
*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.*

# April 21, 2023

## CA Supreme Court Rejects Challenge to CARE Act

This week, the California Supreme Court rejected a challenge filed in January by a coalition of disability and civil rights advocacy organizations – Disability Rights California, Western Center on Law and Poverty, and the Public Interest Law Project – that sought to block implementation of the CARE Act (**SB 1338**, 2022). The groups argued that the new civil court process designed for individuals with specified mental health diagnoses would violate due process and equal protection rights under the state constitution, while "needlessly burdening fundamental rights to privacy, autonomy, and liberty." The Governor welcomed the court's denial of the litigants' petition, stating that it "ensures that the implementation of the CARE Act will continue without delay." Read more in the *Sacramento Bee's* coverage **here**.

## Dreary April Revenues for the State

The Department of Finance monthly **report** for April indicates more bad news for state revenues – year-to-date General Fund revenues remain about $5 billion below Administration estimates due in large part to lower personal income and corporate tax receipts. March cash receipts were $4 million below forecast as shortfalls in personal income and corporation tax revenues were largely offset by strength in sales tax, insurance tax, pooled money interest and other revenues. The Administration's monthly cashflow estimates reflect the expected impact of delayed payment and filing deadlines for Californians in most counties to May 15 due to winter storms and flooding in January. These deadlines were further delayed to October 16, which adds significant uncertainty to the interpretation of cash results.

Personal income tax revenues for the first nine months of the fiscal year were $4.449 billion below the forecast of $76.222 billion and $828 million below forecast in March. Personal income tax receipts are weak as indicated by withholding trends, however, gauging the magnitude of the overall shortfall is difficult since payments' variance relative to the forecast could be overstated or understated since taxpayers' behavioral response to the delayed tax deadlines may differ from the assumptions made in the Governor's Budget.

Corporation tax revenues for the first nine months of the fiscal year were $877 million below the forecast of $19.944 billion and $95 million below forecast in March. Pass-Through Entity (PTE) Elective Tax payments were $312 million above projections in March and $1.418 billion higher for the fiscal year-to-date.

Sales and use tax cash receipts for the first nine months of the fiscal year were $215 million above the forecast of $25.325 billion. March receipts were $696 million above forecast, fully offsetting shortfalls from prior months that were due to delays in the recording of payments.

## Assorted Legislative Updates ... and What is a Two-Year Bill?

As we have reported, the legislative process is currently in high gear given next Friday's deadline for committees to dispose of all measures with a fiscal impact. Below we offer updates on some key developments on bills of interest, including two that are now "two-year bills."

We don't expect everyone to understand legislative parlance, so a quick reminder about what that term means. Bills introduced in the first year of a two-year session (always an odd-numbered year) can be paused at different points during the Legislature's deliberative process. Often, bills are carried over for further conversation into the second year of session because they are complex and/or controversial. Making a measure a "two-year bill" takes the pressure off of meeting first-year legislative deadlines, allows more time to consider options and have further conversations with stakeholders, and avoids having to reintroduce a brand new piece of legislation in the second year of session. All two-year bills (except constitutional amendments) must pass out of their house of origin by the end of January in the second year of session (i.e., January 2024 for bills introduced this year) in order for them to remain viable. So, when you read below that a bill has been made a two-year bill, it simply means that activities for this year will pause, and the bill will be eligible for additional deliberation in 2024, subject to the deadline requirements we have just described.

### AB 702 (Jackson) – Bill to Redirect JJCPA Resources Held for Further Deliberation Until 2024

**AB 702**, by Assembly Member Corey Jackson, proposes to redirect Juvenile Justice Crime Prevention Act (JJCPA) funds, revise the composition of local Juvenile Justice Coordinating Councils (JJCC), and recast various elements of required multiagency juvenile justice plans. This measure largely mirrors previous legislative efforts – AB 1007 (Jones-Sawyer, 2020) and SB 943 (Bradford, 2021). AB 702 was scheduled for hearing in the Assembly Public Safety Committee on Tuesday; late yesterday, we learned that the author decided to pull the measure from hearing next week and designate it as a two-year bill.

UCC, RCRC, and CSAC had weighed in with joint opposition to this measure, primarily because of provisions that would require redirection of 95 percent of JJCPA funds to community-based organizations or non-law enforcement public entities. These changes would have considerably destabilized core probation support of local juvenile justice programs and services at the local level. JJCPA funding is in many jurisdictions dedicated to staffing and personnel costs that make up the backbone of our juvenile probation departments. These expenditures have been and continue to be wholly eligible and lawful under JJCPA.

The county coalition raised as part of its opposition advocacy that the proposed redirection in AB 702 appears to ignore constitutional protections enacted under Proposition 30 (2012) that ensure resource certainty and stability for all programs realigned in 2011, including JJCPA. The proposal also is especially troubling given that counties are (1) working diligently toward full implementation of SB 823 (2020), which shifted responsibility for the care and custody of all system-involved youth to county responsibility and (2) supporting the transition of and subsequent care for several hundred young people who will remain in the jurisdiction of the Department of Juvenile Justice (DJJ) once all state facilities close on June 30, 2023.

### AB 68 (Ward) – Bill Limiting County Land Use Authority Won't Advance in 2023

The Assembly Housing and Community Development Committee will not hear **AB 68** by Assembly Member Chris Ward who represents portions of San Diego County. The bill had attracted significant opposition from developers and business interests, in addition to significant local government concerns related to land use authority and jurisdictions' ability to meet state housing goals.

AB 68 would have imposed 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. Moreover, the bill made no changes to reduce the regional housing needs allocated to unincorporated areas and would have seriously impeded county efforts to comply with state housing targets through rezoning because the provision allowing local agencies to override its strict limitations on new development required a compliant housing element.

The bill also turned 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's limitations. Finally, while the bill purportedly included exceptions when rezoning is needed to meet regional housing needs, it required detailed findings that must be endorsed by the gubernatorially-appointed Office of Planning and Research.

### AB 412 (Soria) – Legislature Grapples with Distressed Hospitals

Since the closure of Madera Community Hospital, the Legislature has been increasingly interested in the health of California hospitals. This week, Beverly Hospital in Montebello filed for bankruptcy, and several other facilities are publicly talking about their financial distress. Also his week, the Assembly Health Committee heard **AB 412**, a measure by Assembly Member Esmeralda Soria who represents portions of the Counties of Fresno, Madera, and Merced. The bill would establish the Distressed Hospital Loan Program (DHLP), which – until January 1, 2032 – would provide interest free cashflow loans to (1) not-for-profit hospitals and public hospitals, as defined, that are in significant financial distress or (2) governmental entities representing a closed hospital.

During the policy committee hearing this week, Assembly Member Soria remarked that "[t]his issue of hospital closures is really important as the state continues to pursue expansion of coverage. This is a reminder that folks in my area may qualify for Medi-Cal, but what does that mean if they can't access care?"

Two physicians from Madera joined Assembly Member Soria offering primary testimony on her bill. Dr. Mohammad Ashraf, a cardiovascular disease specialist in Madera who has practiced in the area for over 40 years, expressed immense grief and frustration alongside his community and patients due to the closure of Madera Community Hospital.

"It's devastating that we have patients who literally have no access to medical care at this time," said Dr. Ashraf. "There's no way we can let this continue to happen and people keep dying here. This is California, this is the United States, and we need to really be proactive in this. We cannot just give up and lose hope (…) the hospital has to reopen."

Assembly Health Committee passed AB 412 with a unanimous 15 to 0 vote; the bill next heads to Assembly Appropriations Committee for a fiscal review. The Newsom Administration is increasingly interested in the distressed hospital issue, and rumors continue to swirl about whether there will be early budget action to create a funding stream for distressed hospitals. More to come.

### SB 770 (Wiener) – Union Dynamics Emerge Over Unified Health Care Financing

The Senate Health Committee's hearing this week on **SB 770**, by Senator Scott Wiener, revealed labor disagreements on how to move forward on single-payer health care. The California Nurses Association (CNA), which has long advocated for single payer, testified in opposition to SB 770. The measure directs the Secretary of the California Health and Human Services Agency to pursue waiver discussions with the federal government with the objective of a unified health care financing system that incorporates specific features, including a comprehensive package of medical, behavioral health, pharmaceutical, dental, and vision benefits, without cost sharing for essential services and treatments.

SB 770, sponsored by Healthy California Now, is supported by several labor unions, including California Conference of Machinists, California Federation of Teachers AFL-CIO, California Teamsters Public Affairs Council, National Union of Healthcare Workers, UNITE-HERE, AFL-CIO, as well as other health care advocates such as Western Center on Law and Poverty.

In its opposition, CNA argued that action on the single payer issue is long past due; the nurses' view is that enough groups have been convened and enough reports have been written on the issue. Rather than put any additional effort into the approach contemplated in SB 770, CNA urged to Legislature to move a bill laying out a single payer system, then ask the federal government for permission to finance and implement it. Other opponents to SB 770 include the California Chamber of Commerce and the California Association of Health Plans.

For its part, CNA is sponsoring AB 1690, by Assemblymember Ash Kalra, which currently expresses legislative intent to guarantee accessible, affordable, equitable, and high-quality health care for all Californians through a comprehensive universal single-payer health care program that benefits every resident of the state. AB 1690 is a two-year bill.

Senate Health Committee passed SB 770 measure on a 7-2 vote, with three members abstaining. The Senate Appropriations Committee will consider the measure next.

## This Week's HHS Budget Hearing Updates

Assembly Budget Subcommittee No. 1 on health and human services issues met twice this week. On Monday, the subcommittee spent nearly nine hours discussing behavioral health issues (**agenda**), including the Mental Health Services Oversight and Accountability Commission (**handout**), children and youth behavioral health issues (**handout**), suicide prevention, Department of State Hospital issues – including the Incompetent to Stand Trial waitlist, justice involvement and behavioral health, homelessness and behavioral health, workforce, managed care and behavioral health, CalAIM behavioral health initiatives, and substance use disorder prevention and treatment. Each of the topics included a panel of presenters to discuss each topic. The workforce panel underscored how critical workforce will be to the plethora of behavioral health initiatives occurring in this state. All items were held open. Note that the agenda ***did not*** include a presentation on the Governor's recently announced proposal for Mental Health Services Act modernization and reform.

On Wednesday, the subcommittee discussed aging and long-term care issues (**agenda**). In his opening remarks, Chair Joaquin Arambula noted that following major funding reductions to aging programs during the Great Recession, the Legislature and Governor have since made important reinvestments. He also noted that the Legislature is mindful of the commitments made in Master Plan on Aging and, recognizing the state's current fiscal outlook, they nevertheless want to avoid cuts in these life sustaining programs for seniors and persons with disabilities. Assembly Member Corey Jackson raised the projected increase in the senior population over the next decade and focused specifically on senior housing, stating: "This is something we can actually be prepared for if we think long term and are disciplined and make sure we get the basics right."

The first panel discussed human services programs that support seniors as well as senior homelessness. Kim Johnson, Director, California Department of Social Services, gave an overview of the department's participation in the Master Plan on Aging and the programs overseen by CDSS that serve seniors.

Margot Kushel, MD, University of California San Francisco (UCSF) Center for Vulnerable Populations and UCSF Benioff Homelessness and Housing Initiative talked about her research on homeless seniors. She reported that of the 136,000 single homeless adults in California, nearly half are over 50. Homelessness at its root is a housing problem. Older adults are most likely to be cost burdened on rent/housing costs. Nearly half of older homeless adults had their first event of homelessness after the age of 50. The older adult experiences a crisis of some sort – job loss, divorce, illness, death of parent or partner – that leads to homelessness. Homeless older adults are at 3.5 times more risk of dying than same age counterparts who are housed. However, if that senior is rehoused, the risk of dying drops. Dr. Kushel also observed that the state has a structural deficit in deeply affordable housing that will require considerable time and resources to address. While she noted that it may seem like what we are doing isn't working, there is no question that the state's investments so far have prevented even more people from being homeless. The early evaluation of HomeSafe program found that we are reaching people at extraordinarily high risk and preventing homelessness. As the eviction moratorium ends, older adults may be facing a new wave of evictions. For older adults, Kushel suggested that a shallow subsidy may be enough to keep them housed – perhaps as small as $100 per month.

Service Employees International Union (SEIU) talked about three priority investments: (1) establishment of statewide collective bargaining, which was accompanied by a request that the subcommittee appropriate start-up costs for a phased-in implementation to give state departments time to adequately staff up; (2) creation of a respite referral registry; and (3) an extension on the timeline and appropriation of funds to continue the IHSS Career Pathways, which is funded by the Home and Community Based Services waiver and is structured as a one-time program. The representative for United Domestic Workers (UDW)/American Federation of State, County, and Municipal Employees (AFSCME) focused his remarks on establishing statewide collective bargaining. Assembly Member Arambula asked the Administration to provide technical assistance on the funding required for the IHSS statewide collective bargaining proposal, as well as to provide a timeline.

The representative from the Californians for SSI Coalition talked about the importance of SSI to older adults and people with disabilities. Even with the recent restorations to the SSI grants they are still at 90% of federal poverty level (FPL). The Coalitions is asking for (1) a three-step increase to bring SSI grants to 100% FPL; (2) an update to the food allotments to senior benefits to keep up with CalFresh; and (3) reviving the special circumstances program (which paid for things like housing repairs, moving expenses, furniture).

The representative from Justice in Aging noted that homelessness among people over age 65 is growing the fastest, having almost tripled since 2017. Housing and rent affordability are key drivers of homelessness in older adults. Older adults struggle with rent because they are on fixed incomes that don't keep up with rent increases; they also struggle when they lose a spouse and their household income changes. Older renter households over the age of 75 face the highest rent burdens. Justice in Aging is seeking $500 million to create statewide rental assistance for older adults and adults with disabilities.

The County Welfare Directors Association talked about IHSS administration underfunding, which currently is facing a gap of $242 million. There are two major issues: (1) the current methodology underfunds the actual cost of workers by about 40% and (2) the methodology does not account for actual workload. The state does not provide administrative funding for cases approved without paid hours, which represent 12% of cases. However, those cases still require assessments and social worker time. In some counties, IHSS caseloads are as high as 300 to 400 per worker. High caseloads impact assessments, hinder timely reporting, and contribute to staff burnout and turnover. Additionally, CWDA is concerned that the Administration's budget proposal does not include funding for the IHSS expansion for undocumented individuals. The Administration is projecting that IHSS enrollment of undocumented adults will lag behind the Medi-Cal expansion by six months; it is not clear why the Administration is making that assumption.

Finally, the Senate Budget and Fiscal Review Subcommittee No. 3 on HHS issues met on Thursday to discuss mental health and various Medi-Cal issues (**agenda**). The agenda included a couple of panels discussing the behavioral health continuum, including the Behavioral Health Continuum Infrastructure Program, Behavioral

Health Bridge Housing, behavioral health care workforce initiatives, Community Care Expansion, and the Children and Youth Behavioral Health Initiative.

The agenda also included stakeholder budget requests. The California Hospital Association presented their $1.5 billion one-time request to stabilize hospitals. The hospitals are arguing that while Medi-Cal reimbursements have remained stagnant, labor expenses have increased 16 percent since 2019, pharmaceutical costs have grown by 41 percent, and medical supply costs have increased 19 percent. Dozens of hospitals – many that serve high numbers of Medi-Cal patients – are at great risk due to Medi-Cal rates that pay 74 cents on each dollar that it costs to provide care. The hospitals' one-time budget request is intended to stabilize hospitals while longer term Medi-Cal reforms are developed and implemented, such as the Managed Care Organization tax.

Senator Caroline Menjivar, who chairs the subcommittee, asked CHA how many hospitals would be helped by the proposal, how the proposal would help the hospitals that have already closed, how a one-time proposal will address structural issues for hospitals, and whether CHA will be providing language about how the funds can be spent. Senator Susan Eggman asked whether the hospital funding deficit is related to COVID or whether it is the result of a structural imbalance. CHA clarified that for the vast majority of hospitals, financial issues are stemming from a structural imbalance.