

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
BOARD OF DIRECTORS

Thursday, September 6, 2012  
10:00am - 1:30pm  
CSAC Conference Center, Sacramento

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**A G E N D A**

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

Presiding: Mike McGowan, President

10:00am - **PROCEDURAL ITEMS**

1. Roll Call Page 1
2. Approval of Minutes of May 31, 2012 Page 3

10:10am - **ACTION ITEMS**

3. Consideration of November 2012 Ballot Initiatives Page 7
  - Jim Wiltshire, CSAC staff

**Proposition 30: Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding.**  
Increases personal income tax on annual earnings over \$250,000 for seven years.  
Increases sales and use tax by ¼ cent for four years. Guarantees funding for public safety services realigned from state to local governments.

**Proposition 31: State Budget. State and Local Government.** Page 28  
Establishes two-year state budget cycle. Prohibits Legislature from creating Expenditures of more than \$25 million unless offsetting revenues or spending cuts are identified. Permits Governor to cut budget unilaterally during declared fiscal emergencies if Legislature fails to act.

- Sunne Wright McPeak, President & CEO, California Emerging Technology Fund
- Fred Silva, Senior Fiscal Policy Advisor, California Forward
- Representative from 'No on Prop. 31' campaign

4. Consideration of CSAC High Speed Rail Working Group Recommendations Page 65
  - Supervisor Efren Carrillo, Chair, CSAC Housing, Land Use & Trans. Policy Cmte.
5. Appointment of Member to CSCDA Board Page 68
  - Nancy Parrish, CSAC Finance Corp. Executive Director

11:30am - **INFORMATION ITEMS**

6. CSAC Finance Corporation Report Page 69
  - Nancy Parrish
7. State Budget & Legislative Update
  - Jim Wiltshire, CSAC staff

12:00pm - **LUNCH**

1:00pm - **INFORMATION ITEMS (cont.)**

8. Update on Resignation of Paul McIntosh and Executive Director Recruitment
- Steve Keil, *Interim Executive Director*

9. *The following reports are contained in the briefing materials for your information, but no presentation is planned:*

- ❖ CSAC Corporate Associates Program
- ❖ CSAC Institute for Excellence in County Govt.
- ❖ Institute for Local Government (ILG) Update
- ❖ Litigation Coordination Program

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10. Other Items

1:30pm - **ADJOURN**

# CALIFORNIA STATE ASSOCIATION OF COUNTIES

## Board of Directors

2012

<u>Section</u>	<u>County</u>	<u>Director</u>
U	Alameda County	Keith Carson
R	Alpine County	Terry Woodrow
R	Amador County	Louis Boitano
S	Butte County	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	Mark Lovelace
S	Imperial County	Gary Wyatt
R	Inyo County	Susan Cash
S	Kern County	Jon McQuiston
R	Kings County	Doug Verboon
R	Lake County	Anthony Farrington
R	Lassen County	Jim Chapman
U	Los Angeles County	Don Knabe
R	Madera County	Frank Bigelow
S	Marin County	Susan Adams
R	Mariposa County	Lee Stetson
R	Mendocino County	Carre Brown
S	Merced County	Hubert "Hub" Walsh
R	Modoc County	Jeff Bullock
R	Mono County	Duane "Hap" Hazard
S	Monterey County	Fernando Armenta
S	Napa County	Brad Wagenknecht
R	Nevada County	Ted Owens
U	Orange County	John Moorlach
S	Placer County	Jim Holmes
R	Plumas County	Jon Kennedy
U	Riverside County	John Benoit

U	Sacramento County	Susan Peters
R	San Benito County	Margie Barrios
U	San Bernardino County	Gary Ovitt
U	San Diego County	Greg Cox
U	San Francisco City & County	Eric Mar
S	San Joaquin County	Larry Ruhstaller
S	San Luis Obispo County	Bruce Gibson
U	San Mateo County	Carole Groom
S	Santa Barbara County	Joni Gray
U	Santa Clara County	Liz Kniss
S	Santa Cruz County	Mark Stone
S	Shasta County	Glenn Hawes
R	Sierra County	Lee Adams
R	Siskiyou County	Jim Cook
S	Solano County	Mike Reagan
S	Sonoma County	Valerie Brown
S	Stanislaus County	Vito Chiesa
R	Sutter County	Larry Munger
R	Tehama County	Robert Williams
R	Trinity County	Judy Pflueger
S	Tulare County	Steve Worthley
R	Tuolumne County	Richard Pland
U	Ventura County	Kathy Long
S	Yolo County	Matt Rexroad
R	Yuba County	Roger Abe

President: Mike McGowan, Yolo  
 First Vice President: David Finigan, Del Norte  
 Second Vice President: John Gioia, Contra Costa  
 Immed. Past President: John Tavaglione, Riverside  
 SECTION: U=Urban S=Suburban R=Rural

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
BOARD OF DIRECTORS  
May 31, 2012  
CSAC Conference Center, Sacramento

MINUTES

Presiding: Mike McGowan, President

1. ROLL CALL

Alameda	Keith Carson	Plumas	Jon Kennedy
Alpine	Terry Woodrow	Riverside	John Benoit
Amador	Louis Boitano	Sacramento	Susan Peters
Butte	Steve Lambert	San Benito	Margie Barrios
Calaveras	absent	San Bernardino	Gary Ovitt
Colusa	Kim Dolbow Vann	San Diego	Greg Cox
Contra Costa	Gioia/Glover	San Francisco	Eric Mar
Del Norte	David Finigan	San Joaquin	Larry Ruhstaller
El Dorado	Norma Santiago	San Luis Obispo	Bruce Gibson
Fresno	Henry Perea	San Mateo	Carole Groom
Glenn	John Viegas	Santa Barbara	Joni Gray
Humboldt	Mark Lovelace	Santa Clara	Liz Kniss
Imperial	Gary Wyatt	Santa Cruz	absent
Inyo	Susan Cash	Shasta	Glenn Hawes
Kern	absent	Sierra	Lee Adams
Kings	Doug Verboon	Siskiyou	Jim Cook
Lake	absent	Solano	Mike Reagan
Lassen	absent	Sonoma	Valerie Brown
Los Angeles	absent	Stanislaus	Vito Chiesa
Madera	absent	Sutter	absent
Marin	Susan Adams	Tehama	Robert Williams
Mariposa	absent	Trinity	Judy Pflueger
Mendocino	Carre Brown (audio)	Tulare	Steve Worthley
Merced	Hub Walsh	Tuolumne	Richard Pland
Modoc	Jeff Bullock	Ventura	Kathy Long
Mono	absent	Yolo	McGowan/Rexroad
Monterey	absent	Yuba	Roger Abe
Napa	Brad Wagenknecht		
Nevada	Ted Owens		
Orange	John Moorlach		
Placer	absent		

2. APPROVAL OF MINUTES

The minutes of February 23, were approved as previously mailed.

3. GOVERNOR'S MAY REVISION OF 2012-13 STATE BUDGET

Governor Brown addressed the Board and discussed the current budget deficit as well as his revised ballot measure. He stressed the importance of ensuring the measure's passage in order to avoid severe trigger cuts that would occur.

Ana Matosantos, Director of the Department of Finance, noted that the budget deficit is currently \$15.7 billion and revenue projections are about \$4 billion lower than anticipated. She indicated that the federal deficit may also impact California's budget. A complete analysis of the May Revise was contained in the briefing materials.

4. PROPOSED CSAC BUDGET FOR FY 2012-13

Supervisor Terry Woodrow, CSAC Treasurer, presented the proposed CSAC budget for 2012-13 as contained in the briefing materials. She noted that the budget does not contain a dues increase, but does include increased personnel, communications and outside contracts costs, which are partially covered by budget reserves. In addition, revenue from the CSAC Finance Corp. decreased due to the loss of the pooled purchasing contract with Office Depot as well as decreases in revenue from Nationwide Retirement Solutions deferred compensation program. It was noted that the Corporate Associates budget reflects a clearer picture of actual revenues and costs, per the Board's request. The Corporate Associates program is in the process of a significant change to improve its financial stability.

Motion and second to approve the FY 2102-13 CSAC Budget as presented. Motion carried.

5. PROPOSED CSAC LITIGATION COORDINATION PROGRAM BUDGET FOR FY 2012-13

Jennifer Henning, County Counsel's Association Executive Director, presented the proposed Litigation Program Budget for FY 2012-13 as contained in the briefing materials. She indicated that the budget does not include a dues increase and that additional costs incurred this year were absorbed by a decrease in office space.

Motion and second to approve the Litigation Coordination Program Budget for FY 2012-13 as presented and recommend adoption by the CSAC Board of Directors. Motion carried unanimously.

6. CSAC POLICY COMMITTEE REPORTS

*Administration of Justice.* Supervisor Glover, chair of the CSAC Administration of Justice policy committee, presented a report from the meeting held earlier today. The committee heard information presentations on three resources available to help counties manage AB 109 risk and responsibilities: a catastrophic medical insurance program for jail inmates; the use of public community correctional facilities as a potential placement option; and potential capacity in existing alcohol and drug treatment programs in the community given that parolee services demands will drop over time. The committee also considered the Governor's revised November 2012 ballot initiative and is recommending a SUPPORT position. The Board of Directors will consider the initiative at the September meeting.

*Agriculture & Natural Resources.* Supervisor Vann, Vice-chair of the CSAC Agriculture & Natural Resources policy committee presented a report from the meeting held earlier today. Two items were brought forward for Board consideration. The first was a Memorandum of Agreement (MOA) with the US Forest Service and Bureau of Land Management. (BLM). The purpose of the MOA is to help improve interagency relationships by facilitating early and frequent communication between the defined federal

agencies and counties to foster a more productive partnership that results in positive land management decisions for all parties.

Motion and second to approve the Memorandum of Agreement as presented. Motion carried (3 No votes).

The second action item was to recommend that CSAC become a member of the Agricultural Flood Management Alliance (AFMA), which is a coalition of local agencies, organizations, and individuals interested in protecting the long-term viability of agricultural communities, industries and operations located in the regulatory floodplain. The Alliance supports the mission of FEMA and the National Flood Insurance Program (NFIP) to identify and mitigate flood risk and protect life and property in all floodplain communities. However, the Alliance is concerned that the current approach under the NFIP places a disproportionately impactful economic burden on agricultural communities in the mapping of Special Flood Hazard Areas which imposes highly restrictive flood protection regulations and establishes burdensome flood insurance rates.

Motion and second to approve CSAC membership in the Agricultural Flood Management Alliance. Motion carried (1 No vote).

*Government Finance & Operations.* Supervisor Gibson, Chair of the CSAC Government Finance & Operations policy committee, presented a report from the meeting held earlier today. One item was brought forward for Board consideration which was to take a position on AB 1832 (Dickinson). The bill would prohibit a city or county from inquiring about criminal history on an initial employment application. The committee recommended that CSAC OPPOSE the bill.

Motion and second to OPPOSE AB 1831. Motion carried (11 No votes).

The committee also considered the Governor's revised November 2012 ballot initiative and is recommending a SUPPORT position. The Board of Directors will consider the initiative at the September meeting.

*Health & Human Services.* Supervisor Kniss, Chair of the CSAC Health & Human Services policy committee, presented a report from the meeting held earlier today. No action items were brought forward, but the committee did take a SUPPORT position on the Governor's revised ballot initiative.

The committee heard reports on Federal Health Reform Implementation, the May Revise, Care Coordination Initiative, and 2011 Realignment Implementation. The committee also decided to begin meeting quarterly – twice per year by phone and twice in person.

*Housing, Land Use & Transportation.* Supervisor Rexroad, Vice-chair of the CSAC Housing, Land Use & Transportation policy committee, presented a report from the meeting held earlier today. The committee voted to reaffirm existing CSAC policy on new transportation revenues, supporting flexible options for new transportation options in the future, but expressing clear concerns over a vehicle miles traveled fee.

At the November 2011 Board of Directors meeting a request was made to revisit CSAC's current position of support for the High-Speed Rail project. The committee heard from the California High Speed Rail Authority on the status of the project and revised business plan. Committee members raised concerns regarding how the Authority works with individual counties that will experience direct impacts from the Project and their overall ability to complete the project. The committee recommended that the Board of Directors approve the creation of a Task Force to explore, in more detail, the project and issues counties are facing.

Motion and second to approve the creation of a task force regarding High-Speed Rail. Motion carried.

7. CSAC FINANCE CORPORATION REPORT

Nancy Parrish reported that the Finance Corp. Board recently voted to move forward on three new programs. The first is *Healthstat* which operates onsite medical clinics for county employees. These clinics are free to employees and are intended to work in conjunction with existing medical coverage offered by the county. Santa Barbara County has had Healthstat clinics in place for two years and has seen a measurable improvement in employee health and provided employees with a \$184,000 savings in health insurance co-pays.

The second new program is *Extend Health* which is a Medi-care coordinator that works with public and private agencies to offer more affordable Medi-care coverage to retirees by administering individual plans through an HRA instead of the agency administering their own group plan. Mendocino County is currently using Extend Health.

The third program is *Trendline Health* which provides employee health care and workers' compensation prefunding utilizing a statistical and actuarial model to quantify costs over a three-year period. Utilizing this information, a county can turn a previously unpredictable, growing expense into a predictable fixed liability that creates savings by funding the net present value.

8. LEGISLATIVE REPORT

Staff reported that the deadline for bills to pass out of the house of origin is tomorrow so production of the CSAC Legislative Bulletin will be delayed until next week to ensure it is current.

9. INFORMATION REPORTS

The briefing materials contained reports on the Institute for Local Government, CCS Partnership, CSAC Institute for Excellence in County Government, Corporate Associates Program, and the CSAC Litigation Coordination Program. No presentations were made on these reports.

10. OTHER ITEMS

NACo President Lenny Eliason addressed the Board and encouraged members to serve on NACo steering committees. He also urged Board members to attend the NACo annual conference in Pittsburgh, Pennsylvania in July.

Meeting adjourned.



August 22, 2012



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To: CSAC Board of Directors

From: Steve Keil, Interim Executive Director  
Jean Kinney Hurst, Legislative Representative

Re: **Proposition 30: The Schools and Local Public Safety Protection Act –  
ACTION ITEM**

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**Recommendation.** The CSAC Executive Committee recommends a position of “support” on Proposition 30.

**Overview.** The CSAC Board of Directors has made obtaining a constitutional guarantee of revenues to support the 2011 realigned programs, as well as protecting counties from costs associated with future changes to those programs, a top Association priority for 2012.

Proposition 30, slated for the November ballot, is Governor Brown’s measure that is jointly sponsored by the California Federation of Teachers and is the only remaining vehicle to provide those constitutional guarantees and protections previously negotiated by counties with the Administration.

The CSAC Officers referred Proposition 30 to the Health and Human Services, Administration of Justice, and Government Finance and Operations policy committees. Each policy committee met during the CSAC Legislative Conference and each recommended a “support” position on the measure. Proposition 30 was subsequently referred to the CSAC Executive Committee, which also recommends a position of “support.”

The CSAC Policy and Procedure Manual states that the CSAC Officers will assign qualified propositions to appropriate policy committees when they fall within existing policy as outlined in CSAC’s Legislative Platform or pose a direct impact on county government. If the policy committees recommend a position on any measures, then those measures proceed to the CSAC Executive Committee for debate and action. If the Executive Committee votes to recommend a position on a measure, it moves to the full Board of Directors for action. Any Board member can request the Board’s consideration of a ballot measure not otherwise slated for discussion.

Please note that CSAC policies also require 30 votes to take a position on a ballot measure.

**Background.** The provisions of Proposition 30 have been discussed by the CSAC Board of Directors at length since early 2011. Constitutional protections for realignment revenues and programs has been the cornerstone of CSAC’s support

for realignment in all aspects of that discussion. This year, the CSAC Board of Directors:

- On January 5, 2012, voted to suspend all efforts by CSAC to independently qualify a ballot measure seeking 2011 realignment funding protections, leaving *The Schools and Local Public Safety Protection Act of 2012* (sponsored by Governor Brown) as the only available vehicle to achieve those constitutional protections.
- On February 23, 2012, voted to adopt a “support” position on *The Schools and Local Public Safety Protection Act of 2012* upon a recommendation by the CSAC Executive Committee. The California State Sheriffs Association (CSSA) and the Chief Probation Officers of California (CPOC) had previously also voted to support the Governor’s measure.

In March of 2012, the Governor reached a compromise agreement with the California Federation of Teachers (CFT) to modify his proposal, resulting in a new measure, *The Schools and Local Public Safety Protection Act Version 3*. The CFT then abandoned qualification efforts on its original school tax measure.

This compromise measure, upon qualifying for the November ballot, has been designated by the Secretary of State as Proposition 30, now the only available vehicle to achieve constitutional protections for 2011 realignment.

Proposition 30 contains identical constitutional protections negotiated between the Administration and CSAC in early 2011, including protections for realignment revenues and protections from cost increases associated with realigned programs. The changes to the Governor’s original measure are associated with the temporary tax increases, as outlined below:

		Governor's December Measure	Proposition 30
Personal Income Tax Provisions	INCOME FOR SINGLE (JOINT) FILER		
	\$250,000 (\$500,000)	1%	1%
	\$300,000 (\$600,000)	1.5%	2%
	\$500,000 (\$1,000,000)	2%	3%
	LENGTH OF TAX	5 years	7 years
Sales Tax Provisions			
	RATE	½ cent	¼ cent
	LENGTH OF TAX	4 years	4 years

These temporary taxes are exclusively dedicated to school entities (K-12 education and community colleges) and are subject to the Proposition 98 guarantee. These revenues are deposited into a newly created fund and allocated to schools, bypassing the Legislature. This provision essentially means that these revenues are first to fill the "bucket" of the state's annual Proposition 98 calculation, thus saving state General Fund revenues (by about half the amount of revenues raised).

A copy of the Legislative Analyst's Office analysis of Proposition 30 is attached for your review.

**Attachments**

- Ballot Label and Summary
- Proposition 30 Text
- Legislative Analyst's Office Analysis of Proposition 30

**TEMPORARY TAXES TO FUND EDUCATION.  
GUARANTEED LOCAL PUBLIC SAFETY FUNDING.  
INITIATIVE CONSTITUTIONAL AMENDMENT.**

**TEMPORARY TAXES TO FUND EDUCATION. GUARANTEED LOCAL PUBLIC SAFETY FUNDING.  
INITIATIVE CONSTITUTIONAL AMENDMENT.**

- Increases personal income tax on annual earnings over \$250,000 for seven years.
- Increases sales and use tax by ¼ cent for four years.
- Allocates temporary tax revenues 89% to K–12 schools and 11% to community colleges.
- Bars use of funds for administrative costs, but provides local school governing boards discretion to decide, in open meetings and subject to annual audit, how funds are to be spent.
- Guarantees funding for public safety services realigned from state to local governments.

**Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:**

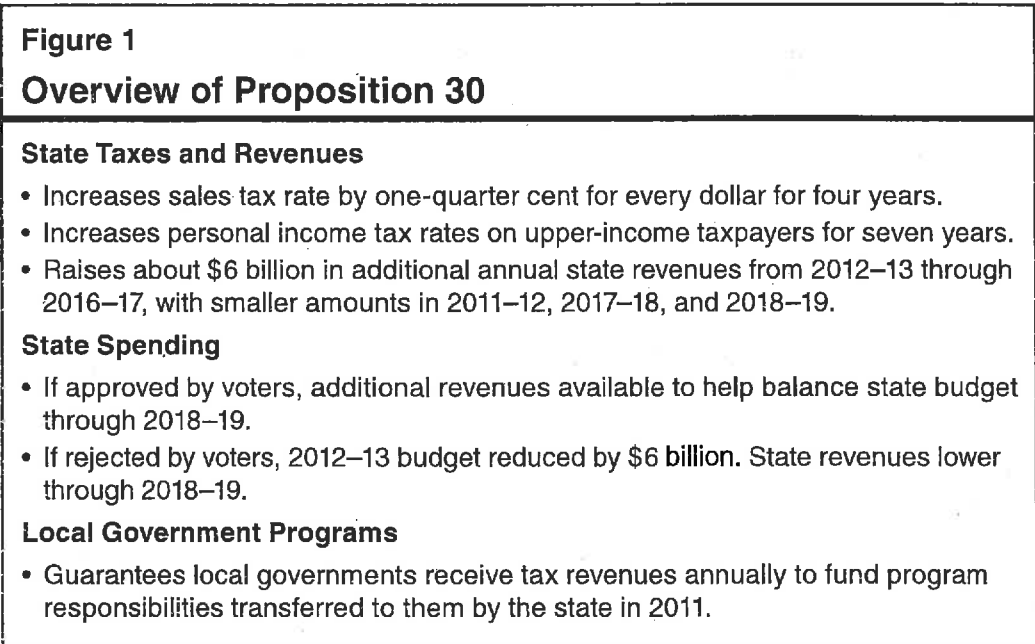
- Additional state tax revenues of about \$6 billion annually from 2012–13 through 2016–17. Smaller amounts of additional revenue would be available in 2011–12, 2017–18, and 2018–19.
- These additional revenues would be available to fund programs in the state budget. Spending reductions of about \$6 billion in 2012–13, mainly to education programs, would not take effect.

**ANALYSIS BY THE LEGISLATIVE ANALYST**

**OVERVIEW**

This measure temporarily increases the state sales tax rate for all taxpayers and the personal income tax (PIT) rates for upper-income taxpayers. These temporary tax increases provide additional revenues to pay for programs funded in the state budget. The state’s 2012–13 budget plan—approved by the Legislature and the Governor in June 2012—assumes

passage of this measure. The budget, however, also includes a backup plan that requires spending reductions (known as “trigger cuts”) in the event that voters reject this measure. This measure also places into the State Constitution certain requirements related to the recent transfer of some state program responsibilities to local governments. Figure 1 summarizes the main provisions of this proposition, which are discussed in more detail below.



**STATE TAXES AND REVENUES**

**Background**

The General Fund is the state’s main operating account. In the 2010–11 fiscal year (which ran from July 1, 2010 to June 30, 2011), the General Fund’s total revenues were \$93 billion. The General Fund’s three largest revenue sources are the PIT, the sales tax, and the corporate income tax.

**Sales Tax.** Sales tax rates in California differ by locality. Currently, the average sales tax rate is just over 8 percent. A portion of sales tax revenues goes to the state, while the rest is allocated to local governments. The state General Fund received \$27 billion of sales tax revenues during the 2010–11 fiscal year.

**Personal Income Tax.** The PIT is a tax on wage, business, investment, and other income of individuals and families. State PIT rates range from 1 percent to 9.3 percent on the portions of a taxpayer’s income in each of several income brackets. (These are referred to as marginal tax rates.) Higher marginal tax rates are charged as income increases. The tax revenue generated from this tax—totaling \$49.4 billion during the 2010–11 fiscal year—is deposited into the state’s General Fund. In addition, an extra 1 percent tax applies to annual income over \$1 million (with the associated revenue dedicated to mental health services).

**Proposal**

**Increases Sales Tax Rate From 2013 Through 2016.** This measure temporarily increases the statewide sales tax rate by one-quarter cent for every dollar of goods purchased. This higher tax rate would be in effect for four years—from January 1, 2013 through the end of 2016.

**Increases Personal Income Tax Rates From 2012 Through 2018.** As shown in Figure 2, this measure increases the existing 9.3 percent PIT rates on higher incomes. The additional marginal tax rates would increase as taxable income increases. For joint filers, for example, an additional 1 percent marginal tax rate would be imposed on income between \$500,000 and \$600,000 per year, increasing the total rate to 10.3 percent. Similarly, an additional 2 percent marginal tax rate would be imposed on income between \$600,000 and \$1 million, and an additional 3 percent marginal tax rate would be imposed on income above \$1 million, increasing the total rates on these income brackets to 11.3 percent and 12.3 percent, respectively. These new tax rates would affect about 1 percent of California PIT filers. (These taxpayers currently pay about 40 percent of state personal income taxes.) The tax rates would be in effect for seven years—

**Figure 2**  
**Current and Proposed Personal Income Tax Rates Under Proposition 30**

Single Filer’s Taxable Income <sup>a</sup>	Joint Filers’ Taxable Income <sup>a</sup>	Head-of-Household Filer’s Taxable Income <sup>a</sup>	Current Marginal Tax Rate <sup>b</sup>	Proposed Additional Marginal Tax Rate <sup>b</sup>
\$0–\$7,316	\$0–\$14,632	\$0–\$14,642	1.0%	—
7,316–17,346	14,632–34,692	14,642–34,692	2.0	—
17,346–27,377	34,692–54,754	34,692–44,721	4.0	—
27,377–38,004	54,754–76,008	44,721–55,348	6.0	—
38,004–48,029	76,008–96,058	55,348–65,376	8.0	—
48,029–250,000	96,058–500,000	65,376–340,000	9.3	—
250,000–300,000	500,000–600,000	340,000–408,000	9.3	1.0%
300,000–500,000	600,000–1,000,000	408,000–680,000	9.3	2.0
Over 500,000	Over 1,000,000	Over 680,000	9.3	3.0

<sup>a</sup> Income brackets shown were in effect for 2011 and will be adjusted for inflation in future years. Single filers also include married individuals and registered domestic partners (RDPs) who file taxes separately. Joint filers include married and RDP couples who file jointly, as well as qualified widows or widowers with a dependent child.

<sup>b</sup> Marginal tax rates apply to taxable income in each tax bracket listed. The proposed additional tax rates would take effect beginning in 2012 and end in 2018. Current tax rates listed exclude the mental health tax rate of 1 percent for taxable income in excess of \$1 million.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

starting in the 2012 tax year and ending at the conclusion of the 2018 tax year. (Because the rate increase would apply as of January 1, 2012, affected taxpayers likely would have to make larger payments in the coming months to account for the full-year effect of the rate increase.) The additional 1 percent rate for mental health services would still apply to income in excess of \$1 million. Proposition 30's rate changes, therefore, would increase these taxpayers' marginal PIT rate from 10.3 percent to 13.3 percent. Proposition 38 on this ballot would also increase PIT rates. The nearby box describes what would happen if both measures are approved.

**What Happens if Voters Approve Both Proposition 30 and Proposition 38?**

**State Constitution Specifies What Happens if Two Measures Conflict.** If provisions of two measures approved on the same statewide ballot conflict, the Constitution specifies that the provisions of the measure receiving more "yes" votes prevail. Proposition 30 and Proposition 38 on this statewide ballot both increase personal income tax (PIT) rates and, as such, could be viewed as conflicting.

**Measures State That Only One Set of Tax Increases Goes Into Effect.** Proposition 30 and Proposition 38 both contain sections intended to clarify which provisions are to become effective if both measures pass:

- **If Proposition 30 Receives More Yes Votes.** Proposition 30 contains a section indicating that its provisions would prevail in their entirety and none of the provisions of any other measure increasing PIT rates—in this case Proposition 38—would go into effect.
- **If Proposition 38 Receives More Yes Votes.** Proposition 38 contains a section indicating that its provisions would prevail and the tax rate provisions of any other measure affecting sales or PIT rates—in this case Proposition 30—would not go into effect. Under this scenario, the spending reductions known as the "trigger cuts" would take effect as a result of Proposition 30's tax increases not going into effect.

**Fiscal Effect**

**Additional State Revenues Through 2018–19.** Over the five fiscal years in which both the sales tax and PIT increases would be in effect (2012–13 through 2016–17), the average annual state revenue gain resulting from this measure's tax increases is estimated at around \$6 billion. Smaller revenue increases are likely in 2011–12, 2017–18, and 2018–19 due to the phasing in and phasing out of the higher tax rates.

**Revenues Could Change Significantly From Year to Year.** The revenues raised by this measure could be subject to multibillion-dollar swings—either above or below the revenues projected above. This is because the vast majority of the additional revenue from this measure would come from the PIT rate increases on upper-income taxpayers. Most income reported by upper-income taxpayers is related in some way to their investments and businesses, rather than wages and salaries. While wages and salaries for upper-income taxpayers fluctuate to some extent, their investment income may change significantly from one year to the next depending upon the performance of the stock market, housing prices, and the economy. For example, the current mental health tax on income over \$1 million generated about \$730 million in 2009–10 but raised more than twice that amount in previous years. Due to these swings in the income of these taxpayers and the uncertainty of their responses to the rate increases, the revenues raised by this measure are difficult to estimate.

**STATE SPENDING**

**Background**

**State General Fund Supports Many Public Programs.** Revenues deposited into the General Fund support a variety of programs—including public schools, public universities, health programs, social services, and prisons. School spending is the largest part of the state budget. Earlier propositions passed by state voters require the state to provide a minimum annual amount—commonly called the Proposition 98 minimum guarantee—for schools (kindergarten through high school) and community colleges (together referred to as K–14 education). The minimum guarantee is funded through a combination of state General Fund and local property tax revenues. In many years, the calculation of the minimum guarantee is highly sensitive to changes in state General Fund revenues. In years when General Fund revenues grow by a large amount, the guarantee is likely to increase by a large amount. A large share of the state and local funding that is allocated to schools and community colleges is "unrestricted," meaning that they may use the funds for any educational purpose.

**Proposal**

**New Tax Revenues Available to Fund Schools and Help Balance the Budget.** The revenue generated by the measure's temporary tax increases would be included in the calculations of the Proposition 98 minimum guarantee—raising the guarantee by billions of dollars each year. A portion of the new revenues therefore would be used to support higher school funding, with the remainder helping

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

to balance the state budget. From an accounting perspective, the new revenues would be deposited into a newly created state account called the Education Protection Account (EPA). Of the funds in the account, 89 percent would be provided to schools and 11 percent to community colleges. Schools and community colleges could use these funds for any educational purpose. The funds would be distributed the same way as existing unrestricted per-student funding, except that no school district would receive less than \$200 in EPA funds per student and no community college district would receive less than \$100 in EPA funds per full-time student.

**Fiscal Effect if Measure Is Approved**

*2012–13 Budget Plan Relies on Voter Approval of This Measure.* The Legislature and the Governor adopted a budget plan in June to address a substantial projected budget deficit for the 2012–13 fiscal year as well as projected budget deficits in future years. The 2012–13 budget plan (1) assumes that voters approve this measure and (2) spends the resulting revenues on various state programs. A large share of the revenues generated by this measure is spent on schools and community colleges. This helps explain the large increase in funding for schools and community colleges in 2012–13—a \$6.6 billion increase (14 percent) over 2011–12. Almost all of this increase is used to pay K–14 expenses from the previous year and

reduce delays in some state K–14 payments. Given the large projected budget deficit, the budget plan also includes actions to constrain spending in some health and social services programs, decrease state employee compensation, use one-time funds, and borrow from other state accounts.

*Effect on Budgets Through 2018–19.* This measure’s additional tax revenues would be available to help balance the state budget through 2018–19. The additional revenues from this measure provide several billion dollars annually through 2018–19 that would be available for a wide range of purposes—including funding existing state programs, ending K–14 education payment delays, and paying other state debts. Future actions of the Legislature and the Governor would determine the use of these funds. At the same time, due to swings in the income of upper-income taxpayers, potential state revenue fluctuations under this measure could complicate state budgeting in some years. After the proposed tax increases expire, the loss of the associated tax revenues could create additional budget pressure in subsequent years.

**Fiscal Effect if Measure Is Rejected**

*Backup Budget Plan Reduces Spending if Voters Reject This Measure.* If this measure fails, the state would not receive the additional revenues generated by the proposition’s tax increases. In this situation, the 2012–13 budget plan requires that its spending be reduced by \$6 billion. These trigger cuts, as currently scheduled in state law, are shown in Figure 3. Almost all the reductions are to education programs—\$5.4 billion to K–14 education and \$500 million to public universities. Of the K–14 reductions, roughly \$3 billion is a cut in unrestricted funding. Schools and community colleges could respond to this cut in various ways, including drawing down reserves, shortening the instructional year for schools, and reducing enrollment for community colleges. The remaining \$2.4 billion reduction would increase the amount of late payments to schools and community colleges back to the 2011–12 level. This could affect the cash needs of schools and community colleges late in the fiscal year, potentially resulting in greater short-term borrowing.

*Effect on Budgets Through 2018–19.* If this measure is rejected by voters, state revenues would be billions of dollars lower each year through 2018–19 than if the measure were approved. Future actions of the Legislature and the Governor would determine how to balance the state budget at this lower level of revenues. Future state budgets could be balanced through cuts to schools or other programs, new revenues, and one-time actions.

**Figure 3**  
**2012–13 Spending Reductions if**  
**Voters Reject Proposition 30**

(In Millions)

Schools and community colleges	\$5,354
University of California	250
California State University	250
Department of Developmental Services	50
City police department grants	20
CalFire	10
DWR flood control programs	7
Local water safety patrol grants	5
Department of Fish and Game	4
Department of Parks and Recreation	2
DOJ law enforcement programs	1
<b>Total</b>	<b>\$5,951</b>

DWR = Department of Water Resources; DOJ = Department of Justice.

## LOCAL GOVERNMENT PROGRAMS

### Background

In 2011, the state transferred the responsibility for administering and funding several programs to local governments (primarily counties). The transferred program responsibilities include incarcerating certain adult offenders, supervising parolees, and providing substance abuse treatment services. To pay for these new obligations, the Legislature passed a law transferring about \$6 billion of state tax revenues to local governments annually. Most of these funds come from a shift of a portion of the sales tax from the state to local governments.

### Proposal

This measure places into the Constitution certain provisions related to the 2011 transfer of state program responsibilities.

***Guarantees Ongoing Revenues to Local Governments.*** This measure requires the state to continue providing the tax revenues redirected in 2011 (or equivalent funds) to local governments to pay for the transferred program responsibilities. The measure also permanently excludes the sales tax revenues redirected to local governments from the calculation of the minimum funding guarantee for schools and community colleges.

### ***Restricts State Authority to Expand Program***

***Requirements.*** Local governments would not be required to implement any future state laws that increase local costs to administer the program responsibilities transferred in 2011, unless the state provided additional money to pay for the increased costs.

***Requires State to Share Some Unanticipated Program Costs.*** The measure requires the state to pay part of any new local costs that result from certain court actions and changes in federal statutes or regulations related to the transferred program responsibilities.

***Eliminates Potential Mandate Funding Liability.*** Under the Constitution, the state must reimburse local governments when it imposes new responsibilities or “mandates” upon them. Under current law, the state could be required to provide local governments with additional funding (mandate reimbursements) to pay for some of the transferred program responsibilities. This measure specifies that the state would not be required to provide such mandate reimbursements.

***Ends State Reimbursement of Open Meeting Act Costs.*** The Ralph M. Brown Act requires that all meetings of local legislative bodies be open and public. In the past, the state has reimbursed local governments for costs resulting from certain provisions of the Brown Act (such as the requirement to prepare and post agendas for public meetings). This measure specifies that the state would not be responsible for paying local agencies for the costs of following the open meeting procedures in the Brown Act.



## Fiscal Effects

**State Government.** State costs could be higher for the transferred programs than they otherwise would have been because this measure (1) guarantees that the state will continue providing funds to local governments to pay for them, (2) requires the state to share part of the costs associated with future federal law changes and court cases, and (3) authorizes local governments to refuse to implement new state laws and regulations that increase their costs unless the state provides additional funds. These potential costs would be offset in part by the measure's provisions eliminating any potential state mandate liability from the 2011 program transfer and Brown Act procedures. The net fiscal effect of these provisions is not possible to determine and would depend on future actions by elected officials and the courts.

**Local Government.** The factors discussed above would have the opposite fiscal effect on local governments. That is, local government revenues could be higher than they otherwise would have been because the state would be **required to (1) continue providing funds to local governments to pay for the program responsibilities transferred in 2011 and (2) pay all or part of the costs associated with future federal and state law changes and court cases.** These increased local revenues would be offset in part by the measure's provisions eliminating local government authority to receive mandate reimbursements

for the 2011 program shift and Brown Act procedures. The net fiscal effect of these provisions is not possible to determine and would depend on future actions by elected officials and the courts.

## SUMMARY

If voters approve this measure, the state sales tax rate would increase for four years and PIT rates would increase for seven years, generating an estimated \$6 billion annually in additional state revenues, on average, between 2012–13 and 2016–17. (Smaller revenue increases are likely for the 2011–12, 2017–18, and 2018–19 fiscal years.) These revenues would be used to help fund the state's 2012–13 budget plan and would be available to help balance the budget over the next seven years. The measure also would guarantee that local governments continue to annually receive the share of state tax revenues transferred in 2011 to pay for the shift of some state program responsibilities to local governments.

If voters reject this measure, state sales tax and PIT rates would not increase. Because funds from these tax increases would not be available to help fund the state's 2012–13 budget plan, state spending in 2012–13 would be reduced by about \$6 billion, with almost all the reductions related to education. In future years, state revenues would be billions of dollars lower than if the measure were approved.

March 14, 2012

VIA MESSENGER

Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Attention: Ashley Johansson

**RECEIVED**

MAR 14 2012

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICERe: *The Schools and Local Public Safety Protection Act of 2012 - ver. 3*

Dear Ms. Johansson:

In accordance with the requirements of Elections Code section 9001(a), I request that the Attorney General prepare a circulating title and summary for a measure entitled "The Schools and Local Public Safety Protection Act of 2012." The text of the measure, a check for \$200.00, and the certifications required by Elections Code sections 9001(b) and 9608 are enclosed.

This initiative is substantively identical to The Schools and Local Public Safety Protection Act of 2012 (ver. 2), AG number 12-0001, except that (1) the sales and use tax increase is only ¼ cent; (2) the income tax rate for the top two brackets is raised by an additional .5 and 1.0 percent, respectively; and (3) the income tax rate increases remain in effect through the end of the 2018 tax year.

Please direct all correspondence and inquiries regarding this measure to:

Karen Getman  
Thomas A. Willis  
Remcho, Johansen & Purcell, LLP  
201 Dolores Avenue  
San Leandro, CA 94577  
Phone: (510) 346-6200  
Fax: (510) 346-6201

Sincerely,



Thomas A. Willis

Enclosures  
(00166767)

**THE SCHOOLS AND LOCAL PUBLIC SAFETY PROTECTION ACT OF 2012****Sec. 1. Title.**

This measure shall be known and may be cited as "The Schools and Local Public Safety Protection Act of 2012."

**Sec. 2. Findings:**

(a) Over the past 4 years alone, California has had to cut more than \$56 billion from education, police and fire protection, healthcare and other critical state and local services. These funding cuts have forced teacher layoffs, increased school class sizes, increased college fees, reduced police protection, increased fire response times, exacerbated dangerous overcrowding in prisons, and substantially reduced oversight of parolees.

(b) These cuts in critical services have hurt California's seniors, middle-class, working families, children, college students and small businesses the most. We cannot afford more cuts to education and the other services we need.

(c) After years of cuts and difficult choices it is necessary to turn the state around. Raising new tax revenue is an investment in our future that will put California back on track for growth and success.

(d) The Schools and Local Public Safety Protection Act of 2012 will make California's tax system more fair. With working families struggling while the wealthiest among us enjoy record income growth, it is only right to ask the wealthy to pay their fair share.

(e) The Schools and Local Public Safety Protection Act of 2012 raises the income tax on those at the highest end of the income scale – those who can most afford it. It also temporarily restores some sales taxes in effect last year, while keeping the overall sales tax rate lower than it was in early 2011.

(f) The new taxes in this measure are temporary. Under the Constitution the 1/4 cent sales tax increase expires in four years, and the income tax increases for the wealthiest taxpayers end in seven years.

(g) The new tax revenue is guaranteed in the Constitution to go directly to local school districts and community colleges. Cities and counties are guaranteed ongoing funding for public safety programs such as local police and child protective services. State money is freed up to help balance the budget and prevent even more devastating cuts to services for seniors, working families, and small businesses. Everyone benefits.

(h) To ensure these funds go where the voters intend, they are put in special accounts that the Legislature cannot touch. None of these new revenues can be spent on state bureaucracy or administrative costs.

(i) These funds will be subject to an independent audit every year to ensure they are spent only for schools and public safety. Elected officials will be subject to prosecution and criminal penalties if they misuse the funds.

### Sec. 3. Purpose and Intent.

(a) The chief purpose of this measure is to protect schools and local public safety by asking the wealthy to pay their fair share of taxes. This measure takes funds away from state control and places them in special accounts that are exclusively dedicated to schools and local public safety in the state constitution.

(b) This measure builds on a broader state budget plan that has made billions of dollars in permanent cuts to state spending.

(c) The measure guarantees solid, reliable funding for schools, community colleges, and public safety while helping balance the budget and preventing further devastating cuts to services for seniors, middle-class, working families, children and small businesses.

(d) This measure gives constitutional protection to the shift of local public safety programs from state to local control and the shift of state revenues to local government to pay for those programs. It guarantees that schools are not harmed by providing even more funding than schools would have received without the shift.

(e) This measure guarantees that the new revenues it raises will be sent directly to school districts for classroom expenses, not administrative costs. This school funding cannot be suspended or withheld no matter what happens with the state budget.

(f) All revenues from this measure are subject to local audit every year, and audit by the independent Controller to ensure that they will be used only for schools and local public safety.

### Sec. 4: Section 36 is added to Article XIII of the California Constitution, to read:

SEC. 36. (a) For purposes of this section:

(1) "Public Safety Services" includes the following:

(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.

(D) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

(E) Preventing, treating, and providing recovery services for substance abuse.

(2) "2011 Realignment Legislation" means legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature. However, 2011 Realignment Legislation shall include no new programs assigned to local agencies after January 1, 2012 except for the early periodic screening, diagnosis, and treatment (EPSDT) program and mental health managed care.

(b)(1) Except as provided in (d), commencing in fiscal year 2011-2012 and continuing thereafter, the following amounts shall be deposited into the Local Revenue Fund 2011, as established by Section 30025 of the Government Code, as follows:

(A) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.

(B) All revenues, less refunds, derived from the vehicle license fees described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1, 2011.

(2) On and after July 1, 2011, the revenues deposited pursuant to paragraph (1) shall not be considered General Fund revenues or proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c)(1) Funds deposited in the Local Revenue Fund 2011, are continuously appropriated exclusively to fund the provision of Public Safety Services by local agencies. Pending full implementation of the 2011 Realignment Legislation, funds may also be used to reimburse the State for program costs incurred in providing Public Safety Services on behalf of local agencies. The methodology for allocating funds shall be as specified in the 2011 Realignment Legislation.

(2) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city

and county. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

(3) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

(4)(A) Legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service required by legislation, described in this subparagraph, above the level for which funding has been provided.

(B) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(C) Any new program or higher level of service provided by local agencies, as described in subparagraphs (A) and (B), above the level for which funding has been provided, shall not require a subvention of funds by the State nor otherwise be subject to Section 6 of Article XIII B. This paragraph shall not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B as that paragraph read on January 2, 2011.

(D) The State shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the State provides annual funding for the cost increase.

(E) The State shall not be required to provide a subvention of funds pursuant to this paragraph for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. State funds required by this paragraph shall be from a source other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(5)(A) For programs described in subparagraphs (C) to (E) inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.

(B) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (C) to (E) inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State. Payment by the State is not required if the State determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

(C) The state funds provided in this paragraph shall be from funding sources other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) If the State or a local agency fails to perform a duty or obligation under this section or under the 2011 Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

(7) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the State's eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(8) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(d) If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided

by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

(e)(1) To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is hereby created in the General Fund to receive and disburse the revenues derived from the incremental increases in taxes imposed by this section as specified in subdivision (f).

(2)(A) Before June 30, 2013, and before June 30th of each year thereafter through 2018, the Director of Finance shall estimate the total amount of additional revenues, less refunds, that will be derived from the incremental increases in tax rates made in subdivision (f) that will be available for transfer into the Education Protection Account during the next fiscal year. The Director of Finance shall make the same estimate by January 10, 2013, for additional revenues, less refunds, that will be received by the end of the 2012-13 fiscal year.

(B) During the last ten days of the quarter of each of the first three quarters of each fiscal year from 2013-14 through 2018-19, the Controller shall transfer into the Education Protection Account one fourth of the total amount estimated pursuant to subparagraph (A) for that fiscal year, except as this amount may be adjusted pursuant to subparagraph (D).

(C) In each of the fiscal years 2012-13 through 2020-21, the Director of Finance shall calculate an adjustment to the Education Protection Account, as specified by subparagraph (D), by adding together the following amounts, as applicable:

(i) In the last quarter of each fiscal year from 2012-13 through 2018-19, the Director of Finance shall recalculate the estimate made for the fiscal year pursuant to subparagraph (A), and shall subtract from this updated estimate the amounts previously transferred to the Education Protection Account for that fiscal year.

(ii) In June 2015 and in every June through 2021, the Director of Finance shall make a final determination of the amount of additional revenues, less refunds, derived from the incremental increases in tax rates made in subdivision (f) for the fiscal year ending two years prior. The amount of the updated estimate calculated in clause (i) for the fiscal year ending two years prior shall be subtracted from the amount of this final determination.



(D) If the sum determined pursuant to subparagraph (C) is positive, the Controller shall transfer an amount equal to that sum into the Education Protection Account within 10 days preceding the end of the fiscal year. If that amount is negative, the Controller shall suspend or reduce subsequent quarterly transfers, if any, to the Education Protection Account until the total reduction equals the negative amount herein described. For purposes of any calculation made pursuant to clause (i) of subparagraph (C), the amount of a quarterly transfer shall not be modified to reflect any suspension or reduction made pursuant to this subparagraph.

(3) All moneys in the Education Protection Account are hereby continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts as set forth in this paragraph.

(A) Eleven percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Board of Governors of the California Community Colleges to community college districts to provide general purpose funding to community college districts in proportion to the amounts determined pursuant to Section 84750.5 of the Education Code, as that code section read upon the enactment of this section. The allocations calculated pursuant to this subparagraph shall be offset by the amounts specified in subdivisions (a), (c) and (d) of Section 84751 of the Education Code, as that section read upon enactment of this section, that are in excess of the amounts calculated pursuant to Section 84750.5 of the Education Code, as that section read upon enactment of this section, provided that no community college district shall receive less than one hundred dollars (\$100) per full time equivalent student.

(B) Eighty nine percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Superintendent of Public Instruction to provide general purpose funding to school districts, county offices of education, and state general-purpose funding to charter schools in proportion to the revenue limits calculated pursuant to Sections 2558 and 42238 and the amounts calculated pursuant to Section 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon enactment of this section. The amounts so calculated shall be offset by the amounts specified in subdivision (c) of Section 2558, paragraphs (1) through (7) of subdivision (h) of Section 42238, and Section 47635 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon enactment of this section, which are in excess of the amounts calculated pursuant to Sections 2558, 42238, and 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon enactment of this section, provided that no school district, county office of education, or charter school shall receive less than two hundred dollars (\$200) per unit of average daily attendance.

(4) This subdivision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Education Protection Account by the Board of

Governors of the California Community Colleges and the Superintendent of Public Instruction shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to Section 12 of Article IV, by invocation of paragraph (h) of Section 8 of Article XVI, or by any other action or failure to act by the Legislature or Governor.

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account shall not be used to pay any costs incurred by the Legislature, Governor or any agency of state government.

(6) A community college district, county office of education, school district, and charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction, provided, however, that the appropriate governing board or body shall make these spending determinations in open session of a public meeting of the governing board or body and shall not use any of the funds from the Education Protection Account for salaries or benefits of administrators or any other administrative costs. Each community college district, county office of education, school district, and charter school shall annually publish on its Internet Web site an accounting of how much money was received from the Education Protection Account and how that money was spent.

(7) The annual independent financial and compliance audit required of community college districts, county offices of education, school districts, and charter schools shall, in addition to all other requirements of law, ascertain and verify whether the funds provided from the Education Protection Account have been properly disbursed and expended as required by this section. Expenses incurred by those entities to comply with the additional audit requirement of this section may be paid with funding from the Education Protection Account and shall not be considered administrative costs for purposes of this section.

(8) Revenues, less refunds, derived pursuant to subdivision (f) for deposit in the Education Protection Account pursuant to this section shall be deemed "General Fund revenues," "General Fund proceeds of taxes" and "moneys to be applied by the State for the support of school districts and community college districts" for purposes of Section 8 of Article XVI.

(f)(1)(A) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after January 1, 2013, and before January 1, 2017.

(B) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased

from any retailer on and after January 1, 2013, and before January 1, 2017, for storage, use, or other consumption in this state at the rate of 1/4 percent of the sales price of the property.

(C) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this paragraph.

(D) This paragraph shall cease to be operative on January 1, 2017.

(2) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (a) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over two hundred and fifty thousand dollars (\$250,000) but not over three hundred thousand dollars (\$300,000) the tax rate is 10.3 percent of the excess over two hundred and fifty thousand dollars (\$250,000).

(ii) For that portion of taxable income that is over three hundred thousand dollars (\$300,000) but not over five hundred thousand dollars (\$500,000) the tax rate is 11.3 percent of the excess over three hundred thousand dollars (\$300,000).

(iii) For that portion of taxable income that is over five hundred thousand dollars (\$500,000), the tax rate is 12.3 percent of the excess over five hundred thousand dollars (\$500,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this provision shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) and Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall cease to be operative on December 1, 2019.

(3) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (c) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over three hundred forty thousand dollars (\$340,000) but not over four hundred eight thousand dollars (\$408,000) the tax rate is 10.3 percent of the excess over three hundred forty thousand dollars (\$340,000).

(ii) For that portion of taxable income that is over four hundred eight thousand dollars (\$408,000) but not over six hundred eighty thousand dollars (\$680,000) the tax rate is 11.3 percent of the excess over four hundred eight thousand dollars (\$408,000).

(iii) For that portion of taxable income that is over six hundred eighty thousand dollars (\$680,000), the tax rate is 12.3 percent of the excess over six hundred eighty thousand dollars (\$680,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this provision shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) and Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall cease to be operative on December 1, 2019.

(g)(1) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011, and shall audit the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.

(2) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse of moneys from the County Local Revenue Fund 2011 or the Education Protection Account.

**Sec. 5. Effective Date.**

Subdivision (b) of Section 36 of Article XIII, as added by this measure, shall be operative as of July 1, 2011. Paragraphs (2) and (3) of subdivision (f) of Section 36 of Article XIII, as added by this measure, shall be operative as of January 1, 2012. All other provisions of this measure shall take effect the day after the election in which it is approved by a majority of the voters voting on the measure provided.

**Sec. 6. Conflicting Measures.**

In the event that this measure and another measure that imposes an incremental increase in the tax rates for personal income shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

**Sec. 7.**

This measure provides funding for school districts and community college districts in an amount that equals or exceeds that which would have been provided if the revenues deposited pursuant to Sections 6051.15 and 6201.15 of the Revenue and Taxation Code pursuant to Chapter 43 of the Statutes of 2011 had been considered "General Fund revenues" or "General Fund proceeds of taxes" for purposes of Section 8 of Article XVI of the California Constitution.

August 22, 2012



1100 K Street  
Suite 101  
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916.327-7500

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To: CSAC Government Finance and Operations Policy Committee

From: Steve Keil, CSAC Interim Executive Director

Re: **Proposition 31 – ACTION ITEM**

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**Recommendation: Adopt a SUPPORT position on Proposition 31.**

**Overview.** This memo is intended to provide the relevant information to the CSAC Board of Directors to assist in considering a SUPPORT position for Proposition 31.

Proposition 31 is promoted by the California Forward Action Fund, which, along with California Forward, has been working on far-reaching reforms to state and local governance for a number of years. During that time, the group has sought the input of a broad range of Californians, including many local officials and many interested citizens and community groups.

**Policy.** Chapter 1 of the CSAC Platform, aside from several references to local control generally, has language about "permit[ting] county government the flexibility to provide services and facilities in a manner that resolves day-to-day problems communities face." The Platform also encourages counties, cities, and special districts to "adopt formal policies that encourage locally initiated solutions to regional problems" (Chapter 1, Section 3).

Chapter 9, Section 2D of the Platform refers to counties being able to streamline or eliminate unnecessary administrative requirements, reduce or eliminate regulations that control implementation of state-mandated programs, and have greater program flexibility to meet individual county needs.

If the Community Strategic Action Plans authorized by Proposition 31 work as intended, they will achieve these goals for counties.

The Platform is silent on the subject of performance-based budgeting, but that part of Proposition 31 could be construed as thwarting local control to the extent counties may not choose whether to make the types of statements in their budgets that the measure would require. Many county budgets likely already adhere to the minimum requirements of this section.

For these reasons, the intent of Proposition 31 largely aligns with CSAC policy.

**Process.** In accordance with the State Ballot Proposition Policy found in the CSAC Policy and Procedures Manual (page 12), the officers referred the measure

to the Government Finance and Operations policy committee. The policy committee adopted a recommendation of support, then forwarded that recommendation to the CSAC Executive Committee, who also recommend a support position. The state's General Election will be held two months after this Board meeting, on November 6, 2012.

**Recommendation:** Both the CSAC Executive Committee and the CSAC Government Finance and Operations policy committee recommend that the CSAC Board of Directors adopt a **SUPPORT position** Proposition 31.

### **Attachments**

- I. CSAC summary of Proposition 31
- II. Legislative Analyst's Office summary and fiscal analysis
- III. California Forward outline
- IV. Text of the measure

## CSAC Summary of Proposition 31

### Changes to the State Budget Process

- All bills must be in print for at least three days before the Legislature can pass it, except in a special session responding to a natural disaster or terrorist attack.
- If the cost of implementing a bill, including the budget bill, exceeds \$25 million in any fiscal year (adjusted annually for inflation), whether by increasing a program or decreasing revenue, that bill is void unless that bill or another bill provides offsetting savings or revenue. Exceptions:
  - o Restoring funding for cuts made after 2008-09.
  - o Increases to fund existing statutory responsibilities, including increases due to cost of living or workload.
  - o Growth in state funding for a program as required by federal law.
  - o Funding to cover one-time expenditures.
  - o Funding for state mandates.
  - o Payments for principal or interest payments on state general obligation bonds.
- Disallows bills from being introduced in the second year of session that are substantially similar to bills not passed by the house of origin the previous year.

### *Biennial Budget*

- Governor proposes budget in odd years:
  - o Must identify 1-time resources.
  - o May submit supplemental budget in even years to amend or augment.
  - o Must include revenue and expenditure estimates for the following three years.
  - o Must include statutory changes and five-year infrastructure plan and strategic growth plan.
  - o Must include statement of how the budget promotes the achievement of the major purposes and goals of government.
    - The major purposes of government are defined as: achieving a prosperous economy, quality environment, and community equity. Those purposes are promoted by working to achieve the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, and improving health.
  - o Must include outcome measures to assess progress.
  - o Must evaluate effectiveness at achieving the major goals of government according to outcome measures.
  - o Recommended reductions and revenues must include analysis of economic impact.
- By May 1 each year, committees must have considered the budget bill and it must be referred to a joint committee of the Legislature for review, which must report its recommendations to each house by June 1.



- Department of Finance must update revenue and expenditure estimates by May 15 and immediately prior to passage of the budget bill or supplemental budget. They must also, by November 30, update actual revenues and expenditures compared to the budget.
- The state's performance-based budgeting must be fully implemented by 2015-16.
- The Legislature must pass budget and related appropriation bills by June 15.
- Appropriations for the second year may not be spent in the budget year.
- The budget bill must include the basis for General Fund revenue estimates and an explanation of any difference from previous years.

#### *Oversight*

- Disallows the Legislature from passing bills after June 30 in the second year of a two-year session, except bills taking effect immediately. The current cutoff date is September 1.
- Reserves the period after July 4 of the second year of session for program oversight and review.
- Requires the Legislature to establish an oversight process for state funded programs based on performance standards set for in statute and in the Budget Act.
- The review process must result in recommendations in the form of proposed legislation that improves or terminates programs. Each program must be reviewed at least every five years.
- The oversight process must include review of the Community Strategic Action Plans (see below), to 1) determine whether statutes and regulations identified by local agencies as obstacles should be amended or repealed and 2) whether the Action Plans have improved services.

#### *Addressing Fiscal Emergencies*

- Bills addressing a declared fiscal emergency and passed in the special session called for that purpose take effect immediately. Majority-vote okay for non-tax measures.
- If the Legislature does not send the Governor a bill addressing the emergency within 45 days, the Governor may reduce or eliminate General Fund appropriations not required by the Constitution or federal law, not to exceed the size of the identified shortfall.
- The Legislature may override all or part of the Governor's reductions with a two-thirds vote.

#### Changes to the Local Budget Process

- Local budgets must include the following, as they apply to the entity's powers and duties:
  - o A statement of how it will promote the major purposes and goals of government, as applicable to the entity's functions, role, and locally determined priorities.
    - The major purposes of government are defined as: achieving a prosperous economy, quality environment, and community equity. Those purposes are promoted by working to achieve the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, and improving health.
  - o A description of the outcome measures used to assess progress to the goals above.

- A statement of the outcome measurements for major expenditures and their relationship to the goals above.
- A statement of how the entity will align its expenditures and investments to achieve the goals above.
- A report on progress toward achieving the goals above, including the outcome measurements from the previous year's budget.
- Local budget processes must be open and transparent, including the identification of the goals above.

### Community Strategic Action Plans

#### *Development of a Plan*

- A county Board of Supervisors may initiate the development of a Community Strategic Action Plan. They must invite all other local entities within the county whose functions are within the anticipated scope of the Plan.
- Any local entity may petition the county to initiate a Plan, to be included in the planning process of a Plan, or to amend a Plan.
- The Plan must be developed through an open, transparent, inclusive process.
- The Plan must include:
  - The outcomes desired by participating agencies and how they will be measured.
  - A method for regularly reporting outcomes to the public and the state.
  - An outline of how the Plan will achieve the major purposes and goals defined above.
  - A description of the public services delivered pursuant to the Plan and the roles and responsibilities of the participating entities.
  - An explanation of why the Plan will allow those services to be delivered more effectively and efficiently.
  - An allocation of resources to support the Plan.
  - A consideration of disparities within communities served by the Plan.
  - An explanation of how the Plan is consistent with the budgets of entities participating in the Plan.
- The Plan, including any amendments, must be approved by the county, by local entities providing the Plan's municipal services to at least a majority of the county's population, and one or more school districts serving at least a majority of the county's public school pupils.
- The Plan would not apply to any entity that does not approve it.
- Parties to a Plan may identify state statutes and regulations impeding progress toward the Plan's goals and include in the Plan functional equivalents to the objectives of those statutes and regulations.
- Parties to a Plan that identifies such statutes must submit their Plan to the Legislature. If the Legislature does not act to disapprove the provisions within 60 days, the provisions will be operative for four years.

- Parties to a Plan that identifies such regulations must do the same as above but to the appropriate agency or department, which is subject to the same 60-day review period.

#### *Funding of Plans*

- Sales and use taxes attributable to a rate of 0.035 percent are placed in a continuously appropriated trust fund.
- In the first quarter of each fiscal year beginning in 2014-15, the Controller shall distribute the trust fund to each county that has adopted a Plan, according to population served by the Plans.

#### *Oversight of Plans*

- Counties with Plans must evaluate their effectiveness at least every four years.

December 14, 2011

Hon. Kamala D. Harris  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Dawn McFarland  
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional amendment related to the state legislative and budgeting process and local finance (A.G. File No. 11-0068).

## BACKGROUND

***State Budget Process.*** Under the California Constitution, the Legislature has the power to appropriate state funds and make midyear adjustments to those appropriations. The annual state budget act is the Legislature's primary method of authorizing expenses for a particular fiscal year. The Constitution requires that (1) the Governor propose a balanced budget by January 10 for the next fiscal year (beginning July 1) and (2) the Legislature pass the annual budget act by June 15. The Governor may then either sign or veto the budget bill. The Governor also may reduce or eliminate specific appropriations items using his or her "line-item veto" power. The Legislature may override a veto with a two-thirds vote in each house. Once the budget has been approved by the Legislature and Governor, the Governor has limited authority to reduce spending during the year without legislative approval.

***State Fiscal Emergencies.*** The Governor has the power to declare a fiscal emergency if he or she determines after the budget has been enacted that the state is facing substantial revenue shortfalls or spending overruns. In such cases, the Governor must propose legislation to address the fiscal emergency and call the Legislature into special session. If the Legislature fails to pass and send to the Governor legislation to address the budget problem within 45 days, it is prohibited from (1) acting on any other bills or (2) adjourning until such legislation is passed.

***State Appropriations Process.*** The Legislature may enact laws that create or expand state programs or reduce state tax revenues. Any new law that has a state fiscal effect typically is referred to a committee in each house of the Legislature called the Appropriations

Committee. These committees assess the likely fiscal effect of the legislation and decide whether to recommend the passage of the legislation by each house.

## **PROPOSAL**

This measure amends the Constitution to:

- Constrain the Legislature's authority to enact laws that increase state costs or decrease state revenues by more than \$25 million annually.
- Expand the Governor's authority to implement midyear reductions to appropriations in the state budget.
- Shift state funds to local governments for the purpose of implementing new "Community Strategic Action Plans."
- Modify state and local government budget practices.

### **Constrains the Legislature's Authority to Increase State Costs or Decrease Revenues**

The measure contains provisions that constrain the Legislature's authority to (1) create or expand state programs or (2) reduce state revenues if the fiscal effect of these actions on the state would exceed \$25 million annually. In order to enact legislation containing program expansions or revenue reductions valued at more than \$25 million, lawmakers generally would have to approve legislation containing revenue increases or cost reductions to offset the net change in state costs or revenues. The \$25 million threshold would be adjusted annually for inflation.

### **Authorizes the Governor to Reduce Spending in the Budget**

The measure provides that if the Legislature has not sent bills to the Governor addressing a fiscal emergency by the 45<sup>th</sup> day following the issuance of the fiscal emergency proclamation, the Governor may reduce or eliminate any appropriation contained in the budget act for that fiscal year that is not otherwise required by the Constitution or federal law. The total amount reduced cannot exceed the amount necessary to balance the budget. The Legislature may override all or part of the reductions by a two-thirds vote of each house of the Legislature.

### **Shifts State Funds to Local Governments to Implement New Plans**

Under the measure, every county and any local government (school district, community college district, city, and special district) within its borders could create a joint Community Strategic Action Plan (CSAP) for the purpose of providing services identified by the plan. Local governments that choose to participate in a CSAP would (1) receive additional funding from the state, (2) be authorized to reallocate local property taxes among participating local governments, and (3) be given limited authority to follow locally adopted procedures that are not fully consistent with state laws and regulations. Specifically:

- ***Shift of State Revenues.*** The measure creates the Performance and Accountability Trust Fund in the State Treasury to provide state resources for implementation of CSAPs. Beginning in 2013-14, the measure shifts 0.035 percent of the state sales tax rate to the Performance and Accountability Trust Fund and requires the state General Fund to backfill any reduced revenue to the fund if the state sales tax is reduced in the future. The revenue deposited in the Performance and Accountability Trust Fund would be allocated to local governments with approved CSAPs on a per capita basis.
- ***Reallocate Property Tax.*** The measure permits local governments participating in the CSAP to reallocate their property taxes among themselves if the reallocation is approved by a two-thirds vote of the governing bodies of each of the local governments affected by the reallocation.

***Increased Flexibility in Program Administration.*** The measure allows CSAPs to include certain provisions that otherwise would be contrary to existing state laws and regulations but that are “functionally equivalent” to the objectives of those laws or regulations. The local governments would be required to submit these provisions to the Legislature (in the case of state laws) or appropriate state agency (in the case of state regulations) for review. If the Legislature or agency does not act to reject the CSAP provisions, those provisions would be deemed to be in compliance with state laws and regulations. These local CSAP provisions would expire after four years unless renewed through the same process.

### **State and Local Government Budgeting Practices**

The measure makes various changes to state and local budgeting practices and other procedures, including:

- ***Two-Year State Budget Cycle.*** Under this measure, in each odd numbered calendar year the Governor would submit a budget proposal for the two subsequent fiscal years. For example, in January 2013 the Governor would submit a budget for the fiscal year beginning in July 2013 and for the fiscal year beginning in July 2014. In even numbered years, the Governor could submit an update for either of the two years covered by the previous submission.
- ***Performance Standards for State Programs.*** This measure contains several provisions amending the Constitution to establish a process to review the performance of state programs. Under the proposal, the Governor would be required to include certain information as part of the budget released every two years, including a statement of how the budget will achieve specified statewide goals, a statement of outcome measures by which to evaluate state agencies and programs, and a report on the state’s progress in meeting statewide goals.
- ***Legislative Oversight.*** The measure changes the legislative calendar and reserves part of each legislative biennium—beginning in July of the second year of the biennium—

for legislative oversight and review of state programs. The measure requires the Legislature to create an oversight process and use this process to review every state program, whether managed by the state or local governments, at least once every five years.

- ***Legislative Process and Calendar.*** The proposal amends a provision of the Constitution related to when legislative bills must be in print. The Constitution currently requires that bills be in print and distributed to Members of the Legislature before they can be passed. This proposal amends the Constitution to require that bills generally be in print and be available to the public for three days before passage.
- ***Local Government Performance Information.*** The measure requires that each local government provide certain information as part of their adopted budgets. This information includes statements regarding how the budget will promote specified goals and priorities, description of outcome measures to assess progress in meeting these goals, and a report on the progress in achieving these goals. The measure further requires that each local government develop and implement an open and transparent process in the development of its proposed budget.

## FISCAL EFFECT

***State Sales Tax Revenue Transfer.*** The shift of a portion of the state sales tax to the Performance and Accountability Trust Fund for local government use would reduce state revenue—and increase local revenue—by about \$200 million annually, beginning in 2013-14. The measure specifies that any increased revenues allocated to schools as a result of this measure would not reduce their eligibility for state funds.

***Changes in Legislature's and Governor's Fiscal Authority.*** Constraining the Legislature's authority to expand programs or decrease revenues unless it adopts measures with offsetting fiscal effects could result in state program costs being lower—or state revenues being higher—than otherwise would be the case. In addition, expanding the Governor's authority to implement midyear reductions to the state budget could result in overall state spending being lower than it would have been otherwise. The net fiscal effect of these provisions is unknown, but could be significant over time.

***Changes in Budgeting Practices.*** State and local governments would have increased costs to modify their budgeting practices and provide more ongoing information regarding program outcomes. Specifically, state and local governments likely would experience increased information technology, printing, and data analysis costs. These costs would be higher initially—perhaps in the range of tens of millions of dollars annually—and then moderate over time. The compilation and analysis of this budget and performance information could lead to improved state and local government program efficiencies over time, potentially offsetting these costs.

## **SUMMARY OF FISCAL EFFECT**

This measure would have the following major fiscal effects:

- Decreased state revenues and commensurate increased local revenues, probably in the range of about \$200 million annually, beginning in 2013-14.
- Potential decreased state program costs or increased state revenues resulting from changes in the fiscal authority of the Legislature and Governor.
- Increased state and local costs of tens of millions of dollars annually to implement new budgeting practices. Over time, these costs would moderate and potentially be offset by savings from improved program efficiencies.

Sincerely,

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Mac Taylor  
Legislative Analyst

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Ana J. Matosantos  
Director of Finance



# The Government Performance and Accountability Act

Californians need to know what they are getting for their tax dollars and what government is achieving. If approved by California voters through the ballot measure process, this proposal will position both state and local governments to effectively manage California's fiscal affairs to promote concrete results Californians want and value for their tax dollars.

## Specific Provisions

### 1. Performance-Based Budgeting

State and local governments should focus on improving results. The proposal would require state and local government budgets to establish clear goals for delivering results and accountability -- focusing spending decisions on priorities, desired results, and the changes needed to improve performance.

### 2. Legislative Transparency and Oversight

The state needs a stable budget-making process to help communities reach their goals. The proposal would make all bills available to the public three days before a vote to preclude "gut and amend" bills, ending the practice of bypassing public hearings for controversial legislation. The Department of Finance would also be required to update fiscal information three times per year.

### 3. Pay-As-You-Go

Lawmakers should be required to identify ways to pay for major policy choices, rather than putting all programs at risk of being cut in future years. The proposal requires major new programs and tax cuts costing \$25 million or more to have a clearly identified funding source before they are enacted.

### 4. Multi-Year Budgets With Greater Accountability

To reduce the perennial uncertainty of the state's current short-term budget-making practices, the proposal would require the state to enact two-year budgets. It would limit the period during which bills can be heard (with an exception for bills addressing emergencies), and require a portion of the legislative session to be dedicated to program performance reviews. All programs would be reviewed at least once every 5 years. The proposal also would require the state to prepare and make public five-year forecasts before approving the budget, to act quickly when the budget falls out of balance, and to make budget negotiations more transparent.

## 5. Community-Driven Problem Solving

To improve performance at the local level, communities will need more flexibility to tailor programs to meet local needs. Through "Community Strategic Action Plans," the proposal would give local governments the incentives and authority to design programs that work together to improve results. Cities, counties, school districts and special districts would identify common goals -- such as improving outcomes for youth -- and how they would coordinate actions to cost-effectively achieve them.

These plans also would identify state laws or regulations that prevent local governments from efficiently and effectively providing services, and include a local method for achieving the state objective. The proposal would also give local governments the ability to reallocate local sales and property taxes (other than those allocated to schools), and provide incentive funding from the state.

### *What this means for Californians...*

- Policy, program, and fiscal decisions by the state and local governments will be driven by performance data on what is working, what isn't, and an awareness of the long-term fiscal impact of alternative approaches.
- Community Strategic Action Plans will allow local governments to achieve local priorities in a collaborative, inclusive and cost-effective way while permitting significantly greater flexibility in how participating local jurisdictions allocate resources and meet statewide requirements.
- Californians will have more opportunities to inform decisions affecting their communities, they will have more information about the job performance of their elected representatives, and they will have the opportunity to see results where they live that are a direct consequence of their participation.

RECEIVED

NOV 03 2011

November 1, 2011

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

VIA MESSENGER

Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Attention: Dawn McFarland

Re: *The Government Performance and Accountability Act*

Dear Ms. McFarland:

Pursuant to Elections Code section 9001(a), we request that the Attorney General prepare a title and summary of a measure entitled "The Government Performance and Accountability Act." The text of the measure, a check for \$200.00, the addresses at which we are registered to vote and the certifications required by Elections Code sections 9001(b) and 9608 are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

Robin B. Johansen  
James C. Harrison  
Remcho, Johansen & Purcell, LLP  
201 Dolores Avenue  
San Leandro, CA 94577  
Phone: (510) 346-6200  
Fax: (510) 346-6201

Sincerely,



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November 3, 2011

**VIA MESSENGER**

Office of the Attorney General  
1300 "T" Street  
Sacramento, CA 95814

Attention: Dawn McFarland

Re: *The Government Performance and Accountability Act*

Dear Ms. McFarland:

Pursuant to Elections Code section 9001(a), we request that the Attorney General prepare a title and summary of a measure entitled "The Government Performance and Accountability Act." The text of the measure, a check for \$200.00, the addresses at which we are registered to vote and the certifications required by Elections Code sections 9001(b) and 9608 are enclosed.

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San Leandro, CA 94577  
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Fax: (510) 346-6201

Sincerely,

  
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Enclosures  
(00156289)

The Government Performance and Accountability Act

**SECTION ONE. Findings and Declarations.**

The People of the State of California hereby find and declare that government must be:

1. **Trustworthy.** California government has lost the confidence of its citizens and is not meeting the needs of Californians. Taxpayers are entitled to a higher return on their investment and the public deserves better results from government services.
2. **Accountable for Results.** To restore trust, government at all levels must be accountable for results. The people are entitled to know how tax dollars are being spent and how well government is performing. State and local government agencies must set measurable outcomes for all expenditures and regularly and publicly report progress toward those outcomes.
3. **Cost-Effective.** California must invest its scarce public resources wisely to be competitive in the global economy. Vital public services must therefore be delivered with increasing effectiveness and efficiency.
4. **Transparent.** It is essential that the public's business be public. Honesty and openness promote and preserve the integrity of democracy and the relationship between the people and their government.
5. **Focused on Results.** To improve results, public agencies need a clear and shared understanding of public purpose. With this measure, the people declare that the purpose of state and local governments is to promote a prosperous economy, a quality environment, and community equity. These purposes are advanced by achieving at least the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, and improving health.
6. **Cooperative.** To make every dollar count, public agencies must work together to reduce bureaucracy, eliminate duplication, and resolve conflicts. They must integrate services and adopt strategies that have been proven to work and can make a difference in the lives of Californians.
7. **Closer to the People.** Many governmental services are best provided at the local level, where public officials know their communities and residents have access to elected officials. Local governments need the flexibility to tailor programs to the needs of their communities.

8. **Supportive of Regional Job Generation.** California is composed of regional economies. Many components of economic vitality are best addressed at the regional scale. The State is obliged to enable and encourage local governments to collaborate regionally to enhance the ability to attract capital investment into regional economies to generate well-paying jobs.
9. **Willing to Listen.** Public participation is essential to ensure a vibrant and responsive democracy and a responsive and accountable government. When government listens, more people are willing to take an active role in their communities and their government.
10. **Thrifty and Prudent.** State and local governments today spend hundreds of millions of dollars on budget processes that do not tell the public what is being accomplished. Those same funds can be better used to develop budgets that link dollars to goals and communicate progress toward those goals, which is a primary purpose of public budgets.

## **SECTION TWO. Purpose and Intent.**

In enacting this measure, the People of the State of California intend to:

1. Improve results and accountability to taxpayers and the public by improving the budget process for the State and local governments with existing resources.
2. Make state government more efficient, effective, and transparent through a state budget process that does the following:
  - a. Focuses budget decisions on what programs are trying to accomplish and whether progress is being made.
  - b. Requires the development of a two-year budget and a review of every program at least once every five years to make sure money is well spent over time.
  - c. Requires major new programs and tax cuts to have clearly identified funding sources before they are enacted.
  - d. Requires legislation – including the Budget Act – to be public for three days before lawmakers can vote on it.
3. Move government closer to the people by enabling and encouraging local governments to work together to save money, improve results, and restore accountability to the public through the following:

- a. Focusing local government budget decisions on what programs are trying to accomplish and whether progress is being made.
  - b. Granting counties, cities, and schools the authority to develop, through a public process, a Community Strategic Action Plan for advancing community priorities that they cannot achieve by themselves.
  - c. Granting local governments that approve an Action Plan flexibility in how they spend state dollars to improve the outcomes of public programs.
  - d. Granting local governments that approve an Action Plan the ability to identify state statutes or regulations that impede progress and a process for crafting a local rule for achieving a state requirement.
  - e. Encouraging local governments to collaborate to achieve goals more effectively addressed at a regional scale.
  - f. Providing some state funds as an incentive to local governments to develop Action Plans.
  - g. Requiring local governments to report their progress annually and evaluate their efforts every four years as a condition of continued flexibility – thus restoring accountability of local elected officials to local voters and taxpayers.
4. Involve the people in identifying priorities, setting goals, establishing measurements of results, allocating resources in a budget, and monitoring progress.
  5. Implement the budget reforms herein using existing resources currently dedicated to the budget processes of the State and its political subdivisions without significant additional funds. Further, establish the Performance and Accountability Trust Fund from existing tax bases and revenues. No provision herein shall require an increase in any taxes or modification of any tax rate or base.

**SECTION THREE. Section 8 of Article IV of the California Constitution is hereby amended to read:**

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill other than a bill containing an urgency clause that is passed in a special session called by the Governor to address a state of emergency declared by the Governor arising out of a natural disaster or a terrorist attack may be passed until the bill with amendments has been in printed and distributed to the members and available to the public for at least 3 days. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each



by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.

**SECTION FOUR. Section 9.5 is hereby added to Article IV of the California Constitution to read:**

SEC. 9.5. A bill passed by the Legislature that (1) establishes a new state program, including a state-mandated local program described in Section 6 of Article XIII B, or a new agency, or expands the scope of such an existing state program or agency, the effect of which would, if funded, be a net increase in state costs in excess of twenty-five million dollars (\$25,000,000) in that fiscal year or in any succeeding fiscal year, or (2) reduces a state tax or other source of state revenue, the effect of which will be a net decrease in state revenue in excess of twenty-five million dollars (\$25,000,000) in that fiscal year or in any succeeding fiscal year, is void unless offsetting state program reductions or additional revenue, or a combination thereof, are provided in the bill or another bill in an amount that equals or exceeds the net increase in state costs or net decrease in state revenue. The twenty-five million dollar (\$25,000,000) threshold specified in this section shall be adjusted annually for inflation pursuant to the California Consumer Price Index.

**SECTION FIVE. Section 10 of Article IV of the California Constitution is hereby amended to read:**

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two-thirds of the membership concurring, it becomes a statute.

(b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before June 30 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after June 30 that is not returned on or before July 31 of that year becomes a statute. In addition, any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after

September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c)(1) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after ~~September 1 of an even-numbered year~~ June 30 of the second year of the biennium ~~except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, bills that take effect immediately, and bills passed after being vetoed by the Governor.~~

(2) No bill may be introduced or considered in the second year of the biennium that is substantially the same and has the same effect as any introduced or amended version of a measure that did not pass the house of origin by January 31 of the second calendar year of the biennium as required in paragraph (1).

(d)(1) The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session. On the first Monday following July 4 of the second year of the biennium, the Legislature shall convene, as part of its regular session, to conduct program oversight and review. The Legislature shall establish an oversight process for evaluating and improving the performance of programs undertaken by the State or by local agencies implementing state-funded programs on behalf of the State based on performance standards set forth in statute and in the biennial Budget Act. Within one year of the effective date of this provision, a review schedule shall be established for all state programs whether managed by a state or local agency implementing state-funded programs on behalf of the State. The schedule shall sequence the review of similar programs so that relationships among program objectives can be identified and reviewed. The review process shall result in recommendations in the form of proposed legislation that improves or terminates programs. Each program shall be reviewed at least once every five years.

(2) The process established for program oversight under paragraph (1) shall also include a review of Community Strategic Action Plans adopted pursuant to Article XI A for the purpose of determining whether any state statutes or regulations that have been identified by the participating local government agencies as state obstacles to improving results should be amended or repealed as requested by the participating local government agencies based on a review of at least three years of experience with the Community Strategic Action Plans. The review shall assess whether the Action Plans have improved the delivery and effectiveness of services in all parts of the community identified in the plan.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

(f) (1) If, following the enactment of the budget bill for the 2004-05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency. In response to the Governor's proclamation, the Legislature may present to the Governor a bill or bills to address the fiscal emergency.

(2) If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(3) A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect. For purposes of paragraphs (2) and (4), the inclusion of this statement shall be deemed to mean conclusively that the bill addresses the fiscal emergency. A bill addressing the fiscal emergency declared pursuant to this section that contains a statement to that effect, and is passed and sent to the Governor by the 45th day following the issuance of the proclamation declaring the fiscal emergency, shall take effect immediately upon enactment.

(4) (A) If the Legislature has not passed and sent to the Governor a bill or bills to address a fiscal emergency by the 45th day following the issuance of the proclamation declaring the fiscal emergency, the Governor may, by executive order, reduce or eliminate any existing General Fund appropriation for that fiscal year to the extent the appropriation is not otherwise required by this Constitution or by federal law. The total amount of appropriations reduced or eliminated by the Governor shall be limited to the amount necessary to cause General Fund expenditures for the fiscal year in question not to exceed the most recent estimate of General Fund revenues made pursuant to paragraph (1).

(B) If the Legislature is in session, it may, within 20 days after the Governor issues an executive order pursuant to subparagraph (A), override all or part of the executive order by a rollcall vote entered in the journal, two-thirds of the membership of each house concurring. If the Legislature is not in session when the Governor issues the executive order, the Legislature shall have 30 days to reconvene and override all or part of the executive order by resolution by the vote indicated above. An executive order or a part thereof that is not overridden by the Legislature shall take effect the day after the period to override the executive order has expired. Subsequent to the 45th day following the issuance of the proclamation declaring the fiscal emergency, the prohibition set forth in paragraph (2) shall cease to apply when (i) one or more executive orders issued pursuant to this paragraph have taken effect, or (ii) the Legislature has passed and sent to the Governor a bill or bills to address the fiscal emergency.

(C) A bill to restore balance to the budget pursuant to subparagraph (B) may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation, provided, however, that any bill that imposes a new tax or increases an existing tax must be passed by a two-thirds vote of the members of each house of the Legislature.

**SECTION SIX. Section 12 of Article IV of the California Constitution is hereby amended to read:**

SEC. 12. (a) (1) Within the first 10 days of each odd-numbered calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing two fiscal years, containing itemized statements for recommended state expenditures and estimated total state revenues resources available to meet those expenditures. The itemized statement of estimated total state resources available to meet recommended expenditures submitted pursuant to this subdivision shall identify the amount, if any, of those resources that are anticipated to be one-time resources. The two-year budget, which shall include a budget for the budget year and a budget for the succeeding fiscal year, shall be known collectively as the biennial budget. Within the

first 10 days of each even-numbered year, the Governor may submit a supplemental budget to amend or augment the enacted biennial budget.

(b) The biennial budget shall contain all of the following elements to improve performance and accountability:

- (1) An estimate of the total resources available for the expenditures recommended for the budget year and the succeeding fiscal year.
- (2) A projection of anticipated expenditures and anticipated revenues for the three fiscal years following the fiscal year succeeding the budget year.
- (3) A statement of how the budget will promote the purposes of achieving a prosperous economy, quality environment, and community equity, by working to achieve at least the following goals: increasing employment; improving education; decreasing poverty; decreasing crime; and improving health.
- (4) A description of the outcome measures that will be used to assess progress and report results to the public and of the performance standards for state agencies and programs.
- (5) A statement of the outcome measures for each major expenditure of state government for which public resources are proposed to be appropriated in the budget and their relationship to the overall purposes and goals set forth in paragraph (3).
- (6) A statement of how the State will align its expenditure and investment of public resources with that of other government entities that implement state functions and programs on behalf of the State to achieve the purposes and goals set forth in paragraph (3).
- (7) A public report on progress in achieving the purposes and goals set forth in paragraph (3) and an evaluation of the effectiveness in achieving the purposes and goals according to the outcome measures set forth in the preceding year's budget.

(c) If, for the budget year and the succeeding fiscal year, collectively, recommended expenditures exceed estimated revenues, the Governor shall recommend reductions in expenditures or the sources from which the additional revenues should be provided or both. To the extent practical, the recommendations shall include an analysis of the long-term impact that expenditure reductions or additional revenues would have on the state economy. Along with the biennial budget, the Governor shall submit to the Legislature, any legislation required to implement appropriations contained in the biennial budget.

together with a five-year capital infrastructure and strategic growth plan, as specified by statute.

(d) If the Governor's budget proposes to (1) establish a new state program, including a state-mandated local program described in Section 6 of Article XIII B, or a new agency, or expand the scope of an existing state program or agency, the effect of which would, if funded, be a net increase in state costs in excess of twenty-five million dollars (\$25,000,000) in that fiscal year or in any succeeding fiscal year, or (2) reduce a state tax or other source of state revenue, the effect of which will be a net decrease in state revenue in excess of twenty-five million dollars (\$25,000,000) in that fiscal year or any succeeding fiscal year, the budget shall propose offsetting state program reductions or additional revenue, or a combination thereof, in an amount that equals or exceeds the net increase in state costs or net decrease in state revenue. The twenty-five million dollar (\$25,000,000) threshold specified in this subdivision shall annually be adjusted for inflation pursuant to the California Consumer Price Index.

(be) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the biennial budget and any supplemental budget.

(ef) (1) The biennial budget and any supplemental budget shall be accompanied by a budget bill itemizing recommended expenditures for the budget year and the succeeding fiscal year. A supplemental budget bill shall be accompanied by a bill proposing the supplemental budget.

(2) The budget bill and other bills providing for appropriations related to the budget bill or a supplemental budget bill, as submitted by the Governor, shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) On or before May 1 of each year, after the appropriate committees of each house of the Legislature have considered the budget bill, each house shall refer the budget bill to a joint committee of the Legislature, which may include a conference committee, which shall review the budget bill and other bills providing for appropriations related to the budget bill and report its recommendations to each house no later than June 1 of each year. This shall not preclude the referral of any of these bills to policy committees in addition to a joint committee.

(3)(4) The Legislature shall pass the budget bill and other bills providing for appropriations related to the budget bill by midnight on June 15 of each year. Appropriations made in the budget bill, or in other bills providing for appropriations

related to the budget bill, for the succeeding fiscal year shall not be expended in the budget year.

~~(4)~~(5) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal budget year or the succeeding fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(dg) No bill except the budget bill or the supplemental budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools and appropriations in the budget bill, the supplemental budget bill, and in other bills providing for appropriations related to the budget bill, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

(eh) (1) Notwithstanding any other provision of law or of this Constitution, the budget bill, the supplemental budget bill, and other bills providing for appropriations related to the budget bill may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation. Nothing in this subdivision shall affect the vote requirement for appropriations for the public schools contained in subdivision (dg) of this section and in subdivision (b) of Section 8 of this article.

(2) For purposes of this section, "other bills providing for appropriations related to the budget bill or a supplemental budget bill" shall consist only of bills identified as related to the budget in the budget bill or in the supplemental budget bill passed by the Legislature.

(3) For purposes of this section, "budget bill" shall mean the bill or bills containing the budget for the budget year and the succeeding fiscal year.

(fi) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(gj) (1) For the 2004-05 fiscal year, or any subsequent fiscal year, the Legislature ~~may~~ shall not send to the Governor for consideration, nor ~~may~~ shall the Governor sign into law, a budget bill for the budget year or for the succeeding fiscal year that would appropriate from the General Fund, for ~~that~~ each fiscal year of the biennial budget, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant

to Section 20 of Article XVI, exceeds General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year estimated as of the date of the budget bill's passage. The estimate of General Fund revenues, transfers, and balances shall be set forth in the budget bill passed by the Legislature. The budget bill passed by the Legislature shall also contain a statement of the total General Fund obligations described in this subdivision for each fiscal year of the biennial budget, together with an explanation of the basis for the estimate of General Fund revenues, including an explanation of the amount by which the Legislature projects General Fund revenues for that fiscal year to differ from General Fund revenues for the immediately preceding fiscal year.

(~~hk~~) Notwithstanding any other provision of law or of this Constitution, including subdivision (ef) of this section, Section 4 of this article, and Sections 4 and 8 of Article III, in any year in which the budget bill is not passed by the Legislature by midnight on June 15, there shall be no appropriation from the current budget or future budget to pay any salary or reimbursement for travel or living expenses for Members of the Legislature during any regular or special session for the period from midnight on June 15 until the day that the budget bill is presented to the Governor. No salary or reimbursement for travel or living expenses forfeited pursuant to this subdivision shall be paid retroactively.

**SECTION SEVEN. Article XI A is hereby added to the California Constitution to read:**

ARTICLE XI A. COMMUNITY STRATEGIC ACTION PLANS

SEC. 1. (a) Californians expect and require that local government entities publicly explain the purpose of expenditures and whether progress is being made toward their goals. Therefore, in addition to the requirements of any other provision of this Constitution, the adopted budget of each local government entity shall contain all of the following as they apply to the entity's powers and duties:

(1) A statement of how the budget will promote, as applicable to a local government entity's functions, role, and locally-determined priorities, a prosperous economy, quality environment, and community equity, as reflected in the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, improving health, and other community priorities;

(2) A description of the overall outcome measurements that will be used to assess progress in all parts of the community toward the goals established by the local government entity pursuant to paragraph (1);



(3) A statement of the outcome measurement for each major expenditure of government for which public resources are appropriated in the budget and the relationship to the overall goals established by the local government entity pursuant to paragraph (1);

(4) A statement of how the local government entity will align its expenditure and investment of public resources to achieve the goals established by the local government entity pursuant to paragraph (1); and

(5) A public report on progress in achieving the goals established by the local government entity pursuant to paragraph (1) and an evaluation of the effectiveness in achieving the outcomes according to the measurements set forth in the previous year's budget.

(b) Each local government entity shall develop and implement an open and transparent process that encourages the participation of all aspects of the community in the development of its proposed budget, including identifying community priorities pursuant to paragraph (1) of subdivision (a) of this section.

(c) This section shall become operative in the budget year of the local government entity which commences in the year 2014.

(d) The provisions of this section are self-executing and are to be interpreted to apply only to those activities over which local entities exercise authority.

SEC. 2. (a) A county, by action of the board of supervisors, may initiate the development of a Community Strategic Action Plan, hereinafter referred to as the Action Plan. The county shall invite the participation of all other local government entities within the county whose existing functions or services are within the anticipated scope of the Action Plan. Any local government entity within the county may petition the board of supervisors to initiate an Action Plan, to be included in the planning process, or to amend the Action Plan.

(b) The participating local government entities shall draft an Action Plan through an open and transparent process that encourages the participation of all aspects of the community, including neighborhood leaders. The Action Plan shall include the following:

(1) A statement that (A) outlines how the Action Plan will achieve the purposes and goals set forth in paragraphs (1) through (5), inclusive, of subdivision (a) of Section 1 of this article, (B) describes the public services that will be delivered pursuant to the Action Plan and the roles and responsibilities of the participating entities, (C) explains why those services will be delivered more effectively and

efficiently pursuant to the Action Plan, (D) provides for an allocation of resources to support the plan, including funds that may be received from the Performance and Accountability Trust Fund, (E) considers disparities within communities served by the Action Plan, and (F) explains how the Action Plan is consistent with the budgets adopted by the participating local government entities;

(2) The outcomes desired by the participating local government entities and how those outcomes will be measured; and

(3) A method for regularly reporting outcomes to the public and to the State.

(c) (1) The Action Plan shall be submitted to the governing bodies of each of the participating local government entities within the county. To ensure a minimum level of collaboration, the Action Plan must be approved by the county, local government entities providing municipal services pursuant to the Action Plan to at least a majority of the population in the county, and one or more school districts serving at least a majority of the public school pupils in the county.

(2) The approval of the Action Plan, or an amendment to the Action Plan, by a local government entity, including the county, shall require a majority vote of the membership of the governing body of that entity. The Action Plan shall not apply to any local government entity that does not approve the Action Plan as provided in this paragraph.

(d) Once an Action Plan is adopted, a county may enter into contracts that identify and assign the duties and obligations of each of the participating entities, provided that such contracts are necessary for implementation of the Action Plan and are approved by a majority vote of the governing body of each local government entity that is a party to the contract.

(e) Local government entities which have adopted an Action Plan pursuant to this section and that have satisfied the requirements of Section 3 of this article, if applicable, may integrate state or local funds that are allocated to them for the purpose of providing the services identified by the Action Plan in a manner that will advance the goals of the Action Plan.

SEC. 3. (a) If the parties to an Action Plan adopted pursuant to Section 2 of this article conclude that a state statute or regulation, including a statute or regulation restricting the expenditure of funds, impedes progress toward the goals of the Action Plan or they need additional statutory authority to implement the Action Plan, the local government entities may include provisions in the Action Plan that are functionally equivalent to the objective or objectives of the applicable statute or regulation. The provision shall include a description of the intended state objective, of how the rule is an obstacle to better

outcomes, of the proposed community rule, and how the community rule will contribute to better outcomes while advancing a prosperous economy, quality environment, and community equity. For purposes of this section, a provision is functionally equivalent to the objective or objectives of a statute or regulation if it substantially complies with the policy and purpose of the statute or regulation.

(b) The parties shall submit an Action Plan containing the functionally equivalent provisions described in subdivision (a) with respect to one or more state statutes to the Legislature during a regular or special session. If, within 60 days following its receipt of the Action Plan, the Legislature takes no concurrent action, by resolution or otherwise, to disapprove the provisions, the provisions shall be deemed to be operative, with the effect in law that compliance with the provisions shall be deemed compliance with the state statute or statutes.

(c) If the parties to an Action Plan adopted pursuant to Section 2 of this article conclude that a regulation impedes the goals of the Action Plan, they may follow the procedure described in subdivision (a) of this section by submitting their proposal to the agency or department responsible for promulgating or administering the regulation, which shall consider the proposal within 60 days. If, within 60 days following its receipt of the Action Plan, the agency or department takes no action to disapprove the provisions, the provisions shall be deemed to be operative, with the effect in law that compliance with the provisions shall be deemed compliance with the state regulation or regulations. Any action to disapprove the provision shall include a statement setting forth the reasons for doing so.

(d) This section shall only apply to statutes or regulations that directly govern the administration of a state program that is financed in whole or in part with state funds.

(e) Any authority granted pursuant to this section shall automatically expire four years after the effective date, unless renewed pursuant to this section.

SEC. 4. (a) The Performance and Accountability Trust Fund is hereby established in the State Treasury for the purpose of providing state resources for the implementation of integrated service delivery contained in the Community Strategic Action Plans prepared pursuant to this article. Notwithstanding Section 13340 of the Government Code, money in the fund shall be continuously appropriated solely for the purposes provided in this article. For purposes of Section 8 of Article XVI, the revenues transferred to the Performance and Accountability Trust Fund pursuant to this Act shall be considered General Fund proceeds of taxes which may be appropriated pursuant to Article XIII B.

(b) Money in the Performance and Accountability Trust Fund shall be distributed according to statute to counties whose Action Plans include a budget for expenditure of the funds that satisfies Sections 1 and 2 of this article.

(c) Any funds allocated to school districts pursuant to an Action Plan must be paid for from a revenue source other than the Performance and Accountability Trust Fund, and may be paid from any other source as determined by the entities participating in the Action Plan. The allocation received by any school district pursuant to an Action Plan shall not be considered General Fund proceeds of taxes or allocated local proceeds of taxes for purposes of Section 8 of Article XVI.

SEC. 5. A county that has adopted an Action Plan pursuant to Section 2 of this article shall evaluate the effectiveness of the Action Plan at least once every four years. The evaluation process shall include an opportunity for public comments, and for those comments to be included in the final report. The evaluation shall be used by the participating entities to improve the Action Plan and by the public to assess the performance of its government. The evaluation shall include a review of the extent to which the Action Plan has achieved the purposes and goals set forth in paragraphs (1) through (5), inclusive, of subdivision (a) of Section 1 of this article, including: improving the outcomes among the participating entities in the delivery and effectiveness of the applicable governmental services; progress toward reducing community disparities; and whether the individuals or community members receiving those services were represented in the development and implementation of the Action Plan.

SEC. 6. (a) The State shall consider how it can help local government entities deliver services more effectively and efficiently through an Action Plan adopted pursuant to Section 2 of this article. Consistent with this goal, the State or any department or agency thereof may enter into contracts with one or more local government entities that are participants in an Action Plan to perform any function that the contracting parties determine can be more efficiently and effectively performed at the local level. Any contract made pursuant to this section shall conform to the Action Plan adopted pursuant to the requirements of Section 2 of this article.

(b) The State shall consider and determine how it can support, through financial and regulatory incentives, efforts by local government entities and representatives of the public to work together to address challenges and to resolve problems that local government entities have voluntarily and collaboratively determined are best addressed at the geographic scale of a region in order to advance a prosperous economy, quality environment, and community equity. The State shall promote the vitality and global competitiveness of regional economies and foster greater collaboration among local governments within regions by providing priority consideration for state-administered

funds for infrastructure and human services, as applicable, to those participating local government entities that have voluntarily developed a regional collaborative plan and are making progress toward the purposes and goals of their plan, which shall incorporate the goals and purposes set forth in paragraphs (1) through (5), inclusive, of subdivision (a) of Section 1 of this article.

SEC. 7. Nothing in this article is intended to abrogate or supersede any existing authority enjoyed by local government entities, nor to discourage or prohibit local government entities from developing and participating in regional programs and plans designed to improve the delivery and efficiency of government services.

SEC. 8. For purposes of this article, the term "local government entity" shall mean a county, city, city and county, and any other local government entity, including school districts, county offices of education, and community college districts.

**SECTION EIGHT. Section 29 of Article XIII of the California Constitution is hereby amended to read:**

SEC. 29. (a) The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them that is collected for them by the State. Before the contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election.

(b) Notwithstanding subdivision (a), on and after the operative date of this subdivision, counties, cities and counties, and cities, may enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or any successor provisions, that is collected for them by the State, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract.

(c) Notwithstanding subdivision (a), counties, cities and counties, cities, and any other local government entity, including school districts and community college districts, that are parties to a Community Strategic Action Plan adopted pursuant to Article XI A may enter into contracts to apportion between and among them the revenue they receive from ad valorem property taxes allocated to them, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract. Contracts entered into pursuant to this section shall be consistent with each participating entity's budget adopted in accordance with Section 1 of Article XI A.

**SECTION NINE.** Chapter 6 (commencing with Section 55750) is hereby added to Part 2 of Division 2 of Title 5 of the Government Code to read:

CHAPTER 6. COMMUNITY STRATEGIC ACTION PLANS.

SEC. 55750. (a) Notwithstanding Section 7101 of the Revenue and Taxation Code or any other provision of law, beginning in the 2013-14 fiscal year, the amount of revenues, net of refunds, collected pursuant to Section 6051 of the Revenue and Taxation Code and attributable to a rate of 0.035 percent shall be deposited in the State Treasury to the credit of the Performance and Accountability Trust Fund, as established pursuant to Section 4 of Article XI A of the California Constitution, and shall be used exclusively for the purposes for which that fund is created.

(b) To the extent that the Legislature reduces the sales tax base and that reduction results in less revenue to the Performance and Accountability Trust Fund than the Fund received in the 2013-14 fiscal year, the Controller shall transfer from the General Fund to the Performance and Accountability Trust Fund an amount that when added to the revenues received by the Performance and Accountability Trust Fund in that fiscal year equals the amount of revenue received by the Fund in the 2013-2014 fiscal year.

SEC. 55751. (a) Notwithstanding Section 7101 of the Revenue and Taxation Code or any other provision of law, beginning in the 2013-14 fiscal year, the amount of revenues, net of refunds, collected pursuant to section 6201 of the Revenue and Taxation Code and attributable to a rate of 0.035 percent shall be deposited in the State Treasury to the credit of the Performance and Accountability Trust Fund, as established pursuant to Section 4 of Article XI A of the California Constitution, and shall be used exclusively for the purposes for which that fund is created.

(b) To the extent that the Legislature reduces the use tax base and that reduction results in less revenue to the Performance and Accountability Trust Fund than the Fund received in the 2013-14 fiscal year, the Controller shall transfer from the General Fund to the Performance and Accountability Trust Fund an amount that when added to the revenues received by the Performance and Accountability Trust Fund in that fiscal year equals the amount of revenue received by the Fund in the 2013-14 fiscal year.

SEC. 55752. (a) In the 2014-15 fiscal year and every subsequent fiscal year, the Controller shall distribute funds in the Performance and Accountability Trust Fund established pursuant to Section 4 of Article XI A of the California Constitution to each county that has adopted a Community Strategic Action Plan that is in effect on or before June 30 of the preceding fiscal year, and that has submitted its Action Plan to the Controller for the purpose of requesting funding under this section. The distribution shall be made in the first quarter of the fiscal year. Of the total amount available for

distribution from the Performance and Accountability Trust Fund in a fiscal year, the Controller shall apportion to each county Performance and Accountability Trust Fund, which is hereby established, to assist in funding its Action Plan, a percentage equal to the percentage computed for that county under subdivision (c).

(b) As used in this section, the population served by a Community Strategic Action Plan is the population of the geographic area that is the sum of the population of all of the participating local government entities, provided that a resident served by one or more local government entities shall be counted only once. The Action Plan shall include a calculation of the population of the geographic area served by the Action Plan, according to the most recent Department of Finance demographic data.

(c) The Controller shall determine the population served by each county's Action Plan as a percentage of the total population computed for all of the Action Plans that are eligible for funding pursuant to subdivision (a).

(d) The funds provided pursuant to Section 4 of Article XI A of the California Constitution and this chapter represent in part ongoing savings that accrue to the State that are attributable to the 2011 realignment and to the measure that added this section. Four years following the first allocation of funds pursuant to this section, the Legislative Analyst's Office shall assess the fiscal impact of the Action Plans and the extent to which the plans have improved the efficiency and effectiveness of service delivery or reduced the demand for state-funded services.

**SECTION TEN. Section 42246 is hereby added to Article 2 of Chapter 7 of Part 24 of Division 3 of Title 2 of the Education Code to read:**

SEC. 42246. Funds contributed or received by a school district pursuant to its participation in a Community Strategic Action Plan authorized by Article XI A of the California Constitution shall not be considered in calculating the State's portion of the district's revenue limit under Section 42238 or any successor statute.

**SECTION ELEVEN. Section 9145 is hereby added to Article 7 of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code to read:**

SEC. 9145. For the purposes of Sections 9.5 and 12 of Article IV of the California Constitution, the following definitions shall apply:

(a) "Expand the scope of an existing state program or agency" does not include any of the following:

(1) Restoring funding to an agency or program that was reduced or eliminated in any fiscal year subsequent to the 2008-09 fiscal year to balance the budget or address a forecasted deficit.

(2) Increases in state funding for a program or agency to fund its existing statutory responsibilities, including increases in the cost of living or workload, and any increase authorized by a memorandum of understanding approved by the Legislature.

(3) Growth in state funding for a program or agency as required by federal law or a law that is in effect as of the effective date of the measure adding this section.

(4) Funding to cover one-time expenditures for a state program or agency, as so identified in the statute that appropriates the funding.

(5) Funding for a requirement described in paragraph (5) of subdivision (b) of Section 6 of Article XIII B of the California Constitution.

(b) "State costs" do not include costs incurred for the payment of principal or interest on a state general obligation bond.

(c) "Additional revenue" includes, but is not limited to, revenue to the State that results from specific changes made by federal or state law and that the state agency responsible for collecting the revenue has quantified and determined to be a sustained increase.

**SECTION TWELVE.** Section 11802 is hereby added to Article 1 of Chapter 8 of Part 1 of Division 3 of Title 2 of the Government Code to read:

SEC. 11802. No later than June 30, 2013, the Governor shall, after consultation with state employees and other interested parties, submit to the Legislature a plan to implement the performance-based budgeting provisions of Section 12 of Article IV of the California Constitution. The plan shall be fully implemented in the 2015-16 fiscal year and in each subsequent fiscal year.

**SECTION THIRTEEN.** Section 13308.03 is hereby added to Article 1 of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code to read:

SEC. 13308.03. In addition to the requirements set forth in Section 13308, the Director of Finance shall:

(a) By May 15 of each year, submit to the Legislature and make available to the public updated projections of state revenue and state expenditures for the budget year and the succeeding fiscal year either as proposed in the budget bill pending in one or both houses of the Legislature or as appropriated in the enacted budget bill, as applicable.



(b) Immediately prior to passage of the biennial budget, or any supplemental budget, by the Legislature, submit to the Legislature a statement of total revenues and total expenditures for the budget year and the succeeding fiscal year, which shall be incorporated into the budget bill.

(c) By November 30 of each year, submit a fiscal update containing actual year-to-date revenues and expenditures for the current year compared to the revenues and expenditures set forth in the adopted budget to the Legislature. This requirement may be satisfied by the publication of the Fiscal Outlook Report by the Legislative Analyst's Office.

**SECTION FOURTEEN. Amendment.**

The statutory provisions of this measure may be amended solely to further the purposes of this measure by a bill approved by a two-thirds vote of the members of each house of the Legislature and signed by the Governor.

**SECTION FIFTEEN. Severability.**

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, that finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

**SECTION SIXTEEN. Effective Date.**

Sections Four, Five, and Six of this Act shall become operative on the first Monday of December in 2014. Unless otherwise specified in the Act, the other sections of the Act shall become operative the day after the election at which the Act is adopted.

**SECTION SEVENTEEN. Legislative Counsel.**

(a) The People find and declare that the amendments proposed by this measure to Section 12 of Article IV of the California Constitution are consistent with the amendments to Section 12 of Article IV of the California Constitution proposed by Assembly Constitutional Amendment No. 4 of the 2009-10 Regular Session (Res. Ch. 174, Stats. 2010) (hereafter "ACA 4"), which will appear on the statewide general election ballot of November 4, 2014.

(b) For purposes of the Legislative Counsel's preparation and proofreading of the text of ACA 4 pursuant to Sections 9086 and 9091 of the Elections Code, and Sections 88002 and 88005.5 of the Government Code, the existing provisions of Section 12 of Article IV of the California Constitution shall be deemed to be the provisions of that section as amended by this measure. The Legislative Counsel shall prepare and proofread the text of ACA 4, accordingly, to distinguish the changes proposed by ACA 4 to Section 12 of Article IV of the California Constitution from the provisions of Section 12 of Article IV of the California Constitution as amended by this measure. The Secretary of State shall place the complete text of ACA 4, as prepared and proofread by the Legislative Counsel pursuant to this section, in the ballot pamphlet for the statewide general election ballot of November 4, 2014.



August 17, 2012

1100 K Street  
Suite 101  
Sacramento  
California  
95814  
*Telephone*  
916.327-7500  
*Facsimile*  
916.441.5507

**To:** CSAC Board of Directors

**From:** Efren Carillo, Chair, CSAC Housing, Land Use and Transportation Committee  
& Chair, CSAC Task Force on High-Speed Rail  
DeAnn Baker, CSAC Senior Legislative Representative  
Kiana Buss, CSAC Senior Legislative Analyst

**Re:** **Final Draft CSAC Policies & Priority Issues for Implementation of the California High-Speed Rail Project**

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**Background.** The CSAC Board of Directors approved establishing a Task Force under the purview of the CSAC Housing, Land Use and Transportation Committee to review CSAC's position on High Speed Rail (HSR). The initial meeting of the Task Force was held on July 9. The CSAC Task Force on High-Speed Rail decided it was best for CSAC to focus on issues related to implementation of the HSR Project, especially in light of the enactment of SB 1029 in July that appropriates state and federal funds to begin construction of the Initial Operating Segment through the Central Valley. SB 1029 also appropriates funds to upgrade numerous existing transit, rail, and intercity rail system for connectivity purposes.

It should be noted that following the initial meeting of the Task Force, CSAC staff met with High-Speed Rail Authority staff (Dennis Trujillo, Chief of External Affairs and Gregg Albright, Interim Deputy Director of Planning) to discuss the initial concerns raised. They committed to working with CSAC to improve communications with counties and discuss appropriate mitigation. As such, they welcome further communication with CSAC to address the concerns of affected counties. Specifically, we agreed that a staff level working group would be most productive to identify and work through implementation issues and concerns.

The CSAC Executive Committee approved the Draft Policies and Priority Issues with some additional language which is included in the Final Draft (attached). Specifically, the Executive Committee requested language supporting regular communication and updates from the Authority on the need for and status of the project and the project funding and financing. Additional comments were made during the Executive Committee meeting in support of existing regional rail services. Staff also added language supporting existing regional rail services.

**Action Requested.** Attached is the Final Draft of the Policies and Priority Issues related to Implementation of the HSR Project that the Task Force identified during our meeting. We are seeking support from the CSAC Board of Directors to proceed with further discussions with the HSR Authority based on the issues outlined in the document.



**CSAC Policies & Priority Issues for Implementation of the California High-Speed Rail Project**

*Adopted by the CSAC Executive Committee on August 2, 2012*

*Pending Approval from the CSAC Board of Directors on September 6, 2012*

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CSAC has supported the California High-Speed Rail Project (HSR Project) since February 2007 when the CSAC Board of Directors approved a resolution expressing support for the allocation of state bond funds for the further development and completion of the Project as described in the High-Speed Rail Authority's (Authority) completed business and implementation plans as well as the approved environmental documents to date.

Since that time, the HSR Project has changed in terms of the design, implementation, and cost of the proposed Project. Counties have had over five years of experience working with the Authority on the HSR Project and specific local impacts that necessitate additional CSAC policy and identification of priority issues critical to the successful implementation of the HSR Project.

**Policies & Priority Issues**

Communicate with Openness, Transparency, & Accountability. It is imperative that the Authority work and communicate with counties and other affected parties in an open, transparent, and consistent fashion. As is required of county staff, the Authority staff and its consultants must be educated and up to date on the issues specific to a particular county and must be ready to discuss the issues openly and be accountable for the commitments and decisions made during meetings with counties. The Authority should provide regular updates to counties and other interested and affected parties regarding the need for and current status of the project as well as the status of financing and funding for the High-Speed Train. The Authority should prioritize the need to address local impacts early in the environmental review process prior to the Final Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) so as not to diminish local agency review time and comment on items not adequately addressed in the Draft EIR/EIS.

Robust Environmental Review. While CSAC supports streamlined environmental review processes for projects with little to no environmental impact or for projects critical to public safety, the California HSR Project is the largest public works project in decades and deserves the full spectrum of environmental review.

Public Comment. Counties need adequate time and resources in order to provide meaningful and comprehensive comments on environmental documents, changes to the business and implementation plans, etc. The Authority should provide longer public comment periods than required by law considering the complexity of the proposed HSR Project. Further, similar to what has occurred with the Bay Delta Plan, the Authority should provide counties financial resources to support enough staff to provide meaningful and comprehensive feedback on the proposed HSR Project.



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Conflicts with General Plans & Other Local Plans. The Authority must understand and respect the role of local elected officials in land use decisions. The proposed HSR alignment is in direct conflict with some local general plans and elements of general plans. Specifically, the proposed alignment is inconsistent with flood zones, urban growth boundaries, etc. The Authority should work to ensure conflicts with local plans are minimized and adequate mitigation is evaluated for unavoidable impacts.

Direct & Indirect Economic Impacts. The HSR Project will create both positive and negative and direct and indirect economic impacts in California and specifically in the local communities where the HSR Project is located. For example, the California economy depends on dairy and agricultural production in the Central Valley and counties and other local communities depend on the tax revenues dairy and agricultural production generates. Both direct and indirect economic impacts should be acknowledged and mitigated to the extent possible.

Mitigation of Local Impacts. The Authority must mitigate local impacts to the greatest extent feasible. For instance, the Initial Operating Segment (IOS) through the Central Valley has the potential to significantly affect and displace hundreds of local commercial, industrial and agricultural businesses. The Authority should work to mitigate those impacts. For example, securing the permits necessary to move a dairy is costly and time consuming. The Authority can work with its state agency partners, the Governor, and the Legislature to streamline the permitting process to relocate dairy and agricultural production. The cost of the relocation for dairy, agricultural production, and businesses, including the cost of environmental review, should also be borne by the Authority as a part of the cost for the entire HSR Project.

Additionally, the proposed HSR Project can potentially, depending on the final alignment, affect air quality, water quality, hydrology, mineral resources, utilities, service systems, noise, etc. The project can interrupt existing mass transit services and create a different or increased demand for critical emergency services. These impacts must also be adequately addressed and mitigated.

Ongoing Funding for Capital, Operations, & Maintenance of High-Speed Train, Existing Regional Rail, and California's Multi-Modal Transportation Network. Other transportation systems and modes should be insulated from a reduction in revenues in order to support the HSR Project. All other modes of transportation are facing significant funding shortfalls simply for preservation and safety purposes, let alone for expansion needs. Current revenue streams, such as state gasoline excise taxes, which support state highways and local streets and roads, are declining revenue streams and cannot keep pace with the needs. The HSR Project must pay for itself including long-term operations and maintenance. The HSR Project must also complement existing regional rail systems so as to maximize the benefits from the new High-Speed Train service. The State must continue to maintain the current role of these existing successful rail systems.



CALIFORNIA STATE ASSOCIATION OF COUNTIES  
FINANCE CORPORATION

August 22, 2012

**To:** CSAC Board of Directors  
**From:** Nancy Parrish, Executive Director, CSAC Finance Corporation  
**RE:** Appointment of Regular and Alternate Commissioners to CSCDA – **Action Item**

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**Recommendation:** Appoint Dan Mierzwa, Treasurer-Tax Collector of Yuba County, as a regular member to the California Statewide Communities Development Authority Board of Commissioners and appoint an alternate member.

**Background:** Per the Joint Powers Agreement (JPA) of the California Statewide Communities Development Authority (CSCDA), the CSAC Board may appoint commissioners and alternate commissioners to the CSCDA Board of Commissioners:

*Each of CSAC and LCC may appoint an alternate member of the Commission for each member of the Commission which it appoints. Such alternate member may act as a member of the Commission in place of and during the absence or disability of such regularly appointed member. All references in this Agreement to any member of the Commission shall be deemed to refer to and include the applicable alternate member when so acting in place of a regularly appointed member.*

The appointment of Dan Mierzwa as a regular member would fill the seat previously held by Steve Keil. Dan Mierzwa has been serving as alternate member since appointed by this Board in November, 2010.

**Action Requested:** Staff is requesting that the Board of Directors consider and appoint Dan Mierzwa, Treasurer-Tax Collector of Yuba County, as a regular CSCDA Commissioner and appoint another county official as an alternate CSCDA Commissioner.

**Staff Contact:** Please contact Nancy Parrish at [nparrish@counties.org](mailto:nparrish@counties.org) or 916.650.8120 or Laura Labanieh Campbell at [llabanieh@counties.org](mailto:llabanieh@counties.org) or 916.650.8186 with your questions.



CALIFORNIA STATE ASSOCIATION OF COUNTIES  
FINANCE CORPORATION

September 6, 2012

**To:** CSAC Board of Directors  
**From:** Nancy Parrish, Executive Director, CSAC Finance Corporation  
**RE:** CSAC Finance Corporation Update

---

**New Program Development**

**Medicare Eligible Retiree Healthcare**

On July 20<sup>th</sup> the CSAC Finance Corporation issued a request for proposals for a program to offer more affordable healthcare options for Medicare eligible county retirees. Unlike virtually every other product or service in the marketplace, group Medicare plans are typically significantly more expensive than individual plans. By partnering with a provider who offers one or more individual plans, the CSAC Finance Corporation seeks to offer significant savings to employers and/or retirees on these costs. Employers who cover some or all of the cost of retiree healthcare would benefit from less costly plans and by shifting the cost of employees who are eligible for Medicare but have not utilized the program. Additionally, much of the administrative burden would be moved to the provider or exchange. In counties where retirees are responsible for some or all of the cost of benefits, those retirees will benefit from any savings generated and enjoy greater choice in selecting the benefits that best suit their needs.

**Onsite Employee Healthcare Facilities**

We have visited the Santa Barbara County facility and are working with their staff to begin producing a request for proposals for this program. We expect to issue the bid in late 2012.

**Trendline Health**

Trendline provides employee health care and workers' compensation prefunding utilizing a statistical and actuarial model to quantify costs over a three year period. Utilizing this information, a county can turn a previously unpredictable, growing expense into a predictable fixed liability that creates savings by funding the net present value. Give that this is primarily a public finance program; we have referred them to CSCDA.

**The following are highlights of existing CSAC Finance Corporation programs:**

**CalTRUST**

- CalTRUST currently has assets of approximately \$1.1 billion and 143 participant accounts.
- CalTRUST expects assets to reach \$1.2 billion and to increase the number of participants to 150 this year.
- The next meeting of the CalTRUST Board of Trustees will be held September 12, 2012.

**California Communities (CSCDA)**

- CSCDA is cooperating with the State Auditor's office to complete the audit requested by the State Treasurer and we expect to have a final report in late August.

**U.S. Communities**

- We are working with U.S. Communities staff to increase our collaborative marketing activities. Initially we are focused on the providers for the new temporary staffing and facilities solutions to actively market those contracts throughout the state. Both of these contracts have significant potential for our members.

**Coast2CoastRx**

- Coast2Coast is now offered in 21 counties and is saving participants in California over \$2.8 million each month.

**General Information**

- The next meeting of the CSAC Finance Corporation Board of Directors will be held September 13<sup>th</sup> & 14<sup>th</sup>, 2012. Please see attached agenda.
- We continue to meet with individual counties and their department heads to present our programs and benefits. Please let us know if you would like a meeting set with your county's department heads.

**CSAC Finance Corporation Board of Directors**

The CSAC Finance Corporation Board of Directors has appointed Robert Bendorf, CAO of Yuba County, to its Board. Robert brings a wealth of experience and is extremely committed to supporting the Finance Corporation.

If you have any questions regarding any CSAC Finance Corporation programs please do not hesitate to contact us via phone, 916.650.8120, or via email, [nparrish@counties.org](mailto:nparrish@counties.org); Laura Labanieh Campbell at 916.650.8186 or [llabanieh@counties.org](mailto:llabanieh@counties.org).





CALIFORNIA STATE ASSOCIATION OF COUNTIES  
FINANCE CORPORATION

NOTICE OF REGULAR MEETING AND AGENDA

NOTICE

Notice is hereby given that a regular meeting of the Board of Directors of the CSAC Finance Corporation will be held on September 13-14, 2012 at 8:00 a.m. at La Valencia Hotel, 1132 Prospect Street, La Jolla, CA 92037.

**Public Comment** – In accordance with Board Policy, any member of the public may address the Board concerning any matter on the agenda before the Board acts on it and on any other matter during the public comment period at the conclusion of the agenda.

AGENDA

September 13, 2012  
8:30 a.m.

- 1. Roll Call
  - \_\_\_\_\_ Mark Saladino, **President**
  - \_\_\_\_\_ Joni Gray, **Vice President**
  - \_\_\_\_\_ Les Brown, **Secretary/Treasurer**
  - \_\_\_\_\_ Robert Bendorf
  - \_\_\_\_\_ Greg Cox
  - \_\_\_\_\_ Mike Johnson
  - \_\_\_\_\_ Steve Juarez
  - \_\_\_\_\_ Paul McIntosh
  - \_\_\_\_\_ Pat O’Connell
  - \_\_\_\_\_ Larry Spikes
  - \_\_\_\_\_ Tom Ford, **Board Member Emeritus**
  - \_\_\_\_\_ Steve Swendiman, **Board Member Emeritus**
  
  - \_\_\_\_\_ Nancy Parrish, *Executive Director*
  - \_\_\_\_\_ Steven Woodside, *Legal Counsel*
  
- 2. Welcome and Introductions  
*Mark Saladino*
  
- 3. Consideration of the Minutes from the Previous Board Meetings ..... Tab 1  
*Mark Saladino*
  - a. Annual Board Meeting of April 26-27, 2012
  - b. Teleconference Board Meeting of June 13, 2012
  - c. Teleconference Board Meeting of July 11, 2012
  
- 4. CSAC Update ..... Tab 2  
*Steve Keil*
  
- 5. CalTRUST Update ..... Tab 3  
*Chuck Lomeli, Lyle Defenbaugh, and Mike Rodgers*
  
- 6. NACo & NACo Financial Services Center Update  
*Larry Naake*

7.	<b><u>Nationwide Retirement Solutions Update</u></b> .....	Tab 4
	<i>Rob Bilo and John Borne</i>	
8.	<b><u>California Communities Update</u></b> .....	Tab 5
	<i>James Hamill and Cathy Bando</i>	
9.	<b><u>US Communities Update</u></b> .....	Tab 5
	<i>Kevin Juhring and Bryan Shumey</i>	
10.	<b><u>Coast2Coast Program Update</u></b> .....	Tab 5
	<i>Laura or Nancy</i>	
11.	<b><u>CSAC Corporate Programs Update</u></b> .....	Tab 6
	<i>John Samartzis</i>	
12.	<b><u>Public Comment</u></b>	
	September 14, 2012 9:00 a.m.	
13.	<b><u>Roll Call</u></b>	
	_____ Mark Saladino, <b>President</b>	
	_____ Joni Gray, <b>Vice President</b>	
	_____ Les Brown, <b>Secretary/Treasurer</b>	
	_____ Robert Bendorf	
	_____ Greg Cox	
	_____ Mike Johnson	
	_____ Steve Juarez	
	_____ Paul McIntosh	
	_____ Pat O'Connell	
	_____ Larry Spikes	
	_____ Tom Ford, <b>Board Member Emeritus</b>	
	_____ Steve Swendiman, <b>Board Member Emeritus</b>	
	_____ Nancy Parrish, <i>Executive Director</i>	
	_____ Steven Woodside, <i>Legal Counsel</i>	
14.	<b><u>Medicare Retiree Health Benefit Program Update</u></b> .....	Tab 9
	<i>Nancy Parrish</i>	
15.	<b><u>Property Tax Postponement Loan Program Update</u></b> .....	Tab 9
	<i>Laura Labanieh Campbell</i>	
16.	<b><u>Marketing Update</u></b> .....	Tab 9
	<i>Laura Labanieh Campbell</i>	
17.	<b><u>Potential New Programs to Pursue</u></b> .....	Tab 9
	<i>Nancy Parrish &amp; Laura Labanieh Campbell</i>	
18.	<b><u>Budget &amp; Financial Update</u></b> .....	Tab 10
	<i>Les Brown &amp; Nancy Parrish</i>	
19.	<b><u>Consideration of Audited Financial Statements</u></b> .....	Tab 11
	<i>Pat O'Connell</i>	
20.	<b><u>Future Meetings</u></b> .....	Tab 12
	<i>Laura Labanieh Campbell</i>	

a. 2013 Annual Meeting – April 24-26, 2013 @ Sonoma Mission Inn

b. 2013 Fall Meeting – September 11-13, 2013 @ The Biltmore Santa Barbara

21. **Other Business**
22. **Public Comment**
23. **Adjourn**

A person with a qualifying disability under the Americans with Disabilities Act of 1990 may request the Agency provide a disability-related modification or accommodation in order to participate in any public meeting of the Agency. Such assistance includes appropriate alternative formats for the agendas and agenda packets used for any public meetings of the Agency. Requests for such assistance and for agendas and agenda packets shall be made in person, by telephone, facsimile, or written correspondence to the Agency office, at least 48 hours before a public Agency meeting.



CALIFORNIA STATE ASSOCIATION OF COUNTIES  
FINANCE CORPORATION

**September 6, 2012**

**To:** CSAC Board of Directors  
**From:** John Samartzis, Director of Corporate Relations  
**RE:** Corporate Membership & Sponsorship Update

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**BACKGROUND:**

The CSAC Corporate Membership and Sponsorship Programs are growing steadily. For this fiscal year, we have invoiced and received nearly \$250,000 in membership and sponsorship. That figure is more than double what the program earned in the previous fiscal year.

We have developed a half-day Innovation Summit (see attached agenda) that will be held immediately prior to the Annual Conference in November. We have invited the CIO's from Los Angeles and San Diego Counties and are seeking another one or two from some smaller rural counties. The Summit is designed to educate county supervisors and staff on innovative strategies to improve services and productivity and/or reduce costs. We expect three to four sponsors for the event.

Several new sponsorship opportunities have also been added to increase revenue and corporate participation. We have secured a sponsor for the New Supervisors Breakfast on Tuesday morning and have several companies interested in sponsoring the new conference app that will be available to all attendees. Other sponsored events include several receptions and the hotel key cards.

# 2012 Innovation Summit

On Monday, November 26<sup>th</sup>, immediately prior to CSAC's Annual Conference in Long Beach, we will be holding CSAC's inaugural **Innovation Summit**. The Innovation Summit is designed specifically to help county officials learn creative solutions other local governments are using to lower government cost of doing business, grow and sustain economic development, enhance citizen quality of life, and increase transparency.

Local government resources may be down, but needs are up. In this environment of cutbacks and service reductions there are some incredibly innovative ways to improve services while reducing costs and increasing accountability. The Innovation Summit is designed to give non-technical county officials real-world examples of solutions that work. Whether you're from an urban, suburban or rural county you will walk away from this half-day event with ideas you can use today in your county.

This is a must-attend event for county elected and appointed officials looking for practical solutions to maintain or enhance services during these challenging times. Come hear from your peers – County Supervisors, Administrative Officers and Chief Information Officers – what solutions they are using to do more with less. This half-day session will showcase some of the most creative county leaders in the state sharing their innovative solutions for surviving and thriving in a down economy.

The Innovation Summit will include panels on topics such as:

- ❖ Shared Services
- ❖ Mobility Services
- ❖ Broadband
- ❖ Economic Development
- ❖ Document Management
- ❖ Public Health
- ❖ Cloud-Based Services

At the end of the day, join all of the presenters and sponsors for a reception and speak to them directly about the ways they are improving services while cutting costs.



FOUNDED 1955

# INSTITUTE FOR LOCAL GOVERNMENT

## Update on Activities 9/12

### Supporting CSAC Outreach and Education Efforts

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Rick Haffey

County Administrative Officer

Nevada County

#### BOARD MEMBERS EMERITI

Don Benninghoven

Former Executive Director

Cities Counties Schools Partnership

Gordon Paul Smith

Former Director of State Finance

State of California

- **Board/Chief Executive Materials.** This set of four tip sheets offer ideas for optimizing the governing board/ chief executive (relationship). [www.ca-ilg.org/Board-Chief Executive Relations](http://www.ca-ilg.org/Board-Chief-Executive-Relations). They were prepared in conjunction with a June CSAC Institute session ILG organized for the CSAC Institute. Supervisor McGowan was a panelist for that session.
- **Technology and Meetings.** This whitepaper identifies issues that arise for local officials in using technology in the public meeting context, as well as sample local agency policies that deal with those issues. [www.ca-ilg.org/technology-and-meetings](http://www.ca-ilg.org/technology-and-meetings).
- **Online Engagement Guide.** This resource focuses on local agencies' use of online tools and technologies to enhance and support resident engagement in local agency decision-making. [www.ca-ilg.org/local-officials-guide-online-engagement](http://www.ca-ilg.org/local-officials-guide-online-engagement)
- **Central Valley Workshops on Public Engagement Strategies.** Outreach is underway for two free September workshops (in Visalia and Modesto) for local officials and community-based organizations. The focus will be public engagement strategies, including partnerships with community-based organizations to increase public engagement in local agency decision-making. <http://publicparticipationworkshops.eventbrite.com>
- **Engaging Communities in SB 375 Processes.** The latest in ILG's series of SB 375 guides discusses public engagement strategies for regional transportation planning in California, especially with regard to the preparation of sustainable communities strategies required by SB 375. [www.ca-ilg.org/document/understanding-sb-375-opportunities-engage-public-regional-planning](http://www.ca-ilg.org/document/understanding-sb-375-opportunities-engage-public-regional-planning)
- **Dealing with Deeply Held Opinions in Public Engagement Processes.** Designing public engagement processes and engaging the community in conversations about issues where individuals have strong views can be a challenge. This tip sheet offers a number of suggestions for maximizing the success of such efforts. [www.ca-ilg.org/DeeplyHeldConcerns](http://www.ca-ilg.org/DeeplyHeldConcerns) ILG staff offered a segment on this topic in a webinar for local officials on engaging the community in energy efficiency projects and climate action planning.

- **Spotlighting Energy Efficiency in California Communities.** This whitepaper highlights creative energy efficiency policies and projects that save energy and money. [www.ca-ilg.org/SpotlightingEnergyEfficiency](http://www.ca-ilg.org/SpotlightingEnergyEfficiency).
- **Sustainability's Many Faces.** This whitepaper describes the different ways counties and cities lead their communities to promote sustainability and create vibrant communities. [www.ca-ilg.org/SustainabilityManyFaces](http://www.ca-ilg.org/SustainabilityManyFaces).
- **Updated Brochure for those New to Public Service.** The Institute has updated this brochure for local agencies to know about ILG's online resource center for newly electeds and staff. [www.ca-ilg.org/overview/new-local-public-service](http://www.ca-ilg.org/overview/new-local-public-service).



## Highlighting the Good Work Being Done at the Local Level

- **Beacon Award Recognition Program.** The Institute recognized San Diego and Sonoma counties during the last quarter for their leadership in pursuing efforts to save energy, reduce greenhouse gas emissions and promote sustainability. Each county's accomplishments is showcased on the Institute's website, through media releases prepared for the counties, and at gatherings of local officials. Congratulations to San Diego and Sonoma counties!  
([www.ca-ilg.org/BeaconAward/SanDiegoCounty](http://www.ca-ilg.org/BeaconAward/SanDiegoCounty);  
[www.ca-ilg.org/BeaconAward/SonomaCounty](http://www.ca-ilg.org/BeaconAward/SonomaCounty))



### INSTITUTE PROGRAM STAFF CONTACT INFORMATION

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Kelly Plag, Director, Communications and Development • 916.658.8231 • [kplag@ca-ilg.org](mailto:kplag@ca-ilg.org)

Terry Amsler, Director, Public Engagement • 916.658.8263 • [tamsler@ca-ilg.org](mailto:tamsler@ca-ilg.org)

Yvonne Hunter, Co-Director, Sustainability • 916.658.8242 • [yhunter@ca-ilg.org](mailto:yhunter@ca-ilg.org)

Steve Sanders, Co-Director, Sustainability • 916.658.8245 • [ssanders@ca-ilg.org](mailto:ssanders@ca-ilg.org)

#### General Contact Information:

Telephone: 916.658.8208 • Fax: 916.444.7535 • 1400 K Street, Suite 205, Sacramento, CA 95814

## Cities Counties Schools Partnership



- **Board.** The CCS board met on June 28 and adopted a three-pronged strategy for encouraging local agencies to consider community schools partnerships:

1. **Awards.** Focus the CCS award category within each association's award program on efforts relating to forging community schools partnerships.
2. **Conference Programs.** Encourage each association to offer conference program planning on the how's and why's of community schools partnerships.
3. **Toolkit.** Secure funding to develop a toolkit on creating a toolkit for school, city and county officials on such partnerships.

The next CCS Partnership board meeting will be on September 28. Topics for discussion will include transportation (including Safe Routes to Schools) as well as realignment.

The board also adopted the 2012-2013 CCS budget and renewed the relationship with the Institute for staffing services for another year.

- **Executive Directors Meeting.** The three association (LCC, CSBA and CSAC) executive directors met on June 11 and discussed a variety of issues of mutual interest.
- **Safe Routes to Schools.** CCS has a three-year contract with the State Department of Public Health. Years two and three of that contract are focused on creating a Safe Routes to Schools Toolkit for city, county, and school decision-makers.

Staff is incorporating Department of Public Health comments on the draft toolkit, which will largely be a web-based resource that the project staff and consultants. In addition, several local officials have volunteered to serve on the advisory committee that will be reviewing and providing input on the resource.

### CSAC Representatives on CCS Board

The following county supervisors represent CSAC on the CCS Partnership Board of Directors:

- John Gioia, Contra Costa County
- Dave Cortese, Santa Clara County
- Don Saylor, Yolo County
- Brad Wagenknecht, Napa County

Supervisor Gioia chairs the CCS Partnership.

The CSAC Executive Director also represents CSAC on the CCS Board.



# Report to the CSAC Board of Directors

September, 2012



## Valued Continuing Education Resource from CSAC

February 2013 will mark the *fourth anniversary* of the CSAC Institute. Starting with the first class on February 19, 2009 the popularity and demand for the Institute as a continuing education resource for California Counties has grown dramatically. A few data points help tell the story through the end of August, 2012:

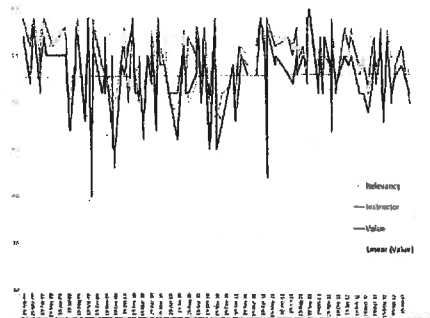
- ❖ Total courses offered ..... 111
- ❖ Number of individuals who have attended at least one course ..... 1,392
- ❖ Number of counties who have participated ..... 58
- ❖ Total number of course attendees ..... 2,790
- ❖ Average number of courses/participant ..... 2.0
- ❖ Number of individuals who hold an Institute Credential ..... 61

Even more telling is how participants view the courses. The Institute conducts a written evaluation on every class. Participants rate various aspects of the class on a 1-6 scale, with six the highest score.

Several highlights for all 111 courses include:

- ❖ Average for "relevancy of course content" ..... 5.5
- ❖ Average for "instructor effectiveness" ..... 5.4
- ❖ Average for "overall value of the course" ..... 5.3

Of the 111 courses, only 16 scored less than a 5.0 in "overall value". The chart shows the average ratings for each class over time, with the most recent course ratings on the right. The trend line for "overall value" has steadily increased from 5.2 to 5.3. Also telling are the comments from participants. Here are just a few from recent classes:



- ♦ *One of the best courses I have attended – great subject, instructor, real-life examples – very engaging!* (Detecting Fraud)
- ♦ *I learned a lot more than expected. Very well organized. Good job!!* (Behavioral Health)
- ♦ *There were many great things I understand more clearly. Everything was awesome. Instructor was able to keep my attention all course long. All just great!* (Cost Principles)
- ♦ *Really relevant. Helped me understand the history of realignment and the political directions of different decisions that were made in relation to realignment.* (Financing California Counties)
- ♦ *It inspires me during a time when we are about to embark on some challenging employee negotiations.* (Negotiations and Collaboration)
- ♦ *I refreshed my understanding of these concepts. And, this is an important topic to get right. Can apply this knowledge and skills in so many ways.* (Managing Conflict)
- ♦ *Absolutely of value. Intriguing. I didn't expect the interaction and compelling discussion. It was great!* (Local Governance in California)

In addition to the courses, in February the Institute offered the first Executive Leadership Symposium, a three-day challenging learning opportunity for County Supervisors and CAO/CEOs. The course was led by Marty Linsky from the Kennedy School of Government at Harvard University. It was attended by 26

Supervisors and 18 CAO/CEOs who rated it 5.2 and 5.7 for overall value. One of the follow up questions asked participants to rate "I found new insights which have personalized adaptive challenges and the exercise of leadership to me." The result was 5.2 for Supervisors and 5.5 for CAO/CEOs. In conversations with participants since the Symposium indicated it was a valued educational and inspirational experience that people would like repeated.

#### **New Offerings for this Fall**

This fall marks the launch of two other Institute offerings: the **2012-13 New Supervisors Institute**, and the **Fellows Seminar**. The curriculum for the New Supervisors Institute continues to be improved based on participant input, and the faculty is selected and on board for the launch in November at the CSAC Annual Meeting. We anticipate a large class this year since so many seats are up for election. The Fellows Seminar provides an opportunity for Credential holders to continue their education and contribute to the Institute. The first Fellows Seminar will be offered in September with Dr. Mary Kirlin of CSU- Sacramento and Bill Chiat. It will kick off a series of three seminars that have participants working to address an adaptive challenge they face in their county.

In its regular curriculum the Institute is offering a return of several popular courses, such as the "Art & Practice of Organizational Leadership," and "GASB Financial Reporting Requirements." Dr. Rich Callahan is returning to the Institute with his course, "Thinking Strategically in Trying Times." An updated "Health Care Reform and California Counties" will be offered in November and "Realignment 301: Where the Funds Flow" will be offered in December. Two new and timely courses will be offered in association with the CSAC Annual Meeting: "Crafting and Implementing Effective Strategic Plans" and "Intergovernmental Collaboration – Fostering Effective Relationships Across Boundaries."

Many participants continue to enroll and work on their Credentials. Institute staff expect to award up to 15 new Credentials at the CSAC Annual Meeting in November.



# County Counsels' Association of California

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## MEMORANDUM

### BOARD OF DIRECTORS

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### EXECUTIVE DIRECTOR

Jennifer B. Henning

**To: Supervisor Mike McGowan, President, and  
Members of the CSAC Board of Directors**

**From: Jennifer Henning, Litigation Coordinator**

**Date: September 6, 2012**

**Re: Litigation Coordination Program Update**

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This memorandum will provide you with information on the Litigation Coordination Program's activities since you received your last regular update on May 31, 2012. If you have questions about any of these cases, please do not hesitate to contact me.

### I. New Amicus Case Activity Since May

#### ***Berkeley Hillside Preservation v. City of Berkeley***

Previously published at: 203 Cal.App.4th 656 (1st Dist. Feb. 15, 2012)(A131254), *petition for review granted* (May 23, 2012)(S201116)

The city approved a permit for a single-family home in the Berkeley Hills and applied the in-fill (14 CCR 15332) and single-family residence categorical exemptions (14 CCR 15303(a)). Plaintiffs challenged the action, arguing that the categorical exemptions should not apply to the project, and thus CEQA review was required. The trial court denied the writ, but the First District reversed. The court held that "a categorical exemption does not apply where there is any reasonable possibility that the proposed activity may have a significant effect on the environment." Prior to this case, to prove that a categorical exemption did not apply, project opponents had to show that unlike other activities subject to the exemption, the project at hand posed a reasonable possibility of resulting in a significant adverse impact due to "unusual circumstances." But the court here essentially eliminated the unusual circumstances test, holding instead that "the fact that proposed activity may have an effect on the environment is itself an unusual circumstance, because such action would not fall 'within a class of activities that does not normally threaten the environment,' and thus should be subject to further environmental review." The Supreme Court granted the city's petition for review, which CSAC supported. CSAC will file an amicus brief in support of the city.

***Building Industry of the Bay Area v. City of Santa Rosa***

Pending in the First Appellate District (filed Aug. 8, 2011)(A132839)

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. The BIA was then granted over \$240,000 in attorney fees under the private attorney general statute (Code of Civil Procedure section 1021.5). The city has 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. CSAC has filed an amicus brief in support of the City of Santa Rosa.

***City of Auburn v. Sierra Patient & Caregiver Exchange***

Pending in the Third Appellate District (filed Nov. 9, 2011)(C069622)

A medical marijuana dispensary secured a business license to operate in the City of Auburn as a florist, but undercover police efforts revealed it was a dispensary. The city sought an injunction to close the operation, claiming it was a public nuisance since the city's zoning code expressly bans medical marijuana dispensaries. The trial court granted the injunction. On appeal, defendant argues that the city's total ban on dispensaries is preempted by state law, and that the city's nuisance abatement action violated his procedural due process rights. CSAC has filed a brief in support of the city arguing that state law does not preempt local government police powers or land use authority to regulate dispensaries.

***City of Livermore v. Baca***

205 Cal.App.4th 1460 (6th Dist. May 16, 2012)(H034835), *petition for rehearing denied* (June 15, 2012), *petition for review / depublication denied* (Aug. 8, 2012)(S203534)

This eminent domain case involves establishing damages for taking four commercial properties. The trial court determined in pre-trial motions to exclude all of the land owner's proffered evidence supporting his claims of temporary and permanent severance damages. The appellate noted that it was "wary of the practice of disposing of a claim" through pre-trial motions in eminent domain actions. The court went on to review each evidentiary ruling and found that the trial court erred in excluding the evidence. CSAC requested depublication of the opinion, but the request was denied.

***City of San Diego v. Bd. of Trustees of the Calif. State University***

Previously published at: 201 Cal.App.4th 1134 (4th Dist. Div. 1 Dec. 13, 2011)(D057446), *petition for review granted* (Apr. 18, 2012)(S199557)

The city brought this action against CSU's certification of an EIR and approval of a revised master campus plan for CSU San Diego, challenging the CSU's refusal to guarantee funding for off-campus environmental mitigation. During the CEQA process, the city identified approximately \$20 million in necessary traffic and infrastructure costs required for the total campus build-out. And while the CSU acknowledged at least \$6 million of these costs, it alleged it met its obligation to secure funding by making a budget request to the Legislature, even if the Legislature does not ultimately appropriate the funds.

The trial court ruled in favor of CSU, finding it met its obligations by simply asking for an appropriation. The city appealed, and the Court of Appeal reversed, concluding that CSU's interpretation would leave local agencies with the entire burden of off-site impacts of CSU projects. The Supreme Court has granted review and will consider the following issue: Does a state agency that may have an obligation to make "fair-share" payments for the mitigation of off-site impacts of a proposed project satisfy its duty to mitigate under CEQA by stating that it has sought funding from the Legislature to pay for such mitigation and that, if the requested funds are not appropriated, it may proceed with the project on the ground that mitigation is infeasible. CSAC will file a brief in support of the city in the California Supreme Court.

***County of Alameda v. Workers' Compensation Appeals Bd.***

Writ Petition Pending in the First Appellate District (filed May 1, 2012)(A135889)

Labor Code section 4656(c)(2) limits aggregate disability payments for a single injury occurring on or after January 1, 2008, to 104 compensable weeks within five years from the date of injury. A deputy sheriff employed by Alameda County injured his knee in September 2009. He was paid 52 weeks of indemnity payments at his full salary in accordance with Labor Code section 4850, followed by 52 weeks of temporary disability benefits, bringing the total disability payments to 104 weeks. The workers' compensation judge determined that Labor Code section 4850 benefits were not included in the 104-week limitation, thus essentially qualifying the deputy sheriff for up to a third year of disability benefits. Alameda County filed a writ of review arguing that when Labor Code section 4656(c)(2) was amended in 2008, there was a conscious decision by the Legislature to include Labor Code section 4850 benefits within the 104-week disability payment limitation. On July 12, the court granted the writ. CSAC filed a brief in support of Alameda County.

***Cole v. Town of Los Gatos***

205 Cal.App.4th 749 (6th Dist. Apr. 27, 2012)(H035444), *petition for review / depublication denied* (July 11, 2012)(S202785)

Plaintiff was hit by a drunk driver while trying to get into her car, which she parked near a city park on city property. She sued the driver and the city, alleging as to the city that the property was a dangerous condition since it was configured to induce people to park their cars right near a site where drivers were induced to drive off of the road to bypass stalled traffic. The trial court granted the city's summary judgment motion, but the Sixth District reversed. In concluding that there was evidence raising issues of fact concerning the existence of a dangerous condition and a causal relationship between the characteristics of the property and plaintiff's injuries, the court specifically rejected *City of San Diego v. Superior Court* (2006) 137 Cal.App.4th 21 because the opinion created an "extremely restrictive rule for determining when the conduct of a third party will operate as a superseding cause excusing a public entity from liability for a dangerous condition of its property." CSAC requested depublication and supported the city's petition for review, but both were denied.

***Griffith v. Pajaro Valley Water Management Agency***

Pending in the Sixth Appellate District (filed Mar. 26, 2012)(H038087)

CSAC previously supported an unsuccessful effort for Supreme Court review in an earlier stage of this case after the Court of Appeal concluded that the water agency's groundwater wells charge was a property-related fee subject to Prop. 218 (*Pajaro Valley Water Mgmt. Agency v. Amrhein*). In response to *Amrhein*, the water agency reenacted the charge in compliance with the voting requirements Proposition 218. Ballots in that election were weighted by the dollar amount to be paid by each pursuant to rules the agency adopted for the conduct of the election. The fee was approved, but the "no" votes would have defeated it if a one-vote-per-parcel rule had applied. The trial court upheld the fee against this Prop. 218 challenge, but plaintiff has appealed. CSAC will file a brief in support of the water management agency.

***McMillan v. County of Siskiyou***

Unpublished Opinion of the Third Appellate District, 2012 Cal.App.Unpub. LEXIS 3791 (3rd Dist. May 21, 2012)(C067581), *request for publication pending* (filed June 20, 2012)(S203447)

The vested rights doctrine generally provides that a landowner whose use becomes non-conforming as the result of a zoning change may continue that use as long as it is not substantially changed or intensified. In an unpublished opinion, the court in this case addresses the issue of when a successor in interest may obtain vested rights due to the acts of its predecessor in interest. Briefly, it holds that a successor landowner cannot establish vested rights unless its predecessor-in-interest actually asserted a claim for vested rights after the zoning change made its use non-conforming. While the case arises under the Surface Mining and Reclamation Act, the opinion's analysis would apply also to general principles of land-use law and estoppel. CSAC asked the Supreme Court to publish the opinion, but the request was denied.

***Schmeer v. County of Los Angeles***

Pending in the Second Appellate District (filed Apr. 16, 2012)(B240592)

In 2010, Los Angeles County adopted an ordinance prohibiting affected stores from providing plastic bags to customers. The ordinance also required that a store charge 10 cents for each recyclable paper bag provided to a customer. The 10 cents is retained by the store to cover its compliance costs, including recovering its actual costs for providing the paper bags. The 10 cents is not remitted to the county and does not generate any revenue for the county. Plaintiffs, plastic bag manufacturers and taxpayers, filed this challenge the ordinance alleging that the 10 cent charge on paper bags is an invalid tax under Prop 26. The trial court upheld the ordinance, concluding that because the county does not collect or spend any of the 10 cent charge, it is not a special tax under Prop 26. Plaintiffs have appealed. CSAC will file a brief in support of the county on the Prop. 26 issue.

## **II. Amicus Cases Decided Since May**

In addition to the new amicus cases already decided, which are discussed above, the following amicus case was decided since the Board's last meeting in May:

### ***420 Caregivers v. City of Los Angeles***

207 Cal.App.4th 703 (2d Dist. July 3, 2012)(B230436)

Outcome: Positive

In September 2007, the City of Los Angeles adopted an interim ordinance prohibiting the establishment and operation of medical marijuana dispensaries for one year, or until a permanent ordinance was adopted. Dispensaries already in existence in September 2007 were exempted so long as they registered with the city within 60 days. The interim ordinance was extended several times, until the city adopted its ordinance in January 2010, with a June 2010 effective date. The ordinance limits the number of dispensaries in the city to 70, and gives first priority to those dispensaries that were in existence in September 2007 and registered as required. All other collectives were required to close, but the city anticipated a second registration period would be available if they 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 issued a preliminary injunction, concluding that the criminal penalties of the ordinance and a sunset provision are preempted by State law (the Compassionate Use Act and the MMPA). The court also found that the interim ordinance was not properly extended, so that even under the rational basis test, there was no rational reason to allow dispensaries that registered by November 2007 to continue in operation while requiring those that did not register to close. The Second District 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. CSAC filed a brief in support of the city on the state preemption issue.

### ***Coito v. Superior Court (State of California)***

54 Cal.4th 480 (June 25, 2012)(S181712)

Outcome: Positive

A mother of a minor who drowned in the Tuolumne River sued several state departments and the City of Modesto for wrongful death. After depositions had been noticed, counsel for the state provided an investigator with questions for witnesses. The investigator recorded the witnesses' statements and prepared a memo for the state's attorney. The recorded statements were later used to examine one of the witnesses in the deposition. Plaintiff subsequently made a demand for document production, including discovery of witness statements. The State objected based on attorney-client privilege. The trial court declined to order production of the witness statements, with the exception of

the statement that was used in the deposition. Plaintiffs filed a writ to compel production, which a divided Fifth District granted. The Supreme Court reversed. The Court first concluded that “recorded witness statements are entitled as a matter of law to at least qualified work product protection. The witness statements may be entitled to absolute protection if defendant can show that disclosure would reveal its ‘attorney’s impressions, conclusions, opinions, or legal research or theories.’” The Court went on to find that a witness’ identity is not automatically protected, but that the privilege could be invoked if “disclosure would reveal the attorney’s tactics, impressions, or evaluation of the case (absolute privilege) or would result in opposing counsel taking undue advantage of the attorney’s industry or efforts (qualified privilege).” CSAC filed an amicus brief in this case supporting the State.

***In re Ethan C.***

54 Cal.4th 610 (July 5, 2012)(S187587)

Outcome: Positive

One of father’s three children was killed after father failed to secure his daughter in a car seat and was then involved in a traffic accident. His other two children were detained, and the dependency court asserted jurisdiction. The father appealed, arguing that although he negligently failed to secure his daughter in a car seat, his undisputed negligence did not rise to the level of criminal negligence required by Welfare and Institutions Code section 300(f). The Second District affirmed, concluding that a showing of criminal negligence is not required to sustain an allegation under section 300(f). The Supreme Court granted review, and affirmed. The Court concluded “that section 300(f) does not limit its application to criminal negligence. On the contrary, section 300(f) allows (but does not require) the juvenile court to adjudge a child a dependent if the court finds that the want of ordinary care by the child’s parent or guardian caused another child’s death.” CSAC filed an amicus brief in support of Los Angeles County.

***McDonough v. Superior Court (City of San Jose)***

204 Cal.App.4th 1169 (6th Dist. Apr. 10, 2012)(H038126), *request for depublication denied* (July 11, 2012)(S202970)

Outcome: Negative

The San Jose City Council adopted a ballot question and title for a measure that would modify retirement benefits for current employees and retirees and establish a more limited retirement plan for future employees. Four current and retired city employees brought this challenge to the ballot question and title, which read: “PENSION REFORM: To protect essential services, including neighborhood police patrols, fire stations, libraries, community centers, streets and parks, shall the Charter be amended to reform retirement benefits of City employees and retirees by: increasing employees’ contributions, establishing a voluntary reduced pension plan for current employees, establish pension cost and benefit limitations for new employees, modify disability retirement procedures, temporarily suspend retiree COLAs during emergencies, require voter approval for increases in future pension benefits?” The Sixth District agreed with petitioners that the ballot title and question was not impartial and therefore violated Elections Code sections



10403 and 9051. First, the use of the term “reform” in the title “evokes a removal of defects or wrongs” and implicitly characterizes “the existing pension system as defective, wrong, or susceptible to abuse, thereby taking a biased position in the very titling of the measure itself.” The court also found that the question as drafted was flawed because it implied that “if voters do not endorse pension reform by passing the measure, the public will lose fire and police protection and be deprived of popular community resources.” CSAC requested depublication, but the request was denied.

***NetJets Large Aircraft v. Guillory***

207 Cal.App.4th 26 (4th Dist. Div. 3 June 21, 2012)(G044970), *petition for rehearing denied* (July 18, 2012), *petition for review pending* (filed Aug. 1, 2012)(S204397)

Outcome: Positive

This case appeals a trial court ruling striking down legislation designed to capture escaped assessments on “fractionally owned aircraft.” Under fractionally owned aircraft programs, plaintiffs sell fractional ownership in their aircraft fleets, which permits the owners to use a certain number of hours of aircraft time, but does not guarantee use of a particular aircraft at a particular time. Before 2007, these fractionally owned aircraft escaped property tax assessment. In 2007, the Legislature passed SB 87 on a 2/3 vote (Rev. & Tax Code, §§ 1160-1162), which directed Assessors to: 1) identify the fractionally owned aircraft flying into and out of California airports; 2) require the fractionally owned aircraft managers to report the number of California takeoffs and landings for their aircraft; 3) assign a lead county assessor to each fractional aircraft manager to simplify the reporting process; 4) designate the fractional management companies in control of the fractional aircraft fleets as the appropriate assessee; and 5) issue escape assessments for all years in which the statute of limitations for issuing escape assessments on taxable property had not expired. The Fourth District reversed, holding that “the tax on the fractionally owned aircraft assessed by the Legislation is constitutional and lawful, as against the substantive challenges raised by respondents.” A petition for review is pending. CSAC filed a brief in support of the Assessors.

***Neville v. County of Sonoma***

206 Cal.App.4th 61 (1st Dist. May 21, 2012)(A132673)

Outcome: Positive

Sonoma County terminated plaintiff, the county’s Agricultural Commissioner / Commissioner of Weights and Measures. She challenged her termination, arguing that that county lacked the authority to terminate her because under the Food and Agriculture Code, the Ag Commissioner is appointed to a four year term, and can only be removed pursuant to the terms of sections 2181 et seq., which require a determination of some level of wrongdoing by the Director of the Department of Pesticide Regulation and a hearing before a specified state trial board. She further argued that similar provisions in the Business and Professions Code prevented the county from terminating her from her position as Commissioner of Weights and Measures. (Bus. & Prof. Code, § 12214 et seq.) The trial court denied her petition for writ of mandate, and the First District affirmed. The court rejected plaintiff’s argument that the county’s home rule powers under article XI, section 1,

subdivision (b) did not permit her termination because she was an officer, not an employee. The court also took note of the legislative history of the relevant statutes and concluded there was no Legislative attempt to divest counties of their authority to remove their employees. CSAC filed a brief in support of Sonoma County.

***Tomlinson v. County of Alameda***

54 Cal.4th 281 (June 14, 2012)(S188161)

Outcome: Positive

Plaintiffs challenged the county's decision to approve a subdivision development, deeming it exempt from CEQA under the categorical exemption for in-fill development. The First Appellate District determined that the requirement to exhaust administrative remedies does not apply to an action challenging an exemption determination, rejecting even the plaintiffs' acknowledgment that the exhaustion requirement applied to their claim. The California Supreme Court granted review and reversed, concluding that the exhaustion-of-administrative-remedies provision applies to a public agency's decision that a project is categorically exempt from environmental law requirements. CSAC filed an amicus brief in support of Alameda County.