



## ***2020 Year-End Briefing*** UC Office of State Governmental Relations October 1, 2020

### ***Annual Year-End Briefing*** recaps UC's legislative year

This 2020 edition of the University of California (UC) Office of State Governmental Relations (SGR) ***Year-End Briefing*** wraps up legislation that posed a “significant impact” to the University during the past year.

The University reviewed over 2,700 new bill introductions and about 3,000 subsequently amended bills this year to assess potential impact to the UC. SGR tracked approximately 480 “significant impact” measures in 2020 and UC took positions on over 23 measures that directly affected its academic affairs, business operations, and health sciences and services. SGR staff testified on numerous occasions in 14 different policy and fiscal committees. Additionally, SGR prepared many UC subject matter experts for testimony in a variety of informational hearings conducted by legislative committees.

Among the most significant pieces of legislation this year were bills supported by the University, including: AB 890 (Wood), which expands the scope of practice for nurse practitioners; ACA 5 (Weber), which repeals provisions of Proposition 209; SB 406 (Pan), which extends the sunset for the California Health Benefits Review Program (CHBRP); and SB 493 (Jackson), which requires a postsecondary institution that receives any state financial assistance to comply with requirements to protect students and provide them with procedural protections relating to complaints of sexual harassment.

The University also opposed three critical measures: AB 2114 (Rodriguez), which would have allowed medical trainees to seek arbitration over disciplinary decisions; AB 3096 (Chiu), which would have allowed unions to bring a claim before the Public Employment Relations Board (PERB) alleging that UC violated existing law regarding public employers deterring or discouraging workers from joining or remaining in a union; and SB 977 (Monning), related to hospital system agreements, which would have given unprecedented authority to the Attorney General for approval of changes of control or acquisitions.

### **Major Legislation Focused on the UC**

**AB 685 (Reyes)** prohibits an employer from operating or allowing entry upon determination that it exposed workers to COVID-19 in a manner constituting an imminent hazard, and requires an employer that receives a notice of potential exposure to notify all employees, including exclusive representatives, within one business day of the notice of potential exposure, and to provide them with information regarding related workers' compensation and leave benefits, anti-retaliation and anti-discrimination protections, and disinfection and safety plans. The University joined a large coalition of partners to **oppose** the bill because its provisions were vague, unclear, and unnecessarily burdensome. The coalition requested a veto from the Governor. The Governor signed the bill on September 17, 2020 (Chapter 84).

**AB 890 (Wood)** expands the scope of practice for nurse practitioners, an issue for which UC has been a progressive leader for many years. The University **supported** the bill and requested the Governor's signature. The Governor signed the bill on September 29, 2020 (Chapter 265).

**AB 2114 (Rodriguez)** would have required a higher education employer to provide a procedure for all medical and dental interns and residents, persons in accredited resident physician subspecialty programs, and other postgraduate medical and dental trainees in unaccredited programs to challenge a termination of employment or a disciplinary action, as defined, by the employer, after the employee has exhausted available administrative or academic grievance processes, or as described. UC worked on an "oppose unless amended" strategy in coordination with the Deans of the Graduate Medical Education programs and secured several important amendments to improve the bill. Unfortunately, our most important issues were not resolved and UC ultimately had to **oppose** the bill. The University requested the Governor's veto and the Governor vetoed the bill on September 29, 2020.

**AB 2273 (Bloom)** allows the David Geffen School of Medicine at UCLA to enable Cedars-Sinai Medical Center to assume responsibility for special faculty permits of medical faculty that it hires and trains. UC secured technical and substantive amendments. The University **supported** the bill and requested the Governor's signature. The Governor signed the bill on September 29, 2020 (Chapter 280).

**AB 2288 (Low)** authorizes an approved nursing program to use a clinical setting without meeting specified requirements and request to revise certain clinical experience requirements for enrolled students when the Governor declares a state of emergency or until the end of the academic term in the county in which the facility is located, subject to specified requirements. UC secured amendments to the bill. The University **supported** the bill and requested the Governor's signature. The Governor signed the bill on September 29, 2020 (Chapter 282).

**AB 2416 (Gabriel)** requires institutions of higher education to allow students to appeal their loss of certain student financial aid if they fail to meet "satisfactory academic progress" (SAP) due to homelessness. The University **supported** the bill and requested the Governor's signature. The Governor signed the bill on September 29, 2020 (Chapter 285).

**AB 3096 (Chiu)** would have allowed unions to bring a claim before PERB alleging that UC violated existing law regarding public employers deterring or discouraging workers from joining or remaining in a union. The bill targeted UC as the sole public employer, and would have been costly. The University had an **oppose unless amended** position on the bill. Following conversations with the chair and committee staff, the bill was held in the Senate Labor, Public Employment and Retirement Committee.

**ACA 5 (Weber)**, if approved by voters under Proposition 16 in the November 3, 2020 General Election, would repeal provisions enacted by Proposition 209 of 1996 by permitting the use of race, gender, and ethnic diversity as factors in college admissions, government hiring, and government contracting. The University **supported** the measure, which was enacted on June 25, 2020 (Chapter 23). Although the Governor announced his support for the measure, legislatively qualified constitutional amendments do not require the Governor's signature to qualify for the ballot.

**ACA 14 (Gonzalez)** would have amended the California Constitution to prohibit UC from entering into contracts for a broad array of support and clinical services that are defined in the measure. Last year the measure was taken up on the Senate Floor on the final night of session, but failed to muster the required number of votes for passage. Legislatively qualified constitutional amendments do not require the Governor’s signature to qualify for the ballot. The measure could have been revived through the end of session. The University **opposed** the measure and it was held in the Senate.

**SB 74 (Mitchell)** and **AB 89 (Ting)**, together make up the Budget Act of 2020. The budget package, SB 74 and AB 89, jointly include \$3.466 billion for the UC, of which \$3.458 billion is ongoing funding and \$7.7 million is one-time funding. The budget bill package provides the University with an ongoing funding decrease of \$260.8 million, or -7%, from the Budget Act of 2019 at the start of the 2020-21 fiscal year. The budget package also provides the possibility that the UC budget will be increased 5% above the 2019-20 State General Fund level if sufficient federal funds are received by October 15. The Governor signed SB 74 (Chapter 6) and AB 89 (Chapter 7) on June 29, 2020.

**SB 292 (Rubio)** would have, among other things, created a commission that included UC representation to convene stakeholders to develop regionally specific community hardening standards to reduce losses due to wildfires. SGR engaged with the author’s office extensively on scoping out the work of the commission and connected the author’s office with numerous UC faculty researching wildfires. The bill was gutted and amended and placed on the Assembly inactive file in the final week of session.

**SB 406 (Pan)** extends the operation of UC CHBRP and authorizes the continued assessment of the annual charge on health care service plans and health insurers for that purpose through July 1, 2022. The University **supported** the bill and requested the Governor’s signature. The Governor signed the bill on September 29, 2020 (Chapter 302).

**SB 493 (Jackson)** requires, except as specified, a postsecondary institution that receives any state financial assistance to comply with requirements to protect students and provide them with procedural protections relating to complaints of sexual harassment. The bill is the State’s response to the new federal Title IX sexual harassment rules that preserves student sexual harassment protections and procedures that the State and UC have come to common ground agreement on over the course of years. The University originally had an “oppose unless amended” position on the bill, and after securing numerous critical amendments to improve processes, UC ultimately **supported** the bill and requested the Governor’s signature. The Governor signed the bill on September 29, 2020 (Chapter 303).

**SB 758 (Portantino)** would have extended the deadline for the 2030 Alfred E. Alquist Hospital Facilities Seismic Safety Act mandate to 2032. The University had a **support** position on the bill. The bill was held in the Assembly upon request of the author, but is expected to be re-introduced in 2021.

**SB 793 (Hill)** prohibits a tobacco retailer from selling, offering for sale, or possessing with the intent to sell or offer for sale, a flavored tobacco product, except as specified. The University **supported** the bill and the Governor signed the bill on August 28, 2020 (Chapter 34).

**SB 820 (Senate Budget and Fiscal Review)** is the K-12 and higher education budget trailer bill. The bill includes contracting out prohibitions on buildings constructed or maintained with state general fund financing. The bill requires the Department of Finance to approve new and ongoing capital expenditures or capital outlay projects only after UC demonstrates ongoing and continuous compliance with specified requirements in the Education Code. The bill authorizes UC to use the difference between State allocation for GO bond payments and the UC's refinanced amount for operational expenses until July 1, 2023. It also extends the Native American Graves Protection and Repatriation Act (NAGPRA) systemwide policy implementation deadline from January 1, 2020 to January 1, 2021. The Governor signed the bill on September 18, 2020 (Chapter 110).

**SB 864 (Wilk)** would have made significant changes to the rules around cultivation of industrial hemp in California. SGR engaged with the author and sponsor to seek amendments that would make it easier for UC researchers and growers to comply with delta-9 tetrahydrocannabinol (THC)-concentration testing requirements. Though SGR received commitments to make such changes, the bill was held in the Assembly Agriculture Committee before those amendments could go into print.

**SB 977 (Monning)**, related to hospital system agreements, would have given unprecedented authority to the Attorney General for approval of changes of control or acquisitions. The bill was a major priority for UC Health and the California Hospital Association. The University had an **oppose** position on the bill. The bill was held in the Assembly.

**SB 980 (Umburg)** would have established the Genetic Information Privacy Act to require direct-to-consumer genetic testing companies to provide a consumer with certain information regarding the company's policies and procedures while protecting UC's ability to conduct research involving genetic data. The University secured substantive amendments to preserve UC's research interests and **supported** the bill. The Governor vetoed the bill on September 25, 2020.

**SB 1237 (Dodd)**, the Justice and Equity in Maternity Care Act, allows certified nurse-midwives to practice with a physician under mutually agreed-upon policies and protocols. The University **supported** the bill and requested the Governor's signature. The Governor signed the bill on September 18, 2020 (Chapter 88).

### **Other Key Bills Followed Closely by UC**

**AB 66 (Gonzalez)** would have prohibited law enforcement from using kinetic energy projectiles or chemical weapons and tear gas, and expanded the use of force reporting requirement to occur monthly and include projectile/chemical agent use incidents resulting in injuries. The University did not take a position on the bill. The bill was held in the Senate.

**AB 78 (Assembly Budget Committee)** creates the Climate Catalyst Revolving Loan Fund. The Governor signed the bill on June 29, 2020 (Chapter 10).

**AB 80 (Assembly Budget Committee)** is the public health trailer bill. The bill expands Medi-Cal to seniors over the age of 65 regardless of immigration status, establishes the Health Care Payments Data Program, and more. The Governor signed the bill on June 29, 2020 (Chapter 12).

**AB 196 (Gonzalez)** would have created a workers' compensation disputable presumption that an injury defined to include COVID-19 developed or manifested during a period of a person's employment in an essential occupation or industry identified in the Governor's March 19, 2020 Executive Order (N-33-20). The University did not take a position on the bill. The bill was held in the Senate.

**AB 275 (Ramos)** revises and recasts portions of California's repatriation policy (Cal-NAGPRA) to provide for greater tribal input into decisions to affiliate particular collections of remains and funerary objects with specific California tribes, and provides that greater weight be given to tribal viewpoints. The University did not take a position on the bill. The bill was signed by the Governor on September 25, 2020 (Chapter 167).

**AB 660 (Levine)** would have prohibited data collected, received, or prepared for purposes of contact tracing from being used, maintained, or disclosed for any purpose other than facilitating contact tracing efforts; prohibited law enforcement from engaging in contact tracing; and required data collected for this purpose to be deleted within 60 days, except if in the possession of a state or local health department. The University sought amendments on the bill and had **concerns**. The bill was held in the Senate Appropriations Committee.

**AB 664 (Cooper)** would have created a workers' compensation disputable presumption that an injury defined as an illness or death resulting from COVID-19 if certain circumstances apply, sustained by certain firefighting personnel, specified correctional and law enforcement personnel, certain health care employees who provide direct patient care at an acute care hospital, and specified fire and rescue services coordinators arose out of and in the course of their employment. The University did not take a position on the bill. The bill was held in the Senate.

**AB 1022 (Holden)** would have required law enforcement policies to require officers to immediately report potential excessive force, and to intercede when present and observing an officer using excessive force. The University did not take a position on the bill. The bill was held in the Senate Appropriations Committee.

**AB 1155 (Rodriguez)** would have established the Campus-Affiliated Sorority and Fraternity Transparency Act, to require each institution of higher education to include in its requirements for recognition of a campus-affiliated sorority or fraternity, a requirement that the sorority or fraternity report specified information to the institution and that the institution suspend the campus recognition of any sorority or fraternity that does not comply with these reporting requirements. The University sought **amendments** on the bill. The bill was held in the Senate Education Committee.

**AB 1196 (Gipson)** prohibits law enforcement agencies from authorizing the use of a carotid restraint or choke hold. The University did not take a position on the bill, as the University of California Police Department (UCPD) already prohibits this tactic. The bill was signed by the Governor on September 30, 2020 (Chapter 324).

**AB 1314 (McCarty)** would have enacted the Cal Grant Reform Act, which would have revised and recast the provisions establishing and governing the existing Cal Grant programs and the Middle Class Scholarship Program into a single Cal Grant Program and added an authorization for summer Cal Grants awards. The University did not take a position on the bill. The bill was

guttled and amended in the Senate by the author into a police reform measure. It was held in the Senate Public Safety Committee.

**AB 1436 (Chiu)** would have enacted the COVID-19 Tenant Relief Act of 2020 to provide rent deferrals for renters and prohibit evictions for 15 months or until April 2021. The University engaged with the author's office, and understands that the author intended the measure to apply to UC housing. Student Affairs and OGC expressed significant concerns about the bill, but SGR elected not to take a position on the measure due to the optics and political nature of the bill; it was ultimately held without a vote in Senate Rules committee. *See AB 3088 (Chiu).*

**AB 1759 (Salas)** would have exempted public and independent institutions of higher education, and their officers, employees, and governing bodies that meet specified conditions, from monetary liability and damages for injury relating to COVID-19 infection, illness, or death, as provided, with specified exceptions. The University did not take a position on the bill. The bill was held in the Senate Judiciary Committee.

**AB 1782 (Chau)** would have enacted the Technology-Assisted Contact Tracing Public Accountability and Consent Terms (TACT-PACT) Act, to regulate public health entities and businesses that provide technology-assisted contact tracing (TACT). The University had **concerns** with the bill and sought amendments. The bill was held in the Senate Appropriations Committee.

**AB 1867 (Assembly Budget Committee)** is the employment budget trailer bill. The bill includes supplemental paid sick leave for covered workers, including certain persons employed by private businesses of 500 or more employees or persons employed as certain types of health care providers or emergency responders by public or private entities. The Governor signed the bill on September 9, 2020 (Chapter 45).

**AB 1926 (Gonzalez)** would have made it unlawful for the UC Regents or any other person or entity representing the UC to demand or insist that employees of the university or the exclusive representative of those employees waive the right to petition the government, or the voters pursuant to the initiative power, for redress of grievances as part of a collective bargaining agreement. The University had a **neutral** position on the bill. The bill was held in the Assembly Public Employment and Retirement Committee.

**AB 1930 (Medina)** would have required the California State University (CSU) and requested UC, before making any change in undergraduate student eligibility policy that adds new eligibility requirements, as described, that impact students across its segment, to discuss and coordinate with other impacted educational segments for purposes of aligning the respective policies. The University did not take a position on the bill but expressed concerns to the author's office. The bill was held in the Senate Appropriations Committee.

**AB 2023 (Chiu)** would have required a UC, CSU or California Community Colleges (CCC) campus to update a former student's records to include their updated legal name or gender if the institution received government-issued documentation from the student demonstrating that their former legal name or gender was changed, and would have required the institution to reissue specified documents conferred upon, or issued to, the former student with their updated legal name or gender, if requested by the former student. The University did not take a position on the bill. The bill was held in the Assembly Higher Education Committee.

**AB 2059 (Kamlager)** would have prohibited a testing facility from conducting canine toxicological experiments. SGR joined a coalition of life sciences companies and research universities to seek amendments to the bill exempting human or canine medical experimentation. The bill was held in the Assembly Appropriations Committee.

**AB 2282 (McCarty)** would have required CCC and CSU and encouraged UC, in consultation with the California Department of Social Services and county human services agencies, to establish a CalFresh student outreach program to provide students with a link to a website with information on applying for CalFresh benefits, and to provide students with the name and telephone number of the CalFresh eligibility worker on their respective campus. The University did not take a position on the bill but worked with the author's office on amendments. The bill was held in the Senate Education Committee.

**AB 2484 (Low)** would have made a change to the California Educational Facilities Authority (CEFA) Act to enable public colleges and universities to use the CEFA bonding authority for student, staff and faculty housing projects. The bill would have also broadened the allowable range of projects that could use CEFA's authority to include any type of educational facility, not only housing. The University **supported** the bill but it was held in the Assembly Appropriations Committee.

**AB 2537 (Rodriguez)** requires employers of workers in a general acute care hospital to supply those employees who provide direct patient care or services that directly support personal care with personal protective equipment (PPE) in compliance with Department of Industrial Relations regulations, ensure that the PPE is used, maintain a 3-month normal consumption supply, and provide an inventory of its stockpile and copy of its written procedures to the Division of Occupational Safety and Health upon request. The University did not take a position on the bill. The Governor signed the bill on September 29, 2020 (Chapter 313).

**AB 2830 (Wood)** would have required the Office of Statewide Health Planning and Development (OSHPD) to establish, implement, and administer the Health Care Payments Data Program (HPD Program) to administer the system and collect data on all California residents to the extent feasible and permissible under state and federal law. The University did not take a position on the bill. The bill was held in the Senate Health Committee.

**AB 3088 (Chiu)** enacts the "Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020" and the "COVID-19 Small Landlord and Homeowner Relief Act of 2020." The bill prohibits residential tenants from being evicted for failure to pay rent accrued between March 1, 2020 and January 31, 2021 if they assert that the failure to pay stemmed from financial hardship related to COVID-19. However, the tenants would still owe the past due amount, and landlords could sue tenants for unpaid COVID-19 rental debt beginning March 1, 2021. This bill represents the compromise between the Senate and Assembly as negotiated by the Governor's office. SGR engaged with the divisions of Student Affairs and Chief Financial Officer, and Office of General Counsel (OGC) to understand the impacts of this sweeping legislation. On SGR's recommendation, OGC is working on a briefing for campuses in case they face questions about the application of the law for on- or off-campus housing. SGR did not take a position on the legislation. The bill was signed by the Governor on August 31, 2020 (Chapter 37). *See AB 1436 (Chiu).*

**AB 3092 (Wicks)**, related to a 2018 UCLA physician sexual assault case, revives certain claims for damages barred by statute of limitations. The University did not take a position on the bill, but engaged in conversations with the author's office to narrow the scope of the bill to the specific allegations. The bill was signed by the Governor on September 29, 2020 (Chapter 246).

**AB 3289 (Holden)** would have required UC, CSU, and independent institutions of higher education with more than \$10 million in annual income derived from media rights for intercollegiate athletics to establish a Student Athlete Post-Degree Fund and deposit moneys into that fund, with contributions designated for payment on behalf of student athletes participating on one or more intercollegiate athletic teams. The University did not take a position on the bill. The bill was held in the Assembly Arts, Entertainment, Sports, Tourism and Internet Media Committee.

**AB 3374 (Committee on Higher Education)** is the higher education omnibus clean-up measure, which corrects technical errors and oversights, and makes non-controversial changes to various provisions of the Education Code. SGR worked with the Committee on Higher Education to get a delay in implementation of AB 1383 (McCarty) relating to admissions. The bill was signed by the Governor on September 24, 2020 (Chapter 129).

**HR 22 (Gallagher)** would have urged the UC Davis Chancellor, UC President, and the UC Regents to remove a specified UC Davis professor from the classroom and terminate his employment at the University. The University did not take a position on the measure. The measure was held in the Assembly Higher Education Committee.

**SB 45 (Allen)** would have authorized a \$5.5 billion General Obligation Bond to appear on the November 2020 ballot. The bond proceeds would be used to fund climate adaptation projects, specifically around safe drinking water, wildfire prevention, and flood protection measures; UC Division of Agriculture and Natural Resources would have received \$15 million for the Fire Outreach and Extension Program. SGR actively engaged numerous stakeholders to ensure that funding remained and was in the process of adding funding for research and ecosystem services at the UC Natural Reserve Systems. The bill was held in the Assembly.

**SB 56 (Roth)** would have required UC to construct a new UC Riverside School of Medicine facility upon receipt of an appropriation by the Legislature in the Budget Act or another statute for that purpose. The University did not take a position on the bill. The bill was held in the Assembly Higher Education Committee.

**SB 115 (Senate Budget and Fiscal Review Committee)** amends the Budget Act of 2020. The bill includes an appropriation of \$14.1 million in old general obligation bond funds for the UCLA Powell Library seismic retrofit phase I project. This project will also receive an additional \$2.4 million in old lease-revenue bond interest for a total project budget of \$16.5 million. The Governor signed the bill on September 9, 2020 (Chapter 40).

**SB 116 (Senate Budget and Fiscal Review Committee)** is the higher education trailer bill. The bill includes additional funding for AB 540 student financial aid, technical amendments to financial aid, and reappropriation of special funds. The Governor signed the bill on June 29, 2020 (Chapter 25).



**SB 118 (Senate Budget and Fiscal Review Committee)** is the public safety trailer bill. The bill includes the “ban the box” language prohibiting higher education institutions from asking about a prospective student’s prior criminal convictions on the admissions application, with an exemption for professional degree programs. The Governor signed the bill on August 6, 2020 (Chapter 29).

**SB 275 (Pan)** establishes the Health Care Essential Workers Protection Act, which requires the California Department of Public Health to establish a statewide PPE stockpile by 2022 and a healthcare employer to maintain an inventory of unexpired PPE sufficient for 45 days of surge consumption by 2023, or as specified to ensure an adequate supply for health care and essential workers. The University did not take a position on the bill. The Governor signed the bill on September 29, 2020 (Chapter 301).

**SB 444 (Umburg)** would have requested the UC Regents to enact a resolution authorizing the law schools at UC Berkeley and UC Irvine to participate in a pilot project to develop artificial intelligence (AI) or machine-learning solutions to address access to justice issues faced by self-representing litigants in their respective courts. The University did not take a position on the bill. The bill was held in the Assembly Higher Education Committee.

**SB 731 (Bradford)** would have enacted the Kenneth Ross Jr. Police Decertification Act of 2020 to disqualify peace officer employment and certification based on a prior conviction of, or adjudication for committing, certain specified crimes against public justice. The University did not take a position on the bill. The bill was held in the Assembly.

**SB 776 (Skinner)** would have made every incident involving police use of force to make a member of the public comply with an officer, force that is unreasonable, or excessive force subject to Public Records Act disclosure, and required departments or agencies to request and review a file of any investigations of misconduct prior to hiring a peace officer. The University did not take a position on the bill. The bill was held in the Senate.

**SB 794 (Jackson)** would have authorized a postsecondary institution that receives state funds, including student financial assistance funds, to use enrollment, registration, and personnel records to access student and employee contact information for enrollment in a university- or college-operated public emergency warning system, and to notify students and employees that they have been entered into the system with the ability to opt out. The University supported the bill but it was held in the Assembly Governmental Organization Committee. The provisions that the UC supported were later amended into AB 2213 (Limon); that bill was signed by the Governor on September 18, 2020 (Chapter 98).

**SB 1029 (Pan)** would have permitted Sacramento County to establish a health authority, commencing January 1, 2024, to designate a number of Knox-Keene licensed health plans as the only Medi-Cal managed care plans authorized to operate within the county. The University secured an amendment, but did not take a position on the bill. The bill was placed on the inactive file on the Assembly Floor.

**SB 1110 (Hurtado)** would have created the California Medicine Scholars Program to establish a regional pipeline for community college students to pursue premedical training and enter medical school, and involved a selection committee that included UC among other appointees. The

University had a **support** position on the bill but it was held in the Senate Appropriations Committee.

**SB 1159 (Hill)** creates a rebuttable presumption for essential employees in workers' compensation cases related to COVID-19 and defines parameters for eligibility for others. The University did not take a position on the bill. The bill was signed by the Governor on September 17, 2020 (Chapter 85).

**SB 1173 (Durazo)** would have authorized an exclusive representative to file an unfair labor practice charge with PERB alleging a violation of various labor relations acts, including the Higher Education Employer-Employee Relations Act, for noncompliance with requirements to provide specified information to labor representatives and employees. SGR had secured amendments to reduce penalties, improve notification, award attorney's fees, and ease compliance requirements. The bill was held in the Senate.