



## Special Legislative Update ■ August 7, 2020

### **Glitch Revealed in Statewide COVID-19 Data Reporting**

This week the Newsom Administration shared that the state's database for collecting information about communicable disease (known as CalREDIE) is experiencing delays. The result of the database issue is an undercounting of COVID-19 cases; it is unclear how long the data lag has been occurring.

State officials attributed the glitches to the high volume of COVID-19 case data "testing the capacity" of the state's data collection system. According to Health and Human Services Agency Secretary Mark Ghaly, 250,000 to 300,000 distinct records are impacted by the delay – the majority, but not all, are likely COVID-related. The Administration expects to have more information about the delay in the next 24 to 48 hours.

COVID hospital and death data are collected in a different manner; the CalREDIE delays do not impact COVID related hospitalization, ICU and death data. Additionally, the Newsom Administration is able to call hospitals and double check the data; they have validated the recent trends of decreases in hospitalizations and deaths.

Some counties have added disclaimers to their county COVID-19 data dashboards, noting the data discrepancies. Counties are not being added or removed from the state watch list until the data discrepancy is addressed.

### **Governor Signs Budget Trailer Bills, November Election Legislation**

Governor Newsom signed two budget trailer bills into law this week: [SB 118](#) is the public safety trailer bill and [SB 119](#) implements agreements for a number of state bargaining units. Governor Newsom also signed [SB 423](#) (Umberg), which provides changes to in-person voting requirements for the November 2020 election. SB 423 also requires the state and counties to conduct voter education and outreach campaigns to notify voters about voting in that election.

### **Assembly Budget Subcommittee Takes up DJJ Realignment Proposal**

The Assembly Budget Subcommittee No. 5 on Public Safety convened an informational hearing yesterday to discuss the closure of the Division of Juvenile Justice (DJJ) and the prospective transfer of responsibility to counties. The subcommittee heard from a variety of speakers, starting with a number of voices in the juvenile justice advocacy community and wrapping up

with input and perspectives from the Chief Probation Officers of California (CPOC). In the subcommittee's [agenda](#) and [materials](#), details were provided on a legislative alternative to the Governor's initial proposal unveiled in the May Revision. Major points of differences exist in the timeline of the DJJ closure, stakeholder involvement in planning, oversight provisions, and funding structure/protections. Significant additional conversations about the structure for realigning DJJ responsibilities will continue in the days ahead.

## **New Publication Offers Strategic Advice About Utilizing State and Federal Funds to Address Homelessness**

The Homeless Coordinating and Financing Council released a new [publication](#) this week outlining guidance for use of key state and federal funds to reduce homelessness during the COVID-19 pandemic. This guide is intended to provide local governments and Continuums of Care (CoCs) information about the range of immediately available resources to address homelessness during COVID-19 and how to plan strategic ways to use these resources to effectively prevent and reduce homelessness. The Homeless Coordinating and Financing Council is available to discuss how state resources can help at [HCFC@bcsh.ca.gov](mailto:HCFC@bcsh.ca.gov).

## **LAO Taxes and Economy Blog Takeaways**

The Legislative Analyst's Office (LAO) shared some useful [information](#) on their website about the state of the economy. In a recent post, the LAO highlights key takeaways:

- Preliminary data suggests that state tax collections came in about 5 percent above budget projections.
- Income tax withholding has also been surprisingly stable. Even with record high unemployment, withholding since mid-March is only about 2 percent below the similar period in 2019.
- Sales tax revenue is more difficult to interpret, but analysis of credit and debit card spending suggests that California taxable sales crashed in March and April but has been steadily recovering since then.
- A recent snapshot of key economic indicators suggests that, after a dramatic decline in March and April, the economy started to recover slowly in May and June.
- California's employment has declined in recent weeks, however, after a positive June jobs report.
- Traditional unemployment claims appear to have stabilized recently, but the number of self-employed workers receiving unemployment benefits continues to grow.
- Home building and sales activity seem to be recovering after a dramatic slump in March and April but remain well below pre-pandemic levels.

## **Health Roundup**

Assembly Health Committee held a marathon eight-hour hearing this week to deliberate on bills. Committee members spent nearly three hours hearing testimony and discussing a single bill – Senator Hill's [SB 793](#), which would ban the sale of flavored tobacco products. Senator Hill

took amendments exempting certain flavored cigars and loose leaf tobacco. The Committee voted 10-2 to pass the measure; it will be heard next in Assembly Appropriations Committee.

The other measure capturing significant attention during the hearing was Senator Monning's [SB 977](#), which would require the Attorney General (AG) to approve an affiliation or acquisition between the health care system and a health care facility or provider. Previous measures to address hospital acquisitions, mergers and affiliations have not applied to public hospitals; based on the definition currently in SB 977, it appears the measure would apply to some public providers. The AG's staff continues to emphasize that the bill is intended to provide authority to intervene in transactions involving private equity firms and hedge funds. The language in the bill continues to be broad.

Senator Monning took the committee amendments to: 1) add a sunset date to the provisions of the bill relating to the AG's prior approval of changes in control or acquisition; 2) change from "shall" to "may" the AG's authority to deny consent to a change of control or an acquisition in Section 1190.25; 3) raise the expedited review threshold from \$500,000 to \$1 million and add county facilities to the expedited review; and 4) expand the criteria for approving a "change of control" to include maintaining access to care in Section 1190.25. The Committee voted 8-4 to approve the measure, with several members noting that they may withhold their vote on the Assembly floor if further amendments are not taken to clarify particular aspects of the bill. SB 977 will be heard next in Assembly Appropriations Committee.

Other bills of note:

#### **[SB 758 \(Portantino\)](#) – Disaster and Seismic Preparedness**

SB 758 by Senator Portantino passed out of Assembly Health Committee 12-0 on Tuesday. The bill would extend the 2030 seismic deadline to 2037 and create the Health Care Delivery System Preparedness Advisory Committee. SEIU State Council and the California Nurses Association are opposed to the bill and raised concerns with the deadline extension not being tied to certain benchmarks or deliverables, as in previous legislation, and wanting the extension to be tied to the financial health of the facility (facilities in poor financial health would be given more time to comply). Assembly Appropriations will hear the bill.

#### **[SB 803 \(Beall\)](#) — Peer Support Specialists**

Senator Jim Beall is authoring SB 803, which seeks to secure behavioral health peer support specialist certification under Medi-Cal. Assembly Health Committee passed the measure 15-0; it will be heard next in Assembly Appropriations.

#### **[SB 855 \(Wiener\)](#) – Mental Health Parity**

Senator Scott Wiener's SB 855 revises California's mental health parity law to cover medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions. Senator Wiener clarified during the hearing that he is working more on medical necessity criteria in the bill and out-of-network provisions. The California Association of Health Plans indicated that want medical necessity taken out of the bill

and thought the author had agreed to the committee amendment to do just that. The Committee passed the bill 15-0; it will be heard next in Assembly Appropriations.

Senate Health Committee will be holding an additional hearing on Monday, August 10 to hear an additional nine bills that were not on the August 1 agenda. Please note that [AB 3224](#) (Rodriguez) will be heard; this measure would require the California Department of Public Health to study local health department workforce, staffing and resources.

Senate Business, Professions and Economic Development will be meeting on Saturday, August 8 to hear approximately two dozen bills, including Assembly Member Wood's [AB 890](#), which would allow nurse practitioners to practice independently in California — as they do in nearly all western states in the U.S.

### **Housing and Homelessness Legislation Further Culled in Second House Policy Committee Hearings**

As the Legislature reconvened policy committees again this week, the Senate Housing Committee met Thursday to hear over a dozen Assembly bills. Two measures on the agenda sought to achieve the same or similar goals as measures included in the Senate Affordable Housing package. It was unclear at the start of the hearing whether the houses had come to some sort of agreement on their respective packages, but [AB 1279 \(Bloom\)](#) and [AB 3107 \(Bloom\)](#) were pulled from the agenda at the start of the proceedings due to heavy opposition from the California State Building and Construction Trades Council over skilled and trained workforce provisions. AB 1279 (Bloom) would have created a state override of local zoning to allow certain qualifying housing developments “by-right” in designated high-opportunity communities with lower residential densities and AB 3107 (Bloom) would have, until January 1, 2030, mandate that a housing development in which at least 20% of the units have an affordable housing cost or affordable rent for low-income households be an authorized use on a site designated in any element of the general plan for commercial uses.

However, several measures that would impact local government in some way, shape, or form did advance. [AB 434 \(Daly\)](#), which is supported by local government and planning organizations, would help streamline affordable housing grant programs under the Department of Housing and Community Development by aligning application requirements and procedures. [AB 3040 \(Chiu\)](#), similarly supported by local governments, would provide a helpful process whereby local governments would have greater certainty that they could accommodate portion of their regional housing needs allocation (RHNA) by upzoning to allow small multifamily projects in existing neighborhoods with single-family units.

On the homelessness front, [AB 3269 \(Chiu\)](#) moves to the Senate Appropriations Committee after its Senate Housing Committee vetting this week. AB 3269, among other things, would require local governments to develop actionable homelessness plans and meet benchmark goals to reduce homelessness. Local government associations, in acknowledgment that a comprehensive and aggressive new strategy is required to meaningfully reduce homelessness, have offered

amendments to narrow the scope of this bill as well as provide funding for local planning efforts. With many mandates on both state and local agencies, there are significant costs associated with the bill in print, and additional amendments as it moves towards the finish line are anticipated.

Next up for housing, Assembly Local Government Committee meets Tuesday to hear [SB 1385 \(Caballero\)](#), [SB 1120 \(Atkins\)](#), and [SB 902 \(Wiener\)](#). SB 1385 is the Senate's approach to housing on commercial sites, which would create a new process allowing residential development on commercial sites, including allowing qualifying projects to use the streamlined application procedures of SB 35 (Wiener, 2017). SB 1120 would require a local government to ministerially approve the development of two residential units in single-family residential zones, as well as the splitting of parcels in those same zones. Finally, SB 902 would permit a local government to pass an ordinance to zone any parcel up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site.

## **HCD Releases Streamlined Ministerial Approval Determination List and 2019 Annual Progress Report Data**

The California Department of Housing and Community Development (HCD) released its [updated determination list](#) displaying the California cities and counties that are subject to streamlined housing approvals for specific housing projects under Senate Bill 35 (SB 35) and a new summary of [Annual Progress Report \(APR\) Permitting data](#).

The updated list reflects the latest data submitted to HCD by jurisdictions in their "housing element Annual Progress Reports," (APR) which includes the number of housing permits issued relative to each jurisdiction's housing need. Each April, all 539 jurisdictions in California are required to submit their annual progress reports, covering the prior calendar year's activities. Despite the disruption caused by the pandemic, HCD has received close to 500 APRs (493), from over 90 percent of the local jurisdictions in the state.

Permits reported in 2019 APRs totaled:

- 5,342 for units affordable to very-low income households (4.35% of annual total)
- 5,453 for units affordable to lower income households (4.44% of annual total)
- 16,555 for units affordable to moderate income households (13.49% of annual total)
- 95,382 for units affordable to above moderate income households (77.72% of annual total)

There were 275 jurisdictions that reported more permits in 2019 APRs, in comparison to the 2018 APRs. Developers have begun using the SB 35 Streamlined Ministerial Approval Process, with jurisdictions reporting entitlements on 42 eligible projects in their 2019 APR.

However, as only 29 jurisdictions are exempt from SB 35, having made sufficient progress towards permitting their lower-income and above-moderate income Regional Housing Needs Allocation (RHNA). There were 140 jurisdictions that reported an increase in lower-income permits in their 2019 APRs, most jurisdictions did not increase lower-income permitting from 2018 to 2019.

Overall permitting progress reported for the 5th Housing Element cycle is:

- 31,725 units or 11.4% of the total goal for units affordable to very-low income households
- 31,262 units or 16.9% of the total goal for units affordable to lower income households
- 83,317 units or 40.7% of the total goal for units affordable to moderate income households
- 490,012 or 100.4% of the total goal for units affordable to above-moderate income households

HCD continues to analyze the data reported in 2019 APRs and will release additional APR data insights soon.

Accompanying the updated list is an [online interactive map](#). Users can quickly view detailed data for each jurisdiction, including whether the city/county:

- Has an HCD-approved housing element (a jurisdiction's plan for housing)
- Is subject to streamlined ministerial housing approvals
- Has been submitting its Annual Progress Reports
- The number of housing permits issued to build homes affordable to people in each income category
- How the issued permits stack up against the city/county's housing need

## **BSCC Launches Dashboard to Track COVID-19 in Local Jails and Juvenile Hall Facilities**

The Board of State and Community Corrections (BSCC) recently launched a [dashboard](#) that presents data being submitted by counties on the number of COVID-19 cases among local correctional staff as well as juveniles and adults being held in local detention facilities. Data is provided on a facility-by-facility basis.