

To: City of Cupertino
Legislative Review Committee

From: Townsend Public Affairs, Inc.
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Subject: Legislative Update

State Legislative Update

The primary focus in Sacramento during the month of November, was the November 3rd General Election, as all 80 Assembly seats and half of the 40 Senate seats were up for election. County election officials must report final election results for presidential electors to the Secretary of State by December 1, 2020 and all other state contests by December 4, 2020. Official election results will be certified by the California Secretary of State no later than December 11, 2020.

Based on the results of the General Election, the political makeup of the State Assembly will consist of 60 Democrats, 19 Republicans, and one independent that will caucus with Republicans. The State Senate will consist of 31 Democrats and 9 Republicans. The Democrats maintain their two-thirds majority, or supermajority, in both chambers which allows them to pass veto-proof legislation and pass urgency or tax measures without Republican support.

In addition to the election, the Governor maintained his focus on combatting the COVID-19 pandemic as case rates continued to rise throughout the State. The Governor and Health and Human Services Agency Secretary, Dr. Ghaly, continued to hold nearly daily press briefings to update the public on the latest case data and Administration actions to mitigate the virus. The Governor announced a limited stay-at-home order that prohibited non-essential business and personal gatherings between 10:00pm and 5:00am starting on November 21st. This order was implemented after more than 94 percent of the State's population was placed in the purple tier status, the most restrictive tier. Shortly after the limited stay-at-home order was announced, the Governor unveiled the regional stay-at-home order structure, by which the State is broken into five regions and the level of permitted activity is based on a region's total ICU bed capacity.

Below are the upcoming relevant dates for the Legislature in 2021:

January 4th – Legislature reconvenes to begin legislative business
January 10th – Budget proposal must be submitted by the Governor
January 22nd – Last day to submit bill requests to the Office of Legislative Counsel
February 19th – Last day for bills to be introduced

LAO Fiscal Outlook Report



On November 5th, the Legislative Analyst's Office (LAO) released its State fiscal outlook report. Most notably, the LAO anticipates a \$26 billion windfall of one-time available funds as it enters the next budget cycle. This is due to an increase in federal relief funding aimed to address COVID-19 mitigation costs, lower than expected enrollment in safety net programs such as Medi-Cal, and unexpected economic activity that has bolstered the State's revenue.

While the State, namely the Administration and Legislature, anticipated an economic downturn earlier this year, the LAO says that the State has performed financially better than expected. However, it recommends that the State split the influx of unexpected funding between ongoing pandemic-related costs and shoring up the State's reserves to prepare for additional financial burdens.

Due to the uncertain economic environment, the LAO says State revenues could be as high as \$40 billion beyond what is expected over the next 18 months or as low as \$12 billion. The LAO also notes that while the current economic climate is stronger than expected, a lack of additional funding from the federal government could result in a growing State budget deficit over time.

After the report was released, Senate Pro Tem Toni Atkins said that she hopes to utilize the additional \$26 billion windfall funding to restore many of the temporary cuts to State programs that were enacted as part of the 2020-21 State Budget. Assembly Speaker Anthony Rendon has said that the Assembly will focus on improving the Economic Development Department (EDD), safely re-opening schools, and improving protections for workers.

Since the LAO issued their fiscal outlook, the Governor has commented at private events, that his Administration does not believe that the one-time surplus will be as large as the LAO has projected. The Governor has indicated that he believes the surplus will be in the range of \$15.5 billion, which is still sizeable, but is just over half the size of the surplus projected by the LAO. Assuming that the Governor's January Budget includes a sizeable one-time budget surplus, it is likely that the Administration will work with the Legislature to consider current year budget trailer bills in early 2021. While details will need to be figured out, it is likely that the surplus will be used to restore some of the state's rainy-day fund, provide assistance to help offset the economic impacts of COVID-19 to businesses and individuals, and provide some relief to the budget cuts/deferrals that were included in the 2020-21 State Budget.

2021-22 Regular Session of the Legislature

On December 7th, the Assembly and Senate officially convened the 2021-22 Legislative Session. The organizational session provided each House the opportunity to swear members into office, as well as adopt the Rules of the House, and elect the leadership of both Houses. As expected, Assembly Speaker Anthony Rendon and Senate President Pro Tem Toni Atkins were selected to continue as leaders of their respective Houses.

While the business of the organizational session was the same as in previous sessions, the circumstances under which the sessions were held was a dramatic departure from the norm. To protect public health, and maintain proper social distancing, the Assembly did not conduct their session in the State Capitol, but instead met at the Golden One Center, which is several blocks away. The Senate, on the other hand, did meet in the State Capitol, but several members elected



not to travel to the Capitol and instead were sworn into office over Zoom, or will be sworn into office in the coming days.

While the session marks the beginning of the 2021-22 Regular Session, the Legislature will be on recess until they reconvene after the holidays, on January 4th. During the meantime, the Assembly and Senate will likely finalize the Chairs, Vice-Chairs, and full membership of the various policy and fiscal committees for the coming year. Additionally, committees can conduct informational hearings during the interim.

Perhaps most importantly, December 7th marked the day that legislators could begin to introduce legislation in the new session. While the official deadline to introduce new legislation is still several months away on February 19th, many legislators took the opportunity to introduce bills that need to be considered in an expedited fashion, bills that reflect issues that were raised in campaigns, or bills that are a priority for them for the coming year. Generally speaking, bills that are introduced in December are not heard before bills that are introduced closer to the bill introduction deadline.

There were several bills introduced that impact community colleges, including two education bond proposals, requirements for the Student Aid Commission to provide notice to students who qualify for CalFresh benefits, and two bills related to workforce development and training. While introduced on the first day of session, these measures will be considered by policy committees at the same time as bills that are introduced closer to the bill introduction deadline.

Ultimately, the Legislature is likely to introduce in excess of two thousand bills this year, which will cover a broad range of issues. Based on comments from the Assembly Speaker and President Pro Tem, it is likely that there will be a significant focus placed on bills that attempt to address issues related to the coronavirus pandemic, including support for small businesses and expanding access to broadband internet so people can more reliably work/educate at home. The Legislature is also likely to place an emphasis on bills related to police reform, wildfires, affordable housing and homelessness, and the State Budget.

Priority Legislation

On December 7th, approximately 180 bills were introduced on the first day of session, which is just a fraction of the 2,000-2,500 bills that are likely to be introduced before the bill introduction deadline on February 19th. All new bills must wait a minimum of 30 days before they can be considered by the Assembly or Senate; however, it is likely that the vast majority of the bills that have been introduced in December will not receive a committee hearing until March or April.

Of the bills that have been introduced in the current session, the following are of particular note:

AB 15 (Chiu) – COVID-19 Relief: Tenant Stabilization Act of 2021

This bill would extend the definition of “COVID-19 rental debt” as unpaid rent or any other unpaid financial obligation of a tenant that came due between March 1, 2020, and December 31, 2021. The bill would also extend the repeal date of the act to January 1, 2026. The bill would make other conforming changes to align with these extended dates. This measure extends the deadlines that were established by AB 3088, which was signed into law in 2020.



AB 59 (Gabriel) – Mitigation Fee Act: notices and timelines

This bill would make changes to the notices and timelines associated with the Mitigation Fee Act. Existing law requires a local agency, before levying or increasing a fee or service charge, to hold at least one open and public meeting and requires that notice of the time and place of the meeting be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. This bill would increase the mailing noticing period to at least 45 days before the meeting, as well as require that information be made available to the public at least 30 days before the meeting. The bill would require a local agency to additionally make available to the public all of the data demonstrating the requisite relationship between the amount of a fee for public facilities and the need for the public facilities.

AB 89 (Jones-Sawyer) – Peace officers: minimum qualifications

Current law requires peace officers in this state to meet specified minimum standards, including age and education requirements. This bill would increase the minimum qualifying age from 18 to 25 years of age. This bill would permit an individual under 25 years of age to qualify for employment as a peace officer if the individual has a bachelor's or advanced degree from an accredited college or university.

ACA 1 (Aguiar-Curry) – Affordable housing and public infrastructure: voter approval

The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions. This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements.

SB 7 (Atkins) – Jobs and Economic Improvement Through Environmental Leadership Act of 2021

This bill would reenact the leadership act, with certain changes, and would authorize the Governor, until January 1, 2024, to certify projects that meet specified requirements for streamlining benefits related to CEQA. The bill would additionally include housing development projects meeting certain conditions as projects eligible for certification. Additionally, this bill would require a lead agency to prepare a master Environmental Impact Report (EIR) for a general plan, plan amendment, plan element, or specific plan for housing projects where the state has provided funding for the preparation of the master EIR. The bill would allow for limited review of proposed subsequent housing projects that are described in the master EIR if the use of the master EIR is consistent with specified provisions of CEQA.

SB 9 (Atkins) – Housing development: approvals

This bill would require a proposed housing development containing 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to the following:



- that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income,
- that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls,
- that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

SB 10 (Wiener) – Planning and zoning: housing development: density

This bill would, notwithstanding any local restrictions on adopting zoning ordinances, authorize a local government to pass an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, 2022, based on specified criteria. The bill would specify that an ordinance adopted under these provisions is not a project for purposes of the California Environmental Quality Act. The bill would prohibit a residential or mixed-use residential project consisting of 10 or more units that is located on a parcel rezoned pursuant to these provisions from being approved ministerially or by right.

