



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](#).

February 11, 2022

Governor Signs Five-Bill Early Budget Action Package

After swift action by the full Assembly and Senate on Monday to approve the five-bill early action budget package, the Governor has signed the following **measures**.

Governor Newsom – during a visit to an Oakland-based small business – **signed** the two measures focused on continued COVID relief for workers and businesses. **SB 114** extends up to 80 hours of COVID-19 supplemental paid sick leave for workers through September 30, 2022. Small businesses employing 25 or fewer workers are exempt from the legislation, which is retroactive to sick leave taken beginning January 1, 2022. **SB 113** provides additional tax relief to COVID-impacted businesses, including conforming state tax law to federal tax law for purposes of federal relief provided to restaurants and venues, restoring \$5.5 billion in tax credits and deductions for certain California businesses, and an additional \$150 million in California's Small Business COVID-19 Relief Grant Program to fund applicants that remain on the waitlist.

Additionally, the Governor signed SB 115, a \$1.9 billion expenditure measure to address ongoing pandemic response issues. Key elements of the investment include:

- \$806 million to enhance testing efforts;
- \$400 million to expand vaccinations and address vaccine misinformation;
- \$486 million to support health care systems and front-line workers;
- \$141 million to maintain state response operations

- \$100 million to support mutual aid, bolster contact tracing efforts, and procure personal protective equipment

For more specific details on each of the five budget-related measures, see HBE's summary [here](#).

As a reminder, the Department of Finance has been posting trailer bill language (TBL), which are provisions necessary to implement the Governor's various 2022-23 budget proposals. The chart found at this [link](#) tracks all the specific programs/issue that require accompanying trailer bill provisions. If there is a notation in the second column from the right that the TBL is pending, keep checking back regularly for updates on specific items of interest. (Or, of course, let us know if you have any questions, and we can help!)

Rundown on Key Discussions During This Week's Budget Subcommittee Hearings

Both houses held numerous budget subcommittee hearings this week to do preliminary assessments of various Governor's 2022-23 budget proposals. We highlight the following items of interest below.

>> *Incompetent to Stand Trial* <<

On February 10, the Senate Budget Subcommittee No. 3 on Health and Human Services **met with a sole focus on the Department of State Hospitals with 18 issues to discuss**. However, the majority of time was spent on the Administration's "Incompetent to Stand Trial (IST) Solutions Package." The proposal attempts to build off the work and recommendations of the AB 133 IST Solutions Workgroup and includes the following components:

- Stabilization and Early Access to Treatment (\$24.9 million in 2021-22; \$66.8 million in 2022-23)
- Care Coordination and Waitlist Management (\$1.7 million in 2021-22; \$4.9 million in 2022-23)
- Housing Augmentation for Current Diversion Contracts (\$60 million in 2021-22)
- Housing Infrastructure - CBR or Diversion Beds (\$6.4 million in 2021-22; \$233 million in 2022-23)
- Community Program Funding for CBR or Diversion Clients (\$266.5 million in 2022-23)

- Increased Conditional Release Program (CONREP) Placements (\$433,000 in 2022-23)

The package also includes a proposal to implement an annual cap on the total number of felony IST referrals from each county and would include a county cost share for any referrals above the cap.

Consistent with the initial concerns of county organizations, Senator Pan raised questions about the cap, complex factors that lead to IST referrals, and the need to understand drivers when implementing solutions and accountability measures.

Details on the full proposal can be [found here](#) on the Department of State Hospitals website, but draft trailer bill language to implement the proposal is not yet available.

>> Health Care Affordability Issues <<

Assembly Budget Subcommittee No. 1 on health and human services kicked off their 2022 budget hearings this week. The subcommittee met on February 7 to discuss several health care affordability proposals from the Governor's budget, including the Office of Health Care Affordability, Cal Rx and Medi-Cal Rx. (See links here for the [agenda](#) and related [materials](#).)

Assembly Member Wood made several comments on the Office of Health Care Affordability. He is authoring [AB 1130](#), the California Health Care Quality and Affordability Act, which is in Senate Health Committee; he noted that he expects the committee to hear the bill early this year – although we would note that policy committee hearings likely won't start until March. He also mentioned that they're still considering the composition of the Commission. In a proactive response to anticipated concerns from stakeholders during public comment, Assembly Member Wood also pointed out that the Office is not meant to be punitive, particularly with respect to the enforcement of penalties.

Subcommittee No. 1 also discussed implementation of Medi-Cal Rx, which shifted all pharmacy services from Medi-Cal managed care plans into fee-for-service. Implementation began on January 1, 2022, with the state's contractor, Magellan. In their presentation to the subcommittee, DHCS leadership acknowledged the implementation problems with Medi-Cal Rx, including excessive call center wait times, delays in prior authorization processing, some improper claims denials, and challenges with Magellan's data and reporting. DHCS reports that it is working with Magellan to address these issues. The state also outlined several steps they took over the first weekend in February to reduce wait times and prior authorization processing

problems. The state has loaned state staff to Magellan while the company hires additional personnel over the next two months. When asked, DHCS noted they have the potential under the contract with Magellan to withhold from their invoice to offset state costs being incurred.

During public comment, several speakers – including public hospitals, clinics and Western Center on Law and Poverty – highlighted issues with Medi-Cal Rx implementation. The California Primary Care Association also raised issues with the amount of the funding available (\$105 million General Fund) to reimburse clinics for their revenue losses associated with Medi-Cal Rx. DHCS submitted a Medicaid State Plan to the Centers for Medicare and Medicaid Services (CMS) and anticipates it will be approved in the first quarter of this calendar year. Once the State Plan is approved, DHCS can begin disbursing funds to clinics.

>> *Judicial Branch Issues* <<

Senate Budget and Fiscal Review Subcommittee No. 5 took up a variety of judicial branch issues at its Tuesday [hearing](#). Among other issues, the proposed halving of the civil assessment fee was presented, with members posing a number of questions about both the fiscal and policy rationale behind the proposal. Ultimately, the subcommittee members expressed their preference for a more comprehensive approach vs. what they perceive as a piecemeal solution given actions in recent years around fine and fee reforms as well as expansion of the ability-to-pay program. Members also requested further discussion of options and possible outcomes, up to an including a full elimination of the civil assessment fee.

Also discussed was the proposal to fund the remaining 23 previously authorized judgeships, which would be prioritized – pursuant to the Judicial Council’s Judicial Needs Assessment – based on the absolute and relative need demonstrated in the following trial courts (with the total number of judicial positions [identified](#) per superior court).

Senator Maria-Elena Durazo, the subcommittee chair, expressed an interest in revisiting the long-term and sustained needs of the Inland Empire and in developing a plan to address the localized judicial workload needs given considerable population growth in that region.

Finally, the subcommittee discussed court facility and capital outlay proposals, with the conversation focusing on the need to identify a long-term, sustainable funding source to support the long-term, multi-billion courthouse construction and maintenance needs. The LAO is recommending that the entire responsibility for the

courthouse facility program – including all debt for previously constructed facilities and funding for new projects – shift to the General Fund.

No action on any of these items was taken.

Attorney General Bonta Scolds Woodside Over Habitat Declaration

The Town of Woodside in San Mateo County had its 15 minutes of fame this past week when an [article](#) in a local newspaper was picked up by the state and national media (and Twitter and Facebook and...) outlining the Town's plan to put a stop to housing projects initiated as a result of last year's [SB 9](#), which allows homeowners to split single-family lots and construct up to four residential units on their lots. The Town justified this action by declaring that the entire Town was a habitat for mountain lions. SB 9 allows for an exemption for this type of development in areas identified as habitats for protected species.

In short order, Attorney General Rob Bonta sent a [letter](#) to the Town Manager indicating his position that such an action was contrary to law and urged the Town to change course. In even shorter order, the Town Council held an emergency 90-minute meeting, most of which was conducted in closed session to discuss potential litigation, which concluded with city officials announcing that they would begin accepting applications for new duplexes.

Measure to Mandate Worker Vaccination Introduced

Assembly Member Buffy Wicks introduced a bill Thursday evening, [AB 1993](#), which would require public and private employers to require employees to be vaccinated against Covid-19. The bill applies to all employers, regardless of size and includes independent contractors. Employees and independent contractors would be required to show proof to the employer that the person has been vaccinated against COVID-19. This bill includes exemptions due to a medical condition or disability or because of a sincerely held religious belief. AB 1993 includes penalties (which are not yet specified) on employers that don't report on their employees' COVID-19 vaccine status to the state by January 1, 2023. The measure would remain in effect until the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices determines that COVID-19 vaccinations are no longer necessary for the health and safety of individuals.

Gallagher Takes Assembly Republican Leadership Post

Assembly Member James Gallagher (R-Nicolaus) was voted the leader of the 19-member Assembly Republican Caucus this week. He takes over from Assembly Member Marie Waldron, who has served as the Assembly Republican Leader since 2018. Assembly Member Gallagher, an attorney, served on the Sutter County Board of Supervisors prior to his election to the Assembly.

DHCS Unveils Telehealth Proposals

On February 4, the Department of Health Care Services (DHCS) released its **proposal** for Medi-Cal telehealth policies for 2023 and beyond. Recall that in the 2021-22 state budget, the Newsom Administration agreed to extend existing telehealth policies that have been utilized during the public health emergency through December 31, 2022 and established the Telehealth Advisory Workgroup to examine telehealth policies in the longer term. The Workgroup met over the fall and released **this report**. The January budget was expected to contain a proposal on telehealth; however, the Administration's proposal was only just released in early February.

Elements of the proposal include:

- Continuation of synchronous video and audio only and asynchronous store and forward without a sunset date.
- Payment parity for all video and audio only telehealth services, including for federally qualified health centers (FQHCs).
- Continued exemptions from site limitations for FQHCs for patient or provider.
- Authority for providers to establish a new patient via video (and with certain exceptions including the virtual dental home or others as determined by the Department). Providers would not be able to establish a new patient via phone.
- Adoption of a new telehealth modifier for audio only.
- Enhanced existing patient consent requirements so that patients are aware of their right to in-person care, availability to transportation, etc. It is not clear from the DHCS summary document whether this will require patient consent for every visit/encounter.
- Requirement that all providers are able to offer all modalities: in-person, video and audio-only by January 2024.
- Authority for Medi-Cal managed care plans to use video synchronous interaction to demonstrate compliance with network adequacy time and distance standards.
- An evaluation plan to better assess how telehealth compares to in-person visits, and its impact on access, quality and outcomes.

On February 16, DHCS will reconvene the Telehealth Advisory Workgroup to present the final DHCS Telehealth Policy Proposal and solicit workgroup feedback. To register to listen to the Workgroup meeting, click [here](#).

State Releases Medi-Cal Managed Care Reprocurement

On Wednesday, DHCS released a Request for Proposal (RFP) for its commercial Medi-Cal managed care plan (MCP) contracts. The RFP is only for commercial Medi-Cal MCPs. However, the updated contract will be executed with all Medi-Cal MCPs, including County Organized Health Systems (COHS), Local Initiatives (LI), and the new Single Plan Model (Kaiser). The updated MCP contract, which was released with the RFP, also serves as the minimum definition of requirements. To access the DHCS procurement home page, click [here](#).

Proposals from managed care plans are due on April 11, 2022. DHCS expects to award contracts to selected plans in August 2022. Plans will have more than a year to prepare their Medi-Cal delivery systems to meet new contract requirements beginning in January 2024.

DHCS will be hosting a webinar, open to all, to discuss the RFP on February 15 from 3:30 to 5 p.m.; registration is accessible [here](#).

State Modifies Masking Rules

The California Department of Public Health **announced** earlier this week that it will not be extending the statewide mask mandate, which is set to expire on February 15. CDPH had reimposed the statewide mask mandate during the omicron surge in mid-December and had extended it for another 30 days after the new year.

COVID-19 cases and the rate of community transmission have steadily decreased statewide since early January, and hospitalizations are either plateauing or declining in most regions of the state. Since California's peak during the Omicron surge, the state has experienced a 65% decrease in case rates.

Starting February 16, only unvaccinated people will be required to wear face coverings in indoor spaces and businesses, such as restaurants, theaters, retail stores and government offices. The state is recommending that individuals who are fully vaccinated continue to wear masks indoors when the risk of transmission is high.

Local health departments can continue to retain local masking rules and vaccination requirements.

Masks will still be required, regardless of vaccination status, in certain settings such as public transit and transportation hubs, K-12 schools and child care centers, emergency shelters, health care facilities, correctional facilities and detention centers, homeless shelters, and long-term care, adult and senior care facilities. The Governor pointed to low vaccination rates among children ages 5 to 11 – with 33.4 percent receiving at least one dose – as part of the rationale to retain the mask mandate in K-12 schools. Over 80 percent of individuals aged 18 years or older have received at least one vaccine dose.

The Newsom Administration also notes that they will be announcing additional adjustments and are preparing plans for the endemic stage of the pandemic in the coming weeks.

Clinics Announce New Leadership

The California Primary Care Association (CPCA) announced yesterday that the Board of Directors has selected Francisco Silva as President and CEO. Mr. Silva previously served in various capacities at the California Medical Association (CMA), most recently as General Counsel and Senior Vice President. Mr. Silva, an attorney, also holds an MBA. He immigrated with his parents to California from Mexico and grew up in the Salinas Valley where his parents were farmworkers. He will start in his new role at CPCA on March 28.

Proposing Designation Program Regulations Open for Public Comment

The California Department of Housing and Community Development (HCD) started a regular rulemaking process this month to convert and make permanent the emergency regulations establishing the Prohousing Designation Program. The Prohousing Designation Program incentivizes cities and counties to take meaningful actions to accelerate housing production at the local level through the awarding of “bonus points” for purposes of existing grant programs, including, but not limited to, the Infill Infrastructure Grant Program and the Affordable Housing and Sustainable Communities Program. As we’ve seen in recent weeks, the Administration is working to incorporate the Prohousing Designation Program into other grant programs, including SB 1 funded competitive grant programs administered by the California Transportation Commission.

The public comment period is open through March 23, 2022. The proposed text, initial statement of reasons, and previous emergency regulation information including a helpful PowerPoint presentation can be found on HCD's Prohousing Designation Program [website](#). As previously reported, the emergency regulations may be problematic for some local agencies. Some requirements of the program are subjective and not easy to demonstrate. Moreover, the emergency regulations require a local agency to bring funding to the table to qualify as prohousing. We encourage counties and cities to review the regulations closely and submit public comment especially considering this program will likely continue to influence competitive grant programs in the future.

Caltrans Director Ascends to the California State Transportation Agency

Governor Newsom appointed Toks Omishakin to serve as Secretary for the California State Transportation Agency (CalSTA), a position vacated by David Kim in January. Mr. Omishakin has served the Newsom Administration as Director for Caltrans since 2019. Prior to joining Caltrans, he was Deputy Commissioner for Environment and Planning at the Tennessee Department of Transportation from 2011 to 2019 and served the Nashville Mayor's Office from 2008-2011 as Director of Healthy Living Initiatives. As Caltrans Director, he has focused his energy on creating a more inclusive and equitable multimodal transportation system. He has also invested time and energy into matters of safety – for the traveling public and the employees who risk their lives to work on state highway projects – and creating strong partnerships with a variety of stakeholders.

No Place Like Home Round 4 Update

The California Department of Housing and Community Development (HCD) has [posted](#) the list of applications received and self-scores for the Round 4 No Place Like Home (NPLH) Competitive and Noncompetitive Notice of Funding Availability (NOFA).

The NPLH program Round 4 NOFA was released October 29, 2021. HCD received a total of 54 applications requesting approximately \$335.7 million out of approximately \$231.4 million available. Applications are currently under review by HCD and awards are estimated to be announced in June 2022.