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October 12, 2007

Eminent Domain Reform Effort Returns to the Ballot

By Paul McIntosh, Executive Director
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The CSAC Executive Committee recently supported moving forward on gathering signatures for the "Homeowners and Private Property Protection Act," a measure sponsored by the coalition that formed to oppose last year's Proposition 90. Counties will recall that, during the "No on 90" campaign, CSAC and our coalition partners pledged to seek practical and reasonable eminent domain reform. While we were disappointed that the Legislature failed to enact ACA 8, Assembly Member Hector De La Torre's measure to provide broad eminent domain protections to California property owners, the Executive Committee concluded that the coalition must press forward by going to the voters with a serious eminent domain reform measure.

Put simply, the Homeowners and Private Property Protection Act amends the constitution to prohibit government from using eminent domain to take an owner-occupied home to transfer to another private person or business. There are specific exemptions to allow the government to protect the public's health and safety, prevent repeated criminal activity, respond to an emergency, or remedy environmental contamination. Polling now confirms that a significant majority of Californians support such protections. The coalition is now actively gathering signatures to qualify this measure for the June 2008 ballot.

Recall also that the Howard Jarvis Taxpayers Association, the California Farm Bureau Federation, and the Citizens' Alliance to Protect Private Property Rights is also sponsoring signature gathering for the "California Property Owners and Farmland Protection Act (CPOFPA)." This measure purports to be about protecting private property from eminent domain, but contains a number of other troubling provisions that would:

- Prohibit or require compensation for local land use decisions.
- Prohibit local rent control and affordable housing laws.
- Prohibit public agencies from using eminent domain to acquire land for public water projects.

Moreover, there is no exception for actions taken by a government to protect the public's health or safety.

This measure is likely headed to the June 2008 ballot, as well. Our coalition strongly opposes this measure, as it contains the same questionable and costly provisions that were in last year's Proposition 90. Polling also strongly suggests that voters do not support the provisions in CPOFPA that would eliminate rent control, prevent future water projects, and stand in the way of responsible land use planning.

For more information, please contact me at pmcintosh@counties.org or Jean Hurst at jhurst@counties.org. CSAC will be working with our Executive Committee, coalition partners, and consultants on the next steps and will continue to communicate the most up-to-date information to counties as it becomes available. Check the [CSAC Web site](#) for the latest developments.

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BOE Considering Dramatic Expansion of Welfare Exemption

The California Board of Equalization has directed their staff to study an expansion of the tax exemption granted to non-profit, community-benefit organizations. The exemption, which was instituted through a 1944 ballot measure, currently applies to organizations that provide a benefit to their local community, such as hospitals and churches, but the change under examination would broaden the definition of "community" to include today's conceptual "global community." As a result, non-profit organizations that own property such as a headquarters or warehouse and that provide, for instance, humanitarian aid to distressed people on other continents, would be exempt from property taxes on their California property.

CSAC has serious concerns with this proposal. First of all, the ballot measure that was enacted by the voters clearly envisions "communities" to be local areas, as do the implementing statutes. In fact, the tax break was not conceived as a moral reward, but a pragmatic policy realization that these organizations are providing services for which the government would otherwise be responsible; clearly, this would not be the case if the services being provided were not within the state. Secondly, the proposed change has the potential to remove a significant amount of property from the tax rolls. Also, there would be insurmountable administrative problems. County assessors would have to either take the word of the organizations that stand to gain that their actions benefit the global community, or they would need to devise a worldwide investigatory body. Fraud and abuse would be easy to perpetrate, and could only be detected through expenditure of considerable public treasure.

Some organizations that would benefit from the change speculate that the exemption, as everyone has understood it for over 60 years, could violate the commerce clause of the U.S. Constitution by favoring in-state operators over others. However, in passing the 1944 measure, voters aligned California policy with the other 47 states that existed at the time, and a cursory search does not indicate that any of these laws have been found unconstitutional. Also, if the policy were unconstitutional, the appropriate remedy would not be to expand the exemption beyond what the voters approved, it would be to strike down the measure. Finally, it is questionable whether the BOE has authority to expand a tax exemption beyond what is authorized by the state constitution and statutes.

BOE staff is accepting written comments on this issue until November 2. Counties should address their comments to Sherrie Kinkle, State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0064.

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State Revenue Forecasts Increasing 2008-09 Deficit

According to the *Sacramento Bee*, major state tax receipts collected during July and August are falling short of the estimates assumed in the 2007-08 state budget. During these two months, the state fell \$308 million below forecast in the personal income, sales, and corporate tax revenue.

The Department of Finance is quoted as noting that the state's projected 2008-09 deficit "will be higher" than the \$6.1 billion originally anticipated. The *Sacramento Bee* suggests a potential operating deficit of \$8.6 billion; the Department of Finance will not release revenue projections for 2008-09 until the Governor's budget is released in January.

Job growth and the soft housing market are blamed for the slowdown in tax receipts. However, there are also significant risks to the assumptions in the 2007-08 budget that could inflate the deficit even higher, including the sale of Ed Fund, the state's student loan guarantor, and a number of lawsuits, including payments to CalSTRS, the State Teachers' Retirement System, and a challenge to the transfer of public transit funds to the General Fund by the California Transit Association.

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Calendar of Events

Don't miss these important, upcoming [CSAC events](#).

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Ask CSAC's Legislative Advocates

For more information about legislation, contact the CSAC [legislative staff](#).

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Legislative Tracking

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Administration of Justice

For more information, contact Elizabeth Howard at 916/327-7500, ext. 537, or ehoward@counties.org or Rosemary Lamb at 916/327-7500, ext. 503, or rlamb@counties.org.

Prison Overcrowding Legislation in Federal Court Three-Judge Panel Holds Its First Hearing on September 24

As counties will recall, judges in two prison overcrowding cases before the federal court — Judge Thelton Henderson (*Plata* case related to prison health care) and Judge Lawrence Karlton (*Coleman* case related to mental health care) on July 23 separately ordered the creation of a three-judge panel to review prison overcrowding and directed orders to reduce overcrowding that must then be implemented by the state. Among the options available to the three-judge panel under federal statute — the Prison Litigation Reform Act (PLRA) — are orders “including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or non-admission of prisoners to prison.” Joining Judges Henderson and Karlton on the three-judge panel is Judge Stephen Reinhardt.

The panel held its first hearing on September 24 in San Francisco. Several individual counties, a coalition of local government interests — which includes CSAC as well as the statewide associations of other invested parties such as district attorneys, sheriffs, chief probation officers, police chiefs, and others — and the Assembly Republican Caucus all had successfully petitioned to intervene in the litigation, allowing these parties to articulate the public safety and other impacts that the court’s potential orders would have in our communities.

As CSAC understands it, most of the discussion before the three-judge panel during the September 24 hearing related to procedural issues, with the judges and respondents reviewing documents filed and defining what the process will entail. The court was expected to issue an order soon thereafter that is expected to give further insights into the process and the court’s inclinations, but as of this writing, no such order has been released. The court took everything under submission and appeared to be very interested in alternatives and settlement, if possible. There appears to be some indication that a trial could begin in late January, which would be expected to last several weeks. Any appeal filed after the three-judge panel proceedings will go directly to the U.S. Supreme Court. CSAC will provide additional information on this process as events unfold.

Gang Prevention and Intervention Office of Emergency Services Announces Funding Opportunities

The Governor’s Office of Emergency Services (OES) recently announced funding opportunities related to the Governor’s anti-gang initiative, the California Gang Reduction Intervention and Prevention (CalGRIP). (Further details on the Governor’s CalGRIP initiative are available [online](#).) The purpose of CalGRIP is to provide grants to cities and community-based organizations for gang prevention, intervention, reentry, education, job training and skills development, family and community services, and suppression activities. Although funding is not expressly earmarked for counties, the funding process does require involvement of key county public officials for certain programs, as described below.

The Governor’s Office of Emergency Services (OES) will be releasing a Request-For-Application (RFA) and three Request-For-Proposals (RFP) for the CalGRIP program sometime in October 2007. The RFA will be established to direct resources to the City of Los Angeles, as was specified in the state budget. The three RFPs will target three pre-established categories. They are as follows:

1. The first RFP will competitively distribute \$963,000 to cities with heavy gang concentrations in the Bay Area and \$963,000 to cities with heavy gang concentrations in the Central Valley.
2. The second RFP will distribute \$4.3 million to cities throughout California to address gang problems in their communities. No grant will exceed \$500,000 and at least two grants will be awarded to cities with populations of 200,000 or less.

Applicants applying in the above two RFP categories will be given preference if they incorporate regional approaches to anti-gang activities. In addition, each city grantee must establish a coordinating and advisory council to prioritize the use of funds. Membership shall include: city officials, local law enforcement including the county sheriff, chief probation officer and district attorney; local educational agencies such as school districts and the county office of education; and community based organizations.

3. The last RFP will competitively distribute \$2 million to Community-Based-Organizations throughout the state. No grant shall exceed \$200,000.

All three RFPs and the RFA will require a dollar-for-dollar match for all funds requested. The grant period will begin on January 1, 2008. Cities and community-based organizations are allowed to receive only one grant.

The RFP and RFA materials will be available electronically via the [OES website](#) under the link for Law Enforcement and Victim Services Division/RFP Funding Information. According to the OES, there are several steps that cities and community-based organizations can take now if interested in these grants. They are as follows:

1. Applicants can begin defining the target area to be addressed by the proposal.
2. Applicants can gather important data concerning the target area, such as the geographical description, the population and demographics, the crime rate, the number of gangs, statistics on gang related offenses, and any other data demonstrating the gang problem.
3. Applicants can identify other agencies to be included as partners in the project and lay the foundation for an operational agreement with those partners. This is particularly applicable to city applicants, which are required to collaborate and coordinate with area jurisdictions, and are required to form a coordinating and advisory council to prioritize the use of the funds.
4. Applicants can begin developing ideas for the proposal, and can initiate discussions with partners. Applicants should plan to prepare a proposal that:
 - Demonstrates the needs of the community in addressing the gang problem.
 - Presents a plan to address those needs.
 - Demonstrates the ability of the applicant to implement that plan.
 - Provides support for the plan with the funds requested and applicable match reflected in a line-item budget.
5. Applicants can begin reviewing OES grants procedures in the OES 2006 Recipient Handbook available through the OES website.

Questions regarding the RFPs and the RFA should be directed to Catherine Perkins at (916)324-6724 or at Catherine.perkins@oes.ca.gov. Questions regarding the CalGRIP program should be directed to Kirby Everhart, Chief, Gangs and Crime Suppression Branch at (916) 327-3687 or Kirby.everhart@oes.ca.gov.

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Agriculture and Natural Resources

For more information, contact Karen Keene at 916/327-7500, ext. 511, or e-mail kkeene@counties.org or Cara Martinson at 915/327-7500, ext. 504, or email cmartinson@counties.org.

Water

Two competing bond bills were taken up this week in the Senate Natural Resources and Water Committee as part of the Legislature's special session on water. Both bills, however, stalled out as Republicans and Democrats were unable to come to a compromise on the competing water bond packages. Both Senators Perata and Cogdill have indicated that they are considering placing their bond bill packages on the November 2008 ballot.

SBX2 2 (Perata) – Failed Passage

Senate Bill X2 2, by Senator Don Perata, failed to move off the Senate Floor on October 10. SBX2 2 would have placed \$6.8 billion in general obligation bonds on the February 2008 ballot. This bill, introduced on September 19 in the special session on water, is the Safe Drinking Water

Senate Bill X2 2 Safe Drinking Water Fund of 2008

\$2 billion	<p><u>Water Supply Reliability: Grants and direct expenditures for water supply projects:</u></p> <ul style="list-style-type: none"> · Agricultural and urban water use efficiency. · Recycling/reclamation/desalination. · Surface storage/groundwater/conjunctive use and re-operation. · Groundwater contamination prevention/clean-up. · 50% local agency cost-share requirement. Funding allocated regionally.
<u>\$2.4 billion</u>	<p><u>Delta Sustainability:</u></p> <ul style="list-style-type: none"> · \$1 billion for drinking water quality, water supply reliability for in-Delta and export users, flood protection, and safeguarding vital infrastructure. · \$1.4 billion for Delta ecosystem restoration consistent with the Bay Delta Conservation Plan and the findings of the Blue Ribbon Task Force, other native fish and wildlife restoration projects. · No funding for construction of water transfer/conveyance facility.
<u>\$1.085 billion</u>	<p><u>Conservation and Pollution Clean-Up:</u></p> <ul style="list-style-type: none"> · \$1 billion for ecosystem restoration, resolving water supply conflicts and urban watershed management projects. · \$85 million to protect delta ecosystem and state water supply from invasive species.
<u>\$1.1 billion</u>	<p><u>Groundwater Protection and Water Quality:</u></p> <ul style="list-style-type: none"> · \$400 million for projects that would prevent or reduce the contamination of groundwater that is used as a source for drinking water. · \$100 million for grants for small community wastewater treatment projects to protect water quality. · \$500 million for stormwater management, and water quality. · \$100 million to Ocean Protection Council to protect and improve water quality in areas of special biological significance.
<u>\$250 million</u>	<p><u>Water Recycling:</u></p> <p>Not less than \$100 million to restore water supply lost to groundwater contamination.</p>
\$6.835 billion	TOTAL

SBX2 3 (Cogdill) – Failed Passage

Senate Bill X2 3, by Senator Dave Cogdill, failed to pass out of the Senate Natural Resources and Water Committee on October 8. SBX2 3 was introduced on September 19 in the special session on water and is sponsored by the Governor. This \$9 billion bill would have enacted the Water Supply Reliability Bond Act of 2008 and placed it for voter approval on the February ballot. Unlike the president pro tem’s package, SBX2 3 includes \$5 billion to fund three new or expanded dams.

Water Supply Reliability Bond Act of 2008

<u>\$5.6 billion</u>	<u>Above and below ground water storage :</u> \$5.1 billion in surface storage. \$500 million in groundwater storage. Identifies three locations for surface storage (Sites, Temperance Flat Reservoir and Los Vaqueros Expansion Project.)
<u>\$1.9 billion</u>	<u>Specific criteria to assure public benefits and environmental benefits</u> \$1.4 billion for habitat restoration. \$500 million in early actions to address environmental concerns in the Delta.
<u>\$500 million</u>	<u>Grants for specified watersheds throughout the state,</u> including the San Joaquin River, Klamath River, Los Angeles River and others.
<u>\$9 billion</u>	TOTAL

SBX2 5 (Wiggins) – Passed out of Senate

Senate Bill X2 5, by Senator Pat Wiggins, was approved on the Senate Floor on September 10. This bill provides \$5.3 million in state bond funds for salmon restoration. SBX2 5 seeks to appropriate \$5.293 million in Proposition 84 funding for the FRGP, a collaborative effort that focuses on restoring anadromous fish habitat with the goal of ensuring the survival and protection of salmon and steelhead trout in coastal areas of California. The program includes coastal salmonid monitoring.

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Health and Human Services

For more information, contact Kelly Brooks at 916/327-7500, ext. 531, or kbrooks@counties.org, or Farrah McDaid Ting at 916/327-7500, ext. 559, or fmcdaid@counties.org.

The Capitol is focused on health care despite the relatively slow moving Special Session on Health Care (formally called the 2007-08 First Extraordinary Session). For the first time, Governor Schwarzenegger released bill language for his health reform proposal publicly on October 9.

The Governor's 220-plus pages of legislative language is in mock form and does not yet have an author or bill number, having not been formally introduced. Also this week, the Senate Republican Caucus unveiled a 20-bill package – touted as CalCare Plus; however, these measure have yet to be introduced formally in the Special Session.

Indeed, the only bills officially introduced thus far include:

- ABX1-1 and ABX1-2 (Núñez/Perata), which are spot bills with the intent to “enact comprehensive health care reform.”
- SBX1-1 and SBX1-2 (Perata/Núñez), Senate spot bills identical to ABX1-1 and ABX1-2.
- ABX1-3 (Dymally), another spot bill that seeks to address guaranteed issue, private insurance market reforms, and funding for the Major Risk Medical Insurance Program (MRMIP).
- ABX1-4, ABX1-5, ABX1-6, and ABX1-7, all by Assembly Member Nakanishi. The first two measures attempt to address health savings accounts, and the latter two focus on physician assistant scholarship programs and MRMIP eligibility criteria.

At this point, health stakeholders are focusing on the Governor's language, which fleshes out some, but not all, of his key health reform principles, including an individual mandate; minimum coverage levels; a 4 percent hospital fee; a 4 percent employer fee for businesses with 10 or more employees and a sliding scale fee of 0 – 4 percent employer fee, based on payroll, for businesses with fewer than 10 employees; some doctor and hospital rate increases; and health and wellness prevention programs.

More importantly, the bill does not include specific language regarding a county share of cost, only intent language to that effect. Some sections of the bill are also contingent on a county share of cost being enacted, but again, there are no details.

As for the rest of the financing picture, the Governor estimates the proposal to cost \$14 billion, and hopes to garner about one-third of that from the federal government, \$2 billion from employers, \$2 billion from hospitals, and "a redirection of \$2 billion in Medically Indigent Adult funding, including the health care safety net, realignment, and other funding sources." This means county funds.

The Governor's also released a new funding source to contribute to health costs: lease the California State Lottery to private managers for an estimated \$37 billion over a term of 15 to 25 years. Approximately \$2 billion a year would be used toward the health proposal.

The Legislature is tentatively planning to hold an informational hearing on the Governor's language within the next few weeks. As soon as details become available, CSAC will notify counties.

Counties are understandably concerned about the Governor's plan and the as-yet-undefined nature of the county share of cost, as well as possible redirection of funding from public hospitals and other key county programs. CSAC is seeking to meet with key stakeholders to communicate our concerns, and we ensure that counties are up to speed on any new developments.

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