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**June 24, 2022**

### **Still Waiting for Budget News to Break ...**

At the time of this writing, budget watchers await news about a final resolution on the state's 2022-23 budget. On Monday, June 13, the Senate and Assembly approved **SB 154**, the Legislature's two-house 2022-23 spending plan and presented the budget bill to Governor Newsom two days later. In so doing, the Legislature met the midnight June 15 constitutional deadline to pass a balanced budget.

Since then, negotiations – very much behind closed doors – have been ongoing among legislative leaders and the Newsom Administration to reconcile areas where the Governor and the Legislature's plans conflict. There are known areas of disagreement, the most vexing of which reportedly is approaches to providing taxpayers with economic relief. The Administration has proposed cash rebates to vehicle owners, while the Legislature is decidedly in favor of a more means-tested approach for offering fiscal relief. Additionally, the Administration has been pushing back on items where the Legislature seeks to commit to ongoing expenditures beyond what the Governor has proposed.

In the meantime – likely in anticipation of a three-party agreement emerging over the weekend – the full Senate and Assembly budget committees are scheduled to meet on the morning of Monday, June 27. More than two dozen trailer bills have been identified for the committees' review, most of which remain "spot" bills for the time being. Substantive language will be amended into the bills once the budget deal is announced. Remember several immutable factors are driving the budget timeline. First, the Governor has 12 days from June 15 to sign the budget bill; the Legislature can only take action

on bills once the substance has been in print for 72 hours; and members depart for their month-long summer break upon adjournment of session Thursday, June 30. All that to say, we will have much more concrete details on a state budget agreement very soon – perhaps as soon as later today or over the weekend. We will keep you apprised!

### **Assembly Judiciary Hears CARE Court Act and Moves the Bill with Reservations**

On Tuesday, the Assembly Judiciary Committee spent nearly two and a half hours discussing **SB 1338** (Umberg and Eggman), the measure that would implement the Governor’s Community Assistance, Recovery, and Empowerment (CARE) Act.

The withering 38-page committee **analysis** includes a number of suggested amendments to SB 1338 that formed the basis of the discussion in Committee. Issues raised during discussion included:

Piloting the CARE Court program in a limited number of counties to ensure all implementation issues are resolved before the program begins statewide. Nearly every committee member who spoke endorsed the idea of a pilot.

Concern that there is not dedicated funding for CARE Court.

- Some members challenged the characterization by the Administration this week that awards for Behavioral Health Continuum Infrastructure Program (BHCIP) funding were specifically dedicated to the CARE Act program– see more discussion below.

Worry that CARE Court will strain behavioral health services and housing supports.

Worry that housing vouchers will be prioritized for the CARE Act population over others.

Lack of solutions to specifically address the number one reason for homelessness – the cost of housing.

Concerns about the role of public defenders, who typically work on criminal cases.

- During the discussion, HHS Secretary Ghaly noted that the Administration is exploring entities other than the public defender to provide legal counsel.

Assembly Member Ash Kalra was very critical of the proposal, having formerly served as a public defender. He ultimately became the first legislator to vote ‘no’ on the measure. Both Assembly Member Kalra and Chair Mark Stone

noted that the entities raising the most concerns – counties and behavioral health providers – are the entities that will have to actually implement the proposal. Despite the plethora of concerns and the lack of amendments to address those concerns, the measure passed the Assembly Judiciary Committee on a 9-1 bipartisan vote.

The Assembly Health committee will hear SB 1338 on June 28. We anticipate that an additional set of substantive amendments to the bill will be released prior to next week's hearing.

### **HOT BILLS – What's Moving ... and What's Not „Kaiser Measure Clears Senate Health Hurdle**

**AB 2724** (Arambula) passed out of Senate Health Committee on Wednesday after a thorough discussion. This measure would implement the direct Medi-Cal contract between the Department of Health Care Services and Kaiser Permanente.

Assembly Member Arambula took amendments that are in print as of June 23 that do the following:

Clarifies where the proposal applies (in counties where Kaiser already provides services);

Attempts to address the rates to account for acuity mix via intent language;

Requires local engagement between Kaiser and counties via a Memorandum of Understanding;

Requires DHCS to conduct a behavioral health readiness review of Kaiser prior to implementing the contract; and

Requires additional reporting to the Legislature.

Senator Eggman noted the state's persistent behavioral health staffing shortages and expressed concerns about Kaiser poaching employees from other providers. She was supportive of the amendments and made the motion to move the bill.

Senator Wiener continued to express serious concerns about Kaiser's failure to deliver behavioral health services and believes that the amendments do not go as far as he had hoped. He continues to question whether Kaiser will be ready by July 1, 2022, to implement his SB 221 (2021) on mental health parity.

Chair Pan made several substantive remarks. He remains concerned that Kaiser's risk mix is unlike other providers and thinks even with the

amendments that Kaiser likely still has a healthier population. Further, he believes that regional rates risk adjusted may offer guardrails. In recognition of his departure – Senator Pan terms out this year, he urged his colleagues to continue to pay attention and exercise their oversight authority in monitoring implementation of the Kaiser contract. Specifically, he urged that members monitor the community connection and how the contract changes the County Organized Health Systems, mental health services, and – before the next procurement – a comprehensive review of what happened and the outcomes.

Senate Health Committee passed the measure on an 8-1 vote, with Senator Melendez voting no and Senators Grove and Wiener abstaining. The Senate Appropriations Committee will hear the measure next.

### ***Portions of Senator Eggman’s Behavioral Health Bill Package Move Ahead in Assembly***

Four of Senator Eggman’s bills in her behavioral health package were heard in Assembly Health Committee on June 21. As discussed below, all the measures passed out of committee and continue to move through the legislative process.

#### **„SB 970 (Eggman) – Mental Health Services Act**

**SB 970** would require the California Health and Human Services Agency (CHHSA) to establish the California Mental Health Services Act (MHSA) Outcomes and Accountability Review (OAR), with a dedicated workgroup tasked with establishing three specified components to assist county mental health programs in improving MHSA funded programs.

The author took amendments in Assembly Health Committee to ensure that since non-profit community-based organizations receive a large portion of MHSA funding independently and through county contracts, they are included in the workgroup to be convened by CHHSA for the purpose of establishing the workplan by which the MHSA-OAR will be conducted. Assembly Health Committee passed the measure 15-0. The measure continues to be opposed by Cal Voices and the Depression and Bipolar Support Alliance - California. Assembly Appropriations Committee will hear the bill next.

#### **„SB 1154 (Eggman) – Facilities for Mental Health or Substance Use Disorder Crisis: Database**

**SB 1154** (Eggman) would require the California Department of Public Health, by January 1, 2024, to develop a real-time, internet-based database to collect, aggregate, and display information about available beds to treat those in mental health or substance use disorder crisis. Assembly Health Committee passed the measure on its consent calendar. Assembly Appropriations Committee will hear the bill next.

**„SB 1238 (Eggman) – Behavioral Health Services: Existing and Projected Needs**

**SB 1238** would require the Department of Health Care Services (DHCS), beginning January 1, 2024 and at least every five years thereafter, to conduct a review of and prepare a report regarding current and projected behavioral health care infrastructure and service needs in each region of the state, as specified, including barriers to meeting projected future needs and suggestions to alleviate bottlenecks in the continuum

The committee analysis suggested that – because of the breadth of agency involvement and the complexity of the behavioral health system – the author consider whether an entity other than DHCS, perhaps the Little Hoover Commission, may be more appropriate for the purpose of conducting the assessment. Assembly Health Committee passed the measure 15-0. Assembly Appropriations Committee will hear the bill next.

**„SB 1416 (Eggman) – Mental Health Services: Gravely Disabled Persons**

**SB 1416** would expand the definition of “gravely disabled” in the Lanterman-Petris-Short (LPS) Act for individuals with a mental health disorder to include the inability of an individual to provide for their basic personal needs for medical care in addition to being unable to provide for their basic personal needs for food, clothing, and shelter. The June 15 amendments add that “a person is unable to provide for their basic personal needs for medical care when it is reasonably foreseeable that such inability is likely to result in serious bodily injury, as defined in Section 15610.67.”

Despite significant opposition, Assembly Health Committee passed the measure 15-0. The list of opposition includes ACLU California Action, Cal Voices, California Association of Mental Health Peer-Run Organizations, Disability Rights California, National Health Law Program, and Western Center on Law and Poverty. The County Behavioral Health Directors Association has an oppose unless amended position on the bill. The Assembly Judiciary Committee will hear the bill on June 28.

Senator Eggman’s comments about the measure are notable. She remarked that the “old narrative” that county behavioral health is underfunded is no longer the case given the billions of dollars in MHSA revenues. “It’s like we can’t do two things at once. We’ve all seen enough.” Senator Eggman also noted that the changes to LPS are not being proposed in a vacuum; there are investments in housing, CalAIM and MHSA revenues.

Several members spoke in support of the bill. Chair Wood noted that important statewide LPS data is lacking and that he had reservations about expanding

the LPS definition without more concrete evidence. However, he noted that it “feels like the right thing to do.”

**„AB 2402 (Rubio) – Medi-Cal Continuous Eligibility**

**AB 2402** by Assembly Member Rubio would require DHCS to seek federal authority to allow children to remain on Medi-Cal, the Medi-Cal Access Infants Program, and the County Children’s Health Initiative Programs (C-CHIP) until age five, without the need for a redetermination of eligibility.

The Legislature included funding for Medi-Cal continuous eligibility for children up to five years old in its proposed budget at a cost of \$10 million General Fund in 2022-23 and \$20 million General Fund ongoing.

The author and committee have agreed to an amendment to the C-CHIP section of this bill, which would add the limited exceptions permitting a redetermination, consistent with the Medi-Cal and MCAIP sections of this bill. The author has also requested that the language subjecting this section to an appropriation be deleted, as it is inconsistent with the rest of the bill. Senate Health Committee passed AB 2402 on a vote of 8-0.

**„AB 2080 (Wood) – Health Care Consolidation and Contracting Fairness Act of 2022**

**AB 2080** was scheduled for hearing in Senate Health Committee on June 22 and Senate Judiciary on June 27. However, the measure was pulled from the Senate Committee agenda mid-day Wednesday. This development likely means AB 2080 will not move forward this year. Procedurally, it would be very difficult to have the bill heard in two committees next week and would require Senate Judiciary to hold a special hearing. The rumor mill suggests that Senator Pan (Chair, Senate Health) was requesting amendments that Assembly Wood was unwilling to take.

As drafted, the bill would prohibit a contract issued, amended, or renewed on or after January 1, 2023, between a health care service plan or health insurer and a health care provider or health facility from including specified anti-competitive terms. AB 2080 would require a medical group, hospital or hospital system, health facility, health plan, health insurer, or pharmacy benefit manager to provide written notice to the Attorney General at least 90 days before entering an agreement to make a material change with a value of \$15 million or more. The measure was opposed by a variety of health care entities, including hospitals, health plans and physicians.

**„SB 213 (Cortese) – Worker’s Compensation: Hospital Employees**

Senator Cortese’s **SB 213** failed to secure a motion in Assembly Insurance Committee on June 22 and therefore failed passage. The measure would have

extended to certain hospital employees that provide direct patient care the presumption that infectious disease, COVID-19, cancer, musculoskeletal injury, post-traumatic stress disorder or respiratory disease are presumed to be job-related.

**„AB 1130 (Wood) – Office of Health Care Affordability**

As of the writing of this update, **AB 1130** had not been set for a hearing in Senate Health Committee. If the bill is not heard by July 1, it is dead. This lack of a hearing date likely signals that the Office of Health Care Affordability will be addressed through a budget trailer bill rather than a policy bill. Rumors suggest we may language in a trailer bill next week.

**„AB 1608 (Gipson) – Bill to Deconsolidate Coroner-Sheriff Function Advances**

**AB 1608**, by Assembly Member Mike Gipson, passed the Senate Governance and Finance Committee this week with a commitment by the author to amend the bill to clarify the timing of its implementation. Sponsored by various civil rights and justice reform groups along with several organizations representing physicians, the bill’s stated intent is to eliminate any possible bias for autopsies associated with law enforcement-involved deaths. This bill, however, takes a very broad approach by eliminating counties’ ability to consolidate the coroner-sheriff function, an organizational structure currently employed in 48 counties. The amendments, not yet in print, are intended to clarify that the governance change will go into effect once the term of newly elected sheriffs (those taking office in January 2023) ends. The bill will be heard next week in the Senate Public Safety Committee and, once amended, is expected to also be referred to the Senate Appropriations Committee.

**„AB 1972 (Ward) – Grand Juror Pay Increases Bill Marches Forward**

**AB 1972**, by Assembly Member Chris Ward, would – among other provisions – increase the daily rate paid to grand jurors from \$15 per day to 70 percent of individual counties’ median income. The stated objective of the rate increase is to recruit a more diverse set of grand jurors; counties are solely responsible for grand jury costs. The bill is meant to apply to civil and criminal grand juries.

The statewide county associations – CSAC, UCC, and RCRC – are jointly opposed to the measure because of the considerable fiscal impact. Although **AB 1972** is non-specific as to the process for determining individual counties’ median income, one **source** (U.S. Department of Commerce, Bureau of Economic Analysis) suggests that **AB 1972** would increase the current rate anywhere from 620 percent (\$108/day) at the low end to 2513 percent (\$392/day) in the highest cost-of-living regions of our state. Our collective research also indicates that civil grand jurors meet frequently – often at least

once if not multiple times per week, a factor that drives the overall cost impact considerably higher.

AB 1972 will be heard in the Senate Judiciary Committee next week. The county coalition will continue to press for resolution of the cost impacts, with a particular focus on the upcoming Senate Appropriations Committee.

### **BHCIP Round 3 Funding Awarded**

The Newsom Administration announced this week the awards of \$518 million from the Behavioral Health Continuum Infrastructure Program (BHCIP). The awards were part of Round 3 (Launch Ready grants). Please note there is not additional public information about the specific projects in each of the 21 counties receiving funding. The state received 148 applications for over \$2 billion worth of projects in Round 3.

The Governor's press release implied that the \$518 million in awards was meant for CARE Court implementation. However, BHCIP projects were conceived and applied for prior to details of CARE Court being known and, while the projects may benefit CARE Court participants, the funding has a very specific purpose for filling gaps in the spectrum of behavioral health facilities.

By way of background, the 2021-22 state budget provided \$2.2 billion in funding for BHCIP to construct, acquire, and expand behavioral health facilities and community-based care options while investing in mobile crisis infrastructure. The Administration will be awarding more grants through three additional rounds of funding totaling over \$1.4 billion:

Round 4 – Children/Youth: \$480.5 million (RFA is available now)

Round 5 and 6 – Addressing Gaps: \$960.7 million (RFAs expected in October 2022 and January 2023)

### **Round 3 BHCIP Funding Awards**

### **Assembly Welcomes Two New Members**

Assembly Speaker Anthony Rendon swore in two new members of the Assembly to fill all remaining vacancies in the California Assembly. Finally!

Assembly Member Tina McKinnor, a Democrat from Inglewood, took the oath of office earlier this week to represent Assembly District 61, previously held by former Assembly Member Autumn Burke. Assembly Member Burke resigned her seat earlier this year to work in the private sector. Assembly Member McKinnor will serve out the remainder of Burke's term and is also a candidate for the newly drawn Assembly District 62. McKinnor previously served as the civic engagement director for LA Voice Pico and has served as a community organizer and political consultant.

Assembly Member David Alvarez, a Democrat from San Diego, was sworn into the Assembly late last week to represent Assembly District 80. Assembly Member Alvarez will serve the remainder of the term of former Assembly Member Lorena Gonzalez, who resigned to take the helm at the California Labor Federation. Alvarez will serve out the remainder of Gonzalez's term and is also a candidate for the newly drawn Assembly District 80. Assembly Member Alvarez previously served on the San Diego City Council.