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**October 3, 2022**

## **Governor Makes Final Decisions on 2022 Bills to Finish Up First Term in Office**

Governor Newsom wrapped up his final set of bill signing and veto decisions on Friday as his first term in office comes to a close. The state's softening fiscal conditions were clearly on his mind as he considered the measures before him. In his veto messages on especially costly bills with no identified funding mechanism, the Governor offered the following rationale:

*The Legislature sent measures with potential costs of well over \$20 billion in one-time spending commitments and more than \$10 billion in ongoing commitments not accounted for in the state budget. Bills with significant fiscal impact, such as this measure, should be considered and accounted for as part of the annual budget process.*

The Governor reportedly vetoed 170 measures or nearly 15 percent of the bills sent to him in 2022, a pace higher than his average veto rate of 12.5 percent in the three preceding years.

Bill signing outcomes were overwhelmingly positive for labor interests, including his unexpected approval of a measure that eases farmworker unionizing, as discussed in this *San Francisco Chronicle* [article](#). For an interesting look at broad array of bills across policy areas that the Governor

considered during the September signing period and the outcomes, see *CalMatters'* article [here](#).

Below we highlight the final outcomes on a select number of high-profile and/or priority measures. Should you have questions on any other measure, please do not hesitate to reach out to us!

## General Government

### AB 1951 (Grayson) – VETOED

Governor Gavin 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 **vetoed** the measure, urging the Legislature to consider proposals in the context of the state budget.

### AB 2449 (Blanca Rubio) – SIGNED

The Governor signed AB 2449, which allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public, under certain circumstances.

### AB 2647 (Levine) – SIGNED

AB 2647 allows writings that have been distributed to members of a legislative body of a local agency less than 72 hours before an open, regular meeting to be exempt from specified requirements of the Ralph M. Brown Act (Brown Act), if the agency meets certain requirements.

### SB 1131 (Newman) – SIGNED

The Governor signed SB 1131, which will establish 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.

### SB 1340 (Hertzberg) – SIGNED

Governor Newsom signed SB 1340, which extends the new construction exclusion for active solar energy systems from the 2023-24 fiscal year through

the 2025-26 fiscal year, and its sunset date from January 1, 2025, to January 1, 2027. As part of his action, the Governor included a **signing message**, indicating that he believes that this short-term extension appropriately balances the need to bring planned, but delayed solar projects online, with a minimal impact on local government revenues.

### **SB 1449 (Caballero) – VETOED**

The Governor **vetoed** SB 1449, a measure that would have required the Governor's Office of Planning and Research (OPR) to establish, upon appropriation by the Legislature, the Unincorporated Area Annexation Incentive Program (Program) to fund projects related to the proposed or completed annexation of an unincorporated area into the city. The Governor used his standard concern regarding cost pressures when vetoing SB 1449.

## **Health and Human Services**

### **AB 32 (Aguiar-Curry) – SIGNED**

The Governor signed AB 32. This bill makes various changes to Medi-Cal telehealth policy, including permitting the Department of Health Care Services (DHCS) to allow under specified circumstances 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 240 (Rodriguez) – VETOED**

The Governor vetoed AB 240, which would have required the California Department of Public Health (CDPH) to contract with an appropriate and qualified entity to conduct an evaluation of the adequacy of the local health department infrastructure, and to make recommendations for future staffing, workforce needs, and resources, to accurately and adequately fund local public health.

The Governor's **veto message** of AB 240 was not focused on the state's fiscal condition; instead the Governor notes that the state is "a model for the nation in our public health preparedness, response, and ongoing investment." He suggests focusing on utilizing the ongoing \$300 million (\$200 million for local health departments) appropriated in the budget, which calls for immediate action on recruitment and hiring to support a modern and innovative public health system.

### **AB 988 (Bauer-Kahan) – SIGNED**

The Governor signed AB 988, which enacts the Miles Hall Lifeline and Suicide Prevention Act to establish 9-8-8 centers in California for the purpose of connecting individuals experiencing a behavioral health crisis with suicide prevention and mental health services. This bill also provides a dedicated revenue source to fund a 9-8-8 system in California.

The Governor included a **signing message** with AB 988, which is relatively uncommon. The message states concern about the use of the revenues generated by the bill being too restrictive. “Without refinements to these provisions and others, our effort to establish a comprehensive suicide and behavioral health crisis response system – one that can help prevent avoidable tragedies and increase access to the right kind of care – will fall short. Therefore, I am directing the California Health and Human Services Agency to propose cleanup language as part of the 2023-24 Governor’s Budget to ensure this bill delivers on its promise to build a fully operational and comprehensive 9-8-8 system in California.”

### **AB 1051 (Bennett) – SIGNED**

The Governor signed AB 1051, which requires a foster child or probation-supervised youth’s county of original jurisdiction to retain responsibility to arrange and provide specialty mental health services if placed out of the county of original jurisdiction in a community treatment facility, group home, or short-term residential therapeutic program (STRTP) unless specified circumstances exist.

### **AB 1663 (Maienschein) – SIGNED**

The Governor signed AB 1663, which revises various procedures in the probate conservatorship process. The bill requires the petition for conservatorship to include alternatives to conservatorship considered by the petitioner or proposed conservator and reasons why those alternatives are not suitable. The bill also establishes a supported decisionmaking process and a process for entering into a supported decisionmaking agreement for adults with disabilities, as defined.

### **AB 1686 (Bryan) – SIGNED**

Governor Newsom signed AB 1686, which establishes a presumption that, when a child is in foster care, requiring the parent or guardian to pay child

support for the child is likely to impose a barrier to the family's efforts to reunify.

#### **AB 1859 (Levine) – VETOED**

The Governor vetoed AB 1859. The bill would have required a health plan contract or health insurance policy issued, amended, or renewed on or after July 1, 2023, that includes coverage for mental health services to, among other things, approve the provision of services for a person who is screened, evaluated, detained for treatment and evaluation under the Lanterman-Petris-Short (LPS) Act and to process the referral as an appointment request. The bill also would require the referring facility to provide notification of the referral to the health plan or insurer within 48 hours of referral.

In his [veto message](#), Governor Newsom states that several of AB 1759's provisions are already in existing, recently enacted law. This bill also proposes to add provisions concerning provider and facility responsibilities in the Knox-Keene Act, which govern health plans, not providers. As a result, these provisions would be unenforceable and lead to undue confusion. He also notes that he signed AB 2242 (Santiago) to improve care coordination for patients following an involuntary hold.

#### **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 2242 (Santiago) – SIGNED**

As noted above, the Governor signed AB 2242. This bill will 1) require individuals who have been involuntarily detained for purposes of evaluation and treatment, and placed under a conservatorship, to receive a care coordination plan developed by specified entities; 2) require the Department of Health Care Services (DHCS) to convene a stakeholder group to create a model care coordination plan to be followed when discharging those held under temporary holds or a conservatorship; and, 3) permit county mental health plans to pay for the provision of services for individuals placed under involuntary detentions and conservatorship using specified funds, including Mental Health Services Act funds.

The Governor included a **signing message** with AB 2242. In part, it reads:

*Improved coordination of care is a top priority for my administration, and I am appreciative of our partnership with the Legislature this year to pass CARE Court. This bill will benefit a similar population -those with complex behavioral health needs – by ensuring that they are appropriately transitioned to voluntary community-based care and treatment settings after a conservatorship placement. I also agree that the specific care coordination supports outlined in this bill should be provided without delay. This is an important first step towards improving and strengthening resources provided through the Mental Health Services Act (MHSA), and I look forward to working with the author and stakeholders in further reform efforts in the future.*

**AB 2306 (Berman) – VETOED**

Governor Newsom vetoed AB 2305, which would 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 expands 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. The Governor's **veto message** cites fiscal concerns.

**AB 2317 (Ramos) – SIGNED**

The Governor signed AB 2317, which requires DHCS to license and establish regulations for psychiatric residential treatment facilities (PRTFs). The bill is aimed at addressing a critical component missing in the continuum of specialty mental health services for children and youth in California – children's crisis residential services. AB 2317 adds a new licensing category in state statute, the PRTF, consistent with Medi-Cal EPSDT Specialty Mental Health Services program standards. The PRTF is a federal Centers for Medicaid and Medicare designation.

**SB 872 (Dodd) – SIGNED**

Governor Newsom signed SB 872 (Chapter 220, Statutes of 2022). The measure authorizes 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.

**SB 929 (Eggman) – SIGNED**

The Governor signed SB 929, which will expand 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 964 (Wiener) – VETOED**

The Governor vetoed SB 964, which would have required HCAI to commission consultants to prepare a report for the Legislature, on or before January 1, 2024, that provides a landscape analysis of the current behavioral health workforce and the state's behavioral health workforce needs, and to make recommendations on how to address the state's behavioral health workforce shortage.

The Governor's **veto message** notes that SB 964 duplicates existing efforts in assessing workforce needs and analyzing trends through HCAI's Workforce Education and Training Council and its Workforce Research Data Center. Furthermore, the bill would have required approximately \$1.5 million to implement, which was not accounted for in the budget.

#### **SB 966 (Limón) – SIGNED**

The Governor signed SB 966, which will authorize federally qualified health centers (FQHCs) and rural health clinics (RHCs) to include face-to-face service provided by an associate clinical social worker (ACSW) or associate marriage and family therapist (AMFT) in the definition of a "visit," and prohibits the DHCS from requiring an FQHC or RHC to process the addition of services by an ACSW or AMFT as a change in scope of service.

#### **SB 1054 (Ochoa Bogh) – SIGNED**

Governor Newsom 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. This bill also authorizes employees of a county's adult protective services agency (APS) 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.

### **SB 1090 (Hurtado) – SIGNED**

Governor Newsom signed SB 1090, which expands the definition of "current or former foster youth" for purposes of accessing the Family Urgent Response System (FURS) to include youth who have exited foster care for any reason, including, but not limited to, emancipation, a child or youth who is the subject of a voluntary placement agreement, a child or youth who is placed in foster care and is the subject of a petition filed pursuant to reports of abuse and neglect, and a child or youth placed in California pursuant to the Interstate Compact on the Placement of Children.

### **SB 1143 (Roth) – VETOED**

Governor Newsom **vetoed** SB 1143, which would have established the California Acute Care Psychiatric Hospital Loan Fund to provide zero-interest loans to qualifying county applicants for the purpose of constructing or renovating acute care psychiatric hospitals or psychiatric health facilities, or renovating or expanding general acute care hospitals in order to add or expand an inpatient psychiatric unit. As he did for many of this year's veto messages, the Governor cited the cost pressures on the state budget associated with the bill and noted the softening economic outlook.

### **SB 1238 (Eggman) – VETOED**

The Governor vetoed SB 1238. This bill would have required DHCS, beginning January 1, 2024, and at least every five years thereafter, in consultation with local governments, to conduct a review of, and prepare a report regarding current and projected behavioral health (BH) care infrastructure and service needs, including barriers to meeting projected future needs and suggestions to alleviate bottlenecks in the continuum in each region.

The Governor's **veto message** notes that the bill is duplicative of other recent statewide assessments of behavioral health needs. He also states that SB 1238 bill lacks detail regarding data collection, reporting timeframes, and funding which would result in significant implementation challenges. The bill would create a large mandate, potentially costing the state tens of millions of dollars that are not accounted for in the budget.

### **SB 1302 (Portantino) – VETOED**

SB 1302 would have appropriated \$250 million from the Mental Health Services Fund to provide grants of \$250,000 to certain high schools to



establish or improve school-based health centers that provide mental health services by licensed or credentialed mental health professionals.

In his **veto message**, Governor Newsom 1) notes his \$8 billion investment in the Master Plan for Kids Mental Health; 2) states that the bill is duplicative of more comprehensive initiatives already underway; and 3) adds that SB 1302 circumvents the MHSA local planning process and inappropriately establishes MHSA-funded grant programs outside of the budget process.

### **SB 1338 (Umberg) – SIGNED**

The Governor signed SB 1338, which creates the Community Assistance, Recovery, and Empowerment (CARE) Act. CARE is intended to provide an opportunity in a civil court setting to develop an individualized care plan for persons with qualifying mental health conditions.

### **SB 1342 (Bates) – SIGNED**

The Governor signed SB 1342, which allows a county or Area Agency on Aging (AAA) to establish an aging multidisciplinary team (MDT) with the goal of facilitating the expedited identification, assessment, and linkage of older adults to services, and allows provider agencies and members of the MDT to share confidential information for the purposes of coordinating services. This bill requires a county or AAA that establishes an aging MDT to adhere to a number of protocols surrounding the privacy, security, and confidentiality of the information and records shared.

## **Housing**

### **AB 916 (Salas) – SIGNED**

Governor Newsom signed AB 916, which prohibits a city or county from requiring a public hearing as a condition of reconfiguring existing space to add up to two bedrooms within an existing residential dwelling unit.

### **AB 2011 (Wicks) – SIGNED**

Governor Newsom signed AB 2011, which creates a ministerial, streamlined approval process for 100% affordable housing projects in commercial zones and for mixed-income housing projects along commercial corridors. Mixed income rental projects must include 15% of the units affordable for lower-income households or 8% of units affordable for very low-income households, while owner-occupied housing is eligible if 30% of the units are affordable to

moderate-income households. AB 2011 is limited to urbanized areas. It also imposes specified labor standards on qualifying projects, including requirements that contractors pay prevailing wages, participate in apprenticeship programs, and make specified healthcare expenditures.

#### **AB 2234 (Rivas) – SIGNED**

Governor Newsom signed AB 2234, which requires a local agency to post information related to post-entitlement phase permits for housing development projects, process those permits in a specified time period depending on the size of the housing development and establish a digital permitting system if the local agency meets a specific population threshold.

#### **SB 6 (Caballero) – SIGNED**

Governor Newsom signed SB 6, which enacts, until January 1, 2033, the Middle Class Housing Act of 2022. The bill establishes housing as an allowable use on parcels zoned for office or retail uses within an urbanized area. SB 6 also: (1) includes requirements that projects include 15% of units affordable to lower-income households and that contractors use a skilled and trained workforce, as defined, to build a qualifying project and (2) allows projects that meet the site requirements of SB 35 (Wiener, 2017), but are located on a commercial zone not allowing residential uses, to use the SB 35 ministerial approval process.

#### **SB 879 (Wieckowski) – SIGNED**

Governor Newsom signed SB 879, which makes numerous changes to the laws governing accessory dwelling units and junior accessory dwelling units, including increasing the minimum ADU height limit that a local agency may impose, clarifying that a permitting agency must approve or deny an application within 60 days, and adding that if a permitting agency denies an application for an ADU or JADU, the permitting agency must return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

#### **SB 948 (Becker) – SIGNED**

Governor Newsom signed SB 948, which allows the Department of Housing and Community Development to create a pooled transition reserve fund for affordable housing projects, prohibiting requirements for project-specific reserves.

## Transportation and Public Works

### AB 1932 (Daly) - **SIGNED**

Governor Newsom signed SB 879, which extends, until January 1, 2029, the existing sunset date of January 1, 2023, in existing law authorizing counties to enter into construction manager at-risk (CMAR) contracts for specified public works projects, excluding roads, but including buildings, flood control, underground utilities, and bridges.

### AB 2438 (Friedman) – **Vetoed**

Governor Newsom **vetoed** AB 2438, which would have required multimodal transportation competitive grant programs to incorporate strategies from the Climate Action Plan for Transportation Infrastructure (CAPTI) into program guidelines. While Governor Newsom indicated he shares in the author's goals to address climate change impacts from the transportation sector, the bill is unnecessary as the California State Transportation Agency, California Department of Transportation, and the California Transportation Commission are already incorporating CAPTI into transportation programs.

### 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 will 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 5 years thereafter.

## Public Safety

### AB 503 (Stone) – **VETOED**

AB 503 would have presumptively limited juvenile probation terms to six months, although courts would have been given the option to extend the term under specified circumstances. The Governor's veto message, which cites his

concerns about the bill's impact on the juvenile justice system in light of the imminent closure of the state's detention facilities, can be found [here](#).

#### **AB 731 (Bauer-Kahan) – VETOED**

The Governor vetoed AB 731, which would have required county sheriffs to collect and submit extensive data to the Board of State and Community Corrections (BSCC) about educational and rehabilitative programs in county jail and their impacts on recidivism rates. His veto **message** notes workload impacts and implementation costs.

#### **AB 759 (McCarty) – SIGNED**

AB 759 requires elections for county sheriffs and district attorneys to be held during the presidential primary and specifically affirms 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 also permit a board of supervisors to determine by ordinance whether elections for the selection of any other county officer (except the county superintendent of schools) should be held at the presidential primary.

#### **AB 1613 (Irwin) – SIGNED**

AB 1613 expands the territorial jurisdiction in which the Attorney General can prosecute specified theft offenses and associated offenses connected together in their commission to the underlying theft offenses.

#### **AB 2343 (Weber) – VETOED**

AB 2343 would have added a licensed health care provider and a licensed mental health care provider to BSCC, increasing board membership from 13 to 15. The BSCC's new composition would have become effective on July 1, 2023. Additionally, AB 2343 would have required the board to develop and adopt regulations setting minimum standards for mental health care in local jails that met or exceeded specified national standards. The Governor veto message can be found [here](#).

#### **AB 2632 (Holden) – VETOED**

AB 2632 would have – for all public and private detention facilities (state and local) – defined “segregated confinement,” set maximum time limits for its use, and fully prohibited its use for special populations, as defined. The Governor's **veto message** cites his concerns about overly broad standards and exclusions, while expressing his overall support for improving conditions within

custodial settings and limiting use of segregated confinement. Accordingly, he directs the California Department of Corrections and Rehabilitation to develop regulations restricting the use of segregated confinement except for in limited situations.

## Climate and Environment

### **SB 846 (Dodd and Cunningham) – SIGNED**

SB 846 requires the California Public Utilities Commission to set new retirement dates for the Diablo Canyon powerplant not to exceed five years for each unit. Further, the bill establishes the intent of the Legislature to make available to the Department of Water Resources no more than \$1.4 billion for the purpose of loaning funds to facilitate the extension of the operating period of the Diablo Canyon power plant. Given that SB 846 was designated an urgency measure, its provisions become effective immediately.

### **SB 1065 (Eggman) – VETOED**

SB 1065 would have established the California Abandoned and Derelict Commercial Vessel Program to identify, prioritize, and fund, as specified, the removal of abandoned and derelict commercial vessels (ADCVs) from commercially navigable waters. The bill was intended to address the broad range of environmental as well as public safety and health hazards caused by ADCVs. Citing the considerable costs of implementation that were not accounted for in the state budget, the Governor **vetoed** the bill.

## Final Elements of 2022-23 State Budget Package Enacted

In addition to his action on policy bills, the Governor also signed into law a second budget bill, jr., which makes additional adjustment to current-year expenditures, as well as nine implementing trailer bills. These measures became immediately upon the signature of the Governor. HBE has summarized the main provisions of the final round of budget and trailer bills [here](#).

## DHCS Issues Hospital and Skilled Nursing Facility COVID-19 Worker Retention Payments Guidance

DHCS issued instructions last week to help facilities prepare for the upcoming COVID-19 worker retention payment (WRP) registration and application processes. DHCS released new guidance on the [WRP webpage](#), including a program timeline and updated information on eligible physicians and the

registration and application submission processes. Please recall that funding was provided in the state budget for hospital and skilled nursing facility COVID-19 worker retention payments.

Beginning on October 21, 2022, facilities (including county hospitals) are required to register with DHCS in order to participate in WRP. Once registered, approved facilities will be provided a link to apply for retention payments on behalf of eligible workers. Applications will be accepted between November 29 and December 30, 2022. DHCS encourages early submissions so all applications can be validated prior to the final due date. DHCS anticipates issuing payments in January 2023. Facilities will be responsible for issuing the payments to employees.