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**TO:** City of Cupertino, Legislative Review Committee

**FROM:** Anthony, Jason & Paul Gonsalves

**SUBJECT:** Legislative Update

**DATE:** Tuesday, September 6, 2022

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### **STATE LEGISLATIVE UPDATE**

After eight months, the California legislative session came to a close on Sept. 1 with a final flurry of frantic activity. Legislators rushed to pass hundreds of remaining bills before the clock struck midnight on Aug. 31. For a select few measures, with urgency clauses that allow them to take effect immediately upon the Governor's signature, the votes stretched into the wee hours the next day. This year, the Legislature introduced 2353 bills (1566 in the Assembly and 787 in the Senate), of which, 1433 were sent to the Governor for his consideration. The Governor now has until September 30 to take action on all bills enrolled for his consideration. Additionally, in the week prior to final adjournment, the Legislature adopted 13 budget trailer bills that make additions and corrections to the current year budget.

Now that the Legislature adjourned the regular session, their focus has shifted to the November elections where all 80 Assembly seats and 20 Senate seats will be up for election under the newly drawn district boundaries.

### **BUDGET**

As previously mentioned, the Legislature adopted 13 budget trailer bills in the last week of session that made changes to the already adopted and signed budget that was passed earlier this summer.

The following will provide you with a list of the budget trailer bills adopted by the Legislature:

- 1) AB 179 Ting Budget Act of 2022
- 2) AB 151 Committee on Budget State Employment
- 3) AB 152 Committee on Budget COVID-19 Relief: Supplemental Paid Sick Leave

- 4) AB 156 Committee on Budget State Government
- 5) AB 157 Committee on Budget State Government
- 6) AB 158 Committee on Budget Taxation
- 7) AB 160 Committee on Budget Public Safety
- 8) AB 185 Committee on Budget Education
- 9) AB 190 Committee on Budget Higher Education
- 10) AB 204 Committee on Budget Health
- 11) AB 207 Committee on Budget Human Services
- 12) AB 209 Committee on Budget Energy
- 13) AB 211 Committee on Budget Resources

The following will provide you with a summary of the budget trailer bills of interest to the City:

AB 152: COVID-19 relief: supplemental paid sick leave

Extends the expiration date for the provisions of 2022 COVID-19 Supplemental Paid Sick Leave program contained in SB 114 from September 30, 2022 to December 31, 2022. Under existing law, if an employee is receiving additional Supplemental Paid Sick Leave, then an employer may require the employee to submit to a second diagnostic test on or after the fifth day after the first positive test that entitled the employee to the additional Supplemental Paid Sick Leave and provide documentation of those results. This bill further authorizes the employer to require, if that second diagnostic test for COVID-19 is also positive, the employee to submit to a third diagnostic test within no less than 24 hours and requires the employer to provide the second and third diagnostic tests at no cost to the employee. The bill specifies that the employer has no obligation to provide additional COVID-19 supplemental paid sick leave for the employee who refuses to submit to these aforementioned tests.

AB 157: State government

AB 157 included language to create the Accessory Dwelling Unit Working Group. The bill directs the California Housing Finance Agency (CalHFA) to convene a working group to identify and recommend changes to the Agency's Accessory Dwelling Unit Program. Requires the working group to consist of representatives from various stakeholders involved in the ADU market, including private lenders, federal mortgage agencies, community development financial institutions, local housing trust funds, community based organizations, and credit unions, among others. It directs the working group to explore options to expand program utilization, mitigate risks for participating lenders, increase program outreach, expand financing options for construction costs and manufactured options, and ease constraints for participating homeowners. It directs the working group to develop recommendations by July 1, 2023 for consideration by CalHFA.

AB 157 also included the Foreclosure Intervention Housing Preservation Program Cleanup. The bill makes technical and clarifying changes to the Foreclosure Intervention and Housing Preservation Program created in the Budget Act of 2021 to clarify the role of third party fund managers, clarify the reuse of returned program funds, and better define eligible program participants.

Lastly, AB 157 included clean-up language to Adaptive Reuse. The bill expands the allowable uses for the Infill Infrastructure Grant Program to include adaptive reuse and “catalytic qualifying infill areas.” Specifically, this bill makes the statutory changes necessary to implement the \$150 million in funding provided for adaptive reuse purposes. It does the following:

- Defines “adaptive reuse” as the repurposing of building structures for residential purposes, such as former office use, commercial use, or business parks.
- Defines “catalytic qualifying infill areas” as a contiguous area or multiple noncontiguous parcels located within an urbanized area that meet specified requirements, including the area constitutes a large catalytic investment in land that will accommodate a mix of uses, including affordable or mixed-income housing.
- Requires the Department of Housing and Community Development to develop a selection process for awarding grants for catalytic infill areas that meets specified requirements, including minimum threshold requirements for applicants, mandatory information required in an application for funding, and application ranking procedures. Specifically, it requires grants for small and large jurisdictions to be provided using a selection process established by the Department of Housing and Community Development.
- Requires the department, at a minimum, to rank the affected CQIA applications for small jurisdictions and large jurisdictions based on the following:
  - The number of housing units, including affordable units, as specified, to be developed within the CQIA.
  - The depth and duration of the affordability of the housing proposed for within the CQIA.
  - The extent to which the average residential densities on the parcel or parcels to be developed exceeds the density standards, as specified.
  - The CQIA’s inclusion of, or proximity or accessibility to, a transit station, major transit stop, or other areas yielding significant reductions in vehicles miles traveled.
  - The proximity of planned housing within the CQIA used in the calculation of the eligible grant amount to existing or planned parks, employment or retail centers, schools, or social services.
  - Existing or planned ordinances and other zoning or building provisions that facilitate adaptive reuse, including, but not limited to, demonstration that, if the existing commercial, office, or retail structure intended for reuse as housing does not occupy the entirety of the underlying parcel, the adaptive reuse project will be permitted to add to the existing building or structure provided that the addition is consistent with the existing or planned zoning of the parcel.
  - The extent to which local strategies or programs are in place to prevent the direct or indirect displacement of local community residents or businesses from the area within and surrounding the CQIA.
  - The level of community outreach and engagement in project planning, including efforts to involve disadvantaged communities and low-income residents, particularly local community residents and businesses from the area within and surrounding the CQIA.
  - Inclusion of any publicly owned lands within the designated CQIA.

- Streamlining provisions related to the California Environmental Quality Act (CEQA), as specified, including, but not limited to, establishment of streamlined, program-level CEQA analysis and certification of general plans, community plans, specific plans with accompanying environmental impact reports, and related documents and streamlining proposed projects, such as enabling a by-right approval process or by utilizing statutory and categorical exemptions as authorized by applicable law.
- AB 157 authorizes the department to ensure a reasonable distribution of funds that considers differing population sizes and geographic location, and requires applications be considered and ranked against applications of localities of similar size and scope.
- Requires the department, to the maximum extent feasible, to ensure a reasonable distribution of funds, including consideration of differing population sizes of localities and geographic location.
- The bill would require the department, by January 1, 2024, to submit a report to the relevant fiscal and policy committees of the Legislature that includes, among other things, data on the catalytic qualifying infill area projects funded under the program.

#### AB 160: Public safety

AB 160 makes changes to the eligibility and process for the compensation of victims of crime by the Victim Compensation Board (VCB) and changes for the compensation of individuals wrongly convicted of crimes.

The changes to the eligibility and process for the compensation of victims of crime by the VCB, effective July 1, 2024, include:

- Expanding eligibility to individuals who are on parole or post-release supervision.
- Specifies that victims cannot be denied for lack of cooperation at the scene of the crime or for a delay in reporting a crime.
- Removes the reimbursement limit for victims receiving outpatient mental health care.
- Extends the timeline for victims to appeal a denial of compensation to one year.
- Increases the following benefit limits:
  - Relocation to \$7,500.
  - Funeral and burial to \$20,000.
  - Total award to \$100,000.
- Expands loss of income benefits for victims and derivative victims, as defined, that are unable to work due to the qualifying crime, including:
  - Expands loss of income benefits to derivative victims beyond the parents or legal guardian of minors, including spouses and others.
  - Specifies that individuals are eligible if they are employed or receiving earned income credits or were fully or partially employed for a period of time during the previous year.
  - Specifies that award is based on the higher of 35 hours per week at minimum wage or the actual loss sustained.
  - Specifies that VCB shall adopt new guidelines expanding the acceptable documentation for establishing income or support loss.
- Expands required education and outreach to potentially eligible victims of crime by law enforcement and acute care hospitals.

The changes for the compensation of individuals wrongly convicted of crimes, effective July 1, 2024, include:

- Specifies that the compensation include \$70 per day served on parole or supervised release, in addition to the existing compensation rate of \$140 per day of incarceration.
- Specifies that the per diems in (a) be updated annually to reflect inflation and are not taxable income.

#### AB 209: Energy and climate change

AB 209 includes the Governor's climate change policies released earlier this summer. The bill includes the following:

- Creates a slate of new programs at the California Energy Commission (CEC) – including equitable building decarbonization (\$922 million), funding to decarbonize the industrial sector (\$100 million) and food sector (\$75 million), a hydrogen program that focuses on renewable forms of hydrogen production (\$100 million), and direct air capture for carbon removal (\$100 million).
- Requires that the CEC update the building code to enable the use of low global warming potential (GWP) refrigerants, plus \$40 million to the California Air Resources Board to accelerate the adoption of ultra-low-GWP refrigerants.
- Requires the Department of Housing and Community Development to develop new policies to ensure that homes can maintain a maximum safe indoor air temperature, which is vital for renters who need and deserve protection from extreme heat.
- Improves the June energy trailer bill, including allowing wider participation in the new CEC Demand Side Grid Support Program (\$295 million) and clarifying that fossil generators in the Reliability Reserve can only operate in emergency events.
- Updates the Self Generation Incentive Program (SGIP) program to enable \$900 million in funding projected for fiscal year 2023/2024 to support residential solar and storage, with 70 percent of the funding for low-income households.
- Boosts grid transmission projects and planning, including through the Climate Catalyst Revolving Loan Fund Program, and by reducing barriers to information sharing by the California Independent System Operator (CAISO).
- Support for offshore wind, including related infrastructure development.
- \$30 million to support community engagement in Public Utilities Commission decision making and a total of \$270 million for community resilience centers over two years.

The City will be sending follow-up letters to the Governor's Office asking for his signature or his veto for bills that the City has adopted positions on and are being considered by the Governor. A list of these bills can be found in attachment B, Cupertino Bill Positions.

#### **INITIATIVE UPDATE**

The last day to register to vote for the November 8, 2022, General Election is October 24, 2022. All California active registered voters will receive a vote-by-mail ballot for the November 8, General Election. County elections office's will begin mailing ballots no later than October 10, 2022. The General Election ballot will include:

- 7 Ballot Propositions

- Statewide candidates for U.S. Senate, Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Insurance Commissioner, Member of State Board of Equalization, State Superintendent of Public Instruction
- U.S. Representative in Congress, State Senator, State Assembly Member
- Supreme Court Justices, as well as other local candidates and local measures.

## QUALIFIED STATEWIDE INITIATIVES

November 8, 2022, Statewide Ballot Measures

### Proposition 1

SCA 10 (Resolution Chapter 97, Statutes of 2022) ATKINS. REPRODUCTIVE FREEDOM.

Enacts a constitutional amendment, expressly providing that the state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. Prohibits the state from denying or interfering with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. Specifies that the constitutional amendment is intended to further the constitutional right of privacy guaranteed by Section 1 of the California Constitution and the constitutional right to not be denied equal protection guaranteed by Section 7 of the California Constitution. Specifies that nothing herein narrows or limits the right to privacy or to equal protection.

### Proposition 26

AUTHORIZES NEW TYPES OF GAMBLING. INITIATIVE CONSTITUTIONAL AND STATUTORY AMENDMENT.

Allows federally recognized Native American tribes to operate roulette, dice games, and sports wagering on tribal lands, subject to compacts negotiated by the Governor and ratified by the Legislature. Beginning in 2022, allows on-site sports wagering at only privately operated horse-racing tracks in four specified counties for persons 21 years or older. Imposes 10% tax on sports-wagering profits at horse-racing tracks; directs portion of revenues to enforcement and problem-gambling programs. Prohibits marketing of sports wagering to persons under 21. Authorizes private lawsuits to enforce other gambling laws. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Increased state revenues, potentially reaching the tens of millions of dollars annually, from payments made by facilities offering sports wagering and new civil penalties authorized by this measure. Some portion of these revenues would reflect a shift from other existing state and local revenues. Increased state regulatory costs, potentially reaching the low tens of millions of dollars annually. Some or all of these costs would be offset by the increased revenue or reimbursements to the state. Increased state enforcement costs, not likely to exceed several million dollars annually, related to a new civil enforcement tool for enforcing certain gaming laws.

Proposition 27

ALLOWS ONLINE AND MOBILE SPORTS WAGERING. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

Legalizes online and mobile sports wagering, which currently is prohibited, for persons 21 years and older. Such wagering may be offered only by federally recognized Indian tribes and eligible businesses that contract with them. Individuals placing bets must be in California and not located on Indian lands. Imposes 10% tax on sports-wagering revenues and licensing fees. Directs tax and licensing revenues first to regulatory costs, then remainder to: 85% to homelessness programs; 15% to nonparticipating tribes. Specifies licensing, regulatory, consumer-protection, and betting-integrity standards for sports wagering. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Increased state revenues, potentially reaching the mid-hundreds of millions of dollars annually, from online sports wagering-related taxes, licensing fees, and penalties. Some portion of these revenues would reflect a shift from other existing state and local revenues. Increased state regulatory costs, potentially reaching the mid-tens of millions of dollars annually, that would be fully or partially offset by the increased revenues.

Proposition 28

PROVIDES ADDITIONAL FUNDING FOR ARTS AND MUSIC EDUCATION IN PUBLIC SCHOOLS. INITIATIVE STATUTE.

Provides additional funding for arts and music education in all K-12 public schools (including charter schools) by annually allocating from state General Fund an amount equaling 1% of required state and local funding for public schools. Allocates greater proportion of the funds to schools serving more economically disadvantaged students. Schools with 500 or more students must spend at least 80% of funding to employ teachers and remainder on training, supplies, and education partnerships. Requires audits and limits administrative costs to 1% of funding. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Increased spending likely in the range of \$800 million to \$1 billion annually, beginning in 2023-24, for arts education in schools.

Proposition 29

REQUIRES ON-SITE LICENSED MEDICAL PROFESSIONAL AT KIDNEY DIALYSIS CLINICS AND ESTABLISHES OTHER STATE REQUIREMENTS. INITIATIVE STATUTE.

Requires physician, nurse practitioner, or physician assistant, with six months' relevant experience, on site during treatment at outpatient kidney dialysis clinics; authorizes exemption for staffing shortage if qualified medical professional is available through telehealth. Requires clinics to disclose to patients all physicians with clinic ownership interests of five percent or more. Requires clinics to report dialysis-related infection data to state. Prohibits clinics from closing or substantially reducing services without state approval. Prohibits clinics from refusing to treat patients based on source of payment. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Increased state and local government costs likely in the low tens of millions of dollars annually.

### Proposition 30

PROVIDES FUNDING FOR PROGRAMS TO REDUCE GREENHOUSE GAS EMISSIONS BY INCREASING TAX ON PERSONAL INCOME OVER \$2 MILLION. INITIATIVE STATUTE.

Increases tax on personal income over \$2 million by 1.75% for individuals and married couples and allocates new tax revenues as follows: (1) 45% for rebates and other incentives for zero-emission vehicle purchases and 35% for charging stations for zero-emission vehicles, with at least half of this funding directed to low-income households and communities; and (2) 20% for wildfire prevention and suppression programs, with priority given to hiring and training firefighters. Requires audits of programs and expenditures. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Increased annual state tax revenue ranging from \$3 billion to \$4.5 billion, with the additional revenue used to support zero-emission vehicle programs and wildfire-related activities. Potential increased state administrative costs paid from other funding sources that could reach tens of millions to the low hundreds of millions of dollars annually. Net decrease in state and local transportation revenue of up to several tens of millions of dollars annually in the initial years, and growing to up to a few hundreds of millions of dollars annually after several years.

### Proposition 31

REFERENDUM CHALLENGING A 2020 LAW PROHIBITING RETAIL SALE OF CERTAIN FLAVORED TOBACCO PRODUCTS.

If the required number of registered voters sign this petition and the petition is timely filed, there will be a referendum challenging a 2020 law on the next statewide ballot after the November 3, 2020 general election. The challenged law prohibits the retail sale of certain flavored tobacco products and tobacco flavor enhancers. The referendum would require a majority of voters to approve the 2020 state law before it can take effect.

## **LEGISLATIVE DEADLINES**

The following will provide you with relevant dates and deadlines for the 2022 Legislative session:

<u>August 12, 2022:</u>	Last day for fiscal committees to meet and report bills
<u>August 15 – 31, 2022:</u>	Floor session only. No committee may meet for any purpose except Rules Committee.
<u>August 25, 2022:</u>	Last day to amend bills on the floor
<u>August 31, 2022:</u>	Last day for each house to pass bills. Final Recess begins upon adjournment



September 30, 2022:

Last day for the Governor to act on legislation adopted by the Legislature.