



April 1, 2021

TO: State Association of County Retirement Systems

FROM: Edelstein Gilbert Robson & Smith, LLC

RE: **Legislative Update – April 2021**

Last year, Governor Newsom solemnly pronounced that after expecting record breaking surpluses in 2020, the state was facing a \$54 billion deficit. That number was daunting, and comparable to the budget shortfalls experienced at the onset of the Great Recession. That massive deficit never materialized. The Governor and his Department of Finance (DOF) didn't lie or mislead. The nonpartisan and respected Legislative Analyst's Office (LAO) also projected large and growing deficits as a result of the pandemic.

The projections were wrong for two reasons. First, with tax filing deadlines extended, both DOF and the LAO were flying blind without a reliable estimate of how much revenue the state would take in. Last year's budget was adopted before the Governor and the Legislature had the benefit of those estimates.

Secondly, the economic downturn was lopsided, disproportionately impacting low-income Californians forced to leave work during the pandemic. Wealthy Californians largely continued to prosper while stock markets rebounded despite rapid and precipitous falls at the outset of the pandemic. California's tax code leans heavily on high-income residents. While that reliance devastated state revenues during the Great Recession, it has helped spare the state during the pandemic.

Since the projections were off, the 2020 Budget was more conservative than it needed to be. Consequently, Governor Newsom's 2021 Budget was built on a \$15.5 billion windfall surplus, and the good news keeps rolling in.

Last week, the Department of Finance reported that the state will receive another \$14.3 billion in unexpected surplus revenue. On top of that, \$150 billion is coming to California from the \$1.9 Trillion American Rescue Plan recently signed by President Biden. While most of this money will go directly to residents and local governments, \$26 billion will drop into California's budget. The money must be spent addressing public health issues or the economic fallout from the pandemic, pay for essential workers, backfilling lost tax revenue, or making investments in water, sewer, or broadband infrastructure.

We have a few observations.

That's not a lot of Strings

The \$14.3 billion surplus is General Fund revenue which can be spent as the Legislature and Governor see fit. While the \$26 billion in federal aid comes with the restrictions mentioned above, they are not very limiting. The Governor and Legislature could argue that any number of spending proposals would mitigate the economic impact of the pandemic, for example. The state has until 2024 to spend the money, and lots of things to spend it on.

Lots of Money, Lots of People Want it

\$40 billion in unexpected revenue is a lot. It's easy for lobbyists and their clients to start imagining how to spend it, which is exactly why it's not as much money as it seems. Even before it was clear exactly how much money California would receive from the Federal Government or how much surplus revenue it had to spend, billions of dollars of new spending proposals were floating around the Legislature.

There's a lot of need right now, and no shortage of stakeholders looking to use state revenue to meet it. The Legislature and the Governor will have to figure out which of these requests aligns with their own priorities.

It's Enough Money for the Legislature and Governor to Fight Over

The Governor essentially ruled California via Executive Order and unilateral spending authority granted by the Legislature from March through June last year. While they allowed the situation to persist, it seems to have rubbed many legislators the wrong way. As we've reported previously, frustrated legislators largely won the debate over how to structure the 2020 budget. While they have questioned Governor Newsom on his handling of the pandemic, his handling of unemployment fraud, and his plans for school reopening, they have not truly challenged him since budget negotiations concluded in 2020.

The Legislature could choose to leverage the Governor on how to spend new revenue, but there's reason to think the Legislature will be even more accommodating than they were last year. While it's still not official, Governor Newsom will be facing a recall later this year. Despite their grievances, Democrats in the Legislature will want to defend the Democratic Governor from the Republican-backed recall effort. While there will be give and take over how to use the new money as always, it seems likely the Legislature will help the Governor with his major spending initiatives.

New Attorney General

In December, we reported that the election of Vice President Kamala Harris created a game of political musical chairs when she vacated her US Senate seat. The issue of appointing her successor quickly became fraught with risk for Governor Newsom who was urged by advocates and legislators representing the state's African American, Latino, API, and LGBTQ Californians to appoint a Senator who can represent their communities.

The Governor handled the challenge. The appointment of former Secretary of State Alex Padilla as the first Latino Senator representing California created another vacancy. The Governor appointed Shirley Weber to replace them and serve as California's first African American Secretary of State. Last week, the Governor appointed Assemblymember Rob Bonta to replace Xavier Becerra as Attorney General. Mr. Bonta will be the first Filipino American to hold the position.