

TO: Members, County of Santa Barbara Legislative Committee

FROM: Cliff Berg, Legislative Advocate  
Cara Chang (temporary for Kristina Gallagher)

RE: 2020 February/March Update

DATE: March 27, 2020

Sacramento has dramatically changed focus since the Coronavirus outbreak. Due to the public health concern, the Legislature, in coordination with the Governor, has had to be flexible in rescheduling its legislative activity. The legislature is now in Recess until April 13<sup>th</sup>.

On March 16, 2020, the global COVID-19 crisis was becoming more of an apparent threat to people all over the world and California, and the Legislature passed 4 emergency measures to address it. SR 86 and ACR 189 gave the Assembly and Senate the authority to go into Spring recess early and for the Senate to conduct meetings remotely, essentially ending legislative activity two weeks earlier than the constitutional recess date of April 2<sup>nd</sup>. The Legislature also passed SB 89 by the Committee on Budget and Fiscal Review – Budget Act of 2019, and SB 117 by the Committee on Budget and Fiscal Review – Education finance: average daily attendance and timeline waivers: protective equipment and cleaning appropriation: COVID-19.

SB 117 provides \$100 million Proposition 98 General Fund for personal protective equipment and cleaning for schools that remain open. It also allows schools to maintain funding despite service disruptions.

SB 89 authorizes between \$500 million to \$1 billion for the state to lease two hospitals, help public health officials access protective and other necessary equipment, and support hospitals, nursing homes, and child care facilities with cleaning and sanitation to fight COVID-19. This funding can also be used to obtain hotel or motel rooms for those who are homeless, and assist local governments in homeless outreach efforts.

The Governor announced that he would be using the first \$150 million of the \$1 billion provided by the Legislature's emergency funding bill for COVID-19 homelessness-related efforts. Below are details about how the \$150 million will be used and allocated.

- \$100 million will be provided to cities, counties, and continuums of care through the HHAP funding allocation formula and made available immediately
- Entities that received funding through HHAP will receive the same percent share of the \$100 million as they received of the \$650 million
- [Executive Order N-32-20](#) broadens the eligible uses of both HHAP and HEAP funding
- All three of these funding sources can now be utilized for a broad set of local purposes to respond to COVID-19 homelessness needs
- Executive Order N-32-20 also provides a CEQA exemption for any new shelter facilities that are sited with this funding

- \$50 million will be utilized by the California Department of Social Services (DSS) to support local work on isolation capacity for homeless individuals in hotels, motels, and trailers
- The \$50 million can be spent by DSS on behalf of local jurisdictions
- A list of 950 potential hotel and motel options was disseminated to counties via email
- Some counties are using this information to facilitate their own lease agreements
- DSS can support local efforts if needed to facilitate lease agreements

Compared to the Homeless Housing, Assistance and Prevention (HHAP) formula, there are only minor changes. The new allocation does not include a Continuum of Care minimum allocation (HHAP included a \$500,000 minimum), but it does include a county minimum of \$10,000 (HHAP did not include a county minimum). The cap on the percentage of funding that can go to a single entity in each pot remains consistent with HHAP.

According to a document obtained from the California Homeless Coordinating and Financing Council, the County of Santa Barbara's grant allocation is \$323,271.37 for COVID-19 emergency homelessness funding.

## **Executive Orders**

Since Governor Newsom declared a State of Emergency on March 4, 2020, he has signed over a dozen Executive Orders addressing various aspects of the COVID-19 pandemic.

### **Executive Order Timeline:**

[March 4: Emergency Declaration](#)

[Mar 12: Executive Order N-25-20: General Provisions & Government](#)

This order relaxes protocols for unemployment insurance, delays the state income tax deadline, discourages large gatherings, and waives portions of the Brown Act.

[March 13: Executive Order N-26-20: Schools](#)

This order sets forth requirements that school must meet, even if they close because of COVID-19.

[March 16: Executive Order N-27-20: State Licensed Facilities](#)

This order establishes guidance for state licensed facilities that house populations most vulnerable to COVID-19.

[March 16: Executive Order N-28-20: Renters and Homeowners](#)

This order authorizes local governments to take measures to halt evictions and protect against utility shutoffs, and sets forth guidance for any jurisdiction looking to do so.

[March 18: Executive Order N-29-20: Safety Net Services & Brown Act](#)

This order relaxes requirements for state social safety net programs. It also builds upon N-25-20 and makes further suspensions of Bagley-Keene Act and Brown.

[March 18: Executive Order N-30-20: School Testing](#)

This order is focused entirely on school testing. It waives, for the 2019-2020 school year, the requirement that all students be administered academic assessments each year.

[March 18: Executive Order N-32-20: Local Flexibility for Homelessness](#)

This order aims to grant local flexibility on spending and building shelters to combat homelessness during the COVID-19 outbreak.

[March 19: Executive Order N-33-20: Stay at Home Order](#)

This order institutes a statewide stay at home order, and includes a link defining [critical infrastructure and essential workers](#).

[March 20: Executive Order N-34-20: Elections](#)

This order focuses on elections procedures during the COVID-19 outbreak, including allowing vote-by-mail for certain upcoming special elections, and extends timeframes for the March 4, 2020 statewide primary.

[March 21: Executive Order N-35-20: Work Hours, Brown Act, Etc.](#)

This order covers a wide array of issues. Broadly it applies work hours exemptions (laid out in N-25-20) to local governments, suspends local ordinances that interfere with essential activities, further clarifies and expand Brown Act exemptions, and extends deadlines and relaxes requirements for a number of statues.

[March 24: Executive Order N-36-20](#) to prevent the spread of COVID-19 among the state prison staff and inmate population. The Executive Order directs the Secretary of CDCR (California Department of Corrections and Rehabilitation) to suspend intake into state prisons for 30 days. This order also extends to the Division of Juvenile Justice facilities for the same duration of time and both the adult and juvenile intake suspensions may be extended in 30-day increments.

[March 27 : Executive Order N-37-20](#) banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. The order prohibits landlords from evicting tenants for nonpayment of rent and prohibits enforcement of evictions by law enforcement or courts. It also requires tenants to declare in writing, no more than seven days after the rent comes due, that the tenant cannot pay all or part of their rent due to COVID-19.

[March 27: Executive Order N-38-20](#) empowers the Judicial Council and the Chief Justice of the California Supreme Court to take necessary action to be able to conduct business and continue to operate while responding to the COVID-19 pandemic. The order does not affect any existing court order or rule.

### **Special Note to Counties**

- CSAC noted the following to counties: The state and nation are scrambling to provide resources for our communities as we enter the next phase of the worldwide COVID-19 pandemic. While CSAC is working to provide information on every available dollar, program, or resource, we want to echo NACo leader Matt Chase, who had three pieces of advice for all counties today: **Document, document, document.**
- In other words, capturing the costs of the time, effort, expertise, and equipment that is being marshalled to meet this unprecedented public health threat is critical. All federal programs require documentation for reimbursement, and many state and nonprofit dollars will require the same.

### **Request to Continue Critical 1115 Federal Waiver**

County affiliates are working to request at least a 1-year continuation of a critically important federal waiver: the Medi-Cal 2020 Waiver (Section 1115 Medicaid waiver).

Counties are diverting nearly all resources to meet the challenge of the COVID-19 pandemic, and it has become clear that the vital services we operate under the authority of the 1115 waiver – Whole Person Care, PRIME, DMC-ODS, and others – are essential for clients and patients in this time of uncertainty.

CSAC sent a formal request for the waiver extension to the Department of Health Care Services (DHCS). The Department then requested an extension from the Centers for Medicare and Medicaid Services (CMS), or an extension could be included in a federal stimulus package. Further, an extension would mean the postponement of some portions of the CalAIM initiative.

The Department of Health Care Services (DHCS) received approval from the Centers for Medicare & Medicaid Services (CMS) on key items that will assist California's health care delivery system for Medi-Cal recipients. While CMS continues to review the waiver requests in its entirety, they have notified the state of the following approvals:

- More flexibility in allowing out-of-state doctors and other medical providers to treat California patients, both in person and through telehealth.
- Changes to allow for efficient use of hospital capacity and shift patients to appropriate care settings, maximizing the state's ability to treat those in need.
- Modifications to prior authorization rules on treatment and the establishment of medical necessity, enabling the health care system to more quickly respond to the rapidly evolving situation.

### **Property Tax Deadlines Need to Remain Intact**

The California Association of County Treasurers and Tax Collectors (CACTTC) released a statement explaining that counties cannot change the April 10 deadline for the Second Installment of Property Taxes because critical county services, school and local financial obligations are dependent on those scheduled revenues. However, treasurer-tax collectors can waive penalties and interest resulting from tax delinquency due to unavoidable circumstances related to the COVID-19 crisis.

CSAC, and county administrators, strongly support the CACTTC's concern over any statutory extension to the April 10 deadline.

CSAC is leading a coalition effort opposing a potential postponement of the April 10 property tax deadline and sent the attached letter to policy makers.

Changing the deadline would have severe fiscal consequences not only for counties, but also schools, cities, and special districts that rely on the mid-April revenue to pay structured debts and provide the emergency response services so necessary at this time. County tax collectors have the authority to waive penalties and interest for property owners who are unable to pay due to the pandemic and if their offices have been closed, the taxes aren't considered past due until the day they re-open. Many taxpayers have already sent the funds to their banks, and there is no public purpose served if those banks are allowed to hold the funds for an extra two or three months.

Assemblymembers Ting and Burke issued a letter to encourage current statute to be interpreted as broadly as possible so that tax collectors can delay interest and penalties on property tax payments in light of COVID-19.

### Budget Items

Regarding the state budget, Governor Newsom advised that the May Revise will likely scale back to a baseline budget for the rest of the year, due to the extenuating circumstances of COVID-19.

Many of the proposals and budget items outlined in his January Budget proposal at the beginning of the year are being reviewed and revised at this time.

In February, prior to the COVID-19 crisis, county coalitions aided by CSAC took several actions on primary budget issues:

CSAC and numerous county associations joined to distribute a coalition [homelessness letter](#) to Governor Newsom providing a clear, unified message -- innovative policy changes are required to make substantial, immediate, and sustainable progress to reduce homelessness.

The coalition letter reinforces that counties are committed to playing a vital role in discussions regarding the responsibilities, tools, and resources that will be needed to address homelessness. We also want to ensure that there is explicit clarification on the roles and responsibilities of counties, cities, and the state. If counties are to receive new responsibilities, they must come with sufficient and protected funding, and local authority and flexibility to implement solutions that fit each community. The coalition letter builds upon CSAC's [initial response](#) to the recommendations from the Governor's Council of Regional Homeless Advisors (Council).

CSAC and Counties engaged in the robust stakeholder process for the Governor's Medi-Cal Healthier California for All initiative, formerly known as CalAIM. The initiative seeks to streamline and simplify the state's Medicaid program while presenting opportunities for counties to better serve Medi-Cal beneficiaries and special populations such as foster youth, those living without shelter, and people transitioning from institutions like jails, hospitals, and skilled nursing facilities.

At the outset of the Medi-Cal Healthier California for All process last fall, counties expressed strong concerns about the future of Whole Person Care (WPC), the loss of federal funding for our safety net public hospitals, and the potential loss of county Targeted Case Management (TCM) coordination services under the proposal. Since that time, the Department of Health Care Services (DHCS) has modified components of the initiative to respond to these concerns. DHCS has indicated that they understand the key role that counties and county public hospitals play in WPC, case management and coordination, and population health management. DHCS is publicly considering a requirement for managed care organizations to work with counties on WPC and has retreated from eliminating TCM activities for counties. However, public hospital funding levels remain an issue of concern.

The public stakeholder process continued through February. Timing was critical since both the state's 1915b Freedom of Choice and Medi-Cal 2020 Section 1115 Medicaid waivers expire this calendar year. Now, due to COVID-19, these issues have been put on hold and counties have requested an extension of 1115 waivers.

### Bills of Interest to the County

#### *AB 764 (Bonta) Sugar-sweetened beverages: non-sale distribution incentives*

This bill would prohibit a beverage company, manufacturer, or distributor, from giving or offering a distributor or retailer a non-sale distribution incentive for a sugar-sweetened beverage (SSB) or

SSB product. The bill would state that these provisions do not preempt or prohibit the adoption and implementation of local ordinances related to promotional and marketing activities for sugar sweetened beverages that are consistent with these requirements, including ordinances that impose additional or more restrictive requirements on those activities. The bill passed out of the Assembly Appropriations Committee Suspense File and was not taken up on the Assembly Floor before deadline, therefore the bill became a two-year bill. On January 17, 2020, the bill was moved to the inactive file at the request of the author. On February 3<sup>rd</sup>, the bill died on inactive file. The County was in support of the bill.

*AB 765 (Wicks) Health Checkout Aisles for Healthy Families Act*

The bill would establish the California Healthy Checkout Aisles for Healthy Families Act, which prohibits stores from making available sugar sweetened beverages (SSBs) in the checkout area. The Assembly Health Committee hearing was cancelled at the request of the author and became a two-year bill. On January 31, 2020, the bill failed legislative deadline and became a dead bill. The County was in support of the bill.

*AB 1356 (Ting) Cannabis: local jurisdictions: retail commercial cannabis activity*

The bill would require that if more than 50 percent of the voters of a local jurisdiction voted in favor of Proposition 64, these local jurisdictions must issue a minimum number of licenses authorizing retail cannabis activity within that jurisdiction. AB 1356 would mandate that local communities issue retail cannabis permits in spite of clear and unambiguous promises to voters in the Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64) that local communities would have the right to decide how and when to adopt local legal regulatory frameworks for adult use cannabis business. The County believes that AB 1356 would fundamentally erode local control as provided in Proposition 64, therefore is opposed to the bill. The bill was placed on the inactive file, making it a two-year bill. On January 22, 2020, the bill was pulled from the inactive file and ordered to third reading for January 30, 2020. On February 3, the bill died on third reading file.

*ACA 1 (Aguilar-Curry) Local government financing: affordable housing and public infrastructure: voter approval*

ACA 1 is a constitutional amendment that would have made it easier for local governments to increase property taxes and would have asked voters to decide whether property tax increases for affordable housing and infrastructure could be approved by a 55% vote instead of two-thirds vote. ACA 1 failed to pass on the Assembly Floor with a vote of 44-20 on August 19th. As a proposed constitutional amendment, ACA 1 needed approval by two-thirds of the Assembly. The Author requested a motion to reconsider, but the bill was not taken up again.

*SB 50 (Wiener) Planning and zoning: housing development: incentives*

The bill would reduce or waive certain local zoning standards in jobs and transit-rich areas when development meets specified criteria. We understand there were going to be forthcoming amendments to the bill, that would exclude smaller counties, which would include the County of Santa Barbara in the category and therefore reduce the burden on the County, but the bill was held on the Senate Appropriations Committee Suspense File, and became a two-year bill. The County currently does not have a position on the bill. After being pulled from committee in January 2020 and re-referred to Rules, the bill was referred to Senate Floor, Second Reading File, for January

29, 2020. On January 29, the bill failed passage and a motion to reconsider was made by the author. On January 30, the bill failed passage again.

AB 1948 (Bonta), which would reduce the cannabis excise tax rate from 15% to 11% until 2023, and would suspend the cultivation tax until 2023, was introduced on January 17, 2020. On March 9, the bill's status was Hearing for testimony only in committee.

AB 1525 (Jones-Sawyer), which would allow state regulators and local government associations (a licensing authority, or the CA Cannabis Authority) to share a cannabis licensee's information with financial institutions, was ordered to the Senate on January 27, 2020 and had not been referred to committee.

### Conclusion

The last day for bills to be introduced in the Legislature was February 21st. Two-year bills that continued through the legislative process since the Legislature reconvened needed to clear their house of origin before the California constitutional deadline of January 31<sup>st</sup> or else become inactive or dead. The Legislature held regular policy committee hearings to hear bills and Budget Subcommittees began holding hearings on budget items. On February 19, 2020 the Governor delivered his annual State of the State Address.

Due to the impact of COVID-19, it is uncertain when the Legislature will reconvene, but we plan on being back in session on April 13<sup>th</sup>. Large budget items, legislation, and relief packages, including those for counties, will continue to be vetted.

We look forward to discussing priorities in the Legislature and the Budget and help navigate this uncertain climate as the process goes forward this year. We will continue to work with staff and keep the committee and Board updated. As always, should you or your staff have any questions, please don't hesitate to let us know.