



Special Legislative Update ■ June 4, 2020

Assembly and Senate Reach Joint Budget Agreement

Yesterday, legislative leaders and budget chairs from the Assembly and Senate [announced](#) agreement on a budget proposal that rejects a number of the proposed reductions from the Administration and sets the stage for negotiations with Governor Gavin Newsom on the final 2020-21 state budget. The Assembly Budget Subcommittee No. 6 on Budget Process, Oversight, and Program Evaluation met today to (1) review the two-house approach, (2) receive presentations from the Legislative Analyst's Office and the Department of Finance, and (3) take public comment. The early arrival at a consensus bicameral approach allows the houses to bypass the traditional Budget Conference Committee process.

The legislative budget [proposal](#) relies on the Administration's revenue estimates, but utilizes the Legislative Analyst's Office caseload assumptions to estimate expenditures, saving about \$3.6 billion. The proposal includes an assumption of receipt of federal funds that includes trigger reductions if funds are not received by October 1, 2020. Specifically, if federal funds do not arrive, the legislative budget proposal includes the following actions:

- \$2.7 billion more in draws from the Rainy Day Fund and Safety Net Reserve
- \$1.3 billion one-time benefit from reinstatement of a longstanding deferral of state payments to CalPERS, including from state special funds
- \$5.3 billion of increased deferrals to Proposition 98 (K-14 education) funding
- \$600 million reduction to the county realignment backfill in this budget plan (leaving \$400 million of county backfill remaining)
- \$770 million of university reductions (\$370 million for UC and \$400 million for CSU)
- \$100 million of reductions to the judicial branch budget (with specifications to hold certain programs harmless, as detailed below)
- \$1.6 billion from any baseline savings or revenue increases not scored in this budget and, as a last resort, reinstatement of the one-day June payroll deferral that was instituted during the last recession.

To address legislative concerns regarding oversight of emergency state expenditures to respond to the COVID-19 pandemic, the legislative plan anticipates a new process to enhance legislative control and oversight over the \$2.9 billion of coronavirus emergency funding proposed by the

Governor in the May Revision, of which about \$700 million is from the General Fund, with the remainder coming from anticipated federal match funding from FEMA.)

For a helpful comparison of the legislative proposal and the Governor's May Revision, check out the LAO's handout [here](#).

CARES ACT FUNDING

The legislative budget proposal includes modifications to the Administration's plan to allocate funds from the Coronavirus Relief Fund to cities and counties as follows:

- Approves \$550 million for acquisition or acquisition and rehabilitation of motels, hotels, or hostels; master leasing of properties; acquisition of other sites and assets; conversion of units from nonresidential to residential in a structure with a certificate of occupancy as a motel, hotel, or hostel; and purchase of affordability covenants and restrictions for units. In addition, the proposal includes placeholder trailer bill to implement Project Roomkey.
- Provides \$500 million to cities for homelessness, public health, public safety, and other services to combat COVID-19 pandemic.
 - \$225 million to cities with a population greater than 300,000 that did not receive a direct allocation from the CARES Act, allocated based on the share of each city's population relative to the total population of the cities in this population group.
 - \$275 million to cities with a population less than 300,000, allocated based on the share of each city's population relative to the total population of the cities in this population group with a minimum allocation of \$50,000.
- \$1.289 billion to counties to be used for homelessness, public health, public safety, and other services to combat COVID-19 pandemic allocated based on population.

HOMELESSNESS FUNDING

The legislative budget proposal includes \$350 million for homelessness programs and services allocated in a manner to be determined.

ELECTIONS

The legislative budget proposal includes a \$35 million augmentation for administration of the November 2020 election and adopts placeholder budget bill and trailer bill language to help ensure that counties and the state have adequate funding to administer the election. The proposal also includes authority for the Secretary of State's office to spend \$65.5 million in additional federal funds from the CARES Act to address elections needs.

DJJ REALIGNMENT

The legislative budget proposal adopts the May Revision proposal to cease intake of new commitments into the Division of Juvenile Justice (DJJ) in 2021 and, on a prospective basis, shift full responsibility for all youth in the juvenile justice system to counties. Once the current DJJ population is fully reduced through attrition, the remaining three DJJ detention facilities and one fire camp will close. Outstanding issues include funding (amount and protections), timeline for

transition, the state's future oversight role, various jurisdictional issues, and specific programming needs, among others. We will share more as we learn it.

LOCAL PUBLIC SAFETY

For three local public safety items of interest, the legislative budget proposal adopts the Governor's May Revision proposal, as follows:

- An estimated \$102.9 million in Proposition 47 savings to be distributed to the priorities outlined in initiative; the final savings figure will be identified later this summer;
- Maintenance of the existing SB 678 calculation, yielding \$112.7 million in funding for probation departments tied to local successes in reducing the number of adult felony probationers who enter state prison
- A statewide total of \$12.9 million for county probation departments in recognition of increased workload in 2020-21 associated with the supervision of offenders on Post-Release Community Supervision (PRCS) who, as a result of the implementation of Prop 57, earn early release from prison.

OTHER STATE CORRECTIONS ISSUES

The bicameral budget package also contains all of the following actions related to the state prison and parole systems:

- Trailer bill language to guide future closure of two state prisons, with legislative guidance;
- Elimination of the Integrated Services for Mentally Ill Parolees (ISMIP) Program and reduction in services offered through Parolee Outpatient Clinics (POCs) to only ensuring that parolees with mental illness can have their emergency medication needs met;
- Reduction in the reception center process to 30 days (down from 90-120 days);
- Consolidation of state fire camps currently at capacity; decisions would be made in coordination with CAL FIRE;
- Increase in the usage of remote court appearances to enhance efficiencies;
- Adoption of the proposal to cap parole terms for most parolees at 24 months and establishes earned discharge at 18 months for certain sex offenders;
- Deferral of all Department of Corrections and Rehabilitation (CDCR) capital outlay projects until a comprehensive plan is produced that prioritizes projects.

JUDICIAL BRANCH ISSUES

Notable in the judicial branch budget are all of the following items included in the bicameral budget plan:

- Reduction of \$100 million in judicial branch funding absent sufficient additional support from the federal government, but holds the following programs harmless from any reduction:
 - Dependency counsel; court interpreters; California Collaborative and Drug Court Projects; Court Appointed Special Advocate Program; Model Self-Help Program; Equal Access Fund; Family Law Information Centers; and Civil Case Coordination.

- One time \$50 million General Fund in 2020-21 to assist trial courts in addressing the backlog of cases resulting from closures and resuming normal operations
- Limited-term funding for modernizing court operations and increasing access to court services online (\$25 million General Fund in 2020-21 and 2021-22);
- One-time \$238.5 million in 2020-21 to backfill fine and fee revenue losses.

INCOMPETENT TO STAND TRIAL PILOT PROGRAM

The legislative budget proposal, consistent with the May Revision, withdraws the January budget proposal that would have invested in a six-year pilot program in three counties designed to fund and incentivize programs to provide treatment in the community for individuals deemed incompetent to stand trial (IST). The full costs of the proposed pilot program was \$364.2 million.

HEALTH AND HUMAN SERVICES

Below are details on health and human services actions taken today in the Assembly, which reflect the bicameral agreement on the state budget. Central to the Legislature's approach to find additional revenue is the adoption of the LAO's caseload estimates for Medi-Cal and CalWORKs, which is \$3.6 billion lower than the Administration's May Revise projections. The primary difference is related to federal matching for categories of eligible individuals in Medi-Cal.

Realignment Backfill

The legislative agreement includes \$1 billion General Fund to backfill Realignment revenue losses. As noted, \$600 million of the Realignment backfill would be a trigger cut contingent on the receipt of additional federal funds. There is not additional detail about whether the backfill would apply to 1991 and/or 2011 realigned HHS programs, how and to what extent specific programs would be prioritized for backfill, and whether there are any other (e.g., federal funds trigger) conditions would apply to the funding.

Health Items

The following items were adopted:

- Funding to allow the state to proceed with Medi-Cal Rx, which shifts the pharmacy benefit out of managed care and into fee-for-service, effective January 2021.
- Provides for \$26.3 million General Fund for supplemental payments to non-hospital based clinics, as proposed in the January budget, to offset losses associated with changes to the 340B pharmaceutical pricing program.
- Approve the Administration's proposal to adjust managed care capitation payments for the period of July 2019 to December 2020; we believe this includes 1) an adjustment based on the potential to avoid emergency room visits by low acuity patients, 2) reduction in contracting levels through coding changes, and 3) reduced managed care underwriting gain from 2 percent to 1.5 percent.

The following items were rejected:

- Withdrawal of the Medi-Cal expansion to undocumented seniors — The Legislature adopted a proposal to allow the expansion to occur January 2022, subject to state revenues.
- Adjustment to managed care capitation payments to the inpatient maximum fee schedule for private and district hospitals.
- Elimination of Medi-Cal optional benefits.
- Elimination of rate carve outs for pharmacy and dental for community clinics.
- Elimination of Proposition 56 supplemental payments, value-based payments, loan repayments and staffing.
- Elimination of Song-Brown Healthcare Workforce Training program.
- Elimination of Martin Luther King Jr. Community Hospital Supplemental Payments.
- Restoration of the “senior penalty” in the Aged and Disabled program.
- Elimination of Aged and Disabled Medicare Part B disregard.
- Elimination of extension of Medi-Cal for post-partum mental health.
- Reduction in funding to Black Infant Health.

Social Services Items

The following items were adopted:

- Placeholder trailer bill language that modifies, extends, and codified actions taken in CalWORKs, IHSS, child welfare services, and CalFresh by the Governor through Executive Order and departmental guidance to grant flexibilities to counties in the administration of these programs during the shelter in place order.
- Trailer bill language to restore the 60-month time clock and make changes to stop time clocks when there is good cause.
- While the CalWORKs Home Visiting proposal was rejected, the Legislature adopted a one-time \$30 million reduction to the program, which will limit the program to existing participants.
- Adopted a one-year delay of of CalWORKs Outcomes and Accountability Review, for \$21 million in savings.

The following items were rejected:

- Elimination of funding for CalWORKs Expanded Subsidized Employment.
- CalWORKs Child Care Regional market Rate reduction.
- Elimination of Foster Family Agency social worker rate increase.
- Reduction to Short-term Residential Treatment Program (STRTP) rates by 5 percent.
- Suspension of the Family Urgent Response System.
- Suspension of Level of Care rates two through four.
- In-Home Supportive Services 7% cut.
- Supplemental Security Income/State Supplemental Payment (SSI/SSP): withhold the SSI COLA.
- Reduction of local child support agency funding to 2018 levels.
- Withdrawal of increases to child support income disregards.

Aging/Senior Items

The following items were rejected:

- Elimination of the Multipurpose Senior Services Program (MSSP).
- Elimination of the Community Based Adult Services (CBAS) program.
- Reduction to the Long-Term Care Ombudsman.
- Reduction to the Senior Nutrition program.
- Reduction to the Aging and Disability Resource Centers.

HOUSING

On housing matters, the legislative budget agreement upholds a number of May Revise proposals including approving the use of \$331 million from the National Mortgage Settlement fund for mortgage assistance and renter legal aid services and \$500 million General Funds for low-income housing tax credits.

The bicameral agreement rejects, however, the May Revise proposals to reverse certain housing funds that have not been allocated or dedicated to specific projects. The Legislature maintains funding to support mixed-income housing developments per AB 101 (Committee on Budget – Chapter 159, Statutes of 2019). AB 101 provided \$500 million over four years to the California Housing Finance Agency for the production of low- and moderate-income housing, including \$200 million in 2019-20 and \$95 million in 2020-21. The legislative budget deal also maintains funding for the Infill Infrastructure Grant (IIG) Program of 2019, per AB 101 (Committee on Budget), Chapter 159, Statutes of 2019. This program is intended to support the development of additional housing by providing for the construction, rehabilitation, demolition, relocation, preservation, and acquisition of infrastructure that supports the development of housing.

TRANSPORTATION

The May Revise assumed \$162 million for the General Fund from non-Article XIX protected transportation funds. The Legislature rejected the proposal to divert \$130 million in cumulative interest earnings from the past five years in the State Highway Account, but approved the proposal to transfer \$32 million in unencumbered funds from the Traffic Congestion Relief Fund to the General Fund.

ENVIRONMENTAL PROTECTION

The Legislature agreed to defer action on a cap and trade expenditure plan, including the control section language proposed by the Administration to prioritize quarterly auction proceeds for select discretionary programs including Air Quality and Disadvantaged Communities (including AB 617 Community Air Protection Program and agricultural diesel emission reduction), Forest Health and Fire Prevention (AB 38 (Chapter No. 391, Statutes of 2019) implementation), and Safe and Affordable Drinking Water.

The bicameral agreement adopts placeholder budget bill and trailer bill language directing the State Air Resources Board to consider changes to the Cap-and-Trade Program.

NATURAL RESOURCES

The legislative budget plan by and large approves the changes to the January Budget included in the May Revise for natural resource related programs, including the withdrawal of the Climate Catalyst Fund and proposed \$4.75 billion Climate Resiliency Bond. Notably, the Legislature rejected the following May Revise proposals:

- \$30 million General Fund ongoing baseline cut to the Department of Parks that would be scheduled to begin 2021-22,
- \$33.7 million reduction from the Habitat Conservation Fund, and
- Trailer bill language to roll back the Habitat Conservation Fund sunset date.

Assembly Appropriations Takes Up Suspense File

The Assembly Appropriations Committee met yesterday to act on the 188 bills on their suspense file. The vast majority of bills passed, many with amendments, and will next be considered on the Assembly Floor. For a full list of the outcomes, listed in alphabetical order by author, visit this [link](#).

Governor Newsom Issues Executive Order Outlining November Elections Processes

Governor Gavin Newsom issued Executive Order [N-67-20](#) today, outlining requirements for counties to conduct the November 3 General Election entirely by mail.

Counties that are not subject to the California Voter's Choice Act ([SB 450](#), 2016) are not required to have more than one polling place per 10,000 registered voters, as long as the county complies with the following conditions:

- Polling places are open from Saturday, October 31, 2020 for at least eight hours; and
- Polling places are open Tuesday, November 3, 2020 from 7 a.m. until 8 p.m.
- At least one vote-by-mail ballot drop-off location is made available for ballot drop-off beginning no later than 9 a.m. on Tuesday, October 6, 2020 and continuing during regular business hours each day through the close of voting on Tuesday, November 3, 2020 (at least one vote-by-mail ballot drop-off location per 15,000 registered voters and not less than two vote-by-mail ballot drop-off locations regardless of the number of registered voters).
- At least one vote-by-mail ballot drop-off location is fully accessible to the public for at least twelve hours each day between Tuesday, October 6, 2020 and Tuesday, November 3, 2020, inclusive.

Counties subject to the California Voter's Choice Act are not required to open any vote center prior to October 31, 2020. These counties are encouraged to open vote centers earlier – if conditions warrant – to maximize voter participation.

In what could be viewed as a message to critics, the Order also makes clear that nothing in its provisions should be construed to mean that ballots should be sent to those with inactive voter registration status.

It is unclear if the Administration has contemplated the costs associated with the Executive Order or whether the Administration proposes anything beyond the \$35 million in federal funds allocated in the May Revision.

The Governor also issued a [proclamation](#) declaring a statewide general election on November 3, 2020.

AB 860 Passes Senate Elections Committee

The Senate Elections and Constitutional Amendments Committee met this week to discuss [AB 860](#) by Assembly Member Marc Berman, a measure that requires county elections officials to mail a ballot to every registered voter for the November 2020 ballot. Recall that Governor Gavin Newsom issued Executive Order [N-64-20](#) on May 8, 2020 to direct elections officials to do the same in light of the public health emergency caused by the COVID-19 pandemic.

Specifically, AB 860 requires county elections officials to mail a ballot to every registered voter for the November 3, 2020, General Election and provides that the distribution of vote-by-mail (VBM) ballots to all registered voters does not prevent a voter from voting in person at a polling place, vote center, or other authorized location. AB 860 also requires county elections officials to permit any voter to cast a ballot using a certified remote accessible VBM system and to use the Secretary of State's (SOS) VBM ballot tracking system, or a system that meets the same specifications for the November 3, 2020, statewide general election. It also extends, for the November 3, 2020, General Election, the deadline by which VBM ballots must be received by the county elections official to the 20th day after Election Day, or two days before the elections official sends the SOS the final results for presidential electors, whichever is later, and authorizes jurisdictions that have the necessary computer capability, for the November 3, 2020, General Election, to begin processing VBM ballots on the 29th day before the election. The bill also includes an urgency clause to take effect immediately, requiring a 2/3 vote in both houses of the Legislature.

Note that two separate lawsuits are pending against the Governor's Executive Order; one from former congressman Darrell Issa and the second from the Republican National Committee. Both suits suggest that the Governor's Executive Order is unconstitutional.

A companion bill, [SB 423](#) (Umberg), will require that every county – for the November 3, 2020 General Election – provide at least one consolidated polling place or vote center for every 10,000 registered voters beginning on the Saturday immediately prior to and through Election Day. Additionally, each county will be required to provide at least two ballot drop-off locations or at least one ballot drop-off for every 15,000 registered voters, whichever is more.

AB 860 was approved by the Committee on a party-line vote and now moves to the Senate Appropriations Committee for consideration.

CDIAC Hosts Webinar on TRANs

The California Debt and Investment Advisory Commission (CDIAC) is hosting a new webinar *TRANs: Established Tool for Extraordinary Times* on June 11, 2020 from 10:00 – 11:00 a.m.

A tax and revenue anticipation note (TRAN) is a short-term financing tool that may be a critical component of a cash flow solution. Local agencies are experiencing severe revenue disruption and unplanned COVID-19 related expenses. State and local government policies intended to soften the pandemic-induced financial shock on businesses and individuals have delayed the collection of taxes and fees and have relaxed the pursuit of delinquencies. This combination has created extraordinary revenue and expenditures patterns and cash flow problems not seen since the Great Recession. This webinar will assist participants in gaining a fundamental understanding of what TRANs are, how the securities are used, and how an agency prepares to access the market – individually or as part of a pool. Speakers will discuss the factors an agency should consider when analyzing whether this tool fits in their comprehensive financial strategy. For more information and registration, visit the CDIAC website [here](#).

HCD Announces Federal ESG-CV Program NOFA

The California Department of Housing and Community Development (HCD) announced the release of the federal Emergency Solutions Grants Coronavirus (ESG-CV) [Notice of Funding Availability](#) (NOFA) for approximately \$42 million. Funded by the federal CARES Act, ESG-CV provides financial assistance to local governments and Continuums of Care to prevent, prepare for, and respond to people who are experiencing homelessness or receiving homeless assistance by:

- Improving the quality of emergency shelters.
- Increasing essential services to shelter residents.
- Rapidly rehousing people experiencing homelessness.
- Preventing homelessness.
- Providing training on disease prevention and offering hazard pay.

In order to expedite delivery of funds, unlike previous ESG funding, the ESG-CV NOFA will be allocated to Continuums of Care and local governments without a separate allocation for Balance of State. Additional ESG-CV funding will be issued in a separate, upcoming NOFA. Applications are due July 20, 2020.

Recall that the Governor's Executive Order [N-66-20](#) gives local governments and Continuums of Care increased flexibility in how the program funds can be used. It also dramatically reduces the time it takes to get funds into communities by changing the application process from a competitive one to a noncompetitive (over the counter) one, in which funds are disbursed by formula.

HCD has also announced that ESG-CV applicants can submit their application through a new, online grant management system, the eCivis Grants Network. The training will help applicants create an eCivis Grants Network account, submitting an application, accepting and managing an award, and submitting financial and activity reports. Webinar participants will receive a step-by-step user guide. For those who cannot attend the webinar, a recording will be posted online at the ESG [website](#).

HCD is offering two training webinars for this new system – June 8, 2020 (10:00 a.m. – noon or June 9 (noon – 2 p.m.) Registration for either session can be found [here](#).

HCD Announces CDBG-CV1 Program NOFA

HCD also has announced a [NOFA](#) for approximately \$18.7 million in new federal funds for the Community Development Block Grant Coronavirus Response Round 1 (CDBG-CV1). Funding is available on an allocation basis for eligible non-entitlement jurisdictions, and will serve the same jurisdictions as the state administered CDBG program. The funding is intended to provide support for communities impacted by the COVID-19 pandemic, including:

- Businesses and microenterprises/Economic development
- Public services
- Acquisition of real property to be used for treatment or recovery of infectious diseases
- Medical and homeless facility improvements

Applications will be submitted through the HCD's new online Grants Network, [eCivis](#), and will be accepted over-the-counter from June 8, 2020 through August 31, 2020. A webinar to provide additional guidance on preparing a CDBG-CV1 application and expectations in operating CDBG-CV1 funded activities will be held from 1:30 to 4 p.m. on June 24; registration is available [here](#).

Foundation Releases Report on COVID Impacts on California Hospitals

The California Health Care Foundation released a [report](#) yesterday providing initial estimates of some of the immediate financial and longer-term impacts of the COVID-19 pandemic on California's hospitals and health care system. The authors estimate that total net patient revenue in California hospitals is falling by \$3.2 billion per month in the first four months of the pandemic — March, April, May, and June 2020. This decline represents a reduction of 37% from pre-COVID-19 levels.

In the medium and longer term, the authors project that hospitals in the state will experience significant downward pressure on revenue as more Californians shift from employer-based to public health insurance coverage. Meanwhile, absent additional public sources of funding, preparation for future pandemic and public health emergencies could add to underlying cost structures. These forces, along with ongoing pressure to reduce health system spending, will require hospitals to find new operational efficiencies to survive in a post-COVID-19 environment.

Department of Health Care Services (DHCS) Updates

We highlight several important news items associated with DHCS.

DHCS Director Announces Departure

Earlier this week Dr. Bradley Gilbert announced he is resigning as DHCS Director effective June 12, 2020. He has served as director for approximately four months. Dr. Gilbert had previously retired as chief executive officer from the Inland Empire Health Plan.

"After much thought, I have decided to really retire and rejoin my family in Southern California," he said in a message to employees. "Although I have been your Director for only a few months, it has been a privilege to have worked with so many dedicated public servants." No transition plans for an acting director have been announced by the Administration.

1915(b) Specialty Mental Health Services Waiver Extension Request

Earlier this week, the Centers for Medicare and Medicaid Services (CMS) responded to California's request for an 18-month extension of the state's current Medi-Cal Specialty Mental Health Services Waiver authorized under Section 1915(b) of the Social Security Act. On June 2, CMS approved a six-month extension to December 31, 2020. CMS acknowledges the need for an additional extension request due to the delay of California Advancing and Innovating Medi-Cal (CalAIM) that resulted from the COVID-19 public health emergency.

As originally approved by CMS, the 1915(b) waiver is set to expire on June 30, 2020. DHCS requested CMS' approval to extend the term of the waiver through December 31, 2021, to coincide with DHCS' extension request for California's Section 1115 waiver demonstration.

Medi-Cal Rx

DHCS continues implementation activities associated with the transition of pharmacy services from Medi-Cal managed care to fee-for-service (FFS) by January 1, 2021. DHCS and its contractor continue to work on system configuration and will soon begin the first stage of testing.

On May 26, DHCS held the third of seven sessions of the Medi-Cal Rx Advisory Workgroup. These sessions are intended to help facilitate and further inform DHCS' ongoing efforts to implement pharmacy services improvements through the Medi-Cal Rx initiative. The workgroup is composed of such organizations and entities as hospitals, clinics, health plans, counties, pharmacies, tribal health programs, and consumer advocates. The next session is scheduled for July 29.

The next Medi-Cal Rx public forum will be held via webinar on June 17. These forums are intended to help ensure that the broader stakeholder community is kept up to date about Medi-Cal Rx implementation activities and timelines.

Implementation of Three New PACE Organizations

Effective July 1, 2020, DHCS will add three new Program of All-Inclusive Care for the Elderly (PACE) organizations to join the PACE organizations operating in the state, as follows:

- InnovAge PACE – Sacramento will provide services in approved zip codes in Sacramento, El Dorado, Placer, San Joaquin, Sutter, and Yuba counties.
- Central Valley PACE will provide services in approved zip codes in San Joaquin and Stanislaus counties.
- Sequoia PACE will provide services in approved zip codes in Fresno, Kings, Tulare, and Madera counties.

Foster Care Model of Care Workgroup

The inaugural Foster Care Model of Care Workgroup meeting is scheduled for June 26. This workgroup is part of DHCS' CalAIM initiative and is intended to create a long-term plan for how children and youth in foster care receive health care services (physical health, mental health, substance use disorder treatment, social services, and oral health) and serve as a venue for stakeholders to provide feedback on ways to improve the current system of care for children and youth in foster care. The workgroup also will determine if a new system of care should be developed and, if so, how it would be established. The workgroup membership can be found [here](#).