



*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](#).*

**August 10, 2023**

## **Back to Work: Legislature Returns Monday for Final Month of Business**

The Legislature's four-week break having sailed by, members return on Monday to begin their final month of the 2023 session. Except for measures that have been granted rule waivers – like **SB 326**, Senator Susan Eggman's measure that carries out the Administration's far-reaching behavioral health reforms – policy committee deadlines have passed. For virtually all other bills that remain alive, they are either awaiting consideration on the floor in the second house or – for measures with fiscal impacts – are awaiting hearing in the Appropriations Committee. Recall that the more costly fiscal bills face another round of Suspense File hearings wherein the Appropriations Committee in each house will determine which of the hundreds of measures that impose state or local costs will continue through the legislative process. Those hearings will take place during the last week of August. The final two weeks of session – which adjourns on September 14 – will consist of floor hearings only as members determine which bills will make it to the final step – to the Governor for his review and action – in the labyrinthian legislative process.

Read more below on several bills of interest and import, including where they are in the legislative process.

### **SB 326 (Eggman) and AB 531 (Irwin) – Governor's Behavioral Health Modernization Proposal and Infrastructure Bond**

As reported in previous updates, the Governor is pursuing far-reaching reforms of the state's behavioral health system via two measures: (1) **SB 326** by Senator

Susan Eggman, which represents the policy bill to modernize the Mental Health Services Act and to make other behavioral health system changes; and (2) **AB 531** by Assembly Member Jacqui Irwin, which would authorize up to \$4.7 billion in general obligation bonds for behavioral health infrastructure and veteran housing. Both bills appeared in print for the first time in mid-June.

Given the breadth and complexity of SB 326, the Legislature pushed the policy hearing for SB 326 into August. On Tuesday, August 22, the Assembly Health Committee and Assembly Housing and Community Development Committee will hold a joint informational hearing on the Governor's overarching proposal in the morning. Following that hearing that same day, the Assembly Health Committee will convene a policy committee hearing solely focused on Senator Eggman's SB 326, where committee members will hear perspectives from a variety of stakeholders, including counties and their behavioral health directors. As for AB 531, that measure already passed two policy committees (Senate Housing Committee and Senate Governance and Finance Committee) and next will be heard in the Senate Appropriations Committee on August 21. Stay tuned for more information in the days and weeks ahead.

#### **SB 525 (Durazo) – Health Care Employee Minimum Wage**

**SB 525**, Senator Maria Elena Durazo's measure to create a health care employee minimum wage, passed out of Assembly Labor Committee on July 12 with a 5-2 vote. The bill has been amended once in the Assembly, and those amendments were to exempt waste haulers from the minimum wage requirements in the bill.

Senator Durazo had stated on the Senate floor that she would be working on additional amendments to the bill to address concerns raised by other Senators, including a provision to address distressed hospitals, a phased-in approach on imposition of wage increases, and addressing clinic concerns. To date, no amendments have been made to address those issues. SB 525 will be heard in Assembly Appropriations Committee when the Legislature returns and is anticipated to go to the suspense file.

#### **AB 505 (Ting) – Office of Youth and Community Restoration**

**AB 505**, by Assembly Member Phil Ting, would upend several key provisions negotiated as part of SB 823, the 2020 measure that realigned the final piece of the juvenile justice continuum to county governments. Although counties – represented by CSAC, UCC, and RCRC in partnership with the Chief Probation Officers of California and the California Behavioral Health Directors Association – broadly opposed the realignment legislation in 2020, these groups successfully pushed back on a range of provisions that would have further complicated implementation and greatly weakened county authority. Regrettably, AB 505 would enact three sets of problematic provisions that would inappropriately

hinder counties' diligent and responsible efforts to provide appropriate care, treatment, and housing to youth and young adults with the highest level of need.

Of primary concern are the provisions in AB 505 that would (1) condition counties' receipt of DJJ Realignment funding on the state's review and approval of a local plan and (2) grant new and inappropriately broad authority to the Office of Youth and Community Restoration (OYCR), a new state office established under SB 823. Counties would be subject to an annual plan review and approval process through OYCR; absent an approved plan, counties would not be entitled to receive funding to support the new responsibilities transferred under DJJ Realignment. Additionally, the measure also would make changes to the structure of the local planning body charged with designing the county's approach to meeting the needs of youth and young adults now in their care; it also would specify that the Board of Supervisors shall be directed by the state-approved plan in making local allocations. Finally, AB 505 transfers all juvenile justice-related responsibilities from the Board of State and Community Corrections (BSCC) to OYCR, including all regulatory and inspection authority.

AB 505 is set for hearing on Monday in the Senate Appropriations Committee. In addition to the statewide county associations, a number of individual county boards of supervisors as well as the probation chiefs' association have weighed in with opposition. The crux of county concerns is the perspective that the bill inappropriately interferes with the authority and responsibilities that were expressly realigned to county governments.

### **AB 1080 (Ta) – Criminal Justice Realignment (AB 109) Evaluation**

**AB 1080**, by Assembly Member Tri Ta, has been signed into law. This measure requires the Legislative Analyst's Office to prepare a report – due to the Legislature by June 30, 2026 – that evaluates results over a previous 10-year period of AB 109 (2011) implementation. The bill enumerates fiscal and programmatic data elements that the report must address, including, but not limited to:

- Funding received by county for AB 109 implementation (i.e., funds into the local Community Corrections Subaccount) and how those funds were deployed locally;
- Details on local sentencing practices, including the use of straight sentencing, split sentencing, probation, diversion, and other custody alternatives;
- Changes to the county jail population, including any amendments to jail release policies and whether the county was subject to a court-ordered population cap;

- Information on post-release community supervision practices, including probation caseloads, responses to supervision violations, and programming and services offered; and
- Recidivism outcomes, as defined.

AB 1080 authorizes the LAO to prepare the report based on data from every county, or alternatively, a multicounty study using data from at least 15 counties representative of the state.

### **SB 519 (Atkins) – Oversight of Local Adult Detention Facilities**

**SB 519**, by Senate President pro Tempore Toni Atkins, was considerably amended prior to its hearing in the Assembly Public Safety Committee hearing that took place the final week before the Legislature’s summer break. This measure, which seeks to address the matter of deaths in local detention facilities, comes on the heels of a stat audit released in 2022 about the jails in the county represented by the Senate leader.

A previous version of the bill would have, among other things, authorized local boards of supervisors to designate a duly qualified director of local corrections and rehabilitation and confer to that person the authority to oversee the administration of local jails; those provisions were stricken in favor of the creation of the Independent Office of the Local Detention Monitor within the Board of State and Community Corrections. This position would be a gubernatorial appointment, subject to Senate confirmation. SB 519 sets out the various responsibilities of the Local Detention Monitor, which would center on public oversight of a local detention facility in matters relating to in-custody deaths and the delivery of medical and mental health care within local jails. SB 519 also continues to contain numerous provisions subjecting records associated with in-custody deaths to public disclosure.

The bill awaits hearing in the Assembly Appropriations Committee.

### **AB 1291 (McCarty) – Public Posting of Details on Law Enforcement Settlements and Judgments**

**AB 1291**, by Assembly Member Kevin McCarty, would require local governments to post specified information by February 1 annually beginning in 2024 related to police misconduct settlements and judgments. The bill sets out reporting requirements, with additional specifications if the settlement or judgment exceeds \$50,000. AB 1291 is awaiting hearing in the Senate Appropriations Committee.

Governor Newsom vetoed a largely similar measure by Assembly Member McCarty – **AB 603** in 2021 – on the basis that most of the information being

sought is “already available through a Public Records Act request or in court records” and that the mandated activities would impose state reimbursable costs on local law enforcement agencies.

## **Changes to the Felony Incompetent to Stand Trial Growth Cap**

After months of discussions with a coalition of county stakeholders (CSAC, UCC, RCRC, CBHDA, CPOC, and CSSA), the Department of State Hospitals (DSH) has revised the new felony Incompetent to Stand Trial (IST) growth cap and penalty program. On August 1, DSH sent counties a letter and several attachments describing the changes to the program.

Recall that the 2022-23 Health budget trailer bill (**SB 184**) included a statutory framework for DSH to establish a new growth cap on each county’s felony IST determinations with a penalty assessed on counties for individuals exceeding their cap. Assessed penalty funds are to be collected and then returned to the paying county for the purpose of supporting county mental health services and activities. Based on the Administration’s implementation/design of the program, the first two quarterly updates in 2022-23 demonstrated many counties were trending toward substantial fiscal penalties at the end of the first year of the program.

The recent program modifications include the following key elements to ease the magnitude of penalties imposed on counties and improve state-local coordination:

- Shifting the count of individuals from “initiation date of referral” to “commitment date of the individual”;
- Excluding certain individuals from the counting methodology (e.g. program revocations, cancelled commitments, recommitments, re-evaluations, EASS competency findings, and a portion of diversion program participants);
- Creating a tiered penalty rate that can reduce the penalty rate charged to counties from the existing \$113,000/individual to potentially as low as \$69,000/individual based on the types of programs in place within the respective county; and
- Creating a dispute resolution and information sharing process.

Counties should review the provided **documents** closely as they include details on the methodology change, each county’s baseline cap, and measurement against the cap based on unreconciled data. Additionally, DSH is requesting contact information for the information sharing agreement.

## June Revenues: Have We Dodged the Recession Bullet?

The Department of Finance has released its July **Revenue Bulletin** and, while the news appears to be good on its face, readers will detect some uncertainty about what increased revenues mean for the longer-term fiscal health of the state.

The state's 2022-23 fiscal year closed the year with revenues \$954 million above the 2023-24 Budget Act forecast; revenues for June 2023 were \$1.156 billion above forecast. According to Finance, the overage was driven by Pass-Through Entity (PTE) elective tax payments, which exceeded the forecast by \$1.151 billion in June, as well as strength in other revenues. Notably, excluding withholding, personal income tax receipts were \$1.332 billion below the June forecast. Finance notes that this year's June revenue tallies are just not reliable due to this year's delayed tax deadlines.

Personal income tax revenues for the entire 2022-23 fiscal year were \$801 million below the forecast of \$95.828 billion and \$430 million below forecast in June. Corporation tax revenues for the entire 2022-23 fiscal year were \$975 million above the forecast of \$29.019 billion and \$1.128 billion above forecast in June due to PTE payments. Sales and use tax revenues for the entire 2022-23 fiscal year were \$61 million above the forecast of \$34.688 billion and \$122 million above forecast in June.

## Sweeping Initiative Proposes Dramatic Expansion of California Public Records Act

Consumer Watchdog, a California nonprofit organization that advocates for taxpayer and consumer interests, has submitted a draft ballot **initiative** to the Attorney General for Title and Summary, presumably poised for the consideration by voters on the November 2024 ballot. The so-called "Government Transparency Act" would considerably amend the California Public Records Act (CPRA) and would impose significant costs on state and local agencies to comply.

To quickly summarize, the measure changes the process for responding to, maintaining, and managing public records and requests for public records, as follows:

- Establishes extensive standards to ensure that government agencies conduct thorough searches for public records and disclose in writing their efforts to comply with the law.
- Requires that public records are maintained for at least five years.
- Requires public agencies to respond to public records requests within 30 calendar days unless extraordinary circumstances exist.

- Requires public agencies to automatically post a listing of certain public records online, including contracts with vendors and contractors, in a conspicuous manner.
- Allows the public to bring legal actions to address past violations of the law and to prevent threatened future actions that would undermine access to public records.
- Limits a number of existing court decisions on the CPRA, including ensuring that members of the public who sue public agencies to enforce the CPRA have broad discovery access, ensuring that public records include documents maintained by private contractors relating to their work on behalf of public agencies, ensuring that communications exchanged between government employees and entities outside of government are available to the public, and limiting public agencies' use of the attorney-client privilege and the attorney work product doctrine to limit access to public records.
- Limits reverse-CPRA lawsuits.
- Requires public agencies to publish annual reports that provide information about CPRA requests and how the public agency has responded.
- Requires members of the Legislature to disclose lobbying meetings, fundraising events, and public events; requires that records related to legislators' misconduct be provided to the public upon request; requires that all legislative records be retained for a minimum of five years.

Sponsors have been bullish in the press about the likelihood of the measure's eventual success. However, the Attorney General must prepare a Title and Summary and the Legislative Analyst's Office must prepare a fiscal analysis prior to signature-gathering before voters can consider the measure. Stay tuned for more information in the months ahead on this measure and others that will likely be considered on the November 2024 ballot.

### **BH-CONNECT Waiver Released for Public Comment**

On August 1, the Department of Health Care Services (DHCS) began a 30-day public comment period to solicit feedback on a new Section 1115 demonstration request, entitled the California Behavioral Health Community-Based Organized Networks of Equitable Care and Treatment (BH-CONNECT) demonstration. Public comments may be submitted through August 31, 2023. A full draft of the proposed BH-CONNECT demonstration application and initial notice of public interest are posted on the DHCS BH-CONNECT [webpage](#).

DHCS is requesting Section 1115 demonstration expenditure and waiver authorities for specific features of the BH-CONNECT demonstration. In parallel

with the expenditure and waiver authorities requested in the application, DHCS will work with the Centers for Medicare & Medicaid Services (CMS) to implement other features of the BH-CONNECT demonstration that do not require Section 1115 demonstration authority but may require a new State Plan Amendment or be implemented with state-level guidance. Features of BH-CONNECT that DHCS is requesting as part of the Section 1115 demonstration include:

- Workforce initiative to invest in a robust, diverse behavioral health workforce to support Medi-Cal members living with SMI/SED and/or a substance use disorder (SUD) (*implemented statewide*).
- Activity stipends to ensure children and youth involved in child welfare have access to extracurricular activities that support health and well-being (*implemented statewide*).
- Cross-sector incentive program to support children and youth involved in child welfare who are also receiving specialty mental health services (*implemented statewide*).
- Statewide incentive program to support behavioral health delivery systems in strengthening quality infrastructure, improving performance on quality measures, and reducing disparities in behavioral health access and outcomes (*implemented statewide*).
- Incentive program for opt-in counties to support and reward counties in implementing community-based services and evidence-based practices for Medi-Cal members living with SMI/SED and/or a SUD (*available at county option*).
- Transitional rent services for up to six months for eligible high-need members who are experiencing or at risk of homelessness (*available at county option*).
- Federal financial participation for care provided during short-term stays in institutions for mental diseases (*available at county option*).

In addition, DHCS will work with CMS to implement other features of the BH-CONNECT demonstration that do not require Section 1115 demonstration authority, including expanding the continuum of community-based services and evidence-based practices available through Medi-Cal, strengthening family-based services and supports for children and youth, providing training and technical assistance to support fidelity implementation of evidence-based practices, and more.