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.

May 26, 2023

Next Week's House of Origin Deadline Means Long Floor Sessions Await

By next Friday, all bills introduced in 2023 must clear their house of origin (Assembly bills must clear Assembly, and Senate bills must pass out of Senate) before Friday, June 2. Accordingly, both houses will hold floor session only to consider and act on the hundreds of bills that have successfully cleared policy and fiscal committees. When the houses adjourned floor sessions this morning, members were asked to be prepared for long days next week. We will report outcomes on UCC bills of highest priority next week.

Governor Signs Infrastructure Permitting Executive Order and Unveils Legislative Proposals

Governor Newsom unveiled a package of 10 statutory proposals aimed at accelerating infrastructure projects in California and signed a related Executive Order on May 19 at the site of a future solar farm currently under development in Stanislaus County. **Executive Order N-8-23**, among other things, orders the creation of an Infrastructure Strike Team (Strike Team) to work across all state agencies to maximize federal and state funding opportunities for infrastructure projects. To do so, the Strike Team will:

1. Identify projects for streamlining efforts with a focus on projects that have significant challenges but also opportunities for meaningful job creation;
2. Support coordination between all levels of government on project review, permitting, and approvals;

3. Support infrastructure in specific sectors by investing in adjacent sectors (e.g. transportation and energy investments that support housing projects); and
4. Share challenges and best practices and identify areas for improvement.

The Executive Order also calls on the Strike Team to track individual projects and establish dashboards so that project status and milestones information is available to the public.

The legislative proposals, which he intends to introduce as trailer bills to the 2023-24 state budget, including the following (language and fact sheets can be found **here**):

1. **CEQA Administrative Record** – would clarify and streamline the administrative record requirements to allow CEQA administrative records to be developed more expediently, with fewer litigation delays. Specifically, the bill creates timeframes the petitioner must follow if they elect to prepare the administrative record, provides that internal emails within the lead agency that are not presented to the final decision making body are not required to be included in the record, and allows electronic filing of the record.
2. **CEQA Judicial Streamlining –** to the extent feasible, requires that any judicial challenges and appeals be completed within 270 days for qualifying projects in the areas of energy infrastructure projects, federal CHIPS Act-eligible manufacturing projects, transportation-related projects, and water-related projects. Eligible projects must be certified by designated state officials. For transportation projects, the streamlined litigation pathway is limited to 10 state and 10 local or regional transportation projects certified by the Secretary of Transportation to advance the goals of the Governor's Climate Action Plan for Transportation Infrastructure.
3. **Accelerating Environmental Mitigation for Transportation –** would allow for the direct purchase of environmental mitigation services when required by an environmental permitting agency and would create an informal provider selection process for other situations.
4. **Job Order Contracting** - would authorize Caltrans to use the job order contracting method to complete routine transportation projects and maintenance work quickly and easily.
5. **NEPA Assignment for Rail and Public Transit Projects –** would remove the current sunset provision and permanently authorizes the consent of California to the jurisdiction of federal courts and waiver of sovereign immunity by California with regards to the performance of certain federal environmental responsibilities under the NEPA.
6. **Progressive Design Build –** would allow the Department of Water Resources (DWR) and Caltrans to establish a progressive design-build pilot program until January 1, 2031 – up to eight projects per department.

7. **Delta Reform Act Refinement** – would establish a 60-day statute of limitations to challenge a Delta Stewardship Council action, including decisions on appeals.
8. **Reclassification of Fully Protected Species** – would reclassify fully protected species to facilitate responsible and appropriate development but would also allow the Department of Fish and Wildlife to require mitigation and other actions to contribute to the conservation of these species.
9. **IRA Green Financing** – would allow the California IBank and DWR to access and utilize federal funding provided in the Inflation Reduction Act to finance projects that reduce greenhouse gas emissions.
10. **Direct Contracting for I-15 Wildlife Crossings** – would authorize Caltrans to directly contract to construct three wildlife crossings over I-15 as part of the Brightline West high-speed rail project between California and Nevada.

The path forward for the bills in the Legislature is uncertain. None of the bills was heard during Assembly Budget Committee hearings this week, with Assembly Budget Chair Phil Ting indicating that up to four different Assembly policy committees would later consider the bills. On the Senate side, Budget and Fiscal Review Subcommittee No. 2 voted unanimously to reject each of the 10 bills without prejudice.

State Budget Update: Houses Take Steps Towards Solidifying Legislative Budget Architecture

This week, the Senate and Assembly – through slightly different mechanisms – took action on hundreds of post-May Revision budget proposals, marking a considerable milestone in formulating a Legislative budget construct from which three-party negotiations to land a June 15 balanced budget will begin. The Senate budget actions were taken through a series of vote-only subcommittee hearings across the week, while the full Assembly budget committee met as a body yesterday and adopted all proposed actions in a single hearing. Note that while the respective houses' approach appears largely aligned, there also are differences that will need to be reconciled as part of the overall negotiations. A summary of each house's actions from this week can be reviewed here: **Assembly** | **Senate**.

There are several instances where the budget committee or subcommittees approved a "legislative proposal" with minimal description; language for such proposals generally is not available at this time and will be developed over the course of the next several weeks. As we await more details that will emerge from negotiations in the days ahead, we note select actions below – grouped by policy areas/issues – from the Legislature's budget package. Should you have any questions on these items **attached** or other budget matters, do not hesitate to reach out.

LAO Sounds Alarm in Multiyear Budget Outlook

This week, the Legislative Analyst's Office (LAO) released its **assessment** of the state's general fund condition through 2026-27. In addition to pointing out that their revenue assumptions are considerably lower than the Administration's and that their expenditure estimates are considerably higher, the LAO's main findings are as follows:

Multiyear one-time and temporary spending commitments are no longer affordable. As a result, the LAO recommends that the Legislature (1) reduce one-time spending in 2023-24 by approximately $7 billion and (2) fully eliminate out-year one-time and temporary spending.

The Governor's proposed spending delays also are likely to be unaffordable. The LAO therefore recommends that the Legislature identify the highest priority one-time spending for inclusion in this year's budget because future years spending is unlikely to be affordable.

The state's reserves would cover nearly half of the projected cumulative budget problems over the multiyear period. Using the LAO's estimates, the state would have $22 billion in general purpose reserves available to cover a projected $52 billion in deficit. For the remaining $30 billion shortfall, the LAO suggestion to reduce one-time and temporary spending would offer an additional $18 billion in solutions. The remaining $12 billion gap would have to be addressed using other options.

Health Care Minimum Wage Bill Amended; Senate Vote Slated for Next Week

SB 525, Senator Maria Elena Durazo's bill to create a health care minimum wage, was amended yesterday ahead of the Senate floor vote next week. The amendments would (1) revise the implementation timeline to increase the health care minimum wage to $21/hour in June 2024 and to $25/hour in June 2025; (2) revise the inflator to the lesser of 3.5 percent or CPI (instead of the greater of); and (3) revise the salary minimum for salaried employees from 200% to 150% of the health care minimum wage (from $104,000 to $78,000). None of the contract or other provisions are being changed. The amendments do not remove the oppose coalition's position on the bill – which includes hospitals, clinics, counties, and other health care providers. The bill must be voted out of the Senate by June 2 to meet the house of origin deadline.

Assembly Hosts Joint Informational Hearing on Fentanyl

On Wednesday, the Assembly Select Committee on Fentanyl, Opioid Addiction, and Overdose Prevention along with the Assembly Public Safety Committee and the Assembly Health Committee convened in a joint information hearing to discuss fentanyl and the state's overdose crisis. The five-hour hearing featured four panels that addressed (1) fentanyl and addiction, (2) an overview of state and local public health responses, (3) an overview of state and local legal responses, and (4) education efforts. See the agenda and related materials at these links: **agenda** | **background paper** | **comparative data by county** on fentanyl deaths and opioid-related ED visits (2019 and 2021).

The hearing was marked by equal parts despair and frustration – despair most acutely articulated by the families who shared stories of loved ones lost to fentanyl poisoning and frustration across the board about the lack of efficacious treatment, the difficulty in finding solutions, and the ideological differences in defining the best and most effective approach (i.e., enforcement/increased penalties vs. treatment/public health response) to addressing the state's persistent crisis. (Read more in CalMatters' coverage **here**.) Expect policy conversations about fentanyl to continue through the remainder of the legislative year.

Managed Care Organization (MCO) Tax Conversations Heat Up

The Senate Budget and Fiscal Review Subcommittee No. 3 met on May 23 to discuss the Administration's Managed Care Organization (MCO) tax proposal. The subcommittee heard from the Administration, LAO, and a panel of groups that have been working on a MCO tax ballot initiative, including the Local Health Plans of California, the California Medical Association, the California Hospital Association, the California Primary Care Association, SEIU, the California Association of Health Plans, and Planned Parenthood.

The presentations and ensuing discussion with Senators lasted nearly three hours. The provider-plan-labor voices were clear that they prefer spending the MCO tax revenues over three-and-a-half years instead of eight to 10 years as the Administration proposed. The panelists discussed their ideas for investments in the Medi-Cal program, which included primary and specialty care, behavioral health, emergency departments, and workforce/graduate medical education. The clinics specifically advocated for (1) $250 million for an enhanced access and quality pool via a Medi-Cal directed payment program; (2) $50 million directed to same day encounters; and (3) $50 million community health workers as an allowable encounter for federally qualified health centers.

Additionally, providers were alarmed that many of the provider rate increases would not be implemented until January 2025. Senator Menjivar pushed back on the Administration over its expenditure timeline and assumption that the federal government will not approval another similar sized MCO tax in 2026. Further, Senators Menjivar, Grove, and Eggman all expressed concerns that there are no guardrails in the proposal on the General Fund backfill component. They are concerned that the MCO tax revenues would not actually be used to support the Medi-Cal program.

Senator Grove asked how the MCO proposal increases rates for hospitals. The Department of Health Care Services (DHCS) responded that they are planning to increase rates in 2025 and will be looking at outpatient and acute care. DHCS Director Michelle Baass reminded the subcommittee about the $150 million in the Distressed Hospital Loan Fund recently approved by the Legislature. Senator Menjivar responded that her hospital could use $20 million of the fund and that $150 million is not enough to address statewide needs. Senator Grove chimed in that between Kaweh Delta Hospital (in her district) and Senator Menjivar's hospital, and one other hospital, the $150 million will be gone.

Senator Menjivar closed the discussion by outlining the main themes and points of consensus she heard: (1) the provider-plan-labor panel was not comfortable with the proposed 8 to 10 year spend, but investments are needed in the near-term (over a period of 3.5 years); (2) guardrails on the General Fund backfill must be in place to ensure Medi-Cal investments; (3) hospitals need support now; (4) investments in community health workers and same day billing also are needed; 5) investments also are needed in specialty care and behavioral health; 6) we must think ahead and invest in the pipeline – graduate medical education and workforce; and 7) protections for providers also must be secured.

The following **chart** – which was not available when the May Revision was released – details the Administration's MCO tax revenues and expenditures.

On May 25, the **s**ubcommittee adopted placeholder TBL consistent with the Administration's proposed MCO tax, but with modified placeholder TBL regarding expenditure of tax proceeds on investments in the Medi-Cal program, as follows:

Expenditure Timeframe. Subcommittee staff recommends modifying the TBL to expend the available funding of $10.3 billion over the course of the tax period, until December 31, 2026, rather than the eight to ten years proposed by the Administration.

Categories of Expenditure. Modified the TBL to, in addition to the investments proposed by the Administration for reimbursement rate increases for primary care, obstetrics, and non-specialty mental health, provide for additional Medi-Cal investments in the following categories:

- Primary care reimbursement rates
- Specialty care reimbursement rates
- Community health workers
- Family planning and women's health
- Access to abortion services

- Clinic quality improvement and access
- Ground emergency transfers
- Emergency department access
- Inpatient psychiatric bed capacity
- Same day visits for community clinics
- Graduate medical education
- Allied loan repayment
- Medi-Cal workforce
- Loan repayment through the CalHealthCares program
- Elimination of the trigger for continuous coverage for children zero to five adopted in the 2022 Budget Act
- Elimination of the trigger for share of cost reform adopted in the 2022 Budget Act
- Various investments in mental health
- Reimbursement rate increases for: 1) private duty nursing, 2) pediatric day health centers, 3) air ambulance providers, 4) community-based adult services (CBAS) centers, 5) non-emergency medical transportation (NEMT) providers.

Workforce Issues. Modified the TBL to address workforce issues.

When Assembly Budget convened on May 25, they took similar but not identical action on the MCO tax. The Assembly assumes the General Fund offset (reduced General Fund costs) from the Governor's MCO proposal—nearly $3.4 billion for the 2023-24 budget window. However, exact details of provider rate increases and other features of the package remain subject to discussion. The Assembly Health Committee and Assembly Budget Subcommittee No. 1 will be meeting on Tuesday, May 30 to discuss the MCO tax; the hearing will include a similar panel to the Senate.

More Information Available About BH-CONNECT Waiver

DHCS is changing the name of the California Behavioral Health Community-Based Continuum (CalBH-CBC) Demonstration to the Behavioral Health Community-Based Organized Networks of Equitable Care and Treatment (BH-CONNECT) waiver. The name is new, but the vision, objectives, and the general farmwork remain the same.

In a Medi-Cal Stakeholder Advisory Committee meeting this week, DHCS shared that they are updating the BH-CONNECT timeline and adding a new service. Please note that the May Revision also indicated that the proposal was being expanded to include a workforce proposal; DHCS indicated that they are continuing to develop the workforce proposal and that more details will available soon.

In recognition of that it will take time to stand up the new benefits being proposed in BH-CONNECT, the Administration is revising the timeline to reflect a staggered and longer implementation approach. They are not changing their underlying proposal – that in order to access the IMD benefit, the county must implement all optional benefits. DHCS acknowledged that it will be challenging for some counties to opt into the waiver. But BH-CONNECT is not really an IMD waiver but rather was designed to expand access to community behavioral health services.

The new service being **added** is Clubhouse Services, which are to be spaces for relationships, linkages, supportive services, and psychosocial work. Fidelity to clubhouse model leads to improvement in quality of life and reduced hospitalizations.

DHCS will be hosting a BH-CONNECT webinar on June 8 from 1 to 2:30 p.m. The department anticipates releasing a draft concept paper in late June/early July 2023. Following stakeholder review, BH-CONNECT webinar sessions, and incorporating feedback received during public comment, DHCS plans to submit the BH-CONNECT waiver to the federal government in the fall of 2023. The BH-CONNECT webpage is live **here**.