

**To:** City of Cupertino  
Legislative Review Committee

**From:** Townsend Public Affairs, Inc.  
Casey Elliott, Vice President

**Date:** October 8, 2021

**Subject:** Legislative Update

---

### **State Legislative Update**

On September 10<sup>th</sup>, the Legislature adjourned the 2021 legislative session and will return for the second year of the two-year session in January 2022. Of the 2,776 bills introduced this year, the Legislature passed a total of 1,104. As of September 30, the Governor has signed 677 bills, vetoed 5, and still has 422 bills to consider before the October 10<sup>th</sup> deadline.

Since the Legislature's adjournment, Governor Newsom has signed over half of the Legislature's passed bills into law, many of which have been packaged with other similar measures to address economic recovery, the housing crisis, and extreme weather events, including drought and wildfires. For instance, the Newsom Administration has been focused on the implementation of the *California Comeback Plan* through significant budget allocations to both accelerate the state's recovery from the pandemic and tackling persistent challenges. Part of the \$100 billion plan has included over \$20 billion in housing and homelessness investments, with the goal of producing 84,000 homes. Other investments include a climate resiliency package and stimulus payments to the state's vulnerable residents. Below is an overview of a few of the bills the Governor has signed into law, organized by issue area:

#### *The 31-Bill Housing Production and Accountability Package*

Just shy of a week after the Legislature's adjournment, Governor Newsom signed the first round of housing and land use reform bills, which included SB 8 (Skinner), which extends the Housing Crisis Act of 2019, SB 9 (Atkins), which requires the ministerial approval of urban lot splits and two-unit developments on single-family zoned parcels, and SB 10 (Wiener), which authorizes local governments to zone any parcel up to 10 units via ordinance.

After the enactment of the first round of housing and land use bills, the Governor signed a 27-bill package to further address the state's housing crisis, with more focus on accountability and enforcement as it pertains to development goals. The bills included in this package include AB 215 (Chiu), which increases enforcement within The Department of Housing and Community Development (HCD) and housing element transparency standards, AB 602 (Grayson), which



increases the transparency of impact fees through revised nexus study requirements, and SB 478 (Wiener), which prohibits local governments from imposing certain floor area ratio standards on specified housing projects. These highly contentious bills mark significant, top-down changes to the state's housing production, accountability, and land use standards, with each of these bills representing renditions of bills that have attempted to pass the policy committee process for years but have previously failed.

### *Climate Resiliency Investments and Legislation Package*

In addition to the Administration's investments in housing production and the Governor's signing of the housing package, Governor Newsom announced his signing of a climate resiliency package, outlining investments in wildfire and forest resilience, drought response, and combatting sea level rise. This package of bills included two budget trailer bills, SB 170 (Skinner) and SB 155 (Committee on Budget and Fiscal Review), which provide a combined \$14.5 billion for climate resiliency and environmental quality related issues over the next several years. SB 155 contains \$200 million in continuously appropriated funds to CalFire for fire prevention programs. SB 170 includes significant funding to bolster the state's organic waste infrastructure, which includes grants to help local governments implement upcoming SB 1383 organic waste regulations. In addition to these investment bills, the Governor also signed wildfire and forest resiliency legislation like Senator Dodd's SB 109, which creates the Office of Wildfire Technology Research and Development at CAL FIRE to evaluate emerging firefighting technology. Additionally, the funding package includes \$3.7 billion for climate resiliency to combat issues such as extreme heat and sea level rise, which will be complimented by legislation like Senate Pro Tem Atkins' SB 1, which establishes the California Sea Level Rise Mitigation and Adaptation Act to help coordinate and fund state efforts to prepare for sea level rise.

### *Police Reform Legislation*

The Governor also signed a package of bills that will implement major police reform measures. Legislation in this package included SB 2 (Bradford), which creates a system to investigate and revoke or suspend peace officer certification for serious misconduct along with imposing changes to qualified immunity standards, and SB 16 (Skinner), which expands on the existing laws related to public access of police officer misconduct records related to excessive use of force and failure to intervene, among other things. Other bills include AB 89 (Jones-Sawyer), which increases the minimum qualified age for peace officers and establishes a college-level curriculum for certification, and AB 48 (Gonzalez), which prohibits the use of rubber bullets and pepper spray against peaceful protestors. Each of these bills represent major changes to policing, from the local to the state levels. While the signing of these measures is significant, the positive consideration of these measures was not surprising, as the bills align with his goals for policing and protesting reform set forth in a series of recommendations provided to the Legislature in 2020.

### *Labor and Pensions*

Governor Newsom also implemented a major change to public agency responsibilities to



CalPERS by signing SB 278 (Leyva) into law. SB 278 requires public agencies and schools to directly pay retirees and/or their beneficiaries disallowed retirement benefits using general fund and Proposition 98 dollars. The bill places 100% of the total liability for overpayments on public agencies, abdicating all responsibility previously held by CalPERS. Despite any existing memoranda of understanding between employers and employees on what guides pensionable compensation, this new law significantly alters public agency contributions by shifting liability away from the retirement system administration and onto public agencies.

### *Broadband Legislation Pending Governor's Consideration*

The Governor has yet to take action on broadband deployment bills AB 14 (Aguiar-Curry) and SB 4 (Gonzalez). These bills would extend the California Advanced Services Fund (CASF) grant program to 2032 and authorize an increase to the annual surcharge collection cap from \$66 million to \$150 million. Both bills require the other to pass in order to go into effect (an arrangement called “contingent enactment.”) These measures are critical to maximizing the impact of the recent \$6 billion investment in broadband projects approved through the passage of SB 156.

### Modified Brown Act Requirements In Place

During the pandemic, Governor Newsom issued an executive order temporarily permitting local agencies to meet remotely and bypass the Brown Act's various requirements regarding the public's access to meetings' physical locations. The Executive Order's provisions were set to expire September 30<sup>th</sup>, until the Legislature passed, and the Governor signed, AB 361 (R. Rivas), which allows exemptions to some of the requirements related to Brown Act meetings held by teleconference during a state of emergency that makes it unsafe to meet in person. AB 361's provisions, which went into effect immediately after signing due to its emergency clause, are capable of remaining in effect until its sunset in 2024. Due to the legislation's potential to last longer than the previously enacted executive orders, key differences between the two include the new requirement that local agencies reassess and recertify the conditions constituting an emergency every 30 days while meeting remotely in order to be in compliance. The enactment of this critical Brown Act flexibility legislation will ensure that local agencies can continue to meet remotely and will serve as precedent for future emergencies.

### Transportation Budget Deal on 2022 Horizon

Prior to the adjournment of the legislative session, Governor Newsom and legislators were attempting to work together to advance significant transportation investments; however, they ultimately tabled discussions until 2022, as there were significant disagreements on key areas, including on the appropriation of funds for the high-speed rail project in the Central Valley. Specifically, many members of the Legislature wanted to pivot funding generated by Proposition 1A from investments in high-speed rail into other investments like infrastructure maintenance and sustainable transportation. The Governor's office wanted to see the \$4.2 billion in 1A funds invested into finishing the Merced to Bakersfield rail segment and the remaining SF to LA route. Assemblymember Laura Friedman, Chair of the Assembly Transportation Committee, said the



delay is because the High-speed Rail Authority has not provided specifics on its planned expenditures. Transportation funding discussions will continue during the Interim Recess, with the California State Transportation Agency recently issuing a statement that “Governor Newsom looks forward to re-engaging with the Legislature to finalize and pass a comprehensive transportation package early next year that invests in a wide variety of critically-necessary projects including high-speed rail, connectivity projects in advance of the 2028 Los Angeles Olympics, road and bridge repair, and a variety of other rail system improvements.”

### COVID-19 Regulations

Until January 14, 2022, California employers must adhere to state and local COVID-19 requirements, as well as Cal/OSHA’s COVID Emergency Temporary Standards (ETS). However, this month, Cal/OSHA released a draft of semi-permanent COVID-19 standards that are set to guide future pandemic emergencies. The draft proposal would create new standards that would be subject to either renewal or expiration after two years. Key differences between the current ETS and new draft standards include requiring employers to address COVID-19 through their Injury and Illness Prevention Program (IIPP), requiring employers to adopt more stringent testing protocols in the event of employee infection, and eliminating the requirement of exclusion pay for employees who are excluded from the worksite to quarantine, among other procedural changes. The draft regulations will likely have numerous administrative hurdles to clear before replacing the existing ETS.

With regard to the implementation of the Department of Public Health’s vaccine mandate for healthcare and state workers, September 30 marked the final day for all facilities to be in compliance. This comes after nearly a month and a half of lead time for the identified employees to receive their first dose of a one-dose regimen or their second dose of a two-dose regimen.

In addition to requirements for businesses, on October 1<sup>st</sup>, Governor Newsom announced that the state would be implementing a vaccine requirement for eligible K-12 students in 2022. Under the Governor’s plan, students will be required to be vaccinated for in-person learning starting the term following full FDA approval of the vaccine for a student’s grade span (K-6 and 7-12). Students who are under the age of full approval, but within the grade span, will be required to be vaccinated once they reach the age covered by the full approval. The vaccination requirement will be a condition of in-person attendance for all pupils of any private or public elementary or secondary school.

### California’s Eviction Moratorium Expires

The California eviction moratorium enacted in response to the financial hardships experienced by residents due to the pandemic expired at midnight on September 30, 2021. Landlords within jurisdictions that do not have city or county-imposed eviction moratoriums still in place will now be able to take tenants to court over missed rent payments. However, current law still shields tenants from eviction if they have paid a minimum of 25% their rent over the course of the pandemic. Despite the moratorium’s expiration, there are still state guardrails in place, including billions of dollars in rent relief that are currently being disbursed to eligible applicants.

