

To: East Contra Costa Fire Protection District
From: Townsend Public Affairs, Inc.
Date: November 4, 2020
Subject: Legislative Report for ECCFPD – October 2020

State Legislative Update

During the month of October, the Legislature has concluded their session and Governor Newsom has acted on all pending legislation, so most of the focus shifted to the various federal, legislative, and local races.

Governor Newsom continued to hold regular press briefings to update the public on COVID-19 and other urgent matters, such as wildfires. The Governor and Dr. Ghaly continued to provide weekly updates for each county's tier status, as well as major actions taken by the Administration to continually combat the spread of the virus. The Governor also announced a COVID-19 Vaccine Scientific Working Group, a new health equity metric to be required of counties when moving between tiers, as well as new Homekey awards for local governments.

State lawmakers have been focused primarily on the upcoming General Election on November 3rd. For this election, all 80 Assembly seats will be voted on, as Assembly Members are elected to two-year terms, while voters will be asked to weigh in on half of the State's Senate seats, as Senators are elected to four-year terms with half the seats up every two years. In the Assembly, Democrats currently hold 61 seats, Republicans hold 17 seats, one seat held by a No Party Preference elected official, and one seat is currently vacancy. In the Senate, Democrats hold 29 seats, while the Republicans hold the remaining 11 seats. In both the Assembly and the Senate, it is anticipated that the Democrats will hold on to their super-majorities, but there are likely to be various seats that switch party control.

TPA will be providing a post-election summary of the General Election results and updates regarding the Legislature's make-up. The update will contain updates an analysis of various legislative races, the statewide initiatives for consideration, as well as information on the race for President.

Below are the upcoming relevant dates for the Legislature:

November 3rd – General Election

December 7th – Legislature officially sworn in for the 2021-2022 Regular Session

January 1st – Most statutes passed in 2020 take effect

January 4th – Legislature reconvenes to begin legislative business



Governor's COVID-19 Action Summary

Below is a summary of the major COVID-19 actions taken by the State Administration in September:

- **October 28th – Executive Order:** Governor Newsom signed an executive order that will allow the Department of Transportation to more easily issue temporary permits for businesses along state highways to expand their outdoor dining options along sidewalks and parking areas, will allow seniors over the age of 70 to renew their drivers' licenses by mail, and extends the deadlines for real estate license application and renewal fees.
- **October 19th – Vaccine Workgroup:** Governor Newsom announced the formation of a scientific safety review workgroup to advise the State on forthcoming COVID-19 vaccines. The workgroup, which includes physicians, scientists, and immunization experts, will independently review the safety and efficacy of any vaccine that receives FDA approval for distribution. According to the Governor's office, the workgroup will aim to ensure that a COVID-19 vaccine meets the safety and distribution requirements and including community stakeholders in the group's recommendations.
- **October 16th – Homekey Awards:** Governor Newsom announced the fifth round of Homekey awards to local governments to help localities purchase and rehabilitate housing and convert them into long-term housing for those experiencing homelessness. The announcement includes a total of \$30 million with \$2.2 million for the Yurok Tribe, over \$15 million for the City of San Luis Obispo, and \$13.5 million for the City of Los Angeles.
- **October 9th – Homekey Awards:** Governor Newsom announced the fourth round of Homekey awards to local governments, totaling \$147 million to 12 cities and counties throughout the State. These funds will go towards 1,109 units across the State to help local governments provide long-term housing options for their respective homeless populations.

Assembly Wildfire Hearing

On October 20th, the Assembly Budget Subcommittee on Resources and Transportation held an informational hearing on wildfire mitigation. The hearing consisted of three panels of speakers:

- Historical and Current Funding Levels
 - Brian Brown, Principal Legislative Analyst, Legislative Analyst's Office
- Fire Mitigation Needs
 - Nick Jensen, Lead Conservation Scientist, Native Plant Society
 - Michael O'Connell, Executive Director, Irvine Ranch Conservancy
- CalFIRE Fire Prevention Funding
 - Thom Porter, Department of Forestry and Fire Protection

The hearing took place in response to the most devastating wildfire year the State has ever experienced with more than 4 million acres burned and over 30 individuals who lost their lives



due to the fires. The committee identified three primary factors that have added to this year's fires: 1) climate change, 2) higher density housing in fire-prone areas, and 3) increasing fuel for fires to burn. The committee also found that 95 percent of fires are caused by some form of human activity such as vehicle sparks, lawn mowers, faulty electrical connections, and utility lines.

Members in attendance for the hearing included Assembly Members Bloom (Chair), Friedman, Reyes, Ting, Mullin, Luz Rivas, and Garcia. Chair Bloom opened the hearing by noting that the State FY 2020-21 budget contained \$203.3 million for fire prevention and resource management and \$2.3 billion for suppression and response activities. Chair Bloom expressed the need for the State to increase spending on wildfire prevention and resource management without decreasing funding for suppression and response.

Notably, Assembly Member Mullin mentioned the attempts by the Legislature to pass a natural resource and climate bond on the 2020 ballot. Those efforts did not result in a passed bill, but the Assembly Member noted that there will be renewed efforts in 2021 to place a bond measure on the 2022 ballot. The Assembly Member expressed his support for including fire prevention and suppression as a key component of any such bond.

Looking ahead, the new Legislature will be sworn into office on December 7th. While this day will officially begin the 2021-22 Regular Legislative Session, the day is primarily used as an organizational session. Once the session begins, legislators will be allowed to introduce bills, but the vast majority of bills will be introduced nearer to the bill introduction deadline, which typically falls in late-February. When the Assembly and Senate convene in early-December, there will be significant focus on how Assembly Speaker Rendon and Senate Pro Tem Atkins indicate they intend to conduct the legislative session. It is likely that there will be more hearings held, and bills considered, than in 2020, but exactly how the business of the Legislature will be conducted is still somewhat of an unknown. It is unlikely that the Legislature will be back to "business as usual," but it is unclear if there will be stricter limits on bill introductions, committee hearings, and topics for legislative consideration imposed by leadership.

Federal Legislative Update

In October, the federal government focused almost exclusively on four key issues: ongoing negotiations for a fourth coronavirus aid package, the confirmation process for Supreme Court Justice Amy Coney Barrett, President Trump's positive coronavirus diagnosis and subsequent hospitalization, and the impending presidential and congressional elections on November 3rd. All four issues have significant implications for the Country, both in this moment and for years to come.

As we move into November, it will be unclear what, if anything, is considered in a lame duck session of Congress until the election until winners are decided. If Vice President Biden prevails on November 3rd, it is likely that there will be a focus on determining Congressional Leadership positions (should the Senate also change hands) and/or administration nominations. Under this scenario, it is likely that Republicans and President Trump will push to finalize any outstanding priorities, prior to a transition of power. Should President Trump prevail on November 3rd, it is likely that Republicans will try to leverage the victory to get their preferred coronavirus relief legislation approved, and begin to lay the groundwork for more aggressive legislation to be pursued next year.



Coronavirus Aid Packages

In October, Speaker Nancy Pelosi and Treasury Secretary Steven Mnuchin met numerous times to try and negotiate a fourth coronavirus relief bill, but found themselves at a standstill over several issues, including state and local funding and liability protections. The last reports on negotiations indicated that Secretary Mnuchin's offer for a relief package included \$1.8 trillion in total spending, \$300 billion in state and local funding, and a stimulus payment to replace the Earned Income Tax Credit.

Earlier in October, the House of Representatives reintroduced a new, smaller version of the HEROES Act with a price tag of \$2.2 trillion, which passed in the House with a vote of 225-188. This bill included \$436 billion for state and local governments, return to supplemental unemployment benefits, renewal of small business assistance programs, and additional direct stimulus payments to taxpayers. While the measure was approved by the House, the Senate did not take the bill up for a vote.

Later in October, the Senate voted on a \$120 billion standalone bill to extend the Paycheck Protection Program; however, Senate Democrats opposed the piecemeal approach, and the measure did not pass. The Senate also took another vote on a narrow \$500 billion aid bill similar to the one blocked by Senate Democrats in September, which also did not pass.

Throughout the month, President Trump weighed in on the negotiation process, first pressing for a deal on another round of pandemic aid to jolt the U.S. economic recovery, and later indicating he did not support continuing negotiations.

Appropriations

After the stopgap funding bill Congress passed last month, Congress passed no additional legislation to fund the federal government through the end of Fiscal Year 2021 on September 30, 2021. The most recent stopgap funding bill runs through December 11, 2020, meaning that a lame-duck Congress will have to negotiate additional funding by that date to avoid a government shutdown.

As a reminder, the House has passed nearly all of their appropriations bills for FY2021, whereas the Senate has not yet drafted theirs. Generally speaking, the House and Senate will finalize funding levels for each line item located somewhere between their two proposals.

Supreme Court

After the death of Supreme Court Justice Ruth Bader Ginsburg in September, the Senate spent a large portion of October on confirmation hearings and votes for President Trump's nominee, Judge Amy Coney Barrett. Judge Barrett received four confirmation hearings in the Senate Judiciary Committee and was later approved by the full Senate, on October 23rd, on a largely party-line vote. Judge Barrett's nomination marks the third Supreme Court justice nominated by President Trump in his first term.



White House Outbreak

In October, a nomination event for now-Justice Amy Coney Barrett is suspected to have caused the coronavirus infection of a slew of elected officials and staff, including President Donald Trump, First Lady Melania Trump, and their son Barron Trump. The infection resulted in President Trump spending several days in Walter Reed Hospital receiving treatment. Other individuals who later tested positive after attending or being close to someone who attended include White House Press Secretary Kayleigh McEnany, Senator Ron Johnson (R-WI), Former New Jersey Governor Chris Christie, Trump Campaign Manager Bill Stepien, Trump Body Man Nick Luna, California pastor Greg Laurie, Coast Guard Admiral Charles Ray, Coast Guard aide Jayna McCarron, Deputy Press Secretary Jalen Drummond, Rep. Salud Carbajal (D-CA), Presidential Advisor Stephen Miller, Congressman Mike Bost (R-IL), and five members of the Vice President's office including his Chief of Staff.

Census

In October, the Supreme Court approved the Trump Administration's plan to halt the census count while a lower court's order that it continue is under appeal. A lower court had ordered the government to continue with the count as originally planned through the end of October.

Despite previously requesting an extension to the Census, the Administration opted to end the count early to allow adequate time for apportioning congressional districts by the end of the calendar year. The Court did not offer a written rationale for its decision.

District Legislative Priorities

TPA works to further the mission of the East Contra Costa Fire Protection District in Sacramento and Washington DC. In addition to providing feedback on the priorities of the State and Federal government, the District has its own priorities that we continue to advance.

Legislative Priority 1 – Mitigation Fee Act

Under existing law, the Mitigation Fee Act authorizes local agencies to impose fees to offset the impacts of new development in the form of new services and/or facilities required. The Mitigation Fee Act also imposes a variety of administrative requirements on the fees collected. No voter approval is required to impose impact fees. The same does not apply to a District board, who is prohibited from charging a fee on new construction or development.

TPA had previously discussed this issue with Assembly Member Grayson, who has spearheaded efforts in the Legislature to amend current law relating to impact fees. Numerous conversations have occurred with the Assembly Member's office, and other stakeholders, regarding the importance of impact fees to fire districts.

In September, TPA met with staff of the California Special Districts Association to discuss issues surrounding the Mitigation Fee Act. CSDA, as well as other state associations representing public agencies, have been working in a stakeholder group on the issue of the Act. Much of the work over the last several years has been defensive in nature, as numerous bills have attempted to



modify the Act in ways that would result in a decreased ability for public agencies to collect impact fees. The aim of these legislative efforts has been to reduce the overall cost of housing in California and provide more opportunities for home ownership or for people to be able to afford to rent housing near employment centers.

TPA has set up meetings in November with staff for the Senate Governance and Finance Committee, as well as the Assembly Local Government Committee to discuss the issue and discuss how the committees may view mitigation fee legislation in the coming session. Additionally, TPA will be reaching out to the District's legislative representatives to discuss potential legislation they may be pursuing in the upcoming year and how mitigation fee act legislation may fit into their bill packages.

Legislative Priority 2 – Professional Services

Under existing law, the Public Contract Code provides that contracts over \$25,000 must be awarded to the lowest bidder. In addition to be a low threshold, Section 20812 is inconsistent with the requirements for many public agencies, and also inconsistent with other laws pertaining to Professional and Special Services.

TPA has shared the concerns with the existing bid thresholds with the Senate Governance and Finance Committee. Additionally, TPA worked with stakeholders to determine if there was an opportunity to include language in an omnibus bill that would raise the bid thresholds to be consistent for all types of public agencies. Ultimately, the efforts to advance an omnibus bill did not materialize, as legislators and committees were forced to reduce their bill loads due to the shortened legislative calendar.

In September, TPA met with staff from the California Special Districts Association to discuss bid threshold legislation. While CSDA indicated that several of their members have brought up the issue of bid thresholds, they do not anticipate sponsoring legislation on the topic in 2021; however, they would likely be supportive of any legislation that the District would introduce.

In addition to meeting with CSDA, TPA conducted research on the California Uniform Public Construction Cost Accounting Act (Act). The District opted into the Act in 2016. The Act provides increased bid level thresholds and procedures for public project work. While pursuing bid threshold legislation, the Act will likely be raised as an alternative to bid threshold legislation, so TPA will work with the District to understand if there are specific provisions within the Act that limit its effectiveness for the District. Based on that information, TPA will conduct additional research to determine if amending the Act may lead to a greater likelihood of legislative success.

Legislative Priority 3 – Parcel Tax

Currently, a parcel tax requires a two-thirds vote to pass and must be applied to all parcels equally. This means that a residential property, a commercial property, and an undeveloped property would have to be assessed the same amount for fire service even though they place different levels of demand for service on the Fire District.

TPA worked with Legislative Counsel to draft bill language that would allow different levels of tax to be assessed to different classes of parcels. Efforts to secure an author were unsuccessful, as



the language was developed at the same time that the legislative calendar was truncated due to impacts from coronavirus.

During the legislative interim, TPA will be meeting with staff of the Assembly Local Government Committee, as well as Assembly Member Aguiar-Curry, to discuss this issue. In 2020, Assembly Member Aguiar-Curry attempted to advance legislation that would have modified vote thresholds for certain types of parcel taxes. While the Assembly Member's legislation was ultimately unsuccessful, there may be an opportunity to work with the Assembly Member on legislation for 2021. Additionally, Assembly Member Aguiar-Curry serves as the Chair of the Assembly Local Government Committee, and as such, may have additional insights to other agencies with similar priorities as the District, policy considerations that we may want to incorporate into the legislative effort, or other stakeholders that we may want to reach out to prior to the introduction of legislation.

TPA has set up meetings in November with staff for the Senate Governance and Finance Committee, as well as the Assembly Local Government Committee to discuss the property tax related issues and the committees' perspectives on the topic in light of recent legislative and initiative efforts.

Legislative Priority 4 – Proposition 218

Proposition 218 restrict local governments' ability to impose assessments and property-related fees, as well as requires elections to approve many local government revenue raising methods. Over time, the responsibilities expected of local fire districts have grown, however, their share of local tax revenue has not grown to meet the increased demand.

Every few years, efforts have failed to modify the State Constitution to reduce the vote threshold for parcel tax measures to 55%. That included an effort earlier in the 2019-20 legislative session, ACA 1 (Aguiar-Curry). While that measure was unsuccessful, the Legislature was able to approve a measure, ACA 11 (Mullin), for the November ballot, which will appear as Proposition 19. If approved by voters, Proposition 19 would allow homeowners who are over 55, disabled, or victims of wildfire or natural disaster to transfer their primary residence's property tax base value to a replacement residence of any value, anywhere in the state. An individual could use these rules up to three times in their lifetime. The measure would also limit the ability of new homeowners who inherit properties to keep their parents' or grandparents' low property tax payments. The measure would allocate most resulting state revenue to fire protection services and reimbursement to local governments for taxation-related changes. If approved, Proposition 19 may create a funding stream that the District can access.

In addition to ACA 11, the Legislature also approved SB 1386 (Moorlach), which subsequently signed into law by Governor Newsom. SB 1386, which received bi-partisan unanimous support in the Legislature, declares that fire hydrants are part of water service, for the purposes of Proposition 218. This bill is an important measure that can be enacted to protect fire hydrant system funding that would not increase water rates because the costs of fire hydrant system maintenance and operation are already appropriately embedded in customers' water rates. The success of SB 1386 may lead to additional legislation to amend the statutory definitions surrounding Proposition 218.



Legislative Priority 5 – Building a Coalition

With the assistance of the California Special District’s Association and the California Fire District’s Association, TPA is working to build a coalition with other special fire districts in California that are impacted by Proposition 13 allocations, and growth since Proposition 13 was enacted. This coalition will also provide support for the long-term priorities listed above, as well as future priorities. A coalition will support efforts to show the long-term implications of Proposition 13 are a statewide issue and not unique to the District.

To date, the efforts to identify special districts that are similarly impacted by Proposition 13 have not resulted in a robust coalition. During the legislative interim, TPA will be re-doubling our efforts with our partners, as well as reaching out to new resources to assist in the identification of similar districts. TPA will be meeting with staff from the Senate Governance and Finance Committee, as well as the Assembly Local Government Committee, that work on Proposition 13-related issues to discuss how the District is impacted, as well as to determine if other special districts have raised this issue with committee staff. Additionally, we have reached out to the Senior Consultant on Local Government Issues within the Assembly Speaker’s Office to determine if any other Assembly Members have raised this issue to the Speaker, which may help identify additional areas of the state where similar circumstances exist.

