



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](#).

September 27, 2022

Gubernatorial Action on Bills of Note ... So Far

Despite signing a few bundles of bills over this past weekend, Governor Newsom, as of yesterday, still had more than 500 bills on his desk that await action. Three plus days remain prior to the Friday, September 30 deadline for all veto and signing decisions on 2022 bills. A seldom-used and rather passive tool also is available to the Governor – should he neither sign nor veto a bill, it will be come law by virtue of inaction.

Next week we will put out a comprehensive list of the Governor's actions on bills of interest. In the meantime, we have a few actions of note to report in the following policy areas.

Health and Human Services

SB 1338 (Umberg) – SIGNED

The Governor signed the Community Assistance, Recovery, and Empowerment (CARE) Program, which creates an opportunity in a civil court setting for developing an individualized care plan for persons with qualifying mental health conditions. You will all be hearing more about implementation plans on the CARE Act in the weeks and months ahead.

AB 32 (Aguilar-Curry) – SIGNED

Governor Newsom signed AB 32, which makes various changes to Medi-Cal telehealth policy, including permitting Department of Health Care Services (DHCS) to allow new patients to be established with providers using audio-only synchronous and other modalities, and permits exceptions from requirements to ensure beneficiary choice of modalities.

AB 1926 (Choi) – VETOED

Governor Newsom [vetoed](#) AB 1926, which would have allowed a properly executed voluntary declaration of parentage (VDOP) to be completed and submitted electronically. While the Governor stated he agrees that an electronic VDOP option could be beneficial, he signaled that legislation is not necessary and the process could be completed administratively.

[AB 2306 \(Berman\) – VETOED](#)

The Governor vetoed AB 2306, which would have expanded and modernized the Independent Living Program (ILP) to include current and former foster youth up to 22 years of age, and, subject to an appropriation and federal approval, up to age 23, and expanded the services for which counties can provide stipends to assist youth with specified independent living needs to include former foster youth up to 25 years of age, as specified. In his [veto message](#), the Governor cited lower than expected revenues and the need for fiscal prudence; he suggested that this bill and others like it should be considered as part of the annual budget process.

[SB 929 \(Eggman\) – SIGNED](#)

The Governor signed SB 929, which expands DHCS' existing responsibility to collect and publish information about involuntary detentions under the Lanterman-Petris-Short (LPS) Act to include additional information, such as clinical outcomes, services provided, and availability of treatment beds, and requires DHCS to convene a stakeholder group with specified membership to make recommendations on the methods to be used for efficiently providing the department with this information.

[SB 1054 \(Ochoa Bogh\) – SIGNED](#)

The Governor signed SB 1054, which specifies that confidentiality provisions relating to applications and records concerning any form of public social services includes protective services provided through public social services agencies. The bill also authorizes employees of a county's adult protective services agency or a county's child welfare agency to disclose information with each other for the purpose of multidisciplinary teamwork in the prevention, intervention, management, or treatment of child abuse or neglect or the abuse or neglect of an elder or dependent adult.

Climate

Earlier this month, Governor Gavin Newsom [signed](#) more than 40 climate-related bills to facilitate his Administration's California Climate Commitment, a plan to – over the next two decades – create four million new jobs, reduce air pollution by 60 percent, reduce state oil consumption by 91 percent, reduce fossil fuel use in buildings and transportation by 92 percent, and cut refinery pollution by 94 percent.

Recall that the Governor had sought a number of these proposals at the end of the legislative session to address numerous climate concerns, including severe

drought, wildfires, and energy supply challenges. Specifically, he sought legislation to achieve carbon neutrality no later than 2045 and 90 percent clean energy by 2035, establish new setback measure to protect communities from oil drilling, and accelerate the state's transition to clean energy, among others.

General Government

[AB 1951](#) (Grayson) – **VETOED**

Governor Newsom [vetoed](#) AB 1951, which would have eliminated the local share of sales tax related to the purchasing of manufacturing equipment. Citing the softening economy and the impact of the loss of sales tax revenues on counties and cities, the Governor urged the Legislature to consider such proposals in the context of the state budget.

[SB 1131](#) (Newman) – **SIGNED**

The Governor signed SB 1131, which establishes an address confidentiality program for public entity employees and contractors and includes additional protections for election workers and reproductive health care providers. SB 1131 contains an urgency clause, so it takes effect immediately.

Transportation

[SB 1121](#) (Gonzalez) – **Signed**

Governor Newsom signed SB 1121, which requires the California Transportation Commission (CTC), in consultation with the California State Transportation Agency (CalSTA) and the Department of Transportation (Caltrans), to prepare a needs assessment of the cost to operate, maintain, and provide for the necessary future growth of the state and local transportation system for the next 10 years. The needs assessment would include a forecast of the expected revenue, including federal, state, and local revenues, to pay for the cost identified in the needs assessment, any shortfall in revenue to cover the cost, and recommendations on how any shortfall should be addressed. SB 1121 will require an interim needs assessment on or before January 1, 2024, and a completed needs assessment on or before January 1, 2025, and every five years thereafter.

August State Revenues: A Gloomy Report

This month's Department of Finance [Bulletin](#) indicates a continued slowing of state General Fund revenues, with preliminary General Fund agency cash receipts of \$816 million for the month, or 6 percent, below the 2022-23 Budget Act forecast. For the prior fiscal year and the current fiscal year-to-date combined, preliminary General Fund agency cash receipts were \$4.193 billion below forecast. Shortfalls in August continued to be largely driven by lower proceeds from personal income tax, however, the month also saw lower proceeds from sales and corporation taxes.

Personal income tax cash receipts to the General Fund for August were \$615 million below the month's forecast. This was the third consecutive month that

withholding receipts fell below forecast and followed a \$731-million, or 10.1-percent, shortfall in July and a \$437-million, or 5.8-percent, shortfall in June.

Corporation tax cash receipts for August were \$81 million, or 19 percent, below the forecast of \$426 million. Sales and use tax cash receipts for August were \$192 million, or 4.5 percent, below the month's forecast of \$4.303 billion. This was the third consecutive month that sales and use tax receipts were down relative to the forecast.

This is probably a helpful time to note that Governor Newsom has been sounding the alarm on softening state revenues, as the so-called "Big Three" General Fund revenue sources have now underperformed against estimates since June. In fact, he has used the same sentence word-for-word in a number of veto messages: "With our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined when it comes to spending." Economists have predicted a flattening of the state's economy with upward growth returning in mid-2023, but last week's rate hike by the Federal Reserve and its resultant impact on the stock market – upon which California's revenue structure is heavily reliant upon – means that the state will be feeling the revenue impact over the next few months, at least, and a great deal of uncertainty ahead.

Governor Creates Racial Equity Commission

On September 13, Governor Newsom signed an **executive order** directing state agencies and departments to take additional actions to embed equity analysis and considerations in their mission, policies and practices. The executive order also establishes the state's first Racial Equity Commission.

The Racial Equity Commission, developed with Senator Dr. Richard Pan and the racial equity organizations that sponsored **SB 17**, will produce a Racial Equity Framework consisting of resources and tools to promote racial equity and address structural racism. (Recall that Dr. Pan's SB 17 did not make it to the Governor's desk.) More broadly, the Commission will recommend tools, methodologies, and opportunities to advance racial equity, and will be available to provide direct assistance to state agencies in reviewing and updating policies and practices upon request.

The equity analysis will help expand opportunity by addressing disparities for historically underserved and marginalized communities. Under the order, state agencies and departments are directed to embed policies and practices in their strategic plans in order to further advance equity and opportunity and address disparities in access and outcomes. As part of these efforts, agencies and departments will incorporate more inclusive public engagement and data analysis to better serve all Californians.

Public Charge Final Rule to Take Effect December 23, 2022

On September 9, the United States Department of Homeland Security (DHS) published the [final rule](#) for public charge determinations and the use of public benefits. The final rule takes effect on December 23, 2022; it provides clarity and consistency for noncitizens on how DHS will administer the public charge ground of inadmissibility. The rule restores the historical understanding of a “public charge” that had been in place for decades, until the Trump Administration began to consider supplemental public health benefits, such as Medicaid and nutritional assistance as part of the public charge inadmissibility determination. The changes include the exclusion of Medi-Cal when determining the use of public benefits, with the exception of long-term institutionalized care.

An updated [Public Charge Guide](#) has been posted on the California Health and Human Services Agency [website](#) to serve as a resource for individuals and families with questions about the current federal public charge policy.

News and Updates from the Department of Health Care Services

Supplemental Payment Program for Non-Hospital 340B Clinics – On September 15, the Centers for Medicare & Medicaid Services (CMS) approved [SPA 21-0015](#) regarding the 340B Federally Qualified Health Centers, the Rural Health Clinics, and the Tribal Supplemental Payment Program.

[AB 80](#) (Chapter 12, Statutes of 2020) authorizes DHCS to implement a payment methodology to provide for supplemental payments to qualifying non-hospital 340B community clinics to secure, strengthen, and support the community clinic and health center delivery system for Medi-Cal beneficiaries. The supplemental payments will support clinics who apply and certify that they are providing additional level of engagement to integrate, coordinate health care and manage the array of beneficiary health complexities. The Legislature provided \$131 million in total funds for these supplemental payments.

The calculations will be based on a per visit basis. The supplemental payment amounts will be in addition to any other amounts payable to clinic or center providers with respect to those services. The supplemental payments will not impact FQHC or RHC reconciliation of their PPS rate.

CMS approval for the program is effective retroactively from January 1, 2022, through June 30, 2023. This approval does *not* include non-hospital 340B community clinics; DHCS continues to work with CMS to secure approval for those facilities.

Federally Qualified Health Center (FQHC) Alternative Payment Methodology (APM) Webinar – On September 30, from 2:30 p.m. to 4:30 p.m., DHCS will host a webinar to introduce stakeholders to the new FQHC APM, targeted for implementation no sooner than January 1, 2024. DHCS will present information

about the APM and answer stakeholder questions. Use this link to [join the webinar](#).

Covered California Board Meets – No Further Actions to Address Affordability Due to Governor’s Veto of SB 944

The Covered California Board met on September 15. While the agenda included a number of routine items, such as state and federal updates, as well as action items related to internal Board committees and a 10 percent increase to the Navigator Program Contract, what was of most interest to stakeholders is what didn’t happen. Although the agenda included a 2023 cost sharing and affordability contingency item, no action was taken on the item because Governor Newsom had vetoed [SB 944](#) (Pan) two days prior.

SB 944 would have eliminated deductibles and lowered copayments for many Covered California enrollees in 2023 and 2024. The budget passed by the Legislature this summer includes \$304 million for this purpose. But in his [veto message](#) on SB 944, the Governor cited worries about a downturn in state revenue and his desire to reserve the funds in case they are needed to offset future premiums.

Secretary Ghaly began the discussion of affordability, despite noting that there would be no action to address affordability. He noted the tremendous progress on the last several budgets to expand coverage and access. He also suggested that California’s state-funded subsidies laid the framework for what became possible with COVID and the American Rescue Plan as well as the subsequent Inflation Reduction Act with 36 months of additional support. But he also noted the need to be prudent and have an eye on sustainability. “It is important just as this Governor has done in so many other places to promote policy and direction ... and to put in place a commitment ... and do all we can to protect it moving forward.”

During public comment, speakers noted that there will be higher deductibles and costs in 2023 due to the veto of SB 944. Some of the stakeholders are projecting that silver plan deductibles could increase to \$5,000 and primary co-pays to \$50. Many noted the missed opportunity to mitigate increases in out-of-pocket costs, especially during a time of inflation. Some noted that the veto is counter to efforts to address health equity. Another speaker stated that half of Californians delayed or avoided care due to costs last year. Commenters mentioned that they expect many new Covered California members once the public health emergency is lifted and Medi-Cal redeterminations resume. Several speakers struck a hopeful tone about finding ways to address rapidly rising costs in 2024, if not 2023.

LAO Releases Report on Provision of Criminal Indigent Defense Services

Last week, the Legislative Analyst's Office (LAO) published a [report](#) to assess the provision of criminal indigent defense. The report provides background on the

constitutional right to effective assistance of counsel, a description of how defense services are provided in the 58 counties, discussion of the state's increased involvement in the provision of indigent defense services – both by virtue of recent state budget investments as well as an expanded role of the Office of the State Public Defender, and an overview of recent litigation.

Much of the LAO's assessment focuses on the lack of information available statewide to permit a comprehensive assessment of the level and effectiveness of indigent defense services. Accordingly, the LAO offers three principal recommendations to the Legislature:

- (1) Statutorily define appropriate metrics to more directly measure the quality of indigent defense;
- (2) Require counties collect and report data to the state's Office of the State Public Defender; and
- (3) Use the submitted data to determine future legislative action.

We anticipate that the Legislature may have an interest in continued discussion in this area.

Committee on the Revision of the Penal Code: October Meeting Focused on Bail and Pre-Trial Release

As we have discussed previously, Governor Newsom recommended in the 2019-20 budget and the Legislature subsequently approved the creation of the Penal Code Revision Committee (see Sections 11-18 of [SB 94](#), the 2019-20 public safety budget trailer bill). The committee's stated objectives are as follows:

- Simplify and rationalize the substance of criminal law.
- Simplify and rationalize criminal procedures.
- Establish alternatives to incarceration that will aid in the rehabilitation of offenders.
- Improve the system of parole and probation.

The Committee has a two-day meeting scheduled for October 10 and 11; participation will be by [videoconference](#) only. The focus of the Day 1 [agenda](#) is bail, pre-trial release, and other related matters. Multiple panels, individual practitioners, academics, and state officials have been invited to share their perspectives on the broad policy area. The second day of activities will focus on administrative matters and ongoing business of the committee.