Attachment B

HURST+BROOKS+ESPINOSA

November 8, 2023

To: County of Santa Barbara Legislative Committee

From: Hurst Brooks Espinosa, LLC

Re: **2023 Annual Report – State Legislative Activities**

The team of Hurst Brooks Espinosa, LLC and Politico Group were honored to represent the County of Santa Barbara before the State Legislature and administrative agencies this year. During our first year working on the County's behalf, we have been pleased to have the opportunity to develop productive working relationships with the County's supervisors, executive staff, department heads, and others to assist in addressing priority policy matters. Your legislative delegation of Senator Monique Limón and Assembly Member Gregg Hart have been important advocates for County priority legislative and budget issues, and we have enjoyed working collaboratively with their respective teams on advancing the County's advocacy objective and addressing challenges.

The HBE/Politico Group team engaged on a number of legislative matters on the County's behalf during the legislative session. Below we summarize highlights of our engagement in Sacramento on the County's behalf.

Legislative Advocacy

More than 24 hours before the constitutional deadline of October 14, Governor Gavin Newsom dispensed with the last of the bills presented to him at the end of the 2023 legislative session. A total of 1,046 bills reached the Governor's desk; all told, he signed 890 bills and vetoed 156, for a 14.9% veto rate. Below we discuss describe specific areas of engagement on behalf of the County in the Legislature followed by additional, more detailed context on several high-profile policy changes enacted this year.

- On County's behalf – at the direction of the LPC, in coordination with CEO staff, or consistent with the Legislative Platform and Priorities – actively engaged on a range of consequential bills on topics as wide ranging as cannabis, design build, public meetings, groundwater management, coastal development, greenhouse gas reduction, prescribed grazing, and public broadband services, among others. Advocacy activities included the following:
    - Conducted information and intelligence gathering to advise and position on a variety of measures;
    - Drafted legislative bill letters for and provided testimony before relevant committees; and

  - Worked in collaboration with the county associations and other local agency advocates on advocacy approach.

- Joined a large coalition in support of AB 557 (Hart), which would eliminate the sunset on statutory provisions in the Brown Act that authorize local agencies to meet via teleconference during a declared state of emergency.
- Supported Santa Barbara County Association of Governments in its sponsorship of SB 825 (Limón), which sought to add metropolitan planning organizations and regional transportation planning authorities to those local government agencies included in the definition of "local agency" within provisions of the law related to public broadband services. Governor Newsom signed SB 525 into law on September 8.
- Provided lead witness testimony in the Assembly Business and Professions Committee on AB 687 (Hart), regarding County's support for enhanced, real-time access to cannabis track and trace data.
- Supported the County Health Executives Association of California's sponsored measure, AB 1057 (Weber), which would provide counties greater flexibility in their home-visiting programs.
- Advocated on the County's behalf on key issue areas that will affect counties statewide, including: CARE Act (SB 1338, 2022) implementation; behavioral health services reforms and associated bond measure (SB 326, Eggman and AB 531, Irwin); SB 525 (Durazo), a high-profile measure to create a path toward $25/hour wage for specified health care workers; and AB 505 (Ting), a measure that would amend various provisions associated with SB 823 – the 2020 legislation to realign the final set of juvenile justice system responsibilities to counties.
- The County actively engaged on 25 measures in the 2023 legislative year; the outcomes on each of these measures following the Governor's final signing and veto decisions are detailed below.

Position	# of bills	Current status (as of 10/14/23)
Support	20	– 9 signed into law – 1 chaptered by Secretary of State (constitutional amendment, which does not require a gubernatorial signature given that voters have final approval authority) – 1 vetoed – 9 two-year bills or held in committee (all eligible for consideration in 2024)
Support in Concept	1	– 1 held in committee (eligible for consideration in 2024)
Active watch	1	– 1 signed into law
Oppose	3	– 2 signed into law – 1 two-year bill (eligible for consideration in 2024)

▶ Behavioral Health Services Act

As part of the State of the State events in March 2023, the Governor announced that his Administration would be reforming and revising the Mental Health Services Act. It took the Administration several months to put a proposal into legislative bill form – with two measures – AB 531 (Irwin) and SB 326 (Eggman) – appearing in print in mid-June, giving the Legislature and stakeholders only a several month window to negotiate consequential changes to how mental health services are funded and delivered in California.

AB 531 (Irwin), the Behavioral Health Infrastructure Bond Act of 2023, would authorize $6.38 billion in bond funding for housing and treatment, including acute psychiatric beds. SB 326 (Eggman) would revise and recast the Mental Health Services Act (MHSA) as the Behavioral Health Services Act (BHSA). Select sections of AB 531 and SB 326 – as specified in each bill – will appear as Proposition 1 on the March 2024 ballot.

Major Policy Changes to MHSA – SB 326 (Eggman)

Funding	***State Funds*** Increases the total amount of funds retained at the state level from 8 to 12 percent of total MHSA/BHSA revenues, and proposes that at least 3% of total funds for the Department of Health Care Access and Information (HCAI) to implement a behavioral health workforce initiative; and, at least 4% to the California Department of Public Health (CDPH) for population-based MH and SUD prevention programs, with at least 51% of these funds to be used for programs serving populations who are 25 years or younger, with specified priorities such as reduction of stigma and racial disparities.
	County Funds Reduces the total amount of funds from 92 to 88 percent of total MHSA/BHSA revenues and recasts how the funds are to spent. Counties must annually spend: – 30% of funds for housing interventions programs, with 50% of these funds used for housing interventions for persons who are chronically homeless, with a focus on those in encampments, and up to 25% for capital development projects. Beginning in fiscal year 2026, counties with a population less than 200,000 can seek an exemption from this requirement. Beginning in 2032, other counties can seek an exemption from this requirement; – 35% of funds for Full Service Partnerships. Beginning in fiscal year 2032, counties can seek an exemption from this requirement; – 35% of funds for BH Services and Supports (BHSS) for services to children and youth and adults/older adults, early intervention, outreach and engagement, workforce education and training, capital facilities and technological needs, and innovative behavioral health pilots and projects. Requires at least 51% of BHSS funds to be used for early intervention, and 51% of those funds for programs to serve individuals who are 25 years and younger.
	Prudent Reserve Permits counties to calculate a maximum amount from its Local Behavioral Health Services Fund not to exceed 20% for the prudent reserve.

<table>
<tr><td rowspan="2"></td><td>Planning Costs
Allows up to 5% of MHSA/BHSA funds for county planning costs, with up to 2% to include funding to improve plan operations, quality outcomes, fiscal and programmatic data reporting, and monitoring of subcontractor compliance for all behavioral health programs.</td></tr>
<tr><td>Transfers
Allows a county to transfer up to 14% of the total local Behavioral Health Services Fund funds allocated in a fiscal year between one or more of the purposes authorized in the BHSA upon approval from Department of Health Care Services (DHCS).</td></tr>
<tr><td>Priority Populations</td><td>– Prioritizes MHSA/BHSA funding to serve adults/older adults and children and youth that are chronically homeless or experiencing homelessness or are at risk of homelessness; are in, or are at risk of being in, the justice system; are reentering the community from prison or jail, or youth correctional facility; at risk of institutionalization; at risk of conservatorship (adults/older adults); or in the child welfare system.

– Clarifies that counties are permitted to use BHSA funds to treat primary substance use disorder conditions and makes conforming changes throughout the BHSA.</td></tr>
<tr><td rowspan="2">Integrated Plans and Reporting</td><td>Integrated Plan for Behavioral Health Services and Outcomes
SB 326 requires each county to develop, every three years, an Integrated Plan for Behavioral Health Services and Outcomes, rather than the existing three-year revenue and expenditure report, which includes:
– A demonstration of how the county:
    o Will utilize various funds for behavioral health services;
    o Will use BHSA funds to prioritize addressing the needs of those who meet service criteria;
    o Will strategically invest in early intervention and advancing BH innovation;
    o Has considered other local program planning efforts in the development of the integrated plan to maximize opportunities to leverage funding and services from other programs; and,
    o Will support and retain a robust, diverse county and non-county contracted BH workforce to achieve the statewide and local behavioral health outcome goals;
– A development process in partnership with local stakeholders;
– A set of measures used to track progress and hold counties accountable in meeting specific outcomes and goals of the integrated plan; and,
– Information for the state to consider, if necessary, to recommend changes to the CBHP’s integrated plan or requiring sanctions to a CBHP’s BHSA funding as a result of not meeting its obligations or state outcome metrics.</td></tr>
<tr><td>Integrated Plan and Annual Updates
SB 326 requires each county to prepare and submit an integrated plan and annual updates to the Behavioral Health Services Oversight and Accountability Commission (BHSOAC) and DHCS. Further, the measure requires a county with a population greater than 200,000 to collaborate with the five most populous cities in the county,</td></tr>
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managed care plans, and continuums of care to outline respective responsibilities and coordination of services related to housing interventions.

SB 326 requires the integrated plan and annual updates to include a section for each of the following:

- Community mental health services, as specified;
- A budget that includes the county's planned expenditures and reserves for the distributions from the BHSF and any other funds allocated to county behavioral health to provide services and programs;
- A description of how the integrated plan and annual update aligns with statewide behavioral health goals and outcome measures, including goals and outcome measures to reduce identified disparities, as defined by DHCS in consultation with counties, stakeholders, and the BHSOAC;
- A description of how the integrated plan aligns with local goals and outcome measures for behavioral health, including goals and outcome measures to reduce identified disparities;
- A description of how the county has considered the unique needs of LGBTQ+ youth, justice-involved youth, child welfare-involved youth, justice-involved adults, and older adults in the housing intervention program;
- A description of its workforce strategy, to include actions the county will take to ensure its county and non-county contracted BH workforce is well-supported and culturally and linguistically concordant with the population to be served, and robust enough to achieve the statewide and local behavioral health goals and measures;
- A description of the system developed to transition a beneficiary's care between the beneficiary's mental health plan and their managed care plan based upon the beneficiary's health condition;
- Certification by the county behavioral health director that ensures that the county has complied with all pertinent regulations, laws, and statutes, including stakeholder participation requirements; and,
- Certification by the county behavioral health director and by the county chief administration officer or their designee that the county has complied with fiscal accountability requirements, as directed by DHCS, and that all expenditures are consistent with applicable state and federal law.

County Behavioral Health Outcomes, Accountability, and Transparency Report

SB 326 requires CBHPs and Medi-Cal BH delivery systems annually to submit a County Behavioral Health Outcomes, Accountability, and Transparency Report to DHCS. The measure requires a county's board of supervisors to attest that the report is complete and accurate before it is submitted. The report is required to include information such as:

- The county's annual allocation of state and federal behavioral health funds, by category;
- The county's annual expenditure of state and federal behavioral health funds, by category;

	– The amounts of annual and cumulative unspent state and federal behavioral health funds, including funds in a reserve account, by category; – The county's annual expenditure of county general funds and other funds, by category, on mental health or substance use disorder treatment services; – The sources and amounts spent annually as the nonfederal share for Medi-Cal specialty mental health services and Medi-Cal substance use disorder treatment services, by category; – All administrative costs, by category; – All contracted services, and the cost of those contracted services, by category; – Information on behavioral health services provided to persons not covered by Medi-Cal, as specified; – Other data and information such as information on spending on children and youth, service utilization data, performance outcome measures across all behavioral health delivery systems, – and data and information pertaining to populations with identified disparities in behavioral health outcomes, as specified by DHCS; and, – Data and information on workforce measures and metrics, as specified.
	State Metrics – SB 326 requires DHCS to establish metrics to measure and evaluate the quality and efficacy of specified behavioral health services and programs.

▶ Health Care Minimum Wage

After months of opposition, major health care groups and the Service Employees International Union (SEIU) State Council hammered out an agreement in the waning days of the legislative session to create a tiered implementation to get to a $25/hour health care minimum wage. Newly minted Speaker Rivas proactively engaged the health care industry to begin discussions with SEIU on SB 525 (Durazo).

Although there is no signing messaging, a *Politico* article noted that the Governor signed the bill with the "condition that lawmakers send him a follow-up bill imposing economic off-ramps." It is unclear what this means. However, given the Governor's broad concerns about cost pressures on the General Fund – as demonstrated through other veto messages. In early November, the *Los Angeles Times* reported that the Administration is estimating $4 billion ($2 billion General Fund) in costs to implement SB 525.

Stakeholders at the October Medi-Cal Stakeholder Advisory Committee meeting asked about implementation of SB 525 in the community mental health space – who it applies to and where to direct questions. DHCS Director Michelle Baass asked that questions be sent directly to her and said they would not have implementation details before January.

Details of the final agreement include four implementation tiers that will get different types of facilities and providers, including county mental health and county correctional health, to

$25/hour. Under the tiers, Santa Barbara County will have a staggered wage implementation for county-owned clinic, mental health and correctional health as follows: 1) $21/hour for those employees effective January 1, 2025; 2) $23/hour effective June 1, 2026; and 3) $25/hour effective June 1, 2027.

SB 525 defines "covered health care employee" to include a contracted or subcontracted employee, if all of the following apply:

1. 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.
2. 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.

The measure includes a cost-of-living adjustment of the lesser of 3.5 percent or CPI starting January 1 after the June when a facility gets to $25. For Santa Barbara County, the COLA would be effective January 1, 2028. In years where there is negative growth, there is no COLA adjustment to the wage.

As part of the agreement, the health care industry pushed on SEIU to cease sponsoring local ordinances and ballot measures affecting the industry. To address these concerns, SB 525 contains several state pre-emptions of local actions, including: 1) pre-empts local ordinances on wages or compensation of health care facility employees until January 1, 2034; 2) voids local ordinances enacted or taking effect after 9/6/2023 related to cover health facilities and wages, salaries or compensation (effectively voiding all the March 2024 ballot measures on health care wages); and 3) pre-empts local ordinances on limiting or otherwise relating to compensation of covered health care facility employees until January 1, 2030 (this is intended to prevent measures limiting executive compensation).

Budget Advocacy

The Governor announced his 2023-24 state budget amidst a backdrop of damage from the state's severe winter storms, noting a dramatic change in the state's fiscal health. Continued high inflation, multiple federal reserve bank interest rate increases, and stock market decline had a significant impact on state revenues due to our progressive income tax structure and reliance on high-income earners. The Governor's proposed budget forecast that General Fund revenues would be $29.5 billion lower than projections and California would face an estimated budget gap of $22.5 billion in the 2023-24 fiscal year.

In his May Revision, the Governor then updated the state's estimated budget deficit to $31.5 billion. Due to declining capital gains revenues, which were in large part the result of inflationary pressures and a tightening federal monetary policy that impacted the stock markets, the deficit reflected a normalizing of the percentage share that capital gains contribute to the state's coffers and is a result of the built-in volatility of the state's personal and corporate income tax structure. Further complicating matters, the Internal Revenue Service and the state's Franchise Tax Board executed 10-month tax filing deadline delays – imposed due to severe winter storms across the state – which inserted greater uncertainty in the state's projected revenues.

Eventually, legislative leaders and the Governor agreed upon a 2023-24 state budget, but not without some hand-wringing, in large part due to failure to come to agreement on an Administration-proposed infrastructure package. When the Administration agreed to remove the controversial Delta tunnels project from its proposal, the main budget bills and associated trailer bills were signed in short order, just in time for the start of the fiscal year.

On the County's behalf, we engaged in a number of budget proposals, as follows:

- Advocated for inclusion of CSAC AT HOME proposal in the 2023-24 state budget, including ongoing funding and collaborative local planning for addressing homelessness.
- Opposed, along with a coalition of counties and county-affiliated organizations, the Administration's trailer bill language to permanently set the penalty for failing to come to a collective bargaining agreement for In-Home Supportive Services providers at 7 percent.
- Advocated for process improvements to the state's new Felony Incompetent to Stand Trial (IST) growth cap and penalty structure. Administrative improvements to the program should substantially reduce the magnitude of local penalties. This issue is described in further detail below.
- Secured a number of items in the 2023-24 state budget that benefit the County, including $750,000 to the Santa Barbara County Fire Department for the Santa Barbara County Fire Department Marine Rescue Boat.
- Additionally, the state budget includes several items that will be directed to the Santa Barbara community, generally, including:
    - $500,000 for the Santa Barbara Land Trust for acquisition, restoration, and ongoing improvements of the Gaviota Overlook in the Arroyo Hondo Preserve;
    - $500,000 for Heal the Oceans to conduct a geological study in Summerland, California;
    - $1,625,000 for the Community Environmental Council for the support of the Santa Barbara County Regional Climate Collaborative;

- $590,000 for Planned Parenthood of the Central Coast, for support of a postpartum home visitation program in the Counties of Santa Barbara, Ventura, and San Luis Obispo;
- $2,285,000 to the Lompoc Theatre for the Lompoc Theatre Project;
- $1,000,000 for Santa Barbara Community College Foundation for the establishment of an apprenticeship program for the laser tech industry of the County of Santa Barbara.

▶ Felony Incompetent to Stand Trial

The County's advocacy team also thoroughly engaged in felony Incompetent to Stand Trial (IST) negotiations with the Administration. Activities included communicating regularly with the CEO's office to understand the local landscape and utilizing these specific circumstances to drive recommendations to the county coalition and Administration. After months of discussions with the coalition of county stakeholders[1], the Department of State Hospitals (DSH) revised the new felony IST growth cap and penalty program. On August 1, DSH sent counties a letter describing the changes to the program.

Recall that the 2022-23 Health budget trailer bill (SB 184) included a statutory framework for DSH to establish a new growth cap on each county's felony IST determinations with a penalty assessed on counties for individuals exceeding their cap. Assessed penalty funds are to be collected and then returned to the paying county for the purpose of supporting county mental health services and activities. Based on the Administration's implementation/design of the program, the first two quarterly updates in 2022-23 demonstrated many counties, including Santa Barbara, were trending toward substantial fiscal penalties at the end of the first year of the program.

The final program modifications included the following key elements to ease the magnitude of penalties imposed on counties and improve state-local coordination:

- Excluded certain individuals from the counting methodology (e.g. program revocations, cancelled commitments, recommitments, re-evaluations, EASS competency findings, and a portion of diversion program participants);
- Created a tiered penalty rate that can reduce the penalty rate charged to counties from the original $113,000/individual to potentially as low as $69,000/individual based on the types of programs in place within the respective county; and
- Created a dispute resolution and information sharing process.

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[1] California State Association of Counties (CSAC), Urban Counties of California (UCC), Rural County Representatives of California (RCRC), County Behavioral Health Directors Association (CBHDA), Chief Probation Officers of California (CPOC), and California State Sheriffs Association (CSSA).

Other Advocacy/Engagement

Additional advocacy and engagement with the Legislature and other state officials on priority county issues include the following:

- Engaged with County staff, the County's legislative delegation, legislative committee staff, and Administration staff on the status of the County's housing element, including drafting and submitting spot bill language for a potential sponsored bill and drafting a letter for the legislative delegation to submit to the Governor requesting a delay in meeting deadlines due to the impacts of winter storms.
- Engaged with the California Department of Technology regarding inclusion of the Cuyama/Highway 166 route in the Golden State Connect Network, as well as the removal of State Route 154 in the Phase II map.

Communications with County

In our view, the success of the client-advocate relationship is grounded in regular and timely communication. We have appreciated the engagement with and direction given by the Legislative Program Committee (LPC). Below we outline a range of areas where we have prioritized communication to assist in advancing the County's legislative and budget objectives and to ensure the County is well-informed regarding policy deliberations in the Capitol.

- Active participation in monthly LPC meetings, including preparation of timely, thorough, and relevant written legislative updates; responsive and well-informed engagement with LPC members on topics of interest and consequence; and prompt follow-up on inquiries and research, as requested;
- Active engagement in weekly update calls with County Executive Office (CEO) staff;
- Regular communication about and frequent written updates on status of bills on which the County engaged;
- Briefings with select staff on issues of interest in follow-up to LPC conversation and direction, including legislative developments on high-profile measures;
- Additional communication when necessary to seek direction, provide time-sensitive updates, and share information on late-breaking budget and/or policy developments.
- Provision of timely, relevant, and insightful weekly newsletter on policy and political developments in and around Sacramento.

In closing, our team is honored to represent the County of Santa Barbara and look forward to our continued work in advancing the County's goals and objectives in 2024.