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. Just over 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.

March 19, 2023

Governor Skips Formal State of State Address in Favor of Roadshow; Ends Tour Today with Announcement of Major Changes to MHSA

Today, Governor Newsom wrapped up a four-day swing through the state where he – instead of offering a traditional State of the State address in the form of a ceremonial speech before a joint session of the Legislature – held a series of events to discuss his Administration's priority policy issues. He will fulfill his constitutional responsibility for "reporting to the Legislature each calendar year on the condition of the State and may make recommendations," which typically is satisfied through the State of the State address, by transmitting a letter to the Legislature following the completion of his four-city tour.

This afternoon, on the final day of the state tour, Governor Newsom gathered with agency secretaries, city and county officials, legislative leaders, and advocates to unveil "the next stage of behavioral health reforms." Two decades have passed since the passage of the Mental Health Services Act (MHSA) – approved by the voters as Proposition 63 in 2004, speakers made the case to modernize and reform the Act by focusing on housing and individuals with substance use disorders. CalHHS Secretary Ghaly said it's "almost impossible" in the clinical world to serve someone who is unhoused.

He said the reforms will build wraparound services and workforce capacity. (See press coverage here; details about his specific proposal follow.)

San Diego County Supervisor Nathan Fletcher talked about the inequities in access to mental health treatment services versus physical health care, noting that individuals don't wait six to eight weeks to treat a broken leg. He also addressed local accountability: "I'm here for it. Hold counties accountable. If we don't [perform], penalize us." He also talked about the step-down services and residential care that could be built locally with the resources that the Newsom Administration is proposing.

Senator Susan Eggman led off her remarks by noting her desire to hold counties accountable to make sure the most ill "are not at the back of the line." Sacramento Mayor Darrell Steinberg who authored the MHSA pushed for more focus and accountability from counties on particular populations, including people living in tent encampments, individuals who are chronically homeless, and justice involved individuals. Seemingly disregarding the volatility of the personal income tax, Mayor Steinberg made statements about the MHSA growth, implying that the revenues would continue to grow and therefore cover the proposed diversion of $1 billion in MHSA revenues proposed to be redirected to housing and enhanced Full-Service Partnerships. Later in the press conference, Mayor Steinberg suggested that counties don't focus on tent encampments because of how difficult a situation they present and, essentially, how challenging they are to address. He went on to suggest that this new approach offers an opportunity for new partnerships between cities and counties.

As the final speaker, Governor Newsom emphasized that he will be taking his big idea – integration of housing and supportive services – to voters. In addition to amending the MHSA, they will also be creating a $3 to 5 billion bond to create 6,000 new beds to support 10,000 to 12,000 individuals in state-of-the-art regional centers of support. The bond will create a mix of bed types: campus style settings with intensive services on site, residential services, and scattered site models. The Governor acknowledged the need to work with cities, counties, community-based organizations, and the Legislature to develop the details of the MHSA reforms and bond measure – but also the need for accountability and prioritization.

The press asked a variety of questions including what to do about individuals who refuse treatment, the long-term success rate for fentanyl treatment, and how delays in behavioral health workforce funding will impact the proposal.

At the time of this writing, the Governor's Office has yet to release any additional specifics about today's announcement. Our understanding of the elements comprising what the Administration is framing as a "massive expansion" of the state's behavioral health system is summarized below. The reforms would be effectuated via a multi-faceted statewide initiative that would go before the voters in 2024 that would seek to "modernize how California treats mental illness, substance use disorder and homelessness."

1. General obligation bonds to finance the construction of new community mental health facilities around the state, which would serve upwards of 10,000 Californians with mental illness and substance use disorders annually.
2. Reforms to the MHSA that would (1) expand treatment eligibility to include those with substance use disorders; and (2) direct $1 billion for housing and residential services for people experiencing mental illness and substance use disorders annually.
3. New accountability and oversight measures on county governments.

More details will be provided in the days ahead as additional information emerges. CSAC's response on the Governor's announcement can be read **here**.

Details on the Governor's other announcements as he crisscrossed the state include the following:

- Saturday, the Governor was in Los Angeles to announce **developments** in his efforts to address the cost of prescription drugs. The state has entered into a contract with CIVICA, a manufacturer that will produce $30 insulin. That move will reduce the cost of insulin by about 90%, saving cash-paying patients between $2,000 and $4,000 a year. A 10mL vial will be made available for no more than $30 (instead of $300), while a box of 5 pre-filled 3mL pens will be made available for no more than $55 (normally more than $500). A new prescription will not be needed. The CalRx generic can be requested at any pharmacy or via mail-order pharmacies, and pharmacies must agree to order/stock the product. The Governor also announced that the state will also be undertaking efforts to manufacture its own Naloxone, the drug that reverses the effects of opioid overdose. CIVICA is working with the California Health and Human Services Agency to identify a California-based manufacturing facility. Read more on these efforts at the CalRx **website**.

- On Friday, the Governor unveiled **plans** for reimagining San Quentin Prison, including the launch of an innovative rehabilitative facility that will incorporate more progressive carceral models from countries like Norway. An advisory group that will include national and international public safety and rehabilitation experts along with victims' representatives, staff, advocates, volunteers and others will provide input into the transformation. The Governor's January budget proposal dedicates $20 million to begin the redesign of the facility, which will be renamed the San Quentin Rehabilitation Facility. The nearly 700 who today are on San Quentin's condemned row will be transferred to other state facilities.
- The Governor started his four-day tour in the State's Capitol and rolled out **plans** to further advance efforts to address the state's homelessness and housing crisis. Key among his announcements was the state's planned delivery of 1,200 small homes to quickly and safely house those living in homeless encampments. The homes will be deployed as follows: Los Angeles – 500 units; Sacramento – 350 units; San Jose – 200 units; and San Diego County – 150 units. Local governments will be responsible for placement of the homes, although the state has indicated it will assist, if and when needed and available, with providing surplus land to site the small homes. Local agencies will own the units and be responsible for all services and recruitment of residents.

More Bad News for the State Budget

As we've previewed, the official Department of Finance monthly **Finance Bulletin** for February 2023 indicates General Fund revenues were $1.4 billion below projections, including a 25 percent shortfall for the month in combined personal and corporate tax income revenues. Revenue estimates have already been updated for the anticipated impact of delayed payment and filing deadlines for Californians in most counties to October 16 due to winter storms and flooding in January, creating significant uncertainty to the interpretation of cash results. While it is possible that lower February payments were related to the delayed tax deadline, we simply won't know the full impact until October of 2023.

Year-to-date state revenues through February are now $4.7 billion below the Administration's January budget proposals for all general-purpose revenue sources.

Personal income tax cash receipts were $204 million below forecast in February, while corporation tax receipts were $988 million below forecast for the month. Sales and use tax revenues were $357 million below forecast in February. (This shortfall is likely related to the timing of collections, as a larger-than-expected amount of cash receipts shifted from February to March.)

The Legislative Analyst's Office (LAO) has also **updated** its revenue estimates for income and sales and use tax revenues for the year, estimating that they may be about $5 billion below the Administration's budget projections.

More to come as we move closer to the Governor's May Revision release.

Rundown on Budget Subcommittee Hearings of Interest

This past week featured a slew of budget subcommittee hearings where various consequential issues were discussed. Here's our summary.

Health and Human Services Issues

Assembly Budget Subcommittee No. 1 met on Monday to discuss a number of budget items from the Department of Health Care Access and Information (HCAI), Covered California, and the Department of Managed Care. Of note, the subcommittee discussed the Governor's proposals to delay health care workforce investments. (Behavioral health workforce delays will be discussed in April.) Additionally, the agenda included a panel discussion of health care workforce.

The Governor's budget proposes to defer $68 million in 2022-23 and $329.4 million in 2023-24 for certain healthcare workforce programs, including Nursing Initiative Grants, Community Health Workers initiative, Social Work initiative, addiction psychiatry and addiction medicine fellowships, university and college grants for behavioral health professionals, Masters in Social Work (MSW) Slots at Public Universities and Colleges, and Song-Brown Nursing Grants.

In their remarks about the health care workforce delays, the Legislative Analyst's Office (LAO) noted that the state's budget problem – likely worse in 2022-23 and 2023-24 than is now projected – will persist into 2024-25 and 2025-26. Given that budget pressures in future years presumably would require further funding delays, the LAO outlined three potential options: (1) scale back the workforce package from last year and focus on the Legislature's highest priorities; (2) focus on what has been implemented and delay what has not been implemented (e.g., psychiatric workforce – psychiatry graduate medical education, local behavioral health program, Department of State Hospitals); and (3) focus on workforce initiatives that could impact other initiatives/priorities (e.g., community health workers).

Assembly Members raised significant concerns about the health workforce delays. Assembly Member Wood noted concerns about the delay of the nursing initiatives as well as behavioral health initiatives. He suggested that cuts could be found in other agency budgets outside of health and human services. Assembly Member Rubio raised concerns about how workforce investments will target areas of the state with the biggest workforce needs. Assembly Member Arambula asked how the investments proposed for delay could be modified to address disparities. Among several organizations testifying during public comment, the California Association of Public Hospitals and Health System and UCC raised concerns with the delays. The item was held open.

Senate Budget and Fiscal Review Subcommittee No. 3 met on Thursday to discuss Medi-Cal issues, Department of Public Health, and the Emergency Medical Services Authority. The Subcommittee kicked off the hearing with a panel discussion of recent Medi-Cal expansions, including full-scope Medi-Cal expansion to undocumented young adults, elimination of the senior penalty – Medi-Cal Aged and Disabled to 138 Percent FPL, elimination of the assets test in Medi-Cal, full-scope Medi-Cal coverage age 50 and older regardless of immigration status, Medi-Cal coverage for all income-eligible Californians, share of cost reform, and continuous coverage for children up to age 5.

Senator Menjivar asked several questions about children's continuous coverage, which is one of the items funded in the 2022-23 budget, but implementation is contingent on a revenue review by the Department of Finance in the spring of 2024. The Department of Health Care Services (DHCS) is committed to stakeholder engagement on children's continuous coverage and is having conversations with the state of Oregon where a similar program has already been implemented. DHCS will be engaging stakeholders in the fall with a full policy and plan to implement. DHCS will need to design outreach and engagement as well as assess computer systems. The proposal requires submission of a Medicaid 1115 waiver, and DHCS will not proceed with a waiver until funding has been appropriated for the program.

Senator Menjivar asked the County Welfare Directors Association (CWDA) about workforce challenges. CWDA confirmed that human services departments are facing the same workforce challenges that other professions are experiencing. Counties are continually hiring and training existing staff. Post-pandemic, many staff have never done a Medi-Cal redetermination.

Other panelists noted issues with call times, and CWDA responded that training may be exacerbating call times as staff are pulled off day-to-day line work to train for the renewal of redeterminations, computer system changes and other issues. CWDA also reminded the subcommittee that the phone lines are for CalFresh and CalWORKs, too, and that those programs also are experiencing considerable change and workforce issues. DHCS is working with counties on readiness plans for the resumption of Medi-Cal redeterminations that include call centers, front line staffing, and lobby management practice.

Senator Menjivar asked about county collaboration with community-based organizations. CWDA talked about utilizing best practices and assisting in places where connections are not happening. For example, Los Angeles County meets regularly with advocate partners. In farmworker communities, those counties are engaged with local collaboratives. Human services agencies are also partnering with public health.

The subcommittee also discussed the Governor's proposal to cut $49.8 million General Fund in public health workforce training and development programs. Senator Eggman urged the Administration to find places to cut other than workforce. She noted the need for more pathways and more training and suggested she would vote for a "reversion of the reversion." Senator Menjivar echoed her colleague in wanting to protect the pipeline. Several groups testified in opposition to the cut including UCC, the County Health Executives Association of California, the Health Officers Association of California, CSAC, and SEIU. The item was held open.

Public Safety, Judiciary, and Corrections

The Senate Budget and Fiscal Review Subcommittee No. 5 held its first hearing of the year on Thursday to take up several Board of State and Community Corrections (BSCC) budget issues, along with judicial branch and Department of Justice items. Although this item was not agendized, Senator Seyarto highlighted in opening remarks his concerns about the shortage in judicial officers, which continues to be particularly acute in the Inland Empire. No action was taken on any of the items the subcommittee discussed.

Under the BSCC budget items, the subcommittee discussed the Governor's proposal to rescind the third and final year of $50 million in funding for the Public Defense Pilot Project (PDPP), which directed resources to several specific resentencing workloads. This item generated considerable interest among the subcommittee members. Additionally, during the public comment period, dozens of individuals, and organizations – including public defenders, CSAC, UCC, and RCRC – spoke in favor of retaining the funding. The panel of public defenders that addressed the subcommittee highlighted the achievement and successes resulting from the first 18 months of the pilot project; see Yolo County's results **here**. The committee also heard personal testimony from a beneficiary of the PDPP.

The subcommittee also discussed the Governor's proposed 2023-24 funding for county probation departments to address temporary increases in the Post-Release Community Supervision (PRCS). Representatives from the LAO shared their **perspectives** on the necessity of the funding. CSAC, RCRC, UCC, and the probation chiefs all spoke in favor of the proposed funding.

Additionally, under the Department of Justice items, the subcommittee heard testimony regarding options for addressing funding to support the state's crime labs administered through the Bureau of Forensic Services (BFS). As had been discussed in the Assembly budget subcommittee the previous week, the DOJ and Department of Finance representatives expressed considerable concerns about the LAO's proposal to shift a portion of the cost to access the state's crime lab services to local governments by imposing fees for service. Concerns focused chiefly on how fiscal considerations might jeopardize local governments' pursuit of criminal investigations. Under a system that has been in place for 50 years, 12 primarily high-population counties and several cities rely on local crime labs, while the remainder and vast majority of counties (46) – including most suburban and all rural counties – use BFS' state crime lab services exclusively for analysis of forensic evidence. CSAC, UCC, and RCRC all spoke in opposition to the LAO's proposed fee-based model.

Transportation

Transportation infrastructure funding was the focus of two hearings in the Legislature this week. Assembly Budget Subcommittee No. 3 had its first **hearing** on the Governor's 2023-24 transportation budget proposals, while in a joint hearing the Senate Transportation Committee and Senate Budget and Fiscal Review Subcommittee No. 5 examined the initial steps California has taken to implement the federal Infrastructure Investment and Jobs Act (IIJA).

Members expressed numerous concerns with the Governor's budget during the Assembly Budget Subcommittee No. 3 hearing, especially the proposal to eliminate $2 billion in transit capital funding over multiple years. Climate goals will require significant expansions in the coverage and frequency of transit service as part of a broader strategy to reduce driving and invest in transit, biking, and walking.

Unlike their colleagues in the Senate subcommittee, Assembly Members did not express concerns about the Governor's proposal to backfill General Fund cuts to the Active Transportation Program and the Climate Adaptation Program with State Highway Account funding. Budget Committee Chair Ting joined the Subcommittee and put the Administration on the hot seat over their actions to solicit grants for future years of funding beyond what was appropriated in the 2022-23 budget.

During the joint Senate hearing entitled “Making the Most of Federal Transportation Infrastructure Funding,” the LAO presented a summary of the **transportation-related funding from IIJA in California**, and posed questions about how the initial implementation align with state policy goals and desired outcomes. The California State Transportation Agency described the extensive workgroup process to develop the first year of IIJA funding allocations, but indicated that the Administration is open to hearing from stakeholders about how the state should prioritize and coordinate projects in years two through five.

Senators asked numerous questions about accountability and outcomes related to the expenditure of IIJA funding, especially in the context of the state’s climate goals. Senator Blakespear reiterated her concerns about gaps in transit operational funding and noted that the Air Resources Board has said the state’s climate goals will require significant expansions of both the coverage and frequency of transit service. The Natural Resources Defense Council noted that federal infrastructure funding can be flexed to support transit capital in some cases—and urged the state to do so—while recognizing that building new systems with inadequate operational funding won’t address the core issue.

Update on Bills of Interest

Critical Access Hospitals: Prohibition on Corporate Practice of Medicine

Assembly Member Jim Wood’s **AB 242** would delete the prohibition on the corporate practice of medicine (CPM) for federally certified Critical Access Hospitals (CAHs). Assembly Health Committee heard AB 242 last week and passed the measure 13-0.

Prior legislation, AB 2024 (Wood, Chapter 496, Statutes of 2016) established an exemption, until January 1, 2024, from the prohibition on CPM in order to allow federally certified CAHs to employ physicians and charge for those services. According to the Department of Health Care Access and Information (HCAI), of the 36 CAHs in California, half have hired physicians between 2017 and 2023.

The California Medical Association opposed AB 242 unless amended. They are requesting a sunset on the program until HCAI publishes its report regarding the impact the program has had on patient care. Dr. Wood argued that they have not heard of any adverse outcomes associated with the pilot program; additionally, another pilot with a sunset does not provide certainty to the hospitals or physicians.

New Bill Would Limit County Land Use Authority outside of Urban Areas

AB 68, by Assembly Member Chris Ward of San Diego, was amended recently to impose significant new limitations on the ability of a county to zone land for housing or extend water and sewer service outside of census-designated urbanized areas. While the bill purportedly includes exceptions when rezoning is needed to meet regional housing needs, it requires detailed findings that must also be endorsed by the gubernatorially-appointed Office of Planning and Research.

The bill also turns traditional land use planning and approval practices on their heads by requiring counties to show that there are no alternative residential or commercial properties that could accommodate proposed developments subject to the bill. Moreover, AB 68 makes no changes to reduce the regional housing needs allocated to unincorporated areas and as related to utility extensions, operates completely outside of the existing Local Agency Formation Commission process.

AB 68 is likely to face significant opposition from housing developers, organized labor, and local governments. It has been referred to the Assembly Committee on Housing and Community Development and the Assembly Local Government Committee.

Governor Pivots on Oil Industry Windfall Profits

After months of taking the oil industry to task over allegations of fleecing California motorists at the pump, Governor Newsom **announced a new proposal** to create a dedicated, year-round independent watchdog to root out price gouging by oil companies. His new proposal would empower, although not require, the California Energy Commission (CEC) to investigate industry profits, launch a rulemaking process, and impose penalties or refer issues to the Attorney General (AG).

The CEC proposal is decidedly different than his earlier proposals to cap oil industry profits, which faced concerns and skepticism from both sides of the aisle in the Legislature during the special session hearing on the subject February 22. It’s unknown whether the revised proposal will be better received by the Legislature and garner the majority vote needed in both houses. Among the issues that remain unresolved are determining what levels of profit constitute a violation, the size and scope the penalty, and whether oil companies would be able to dispute the CECs findings or otherwise challenge the outcome of CEC or AG investigations.

DHCS Requests Asset Flexibility During Continuous Coverage Unwinding

On March 10, DHCS submitted a waiver flexibility request to the Centers for Medicare & Medicaid Services (CMS) to support the unwinding of the continuous coverage requirement. The Section 1902(e)(14)(A) waiver flexibility seeks to make it easier for Non-Modified Adjusted Gross Income (MAGI), for example seniors and persons with disabilities, to renew their Medi-Cal coverage—and remain covered until California eliminates the asset limit ***on January 1, 2024***. It will allow counties to use existing case file information to grant eligibility during renewals and disregard any increases in assets since the last Medi-Cal determination. Also, for individuals who were not initially subject to an asset test at the time of their Medi-Cal application, but have now transitioned into a program requiring one, the waiver flexibility would allow California to renew based on their last known eligibility determination on file. DHCS is requesting this authority to be effective retroactive to March 1, 2023, and remain in effect ***through December 31, 2023***.

The requested waiver flexibility only applies to Medi-Cal renewals and not to new applications. New Medi-Cal applications, specifically for Non-MAGI programs, are still subject to the asset test until it is eliminated. The asset test for new Medi-Cal non-MAGI applications was raised to $130,000 per individual and $65,000 per additional person on July 1, 2022. Non-MAGI Medi-Cal members will still need to meet all other Medi-Cal eligibility criteria, including income, to remain Medi-Cal eligible at redetermination.

Once CMS approves the request, DHCS would issue immediate guidance to counties via a Medi-Cal Eligibility Division Information Letter.