

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

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 elections 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, during November 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. Most notably, 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.

Below are the upcoming relevant dates for the Legislature:

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
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

Governor's COVID-19 Action Summary

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



- **November 30th – Small Business Relief:** Governor Newsom announced a temporary tax relief order which entails an automatic three-month income tax extension for taxpayers filing less than \$1 million in sales tax, extends the availability of existing interest and penalty-free payment agreements to companies with up to \$5 million in taxable sales and provides expanded interest free payment options for larger businesses particularly affected by significant restrictions on operations based on COVID-19 transmissions.
- **November 19th – Limited Stay at Home Order:** In light of the growing cases of COVID-19 throughout the State, the Governor announced a limited stay-at-home order requiring generally that non-essential work, movement and gatherings stop between 10:00pm and 5:00am in counties in the purple tier. The order took effect on Saturday, November 21 and will remain in effect until December 21.
- **November 16th – Face Covering Mandate:** With over 94 percent of the State’s population entering the purple tier status, Governor Newsom announced an order to strengthen the face covering mandate to require individuals to wear a mask when outside their home.
- **November 16th – Homekey Awards:** Governor Newsom announced plans to immediately direct \$62 million in one-time funds from the State’s Disaster Response Emergency Operations Account to counties throughout the state to continue providing housing to Project Roomkey participants. After consultation with the Legislature, the Administration is making these funds available to local governments with Project Roomkey sites so that those living in motel or hotel rooms under this program will not be forced to return to street homelessness while the COVID-19 pandemic continues to spread.

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. The Governor is required to submit a January Budget Proposal before January 10th.

Assembly Budget Subcommittee Hearing: COVID-19 Operations

On November 10th, the Assembly Budget Subcommittee on Budget, Oversight, and Program Evaluation held a joint hearing with the Assembly Committee on Governmental Organization to examine the State's response to the COVID-19 pandemic. The committees received testimony from the LAO, Department of Finance, Office of Emergency Services, Department of Public Health, and Department of General Services.

Notably, the testimony included an overview of State operational spending on mitigation efforts, including mask distribution, personal protective equipment, contact tracing, and testing. Most State funding was used for public health, education, and childcare services, while housing, criminal justice, and local government represented less State spending overall.

Testimony also included an overview of the State's efforts to ensure the proper delivery of any COVID-19 vaccine. Generally, the process for vaccine distribution will begin with the federal government distributing to states, states will distribute to each county as well as some multi-county jurisdictions, and counties will distribute directly to healthcare providers. Providers will place orders for the vaccine through the State system, and the vaccine will be sent directly to the provider. The Department of Public Health is in the process of developing a public outreach strategy to communicate this process to Californians.

Federal Legislative Update

In Washington, D.C., most of the attention was focused primarily on the Presidential Election. After a prolonged period of vote counting, due to the historic use of vote-by-mail ballots, Democratic nominee and former Vice-President Joe Biden was projected as the President-Elect on Saturday, November 7th. His running mate, Senator Kamala Harris (D-CA), will make history as the nation's first female, Black, and Indian-American Vice President. President-elect Biden's path to victory included winning the key battleground states of Wisconsin, Michigan, Pennsylvania, Nevada, including a pair of surprise victories in the traditionally Republican-leaning states of Arizona and Georgia.

The November General Election also left its imprint on Congress. In the House, Democrats will maintain control of the chamber but are projected to lose 11 seats to Republicans, with several seats still outstanding. Control of the Senate has not been determined as neither candidate of Georgia's two Senate races received over 50 percent of the vote, forcing a run-off election on January 5th. If Democrats win both seats in the runoff, Democrats will assume control of the Senate with Vice-President Elect Kamala Harris serving as the tie-breaking vote. Republicans need to only win one of Georgia's two Senate seats to maintain control of the Senate.



Coronavirus Aid Packages

In November, Senate Majority Leader Mitch McConnell (R-KY) agreed to resume negotiations with Congressional Democratic leadership on a COVID-19 relief package. Democrats and Republicans have been at an impasse over the details and size of any potential stimulus legislation for several months. President-Elect Biden, who supports the Democrat-sponsored relief package proposal, also met with Speaker Pelosi and Senator Minority Leader Charles Schumer (D-NY) to discuss options for a relief package as the incoming Administration prepares to assume power in January 2021.

Without an extension to the CARES Act, which was previously passed in March 2020, nearly 12 million Americans are expected to lose unemployment benefits at the end of December. A federal eviction moratorium put in place due to the crisis will also expire at year's end.

President-Elect Biden Transition

President-Elect Joe Biden has begun to assemble his transition team and worked on transition-related actions shortly after being projected as the winner of the election. President-Elect Biden moved quickly to establish his own COVID-19 task force to deal with the challenges of the COVID-19 pandemic. President-Elect Biden also named several senior staff, who do not require confirmation from the Senate, including:

- Congressman Cedric Richmond (D-LA) as Senior Advisor to the President and Director of the White House Office of Public Engagement
- Former Harris Campaign Staffer Julia Chavez Rodriguez as Director of Intergovernmental Affairs

The President-elect also began unveiling his nominations for cabinet secretary positions, including:

- Former Deputy Secretary of State Antony Blinken as Secretary of State
- Former Secretary of State John Kerry as climate czar
- National Security Aide Jake Sullivan as National Security Advisor
- Former Deputy CIA Director Avril Haines as Director of National Intelligence
- Former Federal Reserve Chair Janet Yellen as Secretary of Treasury

Federal Appropriations

After the stopgap funding bill Congress passed in September, Congress failed to pass any additional legislation to fund the federal government through the end of Fiscal Year 2021, on September 30, 2021. The stopgap funding bill runs out on December 11, 2020, meaning that a lame duck Congress must negotiate additional funding by that date to avoid a government shutdown. Negotiations continued throughout the Thanksgiving recess, but a finalized deal has not yet been reached.

As a reminder, the House has passed nearly all their appropriations bills for FY 2020-21 while the Senate has not yet drafted their appropriations bills. While a deal has not yet been reached, TPA



expects the House and Senate to finalize a spending package before federal funding expires. TPA continues to advocate to the White House and Congressional Leaders for a compromise that includes full funding for critical programs that benefit cities and localities.

Federal Earmarks

With the official bipartisan endorsement of the Select Committee for the Modernization of Congress, Congress is closer than ever to bringing back federal earmarks.

If earmarks do return, they would likely be structured in a new program called the Community-Focused Grant Program (CFGP). Only public entities, non-profits, and state and local governments would be eligible to receive earmarks under this program. The CFGP would give special consideration to projects that have broad support at the local level, thorough supporting documentation, bipartisan support, and multi-member support. Congress would aim to distribute grants equitably across states and geographic regions, between rural, suburban and urban areas, and throughout economic sectors.

In addition to the Select Committee's report, House Majority Leader Steny Hoyer (D-MD) indicated in interviews this month that Democratic leadership backs the return of earmarks, and that all candidates currently in the running for House Appropriations Committee chair support its return as well.

COVID-19 Vaccines

In November, Pfizer and Moderna announced they both had developed coronavirus vaccines that were over 90 percent effective. The two companies plan to apply for emergency-use authorization, and they could begin to distribute the first round of vaccines in mid-December.

Storage of the vaccine is likely to be a key issue in distribution and administration of the vaccine, as state and local governments look to distribute across a range of population densities and ages. Moderna's vaccine can be stored in standard freezer storage for up to 6 months, and refrigerators for up to 30 days, unlike Pfizer's vaccine, which need to be stored in significantly colder temperatures. This could pose significant challenges for smaller and rural health clinics, who may lack the equipment necessary to store and administer the Pfizer vaccine.

Pfizer announced that it expects to have 50 million doses of its COVID-19 vaccine available by year-end, and 1.2 billion doses available during 2021. Each vaccine regimen requires two shots, so the number of people who can be treated will be half of the number of doses that are available. The U.S. government has purchased approximately 100 million doses of the vaccine, with an option to purchase another 500 million doses. This supply could theoretically treat America's 255 million adults, and most of those under 18. Three other vaccines are in Phase 3 clinical trials in the U.S and reports are that effectiveness rates have been in the 90th percentile.



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.

TPA met with several public agency stakeholders 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 public agency focus on the issue 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 met 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. At this point, committee staff anticipate that there will be a significant number of housing-related bills introduced in 2021, but are unsure of how many will specifically look to address issues around the Mitigation Fee Act. Similarly, staff is unsure how the committees will look at this legislation, as they anticipate changes in overall committee membership once the new Legislature is sworn in on December 7th. Once the new Legislature is seated, and committee chairs and vice-chairs have been announced, TPA will again meet with committee staff to continue the discussion related to the Act and potential legislation.

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.

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 had discussions with legislative and committee staff regarding parcel taxes, and how they may be pursued in the Legislature in the coming year. Through these conversations, it does not appear that there is a consensus approach to parcel taxes for the coming years. This is further complicated by the fact that voters rejected Proposition 15 at the November General Election, but approved Proposition 19. While it is possible that legislation will be introduced to modify the rules around parcel taxes on a statewide basis, it is unclear that there will be the political support needed for these bills to pass. It seems more likely that the Legislature will continue to encourage more targeted measures, such as SB 1349 (Glazer), which help facilitate placing measures on local ballots.

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.

