but incremental steps toward freer access to medical marijuana, and the scope of these statutes is limited and circumscribed. They merely declare that the conduct they describe cannot lead to arrest or conviction, or be abated as a nuisance, as violations of enumerated provisions of the Health and Safety Code. Nothing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land, including the authority to provide that facilities for the distribution of medical marijuana will not be permitted to operate within its borders. We must therefore reject defendants' preemption argument, and must affirm the judgment of the Court of Appeal."

In re I.J. (Los Angeles County Dept of Children and Family Services v. J.J.)
56 Cal.4th 766 (May 9, 2013)(S204622)
Outcome: Positive

This case addresses an issue that has divided the Courts of Appeal: whether the siblings of a sexual abuse victim who have not themselves been subject to abuse may nevertheless come under the jurisdiction of the juvenile court. The Court of Appeal concluded that aberrant sexual behavior by a parent places the other siblings who remain in the home at risk, rejecting contrary positions taken in other cases. The California Supreme Court granted review and affirmed, concluding that a father's sexual abuse of his daughter may support a determination that his sons are juvenile court dependents even if there is no evidence the father sexually abused or otherwise mistreated the boys, and they were unaware of their sister's abuse before this proceeding began. CSAC filed a brief in support of Los Angeles County.

Latinos Unidos del Valle de Napa y Solano v. County of Napa
217 Cal.App.4th 1160 (1st Dist. July 11, 2013)(A135094)
Outcome: Mixed

Plaintiffs challenged the county's general plan housing element on a number of grounds, including that the failure to authorize density bonuses for required inclusionary units violates the planning and zoning law and the Fair Employment and Housing Act. Plaintiffs also argued that documents outside of the Record of Proceedings and expert testimony of witnesses who did not testify at any county hearing should be admissible at trial. The trial court ruled in favor of the county on all causes of action, concluding that the Planning and Zoning Law permits local jurisdictions with inclusionary housing laws to choose whether or not to offer density bonuses for required noninclusionary units. The trial court also excluded documents and testimony that were outside of the Record of Proceedings. On appeal, the First District affirmed in part. In the published portion of the decision, the court concluded that the County must provide a density bonus for inclusionary housing. In the unpublished sections, the court upheld the county's housing element. It also found that while evidence outside of the administrative record could be used to determine whether the housing element substantially complied with the housing element law, it was not relevant to the determination of whether the county's approval was arbitrary, capricious, or entirely lacking in evidentiary support. The court also rejected

the plaintiffs' Fair Housing Act claims, both under the disparate impact theory and intentional discrimination. CSAC filed a brief in favor of Napa County.

Sierra Club v. Superior Court (County of Orange)
57 Cal.4th 157 (July 8, 2013)(S194708)
Outcome: Negative

The Sierra Club made a Public Records Act request for the county's "Landbase" in an electronic GIS file format, which would allow the Sierra Club to conduct searches and analysis of the data. The Sierra Club argued that the county must produce these files for free in a GIS format without charging the county's standard GIS Basemap licensing fees. The county relied on Government Code section 6254.9's computer mapping system exemption in support of the licensing fee, which is used to recoup the costs of maintaining and updating the Landbase. (The county was willing to produce the information for free in a non-GIS format.) The Sierra Club then brought this action, arguing the county was required to produce the information in a GIS format without charging a licensing fee because producing the information in other formats prevented them from utilizing the functions of a GIS. The trial court ruled in favor of the county, and the Fourth District denied the Sierra Club's writ petition. The court concluded that section "6254.9 excludes from the Act's disclosure requirements a geographic information system database like the one at issue here. Therefore, the County may properly charge a licensing fee for its geographic information system database." The Supreme Court granted review and reversed: "We hold that although GIS mapping software falls within the ambit of this statutory exclusion, a GIS-formatted database like the OC Landbase does not. Accordingly, such databases are public records that, unless otherwise exempt, must be produced upon request at the actual cost of duplication." CSAC filed a brief in support of Orange County.

Silicon Valley Taxpayers Association v. Garner
216 Cal.App.4th 402 (6th Dist. May 16, 2013)(H038971)
Outcome: Positive

In August 2012, the Santa Clara County Board of Supervisors voted to place a sales tax measure on the November ballot. Because all supervisorial seats were filled at the June election, there were no candidates for members of the Board of Supervisors on the November ballot. The Silicon Valley Taxpayers Association (SVTA) filed a writ petition in the superior court (a simultaneous petition in the Sixth District was summarily denied) arguing that placement of the tax measure on the November ballot violated Prop. 218 in the absence of a run-off election since Prop. 218 states that elections for general taxes must be consolidated "with a regularly scheduled general election for members of the governing body of the local government. . . ." The trial court ruled in favor of the county, and SVTA appealed. The Sixth District affirmed. It found that Prop. 218 is unambiguous, and "does not contemplate the counterintuitive notion that a regularly scheduled election can simultaneously be 'not regularly scheduled' in the event a contingency occurs to make the election unnecessary." Therefore the court construed "Proposition 218 in harmony with the election scheme. A regularly scheduled general election for members of County's Board of

Supervisors is an election that is fixed to occur during the statewide primary and general elections. Plaintiffs' interpretation of Proposition 218 changes the meaning of 'regularly scheduled' to actually scheduled."

CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

September 5, 2013

To: CSAC Board of Directors

From: Nancy Parrish, Executive Director, CSAC Finance Corporation

RE: **Finance Corporation Program Update**

The CalTRUST Board of Trustees and the CSAC Finance Corporation will hold their fall meetings next week. Below are highlights of their upcoming agendas:

CalTRUST

- CSAC Finance Corporation staff has collaborated with all CalTRUST partners and service providers to update and restate contracts for Program Administration, Financial Advisory Services, Fund Accounting, Custodial and Program Endorsement. All contracts will be presented to the CalTRUST Board for review and approval.

- CalTRUST marketing efforts are on track to achieve the goal of $2 billion in assets by the end of the calendar year. That amount would represent a 100% growth rate in one year. Assets are currently at $1.7 billion.

- CSAC Finance Corporation staff are working with the NACo Financial Services Corporation to evaluate a national portfolio investment tool that could offer a platform for CalTRUST to be used by local governments in other states.

CSAC Finance Corporation

- The CSAC Finance Corporation is currently launching two new programs. The first is for a Medicare eligible retiree health exchange and the second is for on-site employee health clinics.

- CSAC Finance Corporation staff is currently evaluating additional new programs for pharmacy benefits consulting, IT vendor contract management services, telemedicine and jail pharmaceuticals. We expect to move forward with pilot programs and/or RFPs for at least two of these services by the end of the year.

September 5, 2013

To: CSAC Executive Committee

From: John Samartzis, Director of Corporate Relations

RE: **Corporate Membership & Sponsorship Update**

BACKGROUND:

The Corporate Membership and Sponsorship programs are off to a good start this year. All of our Premier Members have rejoined or committed to do so and we just welcomed a new member (Alkermes) last week. Booth sales for the exhibit hall at the Annual Meeting are off to a good start and we expect to exceed last year's number of exhibitors.

We are planning for another Innovation Summit immediately prior to the Annual Meeting in November. This year the agenda will focus on health care and realignment and sponsor interest is very high for this event. We continue to add sponsorship opportunities at the conference and are

CALIFORNIA STATE ASSOCIATION OF COUNTIES

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2013 CSAC Executive Committee
Calendar of Events

January

16 CSAC Executive Committee Orientation Dinner, Sacramento County
6:30pm Reception, 7:15pm Dinner, Esquire Grill, 13th & K Streets, Sacramento, CA 95814

17 CSAC Executive Committee Meeting, Sacramento County
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

February

21 CSAC Board of Directors Meeting, Sacramento County
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

March

2-6 NACo Legislative Conference, Washington, D.C.

April

18 CSAC Executive Committee Meeting, Los Angeles County
10:00am – 1:30pm, Maya Hotel, 700 Queensway Drive, Long Beach, CA 90802

25-26 CSAC Finance Corporation Meeting, Sonoma County

May

22-24 NACo Western Interstate Region Conference, Flagstaff, Arizona

29-30 CSAC Legislative Conference, Sacramento County

30 CSAC Board of Directors Meeting, Sacramento County
12:00pm – 3:00pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

July

19-23 NACo Annual Meeting, Tarrant County, Ft. Worth, Texas

August

8 CSAC Executive Committee Meeting, Sacramento County
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

September

5 CSAC Board of Directors Meeting, Sacramento County
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

12-13 CSAC Finance Corporation Meeting, Santa Barbara County

October

9-11 CSAC Executive Committee Retreat
Resort at Squaw Creek, 400 Squaw Creek Road, Olympic Valley, CA 96146

21-25 NACo National Council of County Association Executives Annual Fall Meeting

November

19-22 CSAC 119th Annual Meeting, San Jose, Santa Clara County

21 CSAC Board of Directors Meeting, San Jose, Santa Clara County
2:00pm – 4:00pm, San Jose Marriott, 301 South Market Street · San Jose, California 95113

December

4-6 CSAC Officers Retreat, Napa County