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March 18, 2022

Newsom Administration Continues to Showcase CARE Court Framework

It was another week filled with news and events discussing the Governor's Community Assistance, Recovery and Empowerment (CARE) Court proposal. On Monday, the Administration hosted a webinar with interested stakeholders to provide information on, and answer questions about, their initial "framework." Health and Human Services Agency Secretary Dr. Mark Ghaly led the discussion, which opened with his explanation that CARE Court is: 1) a paradigm shift, 2) a partnership, and 3) about the people at the center of the program. According to the Administration, the proposal aims to provide upstream, pre-conservatorship or incarceration assistance to the sickest of the sick and most severe cases. It is expected that most, but not all, of the target population will also be experiencing homelessness.

The webinar Q&A session yielded an additional glimpse into the initial thinking with questions targeted at the need for court involvement, workforce shortages, and infrastructure challenges. The Administration made it clear they believe it is the right time to press forward having made recent investments across the infrastructure and workforce continuum. They also believe the court is needed to provide a high-level of accountability for both the individual and services providers. The Administration also made clear that existing local resources should be available to shift to this highest-priority population. ***While language to implement the framework is not yet available, initial written feedback is requested by March 25. Feedback can be sent to CAREcourt@chhs.ca.gov.***

The webinar, and other briefings, have made clear that the Administration's initial framework still lacks concrete details across several critical components.

The circumstances and extent of sanctions against counties is an area for further evaluation and clarity. Additionally, it is unclear whether individuals will face civil or criminal sanctions for a lack of program completion and whether those potential sanctions will take the shape of new legal standards.

On Wednesday, the Legislature also laid down a marker that they intend to be a key part of the CARE Court conversation and construction. Senators Tom Umberg and Susan Eggman gutted and amended [SB 1338](#), a measure that now proposes to establish the “Community Assistance, Recovery, and Empowerment (CARE) Court Program.” While we understand this language does not represent the Administration’s initial framework, it does provide interesting insight into legislative members’ early interpretations or thoughts about the proposal.

On Thursday, the Governor convened another [CARE Court roundtable discussion in Fresno](#). The Administration has indicated they are hosting CARE Court roundtables around the state with health care and service providers, impacted Californians, local and judicial officials, and other stakeholders.

It is unclear whether the CARE Court proposal will move through the budget or policy process, but we will continue to engage on the policy and provide timely updates.

[In the meantime, the Administration has posted three resource documents: Framework | FAQ | Webinar slides](#) (from March 14 presentation).

Legislature Passes, Governor Signs Two Additional Budget-Related Bills; UC Berkeley Applicants Get Reprieve

On Monday – just days after announcing that an agreement had been reached – both the Senate and Assembly approved a second package of early budget action bills. The Governor, in turn, signed the following two measures into law, with their provisions effective immediately: (1) [SB 119](#), a sixth Budget Bill, Jr. that enacts modest technical adjustments to the 2021-22 main budget bill and (2) [SB 118](#), a trailer bill that emerged last week to address a recent court decision involving a dispute between a neighborhood group and UC Berkeley about environmental impacts of increased student enrollment. See [this link](#) for more details on these bills’ provisions.

As for the enactment of [SB 118](#), UC Berkeley applicants were able to breathe a sigh of relief, given that the measure is intended to ensure those who secure a coveted enrollment slot can be accommodated on campus this fall. As we noted in last week’s *This Week in Sacramento*, a recent court order could have

forced UC Berkeley to withdraw admission offers from nearly 3,000 college freshmen and transfer students.

Specifically, SB 118 amends the California Environmental Quality Act (CEQA) statute to change the requirement for the long-range development plans to include "campus population" instead of just "enrollment." The bill further limits the remedies available to the court when it finds deficiencies in environmental review based on enrollment, and provides that enrollment, in and of itself, is not a project. Legislators touted the measure as an appropriate response to a lower-court ruling that required UC Berkeley to limit the number of students it admits after a neighborhood group filed a lawsuit seeking to slow campus growth by leveraging CEQA.

Housing and community challenges associated with the state's higher education plans will continue to be a significant issue, as the Legislature has pushed the University of California to broadly increase enrollment to accommodate more well-qualified California students while at the same time affordable housing becomes increasingly scarce. For example, **AB 1602** by Assembly Member Kevin McCarty was approved by the Assembly Higher Education Committee this week; AB 1602 would establish a \$5 billion California Student Housing Revolving Loan Fund Act of 2022 to provide zero-interest loans to UC, the California State University (CSU), and the California Community Colleges (CCC) for the purpose of constructing affordable student, faculty, and staff housing.

Gas Tax Holiday v. Broader Tax Rebate – Legislature and Governor Grapple with Soaring Cost of Fuel and Other Goods

Governor Newsom's January 2022-23 state budget proposal began an earnest debate over: 1) the rising price of fuel as well as other consumer goods and services, and 2) the state's role in addressing these very real cost pressures on Californians. No doubt, larger world economics and global politics have made the issue more acute in recent weeks with the price of gasoline well over \$5 per gallon on average across the state (one gas station recently had the **highest price per gallon** ever recorded in California - \$8.45 per gallon). The following summary details the now five proposals seeking to provide consumers relief at the pump, some of which call for gas tax holidays, permanent changes to how gas tax rates change over time, and more general rebate concepts to offset inflation across all consumer goods.

- **Governor's January Budget:** Would defer a projected 3-cent per gallon increase to the gasoline excise tax rate scheduled for July 1, 2022 (reflecting a 5.6% rate of inflation) which would otherwise generate \$523 million next fiscal year. These revenues would otherwise support the maintenance and rehabilitation, safety, and

multimodal improvements on state highways and local streets and roads. The Governor's budget discusses backfilling the local share of the revenue with State Highway Account funding although no trailer bill language has been released to understand the details. Also, unless otherwise provided for in the state budget, the annual inflationary adjustment on July 1, 2023 would be required to account for two years of inflation. This proposal merely defers the inflationary adjustment by one year – potentially making the next adjustment more difficult to make.

- **AB 1626 (Nguyen):** Would limit the annual inflationary adjustment to fuel excise tax rates to two percent. The Department of Finance (DOF) projects that through 2026-27, AB 1626 would reduce transportation revenues for state and local projects by \$2.8 billion. City and county local street and road funds would be severely impacted by this lost revenue. A more specific county-by-county and city-by-city analysis is being developed.
- **AB 1638 (Kiley):** Would suspend the various state fuel excise tax rates (a total of 51.1 cents) for a period of six months and provide a backfill from the General Fund of an amount equal to one half of the fuel excise tax revenues collected in the 2020-21. The proposal would eliminate \$4.5 billion from state and local transportation programs. Despite the partial General Fund backfill, city and county local street and road funds would be severely impacted by this proposal.
- **SB 1156 (Grove):** Would eliminate the annual inflationary adjustment for both motor vehicle fuel and diesel fuel excise tax rates. DOF projects that through 2026-27, SB 1156 would reduce transportation revenues for state and local projects by \$5.5 billion. City and county local street and road funds would be severely impacted by this lost revenue. A more specific county-by-county and city-by-city analysis is being developed.
- **Assembly Member Rebate Proposal:** Would use \$9 billion of the state's budget surplus to provide a \$400 rebate to every California taxpayer. Under the proposal **announced** this week, every California filer will receive a rebate—including those who don't own or drive a car. According to Assembly Member Cottie Petrie-Norris, the rebate would more than cover the current 51.1 cent per gallon gas tax for one full year of weekly fill ups for a car with a 15-gallon gas tank. This proposal would have no impact on transportation revenues and the programs they support at the

state and local level. For this part, the Governor indicated in his State of the State address that he is exploring a fuel price rebate proposal, but no details have been released. The Administration confirmed that the rebate would be in addition to the gas tax holiday proposal.

Transportation stakeholders have expressed opposition to the various efforts to reduce the gas tax. While sympathetic to the inflationary impacts on the price of fuel, organizations like Transportation California – which represents the industry and workers that build, repair, and maintain the statewide transportation network – argue that reducing, eliminating, or even pausing the gas tax doesn't guarantee a reduction in fuel prices. To illustrate this point, in July 2020 the average price of gas in California was \$3.10 per gallon. In June 2021, the average price of gas was \$4.18. Therefore, during 2020-21 the price of gas increased by \$1.08 yet the annual inflationary adjustment to the gasoline excise tax was \$0.03 during that same period. California consumers paid nearly \$1.05 more per gallon of gas at the end of 2020-21; this increase is more the product of global market forces on gasoline production and less so fuel excise tax policy.

Even if the state could guarantee that reduced excise tax rates reduced the price of fuel at the pump, the consumer savings on average would be minimal. For instance, the Governor's proposal would only net motorists' savings of \$15.64 a year, on average. The \$523 million that would otherwise be collected from that inflationary adjustment would support 7,500 jobs and \$2.25 billion in economic activity in one year alone.

Politics – rather than policy – appears to be driving the conversation on the gas tax. Legislative leadership and the Administration have indicated that this issue will continue to be part of budget negotiations. Both leaders have indicated their opposition to the Governor's holiday proposal and are anticipated to oppose Republican led legislation. It's not clear whether legislative proposals will find success in either the Senate or Assembly. Additionally, the revenue picture at the May Revision and the size of the surplus will surely help inform the final solution. Stay tuned for more on this hot button issue.

State Revenue Highs Tempered by Reality as Recent Tax Changes Impact Estimates

The Department of Finance has released its February [Finance Bulletin](#), noting a whopping \$17.5 billion in additional General Fund receipts over the 2022-23 Governor's Budget forecast for the year. Cash receipts for the month of February were \$1.682 billion above the forecast.

The wild swing in General Fund revenues can be tied to changes to federal tax law that allow for Pass-Through Entity (PTE) elective tax payments, which allow some taxpayers to reduce their federal tax liability starting with their 2021 tax returns. While the amount of PTE elective tax payments can be tracked in monthly case reports, the extent to which taxpayers will reduce their personal income tax payments to reflect the elective tax credits will not be able to be determined until more complete tax return data for 2021 are available. Finance estimates that \$6.265 billion of the total additional revenue is due to higher than expected PTE payments and assumes that a portion of this amount may overstate the amount of overall revenue strength to date.

Personal income tax receipts for the first eight months of the fiscal year were \$10.019 billion above the forecast. Sales and use tax revenues for the first eight months of the fiscal year were \$1.299 billion above the forecast. Corporation tax receipts for the first eight months of the fiscal year were \$8.115 billion above the forecast.

State Receives Additional Federal ERAP Funds

This week, the Department of Housing and Community Development (HCD) **announced** that it has received an additional \$136 million from the US Treasury to provide additional rent and utility assistance to low-income Californians.

As part of the Treasury reallocation process, unused federal funds are reallocated to state and local governments across the nation, with additional federal funds prioritized to jurisdictions with unmet need and a demonstrated ability to rapidly deploy these emergency resources. The first two rounds of federal reallocations have resulted in nearly \$200 million in additional federal funds. HCD has indicated that it will continue to submit subsequent requests for reallocated federal funds in the months to come.

Earlier this year, Governor Newsom signed **SB 115**, which provides temporary state resources to help state and local rental assistance programs continue their operations as additional federal resources are made available. This funding is available to assist eligible applicants who submit a complete application on or before March 31, 2022. Relief covers the period of April 1, 2020 through March 31, 2022. Tenants should continue to apply for rent relief in order to receive **AB 832** statewide eviction protections, which remain in place through the end of the month.

Assembly Subcommittees Discuss Healthcare Workforce

Assembly Budget Subcommittee No. 1 on health and human services and Assembly Budget Subcommittee No. 4 on state administration held a joint hearing on March 14 to discuss the Governor's health care workforce

(agenda). In opening remarks, Subcommittee No. 1 Chair Arambula emphasized that workforce proposals should address ethnic and geographic disparities because health care coverage is meaningless without workforce. Subcommittee No. 4 Chair Carrillo expressed her desire to ensure that California has a long-term plan to increase wages, increase worker diversity, and increase health outcomes.

The California Health and Human Services Agency and the California Labor and Workforce Development Agency presented on the Governor's workforce budget proposals. They emphasized the urgency of the health and human services workforce needs and the collaboration between the state agencies. The Governor's Care Economy initiative was chosen by the National Governors Association for a learning collaborative that will allow the state to engage with national experts to improve the package.

The identified health and human services labor shortages over the last five years were exacerbated by the pandemic. The Administration cited examples of short-staffed hospitals paying high rates for registry workforce; short-staffed nursing facilities; and homeless service providers and child welfare service providers struggling to find staff. Current training pipelines are already impacted and hitting roadblocks, meaning they can't produce the volume of health care workers needed to match the pace of retirements or to meet the needs of aging population. The Employment Development Department's labor market division two-year projections show nearly 1.6 million openings across 133 health occupations requiring a bachelor's degree or below. Regional analysis of health care projections confirms shortages in the Central Valley, Inland Empire, and rural areas. Assembly Member Arambula's questions were focused on whether the Governor's workforce package sufficiently targets ethnic diversity and geographic disparities.

Other panels discussed graduate medical education, public health workforce, community health workers, behavioral health workforce, among other issues. During the behavioral health workforce discussion, Assembly Member Arambula asked (1) whether counties have excess Mental Health Services Act (MHSA) funds that could be used for workforce and (2) how counties could be incentivized to do so. He also requested that the Legislative Analyst's Office (LAO) prepare an analysis of MHSA reserves and unspent funds. The county representative on the panel noted that less than one percent of MHSA funds statewide are reverted, but Assembly Member Arambula responded that he was not sure that data point would suffice. He also raised a question about amending the MHSA so that Workforce Education and Training funds could be used for substance use disorder workforce.

The LAO's analysis of the workforce proposal was released March 10 and can be accessed [here](#). It is critical of the Administration's proposal noting that the package is largely conceptual with key details not developed, lacks a clear problem definition, and fails to align proposed solutions with identified problems. The LAO was especially critical of the Employment Training Panel Grants and the Adult Education Program. The Analyst is recommending deferring action on funding until the proposal is more developed. They suggest asking the Administration at May Revision to provide: 1) how funding would be allocated across specific provider types (such as for behavioral health and nursing providers), 2) which specific existing workforce development programs would administer each component of this proposed package, 3) how many care economy providers (by provider type) are needed to fulfill statewide need, and 4) how this proposed package would complement prior state workforce development investments.

LAO Releases Single Payer Fiscal Analysis

This week, the LAO released its [fiscal analysis](#) of Assembly Member Ash Kalra's single payer measure ([AB 1400](#)). Assembly Rules Committee had requested that the LAO analyze financing and other considerations related to the measure, which would create a single-payer health care delivery system known as "CalCare," as well as [ACA 11](#) (Kalra), which includes tax provisions related to the financing of CalCare. The committee's request asked the LAO to prepare a comprehensive fiscal analysis of AB 1400; discuss the tax proposals in ACA 11; and consider other issues, including a review of legal barriers relevant to the implementation, feasibility, and sustainability of CalCare.

The LAO estimates the total cost to state government of CalCare to be between \$494 billion and \$552 billion. Compared to statewide health care expenditures under the existing system, the LAO estimates that CalCare could reflect an increased cost of \$9 billion (2 percent) under its low-cost scenario and an increased cost of \$67 billion (14 percent) under its high-cost scenario. Nearly all private health care expenditures under the existing system would disappear under CalCare and generally be replaced with public expenditures on health care.

Recall that AB 1400 was not taken up on the Assembly Floor prior to the January 31 two-year bill deadline, and therefore is dead for the year.

Staffing Changes Announced for Newsom's Inner Circle

Governor Newsom [announced](#) this week a significant staffing change among his top advisors. Angie Wei, who has served in the Administration since 2019, left her most recent role as Legislative Affairs Secretary this week. Prior to joining the Newsom Administration, Wei held roles of increasing responsibility at the California Labor Federation for nearly 20 years, the last seven as Chief

of Staff. Following her departure from the Governor's team, she will continue her contributions to public service at the State Compensation Insurance Fund.

Taking over in the role as Governor Newsom's Legislative Affairs Secretary is Christy Bouma who has worked as a contract lobbyist since 2000, most notably and recognizably for the California Professional Firefighters. Bouma started her career as a teacher and is widely recognized in Sacramento for her energetic and skillful advocacy. She served as president for four years of the Institute of Governmental Advocates, the Sacramento-based association representing the lobbying industry.

Chief Justice Delivers 2022 State of the Judiciary

California Chief Justice Tani Cantil-Sakauye delivered her 2022 State of the Judiciary [address](#) remotely this week as part of the Judicial Council's first in-person meeting since the onset of the pandemic two years ago. Normally, the State of the Judiciary is presented to the Governor and members of the Legislature in the State Capitol.

Chief Justice Cantil-Sakauye reflected on her experiences as Chief Justice and the Chair of the Judicial Council since her appointment in January 2011, a period largely bookended by the Great Recession and the global pandemic. Under her leadership, the Judicial Council has provided input and recommendations on a range of consequential policy issues including bail reform, pre-trial services, efforts to improve the juror experience, and ways in which the judicial branch might engage with state policy makers and other stakeholder to address homelessness. In particular, she focused her address on how the judicial branch responded to ensuring the public's access to the courts during the pandemic and the work now underway to explore the possible continued use of remote civil court proceedings.