

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, June 2, 2011
12:15pm - 4:00pm
CSAC Conference Center, Sacramento, CA

A G E N D A

Presiding: John Tavaglione, President

12:15pm ***BUFFET LUNCH***

12:45pm ***PROCEDURAL ITEMS***

1. Roll Call *Page 1*

2. Approval of Minutes of March 24, 2011 *Page 3*

1:00pm ***SPECIAL PRESENTATION***

3. Governor's May Revision of the 2011-12 State Budget *Page 8*
 - *Representative from State Dept. of Finance*

1:30pm ***ACTION ITEMS***

4. Consideration of Proposed CSAC Budget for FY 2011-12 *Page 33*
 - *Supervisor Kathy Long, CSAC Treasurer*
 - *Paul McIntosh, CSAC Executive Director*

5. Consideration of Proposed Litigation Coordination Program Budget for FY 2011-12 *Page 37*
 - *Jennifer Henning, County Counsel Association Director*

6. CSAC Policy Committee Reports *Page 43*
 - Administration of Justice
 - *Supervisor Federal Glover, Chair*
 - *Elizabeth Howard Espinosa, CSAC staff*

 - Agriculture and Natural Resources *Page 53*
 - *Supervisor Richard Forster, Chair*
 - *Karen Keene, CSAC staff*

 - Government Finance and Operations *Page 60*
 - *Supervisor Bruce Gibson, Chair*
 - *Jean Kinney Hurst & Eraina Ortega, CSAC staff*

 - Health and Human Services *Page 61*
 - *Supervisor Liz Kniss, Chair*
 - *Farrah McDaid-Ting, CSAC staff*

 - Housing, Land Use and Transportation *Page 62*
 - *Supervisor Efren Carrillo, Chair*
 - *DeAnn Baker, CSAC staff*

3:00pm INFORMATION ITEMS

7. CSAC County Employee Health Insurance Pool Status Report
 ▪ *Paul McIntosh*

8. Legislative Report
 ▪ *Jim Wiltshire, CSAC staff*

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

Institute for Local Government (ILG) Update	<i>Page 63</i>
CSAC Finance Corporation Report	<i>Page 66</i>
CSAC Corporate Associates Report	<i>Page 67</i>
CSAC Litigation Coordination Program Update	<i>Page 68</i>

10. Other Items

4:00pm ADJOURN

CALIFORNIA STATE ASSOCIATION OF COUNTIES

Board of Directors

2011

<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	Lyle Turpin
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	Terry Swofford
U	Riverside County	John Tavaglione

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	Rose Jacobs Gibson
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: John Tavaglione, Riverside
 First Vice President: Mike McGowan, Yolo
 Second Vice President: David Finigan, Del Norte

SECTION: U=Urban S=Suburban R=Rural

CALIFORNIA STATE ASSOCIATION OF COUNTIES
 BOARD OF DIRECTORS
 Thursday, March 24, 2011
 CSAC Conference Center, Sacramento

M I N U T E S

Presiding: John Tavaglione, President

1. ROLL CALL

Alameda	Keith Carson	Placer	absent
Alpine	Terry Woodrow	Plumas	Terry Swofford
Amador	Louis Boitano	Riverside	John Tavaglione
Butte	Steve Lambert	Sacramento	Susan Peters
Calaveras	Merita Callaway	San Benito	Margie Barrios (audio)
Colusa	Kim Dolbow Vann	San Bernardino	absent
Contra Costa	Karen Mitchoff (audio)	San Diego	Greg Cox
Del Norte	David Finigan	San Francisco	Eric Mar (audio)
El Dorado	John Knight	San Joaquin	Larry Ruhstaller
Fresno	Henry Perea	San Luis Obispo	Bruce Gibson
Glenn	John Viegas	San Mateo	Carole Groom (audio)
Humboldt	Mark Lovelace (audio)	Santa Barbara	Joni Gray (audio)
Imperial	Gary Wyatt	Santa Clara	Liz Kniss
Inyo	Susan Cash (audio)	Santa Cruz	Mark Stone
Kern	absent	Shasta	Leonard Moty
Kings	absent	Sierra	Lee Adams
Lake	absent	Siskiyou	Jim Cook
Lassen	Jim Chapman	Solano	Mike Reagan
Los Angeles	absent	Sonoma	Valerie Brown
Madera	Frank Bigelow (audio)	Stanislaus	Vito Chiesa
Marin	Susan Adams	Sutter	Larry Munger
Mariposa	Lyle Turpin	Tehama	Robert Williams
Mendocino	Carre Brown	Trinity	Judy Pflueger
Merced	Hub Walsh	Tulare	absent
Modoc	Jeff Bullock	Tuolumne	Richard Pland (audio)
Mono	Hap Hazard	Ventura	Kathy Long (audio)
Monterey	Fernando Armenta	Yolo	McGowan/Rexroad
Napa	Brad Wagenknecht	Yuba	Roger Abe
Nevada	Ted Owens (audio)	Advisors:	Nancy Watt &
Orange	John Moorlach		Marshall Rudolph

The presence of a quorum was noted.

2. APPROVAL OF MINUTES

The minutes of November 18, 2010 were approved as previously mailed.

3. REMARKS BY GOVERNOR BROWN REGARDING REALIGNMENT PROPOSAL

Governor Jerry Brown addressed the CSAC Board of Directors and discussed his views regarding his proposal to realign some state programs at the local level. He noted that a key part of his proposal is to put control back at local level. Further, he stated there has to be maximum local discretion and that he is committed to giving counties money and authority to provide services. However, some federal restrictions will apply.

The Governor's proposal identifies funding for five years. When asked about funding in year six and beyond he stated that counties will have a secure claim on funds available, but that those funds cannot be identified at this point. The proposed Constitutional Amendment guarantees funding, but does not specify where it will come from.

The Governor urged CSAC to support his realignment proposal which would include cuts and extend existing taxes. He indicated it would be difficult to identify exactly what the cuts are at this time. He also indicated that CSAC's endorsement would help in convincing the Legislature to go along with his proposal.

4. CONSIDERATION OF GOVERNOR'S REALIGNMENT PROPOSAL

President Tavaglione thanked the following supervisors for their active participation in the CSAC Realignment Working Group (RWG): Greg Cox, Valerie Brown, Don Knabe, Liz Kniss, Keith Carson, Diane Dillon, Fernando Armenta, Merita Callaway, and John Viegas. The CSAC RWG has been meeting since January to analyze the Governor's proposal and develop a response which was shared with the Department of Finance and legislative leadership. This document outlined protections that counties sought in the constitutional amendment, as well as programmatic concerns and potential mitigations that counties had identified.

Staff outlined the elements contained in the realignment proposal now known as ACA 2X (Blumenfeld) and SCA 1X (Steinberg). These two identical measures would extend the 2009 tax increases and provide a framework for realignment of program responsibilities from the state to counties.

Staff also outlined the risks associated with the proposed constitutional amendment such as the ability to enforce continuous appropriation of funds, ability to enforce 50/50 share of cost for new federal requirements, non-supplantation language, and lack of protection for outcomes of state court decisions.

Staff indicated that if these measures do not pass, it is very likely that the Legislature will realign public safety programs and transfer offenders to county jails without any dedicated revenue or constitutional protection. Shifts in social service programs would also take place.

Supervisor Brown announced that the Sonoma County Board of Supervisors voted to support ACA 2X and SCA 1X. She also distributed a report regarding the potential impacts of the Governor's realignment proposal on Sonoma County.

Motion and second to approve ACA 2X and SCA 1X. Motion carried 45 to 4.

Additionally, the Board of Directors authorized CSAC to use this vote in support of an initiative if the Legislature approves placing it on the ballot.

CSAC staff will continue negotiations to further strengthen the bills through implementation language.

5. CONSIDERATION OF STATE AND FEDERAL LEGISLATIVE PRIORITIES FOR 2011

Staff presented the draft CSAC 2011 State and Federal Legislative Priorities as contained in the briefing materials. The Executive Committee previously considered the priorities and recommended adoption by the Board of Directors.

The eight federal issues of significance recommended for immediate advocacy include:

- New authorization of the nation's Surface Transportation Law (SAFETEA-LU)
- State Criminal Alien Assistance Program (SCAAP)
- Federal Climate Change/Renewable Energy Policy
- Native American Affairs
- Temporary Assistance for Needy Families (TANF) Reauthorization
- Secure Rural Schools Reauthorization
- Clean Water Act
- Levee Vegetation Management

The state legislative priorities include:

- Encourage health, safe, and sustainable communities.
- Seek budget solutions that address the structural deficit.
- Promote programs and services that stimulate the economy and protect jobs.
- Engage in long-term reform conversations.

Motion and second to approve the 2011 State and Federal Legislative Priorities as presented. Motion carried unanimously.

6. CONSIDERATION OF AMENDMENTS TO CSAC COUNTY PLATFORM

Administration of Justice. Supervisor Merita Callaway, Vice-chair of the CSAC Administration of Justice Policy Committee, presented proposed amendments to Chapter Two of the County Platform as contained in the briefing materials.

Motion and second to adopt amendments to Chapter Two of the County Platform. Motion carried unanimously.

Agriculture & Natural Resources. Staff presented proposed amendments to Chapters Three and Four of the County Platform as contained in briefing materials.

Motion and second to adopt amendments to Chapters Three and Four of the County Platform. Motion carried unanimously.

Government Finance & Operations. Supervisor John Moorlach, Vice-chair of the CSAC Government Finance & Operations Policy Committee, presented proposed amendments. The Government Finance & Operations Policy Committee recommended inclusion of the CSAC Realignment Principles and the Guiding Principles for Pension in the Platform.

Motion and second to include the Principles in the County Platform. Motion carried unanimously.

Health & Human Services. Supervisor Liz Kniss, Chair of the CSAC Health & Human Services Policy Committee, presented proposed amendments to Chapters Six and Twelve of the County Platform as contained in briefing materials.

Motion and second to adopt amendments to Chapters Six and Twelve of the County Platform. Motion carried unanimously.

Housing, Land Use and Transportation. Supervisor Matt Rexroad, Vice-chair of the CSAC Housing, Land Use & Transportation Policy Committee, presented proposed amendments to Chapters Seven, Eleven, and Sixteen of the County Platform as contained in the briefing materials.

Motion and second to adopt Chapters Seven, Eleven, and Sixteen of the County Platform. Motion carried unanimously.

7. REQUEST FOR ADOPTION OF COMPENSATION TRANSPARENCY PRINCIPLES

The CSAC Government Finance & Operations policy committee recommended that CSAC approve proposed Compensation Transparency Principles that will guide staff in developing positions and discussing proposed legislation and regulation related to the disclosure of compensation provided to public officials and employees. The principles are as follows:

- Avoid duplication
- Keep requirements consistent with the Brown Act and Public Records Act
- Maintain simplicity
- Apply to all levels of government

A detailed description of each of the principles was contained in the briefing materials.

Further, the policy committee recommended that CSAC support the State Controller's Local Government Compensation Reporting program and that the Executive Committee discuss how CSAC could best make use of the data provided to the State Controller.

The CSAC Executive Committee considered the principles at its January meeting and recommended adoption by the Board of Directors.

Motion and second to approve the proposed Compensation Transparency Principles, support the State Controller's Local Government Compensation Reporting program and recommend approval by the CSAC Board of Directors. Motion carried unanimously.

8. REQUEST TO AUTHORIZE SPONSORSHIP OF AB 1053

Staff requested that the Board of Directors authorize CSAC to sponsor AB 1053 (Gordon). This bill would permit counties to charge fees-for-service that more accurately reflect actual costs in the areas of laboratory analysis, Criminalistics laboratories fund, juvenile registration fee for public defender services, and vital records.

Both the CSAC Administration of Justice and Health & Human Services policy committees considered this proposal and recommended that the Board of Directors support.

Motion and second to authorize CSAC to sponsor AB 1053 (Gordon). Motion carried unanimously.

9. CONSIDERATION OF CSAC COUNTY EMPLOYEE HEALTH CARE BENEFITS PROGRAM

Paul McIntosh presented a proposal for CSAC to establish a health insurance benefits pool which would operate under CSAC's umbrella and be a licensed health care broker. A board of directors consisting of county and CSAC officials would oversee operations, similar to the Finance Corporation Board, and an advisory committee would be established consisting of counties opting into the program. The corporation would offer employee benefits packages that would include health, dental and vision care. CSAC would either hire a director and appropriate staff from a \$500,000 loan from CSAC reserves to be repaid within three years with interest, or engage in a contractual arrangement with a third-party administrator.

A feasibility study and risk analysis was contained in the briefing materials that finds that a health insurance benefit pool has the potential of saving California counties significant resources, while at the same time providing CSAC with an additional, sustained revenue stream to support other programs and services.

McIntosh indicated that the proposal was still in the exploratory stages and more work needs to be done. Staff will bring back an updated proposal to the Board of Directors at a future meeting. The recommendation is to authorize continuing to explore this program.

Concerns were expressed regarding the cost to CSAC and risks of implementing the program. Additional concerns were raised about how this would affect the CSAC Excess Insurance Authority's program already in place and that implementing this program may limit staff's ability to focus on legislative issues.

Motion and second to continue to explore this program including other options such as doing business with EIA. Motion carried.

10. RESOLUTION IN SUPPORT OF THE PREVENTION AND PUBLIC HEALTH FUND

Supervisor Liz Kniss, Chair of the NACo Health Steering Committee, presented a resolution to support federal efforts to fund and distribute Prevention and Public Health Fund monies for local jurisdictions to improve the health of all Americans.

Motion and second to support resolution. Motion carried unanimously.

11. CONSIDERATION OF CITIES, COUNTIES, SCHOOLS (CCS) PARTNERSHIP TRANSITION PLAN

Paul McIntosh reported that the current Executive Director of the CCS Partnership will retire at the end of fiscal year 2010/2011. This along with the fiscal constraints facing local governments provides an opportunity for the organization to transition to a new format and new management arrangement.

The transition plan calls for the Institute for Local Government (ILG) to provide management and staffing services to the CCS Partnership beginning in July 2011. The initial agreement would be for one year, with the option for each organization to renew. A detailed description of services was contained in the briefing materials.

Some Board members questioned the need for continuing this program. McIntosh indicated that it is a good forum for the officers of the three associations to discuss issues of common interest.

Motion and second to approve CCS Partnership Transition Plan. Motion carried unanimously.

12. APPOINTMENT OF MEMBER TO CALIFORNIA STATEWIDE COMMUNITY DEVELOPMENT AUTHORITY

The California Statewide Communities Development Authority (CSCDA) is a joint powers authority sponsored by CSAC and the League of California Cities. Its mission is to provide local governments and private entities access to low-cost, tax exempt financing for projects.

There are currently four former and current county officials representing CSAC on the CSCDA Board. Paul Hahn, one of these representatives, has not been able to participate. It was recommended that Tim Snellings, Butte County's Community Development Director, be appointed to replace Mr. Hahn on the Board.

Motion and second to approve replacement of Paul Hahn with Tim Snellings. Motion carried.
Supervisor Moorlach abstained.

13. OTHER ITEMS

Assembly Member Rich Gordon addressed the Board and thanked the CSAC officers for their work this year in dealing with the Legislature.

Supervisor Valerie Brown announced that while she was in Washington, DC at the NACo legislative conference, she and others met with the Bureau of Indian Affairs (BIA) regarding relationships with tribal governments. During that meeting the BIA agreed to have a MOU acknowledging that tribal government to local government relationships should be established.

The briefing materials contained reports on the CSAC Corporate Associates program, the Institute for Local Government (ILG), CSAC Finance Corporation, and the Litigation Coordination program, but no presentations were made. ILG has released two new publications which were available at the meeting. They are *Financial Management for Elected Officials* and *The ABCs of Open Government Laws*.

Meeting adjourned.



**2011-12 Governor's May Revision
Week of May 16, 2011**

May 16, 2011

TO: CSAC Board of Directors
County Administrative Officers
CSAC Corporate Associates

FROM: Paul McIntosh, CSAC Executive Director
Jim Wiltshire, CSAC Deputy Executive Director
Jean Kinney Hurst, Legislative Representative

RE: **Summary of the Governor's May Revision**

This morning, Governor Jerry Brown released his May Revision to the 2011-12 State Budget, announcing significant changes to his original budget proposal, reflecting, in part, a slight uptick in state revenues and a new commitment to addressing the state's "Wall of Debt." Recognizing about \$6.6 billion in additional state revenues over 2010-11 and 2011-12, the Governor's proposal modifies his January tax package, directs a portion of the unanticipated revenues to addressing "an unprecedented level of debts, deferrals and budgetary obligations," and outlines a litany of board and commissions slated for elimination and reductions in state operations.

The Governor also notes that there would be broad impacts to education, public safety health and human services, and other areas of state government should the Governor's budget plan not achieve success. The Governor is clear that he believes that a budget that includes "gimmicks" or "all cuts" is damaging to California.

This *Budget Action Bulletin* outlines the provisions of the Governor's May Revision proposal that directly affect counties. Please note that components included in the May Revision that have already been approved by the Legislature are not included in this summary. We have endeavored to outline both new budget proposals and modifications to previous budget proposals. As always, please do not hesitate to contact the CSAC staff with your questions.

A quick roundup of reaction to the Governor's May Revision: State Treasurer Bill Lockyer says that the State will be unable to secure short-term cash flow borrowing known as Revenue Anticipation Notes (RANs) without a Plan B budget that includes additional program reductions

that will occur if the voters fail to ratify taxes. Senate President pro Tempore Darrell Steinberg said that if voters are to ratify the tax extensions, the appropriate time for an election is 2012 to give schools certainty for the budget year. Republican leaders Senator Dutton and Assembly Member Conway not surprisingly denounce the Governor's tax plan, although other Republicans are pushing for reforms like a spending cap (bluntly endorsed by the Governor in his press conference today) and pension reforms.

Budget Aggregates

Updated 2011-12 Budget Problem — May Revision (in billions)

Original Problem Statement	\$26.6
Solutions Already Enacted	-11.1
Higher Revenues	-6.6
Higher Spending	2.0
Proposition 10 Litigation	1.0
Deficit Under Current Law	12.0
Solutions Adopted by Legislature in Pending Legislation	-2.4
Remaining May Revision Problem^{1/}	9.6
Build Reserve	1.2
May Revision Solutions Needed	10.8

^{1/}\$4.8 carry-in from current year, \$4.8 operating deficit.

Closing the Budget Gap Under the May Revision (in millions)

	Adopted ^{1/}	May Revision	Total	%
Expenditure Reductions	\$8,958	\$2,259	\$11,217	48.3
Revenues	531	9,321	9,852	42.4
Other	2,901	-745	2,156	9.3
Total	\$12,390	\$10,835	\$23,225	

^{1/} Excludes the \$1 billion attributable to Proposition 10, due to litigation.

2011-12 May Revision General Fund Budget Summary (in millions)

	Enacted Solutions		Enacted & Proposed	
	2010-11	2011-12	2010-11	2011-12
Prior Year Balance	-\$6,950	-\$4,166	-\$6,950	-\$2,776
Revenues and Transfers	\$94,477	\$89,867	\$95,740	\$93,623

Total Resources Available	\$87,527	\$85,701	\$88,790	\$90,847
Non-Proposition 98 Expenditures	\$56,002	\$60,471	\$55,875	\$50,481
Proposition 98 Expenditures	\$35,691	\$36,417	\$35,691	\$38,322
Total Expenditures	\$91,693	\$96,888	\$91,566	\$88,803
Fund Balance	-\$4,166	-\$11,187	-\$2,776	\$2,044
Reserve for Liquidation of Encumbrances	\$770	\$770	\$770	\$770
Special Fund for Economic Uncertainties	-\$4,936	-\$11,957	-\$3,546	\$1,274
Budget Stabilization Account	-	-	-	-
Total Available Reserve	-\$4,936	-\$11,957	-\$3,546	\$1,274

General Fund Revenue Sources
(in millions)

	2010-11	2011-12	Change from 2010-11	
			\$	%
Personal Income Tax	\$51,945	\$54,329	\$2,384	4.6%
Sales and Use Tax	26,740	23,915	-2,825	-10.6%
Corporation Tax	9,408	10,160	752	8.0%
Motor Vehicle Fees	1,393	443	-950	-68.2
Insurance Tax	2,016	1,893	-123	-6.1%
Liquor Tax	318	325	7	2.2%
Tobacco Taxes	93	91	-2	-2.2%
Other	3,827	2,467	-1,360	-35.5%
Total	\$95,740	\$93,623	-\$2,117	-2.2%

2011-12 General Fund Expenditures by Agency
(in millions)

	2010-11	2011-12	Change	%
Legislative, Judicial, Executive	\$3,145	\$2,546	-\$599	-19.0%
State and Consumer Services	583	626	43	7.4%
Business, Transportation & Housing	417	603	186	44.6%
Natural Resources	2,004	2,009	5	0.2%
Environmental Protection	75	62	-13	-17.3%
Health and Human Services	26,557	21,937	-4,620	-17.4%
Corrections and Rehabilitation	9,623	9,768	145	1.5%
K-12 Education	35,849	38,252	2,403	6.7%

	2010-11	2011-12	Change	%
Higher Education	11,608	10,737	-871	-7.5%
Labor and Workforce Development	42	371	329	783.3%
General Government:				
Non-Agency Departments	542	491	-51	-9.4%
Tax Relief/Local Government	977	1,003	26	2.7%
Statewide Expenditures	144	398	254	176.4%
Total	\$91,566	\$88,803	-\$2,763	-3.0%

Revised Tax Package

The Governor's tax package has been modified somewhat to reflect revenue and political realities. Primarily, the Governor's May Revision proposes to maintain the current level of Sales and Use Tax and Vehicle License Fee (VLF) for five years and the dependent exemption credit for five years. Regarding the personal income tax surcharge, the Governor proposes to reinstate the surcharge for four years beginning in January 2012. The Governor proposes that these revenue extensions be subject to voter approval.

Additionally, the Governor has modified some proposals, including:

- The adoption of the mandatory single sales factor apportionment.
- Reform (as opposed to repeal) the Enterprise Zone tax provisions to ensure hiring credits are only provided to firms that actually increase their level of employment.
- Expand the current jobs credit approved in 2009 to increase the credit to \$4,000 and to apply to employers with fewer than 50 employees.
- A new sales and use tax exclusion (state rate only) for purchases of manufacturing equipment for start-up and existing firms.

Net Benefit of Tax Solutions (Benefit to General Fund – Dollars in Millions)

	2010-11	2011-12
Direct General Fund Impact		
Personal income tax surcharge: Maintain the 0.25-percent PIT surcharge for four years, from 2012 through 2015.	\$0	\$1,343
Personal income tax dependent exemption credit: Maintain the current dependent exemption credit, which is aligned to equal the personal exemption credit amount for five years.	799	1,371
Mandatory Single Sales Factor: Modify current law to make this multi-state/national corporate income apportionment method mandatory instead of elective. Under current law, the opportunity to elect begins	470	950

with the 2011 tax year.		
Reform Enterprise Zones: Make the hiring credit a credit for net increase in the number of jobs, eliminate retro-vouchering, limit carryovers to five years.	23	70
Vehicle License Fee: Maintain 1.15 VLF rate with 0.14 percent dedicated to General Fund.	0	270
Expand Jobs Credit: Provide \$4,000 credit, available to firms with fewer than 50 employees, sunsets after 2012	-29	-65
Partial SUT exemption for manufacturing equipment. Begin exemption in 2012-13	0	0
Revenue Driven Increase in Proposition 98 Expenditures	0	-1,652
Realignment Revenues – Local Revenue Fund 2011		
Maintain 6-percent state sales tax, with 1 percent dedicated to realignment	0	4,520
Maintain 1.15 percent VLF rate, with 0.4 percent dedicated to realignment	0	1,079
Other Special Fund Revenues That Offset General Fund Costs		
Extend the Hospital Fee for Medi-Cal to June 30, 2012	0	320
Continue Managed Care Organization Taxes for Medi-Cal and Healthy Families	0	103
Total Net Benefit Of Revenue Solutions	\$1,263	\$8,309

Realignment

The Governor’s realignment plan is modified slightly from its prior structure, with a number of programs previously slated for realignment now removed from the package. We summarize these changes below. Look to the policy areas of this Bulletin for additional details on the provisions of realignment.

Programmatic and fiscal changes to the realignment proposal, in addition to normal May Revision caseload changes, include:

- Removing funds administered by the Commission on Peace Officer Standards and Training (POST) and those administered by the Corrections Standards Authority (\$40.5 million).
- Removing funding for public safety mandates (\$50.9 million).
- Revising the cost associated with court security to reflect more current estimates and increased workload associated with parole revocation activities.
- Revising aggregate Local Public Safety grants funding level to reflect elimination of various funding elements that currently go to entities other than local public safety agencies.

- Increasing funding associated with local jurisdiction for low-level offenders and parole violators to cover district attorney and public defender costs associated with parole revocation hearings and to support programming for offenders serving time in jail.
- Removing funding of AB 3632, Mental Health Services for Special Education Pupils, from the realignment construct. Instead, this program, including costs associated with residential treatment, is proposed to be realigned to school districts (\$98.6 million in 2011-12; \$150 million in 2012-13).
- Revising funding for foster care and child welfare services to reflect changes resulting from the proposal to realign residential costs associated with AB 3632 to school districts and to reflect governance changes in both independent and agency adoptions, among others.

These changes required the state to reevaluate the revenue component of realignment, as well. The May Revision proposes that 0.4 percent of the VLF increase be allocated to realignment, with the remaining 0.1 percent dedicated to the state General Fund, versus dedication of the full 0.5 percent to realignment as proposed in January. The one-cent sales tax extension continues as part of realignment.

The Governor remains committed to voter approval of the taxes and constitutional protections at an election at a yet-to-be-determined date, although the May Revision assumes extension of these taxes effective July 1, 2011.

Realignment Funding – May Revision Plan
(in millions)

Program	2011-12	2012-13	2013-14	2014-15
Court Security	\$497.8	\$497.8	\$497.8	\$497.8
Vehicle License Fee Public Safety Programs	504.4	504.4	504.4	504.4
Local Jurisdiction for Lower-level Offenders and Parole Violators				
Local Costs	302.3	611.0	759.1	762.2
Reimbursement of State Costs	653.0	-	-	-
Realign Adult Parole				
Local Costs	157.9	295.6	257.0	187.7
Reimbursement of State Costs	262.6	-	-	-
Realign Remaining Juvenile Justice Programs	241.5	241.5	241.5	241.5
Mental Health Services				
EPSDT	-	579.0	579.0	579.0
Mental Health Managed Care	-	183.7	183.7	183.7
Existing Community Mental Health	1,077.0	1,077.0	1,077.0	1,077.0

Program	2011-12	2012-13	2013-14	2014-15
Substance Abuse Treatment	183.6	183.6	183.6	183.6
Foster Care and Child Welfare Services	1,567.2	1,567.2	1,567.2	1,567.2
Adult Protective Services	55.0	55.0	55.0	55.0
Existing Juvenile Justice Realignment	97.1	104.1	103.2	103.3
Growth*	-	274.0	615.3	1,069.6
Total	\$5,599.4	\$6,173.9	\$6,623.8	\$7,012.0
1.0% Sales Tax	4,520.0	4,932.0	5,324.0	5,655.0
0.4% VLF	1,079.4	1,241.9	1,299.8	1,357.0
Total Revenues	\$5,599.4	\$6,173.9	\$6,623.8	\$7,012.0

**This amount will be subject to discussion and is intended to cover county costs and reimburse reasonable state costs*

Reducing State Government

Keeping in line with the Governor's penchant for frugality, the May Revision contemplates a significant reduction in many areas of state government, including the proposed elimination of 43 state boards and commissions, reducing state administration, improving management of the state's infrastructure bond proceeds, selling non-essential or under-utilized state properties, and merging the Healthy Families Program into the Medi-Cal program. These proposals result in \$82.7 million (\$41.5 million General Fund) in savings. Again, look to the policy areas of this Bulletin for greater detail as to the specific proposals.

Elimination of Boards, Commissions, Task Forces, and Offices

Accelerate end of American Recovery and Reinvestment Act Task Force.

Eliminate the:

- California Privacy Security Advisory Board
- Health Care Quality Improvement and Cost Containment Commission
- Colorado River Board
- Salton Sea Council
- State Mining and Geology Board
- Nine Advisory Committees and Review Panels at the Department of Fish and Game
- Commission on Emergency Medical Services
- California Health Policy and Data Advisory Commission (CHPDAC)
- Healthcare Workforce Policy Commission
- Rural Health Policy Council
- Public Health Advisory Committee (PHAC)
- California Medical Assistance Commission (CMAC)
- Rehabilitation Appeals Board (RAB)
- Continuing Care Advisory Committee (CCAC)

- Early Learning Advisory Committee (ELAC)
- California Postsecondary Education Commission
- Office of the Insurance Advisor (OIA) within the State and Consumer Services Agency
- California Anti-Terrorism Information Center (CATIC)
- Office of Gang and Youth Violence Prevention
- California Council on Criminal Justice (CCCJ)
- Governor’s Emergency Operations Executive Council (GEOEC)
- California Emergency Council (CEC)
- Economic Strategy Panel
- Commission on the Status of Women
- California Law Revision Commission
- Commission on Uniform State Laws
- Office of Privacy Protection within the State and Consumer Services Agency
- Unemployment Insurance Appeals Board
- Fair Employment and Housing Commission
- Occupational Safety and Health (OSH) Standards Board
- Managed Risk Medical Insurance Board (MRMIB)

Consolidations

Consolidation of State Personnel Board and the Department of Personnel Administration

Changes Due to Realignment

- Elimination of the Department of Mental Health
- Elimination of the Department of Alcohol and Drug Programs (DADP)
- Create a Department of State Hospitals
- 25-percent State Operations Reduction for Realigned Public Safety Programs

Program Reductions and Efficiencies

- Office of the Inspector General Workload Reductions
- Reduce the Labor and Workforce Development Agency
- Eliminate General Fund support of the State and Consumer Services Agency
- Decrease state matching funds for tourism offices
- Federal funding for small business loan guarantee support
- Eliminate child care monitoring support
- Eliminate preservation technical assistance
- Eliminate redevelopment housing funds oversight
- Reduce housing policy funding
- Eliminate General Fund support for the Tahoe Conservancy
- Revert unexpended General Fund from the Department of Parks and Recreation’s Public Safety Modernization Project

- Reduce General Fund support for Department of Water Resources
- Transfer support of the Governor’s Commission on Employment of People with Disabilities to the Department of Rehabilitation
- Elimination of the Human Resources Modernization Project

Reducing State Government’s Property Footprint

- Review and dispose of properties with no state programmatic use
- Review and dispose of underutilized properties
- Consolidation of under-utilized space
- Develop a comprehensive policy for fairgrounds

Efficiencies Achieved Through Executive Action

- Elimination of the Office of the Secretary of Education
- Elimination of the Inspector General of the American Recovery and Reinvestment Act
- Reduce Governor’s Office budget by 25 percent
- Ban on non-essential travel
- Reduce statewide building rental rate
- Reduce state-issued cellular phones
- Reduce statewide vehicles

Budget Debt

One of Governor Brown’s unifying themes throughout this morning’s press conference was budgetary debt, both avoiding new budgetary debt and illustrating how much already exists. These budget debts include debt property, so called payment deferrals, and other obligations.

Upcoming annual payment obligations include \$500 million in interest-only payments for California’s Unemployment Insurance debt to the federal government, nearly \$10 billion in increased payments to schools, and over \$3 billion to pay off bonds approved by voters but not yet sold.

Future Annual Payment Obligations
(in billions)

Proposition 98 Maintenance Factor	\$9.9
Interest on Unemployment Insurance Debt	0.5
Debt Service on Authorized but Unissued Bonds	3.2
Total	\$13.6

These new payments will be on top of payments for debt accumulated over the past decade, which now totals \$35 billion. For instance, the state has borrowed funds pursuant to Proposition 42 and Proposition 1A, and for years deferred required payments to local agencies and schools for pre-2004 mandates. And the state has pushed ever more of K-14 funding into the subsequent fiscal year. The General Fund owes many special funds a total of \$5 billion. The state would pay \$15 billion on these debts through 2014-15 and still owe \$20 billion.

Outstanding Budgetary Borrowing

Based on Senate Bill 69 and implementing legislation

(in billions)

Deferred payments to schools and community colleges	\$10.4
Economic Recovery Bonds	7.1
Loans from Special Funds	5.1
Unpaid costs to local governments, schools and community colleges for state mandates	4.3
Underfunding of Proposition 98	3.0
Borrowing from local government (Proposition 1A)	1.9
Deferred Medi-Cal Costs	1.2
Deferral of state payroll costs from June to July	0.8
Deferred payments to CalPERS	0.5
Borrowing from transportation funds (Proposition 42)	0.4
Total	\$34.7

Furthermore, the state's unfunded retirement liabilities, both pension and retirement, total \$181 billion.

Retirement Liabilities

(in billions)

Unfunded Obligations for Retiree Health	\$59.9
Unfunded Pension Liability for State Employees	48.6
Unfunded Pension Liability for Teachers	56
Unfunded Pension Liability for Employees of the University of California	12.9
Unfunded Pension Liability for Judges	3.6
Total	\$181.0

Lastly, the state has \$81.8 billion in general obligation and lease revenue bonds.

Taken together, the Governor stated, comprises a "Wall of Debt." The May Revision reverses the little bit of borrowing he included in his January proposal and also includes

provisions to pay off more of its debts sooner. He encourages using any new revenue in the coming years to pay off the remainder of this budgetary debt. He claims that his plan would pay off at least \$29 billion in deferrals and debt by 2014-15, twice as much as under current law.

Potential Scenarios if Budget Solution Not Found

The Governor's May Revision outlines various reductions that would be necessitated by an all-cuts budget. This list is not comprehensive nor does it represent a complete "Plan B," but, rather, is illustrative of the dramatic budget actions – by broad policy area – that would have to be considered if agreement on an approach to closing the budget gap remains elusive.

Public Safety/Courts

- Implementation of public safety realignment as outlined in AB 109 (Chapter 15, Statutes of 2011) would remain a priority for the Brown Administration, perhaps even more so under an all-cuts scenario.
- State would no longer fund the supervision of non-serious, non-violent parolees, and it would not return parolees to state prison for violations of parole.
- Certain programs administered by the Department of Justice and other state agencies would be reduced or eliminated.
- Fire prevention and protection would be reduced.
- Courts would be cut by an additional \$150 million, which could lead to twice monthly court closures .

Health and Human Services

- Further reduction in CalWORKs grants.
- Eliminating domestic and related services for many IHSS recipients.
- Increasing costs of AIDS drugs.
- Capping Medi-Cal coverage for prescriptions and other medical supplies.
- Deeper reductions in developmental services.
- Elimination of programs such as Adult Protective Services.

Education

- Suspension of Proposition 98 minimum in 2011-12 and additional deep reductions to education
- Future Proposition 98 suspensions likely, which would drive required future maintenance factor payments – already at \$10 billion – significantly higher
- A \$5 billion reduction in Proposition 98 spending equates to:
 - Eliminating 4 weeks of K-12 school year and 52,000 community college classes; *or*

- 51,000 teacher layoffs, increasing K-12 class size to 30 students on average; and raising community college fees from \$36 to \$125 per unit
- For higher education, the University of California and California State University systems have already been reduced in 2111-12 by \$500 million; an additional \$500 million reduction would be anticipated. Cuts of that magnitude would require fee increases exceeding 30 percent.

Other Impacts

- Deep additional cuts across other areas of state budget.
- Recently negotiated state employee contracts would have to be reopened, with an expectation of identifying hundreds of millions of dollars in additional savings.
- Further cuts to: water quality programs, parks, food and agricultural protection, and veterans' services.
- Issuance of new general obligation bonds would be frozen, delaying critical transportation and other infrastructure projects.

ADMINISTRATION OF JUSTICE

The Governor's May Revision proposes several changes to his 2011 Public Safety Realignment proposal, notably the elimination of certain programmatic elements as well as inclusion of additional funding for the parole revocation process in recognition of increased duties at the local level. Below we briefly outline AB 109's core components and highlight the areas where the Governor proposes modifications to his realignment plan.

AB 109 – Various Components of Public Safety Realignment. AB 109, signed into law in April and operative only once it is funded, contained provisions to enact several elements of the Governor's criminal justice realignment plan as set forth in his January budget proposal. In very broad terms, AB 109 delineates the low-level offender population for which counties would assume responsibility; defines post-release community supervision, which is effectively counties' newly defined role in supervision of adult parolees; and gives counties responsibility – and ability to contract back – for the juvenile offender population placed with the Division of Juvenile Justice.

None of these elements would change under the Governor's May Revision and, indeed, the budget materials underscore the Administration's commitment to the significant policy changes to the state's correctional system.

Notable Changes to Realignment. The Governor's May Revision modifies certain components of the public safety realignment and eliminates several elements that had been added in the February 25 version of the Governor's proposal, as outlined below.

PROGRAM/FUNDING ADJUSTMENTS

- **Local Public Safety Subventions.** The Governor's January realignment proposal commits \$506.4 million in funding to local public safety programs – those that currently are supported through a dedication of 0.15 percent of the Vehicle License Fee. The May Revision adjusts the funding level for local public safety to \$504 million, reflecting a shift of \$2 million – strictly associated with state functions – back to the state General Fund.
- **Court Security.** The Governor's Revision adjusts the court security estimate to \$497.8 million, reflecting (1) expected increases in court security costs of \$2.5 million associated with a local-level parole revocation process and (2) the application of an inflation factor of 2.2 percent (\$10.7 million) to more accurately produce a baseline for 2011-12.
- **Low Level Offenders.** The cost assumptions in the January 2011 realignment proposal neglected to provide funding allowances to cover the costs of programming for offenders who are detained in county jail. The May Revision provides an \$18 million within realignment for local programming costs for the specified low-level offender population detained in county jail.
- **Parole Violators/Revocations.** The Governor's initial realignment proposal did not include a funding component to cover either local county or court costs associated with a parole revocation process. AB 109 clearly shifts that responsibility to the courts. Accordingly, the May Revision provides an estimated \$26 million in 2011-12 through realignment for costs incurred by the district attorney and public defender offices for their role in the parole revocation process. In addition, the May Revision also includes \$41.8 million to the courts for their costs associated in assuming jurisdiction for parole revocations.
- **California Department of Corrections and Rehabilitation (CDCR) Reductions.** The Governor intends to reduce staffing costs by 25 percent in those state agencies, including CDCR, experiencing workload reductions as a result of the implementation of the 2011 Public Safety Realignment. Position reductions may not be fully implemented until July 1, 2013, given the time necessary to undertake required layoff processes.

PROGRAM ELIMINATIONS

The May Revision removes several program elements that had been incorporated into the February 25 version of the Governor's realignment proposal. Eliminated from realignment include the following:

- **Peace Officer/Correctional Officer Training:** The Governor previously proposed to include in realignment \$40.5 million to cover (1) peace officer training

administered through the Commission on Peace Officer Standards and Training (POST) and (2) correctional officer training administered by the Corrections Standards Authority.

- **Public safety mandates:** The Governor also proposed to shift \$50.9 million in funding to cover mandate reimbursements associated with a variety of public safety mandates.

It is our understanding that these functions will continue to be funded as they are today.

Community Corrections Performance Incentive Grants. The May Revision includes an additional \$30 million in probation incentive funds, pursuant to counties' demonstrated success in keeping felony adult probationers out of state prison pursuant to the provisions of SB 678 (Leno, 2009). Approximately 6,200 felony probationers have been diverted from state prison as a result of counties' efforts.

Board and Commission Eliminations. As noted earlier, the Governor's May Revision proposes to eliminate numerous boards and commissions. Some of these entities currently oversee public safety grants and/or programs. Those of significance to counties in the administration of justice area safety include:

- *California Council on Criminal Justice (CCCJ)* – It is anticipated that the Legislature and Governor would have final authority over how federal Byrne-JAG funds are distributed to the local level if the CCCJ is eliminated.
- *Office of Gang and Youth Violence* – The California Emergency Management Agency (CalEMA) would assume responsibility for distributing grant funding to local jurisdictions, the duty formally vested with this office.
- *California Law Revision Commission* – This commission is charged with reviewing laws and making recommendations for revisions in various policy areas, including trial court funding reform.
- *California Rehabilitation Oversight Board (C-ROB)* – This board currently operates within the Office of the Inspector General (OIG). The workload of the OIG is being reduced to core functions and the C-ROB is not viewed as critical at this time due to oversight of state correctional issues being provided by the Bureau of State Audits and improved internal controls at CDCR.
- *Office of Privacy Protection* – This board, which operates out of the State and Consumer Services Agencies, works to promote and protect the rights of consumers.

AGRICULTURE AND NATURAL RESOURCES

Proposition 1E Fund Shift. To address an additional shortfall in the Resources Agency's budget, the Governor's May Revision includes a fund shift of \$16 million from Proposition 1E to fund levee maintenance, Delta levees, and floodplain mapping activities, currently funded by the state GF.

Department of Water Resources. The Governor's May Revision proposes to eliminate GF support for the state's Watermaster, a program developed to ensure that water is allocated by an impartial third- party according to established water rights. The program will be funded through fees paid by those who benefit from the service.

California Energy Commission. The Governor's May Revision includes an increase of \$646,000 to the California Energy Commission's (CEC) budget to help implement SBX1 2, recent legislation requiring the CEC to adopt regulations to help implement the 33 percent Renewable Portfolio Standard by 2020.

Reducing State Government. As noted in the summary, the Governor's May Revision includes the proposal to eliminate a number of state boards and commissions. Among those slated for elimination include the State Mining and Geology Board. The Governor's proposal would move the current appeals process to the Office of Administrative Hearings, and the remainder of the State Mining and Geology Board's responsibilities would be transferred to the Office of Mine Reclamation within the Department of Conservation. In addition, the Governor is proposing to eliminate nine Advisory Committees and Review panels at the Department of Fish and Game, the Salton Sea Council and the Colorado River Board, among others. Additional GF reductions include a three percent reduction to the Tahoe Conservancy's overall budget and a decrease of \$1.8 million in GF support to the Department of Water Resources directed towards water data collection activities, and the Central Valley Flood Board and flood control activities.

Department of Parks and Recreation. In April, the Legislature approved the reduction to state parks, which includes a decrease of \$11 million in 2011-12, and when fully implemented, a total reduction of \$22 million in ongoing GF savings, resulting in the closure of up to 70 state parks. The Department has released a list of [parks slated for closure](#).

Network of California Fairs. In March, the Governor signed AB 95, the resources budget trailer bill, which eliminates state support for the California Network of Fairs. Since that time, individual legislative proposals have been introduced to sell fairgrounds. The Governor's May Revision states that these proposals should be evaluated in the context of a statewide policy and a property- by- property review of the fairgrounds. The Revision states that the Secretary of Food & Agriculture will develop a plan to be included in the Governor's 2012-13 budget, addressing future operation, maintenance and oversight of the Network of California Fairs.

GOVERNMENT FINANCE AND OPERATIONS

Employee Relations

State Employees. The Governor's May Revision includes the proposal that most state employees pay at least three percent more of their salary toward their retirement costs. Additionally, the May Revision proposes a reduction in the state's workforce by 5,500 positions.

Unemployment Insurance (UI) Fund. A \$13.4 billion deficit in the UI Fund is expected by the end of 2011 due to an imbalance between annual employer contributions and benefit payouts. To continue paying benefits out of the UI Fund without interruption, the California Employee Development Department borrowed funds from the Federal Unemployment Account starting in January 2009. A \$362.3 million interest payment on this loan is due in September 2011. The May Revision includes a \$500 million interest payment for 2011.

Reducing State Government. As stated in the introduction of this *Budget Action Bulletin*, the May Revision includes the elimination and consolidation of several state Boards, Commissions, Task Forces and Offices. This includes the elimination of the Unemployment Insurance Appeals Board (which will culminate in the elimination of seven board members in 2012-13), the Fair Employment and Housing Commission (discrimination cases will instead be appealed to the Director of the Department of Fair Employment and Housing), the consolidation of the State Personnel Board and the Department of Personnel Administration (which will result in a single California Department of Human Resources, effective July 1, 2012) and a four-position reduction within the Labor and Workforce Development Agency.

HEALTH AND HUMAN SERVICES

MEDI-CAL

Major Medi-Cal changes include the following:

- **Shift Healthy Families Children to Medi-Cal.** The Administration is proposing to transition children currently enrolled in the Healthy Families Program into the Medi-Cal program. The proposal implements the Medicaid expansion for children up to 133 percent of the federal poverty level (FPL) required under federal health reform early and takes the additional step of transitioning all Healthy Families children to Medi-Cal. Under federal law, children up to 150 percent of FPL are exempt from premium cost sharing. Under the Administration's proposal, the new co-pay and premium increases will still be applicable to children with family incomes between 150-250 percent of FPL. The transition will occur from January to June 2012. Of the 890,000 children currently enrolled in Healthy Families, 840,000 live in Managed

Care counties. Children will be enrolled in the same plan or a plan that allows them to retain their current provider. For the 50,000 children living in counties without Medi-Cal managed care plans, children will access services through the fee-for-service system. About a third of children enrolled in the Healthy Families Program are below 150 percent FPL. By providing Medi-Cal, children will be entitled to a richer benefit package that includes services such as Early Periodic Screening Diagnosis and Treatment (EPSDT).

The Administration is estimating the proposal will save \$31.2 million GF in 2011-12. None of the savings are associated with the loss of health care. Presumably, savings are associated with the different reimbursement rates for Medi-Cal and Healthy Families.

A statutory change would be required in order to make these changes; the Administration's proposed trailer bill language has not been made available yet. The proposal would maintain a Single Point of Entry (run by Maximus) where applications would be screened and then transmitted electronically to county human services departments for eligibility determinations. County human services departments also would accept applications directly, as under current rules. As proposed, Maximus would be responsible for premium collection for the 150% to 250% FPL cases, with county human services departments conducting eligibility determinations and annual redeterminations for those cases.

- **Hospital Fee.** The Administration is proposing to extend the existing hospital fee for an additional year, through June 30, 2012, which saves \$320 million GF.
- **Bridge to Reform Medicaid Demonstration Waiver.** The Administration believes it may not achieve the full \$400 million in state GF savings associated with the option to claim federal funds for state-only programs through the "Bridge to Reform" Medicaid Section 1115 Demonstration Waiver. In order to achieve the full \$400 million in savings, the state is proposing to use surplus certified public expenditures from public hospitals on a volunteering basis in the current year.
- **Intergovernmental Transfers (IGTs).** Counties that operate Medi-Cal managed care plans have been utilizing IGTs to increase capitation rates. The state is proposing to assess a fee equal to 20 percent of the transferred funds to offset state GF costs by \$34.2 million in 2011-12. The remaining 80 percent would be used to match federal funds to provide rate increases.
- **Medi-Cal Managed Care Program Changes.** The Administration is proposing to limit Medi-Cal beneficiaries from changing managed care plans to once annually, within the first 60 days of enrollment. This would save \$1.7 million in 2011-12.

- **First 5 (Proposition 10) Funding.** The budget restores \$1 billion in GF for the Medi-Cal program that would have been funded with First 5 funds per AB 99 (Statutes of 2011). A number of county commissions filed lawsuits against the state challenging the fund shift outlined in AB 99. The Administration will continue to defend the legal challenges, but the Administration is electing to take a conservative budget approach and restore GF costs.
- **Medi-Cal Base Adjustment.** The May Revision includes base adjustments to Medi-Cal, primarily due to managed care cost increases of \$66.3 million in 2010-11 and \$122.2 million in 2011-12.
- **Savings Erosions.** Due to the one-month delay in implementation of budget solutions previously adopted by the Legislature, the May Revision contains \$156.6 million in increased costs for Medi-Cal.
- **Federal Funds.** The May Revisions includes an additional \$170.6 million in federal stimulus funds to offset GFs.
- **Adult Day Health Care (ADHC).** The May Revision includes \$25 million in 2011-12 to provide funding for ADHC transition assistance as beneficiaries transition to other Medi-Cal services. Please recall the March budget eliminated ADHC. The state has submitted a Medicaid state plan amendment to eliminate ADHC. Once the plan is approved by the Center for Medicare and Medicaid Services, ADHC will end the first day of the month 60 days after federal approval. Please recall that the Legislature included intent language in the March budget trailer bill to provide more narrowly-defined services to be provided under a new program, Keeping Adults Free from Institutions (KAFI). The Legislature provided \$85 million for this purpose. The May Revision does not appear to conform to the Legislature's action.

MENTAL HEALTH

State Hospitals. The Governor proposes a \$50 million increase for state hospitals for the current year due to unidentified cost increases. The Governor also increases funding by \$9.5 million and 78 positions in 2011-12 to increase safety and security at Napa State Hospital, Metropolitan State Hospital, and Patton State Hospital. Lastly, the Governor's plan includes \$1.4 million and eight positions for the planning and activation of the California Health Care Facility. Please note that the California Health Care Facility will be operated by the California Department of Corrections and Rehabilitation and is slated to open in 2013.

The Governor also proposes to create a Department of State Hospitals – please see the State Health and Human Services Government Restructuring portion below.

SOCIAL SERVICES

The Governor proposes no additional cuts in services to the CalWORKs, In-Home Supportive Services (IHSS), and Supplemental Security Income/State Supplemental Payment (SSI/SSP) programs beyond the cuts already signed into law in March of this year. Those cuts included reducing the time limit on CalWORKs aid from 60 to 48 months, reducing monthly CalWORKs grants by 8 percent, requiring a medical certification for all IHSS recipients, and reducing SSI/SSP payments to adults down to the federal minimum.

However, due to caseload adjustments, the Governor proposes to adjust the state's spending in the following ways:

- Increase CalWORKs funding by \$14 million in 2010-11 and approximately \$80 million in 2011-12 due to a larger-than-forecast number of cases.
- Decrease IHSS funding by \$6.9 million in 2010-11 and \$7 million in 2011-12 due to projected decrease in caseload. Some of the decline in funding is offset by an increase in the cost per IHSS case.

Foster Care. The Governor proposes to increase foster care funding by \$10.7 million in 2011-12 in response to the foster care rate lawsuit (*Foster Parent Association, et al vs. John A. Wagner, et al*). This will roll back previous foster care rate cuts, and will affect foster family homes, Adoption Assistance Payments, Kinship Guardianship Assistance Payments, and non-related Legal Guardian payment rates. The May Revision document also notes that \$1.6 million of these increased state costs are offset by the elimination of the supplemental clothing allowance for foster family homes.

LEADER and CWS/Web Project Reductions. While not making additional changes to the above social services programs, the Governor seems to have targeted technology projects in this area for reductions. Specifically, he proposes to suspend funding for the CWS/Web Project to save the state \$3.1 million in 2011-12. He proposes to suspend funding indefinitely, citing possible upcoming changes to the federal Administration for Children and Families requirements for adopting a statewide automated child welfare information system. As for Los Angeles County's Eligibility, Automated Determination, Evaluation and Reporting Replacement (LEADER Replacement) system, the Governor has proposed to indefinitely suspend funding – a decrease in state costs of \$26.2 million in 2011-12. The LEADER Replacement system is supposed to replace the County's existing automated systems for eligibility and benefit determinations for the CalWORKs, CalFresh, Medi-Cal and other social services programs. The Governor also intends to

redirect \$13.8 million in federal Temporary Assistance to Needy Families (TANF) Block Grant funds that would have gone to the project to Cal Grants instead.

In-Home Supportive Services. The May Revision adjustment for Public Authorities cuts state funding by another \$7.5 million on top of the January reduction of \$2.5 million – for a total cut of \$10 million from the 2010-11 appropriation.

The proposed 2011-12 appropriation for Public Authority administration is \$17.2 million (federal, state & county funds) – down from the 2010-11 appropriation of \$27.2 million.

PUBLIC HEALTH

AIDS Drug Assistance Program (ADAP). The Governor proposes decreasing funding by \$17.3 million GF in 2010-11 and \$20.2 million in 2011-12 for the ADAP. He would achieve this by modifying the eligibility requirements of the Comprehensive AIDS Resources Emergency/Health Insurance Premium Payment Program (CARE/HIPP), enrolling more clients in the Pre-Existing Condition Insurance Plan through the new California Health Care Exchange, and using an unspecified amount of funds from the Safety Net Care Pool.

Immunization Funding. The Governor proposes to increase spending by \$7.3 million General Fund to local health departments for influenza vaccine purchases and immunization programs for elder and at-risk Californians.

Health Care Surge Capacity Funding. The Governor proposes to transition the Department of Public Health’s healthcare surge stockpiles and the Emergency Medical Services Authority’s mobile field hospitals to “public and private organizations”. To do so, he has included \$1.8 million GF over two years (\$1.3 million in 2011-12 and \$560,000 in 2012-13) to support the storage, maintenance, and transportation costs of the transfer. CSAC will provide clarification of this proposal as we receive more information.

Public Health Licensing and Certification. Currently, the state contracts with Los Angeles County to perform licensing and certification of health care facilities. This arrangement is set to expire on June 30 of this year, and under the Governor’s May Revision, the state would renew it for one more year (2011-12) and then discuss possibly transferring it to the state in 2012-13. There is not yet a fiscal estimate for this proposed transfer.

California Children’s Services (CCS) Program. The Governor’s May Revision budget decreases the Family Health Programs Base Estimate by \$8.3 million in the current year and \$5 million in 2011-12 due to changes in enrollment and benefit treatment costs on the California Children’s Services Program, the Child Health and Disability Prevention Program, and the Genetically Handicapped Persons Program.

STATE HEALTH AND HUMAN SERVICES GOVERNMENT RESTRUCTURING

As part of his overall pledge to reign in the deficit and reduce state government costs, Governor Brown has included in his May Revision proposals to eliminate or restructure a bevy of state departments, boards and commissions. The one exception is the creation of a new Department of State Hospitals. We'll begin with the state government changes that are related to the Governor's realignment proposal.

State Government Changes Proposed Due to a Successful Realignment. Should the Governor's proposal to realign some public safety and social services programs to local governments be funded and approved by the voters, he promises to eliminate the Department of Mental Health and the Department of Alcohol and Drug Programs. The state would continue to have federal and oversight responsibilities for these areas, but the departments themselves would be eliminated. The Department of Health Care Services would maintain functions for mental health and substance abuse treatment related to Medi-Cal.

New Department of State Hospitals. Should the Department of Mental Health be eliminated, Governor Brown would also create a new Department of State Hospitals, which would oversee state hospitals. A changing environment in which more patients are committed through the court system, as well as a federal consent judgment to change the state hospital model of treatment, require a continued statewide oversight agency.

Elimination of Boards, Commissions, Task Forces and Offices. The Governor proposes eliminating the following health and human services-related state entities:

- **California Privacy Security Advisory Board.** The Board develops and recommends privacy and security policies for the new California Health Information Exchange. Instead, committees and task groups will take the place of the Board's 14 members.
- **Health Care Quality Improvement and Cost Containment Commission.** This Commission, which is inactive, was tasked with researching and recommending changes for promoting high quality care and containing health care costs.
- **Commission on Emergency Medical Services.** The Commission provides advice to the Emergency Medical Services Authority (EMSA) and approves regulations brought forward by EMSA.
- **California Health Policy and Data Advisory Commission.** The CHPDAC advised the Office of Statewide Health Planning and Development (OSHPD) on data collection

and outcome reporting programs.

- **Healthcare Workforce Policy Commission.** Designates geographic areas that have a misdistribution of health care services and offers contract advice to the Office of Statewide Health Planning, which will take over its functions.
- **Rural Health Policy Council.** Serves as an advisory body that examines rural health care policy. The membership is made up of Department Directors in the Health and Human Services Agency, and rural county supervisors sometimes participate.
- **Public Health Advisory Committee.** Provides advice and makes recommendations on the development of policies to prevent illness and promote public health. The Department of Public Health can obtain this advice from ongoing consultation rather than a formal committee.
- **California Medical Assistance Commission.** The California Medical Assistance Commission is responsible for negotiating contracts with hospitals, on behalf of the Department of Health Care Services (DHCS) for specific services, under the Medicaid program in California (called Medi-Cal). CMAC would be eliminated on July 1, 2012. Remaining CMAC responsibilities would be transferred to the Department of Health Care Services following implementation of a revised hospital payment structure. The CMAC executive director would report to the Health and Human Services Agency Secretary as of July 1, 2012.
- **Rehabilitation Appeals Board.** Currently hears appeals from consumers dissatisfied with decisions regarding their eligibility for services. The Board would be eliminated and appeals would be heard by hearing officers.
- **Continuing Care Advisory Committee.** Advises the Department of Social Services concerning issues related to the continuing care industry. Instead, the Administration recommends DSS convening workgroups as necessary with stakeholder members.
- **Managed Risk Medical Insurance Board (MRMIB).** Eliminates MRMIB as of July 1, 2012 and the MRMIB executive director would report to the Health and Human Services Agency Secretary as of July 1, 2012. Healthy Families and the Access for Infants and Mothers (AIM) program will transfer to the Department of Health Care Services in 2011-12. In 2012-13, the remaining programs (high risk health insurance purchasing pools and the County Children's Health Initiative Program) would transfer to the Department of Health Care Services.

REALIGNMENT

The Administration has made adjustments to the realignment proposal in the health and human services area.

Mental Health Services for Education Pupils (AB 3632). The May Revision proposes that AB 3632 no longer be realigned to counties, but instead be realigned to school districts.

As such, the Administration is proposing to rebench the Proposition 98 guarantee to reflect the shift in responsibility to schools. This rebenching includes \$221.8 million to reflect the shift of responsibility for providing mental health services, including out-of-home residential services, required under federal law from county mental health agencies and county welfare agencies to school districts. The May Revision continues to reflect the \$98.6 million in Mental Health Services Act funds (Proposition 63) to county mental health agencies on a one-time basis in 2011-12. School districts will be able to contract with counties to provide services using these Proposition 63 funds but schools will become responsible for any costs exceeding this amount.

Foster Care and Child Welfare Services adjustments include:

- **AB 3632.** Reduction of \$68 million in Foster Care costs to reflect the fact that AB 3632 residential services will no longer be the responsibility of counties.
- **Independent Adoptions.** The state will retain responsibility for independent adoptions. Therefore, \$1.7 million in realignment funding is being reduced to reflect the ongoing state role. The state does this work in 55 of the 58 counties.
- **Agency Adoptions.** Realignment will include funding for counties to do agency adoptions. Currently, 28 counties perform this work, with the state doing the work for the balance of counties. \$6 million is being provided in realignment for these activities.
- **Tribal-State Agreements.** The state is retaining \$911,000 at the state level to perform Foster Care and Child Welfare Services work for all state-tribal agreements.
- **Child Welfare Training activities.** The state is retaining \$8.2 million to contract for Child Welfare training activities.
- **Foster Care Rate Increase.** The Foster Care rates reflect an increase of \$10.7 million in 2011-12 to increase payment rates for foster family homes as well as prospective Adoption Assistance Payment, Kinship Guardianship Assistance Payments, and Non-Related Legal payment rates (*Foster Parent Association, et al vs. John A. Wagner, et al* court case).

The Administration is not proposing changes to the remainder of the health and human services elements proposed for realignment. Please recall that the following are included:

- Early Periodic Screening Diagnosis and Treatment (EPSDT) Program
- Mental Health Managed Care (Medi-Cal)
- Drug Medi-Cal
- Drug Courts
- Non Drug Medi-Cal Regular
- Non Drug Medi-Cal Perinatal
- Foster Care
- Child Welfare
- Adoptions
- Adult Protective Services
- Shifting of community mental health funded from 1991 realignment into 2011 realignment
- Funding a higher share of CalWORKs grants with 1991 realignment funds

HOUSING, LAND USE AND TRANSPORTATION

Highway User Tax Account Fully Funded

The Governor's May Revision of the Proposed FY 2011-12 State Budget includes full funding for transportation consistent with the Transportation Tax Swap (Swap) enacted in 2010 and validated by the Legislature with a 2/3 vote earlier this year in March. Recall that the Swap eliminated the sales tax on gasoline (Proposition 42 and spillover) and replaced it with an equal amount of excise tax (Highway User Tax Account or HUTA). The new HUTA is adjusted annually, either increased or decreased, to keep pace with what the sales tax would have otherwise generated, which also ensures revenue neutrality into the future.

Pursuant to the Swap, the Board of Equalization (BOE) must, on or before March 1 of each year, recalculate the new HUTA tax rate. According to the BOE's February 2011 projections, the sales tax on gasoline would have generated \$2.663 billion in 2011-12, which requires a minor increase of 0.4-cents in the new HUTA tax rate. Beginning July 1, 2011, the new HUTA tax rate will increase from the current 17.3-cents to 17.7-cents. To be clear, this does not reflect a tax increase, merely an adjustment to ensure the new HUTA revenues keep pace with what the sales tax would have generated. While the increased price of gasoline would seem to suggest a more significant adjustment, two factors attribute to the lower than expected increase: first, the projections were done back in February 2011 and do not realize the significant increases in gasoline prices that we have seen since that time; second, the projections assume that the additional sales tax currently being paid does expire June 30, 2011. Thus, consideration or changes to the price of gas and sales tax rate should be reflected in the March 1, 2012 adjustment.

The first call on the \$2.663 billion generated is to backfill the State Highway Account for the transfer of truck weight fees for general fund and debt service relief, estimated at approximately \$900 million a year. The remaining \$1.763 billion will be allocated through the formula established in statute with 12 percent going to the State Highway Operation and Protection Program, 44 percent to the State Transportation Improvement Program, and 44 percent to counties and cities for local streets and roads. Thus, CSAC estimates that counties will receive \$387.9 million in new HUTA in 2011-12.

With respect to old HUTA, the May Revision did not provide 2011-12 estimates. However, historically, counties have received between \$500-550 million in old HUTA annually.

STAY TUNED FOR THE NEXT BUDGET ACTION BULLETIN!

If you would like to receive the Budget Action Bulletin electronically, please e-mail Stanicia Boatner, CSAC Senior Legislative Assistant, at sboatner@counties.org. We're happy to accommodate you!



June 2, 2011

1100 K Street
Suite 101
Sacramento
California
95814

To: Members, CSAC Board of Directors
From: Supervisor Kathy Long, CSAC Treasurer
Paul McIntosh, CSAC Executive Director

Telephone
916.327-7500

RE: CSAC FY 2011-12 Budget

Facsimile
916.441.5507

As Treasurer of CSAC, it is my pleasure to present the proposed budget for the 2011-12 fiscal year. In conjunction with the Executive Director and Finance Director, the attached revenue and spending plan for the upcoming year is hereby submitted for your approval.

The budget for the next fiscal year continues to reflect the impacts of the economic downturn nationwide and in California. For the third consecutive year, the budget does not propose any increase in the dues paid by our member counties, acknowledging the severe fiscal climate each of them endure.

The 2011-12 fiscal year is an anomaly that happens every 12 years - there are 27 pay periods in 2011-12 rather than the normal 26 pay periods. In addition, the annual meeting location drives up expenses in a year to year comparison. Finally, the recession continues to plague our private partners, increasing the vacancy rate in the Ransohoff Building. These issues combine to require the use of some reserves to sustain our core programs and ensure a balanced budget.

Revenues from the Finance Corporation show a modest increase, reflecting a slight rise in related business activity. CSAC continues to enjoy strong partnerships with a number of corporate associates and will focus strongly on increasing exhibitors at the annual meeting as well as expanding the corporate associates program.

The budget, as presented will ensure that CSAC will continue to provide sound analysis and vigorously engage when county issues are at hand. These are critical times for California's counties and CSAC has answered the call.

During the presentation of the budget to the Executive Committee, there were questions raised regarding the Corporate Associates program and reserves that CSAC maintains. Responses to those questions are contained in the attached material.

As you review the attached material in preparation for the Board of Directors meeting, I hope that you will feel free to contact me or the CSAC staff if you have any questions or concerns.

Attachments

**California State Association of Counties
Proposed Budget
FY 11-12**

	Actual FY 09-10	Budget FY 10-11	Projected FY 10-11	Budget FY 11-12
Revenues:				
Membership Dues	2,799,506	2,799,506	2,799,506	2,799,506
Finance Corp Participation	3,596,339	3,000,000	3,000,000	3,300,000
Rental and Parking Income	990,720	938,922	921,572	900,698
Administrative Miscellaneous	609,753	484,100	547,722	474,000
CSAC Conferences	496,766	502,000	475,630	570,000
Outside Contracts	125,000	125,000	125,000	131,250
Corporate Associates	61,575	78,000	66,400	78,000
CSAC Institute	<u>64,220</u>	<u>65,000</u>	<u>76,068</u>	<u>70,000</u>
Total Revenues	8,743,879	7,992,528	8,011,898	8,323,454
Expenditures:				
Salaries/Benefits	4,206,647	4,415,512	4,384,861	4,823,433
Staff Outreach	130,861	145,000	110,935	130,000
Leadership Outreach	92,435	100,000	97,165	100,000
NACo Meetings & Travel	153,224	80,000	77,679	80,000
Public Affairs/Communications	299,529	80,000	48,313	57,500
CSAC Conferences	555,416	729,287	540,399	835,621
Facilities	820,737	1,070,850	985,047	1,060,219
Operations	996,680	1,001,606	904,243	954,363
Outside Contracts	278,055	325,000	276,750	251,250
Health Care Pool				125,000
Corporate Associates	141,591	156,299	147,403	164,036
CSAC Institute	<u>175,632</u>	<u>229,300</u>	<u>264,912</u>	<u>231,500</u>
Total Expenditures	7,850,808	8,332,854	7,837,705	8,812,923
PROFIT/(LOSS)	893,071	(340,326)	174,192	(489,469)

ACCOUNT EXPLANATIONS -
BUDGET YEAR 11-12

11/12 Budget

ACCT#	EXPLANATION
INCOME:	
MEMBERSHIP DUES	ANNUAL DUES FROM COUNTIES NO INCREASE SCHEDULED THIS YEAR, FOR THE 3rd YEAR IN A ROW.
FINANCE CORP PARTICIPATION	CSAC FINANCE CORPORATION CONTRIBUTIONS TO CSAC CSAC MAY BRING OVER ALL FINANCE CORP FUNDS IN EXCESS OF THE REQUIRED RESERVE OF 50% OF THEIR OPERATING EXPENSE.
RENTAL & PARKING INCOME	RENTAL INCOME FOR 1100 K STREET AND 1029 K STREET. ANTICIPATED 30% VACANCY RATE WHICH APPEARS TO BE IN LINE WITH SACRAMENTO'S CURRENT OFFICE RENTAL MARKET ALSO INCLUDES \$3 PARKING SPACES FOR STAFF AND TO RENT, AND RENTAL FEES FOR CSAC CONFERENCE CENTER
ADMINISTRATIVE MISCELLANEOUS	1) ADMINISTRATION FEES COLLECTED FROM CSAC AFFILIATES FOR PAYROLL AND BENEFIT SERVICES 2) 15% OF TOTAL DUES COLLECTED FOR SB90 3) SALES FOR CSAC ROSTERS & LEGISLATIVE BULLETIN 4) PRINTING AND COPYING REVENUE GENERATED FROM THE CSAC PRINT SHOP 5) INTEREST INCOME FROM CHECKING ACCTS AND CAL TRUSTS ACCOUNTS. REDUCTION IN PROJECTED AND BUDGET YR DUE TO A DECLINE IN INTEREST RATES. 6) CONTRACT FOR COMPUTER SERVICES WITH LA COUNTY 7) SALE OF DATABASE MAILING LIST, LABELS, SOFT DRINK COMMISSIONS AND FEES FROM JOB ADVERTISING ON CSAC WEBSITE.
CSAC CONFERENCES	REGISTRATION FEES FOR CSAC ANNUAL CONFERENCE AND LEGISLATIVE CONFERENCE. CORPORATE SPONSORSHIPS FOR CONFERENCES AND EXHIBITOR REGISTRATIONS
OUTSIDE CONTRACTS	CEAC CONTRACT.
CORPORATE ASSOCIATES	CORPORATE ASSOCIATES MEMBERSHIP DUES AND SPONSOR REVENUES FOR MISCELLANEOUS EVENTS ** PROGRAM ALSO GENERATES \$210,000 IN SPONSORSHIP DOLLARS FOR CONFERENCES AND \$100,000 EXHIBITOR INCOME FOR ANNUAL CONFERENCE THOSE DOLLARS ARE INCLUDED IN THE CSAC CONFERENCE INCOME LINE ITEM. REFLECTS A NET PROFIT OF \$223,964 FOR THE PROGRAM
CSAC INSTITUTE	REGISTRATION REVENUE
EXPENSES:	
SALARIES/BENEFITS	1) SALARIES ASSUMES A 5.0% MERIT INCREASE IN JANUARY '12 FISCAL YEAR 11/12 HAS 27 PAY PERIODS THIS OCCURS APPROX EVERY 11 YEARS DOES NOT ASSUME AN COLA'S 2) RETIREMENT CURRENTLY AVERAGING 34% OF SALARIES 3) BENEFITS TO INCLUDE HEALTH, DENTAL, VISION, EAP, LIFE AND WORKERS COMP 4) PAYROLL TAX 5) AUTO ALLOWANCE 6) ANNUAL EMPLOYEE WORKSHOP
STAFF OUTREACH	INCLUDES ALL IN AND OUT-OF-TOWN BUSINESS EXPENSES FOR LEGISLATIVE AND ADMINISTRATIVE STAFF, AWARDS, PLAQUES FOR MEMBERS AND OTHER MISC EXPENSES FOR EMPLOYEES
LEADERSHIP OUTREACH	ALL BUSINESS EXPENSES FOR CSAC BOARD OF DIRECTORS, EXECUTIVE COMMITTEE AND OFFICERS.

ACCOUNT EXPLANATIONS -
BUDGET YEAR 11-12

ACCT#	EXPLANATION
NACO MEETINGS & TRAVEL	ALL COSTS ASSOCIATED FOR ALL LEGISLATIVE, ADMINISTRATIVE STAFF AND BOARD MEMBERS TO ATTEND NACO SUPPORTED EVENTS.
PUBLIC AFFAIRS/COMMUNICATIONS	1) ALL COSTS ASSOCIATED WITH PRODUCING & DISTRIBUTING THE ROSTER 2) CHALLENGE AWARDS 3) LEGISLATIVE BULLETIN 4) WEB SITE 5) WRITTEN, AUDIO AND VIDEO COMMUNICATIONS
CSAC CONFERENCES	ALL COSTS ASSOCIATED WITH LEGISLATIVE AND ANNUAL CONFERENCE ALSO INCLUDES MEETING PLANNER'S SALARY AND BENEFITS ANTICIPATE EXPENSES TO BE HIGHER THIS COMING YR DUE TO VENUE
FACILITIES	ALL COSTS ASSOCIATED WITH THE MAINTENANCE OF 1100 K STREET AND 1029 K STREET COSTS INCLUDE REPAIRS, UTILITIES, PHONES, INSURANCE, JANITORIAL, DEBT SERVICE AND PROPERTY TAXES
OPERATIONS	ALL COSTS ASSOCIATED WITH OPERATIONS SUCH AS 1) CELL PHONES 2) MEMBERSHIP FEES 3) OFFICE SUPPLIES 4) POSTAGE/DELIVERY 5) R&M AND PURCHASES OF COMPUTERS AND EQUIPMENT 6) CPA'S AND LEGAL CONSULTING 7) PROFESSIONAL SERVICES SUCH AS WATERMAN CONTRACT 8) COPIERS AND BUSINESS EQUIPMENT 9) CSAC'S RENT
OUTSIDE CONTRACTS	CEAC EXPENDITURES AND CONTRIBUTIONS TO CCSP AND ILG
HEALTH CARE POOL	AMOUNT THAT WAS ALREADY APPROVED BY BOARD IN MARCH'S 2011 MEETING
CORPORATE ASSOCIATES	ALL COSTS ASSOCIATED WITH RUNNING CORPORATE ASSOCIATES PROGRAM INCLUDING SALARY AND BENEFITS FOR PROGRAM MANAGER
CSAC INSTITUTE	ALL COSTS ASSOCIATED WITH RUNNING AND IMPLEMENTING THE CSAC INSTITUTE.
OTHER:	
CARRY OVER BALANCE	CSAC ESTIMATING TO CARRY OVER \$174,192 FROM CURRENT FISCAL YEAR
RESERVES	PRUDENT RESERVES HAVE BEEN ESTABLISHED IN THE AMOUNT OF \$2.8 MILLION



County Counselors' Association of California

BOARD OF DIRECTORS

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Marin County

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2010-2012

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Riverside County
2010-2012

EXECUTIVE DIRECTOR

Jennifer B. Henning

MEMORANDUM

**To: Supervisor John Tavaglione, President, and
Members of the CSAC Board of Directors**

From: Jennifer Henning, Litigation Coordinator

Date: June 2, 2011

Re: 2011 – 2012 Litigation Coordination Budget

Recommended Action:

Adopt the 2011-2012 Litigation Coordination Program.

Reason for Recommendation:

The proposed budget includes a 5% fee increase, which amounts to a \$736 increase for the largest counties and \$9 increase for the smallest counties. With the modest increase, the budget remains balanced and can absorb the increases the Program has experienced in employee benefit costs, rent, and other costs associated with operating the Litigation Coordination Program.

Background:

The Litigation Coordination Program is an important service provided by CSAC to its members. The Program allows counties to save litigation costs by coordinating in multi-county cases, and by sharing information and resources. The Program also files *amicus curiae*, or “friend of the court,” briefs on CSAC’s behalf in State and federal appellate cases in order to advance the interests of all counties in the courts.

The Litigation Coordination Program is funded through a fee administered and collected directly by CSAC.¹ The fees are held in a separate fund and used to pay

¹ The County Counselors’ Association agreement with CSAC provides: “The CSAC Board of Directors shall annually adopt a program budget and assess fees from its member counties consistent with the budget. Invoices shall be sent to the counties each year in time to allow inclusion of the fee in the counties’ budget process.”

Supervisor John Tavaglione, President, and
Members of the CSAC Board of Directors
June 2, 2011
Page 2 of 2

for costs of the program, including 80% of Litigation Coordinator's salary, a portion of the County Counsels' Association's office space, and other expenses.

In order for the Program to keep pace with cost increases, including employee benefits and retirement costs, there is a proposed 5% increase in fees. In recent years, the CSAC Board of Directors has adopted either modest or no increases in order not to overburden county budgets, but to allow the Program to keep ahead of cost increases.²

I know this is an extreme difficult budget year for counties throughout the State. However, despite our content efforts to keep costs to a minimum, we continue to experience increases in health benefits (averaging 10% for our employees this year), retirement costs, rent, and other expenses. It should be noted that the Executive Director will not receive a pay increase in the upcoming fiscal year.

In addition, the demands on the program continue to grow. The number and complexity of cases continues to rise. The Program coordinated the lawsuit over the suspension of the AB 3632 mandate this year, and the State's ongoing budget difficulties mean more litigation may be required in the upcoming year. Finally, the resources of the Litigation Program and of its County Counsels are critical to CSAC in its efforts to work with the State on realignment or other budget solutions for the upcoming year. If the program is not fully funded, we will have to make cuts in our services at a time when our ability to respond with sound legal advice and coordinated litigation if necessary is most critical.

Conclusion

The proposed 2011-2012 Litigation budget is a responsible budget intended to ensure the program services continue with as little impact on county revenues as possible. I look forward to discussing this budget with the Committee, and appreciate your ongoing support.

Attachments:

- Proposed 2011-2012 Budget
- Budget Comparison for Years 2010 to 2012
- Proposed 2011-2012 Dues Schedule

² There was a 5% increase in 2008-2009, no increase in 2009-2010, and a 2% increase in 2010-2011.

CSAC/County Counsels' Association
LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2011-2012 BUDGET

Approved by Litigation Overview Committee on January 13, 2011
 Adopted by County Counsels' Association Board of Directors on January 20, 2011
 Approved by CSAC Executive Committee on May 5, 2011
 Adopted by CSAC Board of Directors on _____, 2011

INCOME:

Membership Dues.....	299,362.00
TOTAL INCOME.....	299,362.00

EXPENSES:

Salaries.....	\$157,268.00
Retirement.....	56,606.00
Employee Group Insurance.....	35,907.00
Payroll Tax.....	3,149.00
CSAC Administrative Fees.....	5,905.00
Law Clerk	2,000.00
Staff Expense and Travel	1,000.00
Communications	1,100.00
On-Line Expense	3,044.00
Publications.....	0.00
Membership Fees.....	410.00
Office Supplies	450.00
Postage/Delivery	600.00
Printing - Commercial	1,000.00
Printing - In House.....	800.00
Leases - Property.....	27,178.00
TOTAL EXPENSES.....	296,195.00
Projected Revenue Over Expenses	3,167.00

LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2011-2012 BUDGET

LITIGATION COORDINATION PROGRAM
Budget Comparison (2010-2012)
 Prepared for Fiscal Year 2011-2012 Budget

	2009-10 Actual	2010-11 Budget	2010-11 Projected+	2011-12 Budget
INCOME:				5% fee ↑
Membership Dues	279,032.00	285,098.00	285,098.00	299,362.00
Misc. Income	10,000.00*	0.00	0.00	0.00
TOTAL INCOME:	289,032.00	285,098.00	285,098.00	299,362.00
EXPENSES:				
Salaries	152,291.36	155,291.00	156,224.00	157,268.00
Retirement	52,890.37	47,276.00	56,039.00	56,606.00
Employee Group Insurance	31,981.13	31,943.00	34,122.00	35,907.00
Staff Travel/ Training	965.46	1,100.00	846.00	1,000.00
Law Clerk	0.00	2,500.00	0.00	2,000.00
Communications	548.68	950.00	1,085.31	1,100.00
On-Line Expenses	2,304.00	2,400.00	2,674.00	3,044.00
Publications	1,196.30	1,000.00	1,200.00	0.00
Membership Fees	410.00	410.00	410.00	410.00
Office Supplies	35.00	600.00	300.00	450.00
Postage/Delivery	247.68	1,100.00	436.00	600.00
Printing- Commercial	96.85	150.00	3,106.00	1,000.00
Printing – In-House	447.71	1,500.00	512.00	800.00
Leases – Property	25,571.99	27,917.00	26,363.00	27,178.00
Payroll Tax	2,183.95	3,149.00	2,208.00	2,221.00
Admin Fees	5,983.67	5,905.00	6,446.00	6,611.00
TOTAL EXPENSES	272,807.50	283,191.00	291,971.31	296,195.00
Excess of Revenues Over/(Under) Expenditures	16,224.50	1,907.00	(6,873.31)	3,167.00

* Transferred from County Counsels' Association reserves

+ Based on October 31, 2010 Financial Statement

DRAFT Proposed 2011 LITIGATION COORDINATION FEES
(Grouped by 2007 Department of Finance population figures.)

Approved by the Board of Directors of the County Counsels' Association on January 20, 2011.

Approved by the CSAC Executive Committee on _____.

Approved by the CSAC Board of Directors on _____.

(9 counties 1,000,000 or over)

Los Angeles	\$15,456	(Currently \$14,720)
San Diego		
Orange		
Santa Clara		
San Bernardino		
Riverside		
Alameda		
Sacramento		
Contra Costa		

(7 counties 500,000 to 999,999)

Fresno	\$10,303	(Currently \$9,813)
San Francisco		
Ventura		
San Mateo		
Kern		
San Joaquin		
Stanislaus		

(11 counties 200,000 to 499,99)

Sonoma	\$5,152	(Currently \$4,907)
Santa Barbara		
Monterey		
Solano		
Tulare		
Santa Cruz		
Marin		
San Luis Obispo		
Placer		
Merced		
Butte		

(8 counties 100,000 to 199,999)

Shasta	\$2,062	(Currently \$1,964)
Yolo		
El Dorado		
Imperial		
Humboldt		
Napa		
Kings		
Madera		

(8 counties 50,000 to 99,999)

Nevada	\$1,030	(Currently \$981)
Mendocino		
Sutter		
Yuba		
Tehama		
Lake		
Tuolumne		
San Benito		

(12 counties 10,000 to 49,999)

Siskiyou	\$517	(Currently \$491)
Calaveras		
Lassen		
Amador		
Del Norte		
Glenn		
Plumas		
Colusa		
Inyo		
Mariposa		
Trinity		
Mono		

(3 counties under 10,000)

Sierra	\$175	(Currently \$166)
Alpine		
Modoc		



CSAC Legislative Conference

Administration of Justice Policy Committee

Thursday, June 2, 2011 ■ 8:30 – 10:00 a.m.

Camellia ■ Grand Nave Ballroom ■ Sheraton Grand Sacramento
1230 J Street ■ Sacramento, CA ■ 95814

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

- 8:30 **I. Welcome and Introductions**
Supervisor Federal Glover, Contra Costa County
- 8:35 **II. Consideration of AB 622 (Dickinson): Civil Grand Juries – ACTION ITEM**
The Honorable Roger Dickinson, Member of the Assembly
- 8:50 **III. Receive and Accept Task Force for Criminal Justice Collaboration on Mental Health Issue's Final Report: *Recommendations for Changing the Paradigm for Persons with Mental Illness in the Criminal Justice System* – ACTION ITEM**
Supervisor Susan Adams, Marin County
- 8:55 **IV. A Look at Local Reentry Councils**
Rodney Brooks, Chief of Staff, Alameda County Supervisor Keith Carson; Representative of Contra Costa County, TBD
- 9:20 **V. 2011-12 Budget and Realignment Update – Governor's May Revision**
Elizabeth Howard Espinosa and Rosemary L. McCool, CSAC Administration of Justice Staff
- Public Safety Realignment/AB 109 Implementation
 - CSAC Highlights of the Governor's 2011-12 May Revision
 - Joint CSAC/CSSA memo on VLF Expiration and Booking Fee Options (April 2011)
- 9:35 **VI. Public Safety Affiliate Report**
Nick Warner and Curtis Hill, California State Sheriffs Association
- 9:50 **VII. Legislative Update**
Elizabeth Howard Espinosa and Rosemary L. McCool, CSAC Administration of Justice Staff
- AB 1053 (Gordon): Local Fees – CSAC-Sponsored Measure
- 10:00 **VIII. Closing Remarks and Adjournment**
Supervisor Federal Glover, Contra Costa County

May 18, 2011



1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa and Rosemary L. McCool
CSAC Administration of Justice Staff

RE: **Consideration of Position on AB 622 (Dickinson), Civil Grand Juries – ACTION ITEM**

Requested Action: The CSAC Administration of Justice (AOJ) Policy Committee is asked to consider taking a position on AB 622 by Assembly Member Roger Dickinson.

Background. Former Sacramento County Supervisor and now Assembly Member Roger Dickinson has introduced AB 622, a measure relating to civil grand juries. At its core, the measure seeks to introduce greater transparency and openness to grand jury proceedings. It proposes three principal reforms to the civil grand jury process:

1. **Clarity** – Requires the civil grand jury to meet with the affected chief executive or department head of the agency at least 45 days prior to the issuance of a final report to discuss and receive input on the matters under investigation;
2. **Sunshine** – Makes civil grand jury sessions in which testimony under oath is heard open to the public, but permits written requests to the court to consider ordering a session closed based on a need for confidentiality.
3. **Representation** – Permits any witness who is called to provide testimony under oath to have counsel present.

The measure does not touch the criminal grand jury function, and its provisions make expressly clear that civil grand jury deliberation and voting shall remain in a closed setting. In the author's words, AB 622 would "bring fairness, efficiency, and a modest amount of transparency to the civil grand jury process in California."

Assembly Member Dickinson is interested in securing counties' support for his measure and has been invited to present his bill at the June meeting of the Administration of Justice Policy Committee.

History. Although some historians believe grand juries can be traced to earlier civilizations, most point to the start of the institution in England in the 12th century. In the United States, the colonies variously made use of grand juries; a federal grand jury system was included in the Bill of Rights as part of the Fifth

Amendment of U.S. Constitution. Closer to home, the first California Constitution required summoning of a grand jury at least once a year in each county, with specific powers and duties subsequently outlined in statute (Penal Code Sections 888-939). The express authority to investigate corruption in local public agencies – cities, counties and special districts – dates back to legislation enacted in 1880. The civil or "watchdog" function of the grand jury is generally viewed as a vital part of the justice system, as it empowers the citizenry and gives them a considerable tool to keep governmental institutions and officials in check.

Historically, grand jury proceedings have been held in secret. The imperative for secrecy, proponents will argue, is tied to a need to safeguard the investigative power of the grand jury and encourage whistleblowers to come forward. On the other side, critics of the civil watchdog system typically point to concerns about the potential for abuse of the grand jury's substantial authority – especially given the institution's tradition of secrecy – and a greater need to ensure the accuracy of reports.

With the exception of certain mandated areas of inquiry – such as the condition and management of public jails, civil grand juries generally select the governmental affairs it wishes to investigate. At the end of its year of service, the grand jury is required to submit to the presiding judge of the court in its jurisdiction a final report and recommendations. It is important to note that except for juror selection, all civil and criminal grand jury expenses and operations fall to the counties.

CSAC Policy Background and Previous Legislative Efforts. In analyzing this measure, we first refer to CSAC's Administration of Justice platform, which contains the following policy statement on grand juries:

Every grand jury should continue to have the authority to report on the needs of county offices, but no such office should be investigated more than once in any two-year period, unless unusual circumstances exist. Grand juries should be authorized to investigate all local government agencies, not just counties. ***Local government agencies should have input into grand jury reports on non-criminal matters prior to public release.*** County officials should have the ability to call the grand jury foreman and his or her representative before the board of supervisors, for the purpose of gaining clarification on any matter contained in a final grand jury report. Counties and courts should work together to ensure that grand jurors are properly trained and that the jury is provided with an adequate facility within the resources of the county and the court. [Emphasis added.]

CSAC sponsored a measure in 1997 that proposed reforms to the civil grand jury system. AB 829, by then-Assembly Member Helen Thomson, initially sought to require (where statute then, as now, merely permits) a grand jury to meet with the chief executive or department head of an agency subject to its investigation at least 45 days prior to the issuance of its final report to discuss the findings of the investigation and receive comments from the affected parties. This same provision is proposed in AB 622. At the time CSAC pursued that change in 1997, it was argued that this reform could address a primary frustration of grand jurors that “their reports are often met with hostility by public officials and that the recommendations in the report are rarely implemented.” This requirement would help avoid instances in which a final report of a grand jury became useless once the subject agency revealed that the reported problem had been addressed years before.

In the case of the 1997 grand jury reform bill, the provision relating to the requirement that the grand jury meet with affected public officials before the report's release was stripped from the bill when it met with opposition. AB 829 was ultimately signed in to law, but with a more narrow set of reforms.

Policy Considerations. Attempts to reform the grand jury system – and there have been multiple efforts even within the last two decades – generally are met with fervent and impassioned responses, whether the commentator favors or objects to the nature and form of the proposed changes. Below, we explore each component of AB 622 to give policy committee members a basis for evaluating an overall position on the measure.

Provision 1 – Meet with affected officials prior to report release

This provision could result in more accurate and well-balanced reports, given that officials closest to a subject and perhaps with the most direct knowledge of the targeted operation would be in a position to provide clarifying information that could materially affect the grand jurors' view or understanding of their inquiry.

- **Support:** CSAC's policy platform and previous legislative effort clearly establishes support for this provision of the bill.
- **Opposition:** Opponents believe the requirement to discuss the report before it is made public could result in revealing the identity of witnesses which, in turn, could threaten the integrity of the grand jury process.

Provision 2 – Make sessions with sworn testimony open to public

The public airing of testimony could give greater balance to the process and provide a forum for highlighting differing or mitigating views on a matter under investigation. The author argues that in the modern age of communication, it is unrealistic – if nothing else – to expect an investigation to remain secret. The existence of the investigation is often a matter of public knowledge, and

opening sessions involving sworn testimony would give those who are subject to inquiry an opportunity to defend their reputation.

- **Support:** No CSAC policy guidance exists on this aspect of the measure. Some scholars have argued that the absolute secrecy surrounding the grand jury system is not justifiable and that greater transparency is more in line with general tenets of fairness and equity in the justice system.
- **Opposition:** Perhaps the most controversial of the bill's provisions, the notion of presumptive openness primarily is criticized for its likely chilling effect on witnesses. The California District Attorneys' Association, which opposes the bill, believes that this aspect of the measure would impede the investigatory nature of the grand jury proceedings and diminish grand juries' effectiveness.

Provision 3 – Allow witnesses to have counsel present

Twenty one states allow some witnesses to have counsel present in grand jury proceedings. The author likens this provision to the right of witnesses in deposition, where counsel serves to ensure the legal rights of the witnesses are protected.

- **Support:** No CSAC policy guidance exists on this aspect of the measure. Some legal scholars agree that the right to counsel is appropriate and would eliminate the awkward and impractical practice of a witness leaving the grand jury room after each question to consult with his or her attorney outside in the hall.
- **Opposition:** District attorneys have raised the concern that this change deviates significantly from long-standing traditions and is unnecessary. Also of concern is the potential that this reform could lead to a future effort to impose the same change in the criminal grand jury context. The statewide association of grand jurors views this provision as detrimental to the grand jury's ability to work confidentiality and may render interviews adversarial.

Potential Cost Impacts and Other Considerations. There are other practical and operational aspects to keep in mind given that any new costs associated with this measure would be borne by the county.

- **Facilities/security:** Most grand jury rooms presently in use are likely not suitable to accommodate the public and press. In all likelihood, arrangements would have to be made for a county or court facility that would be more appropriate for an open session – such as a courtroom or board chambers. There could be security or facility costs associated with such a change in venue.

- **Counsel:** It is unclear whether the provision related to the ability to have counsel present would create potential conflicts of interest given that the county counsel is the advisor to the grand jury and could also be asked to represent a public official under sworn testimony. Although the bill is silent on this matter, it is conceivable that the county could be responsible for covering outside counsel costs if, for example, multiple county employees are called before the grand jury to provide sworn testimony.

Support/Opposition. At this time, we are aware of no individuals or entities that have announced formal support for AB 622. Known opponents of the bill are the California District Attorneys' Association and the California Grand Jurors' Association.

Staff Recommendation. Although it is unusual, staff withholds a specific position recommendation on this measure. While a key aspect of the bill is clearly aligned with CSAC policy, we have no clear policy direction on the other two key elements of the measure, which have garnered strident opposition from registered opponents, including the district attorneys.

While we believe a strong policy argument can be made for CSAC remaining neutral on AB 622, given the lack of clear policy direction and the controversial nature of its provisions, we have great respect for Assembly Member Dickinson and think it is appropriate that he be given an opportunity to present his bill to the CSAC Administration of Justice policy committee and lay out his rationale for county support.

Specific Action Requested: For the reasons outlined above, the CSAC Administration of Justice (AOJ) Policy Committee is asked to consider the presentation by Assembly Member Dickinson on AB 622, his measure regarding civil grand juries, and determine whether it is appropriate for CSAC to weigh in on this policy debate.

CSAC Staff Contacts. Please contact Elizabeth Howard Espinosa (ehoward@counties.org or 916/650-8131) or Rosemary L. McCool (rmccool@counties.org or 916/650-8116) for additional information on this subject.



May 16, 2011

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa and Rosemary L. McCool
CSAC Administration of Justice Staff

RE: **Receipt and Acceptance of Final Report and Recommendations of
Task Force for Criminal Justice Collaboration on Mental Health
Issues – ACTION ITEM**

1100 K Street
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Requested Action: The CSAC Administration of Justice (AOJ) Policy Committee is asked to formally receive and accept the final report of the Judicial Council Task Force for Criminal Justice Collaboration on Mental Health Issues.

Previous Review by AOJ Committee. At its November 2010 meeting, the CSAC AOJ Policy Committee received a presentation by two members of the Task Force for Criminal Justice Collaboration on Mental Health Issues (task force): Supervisor Susan Adams of Marin County, CSAC's appointee to the task force, and the Honorable Maria Elena Stratton, a judge in Los Angeles County. At that time, the report was near completion, but the task force had requested additional time to consider and compile public comment on the report.

Late last month, the Judicial Council formally received and accepted the final report. CSAC, as well as other stakeholders, has been asked to highlight the work of the task force and continue to build relationships and support around collaborative efforts in this policy area.

Background. As described in a previous memo to this committee on this topic, the Council of State Governments selected California as one of seven states funded to examine the response of the criminal justice system to offenders with mental health issues. Accordingly, former Chief Justice Ronald M. George established the Task Force for Criminal Justice Collaboration on Mental Health Issues in 2007. Chaired by appellate court justice Brad Hill, the task force began meeting in April 2008 and in late July 2010 released its draft policy recommendations, which at their foundation seek to improve outcomes for persons with mental illness in the criminal justice system.

The multiagency, interbranch task force drew participation from across the criminal justice, consumer, and supportive service spectrums. In addition to judicial officers and court executives, other task force members included a county supervisor, county counsel, chief probation officers, mental health directors, consumer advocates, state mental health and correctional officials, public defenders, local law enforcement leaders, and legislators or their designees. The task force was asked to explore ways to improve case practices and procedures involving both adult and juvenile offenders with mental illness, to ensure fair and

expeditious administration of justice, and to promote improved access to treatment for defendants in the criminal justice system.

A public comment period for the draft recommendations and report was open between July 14 and September 17, 2010. The Council distributed the report directly to about 400 individuals and organizations; it is believed that some 6,500 individuals and organizations ultimately received the report.

The task force made limited revisions to the report based on public comment. Generally speaking, there has been strong support for the recommendations, and most changes reflected in the final report center on expanding certain descriptions of best practices. The Judicial Council has directed staff to develop an implementation plan and will look to CSAC for continued county representation in that effort. As a refresher, a summary of the report's recommendations is provided below.

Summary of Recommendations. In its report, the task force advances 135 specific recommendations, grouped in the broad topic areas and subcategories:

Prevention, Early Intervention, and Diversion Programs

- Coordination of Community Services (Recommendations 1-4)
- Early Interventions/Prearrest Diversion Programs (Recommendations 5-10)

Court Responses

- Judicial Leadership (Recommendations 11-15)
- Case Processing (Recommendations 16-20)
- Coordination of Civil and Criminal Proceedings (Recommendations 24-27)
- Competence to Stand Trial (Recommendations 28-36)
- Additional Court Resources (Recommendations 37-38)

Incarceration

- The Booking/Admission Process: Early Identification and Continuity of Care (Recommendations 39-46)
- Custody Mental Health Treatment and Services (Recommendations 47-53)

Probation and Parole

- Coordination of Mental Health Treatment and Supervision (Recommendations 54-63)
- Alternative Responses to Probation/Parole Violations (Recommendations 64-69)

Community Reentry

- Preparation for Release (Recommendations 70-74)
- Implementation of the Discharge Plan (Recommendations 75-80)
- Housing Upon Release (Recommendations 81-86)

Juvenile Offenders

- Court Responses (Recommendations 87-93)
- Competence to Stand Trial (Recommendations 94-95)
- Juvenile Reentry (Recommendations 96-98)
- Collaboration (Recommendations 99-104)
- Education and Training (Recommendations 105-106)
- Research (Recommendations 107-110)

Education, Training, and Research

- Education and Training for Judicial Officers, Attorneys, and Criminal Justice Partners (Recommendations 111-123)
- Collaborations with California Law Schools (Recommendations 124-127)
- Research (Recommendations 128-132)

Implementation (Recommendations 133-135)

CSAC Review/Comment. In preparation for the committee's review of the near-final report last year, staff reviewed the report and its recommendations. The report is thorough and appropriately organized. It approaches the policy question from the key points at which defendants/offenders with mental health issues interact with the criminal justice system, and it examines implications and impacts of other key policy areas and/or stakeholders. A theme running throughout the report is to encourage collaboration among and between criminal justice system partners and other stakeholders at the state and local levels.

It is important to note that the report acknowledges that some of its recommendations may require additional funding, legislative changes, and/or shifts in both culture and practices in the criminal justice system. Other recommendations can be implemented more immediately, without new funding or statutory changes. Further, the task force made the decision to remove language that qualified recommendations with such statements as "to the extent possible" or "as funding permits," given an overarching desire to advance what the task force terms "aspirational recommendations" that are intended to serve as a blueprint for the best and most effective system response to offenders with mental health issues.

CSAC provided input through the public comment¹ process last fall, and other affected county affiliates offered subject-matter specific input as well.

¹ **Public comment submitted 9/17/2010:** The California State Association of Counties (CSAC) wishes to applaud the Judicial Council as well as the task force members and staff who contributed to the *Criminal Justice Collaboration on Mental Health Issues* report and recommendations. This three-year undertaking has produced a significant body of work that will serve as a blueprint for policy makers seeking to improve system responses to and, as a result, outcomes for offenders with mental illness.

Counties across the state recognize the need for investment in treatment programs and services that help promote long-term stability in offenders with mental illness or those with co-occurring disorders. CSAC has advocated for such initiatives, with the twin goals of decreased recidivism and diversion of appropriate offenders out of the criminal justice system where their needs can be better addressed.

CSAC finds the report to be user friendly, organized, and, where possible, designed for rapid implementation. In particular, we appreciate the use of the Sequential Intercept Model that uses the various points on the criminal justice continuum as a framework to identify critical points of possible intervention. Further, we wholeheartedly support the underlying principle that collaboration across systems offers the most effective approach to building community consensus around identifying how local systems interact with and can better respond to offenders with mental illness. We will be accepting the report at our Annual Meeting in November and have encouraged individual counties and affected county affiliated groups and associations to provide public comment.

As the report clearly acknowledges, the primary impediment to full-scale implementation of the report's recommendations is resources. While we appreciate the aspirational nature of many of the recommendations, we would reiterate the need for courts and counties to *jointly* develop and pursue programs, services, and interventions. Success with this population – indeed, with any of the many populations counties serve – will require appropriate investment and commitment to the extent resources are available. Because of counties' myriad responsibilities, many of which are mandated, it is incumbent upon our association to ensure that as courts and counties work collaboratively to improve system responses, all parties remain mindful of competing priorities and resource limitations.

Task Force for Criminal Justice Collaboration on
Mental Health Issues

Page 4 of 4

CSAC is mindful of the pressures locally to sustain vital services to the vast array of populations we serve. We are sensitive to the local dynamic around collaboration and the imperative for joint investment in specific initiatives, which we attempted to highlight in our comment.

Specific Action Requested. Staff recommends that the CSAC Administration of Justice Policy Committee formally accept and receive this report. This action will be advanced to the Board of Directors for its requested concurrence at its June 2 meeting.

We will continue, through our regular communications channels, to highlight the work of the task force and ensure that counties remain involved and engaged in the implementation phase.

Staff Contacts. Please contact Elizabeth Howard Espinosa (ehoward@counties.org or 916/650-8131) or Rosemary L. McCool (rmccool@counties.org or 916/650-8116) for additional information on this topic.



Agriculture and Natural Resources Policy Committee

Thursday, June 2, 2010 · 10:30 a.m. – 12:00 p.m.
Sheraton Grand Sacramento
Camellia · Grand Nave Ballroom

Supervisor Richard Forster, Amador County, Chair
Supervisor Kim Vann, Colusa County Vice-Chair

- 10:30 -10:35 a.m. **I. Welcome and Introductions**
Supervisor Richard Forster, Amador County
Supervisor Kim Vann, Colusa County
- 10:35 -10:50 **II. ACTION ITEM - AB 1178 (Ma) Solid Waste Management –
Place of Origin**
Karen Keene, CSAC Senior Legislative Representative
Cara Martinson, CSAC Senior Legislative Analyst
- 10:50 -11:05 **III. Department of Fish and Game Requests for Financial
Assurance in Perpetuity**
Supervisor Bill Campbell, Orange County
- 11:05 - 11:20 **IV. USDA Rural Development**
Glenda Humiston, California State Director
- 11:20 - 11:35 **V. Army Corp of Engineers Levee Vegetation Policy**
*Mitch Avalon, Deputy Public Works Director, Contra Costa
County*
- 11:35 - 11:45 **VI. Delta Plan Update**
Karen Keene, CSAC Senior Legislative Representative
- 11:45- 11:55 **VII. CA Conference of Environmental Health Directors (CCDEH)
Update**
Justin Malan, Executive Director, CCDEH
- 11:55- 12:00 p.m. **VII. Other Items & Adjournment**



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May 18, 2011

To: CSAC Agriculture & Natural Resources Policy Committee
CSAC Board of Directors

From: Karen Keene, CSAC Senior Legislative Representative
Cara Martinson, CSAC Senior Legislative Analyst

Re: **ACTION ITEM: AB 1178 (Ma) – Solid Waste**

Recommendation: Staff recommends the CSAC Agriculture and Natural Resources Policy Committee take an oppose-unless-amended position on AB 1178, by Assembly Member Fiona Ma, a measure related to the importation of solid waste.

Background. AB 1178 would prohibit a city or county from restricting or limiting in any way the importation of solid waste based on the place of origin. The bill was amended on May 10, 2011 to exempt publically-owned landfills from the bill.

AB 1178 was introduced in response to Measure E, a 1984 Solano County initiative that attempted to limit the importation of solid waste in excess of 95,000 tons per year. According to the author's fact sheet, Solano County has not enforced Measure E since the issuance of opinions from the California Legislative Counsel and the Solano County Counsel in 1992 asserting that the initiative was unconstitutional because it violated the commerce clause of the United States. Last year, a State Superior Court Judge ordered Solano County to enforce Measure E. This ruling has been appealed to the California Court of Appeal.

It should also be noted that the United States Supreme Court issued a ruling on a very similar issue in 1992. The Court, in *Fort Gratiot Sanitary Landfill v. Michigan Department of Natural Resources*, ruled that a state's attempt to solve its solid waste problems by delegating to counties the ability to prohibit the importation of out-of-county garbage (and thus out-of-state garbage) violates the Commerce Clause of the United States Constitution.

Although AB 1178 would have the effect of nullifying Measure E, the recent amendments are unclear and in some instances contrary to other sections of the bill. For example, the legislative findings (page 3, line 16) appear to contradict the public exemption amendment, stating that "restrictions or limits on the importation of solid waste based on the place of origin are not aspects of solid waste handling subject to local government determination because they unreasonably limit the disposal of solid waste." In addition, the provision (Page 3, line 26) stating, "a city or county may not otherwise restrict or limit in any way the importation of solid waste..." is too broad. Clarification is needed to assert that local governments retain the authority to impose restrictions, such as the number of truck trips allowed per day.

The author has acknowledged that the intent is to exempt publically-owned landfills from the bill, making it only applicable to privately-owned facilities, and that clarifying amendments are forthcoming.



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Policy Considerations.

The proponents of AB 1178 include the California Refuse and Recycling Council (CRRC), the National Solid Waste Management Association, California Association of Sanitation Agencies, Recology, Inc., Waste Connections, Inc., and several other individual private solid waste hauling companies. The proponents claim that efforts to discriminate against out-of-county waste conflicts with the intent of the California Integrated Waste Management Act which promotes regional approaches to waste management and encourages coordination and collaboration. They also claim that measures similar to Measure E would negatively impact the 38 counties that ship their waste to other jurisdictions or will need to in the future.

The opponents to AB 1178 include California Resource Recovery Association, Californians Against Waste, County of San Bernardino, Sierra Club California, Northern California Recycling Association, Keith Carson, Alameda County Supervisor, 5th District and StopWaste.org. The opponents assert that solid waste management is a local control issue and that AB 1178 is using the state legislative process to settle disputes at the local level. They also assert that it is in the public interest for local citizens, businesses and elected officials to decide when or under what conditions they will accept waste materials that others don't want.

Action Requested. Staff recommends an oppose-unless-amended position on the bill until it's amended to include satisfactory clarifying language.

Staff Contact. Please contact Karen Keene (kkeene@counties.org or (916)327-7500 x511) or Cara Martinson (cmartinson@counties.org or (916) 327-7500 x504) for additional information.

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1178

**Introduced by Assembly Member Ma
(Coauthor: Assembly Member Cedillo)**

February 18, 2011

An act to amend Sections 40002, 40900.1, and 41903 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as amended, Ma. Solid waste: place of origin.

Existing law authorizes a city or county to assess special fees of a reasonable amount on the importation of waste from outside of the county to publicly owned or privately owned facilities.

~~This bill would also authorize a local agency to assess those special fees. The bill would prohibit a city, or county, or local agency from otherwise restricting or limiting in any way the importation of solid waste into that city or county based on place of origin because ensuring adequate and appropriate capacity for disposal of solid waste is a matter of state and regional concern, except as specified with regard to solid waste facilities or the local land use authority.~~

~~Existing law prohibits a city or county from exporting solid waste to any other jurisdiction unless the exporting city or county has implemented an approved city or county household hazardous waste element and a source reduction and recycling element, or has submitted a countywide integrated waste management plan, with which it is in compliance.~~

~~This bill would also apply that prohibition to a local agency. The bill would make related changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 40002 of the Public Resources Code is
2 amended to read:

3 40002. (a) As an essential part of the state’s comprehensive
4 program for solid waste management, and for the preservation of
5 health and safety, and the well-being of the public, the Legislature
6 declares that it is in the public interest for the state, as sovereign,
7 to authorize and require local agencies, as subdivisions of the state,
8 to make adequate provision for solid waste handling, both within
9 their respective jurisdictions and in response to regional needs
10 consistent with the policies, standards, and requirements of this
11 division and all regulations adopted pursuant to this division. The
12 provisions of this division which authorize and require local
13 agencies to provide adequate solid waste handling and services,
14 and the actions of local agencies taken pursuant thereto, are
15 intended to implement this state policy.

16 (b) The Legislature further declares that restrictions on the
17 disposal of solid waste that discriminate on the basis of the place
18 of origin of the waste are an obstacle to, and conflict with,
19 statewide and regional policies to ensure adequate and appropriate
20 capacity for solid waste disposal.

21 SEC. 2. Section 40900.1 of the Public Resources Code is
22 amended to read:

23 40900.1. The Legislature hereby further finds and declares all
24 of the following:

25 (a) It is important to encourage state agencies to plan and
26 implement programs that will reduce the amount of solid waste
27 going to disposal facilities through source reduction, recycling,
28 and composting.

29 (b) Local agencies, other than a host jurisdiction, and federal
30 agencies should be encouraged to plan and implement programs
31 that will reduce the amount of solid waste going to disposal
32 facilities through source reduction, recycling, and composting.

1 (c) Each state agency shall, to the extent feasible and within
2 existing budgetary constraints, develop and implement source
3 reduction, recycling, and composting programs that will reduce
4 the amount of solid waste going to disposal facilities. Those
5 programs shall be consistent with Executive Order W-7-91, which
6 ordered state agencies to establish recycling programs, reduce
7 paper waste, purchase recycled products, and implement measures
8 that minimize the generation of waste.

9 (d) Local, state, and federal agencies generating solid waste that
10 is sent to a host jurisdiction for disposal should be encouraged to
11 provide the host jurisdiction with information on the amount of
12 solid waste and regarding any solid waste source reduction,
13 recycling, or composting programs that have been implemented
14 by the agency, to assist the host jurisdiction in developing and
15 implementing the planning requirements of this division.

16 (e) Restrictions or limits on the importation of solid waste based
17 on the place of origin are not aspects of solid waste handling
18 subject to local government determination because they
19 unreasonably limit the disposal of solid waste.

20 SEC. 3. Section 41903 of the Public Resources Code is
21 amended to read:

22 41903. (a) ~~A city, county, or local agency~~ *or county* may assess
23 special fees of a reasonable amount on the importation of waste
24 from outside of the county to publicly owned or privately owned
25 facilities.

26 (b) ~~A city, county, or local agency~~ *(1) A city or county* may not
27 otherwise restrict or limit in any way the importation of solid waste
28 into that city or ~~county based on the place of origin, because~~
29 ~~ensuring adequate and appropriate capacity for disposal of solid~~
30 ~~waste is a matter of state and regional concern.~~ *county based on*
31 *the place of origin.*

32 *(2) Paragraph (1) does not do any of the following:*

33 *(A) Restrict a publicly owned solid waste facility from limiting*
34 *or restricting its acceptance of solid waste from outside the*
35 *jurisdiction of the public agency that owns the facility.*

36 *(B) Require a privately owned solid waste facility or privately*
37 *operated solid waste facility to accept solid waste from outside*
38 *the city or county where the facility is located.*

1 (C) Prevent a city or county from exercising its land use
2 authority, including making a zoning, permitting, or other land
3 use determination.

4 (c) A city, ~~county, or local agency~~ or county shall not export
5 solid waste to any other jurisdiction unless the exporting city or
6 county has done either of the following:

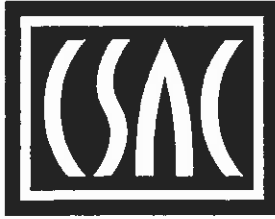
7 (1) Implemented, within one year following the date when the
8 countywide integrated waste management plan is required to be
9 submitted to the department pursuant to subdivision (a) or (b) of
10 Section 41791, or a later date established or permitted by the
11 department, both an approved city or county household hazardous
12 waste element and a source reduction and recycling element.

13 (2) Submitted a countywide integrated waste management plan,
14 with which it is in compliance.

15 (d) Notwithstanding subdivision (c), until one year following
16 the date when the countywide integrated waste management plan
17 is required to be submitted to the department pursuant to
18 subdivision (a) or (b) of Section 41791, or a later date established
19 by the department, nothing in this section shall be construed as
20 prohibiting the export of solid waste.

21 (e) The department may waive the requirements of subdivision
22 (c) if the department determines that all additional reasonable
23 source reduction and recycling programs are being implemented
24 in the city or county or if the department determines that the system
25 to export waste supports or enhances the city or county source
26 recovery and recycling element.

O



Government Finance and Operations Policy Committee

CSAC Legislative Conference

Thursday, June 2, 2011 — 9:30 a.m. – 11:00 a.m.

CSAC Conference Center, 1020 11th Street, 2nd Floor

Sacramento County, California

Supervisor Bruce Gibson, San Luis Obispo County, Chair

Supervisor John Moorlach, Orange County, Vice Chair

- 9:30 a.m. **I. Welcome and Introductions**
Supervisor Bruce Gibson, San Luis Obispo County, Chair
Supervisor John Moorlach, Orange County, Vice Chair
- 9:35 **II. Pension Reform: Where Are We Now?**
Faith Conley, Senior Legislative Analyst, CSAC
- 9:50 **III. Bell Bills: Never Enough**
Jean Kinney Hurst, Legislative Representative, CSAC
Faith Conley, Senior Legislative Analyst, CSAC
- 10:05 **IV. LAO on Budget**
Marianne O'Malley, Director, General Government, Legislative Analyst's Office
Brian Brown, Local Government Issues, Legislative Analyst's Office
- 10:35 **V. State Budget Reform: Change from Within**
Jean Kinney Hurst, Legislative Representative, CSAC
Geoffrey Neill, Legislative Analyst, CSAC
- 11:00 **VI. Closing Comments and Adjournment**
Supervisor Bruce Gibson, San Luis Obispo County, Chair
Supervisor John Moorlach, Orange County, Vice Chair



Health and Human Services Policy Committee

Thursday, June 2, 2011 • 10:30 a.m. – Noon

Gardenia Room • Sheraton Grand Hotel

1230 J Street • Sacramento, CA

Supervisor Kniss, Santa Clara County, Chair **Supervisor Woodrow, Alpine County, Vice Chair**

This policy committee meeting is an in-person meeting only and is being held as part of the CSAC 2011 Legislative Conference.

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|-----------------------|-------------|--|
| 10:30 a.m. | I. | Welcome and Introductions
<i>Supervisor Liz Kniss, Santa Clara County</i> |
| 10:35 –
11:00 a.m. | II. | Message From California Department of Social Services
<i>Will Lightbourne, Director, California Department of Social Services</i> |
| 11:00 –
11:25 a.m. | III. | The Federal Health Law and California: What's New, What's Next, and What do We Need to Do?
<i>Anthony Wright, Executive Director, Health Access</i> |
| 11:25 –
11:50 a.m. | IV. | Parity 101: What does it Mean for Behavioral Health Services?
<i>Sandra Naylor Goodwin, Executive Director, California Institute for Mental Health</i> |
| 11:50 –
Noon | V. | Federal Update
<i>Supervisor Liz Kniss, Santa Clara County</i>
<i>Kelly Brooks, CSAC Legislative Representative</i> |
| Noon | VI. | Adjournment

<i>Supervisor Liz Kniss, Santa Clara County</i> |



Housing, Land Use & Transportation Policy Committee

2011 CSAC Legislative Conference

Thursday, June 2, 2011 ■ 8:30 a.m. to 10:00 a.m.

Sheraton Grand ■ Gardenia ■ Grand Nave Ballroom

Sacramento ■ California

DRAFT AGENDA

Chair, Supervisor Efren Carrillo, Sonoma County
Vice Chair, Supervisor Matt Rexroad, Yolo County

- 8:30 a.m. I. **Welcome, Introductions, and Approval of the Agenda**
Chair, Supervisor Efren Carrillo, Sonoma County
Vice Chair, Supervisor Matt Rexroad, Yolo County
- 8:35 a.m. II. **Tribal-State Gaming Compacts under the Brown Administration**
Bruce Goldstein, County Counsel, Sonoma County
Attachment One: CSAC Memo to Governor Brown on Tribal-State Gaming Compacts
- 8:55 a.m. III. **Driving Change: PPIC Report on SB 375**
Louise Bedsworth, Research Fellow, Public Policy Institute of California (invited)
Ellen Hanak, Senior Fellow, Public Policy Institute of California (invited)
Attachment Nine: Summary: Driving Change: Reducing VMT in California
- 9:15 a.m. IV. **Institute for Local Government's Beacon Award**
Yvonne Hunter, Program Director, Institute for Local Government
Lindsay Buckley, Program Coordinator, Institute for Local Government
Attachment Two: Beacon Award: Local Leadership Toward Solving Climate Change
- 9:30 a.m. V. **State Budget & Legislative Update**
DeAnn Baker, CSAC Senior Legislative Representative
Kiana Buss, CSAC Senior Legislative Analyst
Attachment Three: FY 2011-12 New HUTA Estimates by County
Attachment Four: AB 720 (Hall): Road Commissioner Authority
Attachment Five: AB 1220 (Alejo): Housing Element: Statute of Limitations
Attachment Six: SB 244 (Wolk): Disadvantaged Communities
Attachment Seven: AB 147 (Dickinson): Traffic Impact Mitigation Fees
Attachment Eight: AB 931 (Dickinson): CEQA Exemption for Affordable Infill Housing
- 9:50 a.m. VI. **Other Items & Adjournment**



INSTITUTE FOR LOCAL GOVERNMENT

Update on Activities

June 2011

BOARD OF DIRECTORS

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Southern California Edison Company

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State of California

Program Spotlight: Sustainable Communities Program

The Institute's Sustainable Communities Program applies the Institute's mission of promoting good government with practical, impartial and easy-to-use materials in three primary areas:

1. **Land Use Planning.** This includes nuts-and-bolts explanations of the land use decision-making process for both decision-makers and the public, as well as explanations of new areas (for example, plain language explanations and resources relating to regional transportation planning processes).
2. **Healthy Communities.** With funding from The California Endowment, the Institute is providing tools and resources for local decision-makers on planning and developing healthy neighborhoods that facilitate physical activity and provide access to healthy food choices.
3. **Energy Conservation and Greenhouse Gas Emissions Reduction.** With funding from the Public Goods Charge and administered through investor-owned utilities as well as funding from a number of state agencies, the Institute has helped local agencies understand their options in the areas of energy efficiency and greenhouse gas reductions.

The Institute Sustainability Program focuses on helping counties (and cities) by offering resources such as webinars, tip sheets, templates and recognition that makes it easier for them to consider and implement sustainability policies and programs.

In addition, to make our materials more user-friendly and attract visitors to our resources, we are experimenting with including short video interviews of local officials on our website to highlight local sustainability efforts.

Institute Resources Released Since Last Board Meeting

- Briefing Paper: *Understanding SB 375: Regional Planning for Transportation, Housing and the Environment* (www.ca-ilg.org/regionaltransportationplanning).
- Whitepapers:
 - The Value of Sharing your Agency's Story (<http://www.ca-ilg.org/sharingyourstory>)
 - Using Economic Development to Support Sustainability (www.ca-ilg.org/SustainableEconomy)
 - Local Officials Think Regionally to Tackle Transportation, Housing and Environmental Issues (www.ca-ilg.org/tacklingregionalplanning)

Promoting Good Government at the Local Level

Institute Conference Sessions, Webinars and Other Meetings

Conference Sessions

- **New Supervisors Institute:** The Institute was pleased to organize a session on public meetings and engagement at the New Supervisors Institute, as well as an overview session on Human Resources.
- **CSAC Institute:** The Institute is organizing additional sessions on labor relations and collective bargaining, in connection with CSAC's Legislative Action Days.
- **PIOs Meeting:** Also in conjunction with Legislative Action Days, the Institute will be making a presentation to county public information officials on legal issues relating to social media.
- **California Green Summit:** April 20, Best Practices in Sustainability: Celebrating Leadership at the Local Level

Webinars

- **Recycling Programs at Apartment Complexes: Success Tips for Local Officials.** Speakers included a representative from Sacramento County. (ILG Hosted; April 7 and archived at www.ca-ilg.org/CommercialRecyclingWebinar)
- **Understanding California's Proposed Commercial Recycling Regulations: What Local Agencies Need to Know about the Education, Outreach and Monitoring Requirements.** Discussion panelists included representatives from Glenn and Los Angeles counties. (ILG Hosted; May 2 and archived at www.ca-ilg.org/CommercialRecyclingWebinar)
- **California Cities and Counties Embrace Sustainability** (as part of a webinar hosted by *Governing Magazine*, April 12)

Other Meetings

- "Bridging the Divide: Creating Joint Strategies for Effective Public Engagement," was held on April 21st in Clovis. Thirty-eight local officials and representatives of community-based organizations came together to discuss ways to enhance partnerships leading to more effective and inclusive public engagement.
- Institute staff helped to facilitate a meeting of a dozen primarily county-based and affiliated multi-sector prisoner reentry programs to share experiences and best practices.

Update – Beacon Award: Local Leadership toward Solving Climate Change

Debuted in August 2010 as the first of its kind in California, the Beacon Award recognizes and celebrates cities and counties that reduce greenhouse gas emissions, save energy, adopt policies and programs to address climate change, and promote sustainability. (www.ca-ilg.org/BeaconAward)

Current participating counties: Yolo and Sonoma

In final process to participate: San Diego (with more pending). www.ca-ilg.org/BeaconAward/Participants.

There is no application deadline to participate in the Beacon Award program.



Local Leadership Toward
Solving Climate Change

View video testimonials from local officials about the Beacon Award at: www.ca-ilg.org/BeaconAward/Testimonials.

Other Resources and Materials

- Commercial Recycling:
 - Sample commercial recycling information flyer template (in English and Spanish) www.ca-ilg.org/CommercialRecyclingFlyer
 - New community stories about successful commercial recycling education and outreach activities, including the Alameda County Solid Waste Authority. www.ca-ilg.org/commercialrecyclingstories
- **ILG Sustainability News:** New e-newsletter sent to nearly 2,000 local officials and others, highlighting resources and activities related to climate change, land use and environment, and healthy neighborhoods. (<http://archive.constantcontact.com/fs039/1102150261861/archive/1104307375895.html>.)
- **ILG eNews:** New online newsletter launched that features resources, education and helpful information for local officials. A “Get ILG Email Updates” link has been added to ILG Facebook and website pages for easy sign-ups to receive ILG eNewsletters. <http://www.ca-ilg.org/newsletters>.
- **Ethics Resource:** ILG website now includes new section to help local officials comply with gift reporting and other restrictions. www.ca-ilg.org/gifts
- **Engaging the Public in Planning Healthy Communities:** PowerPoint slides and a video recording of a conference session organized by ILG are available at www.ca-ilg.org/EngagementandHealthyCommunities.

Institute Website Highlights and Usage (www.ca-ilg.org)

- ✓ Local officials and other continue to increase the use of the Institute’s website usage – the website experienced an average of 6,000 visits per month this past quarter with 63 percent of those visitors being new.
- ✓ The website’s sustainability-related pages, ethics, and general information pages continue to be very popular.
- ✓ The Institute’s launch of E-Newsletters to connect local officials with Institute resources are also driving visitors to the Institute’s site. (Constant Contact has jumped up to #2 from #6 this month as a top referring site to the Institute’s site)
- ✓ The top downloaded publication this past month was *Financial Management for Elected Officials: Questions to Ask* (www.ca-ilg.org/financialmanagement)
- ✓ The educational reach of the Institute’s webinars on commercial recycling have been extended as local officials visited archived editions of the commercial recycling webinars. (www.ca-ilg.org/CommercialRecyclingWebinar)



May 16, 2011

CSAC Finance Corporation Names New Executive Director

As California counties continue to face fiscal challenges, the CSAC Finance Corporation is strategically situated to provide our counties with valuable programs and services. These financial programs run the gamut, from pooled purchasing and securitizations to infrastructure financing and tax and revenue anticipation notes; from tax-exempt bonds and pooled investment funds to deferred compensation and specialized consulting services. The list goes on and on.

The Finance Corporation has grown significantly over the past decade and we anticipate additional growth in the years to come. It is in this light that we found ourselves undertaking a nationwide search for a new Executive Director.

The CSAC Finance Corporation is pleased to announce that Nancy Parrish will assume the duties of Executive Director on Aug. 1.

Nancy will replace Tom Sweet, who retires in June after serving as the Corporation's Executive Director since 2007. Tom - and Norma Lammers before him - set the bar high when it comes to directing the Finance Corporation. We are confident that Nancy is the right person to lead the Corporation into a new era, and she is prepared for the challenges we will face.

Nancy's experience over the past decade will allow her to hit the road running. Since 2000, she has worked for NACo's Financial Services Corporation, serving as its Director since January 2007. The CSAC Finance Corporation has worked jointly with the NACo FSC on the development and implementation of a number of valuable programs, including the U.S. Communities Pooled Purchasing Program and Nationwide's Deferred Compensation Program. This relationship has been incredibly valuable to California.

Beyond providing highly valuable financial programs and services to California's 58 counties, the Finance Corporation's connection to CSAC has benefited our members in other ways. For example, revenues generated by the Finance Corporation play an integral role in our annual budget. And because of these revenues, CSAC has not only been able to forego annual dues increases, but has been in position to roll out new programs, such as the CSAC Institute for Excellence in County Government.

As a member of the Finance Corporation Board of Directors, I had the privilege of sitting on the interview panel. The level of the candidates we interviewed was extremely high. We were incredibly fortunate to have had such a talented pool to choose from. And we are extremely fortunate to have Nancy joining the California county family.



MEMORANDUM

May 18, 2011

TO: CSAC Board of Directors

FROM: Paul McIntosh, Executive Director
Lindsay Pangburn, Corporate Relations Manager

RE: Corporate Associates Program Update

Following please find updates on the CSAC Corporate Associates program so far this year.

- Membership and sponsorship solicitation efforts for 2011 are ongoing, with current efforts geared toward the upcoming Legislative Conference in June, as well as the Annual Meeting in late November/early December.
- As of May 18th, we have received 2011 membership commitments from 54 organizations, with a total membership/sponsorship income to-date of \$167,000. We are trending slightly better than last year at this time, when we had 49 paid members and an income of \$128,500.
- The program has gained five new members so far this year: C.W. Driver; Financial Marketing Concepts; JSH International; RBC Capital Markets; and Science Applications International Corporation.
- Plans are in place for an Annual Meeting workshop featuring Corporate Associates members that will cover the topic of the e-grid, and preparation required for the expanded use of electric vehicles.
- Corporate Associates members continue to receive regular updates and publications from CSAC, including the weekly *CSAC Bulletin* and the Executive Director's Watch.
- Upcoming program events:
 - Corporate Associates Summer Golf Tournament – June 3rd, Sacramento

If you have any questions about the Corporate Associates program, please feel free to contact Lindsay Pangburn, at (916) 327-7500 ext. 528 or lpangburn@counties.org.



County Counselors' Association of California

BOARD OF DIRECTORS

MEMORANDUM

To: Supervisor John Tavaglione, President, and
Members of the CSAC Board of Directors

From: Jennifer Henning, Litigation Coordinator

Date: June 2, 2011

Re: Litigation Coordination Program Update

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Marin County

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Warren R. Jensen
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2009-2011

Jeanine Nadel
Mendocino County
2010-2012

Pamela Walls
Riverside County
2010-2012

EXECUTIVE DIRECTOR
Jennifer B. Henning

This memorandum will provide you with information on the Litigation Coordination Program's activities since you received your last regular update in March, 2011. If you have questions about any of these cases, please do not hesitate to contact me.

I. New Amicus Case Activity Since March

City of Brisbane v. Calif. State Board of Equalization

Pending in San Francisco County Superior Court (Feb. 20, 2009)(CPF-09-509232)

This lawsuit presents the issue of whether transactions where the property is sold from one retailer in a city but then shipped to California customers from points out of state should be subject to a sales tax or use tax. The long-standing practice of the BOE has been to subject such transactions to the use tax. The City of Brisbane argues that such activity is subject to a sales tax, and therefore tax revenue to which it is entitled is being wrongfully distributed to other jurisdictions. Its petition/complaint seeks retroactive application of its interpretation of the Bradley-Burns Act, which would result in \$3.1 million in tax revenue owed to the city. To date, 82 cities and 6 counties have agreed to coordinate and file as intervenors in this action against the City of Brisbane. CSAC will file a brief in support of BOE and the intervening cities and counties.

Brown v. County of Los Angeles

Pending in the Second Appellate District (filed Jan. 5, 2011)(B229993)

Plaintiff was employed as a Clinical Psychologist for Los Angeles County, a position that requires either a license to practice as a psychologist or a valid waiver from the State. She was granted a five-year waiver. During those five years, she failed the psychologist licensing exam and did not obtain the required license. She also filed several complaints alleging unsafe working conditions and a hostile work environment, among other things. When her waiver expired, she was removed from her responsibilities. The State denied her request for a wavier

extension, and she was ultimately terminated for failing to meet the minimum standards for her position, though she was informed that she could apply for other positions that did not require a license. She brought this action alleging she was terminated in retaliation for her complaints. The county sought summary judgment. The court denied the motion, finding that since the county's policy allows for either termination or demotion to a position that does not require a license, plaintiff raised triable issues of fact as to whether her termination for lack of a license was a pretext for a retaliatory termination. The county filed a writ petition in the Second Appellate District, which was denied. The county later received an adverse verdict at trial, and has now appealed. CSAC will file a brief in support.

C.A. v. William S. Hart Union High School District

Previously published at: 189 Cal.App.4th 1166 (2d Dist. Nov. 5, 2010)(B217982), *petition for review granted* (Feb. 23, 2011)(S188982)

Plaintiff sued the school district alleging negligent supervision and vicarious liability based on sexual abuse he endured from a school guidance counselor. The trial court found in favor of the school district and the Second District Court of Appeal affirmed. The court noted that the district could only be held vicariously liable for the employee's conduct if it occurred in the scope of her employment. Because plaintiff failed to explain how sexual misconduct with a student could fall within the scope of employment of a guidance counselor, plaintiff could not prevail on his claim. The court also concluded that there was no statutory basis for finding the district liable under these facts. The California Supreme Court has granted review. CSAC will file a brief that will argue to the Court that if the school district is liable, its liability must be based on specific statutory duties imposed on school districts rather than general vicarious liability for negligent hiring.

Center for Biological Diversity v. California Fish and Game Commission

Unpublished Decision of the First Appellate District, 2011 Cal.App.Unpub.LEXIS 2596 (Apr. 8, 2011)(A127555), *request for publication denied* (Apr. 28, 2011)

Plaintiff challenged the Fish and Game Commission's decision not to designate the California pika as a candidate for possible protection under the California Endangered Species Act. The trial court found the Commission did not correctly state the applicable legal standard in its decision, and it remanded to the Commission for reconsideration. The Commission subsequently reaffirmed its earlier decision not to list the pika as threatened or endangered. Plaintiffs then requested over \$280,000 in attorney fees, which the trial court granted with only minor reductions. On appeal, the First District reversed the attorney fee award in an unpublished opinion: "All the Center achieved was a limited 'do-over.' . . . Without question, process is important, and it is certainly essential that administration agencies conduct their operations according to a correct understanding of the law. But it is surpassingly difficult to imagine the Center commenced this action solely to get the Commission to correct the possible misapprehension of law that was the subject of the trial court's writ." CSAC requested that the opinion be published, but the request was denied.

Cedar Fair v. City of Santa Clara

--- Cal.App.4th ---, 2011 Cal.App.LEXIS 506 (6th Dist. Apr. 6, 2011)(H035619), *request for publication granted* (Apr. 28, 2011)

The City of Santa Clara and its redevelopment agency entered into an agreement called a “Stadium Term Sheet” with some private developers and franchise owners to set out the basic terms guiding the negotiation for the development of a stadium in Santa Clara to serve as the home field for the 49ers NFL franchise. Plaintiff challenged the city’s approval of the term sheet as a project that was subject to CEQA. The appellate court affirmed a trial court ruling that the term sheet itself was not a project. In an unpublished opinion, the court first analyzed the Supreme Court’s decision in a 2008 case call *Save Tara v. City of West Hollywood*, which concluded that some preliminary agreements can so bind the direction of an agency that they require CEQA review. Here, the court noted that “[d]etermining on which side of the *Save Tara* line the term sheet falls is not an easy judgment call.” But the court went on to conclude that “although the term sheet is extremely detailed, it expressly binds the parties only to continue negotiating in good faith” and CEQA review was therefore not required. CSAC’s request that the opinion be published was granted.

Espinosa v. City and County of San Francisco

598 F.3d 528 (9th Cir. Mar. 9, 2010)(08-16853), *petition for en banc review denied* (Feb. 28, 2011)

San Francisco Police Officer Morgado responded to a call from a neighbor that the home next door had a door open and was being used as a drug house. When Officer Morgado arrived he noticed that the front door was unsecured, and that a bloody shirt was inside. He was backed up by Officers Alvis and Keesor. The three Officers went inside to investigate, and heard the sound of someone – Sullivan – attempting to escape into the attic. The Officers went into the narrow crawl space of the pitch dark attic to investigate, and Sullivan threatened to kill the officers. After a 12 minute standoff, Sullivan suddenly pointed his arms at Officer Alvis, as if pointing a gun. Officers Alvis and Keesor fired their weapons, killing Sullivan. Although no gun was found, beside Sullivan in the attic was a dark glasses case with blood spatter patterns consistent with Sullivan holding the eyeglasses case as if to point a gun. Sullivan’s family brought this Section 1983 action, and the Officers moved for summary judgment, arguing that because there was no dispute as to the above facts, the Officers' conduct was reasonable as a matter of law both as to the entry and their use of force. The district court denied the motion, and the Officers filed an interlocutory appeal. Two out of the three judges on the panel agreed with the district court and upheld the decision in a published opinion. The third judge wrote a scathing dissent. San Francisco requested rehearing and rehearing en banc, which CSAC supported, but review was denied. San Francisco plans to seek U.S. Supreme Court review, and CSAC will file a brief in support.

Hayes v. County of San Diego

--- F.3d ---, 2011 U.S.App.LEXIS 5723 (9th Cir. Mar. 22, 2011)(09-55644), *petition for rehearing en banc pending* (filed Apr. 19, 2011)

Sheriff deputies responded to a domestic violence call, and entered the home to perform a welfare check when informed that Shane Hayes was suicidal. Mr. Hayes had a large knife and began to walk toward the officers, at which point they shot and killed him. His minor daughter brought this action against the deputies and the county for violating her father's Fourth Amendment rights and her Fourteenth Amendment rights, as well as negligent wrongful death and negligent hiring. The trial court ruled in favor of the deputies and county on all claims. However, the Ninth Circuit Court of Appeals reversed summary judgment on the negligent wrongful death claim. The court assumed that California courts would find some duty of care was owed to Mr. Hayes in relation to the officers' preshooting conduct. The court further concluded that the officers' actions were not objectively reasonable under the circumstances. San Diego County is seeking rehearing at the Court of Appeals, and CSAC has filed a brief in support.

In re Jack C.

192 Cal.App.4th 967 (4th Dist. Div. 1 Feb. 15, 2011)(D057034), *petition for review denied* (May 11, 2011)(S191805)

In this case, minor's family notified social workers that minor's paternal grandmother was a registered Chippewa Indian. Minor was not registered, but the tribe eventually determined that the minor is eligible for enrollment and notified the trial court of its intent to intervene in the children's dependency proceedings. Father thereafter filed a motion to transfer the matter to the tribal court, but the court denied the motion because it was not satisfied minor was an Indian child as defined by the law, and in any event that the motion was not timely. The court terminated parental rights. The appellate court reversed and remanded. The court found, among other things, that although the minor was not an enrolled member of the tribe at the time of the proceedings, he was an Indian child within the meaning of the state definitions. In order to reach that finding, the court found the State's attempt to expand the definition of "Indian child" found in 25 U.S.C. § 1903 was not preempted by ICWA. San Diego County sought Supreme Court review, which CSAC supported, but review was denied.

City of Los Angeles v. Superior Ct. (Americans for Safe Access)

Pending in the Second Appellate District (filed Jan. 26, 2011)(B230436)

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. This lawsuit challenges 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 concluded 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. CSAC will file a brief on the state preemption issues.

Los Angeles County Metropolitan Transportation Auth. v. Alameda Produce Market
Unpublished Decision of the Second Appellate District, 2010 Cal.App.Unpub.LEXIS 7998
(2d Dist. Oct. 6, 2010)(B212643), *petition for review granted* (Dec. 21, 2010)(S188128)

The Metropolitan Transportation Authority sought to acquire property for bus parking through eminent domain. MTA used the quick-take procedure, deposited the probable amount of compensation, and filed a motion for immediate possession. Before trial, three lenders with liens against the property filed applications to withdraw a portion of the deposited funds. The property owner received notice of lenders' applications, and did not object. The trial court authorized the withdrawals. When MTA sought to take immediate possession, the property owner objected citing various procedural flaws. MTA argued that by the lenders' withdrawing a portion of the deposit, and by the property owner not objecting, the property owner waived its right to object to the take. The trial court dismissed MTA's complaint, which permitted the property owner to retain both the property and the money. In an unpublished opinion, the Second District reversed, holding that the property owner had waived objection to the take by receiving a financial benefit from the withdrawals. The California Supreme Court has granted review. CSAC will file a brief in support of the MTA.

McCormick v. County of Alameda

193 Cal.App.4th 201 (1st Dist. Mar. 2, 2011)(A126818), *petition for review pending* (filed Apr. 11, 2011)(S192148)

This action challenges the county's policy of denying General Assistance to Maximum Family Grant (MFG) children who are members of assistance units in which no one receives cash aid from CalWORKS. The superior court upheld the policy, finding that the assistance contemplated by the regulation was not limited to cash aid and that plaintiff was ineligible for GA because he qualified for and received benefits, albeit not cash, from CalWORKS. The Court of Appeal reversed, concluding that GA can only be denied if that person's minimum subsistence needs are actually met by another program: "The MFG rule, as we have said, is intended as a disincentive to having additional children while living on welfare; . . . The effect of the MFG rule in the present case, however, is far more harsh, as it denies *any* cash assistance for an otherwise eligible child even though the family is no longer receiving the cash assistance that made the MFG rule applicable." Alameda County is seeking Supreme Court review, and CSAC has filed a letter in support.

McKee v. Tulare County of Board of Supervisors

Pending in the Fifth District Court of Appeal (filed Sept. 28, 2010)(F061146)

This case involves a challenge to a practice of Board members having lunch together at county expense on a regular basis. Plaintiffs filed a writ of mandate alleging Brown Act violations. The trial court twice sustained the county's demurrer to the petition, concluding that the petition failed to state a violation of law. Specifically, the court concluded that the subject matters discussed during these Board lunches (travel planning, office management and the like) involve individual supervisorial activities and not items of importance concerning collective decision making. Plaintiffs have appealed to the Fifth District, alleging: (1) That because the meal is paid for by the county on the basis that it is official business, it is by definition covered by the Brown Act; (2) The subject matter jurisdiction of the Board, for purposes of the Brown Act, includes travel and office management; and (3) That verification of a writ petition may be made on information and belief as to material facts. CSAC has filed an amicus brief in the third issue.

Natural Resources Defense Council v. County of Los Angeles

--- F.3d ---, 2011 U.S.App.LEXIS 4647 (9th Cir. Mar. 10, 2011)(10-56017), *petition for rehearing pending* (filed Mar. 31, 2011)

Plaintiffs filed this action against the county and the county flood control district over, among other things, their alleged failure to prevent polluted stormwater from entering four area rivers and creeks. The case raised the issue of whether the county and the district could be held liable under the Clean Water Act (CWA) for polluted storm water discharges where the district only *conveyed* the polluted storm water without having actually caused the pollution, and without evidence that the county was a source of the pollution. The Ninth Circuit first concluded that the CWA does not distinguish between those who add pollutants to the water and those who convey the pollutants. The court then upheld a district court ruling in favor of the county, finding that plaintiffs failed to show how stormwater from municipal separate storm sewer systems (ms4s) controlled by the county caused or contributed to pollution in any of the four Watershed Rivers. As to the flood control district, since the monitoring stations for two of the rivers are located in a concrete section of ms4 owned and operated by the district, the Ninth Circuit concluded plaintiffs were entitled to partial summary judgment because the court assumed that after stormwater known to contain standards-exceeding pollutants passes through these monitoring stations, this polluted stormwater is discharged into the two rivers. The flood control district has petitioned for rehearing and rehearing en banc, and CSAC has filed a brief in support.

Pack v. Superior Court (City of Long Beach)

Pending in the Second Appellate District (filed Nov. 15, 2011)(B228781)

Long Beach adopted a medical marijuana collectives ordinances last year. The ordinance requires collectives to have a permit to operate, sets buffer zones between collectives and sensitive uses, and requires collectives to be at least 1,000 feet apart. A lottery system was created for applicants whose collectives would be within 1,000 feet of one another to determine which of them may operate. Any collective operating at the time the ordinance was adopted that did not subsequently obtain a permit under the ordinance was required to close. Plaintiff sued, alleging the city's ordinance was preempted by both state and federal law. The superior court upheld the ordinance, and plaintiff filed a writ

petition in the Second District. In mid-April, the court sent a letter soliciting amicus briefs from CSAC (among other organizations) on the federal preemption issue. CSAC will submit a brief in response to the court's request.

Simone v. City and County of San Francisco

Unpublished Decision of the First Appellate District, 2011 Cal.App.Unpub.LEXIS 1730 (1st Dist. Mar. 8, 2011)(A126531), *request for publication denied* (Apr. 7, 2011)

Plaintiff was injured when she was struck by a car while crossing a street in a crosswalk. The driver did not stop, and the car was later found abandoned, but the investigation of the accident showed it was possible that the sun could have been in the driver's eyes causing his vision to be obscured at the time of the accident. Plaintiff brought this action alleging dangerous condition of public property. The trial court granted the city's summary judgment motion and the appellate court affirmed in an unpublished opinion. The court found that it was not relevant whether the marked crosswalk was visible since the existence of the intersection itself would alert drivers of potential pedestrians crossing. CSAC's request to publish the opinion was denied.

II. Amicus Cases Decided Since March

In addition to the new amicus cases already decided, which are discussed above, the following amicus cases have been decided the Board's last meeting in March:

Trinity Park v. City of Sunnyvale

193 Cal.App.4th 1014 (6th Dist. Mar. 24, 2011)(H035573)

Outcome: Positive

The City approved a tentative map and other discretionary approvals for a 42-unit housing project in September 2007. A condition of approval required 5 below market rate ("BMR") units. In order to obtain building permits and to establish specific sales prices, plaintiffs entered into an agreement with the city in April 2008 to provide the 5 BMR units, then constructed the homes and commenced sales. In December 2009, when most of the homes were completed and many were sold, plaintiffs filed suit, alleging the BMR requirements were unjustified housing exactions. The city demurred, arguing the plaintiffs failed to comply with the statute of limitations. The trial court agreed, concluding the Subdivision Map Act required plaintiffs to commence their suit within 90 days of the legislative body's decision regarding the subdivision. The Sixth District affirmed: "[W]e determine that a requirement that a subdivision developer sell a certain percentage of a subdivision's houses at below market prices as a condition of development approval does not constitute a development fee, dedication, reservation or 'other exaction' within the meaning of section 66020 where, as here, the affordable housing requirement was clearly not intended to 'defra[y] all or a portion of the cost of public facilities related to the development project.' (§ 66000, subd. (b); *Barratt American, Inc. v. City of Rancho Cucamonga* (2005) 37 Cal.4th 685, 696 (*Barratt*)). We therefore conclude, as a matter of law, that section 66020 does not apply and Trinity's complaint was untimely filed under

both section 66499.37 and section 65009, subdivision (c)(1)(E).” CSAC filed a brief in support of the city.

Wills v. Orange County Superior Court

194 Cal.App.4th 312 (4th Dist. Div. 3 Apr. 13, 2011)(G043054), *petition for rehearing pending* (filed Apr. 29, 2011)

Outcome: Positive

This case addresses whether employees with behavioral disabilities can be disciplined for misconduct that is related to their underlying disability. Plaintiff, a former court clerk, has bipolar disorder. During certain manic episodes of her disorder, she made threats of violence to fellow employees. She was terminated for violating the policy on workplace violence. The trial court ruled in favor of the Orange County Superior Court, concluding that the court was not on notice of plaintiff’s disability, plaintiff did not request any accommodation, and that she was terminated for legitimate, non-discriminatory reasons. The Fourth District affirmed. “Wills’s disability discrimination claim fails because an employer may reasonably distinguish between disability caused misconduct and the disability itself when the misconduct includes threats or violence against coworkers. In these circumstances, terminating the employee based on the misconduct does not amount to discrimination prohibited by FEHA.” CSAC filed a brief in support of the court.