



## News & Advocacy

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June 05, 2009

## Conference Committee Meetings Continue--Action and Recommendation Could Come Any Day

By Paul McIntosh, Executive Director  
[pmcintosh@counties.org](mailto:pmcintosh@counties.org)

The Budget Conference Committee has met daily during the last two weeks, hearing testimony from hundreds of people from nearly every program area, including healthcare, social services, public safety, transportation, parks and prisons. With each new day of hearings, the reality of the fallout from the Governor's proposed spending reductions becomes more evident. And news about state's budget situation only seems to become more ominous.

The 10-member panel – six Democrats and four Republicans – continued hearings today, meeting to discuss health programs this afternoon. Human services is scheduled to go before the committee tomorrow (Saturday, June 6) and local government and corrections are scheduled for Monday, June 8. However, hearings have been running behind schedule and the schedule is very fluid.

Action and votes by the Committee on the Governor's proposals could come any day. A final recommendation on some of the proposals is expected within the next week. However, it appears unlikely that the Legislature will address the full \$24.3 billion deficit at one time. The budget will likely be taken up in two or three phases over the next few months, with the Legislature first taking up cuts that can alleviate the state's pressing cash shortage.

You may recall that last week state Controller John Chiang said the state would be unable to pay its bills starting July 29 if a budget is not in place by June 15. He said missing that deadline would further damage the state's ability to borrow and address its immediate cash shortage, and a delay of payments – as experienced in February – could occur again.

The Conference Committee did take action on one item: committee members unanimously voted Wednesday to eliminate entire departments and agencies under the authority of the Governor, including the Office of Planning and Research and the Secretary of Education office. The savings would be relatively minimal, saving at most \$25 million, about one-tenth of 1 percent of the budget problem, according to media reports. The recommendation now goes before the full Senate and Assembly.

On Tuesday, June 2, in a rare speech, the Governor addressed the Senate and Assembly, urging them to "spend only what we have." He stuck to his cuts-only message and said it was the only way to get to the state to live within its means. He told the joint session of the Legislature that California's economic downturn, the state's chronic budget issues, and the national recession has created an opportunity for leaders to determine what services the state can realistically provide.

Democrats also held hearings this week on the Governor's proposals and are preparing their own alternatives, which could include increases in the alcohol and tobacco taxes, as well as a severance fee on oil extractions.

Counties should prepare for drastic cuts to programs, but also keep in mind that this is just the beginning of another lengthy budget process.

June05,2009

## **Counties remain opposed to harmful bankruptcy bill AB155**

AB 155, by Assembly Member Tony Mendoza, was approved by the Assembly on a 47-25 vote this week. Counties will recall that AB 155 would require a local agency to receive approval from the California Debt and Investment Advisory Commission (CDIAC) prior to seeking Chapter 9 bankruptcy protection. CSAC, as well as the Urban Counties Caucus, the Regional Council of Rural Counties, the League of California Cities, and the California Special Districts Association, are strongly opposed to this bill.

AB 155 was recently amended with new provisions that we encourage counties to review. In summary, the June 1 amendments provide for the following:

The local agency wishing to request approval to seek bankruptcy protection must submit the following items to the CDIAC:

- A resolution adopted in a public hearing that requests the authority to seek Chapter 9 bankruptcy protection and acknowledges that the state's "fiscal and financial responsibilities are not changed" by the application or the CDIAC's decision;
- A thorough analysis of the entity's request to petition under Chapter 9, in which the local entity must demonstrate that it is or will be unable to pay its undisputed debts, demonstrate that it has exhausted all options to avoid seeking Chapter 9 relief, and provide a detailed plan for restoring the local entity to fiscal health.

The local agency may request an expedited review that, if approved, would be completed within 5 days.

CDIAC must complete its review and publish its evaluation within 30 business days, or under an expedited review, within 5 days.

CDIAC must specifically evaluate that the local agency has demonstrated that it has exhausted other remedies, demonstrated that it has taken "sufficient steps to reduce the negative consequences of its proposed bankruptcy relief," anticipated the transfer of service responsibility to other governments or parties and to what extent the entity has documented the consequences for the transfer of services, the likely effect a successful petition will have on state and local finances, including the impact on credit access and debt service, and has proposed a remedy that is appropriate and proportionate to the entity's fiscal problems.

CDIAC must conduct a public hearing within 15 days of, but not less than 10 days after, the publication of the staff evaluation in a location that is close to the local agency applicant.

If CDIAC does not approve the application, the local agency may reapply, but must adopt another resolution and submit documentation to "address the deficiencies" identified by the CDIAC.

In CDIAC approves a request, they may place conditions to limit the nature and extent of relief, including:

- Limiting changes to a contract;
- Prohibit the abrogation of contracts;
- Limit the amount of relief to ensure the protection of debt service payments.

Finally, CDIAC will keep track of the costs associated with this review and the director will report those costs to the CDIAC at its regularly scheduled meeting. If CDIAC denies a local agency's request, CDIAC may assess them a fee to cover some or all of the costs of the review.

In CSAC's view, these amendments provide greater opportunity for fiscal harm of a local agency and, not only do not improve the bill, but make it worse. Please consider reviewing this important legislation and weighing in.

It is likely that AB 155 will be set for hearing in the next few weeks in the Senate Local Government Committee.

June05,2009

**Administration of Justice**

Below you will find a status report on most bills that CSAC Administration of Justice (AOJ) staff has been following thus far in the 2009 legislative session. We have highlighted in particular those bills that are now termed "two-year" bills, in that they failed to meet required legislative deadlines. It is important to note that although two-year bills are no longer active in the session in their current form, authors are still permitted to gut and amend the measure as long as the subject and content differ from its original form. Therefore, it is entirely possible that a two-year bill can be resurrected with entirely new content. We will alert counties to newly gutted and amended measures when they are of interest.

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**Attorney's Fees in Anti-SLAPP Actions**  
**SB 786 (Yee) – Oppose**  
**As Amended on May 20, 2009**

As reported in a previous Bulletin, SB 786, by Senator Leland Yee, was amended to address the awarding of attorney's fees in anti-SLAPP (Strategic Litigation against Public Participation) actions. Specifically, the measure would prohibit a prevailing defendant from being awarded attorney's fees in any anti-SLAPP claim in which the underlying litigation arose from an action under the Brown Act, Public Records Act (PRA), or Bagley Keene Act. CSAC remains opposed to this measure, as amended.

The measure was recently amended in committee to clarify that public entities would still be entitled to attorney's fees when the underlying cause was deemed frivolous — which is the same standard that exists under the Brown Act, PRA, or Bagley Keene Act.

SB 786 was voted off the Senate Floor and is now in the Assembly awaiting assignment to a policy committee.

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**Public Records Act**  
**SB 359 (Romero) – Support**  
**As Amended on May 5, 2009**

SB 359, by Senator Gloria Romero, seeks to update the index of disclosure exemptions contained in the Public Records Act (PRA).

The PRA was amended in 1998 by SB 143 (Kopp) to incorporate an extensive index organized alphabetically of the various code sections a public agency can rely on to justify the nondisclosure of a public record. This index has proven to be a valuable resource for local governments. There has been no organized, comprehensive effort to update the PRA exemption index since it was established in statute more than a decade ago. SB 359 seeks to bring the index up-to-date, consistent with legislative changes that have made certain records confidential in the intervening 11 years.

SB 359 was voted off the Senate Floor and is now in the Assembly awaiting assignment to a policy committee.

**AB 1245 (Monning) – Support**  
**As Amended on April 13, 2009**

AB 1245, by Assembly Member Bill Monning, seeks to establish a procedure to ensure that documents rightfully owned by local or state agencies are returned to that local or state agency. Counties will recall that former Assembly Member Laird carried similar legislation last year that CSAC supported – AB 2595. This measure ultimately was vetoed by the Governor, who cited that the state's historic delay in passing a budget prevented him from signing bills other than those of the highest priority.

*AB 1245 is awaiting a hearing in the Senate Judiciary Committee.*

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**Probation Performance Incentives**  
**SB 678 (Leno and Benoit) – Support in Concept/Request for Comment**  
**As Amended on April 16, 2009**

SB 678, by Senators Mark Leno and John Benoit, would enact the California Community Corrections Performance Incentive

Act. The key objective of the measure is to create performance incentives for local governments to develop community corrections strategies that reduce prison commitments. With increased supervision, monitoring, and intermediate sanctions, probation departments would be better positioned to decrease criminal activity and manage this population locally. Based on a jurisdiction's success — measured in the reduction of felony probationers who are sent to prison — the state would share its savings derived from the lowered prison population.

CSAC staff strongly encourages counties to examine the provisions of SB 678 and contact Rosemary Lamb ([rlamb@counties.org](mailto:rlamb@counties.org)) with comments or questions. We anticipate that the specific mechanics of the measure — such as how the savings will be calculated and redistributed to counties — will be further revised. We are eager to hear county input on the construct of the performance incentive approach. CSAC will continue to update counties on this measure as it moves through the legislative process.

SB 678 is scheduled to be heard next in the Assembly Public Safety Committee on June 16. (Please see the end of this section for a brief discussion of — and link to — a recent report done by the Legislative Analyst's Office (LAO) on county adult probation that also references SB 678.)

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#### **Civil Fees**

##### ***AB 680 (Hall) – Support As Amended on May 19, 2009***

AB 680, by Assembly Member Isadore Hall, seeks to revise and increase various civil fees collected by county sheriff's departments for services rendered. Sponsored by the Los Angeles County Sheriff's Department, AB 680 is supported by a range of county public safety entities and CSAC.

AB 680 was voted off the Assembly Floor and is now in the Senate awaiting assignment to a policy committee.

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#### **Inmate Medical Expenses**

##### ***AB 1487 (Hill) – Support As Amended on April 2, 2009***

AB 1487, by Assembly Member Jerry Hill, seeks to authorize a county sheriff's department to increase the fee charged to an inmate for a medical visit from \$3 to \$6. The measure was amended in April to direct any additional revenue collected over the existing \$3 charge into the Inmate Welfare Fund.

AB 1487 is sponsored by the California State Sheriffs' Association. It was voted off the Assembly Floor and is now in the Senate awaiting assignment to a policy committee.

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#### **Vehicle Theft**

##### ***AB 286 (Salas) – Support As Introduced on February 13, 2009***

AB 286, by Assembly Member Mary Salas, is a reintroduction of her AB 860 from last year, which sought to extend the sunset date on county authority to impose additional fees on vehicle registration to fund local programs relating to vehicle theft crimes. AB 860 was vetoed by the Governor in his blanket veto message stating that the measure did not meet a priority threshold for the year, given the limited amount of time available to him to review legislation in the context of protracted budget negotiations.

AB 286 is again sponsored by the California State Sheriffs' Association, and CSAC is in support. It was voted off the Assembly Floor and is now in the Senate awaiting assignment to a policy committee.

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#### **Vehicle Abatement**

##### ***AB 14 (Fuentes) – Support As Amended on June 3, 2009***

AB 14, by Assembly Member Felipe Fuentes, is a reintroduction his AB 1751 of last year, which would have provided local law enforcement an additional tool in fighting prostitution. AB 14 extends the scope of AB 1751 by adding illegal dumping to

the list of crimes.

Specifically, AB 14 authorizes a city or county to adopt an ordinance allowing local law enforcement the right to impound a vehicle found to be involved in the commission of certain crimes to include prostitution and illegal dumping of commercial quantities of waste. The measure would allow law enforcement to impound a vehicle for no more than 30 days if the vehicle was used in the commission of these crimes.

CSAC is jointly supporting AB 14 with the League of California Cities. AB 14 is scheduled to be heard in the Senate Public Safety Committee on June 9.

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### **Metal Theft**

#### ***AB 237 (Carter) – Support As Amended on April 23, 2009***

AB 237, by Assembly Member Wilmer Amina Carter, seeks to provide local law enforcement with an additional tool in fighting metal theft. This measure amends the Vehicle Code section that specifies which entities have authority to stop and search vehicles transporting products and what specific products could trigger such a stop. AB 237 would add metal products to the list of products that grant law enforcement stop and search authority and would extend this authority to local law enforcement, including county sheriffs. Currently, only the California Highway Patrol is granted this authority.

AB 237 is sponsored by the California State Sheriffs' Association. It is scheduled to be heard in the Senate Transportation and Housing Committee on June 9.

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### **Missing Persons: DNA Database**

#### ***AB 275 (Solorio) – Support As Amended on March 24, 2009***

AB 275, by Assembly Member José Solorio, would delete the sunset 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.

AB 275 was voted off the Assembly Floor and is now in the Senate awaiting assignment to a policy committee.

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### **Human Trafficking**

#### ***AB 17 (Swanson) – Watch As Amended on June 2, 2009***

AB 17, by Assembly Member Sandré Swanson, seeks to make a number of changes to the penal code as it relates to the crime of human trafficking.

Specifically, AB 17 would increase the fine for any person who either kidnaps a child under the age of 16 for the purposes of prostitution, or influences/forces a child under the age of 16 into prostitution. It would further require that 50 percent of the fines collected be placed in the Victim-Witness Assistance Fund. In addition, the measure directs that those funds be granted to community-based organizations that serve minor victims of human trafficking.

The author's office is seeking county review of and support for this measure. We ask that counties review AB 17 and contact the author's office at 916.319.2016 for any follow up.

AB 17 is currently in the Senate awaiting assignment to a policy committee.

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### **Courts**

#### ***AB 1338 (Anderson) – Two-Year Bill As Amended on April 28, 2009***

AB 1338, by Assembly Member Joel Anderson, would have established an arraignment court program. Despite amendments that addressed one core concern of counties, CSAC remained opposed to the measure.

The bill would have authorized — but not required — the establishment of an arraignment program. To exercise this authority, the bill contemplated having the presiding judge (or his or her designee), the district attorney, and the public defender arrive at mutual terms in writing to operate the program. What the construct did not take into account are other operational and fiscal impacts to the county. Chief among those were (1) the impact to the county if the court facility is housed in a shared-use building and (2) the costs associated with providing court security and, if necessary, defendant transportation — both functions provided by the county sheriff.

AB 1338 was held on the Assembly Appropriations Suspense File and is now a two-year bill.

***AB 996 (Anderson) – Two-Year Bill  
As Introduced on February 27, 2009***

AB 1338, by Assembly Member Joel Anderson, would have given the courts the authority to operate the courts on a continuous, 24-hour basis. CSAC and RCRC jointly opposed the measure. Because AB 996 failed to pass out of the Assembly Judiciary Committee, it is now a two-year bill.

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**Public Contracts**

***AB 216 (Beall) – Two-Year Bill  
As Amended on May 6, 2009***

AB 216, by Assembly Member Jim Beall, sought to create a dispute resolution process for claim disputes over \$50,000 between contractors and local agencies. A similar measure was pursued last year by Senator Leland Yee (SB 1642) but was held in the Senate Appropriations Committee. This year, AB 216 was held on the Assembly Suspense File and is now a two-year bill.

***AB 520 (Carter) – Two-Year Bill  
As Introduced on February 25, 2009***

AB 520, by Assembly Member Wilmer Amina Carter, sought to provide public entities with relief from repetitive public records requests from the same individual. Specifically, the measure would have authorized a superior court to issue a protective order limiting the number of requests an individual can make, if it could be proven that the requestor requested documents in the past and used them for improper purposes, including harassment of a public agency.

AB 520 never received a policy committee hearing and is now a two-year bill.

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**Emergency Air Medical Transportation**

***AB 1153 (Beall) – Two-Year Bill  
As Amended on May 5, 2009***

AB 1153, by Assembly Member Jim Beall, would have imposed a new \$3 penalty on vehicle code violations and direct the revenue to support air ambulance services. As discussed in previous Bulletins, CSAC was primarily concerned about ensuring that the timing and mechanics of the penalty imposition did not affect revenue distribution. As counties may recall, CSAC sought an amendment in 2008 legislation to Penal Code 1203.1d, which specifies the priority distribution of revenue when installment payments are made on court-ordered debt. That provision directs any revenue derived from a new penalty enacted on or after January 1, 2009 effectively into a fifth distribution "bucket," after the first four buckets of revenues are filled.

The author and sponsor opted to continue working on the measure, and it remains in the Assembly Appropriations Committee. It is, therefore, a two-year bill.

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**The Legislative Analyst's Office (LAO) Releases Report on County Adult Probation**

Last week, the LAO released a report on county adult probation departments, *Achieving Better Outcomes for Adult Probation*. The report outlines the historic underfunding of county adult probation and the difficulties these financial limitations pose for some counties seeking to provide evidenced-based programming to its probationers.

Furthermore, the report uses its findings to support the approach contemplated in SB 678, a measure by Senators Mark Leno and John Benoit that seeks to enact the California Community Corrections Performance Incentive Act. The LAO proposes certain alternatives to provisions in SB 678, specifically recommending that the Corrections Standards Authority

(CSA) oversee the program versus the Administrative Office of the Courts (AOC), as outlined in SB 678.

Perhaps most important to counties is that the LAO continues to advance its previous criminal justice realignment proposals from 2008 (realigning low level parolees to county probation) and 2009 (shifting a specified number of parolees convicted of crimes relating to substance abuse to county probation). The LAO maintains that either realignment could be achieved in conjunction with SB 678. CSAC encourages counties to review this report, which can be found [here](#).

June05,2009

## **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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### **Solid Waste**

#### ***AB 283 (Chesbro) – Two-Year Bill***

AB 283, by Assembly Member Wes Chesbro, was held on the Appropriations Suspense File. This bill would have established a comprehensive Extended Producer Responsibility Framework, with the goal of creating effective producer-lead reduction, reuse, and recycling programs to deal with a product's lifecycle impacts from design through end of life management.

#### ***AB 87 (Davis) – Two-Year Bill***

AB 87, by Assembly Member Mike Davis, was held on the Assembly Appropriations Suspense file. This bill would have required a store, effective July 1, 2010, to collect a fee from customers on plastic carryout bags of not less than twenty-five cents (\$0.25) with the exception of those customers participating in certain assistance programs.

#### ***AB 68 (Brownley) – Two-Year Bill***

AB 68, by Assembly Member Julia Brownley, was held on the Assembly Appropriations Suspense file. Similar to AB 87, this bill would have also imposed a fee from customers on plastic carryout bags of not less than twenty-five cents (\$0.25).

#### ***SB 25 (Padilla) – Concerns As Amended on May 28, 2009***

SB 25, by Senator Alex Padilla, passed out of the Senate and is now at the Assembly desk waiting committee assignment. This bill would increase the solid waste diversion mandate on local governments to 60% by January 1, 2015, with a state-wide goal of 75% diversion by 2020. SB 25 would also establish an illegal dumping grant and loan program for local governments, mandate commercial recycling, and increase the state tipping fee to \$2.13 per ton by 2012. CSAC continues to have serious concerns with multiple elements of the bill and is working with the author to address some of these issues.

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### **Water**

#### ***AB 1520 (Evans) – Two-Year Bill***

AB 1520, by Assembly Member Noreen Evans, was held on the Assembly Appropriations Suspense File. This bill would have established a Statewide Watershed Program as a voluntary and non-regulatory program with the goal of providing assistance and funds to local community-based efforts in the conservation, protection, and restoration of the state's watersheds.

#### ***SCA 18 (Liu) – Support As Introduced on March 10, 2009***

SCA 18, by Senator Carol Liu, would provide cities and counties the opportunity to create an additional resource to fund stormwater and urban runoff management programs mandated by the Clean Water Act. SCA 18, which is substantially similar to last year's SCA 12, if passed by the Legislature, and approved by the voters, would authorize cities and counties to adopt fees and charges for storm water and urban runoff management programs without having to meet the two-thirds voter approval requirement for property related fees. This same type of exception to Proposition 218 is currently provided for refuse collection, sewer, and water services. This bill is set for hearing in the Senate Elections, Reapportionment and Constitutional Amendments Committee on June 16, 2009. CSAC encourages counties to send in their support letters for

## **Energy**

### ***AB 560 (Skinner) – Request for Comments As Amended on April 16, 2009***

AB 560, by Assembly Member Nancy Skinner, would increase the current cap on the amount of electricity that can be generated under the net-energy metering program from 2.5% to 10% of each utility's aggregate peak demand. Current law requires investor-owned utilities (IOUs) to offer certain customers with solar or wind generation an energy buy-back program where the customer can sell back electricity produced from the solar or wind facility that exceeds that customer's demand up to a certain threshold, known as net-metering. The California Solar Initiative (CSI) established the goals of installing 3,000 megawatts (MW) of distributed generation sized solar energy system in California by 2017. This bill would increase the cap net-metering from 2.5% to 10%, providing the incentives necessary to meet the goals of CSI . CSAC is considering a support position for this bill, based on existing policy. If your county has taken a position on this bill, or this particular issue, please send your comments to CSAC staff.

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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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For a complete list of Employee Relations legislation, [click here](#).

The following bills, reported on in past bulletins, either failed to meet required legislative deadlines or were held on the Assembly and Senate Appropriations Suspense Files for fiscal reasons. For the status of all employee relations bills, please click on the link above.

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## **Assembly Bills**

### ***AB 26 (Hernandez) – Two-Year Bill***

AB 26, by Assembly Member Ed Hernandez, would require a state agency awarding a public works contract to provide a bid preference to a bidder whose employee health care expenditures are 6.5% or more of the aggregate Social Security wages paid to its employees. AB 26 would also require bidders and subcontractors to submit statements certifying that they qualify for bid preference and to continue to make health care expenditures as specified by the bill.

AB 26 was held on the Assembly Appropriations Committee Suspense File.

### ***AB 29 (Price) – Two-Year Bill***

AB 29, by Assembly Member Curran Price, would amend the Knox-Keene Health Care Service Plan Act of 1975 to prohibit health care service plans from setting the limiting age of covered dependent children to less than 27 years of age.

Existing law requires that every health care service plan contract or group health insurance policy that utilizes a limiting age for a dependent with regard to the termination of coverage also provide that this limiting age would not lead to coverage termination under the following specific conditions:

- The dependent is unable to sustain employment due to mental or physical disabilities.
- They are solely dependent on the health care plan subscriber for support and maintenance.

AB 29 would disallow health care plans from setting this limiting age at less than 27 years of age. AB 29 does not require employers to pay the cost of coverage for dependents who are older than 23 years of age and younger than 27 years of age. Employees may opt to contribute the premium for coverage to their dependents that fall into this age range. The provision requiring the limiting age to be a minimum of 27 years of age would not be effective for employment contracts subject to collective bargaining prior to January 1, 2010. Any employment contract subject to collective bargaining that is

amended, issued or renewed on or after January 1, 2010, will be subject to the new provision proposed by AB 29.

AB 29 was held on the Appropriations Suspense File.

***AB 128 (Coto) – Two-Year Bill***

AB 128, by Assembly Member Joe Coto, would extend the workers' compensation cancer presumption to a member following termination of service for a period of one year for each full year of requisite service, essentially creating a 30-year presumption period.

Current law establishes certain cancer presumptions for firefighters and peace officers if the cancer develops when they are in the service of a public agency and has been deemed to be caused by exposure to a cancer-causing agent. This presumption is currently extended to a member for three months for each year of service after the member's service has been terminated.

CSAC opposed AB 128 because it will result in increased workers' compensation costs by extending the presumption to firefighters and police officers for, in many possible cases, decades after the employees have terminated their employment. CSAC believes that counties must be able to retain the discretion to reject workers' compensation claims when the injury does not arise out of the person's employment.

AB 128 was held on the Assembly Appropriations Committee Suspense File.

***AB 227 (Cook) – Two-Year Bill***

AB 227, by Assembly Member Paul Cook, would establish within the Department of Labor Standards Enforcement a Labor Standards Consultation Unit. The purpose of the Unit would be to provide consulting services to an employer or employee regarding compliance with labor standards. This bill would authorize the unit to charge a requester a fee for the consulting services provided, not to exceed the actual cost to the unit.

AB 227 was held in the Assembly Labor and Employment Committee.

***AB 493 (Tran) – Two-Year Bill***

AB 493, by Assembly Member Van Tran, would abolish the Unemployment Insurance Appeals Board, Cal-OSHA and the Workers' Comp Appeals Board and transfer duties to the Employment and Benefits Appeals board within the Labor and Workforce Development Agency.

AB 493 was held in the Assembly Insurance Committee.

***AB 514 (De Leon) – Two-Year Bill***

AB 514, by Assembly Member Kevin De Leon, would require an employer to provide a 20-minute paid rest period for lactation purposes during each 4-hour work period. The bill also specifies that this rest period shall immediately precede or follow any rest period to which the employee is entitled by law.

AB 514 was held on the Assembly Appropriations Committee Suspense File.

***AB 615 (Niello) – Two-Year Bill***

AB 615, by Assembly Member Roger Niello, would delete the definition of first aid in existing law and authorize the administrative director for the Department of Workers Compensation to adopt regulations to define various terms. AB 615 included a new definition for medical treatment and first aid.

AB 615 was held in the Assembly Insurance Committee.

***AB 664 (Skinner) – Two-Year Bill***

AB 664, by Assembly Member Nancy Skinner, would establish a presumption for workers' compensation purposes when a hospital employee contracts a blood-borne infectious disease, neck or back impairment, or methicillin-resistant Staphylococcus aureus (MRSA) infection.

AB 664 would also extend this presumption three months for each year of service after the employee's service has been terminated.

CSAC opposed AB 664 because employers need to retain the discretion to accept or challenge workers' compensation

claims. Further, AB 664 could result in increased costs in workers' compensation for county hospitals at a time when counties are facing budget deficits and reduced funding for program services.

AB 664 was held on the Assembly Appropriations Suspense File.

***AB 801 (Duvall) – Two-Year Bill***

AB 801, by Assembly Member Michael Duvall, would authorize the Department of Insurance to use individually identifiable information for purposes of investigating and prosecuting workers' compensation insurance fraud. The bill specifies that governmental agencies shall have access to the individually identifiable information about workers' compensation claims, and the purposes for which the agencies may use the information.

AB 801 was held in the Assembly Insurance Committee.

***AB 842 (Swanson) – Two-Year Bill***

AB 842, by Assembly Member Sandre Swanson, would increase the layoff notice period from 60 to 90 days and require employers to provide additional information to employees once notice of layoff is given.

AB 842 was held on the Assembly Appropriations Suspense File.

***AB 849 (Swanson) – Two-Year Bill***

AB 849, by Assembly Member Sandre Swanson, would increase the circumstances under which an employee is entitled to protected leave under the Family Rights Act by:

- Eliminating the age and dependency elements from the definition of "child," thereby permitting an employee to take protected leave to care for his or her independent adult child suffering from a serious health condition.
- Expanding the definition of "parent" to include an employee's parent-in-law.
- Permitting an employee to also take leave to care for a seriously ill grandparent, sibling, grandchild, or domestic partner.

AB 849 was held on the Assembly Appropriations Suspense File.

***AB 886 (Garrick) – Two-Year Bill***

AB 886, by Assembly Member Martin Garrick, would include public library employees as mandated reporters for the purpose of reporting sexual exploitation material on public library computers.

AB 886 was held in the Assembly Public Safety Committee.

***AB 1000 (Ma) – Two-Year Bill***

AB 1000, by Assembly Member Fiona Ma, would provide that an employee who works in California for seven or more days in a calendar year is entitled to paid sick days which shall be accrued at a rate of no less than one hour for every 30 hours worked. Employees would be entitled to use accrued sick days beginning on the 90th calendar day of employment.

CSAC opposed AB 1000 because we believe that leave policies are part of total compensation and benefits packages that should be determined locally. By mandating new levels of sick leave, AB 1000 undermines local control and the integrity of the collective bargaining process. AB 1000 also requires employers to track employees' accrual of sick leave even after they have separated from service; this is an unprecedented administrative burden, requiring every employer to program their human resources systems to track employees they no longer employ. Finally, AB 1000 imposes a fiscal burden for the county workforce generally and In Home Supportive Services providers specifically at a time when counties can least afford it.

AB 1000 was held on the Assembly Appropriations Suspense File.

***AB 1001 (Skinner) – Two-Year Bill***

AB 1001, by Assembly Member Nancy Skinner, would add "familial status" to the list of characteristics (e.g., race, sex, religion, etc.) that are prohibited bases of discrimination under the employment provisions of the Fair Employment and Housing Act. The bill defines familial status to mean having or providing care for any of the following: a child, a parent, a spouse or domestic partner, a parent-in-law, a sibling, a grandparent, or a grandchild.

AB 1001 was held on the Assembly Appropriations Suspense File.

### ***AB 1298 (Coto) – Two-Year Bill***

AB 1298, by Assembly Member Joe Coto, would increase the taxable wage and rate for unemployment insurance. Existing law, for the purpose of unemployment insurance, excludes pay or salary in excess of \$7,000 from the definition of “wages” paid by an employer to an individual in a calendar year. AB 1298 increases this exclusion to \$16,600.

AB 1298 was held in the Assembly Insurance Committee.

### ***AB 1378 (Perez, V.) – Two-Year Bill***

AB 1378, by Assembly Member V. Manuel Perez, would, until January 2012, establish the Veterans’ Workforce Program to provide training and assessment for veterans to identify needs for skill enhancement with the intention of helping to transition veterans into the civilian workforce. AB 1378 would provide that the program shall only be implemented with funds that are available to the state under the federal Workforce Investment Act of 1998, to the extent that the sum of at least \$250,000 of those funds is available for this purpose.

AB 1378 was held in the Assembly Committee on Jobs and Economic Development.

### ***AB 1564 (Committee on Insurance) - Two-Year Bill***

AB 1564, by the Assembly Committee on Insurance, would delete the provision providing that a collective bargaining agreement may establish a vocational rehabilitation or retraining program for use in workers’ compensation cases.

AB 1564 was held in the Assembly Insurance Committee.

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## **Senate Bills**

### ***SB 3 (Cedillo) – Two-Year Bill***

SB 3, by Senator Gil Cedillo, would, for injuries occurring on or after January 1, 2010, provide for a supplemental job displacement benefit voucher for up to \$5,000 to cover re-education and skill enhancement expenses. The vouchers would expire two years after being furnished for five years after the date of injury.

Employers who make an offer of reemployment or continued employment to their employees would be exempt from this mandate.

SB 3 was held on the Senate Appropriations Suspense File.

### ***SB 287 (Calderon) – Two-Year Bill***

SB 287, by Senator Ron Calderon, would revise the statutory requirements for the provision of meal periods to specify that the requirements apply only to employees subject to the meal period provisions of an order of the Industrial Welfare Commission (IWC). Requirements would be revised to specify that a meal period based on working more than five hours in a workday is required to be provided before the employee completes six hours of work.

The waiver provision for the 2nd meal period would be changed to provide an exception for different provisions within IWC wage orders in effect as of January 1, 2009, and to permit the employer and employee to agree to waive either the first or second meal period if the employee otherwise is entitled to second meal periods. Meal period provisions of a valid collective bargaining agreement would be required to be implemented for covered employees rather than the statutory requirements.

SB 287 was held in the Senate Labor and Industrial Relations Committee.

### ***SB 380 (Dutton) – Two-Year Bill***

SB 380, by Senator Bob Dutton, would revise the statutory requirements for the provision of meal periods to specify that the requirements apply only to employees subject to the meal period provisions of an order of the Industrial Welfare Commission (IWC). Requirements for providing meal periods would be revised to specify that a meal period based on working more than five hours in a workday is required to be provided before the employee completes six hours of work.

The waiver provision for the second meal period would be changed to provide an exception for different provisions within IWC wage orders in effect as of January 1, 2009, and to permit the employer and employee to agree to waive either the first or second meal period if employee is entitled to 2.

SB 380 was held in the Senate Labor and Industrial Relations Committee.

### ***SB 403 (Benoit) – Two-Year Bill***

SB 403, by Senator John Benoit, would prohibit a lien claim for expenses incurred by or on behalf of the injured employee and medical and hospital treatment from being filed more than one year from the date the health care provider, or the health care provider's agent, was sent an explanation of benefits or explanation of review paying or objecting to a bill in whole or in part.

SB 403 was held at the Assembly Desk.

### ***SB 628 (Ashburn) – Two-Year Bill***

SB 628, by Senator Roy Ashburn, would allow a Public Employees Medical Health Care Act contracting agency and employees' representative to agree that the employer contribution for health benefits may differ for new hires from existing employees. This agreement would not be subject to labor negotiation impasse procedures.

SB 628 was held in the Senate Public Employment and Retirement Committee.

### ***SB 711 (Leno) – Two-Year Bill***

SB 711, by Senator Mark Leno, would amend the Brown Act to require a local agency, before holding a closed session regarding employee compensation, to identify the employee or class of employees that are the subject of the negotiations, the representatives of the employees, and will also require that a designated representative provide an oral report on the status of all negotiations; requires any final action on an agreement be conducted during an open and regular public meeting of the legislative body. The proposed agreement, a summary of its major provisions, and the costs that would be incurred by the local agency under the agreement for the current and subsequent years must also be disclosed at a public meeting. Final action could not take place until a reasonable time has elapsed after disclosure of the proposal has been made public.

SB 711 was held in the Senate Local Government Committee.

### ***SB 764 (Negrete McLeod) – Two-Year Bill***

SB 764, by Senator Gloria Negrete McLeod, would make provisions within existing law regarding workers' compensation applicable to employers who have not entered into a contract with a health care organization for the provision of medical services.

SB 764 was held on the Senate Appropriations Suspense File.

### ***SB 773 (Florez) – Two-Year Bill***

SB 773, by Senator Dean Florez, will increase permanent partial disability benefits for injuries occurring after January 1, 2010, significantly increasing workers' compensation costs for public employers.

In the four years preceding the 2004 workers' compensation reforms put in place by SB 899 (Poochigian, Statutes of 2004), counties experienced a 66% increase in their workers' compensation costs.

CSAC believes that legislation to alter the formulas established in SB 899 should be based on the actual experience of employers and employees under the current system consistent with the analysis completed by the Division of Workers' Compensation.

SB 773 was held on the Senate Appropriations Suspense File.

### ***SB 807 (Benoit) - Two-Year Bill***

SB 807, by Senator John Benoit, would allow employees to take their first meal period before the start of their sixth hour of work and changes an employer's punishment for not providing a meal period to a penalty equal to one hour of work instead of a premium wage penalty.

SB 807 was held in the Senate Labor and Industrial Relations Committee.

June05,2009

**Government Finance and Operations**

### **Local Sales Tax**

#### ***SB 27 (Hancock) – Support As Enrolled on May 29, 2009***

SB 27 would prohibit local agencies from unfairly diverting tax revenue to the private sector by entering into agreements that give retailers rebates or transfers of local sales tax revenues in order to lure the retailer's sales tax-generating activities away from other jurisdictions where the retailer maintains a presence.

In doing so, it addresses an egregious practice that undermines communities' ability to provide local programs and services. In the cases this bill would prohibit, jurisdictions that continue to bear the burden of providing public services to a retailer are deprived of the tax revenue that the retailer generates, therefore undermining those agencies' ability to provide for the service and facility needs of their residents, both residential and commercial.

These sales tax "incentives" – which can reach at least 85% – merely shift revenue from one or more communities into the pockets of private entities. As such, the revenues provide no additional services or benefits to the public, though the taxpayers retain the tax burden. This practice is especially troubling given the current economic climate and the severe restrictions on local agencies' revenue options.

The Assembly passed SB 27 with only one "no" vote. The bill now awaits the Governor's signature.

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### **Use Tax Liability**

#### ***AB 469 (Eng) – Support As Amended on April 2, 2009***

AB 469, by Assembly Member Mike Eng, would make clear that Californians who owe use tax must pay that tax by reporting it directly to the BOE or on their income tax form.

The Assembly passed AB 469 to the Senate last week on a vote of 49-30.

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### **State Mandates**

#### ***AB 548 (Krekorian) – Support As Introduced on February 25, 2009***

AB 548, by Assembly Member Paul Krekorian, would delete the provision of law that authorizes the State Controller to begin an audit more than three years from the date of the initial payment of the claim. It would also extend the time in which the Controller may audit a claim for reimbursement to four years—instead of three—after the date the claim is filed or amended, whichever is later.

Existing statute generally limits audits to three years, but there is a strange exception for instances when the money has not yet been appropriated. This has led to audits going back well over twice the normal limit, which in turn creates record retention headaches for local officials. The long delays between service delivery and audit sometimes cause reimbursements to be based on which records have survived rather than the actual cost of providing the service.

The Assembly unanimously passed AB 548 to the Senate this week.

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### **Disaster Relief**

#### ***AB 15 (Fuentes) – Support As Amended on May 21, 2009***

#### ***AB 50 (Nava) – Support As Amended on June 1, 2009***

#### ***AB 79 (Duvall) – Support***

## ***As Amended on May 21, 2009***

These three bills would reimburse the Counties of Los Angeles and Ventura (AB 15), Santa Barbara (AB 50), and Orange, Riverside, and San Bernardino (AB 79) for property tax losses related to the wildfires last fall. Assembly Member Nava recently amended AB 50 to also include this spring's wildfires in Santa Barbara. The three bills would also include those wildfires in the provisions of the Natural Disasters Assistance Act. The bills further provide that dwellings that qualified for the homeowner's property tax exemption may not be denied the exemptions solely due to it being damaged, destroyed, or uninhabitable by those wildfires. Lastly, they would allow the carryover to the previous year of losses due to these wildfires, for purposes of the personal income tax and corporate tax.

This type of disaster assistance is critical to the recovery in these areas, because it allows owners of homes and businesses damaged by these natural disasters to be eligible to apply for property tax relief. However, as a result, counties will experience the consequences of that relief with a resultant loss of property tax revenue. These three bills would provide that the state reimburse these specific local losses for the time period stated above.

The Assembly passed AB 15, AB 50, and AB 79 to the Senate this week, all unanimously.

June05,2009

## **HealthandHumanServices**

For more information, contact Kelly Brooks at 916/327-7500, ext. 531 or [kbrooks@counties.org](mailto:kbrooks@counties.org), Faith Conley (for Health policy) at 916/327-7500, ext. 522 or [fconley@counties.org](mailto:fconley@counties.org), or Geoffrey Neill (for Human Services policy) at 916/327-7500, ext. 567 or [gneill@counties.org](mailto:gneill@counties.org)

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The following is a list of bills in the Health and Human Services policy area, which are still moving through the legislative process this year.

### **Health**

#### ***AB 217 (Beall) – Support As Amended on June 1, 2009***

AB 217, by Assembly Member Jim Beall, would allow the state to draw down federal funding for providing confidential alcohol and drug screening and brief intervention services to specified Medi-Cal beneficiaries.

Currently, counties that provide substance and alcohol screening and brief intervention services to Medi-Cal beneficiaries must bear the full cost of such services. A new federal rule change allows California to receive federal revenue to perform Screening and Brief Intervention (SBI) services, making them more affordable. AB 217 would allow the state to take advantage of this rule change and draw down a federal match for local funds.

AB 217 is currently awaiting assignment to a Senate policy committee.

#### ***AB 244 (Beall) – Support As Amended on May 5, 2009***

AB 244 would require Knox-Keene licensed health plans to expand mental health coverage to include the diagnosis and treatment of any mental health condition or disorder as defined in the Diagnostic and Statistical Manual IV (DSM-IV) (or subsequent editions), including substance abuse conditions. AB 244 builds upon the original California mental health parity legislation, AB 88 (Thomson, Chapter 534, Statutes of 1999), which requires health plans to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and serious emotional disturbances of children, under the same terms and conditions applied to other medical conditions.

Since the enactment of AB 88, numerous studies have shown that mental illness is not only treatable, but also that appropriate and timely treatment of mental health conditions and disorders reduces costly hospitalizations, incarcerations, homelessness and, most importantly, human suffering. There is a growing body of evidence that suggests that mental health parity outweighs the societal costs and risks associated with untreated illness.

In addition, a large percentage of mental health clients also have co-occurring substance abuse disorders, and we know that treating one condition without treating the other is not cost-effective. We also know that individuals with mental health disorders who do not receive appropriate and necessary treatment are more likely to self-medicate with drugs and/or alcohol. AB 244 would help ensure that private health plans treat individuals with mental health, substance abuse or

co-occurring disorders in a comprehensive and meaningful way.

AB 244 is currently awaiting assignment to a Senate policy committee.

***AB 646 (Swanson) – Support  
As Amended on May 5, 2009***

AB 646, by Assembly Member Sandre Swanson, would permit health care districts to directly employ physicians and surgeons in rural and underserved communities.

Counties across the state have issues recruiting physicians for our hospitals and clinics. The scarcity of qualified medical personnel in California continues to hamper our ability to provide quality health care to our residents and employees. SB 646 would enable 46 health care district hospitals and approximately 130 other public, independent community nonprofit hospitals and clinics to hire physicians directly.

The significant shortage of qualified medical personnel affects all counties large and small. For large urban counties and counties that operate hospitals, the shortage of medical personnel threatens their ability to meet state staff ratio standards and attract physicians. The impacts of the medical workforce shortage are also dire in rural counties, where access to medical specialists is severely limited. All counties report difficulty attracting and retaining primary care physicians.

According to a 2007 California Medical Association report, the average age of physicians in the rural and underserved urban communities is approaching 60, with many of those planning to retire in the next two years. AB 646 will assist in attracting and retaining physicians in communities across California.

AB 646 is awaiting assignment to a Senate policy committee.

***AB 657 (Hernandez) – Support  
As Amended on June 2, 2009***

AB 657, by Assembly Member Ed Hernandez, would establish a Health Professions Workforce Task Force to assist in the development of a health professions workforce master plan for the state.

AB 657 is awaiting hearing in the Senate Rules Committee.

***AB 710 – Support  
As Amended on April 22, 2009***

AB 710, by Assembly Member Mariko Yamada, will create the Veterans' Substance Abuse and Mental Health Services Fund (Fund) for the purpose of receiving federal Substance Abuse and Mental Health Services Administration (SAMHSA) grant money. This bill will additionally require the California Department of Veterans' Affairs (CDVA) to submit an application to SAMHSA for this funding and then deposit it into the newly created fund. Monies from the fund would then be continuously appropriated by the Legislature to CDVA to fund community-based organizations providing substance abuse and mental health services to veterans.

AB 710 is awaiting assignment to a Senate policy committee.

***AB 754 (Chesbro) – Support  
As Amended on June 2, 2009***

AB 754, by Assembly Member Wes Chesbro, clarifies the obligations and timeframes for the Department of Mental Health (DMH) and the Department of Health Care Services (DHCS) to reimburse county mental health plans for their Medi-Cal claims.

AB 754 is awaiting assignment to a Senate policy committee.

***AB 861 (Ruskin) – Support  
As Amended on May 5, 2009***

AB 861, by Assembly Member Ira Ruskin, would require the state Department of Public Health to develop and implement, in consultation with local health representatives, a model consolidated and streamlined administration and contracting process with local health jurisdictions for the department's Center for Infectious Diseases and Center for Family Health.

AB 861 is awaiting assignment to a Senate policy committee.

***AB 1445 (Chesbro) – Support  
As Amended on June 1, 2009***

AB 1445, by Assembly Member Wes Chesbro, would allow federally qualified health centers to be reimbursed by Medi-Cal for multiple visits by a patient with a single or different health care professional on the same day at a single location.

AB 1445 is awaiting assignment to a Senate policy committee.

***SB 152 (Cox) – Support  
As Amended on April 14, 2009***

SB 152, by Senator Dave Cox, would require the timely reimbursement of mental health services claims to local governments.

Specifically, SB 152 would require the state Department of Mental Health to send a reimbursement claim to the controller within 90 days after the receipt of a reimbursement claim from a county for Medi-Cal services. The measure also requires interest to be paid on late payments, but would not go into effect until the beginning of the next fiscal year on March 1, 2010. SB 152 also exempts claims that are disputed or in need of additional information from the 90-day timeline.

SB 152 is awaiting a hearing date in the Assembly Health Committee.

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**Human Services**

***AB 295 (Ammiano) – Support  
As Amended on June 1, 2009***

AB 295, by Assembly Member Tom Ammiano, would eliminate the pilot status of the existing wraparound services program that is already operating in forty counties. It also allows counties participating in a second pilot program aimed at increasing adoptions of older foster children to spend the project funding over a longer period.

The wraparound that seeks to maintain seriously emotionally disturbed children safely in their own homes instead of treatment facilities has repeatedly been shown to be successful and cost-effective.

The Assembly passed AB 295 to the Senate this week on a unanimous vote.

***AB 510 (Evans) – Support  
As Amended on April 2, 2009***

AB 510, by Assembly Member Noreen Evans, would prevent CalWORKs recipients who are unable to access welfare-to-work services due to the effects of recent budget cuts from being unfairly penalized.

The Assembly passed AB 510 to the Senate this week on a 50-28 vote.

***AB 719 (B. Lowenthal) – Support  
As Introduced on February 26, 2009***

AB 719, by Assembly Member Bonnie Lowenthal, would extend food stamps for one year to foster youth after they “age out” of the current system.

The Assembly passed AB 719 to the Senate this week on a unanimous vote.

***AB 938 (Committee on Judiciary) – Support  
As Amended on June 1, 2009***

AB 938, introduced by the Assembly Judiciary Committee, would require county social workers to begin searching for adult relatives within 30 days when they remove children from their homes.

Searching for and contacting adult relatives of these abused and neglected children is already part of social workers' plan of action upon removing them from their homes, but new federal law accelerates the time in which they are performed. AB 938 would implement that new federal statute. Counties also support the state continuing the practice of funding the increased level of service this bill implements.

The Assembly passed AB 938 to the Senate this week on a unanimous vote.

***AB 1058 (Beall) – Support  
As Amended on June 1, 2009***

AB 1058, by Assembly Member Jim Beall, would make two key changes to CalWORKs program eligibility rules, allowing applicants and recipients to own reliable cars and build a small amount of savings. These changes will promote work participation and self-sufficiency, respectively. The current allowed vehicular value has not changed since the program's inception and dates to a 1977 Food Stamp rule. These changes will make it more likely that a CalWORKs recipient is able to find work and that once they are self-sufficient and out of the program one minor catastrophe (health, for instance) doesn't put them right back into the program.

The Assembly passed AB 1058 to the Senate this week on a 48-30 vote.

***AB 1324 (Bass) – Support  
As Amended on May 14, 2009***

AB 1324, by Speaker Karen Bass, would provide assistance to foster youth who may have been victims of identity theft.

Foster youth who are victims of identity theft find increased difficulty in obtaining housing and accessing other financial services once they are emancipated. AB 1324 requires them to be referred to a government or nonprofit organization that provides information and assistance to victims of identity theft. Current law says the youth be referred to "an approved counseling organization".

The Assembly passed AB 1324 to the Senate last week on a unanimous vote.

***AB 1325 (Cook) – Support  
As Amended on May 6, 2009***

AB 1325, by Assembly Member Paul Cook, would add a new, culturally appropriate permanency option for Native American children in foster care, known as tribal customary adoption. While similar to traditional adoption in that biological parents no longer have day-to-day custody, a tribal customary adoption does not completely terminate parental rights. Tribal customary adoption is recognized by the federal government and has been used in other states with success. This option would be considered along with traditional adoption and guardianship. AB 1325 sets forth considerations for the tribe in developing the tribal customary adoption order as well as provisions for the resolution of disagreements that may arise. The bill sets a four-year sunset of its provisions.

The Assembly passed AB 1325 to the Senate last week.

June05,2009

## **Housing, Land Use and Transportation**

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

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### **Transportation Budget Update**

The Department of Finance (DOF) released its cash flow projections for the Fiscal Year 2009-10 State Budget May revision yesterday. Included were specific details on how the DOF proposes to take gas taxes and defer Prop 42 payments to cities and counties to assist the State in meeting its cash flow needs. Specifically, the DOF proposes:

- To shift, or take, local gas tax subventions to counties and cities for the entire Fiscal Year 2009-10 to pay down general fund bond debt service. This means a loss of \$41 million each month to counties for a total of \$492 million in gas tax deferrals. The DOF does not indicate a payback date and CSAC understands this to be a proposal to permanently shift gas tax funding from local agencies to state general fund purposes.

This proposal essentially eliminates all revenues available to counties for operations and maintenance and would force every county to lay-off staff and either significantly reduces its maintenance programs or shut down entirely. We are compiling the results of a survey of the 58 counties, but to date with 53 counties reporting we are facing 2,984 layoffs of public works staff due to this loss alone.

- To defer the first two quarters of Prop 42 payments (October 2009 and January 2010) to counties and cities. These two payments represent \$144 million in deferrals to counties. Apparently, the state would make the 3rd and 4th quarter payments in April and July of 2010 and payback the first two quarter payments in May 2010.

- The DOF proposes to make Prop 1B Local Streets and Roads allocations in June to counties and cities that have already submitted a project list and have been waiting to receive funding since the State put a freeze on bond funds in December. The DOF counts this towards backfilling local agencies for the proposed cuts and deferrals but since these funds are a result of appropriations in previous budgets, this is simply an attempt to cover up the true costs of the deferrals to counties and cities.
- The DOF proposes to appropriate the remaining \$450 million to counties from the Prop 1B Local Streets and Roads account in Fiscal Year 2009-10 from October to March. Backfilling the deferrals with a new Prop 1B appropriation is dependent of course on the State's ability to sell bonds and make the Local Streets and Roads Account a priority for funding over other types of projects.
- Finally, the DOF considers the \$700 million in American Reinvestment and Recovery Act (ARRA) monies to counties and cities as another method to backfill the deferrals and permanent take of gas tax. This does not work for a number of reasons. First, ARRA funds are for specific types of projects and cannot be used for operations and maintenance so they are not an appropriate replacement for gas taxes. Second, the gas tax shift is permanent whereas ARRA funds are one-time only. Third, the loss of gas taxes puts in jeopardy a county's ability to put ARRA and other state and federal transportation funds to work as local governments will be forced to lay-off staff and will not have the necessary revenue to use as a local match.

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**Public Works Administration**  
**AB 1409 (John Perez) – Oppose**  
**As Amended on June 2, 2009**

AB 1409, by Assembly Member John Perez, would revise Public Contract Code Section 20395 (c) so that a county could use day labor only after putting a project out to bid and then adopt a board resolution stating that no bids were received or that all bids received exceed the cost of having the project done by day labor. Day labor, for purposes of the revised section, would be defined to mean nonpermanent, part-time, or temporary employees who are not represented by a collective bargaining unit.

The June 2 amendments remove force account from the bidding requirements and redefines force account specific to that subdivision to exclude the county workforce. CSAC is reviewing the definitions and seeking counsel opinion.

In general, we are still opposed to removal of existing 20395 (c), which has provided county government with the authority to respond to the needs of the public since 1935. This authority provides for direct accountability to our elected boards of supervisor's to establish limitations as necessary. Utilizing county workforce for transportation projects is critical to maintain our system and to perform critical and timely work to prevent and respond to emergencies. However, the June 2 amendments are a very big step in the right direction.

Until our remaining concerns are addressed, CSAC is opposed to this measure. AB 1409 was passed out of the Assembly by a vote of 66 to 9. The measure now awaits a committee assignment in the Senate.

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**Transportation**  
**AB 561 (Carter) – Support**  
**As Introduced on February 25, 2009**

AB 561, by Assembly Member Wilmer Amina Carter, would expand the definition of "highway worker" to include a contractor while under contract with the California Department of Transportation or a city or county employee who performs maintenance, repair, or construction of highways or local streets and road infrastructure for the purpose of enhanced penalties for assault or battery upon a "highway worker."

County employees – local street and road maintenance and rehabilitation crews – put their lives on the line in order to provide an important service which all Californians rely on in everyday life. Their job puts them in harms way of traffic and motorists who have been known to take anger out on road crew workers through physical violence. As such, the State should extend the current assault and battery criminal protections provided to state highway workers to local street and road workers as well.

AB 561 is set for hearing before the Senate Public Safety Committee on June 9.

## Washington,D.C.,Report

For more information, contact Joe Krahn, Waterman and Associates, 202/898-1444, or e-mail [jk@wafed.com](mailto:jk@wafed.com).

Members of Congress returned to Washington, D.C., the week of June 1 following its week-long Memorial Day recess. Lawmakers will have roughly a month to make progress on a variety of legislative initiatives before the start of their next scheduled break, which coincides with the July 4 holiday.

Democratic congressional leaders have laid out an ambitious schedule leading up to the Independence Day recess, with committee action on health care, climate change, and the fiscal year 2010 appropriations bills expected to receive the lion's share of the attention.

With regard to the fiscal year 2010 budget, House and Senate leaders are determined to clear all 12 appropriations bills through regular order. Since 2005, lawmakers have been unable to approve the annual funding bills individually, resulting in passage of a series of catch-all omnibus spending packages.

In the House, subcommittee markups are already underway, with Appropriations Committee leaders hoping to approve every spending measure by the August recess. In the Senate, the Appropriations Committee is planning to start subcommittee markups the week of June 15.

In other developments, Congress has been steadily working on the must-pass war supplemental spending package. The bill, which is expected to amount to \$100 billion, is necessary to fund ongoing military operations in Iraq and Afghanistan.

House and Senate Democratic leaders have been working overtime in an effort to garner sufficient support for the bill, as a number of House Democrats have not committed to voting for the supplemental. For their part, many House Republicans have threatened to vote against the legislation if it includes \$5 billion for the International Monetary Fund (IMF).

In other news, preparations are underway for the Senate to consider President Obama's first nominee to the U.S. Supreme Court. On May 26, President Obama nominated Federal Judge Sonia Sotomayor to fill the seat being vacated by Supreme Court Justice David Souter.

Prior to being voted on by the full Senate, the Judiciary Committee will hold hearings on Sotomayor's nomination. The hearings are expected to begin in mid-July.

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### SCAAP

On June 4, the House Commerce-Justice-Science (CJS) Appropriations Subcommittee cleared its fiscal year 2010 spending bill by voice vote. Overall, the legislation would provide \$64.4 billion in budget authority for CJS spending beginning next fiscal year, most of which is discretionary funding. The funding level represents a 12% increase over fiscal year 2009 spending, and slightly less than President Obama's budget request.

Included in the bill, which is still in draft form, is \$300 million for the State Criminal Alien Assistance Program (SCAAP). The proposed funding level represents a \$100 million cut compared to current spending.

It should be noted that supporters of SCAAP are discussing options for restoring the program's funding once the CJS bill goes before the full House Appropriations Committee. CSAC is working with California members of the Committee, as well as other stakeholder organizations, on possible amendments. The full Appropriations Committee is expected to consider the bill the week of June 8.

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### Climate Change/Energy Policy

Climate change and renewable energy legislation continues to garner significant attention on Capitol Hill, with Democratic leaders in both chambers of Congress pushing to advance their respective bills.

In the Senate, the Energy and Natural Resources Committee completed June 4 its work on the renewable energy title of its draft legislation. As approved by the committee, the title would require 15% of the nation's electricity to come from renewable energy sources. Notably, the 15% mandate represents a significant increase from the 3% of electricity that is

currently generated from renewable sources, but is still considerably lower than the 25% sought by the White House.

As expected, the debate in the Energy and Natural Resources Committee has not been without controversy, with Republican members of the panel offering a variety of amendments during the committee's consideration of the bill. For one, the panel rejected on a 10-13 vote, an amendment designed to include nuclear power as part of the renewable energy mandate. The issue is likely to resurface once the bill reaches the Senate floor.

Republican members of the committee also objected to a variety of other provisions of the legislation, including language that would allow the federal government to supersede state and local authority to site power lines that would transmit new renewable power. The preemption debate will likely continue when the full Senate debates the energy bill.

Across Capitol Hill, the Energy and Commerce Committee approved a broad energy and climate change bill (HR 2454) on May 21. The panel cleared the legislation on a 33-25 vote, with only one Republican member of the committee – Representative Mary Bono Mack (CA) – supporting the measure.

It should be noted that HR 2454 includes a 20% renewable energy standard, of which 5% could come from energy savings from greater efficiency. Under the bill, states could petition to meet a standard for 12% renewable use and 8% from efficiency. The legislation also would create a cap-and-trade system whereby polluters could buy and sell emissions allowances in an open market.

Prior to be considered on the House floor, there are several hurdles that the legislation must clear. For starters, a number of key House committees have jurisdiction over various parts of the bill and must decide whether to conduct mark-ups of their own or relinquish altogether their opportunity to shape the legislation. Because House Democratic leaders are insisting on a tight timeframe for the conclusion of committee action, several committees may elect not to take up HR 2454.

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## **Health System Reform**

Lawmakers on both sides of Capitol Hill continue to explore options for reforming the nation's health system, with House and Senate leadership pledging that their respective bills will be adopted before the August recess.

The ambitious schedule for considering health reform legislation is slipping, however. Instead of committee action taking place early this month, leaders of the Senate Finance Committee and the Health, Education, Labor and Pensions Committee are now targeting introduction of their bills by mid-June, with mark ups before July 4. The three House committees with jurisdiction over health policy (Energy and Commerce, Ways and Means, and Education and Labor) are following a similar timetable.

Given the enormity and complexity of the task, the Congressional Budget Office is struggling to provide accurate cost estimates for the numerous parts of health reform. Incidentally, each policy reform option (e.g., coverage, cost containment, access), would have major budget implications for other parts of the package.

At this stage, there is no agreement on how to raise the hundreds of billions of dollars necessary to finance health reform. Other contentious issues include whether or not there should be a new option for individuals and small businesses to purchase a publicly-sponsored health plan and whether employers should be mandated to provide health insurance or pay a percentage of their payroll to the U.S. Treasury. These two issues are becoming increasingly controversial in the Senate, which, to date, has attempted to have bipartisan health care policy discussions. Key Senate Republicans, including Senator Charles Grassley (R-IA), the ranking member of the Finance Committee, announced this week opposition to a public plan and employer mandates.

It should be noted that House Democratic leaders from the key committees have not included Republicans in their discussions. For his part, President Obama continues to urge continued discussions and has asked that a final bill reach his desk by October.

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## **Transportation Reauthorization**

Although the timetable for congressional action on a surface transportation reauthorization measure remains fluid, the House Transportation & Infrastructure (T&I) Committee is expected to mark up a new six-year bill in late June. For its part, the Ways and Means (W&M) Committee – which has jurisdiction over the financing title of the legislation – is expected to hold a hearing on the matter in July. As expected, questions regarding how Congress plans to finance new highway and transit spending remain unanswered.

In related news, Transportation Secretary Ray LaHood said June 4 that Congress will need to come up with \$5 billion to \$7

billion to plug an impending hole in the Highway Trust Fund (HTF). The HTF, which is financed by federal gasoline taxes, is expected to run out of revenues this summer.

The HTF solvency crisis is not a new issue. Last year, Congress approved an \$8 billion General Fund transfer to keep highway and transit programs operational. Absent new financing mechanisms or an increase in the federal gasoline tax, the trust fund is expected to continue to experience shortfalls as Americans drive less and switch to more fuel efficient cars.

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