



Special Legislative Update ■ May 30, 2020

Houses Takes Major Steps Toward Wrapping Up Budget

As unprecedented and truncated as this budget season may be, both houses of the Legislature moved forward this week to come up with a 2020-21 state budget that pushes back on several key features of the Governor's May Revision. On Thursday, the Senate Budget and Fiscal Review Committee approved a 2020-21 spending [plan](#), marking the next step in the budget process and setting the stage for negotiations between the Legislature and the Governor. The Senate's version of the budget includes a different federal trigger approach that flips the Governor's May Revision approach; instead of \$14 billion in cuts that would take effect July 1, but would trigger off if federal funds are received, the Senate plan budgets as if the federal funds will come in, but triggers reductions as of October 1 if the federal funds do not materialize. The Senate also adopted a different set of trigger cuts than proposed by the Administration. The Senate plan includes the recently released renter/tenant eviction protection plan and the \$25 billion economic recovery fund, and contemplates future revenues from voter approval to authorize and regulate sports wagering (the chairman of the Senate Governmental Organization Committee, Senator Bill Dodd, recently introduced [SCA 6](#) to do just that.)

An Assembly budget document circulating Friday indicates that the lower house intends to largely align itself with the Senate, with some minor tweaks. The document also lays out the mechanics and timetable for the next steps, which will allow the houses to meet the June 15 constitutional deadlines. Notable are the following features of the Assembly's procedural outline:

- Due to logistics and timing, no budget actions will be taken in the Assembly before Monday, June 15
- The budget plan adopted by the Senate on Thursday is very close to the Assembly's version, but the houses will work together to come up with a consensus deal by early next week to allow time for a budget bill to be prepared for a June 15 vote. (This step also builds in time for negotiations with the Administration on any areas of disagreement.)

Below we outline the major issues of interest in the Legislative package, as we best understand it. Keep in mind that while the Senate was very detailed in its actions, the available information from the Assembly is very summary in nature. We may be unable to discern differences or specific

mechanics based on the information available to date. Additionally, our summary details the actions taken by the Senate and, where additional information is known from the expected approach in the Assembly, we have incorporated that.

CARES ACT/PROJECT ROOMKEY

With regards to the controversial control section language proposed by the Administration to govern the allocation of CARES Act funds and additional state General Fund to address potential COVID-19 response needs while the Legislature is on recess, the Senate plan provides amendments to the Administration's proposed language to authorize the Administration to make budgetary augmentations of CARES Act funds after providing a 10-day notification to the Legislature. Only at the end of the 10-day period may contracts be executed unless otherwise waived by the chair of the Joint Legislative Budget Committee (JLBC) and contracts must be posted online and submitted to the JLBC within 24 hours of execution. Language allocating \$2.35 billion to counties and cities directs specific spending requirements as follows:

- \$600 million to provide housing for individuals and families experiencing homelessness or at risk of homelessness in response to the COVID-19 pandemic, including, but not limited to, acquisition of motels, hotels, residential hotels, or hostels; acquisition and rehabilitation of motels, hotels, residential hotels, or hostels; master leasing of properties; conversion of units in a structure with a certificate of occupancy as a motel, hotel, residential hotel, or hostel from nonresidential to residential by acquisition of the unit; or the purchase of affordability covenants and restrictions for the unit; or for the provision of housing support to individuals and families who are homeless or at risk of homelessness. Initial priority placement for these newly-created units shall be provided for individuals who were either suspected/confirmed individuals or at-risk individuals during COVID.
- \$450 million shall be provided to cities be used toward homelessness, public health, public safety, and other services to combat the COVID-19 pandemic.
- \$1.3 billion shall be provided to counties to be used toward homelessness, public health, public safety, and other services to combat the COVID-19 pandemic.
- If funds allocated pursuant to the purposes identified above are not spent by September 1, 2020 the Director of Finance may reallocate these funds to any item of appropriation for other allowable activities with a 10-day notification of the JLBC. However, any funds redirected from original purposes stated for the \$600 million above shall be provided to local governments via the Homeless Housing, Assistance, and Prevention Program (HHAP).

HOMELESSNESS

The Administration has proposed [trailer bill language](#) to encourage the acquisition of Project Roomkey properties and to streamline the utilization of state excess properties for housing development. The language, among other things, allows local governments to count certain hotel and motel conversions and preservation of certain mobile homes towards the sixth cycle of their

Regional Housing Needs Assessment (RHNA), streamlines the use of excess state lands and properties for housing development, and extends deadlines for a variety of planning assistance programs for local governments. The Senate plan instead adopts placeholder trailer bill language and an additional \$250 million in General Fund for local governments to address homelessness via an allocation methodology that has yet to be determined.

HEALTH AND HUMAN SERVICES

Below are details on actions the Senate took on the remaining open items in the health and human services area. Central to the Senate'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 Senate included \$600 million General Fund to backfill 1991 Realignment revenue losses. A document accompanying the agenda notes an expectation that the funds will be used to backfill child welfare services; however, there is no proposed trailer bill language on the backfill. Additionally, the Senate's proposal includes a new set of trigger cuts contingent on receipt of federal funds; the Realignment backfill is one of the trigger cuts.

The Assembly plan proposes a \$1 billion Realignment backfill over two years. Based on the limited information available, it appears the backfill would be applied to health and human services programs only. Uncertain are all of the following: 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
- Elimination of the 340B Supplemental Payment Pool for non-hospital providers
- Adopted modified placeholder trailer bill language to establish the Health Care Payments Data System. The language is expected to conform to Assembly Member Wood's [AB 2830](#).

The following items were rejected:

- Withdrawal of the Medi-Cal expansion to undocumented seniors — The Senate adopted a proposal to allow the expansion to occur January 2022, subject to state revenues.
- Adjustment to managed care capitation payments, including 1) an inpatient maximum fee schedule for private and district hospitals, 2) an adjustment based on the potential to avoid

emergency room visits by low acuity patients, 3) reduction in contracting levels through coding changes, and 4) reduced managed care underwriting gain from 2 percent to 1.5 percent

- 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
- Withdrawal of implementation of AB 1088 (Wood), which would allow individuals in the Aged and Disabled program to remain eligible for Medi-Cal regardless of the state's payment of Medicare Part B premiums
- Elimination of Martin Luther King Jr. Community Hospital Supplemental Payments
- Freeze County Administration funding for Medi-Cal eligibility
- 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
- Elimination of Screening, Brief Intervention, Referral to Treatment (SBIRT) for opioids and other drugs
- Elimination of EPSDT case management allocation to counties
- Reduction in funding to Black Infant Health

Social Services Items

The following items were adopted:

- Trailer bill language to authorize various activities relating to workload relief and extended flexibility. These activities include:
 - Extending and modifying rate flexibility to support resource families impacted by COVID;
 - Extending the timeline when a youth must be adjudicated a dependent due to court closures;
 - Holding penalties in abeyance for outcomes and performance during the COVID pandemic;
 - For children's programs, extending COVID-related RFA flexibilities into next year
 - Non-Minor Dependent (NMD) remote SILP approval;
 - Ability to prioritize in-person Adult Protective Services (APS) investigations for immediate threats to health and safety, and allow for remote contact in other instances;
 - Allow for a waiver of the increased county share of match above the 2019-20 level that would be required to draw down the \$80 million in additional CalFresh Admin funding provided for 2020-21.
- 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 Senate adopted a one-time \$30 million reduction to the program, which will limit the program to existing participants.
- Adopted a one-year delay of CalWORKs Outcomes and Accountability Review, for \$21 million in savings.
- Continuum of Care Reform reconciliation: The Senate adopted an additional \$80 million General Fund for county RFA expenditures.

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
- \$2 million reduction to the Long-Term Care Ombudsman

ADMINISTRATION OF JUSTICE ISSUES

In the broad area of corrections, local public safety, and the courts, the most notable actions are as follows:

DJJ Realignment

Both houses assume the closure of the Division of Juvenile Justice (DJJ) and the prospective realignment of the remaining juvenile justice population. In recognition of the various and complex issues associated with this proposal, placeholder trailer bill language has been adopted to allow for the Administration and key stakeholders – including counties and probation chiefs – to negotiate major deal points, which include funding (amount and protections), timeline for transition, and various jurisdictional issues, among others. Importantly, the Senate’s version affirmatively adopts language and state-level savings associated with the stoppage of intake at DJJ beginning in 2021.

Expansion of Ability-to-Pay Program

The Senate rejected the Administration’s proposal to expand statewide an existing pilot program that allows individuals to use an online tool to seek reduction in or forgiveness of court-ordered debt associated with infractions.

State Corrections

The Senate’s version of the budget assumes the closure of two state prisons, with adoption of proposed trailer bill language to clarify the process to be used to identify and select the specific

institutions for future shuttering. The Senate approved a wide array of expenditure reductions as well as programmatic eliminations and consolidations to reduce state correctional spending, including, notably, the elimination of Parole Outpatient Clinics, consolidation of state inmate fire camps, and deferral of dozens of facility maintenance and improvement projects.

Indigent Defense

The Senate rejected the Governor's elimination of various resources to support and enhance the delivery of local indigent defense services. Accordingly, the Senate version (1) restores \$10 million for the Board of State and Community Corrections (BSCC), (2) adopts trailer bill language to outline an enhanced technical assistance role for the Office of the State Public Defender (OSPD), and (3) appropriates \$4 million in 2020-21 to support the OSPD's local assistance efforts. These proposals were initially included in the January budget, but the Governor's May Revision proposed to withdraw them.

Judicial Branch

The Senate's version of the budget makes various adjustments to the Governor's proposed trigger cuts, which effectively would hold the following programs harmless from any reductions in 2020-21: dependency counsel, court interpreters, and the Equal Access Fund.

BSCC

The Senate restores \$37 million in funding associated with the Adult Reentry Grant; the Governor's May Revision had zeroed out funding for that program.

Second Split Roll Measure Eligible for November Ballot

The Secretary of State announced Friday that the Schools and Communities First [initiative](#), the second version of the so-called split roll measure, is eligible for the November 2020 ballot. This measure would change constitutional provisions of Proposition 13 (1978) by requiring county assessors to more frequently assess certain commercial properties. The assessed valuation of commercial properties would increase significantly, potentially raising billions in additional property tax revenues. Recall that there is already a split roll measure eligible for the ballot, so it is likely that at least one will make it to the November ballot. Proponents have until June 25th to remove a measure from the ballot.

Governor Newsom Extends Eviction Moratorium in Latest Executive Order

Facing an end-of-the-month deadline to extend eviction protections to tenants, Governor Gavin Newsom issued Executive Order [N-66-20](#) last night to halt evictions through July 28 for renters impacted by the COVID-19 pandemic.

The order also includes extensions of the waiver permitting the Department of Motor Vehicles (DMV) to allow for mail-in driver's licenses and identification cards and waiving certain programmatic and administrative requirements that restrict child care and afterschool programs from serving children of essential infrastructure workers. The order also allows individuals enrolled

in teacher preparation programs during the 2019-20 school year to obtain their preliminary credential without a teaching performance assessment, if the individual was unable to complete that requirement due to a COVID-19 school closure. Under the order, individuals otherwise eligible to obtain certain teaching or education specialist credentials or enroll in teacher preparation programs are permitted to do so without passing certain assessments, for which testing was suspended due to the statewide stay-at-home order.

The order includes provisions requiring the Department of Housing and Community Development (HCD) to waive certain regulations governing administration of Emergency Services Grant (ESG) funding received under the CARES Act, develop alternative streamlined procedures, and implement reasonable accommodations for HCD-funded projects that have been negatively affected by the pandemic, to help ensure project feasibility. Finally, the order suspends statutory set-asides for economic development and housing for Community Development Block Grant program funding received under the CARES Act.