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August 13, 2021

Looking Ahead: Legislature Returns Monday to Begin Last Stretch of 2021 Session

The Legislature returns on Monday from its four-week summer break to kick off the final month of the 2021 legislative year. Below we provide a reminder of end-of-session deadlines through September 10 as well as additional details on priority issues that need to be addressed before session ends.

The gubernatorial recall scheduled for September 14 – just four days after the Legislature will adjourn for the year – looms large as members return to the Capitol. How the election influences when and which bills and issues end up on the Governor's desk for his consideration in the closing weeks of session remains to be seen, but what is certain is that there will be behind-the-scenes conversations and strategy decisions about the policies and the politics. Keep in mind that any bill in the Governor's possession *prior to September 10* must be signed within 12 days (which – depending on when he receives any such measure – may mean he'd have to make a signature/veto decision prior to the recall), while bills in his possession *on or after the last day of session* are subject to a 30-day signing period (i.e., on or before October 10).

Despite the angst and uncertainty in Sacramento around the recall, we can rely on somewhat immutable end-of-session deadlines and milestones over the next four weeks.

August 16 - 27

Primary focus on fiscal (Appropriations Committee) hearing for bills that impose costs

	Opportunity for committees to hold oversight or informal hearings(see more details below)
August 27	Fiscal deadline (i.e., last date for Appropriations Committees to determine which bills come off the committees' respective Suspense Files and move to the floor for second house consideration)
August 30 - September 10	Floor Session only No Committees(with limited exceptions) may hold hearing
September 3	Last day to amend bills in either house
September 10	Last day of 2021 legislative year
October 10	Final day for Governor to make signing/veto decisions for any bill he receives on or after September 10

A Long To-Do List: Issues to be Addressed in the Month Ahead

Below we provide an overview of priority issues that the Legislature is expected to consider prior to September 10, including budget items that remain outstanding.

Office of Health Care Affordability – In the weeks ahead, the Legislature is expected to continue conversations and deliberations about legislation necessary to implement the Office of Health Care Affordability. The proposed role of the Office is to analyze the health care market for cost trends and drivers of spending, create a state strategy for controlling the cost of health care and ensuring affordability for consumers and purchasers, and enforce cost targets. The 2021-22 state budget includes 58 positions and \$11.2 million in the current year, 106 positions and \$24.5 million in 2022- 23, 123 positions and \$27.3 million in 2023-24, and annually thereafter from the California Health Data and Planning Fund to establish the Office of Health Care Affordability.

The Newsom Administration continues to negotiate with Assembly Member Jim Wood (chair of the Assembly Health Committee who is authoring **AB 1130** to implement the Office of Health Care Affordability), providers, labor unions, and other stakeholders on the final details. Discussion topics have included the implementation dates for various provisions in the bill, the composition and role of the Board, the size of physician groups subject to the cost reporting and cost controls, whether and how labor costs are factored into cost calculations. It is unclear what issues remain outstanding and when the details will be finalized.

Home and Community Based Services Spending Plan – California’s **spending plan** for Medicaid home and community based services (HCBS) was submitted to the Centers for Medicare and Medicaid Services on July 12, 2021. The federal American Rescue Plan Act provides a temporary increase in funds to state Medicaid programs for home and community based services. California is proposing to spend \$4.6 billion. It is possible that some of the thirty-odd components in the HCBS spending plan will require trailer bill language to implement, so we may see a bill in the next four weeks to implement various HCBS components. Please note that in comments to stakeholders in late July, Department of Health Care Services (DHCS) Director Lightbourne acknowledged the number of cross-cutting budget issues including CalAIM, the Home and Community Based Services spending plan, the funding for behavioral health infrastructure, and the children and youth behavioral health initiative. Over the month of August, DHCS is working on identifying how the different initiatives are related and complement one another, including a potential roadmap for collaboration and leveraging funding across programs.

Transportation and Infrastructure Investments – The Governor’s May Revision proposed significant General Fund investments into multimodal transportation programs as well as a \$4.2 billion bond appropriation from the High-Speed Rail (HSR) bond. The Legislature added additional transportation spending above the May Revision proposals in the final 2021-22 state budget package, which ultimately authorized \$4 billion in General Fund for transportation and other infrastructure related programs. However, these investments were made contingent upon further trailer bill language. Failure to pass further legislation would mean the revenues earmarked for transportation would revert to the General Fund.

The budget that the Legislature sent to the Governor in July also failed to appropriate the HSR bond revenue. Despite efforts over the summer recess to bring the Legislature and Administration to the negotiating table to hash out a final deal on transportation, reports from inside the Capitol suggest the requisite talks have yet to begin in earnest. At the time of this writing, we understand that the Administration continues to view the General Fund transportation spending and the HSR bond appropriation as one package. Failure to reach agreement on HSR may very well have negative consequence for the other critical multimodal transportation expenditures – which include funding for active transportation projects and climate adaptation work to shore up existing roads, bridges, and highways from the myriad impacts of climate change. Stay tuned for more in the coming days and weeks.

Also of note, the Legislature and Administration need to pen trailer bills on three other key areas of the 2021-22 State Budget – the wildfire and forest resilience package, the drought response and water resilience package, and the climate resilience package.

Broadband – We also anticipate likely follow-up to the state’s record investment in broadband deployment with additional technical clean-up and potentially supplemental implementation components. Stay tuned for more news.

Court-Related Fine and Fee Reforms – The overall 2021-22 state budget architecture contained assumptions, but no specific proposal, about an additional round of court-related fine and fee eliminations. These reforms would build on the set of approximately two dozen criminal justice administrative fees abolished in a 2020-21 budget trailer bill (AB 1869) effective July 1, 2021. We anticipate trailer bill language is forthcoming that will outline the specific set of fines and fees proposed for elimination, timeline for implementation, as well as the mechanism for backfilling courts and county governments for associated revenue losses. Recall that the 2021-22 state budget package assumes the following amounts for revenue backfill: \$151 million each in 2021- 22 and 2022-23, \$130 million in 2023-24, and \$120 million in 2024-25 and thereafter. In related news, the Assembly Appropriations Committee will consider next week **SB 586** by Senator Bradford, a bill that also proposes to eliminate an array of criminal justice fines and fees. To what extent the set of fines and fees identified in SB 586 will match and/or overlap with what is expected to emerge in a budget trailer bill in the near term remains to be seen. We will provide updates as more information becomes available.

Behavioral Health Infrastructure Funding AB 133, the health trailer bill, authorizes DHCS to establish the Behavioral Health Continuum Infrastructure Program. This program authorizes the award of competitive grants to qualified entities to:

Construct, acquire and rehabilitate real estate assets; or
Invest in needed mobile crisis infrastructure to expand the community continuum of behavioral health treatment resources for purposes of building new or expanding existing capacity for:

- o short-term crisis stabilization;
- o acute and subacute care; crisis residential;
- o community-based mental health residential;
- o substance use disorder residential; peer respite;
- o mobile crisis;
- o community and outpatient behavioral health services; and
- o 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. In meetings with stakeholders following enactment of AB 133, DHCS has indicated that they are undertaking a needs/gaps analysis of behavioral health

infrastructure, expected to be completed in November 2021, which will drive the allocation process for the funding. DHCS anticipates that additional details about the funding and allocation will be available in January 2022.

Legislative Oversight and Informational Hearings Planned for August

As noted above, the Legislature has planned several budget and policy oversight and/or informational hearings prior to the end of August, at which point – with very limited exceptions – only floor sessions (and no committee hearings) are permitted.

<p>Tuesday, August 17</p>	<p>Joint Legislative Committee on Climate Change Policies - <i>Informational Hearing Annual Update on Statewide Trends of Greenhouse Gas Emissions</i></p> <p>Joint Hearing of the Assembly Human Services Committee and Senate Human Services Committee - <i>Oversight Hearing 2022-23 Community Services Block Grant State Plan</i></p> <p>Assembly Select Committee on the Status of Boys and Men of Color - <i>Informational Hearing Opportunities for Systemically Underserved Youth in Post-Pandemic California</i></p>
<p>Wednesday, August 18</p>	<p>Joint Hearing of the Senate Special Community on Pandemic Emergency Response and Senate Education Committee -- <i>Informational Hearing Back in School - Addressing Student Well-Being in the Wake of COVID-19</i></p> <p>Assembly Budget Subcommittee No. 3 on Climate Crisis, Resources, Energy, and Transportation -- <i>Oversight Hearing Wildfire Prevention and Forest Resiliency</i></p> <p>Assembly Emergency Management Committee -- <i>Informational Hearing California's Active Shooter Response and Recovery Efforts</i></p> <p>Joint Hearing of the Assembly Jobs, Economic Development, and the Economic Committee and the Assembly Select Committee on Small Business and Entrepreneurship -- <i>Informational Hearing Economic Recovery of Women-and-Minority-Owned Business</i></p> <p>Assembly Select Committee on California's Clean Energy Economy - <i>Informational Hearing Through the Valley of Death: Taking Emerging Seasonal Energy Storage Technologies from Research and Development through Deployment</i></p>

	<p>Assembly Select Committee on Orange County Homelessness and Mental Health Services -- <i>Informational Hearing</i> Missing and Murdered Native American People(MMNAP):Implementing AB 3099 Law Enforcement Program</p>
Friday, August 20	<p>Assembly Select Committee on Orange County Homelessness and Mental Health Services - <i>Informational Hearing</i> Addressing Orange County Homeless and Mental Health Needs</p>
Monday, August 23	<p>Assembly Joint Hearing Water, Parks, and Wildlife Committee and Assembly Agriculture Committee -- <i>Informational Hearing</i> The Drought and its impact on California Agriculture</p>
Tuesday, August 24	<p>Joint Hearing of the Assembly Budget Subcommittee No.4 on State Administration; Assembly Insurance Committee; Assembly Accountability and Administrative Review Committee; and Joint Legislative Audit Committee -- <i>Informational Hearing</i> Update on Reform at the Employment Development Department</p>
Wednesday, August 25	<p>Senate Energy, Utilities and Communications Committee -- <i>Oversight Hearing</i> Keeping the Power On: A Focus on Electricity Reliability and The California Public Utilities Commission and the Public Advocates Office Annual Update to the Legislature</p> <p>Assembly Select Committee on Emerging Technologies and Innovation Committee -<i>Informational Hearing</i> Next Generation 5G Technology in California: Identifying its Opportunities and Challenges</p> <p>Assembly Utilities and Energy Committee -- <i>Informational Hearing</i> Beyond New Construction: Decarbonizing California's Existing Building Stock</p>

California Supreme Court Ends Challenge to Governor's Executive Powers

This week, the California Supreme Court rejected an appeal of a lower court ruling that upheld Governor Gavin Newsom's executive powers. There was no reason given for denying the petition by Assemblymembers Kevin Kiley and James Gallagher. (Recall that the Assemblymembers had sued the Governor last year over pandemic-related executive orders.) While a superior court judge had issued a ruling that the Governor had exceeded his authority, the Third District Court of Appeal reversed the lower court decision and confirmed the Governor's use of his

emergency executive powers. The case is now finalized and sets precedent associated with emergency executive authority in California.

Medi-Cal Rx Update

DHCS announced late last month that full Medi-Cal Rx implementation will begin on January 1, 2022, which represents a delay of a full year. On July 27, 2021, DHCS announced it accepted a **Conflict Avoidance Plan** submitted by its Medi-Cal Rx vendor, Magellan, to mitigate conflicts associated with the proposed acquisition of Magellan by Centene Corporation; as a result of its acceptance of said plan, DHCS also was able to set the revised implementation date. DHCS will resume Medi-Cal Rx stakeholder engagement and update meeting schedules.

US Census Releases Initial Data

Finally! The US Census released the first local level results from the 2020 Census, which include race and ethnicity; voting-age populations; whether units are vacant or occupied; and group quarters information for those living in dormitories, jails, or nursing homes. The California Statewide Database will utilize this data set to conduct additional formatting and reallocate those Californians who are in state detention to their last known address. Note that, while it has yet to make its petition, the California Citizens Redistricting Commission has indicated it will seek direction from the California Supreme Court to extend its deadline for final map adoption to January 14, 2022.

US Treasury Releases User Guide on State and Local Fiscal Recovery Fund Reporting Portal

This week, the United States Department of Treasury released a **user guide** on the State and Local Fiscal Recovery Fund recipient reporting portal. The guide includes step-by-step guidance for submitting the required Recovery Fund reports using Treasury's portal, which will serve as the main avenue for submitting Recovery Plan performance reports.

The user guide calls for recipients to designate staff for specific roles in administering the reports for their award. Designated individuals will be required to access Treasury's portal **link** that will direct them to the ID.me verification website where they must create an account. Once accounts are verified, designated staff will be able to access the portal to submit Recovery Fund reports.

Webinar Series Focuses on Cross-System Coordination Between Health and Homeless Sectors

The California Health Care Foundation and Homebase – a non-profit dedicated to ending homelessness and reducing poverty – are jointly hosting a three-part webinar series designed to foster cross-system between the health and homeless sectors. The first of three is slated for August 25 from 11:30 a.m. to 12:30 p.m. will provide an introduction to coordinated entry, a process each community sets up to ensure people experiencing or at risk of homelessness are prioritized for

resources based on severity of need. For more information and registration, click [here](#).

DOF July Bulletin: State Revenues Continue to Climb

The Department of Finance's July **Bulletin** is up, and the news is good! General Fund cash receipts for the month of June were \$4.74 billion above budget estimates. Personal income tax receipts for the month were also higher, \$1.78 billion above the budget forecast. Sales and use tax receipts were \$451 million above the month's forecast and corporate tax receipts were up \$1.28 billion above budget estimates. All told, the 2020-21 fiscal year closed with cash receipts \$4.78 billion above the 2021-22 budget estimate.