



# California Legislative Update

Early June 2020

## Budget Update & Bills of Interest June 2020

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On June 15th, the Legislature passed the State Budget Act for the 2020-21 fiscal year. Our understanding is that the Legislature and Administration have not yet reached a final agreement; however, they have agreed to continue discussions and keep working on a compromise. The Budget Act and two trailer bills were sent to the governor and are further described in this report.

- **[SB 74 \(Mitchell\) Budget Act of 2020-21](#)**
- **[AB 76 \(Committee on Budget\) Education finance: apportionments.](#)** This bill makes necessary changes to implement the 2020-21 Budget Act as it pertains to Proposition 98.
- **[AB 85 \(Committee on Budget\) State taxes and charges.](#)** This bill makes various changes to state law governing sales and use tax remittance and tax credit limits, resulting in a net General Fund Benefit of \$4.4 billion.

While the Legislature met its constitutional obligation to approve a budget by midnight June 15, additional trailer bills to implement the Budget Act, as well as additional spending bills, are anticipated. Such bills can “trail” the Budget Act until the final day of the legislative session, which will conclude on August 31.

The governor has several options he could consider when acting on the Legislature’s budget. He could sign it and make line-item vetoes where he disagrees with funding appropriations; he could veto it and ask them to continue working on concessions with his administration; he could sign their budget, and make changes to the budget through subsequent budget bills and trailer bills as the two parties work out the details; or he could de-lay action and the Legislature could pull the budget bill back from his desk once an agreement is reached, provided it’s before June 30. There has not been clarity yet regarding the governor’s plan, however it seems likely that he will delay action if possible, to avoid additional contention.

Details outlined in this update are tentative in nature, as negotiations continue. The Legislature’s budget contains the following elements:

- Largely the same revenue assumptions as the May Revision.
- The assumption of \$14 billion in new federal funds.
- Reserves of \$11.8 billion – \$2 billion in the Special Fund for Economic Uncertainties, \$900 million in the Safety Net Reserve, and \$8.35 billion in the Proposition 2 rainy day fund.
- \$1 billion to backfill realignment, however \$600 million of that funding is contingent on new federal funding.
- Up to \$2.9 billion in a COVID-19 contingency fund (\$700 million General Fund, and the rest matching federal funding).

**Legislative Trigger Plan:** If additional federal funds are not granted to California by September 1, 2020, the Legislature’s budget contains the following trigger cuts to take effect October 1, 2020:

- A reduction of total reserves to about \$7 billion – \$800 million in the Special Fund for Economic Uncertainties and \$6.5 billion in the rainy-day fund
- A deferral of state payments to CalPERS for a one-time savings of \$1.3 billion
- \$5.9 billion in increased deferrals to Proposition 98 K-14 education funding

- A \$600 million reduction to realignment backfill funding
- \$770 million in university reductions – \$370 million for the University of California (UC) and \$400 million for California State University (CSU) systems
- \$100 million in reductions to the judicial branch – this does not include cuts to dependency counsel, court interpreters, California collaborative and drug court projects, the Court Appointed Special Advocate program, Model

- Self-Help program, Equal Access Fund, family law information centers, or civil case coordination
- At least \$1.5 billion in state employee compensation reductions through collective bargaining
- \$1.6 billion in baseline savings or revenue increases not scored in this budget, and a reinstatement of the one-day June payroll deferral discretion of the Department of Finance

## **General Government**

**1991 and 2011 Realignment:** The Legislature’s budget backfills realignment by \$1 billion, with \$600 million to be cut if additional federal funding isn’t provided. There is currently no detail regarding whether the funding is specific to 1991 or 2011 realignment programs or what programs are to be prioritized. The Legislature could choose to backfill specific programs, categories of programs such as health and human services and not public safety, or simply provide the backfill to all the programs to be divided by percentage.

**Project Roomkey:** \$550 million in CARES Act funding through the Department of Housing and Community Development for Project Roomkey which provides motel rooms for vulnerable homeless individuals is provided in the past budget. It includes placeholder trailer bill language to implement the project, which would allow the hotels and motels to be owned by local governments or nonprofit organizations.

**CARES Act Funding for Counties:** The Legislature’s budget contains \$1.289 billion in CARES Act funding to counties for homelessness, public health, public safety, and other services to combat the COVID-19 pandemic. Allocations are based on the share of each county’s population relative to the State, while considering prior direct allocations from the Federal CARES Act.

**CARES Act Funding for Cities:** The Legislature approved \$500 million in CARES Act funding to cities that did not already receive a direct appropriation from the federal government. \$225 million is allocated to cities with a population greater than 300,000 based on the share of each city’s population relative to the total population of cities covered by the subsection.

275 million is allocated to cities with a population less than 300,000, based on the share of each city’s population relative to the total population of the cities covered by the subsection. The Legislature’s budget states that no city shall receive less than \$50,000.

**Homelessness:** \$350 million for local homelessness programs was adopted as part of the 2020-21 Budget Act, with details subject to legislation.

### **Department of Housing and Community Development:** *The Legislature’s budget includes:*

- \$500 million in low-income housing state tax credits sustained from the Administration’s January budget proposal.
- Maintaining funding for the Infill Infrastructure Grant program of 2019 to support the development of additional housing.
- \$331 million in National Mortgage Settlement funds for housing counseling, mortgage assistance, and renter legal aid services. The California Housing Financing Agency will administer \$300 million for housing counseling and mortgage assistance, and the remaining \$31 million is proposed to be allocated to the Judicial Council to provide grants to legal aid services organizations.



**Governor's Office of Business and Economic Development:** The Legislature's budget approves a total of \$100 million to support the California Infrastructure and Economic Development Bank's loan guarantee program that provides financial assistance to small businesses.

## **Revenues**

The provisions of AB 85 include a total General Fund benefit of approximately \$4.4 billion in the 2020-21 fiscal year.

**Used Car Dealer Sales Tax:** \$12 million is anticipated as a result of requiring licensed car dealers (other than new vehicle dealers) to collect and remit to the Department of Motor Vehicles applicable sales tax along with the vehicle registration fee beginning January 1, 2021.

### **Net Operating Loss Suspension:**

Approves temporarily suspending the use of net operating loss deductions for taxpayers with business income in excess of \$1 million for 2020, 2021, and 2022, which is estimated to benefit the State General Fund by \$1.8 billion. The suspension applies to both personal income tax and corporation tax. Trailer bill language extends the carryover period for up to three years for any net operating loss for which a deduction is denied due to this legislation.

**Limit Tax Credits:** The Legislature's budget approves temporarily limiting the use of business incentive tax credits to offset no more than \$5 million in tax liability for 2020, 2021, and 2022 for both personal income tax and corporation tax. Trailer bill language extends the credit carryover period for the same number of taxable years the credit was not allowed. The Low-Income Housing Tax Credit is exempt from the \$5 million cap. This change is estimated to generate \$2 billion in the budget year. In addition, the interaction between the net operating loss suspension and tax credit limit provisions are estimated to generate \$611 million for the State.

**Minimum Franchise Tax:** The budget provides an exemption for a limited partnership, limited liability partnership, and limited liability company from the annual \$800 tax in a businesses' first taxable year beginning January 1, 2021 and ending January 1, 2024. This tax exemption is estimated to cost the State \$50 million in the 2020-21 fiscal year.



## Bills of Interest

Below is a list of active legislation moving through the California State Legislature. In total, staff is currently monitoring 15 bills that seek to modify existing local taxes and impose new fees. We will continue to update this list as new information emerges. In the meantime, please do not hesitate to contact us with any questions you may have.

### Sales and Use Tax

1. **AB 31 (Garcia): Sales and use taxes: exemption: menstrual hygiene products.** This bill would extend the sales and use tax exemption of menstrual products until January 1, 2027.

*Comments:* It's unclear whether this measure will move forward as it is fiscal. The Legislature's budget does continue the exemption on sales and use tax for diapers and menstrual hygiene products until July 1, 2023.

*Status:* Senate Rules

2. **AB 2528 (Diep): Sales and use taxes: income taxes: written advice.** This bill would require the Franchise Tax Board and the California Department of Tax and Fee Administration to send a letter or email within 30 days to confirm receipt of a taxpayer's request for written advice or chief counsel ruling and to respond to the request within 180 days. These requirements would apply to any written request received on or after January 1, 2021.

*Status:* Senate Rules

3. **AB 2570 (Stone): False Claims Act.** This bill Expands the California False Claims Act (CFCA) to false claims under the Revenue and Taxation Code, if the damages pled exceed \$20,000, as specified.

*Status:* Senate Rules

4. **AB 2989 (Arambula): Sales and use taxes: exemptions: blood screening testing.** This bill, on and after January 1, 2021 and until January 1, 2023, would exempt the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, any reagents or chemicals, and lab equipment and supplies, used by a licensed blood bank to perform blood screening tests on donated human blood.

*Status:* Senate Rules

5. **SB 38 (Hill): Sales and use taxes: consumer designation: all volunteer fire department.** This bill repeals the sunset provision on the designation of a qualifying volunteer fire department as a consumer, not a retailer, under the Sales and Use Tax Law.

*Status:* Pending referral to a policy committee in the Assembly

6. **SB 952 (Nielsen): Sales and use taxes: exemption: backup electrical resources: de-energization events.** This bill, on and after January 1, 2021, would provide an exemption from sales and use taxes with respect to the sale of, or the storage, use or consumption of, a backup electrical resource, as defined, that is purchased for exclusive use by a city, county, special district or other entity of local government during de-energization events, as defined.

*Status:* Senate Appropriations Suspense

### Assessments, Fees, and Charges

7. **SB 1386 (Moorlach): Local government: assessments, fees, and charges: water.** This bill provides that fire hydrants are a part of water service for the purposes of Proposition 218.

*Status:* Pending referral to a policy committee in the Assembly

### Property Taxes

8. **AB 2013 (Irwin): Property taxation: new construction: damaged or destroyed property.** This bill provides disaster relief parity between property owners following a Governor-declared disaster by establishing the same comparability definition for replacement property for owners who rebuild onsite and owners who purchase another property.

*Status:* Senate Rules

9. [AB 2040](#) (Bigelow) **Property tax: revenue allocations: County of Madera.** This bill requires the Auditor of the County of Madera to reallocate an amount of \$4,627,723 from the County's Educational Revenue Augmentation Fund (ERAF) to correct errors made by the County in the years 2005-06 through 2013-14, as specified.

*Status:* Senate Rules

10. [SB 1431](#) (Glazer): **Property taxation: reassessment: disaster relief.** This bill permits disaster reassessments for property tax purposes for properties affected by COVID-19.

*Status:* Senate Appropriations Suspense

## Utility User Taxes

11. [SB 1441](#) (McGuire): **Local Prepaid Mobile Telephony Services Collection Act.** This bill extends indefinitely local governments' authority to collect on local Utility User Taxes (UUT) from retail sales of prepaid wireless telecommunication products and services.

*Comments:* Co-sponsored by Avenu Insights and Analytics, this is follow-up legislation to [SB 344](#), which was enacted last year. SB 344 authorized a one-year sunset extension to allow local governments to collect on local UUT from retail sales of prepaid wireless telecommunication products and services. SB 1441 extends this authority indefinitely and makes other non-substantive changes to eliminate cross-references in the MTS act to the Prepaid Mobile Telephony Service Surcharge Collection Act. There are currently 101 cities and 3 counties who collect UUTs on prepaid wireless products, receiving approximately \$24 million in new revenue since the program was enacted. The bill passed out of the Senate on June 11 on a 39-0 vote.

*Status:* Assembly Rules

## Housing Production: Local Fees

12. [AB 1484](#) (Grayson): **Mitigation Fee Act: housing developments.** This bill provides a comprehensive reform of the nexus standards that cities and counties use to determine their fees.

*Status:* Senate Rules

## Cannabis

13. [AB 2122](#) (Rubio): **Unlawful cannabis activity: enforcement.** This bill amends the civil penalty provisions approved in the cannabis trailer bill last year, which authorizes the Attorney General, licensing authority and/or other participating local government agencies to issue fines up to \$30,000 per day, per violation for engaging in commercial cannabis activity without a license. Under existing law, penalties are deposited into the General Fund. Instead, this bill requires civil penalties to be first used to reimburse the agencies for the costs of investigating and prosecuting the action. AB 2122 further provides that any actions must be filed within three years from the date of the first discovery of the violation.

*Status:* Senate Rules

14. [AB 1525](#) (Jones-Sawyer): **Cannabis: financial.** This bill clarifies that no state law prohibits a financial institution from providing financial services to a licensed cannabis business. Allows cannabis businesses to permit regulators to share the business' track-and-trace data with financial institutions.

*Comments:* This is a two-year bill carried over from last year, which got held in committee due to political issues outside of the policy itself. This bill passed the Assembly floor with strong bipartisan support (68-1-11).

*Status:* Senate Rules

15. [SB 1244](#) (Bradford): **Cannabis testing laboratories.** This bill authorizes a licensed testing laboratory to receive and test samples of cannabis or cannabis products from state or local law enforcement, or a prosecuting or regulatory agency to test the cannabis or cannabis products.

*Comments:* This bill is sponsored by the City of Los Angeles. The intent is to aid local law enforcement in enforcing against unlicensed cannabis activities by allowing them to bring confiscated products to testing laboratories.

*Status:* Pending referral to a policy committee in the Assembly.