

July 16, 2021

“Final” State Budget Deal Announced, Yet Work Continues

It was an eventful week in Sacramento. On Monday, the Governor and legislative leaders [announced](#) that – with the Governor’s signing of SB 129 (Budget Bill, Jr. [the First]) – a final 2021-22 budget deal had been struck. (The Governor made one line-item [veto](#) to SB 129, which appears to be technical in nature and conforms to actions taken regarding wildfire resources already enacted in AB 161.) But wait, there’s more! As we have shared rather consistently over the last few months, in keeping with what has been a very elongated budget process, additional elements of the spending package continue to trickle in. The Legislature unveiled and subsequently passed yet another Budget Bill, Jr. (the Third) and 10 new trailer bills in recent days, sending that new package to the Governor yesterday before leaving town for a four-week summer break. Early this afternoon, the Governor signed 13 additional budget-related measures. Our budget and trailer bill chart has been updated to reflect these actions [here](#).

Given the substantial resources available this year as well as the complexity and breadth of new initiatives, deliberative efforts will continue when the houses’ return in August and may trail all the way through the end of the legislative year, which adjourns September 10. We will continue to keep you updated. For those looking for more details on the state budget action through July 15, you can review the Assembly’s comprehensive summary [here](#) and the Department of Finance’s summary [here](#). Below, we highlight important elements of the budget trailer bills approved this week.

Homelessness

The housing trailer bill ([AB 140](#)) was amended to include a number of provisions to address homelessness, as outlined below:

Homeless Housing, Assistance, and Prevention Program (HHAP) 3.0 and 4.0

AB 140 allocates \$2 billion over 2021-22 and 2022-23 for the HHAP Rounds 3 and 4 to cities, counties, and continuums of care (CoCs) in a manner similar to the previous HHAP program. For Round 3, \$800 million is allocated to cities (42 percent to cities with populations of 300,000 or more), counties (28 percent), and continuums of care (32 percent); \$180 million is set aside for purposes of providing bonus funding to those entities that achieve outcome goals outlined in their applications; the remaining \$20 million is allocated to tribes.

Applications will be made available to eligible entities by September 15, 2021 and must include a local homelessness action plan and outcome goals. Twenty percent of an entity’s allocation will be provided initially (25 percent for joint applications) and initial allocations may be used to complete a local homelessness action plan. Entities have until June 30, 2022 to submit a local homelessness action plan, a narrative, and specific outcome goals to receive their remaining allocation. “Outcome goals” include goals aimed at preventing and reducing homelessness over a three-year period, informed by the findings from the local landscape analysis and the jurisdiction’s base system performance measure from 2020 calendar year data in the Homeless Data Integration System. Ten percent of funds must be used to address youth homelessness and all expenditures must be evidence-based and in compliance with Housing First. Entities have until June 30, 2024, to demonstrate whether they have met their outcome goals; those entities that have will be eligible for bonus funding.

HHAP Round 4 funds are allocated in the same manner. Round 4 applications will be available by September 15, 2022, and must include an updated local homelessness action plan and new outcome goals that build on the previous outcome goals. For Round 4 funding, entities must contractually obligate not less than 75 percent and expend not less than 50 percent of the initial Round 4 program allocations no later than May 31, 2025. If the jurisdiction has met this requirement, and can demonstrate that they are on track to meet their outcome goals, the balance of the jurisdiction’s allocated funding will be provided. A recipient must meet its outcome goals through July 1, 2025, to be eligible for bonus funding. All Round 4 program funds, including bonus funds, must be expended by June 30, 2027.

Encampment Resolution Grants

AB 140 establishes the Encampment Resolution Funding Program (\$50 million) to assist cities, counties, and CoCs in ensuring the safety and wellness of people experiencing homelessness in encampments to provide competitive encampment resolution grants to resolve critical encampment concerns and help transition individuals into safe and stable housing.

Family Homelessness Challenge Grants

AB 140 also establishes the Family Homelessness Challenge Grants and Technical Assistance (\$40 million) to provide one-time grants and technical assistance to local jurisdictions in order to address and end family homelessness.

Project Homekey

AB 140 also provides for the use of additional state (\$250 million) and federal funds (\$1.2 billion) for the acquisition, rehabilitation, and conversion of hotels, motels, commercial properties, and other non-housing properties for non-congregate housing for homeless individuals in a manner similar to the previous year's program.

State Homelessness Assessment

AB 140 also requires the Homeless Coordinating and Financing Council to conduct a Statewide Homelessness Landscape Assessment. Specifically, it requires the council to identify state programs that provide housing or services to persons experiencing homelessness or at risk of homelessness, and collect and analyze data from those programs necessary to provide a comprehensive view of the homelessness response system. AB 140 also authorizes local governments to collaborate with the coordinating council or other entity conducting the assessment to share existing data from existing local analyses of system needs or gaps to complement other data requested. The council must submit an interim report by July 1, 2022, and a final report by December 31, 2022, on the assessment to specified legislative committees.

Broadband

Provisions related to the allocation of \$6 billion for broadband deployment are contained in [SB 156](#). The bill outlines the structure and framework for the construction of a \$3.25 billion state-owned open-access middle mile broadband infrastructure, with priority placed on a geographically diverse group of projects in rural and urban areas of the state to achieve the greatest reductions in the number of households unserved by broadband internet access service. SB 156 also establishes a broadband advisory council and the Office of Broadband and Digital Literacy at the California Department of Technology with meeting and reporting requirements.

SB 156 also amends the existing Broadband Infrastructure Grant Account program to allocate \$2 billion for last mile expenditures, with at least \$1 billion for last mile projects in rural counties and \$1 billion initially allocated to urban counties to provide grants to address "last mile" investments in unserved areas. For rural counties, \$5 million in base funding for last-mile broadband projects will be provided to each county, with additional funding based on each rural county's proportionate share of California households without broadband internet access service with at least 100 megabits per second download speeds. Urban counties will also receive initial funding of \$5 million per county, with remaining funds allocated based on each urban county's proportionate share of California households without access to broadband internet access service with at least 100 megabits per second download speeds. Any funds not encumbered on or before June 30, 2023, shall be made available for allocation of last-mile broadband infrastructure elsewhere in the state.

Finally, SB 156 contains a continuously appropriated (\$750 million over three years) loan loss reserve fund to assist local governments and non-profits in financing broadband service projects. The bill allows a county to acquire, construct, improve and maintain broadband infrastructure and operate a broadband internet access service and allows a joint powers authority to issue revenue bonds for deployment of broadband by a public or nonprofit organization that are supported by the Broadband Loan Loss Reserve. The Broadband Loan Loss Reserve Fund will fund costs related to financing of the deployment of broadband infrastructure by a local government agency or nonprofit organization, including payment of costs of debt issuance, obtaining credit enhancement, and establishment and funding of reserves for the payment of principal and interest on the debt.

Health

The health trailer bill ([AB 133](#)) was updated to include additional provisions this week before it was sent to the Governor. The new provisions include:

Health Information Exchange

The trailer bill adds findings and declarations related to health information exchange (electronic health data transfer) and its value to the quality of health care as well as to addressing social determinants of health. The bill requires the Health and Human Services Agency, in consultation with stakeholders and local partners, on or before July 1, 2022, to establish the California Health and Human Services Data Exchange Framework that includes a single data sharing agreement and common set of policies and procedures that will govern and require the exchange of health information among health care entities and government agencies in California. The bill requires specified entities to execute the framework data sharing agreement on or before January 31, 2023, and requires, on or before January 31, 2024, that specified entities, including general acute care hospitals and skilled nursing facilities, exchange health information, as defined, in real time. Additionally, the measure requires Agency, on or before January 31, 2023, to work with the California State Association of Counties to encourage the inclusion of county health, public health, and social services data in the California Health and Human Services Data Exchange Framework.

Behavioral Health Continuum Infrastructure

The trailer bill authorizes the Department of Health Care Services (DHCS) to establish the Behavioral Health Continuum Infrastructure Program, and authorizes DHCS to award competitive grants to qualified entities to construct, acquire and rehabilitate real estate assets or to invest in needed mobile crisis infrastructure to expand the community continuum of behavioral health treatment resources to build new capacity or expand existing capacity for: short-term crisis stabilization; acute and subacute care; crisis residential; community-based mental health residential; substance use disorder residential; peer respite; mobile crisis; community and outpatient behavioral health services; and other clinically enriched longer-term treatment and rehabilitation options, for persons with behavioral health disorders in the least restrictive and least costly setting. DHCS will determine the methodology and distribution of the grant funds for this program, and establishes eligibility criteria for grant applicants, including: providing matching funds or real property; not supplanting existing funds to construct, acquire, and rehabilitate real estate assets; reporting data to DHCS within 90 days of the end of each quarter for the first five years; and operating services in the financed facility for the intended purpose for a minimum of 30 years. The bill deems projects funded by this program to be consistent and in conformity with any applicable local plan, standard, or requirement, and allowed as a permitted use, within the zone in which the structure is located, and shall not be subject to a conditional use permit, discretionary permit, or to any other discretionary reviews or approvals. Additionally, the bill provides that the California Environmental Quality Act shall not apply to a project, including a phased project, funded by a grant pursuant to this program if meets certain requirements.

Children and Youth Behavioral Health Initiative

AB 133 provides the details of the expenditure of the \$4.4 billion children and youth behavioral health initiative.

Department of State Hospitals (DSH)

As previously reported, AB 133 contains language to address the state's waitlist for treatment at State Hospitals for individuals found incompetent to stand trial. The bill requires the HHS Agency, with DSH, to convene an Incompetent to Stand Trial (IST) Solutions Workgroup to identify short-term, medium-term and long-term solutions to advance alternatives to placing those defendants at a DSH facility. Requires the Workgroup to submit a report to the Agency and the Department of Finance by November 30, 2021 outlining recommendations on short-term, medium-term and long-term solutions. If the Secretary of the Agency determines that the recommendations cannot be completed, or insufficient progress has been made, and that IST commitments continue to exceed available capacity, DSH maintains an IST admission waitlist that exceeds capacity, or IST defendants are not able to receive timely access to treatment, then Agency is authorized to: a) discontinue admissions for new patients under Welfare and Institutions Code 5358; b) impose reduction targets for these patient admissions; and c) charge a 150 percent daily bed rate for admissions of these patients. The bill also authorizes DSH to contract with private or public entities to house and treat individuals committed to DSH, including for subacute bed capacity, including, but not limited to, institutions for mental disease, mental health rehabilitation centers, skilled nursing facilities, or any other treatment options. Authorizes grantees to use grant funds for: a) program implementation costs; b) one-time purchases of furnishings and equipment; c) recruitment and training of staff; and d) operating expenses.

Human Services

Two human services were amended and sent to the Governor this week – [AB 135](#) and [AB 153](#). AB 135 contains human services provisions related to CalWORKs, CalFresh, Adult Protective Services, In-Home Supportive Services, Universal Basic Income, among others. AB 153 contains the provisions related to child welfare services.

Notable provisions in AB 135 include the following:

Housing Supports

AB 135 authorizes funds in the CalWORKs Housing Support Program (HSP) to be used to provide housing supports to CalWORKs recipients who are at risk of homelessness and for whom housing instability would be a barrier to self-sufficiency or child well-being. The bill modifies the definition of homeless for the purposes of the Home Safe Program and would expand the definition of an eligible individual to include individuals who are in the process of intake to adult protective services, or an individual who may be served through a tribal social services agency who appears to be eligible for adult protective services. For the expenditure of one-time funds, exempts a grantee from the requirement to match these funds between July 1, 2021, and June 30, 2024. The bill also modifies the definition of “homeless” and expands the definition of “eligible family” for the purposes of the Bringing Families Home Program, to include an individual or family that is at risk of homelessness or in a living situation that cannot accommodate the child or multiple children in the home. For the expenditure of one-time funds, exempts a grantee from the requirement to match these funds between July 1, 2021, and June 30, 2024. The bill also waives the requirement for the Housing and Disability Income Advocacy Program to seek reimbursement of funds through June 30, 2024 and would exempt a grantee from the requirement to match certain funds between July 1, 2021, and June 30, 2024.

California Food Assistance Program (CFAP)

The bill requires DSS to provide nutritional benefits to households that are ineligible for CalFresh benefits solely due to their immigration status. States the intent of the Legislature, subject to an appropriation in the Budget Act of 2023, to begin a targeted, age based implementation of the expansion of CFAP regardless of immigration status.

In-Home Supportive Services (IHSS)

As previously reported and verified now that the trailer bill is in print, AB 135 enacts a 7 percent penalty on counties that fail to come to collective bargaining agreements with IHSS providers. Effective October 1, 2021, if the factfinding panel’s recommended settlement terms were released prior to June 30, 2021, and that county has not reached an agreement with the employee organization within 90 days after the release, the penalty would go into effect. The bill requires the Public Employment Relations Board to provide written notification of the withholding to the county, the employee organization, the Department of Finance, and the State Controller.

Adult Protective Services

AB 135 alters definition to define “adult protective services” as those activities performed on behalf of elders and dependent adults who have come to the attention of the adult protective services agency due to potential abuse or neglect, would expand the multidisciplinary team to include additional individuals, such as housing representatives, and would make additional changes to certain definitions under the act and on provisions on protective placements and custody of endangered adults. The bill authorizes county protective service agencies and the Home Safe Program to refer individuals with complex or intensive needs to certain state or local agencies and authorizes referrals to be made before or after an individual begins to receive adult protective services. 38. Defines an “elder,” for the purposes of investigating or providing services under an adult protective services program, as a person who is 60 years of age or older and a “dependent adult” as a person who is between 18 and 59 years of age, inclusive, and has prescribed limitations. The bill also requires the county’s adult protective services program policies and procedures to include provisions for homeless prevention through the Home Safe Program. Authorizes a county that receives grant funds under the Home Safe Program to, as part of providing case management services to elder or dependent adults who require adult protective services, provide housing assistance to those who are homeless or at risk of becoming homeless.

California Guaranteed Income Pilot Program

The bill requires DSS to administer the California Guaranteed Income Pilot Program to provide grants to eligible entities for the purpose of administering pilot programs and projects that provide a guaranteed income to participants. Funding will be prioritized for pilot programs and projects that serve California residents who age out of the extended foster care program and pregnant individuals. AB 135 requires the DSS, in consultation with relevant stakeholders, to determine the methodology for, and manner of, distributing California Guaranteed Income Pilot Program grants, subject to certain requirements and requires an eligible entity, in order to receive a grant, to take specified actions, including presenting commitments of additional, nongovernmental funding for the pilot programs and projects to be funded with the grant.

Notable provisions in AB 153 include:

Family First Prevention Services Act Implementation

The bill states the intent of the Legislature to exercise the option afforded to states in the Family First Prevention Services Act of 2018 (federal FFPSA) to receive federal financial participation for prevention services that are provided for a candidate for foster care, a pregnant or parenting foster youth, and their parents or kin caregivers, and the allowable costs for the proper and efficient administration of the program. The federal FFPSA provides states with an option to use federal funds under Title IV of the federal Social Security Act to provide mental health and substance abuse prevention and treatment services and in-home parent skill-based programs to a child who is a candidate for foster care or a child in foster care who is a pregnant or parenting foster youth. AB 153 also authorizes the DHCS to submit a Medicaid state plan amendment, waiver request, or both, to maximize federal financial participation under the Medi-Cal program for FFPSA prevention services and requires the DHCS to maintain oversight over the prevention services claimed under the Medi-Cal program.

Housing

The bill requires the Department of Housing and Community Development (HCD) to allocate funding to counties to continue the housing navigator program to help young adults 18 to 21 years of age, inclusive, secure and maintain housing, with priority given to young adults in the foster care system. Requires a child welfare agency that accepts any distribution of money to report specified information to the HCD on an annual basis. The bill also establishes the THP-Plus Housing Supplement Program and requires the HCD to allocate and distribute funds to up to 11 counties under the program. Specifies that a county is eligible to receive this supplemental funding if the fair market rent for a 2-bedroom apartment in the county is one of the 11 most expensive in the state during the 2020–21 federal fiscal year. Specifies requirements for counties that elect to receive this funding, including, among others, that the county maintain the bed capacity for the Transitional Housing Program-Plus program that the county contracted for as of July 1, 2021. Additionally, prescribes the method of calculating the amount of supplemental funding a county receives pursuant to this program.

Out-of-State Placements

AB 153 prohibits the placement of foster youth, nonminor dependents, and wards of the court in out-of-state residential facilities, as defined, on and after July 1, 2021. The bill authorizes those placements before July 1, 2022, if specified criteria are met, including that the facility has been certified for placement by the DSS or is exempt from that certification. On and after July 1, 2022, prohibits the DSS from certifying new out-of-state 67 residential facilities or seeking approval of new placements by county child welfare agencies or probation departments in out-of-state residential facilities. The bill requires the DSS to decertify all out-of-state residential facilities on or after January 1, 2023, and ensure that all children and youth have been returned to California by that date. The bill includes provisions from AB 808 (Stone), including requiring the Department of Social Services (DSS), jointly with the DHCS, to establish the Children's Crisis Continuum Pilot Program (pilot program) for the purpose of developing treatment options that are needed to support California's commitment to eliminate the placement of foster youth with complex needs in out-of-state facilities.

CRC Seeks Guidance from Supreme Court on Timing of Maps

California Citizens Redistricting Commission voted to seek guidance from the California Supreme Court as to whether the "additional federal delay" referenced in the Padilla decision is based upon the date that the Statewide Database is able to reformat so-called "legacy" data into a usable format for building the statewide redistricting database and requested an additional extension of the deadline for approval and certification of the final maps to January 14, 2022 to allow for additional time for public input to account for the annual holiday period.

This long-awaited decision from the Commission follows months of speculation as to whether the delay in receipt of data from the United States Census would necessitate moving the June 2022 primary. Even without moving the primary, the Legislature may have to adjust other deadlines, depending on how the Court decides. For more information, check out this Los Angeles Times [article](#).

Legislature Departs for Summer Recess

The Legislature wrapped up its business by mid-day yesterday and then adjourned for a four-week summer break. Members will return to Sacramento for the last four-week push on Monday, August 16. Today also is the second house deadline for policy committees. When the Legislature returns, the initial focus will be on fiscal hearings for the universe of bills that are still alive. Starting after Labor Day, the final two weeks of session will feature floor sessions only as the houses work to consider bills and move them to the Governor's desk. The 2021 legislative session will wrap up on Friday, September 10.

COVID Updates

On Monday, the Newsom Administration released further [details](#) on K-12 school reopening guidance for the 2021-22 school year. All students and teachers are required to wear masks indoors; masks are optional outdoors for K-12 schools. The guidance eliminates physical distancing requirements.

The state guidance attracted press this week when it initially included a ban on students who don't wear masks. The original language, stated, "Schools must exclude students from campus if they are not exempt from wearing a face covering under California Department of Public Health guidelines and refuse to wear one provided by the school." CDPH revised the guidance late Monday to leave it to local school districts to decide how to enforce the mask mandate.

California health and education officials are acutely concerned with cases of the Delta variant on the rise as the new academic year approaches. The Delta variant, which is more contagious, is the most dominant variant in California. Cases and test positivity remain on the rise. As of July 15, California has 4.8 cases per 100,000 and a 3.5 percent test positivity rate over 7 days (a 1.3 percent increase from the prior 7-day rate). Several local health jurisdictions (Sacramento, Yolo, Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, Sonoma and the City of Berkeley) issued guidance this week recommending all residents, even those who are vaccinated, wear masks indoors. Los Angeles County amended their public health orders this week and are requiring everyone, including vaccinated individuals, to wear masks indoors due to the Delta variant and increased community spread.

Home and Community Based Services Funding Plan Submitted to Feds

On Monday, DHCS formally [submitted](#) California's \$4.6 billion Medicaid [Home and Community-Based Services \(HCBS\) Spending Plan](#) to the federal Centers for Medicare & Medicaid Services (CMS). The plan is subject to CMS review and approval. The Newsom Administration released their initial spending plan on June 4 but received a 30-day extension from CMS. The spending was altered in budget negotiations with the Legislature.

The American Rescue Plan Act of 2021 provides states with a temporary increase in federal funds for certain Medicaid expenditures for home and community based services from April 1, 2021, through March 31, 2022. On May 13, 2021, CMS issued guidance to states on how to leverage the enhanced federal funds. States must submit their plans to the federal government for review and approval.

BCSH Webinar on AB 832 Rental Assistance and Tenant Protections

Jointly hosted with the California State Association of Counties (CSAC), the Business, Consumer Services, and Housing Agency is sponsoring an informational webinar on Wednesday, July 21 from 4-5 p.m. to discuss recent changes to the COVID-19 Rent Relief Program under the recently approved [AB 832](#). Counties with populations of 200,000 or greater that would like to administer the second round of rental assistance state block grant funds must request an allocation by Wednesday, July 28.

AB 832 changed the state's COVID-19 Rent Relief Program, extended eviction protections for California tenants, and created a framework for the administration of Round II rental assistance funding from the American Rescue Plan Act of 2021. (Round II funding allocation table is available [here](#).)

AB 832 increased rental assistance payments to 100 percent of unpaid rent and 100 percent of prospective rent and utility payments for up to 18 months of total aid per household, including increased aid for tenants that previously received prorated payments. These provisions apply to all state rent relief payments, as well as to "Option B" jurisdictions that are administering their own "Round I" rental assistance programs in conformance with the state's program.

AB 832 also extended eviction protections for non-payment of rent related to the impacts of the COVID-19 pandemic to September 30, 2021, provided that the tenant has paid 25 percent of the rent due. (Note that Governor Newsom commented to the press this week that this was likely to be the last extension of eviction protections.)

Registration information is available [here](#).

BSCC Approves SYTF Notification Form and Public Defense Pilot Appropriations

The Board of State and Community Corrections (BSCC) met on Thursday, July 15. The Board's agenda, available [here](#), contained several items of interest; we highlight two notable actions below:

- **Approval of County Secure Youth Treatment Facilities (SYTF) Notification [Form](#)** – SB 92, follow-up legislation to SB 823 (2020) that realigned DJJ responsibilities to county governments, requires counties proposing establishment of an SYTF defined in new WIC Section 875 to notify the BSCC and provide descriptive and operational information relating to the facility. BSCC [staff presented](#) a draft form to meet this requirement, which was approved with a few narrow refinements and clarifications. In taking this action, the Board also confirmed that it would be making all county submissions publicly accessible on its website.
- **Allocation of Year 1 Public Defense Pilot Funding** – The 2021-22 state budget (SB 129) appropriates \$50 million for the first year of a three-year Public Defense Pilot Program approved in the 2021-22 budget; the pilot is intended to help address criminal indigent defense workload at the local level. Eligible funding recipients include public defenders, alternative defenders, and other entities that qualify based on the defined workload in criminal defense matters. The BSCC's proposed annual allocation schedule by county is detailed [here](#). The Board approved the proposed [staff action](#) and will work with the Office of the State Public Defenders to confirm the eligible local entities. Of the \$50 million in annual funding, \$49.5 million per year is proposed for distribution to eligible local entities; the remainder will support a contract with an academic or research institution to assess how the local resources impact outcomes associated with the criminal indigent defense workload. Relevant budget language also requires recipient entities to report to the BSCC on the amount of funding received and how its deployment addressed specified workload.

[Governor Appoints New Leadership to Labor and Workforce Development Agency](#)

This week Governor Newsom appointed Natalie Palugyai as Secretary of California's Labor and Workforce Development Agency (LWDA). She replaces Julie Su, who has been confirmed by the U.S. Senate as Deputy Secretary of Labor. Ms. Palugyai, who is the daughter of immigrants and an immigrant herself, is the first Latina to serve as Labor Secretary. She will be joined in LWDA leadership by Stewart Knox, who was also appointed this week as LWDA Undersecretary. More details on the new appointees can be found [here](#).