



Special Legislative Update ■ May 15, 2020

Calculating the Estimated Revenue Drop in 2011 Realignment

In the [attached](#) table, we have calculated for each 2011 Realignment subaccount and special account the net dollar amount and percentage decrease by comparing the January 2020 and May Revision revenue estimates. A few things to note:

- The revenue estimates are just that – *estimates*. The Realignment fiscal year runs August 16 to August 15, so final receipts will not be known until later this summer.
- This year's revenue estimates are complicated by actions previously taken by the Administration to grant an extension for sales tax remittances. This delay will affect Realignment base and growth amounts, and it is not clear if or how the Department of Finance incorporated the anticipated impact of the remittance deferral in the May Revision revenue estimates.

We hope that this information is helpful for your affected departments as they work to assess the practical implications of the precipitous drop in Sales and Use Tax and VLF.

Change to Publication Schedule

Now that the May Revision has been released, the Legislature's budget subcommittee hearing schedule will be ramped up to "11." (I hope everyone gets that [reference](#)). Additionally, the Governor announced to the press this morning that he will be suspending his daily noon briefings in favor of occasional updates on an as-needed basis. Accordingly, we do not anticipate either a need or capacity for publishing daily updates and likely will return to a weekly publication schedule. Of course if something major breaks or other circumstances dictate it, we will get word out immediately to ensure that you remain informed irrespective of what day of the week it is. In the meantime, should you have any questions, please do not hesitate to get in touch.

Health-related Bills of Note

The following provides a roundup of health-related bills of interest.

- [AB 2817 \(Wood\)](#) – Office of Health Care Quality and Affordability

This measure would create the Office of Health Care Quality and Affordability. The Governor had a similar proposal in the January budget that he withdrew when he released the May Revise yesterday. AB 2817 was originally set to be heard May 18 but was pulled from the Assembly Health Committee agenda. Discussions around creating the Office appear to be on hold this year.

- [AB 2830 \(Wood\)](#) — Health Care Payments Data Program
This measure would create the Health Care Payments Data Program at the Office of Statewide Health Planning and Development. The measure was amended this week and is set for hearing on May 18.

In March of this year, OSHPD released its Health Care Payments Data Program [report](#), instead of in July because of the affordability conversation. Please recall that AB 1810 (Statutes of 2018) required OSHPD to examine the costs of establishing a system to collect information regarding the cost of health and a process for aggregating the data from many disparate systems. The report lays out 36 recommendations across several domains. Based on experiences in other states, OSHPD is estimating that supporting a health care data system will cost approximately \$15 million annually. AB 1810 requires the Health Care Payments Data System to be substantially complete by July 1, 2023.

- [AB 2100 \(Wood\)](#) — Medi-Cal: Pharmacy Benefits
This measure is sponsored by Western Center on Law and Poverty and is intended to implement consumer-related protections for the Medi-Cal Rx proposal. Please note that while the Administration has withdrawn or delayed several health initiatives, they are continuing to move forward with a January 2021 implementation for CalRx. It is set for hearing May 18.
- [AB 2037 \(Wicks\)](#) — Health Facilities: Obligations before Changes in Service
As introduced, the measure would have required to provide at least 180 day notice before a planned reduction or elimination of the level of emergency services. AB 2037 was amended this week to also prohibit a hospital, during any health-related state of emergency in California proclaimed by the President of the United States, health-related state of emergency proclaimed by the Governor, or health-related local emergency, as specified, from closing or otherwise ceasing operations or eliminating a level of emergency care or supplemental service, except as excused by the department. The bill would require the department to impose a penalty of \$75,000, per day, for each day a hospital violates these prohibitions, and would further require the department to deposit the collected penalties into the Internal Departmental Quality Improvement Account.

Some hospitals are temporarily ceasing or reducing services during the current COVID-19 pandemic to prepare for surge capacity. The California Hospital Association is opposing the bill and argues that the bill could lead to the unintended consequence of a hospital taking steps in advance of any future health-related emergency that would limit patient access to care earlier than necessary, which could be potentially avoidable. A hospital might make the difficult

decision to close earlier than necessary, knowing it would be legally unable to do so during a local, state, or federal health-related emergency.

In addition, by prohibiting the elimination of supplemental services, this bill would prevent hospitals from doing exactly what they should do in a declared emergency: eliminating non-essential services to focus on essential services.

- [AB 2537 \(Rodriguez\)](#) — Personal Protective Equipment: Health Care Employees
As amended this week, AB 2537 would require hospitals to maintain a supply of unexpired personal protective equipment (PPE) in an amount equal to one year of normal consumption. Additionally, this bill would require public and private employers of workers who provide direct patient care in a hospital setting to supply those employees with the PPE. Finally, the bill would also require an employer to ensure that the employees use the PPE supplied to them. AB 2537 is being heard in Assembly Labor on May 20.

Several concerns have been raised by hospitals in response to the bill:

- It is difficult to foresee what future public health emergencies we may face and what equipment may be needed. While even the public has learned much about the PPE needed to treat COVID and prevent spread of this virus – N95 respirators, surgical masks, face shields, isolation gowns, gloves, and more – it is not clear what the next emergency may be, the treatment needed, or the equipment required. Stockpiling for one disease – COVID-19 – may not prepare us for the next emerging health threat.
 - While all health care providers have supply needs, we cannot have what cannot be made and purchased. Today, the health care supply chain, especially for PPE, remains challenged and spotty at best. Health care providers are still having significant difficulty getting all that is needed to care for patients, let alone to stockpile for the future. Even the state is having difficulty sourcing N95 masks, testing swabs and other equipment. More work is needed to restore the supply chain and increase the manufacture of PPE before stockpile requirements can be placed on purchasers.
 - The amount of equipment required for “normal consumption” is difficult to determine. Amounts of equipment needed depend on the types of patients cared for, the diseases and conditions those patients have, the rate of use of that equipment, the need to plan for excess surge capacity, changing regulatory requirements and more. All of these are dynamic and can change week to week or month to month.
 - A one-year surplus requirement could lead to expiration and waste of equipment.
- [AB 2604 \(Carrillo\)](#) —Public Health: Pandemic Protocol
While AB 2604 has not been set for hearing and is likely not moving forward this year, please be aware that the measure was amended to indefinitely postpone medical appointments and visitor access at hospitals during the pandemic. Additionally, the measure would impose rigid protocols on hospitals around establishing contamination zones, potentially contaminated zones, and clean zones. The practices outlined in the bill do not allow federal, state, and local

public health officials to provide real-time guidance based on the most current scientific evidence.

- [SB 893 \(Caballero\)](#) — Workers' Compensation: Hospital Employees
SB 893 was heard in Senate Labor, Public Employment and Retirement Committee yesterday and failed to garner enough votes to pass. The measure will not move forward this year. SB 893 would have created a rebuttable presumption in the workers' compensation system that an infectious disease (including but not limited to COVID-19), musculoskeletal injury or respiratory disease arose out of work for any hospital direct patient care worker. This would impact any such claim in which an employee seeks a full range of workers' compensation benefits, which can reach hundreds of thousands of dollars in indemnity payments and medical costs for a single case. A coalition of hospitals, public agencies and workers compensation organizations opposed because: 1) there is no evidence that valid claims are being denied, and 2) costs, which while difficult to quantify, would likely be astronomical.

Other Bills to Watch

Senator Steve Glazer has introduced [SB 1431](#), a measure that would require county assessors to reassess certain types of properties based on their ability to generate income from renters during the COVID-19 emergency. This measure would take an exceptionally liberal view of "physically damaged" as it is used in the Constitution and instead construe that to mean "economic damage," thereby providing businesses with property tax relief faster than what is authorized in the Constitution. Further, it would provide such relief at the cost of local taxing agencies, including counties, cities, special districts, and schools, at a time when local entities are the primary first responders to the COVID-19 crisis and the economic downturn is dramatically impacting local revenues. A number of local agency associations, including CSAC, Urban Counties of California, RCRC, the California Special Districts Association, and the California Assessors' Association, strongly oppose the bill, which is slated to be heard next Thursday in the Senate Governance and Finance Committee.

Muratsuchi Plans Bond for Broadband Infrastructure

Assembly Member Al Muratsuchi announced his plans to pursue legislation that would ask voters to approve a bond to raise billions for investment in broadband infrastructure and provide aid for school districts that are struggling to support distance learning. Assembly Member Muratsuchi estimates a bond in the range of \$3-\$4 billion; while he is still working out final details, he is exploring amending his [AB 245](#), which is currently in the Senate.