

California Legislature



ASSEMBLY REPUBLICAN CAUCUS

October 14, 2011

Sheriff Mark Pazin
President,
California Sheriffs' Association
1231 I Street, Suite 200
Sacramento, CA 95814

David L. Maggard, Jr.
President,
California Police Chiefs Association
P.O. Box 19575
Irvine, CA 92623

Greg Totten
President,
California District Attorneys Association
921 11th Street
Sacramento, CA 95814

Linda Penner
President,
Chief Probation Officers of CA
1100 Van Ness, 8th Floor
Fresno, CA 93721

Dear Sheriff Pazin, Chief Maggard, District Attorney Totten and Ms. Penner:

We read with much interest the Governor's statement that he would support a constitutional guarantee for public safety realignment on the November ballot. We fundamentally disagreed with the decision of some law enforcement organizations to support the Governor's realignment program but think that it is essential that any "funding guarantee" truly guarantees funding for public safety. As you negotiate the elements of that measure, we would like to remind you that the Governor's earlier constitutional amendment, ACA 2X1 and SCA 1X1, had some significant flaws. Any negotiated constitutional amendment should avoid pitfalls that could jeopardize future funding, force law enforcement to unfairly compete with other programs, face legal challenges or shortchange funding for the classroom. Here are some elements you should consider when negotiating a funding guarantee:

- Apply Protections to Any Program Changes or Programs Realigned in the Future.** The Governor's 2011 constitutional amendment only protected programs realigned before October, 2011. The Governor's own budget document states that he will continue to realign programs in 2012 and beyond. Local communities should be protected from any future program realignment costs.
- Define Public Safety Appropriately.** In an effort to market the Governor's proposed \$67 billion tax increase to the general public, ACA 2X1 and SCA 1X1 were drafted in a manner to broadly define public safety programs (local law enforcement and maintaining school funding polled the highest in recent polls). Most of the programs funded in the

Governor's realignment scheme fall outside of what the general public would consider traditional law enforcement. These programs range from housing and substance abuse counseling to mental health services. It would be inappropriate to codify an erroneous definition of public safety in the California State Constitution. This could have the intended or unintended effect of allowing discretionary social services programs to compete or have a priority over true public safety programs inside and outside of realignment. Proponents of any future diversion of funding away from true public safety programs to social services programs will simply point to law enforcement's support of the definition of "law enforcement" in the proposed constitutional amendment.

- ☑ **Ensure that Law Enforcement Programs Do Not Have to Compete for Funding.** Law enforcement programs should not have to compete with non-traditional law enforcement services for funding. In ACA 2X1 and SCA 1X1, public safety law enforcement programs would have to compete with the realigned social service programs. Particularly troubling was a provision that gave priority to programs that received federal matching funds. (SCA 1- Page 8 lines 3-7). Since most of the local law enforcement realigned in Assembly Bill 109 do not qualify for matching funds, they would be a lower priority than the health and welfare programs.
- ☑ **Ensure that Local Law Enforcement Programs are Guaranteed Funding from the State.** The Governor's 2010 proposal did not guarantee funding for local law enforcement programs previously funded by the 0.15% VLF tax increase adopted as part of the 2009 budget compromise. These important programs were lumped together with other programs in ACA 2X1 and SCA 1X. The funding mechanism to allocate funds was to be determined by a majority vote bill to be passed after the special election (SCA1 – Page 5 lines 22-30). The adopted 2011-12 budget provides an important lesson as to why relying on the Legislature, in particular the majority party, to fully fund these vital programs would be unwise. In the final majority vote adopted budget, local law enforcement programs were funded, in part, by stealing money from cities and Orange County. Many of the cities that lost funding in the shift used that money to fund law enforcement programs. Any guaranteed funding stream should not be funding from other local agencies.
- ☑ **Include an Enforceable Continuous Appropriation.** The Governor's earlier measure had what appeared to be an unenforceable appropriation. It required the Legislature to appropriate the funds for realignment. No court will order the Legislature to do so even if the SCA says they are supposed to appropriate the funds.
- ☑ **Avoid Negatively Impacting School Financing.** The Governor's 2010 constitutional amendment asked voters to retroactively suspend Proposition 98 funding and thereby reduce funding to California's 12 million public school students. The voters traditionally reject taking funding from schools to fund law enforcement programs, even worthy local government programs. Any package should not be based on reducing school funding and avoid modifying Proposition 98. It is simply bad politics and could result in a loss at the polls.

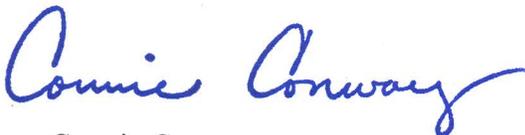
Note: The state was just sued by the California School Boards Association and the Association of California School Administrators Association for illegally diverting \$2.1 billion of funding away from schools. The provision in question is the diversion of a portion of the state sales tax to fund local realignment. This makes realignment funding more vulnerable.

- ☑ **Local Flexibility for New Programs.** The proponents of realignment argue that local communities can provide services better and cheaper. This is only true if local governments are freed up to modify programs to fit their local needs. Traditionally, the legislature ties the hands of local agencies and reduces their flexibility. The recent public safety “realignment” is a case in point. Instead of providing local agencies with the maximum flexibility to deal with dangerous repeat offenders, the Democrats reduced the amount of time a parole violator could spend in jail by 50%. This means that if a parole violator represents a danger to the community, local agencies can put them in jail for no more than 6 months. Additionally, the Democrats also voted to increase “good-time” credits to reduce the amount of time a felon spends in jail. Neither of these law changes were done to provide local agencies more flexibility but reflect the political agenda of the majority to reduce the amount of time a felon would serve for their crime. True realignment would have retained the maximum amount of options available to local agencies to deal with any public threat.

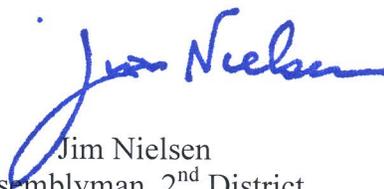
- ☑ **Local Flexibility for Existing Programs.** The fundamental problem with the Governor's entire realignment “house of cards” is all the onerous mandates local governments have complained about for years are frozen in place. For local government, this means the state tells them what to do, how to do it, who to serve and what to provide without any ability or flexibility to reflect local priorities, economic concerns or to manage mandated programs or responsibilities. Any Constitutional amendment should promote and protect local flexibility.

Keeping our streets safe is one of government’s most important duties. We strongly believe this new public safety realignment is ill-advised and that the best course of action would be to repeal the law. However, if this new law is going to fall on the backs of local government, we want any constitutional amendment to truly protect law enforcement funding to give local agencies the best chance of limiting the damage caused by dumping thousands of felons into local communities.

Sincerely,



Connie Conway
Assembly Republican Leader



Jim Nielsen
Assemblyman, 2nd District