

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 News: June 18, 2021

Legislature Passes Initial Budget Bill; Negotiations Continue

On Monday, June 14, both houses of the Legislature approved an initial expenditure measure for the 2021-22 state budget ([AB 128](#)), which reflects the two-house agreement – plus \$215 million in funding for counties' recall election costs – that we have described in previous updates. This action fulfills the Legislature's technical requirement to present a state budget to the Governor prior to the June 15 constitutional deadline and gives the parties some room to continue conversations to reconcile differences between the Legislature's spending plan and the Governor's May Revision. The measure remains on the Governor's desk.

It has been remarkably quiet in the intervening days, so it's difficult to draw specific conclusions about how the behind-closed-doors are going other than to say the parties have not yet landed on an agreement. Governor Newsom offered this statement (in relevant part) following the Legislature's actions on Monday, which strikes a positive tone:

- *I'm grateful for the Legislature's partnership and am confident we will reach a budget agreement that reflects our shared values and keeps California on a sustainable path of recovery and growth. I look forward to working with legislative leaders to reach an agreement that will address California's longstanding challenges to give every Californian family – regardless of their race or zip code – the opportunity to thrive.*

In the meantime, some Capitol observers are making hay out of the fact that we are in the middle of a heat wave. Back in the day when the state budget rarely was passed on time (i.e., in the years prior to Prop 25 of 2010 that eliminated the two-thirds vote requirement on the budget and associated trailer bills), there was a theory that the required catalyst for a budget deal coming together was a prolonged (three or more days was typically the standard) heat wave featuring temperatures over the century mark. Well, it was 109 yesterday in Sacramento, and similarly high temperatures are forecast for the next few days.

All that to say ... we are eagerly anticipating breaking news. As soon as specifics are released on how the Legislature and Administration close the gap on their spending differences, we will provide an update. Keep in mind, of course, that we

anticipate continued budget activities throughout the remainder of the session given both the considerable resources available for expenditure as well as the complexity and breadth of issues on the table. Stay tuned ...

CalOSHA Finalizes Workplace COVID-19 Rules; Governor Issues Immediate Executive Order

This week, after a tumultuous rulemaking process, the CalOSHA Board met to consider [revised COVID-19 workplace guidelines](#) that reflect the state's latest public health order. After the vote to approve, Governor Newsom immediately issued Executive Order [N-09-21](#), enabling the revisions to take effect without the normal 10-day review period by the Office of Administrative Law in order to "provide clarity and consistency for employers and employees as California fully reopens its economy."

Under the new rules, private businesses will still have the authority to require customers to wear masks, regardless of vaccination status. Employers may eliminate all physical distancing requirements in workplaces, except for unvaccinated employees during major outbreaks. Vaccinated workers will also no longer have to be tested or be excluded from work after COVID-19 exposure unless they show symptoms.

Employers must maintain supplies of N95 respirators and provide them to unvaccinated workers upon request. Unvaccinated employees are required to continue to wear face coverings indoors; employers must also maintain documentation on workers' vaccination statuses, but employees are allowed to self-attest that they have been vaccinated.

State-provided N95 respirators are [available](#) for those businesses that require assistance in providing N95 respirators for unvaccinated employees.

Department of State Hospitals Litigation

Earlier this week, a state appellate court issued a [ruling](#) in the *Stiavetti v. Clendenin* case. This case concerns the maximum constitutionally permissible delay for commencement of substantive services for defendants found to be incompetent to stand trial (IST) subsequently committed by a court to Department of State Hospitals (DSH) or Department of Developmental Services (DDS). The state was appealing a lower court ruling that ordered individuals to state hospitals within 28 days of the IST determination.

The appellate court found that despite recent legislative action and other initiatives, these defendants' due process rights continue to be violated due to lengthy waits in county jails. The court concluded that the trial court's imposition of a 28-day constitutional outer limit for commencement of substantive services was both appropriate and necessary.

The ruling puts continued pressure on the state to address the current IST wait list that is approximately six months long. The size of the waitlist doubled during the pandemic to more than 1,600 individuals.

U.S. Supreme Court Upholds ACA (Again)

The Supreme Court released its [ruling](#) yesterday in *California v. Texas*, 19-840, upholding the Affordable Care Act. In a 7-2 ruling, the majority said that the 18 Republican-led states and two individuals who brought the case had not suffered the sort of direct injury that gave them standing to sue.

The majority included Justices Breyer, Sotomayor, Kagan, Kavanaugh, Barrett, and Chief Justice Roberts. The court did not address the larger issues in the case: whether most of the law could stand without the individual mandate that requires Americans to obtain insurance or pay a penalty.

Texas argued in the case that the mandate became unconstitutional in 2017 after Congress eliminated the penalty for failing to obtain coverage because it could no longer be justified as a tax. They went on to say that this action meant the rest of the law must also be struck down.

Justice Breyer's majority ruling did not address most of the arguments about the constitutionality of the law, focusing instead on whether the plaintiffs were entitled to sue at all. The two individuals, he wrote, suffered no harm from a provision that in effect merely urged them to obtain health insurance. Similarly, he wrote, the states did not sustain injuries tied directly to the elimination of the penalty that had been part of the individual mandate.

Justice Alito, who authored the dissenting opinion, was joined by Justice Gorsuch.