

To: East Contra Costa Fire Protection District
From: Townsend Public Affairs, Inc.
Date: October 8, 2020
Subject: Legislative Report for ECCFPD – September 2020

State Legislative Update

Since the Legislature adjourned the 2019-20 Legislative Session on August 31st, lawmakers have returned to their respective districts to focus on the upcoming November 3rd General Election. In September, the legislative focus in Sacramento was on the Governor as he considered pending legislation in advance of the September 30th constitutional deadline to act on all bills. The majority of bills that were signed into law will take effect on January 1, 2021, unless the bill included an urgency clause stipulating the bill take effect immediately after it was signed.

Ultimately, the Governor signed 372 bills into law, while vetoing 56 measures. The 428 bills considered by the Governor in 2020 represent the lowest number of bills considered in over 50 years, and less than half of the number of bills that were considered each year of Governor Brown's last term in office. The rate at which Governor Newsom vetoed bills, 13.1%, was generally in line with the veto rate since Governor Brown took office in 2011.

In addition to acting on pending legislation, Governor Newsom continued his regular press conferences to update the public on the State's efforts to combat COVID-19, including the State's new county tier system that moves counties between varying levels of re-opening phases based on local COVID-19 cases and testing data. The Governor did address additional priority topics during his press conferences, including updates on the various wildfires throughout the State and the importance of all Californians to receiving a flu shot in advance of flu season. To reinforce this point, during a recent press briefing, Governor Newsom received his annual flu shot to show Californians the importance of maintaining public health and avoiding a "twindemic", or two health pandemics occurring at the same time.

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 – Non-urgency statutes signed into law 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:



- **September 28th – Project Homekey:** Governor Newsom announced the third round of awards for Homekey, California’s \$600 million program to purchase and rehabilitate hotels, motels, vacant apartment buildings and other properties and convert them into permanent, long-term housing for people experiencing or at risk of experiencing homelessness. The Governor also announced he has asked the Joint Legislative Budget Committee (JLBC) to approve his request for an additional \$200 million in Coronavirus Relief Funding for Homekey.
- **September 23rd – COVID-19 Executive Order:** Governor Newsom signed an Executive Order to extend authorization for local governments to halt evictions for commercial renters impacted by the COVID-19 pandemic through March 31, 2021, and address a variety of issues in response to the pandemic. Additionally, the order extends provisions allowing certain posting, filing and notice requirements under the California Environmental Quality Act (CEQA) to be fulfilled electronically.
- **September 17th – COVID-19 Legislation:** The Governor signed two bills into law related to COVID-19. AB 685 (Reyes) would require a public or private employer to provide specified notifications to its employees, the Division of Occupational Safety and Health, and the State Department of Public Health, relating to the exposure of its employees to COVID-19 that the employer knew of or should have reasonably have known of. SB 1159 (Hill) codifies the Governor’s Executive Order that created a rebuttable presumption that essential employees who contracted COVID-19 were infected on the job, and establishes the scope and terms of a similar presumption for infected employees outside of the Executive Order.
- **September 3rd – COVID-19 Executive Order:** Governor Gavin Newsom signed an Executive Order extending consumer protections against price gouging through March 4th, 2021 as California continues to respond to the COVID-19 pandemic. The protections generally prohibit sellers of any kind from increasing prices on food, consumer goods, medical or emergency supplies, and certain other items by more than 10 percent.

Wildfires

The 2020 West Coast wildfire season has proven to be the most destructive on record to date. According to CalFIRE, approximately 3.7 million acres have burned with more than 8,000 incidents of fire this year and more than 8,000 structures have been damaged or destroyed. CalFIRE has also stated that the length of the fire season is estimated to have increased by 75 days across the Sierras and appears to correspond with an increase in the extent of forest fires across the State.

In September, the Governor declared a State of Emergency in Napa, Sonoma, Shasta, Del Norte, Los Angeles, Mendocino, and Siskiyou counties due to incidents of wildfire. The Governor also declared a statewide emergency and secured a Presidential Major Disaster Declaration to bolster the State’s response to the fires. State of emergency declarations allow for federal disaster funding to be issued to the State, and the federal government has approved FEMA funds to assist the State.



Governor Newsom also signed multiple bills into law to address the State's wildfire crisis. AB 3074 (Friedman, D – Burbank) enhances the defensible space requirements for structures in high fire hazard areas. Additionally, AB 2421 (Quirk, D – Haywood) would streamline the permitting process for emergency standby generators for macro cell towers. The Governor also signed multiple bills to boost homeowner insurance protections to help safeguard communities in high fire hazard areas. Additional legislation that was signed includes efforts to reform CalOES to work with local communities when updating the State Emergency Plan as well as encouraging CalOES to work closely with FEMA to update local emergency plans.

The State is also hiring an additional 858 firefighters and six California Conservation Corps crews to help support the State's firefighting efforts. Earlier this year, as part of the budget process, the State made investments in its firefighting air fleet with new Firehawk S-70 helicopters and C-130 planes to help with fire surge capacity and pre-positioning capabilities to mitigate the impact of wildfires.

Police Reform

On September 21st, Assembly Speaker Anthony Rendon announced the formation of a new Assembly Select Committee on Police Reform. The Committee will be focused on advancing police reform measures and identifying issues within the police system that can be addressed through legislation and oversight. It should be noted that while the Legislature has passed police reform legislation in 2019-2020, it failed to advance the priority reforms of some legislators, including establishing a decertification process for officers that engage in misconduct and police use-of-force protocols during protests or rioting. The Legislature also failed to advance a bill to expand the types of police personnel records that would be subject to public disclosure to create a more open process for hiring and firing officers.

The new Select Committee will be chaired by Assembly Member Mike Gipson (D-Compton) and will include the following Assembly Members:

- Rebecca Bauer Kahan (D – San Ramon)
- Rob Bonta (D – Oakland)
- Jordan Cunningham (R – San Luis Obispo)
- Jesse Gabriel (D – Woodland Hills)
- Lorena Gonzalez (D – San Diego)
- Tom Lackey (R – Palmdale)
- Evan Low (D – Cupertino)
- Chad Mayes (NPP – Rancho Mirage)
- Eloise Reyes (D – San Bernardino)
- Blanca Rubio (D – West Covina)
- Shirley Weber (D – San Diego)

Additionally, on September 30th, Governor Newsom signed AB 1196 (Gipson, D-Compton) into law which prohibits law enforcement agencies from authorizing carotid restraint holds and choke holds. The Governor also signed AB 1506 (McCarty, D-Sacramento) which will require a state prosecutor to investigate police shootings of unarmed civilians. These bills were signed during a



virtual bill signing ceremony that included both Assembly Members and a variety of stakeholders that worked directly on these bills.

Housing

On September 28th, Governor Newsom signed 15 housing related bills aimed at addressing the state's affordability crisis and building on the eviction moratorium legislation that was signed into law on August 31st. While the Legislature and Governor were able to come to a compromise on AB 3088 (Chiu, D – San Francisco), the eviction moratorium bill, the Legislature failed to pass several housing bills that would have impacted local communities. Those bills included addressing issues such as CEQA review procedures, short-term rental ordinances, the state density bonus law, and local subdivision maps. Nonetheless, the Governor and housing advocates are touting the 15-bill package as a positive step forward in housing production reforms in the midst of a pandemic.

The more significant bills that were signed as part of the package include, AB 725 (Wicks, D – Oakland) which would require metropolitan and suburban jurisdictions, through their housing element process, to ensure that more land is zoned for medium-density housing projects. AB 1561 (Garcia, D – Bell Gardens) will require cities and counties to evaluate the impact of government actions on the cost of housing and associated impacts to minority communities. The Governor also signed AB 2345 (Gonzalez, D – San Diego) which would amend the state Density Bonus Law to increase the maximum allowable density and the number of concessions and incentives a developer can seek.

Lastly, the Governor signed SB 1190 (Durazo, D – Los Angeles) which extends existing law authorizing a tenant to terminate a tenancy when the tenant suffered from a crime that caused bodily injury or death, use of a firearm or other deadly weapon, or that included the use of force or threat of force against the victim while expanding these provisions to apply to family members.

Priority Legislation

In addition to the bills outlined above, below are updates for other priority legislation that was considered by the Legislature in the final weeks of session.

AB 66 (Gonzalez): Police: Use of Force

Would limit the use of kinetic energy projectiles and chemical agents to disperse lawful assemblies, enforce curfews, in response to verbal threats, or to enforce mere non-compliance with law enforcement directives. **AB 66 was not considered on the Senate Floor prior to adjournment.**

AB 196 (Gonzalez): Workers' compensation: COVID-19

Would define "injury," for certain employees who are employed in an occupation or industry deemed essential in the Governor's Executive Order of March 19, 2020, or who are subsequently deemed essential, to include COVID-19 that develops or manifests itself during a period of employment of those persons in the essential occupation or industry. The bill would apply to injuries occurring on or after March 1, 2020, would create a disputable presumption that the injury arose out of, and in the course of, the employment, and would extend that presumption following



termination of service for a period of 90 days, commencing with the last date actually worked. **AB 196 was not considered on the Senate Floor prior to adjournment.**

AB 664 (Cooper): Workers' compensation: COVID-19

This bill would, until July 1, 2024, define "injury," for certain state and local firefighting personnel, peace officers, certain correctional and law enforcement personnel, as described, certain health care employees who provide direct patient care at an acute care hospital, and certain fire and rescue services coordinators who work for the Office of Emergency Services to include illness or death resulting from COVID-19, that is diagnosed on or after January 1, 2020, if certain circumstances apply. **AB 664 was not considered on the Senate Floor prior to adjournment.**

AB 685 (Reyes): COVID-19: exposure notification

Requires employers to provide written notice and instructions to employees who may have been exposed to COVID-19 at their worksite and enhances CalOSHA's ability to enforce health and safety standards to prevent workplace exposure to, and spread of, COVID-19. **AB 685 was signed into law by Governor Newsom on September 17th.**

AB 1196 (Gipson): Peace officers: use of force

Prohibits law enforcement agencies from authorizing carotid restraint holds and choke holds. **AB 1196 was signed into law by Governor Newsom on September 30th.**

AB 1945 (Salas): Emergency Services: first responders

Would, for purposes of the California Emergency Services Act, define "first responder" as an employee of the state or a local public agency who provides emergency response services, including a peace officer, firefighter, paramedic, emergency medical technician, public safety dispatcher, or public safety telecommunicator. **AB 1945 was signed into law by Governor Newsom on September 11th.**

AB 2167 (Daly): Residential property insurance: high fire risk areas study

The Insurance Rate Reduction and Reform Act of 1988, an initiative measure enacted by Proposition 103, as approved by voters in 1988, prohibits specified insurance rates from being approved or remaining in effect that are excessive, inadequate, unfairly discriminatory, or otherwise in violation of the act. The act requires an insurer that wishes to change a rate to file a complete rate application with the Insurance Commissioner. This bill would require the commissioner to investigate, study, and prepare a report that addresses specific issues relating to ratemaking for residential property insurance policies in high fire risk areas. **AB 2167 was not considered on the Senate Floor prior to adjournment.**

AB 2450 (Grayson): Air ambulance services

Current law imposes a penalty of \$4 until July 1, 2020, upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, other than a parking offense. The act requires the county or court that imposed the fine to transfer the revenues collected to the Treasurer for deposit into the Emergency Medical Air Transportation and Children's Coverage Fund. Current law requires the assessed penalty to continue to be collected, administered, and distributed until exhausted or until December 31, 2021, whichever occurs first. Current law repeals these provisions July 1, 2022. This bill would extend the imposition of the above-described penalty by 1 year and would instead make those provisions inoperative on July



1, 2024, and repeal them on January 1, 2025. **AB 2450 was signed into law by the Governor on September 9th.**

AB 2655 (Gipson): Invasion of privacy: first responders

Would make it a misdemeanor for a first responder who responds to the scene of an accident or crime to capture the photographic image of a deceased person for any purpose other than an official law enforcement purpose or a genuine public interest. The bill would require an agency that employs first responders to, on January 1, 2021, notify those first responders of the prohibition imposed by the bill. **AB 2655 was signed into law by the Governor on September 28th.**

AB 3074 (Friedman): Fire prevention: ember-resistant zone

Current law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material that is within a very high fire hazard severity zone, as designated by a local agency, or a building or structure in, upon, or adjoining those areas or lands within a state responsibility area, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure. This bill would require a person described above to use more intense fuel reductions between 5 and 30 feet around the structure, and to create an ember-resistant zone within 5 feet of the structure, based on regulations promulgated by the State Board of Forestry and Fire Protection. **AB 3074 was signed into law by the Governor on September 29th.**

AB 3164 (Friedman): Fire prevention: wildland-urban interface wildfire risk model: model use guidelines

Would require the Department of Forestry and Fire Protection, by July 1, 2022, to develop a wildland-urban interface wildfire risk model to determine the risk for a community or parcel within a local responsibility area or state responsibility area and guidelines for the proper use of the model. The bill would require the department to establish, and consult with, an advisory workgroup, with specified members, to develop the model. The bill would require the department to update the model and guidelines when fire hazard severity zones are revised. **AB 3164 was vetoed by the Governor on September 29th.** In his veto message, Governor Newsom indicated that he is committed to aggressive fire prevention measures; however, he felt that the level of information needed to provide an accurate representation of risk at the parcel level would be too significant a workload for the state and local jurisdictions. The Governor also directed CalFIRE to work with the Legislature to develop a strategy that would support the deployment of a wildfire risk model that allows for adequate discretion in the development of the model.

SB 182 (Jackson): Planning and zoning: wildfires

Current law requires that the Office of Planning and Research, among other things, coordinate with appropriate entities, including state, regional, or local agencies, to establish a clearinghouse for climate adaptation information for use by state, regional, and local entities. This bill would require the safety element, upon the next revision of the housing element or the hazard mitigation plan, on or after June 1, 2022, whichever occurs first, to be reviewed and updated as necessary to include a comprehensive retrofit strategy to reduce the risk of property loss and damage during wildfires and would require the planning agency to submit the adopted strategy to the Office of Planning and Research for inclusion into the above-described clearinghouse. **SB 182 was vetoed by the Governor on September 30th.** In his veto message, Governor Newsom indicated



that he strongly supports strengthening land use planning requirements in order to better protect communities from wildfires; however, he felt that SB 182 created inconsistencies, duplicated existing requirements, created loopholes for regions to not comply with their housing requirements, and failed to account for consequences that could lead to sprawl.

SB 292 (Rubio): Wildfire risk reporting

Current law creates the Department of Insurance, headed by the Insurance Commissioner, and prescribes the commissioner's powers and duties. Current law requires the commissioner to conduct or commission various studies and prepare various reports relating to the business of insurance. This bill would require the commissioner, on or before July 1, 2022, to complete a study on wildfire risk and insurance, including market-based approaches. **SB 292 was not considered on the Assembly Floor prior to adjournment.**

SB 795 (Beall): Economic development: housing: workforce development: climate change infrastructure

This bill allocates \$10 billion over five years to several existing housing, homelessness, and pre-apprenticeship programs, as well as creating two new infrastructure financing programs at the Governor's Office of Business and Economic Development (Go-Biz). **SB 795 was held on the Assembly Appropriations Committee Suspense File.**

SB 1044 (Allen): Firefighting equipment and foam: PFAS chemicals

Would, commencing January 1, 2022, require any person, including a manufacturer, that sells firefighter personal protective equipment to any person to provide a written notice to the purchaser at the time of sale if the firefighter personal protective equipment contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS). The bill would require the seller and the purchaser to retain a copy of the written notice on file for at least 3 years and to furnish the notice and associated sales documentation the Attorney General, a city attorney, a county counsel, or a district attorney within 60 days upon request. The bill would authorize the Attorney General, a city attorney, a county counsel, or a district attorney to request from a manufacturer, and the bill would require the manufacturer to provide, a certificate of compliance that certifies that the manufacturer is in compliance with these provisions. **SB 1044 was signed into law by the Governor on September 29th.**

SB 1159 (Hill): Workers' compensation: COVID-19

Codifies the Governor's Executive Order that created a rebuttable presumption that essential employees who contracted COVID-19 were infected on the job and establishes the scope and terms of a similar presumption for infected employees outside of the Executive Order. **SB 1159 was signed into law by the Governor on September 17th.**

SB 1348 (Stern): Fire prevention: vegetation management

Would require the Director of Forestry and Fire Protection to identify areas of the state as moderate and high fire hazard severity zones and would require a local agency to make this information available for public review and comment. **SB 1348 was not considered on the Assembly Floor prior to adjournment.**



Federal Legislative Update

In September, Congress returned from its annual August recess to address time sensitive legislation. Most notably, Congress passed a Continuing Resolution to extend all funding levels from FY2020 until December 11, 2020. Congress passed the Continuing Resolution and sent it to President Trump's desk, where the bill was promptly signed to prevent a government shutdown.

Early in the morning of October 1st, President Trump announced that he had tested positive for the coronavirus. The following afternoon, the President checked in to the Walter Reed National Military Medical Center, where he received treatment for four days before returning to the White House. It is believed that the President was exposed to the coronavirus from Hope Hicks, a close advisor, who had tested positive for coronavirus 36 hours before the announcement that the President had also tested positive. Since the President contracted the coronavirus, nearly two dozen other White House staff, members of Congress, and other key allies also tested positive, with many believing that an event held at the White House for the President's Supreme Court nominee served as the super-spreading event. While the President, and his Administration, are attempting to maintain normal operations the White House, it still remains to be seen what lasting effects may result from the widespread infection of the President and many in his inner circle.

The month also brought the death of longtime Supreme Court Justice Ruth Bader Ginsburg who was just the second woman to serve on the Supreme Court. President Trump has since nominated Judge Amy Coney Barrett to replace Justice Ginsburg. Judge Barrett currently serves as a circuit judge on the U.S. Court of Appeals for the Seventh Circuit. President Trump nominated Barrett to the Seventh Circuit Court of Appeal in 2017.

With the contentious issue of confirming a new Supreme Court Justice now dominating the Senate's schedule in October, it is uncertain whether lawmakers will be able to pass another coronavirus relief package before the November 3rd election. Agreement on an overall relief package has proved more difficult than expected, with talks between Democrats, Republicans, and the President remaining at an impasse over top line dollar amounts and specific relief details. Negotiations between House Speaker Nancy Pelosi and Treasury Secretary Steven Mnuchin had appeared to be making some progress, albeit slowly, until President Trump tweeted that he was directing his Administration to stop negotiating until after the election.

Earlier in the month, a bipartisan collective of 25 Democrats and 25 Republicans, known as the Problem Solvers Caucus, attempted to jump-start stimulus negotiations by introducing a \$2 trillion relief proposal. Some caucus members expressed that the legislation was not expected to be voted on, highlighting that the package instead aims to help break the gridlock on a relief package and encourage negotiators to find common ground. After the Problem Solvers Caucus introduced their legislation, House leadership introduced a second version of the chamber's recently passed "HEROES Act" (H.R. 6800), which includes \$2.2 trillion in funding. That measure was subsequently approved by the House but has not yet been considered in the Senate.

Coronavirus Aid Packages

As noted above, House Speaker Nancy Pelosi (D-CA) and House Democrats released a new version of the "HEROES Act." The original "HEROES Act" (H.R. 6800) was approved by the House in May, but the Senate did not take up the legislation for consideration. The new \$2.2



trillion version of the Act contains less overall funding than the original version, which is scaled down from the previous \$3 trillion price tag. While there is broad support for the revised “HEROES Act” in the House, the bill will likely be opposed by several Senate Republicans because of the bill’s price tag. To date, Senate Republicans have been unwilling to engage with House Democrats in order to pass additional relief legislation.

Among other provisions, the revised “HEROES Act” contains the following:

- \$436 billion in state and local funding
- \$130 billion in financial assistance for small businesses
- \$600 in extra federal funds in unemployment benefits
- \$1200 in additional direct fund payments per taxpayer and \$500 per dependent
- \$278 billion in financial assistance for education
- \$75 billion for testing, contact tracing, isolation measures, with special attention to communities of color and equitable access
- \$28 billion for vaccine related costs
- Enhances employee retention tax credit
- Financial assistance for airlines
- Billions in housing assistance: rental assistance, homeowners assistance, mortgage and utility payment assistance, homelessness prevention assistance
- 15% increase to maximum SNAP benefit and additional funding for nutrition programs and farmer support
- Funding for election safety, Census accuracy, and USPS

Appropriations

This month, Congress passed a stopgap funding bill that extends federal funding for all FY2020 funding levels through December 11, 2020, with some exceptions for additional funding added. Congress also included an extension of all surface transportation programs for one year in the agreement and comes after legislators resolved a dispute over the inclusion of farm aid. Under the deal, farm aid will be added to this critical legislation in exchange for increased food aid to low-income families.

Congress will still need to decide whether to pass full-year funding or another funding extension in the post-election lame-duck session, prior to when a President is sworn into office in January 2021. Currently, the House has passed nearly all of their appropriations bills for FY2021, whereas the Senate has not yet drafted their spending bills. Typically, the House and Senate finalize funding levels for each line item located somewhere between their two proposals, so TPA has advocated for the Senate and the House to propose maximum funding to increase the likelihood of funding increases.

Increase Federal Disaster Cost Share Act

This month, Congressmen Mike Thompson (D-CA), Doug LaMalfa (R-CA), and Jimmy Panetta (D-CA) introduced the “Increase Federal Disaster Cost Share Act of 2020” (H.R.8112). This legislation is in response to the increasingly difficult challenge for state and local governments to obtain the necessary resources to respond to ongoing emergencies across the country, such as



the California wildfires. The bipartisan legislation, which already has 15 co-sponsors, would increase the Federal cost share provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act from 75 to 90 percent. This increase allows already struggling State and local governments to better equipped to take advantage of Federal assistance by lowering the non-federal share of the cost to 10 percent for any natural disaster that received or receives a federal disaster declaration beginning at the start of the COVID-19 pandemic through the end of 2020. This legislation has been referred to the House Transportation and Infrastructure Committee Subcommittee on Economic Development, Public Buildings, and Emergency Management for consideration for passage by the Committee. While time is running out for full floor consideration this year, it is possible this legislation could be combined in a forthcoming stimulus package, a disaster bill, or a future continuing resolution.

CDBG Funds

In September, the U.S. Department of Housing and Urban Development (HUD) announced a third and final round of funding of the \$5 billion Congress provided in the CARES Act for the Community Development Block Grant (CDBG) program. This third round of CDBG funding totals \$1.99 billion and these funds can be used to provide temporary financial assistance to meet rental obligations for up to six months. The funds are focused on locations with households facing higher risk of eviction, specifically:

- Communities with high rates of individuals in industries with high job loss in states with high unemployment
- Communities with high rates of businesses in industries with high job loss in states with high unemployment
- Concentrations of those most at risk for transmission and risk of eviction, with higher amounts for states with high rates of coronavirus

HUD guidance stipulates that funds can be used to provide temporary rental assistance for up to six months and are made available in accordance with a recent executive order from President Trump. The executive order directs HUD to identify any and all available Federal funds to provide temporary financial assistance to renters and homeowners who, as a result of the financial hardships caused by COVID-19, are struggling to meet their monthly rental or mortgage obligations.

Paid Leave

This month, the U.S. Department of Labor (DOL) introduced revisions to its rule on paid leave under the Phase 2 coronavirus bill, called the Families First Coronavirus Response Act (FFCRA). The temporary regulation adjusts the parameters of eligibility for up to 12 weeks of benefits, in response to a federal judge striking down portions of the original rule from April. The rule narrows the definition of health-care providers who are exempted from virus-related paid leave, opening up the emergency entitlement to some workers who are not directly involved in caring for patients. The DOL remains firm on two of the invalidated provisions, arguing that it properly interpreted the FFCRA to require workers obtain pre-approval from employers before taking intermittent paid leave and to declare workers are only eligible for leave if their employer has work available. The DOL also clarified that the August court opinion applies nationwide.



Revised Coronavirus Relief Fund Guidance

The Department of Treasury released updated guidance for usage of funding from the Coronavirus Relief Fund, addressing concerns regarding what seemed to be new and changed requirements concerning payroll expenses for public safety, public health and human services employees who are "substantially dedicated" to addressing and mitigating the impacts of COVID-19. The Department included key information that indicates the government will not have to demonstrate or substantiate that a public health or public safety employee's function and duties were substantially dedicated to mitigating the emergency, but must maintain records and documentation supporting payroll amounts reimbursed using CRF proceeds.

Vaccine Distribution Strategy

The Department of Health and Human Services (HHS) and Department of Defense (DoD) released two documents outlining the Trump Administration's detailed strategy to deliver safe and effective COVID-19 vaccine doses to the American people as quickly and reliably as possible. The documents provide a strategic distribution overview along with an interim playbook for state, tribal, territorial, and local public health programs and their partners on how to plan and operationalize a vaccination response to COVID-19 within their respective jurisdictions. The strategic overview lays out four tasks necessary for the COVID-19 vaccine program:

- Engage with state, tribal, territorial, and local partners, other stakeholders, and the public to communicate public health information around the vaccine and promote vaccine confidence and uptake.
- Distribute vaccines immediately upon granting of Emergency Use Authorization/ Biologics License Application, using a transparently developed, phased allocation methodology and CDC has made vaccine recommendations.
- Ensure safe administration of the vaccine and availability of administration supplies.
- Monitor necessary data from the vaccination program through an information technology (IT) system capable of supporting and tracking distribution, administration, and other necessary data.

Anarchist Jurisdictions

On September 2nd, President Trump issued a memo directing the federal government to find ways to cut funding to cities and states that he's accused of abdicating their duties and allowing "anarchy" amid protests. Within two weeks, the Attorney General was directed to put out a list of jurisdictions deemed "anarchist", which was defined as a jurisdiction featuring one or more of the following: forbidding police intervention; withdrawing police from a specific area; disempowering or defunding police departments; refuses federal law enforcement assistance; or anything else at the discretion of the Attorney General. Two weeks later, Attorney General Barr named Portland, Oregon; New York City, New York; and Seattle, Washington as "anarchist jurisdictions."

There is currently a lack of clarity on whether this would be constitutional. A Supreme Court case decided several years ago that it is unlawful to withhold any federal funding not related to the issue at hand (the subject of that case was law enforcement funding). President Trump has tried to withhold federal funding in the past with sanctuary cities, and it has been challenged in



court. The court has previously upheld the Trump Administration's ability to withhold federal funds, but only in vary limited circumstances.

U.S. Census

In September, a federal court issued an order that calls for the Trump Administration to abandon last-minute changes to the 2020 Census schedule and extend the time for counting for an additional month. The preliminary injunction issued by U.S. District Judge Lucy Koh in the Northern District of California requires the Census Bureau to keep trying to tally the country's residents through October 31. The U.S. Department of Justice (DOJ) filed a notice during the month that it is appealing that order to the 9th U.S. Circuit Court of Appeals, further complicating what could be the final days of counting for this year's census. The move is the latest development in a federal lawsuit over the Administration's decision to shorten the timeline for the national head count.

Judge Koh found that the Administration's shortened Census schedule is likely to produce inaccurate numbers about historically undercounted groups, including people of color and immigrants. That, in turn, would harm the constitutional purpose of the count, which is to redistribute the seats in the House of Representatives among the states based on their latest populations. The judge also found that the challengers in the lawsuit, a coalition of groups led by the National Urban League, are ultimately likely to succeed in the lawsuit by arguing that the Administration's decision was arbitrary and unreliable. Congress has yet to pass any laws to extend the Census reporting deadlines, although a bipartisan group of Senators recently introduced a bill with extensions. The Trump Administration indicated it will appeal this court order.

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 provided CSDA with additional background information on the needs of ECCFPD and the specific code sections that serve as a barrier. TPA and CSDA are going to have follow up discussions to ensure that the District's efforts are not at odds with the broader CSDA work on mitigation fees. In addition to CSDA, TPA has set up meetings in October with staff for the Senate Governance and Finance Committee, as well as the Assembly Local Government Committee to discuss the issue and get early feedback that can help shape the proposal.

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 October with staff for the Senate Governance and Finance Committee, as well as the Assembly Local Government Committee to discuss the issue and get early feedback that can help shape the proposal.

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.

