

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, February 21, 2013
10:00am - 1:30pm
CSAC Conference Center, Sacramento

A G E N D A

Agenda times are approximate. Matters may be considered earlier than published time.

Presiding: David Finigan, President

10:00am - **PROCEDURAL ITEMS**

1. Roll Call Page 1
2. Approval of Minutes of November 29, 2012 Page 3

10:15am - **ACTION ITEMS**

3. Consideration of State and Federal Legislative Priorities for 2013 Page 7
 - *Matt Cate, Executive Director & CSAC staff*
4. Health Reform Implementation and County Issues Page 18
 - *Matt Cate, Executive Director & Kelly Brooks Lindsey, CSAC staff*
5. Consideration of Amendments to CSAC County Platform Page 22
 - Agriculture & Natural Resources**
 - *Supervisor Vann, Chair & Karen Keene, CSAC staff*
 - Health & Human Services** Page 23
 - *Supervisor Long, Chair & Kelly Brooks Lindsey, CSAC staff*
 - Housing, Land Use & Transportation** Page 48
 - *Kiana Buss, CSAC staff*
6. Adoption of "Year of the Child" Resolution Page 87
 - *President Finigan*
7. Request for Co-sponsorship of Solid Waste Conversion Tech. Legislation Page 90
 - *Karen Keene & Cara Martinson, CSAC staff*

12:00pm - **LUNCH**

1:00pm - **INFORMATION ITEMS**

8. CSAC Corporate Associates Program Report Page 92
 - *John Samartzis, Director of Corporate Relations*
9. Formation of Working Groups: Revision of Affiliates Policy & CSAC Policy Manual Update Page 93
 - *Matt Cate, Executive Director*
10. **The following items are contained in your briefing materials for your information, but no presentation is planned:**
 - ❖ Institute for Local Government (ILG) Update Page 98
 - ❖ CSAC Finance Corporation Report Page 99
 - ❖ Litigation Coordination Program

11. Other Items

1:30pm - **ADJOURN**

CALIFORNIA STATE ASSOCIATION OF COUNTIES

Board of Directors

2013

<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	Virginia Bass
S	Imperial County	Ryan Kelley
R	Inyo County	Jeff Griffiths
S	Kern County	Mike Maggard
R	Kings County	Doug Verboon
R	Lake County	Anthony Farrington
R	Lassen County	Jim Chapman
U	Los Angeles County	Don Knabe
R	Madera County	Max Rodriguez
S	Marin County	Susan Adams
R	Mariposa County	John Carrier
R	Mendocino County	Carre Brown
S	Merced County	Hubert "Hub" Walsh
R	Modoc County	Jim Wills
R	Mono County	Larry Johnston
S	Monterey County	Fernando Armenta
S	Napa County	Brad Wagenknecht
R	Nevada County	Ed Scofield
U	Orange County	John Moorlach
S	Placer County	Jim Holmes
R	Plumas County	Jon Kennedy
U	Riverside County	John Tavaglione

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

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

SECTION: U=Urban S=Suburban R=Rural

CALIFORNIA STATE ASSOCIATION OF COUNTIES
 BOARD OF DIRECTORS
 November 29, 2012
 Long Beach Convention Center, Los Angeles County, CA

MINUTES

Presiding: Mike McGowan, President

1. ROLL CALL

Alameda	absent	Orange	John Moorlach
Alpine	Terry Woodrow	Placer	absent
Amador	Louis Boitano	Plumas	Jon Kennedy
Butte	Maureen Kirk	Riverside	John Benoit
Calaveras	Merita Callaway	Sacramento	Phil Serna
Colusa	Kim Dolbow Vann	San Benito	absent
Contra Costa	Gioia/Mitchoff	San Bernardino	Josie Gonzales
Del Norte	David Finigan	San Diego	Greg Cox
El Dorado	Norma Santiago	San Francisco	Eric Mar
Fresno	Judy Case	San Joaquin	Larry Ruhstaller
Glenn	John Viegas	San Luis Obispo	Bruce Gibson
Humboldt	Mark Lovelace	San Mateo	absent
Imperial	Gary Wyatt	Santa Barbara	Janet Wolf
Inyo	Susan Cash	Santa Clara	Ken Yeager
Kern	absent	Santa Cruz	John Leopold
Kings	Doug Verboon	Shasta	Glenn Hawes
Lake	absent	Sierra	Lee Adams (via audio)
Lassen	absent	Siskiyou	absent
Los Angeles	Don Knabe	Solano	Linda Seifert
Madera	absent	Sonoma	Efren Carrillo
Marin	Susan Adams	Stanislaus	Vito Chiesa
Mariposa	Kevin Cann	Sutter	absent
Mendocino	Carre Brown	Tehama	Robert Williams
Merced	Hubert Walsh	Trinity	Judy Pflueger
Modoc	absent	Tulare	Steve Worthley
Mono	Larry Johnston	Tuolumne	Richard Pland
Monterey	Fernando Armenta	Ventura	John Zaragoza
Napa	Brad Wagenknecht	Yolo	McGowan/Rexroad
Nevada	Ed Scofield	Yuba	Roger Abe

The presence of a quorum was noted.

2. APPROVAL OF MINUTES

The minutes of September 6, 2012 were approved as previously mailed.

3. EXECUTIVE DIRECTOR'S REPORT

CSAC's new Executive Director, Matt Cate, discussed his background and previous position as Secretary of the California Department of Corrections and Rehabilitation.

Diane Cummins, Special Advisor to the Governor, discussed a project she has begun working on with CSAC to institutionalize the state/local fiscal relationship. Currently, there are a variety of models that have evolved during the 40-year history of the state's fiscal relations with counties. The intent of this project is to implement a permanent structure that creates a more equal partnership between the state and counties.

Staff outlined the political dynamics going on in Sacramento since the November election. Educating new legislators on county issues will be a priority for CSAC since there are 38 new members in the Legislature this year. The Governor will be calling a special session on health care in January in response to the passage of the Federal Affordable Care Act. Staff indicated that implementation of health care reform will be a big issue for CSAC in the coming year.

4. ELECTION OF 2013 EXECUTIVE COMMITTEE

In addition to the CSAC Officers, the following members were elected to serve on the 2013 CSAC Executive Committee:

Urban Section

Keith Carson, Alameda
Federal Glover, Contra Costa
Don Knabe, Los Angeles
John Moorlach, Orange
John Tavaglione, Riverside
Kathy Long, Ventura
Greg Cox, San Diego (alternate)

Suburban Section

Susan Adams, Marin
Henry Perea, Fresno
Bruce Gibson, San Luis Obispo
Vito Chiesa, Stanislaus (alternate)

Rural Section

Kim Dolbow Vann, Colusa
Robert Williams, Tehama
Louis Boitano, Amador (alternate)

William Goodwin, Tehama Chief Administrator and Charles McKee, Monterey County Counsel, will serve as advisors to the Executive Committee this year.

5. CSAC POLICY COMMITTEE REPORTS

Administration of Justice. Supervisor Merita Callaway, Vice-chair of the CSAC Administration of Justice policy committee, presented a report from the meeting held on November 27. The primary focus of the policy committee's discussion was the future of public safety realignment and there were several presentations made on that topic. No action items were brought forward for Board consideration.

Agriculture & Natural Resources. Supervisor Richard Forster, Chair of the CSAC Agriculture & Natural Resources policy committee, presented a report from the meeting held on November 27. The committee heard presentations on Managing California's Flood Risk, Future of Waste Management, Solar Permit Streamlining, and California Environmental Health Screening Tools. The policy committee will be meeting in early 2013 to discuss changes to the CSAC Platform. No action items were brought forward for Board consideration.

Government Finance & Operations. Supervisor Bruce Gibson, Chair of the CSAC Government, Finance & Operations policy committee, presented a report from the meeting held on November 27. The committee received presentations on Pension Reform Implementation, Workers' Compensation Reform, California's Fiscal Forecast, and Revenue and Taxation issues for 2013. No action items were brought forward for Board consideration.

Health & Human Services. Supervisor Terry Woodrow, Vice-chair of the CSAC Health & Human Services policy committee, presented a report from the meeting held on November 28. The committee heard reports on the Health Benefit Exchange, Medi-Cal, Special Session on Health Care Reform, and Phase Two Realignment. The PowerPoint presentation regarding Phase Two Realignment is available on CSAC's website. No action items were brought forward for Board consideration. Supervisor Liz Kniss was thanked for her service as Chair of the policy committee.

Housing, Land Use & Transportation. Supervisor Efren Carrillo, Chair of the CSAC Housing, Land Use & Transportation policy committee, presented a report from the meeting held on November 28. The committee heard reports on CEQA Regulatory Reform, State Housing Policy, High Speed Rail, State and Federal Native American Affairs, and MAP 21. No action items were brought forward for Board consideration. The committee will meet again in early 2013 to discuss changes to the CSAC Platform.

6. AFFILIATE STATUS REQUEST FROM LATINO CAUCUS OF CALIFORNIA COUNTIES

Supervisor Phil Serna has been working with other county officials to organize the Latino Caucus of California Counties. The group held its first meeting on November 28, to approve Bylaws and elect officers. The purpose of the organization is to identify issues and concerns important to counties' Latino populations, promote diversity and inclusiveness in governmental decision-making processes, and nurture leadership development among groups that reflect California's changing demographics.

Supervisor Serna requested that the Latino Caucus of California Counties be granted status as a CSAC affiliate and pledged to take no action that conflicts with CSAC's policies.

Motion and second to grant the Latino Caucus of California Counties status as a CSAC affiliate.
Motion carried unanimously.

7. PENSION REFORM UPDATE: CSAC COMPLIANCE WITH STATE LAW

The California Public Employees' Pension Reform Act of 2013 will become law on January 1, 2013. While the majority of pension reform changes will apply only to new employees, there are two important issues to consider related to current employees. The first is that employees will be required to pay at least 50 percent of the normal pension costs by 2018. CSAC's Executive Director will develop a plan to require that current employees pay the employee contribution in future years. The second issue requires that CSAC take action before the end of the calendar year to establish a replacement benefit plan (RBP) that pays retirees the difference between their actual calculated pension and the cap. Establishment of the RBP allows CSAC to "make whole" those limited number of retirees whose pensions may exceed the limit. There is limited cost to CSAC to provide the RBP because the benefit itself is already funded by advance contributions to the San Bernardino County Employees Retirement Association (SBCERA).

Staff requested that the Board of Directors approve the proposed changes to the CSAC pension plan and adopt a resolution approving the establishment of the CSAC Replacement Benefit Plan as required by Government Code section 31899.4. A copy of the resolution was contained in the briefing materials.

Motion and second to approve staff recommendations and adopt a resolution adopting the CSAC Replacement Benefit Plan (RBP). Motion carried (2 no votes).

8. RESOLUTION AUTHORIZING EXECUTIVE DIRECTOR TO CONDUCT CSAC BUSINESS
Staff requested approval of the annual resolution authorizing the Executive Director and his staff designees to conduct CSAC business, including executing and approving bank and other documents.

Motion and second to adopt resolution authorizing Matt Cate to conduct CSAC business.
Motion carried unanimously.

9. INFORMATION ITEMS
The briefing materials contained reports on the CSAC Institute for Excellence in County Government, CSAC Finance Corporation, CSAC Corporate Associates, and the Institute for Local Government, but no presentations were given.

10. OTHER ITEMS
Supervisor Susan Adams expressed interest in forming a Women's Caucus and requested CSAC's assistance in exploring the concept further.

Supervisor Mark Lovelace reported that the CSAC Medical Marijuana Working Group met earlier this week. They received an update on recent legislative efforts and court rulings and a report on the environmental impacts of unregulated marijuana cultivation.

Meeting adjourned.



California State Association of Counties

CSAC 2013 STATE ADVOCACY PRIORITIES*

As approved by the CSAC Executive Committee – January 2013

The 2013 CSAC State Legislative Priorities reflect on ongoing commitment to successful implementation of 2011 Realignment and a focused effort on health reform implementation, in addition to a diverse array of key county priorities.

- 2011 Realignment
- Health Reform Implementation
- Governor’s Proposed Budget
- Vote Thresholds for Locally Approved Taxes
- Redevelopment Dissolution/Resurrection
- Property Tax Allocation
- State Transportation Funding
- MAP 21
- Regulatory/CEQA Reform
- Cap & Trade
- Flood Management/Land Use
- Water Board Rulemakings/Policies
- Solid Waste Conversion Technologies
- Delta Solutions
- 211 Statewide Implementation

2011 Realignment

In 2013, CSAC will work across disciplines to build county capacity and maximize opportunities for successful and sustained implementation of 2011 Realignment. Counties have worked diligently to implement the broad array of programs transferred to county jurisdiction under the 2011 Public Safety Realignment, but work remains to ensure counties are best positioned to fully achieve the objectives of this historic and far-reaching change. Primary focus will be given to safeguarding local ability to innovate and protect programmatic flexibility, developing and delivering training and education programs that support capacity building, identifying appropriate measures to communicate outcomes and to design longer-term allocation methodologies, as well as advocating for legislative changes to address technical and structural implementation impediments. In the broadest sense, CSAC will engage at all levels to support counties’ efforts to manage the new programs and populations over the long term.

Specifically, CSAC expects to be actively engaged in the implementation of 2011 Realignment with the Administration and Legislature, including the appropriate distribution of AB 109 growth funds particularly to address higher-than-projected caseload impacts and county-by-county allocation of growth amounts to the health and human services subaccounts. We anticipate that there will be legislative efforts to reopen the AB 109 allocation formulas through 2013-14, an effort CSAC would oppose, as well as the potential for exploring the future role and composition of the Community Corrections Partnership (CCPs). Further, CSAC will partner with counties, the Legislature, and

* Note that state legislative priorities are established at the start of the legislative year. This document evolves as counties face emerging issues throughout the year.

Administration to identify state policy changes that will allow for greater administrative and program flexibility for health and human services programs.

Health Reform Implementation

California counties will be deeply involved in health reform implementation in 2013. Counties are key partners to the State in promoting the success of federal health reform: counties are providers, operating hospitals, health systems and clinics; counties administer eligibility systems that enroll people in public programs; and counties provide and fund Medi-Cal mental health and substance use disorder treatment services. As part of the health reform implementation discussion, the Administration has proposed two options for California: expanding the existing state Medicaid program or creating a county-run model. Both options would involve the redirection or diversion of county health funds from 1991 Realignment. The two options outlined by the Governor, as well as any other potential health care models that may arise out of discussions with the state, will have significant long-term fiscal and policy effects for counties.

Additionally, California has a number of important policy decisions to make, and Governor Brown announced his intention to call a Special Session of the Legislature on Health Reform in January to address these and other outstanding health policy implementation issues. Chief among the outstanding health issues is the expansion of Medicaid coverage to adults. The discussion of the Medicaid expansion is important to counties because many of the indigent adults for whom counties are currently obligated to provide health services (Welfare and Institutions Code Section 17000) will be eligible for the Medicaid expansion. Counties are in a difficult position – we won't know implementing rules or have actual experience about who gets insurance and how quickly, but are being asked to contemplate a fiscal transaction with the state. CSAC staff will be focused on ensuring that counties are a strong voice in upcoming fiscal and policy discussions about health reform implementation.

Other State Priorities

Governor's Proposed Budget

CSAC will employ short- and long-term approaches to the proposals in the Governor's 2013-14 Proposed Budget, ensuring that county interests are protected during discussions of state budget reductions or restorations.

Vote Thresholds for Locally-Approved Taxes

CSAC has long-supported greater revenue raising authority at the local level and will support legislative constitutional amendments to reduce vote thresholds for local taxes. A number of legislators have expressed significant interest in reducing voter approval requirements for a variety of specific purposes; as such a change requires a constitutional amendment, the challenge ahead is to determine the approach that has the best chance for voter support.

Redevelopment Dissolution/Resurrection

Counties remain critical players in the ongoing dissolution of community redevelopment agencies. CSAC is committed to assisting counties in their multiple roles as successor agency, oversight board participants, and tax administrators to ensure consistent and timely communication and coordination among the county, local stakeholders, and the state.

Legislators continue to have a strong interest in developing a new tool for local economic development. CSAC will work to ensure any new local economic development authority is available to counties and protects county revenues.

Property Tax Allocation

CSAC has identified a number of counties in which there are a variety of property tax allocation issues that limit the counties' ability to obtain reimbursement for state revenue exchanges. CSAC will work with these counties, the Legislature, and the Administration to seek long-term solutions that ensure counties receive full funding for agreed-upon state revenue exchanges.

State Transportation Funding

Transportation stakeholders are finalizing funding recommendations targeted at the Legislature in order to address the significant funding shortfalls (nearly \$300 billion over the next decade) identified in the recently released California Statewide Transportation Needs Assessment. Polling is expected to take place in December to measure public support for various revenue options. There is a sense of urgency to generate new revenues for transportation as when California's Cap and Trade program applies to the production of fuels beginning no later than 2015, auction revenues will increase the price of gasoline, which is the primary funding source that both the state and local systems have historically depended on for preservation and capital improvements. Based on CSAC Board action we have policy to support new revenues for transportation purposes, but we must remain engaged in developing specific legislative proposals that will determine allocations between the state, regions, counties, cities and transit agencies.

In addition, with the passage of Proposition 30 transportation stakeholders intend to seek a sunset on the \$128 million annual HUTA (Highway Users Tax Account) funds that were diverted for General Fund purposes in 2012. This revenue was intended to fund the state and local systems in return for providing close to \$1 billion in truck weight fees for General Fund relief during negotiations on the Transportation Tax Swap in 2011.

MAP 21

The Administration and Legislative leadership and policy staff are both drafting different legislative proposals that will dictate how federal transportation taxes are allocated into the future. CSAC has several priorities to ensure safety and preservation on the local system and bridges remain a priority for funding. Moving Ahead for Progress in the 21st Century Act (MAP 21) represents the first major programmatic overhaul to federal transportation funding in two decades. The consolidation of core federal transportation programs and an increased focus on performance measurement means that California needs to determine how federal funds will be allocated within the state and with what, if any, additional state requirements will be attached to the federal funds. CSAC is working with a broad group of stakeholders to ensure federal funds are allocated in a way that will help the State achieve statewide transportation priorities such as safety and preservation of the existing network, in the most efficient and effective manner.

Regulatory/CEQA Reform

Governor Brown and moderate caucus members of the Legislature have expressed an interest in California Environmental Quality Act (CEQA) reform to streamline projects and promote job creation. In response, Senator Steinberg has created a working group comprised of experienced CEQA attorneys and efforts are underway to outline potential legislative proposals. While CEQA/regulatory streamlining remains a CSAC goal with respect to the delivery of public works and other critical projects associated with county service delivery, we do not have specific policy associated with

private sector interests. Staff has commitments from senior senate staff and representatives on the working group to ensure we are kept apprised of these ongoing efforts.

Cap & Trade – Secure Funding for Local Government Programs

The first allocation of Cap and Trade funds will be decided in the 2013-14 state budget. CSAC staff will work with a number of partners through several different coalitions to secure a portion of these revenues for local governments for a variety of different purposes, including planning, transportation, energy efficiency and other greenhouse gas emissions reductions activities. CSAC is a member of a coalition of transportation stakeholders seeking to ensure that the portion of cap and trade auction revenues associated with fuel production is dedicated for transportation purposes. In addition, CSAC will remain engaged in the OEHHA (Office of Environmental Health Hazard Assessment) process to develop an Environmental Health Screening Tool given the potential impact on the allocation of Cap and Trade revenues for disadvantaged communities.

SB 5 Clean-Up (Flood Management/Land Use) – Seek Statutory Changes to Address Outstanding Issues

SB 5 (Machado, Chapter 364, Statutes of 2007) requires cities and counties to comprehensively address flood management and flood risk issues within local planning documents and to demonstrate a 200-year level of flood protection when approving certain types of development. Additional statutory changes are needed to address outstanding implementation issues regarding the application of SB 5 to all discretionary projects and infill development.

Resolution of the two outstanding issues will necessitate additional discussions between staff from the Department of Water Resources (DWR) and the Senate Natural Resources and Water Committee, the environmental community and local government representatives. CSAC will be actively involved in the development of a legislative solution that provides assurances that “loopholes” to the 200-year level of flood protection are not created.

Water Board Rulemakings/Policies – Support Revisions that Result in Cost-Effective, Implementable and Non-Prescriptive State Standards

State Water Resources Control Board Permit (Water Board) permit revisions remain a concern, including the Municipal Separate Storm Water System (MS4) Permit and the Industrial Storm Water General Permit. Given the significant cost implications to counties, it is imperative that CSAC continue to support revisions that reduce the risk of litigation and result in cost-effective and implementable permits. It is also imperative that the Stormwater Permits include “revised” Receiving Water Limitations (RWL) language consistent with the specific goals outlined in CSAC’s comment letter to the Water Board.

Achieving success in the rulemaking process will involve continued partnership with other local government stakeholders and the private sector. Engaging our members will be especially important to demonstrate the practical implications of proposed rulemakings on valuable public projects.

Solid Waste – Advancing Waste to Energy Policies and Alternatives to Landfills

CSAC is advocating for the advancement of solid waste conversion technologies (CT) in California in order to establish a clear regulatory path by allowing for renewable energy and solid waste diversion credits for CT technologies. In the next legislative session, we anticipate a legislative/ regulatory proposal moving forward that would change statutory definitions related to conversion technology and address the associated renewable energy and disposal credits for CT. Staff is actively engaged in the support and development of these proposals and is working in close coordination with the

County Engineers Association of California. Given the longstanding environmental opposition to CT, CSAC will need to engage in a significant outreach and education component if any proposal is to be successful.

Delta Solutions – Represent County Interests in the Development of the Delta Plan and any Conveyance Options

CSAC's existing policy recognizes the Delta as a critical region of statewide importance encompassing vital water, transportation, energy, agriculture and economic interests. As the Delta Plan is finalized and discussions continue regarding conveyance options, CSAC will advocate for assurances that guarantee significant county involvement in the project development process, including discussions regarding funding, and support actions that ensure mitigation of proposed project impacts.

2-1-1 Statewide Implementation

CSAC has actively supported both state and federal legislation to help build and fund a statewide 2-1-1 referral system. 2-1-1 is a free, easy-to-remember telephone number that connects people to essential community information and services. In 2008, over one million Californians called 2-1-1 for help finding needed community services such as rent and mortgage assistance, food and shelter, health care, job training, transportation, child care, and senior care. 2-1-1 also plays an informational role during emergencies and disasters and relieves pressure on the 9-1-1 system at these critical times. CSAC will work at both the state and federal levels to promote the need for a comprehensive statewide 2-1-1 system.



CSAC 2013 FEDERAL ADVOCACY PRIORITIES

As approved by CSAC Executive Committee – January 2013

CSAC's contract for federal affairs services with Waterman and Associates provides for a nine-issue agenda. CSAC staff, in consultation with Waterman and Associates, developed the following list of federal issues of significance to California's counties. These nine issues will represent the association's top lobbying priorities for 2013, with CSAC staff and Waterman and Associates working together to identify other emerging topics that may necessitate action throughout the year.

Clean Water Act Section 404 Permitting

CSAC will promote legislation that would provide a permitting exemption for maintenance removal of sediment, debris, and vegetation from flood control channels and basins. The bill (HR 2427), which CSAC helped to develop and build support for in the current legislative session, would need to be reintroduced in the new 113th Congress.

Native American Affairs/Fee-to-Trust Reform

CSAC continues to oppose congressional efforts aimed at approving so-called Carcieri "fix" legislation, which would restore the Secretary of the Interior's authority to take land into trust for all tribes absent concomitant reforms in the Indian fee-to-trust process. Continue to advocate for CSAC's comprehensive fee-to-trust package.

Pension Tier Changes – Conflict with IRS Requirements

The rising cost of public employee pension plans remains a concern for California's counties. A number of counties have proposed their own local solutions, such as allowing current employees to elect lower pension benefits with lower retirement contributions, but Internal Revenue Service (IRS) rules are an obstacle to these reforms. Under a 2006 IRS ruling, allowing current county employees to elect lower pension benefits may force all county employees to have to pay taxes on their retirement deductions – whether they switch plans or not.

CSAC supports legislation that would revise the IRS ruling so that local governments can propose and implement their own local plans, without severe consequences. Such a bill (HR 205) was introduced by Representative Loretta Sanchez (D-CA) in the 113th Congress and would revise IRS Ruling 2006-43 to provide local agencies the authority to implement their plans.

Property Assessed Clean Energy Program

CSAC supports legislative and administrative remedies that would help restart stalled PACE programs. The Federal Housing Finance Agency (FHFA) issued a directive in 2010 that effectively shut down PACE programs in California and across the country. FHFA was later ordered to proceed through a formal rulemaking process on its PACE directive.

Bipartisan legislation (HR 2599) that would prevent FHFA from adopting policies that contravene established state and local PACE laws will likely be reintroduced in 2013.

Remote Sales Tax Legislation

CSAC supports federal legislation that would authorize state and local governments to require tax collection and remittance by remote sellers. While there will be efforts in the upcoming lame-duck session of Congress to approve a compromise remote sales tax bill, those efforts may fall short, meaning the issue will resurface in 2013.

Under current law, online retailers are exempt from collecting sales taxes in states where they have no physical presence, or "nexus." In these situations, the consumer is responsible for calculating the use tax and remitting the payment to the relevant jurisdictions, but compliance is low. As online sales continue to grow, local governments are losing billions of dollars in uncollected sales tax revenue.

Secure Rural Schools Act Reauthorization

CSAC continues to advocate for a multi-year reauthorization of the SRS program. In the absence of a long-term renewal, CSAC would support a short-term extension of the Act.

The SRS program was extended for one-year (through fiscal year 2012) as part of the recently enacted surface transportation legislation (MAP-21). Unless the program is reauthorized, final payments will be distributed to eligible jurisdictions between November 2012 and January 2013.

State Criminal Alien Assistance Program

CSAC will continue to lead and advocate for the highest possible funding level for the SCAAP program, which is a key source of federal funding for 50 of California's counties. Additionally, continue to advocate for a long-term reauthorization of SCAAP. Finally, oppose the expected reissuance of the U.S. Department of Justice's policy change aimed at eliminating SCAAP payments to jurisdictions for the costs of incarcerating inmates whose immigration statuses are "unknown."

Health Reform Implementation

California has a number of significant policy issues to settle in 2013 to prepare for federal health care reform implementation in 2014. CSAC expects to play a key role in that implementation, ranging from managing the eligibility and enrollment functions to providing direct health care services. And, under Governor Brown's proposed 2013-14 budget, counties might expand their roles in operating health systems. All of these unknowns, including the breadth of California's Medicaid expansion, are dependent on direction from the federal Centers for Medicare and Medicaid Services (CMS). CMS is continuing to issue importance guidance to states about implementation. CSAC may weigh in on some of the implementation rules. CSAC foresees significant county communication with CMS and the Obama Administration as California prepares to implement the Affordable Care Act.

U.S. Army Corps of Engineers' Levee Vegetation Removal Policy

CSAC will continue to oppose the Corps' levee vegetation removal policy, which generally requires local flood control agencies to remove woody vegetation from levees in order to allow for easier inspections and to reduce any potential weakening of levees from root growth and overturned trees.

Opportunities to oppose the Corps' policy exist in both the regulatory and legislative arenas. With regard to the latter, the current Congress will likely leave unfinished a Water Resources Development Act (WRDA) reauthorization bill, meaning the new 113th Congress will consider the measure in 2013. The WRDA legislation is a potential vehicle for language that would require the Corps to undertake a comprehensive review of its levee vegetation standards.

CSAC INTERNAL MONITORING

In addition, CSAC will continue to provide internal monitoring on a number of issues that are of significance to California's counties.

Byrne Grant Funding

The fiscal year 2012 budget provides \$470 million for the Byrne Memorial Justice Assistance Grant (JAG) program. CSAC strongly supports prioritizing Byrne funding in the annual appropriations process and will continue to work collaboratively with our congressional delegation and others to secure and promote increased funding for the program and the positive local outcomes it helps achieve.

Child Welfare Financing Reform

As part of TANF reauthorization, Congress may consider legislation to reform the child welfare financing system, as well as provide additional resources to stabilize families and train and retain child welfare staff. CSAC supports additional programmatic flexibility, along with an updated foster care payment methodology.

Clean Air Act

The Clean Air Act provides general authority for the Environmental Protection Agency (EPA) to adopt and enforce its "exceptional events" regulations but fails to give EPA sufficient direction regarding the application of those regulations. The exceptional events regulations are based upon specific Clean Air Act provisions aimed at providing important and real protections for states substantially impacted by natural and foreign dust emissions beyond their control. Unfortunately, when EPA fails to recognize the presence of such events, particulate matter (PM) standards are very likely exceeded and the affected county is subject to punitive consequences. EPA is currently in the process of reviewing the underlying science on particulate matter and determining whether to change the PM standards. CSAC will monitor this process and actions by Congress to prevent the imposition of sanctions on the affected jurisdictions and to address EPA's application of the Clean Air Act's exceptional event provisions.

Community Development Block Grant

The fiscal year 2012 budget includes \$2.95 billion for the Community Development Block Grant (CDBG) program. The current level of funding is close to a \$400 million reduction from fiscal year 2011.

CDBG, as well as many other discretionary spending programs, sustained cuts in the fiscal year 2012 budget as a result of the continued focus on deficit reduction. CSAC, along with other county and city government partners, are calling on Congress to restore funding for the CDBG program to allow localities to continue to provide a wide variety of economic and community development activities, such as home rehabilitation loans, public works and infrastructure projects, and various youth-related services.

Cooperative Endangered Species Conservation Fund

CSAC supports increased funding for the U.S. Fish and Wildlife Service's Cooperative Endangered Species Conservation Fund (CESCF). The CESCF is currently funded at \$47 million in fiscal year 2012, a cut of roughly \$12 million from the previous fiscal year, and down nearly 50 percent from fiscal year 2010 levels. Funding should be restored to help provide much needed support to regional Habitat Conservation Plans (HCPs) in California and nationally.

Digital Goods and Service Tax Fairness Act

CSAC opposes legislation that would prohibit state and local governments from imposing taxes on digital goods and services that are taxable under current law. Legislation (HR 1860) currently pending in Congress could be reintroduced in 2013.

Eliminate Inmate Exception

CSAC will work to eliminate the federal health benefits "inmate exception" for persons in county jails and detention centers who are in custody pending disposition of charges. Counties are prohibited from billing federal programs for the health services provided to jail inmates prior to adjudication.

Farm Bill Reauthorization

CSAC supports congressional efforts to reauthorize the federal Farm Bill, including provisions affecting the Supplemental Nutrition Assistance Program (SNAP), rural development programs, and renewable energy development. The current Farm Bill, which provides subsidies and other aid to farmers nationwide, expired on September 30, 2012. Most programs authorized by the Act will continue to be funded through March 27, 2013 as part of the current Continuing Resolution (PL 112-175).

Federal Geothermal Royalties

The Geothermal Steam Act of 1970 specifies a formula for the distribution of geothermal revenues to federal, state, and county governments. Under the formula, the federal government retains 25 percent of the revenue, the States receive 50 percent, and county governments receive 25 percent. Several recent attempts have been made to permanently repeal the sharing of geothermal revenues with counties. Given the importance of these revenues to the affected counties, CSAC opposes any legislation that would discontinue geothermal royalty payments to county governments.

MAP 21 Reauthorization

CSAC will continue to monitor implementation of MAP-21 at both the state and federal levels. Additionally, although MAP-21 does not expire until September 30, 2014, CSAC will monitor any congressional hearings in 2013 relative to transportation reauthorization.

Medical and Long-Term Care Premiums

In the Pension Protection Act of 2006, Congress granted specified public safety officers the ability to use up to \$3000 per year of tax free dollars from their qualified retirement plans to pay for medical and long term care premiums. Extension of this benefit to all retirees who participate in a qualified retirement plan could encourage people to save more while lessening the burden on government budgets to cover rising health care costs. CSAC supports federal legislation to extend to all retirees the option to use tax free distribution from qualified retirement plans to pay for medical and long-term care premiums.

National Flood Insurance Program (NFIP)

CSAC supports the creation of a new agricultural flood hazard area under the National Flood Insurance Program (NFIP). Specifically, Congress should establish a FEMA flood zone for agriculturally-based communities to allow replacement or reinvestment development in historically agricultural floodplains. This program would not require expensive elevation of structures or dry flood proofing, but would still have requirements for wet flood proofing certain structures. Congress should instruct FEMA for these special agricultural zones to adjust the NFIP rate to be more

actuarially structured to evaluate the actual flood risk based on levees providing historical protection, as opposed to assuming that no protection actually exists.

Payments-in-lieu-of-Taxes

Pursuant to PL 110-343, all counties received 100 percent of authorized Payments-in-lieu-of-Taxes (PILT) payments in fiscal years 2008 through 2012. Prior to fiscal year 2008, PILT payments were subject to the annual appropriations process. As part of MAP-21, Congress approved an additional one-year extension (through fiscal year 2013) of PILT.

CSAC will support efforts to convert the temporary mandatory spending into a permanent feature of the PILT program.

State's Water Crisis

California's political leaders and various state and local water interests continue to pressure California's congressional delegation and the Obama administration to address the state's chronic water shortage. A wide range of proposals are being discussed that would address water transfers, endangered species laws, water quality and California Bay-Delta protections, to name a few. CSAC will monitor these proposals to ensure consistency with the organization's comprehensive policy direction on water.

Temporary Assistance for Needy Families Reauthorization

CSAC will support changes to the Temporary Assistance for Needy Families (TANF) program that would restore state and county flexibility to tailor work and family stabilization activities to families' individual needs. CSAC will also support maintaining the focus on work activities under TANF, while recognizing that "work first" does not mean "work only."

Transient Occupancy Tax

CSAC will work to ensure counties' continued authority to assess and collect transient occupancy taxes on the full rate paid by the consumer for all appropriate transient lodging, regardless of whether the consumer pays through a hotel or any other vendor.

Waters of the U.S.

In 2011, the Obama administration announced that it was updating draft guidance on the scope of waters that would be regulated under the Clean Water Act (CWA). According to EPA, the number of waters identified as protected by the CWA under the revised "Waters of the U.S." guidance will increase compared to current practice. The expansion of federal jurisdictional authority over state and local waters has elicited concern from state and local resource agencies, as well as federal lawmakers. CSAC will continue to monitor congressional efforts to block EPA's administrative actions.

Workforce Investment Act Reauthorization

The Workforce Investment Act (WIA) expired in 2003 and has been the subject of a number of congressional hearings in recent years. While several WIA reauthorization measures have been introduced in Congress, none of the bills have gained sufficient bipartisan traction. Looking ahead, House Majority Leader Eric Cantor (R-VA) has made job-training legislation a priority, increasing the likelihood that the 113th Congress will act on a WIA reauthorization bill.

2-1-1 Statewide

CSAC has actively supported both state and federal legislation to help build and fund a statewide 2-1-1 referral system. 2-1-1 is a free, easy-to-remember telephone number that connects people to essential community information and services. In 2009, over 1.6 million Californians called 2-1-1 to find needed community services such as rent and mortgage assistance, food and shelter, health care, job training, transportation, child care, and senior care. 2-1-1 also plays an informational role during emergencies and disasters and relieves pressure on the 9-1-1 system at these critical times. The value of this service was evident during the 2007 San Diego wildfires when 2-1-1 call centers provided information and support to more than 130,000 callers in five days.

Currently, just 27 of California's 58 counties have 2-1-1 service covering 92 percent of the population. CSAC will continue to work at both the state and federal levels to promote the need for a comprehensive statewide 2-1-1 system.

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February 6, 2013

TO: CSAC Board of Directors

FROM: Matt Cate, Executive Director
Kelly Brooks-Lindsey, Senior Legislative Representative

Re: Health Reform Implementation and County Issues – ACTION ITEM

Many major provisions of the federal Affordable Care Act (ACA) become effective on January 1, 2014 – including the requirement of states to offer consumers the ability to purchase health insurance through an exchange, new rules for calculating income for Medicaid eligibility, and the state option to expand Medicaid to adults not otherwise eligible for the program today.

California is in the midst of implementing the ACA but has many policy choices to make. The Governor convened a Special Session of the Legislature on health care at the end of January. The two houses have introduced bills and will begin policy discussions the week of February 18. The Legislature will be focusing on the following issues in Special Session:

- Private insurance market changes required under the ACA
- Implementing the new eligibility and enrollment for Medi-Cal
- Creation of a Medicaid Bridge Program for people whose income varies and causes them to be eligible for the Exchange and Medi-Cal at different points in time
- Expansion of Medi-Cal to adults not otherwise eligible for the program today

Counties will be at the front and center of discussions because of the Administration's desire to have counties share in the risks associated with the Medi-Cal expansion. Please note that the Administration wants to have discussions about the Medi-Cal expansion over a longer time horizon than the Special Session, more closely aligning to the budget timeframe.

This memo lays out background on county roles in health care, an overview of the Governor's two Medi-Cal expansion options, and county risks associated with those two options.

COUNTY ROLES IN PROVIDING HEALTH CARE

California counties have a number of roles in the health care system and the provision of services to Medi-Cal recipients:

- Counties are providers, operating hospitals, health systems and clinics;
- Counties administer the eligibility systems that will enroll people in public programs; and,
- Counties provide and fund carved-out Medi-Cal mental health and substance use disorder treatment services.

The fiscal impact of the implementation of the ACA on counties is uncertain and there will be significant county-by-county variation. Counties fulfill their indigent care responsibilities differently – and the impact will depend on whether a county contracts with providers, whether a county is in the County Medical Services Program (35 counties are), and whether a county owns and operates hospitals, clinics or health systems. Differences also arise between counties as to whether they have

implemented a Low-Income Health Program (LIHP) and at what income level they set eligibility for the LIHP.

Counties that contract out entirely for the provision of indigent health care services are positioned differently than counties that provide services directly through their existing health care infrastructure. Counties that own and operate hospitals, health systems and clinics, are essential Medi-Cal providers with large financial commitments to health care safety-net infrastructure. During health reform implementation and beyond, it will be crucial that the State not only retain this existing infrastructure, but build upon it so that access to care for all Medi-Cal beneficiaries is strengthened. Additionally, counties with county hospitals utilize current funding to support the non-federal share of Medi-Cal inpatient days, which would otherwise be paid by the State.

GOVERNOR'S MEDI-CAL EXPANSION PROPOSALS

The Administration proposes to expand Medi-Cal to adults with incomes under 138% of the Federal Poverty Level (FPL) who are not currently Medicaid eligible, as allowed under the ACA. The budget document presents two options to expand Medi-Cal to these adults – a state-based approach and a county-based approach.

State-Based Approach. Build on the existing state-administered Medicaid program and managed care delivery system. The state would offer a standardized, statewide benefit package comparable to what is available today in Medi-Cal, excluding long-term care coverage.

Under this option the Administration would divert existing 1991 health realignment funds to pay for new human services program responsibilities. The budget document specifically mentions subsidized child care; other options may include CalWORKs, CalFresh administration, child support, Supplemental Security Income (SSI), and In-Home Supportive Services (IHSS). The counties would fund those new responsibilities with savings from indigent adults receiving coverage through Medi-Cal.

County-Based Approach. Under this option, the expansion would be built on the existing Low Income Health Programs (LIHPs). Counties would maintain their current responsibilities for indigent health care services. Counties would need to meet statewide eligibility requirements, and a statewide minimum in health benefits consistent with benefits offered through Covered California. Counties could offer additional benefits, except for long-term care.

Counties would act as the fiscal and operational entity responsible for the expansion and would build on their LIHPs as the basis for operating the expansion. Counties would be responsible for developing provider networks, setting actuarially based rates, and processing claims. The state still would like to engage counties in a discussion of savings and some diversion of 1991 health realignment funds. This option requires federal approval and specified waivers.

RISKS FOR COUNTIES

Will revenues and new program responsibilities match? Part of the formula for a successful realignment of responsibilities to counties has been a commitment by the state to align resources with new responsibilities. The Constitution provides local governments protections against new shares of cost for state programs without funding. To date, the Administration has not addressed how either their state or county option functions within existing mandate protections or whether they propose to change state law or the Constitution to effectuate a realignment without risk of mandate claims.

Recall that the 2011 Realignment conversations between the state and counties began with a frank conversation about constitutional protections. Counties agreed to new risks in exchange for constitutionally protected revenues and protections against future programmatic changes – by the state, the federal government, or the courts.

Future state and federal legislative actions. Whether counties take on a new share of cost for Medi-Cal (under the county option) or a new share of cost for a human services program(s) (under the state option), counties will be vulnerable to state and federal law changes. As counties have experienced in 1991 realignment, state and federal law changes can increase program costs beyond what was originally projected.

Litigation. Whether counties take on a new share of cost for Medi-Cal (under the county option) or a new share of cost for a human services program(s) (under the state option), counties will be at risk for court decisions associated with litigation over program provisions. For example, if counties administer the Medi-Cal expansion, due process and network adequacy will become county responsibilities and will be at risk for legal challenge for failing to comply with state and federal law.

Residual responsibilities. The state's premise for giving counties new responsibilities is that there will be savings to county indigent programs from the Medi-Cal expansion. However, the 1991 health realignment funds are used to provide services for indigent adults and public health services. In best case scenarios, 3 to 4 million Californians will remain uninsured in 2019. County indigent programs will continue to exist and to serve uninsured Californians. In addition, public health will remain a county responsibility. Will the state's proposals take into account the residual county responsibilities and provide resources for these services?

Any diversion of funds from these health care delivery systems before a full assessment of the near-term and longer-term impacts of the ACA are determined and analyzed has the potential to undermine the very systems the State will need to rely on to serve the expanded Medi-Cal and other publicly sponsored populations.

Additionally, increased coverage to low-income individuals may not translate to savings to all county health systems. If covered patients are no longer seen at county health care facilities, counties that operate these facilities could lose significant Medi-Cal and federal funds and be left serving the most complex and expensive uninsured patients. Additionally, it is unknown at this time how the federal Disproportionate Share Hospital cuts will impact California's public hospital systems.

Counties also provide critical public health functions, most of which will remain a county responsibility after implementation of the ACA. Traditional public health functions focus on the overall health of our communities in ways that are usually beyond the scope of health insurance. Local public health agency responsibilities include monitoring, investigating and containing communicable and food-borne disease outbreaks; planning for and responding to local disasters; ensuring our water supplies are safe; educating the public about emerging health risks and prevention measures and tracking the health status of our communities in order to develop community based responses.

Welfare and Institutions Code §17000. Under existing law, counties are responsible for providing health care services to indigent adults. There is a robust body of case law related to §17000 and how counties provide services. Counties are at risk today for lawsuits that increase their costs for providing services. It is very difficult to assess how courts will view §17000 eligibility and benefit levels after implementation of the ACA.

RECOMMENDED ACTION

Because of the risks outlined above, there are significant issues for counties with both the state and county options. Staff is evaluating a third option that marries the more desirable elements of the each option, which may be available prior to the Board meeting.



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February 6, 2013

To: CSAC Board of Directors
From: Supervisor Kim Vann, Chair, ANR Policy Committee
Supervisor Linda Siefert, Vice-Chair, ANR Policy Committee
Karen Keene, CSAC Senior Legislative Representative
Cara Martinson, CSAC Associate Legislative Representative
Re: **Proposed Agriculture & Natural Resources Changes to the California County Platform**

Recommendation. The CSAC Agriculture & Natural Resources (ANR) Policy Committee leadership and CSAC staff recommend that the CSAC Board of Directors approve the proposed changes to the California County Platform (Platform), specifically the proposed changes to the chapters under the ANR Policy Committee's purview, consistent with the recommendation from the ANR Policy Committee. The ANR Policy Committee will be meeting on Wednesday, February 20 to review the proposed changes to the platform chapters and make a recommendation to the CSAC Board. CSAC staff will communicate the final recommendation to the Board during the February 21 meeting.

Policy Considerations. CSAC staff requested proposed amendments and updates to the platform chapters under the purview of the ANR Policy Committee, which include: 1) Agriculture & Natural Resources; 2) Energy; 3) Climate Change; and 4) Flood Control. The ANR chapters were sent to the ANR Policy Committee in advance of the November 27, 2012 meeting and our February 20, 2013 meeting, and several suggested edits were recommended. Staff included a section in the ANR Chapter in support of solid waste conversion technologies, promoting the development of conversion technologies as an alternative to land filling. In addition, several technical and non-substantive changes were proposed to the Climate Change Chapter. Any additional changes brought to the Committee on February 20th will be presented to the CSAC Board for their approval.

Action Requested. ANR Policy Committee leadership and CSAC staff request that the Board take action to approve the proposed amendments and updates to the Platform as recommended by the ANR Policy Committee.

Staff Contact. Please contact Cara Martinson, CSAC Associate Legislative Representative (cmartinson@counties.org or (916)327-7500 x504) for additional information.



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February 6, 2013

To: CSAC Board of Directors

From: Kelly Brooks-Lindsey, Senior Legislative Representative
Farrah McDaid Ting, Associate Legislative Representative

Re: **2013-14 Health, Human Services, and Realignment Platform Documents
- ACTION ITEM**

Background. The policy committees of the California State Association of Counties (CSAC) review and, if appropriate, revise their respective planks of the association's policy platform on a biannual basis. Attached you will find the final proposed drafts of the CSAC Health and Human Services chapters, as well as new platform chapter dedicated to realignment. The proposed texts will serve as the guiding policy documents for 2013-14, and were approved by the Health and Human Services Policy Committee on January 18, 2013.

Staff Comments. The attached draft version of proposed changes to the CSAC Health and Human Services chapters, as well as the new Realignment platform, reflect updates to programs and policy. Several notable changes in the platforms proposed for 2013-14 include:

2011 Realignment. CSAC staff has developed a Realignment chapter to define CSAC policy related to 1991, 2011, and any future realignments of programs, funding, or services. We have also included new references related to 2011 Realignment in both the Health and Human Services chapters. The Realignment document is intended to be a stand-alone chapter in the larger CSAC Platform. It has been approved by the three CSAC Policy Committees that focus on realignment issues: Government Finance and Operations, Health and Human Services, and Administration of Justice.

Patient Protection and Affordable Care Act of 2010 (ACA). Incorporated new references to the ACA and implementation in California. Both the Health and Human Services chapters have been updated to reflect current and anticipated ACA issues.

Emergency Medical Services. Drafted a new section on Emergency Medical Services in the Health chapter.

Recommendation. Approve the proposed Health, Human Services, and Realignment chapters for the CSAC 2013-14 Platform.

Attachments:

- Draft CSAC Health Platform
- Draft CSAC Human Services Platform
- Draft CSAC Realignment Platform

DRAFT 2-6-13

As Approved by the Health and Human Services Policy
Committee on 1-18-13

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CHAPTER SIX

Health Services

Section 1: GENERAL PRINCIPLES

Counties serve as the front-line defense against threats of widespread disease and illness and promote health and wellness among all Californians. This chapter deals specifically with health services and covers the major segments of counties' functions in health services. Health services in each county shall relate to the needs of residents within that county in a systematic manner without limitation to availability of hospital(s) or other specific methods of service delivery. The board of supervisors in each county sets the standards of care for its residents.

Local health needs vary greatly from county to county. Counties support and encourage the use of multi-jurisdictional approaches to health care. Counties support efforts to create cost-saving partnerships between the state and the counties in order to achieve better fiscal outcomes for both entities. Therefore, counties should have the maximum amount of flexibility in managing programs. Counties should have the ability to expand or consolidate facilities, ~~and~~ services, and program contracts to provide a comprehensive level of services and accountability and achieve maximum cost effectiveness. Additionally, as new federal and state programs are designed in the health care field, the state ~~must needs to~~ work with counties to encourage maximum program flexibility and ~~to~~ minimize disruptions in county funding, from the transition phase to ~~to~~ new reimbursement mechanisms.

Counties also support a continuum of preventative health efforts – including mental health services, drug and alcohol services, nutrition awareness and disease prevention – and healthy living models for all of our communities, families, and individuals. Preventative health efforts have proven to be cost effective and provide a benefit to all residents.

The enactment and implementation of the federal Patient Protection and Affordable Care Act (ACA) of 2010 provides new challenges, as well as opportunities, for counties. Counties, as providers, administrators, and employers, are deeply involved with health care at all levels and must be full partners with the state and federal governments in the effort to expand Medicaid and provide health insurance and care to millions of Californians. Counties believe in maximizing the allowable coverage expansion under the ACA, while also preserving access to local health services for the residual uninsured. Counties remain committed to serving as an integral part of ACA implementation, and support initiatives to assist with outreach efforts, access, eligibility and enrollment services, and delivery system improvements.

~~Counties also support a continuum of preventative health efforts including mental health services, drug and alcohol services, nutrition awareness and disease prevention and healthy living models for all of our communities, families, and individuals. Preventative health efforts have proven to be cost effective and provide a benefit to all residents.~~

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~~The State's chronic underfunding of health programs strains the ability of counties to meet accountability standards to provide access to quality health and mental health services. Freezing health program funding also shifts costs to counties and increases the county share of program costs, while at the same time running contrary to the constitutional provisions of Proposition 1A.~~

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At the federal level, counties also support economic stimulus efforts that help maintain services levels and access for the state's neediest residents. Counties are straining to provide services to the burgeoning numbers of families in distress. People who have never sought public assistance before are arriving at county health and human services departments. For these reasons, counties strongly urge that any federal stimulus funding enhanced matching funds, or innovation grants must be shared directly with counties for programs that have a county share of cost.

A. Public Health

The county public health departments and agencies are the only health agencies with direct day-to-day responsibility for protecting the health of every person within each county. The average person does not have the means to protect him or herself against contagious and infectious diseases. Government must assume the role of health protection against contagious and infectious diseases. It must also provide services to prevent disease and disability and encourage the community to do likewise. These services and the authority to carry them out become especially important in times of disaster and public emergencies. To effectively respond to these local needs, counties must be provided with full funding for local public health communicable disease control and surveillance activities.

~~Counties also support a continuum of preventative health efforts including mental health services, drug and alcohol services, nutrition awareness and disease prevention and healthy living models for all of our communities, families, and individuals. Preventative health efforts, such as access to healthy food and opportunities for safe physical activity, have proven to be cost effective and provide a benefit to all residents.~~

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County health departments are also charged with responding to terrorist and biomedical attacks, including maintaining the necessary infrastructure – such as laboratories, hospitals, medical supply and prescription drug caches, as well as trained personnel – needed to protect our residents. Counties welcome collaboration with the federal and state governments on the development of infrastructure for bioterrorism and other disasters. Currently, counties are concerned about the lack of funding, planning, and ongoing support for critical infrastructure.

Counties also support the mission of the federal Prevention and Public Health Fund, and support efforts to secure direct funding for counties to meet the goals of the Fund.

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B. Health Services Planning

Counties believe strongly in comprehensive health services planning. Planning must be done through locally elected officials, both directly and by the appointment of quality individuals to serve in policy and decision-making positions, for health services planning efforts. Counties must also have the flexibility to make health policy and fiscal decisions at the local level to meet the needs of their communities.

C. Mental Health

Counties support community-based treatment of mental illness. Counties also accept responsibility for providing treatment and administration of such programs. It is believed that the greatest progress in treating mental illness can be achieved by continuing the counties' current role while providing flexibility for counties to design, implement, and support mental health services that best meet the needs of their community. ~~in supporting and assisting the state in administering its programs.~~ Programs that treat mental illness should be designed to meet local requirements, within statewide and federal criteria and standards, to ensure appropriate treatment of persons with mental illness.

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~~However, counties are concerned about the erosion of state funding and support for mental health services. Although~~ The adoption of Proposition 63, the Mental Health Services Act of 2004, will assist counties in service delivery. ~~However,~~ it is intended to provide new funding that expands and improves the capacity of existing systems of care and provides an opportunity to integrate funding at the local level. We strongly oppose additional reductions in state funding for mental health services that will result in the state shifting of state or federal ~~its~~ costs to counties. These cost shifts result in reduced services available at the local level and disrupt treatment options for mental health clients. Any shift in responsibility or funding must hold counties fiscally harmless and provide the authority to tailor mental health programs to individual community needs. We also strongly oppose any effort to redirect the Proposition 63 funding to existing state services instead of the local services for which it was originally intended.

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The realignment of health and social services programs in 1991 restructured California's public mental health system. Realignment required local responsibility for program design and delivery within statewide standards of eligibility and scope of services, and designated revenues to support those programs to the extent that resources are available. Counties are committed to service delivery that manages and coordinates services to persons with mental illness and that operates within a system of performance outcomes that assure funds are spent in a manner that provides the highest quality of care. The 2011 Realignment once again restructured financing for the provision of Medi-Cal services for children and adults.

California law consolidated the two Medi-Cal mental health systems, one operated by county mental health departments and the other operated by the state Department of Health Services on a fee-for-service basis, effective in fiscal year 1997-98. Counties supported these actions to consolidate these two systems and to operate Medi-Cal mental health services as a managed care program. Counties were offered the first opportunity to provide managed mental health systems, and every county chose to operate as a Medi-Cal Mental Health Plan. This consolidated program provides for a negotiated sharing of risk for services between the state and counties. ~~However, counties oppose a managed care model in which the state abdicates its funding responsibility to counties. Counties are paying for an increasing share of the Medi-Cal Mental Health program. As state funding declines, counties will reconsider providing managed mental health systems.~~

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In 2011, Counties became solely responsible for managing the nonfederal share of cost for these mental health services.

~~County mental health agencies provide necessary, child and family-centered high quality services to special education pupils. This program is known as AB 3632 (Statutes of 1984). The State provided inadequate funding for this mandate from fiscal year 2002-03 through 2004-05. Since that time, the state has provided a combination of federal Individuals with Disabilities Act (IDEA) funds, state General Fund and mandate reimbursements. Counties cannot assume the legal and financial risk for this federal special education entitlement program. Counties expect the state to continue to fund counties for the costs of providing the state mandated services under AB 3632 and to develop a reasonable plan for repaying past due SB 90 claims. Alternatively, counties would also support repealing the AB 3632 mandate on counties, recognizing that accountability for ensuring the provision of mental health related services under the IDEA rests with education not local government. If school districts become fiscally responsible for this mandate, the program must be restructured so that schools are legally responsible for ensuring that mental health related services are provided to special education students pursuant to the federal IDEA. Under such a restructured system, county mental health departments would remain committed to maintaining and enhancing their effective collaborative partnerships with education, and to working with all interested stakeholders in developing a system that continues to meet the mental health needs of special education pupils.~~

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In response to county concerns, state law also provides funds to county programs to provide specialty mental health services to CalWORKs recipients who need treatment in order to get and keep employment. Counties have developed a range of locally designed programs to serve California's diverse population, and must retain the local authority, flexibility, and funding to continue such services. Similar law requires county mental health programs to provide specialty mental health services to seriously emotionally disturbed children insured under the Healthy Families Program. The Healthy Families Program was dissolved in the 2012-13 Budget Act, and counties will continue to provide specialty mental health services to this population under Medi-Cal. However, counties anticipate increased demand for these services under Medi-Cal, and must have adequate revenues to meet the federal standards and needs of these children. ~~Counties have developed a range of locally designed programs to serve California's diverse population, and must retain the local authority and flexibility to continue such services.~~

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Adequate mental health services can reduce criminal justice costs and utilization. Appropriate diagnosis and treatment services will result in positive outcomes for offenders with mental illness and their families. Ultimately, appropriate mental health services will benefit the public safety system. Counties continue to work across disciplines and within the 2011 Realignment structure to achieve good outcomes for persons with mental illness and/or co-occurring substance abuse issues to help prevent incarceration and to treat those who are about to be incarcerated or are newly released from incarceration and their families.

D. Children's Health

California Children's Services

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Counties provide diagnosis and case management services to the approximately 175,000 children enrolled in the California Children's Services (CCS) program, whether they are in Medi-Cal, Healthy Families or the CCS-Only program. Counties also are responsible for determination of medical and

financial eligibility for the program. Counties also provide Medical Therapy Program (MTP) services for both CCS children and special education students, and have a share of cost for services to non-Medi-Cal children.

Maximum federal and state matching funds for CCS program services must continue in order to avoid the shifting of costs to counties. Counties cannot continue to bear the rapidly increasing costs associated with both program growth and eroding state support. Counties support efforts to redesign or realign the -the program with the goal of continuing to provide the timely care and services for these most critically ill children. Counties also support efforts to test alternative models of care under CCS pilots in the 2010 Medicaid Waiver.

State Children's Health Insurance Program

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The State Children's Health Insurance Program (SCHIP) is a federally funded program that allows states to provide low- or no-cost health insurance to children up to 250 percent of the Federal Poverty Level (FPL). California's SCHIP program is called the Healthy Families Program. CSAC supports federal a-reauthorization of the SCHIP program, including an eligibility increase of up to 300 percent of the FPL for the state's children. Many of these children will be Medi-Cal eligible under the ACA.

The 2012-13 Budget Act authorized the transfer of Healthy Families Program children into Medi-Cal. The transfer will begin in 2013 and consist of several phases. CSAC supports the transfer of all Healthy Families Program enrollees into Medi-Cal. The state must work to ensure network adequacy and access, as well as timely transitions on the technological systems that support eligibility, enrollment, and case management. Further, the state must work in partnership with counties to ensure a seamless transition for these children regardless of arbitrary timelines.

Proposition 10

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Proposition 10, the California Children and Families Initiative of 1998, provides significant resources to enhance and strengthen early childhood development. Local children and families commissions (First 5 Commissions), established as a result of the passage of Proposition 10, must maintain the full discretion to determine the use of their share of funds generated by Proposition 10. Further, local First 5 commissions must maintain the necessary flexibility to direct these resources to the most appropriate needs of their communities, including childhood health, childhood development, nutrition, school readiness, child care and other critical community-based programs. Counties oppose any effort to diminish Proposition 10 funds or to impose restrictions on their local expenditure.

In recognition that Proposition 10 funds are disseminated differently based on a county's First 5 Commission structure and appropriated under the premise that local commissions are in a better position to identify and address unique local needs, counties oppose any effort to lower or eliminate the-state's support for county programs with the expectation that the state or local First 5 commissions will backfill the loss with Proposition 10 revenues.

AB 3632

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County mental health agencies provide necessary, child and family centered high quality services to special education pupils. This program is known as AB 3632 (Statutes of 1984). The State provided

~~inadequate funding for this mandate from fiscal year 2002-03 through 2004-05. Since that time, the state has provided a combination of federal Individuals with Disabilities Act (IDEA) funds, state General Fund and mandate reimbursements. Counties cannot assume the legal and financial risk for this federal special education entitlement program. Counties expect the state to continue to fund counties for the costs of providing the state mandated services under AB 3632 and to develop a reasonable plan for repaying past due SB 90 claims. Alternatively, counties would also support repealing the AB 3632 mandate on counties, recognizing that accountability for ensuring the provision of mental health-related services under the IDEA rests with education — not local government. If school districts become fiscally responsible for this mandate, the program must be restructured so that schools are legally responsible for ensuring that mental health-related services are provided to special education students pursuant to the federal IDEA. Under such a restructured system, county mental health departments would remain committed to maintaining and enhancing their effective collaborative partnerships with education, and to working with all interested stakeholders in developing a system that continues to meet the mental health needs of special education pupils.~~

E. Substance Use Disorder Prevention and Treatment

Counties have been, and will continue to be, actively involved in substance use disorder prevention and treatment, ~~especially under the 2011 Realignment rubric, where counties were given responsibility for substance abuse treatment and Drug Medi-Cal services.~~ Counties believe the best opportunity for solutions ~~reside are~~ at the local level. Counties continue to provide a wide range of substance use disorder treatment services, ~~but remain concerned about.~~ ~~However, counties are concerned that evidence-based treatment capacity for all cannot accommodate all persons requiring needing~~ substance abuse treatment services.

~~Adequate early intervention, substance use disorder prevention and treatment services have been proven to reduce criminal justice costs and utilization. Appropriate funding for diagnosis and treatment services will result in positive outcomes for non-offenders and offenders alike with substance use disorders. Therefore, appropriate substance use disorder treatment services will benefit the public safety system. Counties will continue to work across disciplines to achieve good outcomes for persons with substance use disorder issues and/or mental illness.~~

Counties continue to support state and federal efforts to provide substance use disorder benefits under the same terms and conditions as other health services, ~~and~~ welcome collaboration with public and private partners to achieve substance use disorder services and treatment parity.

With the enactment of Proposition 36, the Substance Abuse and Crime Prevention Act of 2000, the demand for substance use disorder treatment and services on counties continues to increase. Dedicated funding for Proposition 36 expired in 2006, and the 2010-11 state budget eliminated all funding for Proposition 36 and the Offender Treatment Program. However, the courts can still refer individuals to counties for treatment under state law, and counties are increasingly unable to provide these voter-mandated services without adequate dedicated funding.

~~Furthermore, state investment in non-offender substance use disorder treatment services has been static for the last decade. This situation limits the array and amount of services a county can administer to the non-offender population. Also, adequate early intervention substance use disorder prevention and treatment services have been proven to reduce criminal justice costs and utilization. Appropriate funding for diagnosis and treatment services will result in positive outcomes for non-~~

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~~offenders and offenders alike with substance use disorders. Therefore, appropriate substance use disorder treatment services will benefit the public safety system. Counties will continue to work across disciplines to achieve good outcomes for persons with substance use disorder issues and/or mental illness.~~

F. Medi-Cal, California's Medicaid Program

California counties have a unique perspective on the state's Medicaid program. Counties are charged with preserving the public health and safety of communities. As the local public health authority, counties are vitally concerned about health outcomes. Undoubtedly, changes to the Medi-Cal program will affect counties. ~~Even as the Affordable Care Act is implemented, C~~counties ~~remain are~~ concerned about state and federal proposals that would decrease access to health care ~~or and that would~~ shift costs ~~and~~ risk to counties.

Counties are the foundation of California's safety net system. Under California law, counties are required to provide services to the medically indigent. To meet this mandate, some counties own and operate county hospitals and clinics. These hospitals and clinics also provide care for Medi-Cal patients ~~and serve as the medical safety net for millions of residents. These local systems also -and~~ rely heavily on Medicaid reimbursements. ~~Any~~ Medi-Cal reform that results in decreased ~~access to~~ ~~or~~ funding ~~of~~ county hospitals and health systems will be devastating to the safety net. The loss of Medi-Cal funds translates into fewer dollars to help pay for ~~safety net services for all persons remaining uninsured persons~~ served by county facilities. ~~In recent years, county hospitals are serving more uninsured persons as a percentage of total patients.~~ Counties are not in a position to absorb or backfill the loss of additional state and federal funds. Rural counties already have particular difficulty developing and maintaining health care infrastructure and ensuring access to services.

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Additionally, county welfare departments determine eligibility for the Medi-Cal program. County mental health departments are the health plan for Medi-Cal Managed Care for public mental health services. Changes to the Medi-Cal program will undoubtedly affect the day-to-day business of California counties.

In the area of Medi-Cal, counties have developed the following principles:

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1. Safety Net. It is vital that changes to Medi-Cal preserve the viability of the safety net and not shift costs to the county. ~~safety net.~~

2. Managed Care. Expansion of managed care must not adversely affect the safety net and must be tailored to each county's ~~medical and geographical~~ needs. Due to the unique characteristics of the health care delivery system in each county, ~~the and~~ variations in health care accessibility and the demographics of the client population, counties believe that managed care systems must be tailored to each county's needs. The state should continue to provide options for counties to implement managed care systems that meet local needs. The state should work openly with counties as primary partners in this endeavor. The state needs to recognize county experience with geographic managed care and make strong efforts to ensure the sustainability of county organized health systems. The Medi-Cal program should offer a reasonable reimbursement mechanism for managed care.

3. Special Populations Served by Counties – Mental Health, Substance Use Disorder Treatment Services, and California Children's Services (CCS): Changes to Medi-Cal must preserve access to medically necessary mental health care, drug treatment services, and California Children's Services.

The carve-out of specialty mental health services within the Medi-Cal program must be preserved, if adequately funded, in ways that maximize federal funds and minimize county risks. Maximum federal matching funds for CCS program services must continue in order to avoid the shifting of costs to counties. Counties recognize the need to reform the are open to reforming the Drug Medi-Cal program in ways that maximize federal funds, ensure access to medically necessary evidence-based practices, allow counties to retain authority and choice in contracting with accredited providers, and minimize county risks. Any reform effort should recognize the importance of substance use disorder treatment and services in the local health care continuum.

4. Financing. Counties will not accept a share of cost for the Medi-Cal program. Counties also believe that Medi-Cal long-term care must remain a state-funded program and oppose any cost shifts or attempts to increase county responsibility through block grants or other means.

5. Simplification. Complexities of rules and requirements should be minimized or reduced so that enrollment, retention and documentation and reporting requirements are not unnecessarily burdensome to recipients, providers, and administrators and are no more restrictive or duplicative than required by federal law. Simplification should include removing barriers that unnecessarily discourage beneficiary or provider participation or billing and reimbursements. Counties support simplifying the eligibility process for administrators of the Medi-Cal program.

GG. Medicare Part D

In 2003, Congress approved a new prescription drug benefit for Medicare effective January 1, 2006. The new benefit will be available for those persons entitled to Medicare Part A and/or Part B and for those dually eligible for Medicare and Medi-Cal.

Beginning in the fall of 2005, all Medicare beneficiaries were given a choice of a Medicare Prescription Drug Plan. While most beneficiaries must choose and enroll in a drug plan to get coverage, different rules apply for different groups. Some beneficiaries will be automatically enrolled in a plan.

The Medicare Part D drug coverage plan eliminated state matching funds under the Medicaid program and shifted those funds to the new Medicare program. The plan requires beneficiaries to pay a copayment and for some, Medi-Cal will assist in the cost.

For counties, this change led to an increase in workload for case management across many levels of county medical, social welfare, criminal justice, and mental health systems. Counties strongly oppose any change to realignment funding that may result and would oppose any reduction or shifting of costs associated with this benefit that would require a greater mandate on counties.

HH. Medicaid and Aging Issues

Furthermore, counties are committed to addressing the unique needs of older and dependent adults in their communities, and support collaborative efforts to build a continuum of services as part of a long-term system of care for this vulnerable but vibrant population. Counties also believe that Medi-Cal long-term care must remain a state-funded program and oppose any cost shifts or attempts to increase county responsibility through block grants or other means.

Counties support the continuation of federal and state funding for [the In-Home Supportive Services \(IHSS\) program, IHSS](#), and oppose any efforts to shift additional IHSS costs to counties.

Section 2: [HEALTH CARE COVERAGE PRINCIPLES/AFFORDABLE CARE ACT \(ACA\) IMPLEMENTATION](#)

[The fiscal impact of the federal ACA on counties is uncertain and there will be significant county-by-county variation. However, counties support health care coverage for all persons living in the state. The sequence of changes and implementation of the Act must be carefully planned, and the state must work in partnership with counties to successfully realize the gains in health care and costs envisioned by the ACA.](#)

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[Counties also caution that increased coverage for low-income individuals may not translate into savings to all county health systems. Counties cannot contribute to a state expansion of health care before health reform is fully implemented, and any moves in this direction would destabilize the county health care safety net. Counties must also retain sufficient health revenues for residual responsibilities, including public health.](#)

~~Counties support universal health care coverage in California, with the goal of a health care system that is fully integrated and offers access to all Californians. Universal health care coverage will ultimately allow the state to realize cost savings in publicly funded health care programs. However, the foundation of the publicly funded health care system needs immediate attention. The State of California must preserve and adequately fund existing publicly funded health care programs before expanding services. Counties' resources are limited and are not in a position to increase expenditures to pay for expanded health care coverage and access.~~

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A. Access and Quality

- ~~▪ Counties support access to quality and comprehensive health care through universal coverage.~~
- [Counties support offering a Any universal health care program should provide a truly comprehensive package of health care services that includes mental health and substance use disorder treatment services at parity levels and a strong prevention component and incentives. -](#)
- [Counties support the integration of a health care system that includes a component of health care services for to prisoners and offenders, detainees, and undocumented immigrants into the larger health care service model. -](#)
- [Health care expansion must Reforms should address access to health care in rural communities and other underserved areas and include incentives and remedies to meet these needs as quickly as possible. -](#)

B. Role of Counties as Health Care Providers

- Counties strongly support maintaining a stable and viable health care safety net. An adequate safety net is needed to care for persons who remain uninsured as California

transitions to universal coverage and for those who may have difficulty accessing care through a traditional insurance-based system.

- The current safety net is grossly underfunded. Any diversion of funds away from existing safety net services will lead to the dismantling of the health care safety net and will hurt access to care for all Californians.
- Counties believe that delivery systems that meet the needs of vulnerable populations and provide specialty care —, such as emergency and trauma care and training of medical residents and other health care professionals — must be supported in any universal health coverage plan.
- Counties strongly support adequate funding for the [local](#) public health system as part of a plan to achieve universal health coverage. Counties recognize the linkage between public health and health care. A strong [local](#) public health system will reduce medical care costs, contain or mitigate disease, and address disaster preparedness and response.

C. Financing and Administration

- Counties support increased access to health coverage through a combination of mechanisms that may include improvements in and expansion of the publicly funded health programs, increased employer-based and individual coverage through purchasing pools, tax incentives, and system restructuring. The costs of universal health care shall be shared among all sectors: government, labor, and business.
- Efforts to achieve universal health care should simplify the health care system — for recipients, providers, and administration.
- The federal government has an obligation and responsibility to assist in the provision of health care coverage.
- Counties encourage the state to pursue ways to maximize federal financial participation in health care expansion efforts, and to take full advantage of opportunities to simplify Medi-Cal, the Healthy Families Program, and other publicly funded programs with the goal of achieving maximum enrollment and provider participation.
- County financial resources are currently overburdened; counties are not in a position to contribute [permanent](#) additional resources to expand health care coverage.
- A universal health care system should include prudent utilization control mechanisms that are appropriate and do not create [a-barriers](#) to necessary care.
- Access to health education, preventive care, and early diagnosis and treatment will assist in controlling costs through improved health outcomes.

D. Role of Employers

- Counties, as both employers and administrators of health care programs, believe that every employer has an obligation to contribute to health care coverage. Counties are

sensitive to the economic concerns of employers, especially small employers, and employer-based solutions should reflect the nature of competitive industries and job creation and retention. Therefore, counties advocate that such an employer policy should also be pursued at the federal level and be consistent with the goals and principles of local control at the county government level.

- Reforms should offer opportunities for self-employed individuals, temporary workers, and contract workers to obtain [affordable](#) health coverage.

E. Implementation

Counties recognize that California will not achieve a full universal health care system immediately, and implementation may necessitate an incremental approach. As such, counties believe that incremental efforts must be consistent with the goal and the framework for universal health care coverage, and also must include counties in all aspects of planning and implementation. [The sequence of changes and implementation must be carefully planned, and the state must work in partnership with the counties to successfully realize the gains in health and health care envisioned by the ACA.](#)

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Section 3: CALIFORNIA HEALTH SERVICES FINANCING

Those eligible for Temporary Assistance for Needy Families (TANF)/California Work Opportunity and Responsibility to Kids (CalWORKs), should retain their categorical linkage to Medi-Cal as provided prior to the enactment of the federal Personal Responsibility Work Opportunity Reconciliation Act of 1996.

Counties are concerned about the erosion of state program funding and the inability of counties to sustain current program levels. As a result, we strongly oppose additional cuts in county administrative programs as well as any attempts by the state to shift the costs for these programs to counties. Counties support legislation to permit commensurate reductions at the local level to avoid any cost shifts to local government.

With respect to the County Medical Services Program (CMSP), counties support efforts to improve program cost effectiveness and oppose state efforts to shift costs to participating counties, including administrative costs and elimination of other state contributions to the program.

Counties believe that enrollment of Medi-Cal patients in managed care systems may create opportunities to reduce program costs and enhance access. Due to the unique characteristics of each county's delivery system, health care accessibility, and demographics of client population, counties believe that managed care systems must be tailored to each county's needs, [and that counties should have the opportunity to choose providers that best meet the needs of their populations.](#) —The state ~~should-must~~ continue to provide options for counties to implement managed care systems that meet local needs. Because of the significant volume of Medi-Cal clients that are served by the counties, the state should work openly with counties as primary partners.

Where cost-effective, the state should provide non-emergency health services to undocumented immigrants. The State should seek federal reimbursement for medical services provided to undocumented immigrants.

Counties oppose any shift of funding responsibility from accounts within the Proposition 99 framework that will negatively impact counties. Any funding responsibilities shifted to the Unallocated Account would disproportionately impact the California Healthcare for Indigents Program/Rural Health Services (CHIP/RHS), and thereby potentially produce severe negative fiscal impacts to counties.

Counties support increased funding for trauma and emergency room services. Trauma centers and emergency rooms play a vital role in California's health care delivery system. Trauma services address the most serious, life-threatening emergencies. Financial pressures in the late 1980s and even more recently have led to the closure of several trauma centers and emergency rooms. The financial crisis in the trauma and emergency systems is due to a significant reduction in Proposition 99 tobacco tax revenues, an increasing number of uninsured patients, and the rising cost of medical care, including specialized equipment that is used daily by trauma centers. Although reducing the number of uninsured through expanded health care coverage will help reduce the financial losses to trauma centers and emergency rooms, critical safety-net services must be supported [to ensure their long-term viability](#), while incremental progress is made on the uninsured.

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A. Realignment

In 1991, the state and counties entered into a new fiscal relationship known as realignment. Realignment affects health, mental health, and social services programs and funding. The state transferred control of programs to counties, altered program cost-sharing ratios, and provided counties with dedicated tax revenues from the sales tax and vehicle license fee to pay for these changes.

Counties support the concept of state and local program realignment and the principles adopted by CSAC and the Legislature in forming realignment. Thus, counties believe the integrity of realignment should be protected. However, counties strongly oppose any change to realignment funding that would negatively impact counties. Counties remain concerned and will resist any reduction of dedicated realignment revenues or the shifting of new costs from the state and further mandates of new and greater fiscal responsibilities to counties in this partnership program.

With the passage of Proposition 1A the state and counties entered into a new relationship whereby local property taxes, sales and use taxes, and Vehicle License Fees are constitutionally dedicated to local governments. Proposition 1A also provides that the Legislature must fund state-mandated programs; if not, the Legislature must suspend those state-mandated programs. Any effort to realign additional programs must occur in the context of these constitutional provisions. [Further, any effort to realign programs or resources must guarantee that counties have sufficient revenues for residual responsibilities, including public health programs.](#)

[In 2011, counties assumed 100 percent fiscal responsibility for Medi-Cal Specialty Mental Health Services, including Early and Periodic Screening, Diagnosis, and Treatment \(EPSDT\); Drug Medi-Cal; drug courts; perinatal treatment programs; and women's and children's residential treatment services as part of the 2011 Public Safety Realignment. Please see the Realignment Chapter of the CSAC Platform and accompanying principles.](#)

B. Hospital Financing

In 2011~~2~~, 12 counties own and operate 16 hospitals statewide, including Alameda, Contra Costa, Kern, Los Angeles, Monterey, Riverside, San Bernardino, San Francisco, San Joaquin, San Mateo, Santa Clara, and Ventura Counties. These hospitals are a vital piece of the local safety net, but also serve as indispensable components of a robust health system, providing both primary and specialized health services to health consumers in our communities, as well as physician training, trauma centers, and burn care. ~~to maintaining health access to low-income populations.~~

County hospitals could not survive without federal Medicaid funds. CSAC has been firm that any proposal to change hospital financing must guarantee that county hospitals do not receive less funding than they currently do, and are eligible for more federal funding in the future, as needs grow. California's new-current federal Section 1115 Medicaid waiver (implemented in SB 208 and AB 342, Chapter 714 and 723, respectively, Statutes of 2010) provides county hospitals with funding for five years. Counties believe implementation of the waiver is necessary to ensure that county hospitals are paid for the care they provide to Medi-Cal recipients and uninsured patients and to prepare counties for federal health care reform implementation in 2014.

Counties are supportive of opportunities to reduce costs for county hospitals, particularly for mandates such as seismic safety requirements and nurse-staffing ratios. Therefore, counties support infrastructure bonds that will provide funds to county hospitals for seismic safety upgrades, including construction, replacement, renovation, and retrofit.

Counties also support opportunities for county hospitals and health systems to make delivery system improvements and upgrades, which will help these institutions compete in the modern health care marketplace.

Section 4: FAMILY VIOLENCE

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CSAC remains committed to raising awareness of the toll of family violence on families and communities by supporting efforts that target family violence prevention, intervention, and treatment. Specific strategies for early intervention and success should be developed through cooperation between state and local governments, as well as community, and private organizations addressing family violence issues.

Section 5: ~~HEALTHY COMMUNITIES~~Healthy Communities

Counties support policies and programs that aid in the development of healthy communities which are designed to provide opportunities for people of all ages and abilities to engage in routine physical activity or other health-related activities. To this end, Counties support the concept of joint use of facilities and partnerships, mixed-use developments and walkable developments, where feasible, to promote healthy community events and activities.

Section 6: VETERANS

Counties provide services such as mental health treatment, substance use disorder treatment, and social services that veterans may access. Specific strategies for intervention and service delivery to veterans should be developed through cooperation between federal, state and local governments, as well as community and private organizations serving veterans.

Section 7: EMERGENCY MEDICAL SERVICES

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Counties are tasked with providing critical health, safety, and emergency services to all residents, regardless of geography, income, or population. Because of this responsibility and our statutory authority to oversee pre-hospital emergency medical services, including ambulance transport service, counties are forced to operate a balancing act between funding, services, and appropriate medical and administrative oversight of the local emergency medical services system. Counties do not intend to infringe upon the service areas of other levels of government who provide similar services, but will continue to discharge our statutory duties to ensure that all county residents have access to the appropriate level and quality of emergency services, including medically indigent adults. Reductions in authority for counties in this area will be opposed. Counties recognize that effective administration and oversight of local emergency medical services systems includes input from key stakeholders, such as other local governments, private providers, state officials, local boards and commissions, and the people in our communities who depend on these critical services.

DRAFT 2-6-13

Approved by the Health and Human Services Policy Committee
on 1-18-13

CHAPTER TWELVE

Human Services

Section 1: GENERAL PRINCIPLES

Counties are committed to the delivery of public social services at the local level. However, counties require adequate and ongoing federal and state funding, maximum local authority, and flexibility for the administration and provision of public social services.

Inadequate Not funding for program costs strains the ability of counties to meet accountability standards and avoid penalties, putting the state and counties at risk for hundreds of millions of dollars in federal penalties. Freezing program funding also shifts costs to counties and increases the county share of program costs above statutory sharing ratios, while at the same time running contrary to the constitutional provisions of Proposition 1A.

At the federal level, counties support economic stimulus efforts that help maintain services levels and access for the state's neediest residents. Counties are straining to provide services to the burgeoning numbers of families in distress. People who have never sought public assistance before are arriving at county health and human services departments. Counties report long lines in their welfare departments as increasing numbers of people apply for programs such as Medicaid, Supportive Nutrition Assistance Program (SNAP or Food Stamps), Temporary Assistance to Needy Families (TANF), and General Assistance. For these reasons, counties strongly urge that any federal stimulus funding must be shared directly with counties for programs that have a county share of cost.

Counties support federal economic stimulus efforts in the following areas: An increase in the Federal Medical Assistance Percentage (FMAP) for Medicaid and Title IV-E, and benefit increases for the Supplemental Nutrition Assistance Program (SNAP); Temporary Assistance for Needy Families (TANF); the Child Abuse Prevention and Treatment Act (CAPTA); Community Services Block Grants (CSBG); child support incentive funds; and summer youth employment funding.

Counties support the full implementation of the federal Patient Protection and Affordable Care Act of 2010 (ACA) and the expansion of coverage to the fullest extent allowed under federal law. Health care eligibility and enrollment functions must build on existing local infrastructure and processes and remain as accessible as possible. Counties are required by law to administer eligibility and enrollment functions for Medi-Cal, and recognize that many of the new enrollees under the ACA may also participate in other human services programs. For this reason, counties support the

continued role of counties in Medi-Cal eligibility, enrollment, and retention functions. Further, enhanced data matching and case management of these enrollees must include adequate funding and be administered at the local level.

Prior to Proposition 13 in 1978, property taxes represented a stable and growing source of funding for county-administered human services programs. Until SB 154 (1978) and AB 8 (1979), there was a gradual erosion of local control in the administration of human services due to legislation and regulations promulgated by the state, which included dictating standards, service levels and administrative constraints.

Despite state assumption of major welfare program costs after Proposition 13, counties continue to be hampered by state administrative constraints and cost-sharing requirements, which ultimately affect the ability of counties to provide and maintain programs. The state should set minimum standards, allowing counties to enhance and supplement programs according to each county's local needs. If the state ~~To the extent the state~~ implements performance ~~standards, standards, the costs for~~ meeting, it should also fully pay the costs for meeting ~~ss~~ such requirements must be fully reimbursed.

Counties also support providing services for indigents at the local level. However, the state should assume the principal fiscal responsibility for administering programs such as General Assistance. The structure of federal and state programs must not shift costs or clients to county-level programs without full reimbursement.

Section 2: HUMAN SERVICES FUNDING DEFICIT

While counties are legislatively mandated to administer numerous human services programs including Foster Care, Child Welfare Services, CalWORKs, Adoptions, and Adult Protective Services, funding for these services was frozen at 2001 cost levels. The state's failure to fund actual county cost increases has led to a growing funding gap of nearly \$1 billion annually. This puts counties in the untenable position of backfilling the gap with their own limited resources or cutting services that the state and county residents expect us to deliver.

Not funding program costs strains the ability of counties to meet accountability standards and avoid penalties, putting the state and counties at risk for hundreds of millions of dollars in federal penalties. Freezing program funding also shifts costs to counties and increases the county share of program costs above statutory sharing ratios, while at the same time running contrary to the constitutional provisions of Proposition 1A.

Counties oppose instituting performance standards and giving counties a share in penalties without first ensuring reasonable and predictable funding reflective of county statutory and programmatic responsibilities.

2011 Realignment shifted fiscal responsibility for the Foster Care, Child Welfare Services, Adoptions and Adult Protective Services programs to the counties. Counties remain committed to the overall principle of call for a solution to this issue that provides fair, predictable and ongoing funding for counties to deliver human services programs that keeps pace with actual costs. on behalf of the state.

Section 3: CHILD WELFARE SERVICES/FOSTER CARE

A child deserves to grow up in an environment that is healthy, safe, and nurturing. To meet this goal, families and caregivers should have access to public and private services that are comprehensive and collaborative.

The existing approach to budgeting and funding child welfare services was established in the mid-1980's. Since that time, dramatic changes in child welfare policy have occurred, as well as significant demographic and societal changes, impacting the workload demands of the current system. ~~Based on the results of the SB 2030 study which provided an updated social worker workload/yardstick in 2000, California's method of budgeting and financing child welfare services needs to be changed. 2011 Realignment provides a mechanism that will help meet the some of the current needs of the child welfare services system, but existing workload demands and regulations remain a concern. The study confirms that the current financing does not meet the actual workload demands. Additionally, these policy changes necessitate a reevaluation of the required county contribution to child welfare services. Counties support state assumption of an additional portion of non-federal child welfare services costs.~~

The ideal focus of children's services is to expand the capacity of families and caregivers to meet the needs of their children. ~~Counties believe that this focus continues to be in jeopardy. While there has been some movement in recent years, the preponderance of spending for child welfare services remains dedicated to court and placement activities, rather than supportive, family-based interventions.~~ Counties have and will continue to provide immediate leadership to focus and obtain additional resources for family preservation and support services.

When, despite the provision of voluntary services, the family or caregiver is unable to minimally

ensure or provide a healthy, safe, and nurturing environment, a range of intervention approaches will be undertaken. When determining the appropriate intervention approach, the best interest of the child should always be the first consideration. These efforts to protect the best interest of children and preserve families may include:

1. A structured family plan involving family members and all providers, with specific goals and planned actions;
2. A family case planning conference;
3. Intensive home supervision; and/or
4. Juvenile and criminal court diversion contracts.

When a child is in danger of physical harm or neglect, either the child or alleged offender may be removed from the home, and formal dependency and criminal court actions may be taken. Where appropriate, family preservation and support services should be provided.

When parental rights must be terminated, counties support a permanency planning process that quickly places children in the most stable environments, with adoption being the permanent placement of choice. Counties support efforts to accelerate the judicial process for terminating parental rights in cases where there has been serious abuse and where it is clear that the family cannot be reunified. Counties also support adequate state funding for adoption services.

Furthermore, counties seek to obtain additional funding and flexibility at both the state and federal

levels to provide robust transitional services to foster youth such as housing, employment services, and increased access to aid up to age 25. Counties also support such ongoing services for former and emancipated foster youth up to age 25, and pledge to help implement the Fostering Connections to Success Act of 2010 to help ensure the future success of this vulnerable population.

With regards to case- and workload standards in child welfare, counties remain concerned about increasing workloads and fluctuations in decreasing funding, both of which threaten the ability of county child welfare agencies to meet their federal and state mandates in serving children and families impacted by abuse and neglect.

~~Existing child welfare budgeting standards, based on 1984 workload considerations, are at best outdated and at worst woefully inadequate. The SB 2030 Child Welfare Workload Study conducted by the University of California at Davis established minimum and optimal caseload standards in 2000, and subsequent legislation required the development of a plan to implement the findings of the SB 2030 Workload Study. This plan was released June 2002; however, budget constraints have since prevented the state from allocating sufficient funding to implement the study's recommendations even to the minimum level recommended. Counties support the implementation of the study's recommendations as well as a reexamination of reasonable caseload levels at a time when cases are becoming more complex, often more than one person is involved in working on a given case, and when extensive records have to be maintained about each case. In the absence of implementation, e~~Counties support ongoing augmentations for Child Welfare Services to partially mitigate workload concerns and the resulting impacts to children and families in crisis. Counties also support efforts to document workload needs and gather data in these areas so that we may ensure adequate funding for this complex system.

As our focus remains on the preservation and empowerment of families, we believe the potential for the public to fear some increased risk to children is outweighed by the positive effects of a research-supported family preservation emphasis. Within the family preservation and support services approach, the best interest of the child should always be the first consideration. The Temporary Assistance for Needy Families (TANF) and California Work Opportunity and Responsibility to Kids (CalWORKs) programs allow counties to take care of children regardless of the status of parents.

Section 4: EMPLOYMENT AND SELF-SUFFICIENCY PROGRAMS

There is strong support for the simplification of the administration of public assistance programs. The state should continue to take a leadership role in seeking state and federal legislative and regulatory changes to achieve simplification, consolidation, and consistency across all major public assistance programs, including Temporary Assistance for Needy Families (TANF), California Work Opportunity and Responsibility to Kids (CalWORKs), Medicaid, Medi-Cal, and Food Stamps. In addition, electronic technology improvements in welfare administration are an important tool in obtaining a more efficient and accessible system.

California counties are far more diverse from county to county than many regions of the United States. The state's welfare structure should recognize this and allow counties flexibility in administering welfare programs. ~~E~~Each county must have the ability to identify differences in the population being served and provide services accordingly, without restraints from federal or state government. There should, however, be as much uniformity as possible in areas such as eligibility requirements, grant levels and benefit structures. To the extent possible, program standards should seek to minimize incentives for public assistance recipients to migrate from county to county within

the state.

A welfare system that includes shrinking time limits for assistance should also recognize the importance of and provide sufficient federal and state funding for education, job training, child care, and support services that are necessary to move recipients to self-sufficiency. There should also be sufficient federal and state funding for retention services, such as childcare and additional training, to assist former recipients in maintaining employment. Any state savings from the welfare system should be directed to counties to provide assistance to the affected population for programs at the counties' discretion, such as General Assistance, indigent health care, job training, child care, mental health, alcohol and drug services, and other services required to accomplish welfare-to-work goals. In addition, federal and state programs should include services that accommodate the special needs of people who relocate to the state after an emergency or natural disaster. It is only with adequate and reliable resources and flexibility that counties can truly address the fundamental barriers that many families have to self-sufficiency.

The state should assume the principal fiscal responsibility for the General Assistance program.

Welfare-to-work efforts should focus on prevention of the factors that lead to poverty and welfare dependency including unemployment, underemployment, a lack of educational opportunities, food security issues, and housing problems. Prevention efforts should also acknowledge the responsibility of absent parents by improving efforts for absent parent location, paternity establishment, child support award establishment, and the timely collection of child support.

California's unique position as the nation's leading agricultural state should be leveraged to increase food security for its residents. Also, with the recent economic crisis, families and individuals are seeking food stamps and food assistance at higher rates. Counties support increased nutritional supplementation efforts at the state and federal levels, including increased aid, longer terms of aid, and increased access for those in need.

Counties also recognize safe, dependable and affordable child care as an integral part of attaining and retaining employment and overall family self-sufficiency, and therefore support efforts to seek additional funding to expand child care eligibility, access and quality programs.

Finally, counties support efforts to address housing supports and housing assistance efforts at the state and local levels. Long-term planning, creative funding, and accurate data on homelessness are essential to addressing housing security and homelessness issues.

Section 5: CHILD SUPPORT ENFORCEMENT PROGRAM

Counties are committed to strengthening the child support enforcement program through implementation of the child support restructuring effort of 1999. Ensuring a seamless transition and efficient ongoing operations requires sufficient federal and state funding and must not result in any increased county costs. Further, the state must assume full responsibility for any federal penalties for the state's failure to establish a statewide automated child support system. Any penalties passed on to counties would have an adverse impact on the effectiveness of child support enforcement or other county programs.

More recently, the way in which child support enforcement funding is structured prevents many counties from meeting state and federal collection guidelines and forces smaller counties to adopt a

regional approach or, more alarmingly, fail outright to meet existing standards. Counties need an adequate and sustainable funding stream and flexibility at the local level to ensure timely and accurate child support enforcement efforts, and must not be held liable for failures to meet guidelines in the face of inadequate and inflexible funding.

Moreover, a successful child support enforcement program requires a partnership between the state and counties. Counties must have meaningful and regular input into the development of state policies and guidelines regarding child support enforcement.

Section 6: PROPOSITION 10: THE FIRST FIVE COMMISSIONS

Proposition 10, the California Children and Families Initiative of 1998, provides significant resources to enhance and strengthen early childhood development. Local children and families commissions (First 5 Commissions), established as a result of the passage of Proposition 10, must maintain the full discretion to determine the use of their share of funds generated by Proposition 10. Further, local First 5 commissions must maintain the necessary flexibility to direct these resources to the most appropriate needs of their communities, including childhood health, childhood development, nutrition, school readiness, child care and other critical community-based programs. Counties oppose any effort to diminish local Proposition 10 funds or to impose restrictions on their local expenditure authority.

In recognition that Proposition 10 funds are disseminated differently based on a county's First 5 Commission structure and appropriated under the premise that local commissions are in a better position to identify and address unique local needs, counties oppose any effort to lower or eliminate the state's support for county programs with the expectation that the state or local First 5 commissions will backfill the loss with Proposition 10 revenues.

Section 7: REALIGNMENT

In 1991, the state and counties entered into a new fiscal relationship known as realignment. Realignment affects health, mental health, and social services programs and funding. The state transferred control of programs to counties, altered program cost-sharing ratios, and provided counties with dedicated tax revenues from the sales tax and vehicle license fee to pay for these changes.

Counties support the concept of state and local program realignment and the principles adopted by CSAC and the Legislature in forming realignment. Thus, counties believe the integrity of realignment should be protected. However, counties strongly oppose any change to realignment funding that would negatively impact counties. Counties remain concerned and will resist any reduction of dedicated realignment revenues or the shifting of new costs from the state and further mandates of new and greater fiscal responsibilities in this partnership program.

With the passage of Proposition 1A, the state and counties entered into a new relationship whereby local property taxes, sales and use taxes, and Vehicle License Fees are constitutionally dedicated to local governments. Proposition 1A also provides that the Legislature must fund state-mandated programs; if not, the Legislature must suspend those state-mandated programs. Any effort to realign additional programs must occur in the context of these constitutional provisions.

[In 2011, counties assumed 100 percent fiscal responsibility for Child Welfare Services, adoptions, adoptions assistance, Child Abuse Prevention Intervention and Treatment services, foster care and Adult Protective Services as part of the 2011 Public Safety Realignment. Please see the Realignment chapter of the CSAC Platform and accompanying principles.](#)

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Section 8: FAMILY VIOLENCE

CSAC remains committed to raising awareness of the toll of family violence on families and communities by supporting efforts that target family violence prevention, intervention, and treatment. Specific strategies for early intervention and success should be developed through cooperation between state and local governments, as well as community and private organizations addressing family violence issues.

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Section 9: AGING AND DEPENDENT ADULTS

California is already home to more older adults than any other state in the nation, and the state's 65 and older population is expected to double over the next 250 years, from 3.5 million in 2000 to 8.2 million in 2030. The huge growth in the number of older Californians will affect how local governments plan for and provide services, running the gamut from housing and health care to transportation and in-home care services. While many counties are addressing the needs of their older and dependent adult populations in unique and innovative ways, all are struggling to maintain basic safety net services in addition to ensuring an array of services needed by this aging population.

Counties support reliable funding for programs that affect older and dependent adults, such as Adult Protective Services and In-Home Supportive Services, and oppose any funding cuts, or shifts of costs to counties [without revenue](#), from either the state or federal governments. Furthermore, counties are committed to addressing the unique needs of older and dependent adults in their communities, and support collaborative efforts to build a continuum of services as part of a long-term system of care for this vulnerable but vibrant population.

Adult Protective Services

The Adult Protective Services (APS) Program [is](#) the state's safety net program for abused and neglected adults and is [now solely financed and](#) administered at the local level by counties. As such, counties provide around-the-clock critical services to protect the state's most vulnerable seniors and dependent adults from abuse and neglect. Timely response by local APS is critical, as studies show that elder abuse victims are 3.1 times more likely to die prematurely than the average senior: [Counties must retain local flexibility in meeting the needs of our aging population.](#)

~~Unfortunately, the APS program has been underfunded since its inception in 1999, and suffered drastic cuts in each budget since 2007, including a 10 percent cut in 2008-09. The cuts have resulted in fewer social workers and thousands of reports of abuse and neglect going unanswered statewide. These cuts come at a time of rising demand in reported cases of abuse and neglect for this population. Additionally, there are a growing number of seniors being targeted by financial predators. Additionally, the lack of funding adjustments for inflation exacerbates the funding shortfall, resulting in an annual loss of \$49.0 million (\$31.5 million GF) to APS for direct services to abused and neglected seniors and dependent adults.~~

~~Counties support efforts to increase funding for APS based on caseload and administrative costs and strongly oppose any reductions to an already underfunded program. The consequences of additional cuts will threaten the health and financial stability of older adults across the state, and could ultimately result in untimely and undignified deaths. Additionally, cuts to APS will impact other local agencies including local law enforcement and emergency services, such as paramedic response, and may lead to premature placement into nursing home care at an increased cost to taxpayers.~~

In-Home Supportive Services

The In-Home Supportive Services (IHSS) program is a federal Medicaid program administered by the state and run by counties that enables program recipients to hire a caregiver to provide services that enable that person to stay in his or her home safely. Individuals eligible for IHSS services are disabled, age 65 or older, or those who are blind and unable to live safely at home without help. All Supplementary Income/ State Supplemental Payment recipients are also eligible for IHSS benefits if they demonstrate an assessed need for such services.

~~As part of the 2012-13 state budget, the Legislature and Governor approved major policy changes within the Medi-Cal program aimed at improving care coordination, particularly for people on both Medi-Cal and Medicare. Also approved as part of this Coordinated Care Initiative (CCI) are a number of changes to the In-Home Supportive Services (IHSS) program, including state collective bargaining for IHSS, creation of a county IHSS Maintenance of Effort (MOE), and creation of a Statewide Authority.~~

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County social workers evaluate prospective and ongoing IHSS recipients, who may receive assistance with such tasks as housecleaning, meal preparation, laundry, grocery shopping, personal care services such as bathing, paramedical services, and accompaniment to medical appointments. Once a recipient is authorized for service hours, the recipient is responsible for hiring his or her provider. Although the recipient is considered the employer for purpose of hiring, supervising, and firing their provider, state law requires counties to establish an "employer of record" for purposes of collective bargaining to set provider wages and benefits. ~~State law also governs cost sharing ratios between the state and counties for provider wages and benefits. In 2014, the state will become the employer of record for the eight Coordinated Care Initiative (CCI) counties.~~

IHSS cases are funded by one of three programs in California: the Personal Care Services Program (supported by federal Medicaid funds, state funds and county funds), the IHSS Residual Program (supported by state and county funds), or the IHSS Plus Waiver (supported by federal Medicaid funds, state funds and county funds). IHSS Program Administration is supported by a combination of federal, state and local dollars.

Costs and caseloads for the program continue to grow. State General Fund costs for the IHSS program have quadrupled from 1998 to 2008. Federal funds have almost quadrupled. County costs have grown at slightly slower pace – tripling over ten years. According to the Department of Social Services, caseloads are projected to increase between five and seven percent annually going forward.

~~Funding to counties to administer the IHSS program has seriously eroded and threatens service quality. Since 2001, counties have not received any funding to cover increases in the cost of administering the IHSS program. The Governor's veto of \$15 million in the 2008-09 budget~~

exacerbated this problem and will result in 100 fewer social workers to assess and serve needy clients. Program cuts, combined with this failure to fund actual county costs to administer the program, will result in annual under-funding of IHSS administration by \$72.3 million (\$30.1 million GF) in 2009-10. In addition, the State's budgeting yardstick for the program, which was inadequate when it was established in 1993, has remained relatively unchanged despite program changes over the years. This yardstick assumes that county workers need only 11.58 hours per client per year to provide a number of services to administer the program, including recipient enrollment into the program, individualized in-home assessments, coordinating with other service providers for care, and enrolling providers and processing provider timesheets. Factoring in the lack of cost increases for the program reduces the funding level of service hours to just over 8 hours per client per year.

Counties support the continuation of federal and state funding for IHSS, and oppose any efforts to further shift IHSS costs to counties. Furthermore, counties are committed to working with the appropriate state departments and stakeholders to draft, submit, and implement new ideas to continue and enhance federal support of the program.

Section 510: VETERANS

Counties provide services such as mental health treatment, substance use disorder treatment, and social services that veterans may access. Specific strategies for intervention and service delivery to veterans should be developed through cooperation between federal, state and local governments, as well as community and private organizations serving veterans.

1-18-13

PROPOSED NEW PLATFORM CHAPTER/LANGUAGE: REALIGNMENT

Proposed for adoption by the CSAC Health and Human Service Policy Committee. Approved by the Administration of Justice and Government Finance and Operations Policy Committees November 2012.

Proposed Chapter:

In 2011, an array of law enforcement and health and human services programs – grouped under a broad definition of “public safety services” – was transferred to counties along with a defined revenue source. The 2011 Realignment package was a negotiated agreement with the Brown Administration and came with a promise, realized with the November 2012 passage of Proposition 30, of constitutional funding guarantees and protections against costs associated with future programmatic changes, including state and federal law changes as well as court decisions.

CSAC will oppose efforts that limit county flexibility in implementing programs and services realigned in 2011 or infringe upon our individual and collective ability to innovate locally. Counties resolve to remain accountable to our local constituents in delivering high-quality programs that efficiently and effectively respond to local needs. Further, we support counties’ development of appropriate measures of local outcomes and dissemination of best practices.

These statements are intended to be read in conjunction with previously adopted and refined Realignment Principles, already incorporated in the CSAC Platform. Those principles, along with the protections enacted under Proposition 1A (2004), would guide counties’ response to any future proposal to shift state responsibilities to counties.

Attachment: Realignment Principles



February 6, 2013

To: CSAC Board of Directors

1100 K Street
Suite 101
Sacramento
California
95814

From: Supervisor Phil Serna, Chair, CSAC Housing, Land Use & Transportation Policy Committee
Supervisor John Benoit, Vice Chair, CSAC Housing, Land Use & Transportation Policy Committee
Kiana Buss, CSAC Associate Legislative Representative

Telephone
916.327-7500

Re: **Proposed Housing, Land Use, and Transportation Changes to the California County Platform**

Facsimile
916.441.5507

Recommendation. The CSAC Housing, Land Use, and Transportation Policy Committee leadership and CSAC staff recommend that the CSAC Board of Directors approve the proposed changes to the California County Platform (Platform), specifically the proposed changes to the chapters under the HLT Policy Committee's purview, consistent with the recommendation from the HLT Policy Committee.

The HLT Policy Committee will be meeting on Thursday, February 7 to review the proposed changes to the platform chapters and make a recommendation to the CSAC Board. CSAC staff will communicate the final recommendation to the Board during the February 21 meeting.

Background. The Platform includes statements of the basic policies of the Association on issues of concern and interest to California counties. The CSAC Board of Directors reviews the platforms regularly, at least once every two years, amending and updating it as necessary. CSAC policy committees review platform chapters under their respective policy areas and make recommendations to the CSAC Board of Directors regarding suggested amendments and updates.

Policy Considerations. CSAC staff requested proposed amendments and updates to the platform chapters under the purview of the HLT Policy Committee, which include: 1) Planning, Land Use, and Housing; 2) Transportation and Public Works; 3) Climate Change; and 4) Native American Issues. CSAC staff outreached to the HLT Policy Committee, county planning directors and staff, county public works directors and staff, and county legislative coordinators. The following outlines the substantive proposed amendments and updates by policy chapter that will be considered by the HLT Policy Committee.

Planning, Land Use, and Housing Chapter

There are a number of substantive changes to the Planning, Land Use, and Housing Chapter (Attachment One). Of most significance are the changes to Section 6 on Housing that were proposed by Humboldt, Sonoma, Riverside, and Contra Costa counties. In addition to cleaning-up the housing element language to reflect current law and practice, proposed language describes in greater detail what the existing platform means by "sweeping reform" of housing element law. The proposed language supports reform efforts that would streamline and simplify housing element law, limit the housing element review process to statutory requirements, and provide local governments with a more predictable review process through increased transparency and consistency at the Department of Housing and Community Development.

The proposed housing language also reflects the elimination of redevelopment in California and specifically the loss of the Low and Moderate Income Housing Fund. It strengthens the language in support of a permanent source for affordable housing, especially in light of the loss of critical affordable housing funds from former redevelopment activities.

Additionally, Los Angeles County has proposed a new section on environmental justice; San Luis Obispo County, Humboldt County, and Ventura County added language in support of streamlining coastal development permit and planning processes; and Santa Barbara County provided proposed language regarding the State's enforcement process for zoning and building ordinance violations.

Transportation and Public Works Chapter

The proposed additions to the Transportation and Public Works Chapter (Attachment Two) were drafted by CSAC staff in response to a suggestion from Contra Costa County to update transportation revenue discussions to reflect statewide directives to reduce vehicle miles traveled in order to reduce greenhouse gas emissions and meet the State's climate change goals. The traditional source of funding for transportation – the per gallon excise tax – decreases as vehicle miles traveled decrease and as fuel economy increases.

Additionally, the proposed changes strengthen the language around the importance of the rural transportation network, both in general terms, but also in light of the State's climate change goals. The rural transportation network will still serve the mobility needs of rural residents, provide a connection between urbanized areas, and is a critical component for statewide farm-to-market and goods movement needs.

Climate Change Chapter

The issue of climate change crosses into two CSAC policy committees. Naturally, the HLT Policy Committee has purview over land use, housing, and transportation related climate change policy problems. The Agriculture and Natural Resources Policy Committee has domain over all other climate change related issues.

The HLT related proposed changes to the Climate Change Chapter are to Section 3: Land Use and Transportation. With SB 375 (Chapter 728, Statutes of 2008) implementation now well underway, the proposed platform language updates the chapter to reflect CSAC's existing policy in support of flexible regional approaches to addressing climate impacts from the transportation sector.

Native American Issues Chapter

There are three significant and substantive policy additions to the Native American Issues Chapter (Attachment Four). The proposed additions are consistent with policy direction provided by the CSAC Board of Directors in September 2011. Sonoma County proposes to update the policy related to Tribal-State Gaming Compacts supporting more robust tribal environmental review documents and mitigation for socioeconomic and other impacts that are difficult to quantify. Related to Federal Tribal Lands policy, Sonoma County also proposes to update the policy in support of federal legislation and regulations to provide counties with timely notice and adequate time for meaningful input on tribal trust land applications.

Action Requested. HLT Policy Committee leadership and CSAC staff request that the Board take action to approve the proposed amendments and updates to the Platform as recommended by the HLT Policy Committee.

Staff Contact. Please contact Kiana Buss, CSAC Associate Legislative Representative (kbuss@counties.org) or (916)327-7500 x566 for additional information.

Attachment One
Proposed Changes to the Planning, Land Use and Housing Chapter

CHAPTER SEVEN

Planning, Land Use and Housing

Section 1: GENERAL PRINCIPLES

General purpose local government performs the dominant role in the planning, development, conservation, and environmental processes. Within this context it is essential that the appropriate levels of responsibility at the various levels of government be understood and more clearly defined. These roles at the state, regional, county, and city level contain elements of mutual concern; however, the level of jurisdiction, the scale of the problem/issue, available funding and the beneficiaries of the effort require distinct and separate treatment.

The following policies attempt to capture these distinctions and are intended to assist government at all levels to identify its role, pick up its share of the responsibility, and refrain from interfering with the details of how other agencies carry out their responsibility.

The housing needs throughout the state, lack of revenue, and controversial planning law in the area of housing have resulted in the need for new focus on housing planning law. Housing principles are identified and included under a separate heading in this section.

Counties are charged with comprehensive planning for future growth, the management of natural resources and the provision of a variety of public services both within the unincorporated and incorporated areas.

Although Agriculture and Natural Resources are in this Platform as a separate chapter, there is a correlation between Planning and Land Use, and Agriculture and Natural Resources (Chapter III). These two chapters are to be viewed together on matters where the subject material warrants.

Additionally, climate change and the release of greenhouse gases (GHGs) into the atmosphere have the potential to dramatically impact our environment, land use, public health, and our economy. Due to the overarching nature of climate change issues this chapter should also be viewed in conjunction with Chapter XV, which outlines CSAC's climate change policy.

| Counties have and ~~should-must~~ retain a primary responsibility for basic land use decisions.

Comment [KB1]: Sutter County

| Counties are ~~concerned-with~~cognizant of the need for resource conservation and development, maintaining our economic and social well being, protecting the environment and guiding orderly population growth and property development.

Comment [KB2]: Sutter County

Counties are responsible for preparing plans and implementing programs to address land use, transportation, housing, open space, conservation, air quality, water distribution and quality, solid waste, and liquid waste, among other issues.

Counties play a major role in facilitating inter-jurisdictional cooperation between all levels of government in order to achieve the balanced attainment of these objectives.

Counties must have sufficient funding from state sources to meet state mandated planning programs.

Counties define local planning needs based on local conditions and constraints.

Section 2: THE COUNTY ROLE IN LAND USE

A. General Plans and Development

Counties should protect vital resources and sensitive environments from overuse and exploitation. General and specific plans are policy documents that are adopted, administered, and implemented at the local level. State guidelines can serve as standards to insure uniformity of method and procedure, but should not mandate substantive or policy content.

State requirements for general plan adoption should be limited to major planning issues and general plan mandates should include the preparation of planning elements only as they pertain to each individual county. Zoning and other implementation techniques should be a logical consequence to well thought out and locally certified plans. Counties support a general plan judicial review process which first requires exhaustion of remedies before the Board of Supervisors, with judicial review confined to a reasonable statute of limitations and limited to matters directly related to the initial hearing record. Counties also support retaining the

current judicial standard whereby the courts defer to the judgment of the local agency when that judgment is supported by substantial evidence in the record.

Land use and development problems and their solutions differ from one area to another and require careful analysis, evaluation, and appraisal at the local government level. Local government is the best level of government to equitably, economically and effectively solve such problems. Further, it is important that other public agencies, (e.g. federal, state, regional, cities, schools, special districts, etc.) participate in the local general planning process to avoid conflicts with future local decisions that are consistent with the general plan.

Policy development and implementation should include meaningful public participation, full disclosure and wide dissemination in advance of adoption.

B. Public Facilities and Service

Within the framework of the general plan, counties should protect the integrity and efficiency of newly developing unincorporated areas and urban cores by prohibiting fringe area development, which would require services and compete with existing infrastructure. Counties should accept responsibility for community services in newly developing unincorporated areas where no other appropriate entity exists.

In the absence of feasible incorporation, County Service Areas or Community Service Districts are appropriate entities to provide needed services for urbanizing areas. They work against proliferation of single purpose districts, allow counties to charge the actual user for the service, permit direct control by the Board of Supervisors, and set the basis of reformation of multi-purpose districts.

County authority to require land and/or in-lieu fees to provide public facilities in the amount needed to serve new development must be protected.

C. Environmental Analysis

The environmental review process under the California Environmental Quality Act (CEQA) provides essential information to be constructively used in local decision-making processes. Unfortunately, the CEQA process is too often used as a legal tool to delay or stop reasonable development projects.

The CEQA process and requirements should be simplified wherever possible including the preparation of master environmental documents and use of tiered EIRs and negative declarations, including Climate Action Plans and associated

environmental impact reports for tiering under CEQA. The length of environmental reports should be minimized without impairing the quality. Further, other public agencies (federal, state, regional, affected local jurisdictions, special districts, etc.) should participate in the environmental review process for plans and projects in order to provide a thorough review and analysis up front and avoid conflicts in future discretionary actions.

Comment [KB3]: Santa Barbara County

Counties should continue to assume lead agency roles where projects are proposed in unincorporated territory requiring discretionary action by the county and other jurisdictions.

CEQA documents should include economic and social data when applicable; however, this data should not be made mandatory.

D. Coastal Development

Preservation, protection, and enhancement of the California coastline is the planning responsibility of each county and city with shoreline within its boundaries. Planning regulation and control of land use are the implementation tools of county government whenever a resource is used or threatened.

Counties within the coastal zone are also subject to the California Coastal Act which is implemented via cooperative agreements between the California Coastal Commission and counties and cities. Most development in the coastal zone requires a coastal development permit issued by local agencies with a certified Local Coastal Plan or by the Commission in the absence of a cooperative agreement. LCPs link statewide coastal policies to local planning efforts in an attempt to protect the quality and environment of California's coastline.

Counties are committed to preserve and provide access to the coast and support where appropriate beach activities, boating activities, and other recreational uses in developing and implementing precise coastal plans and appropriate zoning. Comprehensive plans should also include preservation of open space, development of commercial and recreational small craft harbor facilities, camping facilities, and commercial and industrial uses.

Local jurisdictions must have the statutory and legal authority to implement coastline programs. Statewide efforts related to the California coastline must respect local land use authority. The State should collaboratively and cooperatively work with counties and cities to ensure decisions do not erode local control and decision-making. The State, counties, and cities should

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mutually encourage, seek, and support efforts to streamline, improve, and modernize coastal development permit and local coastal planning processes, without compromising or undermining the original intent and tenets of these laws. Counties support measures to streamline the process for approving and amending Local Coastal Plans. Measures should re-prioritize Commission staff and resources to the early scoping phase of any proposed amendment, to help identify key issues early on. Measures should identify standard timelines for each stage of the amendment process and develop specific procedures/mechanisms for adhering to those timelines, and should also require clearly identified reasons for any extensions requested by Commission staff. Counties support legislative funding options that will enhance efficiency and accountability in the local coastal planning process.

Comment [KB4]: San Luis Obispo County

Comment [KB5]: Humboldt County and Ventura County

E. Open Space Lands

Counties support open space policy that sets forth the local government's intent to preserve open space lands and ensures that local government will be responsible for conserving natural resources and developing and implementing open space plans and programs.

Comment [KB6]: Los Angeles County

In order for counties to fully implement open space plans, it will be necessary to have:

12. Additional revenues for local open space acquisition programs, such as the funding formerly provided by the Williamson Act.
23. Reimbursement to local agencies for property tax losses.
34. Greater use of land exchange powers for transfer of development rights.
45. Protection of current agricultural production lands through the purchasing of development rights.

Comment [KB7]: CSAC Staff/Humboldt County

In some cases, open space easements should be created and used by local jurisdictions to implement open space programs. Timber preserve zones and timber harvesting rules should enhance protection of this long-term renewable resource.

F. Healthy Communities

Counties support policies and programs that aid in the development of healthy communities which are designed to provide opportunities for people of all ages and abilities to engage in routine daily physical activity. This encompasses promoting

active living via bicycle- and pedestrian-oriented design, mixed-use development, providing recreation facilities, and siting schools in walkable communities.

G. Environmental Justice

Counties support policies and programs that ensure environmental justice--or the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies--by providing information and raising awareness on a number of environmental issues, such as air quality, water quality, noise and heavy industrial uses. Counties also support environmental justice by providing sufficient services and infrastructure; protecting and conserving open space, natural and resource areas, and making them accessible; preventing and minimizing pollution impacts; and facilitating stakeholder participation in planning efforts.

Comment [KB8]: Los Angeles County

Section 3: STATE ROLE IN LAND USE

Local government recognizes that state government has a legitimate interest in proper land use planning and utilization of those lands which are of critical statewide concern. The state interest shall be statutorily and precisely defined and strictly limited to those lands designated to be critical statewide concern in concert with attainable and specified state goals and policies.

The state's participation in land use decisions in those designated areas shall be strictly limited to insuring the defined state interest is protected at the local level. Any regulatory activity necessary to protect the state's interest, as defined in statute, shall be carried out by local government.

The State's enforcement procedures for violations of zoning and building ordinances should not be hampered by State established maximum fines that in some cases do not serve as a deterrent and are merely incorporated into the cost of doing business.

Comment [KB9]: Santa Barbara County

In determining those lands of crucial statewide concern, a mechanism should be created which ensures significant local involvement through a meaningful state/local relationship. The state should prepare a statewide plan that reconciles the conflicts between the various state plans and objectives in order to provide local governments with greater certainty in areas of statewide concern. This is not intended to expand the State's authority over land use decisions; rather it should clarify the state's intent in relation to capital projects of statewide significance.

Climate change is a programmatic issue of statewide concern that requires a clear understanding of the roles and responsibilities of each level of government as well as the state's interest in land use decisions to ensure statewide climate change goals are met. Population growth in the state is inevitable, thus climate change strategies will affect land use decisions in order to accommodate and mitigate the expected growth in the state. Local government, as the chief land use decision-maker and integral part of the housing planning process, must have a clearly defined role and be supported with the resources to achieve the State's climate change goals.

Adequate financial resources shall be provided before a state-mandate is activated to insure local government has the ability to carry out state-mandated planning requirements.

Comment [KB10]: Sutter County

Section 4: REGIONAL GOVERNMENTS

Counties support voluntary participation within regional agencies as appropriate to resolve regional problems throughout the State. Regional approaches to planning and resolution to issues that cross jurisdictional boundaries are increasingly important. While California's growth rate has slowed since the boom in the 1980's, the State will still see growth at 1% annually, or approximately 370,000 new residents per year, particularly in light of California's expected population growth of 600,000 new residents annually.

Comment [KB11]: Sutter County and Sonoma County

Regional agencies in California play an important role in the allocation of regional housing need numbers, programming of Federal and State transportation dollars, in addressing air quality non-attainment problems, and climate change to name a few. Regional collaboration remains important to address issues associated with growth in California, such as revenue equity issues, service responsibilities, a seamless and efficient transportation network, reducing GHGs and tackling climate change, job creation, housing, agricultural and resource protection, and open space designation. The passage of SB 375 in 2008 and the preparation of regional Sustainable Communities Strategies in most of the State's regions elevate the importance of regional collaboration. Regional agencies must make genuine and substantive efforts to include local governments in their regional planning efforts.

Comment [KB12]: Sonoma County

However, While planning at the regional scale is increasingly important, land use decisions shall remain the exclusive province of cities and counties based on state planning and zoning law and the police powers granted to them under the State Constitution. Further, cities and counties are responsible for a vast infrastructure system, which requires that cities and counties continue to receive direct allocations of revenues to maintain, operate and expand a variety of public

Comment [KB13]: Sonoma County

facilities and buildings under their jurisdiction. As an example, cities and counties own and operate 82 percent of the state's publically maintained road miles, thus must retain direct allocations of transportation dollars to address the needs of this critical network and protect the public's existing investment.

Regional approaches to tax sharing and other financial agreements are appropriate and often necessary to address service needs of future populations; however, cities and counties must maintain financial independence and continue to receive discretionary and program dollars directly. Counties support voluntary revenue-sharing agreements for existing revenues at the regional level, and any mandated revenue sharing must be limited to new revenues.

Regional agencies must consider financial incentives for cities and counties that have resource areas or farmland instead of (or in addition to) high growth areas. For example, such incentives should address transportation investments for the preservation and safety of city and county road systems, farm to market transportation, and interconnectivity transportation needs.

Regional agencies should also consider financial assistance to address countywide service responsibilities in counties that contribute towards the GHG emissions reductions targets by implementing policies for growth to occur within their cities and existing urbanized areas.

Section 5: SPECIAL DISTRICTS

In recent years, Local Agency Formation Commissions (LAFCOs) have been generally successful at regulating incorporations, annexations, and the formation of new special districts. However, the state has a legacy of a large number of independent special districts that leads to fragmentation of local government. There are many fully justified districts that properly serve the purpose for which they were created. However, there are districts whose existence is no longer "defensible." Nothing is served by rhetorically attacking "fragmentation." LAFCOs should retain the authority to evaluate special districts to test their value to the community for whom they were initially formed to serve and identify those districts that no longer serve the purposes for which they were created.

Section 6: HOUSING

Housing is an important element of economic development and essential for the health and well being of our communities. The responsibility to meet the state's housing needs must be borne by all levels of government and the private sector.

CSAC supports a role by the state Department of Housing and Community Development that focuses on assisting local governments in financing efforts and advising them on planning policies--both of which strive to meet the state's housing needs. HCD's role should focus on facilitating the production of housing, rather than an onerous and unpredictable planning and housing element compliance process that detracts from local governments' ability efforts to seek funding and actually facilitate housing production. Counties support the following principles in relation to housing:

Comment [KB14]: Sonoma County

1. Reform housing element law. Existing housing element law must be streamlined and simplified-improved. A greater emphasis should be placed on obtaining financing and enabling production, rather than the overly-detailed data analysis undertaking and meeting extensive planning requirements now found required in under state law. A sweeping reform of the current requirements should be undertaken. Housing element reform should provide local governments with the flexibility and creativity to adopt local housing elements, comprehensive housing assistance strategies, and other local plans and programs that will be effective in their communities. Reform should conserve state and local resources by promoting predictable HCD review consistent with statutory requirements including transparent standards that are uniformly applied and includes timelines for comment periods and decision-making.~~The fair share housing needs currently identified by the state and regional agencies often far exceed a city or county's ability to meet those needs. CSAC supports the allocation of housing needs consistent with infrastructure investment at the regional level, as well as consideration of planning factors and constraints.~~

Comment [KB15]: Sonoma County, Humboldt County

~~State law should contain uniform, measurable performance standards based on reasonable goals for housing construction, preservation and rehabilitation, meeting the needs of homeless and those with special needs, and land supply. In addition to the development of meaningful performance standards, state and federal laws, regulations and practices should be streamlined to promote local government flexibility and creativity in the adoption of local housing elements, comprehensive housing assistance strategies and other local plans and programs.~~

Comment [KB16]: Sonoma County

2. Identify and generate a variety of permanent financing resources and subsidy mechanisms for affordable housing, including a statewide permanent source for affordable housing. These sources need to be developed to address California's housing needs, particularly with the reduction of federal and state contributions in recent years. The elimination of redevelopment in 2012 redirected most

public funds previously dedicated to affordable housing development and preservation, as it ended all future receipts of affordable housing set-aside funds, as well as recapturing many millions of dollars in housing funds that had been received in prior years and were being held for affordable housing projects some of which are already in progress and many of which were being planned for the next few years.

Comment [KB17]: Contra Costa County, Sonoma County, and San Bernardino County

Comment [KB18]: Los Angeles County

The need for new affordable housing units at all income levels exceeds the number of new units for which financing and subsidies will be available each year. Therefore, additional funding is necessary to insure (a) production of new subsidized units, and (b) adequate funds for housing subsidies to households. Policies should be established to encourage continued flow of capital to market rate ownership housing in order to assure an adequate supply of low-cost, low-down payment mortgage financing for qualified buyers. In addition, a need exists to educate the private building and financial communities on the opportunities that exist with the affordable housing submarket so as to encourage new investments.

3. Restructure local government funding to support housing affordability. The current property and sales tax systems in California are not supportive of housing development and work against housing affordability because housing is not viewed as a "fiscal winner" by local governments as they make land use and policy decisions. Local government finance should be restructured at the state level to improve the attractiveness and feasibility of affordable housing development at the local level. At a minimum, there should be better mechanisms to allow and encourage local governments to share tax revenues.
4. Promote a full range of housing in all communities. Local governments, builders, the real estate industry, financial institutions and other concerned stakeholders should recognize their joint opportunities to encourage a full range of housing and should work together to achieve this goal. This will require a cooperative effort from the beginning of the planning and approval process as well as creatively applying incentives and development standards, minimizing regulations and generating adequate financing. Using this approach, housing will become more affordable and available to all income groups.
5. Establish federal and state tax incentives for the provision of affordable housing. The tax codes and financial industry regulations need to be revised to provide stimulus to produce affordable housing, particularly for median, low and very low-income households. ~~The concept of household-based assistance;~~

~~such as the current mortgage credit certificate, should be extended to all types of affordable housing.~~

Comment [KB19]: Sonoma County

These principles must be taken as a whole, recognizing the importance of their interdependence. These principles provide a comprehensive approach to address the production of housing, recognizing the role of counties, which is to encourage and facilitate the production of housing. They should not be misinterpreted to hold counties responsible for the actual production of housing; instead they should recognize the need for various interests to cooperatively strive to provide affordable housing that is assessable and available to meet the needs of California residents at all income levels and in all geographic areas.

Comment [KB20]: Sonoma County

Attachment Two

Proposed Changes to the Transportation and Public Works Chapter

CHAPTER ELEVEN

Transportation and Public Works

Section 1: GENERAL PRINCIPLES

Transportation services and facilities are essential for the **current and** future well-being of the State of California. A balanced transportation system utilizes all available means of travel cooperatively and in a mutually complimentary manner to provide a total service for the needs of the community.

Comment [KB1]: CSAC Staff

Transportation services should also responsibly meet the competing future needs of all segments of industry and society with maximum coordination and reasonable amounts of free choice for the consumer of the transportation service.

Balanced transportation does not simply mean the provision of highways or public transit devices. A balanced transportation system is a method of providing services for the mobility requirements of people and goods according to rational needs.

Transportation systems must be fully integrated with planned land use; support the lifestyles desired by the people of individual areas; and be compatible with the environment by considering air and noise pollution, aesthetics, ecological factors, cost benefit analyses, and energy consumption measures.

Counties also recognize that climate change and the release of greenhouse gases (GHGs) into the atmosphere have the potential to dramatically impact our environment, land use decisions, transportation networks, and the economy. Due to the overarching nature of climate change issues, all sections in this chapter should be viewed in conjunction with Chapter XV, which outlines CSAC's climate change policy.

Transportation systems should be designed to serve the travel demands and desires of all the people of the state, recognizing the principles of local control and the unique restraints of each area. Local control recognizes that organizational and physical differences exist and that governments should have flexibility to cooperatively develop systems by which services are provided and problems resolved.

Section 2: BALANCED TRANSPORTATION POLICY

A. System Policy and Transportation Principles

Government belongs as close to the people and their related problems as possible. The system of transportation services, similarly, must recognize various levels of need and function.

It is of statewide interest to provide for a balanced, seamless, multi-modal transportation system on a planned and coordinated basis consistent with social, economic, political, and environmental goals within the state.

Rural and urban transportation needs must be balanced so as to build and operate a single transportation system. While urban transportation systems support significant daily vehicle miles traveled and the transportation of millions of people, the rural transportation network connects communities together and plays a critical role in the movement of goods for the entire state.

Comment [KB2]: CSAC Staff/Contra Costa County

Transportation systems should be an asset to present and future environmental and economic development of the state within a framework of its ability to invest. All people of the state bear a share of the responsibility to ensure proper environmental elements of the transportation system.

~~Maintenance needs of~~ transportation systems must be regularly and consistently maintained ~~met~~ in order to preserve ~~protect~~ the existing public infrastructure investment (current revenues are not keeping pace with needs of the local road or state highway or transit systems), reduce the future costs to tax-payers, and to protect the environment.

Comment [KB3]: CSAC Staff/Sacramento County

The local road system, a large component of the State's transportation network, is critical in order to address congestion, meet farm to market needs, address freight and goods movement, and provide access to other public transportation systems.

Public safety, particularly access for public safety services, is dependent on a well-maintained local road network.

Analysis of the cost effectiveness of all modes of transportation, existing and proposed, is needed in order to provide the most coordinated and efficient transportation system.

Additionally, repairs to local access roads that are damaged in the course of emergency operations (for example, in fighting a fire or flood) should be eligible for reimbursement under the same programs as roads which are directly damaged by the event.

System process modifications are needed to expedite project delivery and minimize project cost.

B. Financing Policy and Revenue Principles

Transportation financing needs exceed existing and foreseeable revenues despite growing recognition of these needs at all levels of government. Further, traditional sources of revenue for transportation are declining as communities develop more sustainably and compactly in order to reduce vehicle miles traveled and greenhouse gases to meet statewide climate change goals. Additional funding is required and should be supported and any new sources of funding should produce enough revenue to respond significantly to transportation needs.

Comment [KB4]: CSAG Staff/Contra Costa County

As the owner and operator of a significant portion of the local system, counties support continued direct funding to local governments for preservation and safety needs of that system. Further, counties support regional approaches for transportation investment purposes for capital expansion projects of regional significance and local expansion and rehabilitation projects through regional transportation planning agencies, both metropolitan planning organizations and countywide transportation agencies.

Single transportation funds--comprised of state and federal subventions--should be available at each of the local, regional and statewide levels for financing the development, operation, and/or maintenance of highways, public transit, airports or any other modal system as determined by each area in accordance with local, regional, and statewide needs and goals. The cooperative mechanisms established by counties and cities to meet multi-jurisdictional needs should be responsible for the financing, construction, operation and maintenance of regional transportation systems utilizing--as appropriate--existing transportation agencies and districts.

Federal and state funds for safety and preservation purposes should be sent directly to applicable operational levels without involvement of any intermediate level of government. Pass-through and block grant funding concepts are highly desirable.

The cost of transportation facilities and services should be fairly shared by the users and also by indirect beneficiaries.

Transportation funding should be established so that annual revenues are predictable with reasonable certainty over several years to permit rational planning for wise expenditure of funds for each mode of transportation.

Financing should be based upon periodic deficiency reports by mode to permit adjustment of necessary funding levels. Additional elements such as constituent acceptance, federal legislative and/or administrative actions, programmatic flexibility, and cost benefit studies should be considered.

Efforts to obtain additional revenue should include an examination of administrative costs associated with project delivery and transportation programs.

Funding procedures should be specifically designed to reduce the cost of processing money and to expedite cash flow. Maximum use should be made of existing collection mechanisms when considering additional financing methods.

In the development of long-range financing plans and programs at all levels of government, there should be a realistic appreciation of limitations imposed by time, financing, availability, and the possibility of unforeseen changes in community interest.

Rural and urban transportation funding needs must be balanced so as to build and operate a single transportation system.

Existing funding levels must be maintained with historical shares of current funding sources ensured for counties (e.g. state and federal gas tax increases, etc.).

Although significant transportation revenues are raised at the local level through the imposition of sales taxes, additional state and federal revenue sources are needed such as additional gas and sales taxes, congestion pricing, public-private partnerships, and user or transaction fees to provide a diverse financing strategy. Further, additional revenue raising authority at the local and regional level is needed as well as other strategies as determined by individual jurisdictions and regions.

Transportation revenues must be utilized for transportation purposes only and purposes for which they are dedicated. They should not be diverted to external demands and needs not directly related to transportation activities.

Revenue needed for operational deficits of transit systems should be found in increased user fees, implementation of operating efficiencies and/or new sources, rather than existing sources depended upon by other modes of transportation.

Future revenues must be directed to meet mobility needs efficiently and cost effectively with emphasis on current modal use and transportation choices for the public.

C. Government Relations Policy

The full partnership concept of intergovernmental relations is essential to achieve a balanced transportation system. Transportation decisions should be made comprehensively within the framework of clearly identified roles for each level of government without duplication of effort.

Counties and cities working through their regional or countywide transportation agencies, and in consultation with the State, should retain the ability to program and fund transportation projects that meet the needs of the region.

No county or city should be split by regional boundaries without the consent of that county or city.

Counties and cities in partnership with their regional and state government, should attempt to actively influence federal policies on transportation as part of the full partnership concept.

D. Management Policy

Effective transportation requires the definite assignment of responsibility for providing essential services including fixed areas of responsibility based upon service output.

Greater attention should be devoted to delivery of overall transportation products and services in a cost-effective manner with attendant management flexibility at the implementation level of the management system.

Special transportation districts should be evaluated and justified in accordance with local conditions and public needs.

The State Department of Transportation should be responsible for planning, designing, constructing, operating, and maintaining a system of transportation

corridors of statewide significance and interest. Detailed procedures should be determined in concert with regional and local government.

Restrictive, categorical grant programs at federal and state levels should be abandoned or minimized in favor of goal-oriented transportation programs which can be adjusted by effective management to best respond to the social and economic needs of individual communities.

Policies and procedures on the use of federal and state funds should be structured to minimize "red tape," recognize the professional capabilities of local agencies, provide post-audit procedures and permit the use of reasonable local standards.

Section 3: SPECIFIC MODAL TRANSPORTATION POLICIES

A. Aviation

Air transportation planning should be an integral part of overall planning effort and airports should be protected by adequate zoning and land use. Planning should also include consideration for helicopter and other short and vertical take-off aircraft.

State and federal airport planning participation should be limited to coordination of viable statewide and nationwide air transportation systems.

Local government should retain complete control of all airport facilities, including planning, construction, and operation.

B. Streets and Highways

Highway transit--in a coordinated statewide transportation system--will continue to carry a great percentage of the goods and people transported within the state. A program of maintenance and improvement of this modal system must be continued in coordination with the development of other modal components.

Efforts to maximize utilization of transportation corridors for multi-purpose facilities should be supported.

Non-motorized transportation facilities, such as pedestrian and bicycle facilities are proper elements of a balanced transportation system. Support efforts to design and build complete streets, ensuring that all roadway users – motorists, bicyclists, public transit vehicles and users, and pedestrians of all ages and abilities – have

safe access to meet the range of mobility needs. Given that funding for basic maintenance of the existing system is severely limited however, complete streets improvements should be financed through a combination of sources best suited to the needs of the community and should not be mandated through the use of existing funding sources.

C. Public Transit

Counties and cities should be responsible for local public transit systems utilizing existing transportation agencies and districts as appropriate.

Multi-jurisdictional public transit systems should be the responsibility of counties and cities acting through mechanisms, which they establish for regional decision-making, utilizing existing transportation agencies, and districts as appropriate.

The State should be responsible for transportation corridors of statewide significance, utilizing system concepts and procedures similar to those used for the state highway system. Contracts may be engaged with existing transit districts and public transportation agencies to carry out and discharge these state responsibilities.

Consideration of public transit and intercity rail should be an integral part of a local agency's overall planning effort and should maximize utilization of land for multi-purpose transportation corridors.

Public transit planning should include a continuing effort of identifying social, economic, and environmental requirements.

D. Rail

Railroads play a key role in a coordinated statewide transportation system. In many communities, they form a center for intermodal transportation.

Rail carries a significant portion of goods and people within and out of the state. The continued support of rail systems will help balance the state's commuter, recreational, and long distance transportation needs. Support for a high-speed rail system in California is necessary for ease of future travel and for environmental purposes.

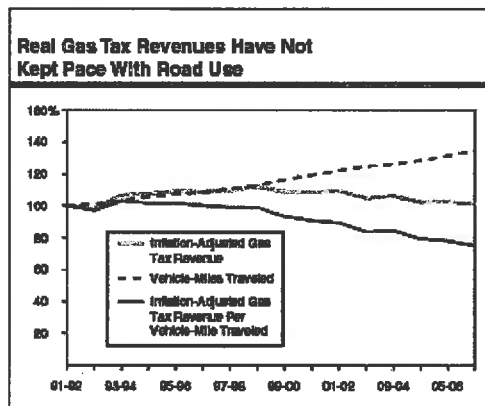
Rail should be considered, as appropriate, in any local agency's overall planning effort when rail is present or could be developed as part of a community.

Research and development of innovative and safe uses of rail lines should be encouraged.

Section 4: CONCLUSION

Since 1970, transportation demands and needs have out-paced investment in the system. An examination of transportation revenues and expenditures compared to population, travel and other spending in the state budget, adjusted for inflation, shows a long period of under-investment in transportation continuing through the 1990s and into the next decade.

Between 1990 (when the gas excise tax was increased) and 2004, California's population increased 20.6%, while travel in the state increased 36.3% and the number of registered vehicles in California increased 43.2%. According to the Legislative Analyst's Office, travel is outpacing gas tax revenue (see chart, below).



Source: Legislative Analyst's Office, Budget Analysis 2006

Further, inflation has seriously eroded the buying power of gas tax dollars. While revenues from the gas tax increase in the 1990s roughly kept pace with miles traveled, with no increases since 1994, travel has now outpaced revenues, creating not only chronic congestion but also extreme wear and tear on the state highway and local road system. Further, the sufficiency of gas tax revenues to fund transportation has declined over time as cars have become more fuel efficient and as project costs have increased. Inflation-adjusted gas tax revenues declined 8% just in the last seven years.

The gas tax once funded most transportation programs in the state, including operations and construction. Now the per-gallon fuel tax collected at both the state and federal levels and the state weight fees does not even provide enough revenue to meet annual maintenance, operations, and rehabilitation needs for the state highway system (the State Highway Operation and Protection Program or SHOPP). Counties and cities dependent upon a portion of the State's gas tax revenues are in the same situation in that revenues are short of meeting their preservation needs of the local system. Basic Maintenance programs for California's aging system now consume 100% of gas tax revenues in most local jurisdictions.

In 2010, the State enacted a historic transportation tax swap in which the excise tax on gasoline was increased by 17.3-cents and the sales tax on gasoline (Proposition 42) was eliminated. Counties, cities, and the State Transportation Improvement Program (STIP) will receive similar amounts from the increase in excise tax as would have been provided by the sales tax. However, the local and state systems are still woefully underfunded. The 2010 California Statewide Local Streets and Roads Needs Assessment Report Update found that the statewide average local street and road Pavement Condition Index (PCI), which ranks roadway pavement conditions on a scale of zero (failed) to 100 (excellent), is 66, an "at risk" rating. Approximately 67% of the local streets and roads system are "at risk" or in "poor" condition. The condition is projected to deteriorate to a PCI of 54 by 2020. In addition, the percentage of "failed" streets will grow from 6.1% to almost 25% of the network by 2020. Furthermore, the funding shortfall considering all existing revenues is \$78.9 billion over the next 10 years.

The bottom line is that the current revenue system is not providing the funding necessary to maintain existing transportation systems, much less to finance operation, safety, and expansion needs.

The citizens of California have invested significant resources in their transportation system. This \$3 trillion investment is the cornerstone of the state's commerce and economic competitiveness. Virtually all vehicle, pedestrian, and bicycle trips originate and terminate on local streets and roads. Emergency response vehicles extensively use local roads to deliver public service. Public safety and mobility rely on a well-maintained transportation infrastructure. Transportation funding is important to the economy and the economic recovery of the state. Increased investment in the transportation network is essential to stimulate the economy, to improve economic competitiveness and to safeguard against loss of the public's existing \$3 trillion investment in our transportation system.

(The source of information for the statistics provided is from the Transportation California website and includes reports from the: California Transportation Commission (CTC), Legislative Analyst Office (LAO), United States Department of Transportation (USDOT), and Federal Highway Administration (FHWA)).

Attachment Three
Proposed Changes to the Climate Change Chapter

Chapter Fourteen

| CSAC Sustainability & Climate Change
Policy Guidelines

Comment [KB1]: Sacramento County

Section 1: GENERAL PRINCIPLES

- CSAC recognizes that sustainable development and climate change share strong complementary tendencies.
- CSAC recognizes that mitigation and adaptation to climate change – such as promoting sustainable energy, improved access and increased walkability, transit oriented development, and improved agricultural methods – have the potential to bolster sustainable development.
- CSAC recognizes that climate change will have a harmful effect on our environment, public health and economy. Although there remains uncertainty on the pace, distribution and magnitude of the effects of climate change, CSAC also recognizes the need for immediate actions to mitigate the sources of greenhouse gases.
- CSAC recognizes the need for sustained leadership and commitment at the federal, state, regional and local levels to develop strategies to combat the effects of climate change.
- CSAC recognizes the complexity involved with reducing greenhouse gases and the need for a variety of approaches and strategies to reduce GHG emissions.
- CSAC supports a flexible approach to addressing climate change, recognizing that a one size fits all approach is not appropriate for California's large number of diverse communities.
- CSAC supports special consideration for environmental justice issues, disadvantaged communities, and rural areas that do not have the ability to address these initiatives without adequate support and assistance.
- CSAC supports cost-effective strategies to reduce GHG emissions and encourages the use of grants, loans and incentives to assist local governments in the implementation of GHG reduction programs.
- CSAC recognizes that adaptation and mitigation are necessary and complementary strategies for responding to climate change impacts. CSAC

Comment [KB2]: Sacramento County

Comment [KB3]: Sacramento County

encourages the state to develop guidance materials for assessing climate impacts that includes adaptation options.

- CSAC finds it critical that the state develop protocols and GHG emissions inventory mechanisms, providing the necessary tools to track and monitor GHG emissions at the local level. The state, in cooperation with local government, must determine the portfolio of solutions that will best minimize its potential risks and maximize its potential benefits. CSAC also supports the establishment of a state climate change technical assistance program for local governments.
- CSAC believes that in order to achieve projected emission reduction targets cooperation and coordination between federal, state and local entities to address the role public lands play in the context of climate change must occur.
- CSAC recognizes that many counties are in the process of developing, or have already initiated climate change-related programs. CSAC supports the inclusion of these programs into the larger GHG reduction framework and supports acknowledgement and credit given for these local efforts.
- CSAC acknowledges its role to provide educational forums, informational resources and communication opportunities for counties in relation to climate change.
- CSAC recognizes that collaboration between cities, counties, special districts and the private sector is necessary to ensure the success of a GHG reduction strategy at the local level.
- CSAC encourages counties to take active measures to reduce greenhouse gas emissions and create energy efficiency strategies that are appropriate for their respective communities.

Section 2: FISCAL

The effects of climate change and the implementation of GHG reduction strategies will have fiscal implications for county government.

- CSAC recognizes the potential for fiscal impacts on all levels of government as a result of climate change, i.e. sea level rise, flooding, water shortages and other varied and numerous consequences. CSAC encourages the state and counties to plan for the fiscal impacts of climate change adaptation, mitigation and strategy implementation.
- CSAC supports the use of grants, loans, incentives and revenue raising authority to assist local governments with the implementation of climate change response activities and GHG reduction strategies.

- CSAC continues to support its state mandate principles in the context of climate change. CSAC advocates that new GHG emissions reduction programs must be technically feasible for counties to implement and help to offset the long-term costs of GHG emission reduction strategies.
- CSAC advocates that any new GHG reduction strategies that focus on city-oriented growth and require conservation of critical resource and agricultural lands within the unincorporated area should include a mechanism to compensate county governments for the loss of property taxes and other fees and taxes.

Section 3: LAND USE, AND TRANSPORTATION, AND HOUSING

Comment [KB4]: CSAC Staff

CSAC recognizes that population growth in the state is inevitable, thus any climate change strategies that affect land use must focus on how and where to accommodate and mitigate the expected growth in California. Land use planning and development plays a direct role in transportation patterns, affecting travel demands and in return vehicle miles traveled (VMT) and fuel consumption. It is recognized that in addition to reducing VMTs, investing in a seamless and efficient transportation system to address congestion also contributes to the reduction of GHG emissions. The provision of housing affordable to all income levels also affects the ability to meet climate change goals. Affordable housing in close proximity to multi-modal transportation options, work, school, and other goods and services is a critical element to reducing GHG emissions in the state. Smart land use planning and growth, such as that required by SB 375 (Chapter 728, Statutes of 2008), remains a critical component to achieve the GHG emission reduction targets pursuant to AB 32 (Chapter 488, Statutes of 2006), particularly to address the emissions from the transportation sector (i.e. vehicle, air and train). In order to better understand the link between land use planning, transportation, housing, and climate change further modeling and consideration of alternative growth scenarios is required to determine the relationship and benefits at both the local and regional levels.

Comment [KB5]: CSAC Staff/Sonoma County

- CSAC supports measures to achieve reductions in GHG emissions by promoting housing/jobs proximity and transit-oriented development, and encouraging high density residential development along transit corridors. CSAC supports these strategies through its support for SB 375 and other existing smart growth policies for strategic growth. These policies That policy also support encouraging new growth that results in compact development within cities, existing unincorporated urban communities and rural towns that have the largest potential for increasing densities, and providing a variety of housing types and affordability. CSAC also supports policies that efficiently utilizing existing and new infrastructure investment and scarce resources, while considering social equity as part of community development, and strives for an improved towards achieving a jobs-housing balance.

Comment [KB6]: Sacramento County/Sonoma County

- CSAC existing policy also supports the protection of critical lands when it comes to development, recognizing the need to protect agricultural lands, encourage the continued operations and expansion of agricultural businesses, and protect natural resources, wildlife habitat and open space.
- CSAC policy also acknowledges that growth outside existing urban areas and growth that is non-contiguous to urban areas may be necessary to avoid the impacts on critical resource and agricultural lands that are adjacent to existing urban areas.
- CSAC policy supports providing incentives for regional blueprint and countywide plans outside of SB 375, to ensure that all rural, suburban and urban communities have the ability to plan for more strategic growth and have equitable access to revenues available for infrastructure investment purposes. It is CSAC's intent to secure regional and countywide blueprint funding for all areas.
- CSAC supports new fiscal incentives for the development of countywide plans to deal with growth, adaptation and mitigation through collaboration between a county and its cities to address housing needs, protection of resources and agricultural lands, and compatible general plans and revenue and tax sharing agreements for countywide services.
- CSAC recognizes that counties and cities must strive to promote efficient development in designated urban areas in a manner that evaluates all costs associated with development on both the city and the county. Support for growth patterns that encourage urbanization to occur within cities must also result in revenue agreements that consider all revenues generated from such growth in order to reflect the service demands placed on county government. As an alternative, agreements could be entered into requiring cities to assume portions of county service delivery obligations resulting from urban growth.
- ~~Strategic growth plans at the regional level, whether land use or transportation, must be reconciled with the Regional Housing Needs Allocation (RHNA) and the obligation for cities and counties to zone for housing. The allocation of resources to cities and counties must be consistent with the RHNA obligation as well.~~
- While local governments individually have a role in the reduction of GHG emissions through land use decisions, CSAC continues to support regional approaches to meet the State's GHG emission reduction and climate change goals, such as SB 375 efforts. A means for simultaneously achieving strategic growth and reduction of greenhouse gases is expected to occur at the regional level through which build upon existing the current regional blueprint and transportation planning processes. CSAC continues to supports regional approaches this method rather than over any statewide "one size fits all" approach to addressing growth and climate change issues. Further, CSAC supports countywide approaches to strategic growth, resource and agricultural protection,

Comment [KB7]: Sonoma County

targeting scarce infrastructure investments and tax sharing for countywide services.

Comment [KB8]: CSAC Staff/Sonoma County

~~• CSAC supports inclusion of recommendations and technical advice for local governments and regional agencies in the CEQA Guidelines to address acceptable methodologies for climate change analysis, significance thresholds and mitigation measures for long-range plans and project level review.~~

• CSAC finds it critical that state and federal assistance is provided for data and standardized methodologies for quantifying GHG emissions for determining and quantifying GHG emission sources and levels, vehicle miles traveled and other important data to assist both local governments and regional agencies in addressing climate change in environmental documents for long-range plans.

~~• CSAC supports efforts to minimize the risk to counties and lead agencies until the CEQA Guidelines are established as required by law in 2010.~~

Comment [KB9]: Napa County

~~• While local governments individually have a role in the reduction of GHG emissions, CSAC also supports regional, interregional, interjurisdictional and cross-border efforts to achieve the ARB targets, including reliance on regional data and long-range plans that relate to air quality, transportation and regional growth strategies.~~

Section 4: ENERGY

Reducing energy consumption is an important way to reduce GHG emissions and conserve. Additionally, the capture and reuse of certain GHGs can lead to additional sources of energy. For example, methane gas emissions, a mixture of methane, carbon dioxide and various toxic organic and mercuric pollutants, from landfills and dairies have been identified as potent GHGs. Effective collection and treatment of these gases is not only important to the reduction of GHG emissions, but can also result in an additional source of green power.

- CSAC supports incentive based green building programs that encourage the use of green building practices, incorporating energy efficiency and conservation technologies into state and local facilities. A green building is a term used to describe structures that are designed, built, renovated, operated or reused in an ecological and resource-efficient manner. Green buildings are designed to meet certain objectives using energy, water and other resources more efficiently and reducing the overall impact to the environment.
- CSAC supports the state's development of green building protocols sustainable building standards, including guidelines for jails, hospitals and other such public buildings.

- CSAC supports the use of grants, loans and incentives to encourage and enable counties to incorporate green building practices into their local facilities.
- CSAC supports the use of procurement practices that promote the use of energy efficient products and equipment.
- CSAC supports state efforts to develop a dairy digester protocol to document GHG emissions reductions from dairy farms. CSAC supports funding mechanisms that support the use of dairy digesters to capture methane gas and convert it to energy.
- CSAC supports state efforts to capture methane gases from landfills; and supports its development of a reasonable regulatory measure with a feasible timeline, that will require landfill gas recovery systems on landfills that can support a self-sustaining collection system. CSAC supports the development of a guidance document for landfill operators and regulators that will recommend technologies and best management practices for improving landfill design, construction, operation and closure for the purpose of reducing GHG emissions. CSAC also supports funding mechanisms, including grants, loans and incentives to landfill operators to help implement these programs.
- CSAC continues to support its existing energy policy, which states that counties should seek to promote energy conservation and energy efficiency and broader use of renewable energy resources. Counties are encouraged to undertake vigorous energy action programs that are tailored to the specific needs of each county. When developing such action programs counties should: (1) assess available conservation and renewable and alternative energy options and take action to implement conservation, energy efficiency and renewable energy development when feasible; (2) consider the incorporation of energy policies as an optional element in the county general plan; and, (3) consider energy concerns when making land use decisions and encourage development patterns which result in energy efficiency.
- CSAC continues to support efforts to ensure that California has an adequate supply of safe and reliable energy through a combination of conservation, renewables, new generation and new transmission efforts.

Section 5: WATER

According to the Department of Water Resources, projected increases in air temperature may lead to changes in the timing, amount and form of precipitation – (rain or snow), changes in runoff timing and volume, effects of sea level rise and changes in the amount of irrigation water needed. CSAC has an existing policy that recognizes the need for state and local programs that promote water conservation and water storage development.

- CSAC supports the incorporation of projections of climate change into state water planning and flood control efforts.
- CSAC recognizes that climate change has the potential to seriously impact California's water supply. CSAC continues to assert that adequate management of water supply cannot be accomplished without effective administration of both surface and ground water resources within counties, including the effective management of forestlands and watershed basins.
- CSAC supports water conservation efforts, including reuse of domestic and industrial wastewater, reuse of agriculture water, groundwater recharge, and economic incentives to invest in equipment that promotes efficiency.
- CSAC continues to support the study and development of alternate methods of meeting water needs such as desalinization, wastewater reclamation, watershed management, the development of additional storage, and water conservation measures.

Section 6: FORESTRY

With a significant percentage of California covered in forest land, counties recognize the importance of forestry in the context of climate change. Effectively managed forests have less of a probability of releasing large amounts of harmful GHG emissions into the atmosphere in the form of catastrophic wildfires. Furthermore, as a result of natural absorption, forests reduce the effects of GHG emissions and climate change by removing carbon from the air through the process of carbon sequestration. CSAC also recognizes the benefits of biomass energy as an alternative to the burning of traditional fossil fuels, as well as the benefits of carbon sequestration through the use of wood products.

- CSAC continues to support its existing policy on sustainable forestry, encouraging sustainable forestry practices through the existing regulatory process, and encouraging continued reforestation and active forest management on both public and private timberlands.
- CSAC supports responsible optimum forest management practices that ensure continued carbon sequestration in the forest, provide wood fiber for biomass-based products and carbon-neutral biomass fuels, and protect the ecological values of the forest in a balanced way.
- CSAC supports the state's development of general forestry protocols that encourage private landowners to participate in voluntary emission reduction programs and encourage National Forest lands to contribute to the state's climate change efforts.

- It is imperative that adequate funding be provided to support the management of forest land owned and managed by the federal government in California in order to ensure the reduction of catastrophic wildfires.
- CSAC supports additional research and analysis of carbon sequestration opportunities within forestry.

Section 7: AGRICULTURE

The potential impacts of climate change on agriculture may not only alter the types and locations of commodities produced, but also the factors influencing their production, including resource availability. Rising temperatures, changes to our water supply and soil composition all could have significant impacts on California's crop and livestock management. Additionally, agriculture is a contributor to GHG emissions in form of fuel consumption, cultivation and fertilization of soils and management of livestock manure. At the same time, agriculture has the potential to provide offsets in the form of carbon sequestration in soil and permanent crops, and the production of biomass crops for energy purposes.

- CSAC supports State efforts to develop guidelines through a public process to improve and identify cost effective strategies for nitrous oxide emissions reductions.
- CSAC continues to support incentives that will encourage agricultural water conservation and retention of lands in agricultural production.
- CSAC continues to support full funding for UC Cooperative Extension given its vital role in delivering research-based information and educational programs that enhance economic vitality and the quality of life in California counties.
- CSAC supports additional research and analysis of carbon sequestration opportunities within agriculture.

Section 8: AIR QUALITY

CSAC encourages the research and development and use of alternative, cleaner fuels. Further, air quality issues reach beyond personal vehicle use and affect diesel equipment used in development and construction for both the public and private sector.

- CSAC supports state efforts to create standards and protocols for all new passenger cars and light-duty trucks that are purchased by the state and local governments that conform to the California Strategy to Reduce Petroleum Dependency. CSAC supports state efforts to revise its purchasing methodology to be consistent with the new vehicle standards.

- CSAC supports efforts that will enable counties to purchase new vehicles for local fleets that conform to state purchasing standards, are fuel efficient, low emission, or use alternative fuels. CSAC supports flexibility at the local level, allowing counties to purchase fuel efficient vehicles on or off the state plan.
- CSAC supports identifying a funding source for the local retrofit and replacement of county on and off road diesel powered vehicles and equipment.
- CSAC opposes federal standards that supercede California's ability to adopt stricter vehicle standards.
- Counties continue to assert that federal and state agencies, in cooperation with local agencies, have the ability to develop rules and regulations that implement clean air laws that are both cost-effective and operationally feasible. In addition, state and federal agencies should be encouraged to accept equivalent air quality programs, thereby allowing for flexibility in implementation without compromising air quality goals.
- CSAC also recognizes the importance of the Air Pollution Control Districts (APCDs) and Air Quality Management Districts (AQMDs) to provide technical assistance and guidance to achieve the reduction of GHG emissions.
- CSAC supports the development of tools and incentives to encourage patterns of product distribution and goods movement that minimize transit impacts and GHG emissions.
- CSAC supports further analysis of the GHG emission contribution from goods movement through shipping channels and ports.

Section 9: SOLID WASTE AND RECYCLING

The consumption of materials is related to climate change because it requires energy to mine, extract, harvest, process and transport raw materials, and more energy to manufacture, transport and, after use, dispose of products. Recycling and waste prevention can reduce GHG emissions by reducing the amount of energy needed to process materials, and reducing the amount of natural resources needed to make products.

- CSAC continues to support policies and legislation that aim to promote improved markets for recyclable materials, and encourages:
 - The use of recycled content in products sold in California;
 - The creation of economic incentives for the use of recycled materials;
 - Development of local recycling markets to avoid increased emissions from transporting recyclables long distances to current markets;
 - The expansion of the Electronic Waste Recycling Act of 2003 and the Beverage Container Recycling Program;

- The use of materials that are biodegradable;
- Greater manufacturer responsibility and product stewardship.

Section 10: HEALTH

CSAC recognizes the potential impacts of land uses, transportation, housing, and climate change on human health. As administrators of planning, public works, parks, and a variety of public health services and providers of health care services, California's counties have significant health, administrative and cost concerns related to our existing and future built environment and a changing climate. Lack of properly designed active transportation facilities have made it difficult and in some cases created barriers for pedestrians and bicyclists. Lack of walk ability in many communities contributes to numerous chronic health related issues, particularly obesity which is an epidemic in this country. Heat-related illnesses, air pollution, wild fire, water pollution and supply issues, mental health impact and infectious disease all relate to the health and well-being of county residents, and to the range and cost of services provided by county governments. CSAC recognizes that there are direct human health benefits associated with improving our built environment and mitigating greenhouse gas emissions, such as lowering rates of obesity, injuries, and asthma. Counties believe that prevention, planning, research, education/training, and preparation are the keys to coping with the public health issues brought about by our built environment and climate change. and that any p. Public policies/policy related to land uses, public works, climate change and public health should be considered so as to work together to improve the public's health within must take into account the existing roles and resources of county government.

Comment [KB10]: Sacramento County

- CSAC supports efforts to provide communities that are designed, built and maintained so as to promote health, safety and livability through leadership, education, and funding augmentations.

Comment [KB11]: Sacramento County

- CSAC supports efforts to improve the public health and human services infrastructure to better prevent and cope with the health effects of climate change through leadership, planning and funding augmentations.
- CSAC supports state funding for mandated local efforts to coordinate monitoring of heat-related illnesses and responses to heat emergencies.
- CSAC supports efforts to improve emergency prediction, warning, and response systems and enhanced disease surveillance strategies.

Glossary of Terms

Climate change

A change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

United Nations Framework Convention on Climate Change

Carbon Sequestration

Carbon sequestration refers to the provision of long-term storage of carbon in the terrestrial biosphere, underground, or the oceans so that the buildup of carbon dioxide (the principal greenhouse gas) concentration in the atmosphere will reduce or slow. In some cases, this is accomplished by maintaining or enhancing natural processes; in other cases, novel techniques are developed to dispose of carbon.

US Department of Energy

Environmental Justice

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

US Environmental Protection Agency

Greenhouse gas

A gas that absorbs radiation at specific wavelengths within the spectrum of radiation (infrared radiation) emitted by the Earth's surface and by clouds. The gas in turn emits infrared radiation from a level where the temperature is colder than the surface. The net effect is a local trapping of part of the absorbed energy and a tendency to warm the planetary surface. Water vapour (H₂O), carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄) and ozone (O₃) are the primary greenhouse gases in the Earth's atmosphere.

United Nations Intergovernmental Panel on Climate Change

Attachment Four

Proposed Changes to the Native American Issues Chapter

Chapter Sixteen

~~Native American Issues~~ Tribal and Intergovernmental Relations

Comment [KB1]: Santa Barbara County

Section 1: GENERAL PRINCIPLES

CSAC supports government-to-government relations that recognize the role and unique interests of tribes, states, counties, and other local governments to protect all members of their communities and to provide governmental services and infrastructure beneficial to all—Indian and non-Indian alike.

CSAC recognizes and respects the tribal right of self-governance to provide for tribal members and to preserve traditional tribal culture and heritage. In similar fashion, CSAC recognizes and promotes self governance by counties to provide for the health, safety and general welfare of all members of their communities. To that end, CSAC supports active participation by counties on issues and activities that have an impact on counties.

Nothing in federal law should interfere with the provision of public health, safety, welfare or environmental services by local government. CSAC ~~to will~~ supports legislation and regulations that preserve—and does not impair—the ability of counties to provide these services to the community.

Comment [KB2]: Sonoma County

Section 2: TRIBAL-STATE GAMING COMPACTS

CSAC recognizes that Indian Gaming in California is governed by a unique structure that combines federal, state, and tribal law.

While the impacts of Indian gaming fall primarily on local communities and governments, Indian policy is largely directed and controlled at the federal level by Congress.

The Indian Gaming Regulatory Act of 1988 (IGRA) is the federal statute that governs Indian gaming. IGRA requires compacts between states and tribes to govern the conduct and scope of casino-style gambling by tribes. Those compacts may allocate jurisdiction between tribes and the state.

The Governor of the State of California entered into the first Compacts with California tribes desiring or already conducting casino-style gambling in September 1999. Since that time tribal gaming has rapidly expanded and created a myriad of significant economic, social, environmental, health, safety, and other impacts.

Some Compacts have been successfully renegotiated to contain most of the provisions recommended by CSAC including the requirement that each tribe negotiate with the appropriate county government on the impacts of casino projects, and impose binding “baseball style” arbitration on the tribe and county if they cannot agree on the terms of a mutually beneficial binding agreement

1

However, CSAC believes that the 1999 Compacts fail to adequately address these impacts and/or to provide meaningful and enforceable mechanisms to prevent or mitigate impacts.

The overriding purpose of the principles presented below is to harmonize existing policies that promote tribal self-reliance with policies that promote fairness and equity and that protect the health, safety, environment, and general welfare of all residents of the State of California and the United States.

In the spirit of developing and continuing government-to-government relationships between federal, tribal, state, and local governments, CSAC specifically requests that the State request negotiations with tribal governments pursuant to section 10.8.3, subsection (b) of the Tribal-State Compact, and that it pursue all other available options for improving existing and future Compact language.

Towards that end, CSAC urges the State to consider the following principles when it negotiates or renegotiates Tribal-State Compacts:

1. A Tribal Government constructing or expanding a casino or other related businesses that impact off-reservation land will seek review and approval of the local jurisdiction to construct off-reservation improvements consistent with state law and local ordinances including the California Environmental Quality Act (CEQA) with the tribal government acting as the lead agency and with judicial review in the California courts.

1.2. The Compact shall provide a process to ensure that Tribal environmental impact reports are consistent with CEQA standards and provide adequate information to fully assess the impacts of a project before a facility may operate and prior to mitigation disputes being subject to arbitration.

Comment [KB3]: Sonoma County

2.3. A Tribal Government operating a casino or other related businesses will mitigate all off-reservation impacts caused by that business. In order to ensure consistent regulation, public participation, and maximum environmental protection, Tribes will promulgate and publish environmental protection laws that are at least as stringent as those of the surrounding local community and comply with CEQA with the tribal government acting as the lead agency and with judicial review in the California courts.

3.4. A Tribal Government operating a casino or other related businesses will be subject to the authority of a local jurisdiction over health and safety issues including, but not limited to, water service, sewer service, fire inspection and protection, rescue/ambulance service, food inspection, and law enforcement, and reach written agreement on such points.

4.5. A Tribal Government operating a casino or other related businesses will pay to the local jurisdiction the Tribe's fair share of appropriate costs for local government services. These services include, but are not limited to, water, sewer, fire inspection and protection, rescue/ambulance, food inspection, health and social services, law enforcement, roads, transit, flood control, and other public infrastructure. Means of reimbursement for these services include, but are not limited to, in lieu payments equivalent to property tax, sales tax,

transient occupancy tax, benefit assessments, appropriate fees for services, development fees, and other similar types of costs typically paid by non-Indian businesses.

Comment [KB4]: Sonoma County

5.6. To address socioeconomic and other impacts that are not easily quantifiable, in addition to direct mitigation offsets, the Compact shall provide for an appropriate percentage of Net Win to go to the affected county to address in-direct impacts. The Indian Gaming Special Distribution Fund, ~~created by section 5 of the Tribal-State Compact~~ will not be the exclusive source of mitigation, but will be an additional mechanism to ensure that counties are guaranteed funds to mitigate off-reservation impacts caused by tribal gaming. Special Distribution Funds should be provided directly to the Indian Gaming Community Benefit Committee in each county that receives this funding.

Comment [KB5]: Sonoma County

Comment [KB6]: Santa Barbara County

6.7. To fully implement the principles announced in this document and other existing principles in the Tribal-State compact, Tribes will meet and reach a judicially enforceable agreement with local jurisdictions on these issues before a new compact or an extended compact becomes effective.

7.8. The Governor should establish and follow appropriate criteria to guide the discretion of the Governor and the Legislature when considering whether to consent to tribal gaming on lands acquired in trust after October 17, 1988 and governed by IGRA (25 U.S.C § 2719). The Governor should also establish and follow appropriate criteria/guidelines to guide his/her participation in future compact negotiations.

Section 3: FEDERAL TRIBAL LANDS POLICY/DEVELOPMENT ON TRIBAL LAND

The 1999 Compacts allow tribes to develop two casinos, expand existing casinos within certain limits, and do not restrict casino development to areas within a tribe's current trust land or legally recognized aboriginal territory.

Additionally, in some counties, land developers are seeking partnerships with tribes in order to avoid local land use controls and to build projects, which would not otherwise be allowed under the local land use regulations.

Some tribes are seeking to acquire land outside their current trust land or their legally recognized aboriginal territory and to have that land placed into federal trust and beyond the reach of a county's land use jurisdiction.

Furthermore, Congress continues to show an interest in the land-into-trust process and revisiting portions of IGRA.

The overriding principle supported by CSAC is that when tribes are permitted to engage in gaming activities under federal legislation, then judicially enforceable agreements between counties and tribal governments must be required in the legislation. These agreements would fully mitigate local impacts from a tribal government's business activities and fully identify the governmental services to be provided by the county to that tribe.

CSAC believes that existing law fails to address the off-reservation impacts of tribal land development, particularly in those instances when local land use and health and safety regulations are not being fully observed by tribes in their commercial endeavors.

The following provisions emphasize that counties and tribal governments need to each carry out their governmental responsibilities in a manner that respects the governmental responsibilities of the other.

1. Nothing in federal law should interfere with provision of public health, safety, welfare or environmental services by local governments, particularly counties.

Consistent with this policy, CSAC is supportive of all federal legislation that gives counties an effective voice in the decision-making process for taking lands into trust for a tribe and furthers the overriding principle discussed above.

2. CSAC supports federal legislation and policy to provide that lands are not to be placed into trust and removed from the land use jurisdiction of local governments without adequate notice and opportunity for consultation and the consent of the State and the affected county.

Comment [KB7]: Sonoma County

Federal legislation is deserving of CSAC's support if that legislation requires counties' consent to the taking of land into trust for a tribe.

3. CSAC supports federal legislation and regulations which ensure that counties receive timely notice of all trust applications and an adequate time to respond to the Tribe and BIA. In addition, material changes in the use of trust land, particularly from non-gaming to gaming purposes, shall require separate approval and environmental review by the Department of the Interior.

Comment [KB8]: Sonoma County

- 3.4 CSAC reiterates its support of the need for enforceable agreements between tribes and local governments concerning the mitigation of off-reservation impacts of development on tribal land. CSAC opposes any federal or state limitation on the ability of tribes, counties and other local governments to reach mutually acceptable and enforceable agreements.

- 4.5 CSAC opposes the practice commonly referred to as "reservation shopping" where a tribe seeks to place land into trust outside its aboriginal territory over the objection of the affected county.

CSAC will support federal legislation that addresses "reservation shopping" or consolidations in a manner that is consistent with existing CSAC policies, particularly the requirements of consent from Governors and local governments and the creation of judicially enforceable local agreements.

- 5.6 CSAC does not oppose the use by a tribe of non-tribal land for development provided the tribe fully complies with state and local government laws and regulations applicable to all other development, including full compliance with environmental laws, health and safety laws, and mitigation of all impacts of that development on the affected county.

CSAC **willean** support federal legislation that furthers the ability of counties to require and enforce compliance with all environmental, health and safety laws. Counties and tribes need to negotiate in good faith over what mitigation is necessary to reduce all off-Reservation impacts from an Indian gaming establishment to a less than significant level and to protect the health and safety of all of a county's residents and visitors.

Comment [KB9]: Sonoma County

6.7. CSAC supports the position that all class II and class III gaming devices should be subject to IGRA.

CSAC is concerned about the current definition of Class II, or bingo-style, video gaming machines as non-casino gaming machines. These machines are nearly indistinguishable from Class III, slot-style gaming machines, and thereby generate the same type of impacts on communities and local governments associated with Class III gaming.

CSAC believes that **the** operation of Class II gaming machines is **in-essence** a form of gaming, and tribes that install and profit from such machines should be required to work with local governments to mitigate all impacts caused by such businesses.

Comment [KB10]: Sonoma County

Section 4: SACRED SITES

California's every increasing population and urbanization threatens places of religious and social significance to California's Native American tribes.

In the spirit of government-to-government relationships, local governments and tribal governments should work cooperatively to ensure sacred sites are protected.

Specifically, local governments should consult with tribal governments when amending general plans to preserve and/or mitigate impacts to Native American historical, cultural, or sacred sites.



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Date: February 21, 2013
To: CSAC Board of Directors
From: David Finigan, CSAC President
Re: **“Year of the Child” Resolution**

As part of my initiative as CSAC President, I have asked that 2013 be declared “The Year of the Child” in our counties. I began this initiative during my speech at the CSAC Annual Meeting when I challenged you, my colleagues, to ask, “How are the Children?” Now it is time to consider formal action.

It is important for our Boards of Supervisors to join elected officials across the state, First 5 commissions and our respective community partners in recognizing the critical importance of placing children at the core of our plans. In this light, I am now urging each county to consider adopting the accompanying draft resolution proclaiming 2013 as “The Year of the Child.”

In addition, I would like to request that the CSAC Board of Directors adopt a similar resolution which is also included in your materials.

Draft Resolution Proclaiming 2013 as “The Year of the Child”

Whereas, California is home to 9.5 million children, from infants and toddlers to school-agers and teens, including (This County’s) (xx number of) children; and

Whereas, these children are the future of our state, with our investment in our children of today representing our investment in the working people, community leaders, parents and problem solvers of tomorrow; and

Whereas, it is therefore imperative that the elected officials, community leaders and policymakers of today prioritize California’s children and consider the impact of each decision they make on all of our children today, tomorrow, and in the future; and

Whereas California voters approved Proposition 10 in 1998 investing First 5 California and 58 county First 5 Commissions with responsibility to lead communities in expanding early developmental and school readiness services and improving systems for children ages 0 to 5 and their families, and

Whereas, each First 5 Commission works in partnership with its county Board of Supervisors as well as other public and non-profit agencies to address the needs of young children and their families; and

Whereas, California counties share this dedication to the good health, school readiness, and general well-being of our children, who cannot vote, lobby or advocate, and are dependent on the adults of today for their well-being; and

Whereas, the President of the California State Association of Counties has challenged his colleagues to ask “How are the children?” and to always consider what is best for the children and to continue focusing on the children until we can say with confidence, “All the children are well;”

Now Therefore Be It Resolved that (this county’s) Board of Supervisors joins elected officials across the state, First 5 commissions and their many community partners in recognizing the critical importance of placing children at the core of our plans, at the heart of our purpose and at the top of every agenda as we proclaim 2013 as “The Year of the Child.”

Adopted this (xx day) of (the month), 2013.

CALIFORNIA STATE ASSOCIATION OF COUNTIES

BOARD OF DIRECTORS

Resolution Proclaiming 2013 as “The Year of the Child”

Whereas, California is home to 9.5 million children, from infants and toddlers to school-agers and teens, and

Whereas, these children are the future of our state, with our investment in our children of today representing our investment in the working people, community leaders, parents and problem solvers of tomorrow; and

Whereas, it is therefore imperative that the elected officials, community leaders and policymakers of today prioritize California’s children and consider the impact of each decision they make on all of our children today, tomorrow, and in the future; and

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Whereas, California counties share this dedication to the good health, school readiness, and general well-being of our children, who cannot vote, lobby or advocate, and are dependent on the adults of today for their well-being; and

Whereas, the President of the California State Association of Counties has challenged his colleagues to ask “How are the children?” and to always consider what is best for the children and to continue focusing on the children until we can say with confidence, “All the children are well;”

Now Therefore Be It Resolved that the California State Association of Counties joins elected officials across the state, First 5 commissions and their many community partners in recognizing the critical importance of placing children at the core of our plans, at the heart of our purpose and at the top of every agenda as we proclaim 2013 as “The Year of the Child.”

Adopted this 21st day of February, 2013.

David Finigan, President



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February 4, 2013

To: CSAC Board of Directors
From: Karen Keene, CSAC Senior Legislative Representative
Cara Martinson, CSAC Associate Legislative Representative

RE: Solid Waste Management: Conversion Technology

Recommendation. Staff is recommending that the CSAC Agriculture and Natural Resources Policy Committee, which meets on February 20th, support CSAC's co-sponsorship of solid waste conversion technology legislation and convey this support position to the CSAC Board of Directors.

Background. Over the past year, CSAC staff has worked closely with the County Engineers Association of California (CEAC) to advance the timely development of solid waste conversion technology facilities in California in order to reduce dependence on landfill disposal and generate renewable energy. The topic of solid waste conversion technologies has gained considerable momentum within the Administration with Governor Brown's focus on renewable energy and job creation. In addition, conversion technology has also been part of the discussion around the State's efforts to develop a plan to divert 75% of solid waste from landfills, as required by AB 341 (Chapter Number 476, Statutes of 2011).

Conversion Technologies are technologies capable of converting residual solid waste (the fraction remaining after recycling and composting) into renewable energy, biofuels, and other useful products. Conversion technologies are generally split into three categories: biological, chemical, and non-combustion thermal processes. Conversion technologies are well established in Europe and Asia, having been used for well over a decade in many countries in these regions. They have been an integral part of meeting these countries' mandates for recycling, landfill phase-out, and greenhouse gas reductions.

However, the use of conversion technologies, including thermal systems such as gasification, has been a controversial subject in California. The State has been reticent to endorse substantial waste-to-energy technologies, primarily due to opposition to conventional incineration. In addition, some groups contend that creating incentives – such as renewable energy and waste diversion credits – to operate conversion technology facilities in California would create a disincentive for waste reduction and recycling programs. To the contrary, CSAC and CEAC see these as complementary efforts.

Proposal. Certain provisions in California State law and regulations, including outdated and scientifically inaccurate definitions, have created uncertainty regarding the permitting of these facilities and their ability to receive renewable energy credits. In addition, existing California statutes and regulations have created an assortment of non-scientific and inconsistent conversion technology definitions. Specifically, some conversion technologies are incorrectly defined as incineration, others as composting, and still others left without legal definition. All of these inaccuracies and outdated definitions have led to the lack of

conversion technology development in California. The draft proposal seeks to fix these inaccurate definitions to help foster these innovative and important technologies in California.

Additionally, the proposal will include measures to ensure that up-front recycling is done before materials are sent to solid waste conversion facilities and that all conversion facilities meet California's stringent air and water quality standards. We believe that facilities meeting these requirements should be eligible to send their residual solid waste materials to a conversion facility.

The County of Los Angeles has taken the lead on drafting language and working with the Legislature to secure an author for this proposal. CSAC strongly supports these efforts and has been working alongside the County on this issue. In addition, the CSAC Executive Committee approved the CSAC 2013 Priorities document, which includes the support of conversion technology in California. The Priorities document is pending approval by the CSAC Board of Directors at their February 21 meeting.

Action Requested. Staff recommends a support position on this proposal, enabling CSAC to co-sponsor a bill with the County of Los Angeles on conversion technologies.

Contact. For more information on this issue, please contact Cara Martinson, CSAC Associate Legislative Representative at 916-327-7500, ext. 504, or cmartinson@counties.org.



February 21, 2013

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

We held the 2013 Premier Corporate Forum in San Diego County on January 30th and 31st. We have reconfigured the event to offer our corporate members the opportunity to hear directly from county elected and appointed officials from around the state. Our presenters shared very compelling stories about the incredible challenges they face serving the diverse needs of the people of this great state in this time of great change.

Journalist, blogger and political commentator Greg Lucas kicked off the day with an engaging overview of California's origins as a haven for the immigrants from across the globe and the implications that has had throughout the years and for all of us today. Nick Macchione Director of Public Health in San Diego County shared details of their ambitious program "Live Well San Diego" which is having a meaningful impact on the health of the employees and residents of the county.

University of California Regent and California Endowment Board Member Russ Gould gave the group two very different perspectives on the costs, challenges and implications of implementing the Affordable Care Act. And CAO's Jay Orr from Riverside County and Larry Spikes from Kings County lead an interactive discussion on the changing demographics of this state and what that will mean for service delivery and leadership development in county government. National Association of Counties' CIO Dr. Bert Jarreau provided valuable background information about the economic impact of these shifts.

The feedback on the event has been overwhelmingly positive. CSAC's commitment to provide our Premier Corporate Members with opportunities like this to grow their knowledge and understanding of California's counties and help them develop lasting relationships with our members is setting us apart and beginning to attract a lot of new members.



FOUNDED 1955

INSTITUTE FOR LOCAL GOVERNMENT

Update on Activities (February 2013)

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Kathleen A. Millison

City Manager
City of Santa Rosa

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

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

A key motivation in the Institute's founding in 1955 was to access to foundation and other forms of additional funding to enhance the services local agency associations provide their members. Currently, the Institute leverage CSAC's support of the Institute at about a 19:1 ratio (for every one dollar CSAC contributes, the Institute raises an additional nineteen dollars from foundations, contracts with universities, private sector support and fees from training and publications sales. See charts at end of this report for more information.

Every year, the Institute board engages in a goal setting process as part of its overall strategic plan. A recurring key goal is to support CSAC and the League. The following are some highlights of the Institute's activities from the last quarter.

Supporting Member Outreach and Education Efforts

- **New Supervisors Institute.** As part of its "local government 101" program, ILG has been pleased to provide materials for various New Supervisors Institute sessions and present an overview of the resources available to newly elected officials and others from the Institute's website.
- **CSAC Annual Conference.** ILG's two hour ethics program enabled attending county officials to deepen/refresh their knowledge of public services laws and principles, as well as satisfy state biennial ethics training requirements (AB 1234).
- **CSAC Institute.** ILG organized the CSAC Institute session on intergovernmental collaboration at the end of the CSAC annual conference. The session highlighted innovative efforts in San Diego, Orange and Yolo counties. The Institute is organizing and providing materials for the CSAC Institute course on effective meetings in late April.

Promoting Good Government at the Local Level

- **Other Associations' Conferences:** ILG also organized and/or made presentations at sessions at other associations' conferences over the last quarter. These include a panel on cross sector collaboration at the Municipal Management Association of Northern California. Contra Costa County Supervisor John Gioia and Butte County Planning Director, Jason Giffen, were among the presenters at this session. In addition, ILG organized Safe Routes to Schools and public engagement sessions at the California School Boards Association annual conference.
- **Webinars.** For those who cannot travel to conferences, ILG organized three webinars on land use planning and transportation issues over the last quarter. These webinars were made possible under ILG's funding from the James Irvine Foundation and The California Endowment. Materials from the webinars and information about upcoming webinars is available at www.ca-ilg.org/post/sustainable-communities-learning-network-launches-brownbag-webinar-series

Other Resources Available to Local Officials from ILG's Website: www.ca-ilg.org

- **Newly Elected Official Resource Center.** Resources on media relations were added in December: www.ca-ilg.org/media-relations. The entire collection of materials for newly elected officials is accessible from www.ca-ilg.org/new-local-public-service.
- **Public Engagement.** This section of the Institute's website has been streamlined and reorganized to provide easier access for local officials: www.ca-ilg.org/public-engagement. This includes a new section covering the basics of public engagement: www.ca-ilg.org/basics-public-engagement.



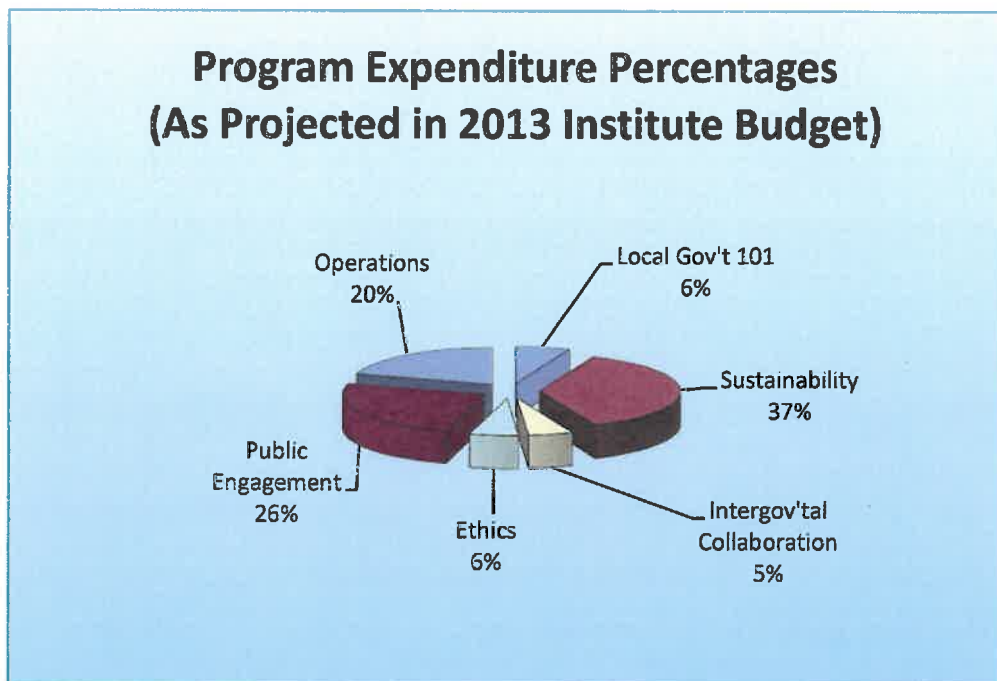
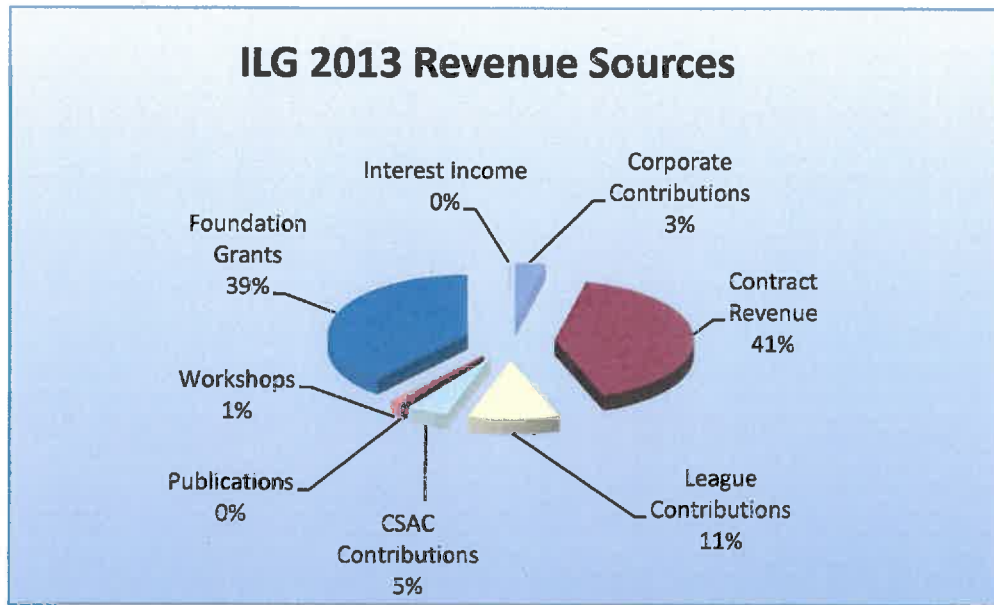
Working
with Media



- **Sustainability.** This section (www.ca-ilg.org/sustainable-communities) of ILG's website has been streamlined and re-organized to make the content more accessible and useful to local officials and others seeking resources. In addition, new policy and technology options have been added to the website's sections on energy efficiency and conservation (www.ca-ilg.org/energy-efficiency-conservation), renewable energy and low carbon fuels (www.ca-ilg.org/RenewableResources), and green buildings (www.ca-ilg.org/green-building) as part of ILG's research on what policies local agencies are finding helpful in these areas.
- **Gift Rules.** The Institute's guide to the Political Reform Act's gift limits, reporting and disqualification requirements has been updated with the new (2013-2014) gift limit (\$440). See www.ca-ilg.org/GiftCenter.

E-Newsletters

ILG produces periodic newsletters for local agency officials and staff. For more information and see past issues, see www.ca-ilg.org/ilg-newsletters.



- Fundraising News.** Two funders have renewed their support for ILG's efforts for 2013-14. The James Irvine Foundation will continue to support ILG's efforts to share information about public engagement options and strategies with a two-year, \$800,000 grant. ILG's sustainability efforts, including its Beacon Award recognition program, will receive \$691,330 for the next two years from funds administered through the Public Utilities Commission and California's four investor-owned utilities.

Cities Counties Schools Partnership

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



When the former CCS executive director announced her retirement in 2011, the partner organizations asked the Institute to staff CCS for a period as an effort to save money and capitalize on synergies between the two organizations.

- **CSAC Board Representatives.** Each partner association appoints representatives to the CCS board of directors. The following individuals are the CSAC representatives:
 - John Gioia
 - Dave Cortese
 - Don Saylor
 - Brad Wagenknecht

The board also has up to three “public” members.

- **Executive Directors Meeting.** The three partner organizations’ respective executive directors met on January 14 to discuss issues of mutual concern, including preventing school violence. This will be the focus of CCS’s April 19th board meeting.
- **Safe Routes to Schools.** CCS has state funding to develop an online guide for city, county and school officials on ways to plan and fund safe walking and bicycling environments for students and other residents. A “beta” version of the toolkit has been released and presented at two workshops for local officials and community stakeholders (Yolo County Supervisor Don Saylor participated in the December workshop). A third “field test” workshop is planned for early spring and the toolkit will be publicly released and disseminated in late spring. County officials wishing to review the toolkit prior to public release can contact Jennifer Armer at jarmer@ca-ilg.org.
- **Community Schools Partnerships.** In 2012, the CCS board set a goal of developing a toolkit for local officials on the hows and whys of counties, cities and schools working together to serve shared constituencies through a concept that has come to be known as “community schools partnerships.” Thus far, funding for the effort has been secured from the Stuart Foundation, United Way and Kaiser Permanente. Work on the toolkit should begin after the April CCS board meeting.



February 6, 2013

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

New Program Development

Medicare Eligible Retiree Healthcare

After an extensive RFP and proposal review process, the CSAC Finance Corporation has selected Extend Health as a partner for our new program to offer more affordable healthcare options for Medicare eligible county retirees. We expect to begin marketing the program within a month.

Onsite Employee Healthcare Facilities

An RFP for onsite employee healthcare facilities has been distributed. Proposals will be reviewed in March and this new program should be launched in May.

The following are highlights of existing CSAC Finance Corporation programs:

CalTRUST

- CalTRUST currently has assets of approximately \$1.36 Billion.
- CalTRUST is launching an aggressive marketing campaign to expand the pool of participants, identifying potential among JPA's and local health plans.

California Statewide Communities Development Authority (CSCDA)

- We will be holding a series of focus groups in the 1st and 2nd quarters of 2013 to identify finance needs of counties and other local governments to help shape the future of CSCDA public programs.

U.S. Communities

- We are continually working with U.S. Communities staff to increase collaborative marketing efforts and effectively increase usage of the program by California Counties. There are currently 27 contracts available through U.S. Communities.

Nationwide Retirement Solutions

- NACo has signed a successor agreement with Nationwide that includes in a 50% reduction in revenue over the next five years. This will result in an approximately \$250,000 annual loss to the CSAC Finance Corporation. We will work with Nationwide to identify potential for additional collaboration.

Coast2CoastRx

- Our discount prescription drug card program with Coast2CoastRx is now offered in 26 counties; saving participants in California around \$3 million each month.

General Information

- The Annual Meeting of the CSAC Finance Corporation Board of Directors will be held April 24-26 in Sonoma County.
- We continue to meet with individual counties and their department heads to present our programs and benefits. Please let us know if you would like a meeting set with your county's department heads.

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



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EXECUTIVE DIRECTOR

Jennifer B. Henning

MEMORANDUM

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

From: Jennifer Henning, Litigation Coordinator

Date: February 21, 2013

Re: Litigation Coordination Program Update

This memorandum will provide you with information on the Litigation Coordination Program's activities since you received your last regular update on September 6, 2012. If you have questions about any of these cases, please do not hesitate to contact me.

I. New Amicus Case Activity Since September

Adoptive Couple v. Baby Girl

371 S.E.2d 550 (S.C. Sup. Ct July 26, 2012)(Case No. 27148), *cert. petition granted* (Jan. 4, 2013)(12-399)

In this Indian Child Welfare Act (ICWA) case, a non-Indian, unwed mother entered into a voluntary adoption. The biological father with Indian heritage was not involved in the mother's life, provided no financial support to her during her pregnancy, made no attempt to contact mother or inquire about her pregnancy, and told mother he relinquished his parental rights. When he received notice of the hearing to finalize the adoption, he opposed. The Cherokee Indian Tribe intervened and also opposed the adoption. The family court denied the adoption petition and granted custody to father, concluding that even though the petition would have been granted under South Carolina law, ICWA applied and required that father be granted custody. A divided South Carolina Supreme Court affirmed. On January 4, 2013, the United States Supreme Court granted certiorari and will consider the following issues: (1) Whether a non-custodial parent can invoke ICWA to block an adoption voluntarily and lawfully initiated by a non-Indian parent; and (2) Whether ICWA defines "parent" in 25 U.S.C § 1903(9) to include an unwed biological father who has not complied with state law rules to attain legal status as a parent. CSAC filed a brief urging the Court to take the case to clarify ambiguities in the law, but did not file a brief on the merits of the case after certiorari was granted.

Calif. Building Industry Assoc. v. Bay Area Air Quality Management District
Pending in the First Appellate District (filed July 31, 2012)(A135335)

The BIA challenged the district's adoption of more stringent air quality thresholds of significance for the San Francisco Bay Area. The trial court invalidated the thresholds, and thereafter awarded attorney fees to the BIA under Code of Civil Procedure section 1021.5 (private attorney general statute), rejecting the district's claim that the BIA and its members had a substantial financial interest in setting aside the thresholds that outweighed the costs they incurred in the litigation. Instead, the court found BIA's motivation in bringing the action was a policy-based concern about effective urban development. Since no direct pecuniary interest was established, the award of CCP 1021.5 fees to the organization was proper. CSAC will file a brief in support of the Air Quality Management District on the attorney fees issue.

Citizens of Ceres v. Superior Court (City of Ceres)
Pending in the Fifth Appellate District (filed Sept. 7, 2012)(F065690)

In preparing the administrative record for a CEQA challenge to a Walmart project, the city did not include documents protected by the attorney-client privilege or work product doctrine. Some of the excluded documents consisted of communications by the city attorney with city staff, but the city also asserted that the attorney-client or work product privileges protected certain communications with Walmart under the common interest doctrine. The trial court denied petitioner's motion to augment the record with the privileged documents. Petitioner then took the matter to the Fifth District contending, among other things, that Public Resources code section 21167.6 (governing CEQA administrative records) abrogates the attorney-client privilege and work product doctrine, and the common interest doctrine. On October 3, 2013 the Court of Appeal issued an alternative writ and order to show cause, and specifically requested briefing on the attorney-client privilege and common interest doctrine issues. CSAC has filed a brief in support of the city, arguing that CEQA does not abrogate existing privileges.

Citizens for Fair REU Rates v. City of Redding
Pending in the Third Appellate District (filed Aug. 22, 2012)(C071906)

The City of Redding operates the Redding Electric Utility (REU). Since 1988, the City has charged REU a Payment in Lieu of Taxes (PILOT) that is calculated to roughly match the 1% property tax that would apply to the utility's assets if it were in private hands. The PILOT formula was modified slightly in 2005, but otherwise has been included, unchanged, in every budget since 1998. In December 2010 (one month after Prop. 26 was passed by the voters), the City Council raised REU rates. Plaintiff brought this Prop. 26 challenge against the increased rates, arguing that they constituted a "tax" under because they included the PILOT and therefore necessarily exceeded the cost of service. The trial court ruled in favor of the city, concluding in relevant part that Prop. 26 does not apply retroactively, and the voters who adopted Prop. 26 did not intend to require a vote on every rate adoption that funds legal obligations derived from pre-Prop. 26 law. CSAC will file an amicus brief in support of the city.

City of Huntington Beach v. CPUC

Pending in the Fourth District Court of Appeal, Div. 3 (filed Feb. 14, 2011)(G044796)

NextG Networks applied to the California Public Utilities Commission (CPUC) for the ability to construct a Distributed Antenna System (DAS) network of 15 mobile telephone antennas on utility poles within the city's right-of-way. The city objected to the application, arguing, among other things, that NextG had to comply with the city's undergrounding ordinance. The CPUC granted the application for construction of the DAS network, and also granted a certificate of public convenience and necessity for NextG's operation as a "telephone corporation" under Public Utilities Code sections 234(a) and 7901. The city brought a writ action in the Fourth Appellate District challenging the CPUC decision, contending: (1) NextG is not a telephone corporation and the CPUC improperly extended sections 234(a) and 7901 to a mobile telephone company; (2) federal law preempts the CPUC from regulating wireless carriers; (3) the CPUC abused its discretion in using the CEQA process to preempt the city's undergrounding ordinance. On September 6, the CPUC granted the writ of review and ordered the CPUC to file a return to the writ. CSAC will file a brief in support of the city arguing that the CPUC cannot use CEQA review to preempt a local land use ordinance.

City of Temecula v. Cooperative Patients' Services

Unpublished Opinion of the Fourth Appellate District, Division Two, 2012

Cal.App.Unpub.LEXIS 7331 (Oct. 9, 2012)(E053310), *petition for review granted* (Dec. 17, 2012)(S206085)

Cooperative Patients' Services (CPS) opened a medical marijuana dispensary in the City of Temecula, even though the operation of a dispensary is not a permitted use in the city. (CPS also failed to secure a valid certificate of occupancy and business license for the dispensary.) The trial court granted the city's motion for a preliminary injunction to prohibit CPS's operation as a public nuisance in violation of the zoning code, rejecting CPS's argument that the city's effective ban on dispensaries under the ordinance is preempted by state law. In a 2-1 unpublished opinion, the Fourth District affirmed: "We reject the proposition that local governments, such as Temecula, are preempted by the CUA and MMPA from enacting zoning ordinances banning medical marijuana dispensaries. Temecula's zoning ordinance does not duplicate, contradict, or enter an area fully occupied by state law legalizing medical marijuana and medical marijuana dispensaries." CSAC requested publication of the opinion, but instead the Supreme Court granted review and is holding the case while it decides the other dispensary cases on its docket.

Corenbaum v. Lampkin

Pending in the Second Appellate District (filed Sept. 28, 2012)(B236227)

In 2011, the California Supreme Court held that when a plaintiff is awarded damages for past medical expenses, the award must be limited to the amount accepted by the medical providers as payment in full, and not the full amount billed. In other words, if insurance, Medi-Cal, or some other coverage, paid a portion of the full amount billed, the plaintiff is not entitled to recover the amount paid by insurance as economic damages for past medical expenses. (*Howell v. Hamilton Meats & Provisions* (2011) 52 Cal.4th 541.)

This case raises an issue left open in *Howell*—whether the full amount billed for past medical expenses can be used to determine noneconomic damages and future medical expenses. The case is pending in the Second Appellate District, which has specifically invited the views of local government on the issue. CSAC filed a brief in response to the court’s request.

County of Los Angeles v. Superior Court (Anderson-Barker)

211 Cal.App.4th 57 (2d Dist. Nov. 16, 2012)(B239849)

Attorney Anderson-Barker works in the same office as two other attorneys who represent a plaintiff in a civil rights action against Los Angeles County. She filed a Public Records Act (PRA) request for the invoices and time records of the law firms representing the County in the civil rights action. The County denied her request, relying in part on the PRA’s “pending litigation” exemption (Gov. Code, § 6254(b).) Anderson-Barker sought a writ of mandate. The trial court granted the writ, finding that the pending litigation exemption only applies to records specifically prepared for use in litigation, which does not include billing records. The County sought a writ in the Second District. The court summarily denied the writ, but was later directed by the California Supreme Court to consider the merits. The Second District then denied the writ with this published opinion, finding that since the dominant purpose of the records is not for use in litigation, but as part of the “normal record keeping and to facilitate the payment of attorney fees on a regular basis,” the exemption does not apply. CSAC will file a letter in support of LA County’s petition for review.

County of Sacramento v. Superior Court (Purba)

209 Cal.App.4th 776 (3rd Dist. Sept. 4, 2012)(C069483), *ordered published* (Sept. 26, 2012)

This case interprets Welfare and Institutions Code section 5358.1, which reads in its entirety: “Neither a conservator, temporary conservator, or public guardian appointed pursuant to this chapter, nor a peace officer acting pursuant to Section 5358.5, shall be held civilly or criminally liable for any action by a conservatee.” In the case, a mentally ill conservatee with a violent past killed a care facility employee and seriously injured her husband, who was also an employee. The husband and his children brought a tort action against the Sacramento County Public Conservator alleging that the PC breached a duty in failing to warn the care operators of the conservatee’s violent history. The trial court denied the county’s motion to dismiss, concluding that the 5358.1 immunity is superseded where “someone is a real problem and dangerous to the public.” The county filed a writ petition in the Third District, which the court granted in an unpublished opinion. The court concluded that 5358.1 immunity is absolute, and held that it was improper for the trial court to elevate the policy of protecting care facility staff over the legislative decision to provide immunity. CSAC’s publication request was granted.

In re I.J. (Los Angeles County Dept of Children and Family Services v. J.J.)

Previously published at: 207 Cal.App.4th 1351 (2d Dist. June 29, 2012)(B237271), *ordered published* (July 24, 2012), *petition for review granted* (Sept. 19, 2012)((S204622)

This case addresses an issue that has divided the Courts of Appeal: whether the siblings of a sexual abuse victim who have not themselves been subject to abuse may nevertheless come under the jurisdiction of the juvenile court. The court concluded here that aberrant sexual behavior by a parent places the other siblings who remain in the home at risk. In so holding, the court specifically rejected statements to the contrary in several opinions issued by different courts. The California Supreme Court has granted review to the following issue: Was the evidence that a 14-year-old girl had been sexually abused by her father sufficient in itself to support a juvenile court's jurisdictional findings under Welfare and Institutions Code, section 300, subdivisions (b), (d) or (j), that her younger male siblings were at substantial risk of future sexual abuse or other risk of harm? CSAC will file a brief in support of Los Angeles County.

Latinos Unidos del Valle de Napa y Solano v. County of Napa

Pending in the First Appellate District (filed Apr. 12, 2012)(A135094)

Plaintiffs challenged the county's general plan housing element on a number of grounds, including that the failure to authorize density bonuses for required inclusionary units violates the planning and zoning law and the Fair Employment and Housing Act. Plaintiffs also argued that documents outside of the Record of Proceedings and expert testimony of witnesses who did not testify at any county hearing should be admissible at trial. The trial court ruled in favor of the county on all causes of action, concluding that the Planning and Zoning Law permits local jurisdictions with inclusionary housing laws to choose whether or not to offer density bonuses for required noninclusionary units. The trial court also excluded documents and testimony that were outside of the Record of Proceedings. Finally, the court ordered plaintiff to reimburse the county \$13,000 for the costs of preparing the Record of Proceedings. CSAC will file a brief in support of Napa County.

McWilliams v. City of Long Beach

Unpublished Opinion of the Second Appellate District, 2012 Cal.App.Unpub.LEXIS 2402 (2d Dist. Mar. 28, 2012)(B200831), *petition for review granted* (July 11, 2012)(S202037)

The plaintiff brought a class action against the City of Long Beach, challenging the city's telephone users tax (TUT) and seeking refunds. The trial court dismissed the complaint, but the Court of Appeal reversed. The court considered whether the plaintiff was entitled to file the required pre-lawsuit claim on behalf of the class, or whether each member of the class was required to file an individual claim. The court held that the plaintiff may file a class claim for a TUT refund, rejecting the city's argument that the plaintiff was required to comply with the city's claims procedures precluding class claims for tax refunds. Rather, the plaintiff was only required to file a claim in compliance with the Government Claims Act, which does not authorize the city to establish its own claims procedures for TUT refunds. The Supreme Court has granted review to the following issue: Can a local ordinance preclude the filing of a class claim for a tax refund, or are the provisions of the Government Claims Act excepting from its reach claims brought under a

"statute prescribing procedures for the refund . . . of any tax" (Gov. Code, § 905, subd. (a)) inapplicable to local ordinances? CSAC has filed a brief in support of the city.

People v. United States Fire Insurance

210 Cal.App.4th 1423 (5th Dist. Nov. 8, 2012)(F063445), *request for depublication pending* (filed Dec. 24, 2012)(S207545)

Among the duties of the County Counsel's Office is to prosecute cases in which a bail agent seeks to vacate the forfeiture of bail money after a criminal defendant fails to appear. The Penal Code permits the County Counsel to recover "costs" in successfully opposing motions to vacate a forfeiture. In this case, the Fresno County Counsel's office was successful in its summary judgment motion on a bail bond forfeiture, and the summary judgment was upheld in an unpublished opinion on appeal. County Counsel moved for attorney fees, but the trial court denied the fees, concluding that attorney fees do not qualify as "costs" under the Penal Code. On appeal, the Fifth District affirmed in a published decision. CSAC has requested that this opinion be depublished.

Riverside County Sheriff's Dept v. Stiglitz

Previously published at: 209 Cal.App.4th 883 (4th Dist. Div. 2 Sept. 28, 2012)(E052729), *petition for review granted* (Jan. 16, 2012)(S206350)

An employee of the Sheriff's Department (Drinkwater) was charged with falsifying time documents. She was ultimately terminated, and requested an administrative appeal of her termination. During that administrative appeal, Drinkwater filed a *Pitchess* motion seeking to examine the personnel records of eleven officers. The hearing officer ordered an in camera review of the records, but before the review took place, the Sheriff's Department filed a writ petition and sought an immediate stay in the trial court. The trial court granted the writ, concluding that only judicial officers may rule on *Pitchess* motions, and thus no *Pitchess* motions may be brought or considered in an administrative hearing. On appeal, the Fourth District reversed, holding that a hearing officer in an administrative appeal of the dismissal of a correctional officer has the authority to grant a *Pitchess* motion. The Supreme Court has granted review to the following issue: Does the hearing officer in an administrative appeal of the dismissal of a correctional officer employed by a county sheriff's department have the authority to grant a motion under *Pitchess v. Superior Court* (1974) 11 Cal.3d 531? CSAC filed an amicus brief in support of the Sheriff's Department in this case, and also filed a letter in support of a petition for review.

Save Cuyama Valley v. County of Santa Barbara

Unpublished Opinion of the Second Appellate District, 2012 Cal.App.Unpub.LEXIS 212 (2d Dist. Jan. 10, 2013)(B233318)

The Second Appellate District has upheld an EIR for a gravel mining operation in Santa Barbara County. In an unpublished opinion, the court found, among other things: (1) local agencies have discretion to deviate from the threshold of significance in Appendix G of the CEQA Guidelines without formally adopting a different threshold; and (2) the reasons for deviating from the Appendix G thresholds do not need to be explained in the EIR because the Appendix G does not create presumptive thresholds, but rather merely

suggests thresholds that an agency can use. CSAC has requested that the publication be published.

Sierra Club v. County of Tehama

Unpublished Opinion of the Third Appellate District, 2012 Cal.App.Unpub.LEXIS 8813 (3d Dist. Nov. 30, 2012)(C066996), *publication request pending* (filed Dec. 27, 2012)(S207625)

The Sierra Club challenged Tehama County's general plan update, alleging a number of state planning laws and CEQA violations. In a 74-page unpublished opinion, the Third District upheld the general plan update in its entirety. The opinion provides, among other things: (1) guidance on how Environmental Impact Reports (EIRs) are reviewed for internal consistency under Government Code section 65300.5; (2) that a general plan update EIR is properly prepared as a first tier EIR; (3) that the level of detail was proper for analysis of unspecified and uncertain future development in the context of a first tier general plan EIR; and (4) the legal rules governing application of CEQA to analysis of water supply impacts. CSAC has requested that the opinion be published.

Sipple v. City of Alameda

Pending in the Second Appellate District (filed July 30, 2012)(B242893)

This case addresses an outstanding legal issue of fiscal importance to counties—whether a class action in federal court involving taxes improperly collected by a wireless telephone carrier can result in refunds from cities and counties to class members. Here, the defendant cities and counties were not parties to the federal class action that resulted in a settlement agreement between AT&T and the plaintiff class. Plaintiffs nevertheless argue that the class action settlement relieved them of their obligation to file administrative claims and comply with local ordinances related to tax refunds. The trial court ruled in favor of defendant cities and counties, but plaintiffs have appealed. CSAC will file a brief in support of the city.

Sterling Park v. City of Palo Alto

Unpublished Opinion of the Sixth Appellate District, 2012 Cal.App.Unpub.LEXIS 5272 (6th Dist. July 17, 2012)(H036663), *petition for review granted* (Oct. 31, 2012)(S204771)

The City of Palo Alto conditioned the design and tentative subdivision map approvals for a residential condominium project to require compliance with the city's below market rate (BMR) housing program. Over a year after final map approval, the developer protested and challenged the requirements through a declaratory relief action. The trial court found the action was time-barred by the 90-day statute of limitations under the Subdivision Map Act (Gov. Code, § 66499.37). The Court of Appeal affirmed, rejecting the developer's claim that the BMR program conditions were public facility exactions under the Mitigation Fee Act and therefore subject to a 180-day statute of limitations. Instead, the court concluded the 90-day limitations period in the Subdivision Map Act applied and the case was time barred. The Supreme Court has granted review. CSAC will file a brief in support of the city.

Wachi v. City of Pleasanton

Unpublished Opinion of the First Appellate District, 2012 Cal.App.Unpub.LEXIS 7001 (1st Dist. Sept. 26, 2012)(A131348), *request for publication denied* (Oct. 24, 2012),

Plaintiff was injured while riding his bicycle along a portion of the city's trail system that was owned by a flood control district, but operated by the city under a license granted to the city by the district. Plaintiff sued the city, alleging dangerous condition of property. The trial court granted city's demurrer without leave to amend based on the trails immunity provided under Government Code section 831.4. In an unpublished opinion, the First District affirmed, concluding that section 831.4 provides absolute immunity to the city. The court also held that 831.4(c) (which imposes a duty to warn under certain conditions when a trail passes over an easement) only applies when the easement crosses over private property, and not publicly-owned property, as occurred here. Finally, the court rejected plaintiff's argument that he is a third party beneficiary to the license agreement between the city and the district, which required the city to obtain liability insurance for the benefit of the district. CSAC's request for publication was denied.

II. Amicus Cases Decided Since Last Executive Committee Meeting

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

Citizen's Association of Sunset Beach v. Orange County LAFCO

209 Cal.App.4th 1182 (4th Dist. Div. 3 Oct. 5, 2012)(G045878), *petition for review denied* (Jan. 3, 2013)(S206596)

Outcome: Positive

Huntington Beach initiated annexation of Sunset Beach pursuant to the "Island Annexation" procedures of the Cortese-Knox-Hertzberg Act (CKH). Citizen's Association of Sunset Beach (CASB) requested that the Orange County LAFCo condition its annexation approval on an election on whether Huntington Beach's existing taxes should be paid by Sunset Beach residents when that community became a part of the City and received its services. The LAFCo refused, noting that the CKH does not permit LAFCo to impose such conditions on an island annexation, which it must approve if statutory criteria are met. The LAFCo subsequently approved the annexation. CASB then filed this action seeking to avoid either the annexation or the payment of Huntington Beach municipal taxes. The trial court issued a judgment in favor of the Huntington Beach and the LAFCo. On appeal, the Fourth District affirmed: "We conclude Proposition 218 was never intended to require votes incident to annexations of territory by local governments. It was intended to prevent politicians from trying to circumvent Proposition 13 by inventing so-called assessment districts which supposedly could impose taxes without any vote of the electorate. Nor does the text of Proposition 218, even liberally construed, require an election on tax differentials in connection with an annexation." CSAC filed a brief in support of the defendants.

City of Alhambra v. County of Los Angeles

55 Cal.4th 707 (Nov. 19, 2012)(S185457), *petition for rehearing denied* (Jan. 16, 2013)

Outcome: Negative

A number of cities filed this action against LA County challenging the method used by the county to calculate the property tax administration fee (PTAF) charged to the cities. The county was following the "SB 1096 Guidelines" prepared by the California State Association of County Auditors in response to the Legislature's enactment of Revenue and Taxation Code sections 97.68, 97.70 and 97.75, and other provisions of the 2004-2005 Budget Act. Under the Guidelines, the county did not charge any PTAF for services relating to the funds paid under the Triple Flip and the VLF Swap in the 2004/2005 or 2005/2006 fiscal years. Beginning in 2006/2007, the county included the funds paid under the Triple Flip and VLF Swap as additional property tax share to each city and apportioned the total property tax administration costs to each city based on this share. The cities argued that the county should not have included the Triple Flip and VLF Swap property tax revenues in calculating their PTAF share. The trial court sided with the county, but the Second District reversed, concluding that section 97.75 is clear on its face and concerns only marginal costs. As such, the County's method of calculating its fee under section 97.75 was unlawful. LA County successfully sought Supreme Court review, but the Court affirmed, concluding that section 97.75 "permits a county to charge cities for only the new, incremental costs associated with a county auditor's services in administering the Triple Flip and VLF Swap." CSAC filed an amicus brief in support of Los Angeles County in the Court of Appeal.

County of Alameda v. Workers' Compensation Appeals Board

--- Cal.App.4th ---, 2013 Cal.App.LEXIS 65 (1st Dist. Jan. 30, 2013)(A135889)

Outcome: Positive

Labor Code §4656(c)(2) limits aggregate disability payments for a single injury occurring on or after January 1, 2008, to 104 compensable weeks within five years from the date of injury. A deputy sheriff employed by Alameda County injured his knee in September 2009. He was paid 52 weeks of indemnity payments at his full salary in accordance with Labor Code §4850, followed by 52 weeks of temporary disability benefits, bringing the total disability payments to 104 weeks. The workers' compensation judge determined that Labor Code §4850 benefits were not included in the 104-week limitation, thus essentially qualifying the deputy sheriff for up to a third year of disability benefits. The First District granted Alameda County's writ petition, concluding that salary continuation benefits paid to an injured public safety officer count toward a 104-week limit on payments for an injury causing temporary disability. CSAC filed a brief in support of Alameda County.

Dex Media West v. City of Seattle

696 F.3d 952 (9th Cir. Oct. 15, 2012)(11-35399 & 11-35787)

Outcome: Negative

The City of Seattle adopted an ordinance establishing an “opt-out” registry for the delivery of yellow pages directories. Under the ordinance, telephone book publishers were prohibited from delivering the directories unless they met certain conditions -- including not delivering to residents and businesses who have opted out, displaying information in the directories about the opt-out option, and securing an annual license and paying a fee to distribute the books. Publishers challenged the ordinance, claiming First Amendment and Commerce Clause violations. The district court upheld the ordinance on summary judgment, applying the intermediate scrutiny test for commercial speech. The Ninth Circuit reversed. First, the court decided that the district court should have applied strict scrutiny since the yellow pages directories are noncommercial speech entitled to the full protection of the First Amendment. Under the strict scrutiny standard, the ordinance failed because it is not the least restrictive means available to meet the city’s objectives of waste reduction, residential privacy and cost recovery. CSAC filed a brief in support of the City of Seattle.

DiCampi-Mintz v. County of Santa Clara

55 Cal.4th 983 (Dec. 6, 2012)(S194501)

Outcome: Positive

The Supreme Court has found that delivery of a pre-suit government claim to a department of the target entity charged with defending or managing claims against that entity does not constitute compliance with Claims Act requirements. In the case, a medical malpractice claim ultimately made its way to an insurance claim handler, but it was never received by the statutorily designated recipients. The Sixth District concluded that since the insurance claim handler eventually received the claim, plaintiff had substantially complied with the Claims Act. The Supreme Court reversed, concluding “a claim must satisfy the express delivery provisions language of the statute.” CSAC filed a brief in support of Santa Clara County.

In re W.B.

55 Cal.4th 30 (Aug. 6, 2012)(S181638), *petition for rehearing denied* (Sept. 26, 2012)

Outcome: Neutral

A minor was the subject of several non-status offense (602) delinquency petitions. Ultimately, the court issued a dispositional order removing him from his mother’s custody and ordering him placed in a foster home or other facility. The minor appealed, arguing the court failed to comply with the notice provisions of the Indian Child Welfare Act (ICWA). The appellate court disagreed, concluding that ICWA specifically excludes delinquency proceedings from the application of the Act. The California Supreme Court granted review and affirmed. The court held “that California law requires the court to inquire about a child’s Indian status at the outset of all juvenile proceedings, but that ICWA’s additional procedures are not required in most delinquency cases. A delinquency court must ensure

that notice is given and other ICWA procedures are complied with only when (1) exercising 'dual status' jurisdiction over an Indian child; (2) placing an Indian child outside the family home for committing a 'status offense'; or (3) placing an Indian child initially detained for 'criminal conduct' outside the family home for reasons based entirely on harmful conditions in the home." CSAC filed an amicus brief in the case, which argued that to the extent California law required ICWA noticing in this case, the law was preempted by the federal statute. The Court's opinion did not reach that issue.

Los Angeles County Flood Control District v. Natural Resources Defense Council

--- U.S. ---, 133 S.Ct. 710 (Jan. 8, 2013)(11-460)

Outcome: Positive

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 the Santa Clara River, the Los Angeles River, the San Gabriel River, and Malibu Creek in violation of the county's "NPDES" permit. 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 there was no 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 the Los Angeles and San Gabriel 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 Supreme Court granted certiorari and reversed in a unanimous decision. The Court relied on prior Supreme Court decisions that hold that the transfer of polluted water between "two parts of the same water body" does not constitute a discharge of pollutants for purposes of the CWA. That precedent, reaffirmed here, derives from the CWA's text which defines the term "discharge of a pollutant" to mean "any addition of any pollutant to navigable waters from any point source." According to the Supreme Court, "no pollutants are 'added' to a water body when water is merely transferred between different portions of that water body." CSAC filed briefs in support of the Flood Control District in the Ninth Circuit and the United States Supreme Court.

2013 CSAC Board of Directors Calendar of Events

January

- 16 CSAC Executive Committee Orientation Dinner, Sacramento County
- 17 CSAC Executive Committee Meeting, Sacramento County

February

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

March

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

April

- 18 CSAC Executive Committee Meeting, Los Angeles County
- 25-26 CSAC Finance Corporation Meeting, Sonoma County

May

- 22-24 NACo Western Interstate Region Conference, Flagstaff, Arizona
- 29-30 CSAC Legislative Conference, Sacramento County
- 30 CSAC Board of Directors Meeting, Sacramento County
12:00pm – 3:00pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

July

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

August

- 8 CSAC Executive Committee Meeting, Sacramento County

September

- 5 CSAC Board of Directors Meeting, Sacramento County
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814
- 12-13 CSAC Finance Corporation Meeting, Santa Barbara County

October

- 9-11 CSAC Executive Committee Retreat, Location TBD
- 21-25 NACo National Council of County Association Executives Annual Fall Meeting

November

- 19-22 CSAC 119th Annual Meeting, San Jose, Santa Clara County
- 21 CSAC Board of Directors Meeting, San Jose, Santa Clara County
2:00pm – 4:00pm, San Jose Marriott, 301 South Market Street · San Jose, California 95113

December

- 4-6 CSAC Officers Retreat, Napa County