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. Nearly 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.

April 29, 2022

Important Scheduling Note: UCC CalAIM Briefing Offered on May 5 Via Zoom

The Urban Counties of California is hosting a virtual meeting on Thursday, May 5 from 9 to 10 a.m. focused on CalAIM. Join us to hear more about the different components of CalAIM, implementation issues impacting counties, and what's on the horizon. The panel conversation will include representatives from the County Health Executives Association, the County Welfare Directors Association, the California Association of Public Hospitals and Health Systems, the County Behavioral Health Directors Association, and the Chief Probation Officers of California. The meeting is a great opportunity for supervisors, CAO/CEO staff and government affairs staff to learn more about CalAIM and engage with county experts.

Please find the Zoom link for the briefing here: **https://us02web.zoom.us/j/2192607435**.

Governor's CARE Court Proposal Clears First Policy Committee Hearings; Administration Releases New Documents and Hosts Coalition Convening

The Governor's CARE Court proposal advanced through its first two policy committees this week, which yielded two interesting bill analyses (Senate Judiciary Committee **here** | Senate Health Committee **here**), prompted active dialogue among committee members, and garnered considerable public comment. In generally chronological order for the week's activities, we offer the following summary and commentary.

The Governor continued building a campaign of support around the CARE Court concept by **convening** on Monday a group of supporters – big city mayors, firefighters, hospitals, and families affected by mental illness, among others – to tout the program's promise for addressing the unmet mental health treatment needs of the some of the sickest and most vulnerable in our communities. Additionally, the Administration posted two documents to its general CARE Court resource page: (1) a **funding backgrounder** that outlines the behavioral health and housing/homelessness resources (although reasonable minds can differ about the extent to which these funds are readily available for CARE Court purposes) the state has made or plans to make available that can be deployed to support CARE Court participants and (2) a supplemental **FAQ** that appears mostly intended to rebut the concerns raised previously by a coalition of civil, housing, and disability rights advocates. The Governor's Office also issued a **statement** after the Wednesday Senate Judiciary hearing (see more below), citing a growing coalition in support of the CARE Court approach. If nothing else, these activities and messaging point to the clear, unequivocal intention of the Administration to enact legislation this year to take a new approach with individuals with serious mental health needs, who may also be homeless.

As for the Legislature's assessment of the Governor's CARE Court concept, the public and stakeholders had their first view into the level of enthusiasm expressed and the extent to which committee members were willing to challenge specific aspects of the implementing legislation this week in a duo of policy committee hearings. First, a bit of context. Recall that the Legislature had introduced two identical measures – **AB 2830**, by Assembly Member Richard Bloom, and **SB 1338**, by Senators Tom Umberg (who also serves as Senate Judiciary Chair) and Susan Eggman. It is now clear – the Assembly version of the bill having been pulled from hearing earlier this week – that the Senate measure is, for now, the vehicle for enacting the CARE Court proposal. We anticipate that at some point the language gets pulled into a budget trailer bill, but that is a story for another day.

The Senate Judiciary Committee on Tuesday was followed by a hearing in the Senate Health Committee the following day. A few notable observations. The authors on SB 1338 acknowledged up front that this measure is a work in progress and highlighted various areas where they anticipate further amendments, including addressing housing needs and ensuring that the measure does not result in more conservatorships or court system involvement. After introductory remarks by the co-authors, the bulk of the presentation (and, later, in fielding questions from the committees) was offered by the Administration – as the sponsor of the proposal. Dr. Mark Ghaly, the HHS Secretary, spoke at length about the objectives of the bill and the desire

to create a court-based program as a mechanism to ensure collaborative engagement among parties.

The Senate Health Committee hearing was a bit harder hitting in that Senators from both sides of the aisle posed substantive questions to the authors and Administration – from issues as diverse as resources for counties, sanctions, the specific court processes, and feasibility of timelines. Senator Pan, chair of the Health Committee, pointedly asked whether the authors and Administration were open to considering various policy areas that may need further amendment as identified in the committee's analysis. (The response to that question was vague.) Finally, when pressed on the desired timeline, Secretary Ghaly said that the Administration is committed to having a bill enacted by July 1 of this year. (We interpret this statement to mean that the Administration is looking to have authorizing legislation for CARE Court enacted by the start of the fiscal year, but likely (1) there would be a much longer time horizon for implementation and (2) there could likely be elements of the structure that would be noted in the bill but subject to future action by the Legislature.)

From here, SB 1338 is scheduled for hearing in the Senate Appropriations Committee on May 9. In the meantime, the very active county coalition continues to meet to develop possible alternative approaches to the highest-profile areas of the measure – sanctions, county resources, protections, as well as timeline and scope issues. We continue to work collaboratively to try to assess and quantify county costs.

LAO Warns of Difficult State Budgeting Ahead

In his "**Fiscal Perspectives**" post this week, Gabriel Petek, the Legislative Analyst, gave it to us straight: even with the state's extraordinarily strong revenue collections, the LAO recommends that the Legislature reject a number of the Governor's January budget proposals in the interest of fiscal resilience.

As we've shared previously, the LAO and key fiscal staff in the Legislature have highlighted the challenges associated with the State Appropriations Limit (SAL) – also known as the Gann Limit. Essentially, since the state will have hit the limit established by Proposition 4 (1979), each additional dollar of revenue above the limit must be allocated in a manner consistent with SAL requirements (K-14 schools and taxpayer refunds). Also, the state must continue to spend required amounts on schools and community colleges pursuant to Proposition 98 (1988) and to reserve and debt payments pursuant to Proposition 2 (2014). The result of these considerable constraints is that for every dollar above the SAL, the state faces approximately $1.60 in constitutional funding obligations.

To address this vexing confluence of constraints, the LAO recommends that the Legislature consider rejecting the bulk of the Governor's in non-SAL-excludable budget proposals, totaling approximately $10 billion. However, rejecting the proposed spending alone would likely be an insufficient since constitutional obligations would accumulate faster than incoming revenue in future years. Therefore, the LAO additionally suggests that the Legislature reserve the unspent funds in reserve to help pay for future SAL-related obligations. Longer term, the Legislature will likely need to weigh fundamental questions about the size of state government and whether to seek voter approval for constitutional reforms to Proposition 4.

Petek also points out the risk of inflationary mitigations by the Federal Reserve resulting in an economic downturn. History suggests that efforts to reduce inflation by purposefully slowing down the economy increases the risk of a future recession, which runs the risk of dramatically depleting the state's reserves. While a recession isn't inevitable, the potential combination of hitting the SAL while experiencing economic slowdown is enough for the LAO to suggest that the Governor's budget proposal is unsustainable. As a result, the LAO is strongly suggesting rejecting the Governor's $10 billion in non-SAL excludable spending proposals and saving the funds.

The Governor will present his May Revision to the 2022-23 state budget in a few weeks – reportedly on Friday, May 13 – with his perspective on how to spend the state's budget windfall within constitutional constraints.

Senate Democratic Caucus Releases Budget Plan
Senate leadership released its **detailed budget plan** this week, outlining its priorities for the 2022-23 state budget. Organized around the theme of "Putting Wealth to Work," the plan includes building reserves, allocates most of the "budget surplus" to one-time expenditures, and a "Better for Families Rebate" of $200 per taxpayer to offset increased costs due to inflation, grants for low-income families, including CalWORKs and SSI/SSP recipients.

The plan specifically references the ongoing challenges associated with the State Appropriations Limit, noting that the Senate proposal includes the LAO recommendation to redefine local subventions to avoid a Gann issue in 2021-22 and 2022-23. However, the plan takes direct aim at the SAL, noting that, by 2024, a constitutional amendment will be needed to modernize the Constitution to ensure that state spending is not artificially constrained by the Gann Limit.

Update on Several Health, Behavioral Health, and Homelessness Bills of Note

AB 2080 (Wood)

AB 2080 would create the Health Care Consolidation and Contracting Fairness Act of 2022. It is supported by a variety of nonprofit, labor, and business organizations and associations, including Health Access California and California Labor Federation. It is opposed by a number of trade associations, health care networks, and hospitals, including the California Hospital Association and Cal Chamber.

AB 2080 was heard in Assembly Health and Assembly Judiciary Committees this week; the measure passed out of Health on an 11-3 vote and out of Judiciary on a 7-3 vote. The measure will be heard next in Assembly Appropriations Committee. A similar measure, SB 977, failed on the Assembly Floor in 2020.

Specifically, the bill would prohibit a contract issued, amended, or renewed on or after January 1, 2023, between a health plan or health insurer and a health care provider or health facility from including anti-competitive terms, such as restricting the health plan or insurer from offering incentives to encourage enrollees or insureds to utilize higher quality, low-cost health care providers. AB 2080 would authorize the Department of Managed Health Care (DMHC) or California Department of Insurance (CDI) to refer a health plan or insurer's contract to the Attorney General (AG), and authorizes the AG or state entity charged with reviewing health care market competition to review a health care practitioner's entrance into a contract that contains anti-competitive terms. The bill would also require a medical group, hospital or hospital system, health plan, health insurer, or pharmacy benefit manager (PBM) to provide written notice to the AG at least 90 days before entering an agreement to make a material change with a value of $5,000,000 or more. AB 2080 would authorize the AG to consent to, give conditional consent to, or not consent to that agreement, and requires the AG to notify the entity of the decision within 90 days, which may be extended by one 45-day period if specified conditions are met.

Assembly Member Wood argues that more and more reports and studies show that consolidation transactions in health care have more often than not resulted in higher health care costs and profits for the corporations rather than lower cost and better health care for patients. Because health care costs are rising at an unsustainable level, consolidation transactions need more careful scrutiny and oversight by the AG. Assembly Member Wood points to the $500 million Sutter settlement over anti-competitive practices as the main driver behind the bill. He also noted that he worked with Assembly Judiciary Committee on amendments; note that expected amendments are not in print as of this publication.

AB 2242 (Santiago)

AB 2242 would make a number of changes to behavioral health, including to the Lanterman-Petris-Short (LPS) Act and to the Mental Health Services Act (MHSA). Specifically, the bill: (1) would require that a care coordination plan be develop before a person is discharged from a hold or conservatorship under the LPS Act, but clarifying that in no event may the person be detained, based on the requirement to provide a care plan, beyond when they would otherwise qualify for release and that any care and treatment after release must be voluntary; (2) would require the Department of Health Care Services to convene a stakeholder group as specified, to create a model care coordination plan to be followed when discharging those held under temporary holds or conservatorships; (3) would expand the use of funds under the Mental Health Services Act to involuntary treatment; (4) and would require the Mental Health Services Oversight and Accountability Commission to develop, implement, and oversee a public and comprehensive framework for tracking and reporting spending on mental health programs.

The bill is being opposed by consumer groups like Cal Voices and Disability Rights California, as well as the County Behavioral Health Directors Association, the Urban Counties of California, and the Rural County Representatives of California. The bill passed out of Assembly Health Committee 12-1 and out of Assembly Judiciary Committee 9-0.

AB 2755 (Muratsuchi)

AB 2755 successfully moved out of the Assembly Committee on Housing and Community Development. However, the author acknowledged in his opening statements that he originally planned for it to be a much more “meaningful” bill. In its original form, the bill would have created a new “right to housing or shelter” for all California residents and also required residents to use any housing or shelter made available to them by a city or county. The bill also included new, annual planning and reporting requirements for local governments.

The bill was originally double-referred to Assembly Judiciary and Housing and Community Development. Prior to a first hearing in Judiciary, the bill was amended to remove the “right to housing and shelter” components and became solely focused on local reporting and planning requirements. This resulted in rescinding the Judiciary referral. CSAC, UCC, and RCRC submitted a coalition opposition **letter** highlighting the duplicative nature of the requirements, the need to focus on homelessness services, and the suggestion that the state could better organize data from existing reporting requirements.

Prior to the Housing and Community Development Hearing, the author accepted additional committee amendments that essentially reduce the provisions of the bill to:

- Require a city or county to post on its website the HUD annual report that details the number of people experiencing homelessness in the city or county's jurisdiction.
- Require the California Interagency Council on Homelessness to make the underlying data from the state Homelessness Data Information System (HDIS) available for the public.

With these amendments, the CSAC/UCC/RCRC coalition signaled it would remove opposition. Assembly Member Muratsuchi's extremely brief presentation ended with "But after the first cut from Mr. Stone and the Judiciary Committee, and now with this committee, I am left with a bill where some may ask 'where's the beef or where's the vegetables,' I'd be happy to answer any questions." The bill will now head to Appropriations.

MICRA Ballot Measure Deal Reached

Proponents and opponents of efforts to increase the state's cap on malpractice awards buried the hatchet this week and agreed on a modified cap increase over a ten-year period to avoid a costly November ballot fight.

Specifically, the agreement would immediately raise the cap for non-economic damages in cases that don't involve a death to $350,000, increasing over a ten-year period to a maximum of $750,000. In cases involving a death, the limit would immediately be increased to $500,000, scaling up to $1 million over years. The compensation includes a two percent cost of living increase annually after ten years. Injured patients and their families could receive the cap up to three times, to raise the total a survivor for a death could receive to up to $3 million after ten years.

The agreement has been amended into **AB 35** (Reyes and Umberg), which must be approved by June 28 to meet the deadline to remove ballot measures from the November ballot. The Senate Judiciary Committee is hearing AB 35 on May 3, and the measure is anticipated to be taken up on the Senate Floor on May 6. The Assembly Judiciary Committee will likely hear the measure when it returns to the Assembly. Check out this *Los Angeles Times* **article** for more.