



Special Legislative Update ■ August 30, 2020

End-of-Session Mayhem

The Legislature has until midnight tomorrow, August 31 to conclude its legislative business for the 2019-20 legislative session. If this past week – or should we say the past five months? -- is any indication, expect lots of twists and turns into the wee hours of Monday night.

The Senate is wrapping up session in a different format after Senator Brian Jones announced that he tested positive for COVID mid-week. The entire Senate Republican caucus – except for Senator Jim Nielsen – were exposed to Senator Jones and, per public health guidelines, are quarantining. In order to complete business in the Senate, the quarantined Senators are participating in floor votes and committee hearing remotely via video. So far, the new floor session format appears slower than in-person, which could be a factor on Monday evening as members race to finish votes. The Senate dispensed with 25 bills during its Saturday session, leaving approximately 100 Assembly bills and 100 Senate bills for Sunday and Monday.

Because of the 72-hour in-print rule, Friday, August 28, was the last day to amend bills before adjournment. However, the Assembly was not in session Friday or Saturday (Assembly rules prevent bills from being amended when they are not meeting on the floor); however, some Senate bills were amended in the Assembly Friday but the amendments are dated August 30. It is unclear what the fate of those measures will be given the print deadline, but... we do anticipate a very long final two days to close the 2019-20 session.

Your UCC Advocacy Team will send out another wrap-up summary with outcomes on priority county issues and other consequential policy and budget matters. Stay tuned ...

2020-21 Budget Bill: Round Two!

In the [attached document](#), we provide details on an expanded list of "Round 2" budget trailer bills before the Legislature for consideration in the closing days of session – many of which have been newly unveiled in recent days, have been "tagged" as a budget trailer bill late in the game, or have been substantially amended as compared to a previous version of the measure. We note where UCC has weighed in on the budget trailer bills now in play.

Bill No.	Topic
AB 6 (Reyes)	Attorney General: duties – UCC in opposition
SB 115/AB 86	Budget Bill Jr. (amendments to 2020 Budget Act) – UCC in support of realignment backfill provisions
SB 815/AB 107	General Government (August clean-up) – UCC in support of Assessment Appeals Board provisions
AB 1864 (Limón)	Financial institutions: regulation: Department of Financial Protection and Innovation
SB 820/AB 1865	Education (August clean-up)
SB 822/AB 1867	Small employer family leave mediation: handwashing: supplemental paid sick leave
SB 823/AB 1868	Division of Juvenile Justice (DJJ) Realignment – UCC in opposition
SB 824/AB 1869	Criminal Justice Administrative Fees – UCC in support
SB 827/AB 1872	Cannabis
SB 831/AB 1876	Personal income taxes: federal individual taxpayer identification number: earned income tax credits: young child tax credit
SB 832/AB 1885	Debtor exemptions: homestead exemption
AB 3330 (Calderon)	Department of Consumer Affairs: boards: licensees: regulatory fees

We highlight below two very consequential trailer bills that have garnered significant opposition from counties. During budget hearings over the last 24 hours, members raised a number of process and practical concerns about taking hasty votes on major policy reforms without adequate time to assess implications.

DJJ Realignment (AB 1868/SB 823)

Late Friday night, the Administration and Legislature announced they had cut a deal on the proposed realignment of the Division of Juvenile Justice (DJJ) responsibilities to county governments. Contained in [SB 823/AB 1868](#), the agreement was reached despite concerns articulated by county and probation leaders on a number of specific provisions as well as broad concerns about the extent to which the vastly revised realignment framework can drive greater success for the youth and their families. (Again, for the specific provisions in the implementing DJJ realignment measures, please see the summary in the attached document.)

In the short time available to review the substantial rewrite of the DJJ realignment framework, counties have identified drafting concerns, complications in how the operational structure is proposed to interact with new state-level Office of Youth and Community Restoration, and additional potentially unintended consequences in last-minute revisions made to the fiscal framework. These concerns in their totality were significant enough for county and probation

chiefs associations – as well as a number of individual counties – to take an oppose position on the proposed final framework. We remain committed to working with the Legislature to assess and resolve the policy and practical concerns we have identified with the DJJ realignment structure, which are summarized below:

- Establishment of a new, untested state bureaucracy with overly expansive authority, including the power to exert broad control over existing local programs despite the historic success of these programs in diverting youth out of detention;
- Expectation of considerable and costly local data collection and reporting requirements that span the entire juvenile justice system, which – while offering benefits – will impose a large state mandate;
- Inference that counties cannot be fully trusted with this responsibility, while the state appears eager to offload to counties a very challenging, costly, and sensitive service responsibility on the juvenile justice service continuum;
- Transfer of existing, critical funding streams under the purview of a new layer of state bureaucracy with the intent of disrupting the fund flow for long-standing, successful programs that represent foundational support for our core local services;
- Creation of multiple layers of bureaucracy to define and plan for realignment that will hamper innovation, most likely delaying implementation efforts and diverting critical funding away from direct services to youth;
- A July 1, 2021, DJJ intake closure date that, under this proposal, does not provide counties and probation departments with sufficient time to prepare local programs and facilities for the population being shifted to local governments;
- A temporary allocation methodology that does not give counties the confidence and certainty needed to build sustainable programs and approaches to assuring an appropriate level of care for the young people in the juvenile justice system.

Counties were gratified that during budget hearings in both houses over the last 24 hours members raised concerns being expressed by local governments. In order to effectuate the DJJ realignment, both houses of the Legislature must pass one of the companion trailer bills before session wraps up tomorrow. County associations – CSAC, UCC, RCRC – along with the probation chiefs and many individual county boards of supervisors continue to work opposition advocacy in the Capitol.

New AG Authority to Settle Opioid Claims: AB 6 (Reyes)

[AB 6](#), by Assembly Member Eloise Reyes, would, among other things, authorize the Attorney General to facilitate a statewide settlement agreement with opioid manufacturers and encourage settlement agreements for those local governments that have been in litigation with opioid manufacturers for several years. Fifty-four California counties and a number of large cities have engaged in litigation against the opioid manufacturers. AB 6 further directs funds obtained by the state in such a settlement to the state General Fund and makes them subject to appropriation by the Legislature. Any local governments that have not yet filed suit would be

precluded from doing so by such a settlement and the Attorney General has until January 1, 2023 to execute such a settlement. AB 6 was heard yesterday afternoon in Senate Budget and Fiscal Review Committee and was not taken up for a vote; note that AB 6 includes an appropriation and a section that designates it as a budget bill, meaning that it would take effect immediately with a simple majority vote and Governor’s signature.

Friday’s Newsom at Noon: New, Four-Color Tiered Assessment Unveiled

The Governor spent most of his Friday noon press conference explaining the state’s new framework, dubbed the Blueprint for a Safer Economy, for California’s economic reopening. The county watch list is being replaced by a four-color tiered assessment tied to county case rate and COVID-19 test positivity. The Administration is also requiring a commitment to health equity. The Governor called the framework “statewide, simple, slow and stringent.” The state’s COVID-19 [website](#) is being updated on August 31 to reflect the new blueprint; you can search the website for counties to see what activities are allowable by sector in each jurisdiction.

The Governor emphasized that the state is using the lessons learned from the last reopening process in redesigning the blueprint. The county attestation process is being eliminated. All of the counties on the watch list are being placed in the purple – or “widespread” – tier. The following chart outlines the tiers and criteria for each level.

County Risk Level	General Description	New Cases	Positive Tests	Sector Example – museums, zoos and aquariums	# of Counties as of August 28
Widespread	Most non-essential business operations are closed.	More than 7 daily new cases per 100,000	More than 8% positive tests	Outdoor only with modifications	38 counties 87% of statewide population
Substantial	Some non-essential indoor business operations are closed.	4-7 daily new cases per 100,000	5-8%	Open indoor with modification; indoor activity maximum 25% of capacity	9 counties 12% of statewide population
Moderate	Some business operations are open with modifications.	1-3.9 daily new cases per 100,000	2-4.9%	Open indoor with modifications; indoor activity maximum 50% of capacity	8 counties 1% of statewide population
Minimal	Most businesses are	Less than 1 daily new case per 100,000	Less than 2%	Open indoor with modifications	3 counties 0.1% of state population

County Risk Level	General Description	New Cases	Positive Tests	Sector Example - museums, zoos and aquariums	# of Counties as of August 28
	open with modifications				

The new framework also includes a new system for regulating county and sector movement between tiers, including:

- 21-day wait times between movement between tiers;
- A county must meet the metrics for the next tier for two straight weeks before moving to the next tier;
- A county can only move one tier at a time;
- Counties will be assessed weekly on Tuesdays, starting September 8;
- A county can move back if it fails to meet the current tier metric for two straight weeks; there is also an “emergency brake” for concerning factors, like hospitalizations.

Local orders can continue to be stricter – but not less so – than state guidance for different business sectors. Health and Human Services Agency Secretary Mark Ghaly also clarified – consistent with July 17 guidance – that once counties to move to the red or “substantial” tier that they must wait two weeks before opening schools.

HOT BILLS: End-of-Session Update

SB 793 (Hill) – Flavored Tobacco: Chaptered

SB 793, which would ban the sale of flavored tobacco products, passed off the Assembly and Senate floors this week. The Governor signed SB 793 into law yesterday, very shortly after it landed on his desk.

AB 3088 (Chiu) – Compromise Agreement to Lessen Pending Wave of Evictions

After months of negotiations between tenants’ rights advocates, landlord groups, the Legislature, and Newsom Administration, a deal was struck Friday that attempts to mitigate against the impacts on renters and landlords alike from the economic fallout caused by the ongoing COVID-19 public health crisis. A recent UC Berkeley [analysis](#) found that approximately one million renter households have had at least one member lose their job due to COVID-19 and could be facing eviction.

With the expiration of the Judicial Council’s Emergency Rule 1, existing statewide protections enacted at the start of the pandemic will come to an end on September 1st and limited federal protections have also expired or had little positive effect. As noted in an excellent [CalMatters article](#) yesterday, the deal, like so many struck in the State Capitol, provides some progress for renters and landlords but also leaves a lot on the table.

The deal was amended into [AB 3088](#), by Assembly Member David Chiu; requires a two-thirds vote as it contains an urgency clause for the provisions to take effect immediately; and is eligible to be voted on Monday – the final day of the 2020 legislative session. The primary provisions of AB 3088 are as follows:

- Establishes a legal framework limiting, until January 31, 2021, evictions in which a residential tenant has fallen behind on rent due to financial hardship caused by the pandemic; and
- Establishes procedural protections for small landlords who become delinquent on their mortgage payments and a right to a written explanation for borrowers with mortgages on properties with one-to-four residential units when they are denied forbearance.

The legal framework referenced above does not forgive any payment obligations that a tenant has under a lease. Instead, depending on the circumstances, some or all of any unpaid amount essentially turns into consumer debt. However, the unpaid amount cannot serve as a basis for throwing the tenant out of the home. AB 3088, rather, provides a pathway for tenants enduring financial hardship due to the COVID-19 pandemic to remain in their homes through the end of January 2021. The bill's protections and processes are phased in according to the following timeline:

Phase One: September 2, 2020 to October 4, 2020

- Beginning September 2nd, landlords will once again be able to proceed with eviction cases in court for any lawful cause other than non-payment of rent under the lease.
- Until October 5th, landlords will not be able to proceed with eviction cases if the grounds for the eviction is nonpayment of rent under the lease. This delay is intended to allow time for the courts, the Judicial Council, landlords, tenants, and the attorneys who represent them to prepare for the new rules governing nonpayment cases that will take effect in Phase Two.

Phase Two: October 5, 2020 to January 31, 2021

- Beginning October 5th, in addition to proceeding with evictions for any other lawful cause as set forth in the description of Phase One, landlords will now be able to seek to have their tenants evicted for nonpayment of rent due under the lease.
- However, up until the end of January 2021, such cases will be subject to the following rules designed to protect tenants with COVID-19 related financial hardships from losing their homes, at least until February of 2021:
 - If a landlord intends to try to evict a tenant for nonpayment of rent or other charges due under the lease, the landlord must serve a notice giving the tenant a 15 business day window in which to make one of the following choices:
 - pay the demanded amount,
 - vacate the premises, or

- return a declaration to the landlord, signed under penalty of perjury, indicating that the tenant cannot pay the rent in full and on time because of a COVID-19 related financial hardship.
- If the tenant returns the signed declaration of COVID-19 related financial hardship to the landlord within the 15 days given, then the tenant receives protection against eviction.
- How long that protection lasts depends on when the unpaid rent accrued:
 - For unpaid rent and other charges that accrued between March 1, 2020 and August 31, 2020, returning a signed declaration of COVID-19 related financial hardship **permanently protects the tenant against eviction**. The tenant still owes that money to the landlord, but it becomes consumer debt: something the landlord can sue the tenant for if the tenant does not pay it back voluntarily, but not the basis for an eviction.
 - For unpaid rent and other charges that accrue between September 1, 2020 and January 31, 2021, returning a signed declaration of COVID-19 related financial hardship only **protects the tenant against eviction until February 1, 2021**.
 - However, if the tenant returns the signed declaration of COVID-19 related financial hardship and also manages, before February 1, 2021, to pay the landlord **at least 25 percent** of the rent still due for September 1, 2020 to January 31, 2021 period, then the tenant is **permanently protected against eviction** for failure to pay the balance. That balance too becomes consumer debt that the tenant can be sued for if the tenant does not eventually pay it voluntarily.

Phase Three: February 1, 2021 - Forward

- Going forward from February 2021, tenants will once again be bound by the pre-COVID rules relating to payment of rent and other charges due under the lease.

There are several other provisions in the measure including expanded small claims court jurisdiction, documentation requirement for high-income tenants, protections against retaliatory or pretextual evictions, and increased liability for carrying out extrajudicial evictions. An in-depth Senate Judiciary Committee analysis of the full provisions of AB 3088 can be found [here](#) for those interested in further details. The Senate Judiciary Committee approved AB 3088 with unanimous bipartisan support. The measure now awaits approval on the Senate Floor.

[SB 275 \(Pan\)](#) – Health Care and Essential Workers Protection Act: Personal Protective Equipment

SB 275 was amended several times this week, including revisions dated August 30. The bill requires state and provider stockpiles of PPE. Specific provisions in the bill include:

- Deletes the Made in California program.

- Requires the California Department of Public Health (CDPH) and the Office of Emergency Services (OES) to establish a stockpile of PPE for health care workers and essential workers in the state, upon an appropriation.
- Requires a health care facility, skilled nursing facility, medical practice that is part of an integrated facility or health practice, and dialysis center to maintain an inventory of unexpired, unused PPE on January 1, 2023, or 365 days after regulations setting health care employer inventory levels are adopted, an amount sufficient for 45 days of surge consumption. Requires these facilities to provide a list of their PPE inventory upon request from the Division of Occupational Safety and Health.
- Deletes the stockpile requirement on community clinics and tribal clinics.
- Provides for exemptions to the PPE requirements for health care entities under specified circumstances, including issues beyond their control, such as unfulfilled shipments, damaged or stolen equipment.
- Establishes the Personal Protective Equipment Advisory Committee (PPE Advisory Committee), appointed by the Director of OES, to consist of 15 individuals, including:
 - A representative of a statewide association representing hospitals
 - A representative of a statewide association representing skilled nursing facilities
 - A representative of a statewide association representing primary care clinics
 - A representative of a statewide association representing physicians
 - Two representatives of labor organizations representing health care workers
 - Two representatives of labor organizations representing essential workers
 - A representative of the PPE manufacturing industry
 - A consumer representative
 - An association representing counties
 - CDPH representative
 - OES representative
 - Emergency Medical Services Authority representative
 - State Department of Social Services representative

[AB 2537 \(Rodriguez\)](#) – Personal Protective Equipment: Health Care Employees

As amended this week, AB 2537 would require hospitals to maintain a stockpile of three months worth of unexpired personal protective equipment (PPE). The measure is sponsored by the California Nurses Association. AB 2537 was heard in Senate Labor, Public Employment and Retirement on August 11 and passed on a 4-1 vote. While previous rumors suggested that the bill may merge with SB 275 (Pan), based on recent activities, it does not appear that will be happen. AB 2537 is currently on call on the Senate Floor and anticipated to pass later today.

[SB 977 \(Monning\)](#) – Health Care System Consolidation: Attorney General Approval and Enforcement

SB 977 would give the Attorney General greater oversight of health care acquisitions, mergers and other transactions between hospitals and health care providers. The bill was amended this week to remove concerns from the dentists and optometrists. Hospitals, the California Medical

Association, surgery centers, counties and a coalition of others remain opposed. The bill is anticipated to be heard on the Assembly Floor on Monday.

[AB 685 \(Reyes\)](#) – Employee Notifications on COVID-19 Exposure

AB 685, by Assembly Member Eloise Reyes, would require, among other things, an employer to notify employees or employer of a subcontractor if an employee is exposed to COVID-19. The bill does not apply to health facilities, nor does it apply to employees who, as part of their duties, conduct COVID-19 testing or screening or provide direct patient care or treatment to individuals who are known to have tested positive for COVID-19, are persons under investigation, or are in quarantine or isolation related to COVID-19. Employers are able to provide such notification in the manner with which they normally are communicated with and notification must include information for employees referring them to COVID-19-related benefits they may be eligible for under federal, state, and local law. AB 685 is on the Senate Floor for consideration.

[AB 1659 \(Bloom\)](#) - Wildfire Prevention and Community Resilience Act of 2020

AB 1659, by Assembly Member Richard Bloom, would enact the Wildfire Prevention and Community Resilience Act of 2020, a bill that would authorize the use of an existing ratepayer surcharge that is paid by customers of the state's three investor-owned utilities (Southern California Edison, San Diego Gas and Electric, and Pacific Gas and Electric) and is scheduled to sunset to instead be used as a revenue source to repay \$3 billion in bonds to fund wildfire risk reduction projects, health and wildfire resilience efforts, and projects that reduce greenhouse gases. AB 1659 was heard in Senate Energy, Utilities, and Communications Committee on Friday afternoon and is on the Senate Floor for consideration.

[SB 1447 \(Bradford\)](#) – Small Business Hiring Tax Credit

SB 1447, by Senators Steven Bradford, Anna Caballero, and Assembly Member Sabrina Cervantes, would establish a Small Business Hiring Tax Credit at a rate of \$1,000 per qualified employee hired (up to a maximum level of \$100,000) as a credit towards its personal income tax, corporation tax, or its sales and use tax liabilities. The total credit allowed across all taxes is limited to \$100 million to be utilized over a five-year period.

Recent amendments to [SB 115](#) (Budget Committee) and [AB 86](#) (Budget Committee), which broadly include numerous amendments to the 2020-21 state budget (and are identical), include provisions to provide \$100 million for the Small Business Hiring Credit Fund, which will be used to transfer to the sales and use tax program to offset revenue losses associated with the credit over the same timeframe.

SB 1447 has not yet been heard by a committee and remains on the Assembly Floor. The two budget bills, along with a number of budget trailer bills, will be heard by the Senate Budget and Fiscal Review Committee and the Assembly Budget Committee, this weekend.

Department of Health Care Services Updates

Long-Term Care at Home Benefit

The Newsom Administration informed stakeholders earlier this week that they are not proceeding with development of the Long-Term Care at Home benefit for Medi-Cal. References to the Long-Term Care at Home benefit were removed from AB 86/SB 115 (budget bill junior).

Medi-Cal Managed Care Plan Contracts

DHCS announced this week that it intends to release a Request for Information (RFI) to seek input from interested parties on the department's proposed changes to Medi-Cal managed care plan contracts. The RFI is expected to be released September 1, 2020, with feedback due by October 1, 2020. DHCS will host a public webinar on September 10, 2020 at 10 a.m.

Highlights on Governor's Recently Issued Executive Orders

Governor Newsom issued three recent executive orders of interest.

Regarding elections, [N-76-20](#) extends the deadline for county elections officials to count and verify signatures submitted for initiative petitions seeking to qualify for the November 2022 ballot, giving elections officials some flexibility to focus on preparations for this November's General Election.

The COVID omnibus Executive Order [N-75-20](#) includes provisions to allow the California Department of Consumer Affairs to issue waivers permitting pharmacists and pharmacy technicians to conduct certain COVID-19 tests; allows certain adoption paperwork to be completed remotely and waives the requirement that relinquishment for adoption and other activities related to the process occur in-person for those birth parents that may be COVID-19 positive; increases the income-eligibility threshold for the Community Service Block Grant (CSBG) and waives certain requirements under state law so that additional Low Income Home Energy Assistance Program funding made available under the CARES Act; waives a time limit to allow individuals to continue receiving CalWORKs benefits; permits the Franchise Tax Board to share tax return information with the Department of Social Services to inform individuals of CARES Act "Recovery Rebates" available to them; and increases the health care capacity of home health agencies and pediatric day health and respite care facilities.

Finally, the Governor issued Executive Order [N-77-20](#) to expedite efforts by the Department of General Services and the Department of Public Health to establish and operate up to three sites for use as laboratories to increase the state's COVID-19 testing capacity. The Governor recently announced his plan to stand up a laboratory facility and begin processing tens of thousands of tests by November 1 with the goal of processing 150,000 COVID-19 diagnostic tests a day with a turnaround time of 24-48 hours.