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May 16, 2008

**State Leaders to Address County Officials**

By Paul McIntosh, Executive Director

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The annual CSAC Legislative Conference, scheduled for Wednesday, May 21, and Thursday, May 22, at the Hyatt Regency in Sacramento, is jammed packed with a number of State Officers and Legislators, who will offer commentary and insights on the state's fiscal crisis. The opening General Session will feature Legislative Analyst Elizabeth Hill, discussing the policy considerations presented in the Governor's May Revision released this week.

Governor Schwarzenegger has also expressed an interest in speaking to county officials. We will learn about his ability to attend our Legislative Conference on Monday, May 19. As soon as we receive confirmation about his participation, we will let you know.

Luncheon speakers include Secretary of State Debra Bowen and Lieutenant Governor John Garamendi. Senate President Pro Tem Elect Darrell Steinberg is also hopeful to drop by and talk about the budget, schedule permitting.

On Wednesday afternoon, the conference schedule includes a workshop titled "The 2008-09 State Budget: Up Close and Personal," featuring Senate and Assembly Budget Committee Chairs Senator Denise Ducheny and Assembly Member John Laird, respectively, and Assembly Member Roger Niello, Vice Chair of the Assembly Budget Committee. This workshop will be held at the CSAC Conference Center. We have also heard from a number of legislators who plan to attend our Legislative Reception Wednesday evening at Mason's.

I want to point out that next week will be extraordinarily hectic as the budget committees will be convening at the same time as the Legislative Conference. We encourage you to take the time during your legislative visits to drop by the hearings.

We look forward to seeing all county officials at the conference; it should provide an inside look at the developing strategies of solving the budget crisis.

**Governor Releases May Revision**

On Wednesday, May 14, the Governor released his revision of the January budget proposal. CSAC staff has put together an analysis that details the programs affected and their associated fiscal implications. The analysis can be found on the CSAC Web site at [www.csac.counties.org](http://www.csac.counties.org).

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## CalendarofEvents

Don't miss any upcoming CSAC [events](#).

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## AdministrationofJustice

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

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### **Public Contracts: Dispute Resolutions SB 1642 (Yee) – Request for Comment As Proposed to be Amended**

SB 1642, by Senator Leland Yee, seeks to establish a dispute resolution process between local government agencies (including counties, cities, and school districts) and contractors for unresolved claims over \$50,000. The measure currently exempts local government agencies that have an existing dispute resolution processes.

Specifically, SB 1642, would create a timeline in which a local government has to respond to a claim submitted by a contractor; if the local government agency does not respond within the timeframe allotted, then the resolution automatically goes in favor of the claimant. Furthermore, the measure outlines a process in which the two parties are to resolve their dispute. The first step permissible allows for either party to request a meet and confer; the second step is for the two parties to participate in mediation and if an agreement cannot be reached, then the two parties participate in binding arbitration.

CSAC and Regional Council of Rural Counties (RCRC) staff met with the author's office and the sponsor of the bill to discuss concerns expressed by some counties, including the timelines outlined in the measure and implications of binding arbitration.

CSAC is asking counties to examine this measure and provide feedback as quickly as possible. SB 1642 is scheduled to be heard in the Senate Appropriations Committee on May 19. CSAC and RCRC staff plans to meet with the author and sponsor again to further discussions on county concerns.

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### **Court Facility Financing SB 1407 (Perata) – Support In Concept As Amended on May 14, 2008**

SB 1407, by Senate President pro Tempore Don Perata, would authorize the issuance of up to \$5 billion in lease revenue bonds for purposes of financing planning, design, construction, rehabilitation, renovation, replacement, leasing or acquisition of state trial court facilities. The measure also would authorize a variety of increases to penalties and fees as revenue sources for the bonds; the proceeds from these increases and surcharges would be deposited into a new account within the State Court Facilities Construction Fund (SCFCF), the Immediate and Critical Needs Account. These increases and surcharges include the following:

- **Adding Surcharge on all Infractions, Misdemeanors, and Felonies:** Penal Code Section 1465.8 currently imposes a \$20 court security fee on every conviction for a criminal offense, including traffic (but not parking violations). SB 1407 would add a \$40 surcharge for courthouse construction on all criminal convictions.
- **Increase First Paper Civil Filing Fees:** SB 1407 would increase civil filing fees by \$35.
- **Institute Parking Ticket Surcharge:** An additional \$2 surcharge on parking tickets.
- **Increase Penalty Assessment for Criminal Violations:** Currently, courts may impose an increased penalty of up to \$5 for each \$10 of a fine assessed for all criminal violations, for deposit into the SCFCF. Only 13 of the 58 courts presently do so; SB 11407 would require the full \$5 be charged.
- **Institute Fee for Attending Traffic Violator School:** A new \$40 surcharge would be applied to an existing court assistance program fee for those referred to Traffic Violator School.

CSAC and RCRC have jointly indicated conceptual support for SB 1407. CSAC has previously supported bond efforts to finance the state's court facility construction and renovation needs. We are interested in hearing county feedback on this measure, especially as it relates to the proposed additional and increased penalties and surcharges. We understand there are ongoing concerns about the mix of revenues and implications of the proposed fee and fine increases. However, we also recognize that the immediate needs in court infrastructure are real. We would note that an inadvertent drafting error in Government Code Section 70374 (d) in the April 28 version of the measure has been corrected, restoring current law that designates 25% of a county's deposits into the SCFCF are retained for implementation of trial court projects in that county.

SB 1407 cleared the Senate Judiciary Committee on May 13 and next will be heard in the Senate Appropriations Committee on May 19. County feedback on this measure is sought as soon as is practical, particularly as it relates to local implications of the fee increases.

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**Historic Public Records**  
***AB 2595 (Laird) – Support***  
***As Amended on April 16, 2008***

AB 2595, by Assembly Member John Laird, seeks to establish a procedure that will ensure that documents that are rightfully owned by local or state agencies are returned to that local or state agency.

AB 2595 would offer recourse to local or state agencies, including counties, for the return of public records that are rightfully theirs yet in possession of others –typically nongovernmental agencies and/or private individuals. This measure would provide a process by which the Secretary of State, on behalf of the California State Archives, could recover the governmental documents by issuing a written notice demanding return of the records or a demonstration as to why the records are rightfully in the person or entity's possession.

This measure is intended to address situations in which historical public records that are in the possession of an unauthorized person or entity are being inappropriately sold or traded in the marketplace for profit.

AB 2595 is sponsored by the Secretary of State's Office. It passed out of the Assembly Appropriations Committee on May 14 on consent.

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**Vehicle Registration Fees**  
***AB 860 (Salas) – Support***  
***As Amended on February 28, 2008***

AB 860, by Assembly Member Mary Salas, would extend the sunset date for counties to impose additional vehicle registration fees on commercial vehicles to fund local programs related to vehicle theft or abatement programs from January 1, 2010 to January 1, 2018.

This bill maintains existing reporting requirements on counties when submitting yearend reports to the State Controller detailing an account of funds received and expended as it relates to salaries, expenses, equipment purchased, and other items.

AB 860 is sponsored by the California State Sheriffs' Association. It passed out of the Senate Transportation and Housing Committee on May 13 on a 10-2 vote.

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**Missing Persons: DNA Database**

**AB 1975 (Solorio) – Support**  
**As Introduced on February 14, 2008**

AB 1975, by Assembly Member Jose Solorio, would delete the expiration date for the \$2 increase on death certificates issued by a local government agency or the State of California and would further clarify statute relating to medical examiners and coroners and the submittal of DNA samples for the purpose of identifying unknown human remains.

This measure would make three changes to existing statute regarding the DNA database operated by the Department of Justice (DOJ) as follows: 1) as mentioned previously, it would delete the sunset on the \$2 increase on death certificates to fund the database; 2) it would require medical examiners and coroners to submit missing remains for examination in the DNA database to be submitted to the DOJ within 90 days of the date the body or remains were found; and 3) it would require the DOJ to give case analysis priority to those involving children and homicide victims.

AB 1975 is scheduled to be considered in the Assembly Appropriations Committee on May 22 as part of the suspense file hearing. It is being sponsored by the California Department of Justice.

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**Medi-Cal Eligibility: Juvenile Offenders**  
**SB 1147 (Calderon) – Support**  
**As Amended on April 9, 2008**

SB 1147, by Senator Ronald Calderon, seeks to suspend, rather than terminate, a youthful offender's Medi-Cal eligibility while he or she is in a county juvenile detention facility.

This measure completes work begun under the provisions SB 1469 (Cedillo, 2006), which required county juvenile detention facilities and human services departments to collaboratively devise methods to ensure that more juvenile offenders leave county detention centers with their Medi-Cal eligibility established. The federal government has made signals that it would prefer a juvenile offender's Medi-Cal benefits be suspended rather than outright terminated upon his or her commitment to a county detention facility. CSAC strongly supports efforts to ensure continuity of benefits for those detained in county detention facilities and for swift reenrollment in the appropriate benefits program upon a detainee's release.

In addition, SB 1147 requires the Department of Health Care Services to establish a working group — with representation from the Chief Probation Officers of California and the County Welfare Directors Association — to develop a model notification letter to be sent to the juvenile's parent or guardian describing the juvenile detention facility's intent to establish Medi-Cal eligibility for juveniles not currently enrolled in the program.

SB 1147 is sponsored by the Youth Law Center. It is scheduled to be considered in the Senate Appropriations Committee on May 22 as part of the suspense file hearing.

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## **AgricultureandNaturalResources**

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

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**Energy**  
**SB 1399 (Simitian) – Request for Comment**  
**As Amended on April 9, 2008**

SB 1399, by Senator Joe Simitian, would exempt from the Solar Shade Control Act, any tree or shrub planted prior to the installation of a solar collector. The bill also requires notification to affected property owners. This bill has been referred to the Assembly Committee on Utilities and Commerce.

**SB 1645 (Wiggins) – Support**  
**As Amended on April 23, 2008**

SB 1645, by Senator Patricia Wiggins, would require the State Energy Resources Conservation and Development Commission, in partnership with the Office of Planning and Research, to update the Energy Aware Planning Guide to include model general plan elements to help local governments address climate change and energy issues. SB 1645 passed out of the Senate Appropriations Committee on May 12.

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## **Solid Waste**

### ***SB 1625 (Corbett) – Support As Amended on April 21, 2008***

SB 1625, by Senator Ellen Corbett, would expand the scope of California's Bottle and Can Recycling Law to include all plastic bottles. SB 1625 failed to pass out of the Senate Appropriations Committee, but was granted reconsideration.

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## **Employee Relations**

For more information, contact Eraina Ortega at 916/327-7500, ext. 521, or [eortega@counties.org](mailto:eortega@counties.org), or Faith L. Conley at 916/327-7500, ext. 522, or [fconley@counties.org](mailto:fconley@counties.org).

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## **PERB Members Unanimously Approved in Senate Rules Committee**

Two appointed members of the Public Employee Relations Board (PERB) were approved by the Senate Rules Committee on May 15. PERB is a state agency that administers collective bargaining law covering public employees in California.

PERB is composed of five members from both the public and private sectors, each of whom serve five-year terms. Each member is individually appointed by the Governor, and must then go before the Senate Rules Committee to be confirmed by a majority vote. They are then fully confirmed on the Senate Floor.

Robin W. Wesley was appointed to the position of Board Member of PERB on July 5, 2007. She has served PERB in a variety of capacities since 1991, including legal advisor, regional attorney, acting general counsel, and administrative law judge. From 1983 to 1991, Wesley served as deputy director for the Governor's Office of Planning and Research.

Tiffany Rystrom was appointed to PERB in August 2007. Prior to her appointment, and since 2001, she has been of counsel with the law firm Carroll, Burdick & McDonough. Previously, she served as a deputy attorney general for the California Attorney General's Office from 1980 to 1983 and a deputy district attorney for the Marin County District Attorney's Office from 1978 to 1979. Ms. Rystrom is a member of the California State Bar.

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## **Collective Bargaining Legislation Pending in the United States Senate Opposed by CSAC**

The Public Safety Employer-Employee Cooperation Act (HR 980) would establish a national system of minimum collective bargaining standards for public safety officers to be governed by a newly created federal agency called the Federal Labor Relations Authority (FLRA). If enacted, states would have the opportunity to pass or modify their own public safety collective bargaining statutes in order to meet the minimum criteria outlined in the Act and avoid the FLRA exercising jurisdiction in those states.

Several states, including California, with comprehensive collective bargaining statutes that, depending upon the final version of the Act, may meet the required minimum standards would still be affected by this unprecedented federal infringement into the labor relations decisions of states and local governments.

HR 980 passed the House and numerous amendments pending in the Senate have temporarily stalled the bill. However, a Senate vote could occur as early as next week with the bill possible being sent to a conference committee. It is unknown whether President Bush would sign HR 980.

CSAC has sent a letter to Senators Boxer and Feinstein urging opposition to HR 980.

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## **Government Finance and Operations**

For more information, contact Jim Wiltshire, ext. 545, or [jwiltshire@counties.org](mailto:jwiltshire@counties.org) or Faith L. Conley at 916/327-7500, ext. 522, or [fconley@counties.org](mailto:fconley@counties.org).

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## **Local Government**

### ***SBX3 1 (Senate Committee on Budget and Fiscal Review) - Support As Amended on March 25, 2008***

SBX3 1, by the Senate Committee on Budget and Fiscal Review, would exempt the smallest counties in California – those with 40,000 or fewer residents countywide – from state payment deferrals.

California will be deferring two months of payments to counties to help cover a cash flow gap at the beginning of the fiscal year. These deferrals will affect disbursements of excise fuel tax revenues disbursed from the Highway Users Tax Account and monthly advances of state funds to counties for benefits or aid grants, administration, and for employment and supportive services.

SBX3 1 is currently awaiting the Governor's signature.

### ***AB 2187 (Caballero) – Support As amended on April 30, 2008***

AB 2187, by Assembly Member Anna Caballero, would make changes to foreclosure law that will give at-risk homeowners more information for their situation. Importantly, the bill would also allow local governments to impose civil fines, up to \$1,000 per day, for violations related to failure to maintain vacant property that can blight neighborhoods and potentially create a health hazard by providing mosquitoes with breeding pools.

The recent spate of foreclosures has brought down housing prices, decreased property tax receipts, led to a decline in housing starts, and had an overall detrimental effect on counties' budgets, the services they provide, and the residents to whom they provide those services. Any measures the Legislature can take to staunch these foreclosures without unduly burdening anyone will generally benefit California, its counties, and its neighborhoods.

AB 2187 will be heard in the Assembly Appropriations Committee on May 22.

### ***SB 1137 (Perata) – Support As Amended on May 6, 2008***

SB 1137, by Senator Don Perata, would permit government entities to impose civil fines on vacant residential property owners who purchase the homes at foreclosure sales and who refuse to keep them properly maintained. The bill provides substantial protections for foreclosed property owners to both remedy the nuisance or hazard and contest the subsequent fine at a public hearing.

With the twin problems of the number of foreclosures in the state reaching previously unknown levels and housing values dropping quickly, many communities are in distress. The issue of property values is exacerbated in some neighborhoods when foreclosed homes are not maintained, and squatters or excessive overgrowth pulls values down even more. This measure would allow the people, through their local governments, to require these properties be maintained in a safe and nuisance-free way. The drop in property values also has a direct fiscal impact on local governments and schools that derive their most stable revenues from the property tax.

Other provisions in SB 1137 would have the effect of reducing the number of foreclosures in California by requiring foreclosing entities to send property owners certain notifications about their opportunities to avoid having their homes taken.

SB 1137 is awaiting a hearing date in the Assembly Appropriations Committee.

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## **HealthandHumanServices**

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

## State Budget Update

The May Revision was released on May 14, revealing even deeper cuts to health and human services than what was proposed in January. The Governor restored funding to the education and corrections budgets, prompting an additional \$750 million in cuts to health and human services programs.

The May Revision includes also updated information on the estimated gap between the proposed funding levels and actual costs for human services programs. This deficit is now **\$1.06 billion (\$633 million General Fund)**. The deficit has grown by \$183 million General Fund since last year. The deficit includes the following:

<b>Program</b>	<b>Total Deficit</b>	<b>Federal Funds</b>	<b>State General Funds</b>
Child Welfare Services	\$616 million	\$325.3 million	\$290.6 million
CalWORKs	\$250.6 million		\$250.6 million
Food Stamps Administration	\$83.9 million	\$49.9 million	\$33.9 million
Foster Care Administration	\$12.5 million	\$4.3 million	\$8.2 million
In-Home Supportive Services	\$78.2 million	\$45.6 million	\$32.6 million
Adoptions	\$22.1 million	\$5.3 million	\$16.8 million
<b>TOTAL</b>	<b>\$1.063 billion</b>	<b>\$430.4 million</b>	<b>\$632.7 million</b>

The Legislature will begin budget hearings next week. Assembly Budget Subcommittee No. 1 on Health and Human Services has noticed hearings from May 19-30. A detailed schedule of when specific budget items will be heard has not yet been released.

Senate Budget and Fiscal Review Subcommittee No. 3 will be meeting on May 21 at 10:30 a.m. to discuss mental health, health care (including Medi-Cal and Healthy Families), and public health issues. The full Senate Budget Committee has also given notice of hearings on May 21-22 and May 27-30. It is not yet clear what specific issues will be heard by Subcommittee No. 3 and what will be heard by the full committee.

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## Legislation

### Health

#### ***SB 1184 (Kuehl) – Support As Amended on May 6, 2008***

SB 1184, by Senator Sheila Kuehl, would require the timely reporting of CD4 count test results to the state to ensure a more accurate picture of the HIV/AIDS epidemic and, in turn, help draw down additional federal funding for HIV/AIDS services.

SB 1184 requires clinical laboratories to report all CD4 count test results to local health officers within seven days of the completed test. If the test result is due to an HIV infection, the local health officer must report the CD4 count test information to the state Department of Public Health within 45 days of receipt of the laboratory result.

SB 1184 is needed because HIV antibody tests, viral loads, and CD4 cell counts are the primary indicators of HIV disease, but CD4 reporting is not required in California. In fact, the Federal Center for Disease Control and Prevention recommends full CD4 reporting for HIV surveillance. SB 1184 will help ensure full CD4 reporting in California, and, in turn, will assist the state in securing an equitable share of federal Ryan White funding. The deadline for reporting cases to the federal government is December 2008, and SB 1184 has been designated an urgency measure to ensure that CD4 case reports begin as soon as possible.

Furthermore, SB 1184 would not interfere with the state's current strict confidentiality standards for HIV/AIDS name-based

reporting. For these reasons, CSAC supports SB 1184. The bill is scheduled to be heard by the Assembly Health Committee on June 10.

**AJR 54 (Laird) – Support  
As Amended on May 6, 2008**

AJR 54, by Assembly Member John Laird, is a joint resolution urging the President and Congress to rescind the federal Centers for Medicare and Medicaid Services (CMS) directive of August 17, 2007, that restricts states' authority to cover children under the State Children's Health Insurance Program (SCHIP).

The August 17, 2007 CMS directive severely restricts California's ability to expand the state's SCHIP program, called the Healthy Families Program, to families above 250% of the federal poverty level (FPL). The directive accomplishes this by setting forth eight new criteria that states must meet before they are allowed to expand their coverage above 250% FPL, including the implementation of 12-month waiting periods for families above 250% FPL, and requiring the state to certify that at least 95% of children below 200% FPL are covered before expanding the program to cover those above 250% FPL.

These highly restrictive new rules could mean that approximately 34,000 California children could lose their health insurance, and that the state would be prohibited from using SCHIP funds to cover additional children in working families of three persons or more with annual incomes as low as \$44,000. And while California has the largest SCHIP participation in the nation – providing coverage for nearly 900,000 children in working families – the high cost of living and the increasing cost of health care in the Golden State have outstripped the ability of many families to provide adequate health care coverage to their children.

For these reasons, CSAC supports AJR 54, which is now on the Assembly floor.

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**Child Welfare Services  
AB 2904 (Hayashi) – Support  
As Amended on May 6, 2008**

AB 2904, by Assembly Member Mary Hayashi, would allow county boards of supervisors to receive and review certain information relating to the death of a child who was receiving county child welfare services or had previously come to the attention of the county child welfare agency if specified conditions relating to abuse and neglect are met.

AB 2904 is now on the Assembly Floor.

**SB 1457 (Steinberg) – Support  
As Amended on April 21, 2008**

SB 1457, by Senator Darrell Steinberg, would create the California ScholarShare Advancement Vehicle for Education (CalSAVE) Scholarship Program to award scholarships to needy students.

SB 1457 would expand the number of funders, whether they are individuals, corporations, or not-for-profit organizations, who can contribute to California's ScholarShare 529 college saving plans for vulnerable youth, which include foster youth. Current statute does not allow ScholarShare to accept contributions from businesses or companies that would like to establish accounts for students and youth unless a specific individual beneficiary is named for each account. SB 1457 would change the statute to allow businesses and companies to donate or contribute money to fund future scholarship accounts.

CSAC supports the bill, which is on the Senate Floor.

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**Medi-Cal  
AB 2527 (Berg) – Support  
As Amended on April 7, 2008**

AB 2527, by Assembly Member Patty Berg, would make technical changes in statute to clarify provisions that govern local public agency participation in the Medi-Cal Targeted Case Management (TCM) and Medi-Cal Administrative Activities (MAA) billing options.

In many counties, the Children and Families Commissions use tax revenues to pay for activities to help link beneficiaries to appropriate Medi-Cal services. The TCM and MAA options permit the Commissions, in conjunction with the county, to claim federal reimbursement for a portion of the cost of these activities – funds that are then reinvested in our communities to expand and improve services for low-income families. These services are coordinated with those provided by local public

health departments and expand our ability to reach at-risk populations.

CSAC, the County Health Executives Association of California (CHEAC) and the First 5 Association of California support the bill so that local Children and Families Commissions may continue to participate in this valuable reimbursement program and not lose federal funds that currently benefit our communities.

The Assembly voted AB 2527 off the floor, 69-0 on May 15.

***AB 851 (Brownley) – Support  
As Amended on January 8, 2008***

AB 851, a bill by Assembly Member Julia Brownley, would eliminate the sunset date on the 250 Percent Working Disabled Poverty Program, which provides Medi-Cal coverage to persons with disabilities who are employed and earning up to 250% of the federal poverty limit.

The 250 Percent Program enables persons with disabilities to enter the workforce and earn a modest living without fear of losing affordable health coverage. Recipients pay reasonable premiums based on their income levels, ranging from \$20 to \$250 per month for individuals and \$30 to \$375 per month for couples. These premiums are quite reasonable compared to the much higher premiums that these individuals would likely be required to pay in the general insurance market.

For these reasons, CSAC supports AB 851. The bill is scheduled to be heard in the Senate Health Committee on June 11.

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**CalWORKs**

***AB 2368 (Fuentes) – Support  
As Introduced on February 21, 2008***

AB 2368, by Assembly Member Felipe Fuentes, would exclude the value of a licensed motor vehicle from consideration when determining or redetermining CalWORKs eligibility.

AB 2368 would help a certain set of applicants and recipients who own or obtain a car, thereby making it easier for them to travel to and from work and other job-related activities required by the CalWORKs program. Furthermore, AB 2368 will help county eligibility workers and applicants avoid a valuation process that is often cumbersome and confusing. The amount of documentation and research required to ascertain the fair market value of a motor vehicle could be better spent in assessing the job skills and workforce readiness of applicants, thereby accelerating their progress toward job retention and self sufficiency.

For these reasons, CSAC supports AB 2368. The bill was approved by the Assembly Appropriations Committee on May 7 and is on the Assembly Floor.

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**Adult Protective Services**

***AB 2105 (DeSaulnier) – Support  
As Amended on April 23, 2008***

AB 2105, by Assembly Member Mark DeSaulnier, would add mortgage and real estate brokers to the list of mandated reporters, who are required to report suspected financial fraud or abuse of the elderly.

CSAC has taken a support position on the bill, and urges counties to letters of support for the measure to their local legislative delegation and the Assembly Appropriations Committee. The Committee placed the bill on the Appropriations suspense file on May 14.

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**Housing, Land Use and Transportation**

For more information, contact DeAnn Baker at 916/327-7500, ext. 509, [dbaker@counties.org](mailto:dbaker@counties.org) or Kiana Buss at 916/327-7500, ext. 566, [kbuss@counties.org](mailto:kbuss@counties.org).

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## **Land Use**

### ***AB 2870 (DeSaulnier) – Request for Comment As Amended on April 10, 2008***

AB 2870, by Assembly Member Mark DeSaulnier, would create the California Blueprint Implementation Council. Specifically, the council would act in an advisory capacity for state regional agencies and for local agencies and would also perform the following functions:

- Work with regional agencies, such as municipal planning organizations (MPO) or councils of governments (COG), to facilitate the implementation of regional blueprint projects, including providing grants and other support for local government planning agencies to assist in implementing the blueprints;
- Develop recommendations to facilitate the coordination between regional blueprint plans and state growth and infrastructure funding plans;
- Receive reports, including, but not limited to, a copy of the five-year infrastructure plan;
- Report to the Legislature on the manner in which state agencies are implementing the requirements of the Statewide Environmental Goals and Policy Report; and
- Report to the Legislature on regional performance measures evaluating the progress of each region of the state in improving results for its residents in employment, environmental protection, education, housing, mobility, and other criteria as determined by the council, and provide the Legislature with updates to the report periodically.

The measure would also authorize an MPO or a COG to impose a \$1 surcharge on a motor vehicle registered to an owner with an address in its jurisdiction, if the MPO or COG adopts a resolution authorizing the surcharge to be solely used to develop and implement a regional blueprint plan to identify land use strategies to reduce the use of motor vehicles in its jurisdiction and thereby reduce emissions into the environment from motor vehicles.

AB 2870 was heard May 14 before the Assembly Appropriations Committee and passed by a 5 to 2 vote.

### ***SB 1165 (Kuehl) – Oppose As Amended on May 6, 2008***

SB 1165, by Senator Sheila Kuehl, would require, except for under specified circumstances, a lead agency or a responsible agency under the California Environmental Quality Act (CEQA) to prepare a subsequent or a supplemental Environmental Impact Report (EIR) for a project if the certification of the prior EIR for the project is more than 5 years old. The bill was recently amended to apply to projects that involve the issuance to a person of a lease, permit, license, certificate, or other entitlement for use. Further, the bill would prohibit a lead agency from relying on an EIR that was certified more than 5 years ago and would require the document to be treated as an uncertified, draft environmental document that must be recirculated for public review and comment and recertified by the lead agency before the agency may take an action in reliance on the analysis and conclusion of the prior environmental document.

CSAC is opposed to this measure. While it is designed to increase public participation, SB 1165 would make it unnecessarily difficult for cities and counties to implement, and will impose arbitrary requirements that will eliminate many existing tools designed to speed up the CEQA process.

SB 1165 was set for hearing May 12 before the Senate Appropriations Committee; however, it has been rescheduled to be heard May 19.

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## **Transportation**

### ***AB 2295 (Arambula) – Support As Introduced on February 21, 2008***

AB 2295, by Assembly Member Juan Arambula, would clarify existing law regarding the eligibility of certain local road projects for funding through the State Transportation Improvement Program (STIP). Specifically, the bill amends the Streets and Highways Code, Section 164 to include "local road rehabilitation" among the list of eligible types of projects.

Current law lists several types of projects eligible for STIP funding, including "local roads." The California Transportation Commission (CTC), which is responsible for allocating STIP resources, has interpreted the statute to include rehabilitation projects, and included these projects in their published guidelines until recently. AB 2295 would ensure that these vital projects remain eligible in years to come, but subject to regional discretion pursuant to current law.

Counties and cities own and maintain 82% of California's maintained miles. Preservation of the city street and county road system is vital to the safety of the traveling public, whether by vehicle or transit, the movement of goods throughout the state, and the economic well being of many communities. While not a significant portion of the STIP, regional transportation

agencies and local jurisdictions must retain the opportunity to seek funding for critical rehabilitation projects from the STIP to help meet their ongoing needs and save taxpayers money for more expensive repairs in the future.

AB 2295 was heard May 13 before the Senate Transportation and Housing Committee where it passed by a vote of 12-0.

**AB 2596 (Jones) – Concerns  
As Amended on April 22, 2008**

AB 2596, by Assembly Member Dave Jones, would require the Air Resources Board (ARB) to quantify a baseline level of greenhouse gas (GHG) emissions generated by land use and transportation activities in 2009 for every city and county with a population of at least 50,000. The ARB would also be required to develop and make available to cities and counties a model that cities and counties may use to quantify the projected level of greenhouse gas emissions for the period from January 1, 2011, through January 1, 2020, that will be generated from land use and transportation activities for each city and county.

While CSAC supports the goals contained within this measure, we have concerns with focusing any GHG emissions reduction strategy at the local agency level, rather than at the regional level. CSAC believes that meaningful reductions in GHG emissions are achieved by focusing on regional targets, which, in turn, can be implemented in a public process by local officials. Specifically, we believe that the goal of reducing GHGs in the transportation/land use context must occur at the regional level through long-range regional growth and transportation plans. Each region can then develop and apply appropriate modeling and analysis that will provide insights regarding which smart growth strategies, combined with other factors (i.e. energy consumption, climate, transportation choices, etc.) are most effective in different types of locations and settings to accomplish GHG reductions.

AB 2596 comes during a time in which multiple legislative and administrative proposals/actions to deal with climate change are being implemented and thus may be premature given that the ARB is still grappling with how to determine regional targets with respect to land use and transportation. It is our understanding that even the Land Use Subgroup of the Climate Action Team (LUSCAT) came to the conclusion that developing city and county targets would be a difficult if not impossible task.

AB 2596 was sent to the suspense file by the Assembly Appropriations Committee.

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**Public Works Administration  
AB 983 (Ma) – Oppose  
As Amended on April 9, 2008**

AB 983, by Assembly Member Fiona Ma, would require local public agencies, before entering into a contract for a project, to provide full, complete, and accurate plans and specifications and estimates of cost.

CSAC believes that this bill puts unrealistic expectations on local public agencies and has the potential to greatly increase costs incurred by the local public agency and the public through design delays and litigation on projects. Requiring "full, complete and accurate" estimates of cost raises concern, because "estimates" implies an uncertainty about the actual and definitive value. Cost estimates are typically based on historical data and are used as a reference point only, not a definitive number. Additionally, in emergencies or otherwise urgent projects, contractors need to operate quickly based on plans and specifications that may not be fully complete because of time constraints.

Case law in public construction law still holds that a bidder must prove an intentional misrepresentation or active concealment of the plans and specifications by the public entity in order for the contractor to recover against the public entity. This bill eliminates this standard, which limits the liabilities of public agencies regarding the reliability and accuracy of plans. AB 983 limits design professional liability in such instances and transfers this liability to the local public agency bidding the job. This raises the question: Why should the local public agency rely on the design professional for their professional expertise without recourse to the design professional when the plans and specifications prepared by the design professional are wrong?

This would essentially absolve a contractor from any responsibility for reviewing plans before submitting a bid on a public works project and expose local agencies and thus the public, to additional and unreasonable liability.

AB 983 was heard May 13 before the Senate Judiciary Committee where it passed by a vote of 5 to 0.

May16,2008

**IndianGaming**

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**Indian Gaming  
SB 1201 (Battin) – Request for Comment  
As Amended on April 30, 2008**

SB 1201, by Senator Jim Battin, would provide that the aggregate limit of gaming device licenses available for issuance under the 1999 Tribal-State Gaming Compacts shall be 122,000, and would further provide that certain gaming device licenses available for issuance under subsequent compact amendments shall not be counted in determining whether that aggregate limit has been reached.

This measure is intended to settle the very controversial issue regarding the aggregate number of slots that the 61 tribes under the 1999 Compact can collectively operate. That compact did authorize up to 2,000 slots per tribe, but established an aggregate cap that was not sufficient for every tribe to achieve their maximum amount. Thus, distributing gaming licenses was done via a type of lottery. As such, significant inequities have occurred from tribe to tribe with respect to their allotted slot amount. Senator Battin wants to ensure that every tribal government with a 1999 Compact can obtain gaming licenses, if desired, up to the maximum of 2,000 gaming machines authorized in the compact.

It is important to point out that the tribal governments operating under the 1999 Compact are not required to reach judicially enforceable local agreements to mitigate off-reservation impacts — a critical CSAC objective required in all Governor Schwarzenegger's compacts negotiated to date. While, we understand that a number of tribes under the 1999 Compact have negotiated local agreements in good faith to the satisfaction of the county, other counties have not been so fortunate.

Should SB 1201 be successful, numerous tribes would have the ability to pursue increased slot machines without the obligation to re-negotiate a new compact with Governor Schwarzenegger, and thus would not trigger the critical CSAC objective of requiring a judicially enforceable local agreement to mitigate off-reservation impacts.

SB 1201 was set for hearing May 12 before the Senate Appropriations Committee; however, it has been rescheduled to be heard on May 19.

May16,2008

## **Washington,D.C.,Report**

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Much of the focus on Capitol Hill the week of May 12 centered around efforts to advance a massive fiscal year 2008 emergency supplemental appropriations bill that would, among other things, pay for the ongoing wars in Iraq and Afghanistan. Additionally, lawmakers reached a long-awaited agreement this past week on a multi-year reauthorization of the nation's agricultural laws.

With regard to the supplemental spending bill, the full House approved May 15 an amendment to the legislation calling for redeployment of American combat troops from Iraq within 30 days of enactment with a nonbinding goal of the war's completion within 18 months. The amendment was approved on a 227-196 vote. The House also approved an amendment, on a 256-166 vote, that would provide an extension of unemployment benefits and a new veterans' educational benefit; the amendment also would delay implementation of seven Bush administration Medicaid regulations.

It should be noted that a third amendment to the spending bill, designed to provide funding for the Iraq war, was defeated after House Republicans voted "present" in order to protest the majority party's handling of the supplemental. In casting their votes, Republicans signaled their strong support for U.S. troops, while indicating their dissatisfaction with Democratic leaders' decision to bring the legislation to the House floor without going through committee markup. The final vote on the amendment was 141-149, with 132 members voting "present."

Across Capitol Hill, the Senate Appropriations Committee approved its version of the supplemental spending legislation on May 15. The bill now heads to the Senate floor, where Democratic leaders are expected to take up the House version of the

legislation and offer the Senate package – which includes funding for the Iraq war – as a substitute for the lower chamber’s bill.

In a positive development for California’s counties, the Senate measure includes \$400 million in funding for a one-year extension of the Secure Rural Schools and Community Self-Determination Act (County Payments program). CSAC has been aggressively pushing Congress to include a one-year extension of the program in the must-pass supplemental spending bill.

It should be noted that the Senate legislation also includes \$490 million for the Byrne Justice Assistance Grant (JAG) program, which would restore the program’s funding to the fiscal year 2006 level of \$660 million. Like the House version of the bill, the Senate package also includes provisions that would delay implementation of the Bush administration’s proposed Medicaid regulations.

While leaders in both chambers of Congress had originally signaled their intention to complete action on the supplemental spending measure before lawmakers leave for their Memorial Day recess, it appears as though that timeframe will slip. According to House Majority Leader Steny Hoyer (D-MD), the supplemental will most likely reach the White House in mid-June.

As for President Bush, he has repeatedly stated that he will veto any bill that includes a tax increase, modifies his war policies, or exceeds his \$108 billion spending request.

On the Farm Bill front, the House and Senate, after months of delay, approved the week of May 12, legislation (HR 2419) that would provide for a long-term reauthorization the nation’s agriculture and nutrition programs. Although President Bush is expected to reject the legislation – which he has said doesn’t do enough to trim subsidies and reduce the cost of agriculture programs – both chambers approved the bill with veto proof majorities. Accordingly, Congress is expected to easily override the president’s expected veto.

The \$289 billion, five-year Farm Bill would significantly increase nutrition spending while at the same time preserving crop subsidies. All told, the legislation provides roughly \$10.3 billion in new funding for nutrition programs, including \$1.2 billion to restock food banks and \$1 billion for a school snack program. Nutrition funding comprises more than 73 percent of the new Farm Bill.

The final legislation also sets stricter income eligibility limits for farmers to receive payments, and provides new incentives for alternative energy.

In other news, and in a victory for CSAC, the House of Representatives approved legislation (HR 1512) that would broaden the State Criminal Alien Assistance Program’s (SCAAP) reimbursement criteria. Under the bill – championed by Representative Linda Sanchez (D-CA) – counties would be eligible to be reimbursed for the costs associated with housing undocumented immigrants that have been accused of a felony, or two or more misdemeanors. Currently, the statute is limited to allowing reimbursement only in cases in which an undocumented individual is actually convicted of such crimes.

It should be noted that Representative Sanchez has been pursuing this effort on behalf of California’s counties since 2003. At that time, the federal Bureau of Justice Assistance (BJA) announced that it would begin using a modified reimbursement criteria when determining SCAAP awards to states and counties. Although technically consistent with federal law, BJA’s reinterpretation of the SCAAP statute had the effect of limiting SCAAP payments to counties, which spend millions of dollars annually housing pre-trial undocumented immigrants.

Across Capitol Hill, Senate Dianne Feinstein (D-CA) has introduced a companion bill (S 2587) to the Sanchez legislation. Senator Feinstein is trying to have her bill sent directly to the Senate floor.