

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
Thursday, April 18, 2013
10:00am - 1:30pm
Maya Hotel, Long Beach, Los Angeles County

A G E N D A

Presiding: David Finigan, President

- | | | |
|---------|--|---------|
| 10:00am | PROCEDURAL ITEMS | |
| 1. | Roll Call | Page 1 |
| 2. | Approval of Minutes of January 17, 2013 | Page 2 |
| 10:10am | Executive Director's Report | |
| | ▪ <i>Matt Cate, CSAC Executive Director</i> | |
| 10:30am | INFORMATION ITEMS | |
| 3. | Public Safety Realignment (AB 109) Implementation Report | Page 5 |
| | ▪ <i>Elizabeth Howard Espinosa, CSAC staff</i> | |
| 4. | Affordable Care Act Implementation Report | Page 9 |
| | ▪ <i>Kelly Brooks-Lindsey, CSAC staff</i> | |
| 5. | California Environmental Quality Act (CEQA) Reform Update | Page 12 |
| | ▪ <i>Cara Martinson, CSAC staff</i> | |
| 6. | CSAC Finance Corporation Report | Page 18 |
| | ▪ <i>Nancy Parrish, CSAC Finance Corp. Executive Director</i> | |
| 11:15am | ACTION ITEMS | |
| 7. | Consideration of Proposed CSAC Budget for FY 2013-14 | Page 22 |
| | ▪ <i>Matt Cate, CSAC Executive Director</i> | |
| | ▪ <i>Supervisor Terry Woodrow, CSAC Treasurer</i> | |
| 8. | Consideration of Proposed Litigation Coordination
Program Budget for FY 2013-14 | Page 28 |
| | ▪ <i>Jennifer Henning, County Counsel's Assoc. Executive Director</i> | |
| 12:00pm | LUNCH | |
| 1:00pm | INFORMATION ITEMS (cont.) | |
| 9. | Other Items | |
| 10. | Closed Session with Executive Director | |
| 1:30pm | ADJOURN | |

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
2013

President:	David Finigan, Del Norte
1 st Vice President:	John Gioia, Contra Costa
2 nd Vice President:	Efren Carrillo, Sonoma
Immed. Past President:	Mike McGowan, Yolo

Urban Section

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

Suburban Section

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

Rural Section

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

Ex-Officio Member

Terry Woodrow, CSAC Treasurer, Alpine

Advisors

Bill Goodwin, CAOAC Advisor, Tehama
Charles McKee, County Counsel Advisor, Monterey

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE

January 17, 2013
CSAC Conference Center, Sacramento, CA

MINUTES

Presiding: David Finigan, President

1. ROLL CALL

David Finigan, Pres.	Greg Cox, San Diego, alternate
John Gioia, 1 st Vice Pres.	Susan Adams, Marin
Efren Carrillo, 2 nd Vice Pres.	Henry Perea, Fresno
Mike McGowan, Immed. Past Pres.	Bruce Gibson, San Luis Obispo (via audio)
Keith Carson, Alameda	Vito Chiesa, Stanislaus, alternate
Federal Glover, Contra Costa	Kim Vann, Colusa
John Moorlach, Orange	Louis Boitano, Amador, alternate
John Tavaglione, Riverside	Bill Goodwin, CAOAC advisor
Kathy Long, Ventura (via audio)	Charles McKee, County Counsel advisor

2. APPROVAL OF MINUTES

The minutes of October 12, 2012 were approved as previously mailed.

3. INTRODUCTION OF NEW EXECUTIVE COMMITTEE MEMBERS

President Finigan introduced and welcomed this year's new Executive Committee members. They were: Susan Adams from Marin, Vito Chiesa from Stanislaus, Kim Vann from Colusa and Louis Boitano from Amador. In addition, Bill Goodwin from Tehama is the new CAOAC advisor.

4. REPORT ON GOVERNOR'S BUDGET FOR 2013-14

Ana Matosantos, Director of the State Department of Finance, outlined highlights of the Governor's proposed budget for 2012-13. School funding is proposed to increase by \$2.7b. The Governor is also proposing to eliminate most categorical funding in order to increase local control. The budget proposal estimates that the 2013-14 General Fund will total \$98.5b. Ms. Matosantos indicated that the Administration is interested in engaging in discussions with counties about changing the mandate claims process to make it less cumbersome.

Diane Cummins, Special Advisor to the Governor, reported that she and a team of staff have been visiting counties throughout the state to assess the progress of AB 109 implementation. She has also met with the Chief Probation Officers Association, California State Sheriffs Association and CSAC to discuss changes that can be made to improve AB 109.

5. DISCUSSION OF BUDGET IMPACTS ON COUNTIES

Staff distributed copies of the *CSAC Budget Action Bulletin* which included a summary and analysis of the Governor's Budget proposal. The Governor is planning to call a special session on health care implementation in February and the Medicaid program expansion will be a large part of that session. Regular conference calls are being held with supervisors and CAOs to discuss the Affordable Care Act implementation. The Administration has proposed two options for implementation and CSAC is working with county stakeholders to determine which of those options will be in the best interest of counties.

6. APPOINTMENT OF CSAC TREASURER, NACo BOARD & WIR REPRESENTATIVES
The CSAC Officers recommended that the Executive Committee appoint Supervisor Terry Woodrow from Alpine County as Treasurer for 2013, Supervisors Keith Carson and Efren Carrillo as NACo Board of Directors representatives, and Supervisors David Finigan and Kevin Cann as the WIR representatives.

Motion and second to approve Officer recommendation to appoint Supervisor Terry Woodrow as Treasurer. Motion carried unanimously.

Motion and second to approve Officer recommendation to appoint Supervisors Carson and Carrillo as NACo Board of Directors representatives for 2013. Motion carried unanimously.

Motion and second to approve Officer recommendation to appoint Supervisors Finigan and Cann as WIR representatives for 2013. Motion carried unanimously.

7. APPOINTMENT OF CSAC POLICY COMMITTEE CHAIRS & VICE CHAIRS
The CSAC Officers recommended the following list of policy committee chairs and vice chairs for approval by the Executive Committee:

ADMINISTRATION OF JUSTICE
Federal Glover, Contra Costa, Chair
John Viegas, Glenn, Vice Chair

AGRICULTURE AND NATURAL RESOURCES
Kimberly Dolbow Vann, Colusa, Chair
Linda Seifert, Solano, Vice Chair

GOVERNMENT FINANCE & OPERATIONS
Bruce Gibson, San Luis Obispo, Chair
Bruce McPherson, Santa Cruz, Vice Chair

HEALTH & HUMAN SERVICES
Kathy Long, Ventura, Chair
Ken Yeager, Santa Clara, Vice Chair

HOUSING, LAND USE AND TRANSPORTATION
Phil Serna, Sacramento, Chair
John Benoit, Riverside, Vice Chair

Motion and second to approve the list of policy committee chairs and vice chairs for 2013 as recommended by CSAC Officers. Motion carried unanimously.

8. STATE AND FEDERAL LEGISLATIVE PRIORITIES FOR 2013
Staff outlined the draft State Legislative Priorities as contained in the briefing materials. These priorities were previously considered by the CSAC Officers. Staff was directed to add **2-1-1 Statewide Implementation** to the list. A memo detailing the issue of lowering voter approval thresholds for local taxes and bonds was distributed to the Executive Committee. Staff indicated this issue will likely be a focus of this year's legislative session.

Staff distributed a revised draft of the Federal Priorities which were changed to reflect moving the "Temporary Assistance for Needy Families (TANF)" priority to internal monitoring list and replacing it with the "National Health Care Reform." This was done because it is anticipated that Congress will most likely not address TANF in the short-term.

Motion and second to adopt the 2013 State and Federal Legislative Priorities.
Motion carried unanimously.

9. NOMINATION OF MEMBER TO CSAC FINANCE CORPORATION BOARD

The CSAC Finance Corporation Board currently has a vacancy on its Board of Directors for a county supervisor, nominated by the CSAC Executive Committee. It was recommended that the vacancy be filled by a CSAC officer in order to provide a good link between CSAC and the Finance Corporation.

Motion and second to nominate Supervisor Mike McGowan as the CSAC Executive Committee representative to the Finance Corporation Board. Motion carried unanimously.

10. UPDATE ON CSAC AFFILIATES

Matt Cate announced that he is in the process of evaluating CSAC's relationship with its affiliates. The goal is for CSAC affiliate organizations not to take positions on legislation that are contrary to CSAC's positions. Staff will develop a plan and bring it back for consideration.

11. REPORT ON CSCDA

Subsequent to direction given during the previous Executive Committee meeting regarding the findings in the State Auditor's report on the California Statewide Communities Development Authority (CSCDA), additional information was received which provides clarification on the issues raised by Executive Committee members. That information addresses the concerns raised at the last meeting and is contained in the briefing materials.

12. OTHER ITEMS

Bill Goodwin, President of the CAOAC, reported that a meeting was held yesterday to discuss formula funding allocations for AB 109. He outlined the various options currently being considered. Once a decision is reached, the recommendations will be forwarded to the Department of Finance.

A report on the CSAC Corporate Associates program and a 2013 calendar of events were contained in the briefing materials.

Matt Cate announced that DeAnn Baker has been promoted to the position of Director of Legislative Affairs. Jim Wiltshire has assumed the position of Director of Operations and Outreach.

Meeting adjourned to closed session.



1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

DATE: April 2, 2013
TO: CSAC Executive Committee
FROM: Elizabeth Howard Espinosa
CSAC Administration of Justice Staff
RE: **Public Safety Realignment (AB 109) Implementation — *Informational Item***

The implementation of public safety realignment (AB 109), which transferred responsibility for various adult offender populations from the state to the counties, began 18 months ago. This informational memo is intended to provide an update on CSAC's ongoing work to support counties' implementation of new criminal justice system responsibilities. Our efforts generally fall into one of several broad categories: advocacy, allocation/data collection, and training.

ADVOCACY

There are dozens of bills before the Legislature that would amend public safety realignment in ways big and small. CSAC has formalized or is in the process of finalizing positions on many of those measures. Notably, two bills that CSAC and a broad range of county and public safety stakeholders opposed in 2012 (and the Governor subsequently vetoed) have been re-introduced. They include AB 1040 by Assembly Member Bob Wieckowski, which would require that probation officers who supervise a high-risk population be armed; AB 1968, his 2012 vehicle on this same topic, was vetoed. The second bill of note is SB 199 by Senator Kevin DeLeon, which would amend the composition of the Community Corrections Partnership and its executive committee by adding two rank-and-file members. The Governor vetoed a similar measure – AB 2031 by Assembly Member Fuentes – last year.

Another key element to our advocacy relates to our regular and dynamic communication with Governor Brown's Administration – primarily Department of Finance and the Department of Corrections and Rehabilitation – as well as the sheriffs and probation chiefs. This forum is significant and productive in terms of ongoing realignment policy development. It provides an opportunity to present county concerns, identify implementation challenges, highlight county successes, and vet potential solutions. Chief among the issues on our active discussion list are: long-term offenders in county jails; health and mental health care of county jail inmates; crossover state/county mental health populations (state hospitals, mentally disorder offenders, incompetents to stand trial); upcoming changes to parole revocation process; intersection of health care and correctional policies (i.e., opportunities under implementation of federal health care reform); and three-judge panel update/implications.

The state's limitations under the three-judge panel population reduction order and ongoing litigation of these issues complicates these discussions and means that quick or painless solutions are unlikely. Nevertheless, the regular communication and joint efforts to mutually resolve problems demonstrates the Administration's ongoing commitment to partnership and to counties' long-term success in carrying out these very significant correctional reforms. We anticipate that the Governor's May Revision will address certain of these issues.

In many ways, CSAC's legislative and budget advocacy efforts mirror what likely has been counties' arc of experience. In this first year of 2011 Realignment implementation, the majority of our work

focused on managing the immediate impacts of the policy shift and ensuring that counties were supported during the transitional period. CSAC worked extensively on activities necessary to put the fiscal structure and authority in place for counties to carry out public safety realignment over the long-term. Major milestones achieved in 2012 include: codification of a two-year funding AB 109 formula, enactment of a permanent fiscal structure for the entire array of programs realigned in 2011, and continued training efforts to support counties' success in managing new offender populations locally. Counties are lifting their focus from the immediate influx of new populations to set a longer-term course for retooling and enhancing their local criminal justice system response in a realigned world, and our advocacy efforts follow that shift. Work underway includes further refinement of data collection and reporting efforts, exploring ways CSAC can help tell the realignment story and promote promising strategies, continued analysis to support development of a long-term allocation method, and development and deployment of a thoughtful and robust training curriculum.

ALLOCATION/DATA COLLECTION

In early 2011, the County Administrative Officers Association of California (CAOAC) named a 9-member Realignment Allocation Committee (RAC)¹, at CSAC's request, to tackle the 58-county distribution of AB 109 and related funds. To date, the committee has recommended – and the Legislature approved – two temporary formulas that direct the allocation of funds for the first nearly three years of implementation. The first-year formula was effective only for the initial 9-months of implementation during the 2011-12 fiscal year. Currently, a two-year formula is in place to allow time for counties to gain more programmatic experience and to permit additional analysis of the data elements needed to inform a longer-term formula.

The RAC is meeting regularly to continue its review and deliberations. Presently, the RAC is focusing on the distribution of estimated growth detailed in the table below. As part of the realignment fiscal structure codified in SB 1020 (2012), the Legislature adopted statutory provisions to guide the allocation of undistributed growth. These include elements such as a guaranteed minimum for each county; establishment of appropriate minimum allocations for small counties; adjustments for variation between estimated and actual caseloads; and efforts to implement public safety realignment consistent with legislative intent. The RAC surveyed all 58 counties for input and now is evaluating the survey responses and other relevant data to arrive at a recommended approach.

2011 Realignment Estimated Funding Levels and Growth (See 2013-14 budget display)

<i>In millions</i>	2012-13	2012-13 Estimated Growth	2013-14	2013-14 Estimated Growth
Community Corrections Subaccount (AB 109)	\$ 842.9	\$ 77.3	\$ 998.9	\$ 89.7
District Attorney/Public Defender Subaccount (Revocation Activities)	\$ 14.6	\$ 5.2	\$ 17.2	\$ 6.0

¹ The current membership of the RAC is as follows: three urban county administrator/executive officers (Alameda, Los Angeles and San Bernardino); three suburban CAO/CEOs (Fresno, Sonoma and Santa Cruz); and three rural CAO/CEOs (Mendocino, Kings and Tehama). The RAC is chaired by the CAO of Santa Cruz County.

The Department of Finance has requested a recommendation on a growth allocation methodology during April so there is sufficient time for internal Finance review and, likely, a reference to the approach in the Governor's May Revision.

Following the RAC's conclusion of its work associated with a recommended distribution of growth, it will turn its attention to devising a longer-term allocation formula that would apply beginning in 2014-15. To help in this effort, the RAC convened a separate advisory body to provide input on recommended elements for consideration in a long-term formula. That body – the Data Advisory Committee, which has more than 15 counties represented – is nearing a final recommendation on elements for inclusion in a more permanent formula. These elements fall in three general categories: workload, performance, and modifiers. The RAC is working toward a late Fall timeframe for recommending a longer-term funding formula.

As the RAC has considered the allocation question over the last several years, it has become clear that additional reliable and meaningful data is likely needed to inform a longer term formula. The CAOs have expressed an interest in exploring a mechanism for supporting more robust data collection statewide to supplement current efforts – not only to inform long-term distribution of funds but to help identify best and promising practices that can be shared across jurisdictions. CSAC will remain active in these efforts and recognizes the value and benefits of using quality data to drive decisions. We also are participating in and monitoring discussions in the Legislature, with other state agencies, and among external research groups to ensure appropriate subject matter experts are informing decisions and harmonizing efforts across disciplines.

TRAINING

CSAC, the California State Sheriffs' Association (CSSA), and the Chief Probation Officers of California (CPOC) received two rounds of \$1 million grants in 2011-12 and 2012-13 to support statewide training and technical assistance efforts to support successful implementation of AB 109 realignment. The three associations pooled the majority of the first year funding and are continuing efforts to jointly manage and administer those resources under the direction of a governing board. In 2012, the governing board approved a contract with two organizations for both logistical and content support to help carry out training efforts over long-term. Some recent and ongoing examples of successful joint training partnership efforts include:

- A two-day statewide public safety realignment conference in November 2012 focusing on population management practices; more than 600 local and state officials attended.
- A series of workshops designed to explore the intersection of health and correctional policies. The first course, which will examine criminal justice system opportunities in the context the implementation of the Affordable Care Act, will be offered twice in April, given significant demand. Follow-up courses on the economics of behavioral health intervention and ACA implementation plans and strategies will follow.
- An intensive day-long workshop on pre-trial services planned for later this Spring.
- A third annual statewide realignment conference will be held in late October 2013.

In addition, CSAC is working outside the joint training partnership to develop programs and supports to build local capacity for successful realignment implementation over the long-term. We are exploring ideas such as a leadership academy, peer-to-peer learning, regional convenings, program demonstration sites, and other strategies that can encourage counties to share best practices and to learn from one another.

CSAC recognizes that counties embarked on the implementation of realignment from different points on a continuum. Individual jurisdictions may have had more or less experiences testing community corrections approaches or evidence-based practices prior to realignment. Economic challenges, internal and community capacity to manage the new offender populations, and the profile of the offenders themselves differ greatly among the 58 counties. We recognize that success may be defined differently and arrive on differing time intervals depending on the community. Our interests are in supporting counties' efforts over the long-term, preserving local jurisdictions' ability to innovate, and building the capacity among and between counties to ensure proven practices and strategies can be replicated across the state.



1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

April 3, 2013

TO: CSAC Executive Committee

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

Re: Affordable Care Act Implementation in California & Medi-Cal Expansion – Informational Item

Health reform implementation remains a high priority for the Legislature and the Brown Administration. CSAC anticipates implementation of the Affordable Care Act (ACA) and the Medi-Cal expansion to continue to be a hot topic heading into the May Revision and budget negotiations. Below is a summary of the key outstanding issues.

Special Session

Please recall that Governor Brown, via Executive Order, called the Special Session on health reform in January. The Legislature convened the Special Session, and they operate the session at their discretion.

Three issues are being addressed in the Special Session:

- **Medi-Cal expansion.** ABX1 1 (Pérez) and SBX1 1 (Steinberg/Hernandez) would make various changes to state law to implement the mandatory and optional Medi-Cal expansions. The mandatory expansion includes the federal law changes required by the ACA that affect enrollment and Medi-Cal eligibility. ABX1 1 and SBX1 1 would also expand Medi-Cal to childless adults and parents up to 138 percent of federal poverty (optional expansion); the measures also describe the benefit package for the Medi-Cal expansion population.

The Senate and Assembly have passed each measure and the bills are in the second house awaiting policy committee hearings. The Administration has requested extensive amendments to ABX1 1 and SBX1 1. Policy differences include documentation and verification requirements, treatment of former foster youth, benefit levels for current Medi-Cal eligibles, and authority provided to the Director of the Department of Health Care Services.

CSAC is supporting both measures, which are identical.

- **Individual Market Reforms.** The ACA also requires a number of changes to individual health insurance markets. California has not implemented these changes. ABX1 2 (Pan) and SBX1 2 (Hernandez) establish health insurance market reforms contained in the ACA specific to individual purchasers, such as prohibiting insurers from denying coverage based on

preexisting conditions; and makes conforming changes to small employer health insurance laws resulting from new draft federal regulations.

- **Medi-Cal Bridge Plan.** SBX1 3 (Hernandez) would create an affordable “bridge” health care plan through Covered California, the state’s health benefit exchange.

The Bridge Plan will allow low-income individuals to affordably purchase health insurance while maintaining provider continuity and a medical home. The Bridge targets individuals with incomes approximately between \$15,000 and \$22,000 – those most at risk of being unable to afford coverage. Even with federal subsidies, these individuals will still have monthly premiums and co-pays. Developing affordable coverage options is crucial to ensure individuals and families enroll in coverage, particularly since we know that under best case scenarios 3 to 4 million Californians will remain uninsured five years after health reform implementation.

Additionally, the Bridge Plan would allow low-income individuals to retain their existing health care providers. Many individuals with incomes between 138% and 200% of the federal poverty level are currently enrolled in Low Income Health Programs. The Bridge can help ensure continuity of care for these patients and a seamless transition into managed care.

SBX1 3 is scheduled for hearing in Senate Appropriations on April 8. CSAC is supporting the bill.

State/County Discussions

CSAC and the Brown Administration continue to meet to discuss health reform implementation and the Medi-Cal optional expansion, specifically.

The Brown Administration continues to emphasize:

- The Governor’s interest in an affordable and sustainable Medi-Cal expansion.
- Their concerns about Medi-Cal costs – for both the mandatory and optional expansions.
- Their interest in realignment, including child care.
- Their view that current 1991 health realignment funds are discretionary subventions – and that the state does not pay counties twice for the same patients (via 1991 realignment and via the Medi-Cal optional expansion)

Recent conversations include technical discussions about behavioral health issues and public hospital issues. The Administration has not indicated whether they will modify their January budget proposals in the May Revision as they impact the Medi-Cal expansion.

CSAC Work with Counties

The CSAC Health & Human Services Policy Committee has been meeting every other week since January to provide information and updates about the Special Session, the Legislature, state/county meetings, and to craft policy.

The public hospital counties continue to work through their association to develop models for how the Medi-Cal expansion and other changes will impact county hospitals. Those county hospitals are hoping to develop a proposal to address the Governor's cost concerns.

The County Medical Services Program (CMSP), which provides health coverage for low-income, indigent adults in 35, primarily rural California counties. The CMSP Governing Board, established by California law in 1995, is charged with overall program and fiscal responsibility for the program. The CMSP Governing Board is having conversations with its member counties about potential savings resulting from the Medi-Cal optional expansion. The CMSP budget documents are public and include cost savings numbers in 2014-15.

CSAC has convened the 12 counties that neither own county hospitals nor are members of CMSP to assist them in thinking through the issues particular to that group of counties. Thus far, the counties are meeting as the payor counties – those that contract exclusively for services – and as clinic counties.

Payor counties include Fresno, Merced, Orange, San Diego, San Luis Obispo, and Yolo (though Yolo joined CMSP they are in a different position than the other 34 CMSP counties in terms of the fiscal relationship).

Clinic counties include Placer, Sacramento, Santa Barbara, Santa Cruz, Stanislaus, and Tulare.



April 3, 2013

To: CSAC Executive Committee

From: Cara Martinson, CSAC Associate Legislative Representative

RE: CEQA Reform UPDATE

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327.7500

Facsimile
916.441.5507

The discussion surrounding reforms to the California Environmental Quality Act (CEQA) continues in Sacramento despite the unexpected resignation of Senator Michael Rubio at the end of February. Speculation teemed as to the prospects of CEQA reform after the Senate Environmental Quality Committee Chair announced his departure. However, momentum continues with more than 20 CEQA reform bills introduced in both the Senate and Assembly this session, including a measure by the Senate President Pro Tem, Darrell Steinberg, SB 731, which is expected to be the lead legislative vehicle on the topic.

Up until his departure from the Senate, Senator Rubio had been negotiating with Senator Steinberg on a larger reform effort to overhaul CEQA and take a 'Standards Approach' alternative, which would rely on other regulatory standards in lieu of traditional CEQA project-level analysis. His efforts were supported by a number of organizations, including the CEQA Working Group, which is led by the California Alliance for Jobs, the Silicon Valley Leadership group and a number of business organizations. In addition, Governor Brown has expressed an interest in reforming CEQA to streamline the approval of development and infrastructure projects and promote job creation in California.

Over the past month, several members of the Legislature have stepped in, in Rubio's stead, introducing like measures to the Standards Approach, along with other smaller piecemeal reform bills. On the flip side, the environmental community is gearing up for a political fight. Several environmental and labor groups recently held a rally in Sacramento calling many of the CEQA reform measures introduced in the last month an attack by corporations and large-scale developers¹. Environmental organizations are mobilizing legislatively as well. The Planning and Conservation League has created its own coalition in defense of CEQA, which includes groups such as the California League of Conservation Voters, the Center for Biological Diversity, the Natural Resources Defense Council and Sierra Club California. Further blurring the lines, Senator Steinberg has appointed Senator Jerry Hill as the new chair of the Senate Environmental Quality Committee, heralded by environmental groups as an "environmental champion."

While the political lines are being drawn, there remains potential for some type of reform measure to move forward. Senator Steinberg's SB 731 is the starting point for the discussion and includes several pages of intent language that speak to reforms dealing with infill development; streamlining for clean energy, bike lanes and transportation projects; the establishment of specific minimum thresholds for impacts like parking, traffic, noise and aesthetics; Environmental Impact Report (EIR) tiering; limiting or prohibiting so-called "late hits" and "document dumps"; and, grants to local governments to update general and specific plans.

¹ "California Environmental Review Law Backers Rally at Capitol," Sacramento Bee, 12, March 2013.

In order to weigh in on the numerous proposals, CSAC has convened a working group comprised of county counsels, planning directors and public works directors to draft a set of general principles and policy statements to guide CSAC's advocacy efforts. The group has met and developed a draft document outlining a number of priorities for counties. This draft document is currently being circulated for comment to a number of groups, including the CSAC Housing, Land Use and Transportation (HLT) Policy Committee, County Planning Directors, County Public Works Directors and County Legislative Coordinators. The draft will go through the CSAC HLT Policy Committee for review and approval and to the CSAC Board of Directors for final approval at their meeting in May.

The draft document includes policy statements on a number of reform proposals currently being entertained within the Legislature and an acknowledgement that counties believe there are several opportunities for enhancing and improving key areas of the CEQA process.

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



**California State Association of Counties
CEQA Reform General Principles
And Policy Statements**

March 2013

Background

The California Environmental Quality Act (CEQA), signed into law by Governor Ronald Reagan in 1970, establishes a process to incorporate scientific information and public input into the approval of development projects, both public and private. Viewed by many as California's landmark environmental law, CEQA has attracted controversy throughout its 43 years and the current discussion of reform is only the latest round in a long-standing debate.

In 2012, Governor Brown and members of the Legislature expressed an interest in reforming CEQA to streamline the approval of development and infrastructure projects and promote job creation in California. Since that time, Senate President Pro Tem, Darrell Steinberg has committed to working to draft a set of reforms that improve California's benchmark environmental protection law.

In order to respond to CEQA reform proposals, CSAC convened a Working Group of CEQA experts, including Planning Directors, County Counsels and Public Works Directors, to help draft general policy principles that will guide CSAC through the CEQA Reform debate.

Introduction

Counties acknowledge that CEQA provides essential environmental information to the local decision-making process. Its purpose is to foster transparency, while ensuring governmental decisions take full account of environmental impacts, including reducing or avoiding significant environmental impacts wherever feasible.

The protection of our environment is a responsibility that counties take very seriously. Likewise, counties know that local governments must balance environmental protection and the need to complete necessary infrastructure projects and ensure the economic vitality of our communities. This balancing role is explicitly recognized in the CEQA statute and its Guidelines, which provide that CEQA must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement. However, the CEQA process remains wrought with uncertainty, costly litigation, and project delays.

Counties believe there are several opportunities for enhancing key areas of CEQA to improve its effectiveness and the efficiency of the environmental review process while ensuring that the law's environmental protection and public involvement purposes are

fulfilled. As lead agencies with responsibility for a wide range of environmental resources, counties have a unique ability to provide meaningful input into the process. CSAC's focus is to identify improvements that will streamline our delivery of public works and other public projects and make our development review processes more efficient by enhancing CEQA in ways that apply our increasingly scarce resources to actions that actually protect the environment.

The following general principles and policy statements are CSAC's foundation for representing counties and the citizens they serve at both the administrative and legislative level.

General Principles

- Counties support the balance of sound environmental protection with the need to complete projects that promote economic prosperity and social equity. Any proposed CEQA revisions should seek to modernize, simplify and streamline the law, and not dismantle it or create new and equally complicated processes.
- General purpose local government performs the dominant role in the planning, development, conservation, and environmental processes. Counties have and should retain a primary responsibility for land use decisions in unincorporated territory. In addition, counties should continue to assume lead agency roles where projects are proposed in unincorporated territory requiring discretionary action by the county and other jurisdictions.
- The CEQA process should be integrated with the planning process wherever possible, including the preparation of programmatic or master environmental documents that allow the use of tiered environmental review (including negative declarations) to achieve a more streamlined CEQA process for subsequent development and infrastructure projects.
- Counties support State funding to update and implement general plans, specific plans, sustainable communities strategies, and smart growth plans, including programmatic CEQA review of these plans.
- CSAC encourages local agencies to resolve CEQA disputes without costly litigation and in a way that buoys public confidence in local government, for instance through non-binding mediation.

- CSAC acknowledges its role to provide educational forums, informational resources and communication opportunities for counties in relation to CEQA practice and reform efforts.

Policy Statements

- Counties support the need for clarification and guidance in assessing cumulative impacts under CEQA; including recognition that limited contributions to a significant impact are not cumulatively considerable.
- Counties strongly support statutory changes to improve the defensibility of well-prepared mitigated negative declarations (MND), including but not limited to applying the substantial evidence standard of review to MNDs that meet certain criteria.
- CEQA currently allows for potential issues to be raised late in the decision-making process, giving rise to disruptive and counterproductive tactics known as “late hits” to stall the project review process. Counties support limits on the submittal of late input into the process. In order to raise an issue in court, counties assert that the issue with an EIR must have been raised during the Draft EIR public comment period, unless the new issue was not known and could not have been raised earlier.
- Counties support CEQA exemptions and streamlining for infill projects in both cities and existing urbanized areas in counties. Conditions for such exemptions and streamlining processes should be based on population densities or other objective measures of urban development, rather than arbitrary jurisdictional boundaries.
- Roadway infrastructure projects that protect the health and safety of the traveling public are subject to project delivery delays due to environmental review, even when a project replaces existing infrastructure. Counties support categorical and/or statutory exemptions and streamlining for critical road safety projects in the existing right-of-way.
- Counties support providing the courts with more practical discretion to sever offending parts of a large project that is subject to CEQA litigation and allow the beneficial parts of a project to proceed when they are not relevant to the court’s CEQA decision.

- Counties support increased transparency in the preparation and distribution of environmental documents. To accomplish this, CSAC supports State funding and assistance for the electronic filing of documents. Further, counties believe they are in the best position to decide how to make governmental information available to non-English speaking communities within their jurisdictions. Counties do not support state-mandated translation of CEQA documents.
- Counties believe that existing environmental laws and regulations can, in some circumstances, be used to streamline the CEQA process and avoid unnecessary duplication. However, Counties also believe that any such standards or thresholds must be found by the lead agency to be specifically applicable to the project where they are applied. If the use of existing environmental laws is intended to exempt a project from further CEQA review, it should be focused on specific impacts and limited to “qualified standards” that the lead agency reasonably expects will avoid significant impacts in the area addressed by the standard.
- Challenges to the contents of the administrative record have become a common way to create litigation delays and increased costs. Counties support a statutory clarification that the contents of an administrative record include all documents that were submitted to the relevant decision making body before the challenged decision.
- Counties support statutory revisions to increase the transparency of parties filing CEQA lawsuits, and limit CEQA actions to those brought by persons or entities with an environmental rather than solely economic interest in the project.
- Counties support statutory revisions to the private attorney general statute governing awards of attorneys’ fees, which are available to petitioners but not defendants. This low-risk, high-return imbalance in favor of petitioners is one of the primary drivers for CEQA litigation.
- Counties support the use of the substantial evidence standard for challenges to a categorical exemption.



CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

April 18, 2013

To: CSAC Executive Committee

From: Nancy Parrish, Executive Director, CSAC Finance Corporation

RE: CSAC Finance Corporation Update

The CSAC Finance Corporation will be holding its Annual Meeting April 25th and 26th in Sonoma County. Items on the agenda include approval of a contract with Extend Health for our new Retiree Healthcare program as well as full reports from all of our current partners on our existing programs.



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 25-26, 2013 at 8:00 a.m., at the Sonoma Mission Inn, 100 Boyes Boulevard, Sonoma, CA.

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

AGENDA

Thursday, April 25
7:30 a.m. Breakfast – Kenwood Ballroom

8:00 a.m.

1. Roll Call

- _____ Mark Saladino, **President**
- _____ Les Brown, **Secretary/Treasurer**
- _____ Robert Bendorf
- _____ Matt Cate
- _____ Greg Cox
- _____ Mike Johnson
- _____ Steve Juarez
- _____ Mike McGowan
- _____ Pat O'Connell
- _____ Larry Spikes
- _____ Tom Ford, **Board Member Emeritus**
- _____ Steve Swendiman, **Board Member Emeritus**

- _____ Nancy Parrish, *Executive Director*
- _____ Steven Woodside, *Legal Counsel*

2. Welcome and Introductions

Mark Saladino

3. Consideration of the Minutes from the Previous Board Meetings

Mark Saladino – ACTION ITEM

- Fall Board Meeting of September 13-14, 2012
- Teleconference Board Meeting of October 10, 2012
- Teleconference Board Meeting of November 14, 2012
- Teleconference Board Meeting of December 12, 2012
- Teleconference Board Meeting of January 9, 2013
- Teleconference Board Meeting of February 13, 2013
- Teleconference Board Meeting of March 13, 2013

4. **2013-2014 Board of Directors**

Mark Saladino – ACTION ITEM

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

5. **CSAC Finance Corporation History and Relationships**

Les Brown, Tom Ford, Steve Swendiman

6. **Consider Medicare Eligible Retiree Healthcare Program Adoption**

Nancy Parrish – ACTION ITEM

7. **California Statewide Communities Development Authority (CSCDA) Update**

HB Capital Staff

- a. Public Agency Programs
- b. Private Activity Programs
- c. 2012 Community Benefit Report
- d. Update on Contract Reviews
- e. Update on AB 1059

8. **Nationwide Retirement Solutions Update**

Rob Bilo

9. **CalTRUST Update**

Chuck Lomeli, Lyle Defenbaugh, & Mike Rodgers

10. **U.S. Communities Update**

Bryan Shumey

11. **CSAC Corporate & Sponsorship Programs Update**

John Samartzis

12. **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 26

8:00 a.m. Breakfast – Kenwood 1

8:30 a.m.

13. **Roll Call**

_____ Mark Saladino, *President*
_____ Les Brown, *Secretary/Treasurer*
_____ Robert Bendorf
_____ Matt Cate
_____ Greg Cox
_____ Mike Johnson
_____ Steve Juarez
_____ Mike McGowan
_____ Pat O'Connell
_____ Larry Spikes
_____ Tom Ford, *Board Member Emeritus*
_____ Steve Swendiman, *Board Member Emeritus*

_____ Nancy Parrish, *Executive Director*
_____ Steven Woodside, *Legal Counsel*

14. Consideration of Policy & Procedures Guide

Nancy Parrish – ACTION ITEM

15. Consideration of Public Benefit Program

Nancy Parrish & Steve Swendiman

16. Appoint Audit Committee for 2013-2014

Laura Labanieh Campbell – ACTION ITEM

17. Consideration of the Budget for FY 2013-2014

Les Brown & Nancy Parrish – ACTION ITEM

18. Marketing Update

Laura Labanieh Campbell

- Review of 2012-2013 Marketing Activities
- County Participation Matrix

19. Onsite Medical Clinic Program Update

Laura Labanieh Campbell

20. Branding Study Update

Nancy Parrish

21. CSAC Update

Matt Cate

22. Locations and Dates of Future Meetings

Laura Labanieh Campbell

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

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.



April 5, 2013

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

To: CSAC Officers
CSAC Executive Committee

From: Terry Woodrow, CSAC Treasurer
Matt Cate, Executive Director

RE: CSAC FY 2013-14 Budget

As Treasurer of CSAC, I present to you the proposed budget for the 2013-14 fiscal year. In conjunction with the Executive Director the attached revenue and spending plan for the upcoming year is hereby submitted for your approval.

Recommendation: Adopt the proposed FY 2013-14 CSAC budget with a dues increase to raise our level of effectiveness in Sacramento and to build capacity to effectively participate in advocacy and legal activities as warranted. Forward to the Board of Directors for their consideration at the Legislative Conference.

Reason for Recommendation: The budget presented today reflects the costs associated with CSAC's mission of advocacy, membership services and public/private partnerships. The budget then identifies the necessary level of resources to achieve continued success.

CSAC has become one of the most influential associations in California. To become the preeminent voice for local government, CSAC must have the resources to achieve our goal of driving policy development in the Capitol. The legislature must continue to ask "where is CSAC on this issue" before moving on legislation that affects counties. In addition, while we have built a healthy partnership with the Governor, the administration must know that we can stand strong in the Capitol and in the courts if our vital interests are threatened.

In order for CSAC to achieve a higher level of effectiveness in Sacramento, we need additional county revenues to support critical advocacy and legal staffing needs. As you know, CSAC recently promoted DeAnn Baker to Director of Legislative Affairs. Now we seek to build on that foundation.

First, we need an analyst/advocate in the area of Administration of Justice to ensure we effectively allocate and invest the \$1 billion we receive annually for AB 109 implementation. Data collection and analysis is critical to inform allocation formulas, including growth and the permanent allocations. We also must effectively advocate for the improvements to realignment necessary to improve public safety outcomes.

Second, we need to add a Housing, Land Use and Transportation analyst/advocate to support our efforts to secure Cap and Trade auction revenues for transportation purposes. CSAC has also been asked by the Secretary of Transportation to participate on a California Transportation Finance Workgroup to determine the highest priorities for transportation spending. As part of this process, stakeholders will explore long-term funding options and

evaluate the best ways to address our transportation needs in California. With literally billions of dollars in deferred transportation needs at stake, we must have competent and qualified staff to meet this challenge.

Third, legal counsel is critical for continued success in the areas of mandate and revenue protections over the broad scope of county interests. CSAC played a significant role in the development and implementation of both Proposition 1A (2004) and Proposition 30 (2012), in addition to negotiating the successful securitization of the Proposition 1A borrowing in 2009. Since so much of the state/county relationship is now tied to the provisions of these two ballot measures, it has become increasingly necessary to evaluate the efficacy of program and revenue changes from a legal perspective. CSAC currently relies heavily on the County Counsels' Association for our legal needs, including drafting constitutional amendments, reviewing bills and drafting amendments, and seeking legal advice on policy issues. While they do an excellent job, the County Counsels' Association has only one attorney on staff and is tasked with coordinating legal briefs amongst the 58 counties, yet is also pulled into a variety of discussions regarding proposed state actions. If funded, CSAC plans to hire the current County Counsel Association staff attorney and pay to backfill the Association's administrative needs. This move is vital now to inform our discussions and negotiations related to implementation of the ACA and ensuing Medi-Cal changes. There is substantial variation in how counties deliver health services, with county hospital and health systems being particularly complex. As you know, CSAC's Board recently voted to reject the Governor's proposal to realign child care services to counties without constitutional guarantees on revenues and costs associated with future programmatic changes. Nonetheless, the Administration continues to propose very complex fiscal transactions with numerous legal and policy implications for counties. Strong legal advice by dedicated CSAC counsel will be critical to ensuring counties maximize their legal protections under the constitution and state law.

Finally, to build on our successes over the past few years, CSAC must elevate our standing in the political arena by participating in critical partnerships and building new coalitions. The changing political climate requires forging new alliances with other advocacy groups and simultaneously strengthening our existing relationships with our affiliates and member counties. Often these efforts require a financial investment in the coalition's outreach plan.

Dues Increase: CSAC dues have been stable since 2008 when the great recession wreaked havoc on county budgets. CSAC expenses have been reduced each year while making every effort to meet the enormous challenges presented by the Capitol over that same period. To provide a higher level of service and build on our success as an organization, additional revenue is needed. Without a dues increase, the Executive Director believes strongly that we will not be able to meet the goals set by the CSAC Board. Without this investment in key staff, we may see our influence in the Capitol begin to diminish over time.

The suggested methodology seeks to achieve an equitable dues adjustment. Each counties' population and budget were taken into account. Counties are placed in dues brackets that reflect similarities in size and percentage share. All counties are asked to contribute. The overall increase statewide is \$631,000.

By way of comparison, our closest competitor in the Capitol is the League of Cities. The League's annual dues are \$6 million out of a \$14 million annual budget and it employs 59 staff. Currently, CSAC collects dues of \$2.8 million out of a \$9 million budget and employs 28 staff. In 2008, CSAC employed 33 staff. While budget and staffing resources do not always equal influence or victories, we must recognize they are important factors in our long term success.

Additionally, it is recommended that we agree to a revocable annual increase of 2.5% going forward to maintain the competitive edge we are seeking today. These annual increases are subject to annual Board override as necessary.

Highlights of the proposed CSAC FY 2013-14

Revenues

- Infusion of an additional \$631,000 from a dues increase.
- Corporate Associates is expected to grow, generating \$182,000 additional net revenue.
- Finance Corporation estimated contribution remains unchanged at \$3.3 million.
- Increase in rate charged for courses offered by the Institute for Excellence in County Government generating an additional \$75,000.

Expenses

- CSAC staff will be asked to absorb additional share of retirement contributions.
- CSAC will reduce health benefit costs by eliminating a provider option.
- Trim Outreach and Travel costs by \$57,000.
- Add two analyst/advocates in key areas as described.
- Provides funding for CSAC County Counsel legal support.
- Provides \$75,000 for tenant improvement to the Ransohoff building for a new tenant in the Pyramid space.

**California State Association of Counties
Proposed Budget
FY 13-14**

	Projected FY 12-13	Budget FY 12-13	WITHOUT DUES INCREASE Budget FY 13-14	WITH DUES INCREASE Budget FY 13-14
Revenues:				
Membership Dues	2,799,506	2,799,506	2,799,506	3,430,506
Finance Corp Participation	3,550,000	3,300,000	3,300,000	3,300,000
Rental and Parking Income	817,104	907,118	804,384	804,384
Administrative Miscellaneous	434,052	471,000	501,100	501,100
CSAC Conferences	395,545	355,000	315,000	315,000
Outside Contracts	135,995	134,531	139,395	139,395
Corporate Associates	393,000	500,000	679,500	679,500
CSAC Institute	<u>101,826</u>	<u>82,500</u>	<u>175,000</u>	<u>175,000</u>
Total Revenues	8,627,028	8,549,655	8,713,885	9,344,885
Expenditures:				
Salaries/Benefits	5,476,500	5,722,095	5,756,008	5,756,008
Staff Outreach	91,734	130,000	100,500	100,500
Leadership Outreach	113,194	100,000	85,000	85,000
NACo Meetings & Travel	88,000	80,000	68,000	68,000
Public Affairs/Communications	105,592	92,349	55,200	55,200
CSAC Conferences	569,345	552,150	489,078	489,078
Facilities	802,428	831,060	894,802	894,802
Operations	1,076,807	1,027,860	1,021,599	1,021,599
Outside Contracts	254,192	254,531	239,395	239,395
Health Care Pool				
Campaign				
Corporate Associates	113,873	36,800	215,500	215,500
CSAC Institute	<u>218,074</u>	<u>244,150</u>	<u>234,028</u>	<u>234,028</u>
Total Expenditures	8,909,739	9,070,995	9,159,110	9,159,110
PROFIT/(LOSS)	(282,710)	(521,340)	(445,225)	185,775

ACCOUNT EXPLANATIONS -
BUDGET YEAR 13-14

13/14 Budget

ACCT#	EXPLANATION
INCOME:	
MEMBERSHIP DUES	ANNUAL DUES FROM COUNTIES.
FINANCE CORP PARTICIPATION	CSAC FINANCE CORPORATION CONTRIBUTIONS TO CSAC.
RENTAL & PARKING INCOME	RENTAL INCOME FOR 1100 K STREET AND 1029 K STREET. ALMOST 50% VACANCY AT THIS TIME WHICH IS A RESULT OF THE AGE OF THE FACILITY AND IS IN LINE WITH SACRAMENTO'S CURRENT OFFICE RENTAL MARKET. SIGNED ON WITH CORNISH & CAREY COMMERCIAL TO ASSIST IN FINDING TENANTS.
ADMINISTRATIVE MISCELLANEOUS	1) ADMINISTRATION FEES COLLECTED FROM CSAC AFFILIATES FOR PAYROLL AND BENEFIT SERVICES, RAISING RATES FROM 4 TO 5%. 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 CALTRUST ACCOUNTS. 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	GENERAL REGISTRATION FEES FOR CSAC ANNUAL CONFERENCE AND LEGISLATIVE CONFERENCE.
OUTSIDE CONTRACTS	CEAC CONTRACT.
CORPORATE ASSOCIATES	CORPORATE ASSOCIATES MEMBERSHIP DUES AND SPONSOR REVENUES FOR CSAC CONFERENCES. EXHIBITOR AND PRE INCOME NOW INCLUDED ON THIS LINE ITEM **PROGRAM BUDGET HAS BEEN RESTRUCTURED TO REFLECT ALL REVENUE GENERATED BY PROGRAM.
CSAC INSTITUTE	REGISTRATION REVENUE. FIGURE INCLUDES A REGISTRATION RATE ADJUSTMENT.
EXPENSES:	
SALARIES/BENEFITS	1) SALARIES ASSUMES HIRING ADVOCACY STAFF AS NOTED IN THE TREASURER'S REPORT. SOME STAFF MAY RECEIVE A MERIT INCREASE IN JANUARY '14 IF WARRANTED. DOES NOT ASSUME ANY COLA'S. 2) EMPLOYEES ARE CURRENTLY CONTRIBUTING 2% TO RETIREMENT, BUDGET REFLECTS AN ADDITIONAL RETIREMENT CONTRIBUTION FROM EMPLOYEES. 3) BENEFITS TO INCLUDE HEALTH, DENTAL, VISION, EAP, LIFE AND WORKERS COMP. DISCONTINUING ONE HEALTH PLAN. 4) PAYROLL TAX. 5) AUTO ALLOWANCE. 6) STRATEGIC PLANNING 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. CUT ALL TRAVEL ACCOUNTS BY 15%.
LEADERSHIP OUTREACH	ALL BUSINESS EXPENSES FOR CSAC BOARD OF DIRECTORS, EXECUTIVE COMMITTEE AND OFFICERS. CUT BY 15%.

**ACCOUNT EXPLANATIONS -
BUDGET YEAR 13-14**

ACCT#	EXPLANATION
NACO MEETINGS & TRAVEL	ALL COSTS ASSOCIATED FOR LEGISLATIVE, ADMINISTRATIVE STAFF AND BOARD MEMBERS TO ATTEND NACO SUPPORTED EVENTS. CUT BY 15%.
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.
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. INCLUDES \$75,000 TENANT IMPROVEMENT FOR NEW TENANT IN PYRAMID SPACE.
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/STAFF 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.
CORPORATE ASSOCIATES	ALL COSTS ASSOCIATED WITH MANAGING CORPORATE ASSOCIATES PROGRAM.
CSAC INSTITUTE	ALL COSTS ASSOCIATED WITH MANAGING AND IMPLEMENTING THE CSAC INSTITUTE.



County Counsels' Association of California

BOARD OF DIRECTORS

Officers

President

James N. Fincher
Merced County

Vice-President

Pamela J. Walls
Riverside County

Secretary-Treasurer

Thomas E. Montgomery
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Immediate Past President

Michael L. Rood
Imperial County

Historian (Nonvoting)

James A. Curtis
Sierra County

Directors

Charles J. McKee
Monterey County
2011-2013

Thomas R. Parker
Mendocino County
2011-2013

Bruce D. Goldstein
Sonoma County
2012-2014

Bruce S. Alpert
Butte County
2012-2014

EXECUTIVE DIRECTOR

Jennifer B. Henning

MEMORANDUM

To: Supervisor David Finigan, and
Members of the CSAC Executive Committee

From: Jennifer Henning, Litigation Coordinator

Date: April 18, 2013

Re: 2013-2014 Litigation Coordination Budget

Recommended Action:

Recommend adoption of the 2013-2014 Litigation Coordination Program budget to the CSAC Board of Directors.¹

Reason for Recommendation:

There has been only a small 3% fee increase in the Litigation Coordination Program in the last four years. However, this year, in order to pay for cost increases (primarily retirement and health insurance increases), the Litigation Coordination Fee must be increased by 11%. The fee increase, which amounts to an increase of \$1,700 for the largest counties and \$19 for the smallest counties, will allow the Program to continue to provide high quality coordination to counties and court representation to CSAC for the upcoming fiscal year.

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 filed *amicus curiae*, or "friend of the court," briefs on CSAC's behalf in State and federal appellate cases in order to advance the interest of all counties in the courts.

¹ The County Counsels' Association's Board of Directors tentatively approved the budget on January 18, 2013, and will consider the budget for final approval on April 17, 2013.

Supervisor David Finigan, President, and
Members of the CSAC Executive Committee
April 18, 2013
Page 2 of 2

The Litigation Coordination Program is funded through a fee administered and collected directly by CSAC. The fees are held in a separate fund and used to pay for costs of the Program, including 80% of the Litigation Coordinator's salary, a portion of the County Counsels' Association's office space, and other expenses associated with operating the Program.

The Program has operated during the last four years without minimal fee increases by:

- leaving a position vacant following a staff retirement,
- shifting a portion of staff costs to the County Counsels' Association's budget,
- providing no salary increases to the Litigation Coordinator for the last two years, and
- negotiating a reduction in office lease space.

Having exhausted these cost saving measures, this year requires a fee increase in order to keep up with rising costs.

The proposed budget does include a 3% salary increase for the Litigation Coordinator after holding salaries flat for the last two years. However, even if the salary were to remain flat for another year, Program fees would still have to increase approximately 8% rather than the 11% shown in the proposed budget.

I am keenly aware that our member counties continue to face difficult budget decisions throughout the State. However, the costs of operating the Program are increasing, despite all efforts to reduce expenses. Further, the demands on the Program continue to grow. If the Program is not fully funded, we will have to make cuts in litigation services at a time when our ability to respond with sound legal advice and coordinated litigation if necessary is most critical.

Conclusion

The proposed 2013-2014 Litigation Coordination Program budget is a responsible budget intended to ensure the Program services continue with as little impact on county revenues as possible. I remain dedicated to this Program and to providing the highest quality legal representation to CSAC in the courts. I appreciate your support of the Litigation Coordination Program, and ask that you recommend approval of the proposed Fiscal Year 2013-2014 Litigation budget to the CSAC Board of Directors.

Attachments:

Proposed Litigation Budget
Litigation Budget Comparison 2011-12 to 2013-14
Proposed 2013-14 Litigation Program Fees

**CSAC/County Counsels' Association
LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2013-2014 BUDGET**

Approved by Litigation Overview Committee on _____, 2013
 Approved by County Counsels' Association Board of Directors on _____, 2013
 Approved by CSAC Executive Committee on _____, 2013
 Adopted by CSAC Board of Directors on _____, 2013

INCOME:

Membership Dues335,721.00
 TOTAL INCOME.....335,721.00

EXPENSES:

Salaries.....\$164,569.00
 Retirement.....74,903.00
 Employee Group Insurance.....49,542.00
 Payroll Tax.....2,275.00
 CSAC Administrative Fees.....7,283.00
 Staff Expense and Travel.....2,100.00
 Communications.....1,200.00
 On-Line Expense.....2,130.00
 Membership Fees.....485.00
 Office Supplies.....400.00
 Postage/Delivery.....500.00
 Printing - Commercial.....2,500.00
 Printing - In House.....450.00
 Leases - Property.....25,000.00

TOTAL EXPENSES.....333,087.00
 Projected Revenue Over Expenses2,634.00

**LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2013-2014 BUDGET**

LITIGATION COORDINATION PROGRAM
Budget Comparison (2011/12-2013/14)
 Prepared for Fiscal Year 2013-2014 Budget

	2011-12 Actual	2012-13 Budget	2012-13 Projected+	2013-14 Budget
INCOME:				
Membership Dues	\$309,175.00	\$299,362.00	\$299,362.00	\$335,721.00
Misc. Income		0.00	0.00	0.00
TOTAL INCOME:	\$309,175.00	\$299,362.00	\$299,362.00	\$335,721.00
EXPENSES:				
Salaries	\$162,166.24*	\$158,005.00	\$158,758.08*	\$164,569.00
Retirement	61,539.30	54,851.00	68,093.17	74,903.00
Employee Group Insurance	35,433.37	40,342.00	46,301.12	49,542.00
Staff Travel/ Training	667.57	1,000.00	991.76	1,000.00
Law Clerk	0.00	0.00	0.00	0.00
Communications	1,974.54	1,200.00	2,013.67	2,100.00
On-Line Expenses	2,125.04	2,200.00	2,046.43	2,130.00
Publications	1,489.68	0.00	0.00	0.00
Membership Fees	400.00	425.00	485.00	485.00
Office Supplies	40.00	400.00	300.00	400.00
Postage/Delivery	532.91	500.00	444.31	500.00
Printing- Commercial	2,779.12	2,000.00	2,791.86	2,500.00
Printing – In-House	355.96	650.00	400.00	400.00
Leases – Property	27,085.76	24,500.00	24,364.56	25,000.00
Payroll Tax	2,266.44	2,289.00	2,208.75	2,275.00
Admin Fees	6,426.35	6,386.00	6,884.03	7,283.00
TOTAL EXPENSES	\$305,282.28	\$294,748.00	\$316,082.74	\$333,087.00
Revenues Over/(Under) Expenditures	\$3,892.72	\$4,614.00	(\$16,720.74)	\$2,634.00

+ Based on Financial Statements through November 30, 2012

* Includes vacation buyout

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

Approved by the Board of Directors of the County Counsels' Association on January 17, 2013.

Approved by the CSAC Executive Committee on _____, 2013.

Approved by the CSAC Board of Directors on _____, 2013.

(9 counties 1,000,000 or over)

Los Angeles	\$15,456 <u>17,156</u>
San Diego	
Orange	
Santa Clara	
San Bernardino	
Riverside	
Alameda	
Sacramento	
Contra Costa	

(7 counties 500,000 to 999,999)

Fresno	\$10,303 <u>11,436</u>
San Francisco	
Ventura	
San Mateo	
Kern	
San Joaquin	
Stanislaus	

(~~11~~2 counties 200,000 to 499,999)

Sonoma	\$5,152 <u>5,719</u>
Santa Barbara	
Monterey	
Solano	
Tulare	
Santa Cruz	
Marin	
San Luis Obispo	
Placer	
Merced	
Butte	
<u>Yolo</u>	

(8 7 counties 100,000 to 199,999)

Shasta	\$ 2,062 <u>2,285</u>
Yolo	
El Dorado	
Imperial	
Humboldt	
Napa	
Kings	
Madera	

(8 counties 50,000 to 99,999)

Nevada	\$ 1,030 <u>1,143</u>
Mendocino	
Sutter	
Yuba	
Tehama	
Lake	
Tuolumne	
San Benito	

(12 counties 10,000 to 49,999)

Siskiyou	\$ 517 <u>574</u>
Calaveras	
Lassen	
Amador	
Del Norte	
Glenn	
Plumas	
Colusa	
Inyo	
Mariposa	
Trinity	
Mono	

(3 counties under 10,000)

Sierra	\$175 <u>194</u>
Alpine	
Modoc	



County Counselors' Association of California

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Jennifer B. Henning

MEMORANDUM

To: Supervisor David Finigan, President, and
Members of the CSAC Executive Committee

From: Jennifer Henning, Litigation Coordinator

Date: April 18, 2013

Re: Litigation Coordination Program Update

This memorandum will provide you with information on the Litigation Coordination Program's activities since your last regular meeting in January 2013.

I. New Case Activity Since Last Executive Committee Meeting

Concerned Dublin Citizens v. City of Dublin

--- Cal.App.4th ---, 2013 Cal.App.LEXIS 239 (1st Dist. Mar. 7, 2013)(A135790),
ordered published (Mar. 28, 2013)

In an opinion that was initially unpublished, the First District Court of Appeal upheld the City of Dublin's use of a CEQA streamlining provision to approve a 7 acre residential development within a larger development for which a specific plan and EIR have already been approved and adopted. Applying the substantial evidence standard of review, the court found that the streamlining provision (Gov. Code, § 65457) was properly applied here because: (1) the project is residential, with only incidental non-residential components; (2) the project is consistent with the adopted specific plan; and (3) no changes have occurred since adoption of the specific plan that would trigger the need for a supplemental EIR. CSAC request to have this decision published was granted on March 28.

Ford v. City of Yakima

706 F.3d 1188 (9th Cir. Feb. 8, 2012)(11-35319)

A police officer initiated a traffic stop of a vehicle that plaintiff was operating because of a violation of the City's noise ordinance. Ford began yelling at the officer. Thereafter the officer made several statements to his partner and to Ford to the effect that Ford's complaint and protestations may convince the officer to make a custodial arrest rather than citing and releasing Ford for the noise violation. Ford was tried and found not guilty of the noise violation. He then filed this civil rights action against the city and the officers alleging that in electing to arrest and book him, the officers retaliated against Ford for exercising his First Amendment right to freedom of speech. The trial court rule in favor of

the defendants, but the federal Ninth Circuit Court of Appeals reversed, finding that an officer violates the First Amendment if he makes a decision to book an arrestee (rather than cite and release) in retaliation for the arrestee's exercise, after the moment of arrest, of First Amendment rights, even if the arrest is supported by probable cause and the booking decision is authorized under state law. Moreover, according to the majority, this right was clearly established as of 2007 so the officer was not entitled to a qualified immunity. The city is seeking rehearing. CSAC filed a letter in support.

Guerrero v. Superior Court (Weber)

213 Cal.App.4th 912 (1st Dist. Feb. 11, 2013)(A133202), *petition for rehearing denied* (Mar. 12, 2013)

Plaintiff alleged that she worked as an IHSS worker 7 hours per day, 7 days per week for several months, but that her hours were fraudulently claimed by the recipient's grandmother. As a result, plaintiff received no payment for the work she allegedly performed. She brought this action seeking to recover her wages from the Sonoma County Human Resources Director and the Manager of the Sonoma County IHSS Public Authority. The trial court ruled in favor of the defendants, concluding that Sonoma County is not plaintiff's employer for purposes of wage and hour laws. The Court of Appeal reversed, concluding, among other things, that the county and public authority may be joint employers with the recipient under the Fair Labor Standards Act (FLSA). CSAC has filed a request seeking to have this opinion depublished, and will file a letter supporting Sonoma County's petition for Supreme Court review.

Pacific Bell v. City of Livermore

Pending in the First Appellate District (filed Oct. 1, 2012)(A136714)

The City of Livermore, applying its ordinance favoring the undergrounding of new utilities, denied Pacific Bell's request to string its fiber-optic telephone lines above-ground, citing concerns about the appearance of the proposed lines. Pacific Bell sued, claiming that Public Utilities Code sections 7901 and 7901.1 preempted the local regulation of telephone lines for aesthetic and public safety purposes. The trial court ruled in favor of the city, finding that section 7901 specifically allows local regulations based on aesthetics and public safety. Pacific Bell has appealed. CSAC will file a brief in support of the city.

Qualified Patients Assoc. v. City of Anaheim

Pending in the Fourth Appellate District, Division Three (filed Jan. 30, 2012)(G046417)

In 2007, the City of Anaheim enacted an ordinance banning medical marijuana dispensaries. The trial court upheld the ordinance. In the first appeal, the court left open the issue of whether the State's Medical Marijuana Program Act (MMPA) preempts local ordinances regulating medical marijuana activities. The case went back to the trial court, and the court upheld all but the criminal penalties of the ordinance against the state preemption challenge. The court found that there is no conflict between the MMPA and the city's ordinance. The court also concluded that the Compassionate Use Act (CUA) "clearly does not occupy the field of medical marijuana distribution." Similarly the court found that the MMPA does not fully occupy the area of medical marijuana distribution law.

The court did conclude that the CUA preempts the criminal sanctions, but concluded that the criminal sanction portion of the ordinance is severable. The remaining provisions making medical marijuana dispensaries a nuisance per se were upheld. Plaintiff has again appealed. CSAC will file a brief in support of local control over dispensary regulation.

Riverside County Sheriff's Dept v. Stiglitz

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

An employee of the Sheriff's Department (Drinkwater) was charged with falsifying time documents. She was ultimately terminated, and requested an administrative appeal of her termination. During that administrative appeal, Drinkwater filed a *Pitchess* motion seeking to examine the personnel records of eleven officers. The hearing officer ordered an in camera review of the records, but before the review took place, the Sheriff's Department filed a writ petition and sought an immediate stay in the trial court. The trial court granted the writ, concluding that only judicial officers may rule on *Pitchess* motions, and thus no *Pitchess* motions may be brought or considered in an administrative hearing. On appeal, the Fourth District reversed, holding that a hearing officer in an administrative appeal of the dismissal of a correctional officer has the authority to grant a *Pitchess* motion. The Supreme Court has granted review. CSAC will file a brief in support of the Riverside County Sheriff's Department.

Save Cuyama Valley v. County of Santa Barbara

213 Cal.App.4th 1059 (2d Dist. Jan. 10, 2013)(B233318), *ordered published* (Feb. 8, 2013)

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

Silicon Valley Taxpayers Assoc. v. Garner

Pending in the Sixth Appellate District (filed Nov. 7, 2012)(H038971)

In August 2012, the Santa Clara County Board of Supervisors voted to place a sales tax measure on the November ballot. Because all supervisorial seats were filled at the June election, there were no candidates for members of the Board of Supervisors on the November ballot. The Silicon Valley Taxpayers Association (SVTA) filed a writ petition arguing that placement of the tax measure on the November ballot violated Prop. 218 in the absence of a run-off election since Prop. 218 states that elections for general taxes must be consolidated "with a regularly scheduled general election for members of the governing body of the local government. . . ." The trial court ruled in favor of the county, and SVTA has appealed. CSAC has filed a brief in support of Santa Clara County.

II. Amicus Cases Decided Since Last Executive Committee Meeting

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

City of Auburn v. Sierra Patient & Caregiver Exchange, Inc.

Unpublished Opinion of the Third Appellate District, 2013 Cal.App.Unpub.LEXIS 1011 (3d Dist. Feb. 7, 2013)(C069622), *petition for rehearing denied* (Feb. 26, 2013)

Outcome: Positive

A medical marijuana dispensary secured a business license to operate in the City of Auburn as a florist, but undercover police efforts revealed it was a dispensary. The city sought an injunction to close the operation, claiming it was a public nuisance since the city's zoning code expressly bans medical marijuana dispensaries. The trial court granted the injunction. On appeal, defendant argued that the city's total ban on dispensaries is preempted by state law, and that the city's nuisance abatement action violated his procedural due process rights. The Third District affirmed in an unpublished opinion, concluding that defendant committed a nuisance per se by surreptitiously opening a dispensary. CSAC filed a brief in support of the city.

County of Alameda v. Workers' Compensation Appeals Board

213 Cal.App.4th 278 (1st Dist. Jan. 30, 2013)(A135889)

Outcome: Positive

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

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

211 Cal.App.4th 57 (2d Dist. Nov. 16, 2012)(B239849), *petition for review denied* (Feb. 20, 2013)(S201534)

Outcome: Negative

Attorney Anderson-Barker works in the same office as two other attorneys who represent a plaintiff in a civil rights action against Los Angeles County. She filed a Public Records Act request for the invoices and time records of the law firms representing the County in the civil rights action, as well as canceled checks or other writings reflecting

payment to those firms. The County denied her request, taking the position that the documents were attorney-client communications, attorney work product, and exempt from disclosure under the CPRA's "pending litigation" exemption in section 6254, subdivision (b). Anderson-Barker sought a writ of mandate. The trial court ruled that the documents were not attorney-client privileged communications, and that any work product showing the thought process and impressions of counsel could be redacted from the records. The court also found that the pending litigation exemption only applied to records specifically prepared for use in litigation, which did not include billing records. The County sought a writ in the Second District on the pending litigation exception ruling. (It did not challenge the attorney-client privilege or work product rulings.) The court denied the writ summarily, but was later directed by the California Supreme Court to consider the merits. The court then denied the writ, finding that the records were not prepared for use in the civil rights litigation, but were only incident to the lawsuit. Since the dominant purpose of the records was not for use in litigation, but as part of the "normal record keeping and to facilitate the payment of attorney fees on a regular basis," the exemption did not apply. CSAC supported the county's petition for review, but review was denied.

Harris v. City of Santa Monica

56 Cal.4th 203 (Feb. 7, 2013)(S181004), *petition for rehearing pending* (filed Feb. 25, 2013)

Outcome: Positive

A city bus driver was terminated during her probationary period based on several incidents of misconduct, but also shortly after she disclosed to her employer that she was pregnant. She sued the city for pregnancy discrimination. At trial, the city sought jury instructions on the mixed-motive affirmative defense. The trial court refused, and instead instructed the jury that the city was liable for discrimination if plaintiff's pregnancy was a motivating factor for the discharge even if other factors may have also contributed to the decision. The jury returned a verdict for plaintiff. The Second District reversed, finding that the court's failure to instruct the jury on the mixed-motive affirmative defense deprived the city of a legitimate defense. On rehearing, the court reached the same outcome, concluding that the mixed-motive defense is available to an employer accused of employment discrimination. The judgment was reversed and the case was remanded for retrial. The Supreme Court granted review, and affirmed: "We hold that under the FEHA, when a jury finds that unlawful discrimination was a substantial factor motivating a termination of employment, and when the employer proves it would have made the same decision absent such discrimination, a court may not award damages, backpay, or an order of reinstatement. But the employer does not escape liability. In light of the FEHA's express purpose of not only redressing but also preventing and deterring unlawful discrimination in the workplace, the plaintiff in this circumstance could still be awarded, where appropriate, declaratory relief or injunctive relief to stop discriminatory practices." CSAC filed a brief in support of the city.

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

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

Outcome: Positive

Plaintiffs filed this action against the county and the county flood control district over, among other things, their alleged failure to prevent polluted stormwater from entering the Santa Clara River, the Los Angeles River, the San Gabriel River, and Malibu Creek in violation of the county's "NPDES" permit. The case raised the issue of whether the county and the district could be held liable under the Clean Water Act (CWA) for polluted storm water discharges where the district only conveyed the polluted storm water without having actually caused the pollution, and there was no evidence that the county was a source of the pollution. The Ninth Circuit first concluded that the CWA does not distinguish between those who add pollutants to the water and those who convey the pollutants. The court then upheld a district court ruling in favor of the county, finding that plaintiffs failed to show how stormwater from municipal separate storm sewer systems (MS4s) controlled by the county caused or contributed to pollution in any of the four Watershed Rivers. As to the flood control district, since the monitoring stations for the Los Angeles and San Gabriel Rivers are located in a concrete section of ms4 owned and operated by the district, the Ninth Circuit concluded plaintiffs were entitled to partial summary judgment because the court assumed that after stormwater known to contain standards-exceeding pollutants passes through these monitoring stations, this polluted stormwater is discharged into the two rivers. The Supreme Court granted certiorari and reversed in a unanimous decision. The Court relied on prior Supreme Court decisions that hold that the transfer of polluted water between "two parts of the same water body" does not constitute a discharge of pollutants for purposes of the CWA. That precedent, reaffirmed here, derives from the CWA's text which defines the term "discharge of a pollutant" to mean "any addition of any pollutant to navigable waters from any point source." According to the Supreme Court, "no pollutants are 'added' to a water body when water is merely transferred between different portions of that water body." CSAC filed briefs in support of the Flood Control District in the Ninth Circuit and the United States Supreme Court.

People v. United States Fire Insurance

210 Cal.App.4th 1423 (5th Dist. Nov. 8, 2012)(F063445), *request for depublication denied* (Feb. 27, 2013)(S207545)

Outcome: Negative

This case involves the County Counsel's ability to recover costs for work in bail forfeiture matters under Penal Code section 1305.3. Section 1305.3 states: "The district attorney, county counsel, or applicable prosecuting agency, as the case may be, shall recover, out of the forfeited bail money, the costs incurred in successfully opposing a motion to vacate the forfeiture and in collecting on the summary judgment prior to the division of the forfeited bail money between the cities and counties in accordance with Section 1463." In this matter, the Fresno County Counsel's Office was successful in its summary judgment motion on a bail bond forfeiture, and the summary judgment was upheld in an unpublished opinion on appeal. County Counsel moved for attorney fees at its

**Supervisor David Finigan, President, and
Members of the CSAC Executive Committee**
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designated billing rate (\$113/hour). The superior court denied the motion, concluding that the term “costs” in Section 1305.3 does not include County Counsel attorney and staff time. The Fifth District affirmed, concluding that the terms “costs” and “attorney fees” do not have the same meaning, and the Legislature is presumed to know the difference. Fresno County's depublication request, which CSAC supported, was denied.

Schmeer v. County of Los Angeles

213 Cal.App.4th 1310 (2d Dist. Feb. 21, 2013)(B240592), *petition for review pending* (filed Mar. 29, 2013)(S209633)

Outcome: Positive

In 2010, Los Angeles County adopted an ordinance prohibiting affected stores from providing plastic bags to customers. The ordinance also required that a store charge 10 cents for each recyclable paper bag provided to a customer. The 10 cents is retained by the store to cover its compliance costs, including recovering its actual costs for providing the paper bags. The 10 cents is not remitted to the county and does not generate any revenue for the county. Plaintiffs, plastic bag manufacturers and taxpayers, challenged the ordinance alleging that the 10 cent charge on paper bags is an invalid tax under Prop. 26, and that the remaining portion of the ordinance banning plastics bags is not severable. The trial court denied a petition for writ of mandate and declaratory relief, noting that Prop. 26 was intended to apply to revenue generation measures, but here, no portion of the 10 cents is collected by the county nor spent by the county to pay for any public program. As such, the court concluded that the 10 cents charge is not a special tax under Prop. 26, and voter approval from two-thirds of the electorate in the county was not required to adopt the ordinance. The Second District affirmed: “We conclude that the paper carryout bag charge is not a tax for purposes of article XIII C because the charge is payable to and retained by the retail store and is not remitted to the county.” CSAC filed a brief in support of the county.

Sierra Club v. County of Tehama

Unpublished Opinion of the Third Appellate District, 2012 Cal.App.Unpub.LEXIS 8813 (3d Dist. Nov. 30, 2012)(C066996), *publication request denied* (Feb. 27, 2013)(S207625)

Outcome: Negative

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

2013 CSAC Executive Committee Calendar of Events

January

- 16 CSAC Executive Committee Orientation Dinner, Sacramento County
6:30pm Reception, 7:15pm Dinner, Esquire Grill, 13th & K Streets, Sacramento, CA 95814
- 17 CSAC Executive Committee Meeting, Sacramento County
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

February

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

March

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

April

- 18 CSAC Executive Committee Meeting, Los Angeles County
10:00am – 1:30pm, Maya Hotel, 700 Queensway Drive, Long Beach, CA 90802
- 25-26 CSAC Finance Corporation Meeting, Sonoma County

May

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

July

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

August

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

September

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

October

- 9-11 CSAC Executive Committee Retreat
10:00am – 1:30pm, Resort at Squaw Creek, 400 Squaw Creek Road, Olympic Valley, CA 96146
- 21-25 NACo National Council of County Association Executives Annual Fall Meeting

November

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

December

- 4-6 CSAC Officers Retreat, Napa County