



*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](#).*

## September 14, 2023

### **No Major Fireworks on the Last Night of 2023 Legislative Year**

We have had some interesting – even surreal – last nights of session over the years. Today's floor debates were productive, cordial, and virtually without drama. The houses got a relatively late start today, given that they had successfully processed a considerable number of bills in the first half of the week. When the Senate and Assembly gavelled in at 1 p.m. today, there were just over 220 measures to attend to – 108 on the Senate floor and 116 on the Assembly floor. Because of the 72-hour in print rule, the houses are barred from taking action on a bill until the measure has been publicly posted for three full days. Of the bills amended on Monday of this week (meaning within the 72-hour window), the last bill became eligible for consideration tonight at 9:08 p.m.; the houses have concluded their work and are wrapping up with closing comments now as midnight approaches. The legislative year having wrapped up, members will return to their districts. They reconvene in Sacramento to kick-off the second year of the 2023-24 season on January 3, 2024. (Please note that during the Legislature's fall break we will publish our updates on an as-needed rather than weekly basis.)

Below we detail the disposition on high-profile bills whose fate was determined this week. We will of course share more details in the days and weeks ahead, but we thank you all for your support and input as we engaged on your behalf on many weighty topics that will affect policy and service delivery across the state for years. Bills are grouped into two categories – those that passed and are on their way to the Governor for his consideration and those that stalled in the closing days of session. In the latter instance, those measures are “two-year bills,” meaning that they will be eligible for further deliberation when the houses return in the New Year. The Governor has 30 days – until October 14 – to make his veto and signing decisions.

#### ***To the Governor***

- **[AB 386 \(Nguyen\)](#)** – Would expand the type and amount of financial records that must be provided during law enforcement investigations of suspected financial elder abuse.

- [AB 426](#) (**Jackson**) – Would increase enforcement and penalties for unlicensed residential facilities for foster youth. The bill would allow the state to place a “temporary manager” over a residential foster care facility and fine county staff. The measure increases penalties on counties for unlicensed placements from \$200 to \$5,000 per day. Additionally, AB 426 would also allow the state to impose civil penalties on a person that fails to “locate appropriate placements for all of the foster children and youth residing in an unlicensed facility within 60 days after receiving the formal statement of allegations.”
- [AB 504](#) (**Reyes**) – Would establish and protect the right of public employees, except certain “essential employees”, to engage in sympathy strikes.
- [AB 505](#) (**Ting**) – Would revise several provisions negotiated in SB 823 (2020), the measure that enacted realignment of Division of Juvenile Justice (DJJ) responsibilities from the state to counties, including: (1) changing the leadership structure of the local planning body, (2) revising the local planning process and the process by which the Office of Youth and Community Restoration (OYCR) reviews local plans, and (3) expanding the scope of OYCR’s role and authority.
- [AB 531](#) (**Irwin**) – Would enact the Behavioral Health Infrastructure Bond Act of 2023, one of two measure that comprise the Governor’s behavioral health modernization proposal. The measure was amended late Monday to include an additional \$1.5 billion – for a total of \$6.38 billion – for purposes of providing grants to local agencies for the construction, acquisition, and rehabilitation of infrastructure to expand the continuum of behavioral health treatment resources to build new capacity or expand existing capacity for a variety of treatment options, including acute and subacute care for persons with behavioral health disorders.
- [AB 764](#) (**Bryan**) – Would update the procedures local agencies must follow when adjusting the boundaries of the districts used to elect members of their governing bodies and establishes a procedure for legal challenges when a local jurisdiction does not comply with redistricting requirements.
- [AB 1057](#) (**Weber**) – Would give additional flexibility to local health jurisdictions to administer more Home Visiting Programs that address the unique needs of their communities and provide support to families who need it most.
- [AB 1148](#) (**Bonta**) – Would extend the automatic suspension of the obligation to pay child support when a person ordered to pay support is released from custody unless they have the means to pay support during that time.

- [AB 1207](#) (**Irwin**) – Would strengthen provisions barring the advertisement or marketing of cannabis or cannabis products that are attractive to children, as defined.
- [AB 1248](#) (**Bryan**) – Would require a city or county with over 300,000 residents and a school district or community college district with over 500,000 residents to establish an independent redistricting commission (IRC).
- [AB 1448](#) (**Wallis**) – Would strengthen local enforcement mechanisms against unlicensed cannabis activities, including the application of civil penalties.
- [AB 1484](#) (**Zbur**) – Would require inclusion of temporary employees in the same bargaining unit as permanent employees upon request of the recognized employee organization to a local public employer.
- [AB 1637](#) (**Irwin**) – Would require a local agency (with the exception of special districts and school districts) that maintains a website and email addresses accessible to the public to utilize a “.gov” or “.ca.gov” domain no later than January 1, 2029.
- [ACA 1](#) (**Aguiar-Curry**) – Would authorize California voters to consider lowering the voter approval threshold from a two-thirds supermajority to 55% to approve local general obligation bonds and special taxes for affordable housing and public infrastructure projects. While ACA 1 was approved by the Legislature and sent to the Governor, a Governor’s signature is not required, as constitutional amendments are finally approved by voters.
- [ACA 13](#) (**Ward**) – Would require any constitutional amendment proposed by initiative that increases a voter approval threshold for future measures be approved by the same proportion of votes cast as the measure would require. While ACA 13 was approved by the Legislature and sent to the Governor, a Governor’s signature is not required, as constitutional amendments are finally approved by voters.
- [SB 4](#) (**Wiener**) – Would create a streamlined by-right approval process for housing on lands owned by churches and qualifying higher education institutions.
- [SB 43](#) (**Eggman**) – Would expand the definition of “gravely disabled,” for purposes of involuntarily detaining an individual, to include a condition in which a person, as a result of a severe substance use disorder (SUD) or co-occurring mental health disorder with severe SUD, is unable to provide for their “personal needs,” which includes personal safety and necessary medical care.
- [SB 75](#) (**Roth**) – Would authorize the creation of 26 new superior court judgeships, subject to an appropriation, which would be distributed to courts – once funded – based on the Judicial Council’s biennial Judicial Needs Assessment.

- **[SB 326 \(Eggman\)](#)** – Would revise and recast the Mental Health Services Act (MHSA) as the Behavioral Health Services Act (BHSA) if voters approve amendments to the MHSA at the March 5, 2024 statewide primary election. Select sections of SB 326 and AB 531 – as specified in each bill – will appear as Proposition 1 on the March ballot.
- **[SB 343 \(Skinner\)](#)** – Would change the way child support payments are calculated and make procedural changes to conform California’s child support laws to federal requirements.
- **[SB 423 \(Wiener\)](#)** – Would extend and expand the by-right approval process for eligible housing projects created by SB 35 (2017).
- **[SB 519 \(Atkins\)](#)** – Would establish creates the position of Director of In-Custody Death Review within the Board of State and Community Corrections to review investigations of any death incident, as defined, occurring within a local detention facility and make records relating to an investigation conducted by a local detention facility into an in-custody death incident available to the public.
- **[SB 525 \(Durazo\)](#)** – Would establish a path to a \$25 per-hour health care minimum wage; see comprehensive outline of the elements of the recently struck agreement in a separate article below.
- **[SB 567 \(Durazo\)](#)** – Would revise the no-fault just cause eviction provisions of the Tenant Protection Act of 2019 and provide additional enforcement mechanisms for violations of restrictions on no-fault just cause evictions and residential rent increases.
- **[SB 770 \(Wiener\)](#)** – Would direct the Secretary of the California Health and Human Services (CHHS) Agency to pursue discussions with the federal government to obtain a waiver to enable creation of a comprehensive health care system with unified financing (UF).
- **[SB 799 \(Portantino\)](#)** – Would allow individuals engaged in a trade dispute or strike to collect unemployment insurance benefits after a two-week waiting period.

### **Two-Year Bills**

- **[AB 7 \(Friedman\)](#)** – Would require specified state transportation programs to incorporate Climate Action Plan for Transportation Infrastructure (CAPTI) principles into their guidelines and planning processes. Due to continued opposition, AB 7 was put on the inactive file at the request of the author and is now a two-year bill.
- **[AB 1168 \(Bennett\)](#)** – Would overturn an extensive statutory and case law record that has repeatedly affirmed county responsibility for the administration of emergency medical services and with that, the flexibility to design systems to equitably serve residents throughout their jurisdiction. Specifically, the bill would abrogate the *City of Oxnard v. County of Ventura* decision. The bill was moved to the inactive file on September 12.

- [AB 799 \(L. Rivas\)](#) – Would have required the California Interagency Council on Homelessness to develop a financing plan to solve homelessness by the year 2035, establish and update statewide performance metrics by January 1, 2025, and create a streamlined funding application for specified state housing and homelessness programs.

### **Agreement Struck on Health Care Minimum Wage**

The California Hospital Association, the California Medical Association, the California Primary Care Association, and the dialysis clinics struck an agreement with Service Employees International Union (SEIU) State Council this week on a path to a \$25/hour health care minimum wage. [SB 525](#) (Durazo) was amended late Monday to reflect the agreement, which is summarized in detail below.

### ***SB 525 Implementation Tiers***

1. Facilities with 10,000 or more full time equivalent employees as defined by the Department of Health Care Access and Information (HCAI) on 1/1/2022:
  - a. \$23 on 6/1/2024
  - b. \$24 on 6/1/2025
  - c. \$25 on 6/1/2026
  - d. Also defines counties in this tier as counties with populations over 5 million.
2. Hospitals with a high governmental payor mix (over 90% Medicaid and Medicare), independent hospital with an elevated governmental payor mix (over 75% Medicaid and Medicare), or a rural independent covered health care.
  - a. \$18 on 6/1/2024. Goes up 3.5% per year to get to \$25 by 2033.
  - b. Includes counties with populations under 250,000 are in this tier.
  - c. Requires HCAI to publish a list by 1/31/2024 of facilities in each tier. Allows a facility to appeal to HCAI to be in the list of hospitals that qualify as a hospital with a high governmental payor mix, independent hospital with an elevated governmental payor mix, or a rural independent covered health care facility. Provides for a process and criteria to reclassify hospitals.
3. Everyone else
  - a. \$21 on 6/1/2024
  - b. \$23 on 6/1/2026
  - c. \$25 on 6/1/2028
  - d. Includes counties with populations of less than 5 million and more than 250,000.
4. Clinic tier (excludes publicly owned clinics)
  - a. \$21 on 6/1/2024
  - b. \$22 on 6/1/206
  - c. \$25 on 6/1/2027

## 5. County provisions

- a. Delays county implementation of first wage increase to 1/1/2025. Counties follow all other wage dates for implementation.
- b. Applies to county hospitals, clinics, mental health and correctional health. Note: county clinics are exempt from the clinic provisions.
- c. Deletes public health from the bill.
- d. For counties with hospitals, if the hospital and county are in different tiers (there are county hospitals in the 2033 tier while the county is in tier 2), the hospital follows the facility tier AND the rest of the county follows the population-based tier.

## 6. Other Clinic provisions

- a. Authorizes the Department of Industrial Relations no later than 3/1/2024, in collaboration with DHCS and HCAI, to develop a waiver program for clinics, which would authorize a covered health care facility to apply for and receive a temporary pause or alternative phase in schedule of the health care minimum wage requirements in this section.
- b. Waiver is authorized for up to one year.
- c. Clinics will have an opportunity to renew a waiver received under this program.
- d. Defines criteria under which a clinic could qualify for a waiver.

## 7. Skilled Nursing Facilities (SNFs)

- a. SNFs are included in the bill only “when a patient care minimum spending requirement applicable to skilled nursing facilities, as covered in this section, is in effect.” The bill does not define patient care minimum spending requirement.
- b. There is a separate bill – **AB 1537** – that would establish a patient care minimum spending requirement. AB 1537 is a two-year bill. Currently, AB 1537 defines direct patient-related services spending requirement as “a minimum of 85 percent of a facility’s total non-Medicare health revenues, including Medicare fee-for-service and Medicare Advantage, from all payer sources in each fiscal year to be expended on the direct patient-related services of residents.”
- c. Effectively SB 525 delays implementation of the minimum wage requirement on SNFs by tying it to a yet-to-be enacted bill.

## ***Other Issues***

### 1. Contract employees

- a. Defines “covered health care employee” includes a contracted or subcontracted employee, if all of the following apply:

i. The employee's employer contracts with the health care facility employer, or with a contractor or subcontractor to the health care facility employer, to provide health care services, or services supporting the provision of health care.

ii. The health care facility employer directly or indirectly, or through an agent or any other person, exercises control over the employee's wages, hours or working conditions. However, "covered health care employee" includes all employees performing contracted or subcontracted work primarily on the premises of a health care facility to provide health care services or services supporting the provision of health care.

2. Exempts from the health care minimum wage:

- a. State Hospitals
- b. Tribal clinics
- c. Public health
- d. Independent practice associations
- e. Medical transportation services in or out of a covered health care facility, provided that the medical transportation services worker is not an employee of any person that owns, controls, or operates a covered health care facility.

3. COLA

- a. Lesser of 3.5 percent COLA or CPI starts Jan 1 after the June when a facility gets to \$25.
- b. If there is negative growth, there is no COLA.

4. Setting Salaries for Health Care Employees

- a. Sets it as the greatest of 150 percent of the health care minimum wage OR 200 percent of the state minimum wage

5. Pre-emptions

- a. Pre-empts local ordinances on wages or compensation of health care facility employees until 1/1/2034
- b. Voids local ordinances enacted or taking effect after 9/6/2023 related to cover health facilities and wages, salaries or compensation. This provision allows the Inglewood ordinance to remain in effect. All ordinances proposed for the March 2024 ballot would be voided.
- c. Allows any employer, including a city, county, city and county, including charter cities, charter counties, and charter cities and counties, that employs health care employees, to establish higher wage, salary, or compensation rates for its employees or contracted or subcontracted employees.
- d. Allows a city, county, city and county, including charter cities, charter counties, and charter cities and counties to establish a minimum wage that would apply uniformly to all employees across all industries and sectors and not exclusively to employees employed by covered health care facilities.

- e. Pre-empts local ordinances on limiting or otherwise relating to compensation of covered health care facility employees until 1/1/2030 (this is intended to prevent measures limiting executive compensation)
- f. Amends the finding and declarations to: 1) support pre-emption authority and 2) provides rationale for time limited nature of pre-emption

### **ACA 6 Fails in Senate**

[ACA 6](#) (Haney) would have, subject to voter approval, required the University of California (UC) to conform to the same labor, employment, and occupational health and safety standards as other public agencies, including standards against displacement and contracting out of work as provided for in state laws governing the nonemergency use of personal service contracts. ACA 6 failed passage in Senate Elections and Constitutional Amendments Committee on September 11 on a vote of 3-1, with Senator Steve Glazer – the committee chair – voting no, and Senators Ben Allen, Janet Nguyen and Josh Newman abstaining. The author had intended to place ACA 6 on the March 2024 statewide presidential primary election.

UC has faced several legislative efforts by AFSCME Local 3299 to reduce or eliminate the university system’s ability to contract out and ACA 6 was the latest iteration of this ongoing fight. The constitutional amendment - if eventually approved by voters – would have subjected the UC to a new state evaluation process regarding any personal services for contracting out that were designed and intended for state agencies, which would result in the unprecedented step of allowing the State Personnel Board (SPB) to review – and either approve or reject – UC’s proposed service contracts. Contracts subject to the SPB review process would not have become effective unless and until approved by the Board.

### **Wildfire Insurance Deal Flops**

An agreement to allow home insurers to raise their rates to accommodate the impacts of climate change on the state’s housing failed to come together prior to the end of the legislative session. In an interview earlier this week, Governor Gavin Newsom acknowledged the crisis as a “waving red flag” and expressed his concern about the lack of a solution, noting “time is of the essence.” Negotiations between industry and consumer advocates fell apart after a [press report](#) shared details of a conversation between industry advocates about legislative strategy overheard during a Southwest flight to Sacramento.

The Speaker has announced that the Assembly will hold a series of public hearings during the legislative recess to discuss access to insurance coverage, wildfires, and catastrophes.

### **Fast Food Corporations and Labor Reach Agreement on Wages**

Averting a 2024 ballot fight, labor unions and fast food corporations have reached a deal on worker regulations and wages. The compromise preserves legislation



approved last year that would establish a council responsible for setting wages and labor standards for Californians who work for the major fast food companies; however, the council will only exist until 2029 unless it is extended. Wages would rise to \$20 by 2024. Franchise corporations would not be held liable for workforce violations at individual restaurants under the new agreement. In exchange, the industry agreed to withdraw a referendum challenging last year's legislation.

The initial passage of the original bill set off a series of events between the parties. Fast food corporations immediately qualified a referendum, slated for the November 2024 ballot. Labor responded by pursuing a bill that would impose joint liability on franchise chains (a provision that had been removed from last year's legislation). Labor also sought funding in the state budget for the Industrial Welfare Commission that could have ordered pay increases to industry workers. Industry fought back by depositing \$50 million into its referendum effort, while lobbying heavily against the liability bill. Governor Newsom then helped clear the way to an agreement by signing legislation that authorized proponents to remove their referendums from the ballot.

### **California's Medicaid Director to Join Federal CMS**

Earlier this week, Jacey Cooper, California's State Medicaid Director and Chief Deputy Director for Health Care Programs, announced that she will depart DHCS on October 20, 2023, to join the federal Centers for Medicare & Medicaid Services (CMS). Ms. Cooper has served as the State Medicaid Director since January 2020. She will be leading CMS's Section 1115 waiver work.

From 2016 to 2020, Ms. Cooper was senior advisor of health care programs and assistant deputy director of health care delivery systems at the Department of Health Care Services. Previously, she was vice president at Meridian Healthcare Partners and vice president of administrative services at the Kern Medical Center from 2014 to 2016. She held several positions at Kern Medical Center from 2010 to 2014, including special projects manager and executive director of managed care.