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.

August 26, 2022

Coming Down to the Wire: What's Left?

The Legislature adjourned yesterday and will return to Sacramento on Monday for three final action-packed days of session. By the last tally, the Senate has 314 policy measures on its docket, while the Assembly must dispose of 173 bills. (Some significant portion of those bills will have to go back to the house of origin for concurrence as well.) Taking into account the 13 additional budget/trailer bills discussed below, looks like the Legislature's total count is 500 on the nose ... meaning they will have to address, on average, more than 160 bills per day in the three days that remain. That's a lot. We anticipate a very long day on Wednesday, which is when the Legislature will gavel down for the final time for the 2021-22 legislative session.

Although yesterday was the "final" amendment deadline, we know amendments will continue to be processed and posted through Sunday. Remember, of course, that bills must be in print for at least 72 hours before they are eligible to be taken up on the floor.

As for the budget ... up until 2 p.m. today, outside of details as to when the full budget committees would meet next week (Senate – Monday @ 9 a.m.; Assembly – Tuesday @ 9 a.m.) nothing more was known about the number of bills and policy areas the Legislature intended to address in the final budget package. As we understand it, protracted negotiations on the energy/climate package were the source of the overall delay.

Happily, we now know that the houses will consider the **following** as the last batch of bills (one additional budget bill, jr. and 12 trailer bills) associated with the 2022-23 state budget.

At the time of this writing, amendments to a subset of the bills listed above are now in print: AB 190 (higher education), AB 151 (MOU), AB 204 (health), AB 160 (public safety), and AB 185 (education finance). The budget bill and remaining trailer bills will be amended on a flow basis over the weekend. Click through the links above to see the latest. Committee analyses for these measures also should be available for review online over the weekend. We will be preparing a summary of these measures in the days ahead.

Final Amendments to CARE Act in Print

As expected, the Governor's Community Assistance, Recovery and Empowerment (CARE) Act (**SB 1338**) was amended for the last time before it faces its final steps in the closing days of session: certain passage by the Assembly and then final concurrence by the Senate before it lands on the Governor's desk. Yesterday, the amendments to the CARE Act were announced on the Assembly floor and later came into print with a timestamp of August 25, 9:00 p.m. – making the bill eligible for hearing as early as Monday. As followers know, it has been a "long and winding road" that will likely continue into next year with a few pieces of unfinished business left to negotiate.

This last round of Assembly floor amendments builds on the prior rounds we have discussed and summarized. We highlight below the key additions contained in the August 25 version of the bill:

- **A list of "cohort one" counties**. Prior iterations of the bill identified that a cohort of counties representing half of the state would implement October 2023 and the remaining half December 2024. The bill now identifies the first cohort of counties as Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and San Francisco. The second cohort will include the remainder of the state.
    - The bill maintains provisions regarding the potential approval of a further implementation delay to December 2025.
- **Clarity on sanctions provisions**. After several iterations of language, amendments clarify that funds paid to the state by sanctioned local government are allocated back to the local government paying the fine for local expenditure: "All moneys in the fund shall be allocated and distributed to the local government entity that paid the fines, to be used by that entity to serve individuals who have schizophrenia spectrum or other psychotic disorders and who are experiencing, or are at risk of, homelessness, criminal justice involvement, hospitalization, or conservatorship."

- **Changes to the judicial authority to sanction local governments**. While the last round of amendments placed this authority with the presiding judge of each superior court, final amendments state "the presiding judge or their designee."
- **County employee liability protection**. Amendments specify that a county or county employee/agent shall not be held civilly or criminally liable for any action by a respondent in the CARE process, with the exception of gross negligence.
- **A commitment to allocate funds to implement**. The bill includes new language stating, "This part shall become operative only upon the department, in consultation with county stakeholders, developing a CARE Act allocation to provide state financial assistance to counties to implement the care process in this act." We expect that these conversations will take place throughout the fall as the Administration prepares the Governor's January Budget for 2023-24.

We also expect that the soon-to-be-in-print Budget Bill Jr. (**AB 179**/**SB 179**) will identify one-time implementation/start-up funding for counties. Our understanding is that there will be funding for all 58 counties to begin implementation planning/activities and separate, additional funds for the seven "cohort one" counties previously discussed.

While we are nearing conclusion for the CARE Act with the end of the 2021-22 legislative session, follow-up legislation for next year is already under consideration for technical elements requiring more discussion. Between future technical "clean-up" and fiscal negotiations, it is fair to say that this is not our last CARE Act update!

Late Amendments to Bill Propose to Divert MHSA Funds to Schools; Manufacturing Sales and Use Tax Exemption Measure Moves to Governor

Late amendments to **SB 1302**, by Senator Anthony Portantino, propose to divert $250 million "of the surplus funds available as of January 1, 2023" in Mental Health Services Act (MHSA) funding to support the school-based health centers through grants issued by the Superintendent of Public Instruction. In addition to uncertainty about how said "surplus funds" would be identified, this proposal is particularly worrisome given that the Legislature is on the precipice of approving **SB 1338**, and the Administration has pointed to MHSA funding as a primary revenue source to support new and expanded CARE Act services. Counties have been clear that the CARE Act cannot be appropriately implemented without additional, ongoing funding; legislation like SB 1302 that diverts MHSA revenues for other purposes will impede counties' successful implementation and ultimately diminish benefits to CARE Act program participants.

Although the intent of establishing and improving the provision of behavioral health services to students at school-based health centers is meritorious, the statewide county associations – CSAC, UCC, and RCRC – are strongly opposed to SB 1302 because of the redirection of MHSA funding to purposes other than local services for which it was originally intended. SB 1302 awaits action on the Assembly floor.

Also concerning in the context of the CARE Act and new demands being placed on counties is **AB 1951**, Assembly Member Tim Grayson's measure that would eliminate the local share of sales tax related to the purchasing of manufacturing equipment. The Senate and Assembly approved the measure this week.

A coalition of local government associations, counties, and cities had rallied opposition over the past weeks, but the author and sponsor moved quickly to get the bill to the Governor's desk. (See the Assembly and Senate vote **here**) AB 1951 cuts revenue for public safety, anti-poverty programs, behavioral health, transportation, and other critical local services without any backfill from state funds or promise of economic benefit. Given the impact on local agencies, the coalition will work to secure a veto from the Governor. Impacts to counties' realignment funding are also exceptionally problematic given the concurrent workload expectations associated with the CARE Act.

Governor Vetoes Safe Injection Site Bill

Earlier this week, Governor Gavin Newsom vetoed **SB 57**, Senator Scott Wiener's measure to allow the operation of safe injection sites for illegal drugs in three cities (Los Angeles, Oakland, and San Francisco) and Los Angeles County. In his **veto message**, the Governor expressed concern that an unlimited number of sites would be allowed under the bill. Further, the Governor directed the California Health and Human Services Agency to convene city and county officials to discuss "minimum standards and best practices" for overdose prevention programs. Governor Newsom said he remains open to the discussion when those officials come back with a "truly limited pilot program."

Political observers were quick to speculate that the veto may reflect the Governor's national ambitions. "He's been out there speaking to constituents and voters in Florida and Texas about all the ways in which California is ahead of the curve," said Jeannette Zanipatin, California director for the Drug Policy Alliance. "So, for us, this definitely signals that he was concerned about how this might play out in the media as well as the political arena."

Regardless of the veto, San Francisco may move ahead with safe injection sites. San Francisco City Attorney David Chiu said in a statement that he'd "fully support a non-profit moving forward now with New York's model of overdose prevention programs."

Seismic-Minimum Wage Deal Fizzles

Efforts by the California Hospital Association and the Service Employees International Union State Council to hammer out a deal that would extend hospital seismic deadlines in exchange for a tiered statewide minimum wage for hospital workers did not come to fruition in these closing days of session.

Significant opposition from other labor groups (California Nurses Association, the California Teamsters Public Affairs Council, the National Union of Health Care Workers, the State Building & Construction Council, UNITE HERE!, the California Professional Firefighters, and various engineer unions) and the California Dialysis Association, in combination with the short times frames at the end of session, proved to be hurdles too large to overcome.

While a bill was never introduced, the hospital minimum wage issue will continue to be an issue. SEIU-United Health Workers (UHW), the labor union pushing the local ballot measures to raise the minimum hourly wage for hospital workers to $25 via several city ordinances, has made the wage issue their top priority heading into 2023. To date, the local ordinances have exempted public hospitals from the minimum wage requirements. UHW is expected to continue to work with city councils to pass ordinances, to introduce a bill in 2023, and to work on a ballot measure for the November 2024 ballot to address hospital worker minimum wage.

Sheriff-Coroner Deconsolidation Bill and its Interaction with Revived County Officer Election Bill

AB 1608, by Assembly Member Mike Gipson, would repeal boards of supervisors' authority to consolidate, by ordinance, the duties of county sheriff and coroner offices. If those offices were consolidated prior to January 1, 2023, the bill would require them to be separated effective upon the conclusion of the term for the person elected or appointed to the consolidated offices on or before January 1, 2023. Under the provisions of AB 1608, 48 counties would be required to separate the sheriff and coroner functions by January 2027.

Despite active advocacy seeking to narrow the bill to address the stated objective of the bill – to address bias in the performance of autopsies in officer-involved deaths – efforts to secure such amendments were ultimately unsuccessful. The bill is expected to secure passage in the Senate and Assembly next week and move to the Governor's desk.

Late this week **AB 759**, by Assembly Member Kevin McCarty, was removed from the Senate Inactive File where it has been quietly sitting since last September. This latter measure would require elections for county sheriffs and district attorneys to be held during the presidential primary and would specifically affirm that DAs and sheriffs elected in 2022 will serve six-year terms, with the next elections for those offices taking place at the 2028 presidential primary. (Other provisions in AB 759 would permit a board of supervisors to determine by ordinance to hold elections for the selection of any other county officer at the presidential primary, as well.)

Accordingly, if both AB 1608 and AB 759 are signed into law, the implementation of the required decoupling of the sheriff-coroner functions would move to January 2029 (when the November 2022 terms will expire). We will of course report out on the outcomes of these two measures next week.

New California Surgeon General Appointed

Governor Gavin Newsom **announced** yesterday the appointment of Dr. Diana Ramos as California's second Surgeon General. Dr. Ramos has more than three decades of cross-cutting experience and expertise with a focus on health equity and reproductive health. She currently serves at the California Department of Public Health's Center for Healthy Communities, where she oversees the state's public health and prevention programs. She replaces Dr. Nadine Burke Harris, California's first surgeon general, who resigned from the post earlier this year.

For more details on Dr. Ramos' extensive experience, which includes state and local public health roles, read the Governor's announcement of her appointment **here**.

Medi-Cal Managed Care Plan Procurement Awards Announced

The Department of Health Care Services (DHCS) announced yesterday that they intend to award three commercial health plans Medi-Cal Managed Care Plan (MCP) contracts. This is the first-ever statewide MCP procurement. The new contracts and awardees are anticipated to begin January 1, 2024. A few noteworthy items about the new contracts:

- **Focus on primary care use and investment**: MCPs will be required to review utilization reports to identify members not accessing primary care. For example, if members are underutilizing primary care, they may not be obtaining appropriate screenings, preventive care, or managing their conditions to prevent exacerbation. The contract also includes steps to ensure MCPs are investing in primary care. Plans will be required report on primary care spending (as a percentage of total expenditures) to help ensure sufficient investment in upstream and preventive care.
- **Reinvestment in community**: For the first time, MCPs and their fully delegated subcontractors with positive net income will be required to allocate 5 to 7.5 percent of these profits (depending on the level of their profit) to local community activities that develop community infrastructure to support Medi-Cal members. Plan partners will be required to annually submit a Community Reinvestment Plan and Report that details how the community will benefit from the reinvestment activities and the outcomes of such investments.
- **Robust engagement with community advisory groups**: Historically, Medi-Cal MCPs are required to maintain a Community Advisory Committee (CAC) that serves to inform the plan's cultural and linguistic services program. DHCS seeks to elevate the CAC by clarifying its role and member composition and prescribing the plan's role in providing support for CAC members in order to maximize participation and involvement. MCPs will be expected to ensure that their CAC membership reflects that of the health plan and the county being served.
- **Increased transparency**: Plans will also be required to routinely and publicly report on access, quality improvement, and health equity activities, including their fully delegated subcontractors' performance and consumer satisfaction.

Click **here** to see the intended awardees.

Based on the DHCS RFP announcement yesterday, DHCS's **previous conditional approvals** for counties interested in changing managed care plans, and DHCS statements about where the **Kaiser Permanente single contract** will be operational, the following **chart** provides HBE's best and most current understanding of what Medi-Cal managed care will look like on an urban county-by-county basis starting in 2024.

July State Revenues Take A Hit

The Department of Finance released its August **Finance Bulletin**, indicating that state revenues for July, the first month of the 2022-23 fiscal year, were $1.275 billion below the 2022-23 Budget Act forecast of $10.517 billion. Preliminary

General Fund agency cash receipts for the entire 2021-22 fiscal year were $2.183 billion below the Budget Act forecast of $233.987 billion, not quite a one percent shortfall. According to the Department of Finance, shortfalls in July continued to be largely driven by lower proceeds from personal income tax.

Personal income tax receipts for July were $1.057 billion below the month's forecast of $7.858 billion. While July is not a significant month for income tax revenues, personal income tax withholding is significant every month. In July, withholding receipts fell $731 million short of projections in July, or 10.1 percent; following a $437 million, or 5.8 percent, shortfall in withholding in June.

Corporation tax cash receipts for July were $13 million above the forecast of $807 million. Sales and use tax cash receipts for July were $87 million below the month's forecast of $1.434 billion.

It's a tenuous time for the economy. As the Finance Bulletin notes, inflation decelerated for the month of July, and California's unemployment rate dropped to a historic low of 3.9 percent, below the February 2020 pre-pandemic rate of 4.1 percent. This kind of uncertainty makes estimating state revenues particularly challenging as Finance prepares to embark on developing the 2023-24 Governor's proposed budget.

California Becomes First State to Ban Sale of New Gasoline-Fueled Vehicles

The California Air Resources Board (CARB) approved its **Advanced Clean Cars II Regulation** (ACC II) yesterday, making California the first state in the nation to ban the sale of new gasoline-powered cars and light-duty trucks starting in 2035. The regulations are two-pronged to achieve the state's ambitious greenhouse gas emissions reductions goals. First, ACC II requires an increasing number of zero-emission vehicles (ZEVs) starting with model year 2026 to be sold in the state to ramp up to the 2035 ban. Specifically, ACC II requires 35 percent ZEV sales by 2026, 68 percent by 2030, and 100 percent by 2035. Second, in recognition that gasoline-powered cars will still be on the road for many years to come, ACC II will require increasingly stringent standards for gasoline cars and heavier passenger trucks to continue to reduce smog-forming emissions while the sector transitions toward 100% electrification by 2035.

Governor Newsom extoled CARB's action yesterday (no surprise as the regulation makes law his Executive Order **N-79-20**) noting that the state has made historic investments in recent budgets to support the ZEV revolution. With the adoption of the 2022-23 state budget, California is set to spend $10 billion to make it easier and cheaper for Californians to transition to ZEVs. The federal Infrastructure Investment and Jobs Act also provides billions of dollars nationwide to help spur the ZEV transition. However, the build out and incentives needed over the next decade to meet the targets will far eclipse investments to date so much work remains.

During the CARB hearing yesterday, Board members heard from dozens of stakeholders expressing positions that ranged from strong support to vehement opposition with many perspectives in between. Car makers appeared resigned to accept the rulemaking but noted that the state must support the regulation if it wants to be successful, not the least of which is the buildout of charging and refueling infrastructure to support ZEV deployment as well as incentives and other measures to ensure disadvantaged communities and lower-income populations have equitable access to new, cleaner cars. Transportation stakeholders highlighted the impacts ACC II will have on transportation funding to support the rehabilitation, maintenance, and safety improvements on the existing transportation system on which ZEVs will still rely. CARB's economic analysis very likely underestimates the impacts to state and local funding, which already pegs the cost at $31 billion from 2026-2040. Finally, on the other end of the spectrum, some stakeholders from the environmental community advocated for faster action, noting that the climate crisis is already upon us as evidenced by increasingly hotter temperatures, dryer conditions, drought, and mega-fires.

At least one thing is for certain. With yesterday's action, California can continue to call itself the national leader in the fight against auto emissions. CARB was created in 1967 for the express purpose of combating smog and long-time CARB member Dan Sperling noted that even with CARB's record, action on ACC II, "is the most important and transformative action that [the air resources board] has ever taken."

SB 1383 Grant Information from CalRecycle

CalRecycle is sharing information regarding the release of the application for the Community Composting for Green Spaces Grant Program. This competitive grant program will provide funding to create, improve, or expand community composting sites to increase composting of organics to change organic waste to a usable community resource.

This grant cycle will take a regional approach. CalRecycle determined portion of funding per region by considering population, income, and environmental factors to more effectively reach people who would benefit the most throughout the state.

The Notice of Funding Availability can be found **here**. Applications are due on October 20, 2022. Funds will be awarded to the highest scoring, passing application in each of the Regions. Only one application may be awarded per region. Grant Award amounts are determined by region, as **follows**.