

UCC News: April 30, 2021

Early Budget Action Update: Governor Newsom Signs PPP Tax Conformity Measure; Movement on DJJ Realignment Trailer Bill

The Legislature and Governor acted on what will be the last bit of early 2021-22 budget action. Just in time, because “regular” budget action will resume next week with the scheduling of numerous budget subcommittee hearings in the run-up to the Governor’s May Revision, which is likely nearing its final stage of completion. The Governor’s revised spending plan is expected to be released the week of May 10 – possibly earlier in the week, but certainly no later than Friday, May 14. Here is what happened with the last round of early budget trailer bills this week.

The Legislature approved and Governor Newsom [signed AB 80](#), a measure that conforms California tax law to federal tax law to ensure that forgiven Paycheck Protection Program (PPP) loans that businesses received from the federal government during the pandemic will not be counted as taxable income and that these businesses can also deduct the costs of expenses that the PPP loans paid for. This action comes just prior to the filing deadlines for federal and state income taxes on May 17.

Additionally, the Assembly approved and sent to the Senate [SB 92](#), the trailer bill intended to facilitate implementation of the DJJ Realignment measure of 2020, while the Senate considered an identical measure ([AB 87](#)) in its full budget committee. It is expected that final floor action will take place next week, and a bill will be presented to shortly thereafter to the Governor for his action. As reminder, key provisions in the trailer bill would:

- Enact new Welfare and Institutions Code (WIC) 875 to provide juvenile courts – and all other involved agencies – with a framework and process for placing youth who previously would have been eligible for DJJ into an appropriately responsive dispositional track to address their programming and treatment needs. In addition to outlining specialized considerations for the court, the framework also is meant to guard against an increase in referrals of youth to the adult court system;
- Clarify language regarding which county agencies are eligible for SB 823 programmatic funding that accompanies the shift of responsibility;
- Restore a previous code section describing who was eligible for placement in DJJ to ensure that – if ever necessary, as specified under WIC Section 733.1 – provisions to revert responsibility back to the state could be executed if funding is not provided to counties;
- Specify that county payments to accompany the shift in responsibility are to be paid annually rather than monthly; and

- Set a hard closure date for all DJJ facilities on June 30, 2023, and require the state's DJJ director to develop a plan by January 1, 2022 for managing the transfer of the youth who remain at DJJ at the final closure date.

Assembly Budget Blueprint Released

Assembly Budget Chair Phil Ting released the Assembly's [Budget Blueprint](#) for 2021-22, including a number of proposals to restore state service and invest in priority areas, while stimulating the economy. The blueprint notes that the state's significant budget surplus and available federal funds allow for new investments to expand opportunities for Californians most in need.

- Highlights of the Assembly priority spending include:
- **Stabilization and expansion of some critical programs and services:** Repay school/community college deferrals; restore cuts to UC, CSU, courts, housing, child support, health and human services; bolster access to Medi-Cal and Covered California; retain healthy reserves
- **Maintain COVID-19 response:** Continue investing in public health infrastructure; safely reopen schools for the fall; protect vulnerable populations in nursing homes and prisons; ensure workplace safety enforcement; greater transparency & oversight of all disaster-related funding
- **Support for working families:** Ongoing funding to head off homelessness; more Golden State Stimulus payments; implementation of TK-For-All and expansion of Early Care & Education; increase college financial aid and refund amounts for California Earned Income Tax Credit (CalEITC) filers; safeguard communities from wildfires
- **Reopening/economic recovery:** Add retraining programs for laid off workers; debt-free college; establish a Climate Crisis investment plan and infrastructure strategy to stimulate green jobs while benefiting low-income communities; empower communities & celebrating diversity to combat racism; modernization of the Employment Development Department (EDD)

Additionally, specific subcommittee priorities of note include the following.

Assembly Subcommittee No. 1 on HHS –

- Respond to California's behavioral health crisis by supporting the California Reducing Disparities Project, All Children Thrive, emergency department peer navigators, Mental Health Student Services Act school-county partnerships, and start-up costs for peer support specialist certification programs
- Increase health care access by expanding Medi-Cal to all, regardless of immigration status, making Covered California more affordable,

- eliminating the Medi-Cal assets test, implementing CalAIM, extending telehealth flexibilities, and investing in enrollment navigators
- Build a robust public health infrastructure with significant investments in county public health staff, to effectively address future pandemics as well as current epidemics of HIV, HCV, and STDs, heart disease, diabetes, and deaths of despair
 - Advance the Master Plan for Aging with key investments in In-Home Supportive Services, Adult Protective Services/Home Safe, Senior Nutrition, and other vital Aging programs
 - Protect vulnerable children by preventing child welfare removals, supporting foster families, and providing more support for struggling older youth
 - Increase developmental services rates and expand services
 - Refocus CalWORKs into a program that elevates child and family wellbeing, increasing grants, and providing more resources to truly support the positive trajectory of these California families

Assembly Subcommittee No. 5 on Public Safety –

- Adopt fiscally responsible prison spending and long-term planning
- Improve outcomes and state oversight of the juvenile justice system
- Adopt policies that comply with court ordered oversight of prisons
- Reduce gun violence
- Reduce barriers to reentry
- Enhance workforce development opportunities and housing
- Enhance court access and services for low income and indigent people
- Support survivors of domestic violence and sexual assault
- Improve services for court users

As noted above, budget subcommittees resume work next week in preparation for the May Revision. Senate Budget Subcommittee No. 3 on HHS will be discussing public health infrastructure and the Office of Health Care Affordability on Tuesday, May 4. On May 6, the subcommittee will discuss child support and aging issues, among other items.

Assembly Budget Subcommittee No. 5 on Public Safety will [meet](#) Monday to close out various issues, including several court facility construction proposals as well as at least one Department of Justice item of note – the funding to convene the working group charged with developing a plan to replace the current statewide juvenile justice database (the Juvenile Court and Probation Statistical System or JCPSS), as required under the provisions of the DJJ Realignment measure of last year (SB 823). Additionally, the subcommittee will consider a plan to appropriate \$3.1 million and 14 new positions at the Board of State and Community Corrections (BSCC) to strengthen jail inspections and oversight.

On the Senate side, Subcommittee No. 5 meets Thursday, May 6 where they will discuss judicial branch issues – including dependency counsel funding, a spending priority identified in the Senate Democrats’ recently released **Build Boldly Back** [plan](#). Also on the subcommittee’s agenda are BSCC, state corrections, and DOJ budgets. The agenda has yet to be released but should be posted [here](#) next week.

Senate Budget Subcommittee Approves Drought Package

This week, the Senate Budget Subcommittee No. 2 approved a \$3.4 billion [spending proposal](#) to address the state’s water supply needs, as the state approaches a second consecutive dry summer. The package includes spending proposals on drinking water, conservation, recycling and efficiency projects, groundwater, stormwater management, fish and wildlife, and rate assistance for drinking water and wastewater utilities. Funding is proposed to come from the state General Fund and previously approved bonds, while \$1 billion for ratepayers and water utilities would come from Coronavirus State and Local Relief Funds approved as part of the federal American Rescue Plan.

The Legislature may also place a bond on the 2022 ballot to fund \$6 to \$7 billion in projects to address drought, drinking water, floods, wildfire, and extreme heat. The Senate’s proposal is contained in [SB 45](#), while [AB 1500](#) reflects the Assembly’s plan. The bond is focused on longer-term projects, while the budget proposal reflects immediate projects.

The subcommittee approved the package unanimously after a request from Senator Brian Dahle for \$15 million for the Klamath River Basin was included in the package.

Newsom Recall Election is Imminent

Secretary of State Dr. Shirley Weber reported on Monday that the effort to recall Governor Gavin Newsom was successful, even with outstanding ballots left to count. Recall proponents submitted more than 1,495,709 verified voter signatures, meeting the minimum threshold to force a special recall election later this year.

Counties were to report final signatures were to the Secretary of State on April 29, 2021; once those are verified by the Secretary of State, the 30-day period for voters to request that their signatures be removed from recall petitions begins. When that 30-day period has concluded, the Secretary of State must notify the Department of Finance whether the recall has failed or may proceed. Within 30 business days of this notification, the Department of Finance must consult with county elections officials and the Secretary of State to estimate the costs of the recall election and submit that estimate to the Chair of the Joint Legislative Budget Committee, Governor, and Secretary of State. (Note that recent [press reports](#) have suggested that the estimated cost of the recall election would be around \$400 million.)

The Joint Legislative Budget Committee then has 30 days to review and comment on the estimate provided by the Department of Finance. After this review period, the Secretary of State will certify that the proponents have submitted the requisite number of signatures to qualify the recall for the ballot. Then, the Lieutenant Governor must call a recall election to be held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.

Let the recall circus commence! (See [Caitlyn Jenner](#), [Randy Quaid](#), and [proponents' infighting](#). Or our personal favorite ... [Conan O'Brien](#).)

18th Assembly District Election Set

Governor Gavin Newsom has set June 29 as the date for the Assembly District 18 special election to replace former Assembly Member and newly sworn-in Attorney General Rob Bonta for June 29; a runoff is scheduled for August 31, should it be necessary. The crowded field includes Bonta's wife, Alameda County Board of Education President Mia Bonta; San Leandro school board member James Aguilar; social justice attorney Janani Ramachandran; and Alameda City Councilmember Malia Vella.

CalAIM Bill Package

As anticipated, the CalAIM bill package moved out of the Senate and Assembly Health Committees this week and will now be heard in the relevant Appropriations Committees. During his bill presentations, Assembly Member Jim Wood, chair of the Assembly Health Committee, announced that he had conferred with Senator Richard Pan, chair of the Senate Health Committee, on the CalAIM measures and process. The chairs' plan is to have policy committees hear and discuss the major CalAIM components. As agreement is reached with stakeholders and the Administration on language, those agreed upon components will move into a budget trailer bill.

The CalAIM measures before the Legislature are:

- [AB 875](#) (Wood): This measure includes: 1) the transition from the PRIME program to the Quality Improvement Program, as PRIME is being phased out of the current 1115 waiver; 2) the Global Payment Program; 3) jail services; and 4) state monitoring of county performance for county eligibility work for Medi-Cal. The measure, via future amendments, will also include state monitoring of county performance for California Children's Services (CCS) and Child Health Disability Prevention (CHDP) program.
- [AB 942](#) (Wood): Behavioral health components of CalAIM, including the funding change from certified public expenditures to Intergovernmental Transfers (IGTs).

- [AB 1132](#) (Wood): Medicare Advantage Dual Special Needs Plan (D-SNP) components.
- [SB 256](#) (Pan): Population Health Management, Enhanced Care Management and In Lieu of Services components. SB 256 also contains the authority for incentive payments to Medi-Cal managed care plans.
- [SB 279](#) (Pan): Health Homes sunset, dental services, and health plan accreditation.

Update on Telehealth Legislative Effort

[AB 32](#) (Aguilar-Curry), which would permanently extend many of the telehealth flexibilities provided during the pandemic, passed out of Assembly Health Committee 13-0 this week. The April 23 amendments require the Department of Health Care Services (DHCS) to reimburse each federally qualified health center (FQHC) and rural health clinic (RHC) for health care services provided through audio-only telehealth, including telephone, at the applicable prospective payment system (PPS) per-visit rate, consistent with this bill, until the earlier of January 1, 2025, or the date that the FQHC or RHC elects to participate in an alternative payment methodology (APM). The amendments also require specified mental health services furnished through audio-only telehealth, to continue to be reimbursed at the applicable PPS per-visit rate indefinitely, except if the FQHC or RHC elects an APM that covers those services.

The Assembly Appropriations Committee will consider the bill next. The California Health Benefits Review Program (CHBRP) has provided a fiscal estimate on the changes in AB 32, estimating the measure will cost \$240 million across the health care system - \$136 million in costs related to Medi-Cal. The CHBRP analysis does not project any cost offsets or savings in expenditures that would result because of the enactment of this bill.

Measure to Redirect JJCPA Funding Set for Fiscal Hearing Next Week

[SB 493](#) (Bradford) proposes an array of changes to the Juvenile Justice Crime Prevention Act (JJCPA), including redirection of 95 percent of the program's funding to non-law enforcement local agencies or community-based organizations (CBOs). JJCPA represents a long-standing investment in local juvenile justice responses and, beginning in 2000, has helped local probation along with their CBO partners build a continuum of juvenile prevention and intervention services. It was on this foundation that the state realigned a portion of the juvenile justice system to counties in 2007. Given that JJCPA and the adjacent funding associated with the 2007 shift in juvenile justice responsibility both were realigned in 2011, these programs now enjoy constitutional protections that appear to be abridged by the approach contemplated in SB 493.

This measure passed will be heard in the Senate Appropriations Committee on Monday. In addition to probation union opposition, the statewide county

associations of CSAC, UCC, and RCRC along with the probation chiefs are in opposition to the bill. the counties' opposition [letter](#) to the Appropriations Committee details the various ways in which SB 493 interacts and conflicts with constitutional protections accorded to programs and funding realigned in 2011. The fiscal analysis on the measure is not yet available, but we will report more next week on the outcome from Monday's hearing.