



*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](#).*

**November 22, 2022**

### **CARE Act Updates: Information Notice on Start-up Funds and County Webinar Registration**

To ensure this information has been broadly distributed, we wanted to remind you that the Department of Health Care Services (DHCS) recently released an [information notice](#) outlining allowable uses of counties' start-up funds for the Community Assistance, Recovery, and Empowerment (CARE) Act as enacted in SB 1338 (Umberg and Eggman). A total of \$57 million has been appropriated for these purposes:

#### **\$31 million for all 58 counties ([allocation schedule](#))**

*Purpose:* Planning and preparation activities, including, but not limited to, hiring, training, and development of policies and procedures, and to support information technology infrastructure costs, including, but not limited to, changes needed to electronic medical record systems, changes to collect needed reporting data, and case tracking and new billing processes to bill commercial plans, and excluding capital expenses.

#### **\$26 million for seven Cohort 1 counties ([allocation schedule](#))**

*Purpose:* Cohort I county planning and preparation to implement the CARE Act.

Per DHCS, these funds should be remitted to counties by the second week of December.

Additionally, the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), and the California State Association of Counties (CSAC) are jointly hosting a webinar for all interested county participants to learn more about the CARE Act. Topics to be addressed include a review of the main provisions of SB 1338, county responsibilities under the Act, remaining technical issues, as well as next steps in implementation. Presenters also will

discuss start-up funding as well as plans for securing long-term implementation resources. Feel free to share details on the webinar with all interested county supervisors, administrators, and staff.

## **CARE Act Webinar:**

**Friday, December 9 | 10:30 a.m. to noon | [Register HERE!](#)**

### **Governor Releases Paused Homelessness Funding**

Governor Gavin Newsom has decided to restore funding allocations for cities, counties, and Continuums of Care that were slated to be released earlier this year. This change comes after a private meeting with local officials in Sacramento last week and only will be executed if local agencies set more ambitious goals to address the state's homeless crisis. The funding provided as part of Round 3 of the Homeless Housing Assistance and Prevention (HHAP) program will be forthcoming after local agencies commit to (1) establish more ambitious outcomes and (2) implement best practices for the Round 4 allocation of HHAP funding.

A news release from the Governor's Office is available [here](#).

### **LAO Forecasts a Dour 2023-24 State Budget**

Last week, the Legislative Analyst's Office released its much-anticipated **Fiscal Outlook** report, indicating their assessment of the economy's impact on state General Fund revenues. The news – that the state is likely facing a \$25 billion budget deficit in 2023-24 – comes with some key takeaways as to what may be in store for 2023.

- Economic conditions – including inflation and interest rate hikes, as well as the threat of recession – are producing the weakest estimated state revenue performance since the Great Recession.
- When considering a status quo budget (no changes to current law that would increase or decrease caseloads or revenues), the Legislature will face a \$25 billion deficit in 2023-24. Ongoing, annual deficits would decline from \$17 billion to \$8 billion over the next few years.
- The LAO is careful to point out that their estimates do not reflect a recession. In a recession scenario, revenues could be \$30-\$50 billion lower. As a result, the LAO is recommending that the Legislature plan to proceed without tapping into their reserves. Instead, the LAO suggests that the Legislature seek to pause, delay, or reassess recent augmentations that have not yet been distributed.

The next opportunity to learn more about the state's economic forecast is when the Governor releases his proposed 2023-24 state budget on January 10. We will of course have all the news for you then.

## **Finance Reports October Revenues ... And They're Unusual**

The Department of Finance has released its November [Finance Bulletin](#), highlighting an anomalous month for state revenue estimators. State General Fund revenue receipts for October were \$7.055 billion, or 179 percent, above the 2022-23 Budget Act forecast of \$3.94 billion due to lower-than-assumed personal income tax refunds related to tax year 2021 from the Pass-Through Entity (PTE) elective tax. Finance explains that a substantial portion of this one-time revenue gain in October is a timing issue as unused PTE elective credits can be carried forward to subsequent years. For the fifth consecutive month, cash receipts related to tax year 2022, such as from withholding, continue to indicate considerable ongoing weakness.

Personal income tax revenues for October were \$7.426 billion above the month's forecast of \$1.063 billion, in large part explained by misestimates from the budget year. Because the PTE elective tax is a new tax, there was limited information and no historical data on which to base assumptions concerning taxpayer behavior. Many taxpayers file their returns on extension in October and the Budget Act forecast assumed that around half of the 2021 PTE elective tax credits, or approximately \$7 billion, would be claimed and returned to taxpayers as refunds in October. However, this assumption did not materialize as refunds came in \$7.583 billion lower than the \$9.691 billion projection, leading to a one-time gain related to tax year 2021 that will be offset in future years when the unused PTE elective credits are used. October final payments, which also relate to tax year 2021, were \$712 million above forecast. October withholding receipts were below projections for the month, falling \$575 million below forecast.

Corporation tax revenues for October were \$209 million above the forecast of \$386 million, largely due to unanticipated PTE payments. Sales and use tax revenues for October were \$633 million below forecast. However, lower revenues were due to the shifting of some payments from October to November, which likely will result in cash receipts exceeding projections in November.

## **November 2022 Election Roundup**

While local election officials have 24 days remaining – until Friday, December 9 – before final, official results are reported to the Secretary of State, the post-election picture is mostly clear. At the time of this writing, there are four California races that are **too close to call** (one congressional seat and three state Assembly seats). It also appears that one incumbent – Central Valley Senator Melissa Hurtado – has lost her seat to Republican challenger, David Shepard.

Additionally, the display [attached](#) summarizes the outcomes on the seven ballot measures put before voters, including Proposition 31, a referendum on SB 793 (Hill, 2020) that prohibits the sale of flavored tobacco.

In related news, just one day after the November election, R.J. Reynolds filed a federal lawsuit challenging the constitutionality of California's ban on flavored tobacco products (Proposition 31). The suit was filed in the U.S. District Court for the Southern District of California. The tobacco company is seeking an injunction of the ballot initiative.

The lawsuit claims that local and state governments do not have the right to challenge federal law under the Tobacco Control Act, which gives the U.S. Food and Drug Administration the authority to regulate tobacco. That argument was rejected by the U.S. Court of Appeals for the Ninth Circuit in March 2022, after R.J. Reynolds sought to overturn Los Angeles County's ban on flavored tobacco products. Legal challenges to other state and local flavored tobacco bans have not been successful to date.

Absent the lawsuit, the ban under Proposition 31 is slated to take effect five days after the ballot measure votes are certified. The Secretary of State has to certify election results by December 16 at the latest, and the sale of flavored tobacco products in stores and vending machines would then become illegal on December 22, possibly sooner if the certification is finished early.

### **Preparation for 2023-24 Session Underway**

On Monday, December 5, both houses of the Legislature will convene in the Capitol for organizational purposes: swearing in of new members, election of house leaders and their officers, and adoption of resolutions outlining the house rules. Note that the tussle around who will be serving as Assembly Speaker for the 2023-24 was resolved in another lengthy caucus meeting held on Thursday, November 10. A conciliatory message released after the six-hour meeting revealed that sitting Speaker Anthony Rendon will continue in his role as the Assembly leader through June 30, 2023, at which time Assembly Member Robert Rivas will take over. Recall that Assembly Member Rivas asserted in May that he had sufficient votes to take over as leader, although he ultimately fell short at that time. To what extent this planned leadership transition will affect either in the near- or long-term committee chair and general membership assignments is not yet known.

Additionally, the Senate – which took a more conservative approach over the last year to pandemic-related work protocols as compared to the Assembly – recently announced that beginning with the kickoff of the session in early December, all Senate employees will return to work in person.

### **Changes to Newsom's Inner Circle**

As Governor Newsom prepares to kick off his second term, his office recently announced several upcoming changes to his closest staff advisors. Dana Williamson will be succeeding Jim DeBoo as the Governor's chief of staff, becoming the third person to hold the job during his tenure. Williamson previously

worked for Governor Jerry Brown as advisor and then cabinet secretary. Most recently, Williamson has operated her own firm, Grace Public Affairs, where she serves as a government relations consultant and political strategist on ballot measure campaigns.

The Administration has also announced that Analea Patterson, Newsom's former legal affairs secretary, will transition from acting to permanent Cabinet secretary where she will continue to oversee state agencies.

Additionally, Jason Elliot, now senior counselor to the Governor, will become deputy chief of staff.

### **BSCC Meeting – Grant Opportunities Available**

The Board of State and Community Corrections (BSCC) met on Thursday, November 17. Highlights of the Board's actions include the following:

- Released a Request for Proposals (RFP) for **Mobile Probation Service Centers** Grant Program, which makes \$20 million available to counties to purchase vehicles, equipment, and technology to conduct outreach to probationers, particularly those who are unhoused and struggling to comply with supervision requirements. Proposals are due to the BSCC on January 6, 2023, and the grant period will begin in May.
- Authorized BSCC staff to establish an executive steering committee (ESC) for the **Medication-Assisted Treatment Grant Program**. The ESC will write draft the RFP, rate proposals, and make funding recommendations to the Board. The MAT program is designed to provide \$10 million in funding for substance use disorder treatment, including medication that helps people sustain recovery and prevent overdose. Under the grant program, services can be delivered in jails or in community-based settings.

The Board also approved \$4 million in annual federal **Title II funding** over three years to support the work of eight nonprofits and three governmental agencies associated with delinquency prevention and improvements in the juvenile justice system. Successful Title II funding applicants are listed **here**.

### **Federal Public Health Emergency Remains in Place into 2023**

Earlier this month, the Biden Administration elected to continue the federal public health emergency through January 11, 2023. The Department of Health and Human Services has not signaled an end date and has told states they will provide a 60-day notice prior to terminating the emergency. The Administration would have had to provide notice by November 11 if they were planning to end the emergency on January 11.

Health policy experts are concerned about ending the current declaration in mid-January because of timing related to COVID-19 infections, the flu, and the respiratory syncytial virus (RSV). Hospitals remain at full capacity in many parts of California. The emergency declaration also has given hospitals and other health-care providers more operational flexibility.

The unwinding of the public health emergency will also trigger a decrease in federal Medicaid reimbursements to states and require states to re-determine Medicaid eligibility. HHS has estimated that as many as 15 million people nationwide could lose Medicaid or Children's Health Insurance Program (CHIP) once the programs return to normal operations.

### **DHCS Releases Draft 1115 Waiver for Community Behavioral Health Services**

On November 15, the Department of Health Care Services hosted a **webinar** and released a demonstration waiver **paper** and **executive summary** detailing California's proposal to utilize a federal Section 1115 waiver to expand community-based behavioral health services. The proposed demonstration – the California Behavioral Health Community-Based Continuum Demonstration (CalBH-CBC) – is a draft, and the Administration will be seeking stakeholder feedback prior to submitting the proposal to the Centers for Medicare and Medicaid Services (CMS) sometime in 2023. Stakeholder comments are due to DHCS by January 13, 2023.

While the waiver is based on **2018 federal guidance** to states about submitting waivers on Institutions for Mental Disease (IMDs), DHCS officials were very clear that they don't see the waiver as an IMD waiver. Instead, they view the vast majority of the proposal to be focused on expanding community-based behavioral health care.

The demonstration waiver proposal is structured to have both statewide components (required of all 58 counties) and county opt-in components. On the latter, there are two such components, which include providing enhanced community based services and receiving federal funding for short-term IMD placements. Additionally, the concept paper outlines new services for three groups of individuals with specialty mental health service needs: 1) children and youth, 2) homeless individuals, and 3) individuals involved with the justice system.

The statewide requirements will include: 1) Clarification of evidence-based family and in-home therapies; 2) Targeted improvements for youth in child welfare (includes cross sector incentive pool, activity stipends and initial child welfare specialty MH assessment at the entry point into the CWS system), and 3) Statewide practice transformation (includes Centers of Excellence, statewide incentive program, promotion and standardization of quality of care in residential and inpatient settings, and other tools).

Counties can opt to provide enhanced community-based services, including Assertive Community Treatment (ACT); Forensic ACT; Coordinated Specialty Care for First-Episode Psychosis; Supported Employment; Community Health Worker Services, and rent/temporary housing. If a county complies with all the statewide requirements and implements all the new community-based services, the county may opt to receive federal funding for short-term stays in IMDs.

**Attached** is a chart outlining the proposed components by population.

For more information, please visit the DHCS CalBH-CBC [website](#).