



Special Legislative Update ■ August 21, 2020

Suspense File Hearing Outcomes Set Agendas for Remainder of 2020 Legislative Session

Yesterday, the Senate and Assembly Appropriations Committees held contemporaneous suspense file hearings to determine which bills with fiscal impacts would live to see another day. Typically, this all-important hearing features an efficient (if often frustrating, particularly if the outcome on a bill doesn't go your way) recitation of the outcome on hundreds of bills. No presentation by authors, no testimony or public input, and no description of the rationale behind the decisions. It's typically just the chair reading through bill numbers and announcing one of two potential fates for each measure: (1) passed either as is or with amendments to reduce cost implications or (2) held in committee, meaning the bill will not move forward to the floor for further consideration (i.e., dead). Yesterday's hearings were very much stop-and-start, with each committee taking various random breaks and recesses. Capitol observers opined that the chairs perhaps were waiting to assess action the other house was taking on priority measures so they could potentially take retaliatory action. In the end, all the shenanigans just seemed a bit silly.

In any event, we provide a non-exhaustive list below of outcomes on bills of interest. Should you wish to check the status of any measure not mentioned below that was taken up yesterday, each committee has posted results ([Assembly](#) | [Senate](#)).

Passed (As is or with amendments; now moves on to a floor vote)

- [AB 196](#) (Gonzalez) – Would extend a conclusive workers' compensation presumption to all essential employees, which includes an as-yet-undefined category of "critical workers," that COVID-19 is an industrial injury.
- [AB 434](#) (Daly) – Would align six specified housing programs administered by the Department of Housing and Community Development with its primary rental housing program, the Multifamily Housing Program, and provide for a single application and scoring system in order to make coordinated funding awards under all seven programs.
- [AB 664](#) (Cooper) – Would create a rebuttable presumption that a diagnosis of COVID-19 that occurs on or after January 1, 2020 is an occupational injury and thereby covered by the California workers' compensation system.
- [AB 725](#) (Wicks) – Would require a metropolitan jurisdiction to allocate at least 25% of its share of the regional housing need for moderate-and above moderate-income housing to

sites with zoning that allow at least 4 units of housing in the housing element's inventory of land suitable for residential development.

- [AB 890](#) (Wood) – Would allow nurse practitioners to practice without physician supervision. The bill was amended coming out of Appropriations.
- [AB 1436](#) (Chiu) – Would provide temporary eviction relief to residential tenants who are experiencing COVID-19-related financial distress, as specified, and would allow certain mortgage borrowers who are experiencing financial hardship due to the COVID-19 emergency to request forbearance. (NOTE: The committee's first action was to pass this measure to the floor, which was later rescinded in favor of moving the bill to the Senate Rules Committee first to give more time to negotiate amendments.)
- [AB 2164](#) (Rivas) – Would authorize Federally Qualified Health Centers (FQHCs) and Rural Health Centers (RHCs) to establish a patient, located within the federal designated service area of the FQHC and RHC, through synchronous interaction or asynchronous store and forward as of the date of service.
- [AB 2345](#) (Gonzalez) – Would make numerous changes to the Density Bonus Law to incentivize increased production of very low-and low-income units, as well as moderate-income for sale units in common interest developments, by extending the density formulas to a maximum density of 50%, allowing developers to receive up to five concessions and incentives for including additional density, and reducing parking ratios.
- [AB 2405](#) (Burke) – Would, beginning on January 1, 2026 and upon appropriation of funds in the annual Budget Act, make it a state policy that every individual in the state has a right to safe, decent, and affordable housing, and among other things, would require all relevant state agencies and departments, as well as local jurisdictions, to revise existing programs and services to identify individuals experiencing homelessness or housing instability and connect them with housing resources.
- [AB 2483](#) (Bauer-Kahan): Would require sheriffs to compile and submit data to the Board of State and Community Corrections (BSCC) on the county's anti-recidivism programs and success rates in reducing recidivism.
- [AB 2537](#) (Rodriguez) – Would create a 6-month personal protective equipment (PPE) stockpile requirement on hospitals. Note: Conversations continue about merging AB 2537 into SB 275.
- [AB 2617](#) (Gabriel) – Would make additional refinements to the laws governing gun violence restraining orders (GVRO).
- [AB 2746](#) (Gabriel) – Would require Whole Person Care pilot programs and entities that receive funding for CalWORKs Homeless Assistance or Housing and Disability Income Advocacy Program to submit annual reports to Department of Health Care Services and Department of Social Services, respectively.
- [AB 3364](#) (Assembly Judiciary Committee) – Would, as amended coming out of Senate Appropriations Committee, extend the implementation timeframe for SB 10 (Hertzberg, 2018) to October 1, 2021 should the voters enact Proposition 25 in November; would make other various changes to law as this measure is the Assembly Judiciary Committee bill.
- [SB 275](#) (Pan) – Would require the state and health care providers to create PPE stockpiles. The measure was amended coming out of Appropriations. Additional amendments are expected on the Assembly Floor.

- [SB 406](#) (Pan) – Senate Health Committee omnibus measure.
- [SB 793](#) (Hill) – Would prohibit the sale of flavored tobacco products with exemptions for hookah products, loose leaf tobacco and flavored cigars.
- [SB 803](#) (Beall) – Would create a peer support certification program for behavioral health. The bill was amended coming out of Appropriations.
- [SB 855](#) (Wiener) – Would revise and strengthen behavioral health parity laws. The bill was amended coming out of Appropriations.
- [SB 977](#) (Monning) – Would expand the Attorney General’s oversight of transactions between hospitals and other health care providers.
- [SB 995](#) (Atkins) – Would extend the expedited California Environmental Quality Act (CEQA) administrative and judicial review procedures established by the Jobs and Economic Improvement Through Environmental Leadership Act for “environmental leadership development projects” for four years. Additionally, this bill expands the Leadership Act to include smaller housing projects. The bill was amended coming out of Appropriations to allow the Office of Planning and Research to adopt applicant fees.
- [SB 1085](#) (Skinner) – Would makes various changes to density bonus law, including providing additional benefits to certain moderate-income housing developments.
- [SB 1138](#) (Wiener) – Would amend housing element law requirements for zoning emergency shelters and expedites required rezoning for localities that fail to adopt a legally compliant housing element.
- [SB 1159](#) (Hill) – Would codify Governor Newsom’s Executive Order relating to workers’ compensation presumptions related to COVID-19 and would establish two distinct types of workers’ compensation presumptions for COVID-19 infections that would be effective only after the expiration of Executive Order N-62-20.
- [SB 1351](#) (Beall) – Would authorize the state to issue revenue bonds to fund capital improvements needed to preserve and protect the state highway system.
- [SB 1237](#) (Dodd) – Would remove the physician supervision requirement for services delivered by a certified nurse-midwife. The bill was amended coming out of Committee.
- [SB 1341](#) (Hurtado) – Would allow a CalWORKs family whose child or children have been placed into foster care to continue receiving cash assistance while reunification efforts are ongoing within the child welfare system. The bill was amended coming out of Appropriations Committee.

Held In Committee (Dead)

- [AB 3030](#) (Kalra) – Would have established a 2030 conservation goal to protect 30% of the state’s land areas and waters over the next decade.
- [AB 3040](#) (Chiu) – Would have authorized cities and counties to receive a specified credit towards meeting their regional housing needs allocation for moderate-and above moderate-income housing if they identify sites in the housing element that contain a single family dwelling unit but allow four units as a use by right.
- [AB 3224](#) (Rodriguez) – Would have required the Department of Public Health to contract with an entity to evaluate of local health department infrastructure; make recommendations for staffing, workforce needs, and resources, in order to accurately and adequately fund local public health.

- [AB 3269](#) (Chiu) – Would have established the Housing and Homelessness Inspector General, require the Homeless Coordinating and Financing Council to conduct a specified needs and gaps analysis, require local governments to develop actionable plans to address homelessness, and create a public right of action for the Inspector General to compel compliance with those new plans.
- [SB 665](#) (Umberg) – Would have allowed up to eight counties to use Mental Health Services Act (MHSA) innovation funds, on a pilot basis and subject to state approval, to provide mental health and related services to people in jails.
- [SB 902](#) (Wiener) – Would have allowed a city or county to pass an ordinance to zone any parcel for up to 10 units of residential density per parcel in transit-rich or jobs-rich areas or urban infill sites, and exempts these ordinances from the California Environmental Quality Act.
- [SB 1410](#) (Caballero) – Would have created a tenant-owner COVID-19 eviction relief agreement, restricts rental property owners from evicting tenants for unpaid rent accrued during the state of emergency and allows a tax credit for owners that defer rent for tenants in connections with the COVID-19 pandemic.

July Cash Beats Budget Estimates

The Department of Finance released its monthly [Finance Bulletin](#) this week, indicating a positive report for the first month of the 2020-21 fiscal year. July revenues came in \$2.580 billion above the 2020-21 Budget Act forecast, largely related to unexpected strength in the 2019 tax year. Personal income tax receipts for July were \$2.7 billion above the month's forecast of \$21 billion. Withholding cash receipts were \$1.6 billion above the forecast of \$4.5 billion. Sales and use tax cash receipts for July were \$602 million above the month's forecast of \$1.285 billion. Finance notes that July sales and use tax receipts also include delayed payments from the first quarter of 2020. Corporation tax receipts for July, on the other hand, are \$306 million below the forecast of \$4.801 billion.

Governor Declares State of Emergency Due to Widespread Wildfires

Governor Gavin Newsom declared a statewide [emergency](#) to help facilitate federal assistance to combat fires burning across the state, which have been exacerbated by the recent historic heat wave and sustained high winds. The Administration has also secured Fire Management Assistance Grants (FMAGs) from the Federal Emergency Management Agency (FEMA) to assist in a number of the larger "complex" fires in Monterey, Napa, Nevada, Santa Clara, Santa Cruz, Solano, and Stanislaus counties.

Assembly Budget Subcommittee Hears Long-Term Care at Home Proposal and COVID-19 Response in SNFs

Assembly Budget Subcommittee No. 1 on Health and Human Services held a hearing on Monday to discuss the Administration's Long-Term Care at Home proposal and skilled nursing facility COVID-19 emergency response. Though not noticed in the file as a joint hearing, Chair Arambula invited the Aging and Long-Term Care Committee, Health Committee and Human

Services Committee to participate in the hearing. Chairs of all three committees attended the hearing, as well as Assembly Member Phil Ting, chair of Assembly Budget Committee.

Assembly Members expressed frustration with the Administration's process — not necessarily the policy — for crafting and enacting the Long-Term Care at Home benefit. The Administration's timeline for seeking federal approval (winter 2021) does not allow for legislative input during either the budget process or a policy bill. They also expressed frustration with the Administration's response to the COVID-19 outbreaks in skilled nursing facilities and state prisons. Assembly Member Nazarian called long term care in California "a patchwork that hasn't been systematized." He questioned where the new Long-Term Care at home benefit fits into existing services.

Additional information on the Long-Term Care at Home benefit that emerged at the hearing:

- The Administration is planning to submit a 1915(i) state plan amendment for the uncapped Long-Term Care at Home benefit.
- The benefit is not intended to contain costs. It was crafted to decompress skilled nursing facilities during the COVID pandemic.
- The benefit is not intended to replace the Multipurpose Senior Services Program (MSSP) or Community-Based Adult Services (CBAS) – which the Administration had proposed for elimination in May.
- The Administration has slowed its Long-Term Care at Home benefit development process for more robust engagement but still intends to submit the state plan amendment in late December or early January.
- The Administration intends to partner with Program for All-Inclusive Care for the Elderly (PACE) and to change regulations to allow them to respond more readily. The Administration will seek a waiver of the federal Benefits Improvement Protection Act to allow PACE organizations to directly work with skilled nursing facilities and hospital discharge systems.
- Dual eligible (for Medi-Cal and Medicare) individuals will be eligible for the Long-Term Care at Home benefit.
- The benefits will be a blend of social services – like In-Home Supportive Services and home modifications — with skilled medical care.

Stakeholder panels also voiced concerns with the Administration's timeline. Panelists also expressed concern about deficiencies with the long-term system that make implementation of the benefit difficult, including workforce issues, infrastructure issues – particularly in rural areas, and the cost to deliver care at home. Administration officials were clear that they do not intend to slow down their process and remain focused on submitting a state plan amendment to the federal government at the end of the calendar year.