
MEMORANDUM

To: East Contra Costa Fire Protection District
From: Townsend Public Affairs
Date: November 7, 2019
Subject: Monthly Report— October 2019

State Legislative Update

Although the Legislature formally adjourned for the year in September, October was nevertheless a busy month for Legislators and the Newsom Administration. October 13 was the last day for the Governor to sign or veto bills passed by the Legislature, with most signed bills taking effect January 1, 2020. Focus has been on the Governor's office in the past month, as several critical bills were being closely watched until the final hours of October 13.

Of the 1,042 bills that were sent to the Governor's desk, Governor Newsom signed 870 and vetoed 172. This equals a veto rate of 16.5 percent which is approximately the same as Governor Brown's highest veto rate during his total of sixteen years in office. Additionally, there are approximately 1,600 bills that are now two-year bills and will be eligible for consideration when the Legislature reconvenes in January.

Below is a list of upcoming legislative deadlines:

January 1, 2020 – Most statutes passed in 2019 take effect
January 6, 2020 – Legislature reconvenes for the 2020 Legislative Session
January 10, 2020 – Budget must be submitted by Governor

Utility Power Shutoffs

In response to the wildfires that have erupted across the state this month, utility companies have initiated blackouts throughout several local communities. Millions of customers have gone without power to prevent fallen or compromised power lines from sparking a wildfire. In response, Governor Newsom has appointed members to the California Wildlife Safety Advisory Board, a board of independent expert advisors that will advise the California Public Utilities Commission on wildfire safety measures. This Board was established as outlined in AB 1054 (Holden – D, Pasadena) which was signed into law in July 2019.

Additionally, the Governor appointed members to the California Catastrophe Response Council. The Council was established as part of AB 111, the wildfire agencies budget trailer bill. The Council will oversee the operations and management of the Wildfire Fund to pay eligible claims

resulting from a wildfire determined to be caused by an electric utility. The Council will direct the Wildfire Fund administrator to prepare and present its operation plans on an annual basis.

Senate Pro Tempore Atkins has also announced the formation of a Senate working group that will study the issue of public safety power shut offs. The members of the working group are the following Senators:

- Susan Rubio (D – West Covina)
- Mike McGuire (D – San Rafael)
- Hannah-Beth Jackson (D – Santa Barbara)
- Ben Hueso (D – Chula Vista)
- Benjamin Allen (D – Redondo Beach)
- Henry Stern (D – Calabasas)
- Nancy Skinner (D – Oakland)
- Jerry Hill (D – San Mateo)
- Scott Wiener (D – San Francisco)

In addition to the working group, the Senate Energy, Utilities and Communications Committee will convene an oversight hearing on November 18 to “begin investigating and reviewing options to address the serious deficiencies with the PSPS process”.

TPA anticipates several bills will be introduced next year to address the Public Safety Power Shutoff (PSPS) process and other issues surrounding power shut offs. We expect that many of these bills will be gut and amends when the Legislature returns in January, as the issue will still be fresh on legislators’ minds.

To that end, SB 378 (Wiener – D, San Francisco) will be amended to require the CPUC to create a process where businesses, individuals, and local governments can recover costs as a result of a PSPS. Early draft amendments to the bill would:

- Promote better collection of data on utility equipment in order to assess the risk level prior to a blackout
- Ensure that customers cannot be billed for transmission, distribution, and other costs during a planned blackout
- Prevent utility companies from spending funds that oppose the formation of a new municipal utilities

TPA will continue to provide timely updates on this issue as it progresses this year and into 2020.

Housing Development Fee Legislation

Beginning this month, Assemblymember Tim Grayson (D – Concord) will be holding roundtable discussions regarding housing development fees and subsequent 2020 legislation. The Assemblymember intends to have these public hearings and discussions about impact fees by developer advocates and local government finances by local government representatives. We anticipate that the public hearings will result in a housing impact fee bill or package that could significantly impact cities. The meetings will discuss a report published by the Turner Center regarding impact fees and the nexus to affordable housing. A summary of that report is attached to this report.

Below is a list of the upcoming meetings:

- Monday 11/4 – Fresno
- Tuesday 11/12 - Oakland
- Monday 11/18 – Los Angeles
- Tuesday 11/19 – San Diego

TPA has been working with California Special Districts Association, the League of California Cities, the California State Association of Counties, and others who are part of the local government lobby in developing a strategy coming out of these roundtable stakeholder meetings. TPA anticipates this issue will be a major topic of discussion in the 2020 legislative session and will continue to provide updates as they become available. The Assemblymember is looking to gather information on the effects of impact fees from the perspectives of local government, developers, and special districts.

TPA attended the Fresno stakeholder meeting on November 4, 2019. In attendance were representatives from the City and County of Fresno, Habitat for Humanity, housing developers and representatives from a local fire protection district and recreation and park district. It was a very detailed conversation where

TPA will join Director Smith and Chief Helmick at the November 12, 2019 meeting where we will provide feedback from the special district’s perspective. Director Smith and Chief Helmick will address what principal constraints the District faces and the effects on public safety.

This is currently a very fluid conversation and for Assemblymember Grayson, it is an opportunity to gather information from all sides prior to next year’s legislative session. In January 2020, a meeting will be held to outline all the information gathered and determine the best path forward.

2019 Housing Related Legislation

As the Legislature continues to make affordable housing a priority, the impact to the District could be significant. The State wants to see an exponential amount of units be built in a short period of time. Below is a comprehensive list, status, and summary on all relevant housing bills in 2019:

Bill/Author	Status	Brief Bill Summary
AB 68 (Ting) Land use: accessory dwelling units	Chaptered	Removes remaining barriers to the widespread adoption of ADUs as low-cost, energy efficient, affordable housing.
AB 116 (Ting) Local Government	Chaptered	Authorizes Enhanced Infrastructure Financing Districts (EIFDs) to issue debt without voter approval, and specifies that an EIFD must hold three public hearings prior to issuing debt.
AB 587 (Friedman) Accessory dwelling units: sale or separate conveyance	Chaptered	Allows more flexible utilization of single family lots by providing two homes for low-income families in need.
AB 671 (Friedman) Accessory dwelling units: incentives	Chaptered	Requires a local government to include a plan in their housing element to incentivize and promote the creation of accessory dwelling units (ADUs).

AB 881(Bloom) Accessory dwelling units	Chaptered	Removes impediments to ADU construction. ADUs must receive streamlined approval if constructed in existing garages, and five-year owner occupancy is no longer required.
AB 1110 (Friedman) Rent increases: noticing	Chaptered	Requires 90 days' notice before a 10% rent increase for tenants with a month-to-month tenancy.
AB 1255 (Rivas) Surplus public land: inventory	Chaptered	Requires cities and counties to report surplus urban land to the State. State then has to include this information in a public digitized inventory.
AB 1399 (Bloom) Residential real property: rent control: withdrawal of accommodations	Chaptered	Makes changes to the Ellis Act, including prohibiting a landlord paying former tenants damages in lieu of offering re-rental.
AB 1482 (Chiu) Tenant Protection Act of 2019: tenancy: rent caps	Chaptered	Places an upper limit on annual rent increases: 5% plus inflation. Also prevents landlords from evicting tenants without just cause.
AB 1483 (Grayson) Housing data: collection and reporting	Chaptered	Requires local agencies to post on their websites the type and amount of each fee imposed on a housing development project.
AB 1485 (Wicks) Housing development: streamlining	Chaptered	Ensures timely approval of unsubsidized, zoning compliant rental and ownership housing projects.
AB 1486 (Ting) Surplus land	Chaptered	Requires local governments to include specified information relating to surplus lands in their housing elements and annual progress reports (APRs).
AB 1487 (Chiu) San Francisco Bay area: housing development: financing	Chaptered	Establishes the San Francisco Bay Regional Housing Finance Act and enables the Bay Area voters to raise money for affordable housing.
AB 1743 (Bloom) Local government: properties eligible to claim or receiving a welfare exemption	Chaptered	Will help reduce the cost of building affordable housing and allow rents to be affordable to the State's lowest income households.
AB 1763 (Chiu) Planning and zoning: density bonuses: affordable housing	Chaptered	Revises Density Bonus Law (DBL) to require a city or county to award a developer if 100% of the units in a development are restricted to lower income households.

SB 6 (Beall) Residential development: available land	Chaptered	Requires the state to create a public inventory of local sites suitable for residential development, along with state surplus lands.
SB 13 (Wieckowski) Accessory dwelling units	Chaptered	Creates a tiered fee structure which charges ADUs more fairly based on their size and location.
SB 18 (Skinner) Keep Californians Housed Act	Chaptered	Eliminates the sunset on a provision that guarantees all tenants, whose landlord is foreclosed on, get at least 90 days' notice before they must vacate the rental property.
SB 113 (Committee on Budget and Fiscal Review) Housing	Chaptered	States the Legislature's intent to establish a trust to manage \$331 million in state funds that are court-ordered to be directed to provide borrower relief and legal aid to homeowners and renters.
SB 196 (Beall) Property taxes: community land trust	Chaptered	Enacts a new welfare exemption from property tax for property owned by a Community Land Trust (CLT).
SB 222 (Hill) Discrimination: veteran or military status	Chaptered	Prevents landlords from refusing to rent to a tenant merely because the tenant proposes to pay with a Veterans Affairs Supportive Housing (VASH) voucher.
SB 329 (Mitchell) Discrimination: housing: source of income	Chaptered	Prohibits landlords from discriminating against tenants who rely upon housing assistance paid directly to landlords, such as a Section 8 voucher.
SB 330 (Skinner) Housing Crisis Act of 2019	Chaptered	Places restrictions on certain types of development standards, amends the Housing Accountability Act (HAA), and makes changes to local approval processes and the Permit Streamlining Act.
SB 644 (Glazer) Tenancy: security deposit: service members	Chaptered	Lowers the amount that a landlord can charge service members for a security deposit on residential rental housing.
SB 744 (Caballero) Planning and zoning: California Environmental Quality Act: permanent supportive housing	Chaptered	Creates an expedited CEQA review process for supportive housing developments that receive NPLH funding.

Federal Legislative Update

In October, members of Congress spent a significant amount of time, political capital, and public messaging on the House impeachment inquiry into President Trump. This also created distractions, resulting in staff working hard behind the scenes to identify a path forward for government funding. The Continuing Resolution that passed earlier this year funds the

government through November 21. With three weeks remaining, the Senate has yet to finalize its full-year funding bills, meaning Congress must pass another short-term extension bill by November 21 to avoid a government shutdown. With the impeachment inquiry ongoing concurrently, Congress is likely headed towards a potentially tense political impasse.

The current dynamic in Congress is substantially different from July, when members of Congress worked in a bipartisan manner to pass a budget agreement that set top-line federal funding amounts for the next two years. The tense tone in Washington D.C. that has ramped up over the last several months may become a barrier to progress on many legislative issues, with a limited number of bills expected to move for the remainder of the year.

Fiscal Year 2020 Appropriations

The Senate is currently moving forward on votes for five of the bills in the House-passed spending package from the summer. The \$214 billion package includes funding for Departments of Agriculture, Commerce, Justice, Interior, Environmental Protection Agency, Transportation, and Housing and Urban Development, among other agencies. Disputes over funding for President Trump’s border wall request have historically been an obstacle in the Senate, but it is expected that agreements can be reached on other funding areas in the package.

Please see below for an update on several appropriations line items, where they are in the process, and how the House-proposed levels compare to last year’s levels and the President’s recommended levels.

Most priority area funding levels in FY 2019 are expected to enjoy increases during the budget process. Thanks to continued advocacy, many of the proposed funding levels for FY 2020 are similar to FY 2019 levels.

Many funding increases trigger better chances of receiving grant funding in FY 2020, both through federal programs and state programs that receive federal dollars.

Public Safety:

Program	FY 2019 enacted	FY 2020 President’s Request	FY 2020 House	FY 2020 Senate	FY 2020 Enacted
Community Oriented Policing Services (COPS)***	\$225.5 million	\$99 million	\$323 million	\$245 million	N/A
Assistance to Firefighters (AFG) Grants	\$350 million	\$344 million	\$375 million	\$355 million	N/A
Staffing for Adequate Fire and Emergency Response (SAFER) Grants	\$350 million	\$344 million	\$375 million	\$355 million	N/A
FEMA Pre-Disaster Mitigation Grant Program	\$250 million	\$0	\$250 million	\$250 million	N/A

*** In response to a lawsuit, COPS has put a hold on several grant programs for the FY18 cycle, including the COPS hiring program. If the hold is not resolved soon, this could affect appropriations for FY20, including prompting a cut while COPS allocates its delayed FY18 and FY19 award funding. While congressional appropriators are not currently factoring this in, we are aware of its ability to change in the near future.

PFAS

In October, Director Andrew Wheeler of the Environmental Protection Agency (EPA) announced that the agency is on track to meet a year-end deadline to propose regulatory standards for Per- and polyfluoroalkyl substances (PFAS) in drinking water. Toxicity standards, drinking water standards and groundwater standards for Perfluorooctane Sulfonate (PFOS) and Perfluorooctanoic Acid (PFOA), which have all been considered since 2016, should be unveiled by the end of 2019, a directive outlined by policy set forth in the Safe Drinking Water Act.

In February, the EPA indicated that it would take at least 25 steps to address the dangers of per- and poly-fluorinated compounds associated with adverse health effects like cancer. By the end of this year, the EPA must propose drinking water limits for the two types of PFAS no longer in use in the US.

In addition to these recent developments, the EPA also began the regulatory development process for designating PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Finally, the EPA recently concluded public comment on the draft Interim Recommendations for Addressing Groundwater Contaminated with PFOA and PFOS. The EPA is reviewing comments, and asking whether the new guidelines should follow the EPA's suggested 70 parts-per-trillion (ppt) or whether higher or lower values would be supported.

Members of both parties in Congress have criticized the EPA over its process for PFAS regulation, a sign that Congress may be moving toward removing the EPA's authority over this process. Republicans and Democrats on the Senate Environment and Public Works Committee feel the agency is still moving too slowly to set minimum standards for the presence of these chemicals in water.

Congress has indicated it is interested in intervening and force the EPA to move faster. Last month, the Senate passed a defense authorization bill (S. 1790) that would force the EPA to establish nationwide standards within two years for two of the many PFAS chemicals that can be found in the environment. Congress is currently resolving differences between the House and Senate versions of the bill.

Senator John Barrasso (R-WY), the chairman of the committee, intends to maintain recent tradition and pass a broad water infrastructure bill before the end of next year, which could also include PFAS provisions. Congress has passed these types of water bills every other year since 2014. They often authorize dozens of large infrastructure projects for the Army Corps of Engineers and also include some water policy provisions.



COMMENTS ON THE HCD/TERNER CENTER REPORT:

Residential Impact Fees in California

Current Practices and Policy Considerations to Improve Implementation of Fees Governed by the Mitigation Fee Act

August 27, 2019

GENERAL COMMENTS:

- Our organizations believe the Residential Impact Fees in California report (Report) was well balanced and informative. The recommendations are thoughtful and complex, and the majority of those recommendations deserve more time for discussion than is possible in the last three weeks of session.
- **Our organizations, however, can support moving forward this year with key transparency and accountability recommendations in the Report that have been discussed since January in relation to AB 1483 and previous versions of AB 1484, provided local agencies are given a reasonable timeline for implementation (see specific details below).**
- A development impact fee defrays all or a portion of the cost of public facilities and services reasonably related to a development project. The Report observes that most jurisdictions set fees in an amount that defrays a portion, not all, of the cost of those public facilities.
- The Report notes that there are few alternative funding mechanisms available to localities, particularly given California's restrictions on property taxes and special taxes. While reducing fees might encourage more housing production statewide, the reduction must be balanced with alternative financial support for local facilities and services.
- The Report identifies statewide tax reform and new infrastructure funding programs, as well as reforms to existing financing sources such as Enhanced Infrastructure Finance Districts (EIFDs) to make them more feasible, as options for further exploration. Any longer term adjustments to local fees must be considered in parallel with such measures to ensure that infrastructure throughout the state is able to meet the increased demands of future housing supply. Appropriate time should be provided to carefully consider these issues.
- Several other issues highlighted in the Report are already included in bills that are continuing to move this year including:
 - SB 330 which freezes ordinances, policies, and standards on a housing development project in urban areas to those adopted and in effect when a completed preliminary application was submitted, including a freeze on ordinances, policies and standards relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions unless they are increased as a result of an automatic annual adjustment.
 - SB 13 which prohibits development impact fees on ADUs of fewer than 750 square feet, including school district fees, and any other fees levied by a local agency. For ADUs in excess of 750 square feet, fees would be charged in proportion to the square footage of the primary residence.

NEAR-TERM CONCEPTS TO BE IMPLEMENTED ON OR BEFORE JANUARY 1, 2022:

Transparency

1. Post on the city or county or special district website:
 - The adopted schedule of fees and affordability requirements, applicable to the housing units in a development project.
 - The jurisdiction's current and previous annual fee reports that are currently required to be the subject of a public hearing.
 - An archive of impact fee nexus studies conducted by the jurisdiction.
2. Confirm that fee/nexus information is available online by requiring cities and counties to provide a link to the information in the annual progress report.
3. Require local agencies to provide an estimate of applicable fees upon an applicant's request (**see draft language below**), or develop a tool for the applicant to use similar to Riverside County's online calculator or City of Roseville's methodology.

Add S. 65944.5 as follows:

(a) At the time that an application for approval of a housing development project is deemed complete, the city, county, or city and county shall provide the applicant with an estimate of the amount of development impact fees imposed under the Mitigation Fee Act, and any other fees applicable to the housing development project, provided that the application includes all necessary information required by the calculation.

(b) The actual amount of development impact fees imposed under the Mitigation Fee Act, and any other fees applicable to a housing development project shall be determined at the time payment is required pursuant to section 66007.

Accountability:

4. In addition to the written notice that an applicant may submit under existing law to protest a fee, make explicit the ability of applicants to submit information at a public hearing, demonstrating that the proposed fee is not reasonably related to the actual impact of the project for reasons that may include, but are not limited to, the characteristics or features of the project. NOTE: Nothing now prevents applicants from doing this and Section 66020 additionally provides a right of protest to any fee or exaction.

Amend S. 65940 (a) and add S. 66004.1 as follows.

S. 65940 (a) Each state agency and each local agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. For housing development projects, as defined by paragraph (2) of subdivision (h) of Section 65589.5, the list shall provide the location on the local agency's internet website of all development impact fees applicable to residential development projects. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

S. 66004.1. A local agency may not collect, extend, or increase any fee from a a housing development project, as defined in paragraph 2 of subdivision (h) of Section 65589.5, unless the the type and amount of the fee, including any fee scale if applicable, was on the local agency's internet website pursuant to S. 65940 (a) at the time that the application for the approval of a housing development project was deemed complete by the local agency.

Should you have any questions about our positions on these concepts, please do not hesitate to contact Christopher Lee (CSAC) at clee@counties.org, Jean Hurst (UCC) at jkh@hbeadvocacy.com, Jason Rhine (LCC) at jrhine@cacities.org, Tracy Rhine (RCRC) at TRhine@rcrcnet.org, or Sande George (APA) at sgeorge@stefangeorge.com.

Sincerely,



Christopher Lee
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Jason Rhine
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