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TO: City of Cupertino, Legislative Review Committee

FROM: Anthony, Jason & Paul Gonsalves

SUBJECT: Legislative Update

DATE: Tuesday, May 31, 2022

STATE LEGISLATIVE UPDATE

The months of April and May are arguably some of the busiest months in the legislative calendar. April 29, 2022 marked the passage of the deadline for all bills, with potential costs to the state, to pass out of their policy committees in their house of origin. As you can imagine, most bills introduced in the Legislature cost some money to implement, meaning most bills have to be heard and passed by this deadline to stay alive. Furthermore, May 20, 2022 was the deadline to pass all bills, with costs associated with them, out of the Appropriations Committee and to the floor of their house of origin. Lastly, May 27, 2022 was the deadline for all bills to pass off the floor and to the other house (Assembly bills to the Senate and Senate bills to the Assembly).

While all of this is going on, work continues on the State Budget throughout April and May. On May 13, 2022, Governor Newsom presented his May Revise to his January Budget Proposal. The Governor's May Revise proposes a \$300.7 billion budget spending plan, which is \$14.2 billion more than his January Budget proposal. Of the \$300.7 billion, \$227.4 billion is General Fund, \$68.9 billion is special funds, and \$4.4 billion is bond funds. The total budget, which includes \$140.9 billion in federal funds, totals \$441.6 billion.

To compare the May Revise to last year's budget, General Fund spending increased by \$45.6 billion, from \$203.6 billion to \$249.2 billion.

GOVERNOR'S MAY REVISE

On May 13, 2022, Governor Newsom presented his May Revise to his January Budget Proposal and, most notably, announced the state is projected to have a \$97.5 billion surplus. This is the largest surplus our state, or any other state in the Nation, has ever seen. Roughly half of the surplus is required by law to be spent on education (Proposition 98), leaving roughly \$49 billion in discretionary money. The Governor proposed to reserve 99% of that for one-time

spending: \$18.1 billion to provide financial relief for Californians buffeted by inflation, \$37 billion for infrastructure investments (including \$5.6 billion for education facility upgrades), and an extra \$2.3 billion for the ongoing fight against COVID-19.

Additionally, the Governor's May Revision proposes allocating \$37.1 billion of those funds to Budget Reserves. Under his revised proposal, the Governor dedicated \$23.3 billion to the Rainy-Day Fund (up from \$20.9 billion at the January Governor's Budget), \$3.4 billion to the Special Fund for Economic Uncertainties, \$9.5 billion to the Public School System Stabilization Account, and \$900 million to the Safety Net Reserve.

The following will provide you with the proposed budget summaries for areas of interest to the City:

Resources and Transportation

- Energy Package to Create Strategic Energy Reserves: \$8 billion over five years to address grid stability.
- Gas Taxes and Gas Prices: \$11.5 billion to give all vehicle owners (including zero-emission vehicles that pay no gas tax) \$400 per vehicle, up to two vehicles. \$440 million diesel sales tax cut from the state's portion from October 1, 2022 to September 30, 2023.
- Wildfire Prevention: \$150 million to enhance firefighting capabilities.
- Drought and Water Resilience: The May Revision adds \$1.6 billion (which includes the \$250 million set aside in the Governor's January Budget) for water recycling, grants to urban water districts, addressing fish and wildlife impacts associated with drought, and support of agricultural water conservation practices. \$500 million in 2025-26 for strategic water storage investments.

Economy, Housing, and Homelessness

- Economy:
 - \$500 million for the fourth round of COVID-19 Small Business Relief Grants targeted at businesses in the ten most impacted industries measured by job losses. Grants ranging from \$10,000 to \$50,000.
 - \$75 million to provide grants of \$50,000 to farming and agriculture related businesses negatively impacted by drought.
 - \$2.1 billion in the Governor's Budget and May Revision for tax credits and grants aimed at encouraging business relocation and growth. The May Revision would prioritize grants for companies that relocate from states with anti LGBTQ+ and reproductive rights laws, including \$900 million for a 5-year extension of the CalCompetes Tax Credit program.
 - \$120 million for a second year of the Cal Competes Grant Program to target semiconductor research, development, and manufacturing.
 - \$1.1 billion over 4 years for a headquarters tax credit to target the relocation of businesses in support of the state's climate goals.
 - \$78.9 million (\$159.9 total funds) for Employment Development Department to modernize business operations and combat fraud.
- Housing:
 - \$2.7 billion for emergency rental assistance.

- \$500 million through FY 2024-25 for adaptive reuse (converting shopping malls and office buildings into housing) to align with climate goals and equitable housing access goals.
- Homeless:
 - \$500 million through FY 2024-25 to house the homeless on state-owned land through grants to local governments to erect “tiny homes” as well as site preparation.
 - \$150 million for Project Homekey (hotel purchases to house homeless).

Public Safety

- States the intent of the Administration to close up to three additional state prisons by 2024-25.
- \$7.9 million to establish the Fentanyl Enforcement Program within the Department of Justice.
- \$30 million (\$15 million per year in 2022-23 and 2023-24) for the California Military Department’s drug interdiction efforts, which will focus on assisting federal, state, local, and tribal law enforcement agencies in combatting fentanyl. This is a \$10 million increase over his one-time January proposal.
- \$12 million over three years to establish a competitive grant program to help California tribes locate and identify missing Indigenous persons. These funds will be available to provide resources for tribal police and prosecutors, counseling services, education, and other activities.
- \$5 million funding to restore the Internet Crimes Against Children Task Force, but only for one year.

Now the ball is in the Legislature’s court as Legislative Leaders in the Assembly and Senate decide where they agree with the Governor and which priorities they want to haggle over before the June 15th Constitutional deadline to pass a final, balanced budget for the fiscal year that starts July 1, 2022.

CARE COURT

Governor Newsom released his plan to get Californians in crisis off the streets and into housing, treatment and care. The Governor’s Community Assistance, Recovery and Empowerment (CARE) Court is a new framework to get people with mental health and substance use disorders the support and care they need. CARE Court is aimed at helping the thousands of Californians who are suffering from untreated mental health and substance use disorders leading to homelessness, incarceration or worse. CARE Court includes accountability for everyone, on the individual and on local governments, with court orders for services.

CARE Court connects a person struggling with untreated mental illness, and often also substance use challenges, with a court-ordered Care Plan for up to 24 months. Each plan is managed by a care team in the community and can include clinically prescribed, individualized interventions with several supportive services, medication, and a housing plan. The client-centered approach also includes a public defender and supporter to help make self-directed care decisions in addition to their full clinical team.

CARE Court is designed on the evidence that many people can stabilize, begin healing, and exit homelessness in less restrictive, community-based care settings. It's a long-term strategy to positively impact the individual in care and the community around them. The plan focuses on people with schizophrenia spectrum and other psychotic disorders, who may also have substance use challenges, and who lack medical decision-making capacity and advances an upstream diversion from more restrictive conservatorships or incarceration.

The court-ordered response can be initiated by family, county and community-based social services, behavioral health providers, or first responders. Individuals exiting a short-term involuntary hospital hold or an arrest may be especially good candidates for CARE Court. The Care Plan can be ordered for up to 12 months, with periodic review hearings and subsequent renewal for up to another 12 months. Participants who do not successfully complete Care Plans may, under current law, be hospitalized or referred to conservatorship - with a new presumption that no suitable alternatives to conservatorship are available.

All counties across the state will participate in CARE Court under the proposal. If local governments do not meet their specified duties under court-ordered Care Plans, the court will have the ability to order sanctions and, in extreme cases, appoint an agent to ensure services are provided.

CARE Court builds on Governor Newsom's \$14 billion multi-year investment to provide 55,000 new housing units and treatment slots as well as a more than \$10 billion annual investment in community behavioral health services. The Governor's comprehensive approach combines a focus on bridge housing to quickly rehouse unsheltered individuals with behavioral health issues, all while more new units come online, while also transforming Medi-Cal to provide more behavioral health services to people struggling the most.

SB 1338 by Senator's Umberg and Eggman, was introduced to implement the Governor's Care Court proposal. SB 1338 has passed the Senate policy and fiscal committees without a single no vote and is eligible to be heard on the Senate floor. If passed by the Senate, the bill will go to the Assembly policy and fiscal committees with a final vote on the Assembly floor. The Governor has called on the Legislature to quickly pass the new budget proposal, so the Governor can sign it into law by July 1.

The Governor's May Revise includes \$65 million this year to kick-start CARE Court. Some \$39 million would be spent to help California's judiciary conduct CARE Court hearings and provide other related resources, while \$10 million would finance a supporter program within the state Department of Aging. A little more than \$15 million would go to counties for training and technical assistance. Governor Newsom said those investments build on existing and proposed dollars to support California's behavioral health network and to build mental health housing. He noted \$11.6 billion in annual funding for behavioral health and \$4.5 billion he has pledged since last year to add thousands of housing units.

DEVELOPMENT IMPACT FEES

The Legislature introduced 2 bills, AB 2186 by Assemblymember Grayson and AB 2063 by Assemblymember Berman, both dealing with development impact fees.

AB 2186 (Grayson)

This bill proposes to establish, upon appropriation by the Legislature, the Housing Cost Reduction Incentive Program to reimburse cities and counties for development impact fees that are reduced or deferred for affordable housing developments. The bill would require the department to provide grants to applicants in an amount equal to 50% of the amount of development impact fee reduced for a qualified housing development and grants to applicants in an amount equal to the accrued interest on a deferred development impact fee.

The bill proposes to require the department to administer these grants by issuing a Notice of Funding Availability before December 31 of the year that the program receives funding and will be accepting grant applications after the subsequent year. The bill would require a public entity that receives grant funds under the program to use those funds solely for those purposes for which the development impact fee that was reduced or deferred would have been used. The bill would require the department to adopt guidelines to implement the program and exempt those guidelines from the rulemaking provisions of the Administrative Procedure Act.

AB 2186 passed off the Assembly Floor on May 23, 2022 on a vote of 74-0. The bill will be heard next in the Senate Housing Committee.

AB 2063 (Berman)

This bill proposes to prohibit a city, county or city and county from charging affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, on a housing development's density bonus units. The bill exempts from its provisions a local agency that, on or before January 1, 2022, adopted an ordinance that allows for a density bonus of 50% for any for-sale or rental housing development containing restricted affordable units that dedicates a specified percentage of units for extremely low, very low, low-, or moderate-income households.

Several jurisdictions charge affordable housing fees, but only two, the City and County of San Francisco and the City of Los Angeles, are known to charge affordable housing fees on the additional market rate units, or "bonus units," resulting from a project receiving a density bonus. This bill exempts the City of Los Angeles from its provisions, but does not exempt San Francisco.

AB 2063 was held on the Assembly Appropriations Committee Suspense file due to the fiscal impact to the State's affordable housing financing programs.

INITIATIVE UPDATE

As of May 31, 2022, 24 initiatives and referenda have cleared for circulation. Additionally, 10 initiatives are circulating with 25% of the signatures reached, 4 initiatives and referenda are pending signature verification, 3 initiatives are eligible for the November 2022 election, 1 has qualified for the Statewide ballot measure, and 10 initiatives and referenda have been withdrawn or failed to qualify. The following will provide you with a summary of three of the four propositions that either qualified for the statewide ballot or is eligible for the November 2022 election, the fourth initiative on the California Plastic Waste Reduction will be presented as a separate item:

ELIGIBLE STATEWIDE INITIATIVES

1. California Legalize Sports Betting on American Indian Lands Initiative

The California Legalize Sports Betting on American Indian Lands Initiative has qualified for the ballot in California as a combined initiated constitutional amendment and state statute on November 8, 2022.

Overview:

The ballot measure would legalize sports betting at American Indian gaming casinos and licensed racetracks in California. The ballot measure would define sports betting as wagering on the results of professional, college, or amateur sport and athletic events, with the exception of high school sports and events featuring a California college team. Individuals would need to be 21 years of age to engage in legal sports betting.

The ballot measure would enact a tax of 10% on profits derived from sports betting at racetracks. The state government would be required to distribute the revenue as follows:

- (a) 15% to the California Department of Health for researching, developing, and implementing programs for problem gambling prevention and mental health and providing grants to local governments to address problem gambling and mental health;
- (b) 15% to the Bureau of Gambling Control for enforcing and implementing sports wagering and other forms of gaming within the state;
- (c) 70% to the General Fund.

The ballot measure would also legalize roulette and dice games, such as craps, at tribal casinos; however, tribal-state compacts would need to be amended before these games can be offered.

A "yes" vote supports this ballot initiative to (i) legalize sports betting at American Indian gaming casinos and licensed racetracks in California; (ii) tax profits derived from sports betting at racetracks at 10%; and (iii) legalize roulette and dice games, such as craps, at tribal casinos.

A "no" vote opposes this ballot initiative, thus continuing to prohibit sports betting in California and roulette and dice games at tribal casinos

Fiscal impact:

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.

Support:

The Coalition to Authorize Regulated Sports Wagering is leading the campaign in support of the ballot initiative. The coalition is supported by several American Indian tribes, including the top donors to the

campaign—the Pechanga Band of Luiseno Indians, Yocha Dehe Wintun Nation, Federated Indians of Graton Rancheria, San Manuel Band of Mission Indians, and Agua Caliente Band of Cahuilla Indians. The campaign has raised \$12.93 million.

Supporting American Indian Tribes:

- | | | |
|--|---|---|
| • Agua Caliente Band of Cahuilla Indians | • Rancheria Middletown | • Rancheria Tachi-Yokut Tribe |
| • Barona Band of Mission Indians | • Rancheria of Pomo Indians of California | • Santa Ynez Band of Chumash Indians |
| • Big Valley Band of Pomo Indians | • Morongo Band of Mission Indians | • Shingle Springs Band of Miwok Indians |
| • Dry Creek Rancheria Band of Pomo Indians | • Pechanga Band of Luiseño Indians | • Sycuan Band of the Kumeyaay Nation |
| • Federated Indians of Graton Rancheria | • Rincon Band of Luiseño Indians | • Viejas Band of Kumeyaay Indians |
| • Mechoopda Indian Tribe of Chico | • San Manuel Band of Mission Indians | • Wilton Rancheria |
| | • Santa Rosa | • Yocha Dehe Wintun Nation |

Supporting Organizations:

- California Thoroughbred Breeders Association

Opposition:

Taxpayers Against Special Interest Monopolies is leading the campaign against the proposal. The campaign, along with a terminated PAC No on the Gambling Power Grab, raised \$25.29 million. The top donors to the opposition were gambling-related companies, including the California Commerce Club, Hawaiian Gardens Casino, Park West Casinos, The Bicycle Hotel & Casino, PT Gaming LLC, and Knighted Ventures LLC.

Opposing Corporations:

- | | | |
|---------------------------------|---------------------------|-------------------------|
| • Bicycle Casino | • Hawaiian Gardens Casino | • Knighted Ventures LLC |
| • Elevation Entertainment Group | • Hollywood Park Casino | • PT Gaming LLC |
| | | • Parkwest Casinos |

2. California Changes to Medical Malpractice Lawsuits Cap Initiative

The California Changes to Medical Malpractice Lawsuits Cap Initiative has qualified for the ballot in California as an initiated state statute on November 8, 2022.

Overview

The ballot initiative would increase California's cap on noneconomic damages in medical malpractice lawsuits based on changes in inflation since 1975, which is when the cap on noneconomic damages was enacted. In 1975, the cap was set at \$250,000. The ballot initiative would require an annual adjustment of the cap based on inflation.

The ballot initiative would allow judges and juries to award damages above the cap for catastrophic injuries, defined as death, permanent physical impairment, permanent

disfigurement, permanent disability, or permanent loss of consortium. The ballot initiative would also replace language about noneconomic damages with quality of life damages and survivor damages.

A "yes" vote supports this ballot initiative to increase California's \$250,000 cap on noneconomic damages in medical malpractice lawsuits based on changes in inflation since 1975 and allow judges and juries to award damages above the cap for catastrophic injuries.

A "no" vote opposes this ballot initiative, therefore keeping California's cap on noneconomic damages in medical malpractice lawsuits at \$250,000.

Fiscal Impact:

Increased state and local government health care costs predominantly from raising or removing the cap on noneconomic damages in medical malpractice cases, likely ranging from the low tens of millions of dollars to the high hundreds of millions of dollars annually.

Support:

The Fairness for Injured Patients Act Coalition is leading the campaign in support of the ballot initiative. Through December 31, 2021, the campaign received \$5.41 million, including \$3.81 million from trial lawyer Nicolas Rowley and \$500,000 from Trial Lawyers for Justice.

Supporters:

- Former U.S. Sen. Barbara Boxer
- Consumer Watchdog
- Trial Lawyers for Justice
- Nicolas Rowley

Oppose:

Californians to Protect Patients and Contain Health Care Costs is leading the campaign in opposition to the ballot initiative. Through December 31, 2021, the campaign received \$29.70 million, including \$6.15 million from The Doctors Company and \$5.00 million from Kaiser Foundation Health Plan, Inc.

Opponents:

- Medical Insurance Exchange of California
- The Doctors Company
- California Medical Association
- Kaiser Foundation Health Plan, Inc.

QUALIFIED STATEWIDE BALLOT MEASURE

1. California Flavored Tobacco Products Ban Referendum

The California Flavored Tobacco Products Ban Referendum is on the ballot in California as a veto referendum on November 8, 2022.

Overview:

Proponents of the veto referendum seek to overturn Senate Bill 793 (SB 793), which was signed into law on August 28, 2020. SB 793 was designed to ban the sale of flavored tobacco products and tobacco product flavor enhancers, with exceptions for hookah tobacco, loose leaf tobacco, and premium cigars. Retailers would be fined \$250 for each sale violating the law.

The California State Legislature passed SB 793 in August 2020. The legislation received support from most legislative Democrats (84 of 89) and a quarter of legislative Republicans (8 of 30). One legislator voted against the bill, and the remaining legislators were absent or abstained. State Sen. Jerry Hill (D-13), the legislative sponsor of SB 793, said, "Using candy, fruit and other alluring flavors, the tobacco industry weaponized its tactics to beguile a new generation into nicotine addiction while keeping longtime users hooked. SB 793 breaks Big Tobacco's death grip."

A "yes" vote is to uphold the contested legislation, Senate Bill 793 (SB 793), which would ban the sale of flavored tobacco products.

A "no" vote is to repeal the contested legislation, Senate Bill 793 (SB 793), thus keeping the sale of flavored tobacco legal in the state.

Fiscal Impact:

There is no fiscal impact related to this initiative.

Support:

The California Fuels & Convenience Alliance, which opposed SB 793, described the flavored tobacco ban as "misguided policy that will do more harm than good" and "hurt small businesses, eliminate necessary tax revenue, and perpetuate dangerous and avoidable police interactions in our communities." The California Coalition for Fairness is campaigning for the veto referendum to repeal SB 793. Through December 31, 2021, the campaign had received \$21.16 million, including \$10.33 million from R.J. Reynolds Tobacco Co. and \$9.83 million from Philip Morris USA.

Supporting Corporations

- ITG Brands, LLC
- Philip Morris USA, Inc.
- R.J. Reynolds Tobacco Company
- Swedish Match North America, LLC

Supporting Organizations

- National Association of Tobacco Outlets

Opposition:

State Sen. Jerry Hill (D-13), the legislative sponsor of SB 793, said, "Using candy, fruit and other alluring flavors, the tobacco industry weaponized its tactics to beguile a new generation into nicotine addiction while keeping longtime users hooked. SB 793 breaks Big Tobacco's death grip."

Officials

- Governor Gavin Newsom

LEGISLATIVE DEADLINES

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

<u>April 29, 2022:</u>	Last day for policy committees to hear and report to fiscal committees, fiscal bills introduced in their house.
<u>May 6, 2022:</u>	Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.
<u>May 13, 2022:</u>	Last day for policy committees to meet prior to May 31
<u>May 20, 2022:</u>	Last day for fiscal committees to hear and report to the floor bills introduced in their house. Last day for fiscal committees to meet prior to May 31
<u>May 27, 2022:</u>	Last day for each house to pass bills introduced in that house
<u>June 15, 2022:</u>	Budget Bill must be passed by midnight
<u>June 30, 2022:</u>	Last day for a legislative measure to qualify for the Nov. 8, 2022 General Election ballot
<u>July 1, 2022:</u>	Last day for policy committees to meet and report bills
<u>July 1- August 1, 2022:</u>	Summer Recess
<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