

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
Thursday, May 5, 2011
10:00am - 1:30pm
CSAC Conference Center, Sacramento

A G E N D A

Presiding: John Tavaglione, President

- | | | |
|---------|--|--------------------|
| 10:00am | PROCEDURAL ITEMS | |
| 1. | Roll Call | Page 1 |
| 2. | Approval of Minutes of January 20, 2011
(includes summary of March 16 conference call) | Page 2 |
| 10:10am | SPECIAL PRESENTATION | |
| 3. | Report on the State Budget
▪ <i>Diane Cummins, Special Advisor to the Governor</i> | |
| 10:45am | ACTION ITEMS | |
| 4. | Consideration of Proposed CSAC Budget for FY 2011-12
▪ <i>Paul McIntosh, CSAC Executive Director</i>
▪ <i>Supervisor Kathy Long, CSAC Treasurer</i> | Page 14 |
| 5. | Consideration of Proposed Litigation Coordination
Program Budget for FY 2011-12
▪ <i>Jennifer Henning, County Counsel's Assoc. Executive Director</i> | Page 18 |
| 11:15am | INFORMATION ITEMS | |
| 6. | Report on CSAC Communications Plan
▪ <i>David Liebler, CSAC staff</i> | Page 24 |
| 7. | CSAC Health & Human Services Policy Committee Report
▪ <i>Supervisor Liz Kniss, Policy Committee Chair</i> | Page 26 |
| 12:00pm | LUNCH | |
| 1:00pm | INFORMATION ITEMS (cont.) | |
| 8. | Legislative Report
▪ <i>Jim Wiltshire, CSAC staff</i> | |
| 9. | <i>The following items are contained in your briefing materials
for your information, but no presentation is planned.</i>
CSAC Finance Corporation
CSAC Litigation Coordination Program | Page 30
Page 37 |
| 10. | Other Items | |
| 1:30pm | ADJOURN | |

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
2011

President: John Tavaglione, Riverside
1st Vice President: Mike McGowan, Yolo
2nd Vice President: David Finigan, Del Norte

Urban Section

Greg Cox, San Diego
Don Knabe, Los Angeles
Liz Kniss, Santa Clara
John Moorlach, Orange
Gary Ovitt, San Bernardino
Susan Peters, Sacramento
Kathy Long, Ventura (alternate)

Suburban Section

Valerie Brown, Sonoma
Henry Perea, Fresno
Steve Worthley, Tulare
Joni Gray, Santa Barbara (alternate)

Rural Section

John Viegas, Glenn
Terry Woodrow, Alpine
Lyle Turpin, Mariposa (alternate)

Advisors

Nancy Watt, CAOAC President & Napa County Executive Officer
Marshall Rudolph, County Counsels Assoc. Past President & Mono Co. Counsel

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE

January 20, 2011
CSAC Conference Center, Sacramento, CA

MINUTES

Presiding: John Tavaglione, President

1. ROLL CALL

John Tavaglione, President
Mike McGowan, 1st Vice Pres.
David Finigan, 2nd Vice Pres.
Greg Cox, San Diego
Liz Kniss, Santa Clara
John Moorlach, Orange (via audio)
Susan Peters, Sacramento
Valerie Brown, Sonoma
Henry Perea, Fresno (via audio)
Steve Worthley, Tulare
Joni Gray, Santa Barbara, alternate

John Viegas, Glenn
Terry Woodrow, Alpine
Lyle Turpin, Mariposa, alternate

Advisors

Nancy Watt, Napa CEO
Marshall Rudolph, Mono Co. Counsel

2. INTRODUCTION OF NEW MEMBERS

President Tavaglione introduced the new Executive Committee members for 2011. They were: John Moorlach, Gary Ovitt (not in attendance), Susan Peters, John Viegas and Terry Woodrow. Also, Nancy Watt and Marshall Rudolph were introduced as the new Executive Committee advisors.

3. APPROVAL OF MINUTES

The minutes of October 7-8, 2010 were approved as previously mailed.

4. GOVERNOR'S BUDGET FOR 2011-12

Representatives from the Department of Finance Ana Matosantos and Diane Cummins presented a report on the Governor's proposed budget for FY 2011-12. His goal is to eliminate a \$25 billion deficit by making major cuts, realigning state-local programs, extending the temporary tax hikes and eliminating redevelopment agencies. The major budget cuts are in the Medi-Cal and CalWORKS programs as well as the UC and CSU systems.

The Governor's timeline is to have the Legislature implement the cuts sometime in March and call a special election in June for voters to decide whether to extend the temporary taxes that otherwise expire this year.

The realigning of state-local programs would return authority and responsibility to cities, counties, special districts and school boards. The Governor proposes to eliminate duplicative administration of services, limit overhead costs, and allow for locally determined priorities while maintaining statewide goals and objectives. The details of this proposal are outlined in CSAC's Budget Action Bulletin.

President Tavaglione reported that the CSAC Officers met with Governor Brown in early January to discuss his realignment proposal and were encouraged by the open and honest dialogue.

5. DISCUSSION OF BUDGET IMPACTS ON COUNTIES

Staff reported that the CSAC Realignment Working Group will begin meeting weekly via conference call starting next week. The co-chairs are Supervisors Greg Cox and Valerie Brown. Technical work groups will be formed in the various affected policy areas to begin a detailed analysis of the programs proposed for realignment.

CSAC's current Realignment Principles, adopted by the Board of Directors in 2010, were distributed (attached).

6. APPOINTMENT OF CSAC TREASURER, NACo BOARD OF DIRECTORS AND WIR REPRESENTATIVES

The CSAC officers recommended the following appointments for 2011:

Treasurer – Supervisor Kathy Long, Ventura

NACo Board of Directors – Supervisors Frank Bigelow, Greg Cox & Keith Carson

NACo WIR Representatives – Supervisors David Finigan and Brian Dahle

Motion and second to approve appointments for calendar year 2011 as listed above. Motion carried unanimously.

7. APPOINTMENT OF CSAC POLICY COMMITTEE CHAIRS & VICE CHAIRS FOR 2011

The CSAC officers recommended the following policy committee appointments for 2011:

ADMINISTRATION OF JUSTICE

Federal Glover, Contra Costa, Chair

Merita Callaway, Calaveras, Vice Chair

AGRICULTURE AND NATURAL RESOURCES

Richard Forster, Amador, Chair

Kimberly Dolbow Vann, Colusa, Vice Chair

GOVERNMENT FINANCE & OPERATIONS

Bruce Gibson, San Luis Obispo, Chair

John Moorlach, Orange, Vice Chair

HEALTH & HUMAN SERVICES

Liz Kniss, Santa Clara, Chair

Terry Woodrow, Alpine, Vice Chair

HOUSING, LAND USE AND TRANSPORTATION

Efren Carrillo, Sonoma, Chair

Matt Rexroad, Yolo, Vice Chair

8. STATE AND FEDERAL LEGISLATIVE PRIORITIES FOR 2011

Staff outlined the proposed CSAC State and Federal legislative priorities for 2011 as contained in the briefing materials. The State priorities are geared towards responding to the ongoing fiscal crisis facing California and follow:

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

Pursuant to a contract renegotiated with Waterman & Associates in 2007, CSAC has a nine-issue advocacy agenda for federal legislative topics. Staff is recommending leaving two issues open for emerging topics throughout the year. Therefore, there are seven federal issues recommended for advocacy:

1. New authorization of the Nation's Surface Transportation Law (SAFETEA-LU).
2. State Criminal Alien Assistance Program (SCAAP).
3. Federal Climate Change/Renewable Energy Policy.
4. Native American Affairs.
5. Temporary Assistance for Needy Families (TANF) Reauthorization.
6. Secure Rural Schools Reauthorization.
7. Clean Water Act.

CSAC will continue to provide internal monitoring on other key federal issues of interest to California counties. This year they include the following:

- National Health Care Reform
- Transient Occupancy Tax
- Federal Geothermal Royalties
- Community Development Block Grant (CDBG)
- Child Welfare Financing Reform
- Byrne Grant Funding
- Cooperative Endangered Species Conservation Fund
- 2-1-1 Statewide
- State's Water Crisis
- Payments-in-lieu-of-Taxes
- Levee Vegetation Management

The Executive Committee approved the above legislative priorities by consent.

9. CSAC COUNTY EMPLOYEE HEALTH CARE BENEFITS PROGRAM

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

A feasibility study and risk analysis was contained in the briefing materials that finds that a health insurance benefit pool has the potential of saving California

counties significant resources, while at the same time providing CSAC with an additional, sustained revenue stream to support other programs and services.

Concerns were expressed regarding the cost to CSAC and risks of implementing the program. Staff was directed to develop financial risk estimates, cost projections and estimated cost of a third-party administrator prior to consideration by the Board of Directors in March.

10. COMPENSATION TRANSPARENCY PRINCIPLES

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

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

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

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

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

Staff was directed to pursue the feasibility of providing a link from the CSAC website to supervisor and CAO salaries statewide.

11. REQUEST FOR AFFILIATE MEMBERSHIP

Staff presented a request from the Council of California County Law Librarians (CCCLL) to be considered for CSAC affiliate membership. County law libraries are open to the public and provide free access to legal resources. The Council's mission is to strengthen, improve, promote and advocate legal information services that support access to justice for all Californians.

Motion and second to approve CSAC affiliate membership status for CCCLL. Motion carried unanimously.

12. INFORMATION ITEMS

Updates on the CSAC Finance Corporation and Litigation Coordination program were contained in the briefing materials, but no presentation was made.

Meeting adjourned.

2010 CSAC Realignment Principles

Approved by the CSAC Board of Directors



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Facing the most challenging fiscal environment in the California since the 1930s, counties are examining ways in which the state-local relationship can be restructured and improved to ensure safe and healthy communities. This effort, which will emphasize both fiscal adequacy and stability, does not seek to reopen the 1991 state-local Realignment framework. However, that framework will help illustrate and guide counties as we embark on a conversation about the risks and opportunities of any state-local realignment.

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.

Counties have agreed that any proposed realignment of programs should be subject to the following principles:

1. **Revenue Adequacy.** The revenues provided in the base year for each program must recognize existing levels of funding in relation to program need in light of recent reductions and the Human Services Funding Deficit. Revenues must also be at least as great as the expenditures for each program transferred and as great as expenditures would have been absent realignment. Revenues in the base year and future years must cover both direct and indirect costs. A county's share of costs for a realigned program or for services to a population that is a new county responsibility must not exceed the amount of realigned and federal revenue that it receives for the program or service. The state shall bear the financial responsibility for any costs in excess of realigned and federal revenues into the future. There must be a mechanism to protect against entitlement program costs consuming non-entitlement program funding.

The Human Services Funding Deficit is a result of the state funding its share of social services programs based on 2001 costs instead of the actual costs to counties to provide mandated services on behalf of the state. Realignment must recognize existing and potential future shortfalls in state responsibility that have resulted in an effective increase in the county share of program costs. In doing so, realignment must protect counties from de facto cost shifts from the state's failure to appropriately fund its share of programs.

2. **Revenue Source.** The designated revenue sources provided for program transfers must be levied statewide and allocated on the basis of programs and/or populations transferred; the designated revenue source(s) should not require a local vote. The state must not divert any federal revenue that it currently allocates to realigned programs.
3. **Transfer of Existing Realigned Programs to the State.** Any proposed swap of programs must be revenue neutral. If the state takes responsibility for a realigned program, the revenues transferred cannot be more than the counties received for that program or service in the last year for which the program was a county responsibility.
4. **Mandate Reimbursement.** Counties, the Administration, and the Legislature must work together to improve the process by which mandates are reviewed by the Legislature and its fiscal committees, claims made by local governments, and costs reimbursed by the State. Counties believe a more accurate and timely process is necessary for efficient provision of programs and services at the local level.
5. **Local Control and Flexibility.** For discretionary programs, counties must have the maximum flexibility to manage the realigned programs and to design services for new populations transferred to county responsibility within the revenue base made available, including flexibility to transfer funds between programs. For entitlement programs, counties must have maximum flexibility over the design of service delivery and administration, to the extent allowable under federal law. Again, there

must be a mechanism to protect against entitlement program costs consuming non-entitlement program funding.

6. **Federal Maintenance of Effort and Penalties.** Federal maintenance of effort requirements (the amount of funds the state puts up to receive federal funds, such as IV-E and TANF), as well as federal penalties and sanctions, must remain the responsibility of the state.

California State Association of Counties
Executive Committee

March 16, 2011
Conference Call

Summary

President Tavaglione outlined the work that had been done over the past two months including meetings with the Administration and key legislators. Significant work had been done on the language of the constitutional amendment and he wanted to have the Executive Committee discuss concerns prior to bringing this issue to the Board of Directors to take a position.

Executive Director McIntosh presented the CSAC white paper on protections and the funding guarantee contained in the language of ACA 2 X1 and SCA 1 X1. The white paper outlined what protections this constitutional amendment provides, what it does not and identifies the risks of such an undertaking. Finally, informing the group that in the end that the risks of it not passing far exceed the risks associated with passing. A copy is attached.

The Executive Committee discussed concerns and risks for a considerable time. Issues included: non-supplant language, existing under-funding of programs, caseload adjustments, allocations, re-openers, First 5 and process for moving forward.

Discussions then moved onto the issue of making a recommendation to the Board of Directors. While staff recommended a support position, and many were voicing that they were comfortable with that recommendation, it was decided that the full Board of Directors should have the discussion and take a position as an association.

What's In the Administration's Proposed Constitutional Amendment?

This document summarizes the provisions of the Administration's proposed constitutional amendment, as amended to address many of the concerns raised by counties, examines the remaining shortfalls of the measure, and discusses potential alternative budget scenarios that could result if 2011 Realignment fails to pass the Legislature or be approved by the voters.

The Administration's proposed Constitutional Amendment (CA) would provide counties constitutional protections primarily based on lessons learned from previous restructuring efforts; these protections exceed those in the 1991 realignment, trial court reforms, or recent juvenile justice realignments. Under the proposed CA, counties would have the ability to rely on a **constitutionally dedicated revenue source** for realigned programs, as well as benefit from certain mitigations that limit, but do not eliminate, future financial risk.

Realignment Revenue Sources are Dedicated. Primarily, the proposed constitutional amendment guarantees and dedicates funds generated from a specific revenue source (1% of the sales and use tax rate and 0.50% of the Vehicle License Fee rate for the first five years) to counties to fund realigned programs.

After the taxes expire (2016-17 and after), the State must provide revenues to fund realigned programs in an amount equal to or greater than the amount of revenue that would have been generated by the 1% sales and use tax rate and 0.50% of the Vehicle License Fee rate for as long as the realigned programs remain the responsibility of counties.

If the State fails to annually appropriate the funds, the Controller is directed to transfer funds from the General Fund to the Local Revenue Fund 2011 in an amount equal to or greater than the amount that would have been generated by the 1% sales and use tax rate and 0.50% of the Vehicle License Fee rate. Although this constitutional obligation is a priority payment lower than school funding and general obligation bond debt, there is sufficient revenue capacity to meet this obligation.

Timing and Scope: Implementing Statutes are Critical. The State has the remainder of the legislative year to enact "2011 Realignment Legislation." (The specified date is October 9, 2011, the final day for the Governor to act on bills passed at the end of the current legislative year.) This implementing legislation will provide for the assignment of public safety service responsibilities to counties, and the constitutional amendment requires the implementing legislation to provide maximum flexibility and control over the design and delivery of such services consistent with federal law and funding requirements.

This section of the Constitution broadly defines "Public Safety Services" to describe the listing of programs in the Governor's revised realignment proposal.

The 2011 Realignment Legislation will specify the details of the method for determining the amount of revenue to be transferred to counties after the tax extensions expire, in 2016-17 and each year thereafter, and it will specify the detailed requirements for the Controller to disburse realignment funds to counties in the event the Legislature fails to timely appropriate those funds. The 2011 Realignment Legislation must also specify the mechanism for identifying and providing funding to counties for the State's 50 percent share of new costs associated with federal changes in the realigned programs.

Future Program Changes. Any State legislation enacted after October 9, 2011 that has the overall effect of increasing costs to counties for realigned programs or levels of service (with the exception of new crimes) shall apply only to the extent the State provides annual funding for the cost increase. Counties are not obligated to provide programs or levels of service required by legislation above the level for which funding has been provided. The language provides the same protections for regulations, executive orders, or administrative directives that are not necessary to implement the 2011 Realignment Legislation and that have an overall effect of increasing costs to counties. Finally, the State must provide similar funding for federal plans or waivers, or amendments to those plans or waivers, that have the overall effect of increasing costs to counties.

The costs of future program changes may not be funded from 2011 Realignment funds, ad valorem property taxes, or the Social Services Subaccount from 1991 Realignment.

Program changes that result from a request by a local agency (meaning a Board of Supervisors resolution to sponsor a bill) or to comply with federal law are not required to be funded under this provision.

Shared Risk for Federal Law Changes, Judicial Decisions, and Penalties. For social services, mental health, and substance use disorder programs, the State will be required to provide at least 50 percent of the non-federal share of the costs associated with subsequent changes in federal law and regulations that alter the conditions under which federal matching funds are obtained and have the overall effect of increasing county costs.

In the event that there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing a county's costs, the State shall provide at least 50 percent of the non-federal share of those costs as determined by the State.

Where the CA Falls Short

The language of the CA is not perfect nor does it include all protections counties might wish to see. The risk of accepting new responsibilities along with a new revenue source and operating programs within that revenue source is a risk fundamental to realignment. As a result, counties will have to live within the performance of the dedicated sales tax and VLF revenue. While counties could benefit from growth over time, we could also experience shortfalls if the revenues underperform. To mitigate these constraints, counties must have the flexibility to manage programs locally to the greatest extent possible. Part of living within the revenue provided means that counties will have to make decisions on how to allocate the available funds among realigned programs.

Remaining risks are outlined below:

Ability to Enforce Continuous Appropriation (Years 1-5): The constitutional amendment language requires that the dedicated tax revenue be deposited in the state Local Revenue Fund 2011. In the first year, the Legislature then provides a continuous appropriation of that revenue to fund realigned programs. Counsels point out that, should the Legislature fail to continuously appropriate these funds or redirect them otherwise, the courts could find that the State has violated the Constitution, but not order the Legislature to act or appropriate funds, something the courts have been loathe to do.

In attempting to quantify this risk, we look to the continuous appropriation set up in the 1991 Realignment. Since then, the Legislature has not taken any action to either undo the continuous appropriation or transfer those funds. Further, there would be a serious political risk for the Legislature to do so, given that voters would be much less likely to approve additional revenues to continue to fund realignment of critical public safety and safety net programs after the temporary taxes expire.

Ability to Enforce 50/50 Share of Cost for New Federal Requirements: A similar risk exists in the language that provides for the State to appropriate at least 50 percent share of costs of new federal requirements, including penalties, or for cost increases that result from federal judicial actions. If the State fails to meet its minimum 50 percent funding obligation, the courts would not order the Legislature to appropriate those funds. However, under the status quo (existing Proposition 1A/SB 90 mandate protections), local agencies are currently not entitled to reimbursement for any costs associated with new programs or higher levels of service imposed by federal law or judicial decision. For existing realignment, those new costs are shared under existing sharing ratios. Currently, federal penalty costs are shared pursuant to statutory sharing ratios that can be changed by the Legislature at any time.

Non-supplantation Language: The Administration's proposed language includes a prohibition from using 2011 Realignment funds to supplant existing

spending on realigned programs. This provision will require counties to continue funding existing programs, services, and administrative costs with county general fund revenue to the extent such funding is provided as of the effective date of the measure, and require a maintenance of effort for some programs.

Authorizes Third-Party Lawsuits: The proposed language authorizes an “appropriate party” to seek judicial relief if the state or local agency fails to perform a duty or obligation in realigned programs and states that such proceedings have priority over all other civil matters. This provision gives third parties standing in the constitution to sue counties for failing to adequately perform realigned programs, though for many, if not most, of the realigned programs, third parties have standing to sue under existing law. Thus, this provision does not represent a significant change over the status quo.

No Protection for Outcomes of State Court Decisions: The language does not offer protections to counties from state court outcomes. However, counties have legal standing to intervene in state court cases.

Realignment Responsibilities, Including State Regulations, Not Subject to Mandate Claim or Reimbursement: New programs or higher level of service responsibilities associated with the 2011 Realignment would not be subject to the protections provided by Article XIIIB, Section 6 (existing Proposition 1A/SB 90 mandate protections). This includes state regulations that are issued to implement the 2011 Realignment Legislation. Counsels have advised us that the State could promulgate regulations that they claim are necessary to implement the 2011 Realignment Legislation, and the courts would be reluctant to second guess a legislative or executive determination that a new program or higher level of service is necessary to implement 2011 Realignment Legislation.

What Is the Alternative?

It has been difficult for anyone in Sacramento to quantify an alternative state budget outcome that does not rely on a balanced approach – a combination of program cuts and new revenue – should the Legislature fail to garner the votes necessary to place the constitutional amendment before the voters or should the voters reject the ballot measure. However, we know that there are a number of ways for the State to achieve General Fund savings with a majority vote that can profoundly impact counties. In fact, recent events have suggested some possibilities, which we outline below.

Statutory implementation of “realignment”: With the passage of Proposition 25, the Legislature can pass bills necessary to implement the budget with a majority vote. State budget decisions that shift responsibilities and/or costs to counties without any revenue are possible, if not likely, particularly in the public safety area. (Obviously, without the tax extensions, the funding from the VLF currently provided to local public safety grant programs would expire.)

Permanent program reductions: Because the State has limited ability to reduce its budget, given Proposition 98 and federal constraints, permanent program cuts that have the effect of shifting significant costs to counties, primarily in the health and human services area, are likely. (See February 10, 2011 Legislative Analyst's Office letter to Senator Leno, attached.)

Failure to ratify the gas tax swap: After Proposition 26, a 2/3 vote is necessary to ratify the gas tax swap. Failing to ratify the gas tax swap would result in a \$2.5 billion reduction in transportation funding; further, an additional \$1 billion in state transportation funds could be diverted for General Fund relief by majority vote, resulting in a total annual loss of \$3.5 billion.

Additional fund sweeps: Any revenues or special funds not protected by the Constitution can be diverted to the state General Fund. Counties can anticipate sweeps – such as the EMS Maddy Fund proposal in the pending state budget – on a much larger scale.



May 5, 2011

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To: Executive Committee
California State Association of Counties

From: Kathy Long, Treasurer, California State Association of Counties
Paul McIntosh, Executive Director

RE: **CSAC FY 2011-12 Budget**

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

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

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

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

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

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

Attachments

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

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

ACCOUNT EXPLANATIONS -
BUDGET YEAR 11-12

11/12 Budget

ACCT#	EXPLANATION
INCOME:	
MEMBERSHIP DUES	ANNUAL DUES FROM COUNTIES. NO INCREASE SCHEDULED THIS YEAR, FOR THE 3rd YEAR IN A ROW.
FINANCE CORP PARTICIPATION	CSAC FINANCE CORPORATION CONTRIBUTIONS TO CSAC CSAC MAY BRING OVER ALL FINANCE CORP FUNDS IN EXCESS OF THE REQUIRED RESERVE OF 50% OF THEIR OPERATING EXPENSE.
RENTAL & PARKING INCOME	RENTAL INCOME FOR 1100 K STREET AND 1029 K STREET. ANTICIPATED 30% VACANCY RATE WHICH APPEARS TO BE IN LINE WITH SACRAMENTO'S CURRENT OFFICE RENTAL MARKET ALSO INCLUDES 59 PARKING SPACES FOR STAFF AND TO RENT, AND RENTAL FEES FOR CSAC CONFERENCE CENTER.
ADMINISTRATIVE MISCELLANEOUS	1) ADMINISTRATION FEES COLLECTED FROM CSAC AFFILIATES FOR PAYROLL AND BENEFIT SERVICES 2) 15% OF TOTAL DUES COLLECTED FOR SB90 3) SALES FOR CSAC ROSTERS & LEGISLATIVE BULLETIN 4) PRINTING AND COPYING REVENUE GENERATED FROM THE CSAC PRINT SHOP. 5) INTEREST INCOME FROM CHECKING ACCTS AND CALTRUSTS ACCOUNTS. REDUCTION IN PROJECTED AND BUDGET YR DUE TO A DECLINE IN INTEREST RATES. 6) CONTRACT FOR COMPUTER SERVICES WITH LA COUNTY. 7) SALE OF DATABASE MAILING LIST, LABELS, SOFT DRINK COMMISSIONS AND FEES FROM JOB ADVERTISING ON CSAC WEBSITE.
CSAC CONFERENCES	REGISTRATION FEES FOR CSAC ANNUAL CONFERENCE AND LEGISLATIVE CONFERENCE. CORPORATE SPONSORSHIPS FOR CONFERENCES AND EXHIBITOR REGISTRATIONS
OUTSIDE CONTRACTS	CEAC CONTRACT.
CORPORATE ASSOCIATES	CORPORATE ASSOCIATES MEMBERSHIP DUES AND SPONSOR REVENUES FOR MISCELLANEOUS EVENTS
CSAC INSTITUTE	REGISTRATION REVENUE.
EXPENSES:	
SALARIES/BENEFITS	1) SALARIES ASSUMES A 5.0% MERIT INCREASE IN JANUARY '12 FISCAL YEAR 11/12 HAS 27 PAY PERIODS THIS OCCURS APPROX EVERY 11 YEARS. DOES NOT ASSUME AN COLA'S. 2) RETIREMENT CURRENTLY AVERAGING 34% OF SALARIES. 3) BENEFITS TO INCLUDE HEALTH, DENTAL, VISION, EAP, LIFE AND WORKERS COMP. 4) PAYROLL TAX 5) AUTO ALLOWANCE 6) ANNUAL EMPLOYEE WORKSHOP
STAFF OUTREACH	INCLUDES ALL IN AND OUT-OF-TOWN BUSINESS EXPENSES FOR LEGISLATIVE AND ADMINISTRATIVE STAFF. AWARDS, PLAQUES FOR MEMBERS AND OTHER MISC EXPENSES FOR EMPLOYEES
LEADERSHIP OUTREACH	ALL BUSINESS EXPENSES FOR CSAC BOARD OF DIRECTORS, EXECUTIVE COMMITTEE AND OFFICERS

ACCOUNT EXPLANATIONS -
BUDGET YEAR 11-12

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



County Counsels' Association of California

BOARD OF DIRECTORS

Officers

President

Patrick K. Faulkner
Marin County

Vice-President
Michael L. Rood
Imperial County

Secretary-Treasurer
James N. Fincher
Merced County

Immediate Past President
Marshall Rudolph
Mono County

Historian (Nonvoting)
James A. Curtis
Sierra County

Directors

Vacant

Warren R. Jensen
San Luis Obispo County
2009-2011

Jeanine Nadel
Mendocino County
2010-2012

Pamela Walls
Riverside County
2010-2012

EXECUTIVE DIRECTOR

Jennifer B. Henning

MEMORANDUM

**To: Supervisor John Tavaglione, President, and
Members of the CSAC Executive Committee**

From: Jennifer Henning, Litigation Coordinator

Date: May 5, 2011

Re: 2011 – 2012 Litigation Coordination Budget

Recommended Action:

Recommend adoption of the 2011-2012 Litigation Coordination Program budget to the CSAC Board of Directors.

Reason for Recommendation:

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

Background:

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

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

¹ The County Counsels’ Association agreement with CSAC provides: “The CSAC Board of Directors shall annually adopt a program budget and assess fees from its member

Supervisor John Tavaglione, President, and
Members of the CSAC Executive Committee
May 5, 2011
Page 2 of 2

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

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

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

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

Conclusion

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

Attachments:

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

counties consistent with the budget. Invoices shall be sent to the counties each year in time to allow inclusion of the fee in the counties' budget process."

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

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

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

INCOME:

Membership Dues299,362.00

TOTAL INCOME.....299,362.00

EXPENSES:

Salaries.....\$157,268.00
Retirement.....56,606.00
Employee Group Insurance.....35,907.00
Payroll Tax.....3,149.00
CSAC Administrative Fees.....5,905.00
Law Clerk2,000.00
Staff Expense and Travel.....1,000.00
Communications1,100.00
On-Line Expense3,044.00
Publications.....0.00
Membership Fees410.00
Office Supplies450.00
Postage/Delivery600.00
Printing - Commercial1,000.00
Printing - In House.....800.00
Leases - Property.....27,178.00

TOTAL EXPENSES.....296,195.00

Projected Revenue Over Expenses3,167.00

LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2011-2012 BUDGET

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

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

* Transferred from County Counsels' Association reserves
 + Based on October 31, 2010 Financial Statement

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

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

Approved by the CSAC Executive Committee on _____.

Approved by the CSAC Board of Directors on _____.

(9 counties 1,000,000 or over)

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

(7 counties 500,000 to 999,999)

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

(11 counties 200,000 to 499,99)

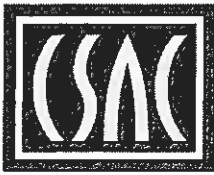
Sonoma	\$5,152	(Currently \$4,907)
Santa Barbara		
Monterey		
Solano		
Tulare		
Santa Cruz		
Marin		
San Luis Obispo		
Placer		
Merced		
Butte		

(8 counties 100,000 to 199,999)		
Shasta	\$2,062	(Currently \$1,964)
Yolo		
El Dorado		
Imperial		
Humboldt		
Napa		
Kings		
Madera		

(8 counties 50,000 to 99,999)		
Nevada	\$1,030	(Currently \$981)
Mendocino		
Sutter		
Yuba		
Tehama		
Lake		
Tuolumne		
San Benito		

(12 counties 10,000 to 49,999)		
Siskiyou	\$517	(Currently \$491)
Calaveras		
Lassen		
Amador		
Del Norte		
Glenn		
Plumas		
Colusa		
Inyo		
Mariposa		
Trinity		
Mono		

(3 counties under 10,000)		
Sierra	\$175	(Currently \$166)
Alpine		
Modoc		



April 19, 2011

**Communication Tactics for
Supporting Constitutional Amendment**

Goal: Be vocally supportive of the Governor's budget plan and the need for the Constitutional Amendment to be on the ballot

Objectives:

- Demand immediate action by the legislature to pass the constitutional amendment and put it on the ballot.
- Keep CSAC and the amendment relevant in the discussions.
- Provide tools, talking points and guidance to officers and board members on supporting the goal of being vocally supportive of the Governor's budget plan and the need for the Constitutional Amendment to be on the ballot.

Audience:

- Media
- Legislators
- CSAC Officers and Board of Directors
- Public

Key Messages:

- Securing the constitutional guarantees and adequate, sustainable funding for realignment are fundamental to CSAC's support of Realignment.
- An "All-Cuts" budget will have profound impacts on counties and the services they provide.
- CSAC members represent the same constituents as the legislature, have as many divergent and ideological differences as legislative members, yet can come together in support of the amendment. It's time for the legislature to do the same.
- The failure to reach agreement on the Governor's proposal to allow voters to extend the 2009 tax package creates significant uncertainties for counties.
- This uncertainty means that counties will have to plan for the worst: preparing for the expiration of the portion of the VLF dedicated to public

safety programs. In most cases, this will mean layoffs of deputy sheriffs and probation officers and dramatically reduced public safety services in our communities.

Tactics:

- Op-eds in target media markets penned by key Supervisors
 - CSAC President Op-ed with statewide perspective being drafted for LA times placement.
- Use headlines from local news to put out frequent "devastation" report.
 - Tweet, blog, FB impacts of cuts, loss of VLF with specific county impacts to the degree we can obtain details.
- Encourage Supervisors to craft a letter to their delegations outlining the cuts they have taken as a result of State inertia.
- CSAC PowerPoint presentation crafted for use in local jurisdictions on what the Constitutional amendment and realignment means in simpler terms.
- List of message points on the benefit of the amendment and realignment.
- Work with County PIO's to gauge temperature and messages they are using locally on their budget cuts, finding similar themes for broader message and encourage use of our CSAC messages in their local efforts.



Health and Human Services Policy Committee
Thursday, April 14, 2011 • 2:00 – 3:00 p.m.
Via Conference Call • Dial 1.800.867.2581
Meeting Access Code: 7500531#

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

- 2:00 p.m. I. **Welcome and Introductions**
Supervisor Liz Kniss, Santa Clara County
- 2:05 – 2:20 II. **State Budget Update**
Kelly Brooks, CSAC Legislative Representative
- 2:20 – 2:30 III. **Federal Health Care Reform Bills**
Kelly Brooks, CSAC Legislative Representative

Attachment: CSAC Chart of Health Reform Bills in California Legislature
- 2:30 p.m. IV. **Adjournment**
Supervisor Liz Kniss, Santa Clara County

Δ Please mute your phone line during the call and DO NOT place the line on hold. Each participant will be asked to identify themselves and their county or affiliate at the beginning of the call. Thank you.

HEALTH CARE REFORM LEGISLATION

As of April 11, 2011

LEGISLATION	DESCRIPTION	LOCATION
Medi-Cal Expansion		
AB 43 (Monning)	Requires applicable departments to transition Medi-Cal to reflect expanded eligibility requirements up to 133% FPL by January 1, 2014. CSAC: SUPPORT IN CONCEPT	Assembly Health hearing 4/26
SB 677 (Hernandez)	Requires applicable departments to transition Medi-Cal to reflect income standard to MAGI, eliminate asset test, other conforming changes by January 1, 2014. CSAC: SUPPORT IN CONCEPT	Senate Health hearing 4/27 <i>Amended 3/22</i>
Eligibility & Enrollment		
AB 1296 (Bonilla)	Requires state to develop a standardized single application for Medi-Cal, HFP, the Exchange, and county programs. (WCLP is sponsor) CSAC: SUPPORT IN CONCEPT	Assembly Human Services hearing 4/26
AB 714 (Atkins)	Requires DHCS, MRMIB, some hospitals and programs to provide Exchange info to promote pre-enrollment. (Health Access is sponsor)	Assembly Health hearing 4/26 <i>Amended 3/29</i>
AB 792 (Bonilla)	Creates mandate for automatic enrollment, especially during key life changes. Also requires insurers to provide information about those dropping off of coverage to the Exchange. (Health Access is sponsor)	Assembly Health hearing 4/26
Coverage & Access		
AB 1066 (Pérez)	Medicaid Waiver clean up and LIHP provisions. (CAPH closely involved in drafting) CSAC: SUPPORT	Assembly Health hearing 4/12 <i>Amended 4/4</i>
SB 222 (Alquist)	Allows county health programs and CMSP to form joint ventures to offer health plans to individuals or groups.	Senate Health hearing 4/27

SB 703 (Hernandez)	Requires MRMIB to establish a basic health plan for people between 133% and 200% FPL.	Senate Appropriations Amended 3/30
AB 151 (Monning)	Guarantees coverage for seniors between Medicare Advantage, called Medi-Gap.	Assembly Health hearing 4/26
AB 1083 (Monning)	Phase-in new insurance market rules for small businesses to soften premium spikes.	Assembly Health hearing 5/3 Amended 3/29
AB 1334 (Feuer)	Starting July 1, 2012, requires plans and insurers to develop, categorize and share plans for the five tiers of coverage.	Assembly Health hearing 5/3
SB 155 (Evans)	Requires maternity coverage by January 1, 2012. (ACA mandates by 2014) (same as below)	Senate Health hearing 4/27
AB 185 (Hernández)	Requires maternity coverage by January 1, 2012. (ACA mandates by 2014) (same as above)	Assembly Appropriations hearing 4/13
AB 154 (Beall)	Requires plans to cover mental health services starting January 1, 2012. (ACA mandates by 2014) CSAC: SUPPORT	Assembly Appropriations hearing 4/13 Amended 3/24
AB 310 (Ma)	Requires insurers to cover costs of outpatient drugs an limits copayments.	Assembly Health hearing 5/3 Amended 3/7
SB 122 (Price)	Repeals the provision to cover dependents to age 26. (conflicts with ACA and last year's SB 1088)	Senate Health hearing 4/27
Consumer Protections, Assistance, & Oversight		
AB 174 (Monning)	Requires stakeholder process to develop a secure and user-friendly system of electronic health records to facilitate health information exchange goals.	Assembly Health hearing 5/3 Amended 3/21
AB 922 (Monning)	Replaces the Office of Patient Advocate with Office of Health Consumer Assistance. Can contract with community organizations to provide consumer assistance.	Assembly Appropriations Amended 3/29
SB 51 (Alquist)	Sets medical loss ratios (administrative costs) and authorizes refunds to patients if ratios not met.	Senate Health hearing 4/27 Amended 4/5
AB 52 (Feuer)	Gives DMHC and DoI authority to regulate rates, premiums,	Assembly Health hearing 4/26

	copayments, and deductibles.	<i>Amended 3/25</i>
SB 615 (Calderon)	Requires persons who solicit, negotiates, or sells health care services to be a licensed insurance agent.	Senate Insurance hearing 4/13
Prevention		
AB 70 (Monning)	Requires state to seek federal community transformation grants under ACA.	Assembly Health hearing 4/26
AB 441 (Monning)	Requires transportation planning to include health criteria.	Assembly Appropriations <i>Amended 3/24</i>
AB 727 (Mitchell)	Creates nutrition standards for all state food purchasing, and guidelines for sustainable purchasing practices.	Assembly Business & Professions hearing 4/12 <i>Amended 3/25</i>
AB 916 (Monning)	Requires DPH to seek federal grants to fund promotores in underserved communities, and report back to the Legislature by April 1, 2012.	Assembly Appropriations
SB 616 (DeSaulnier)	Requires DHCS to pursue Medicaid Incentives for Prevention of Chronic Disease Program grants.	Senate Health hearing 4/13 <i>Amended 3/22</i>
Taxes & Money		
AB 36 (Chapter 17, Statutes of 2011, Perea)	Excludes employer contributions for dependent coverage from parents' taxable income.	Signed by Governor on 4/7/11
AB 242 (Perea)	Conformity language for small business cafeteria plans, Indian tribe health care benefits, free choice vouchers, student loan repayment programs, and deduction for self-employment taxes.	Assembly Appropriations <i>Amended 3/14</i>
SB 728 (Hernandez)	Requires the Exchange Board to work with other state departments to develop a risk adjustment system for products both in and outside of the Exchange.	Senate Health hearing 4/13 <i>Amended 3/25</i>



CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

April 20, 2011

To: CSAC Executive Committee

From: Tom Sweet, Executive Director, CSAC Finance Corporation

RE: Finance Corporation Program Update
INFORMATION ITEM

The following are highlights of the numerous programs that the CSAC Finance Corporation offers to your counties:

CalTRUST

- CalTRUST currently has assets in excess of \$1 Billion and over 110 participant accounts.
- New program features were recently unveiled including online trading, a new statement format for ease of reporting, and streamlined transaction processing.
- The CalTRUST Board of Trustees held their Annual Meeting in Carmel, CA on April 27, 2011.
- An annual due diligence visit with Nottingham Investment Administration, CalTRUST's record keeper and transaction processor, is scheduled for May 2011.

California Communities

- The 2011 Tax & Revenue Anticipation Notes (TRANS) program has been launched to aid counties, cities, and special districts with short-term cash flow financing. This year's program has enhanced options including flexibility for issue dates. Three counties have enrolled so far.

U.S. Communities

- All 58 counties continued to utilize U.S. Communities.
- A new office supply vendor, Independent Stationers, has replaced Office Depot as the U.S. Communities office supply provider. As of the beginning of the year Office Depot is no longer a U.S. Communities provider.
- A new food service contract through Premier Food Service is now available for use. This contract will be especially beneficial for Sheriff's jail and juvenile facilities.

General Information

- CSAC Finance Corporation is contracting with Employee Relations Inc and Cost Control Associates to provide employee background screening and utility cost control services, respectively, at a discount to California counties. They were both awarded competitively bid contracts through Solano County and both had previously held contracts with the NACo Financial Services Center.
- The CSAC Finance Corporation Board of Directors held their Annual Meeting in Carmel, CA on April 28-29, 2011.
- 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, 916.327.7500 x556, or via email, tsweet@counties.org; Laura Labanieh at 916.327.7500 x536 or llabanieh@counties.org.



NOTICE OF REGULAR FALL MEETING AND AGENDA

NOTICE

Notice is hereby given that a regular meeting of the Board of Trustees of CalTRUST will be held on April 27, 2011 at 8:00 a.m., at La Playa Hotel, Camino Real and 8th Avenue, Carmel, CA.

Public Comment – In accordance with Government Code Section 54954.3, any member of the public may address the Board concerning any matter on the agenda before the Board acts on it and on any other matter during the public comment period at the conclusion of the agenda.

TELECONFERENCE INSTRUCTIONS

Dial-In: 800.867.2581
Access Code: 7338439

AGENDA

Wednesday, April 27, 2011
Location: La Playa Hotel
7:30am Breakfast – Carmel Room

PROCEDURAL ITEMS

8:00 a.m. Presiding: Charles Lomeli, President

1. Roll Call

- _____ Charles Lomeli - **President**
- _____ Glenn Duncan – **Vice President**
- _____ Dave Ciapponi
- _____ John Colville
- _____ Rod Dole
- _____ Don Kent
- _____ Dan McAllister

- _____ Tom Sweet, *Executive Director*
- _____ Steven Woodside, *Legal Counsel*
- _____ Chris Feusahrens, *Secretary*

2. Welcome and Introductions
Charles Lomeli

3. Approve Minutes of the Fall Meeting of the Board of Trustees from September 15, 2010
Charles Lomeli

4. **Elect Board of Trustees and Officers and Adopt Resolution to Conduct Business/Delegation of Duties for FY 2011-2012**
Charles Lomeli
5. **Appoint Audit Committee**
Laura Labanieh
6. **Update on CSAC Finance Corporation Executive Director Recruitment**
Charles Lomeli
7. **Investment, Market & Portfolio Strategy Update & Review**
Mike Rodgers, Jeff Weaver, and Tony Melville
 - a. Interest Rate & Economic Overview
 - b. Short-Term Fund
 - c. Medium-Term Fund
 - d. Heritage Money Market Fund
 - Transaction Processing
8. **Nottingham Investment Administration Update**
Kip Meadows
 - a. Online Trading
 - b. Transaction Processing
9. **Union Bank Update**
Daren Di Nicola
10. **CalTRUST Education Program**
Charles Lomeli
11. **Client Update & Marketing**
Lyle Defenbaugh
12. **Profit / Loss Statement**
Kelli Oropeza
13. **Future Meetings**
 - CalTRUST Fall Meeting – September 14, 2011 @ La Valencia, La Jolla
 - CalTRUST Annual Meeting – April 25, 2012 @ The Clement Intercontinental, Monterey
 - CalTRUST Fall Meeting – September 12, 2012 @ La Valencia, La Jolla
 - CalTRUST Fall Meeting – September 11, 2013 @ La Valencia, La Jolla
14. **Other Business**
15. **Public Comment**
Any member of the public may address the Board concerning any matter not on the Agenda within the Board's jurisdiction.
15. **Adjourn**

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



CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

NOTICE OF REGULAR MEETING AND AGENDA

NOTICE

Notice is hereby given that a regular meeting of the Board of Directors of the CSAC Finance Corporation will be held on April 28-29, 2011 at 8:00 a.m., at La Playa Hotel, Camino Real and 8th Avenue, Carmel, CA.

Public Comment – *In accordance with Government Code Section 54954.3, any member of the public may address the Board concerning any matter on the agenda before the Board acts on it and on any other matter during the public comment period at the conclusion of the agenda.*

AGENDA

Thursday, April 28

7:30 a.m. Breakfast - Carmel Room

ACTION ITEMS

8:00 a.m.

1. Roll Call

- _____ Greg Cox, *President*
- _____ Les Brown, *Treasurer*
- _____ Henry Gardner
- _____ Joni Gray
- _____ Michael D. Johnson
- _____ Paul McIntosh
- _____ Pat O’Connell
- _____ Larry Spikes
- _____ Mark Saladino
- _____ Vacant, *Public Member*

- _____ Tom Sweet, *Executive Director*
- _____ Steven Woodside, *Legal Counsel*
- _____ Chris Feusahrens, *Secretary*

2. Closed Session

- Executive Director Recruitment Update

3. Welcome and Introductions

Greg Cox

4. Approve the Minutes from the Previous Board Meetings as follows:

Greg Cox

- Fall Board Meeting of September 16-17, 2010
- Teleconference Board Meeting of January 10, 2011

5. Executive Director Remarks

Tom Sweet

6. **2011-2012 Board of Directors**

Greg Cox

- Discussion of Board Member Composition
- Appoint Board of Directors
- Elect Officers
- Adopt Resolution to Conduct Business & Delegation of Duties

7. **Pacific Public Partners OPEB Program**

Larry Walker & Pacific Public Partners Staff

INFORMATION ITEMS

8. **California Communities Update**

James Hamill, Cathy Bando, & HB Capital Staff

- Public Agency Programs
- Private Activity Programs
- 2011 Community Benefit Report

9. **U.S. Communities Program Update**

Bryan Shumey & Joe Sandoval

- Update on Office Supplies Contract Transition

10. **CalTRUST Update**

Chuck Lomeli, Lyle Defenbaugh, & Mike Rodgers

11. **New Programs**

Laura Labanieh

- Employee Relations
- Cost Control Associates

12. **NACo Financial Services Corporation Programs Update**

Steve Swendiman, Larry Naake, & Nancy Parrish

13. **Nationwide Retirement Solutions Update**

Rob Bilo, Stella Cierlak, Jim Keeler, & Eric Stevenson

14. **Update on CSAC Health Insurance Pool**

Paul McIntosh

15. **Public Comment**

Any member of the public may address the Board concerning any matter not on the Agenda within the Board's jurisdiction.

Friday, April 29
7:30 a.m. Breakfast - *Carmel Room*

ACTION ITEMS

8:00 a.m.

16. Roll Call

_____ Greg Cox, *President*
_____ Les Brown, *Treasurer*
_____ Henry Gardner
_____ Joni Gray
_____ Michael D. Johnson
_____ Paul McIntosh
_____ Pat O'Connell
_____ Larry Spikes
_____ Mark Saladino
_____ Vacant, *Public Member*

_____ Tom Sweet, *Executive Director*
_____ Steven Woodside, *Legal Counsel*
_____ Chris Feusahrens, *Secretary*

17. Closed Session

- Discussion of HB Capital Contract
- Discussion of NACo-CSAC Finance Corporation Contract re: Deferred Compensation

18. Appoint Audit Committee for 2011-2012

Laura Labanieh

19. Approve Budget for FY 2011-2012

Les Brown & Kelli Oropeza

20. SWOT Analysis & Review of January 2011 Board Retreat

Tom Sweet

- Adopt Revised Mission Statement

INFORMATION ITEMS

21. Goals & Activities Update

Laura Labanieh

- Review of 2010-2011 Goals & Activities
- Overview of 2011-2012 Goals & Activities
- 2011-2012 Marketing Plan
- County Participation Matrix

22. Locations and Dates of Future Meetings

Laura Labanieh

- 2011 Fall Meeting, September 15-16, 2011 @ La Valencia Hotel, La Jolla, CA
- 2012 Annual Meeting, April 26-27, 2012 @ The Clement Intercontinental, Monterey, CA
- 2012 Fall Meeting, September 13-14, 2012 @ La Valencia Hotel, La Jolla, CA
- 2013 Annual Meeting – *TO BE DETERMINED*
- 2013 Fall Meeting, September 12-13, 2013 @ La Valencia Hotel, La Jolla, CA

23. Other Business

24. Public Comment

Any member of the public may address the Board concerning any matter not on the Agenda within the Board's jurisdiction.

25. Adjourn

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



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EXECUTIVE DIRECTOR
Jennifer B. Henning

MEMORANDUM

To: Supervisor John Tavaglione, President, and
Members of the CSAC Executive Committee

From: Jennifer Henning, Litigation Coordinator

Date: May 5, 2011

Re: Litigation Coordination Program Update

At your Executive Committee's request, this memorandum will provide you with information on the Litigation Coordination Program's activities since your last regular meeting in January.

I. New Case Activity Since Last Executive Committee Meeting

City of Arcadia v. State Water Resources Control Board

191 Cal.App.4th 156 (4th Dist. Div. 3 Dec. 14, 2010)(G041545), *petition for review denied* (Mar. 16, 2011)(S190219)

Twenty cities in the Los Angeles area challenged the Water Board's 2004 Triennial Review of the Water Quality Control Plan for the Los Angeles Region. The plan included standards for stormwater and urban runoff that the cities alleged did not take into account the factors required to be considered under Water Code sections 13241 and 13000. Specifically, the cities argued that the Board considered potential future uses of the stormwater and urban runoff rather than probable future beneficial uses of the water, as is required by statute. As a result, the cities argued they faced unreasonable and unachievable Total Maximum Daily Loads (TMDLs). The trial court agreed and issued a writ of mandate requiring revision of the Water Quality Standards in the Basin Plan. The appellate court reversed, concluding that sections 13000 and 13241 do not impose obligations that can be enforced through a writ of mandate. The cities sought Supreme Court review, which CSAC supported. However, review was denied in mid-March.

City of Brisbane v. California Board of Equalization

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

This lawsuit presents the issue of whether transactions where the property is sold from one retailer in a city but then shipped to California customers from points out of state should be subject to a sales tax or use tax. The long-standing practice of the BOE has been to subject such transactions to the use tax. The City of

Brisbane argues that such activity is subject to a sales tax, and therefore tax revenue to which it is entitled is being wrongfully distributed to other jurisdictions. Its petition/complaint seeks retroactive application of its interpretation of the Bradley-Burns Act, which would result in \$3.1 million in tax revenue owed to the city. To date, 82 cities and 6 counties have agreed to coordinate and file as intervenors in this action against the City of Brisbane. CSAC will file a brief in support of the intervening cities and counties.

Brown v. County of Los Angeles

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

Plaintiff was employed as a Clinical Psychologist for Los Angeles County, a position that requires either a license to practice as a psychologist or a valid waiver from the State. She was granted a five- year waiver. During those five years, she failed the psychologist licensing exam and did not obtain the required license. She also filed several complaints alleging unsafe working conditions and a hostile work environment, among other things. When her waiver expired, she was removed from her responsibilities. The State denied her request for a wavier extension, and she was ultimately terminated for failing to meet the minimum standards for her position, though she was informed that she could apply for other positions that did not require a license. She brought this action alleging she was terminated in retaliation for her complaints. The county sought summary judgment. The court denied the motion, finding that since the county's policy allows for either termination or demotion to a position that does not require a license, plaintiff raised triable issues of fact as to whether her termination for lack of a license was a pretext for a retaliatory termination. The county filed a writ petition in the Second Appellate District, which was denied. The county later received an adverse verdict at trial, and has now appealed. CSAC will file a brief in support of the county.

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

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

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

Espinosa v. City and County of San Francisco

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

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

Hayes v. County of San Diego

--- F.3d ---, 2011 U.S.App.LEXIS 5723 (9th Cir. Mar. 22, 2011)(09-55644)

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

In re Ethan C.

Previously published at: 188 Cal.App.4th 992 (2d Dist. Sept. 24, 2010)(B219894), *petition for review granted* (Dec. 21, 2010)(S187587)

One of father’s three children was killed in a car accident after father failed to secure her in a car seat. Los Angeles County had already been investigating ongoing neglect, and this accident prompted the county to detain father’s two other children. The

dependency court asserted jurisdiction. The father appealed, arguing that although he negligently failed to secure his daughter in a car seat, his undisputed negligence did not rise to the level of criminal negligence required by Welfare and Institutions Code section 300(f). The appellate court affirmed, but the California Supreme Court has granted review. The Court will be consider whether criminal negligence is required to support dependence jurisdiction under section 300(f), and whether an intervening cause of harm (here a car accident where father was not the faulty driver) prevents the juvenile court from granting a 300(f) petition. CSAC will file a brief in support of the county.

In re Jack C.

192 Cal.App.4th 967 (4th Dist. Div. 1 Feb. 15, 2011)(D057034), *petition for review pending* (filed Mar. 29, 2011)(S191805)

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

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

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

In September 2007, the City of Los Angeles adopted an interim ordinance prohibiting the establishment and operation of medical marijuana dispensaries for one year, or until a permanent ordinance was adopted. Dispensaries already in existence in September 2007 were exempted so long as they registered with the city within 60 days. The interim ordinance was extended several times, until the city adopted its ordinance in January 2010, with a June 2010 effective date. The ordinance limits the number of dispensaries in the city to 70, and gives first priority to those dispensaries that were in existence in September 2007 and registered as required. All other collectives were required to close, but the city anticipated a second registration period would be available if they did not reach 70 dispensaries out of the first batch of registrants. This lawsuit challenges the ordinance as preempted by state law and on Equal Protection grounds based on the distinction between those collectives that earlier registered and those that did not. The trial court concluded that the criminal penalties of the ordinance and a sunset provision are preempted by State law (the Compassionate Use Act and the MMPA). The court also found that the interim ordinance was not properly extended, so that even under the rational basis test, there was no rational reason to allow dispensaries that registered by November

2007 to continue in operation while requiring those that did not register to close. CSAC will be filing a brief in support of the city on the preemption issue.

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

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

Mammoth Lakes Land Acquisition v. Town of Mammoth Lakes
191 Cal.App.4th 435 (3d Dist. Dec. 30, 2010)(C059239), *petition for review denied* (Mar. 23, 2011)(S190463)

In this case, plaintiff developer alleged the town repudiated a development agreement. The town had FAA funding agreements for airport improvements, which predated the development agreement. The FAA agreements contained "grant assurances" requiring the town to comply with all rules and regulations of the FAA. The development agreement expressly required both parties to comply with rules and regulations of the FAA. The FAA objected to an informal development plan for a condo/hotel project at the airport, claiming that it violated the grant assurances. A town assistant manager wrote an email to the developer saying that the town could not proceed with the proposed development until the FAA objections were resolved. The town supported the developer against the FAA, and eventually got the FAA to withdraw its objections. The developer never presented the planning commission or the town council with an application for decision, but nonetheless sued the town for money damages for anticipatory breach of contract. The trial court ruled in the developer's favor, and in a 66-page opinion, the Third District affirmed. The court held in part: (1) terms in the development agreement related to FAA grant assurances were not defenses against the town's breach; (2) evidence of the actions of town officials, acting within their authority, was sufficient to establish a breach attributable to the town; and (3) the evidence supported a \$30 million damages award. The town sought California Supreme Court review, which CSAC supported, but review was denied.

McCormick v. County of Alameda

193 Cal.App.4th 201 (1st Dist. Mar. 2, 2011)(A126818), *petition for rehearing denied* (Mar. 28, 2011)

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

McKee v. Tulare County Board of Supervisors

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

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

Natural Resources Defense Council v. County of Los Angeles

--- F.3d ---, 2011 U.S.App.LEXIS 4647 (9th Cir. Mar. 10, 2011)(10-56107), *petition for rehearing pending* (filed Mar. 31, 2011)

Plaintiffs filed this action against the county and the county flood control district over, among other things, their alleged failure to prevent polluted stormwater from entering four area rivers and creeks. The case raised the issue of whether the county and the district could be held liable under the Clean Water Act (CWA) for polluted storm water discharges where the district only *conveyed* the polluted storm water without having actually caused the pollution, and without evidence that the county was a source of the pollution. The Ninth Circuit first concluded that the CWA does not distinguish between those who add pollutants to the water and those who convey the pollutants. The court then upheld a district court ruling in favor of the county, finding that plaintiffs failed to show how

stormwater from municipal separate storm sewer systems (ms4s) controlled by the county caused or contributed to pollution in any of the four Watershed Rivers. As to the flood control district, since the monitoring stations for two of the rivers are located in a concrete section of ms4 owned and operated by the district, the Ninth Circuit concluded plaintiffs were entitled to partial summary judgment because the court assumed that after stormwater known to contain standards-exceeding pollutants passes through these monitoring stations, this polluted stormwater is discharged into the two rivers. The flood control district has petitioned for rehearing and rehearing en banc, and CSAC has filed a brief in support.

Pack v. Superior Court (City of Long Beach)

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

Long Beach adopted a medical marijuana collectives ordinances last year. The ordinance requires collectives to have a permit to operate, sets buffer zones between collectives and sensitive uses, and requires collectives to be at least 1,000 feet apart. A lottery system was created for applicants whose collectives would be within 1,000 feet of one another to determine which of them may operate. Any collective operating at the time the ordinance was adopted that did not subsequently obtain a permit under the ordinance was required to close. Plaintiff sued, alleging the city's ordinance was preempted by both state and federal law. The superior court upheld the ordinance, and plaintiff filed a writ petition in the Second District. Last week, the court sent a letter soliciting amicus briefs from CSAC (among other organizations) on the federal preemption issue. CSAC will file a brief in response to the court's request.

Peruta v. County of San Diego

Pending in the Ninth Circuit Court of Appeals (filed Dec. 16, 2010)(10-56971)

This case is a challenge to the county's implementation of Penal Code sections 12050-12054, which establish the requirements for obtaining a license to carry a concealed weapon (CCW). The case challenges, in particular, Penal Code section 12050, which requires that an applicant show "good cause" for obtaining the CCW permit, and defines good cause as a set of circumstances that distinguishes the applicant from other members of the general public and causes him or her to be placed in harm's way. Following these standards, the San Diego County Sheriff denied plaintiffs' CCW license applications, and they then filed this action under Section 1983, alleging violations of the Second and Fourteenth Amendments. The federal district court granted summary judgment in favor of the county, rejecting plaintiffs' argument that the individual right to bear arms found by the Supreme Court in *Heller v. District of Columbia* (2008) 554 U.S. 570, includes a right to carry a loaded handgun in public, either openly or in a concealed manner. The court found the government has an important interest in reducing the risks to members of the public who use the streets and go to public accommodations, and concluded that the county's implementation of state relates reasonably to those interests. "Requiring documentation enables Defendant to effectively differentiate between individuals who have a bona fide need to carry a concealed handgun for self-defense and individuals who do not." Plaintiffs have appealed, and the case is pending in the Ninth Circuit Court of Appeals. CSAC will file a brief in support of the county.

Simone v. City and County of San Francisco

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

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

Sunnyvale West Neighborhood Association v. City of Sunnyvale

190 Cal.App.4th 1351 (6th Dist. Dec. 16, 2010)(H035135), *petition for depublication pending* (filed Feb. 16, 2011)(S190550)

The city, as part of its long-term land use and transportation planning, has been studying an extension of freeway overpass to mitigate traffic congestion. The city prepared an extensive EIR for the project. Because the project is for the purpose of addressing future traffic impacts and would not be completed until close to 2020, the city followed the Valley Transportation Authority guidelines for traffic studies and used a year 2020 baseline for analysis of traffic impacts. In a CEQA challenge, the trial court invalidated the EIR on the grounds that the city should have used a current conditions baseline instead of the 2020 baseline, even though doing so would have underestimated the actual traffic impacts of the project. The Sixth District affirmed. It found that the discussions of foreseeable changes in conditions might be "necessary to an intelligent understanding of a project's impacts over time and full compliance with CEQA," but are not appropriate for determining the project's baseline. CSAC has asked the Supreme Court to depublish the case. The request is still pending.

Tomlinson v. County of Alameda

Previously published at: 188 Cal.App.4th 1406 (1st Dist. Oct. 6, 2010)(A125471), *petition for review granted* (Jan. 19, 2011)(S188161)

Plaintiffs challenged the county's decision to approve a subdivision development, deeming it exempt from CEQA under the categorical exemption for in-fill development. The First District first determined that section 21177's requirement to exhaust administrative remedies does not apply to an action challenging an exemption determination. The court went on to conclude that the in-fill development exemption did not apply to this project because it was not "within city limits," as is required. Earlier this summer, the court granted rehearing, but then issued an amended opinion confirming its earlier holding on both the exhaustion and the in-fill exemption issues. CSAC supported

the petition for review, which the California Supreme Court granted, and will now file a brief on the merits.

II. Amicus Cases Decided Since Last Executive Committee Meeting

EHP Glendale v. County of Los Angeles

193 Cal.App.4th 262 (2d Dist. Feb. 2, 2011)(B217036), *ordered published* (Mar. 3, 2011)

Outcome: Positive

This case raises the question of the proper appraisal method for a change in ownership of a franchise hotel. LA County reassessed the Glendale Hilton after it was purchased by plaintiff. Plaintiff appealed to the Assessment Appeals Board, which affirmed. The appraisal methodology was an income approach, deducting expenses associated with certain intangible assets from the income. The income included certain intangibles, such as the value of a Hilton franchise and the expertise of the hotel's staff, but related expenses were deducted including franchise and management fees and marketing expenses. The trial court noted that under the Revenue and Taxation Code, intangible assets are excluded from property tax even when they are in connection with real property. Using the substantial evidence standard, the trial court granted summary judgment in favor of plaintiffs, finding that the valuation method failed to provide for a return on the non-taxable operating assets in the total amount deducted from the hotel's income stream. The county appealed, arguing that it was an error to grant summary judgment because the entire record was not before the court. The Second District agreed, concluding that "the issue presented to the trial court amounted to one of fact, and the trial court erred in granting summary judgment based on a fragmentary record." The court also found that summary judgment was erroneously granted because the trial court weighed conflicting evidence in making its decision: "Based on the record before the trial court, there were triable issues of material fact including whether the assessor's valuation of the hotel, which the Board adopted, appropriately excluded the value of nontaxable intangible assets and whether the Board's methodology, as the trial court found, necessarily failed to exclude the value of intangible assets from the assessment of [plaintiff's] property." CSAC filed a brief in support of the county, which was cited by the court in the opinion.

International Association of Fire Fighters Local 188 AFL-CIO v. Public Employment Relations Board (City of Richmond)

51 Cal.4th 259 (Jan. 24, 2011)(S172377)

Outcome: Positive

This case challenges a city's decision to layoff 18 firefighters without going through the meet and confer process. The union filed a complaint with PERB, but PERB decided not to issue a complaint, agreeing with the city that meet and confer was not required. The union appealed. The First Appellate District first found that PERB's refusal to issue a complaint is generally not subject to judicial review. But the court permitted this action to go forward on a narrow exception to the rule—to consider whether the decision erroneously construes an applicable statute. The court then agreed with PERB that a local

agency's decision to layoff firefighters is not subject to collective bargaining. The California Supreme Court affirmed. The Court concluded: (1) Generally, PERB's decision not to issue a complaint is not subject to judicial review, but in this instance the exception for a PERB decision based on a clearly erroneous statutory construction applied; and (2) When a city, faced with a budget deficit, decides that some firefighters must be laid off as a cost-saving measure, the city is not required to meet and confer with the firefighters' authorized employee representative before making that initial decision. CSAC filed a brief in support of the city.

Madison County, NY v. Oneida Indian Nation of New York
562 U.S. ___, 2011 U.S.LEXIS 16 (Jan. 10, 2011)(10-72)

Outcome: Neutral

Under a relatively recent Supreme Court decision, local taxing authorities can impose real property taxes on land owned in fee simple by Indian tribes. (*City of Sherrill v. Oneida Indian Nation of New York* (2005) 544 U.S. 197.) In the present case, the Second Circuit, while recognizing the ability to impose the taxes, concluded that counties, which are taxing authorities in the State of New York, could not foreclose on the property for non-payment of county taxes. The court concluded that the tribe was immune from suit under the long-standing doctrine of tribal sovereign immunity. "Individual tribal members and tribal officers in their official capacity remain susceptible to suits for damages and injunctive relief. . . . They may therefore be enjoined from violations of state law. But if such enforcement mechanisms fail and if no agreement can be reached between the Counties and the [tribe], the Counties' ultimate recourse will be to Congress, as we understand the Supreme Court to have instructed." A concurring opinion put the issue this way: "The holding in this case comes down to this: an Indian tribe can purchase land (including land that was never part of a reservation); refuse to pay lawfully-owed taxes; and suffer no consequences because the taxing authority cannot sue to collect the taxes owed. This rule of decision defies common sense. But absent action by our highest Court, or by Congress, it is the law." The counties' petition for certiorari was granted, but while briefing was underway, the tribe filed a letter with the Clerk of Court stating that it has now waived its sovereign immunity for purposes of enforcement of property tax collection through foreclosure. In light of that letter, the Supreme Court vacated the Second Circuit's decision and remanded with orders to consider whether the waiver of immunity makes any difference to the court's conclusion. CSAC filed an amicus brief in support of the counties.