Thank you for subscribing to the Urban Counties of California (UCC) e-newsletter. During the Legislature's fall break, we will be publishing updates on an as-needed basis. We will return to a weekly publication schedule when the Legislature returns for the 2020-21 session in January 2021.

Established in 1991, UCC serves as the representative voice for state legislative advocacy for high-population counties in California. Initially composed of seven counties, the association has grown to 14 today. Over 80 percent of the state's population reside in UCC counties. Consequently, urban counties carry out critical programs and services to the state's most vulnerable populations. For more information, including details on our Board of Directors, please visit our website.

UCC Weekly News: November 18, 2020

Legislative Analyst Office Anticipates $26 Billion "Windfall"

In its annual Fiscal Outlook released today, the Legislative Analyst's Office (LAO) suggests that the state's upcoming 2021-22 state budget could experience a $26 billion "windfall," underlining (and bolding and italicizing) recent news about state revenues beating expectations. Some summary points:

- *State Economy Has Undergone Rapid but Uneven Recovery***.** The LAO suggests that the state's economy has experienced a quicker rebound than expected, even though recovery has been uneven.
- *Recent Data on Tax Collections and Expenditures Consistent With Economic Picture***.** Recent data on actual tax collections and program caseloads have been consistent with a more positive economic picture, especially among high-income Californians.
- *Estimated Windfall of $26 Billion in 2021-22***.** The LAO stresses that this windfall—or one-time surplus—results from revisions in prior- and current-year budget estimates and is entirely one time. In a somewhat jaw-dropping statement, the LAO notes "over the budget window, the cumulative effect of these revenue differences means the windfall is more likely than not to lie between $12 billion and $40 billion."
- *But State Also Faces an Operating Deficit Beginning in 2021-22***.** The Fiscal Outlook suggests that General Fund revenues from the state's three largest sources would grow at an average annual rate of less than 1 percent. Meanwhile, General Fund expenditures under current law and policy grow at an average 4.4 percent per year. The net result is that the state faces an operating deficit, which is relatively small in 2021-22, but grows to around $17 billion by 2024-25.
- *Budget for Schools and Community Colleges Is More Positive***.** The budget picture for schools and community colleges is more positive—the minimum funding level required by Proposition 98 (1988) is projected to grow more quickly than school and community college programs. A new statutory requirement to provide supplemental payments on top of the minimum level makes even more funding available for schools and community colleges but contributes to the state's operating deficit.
- *What Revenue Level Would Balance the Budget?* The LAO suggests that state revenues would need to beat expectations by $5 billion in 2021-22 and $35 billion in 2024-25 for the budget to break even.

The LAO concludes with recommendations for the Legislature:

- **Restore Budget Resilience.** The LAO recommends the Legislature use half of the windfall—about $13 billion—to restore the budget's fiscal resilience, by directing additional deposits into the state's various reserve accounts, for example.

- **Address One-Time Pandemic Needs.** The LAO recommends the Legislature use the other half of the windfall—about $13 billion—on one-time purposes, focusing on activities that mitigate the adverse economic and health consequences of the pandemic.
- **Begin Multiyear Effort to Address Ongoing Deficit Now.** The significant budget windfall anticipated in 2021-22 gives the Legislature the time to enact changes to address the state's ongoing operational deficit. The LAO suggests that the Legislature use the 2021-22 budget process to begin to address the state's ongoing deficit through spending reductions or revenue increases.

State Revenues Keep Moving On Up

The Department of Finance has released its November Finance Bulletin, noting a continued uptick in state revenues. General Fund cash receipts for the first four months of the 2020-21 fiscal year were $11.332 billion above the budgeted forecast of $52.552 billion. In October alone, General Fund cash receipts were $2.619 billion above the 2020-21 Budget Act forecast of $7.142 billion.

Personal income tax cash receipts to the General Fund for the first four months of the fiscal year were $8.76 billion above forecast. Cash receipts for the month were $2.093 billion above the month's forecast of $5.257 billion. Sales and use tax revenues for the first four months of the fiscal year were $2.064 billion above forecast. For the month of October alone, sales and use tax revenues were $423 million above the month's forecast of $1.315 billion. Finally, corporation tax revenues for the first four months of the fiscal year were $574 million above the forecast of $6.815 billion and, for October, were $245 million above the month's forecast of $277 million.

All told, the state is 22 percent ahead of projections for personal income tax, corporation tax and sales tax through the first four months of the 2020-21 fiscal year.

Pro Tem Outlines Senate Democratic Caucus Budget Priorities

In a news release this week, Senate President pro Tempore Toni Atkins shared her caucus' budget priories in light of the recent news that state revenues continue to outpace budget estimates. Given that the Legislative Analyst's Office (LAO) has released its Fiscal Outlook, the Pro Tem shared that she expects that the state's fiscal forecast will be better than that originally projected at the early stages of the COVID pandemic. To that end, the Senate Democrats are prioritizing fiscal responsibility – seeking to ensure the state does not becomes part of the economic problem, "which means avoiding cuts to programs and middle class tax increases that do more harm to the economy than they provide in terms of budget-balancing benefits."

To the extent an improved budget conditions permits, Senate Democrats' priorities for next year's budget will include:

- Restoring trigger solutions that were originally expected to be reversed with federal funds, including Proposition 98 deferrals, cuts to higher education, and state employee compensation.
- Eliminating the scheduled program suspensions set to affect the 2020-21 fiscal year, which are primarily focused on health care, aging, and development disability programs.
- Assisting local governments whose revenues are suffering due to the economic impacts of the pandemic, including those reliant on tourism and hotel occupancy taxes.
- Repaying recent borrowing and return reserve funds.
- Making targeted, new investments to meet current challenges, including the COVID-19 health crisis, Californians experiencing homelessness, and emergency preparedness.

The Pro Tem also pressed for assistance from the federal government, noting: "The need for federal stimulus is still critical for a strong economic rebound, and to help California continue to meet some of our state's most pressing needs, which includes enhancing unemployment benefits, providing relief for renters and mom-and-pop landlords, and supporting local governments and our schools."

Governor Announces Blueprint Changes in Face of COVID Surge

On Monday, Governor Newsom announced he was pulling an "emergency brake" on reopening given the widespread increases in COVID transmissions across the state. The Governor accelerated county movement to more restrictive tiers and tightened the timeframe for counties to comply with the new tier restrictions from 72 to 48 hours. Forty-one counties – representing jurisdictions in which 94 percent of the state's population resides – are now in the most restrictive purple tier.

Additionally, the Newsom Administration released updated mask guidance this week. The new, stricter guidance requires people to wear face coverings when within six feet of another person outside the home, with certain exceptions.

The Governor hinted at his Monday press conference that additional state action could be coming later this week or next with respect to a statewide curfew. In related local news, Los Angeles County announced a mandatory 10 p.m. closing time for restaurants, bars, retail and other businesses beginning this Friday. Los Angeles County is also limiting outdoor gatherings to no more than 15 people. COVID infections have more than doubled in Los Angeles County in the last two weeks.

The Newsom Administration's guidance on holiday gatherings, which was released last week, can be accessed here.

Assembly Health Committee Continues Informational Hearings

Assembly Health Committee held informational hearings on November 10 and November 17. The November 10 convening on health information exchanges (HIE) provided an overview of the health exchange landscape, state and federal

policies to encourage information exchange, new federal requirements for sharing health information, state models (outside of California, and recommendations for California). The hearing topic likely stemmed from discussions with various stakeholders about a statewide HIE, including expanding Manifest MedEx – one of several HIE platforms in California – statewide.

One of the panelists providing recommendations did note that there are costs for safety net providers and small, rural providers to participate in a health information exchange that can be very difficult for providers operating on thin margins, particularly in the pandemic environment. Policy makers would likely need to identify funding to assist these providers in joining a statewide HIE. Assembly Member Rob Bonta was very engaged, stating he is a strong supporter of HIE.

On November 17, the Assembly Health Committee held an informational hearing on health care industry consolidation and its impact on health care prices in this state. The agenda included an overview of health care industry consolidation, the current regulatory landscape from the Department of Justice and Department of Managed Health Care, and national approaches to addressing health care industry consolidation – including recommendations for California.

Specific California recommendations from the last panelist included:

- Enhance consolidation review, including: 1) require notice and approval for any material change in ownership involving a hospital, physician group, or provider organization; 2) review all health care transactions for the impact to price, competition, and public interest; and 3) create or designate an agency to review and monitor consolidation activity and market function
- Prevent anticompetitive contracting practices, including: 1) prohibit anti-teering and anti-steering provisions and most favored nation provisions; and 2) create or designate and agency to review health provider-insurer contracts for anti-competitive language
- Enhance regulatory oversight, including: 1) provider and insurer rate review with rate approval for growth over a certain threshold and 2) consider implementing affordability standards.

Expect to see legislation on both these topics in 2021. Agendas and background material for both hearings can be accessed here.

Updates from Department of Health Care Services (DHCS)

Medi-Cal Rx. DHCS announced this week that they are delaying implementation of CalRx for three months – from January 1 to April 1, 2021. In the interim, all current prescription drug service processes and protocols, both effectuated by DHCS and Medi-Cal managed care plans (MCPs), will remain unchanged and in place until Medi-Cal Rx launches.

DHCS suggests that the additional time will provide more opportunities for Medi-Cal providers, beneficiaries, MCPs, and other interested parties to become better

acclimated with the new Medi-Cal Rx policies and processes, and will allow additional targeted stakeholder engagement and outreach efforts.

DHCS will be updating Medi-Cal beneficiary notice templates to reflect the new implementation date; Medi-Cal managed care plans will also similarly update their 30-day notice and outreach campaign materials with the April 1 date.

Money Follows the Person. DHCS is hosting a webinar on December 4 to solicit stakeholder input and recommendations regarding the department's proposal to use $5 million of the supplemental funding opportunity the Centers for Medicare & Medicaid Services (CMS) has made available through the Money Follows the Person (MFP) demonstration program. The webinar will explore the idea of using some of the funds to commission a statewide gap analysis study and multi-year roadmap for its home and community-based services (HCBS) and managed long-term services and supports (MLTSS) programs and provider networks. Register for the webinar at this link.

Forecasting the Health Policy Landscape in a Biden Administration

For those of you interested in what the changes at the federal level may mean for health policy, the California Health Care Foundation held a webinar this week on the topic. Among the health priorities identified for the incoming Biden Administration are pandemic response, coverage expansion and Affordable Care Act stabilization, and health equity. Most of the policy changes are likely to be enacted on the regulatory side, which means waivers may be an important tool for the Biden Administration to achieve some of its policy goals. Slides from the webinar can be viewed here.

New DOF CARES Act Report

The Department of Finance (DOF) has posted its second quarter report regarding expenditure of state Coronavirus Relief Funds, representing about $4 billion expended by the state and by nearly 3,100 subrecipients through September 30.

Federal guidance associated with the CARES Act requires states to submit quarterly expenditure reports in 17 categories associated with COVID-19 response and mitigation. The second reporting cycle covers expenditures and obligations incurred from March 1 through September 30. During this period, the five largest expenditure categories are:

- Facilitating Distance Learning ($862 million)
- Payroll for Public Health and Public Safety ($699 million)
- Personal Protective Equipment ($663 million)
- Public Health Expenses ($429 million)
- Budgeted Personnel – Substantially Different Use ($347 million)

Detailed expenditure reports by subrecipient are available on the DOF website.

CalOSHA COVID Regulations

The California Occupational Safety and Health Standards Board will consider an emergency COVID-19 rule outlining steps employers must take to prevent disease spread at work, including screening, social distancing, ventilation, and deep-cleaning measures, as well as how to respond to a workplace outbreak.

The 21-page proposed regulation would require employers to: 1) quickly notify employees and independent contractors who may have been exposed in the workplace and 2) offer them testing during working hours at no cost. In addition, after a major outbreak, defined as 20 or more cases in a 30-day period, employers would have to offer twice weekly testing. The regulations are generally consistent with what has already been set forth by the state for various industries.

The OSHA Board will consider the regulation at a meeting on Thursday, November 19, the quickest turnaround for such a regulation in recent memory. If approved, the emergency regulations would then have to be reviewed by the Office of Administrative Law (OAL) within 10 days and, after approval by OAL, would take effect immediately. The Board is also expected to take up permanent regulations in the coming months.

Governor Announces New Funding for Project Roomkey

Yesterday, Governor Gavin Newsom announced plans to immediately direct $62 million in one-time funds from the state's Disaster Response Emergency Operations Account (DREOA) to counties around the state to continue providing housing to current Project Roomkey participants. Given the expiration of federal stimulus funds at the end of the year, the Department of Finance has estimated that approximately 4,000 individuals living in Project Roomkey units may lose their shelter which could result in a significant public health crisis, just as COVID-19 cases are increasing statewide.

The Administration will make funds available immediately to local governments with Roomkey sites so that clients living in motel or hotel rooms will not be forced to return to street homelessness while the COVID-19 pandemic continues to impact California. Currently, there are 16,000 hotel and motel rooms in 55 counties and three tribal nation areas since Project Roomkey launched in April 2020, providing safe shelter to more than 22,300 Californians experiencing homelessness.

The $62 million from the DREOA will be provided by the Department of Social Services (DSS) to counties implementing Project Roomkey on a formula basis, to be used as follows:

- Project Roomkey Operations - $24 million to support continued Project Roomkey operations while local communities develop re-housing plans, so that no one is forced to leave a Project Roomkey unit and become unsheltered.
- Rehousing - $35 million to develop and implement plans to transition individuals from Project Roomkey into permanent housing. This

money can be used for rental subsidies, case management, housing navigation, and landlord incentives, among other things.

- Technical Assistance - $3 million to contract with experienced housing providers to deploy housing specialists and provide intensive technical assistance to communities to help them create plans for permanent re-housing of all Project Roomkey occupants.

DSS plans to immediately allocate funding to counties and tribes participating in Project Roomkey by utilizing the same process it used for the initial $50 million in COVID-19 emergency funding allocated earlier in the year, on a per unit basis for these approximately 4,000 individuals. For more information, see this bulletin from the Department of Finance.

Audit of State Housing Agencies Finds Lack of Strategy, Coordination

The Bureau of State Audits has released its audit report on California's housing agencies, charging that mismanagement and lack of coordination and strategy among the agencies has exacerbated the state's affordable housing crisis. The Auditor reviewed the operations of the California Department of Housing and Community Development (HCD), the California Housing Financing Agency (CHFA), the California Tax Credit Allocation Committee (TCAC), and the California Debt Limit Allocation Committee (CDLAC) to assess the state's effort to support affordable housing projects and specifically identified the following challenges:

- The state's approach to planning and financing the development of affordable housing at both the state and local levels is ineffective.

o Four key state agencies contribute to the state's basic housing efforts, but there is no sound, well-coordinated strategy or plan to most effectively use their financial resources to support affordable housing.
o The lack of a comprehensive plan allowed one agency to mismanage and ultimately lose $2.7 billion in bond resources.
o The four agencies' requirements are misaligned and inconsistent, which results in an unnecessarily cumbersome process for awarding their financial resources.
o Local jurisdictions have created local barriers such as restrictions on the number of units developers can build and lengthy project approval processes.

- State law and oversight are not strong enough to ensure that cities and counties are doing their part to facilitate the construction of affordable housing.

o The auditor reviewed cases in which local jurisdictions acted inconsistently with state law and/or delayed projects, noting that the state lacks authority to ensure affordable housing is built in a timely manner.

The Auditor's recommendations suggest the Legislature amend state law to do the following:

- Require HCD to prepare an annual addendum to the state's housing plan that identifies all of the financial resources the state possesses for the development of affordable housing, the number of affordable units those resources are expected to help build, the amount the state will need to obtain from other sources, where the state's resources will have the most impact, and outcomes to measure the success of its investments.
- Create an interagency workgroup to develop consistent program requirements for awarding financing resources to multifamily housing projects to maximize affordable housing built and remove administrative barriers.
- Strengthen existing standards for mitigating barriers on potential affordable housing sites to ensure that local jurisdictions conduct streamlined reviews and do not unduly restrict the number of units developers can build on each site.
- Create an appeals process for developers to resolve disputes over eligible affordable housing projects in a timely and fair manner.
- Eliminate the Debt Limit Committee and transfer its authority to the Tax Committee to manage tax-exempt bonds, including its responsibilities for reviewing applications and allocating bond resources.

HCD Pauses Housing Programs to Better Align Agencies' Goals

HCD announced that it would pause its multifamily housing programs so that 1) TCAC and CDLAC can complete processes involved in drafting and adopting regulations and 2) the three agencies can work to align policy goals across the Administration and the Offices of the Treasurer and Controller and remove conflicting scoring criteria and definitions.

The final TCAC and CDLAC regulation changes will also be factored in as HCD embarks on the implementation of AB 434 in January 2021 to streamline HCD's multifamily funding program guidelines, criteria, and application processes.

The following guideline updates will be paused until further notice:

- Multifamily Housing Program (MHP)
- Infill Infrastructure Grant (IIG)
- Affordable Housing and Sustainable Communities (AHSC)

Additionally, the following Notices of Funding Availability (NOFAs) will be paused:

- Infill Infrastructure Grant (IIG)
- Joe Serna, Jr. Farmworker Grant program
- Multifamily Housing Program (MHP)
- Affordable Housing and Sustainable Communities (AHSC)

HCD anticipates announcing new dates for guidelines and NOFAs "shortly."

HCD Releases Draft Guidelines for Surplus Land Act; Local Agencies Encouraged to Comment

HCD also released draft Surplus Land Act guidelines that are available for comment. Local agencies impacted by the Surplus Land Act and 2019's AB 1486 (Ting) should review and provide comments to HCD.

HCD is also hosting a webinar on Thursday, November 19 to summarize the content of the draft guidelines, help local governments and others understand the new requirements of the Surplus Land Act law, and introduce HCD's draft guidelines to clarify how to meet those requirements. Those interested may register online.

We anticipate a number of local agency associations and individual cities, counties, and special districts will weigh in with comments, as many local agencies were heavily involved in the debate on AB 1486. Primary to those conversations was clarification of the term "dispose of" to ensure that a local agency's decision to lease property was not subject to the provisions of the Surplus Land Act. HCD, however, in its draft guidelines suggests otherwise, a decision that could have far-reaching implications for those agencies that lease property for any purpose. We encourage careful review and response.

Comments must be submitted to HCD by December 7, 2020 and should be directed to publiclands@hcd.ca.gov.

NACo Hosts Webinar to Discuss COVID-related Housing Insecurity

The National Association of Counties (NACo) is hosting a webinar for counties to discuss eviction moratoria, possible actions counties can take to address housing insecurity during the pandemic, projections for evictions in 2021, and other concerns that are top of mind for counties. The webinar is scheduled for **Friday, December 4** from **2:00 – 3:00 p.m. EST**. Register online to participate.

Update on Work of the Penal Code Revision Committee

As part of the 2019-20 budget, the Governor recommended and the Legislature approved the creation of the Penal Code Revision Committee (see Sections 11-18 of SB 94, the 2019-20 public safety budget trailer bill). The committee's stated objectives are as follows:

1) Simplify and rationalize the substance of criminal law.
2) Simplify and rationalize criminal procedures.
3) Establish alternatives to incarceration that will aid in the rehabilitation of offenders.
4) Improve the system of parole and probation.

At CSAC's Administration of Justice Policy Committee meeting this week, Michael Romano, Committee Chairperson, and Thomas Nosewicz, Staff Counsel, presented about the purpose and work of the committee. Committee members include the following individuals:

- Michael Romano, Chairperson – Director/Founder of the Three Strikes and Justice Advocacy Projects, Stanford Law School
- Assembly Member Sydney Kamlager (54th District – portions of Los Angeles County)
- Senator Nancy Skinner (9th District – portions of Alameda and Contra Costa Counties)
- Senator (ret.) John Burton – Former Senate President pro Tempore
- Judge (ret.) Peter Espinoza – Former Los Angeles County Superior Court Judge and current Director, Los Angeles County Office of Diversion and Reentry
- Justice (ret.) Carlos Moreno – Former California Supreme Court Justice
- L. Song Richardson – Dean, UC Irvine School of Law

The presenters reported that the committee has met seven times since its establishment in January 2020 and has taken testimony from over 50 witnesses, including Governors Brown and Newsom along with Attorney General Becerra. Additionally, various public safety organizations – including the statewide association of sheriffs, probation chiefs, district attorneys, and police chiefs – as well as currently and formerly incarcerated individuals have provided input and perspectives. Two additional meetings are planned prior to a release of an initial set of recommendations in mid-January 2021; those meetings re planned for December 10 and early January. (The committee materials, including written submissions from various presenters as well as links to video recordings of each of its meetings, can be found here.)

The recommendations of this body could contemplate significant additional changes to the criminal justice system, up to and including impacts to local public safety partners. Notably, the statutes authorizing the establishment of the Penal Code Revision Committee have no sunset date.

In response to a committee member inquiry, the speakers indicated that during the committee's first year of work they are looking at broad, consensus-based reforms in the adult system but could expand the effort next year, possibly reaching into the juvenile system.

It is important that counties stay engaged and apprised regarding this effort. HBE will monitor the work of the committee, with a particular focus on the set of recommendations expected to be released in January.