

# Sacramento Update - 2017

The 2017 legislative session met for their administrative session on December 5<sup>th</sup> to elect their leaders and their teams and to swear in 22 new Assembly members along with 9 Senators. The standing committees are now complete along with new Chairs of the Budget sub-committees.

On January 10<sup>th</sup> as required by the state Constitution, Governor Brown submitted his 2017-18 budget. We have a \$179 billion budget with a reserve fund of \$7+ billion with \$2 billion being allocated for 2017-18. The Governor's budget staff are projecting a \$1.6 billion shortfall, although the LAO projections are different – showing a growth economy and that the state could weather a recession. As the governor stated, “California has the most progressive tax policy but the most volatile revenue stream”. This volatility is based on our dependence on taxing the higher income individuals, (Prop 30 and Prop 55), whose incomes appear to rise and fall based on market forces and investments. It should be noted the sales tax increase in Prop 30 was not extended so we received a tax cut. However, sales taxes are also based on the county and city in which you live.

On Tuesday, the PPIC held a webinar with the Legislative Leadership:  
Senator Kevin De Leon – Pro Tem  
Senator Jean Fuller – Minority Leader  
Assembly Speaker – Anthony Rendon  
Assembly Minority Leader – Chad Mayes

The panel discussed their priorities and vision for the 2017 legislative session.

The priorities they listed were:

- Addressing poverty – highest in the nation
- Housing - high housing prices and rent, impacts jobs and economic growth
- Transportation Infrastructure
- Jobs and the economy – uneven throughout the state
- Education – Career Technical Education, early childhood education
- Climate change

All involved agreed there can be bipartisan agreement and that it is important to reach “common ground”. It was agreed that “transportation infrastructure

could be the test case”. While all agreed affordable housing is an issue, the governor’s budget did not put forth any new funding and in fact eliminated the one time funding of \$400 million for housing as well as the \$45 million for the housing and advocacy program. If you recall there was much discussion and no agreement on how to handle these issues during last year’s budget deliberations.

I was personally struck that none of the leadership team mentioned health care issues. I can only surmise that was based on the uncertainty regarding what the current Congress will do and in fact has already begun to undue ACA.

### **Education budget:**

As previously noted, Prop 98 (mandate education funding) and Prop 111 (minimum funding guarantee) determine the funding going to K-14. Because of the decrease in revenues, the state doesn’t have to meet the minimum guarantee. The 2017-18 guarantee is reduced by \$322 million. This budget will increase per pupil spending by \$3,900 over 2011-2012. The following budget issues adjust for the decrease in the minimum guarantee:

Local Control Funding Formula (LCFF) – additional \$744 million to continue this program. This formula plays out over a number of years. It is likely to be fully funded by 2018-19.

Provides \$287.3 million in one-time funding to reduce mandate debt the state owes to schools

Provides \$200 million for the Career Technical Education Incentive Grant Program - The proposed spending plan reflects the final installment of a three-year program that began with the 2015 Budget Act.

Provides cost-of-living-adjustments (COLAs) for non-LCFF programs - The Governor’s proposed budget funds a 1.48 percent COLA (\$58.1 million) for several categorical programs that remain outside of the LCFF, including special education, child nutrition, and American Indian Education Centers.

Additionally, federal funding, lottery funds and various local taxes also add to the funding for K-14.

### **UC and CSU funding:**

Funding to the higher education system will remain flat. State funding has been aligned with tuition increases which have not increased recently. However, both UC and CSU have plans to increase tuition this year. These decisions impact whether the legislature will provide additional revenues.

According to the Dept of Finance (governor's finance team) - Since 2012-13, the University of California has received \$818 million in new funding, the California State University has received \$1.1 billion, and the community colleges \$1.8 billion.

## **Addressing Poverty Issues**

California has a safety net for the state's neediest residents who live in poverty:

The rising state minimum wage, which is scheduled to increase to \$11 per hour in 2018 and to \$15 per hour over time

The expansion of health care coverage under the federal Affordable Care Act, which provides millions of Californians with insurance

The first cost-of-living adjustment for Supplemental Security Income/State Supplementary Payment (SSI/SSP) recipients since 2005

The repeal of the maximum family grant rule in CalWORKs, which denied aid to children who were born while their parents were receiving aid

Increases in child care and early education provider rates and children served totaling \$837 million.

## **Health Services**

Medi-cal (a state and federal program) is the largest state health program. Medi-cal covers, poor families and their children, the aged, blind and disabled. Now based on ACA, childless adults up to 138% FPL, undocumented children and those with mental health and substance use issues are also covered under Medi-cal.

California currently covers 13+ million under Medi-cal and over one million get coverage in Covered California either through individual coverage or through the small business plan - SHOP.

With the uncertainty of "repeal and replace", California can only fund health programs based on existing state and federal law and requirements:

Total Medi-Cal spending of \$102.6 billion in 2017-18, is comprised primarily of federal dollars. Federal support for Medi-Cal is projected to be \$66.8 billion in 2017-18, roughly two-thirds of total funding for the program. State General Fund support for Medi-Cal is projected to be \$19.1 billion in the upcoming fiscal year, with other non-federal funds providing the remaining \$16.7 billion.

Prop. 56 – Tobacco tax - increases the state’s excise tax on cigarettes by \$2 per pack starting on April 1 and other tobacco products and electronic cigarettes that contain nicotine. This initiative also requires most of the revenues will go to Medi-cal services. There is a growing discussion between health care providers and the governor on whether any of these funds should be used to increase the reimbursement to physicians who provide Medi-cal services.

CHIP (formerly Healthy Families) will likely be authorized but projections are that the funding will be reduced. Since late 2015, the federal government has paid 88% of CHIP costs in California, with the state covering the remaining 12 percent. Previously, the federal share was set at 65 percent. With CHIP currently authorized only through September 2017, the Governor assumes that Congress will reauthorize the program this year, but revert to the prior sharing ratio (65/35) effective October 1, 2017. This change would increase the state’s General Fund costs for CHIP by \$536.1 million.

### **Affordable Care Act (ACA) - “Repeal and Replace”**

Since the inception of ACA, there have been discussions and Congressional votes on repealing and replacing ACA or Obama Care. In 2015, Congressman Price, the nominee to head HHS, wrote an appeal bill but it was vetoed by President Obama. Since then we have not seen a comprehensive plan to replace the repeal of ACA but numerous ideas have been floated:

- Medi-cal block grants
- Reduction in funding for Medicaid expansion
- Tax credits to enroll Medicaid enrollees in private insurance
- High deductible plans coupled with health saving plans
- Market driven health care
- Cap caseloads through allotments to states
- Selling insurance across state lines
- Develop high risk pools for those with pre-existing conditions
- Insurance for everybody

On January 12<sup>th</sup>, the US Senate voted on a resolution that will start the process of repeal and replace through the process of reconciliation – addresses current funding of ACA. The House is expected to vote on the issue on Friday. At this writing, the Congressional majority is “beginning to craft legislation that will repeal the most corrosive elements of Obamacare — the individual mandate, the taxes, the penalties — but at the same time, moving separate legislation that will allow us to introduce the kind of reforms in American health care that’ll lower the cost of health insurance without growing the size of government,” according to the Vice President - Elect.

To this end, the Congressional Budget Office (CBO) and the Joint Committee on Taxation issued a report on Tuesday estimating the budgetary results of *H.R. 3762, the Restoring Americans' Healthcare Freedom Reconciliation Act of 2015*<sup>1</sup> which would repeal portions of the Affordable Care Act (ACA) eliminating, in two steps, the law's mandate penalties and subsidies but leaving the ACA's insurance market reforms in place.

According to the analysis by the CBO, two primary findings that will affect insurance coverage and premiums are:

The number of people who are uninsured would increase by 18 million in the first new plan year following enactment of the bill. Later, after the elimination of the ACA's expansion of Medicaid eligibility and of subsidies for insurance purchased through the ACA marketplaces, that number would increase to 27 million, and then to 32 million in 2026.

Premiums in the non-group market (for individual policies purchased through the marketplaces or directly from insurers) would increase by 20 percent to 25 percent—relative to projections under current law—in the first new plan year following enactment. The increase would reach about 50 percent in the year following the elimination of the Medicaid expansion and the marketplace subsidies, and premiums would about double by 2026.

Additionally, H.R. 3762 would make two other changes that would affect insurance coverage and premiums. First, upon enactment, the bill would eliminate penalties associated with the requirements that most people obtain health insurance (also known as the individual mandate) and that large employers offer their employees' health insurance that meets specified standards (also known as the employer mandate).

Second, beginning roughly two years after enactment, the bill would also eliminate the ACA's expansion of Medicaid eligibility and the subsidies available to people who purchase health insurance through a marketplace established by the ACA. H.R. 3762 also contains other provisions that would have smaller effects on coverage and premiums. Importantly, H.R. 3762 would leave in place a number of market reforms—rules established by the ACA that govern certain health insurance markets. Insurers who sell plans either through the marketplaces or directly to consumers are required to:

Provide specific benefits and amounts of coverage  
Not deny coverage or vary premiums because of an enrollee's health status or limit coverage because of preexisting medical conditions; and

Vary premiums only on the basis of age, tobacco use, and geographic location

The above reflect the national implications of repealing ACA. Now let's determine what may happen in California.

In responses to a request for "ideas" from House Majority Leader, Kevin McCarthy on how to repeal ACA, the following were the comments and suggestions from Governor Brown and Insurance Commissioner Dave Jones:

**Governor Brown in his response stated the following <sup>2</sup>:**

"It will destabilize the commercial market for small-business owners and individuals,"

"In a collapsing market, these business owners and individuals could face significant premium increases, out of reach for many."

"Plunge the state's uninsured rate to a historic low of 7.4 percent last year from 17.2 percent in 2013.

Governor Brown also pointed to the rising costs and diminished health outcomes of McCarthy's own constituents in Tulare, Kern and Los Angeles Counties "where the number of Medi-Cal enrollees is high," should they be stripped of insurance coverage.

"California stands ready to work with you and your colleagues to find decent and real solutions"

"But I implore you: don't just shift billions of dollars in costs to the states. That would be a very cynical way to prop up the federal budget – and devastating to millions of Americans."

More than \$15 billion from the federal government flows to California to support Obamacare's optional expansion covering nearly 4 million adults.

**Insurance Commissioner Dave Jones responses: <sup>3</sup>**

A fundamental question must be asked before any vote is cast. Do you have a replacement that will maintain the fundamental protections - affordability, quality, and access to a comprehensive set of health care benefits for everyone who has health insurance coverage today?

Approximately five million Californians and 20 million Americans have health insurance coverage they would not have, but for the Affordable Care Act. Thanks to the Affordable Care Act, 91% of Californians are

now insured. The Affordable Care Act cut the uninsured rate in California by more than half, changing this important indicator from 17.2% of Californians without health insurance in 2013 to a historic low of 8.6% in 2015.

In California, the uninsured rate dropped across all racial and ethnic groups. Significantly, the greatest gains in health insurance coverage were seen among Latinos; the number of uninsured among non-senior California Latinos fell by 1.5 million, representing a decrease in the uninsured rate from 23% to 12%.<sup>5</sup>

The magnitude of the positive impact of the ACA reforms is profound. The U.S. Department of Health and Human Services determined that:

Compared to pre-ACA coverage, 12,092,000 Californians are no longer threatened by lifetime limits on their health insurance coverage.

An estimated 294,000 young adults have benefitted from the ability to stay on their parents' health insurance to age 26.

Expansion of preventative care has improved the health of 15,867,909 Californians, through access to flu shots, cancer screenings, mammograms, and tobacco cessation services at no cost.

The implementation of the Medical Loss Ratio (MLR), which requires insurers to spend at least 80% of their premiums on coverage, has returned \$124,910,743 in insurance refunds to Californians who receive coverage through their employers.

The above comments from Commissioner Jones are not exhaustive as he sent an 18 page response with 5 pages of footnotes. Should you wish to review his entire comments, see link 3 below.

At this writing, SB 10 (Lara) which would have allowed adult undocumented residents to purchase health coverage through Covered California has been delayed until the new Administration comes into office. Senator Lara issued the following statement on Wednesday - "California filed for a state innovation waiver under Section 1332 of the Affordable Care Act in order to implement SB10. Today we learned that the waiver will be delayed until after the Presidential Inauguration. I am withdrawing the Health4All waiver request because I don't trust the Trump Administration to do what's best for California and to implement the waiver in a way that protects people's privacy and health".

Lastly, the repeal and replace of ACA will have profound consequences on our nation as it did when first signed in 2010 and fully implemented in 2014. The

question for me has always been, why would anyone **not** want all people to have health coverage and access to affordable, quality and reasonably priced health care? I look forward to seeing how this critically important and fundamental issue plays out.

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