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June 17, 2022

Legislature Passes Budget Bill, Presents to Governor – Negotiations Now Underway

As was anticipated, the Senate and Assembly passed **SB 154**, the Legislature's two-house 2022-23 spending plan on Monday of this week. The bill was subsequently presented to the Governor mid-afternoon on Wednesday, well within the midnight June 15 constitutional deadline to present a balanced budget to the Governor. So, while the passage of SB 154 is an important and substantive **first step** in the budget negotiations, the bill represents an agreement between the majority parties in the Senate and Assembly – but does not yet have the blessing of the Governor. Indeed, as we outlined last week, areas of disagreement exist between the Administration's spending plan and the Legislature's version of the budget.

Since Monday's legislative action, conversations among legislative leadership and the Newsom Administration have been decidedly private. There has been very little public commentary – beyond the obvious acknowledgement that the parties are in conversations to settle on a final, three-way agreement – about the substance, fruitfulness, speed, or direction of the negotiations. We will continue to keep you apprised on developments as they emerge.

CARE Court Measure Amended Ahead of Assembly Judiciary Committee Hearing

Yesterday, a new set of substantive amendments was dropped into **SB 1338** (Umberg and Eggman), the vehicle to carry out the Governor's Community Assistance, Recovery, and Empowerment (CARE) Court Program – although now dubbed the "CARE Act." The measure will be heard in the Assembly

Judiciary Committee on June 21 and the Assembly Health Committee on June 28.

The following briefly summarizes the June 16 changes to the CARE Act:

Program designation

The amendments change all references to CARE Court to the “CARE Act.”

Phased-in implementation

It is our understanding that the following language is an indication of a willingness on the part of the Administration to adopt a phased-in implementation: “*Section 5970.5. It is the intent of the Legislature that this part be implemented in a manner that ensures it is effective.*”

Sanctions

The amendments add language that allows the court to consider mitigating circumstances in imposing penalties. Additionally, the language directs the revenue from the penalties into a fund used to support county activities serving individuals with serious mental illness. The Administration anticipates additional work on this sanction language.

Presumption

The amendments change the presumption about an individual who is not adhering to the CARE plan. Under the prior version, the language created a presumption that no suitable community placement exists under facts considered for a conservatorship hearing. Under the new amendments, the language creates a presumption at a conservatorship hearing occurring within six months of termination of the CARE plan that the respondent needs additional intervention beyond the supports and services provided by the CARE plan.

Prescription medicines

The amendments add prescription medications to the sections of the bill requiring health plans to cover CARE Act services.

Additional process changes

The amendments also provide for the following changes to various CARE Act processes:

- Revises the hearing process to include an initial investigation prior to the first court appearance to determine whether the individual meets CARE criteria.
- Revises the CARE criteria to: 1) clarify a person with a substance use disorder that does not meet the required criteria does not qualify, 2) the person is not clinically stabilized in on-going voluntary treatment, 3) deletes “the person’s impaired insight or judgment presents a risk to their health and safety”, 4) adds “the person is unlikely to survive safely in the community without supervision and the person’s condition is substantially deteriorating.”

- Revises the menu of housing and other services that a person with a CARE Plan may receive, including adding statutory citations for programs; adds the In-Home Supportive Services program.

It is likely that SB 1338 will be substantively amended several more times before the end of session.

Updates on Other Bills of Consequence

SB 443 (Hertzberg) – Emergency Medical Services

SB 443 (Hertzberg) was gutted and amended on June 16 and now applies to Emergency Medical Services; it is expected to be heard in Assembly Health Committee on June 28.

The author and sponsors assert this measure is intended to clarify the intent of SB 438 (Hertzberg, Chapter 389, Statutes of 2019), which clarified the operation of public safety answering points (PSAPs), including 9-1-1 Emergency Medical Services (EMS) dispatch centers. During negotiations on SB 438, county organizations were assured that the measure was not intended to undermine local emergency medical service agency (LEMSA) medical control.

SB 443 seeks to undermine litigation that has affirmed county control over their local emergency medical services systems. SB 443 proposes to abrogate, the California Supreme Court, in the case of *County of San Bernardino v. City of San Bernardino* (1997 15.Cal. 4th 909). SB 443 also seeks to abrogate other court cases filed on the basis of medical control and .201 rights including cases between the *City of Oxnard v. County of Ventura* and *S. San Joaquin County Fire Authority, et.al, v. San Joaquin EMS Agency, et.al*. Again, neither case seeks to clarify the intent of SB 438, which was about the dispatch of EMS services. Rather, both court cases ruled against cities and fire districts attempting to undermine county medical control through their “.201 rights.”

Should SB 443 become law, local municipal agencies would be permitted to act outside of the medical control of the LEMSAs medical director, and EMSAs, in the response and delivery of prehospital emergency care. This would fragment the EMS system and likely would result in considerable variation in the care provided to patients. It also would risk patient safety, as deviations from LEMSAs policies and procedures can and will occur without LEMSAs and EMSAs oversight.

SB 866 (Wiener) – Minors' Vaccine Consent

SB 866 (Wiener) was amended on the Assembly floor this week to change the age at which minors can receive federally approved vaccines without parental consent from age 12 to age 15.

Under existing law, California minors can already consent to medical care for specified issues, including vaccines for hepatitis B and the human papillomavirus. SB 866 would extend the ability to consent to COVID, measles, flu or any other immunizations that have been approved by the Food and Drug Administration and meet the recommendations of the federal vaccine advisory committee.

Senator Wiener's spokesperson said that he agreed to the amendments because he felt the majority of young people who would take advantage of the bill's authority would likely be 15 years old or older. SB 866 is on the Assembly Third Reading file and could be voted on anytime.

SB 872 (Dodd) – Mobile Pharmacy Units

SB 872 (Dodd) would authorize a county or a city and county to operate a licensed mobile unit to provide prescription medication to individuals within the county's jurisdiction and specifies certain criteria that a mobile unit must meet.

The measure was amended in Assembly Business and Professions Committee to:

- 1) clarify that a special hospital authority may operate a mobile unit;
- 2) require that the mobile unit be operated as an extension of a pharmacy license held by the county, city and county or special hospital authority;
- 3) ensure that dangerous drugs are not left in the mobile unit during the hours in which it is not in operation;
- 4) require notification to the Pharmacy Board at least 30 days prior to commencing operation of a mobile pharmacy.

SB 872 is being supported by several counties, the Urban Counties of California, the County Health Executives Association of California, and the California Association of Public Hospitals and Health Systems. Assembly Business and Professions Committee unanimously approved SB 872 with the amendments described above. The bill heads next to Assembly Appropriations Committee.

Negotiations on Single-Use Plastics Continue

Legislators and environmental groups have been embroiled in negotiations on single-use plastics in an effort to avoid a November ballot measure showdown. Last night, Senator Ben Allen amended his **SB 54**, one day after 18 environmental justice groups backed the ballot measure approach. The ballot measure, sponsored by Coastal Commission members Linda Escalante and Caryl Hart and the former CEO of waste hauler, Michael Sangiacomo, would ban Styrofoam, put a fee on single-use plastic products and foodware, and

require those products to be made recyclable or compostable by 2030. The state's Department of Resources Recycling and Recovery would be responsible for writing the regulations, which could include deposits on products, bans on types of materials, and definitions for what counts as recycling or composting.

Amendments to SB 54 would instead require producers of plastic packaging and food serviceware to recycle or compost 65 percent of their material by 2032. It also wouldn't ban Styrofoam, and it would give producers responsibility for collecting and spending enough fees to reach the bill's recycling targets. It would also allow them to meet source-reduction goals across an industry-wide target, rather than setting mandates for individual companies.

In order to remove the ballot measure from the November ballot, proponents must agree to do so by the end of June, giving Senator Allen and supporters of SB 54 a short two weeks to negotiate with proponents, legislative leaders, and the Governor.

Organics Waste (SB 1383) Public Meeting Announced

CalRecycle will hold its monthly **Public Meeting** on Tuesday, June 21 at 10:00 am. The proposed Eligibility Criteria, Scoring Criteria, and Evaluation Process for the Community Compost for Green Spaces Grant Program will be presented. This competitive grant program will provide funding for community composting to create, improve, or expand community composting sites for organic waste.

The Request for Approval and Scoring Criteria documents are now available **online**. CalRecycle will accept comments regarding the proposed eligibility, scoring criteria, and evaluation process via **email** until Friday, July 1.

HCD Announces ESG Funding Available

This week, California Department of Housing and Community Development (HCD) announced the release of the **Notices of Funding Availability** (NOFA) for approximately \$11 million in federal Emergency Solutions Grants (ESG) funds. There are two separate NOFA's available; one for each allocation (Continuum of Care and Balance of State.)

As a reminder, the ESG program provides funding to local governments and providers to:

- Engage individuals and families experiencing homelessness;
- Improve the quality of Emergency Shelters for individuals and families experiencing homelessness by helping to operate these shelters and by providing essential services to shelter residents;

- Rapidly rehouse individuals and families experiencing homelessness; and
- Prevent families/individuals from becoming homeless.

All applications must be submitted through the [application portal](#), which is also located on the [ESG webpage](#). Applications are due no later than August 17, 2022. For webinar information, visit the [ESG webpage](#).