



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER

File #: 21-856

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Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Michael P. Callagy, County Manager
Connie Juarez-Diroll, Legislative Officer
Subject: 2021 State and Federal Legislative Update #7

RECOMMENDATION:

Accept this informational report on the 2021 State and Federal legislative sessions.

BACKGROUND:

Governor Newsom's 30-day period to sign or veto the hundreds of bills passed by the Legislature ended on October 10th. The Legislature is now in recess and will reconvene on January 3, 2022 to begin the second year of the 2021-22 legislative session.

In Washington, D.C., Congressional Democratic leaders failed to meet a self-imposed end of the month deadline to complete action on President Joe Biden's multi-trillion-dollar economic agenda, the framework of which was released on October 28th.

DISCUSSION:

2021 State Update

The Legislature introduced over 2,400 bills in the 2021 legislative session. Ultimately, 836 bills reached the Governor's desk. The Governor signed 770 proposals and vetoed 66, an approval rate of 92%.

The COVID-19 pandemic highlighted numerous issues throughout California, inspiring legislative action on: closing the digital divide, ensuring transparency for local government meetings, protecting workers, safeguarding public health and supporting small businesses:

Broadband: The Governor signed a package of bills, as well as a budget package, aimed at closing California's digital divide. Key new laws include:

- **AB 14 (Aguiar-Curry, Ch. 658, Statutes of 2021)** extends the California Advanced Services Fund (CASF) program to encourage deployment of broadband service to unserved Californians.

- **SB 4 (Gonzalez, Ch. 671, Statutes of 2021)** extends the operation of the CASF through 2032, increases the annual funding cap for the CASF, and expands projects eligible for CASF grants to include fund broadband deployment at unserved locations used for emergency response.

The Brown Act: The Legislature sent Governor Newsom two notable bills to modify how local public meetings incorporate virtual meeting options.

The Governor signed:

- **AB 361 (Rivas, Ch. 165, Statutes of 2021)** authorizes local agency governing bodies to continue to meet remotely during a public health emergency.

The Governor vetoed:

- **AB 339 (Lee)** would have required, instead of allowed, city councils and boards of supervisors in jurisdictions with populations over 250,000 to provide both in-person and teleconference options for the public to participate in meetings. In his veto message, Governor Newsom noted his concerns about tying public access to population levels, limiting flexibility and increasing costs for local agencies trying to manage their meetings, and requiring in-person participation during a declared state of emergency.

County workforce: Governor Newsom approved the following measures that require employers to take certain actions to protect their workers from COVID-19:

- **AB 654 (Reyes, Ch. 552, Statutes of 2021)** clarifies current law requiring employers to provide written notice to employees about potential COVID-19 exposure. AB 654 exempts certain medical facilities in order to avoid duplicative reporting of outbreaks, extends reporting time to relieve businesses that are closed over the weekend, and corrects certain terminology.
- **SB 606 (Gonzalez, Ch. 336, Statutes of 2021)** broadens Cal/OSHA's enforcement authority by establishing a rebuttable presumption that an employer's written policy that violates specified health and safety regulations exists at all an employer's worksites if certain conditions are met.

Public health: Governor Newsom signed a variety of bills that aim to protect public health against the threat of COVID-19, including:

- **SB 336 (Ochoa Bogh, Ch. 487, Statutes of 2021)** requires a local health officer to publish their guidance or orders related to protecting the public from COVID-19 online and to establish email distribution lists.
- **SB 510 (Pan, Ch. 729, Statutes of 2021)** ends "surprise billing" for COVID-19 testing and immunization by requiring health plans and insurers to cover the costs for those services with no cost-sharing or prior authorization.
- **SB 742 (Pan, Ch. 737, Statutes of 2021)** makes it a misdemeanor for a person to engage in physical obstruction, intimidation, or picketing at a vaccination site.

Support for small businesses: The Governor signed a package of bills aimed at supporting small businesses, particularly those in the hard-hit restaurant industry.

- **AB 61 (Gabriel, Ch. 651, Statutes of 2021)** makes it easier for pop-ups to obtain temporary liquor licenses.
- **SB 314 (Wiener, Ch. 656, Statutes of 2021)** eases restrictions on outdoor dining.

- **SB 389 (Dodd, Ch. 657, Statutes of 2021)** allows restaurants, bars, breweries and wineries that sell food to offer to-go alcoholic beverages.

Apart from COVID-19-related issues, the Legislature sent the Governor bill packages to: reform the State's criminal-legal system; address the dual crises of housing affordability and homelessness; protect and preserve our natural environment; and improve the health and well-being of persons throughout California.

Criminal-legal reforms: Governor Newsom signed bills aiming to reform both policing policies and criminal sentencing practices, including:

- **AB 48** <<https://protect-us.mimecast.com/s/Tj6ZCIYk2QTp7KoruGj5ELv>> (**Gonzales, Ch. 404, Statutes of 2021**) recasts the standards for when and how law enforcement can use rubber bullets and chemical agents for purposes of crowd control.
- SB 2 <https://protect-us.mimecast.com/s/9BMDCqxpRIIWroQiZ2YI_z> (**Bradford, Ch. 409, Statutes of 2021**) creates a statewide decertification process for peace officers and grants the Commission on Peace Officer Standards and Training new authority to investigate and determine peace officer fitness and decertify officers who engage in serious misconduct.
- **AB 124 (Kamlager, Ch. 695, Statutes of 2021)** requires courts to consider whether certain trauma and other factors contributed to the commission of an offense when making sentencing and resentencing determinations.
- **AB 333 (Kamlager, Ch. 699, Statutes of 2021)** eases rules that enhance sentences for gang members in accordance with recommendations from the Committee on the Revision of the Penal Code.

Housing and homelessness: In addition to the \$22 billion housing affordability and homelessness package included in the State Budget, the Legislature sent Governor Newsom the following bills aimed at increasing the housing stock in our state and streamlining the creation of new shelters and services for persons experiencing homelessness.

Governor Newsom signed:

- **SB 9** <<https://protect-us.mimecast.com/s/jlrBc4xvzml3oWJVc0-x9w>> (**Atkins, Ch. 162, Statutes of 2021**) requires a local government to ministerially approve the development of two residential units in single-family residential zones, as well as the splitting of parcels in those same zones.
- SB 10 <<https://protect-us.mimecast.com/s/BdQhC5ywRnF4vK0JuzvHs-E>> (**Wiener, Ch. 163, Statutes of 2021**) authorizes a city or county to pass an ordinance to zone any parcel for up to 10 units of residential density, at a height specified by the local government in the ordinance, if the parcel is located in a transit-rich area or an urban infill site.
- **AB 816 (Chiu, Ch. 396, Statutes of 2021)** prioritizes California's portion of the National Housing Trust Fund to build apartments for and provide services to people who are experiencing homelessness.

Governor Newsom vetoed:

- SB 477 <<https://protect-us.mimecast.com/s/zDfvC68xBoc8D9oNFppyEqu>> (**Wiener**) would have added several requirements to the annual progress report that local governments are required to submit to the Department of Housing and Community Development (HCD) each year in relation to their housing elements. The Governor's veto <<https://protect-us.mimecast.com/s/Gbx4C73yp8coq6mgF8WgS3e>> message states his support for local government reporting and accountability but notes that - given HCD's current efforts to improve annual reporting - it is premature to add new requirements to the statute.

Natural resources and a sustainable environment: The Legislature sent the Governor a package of bills aimed at protecting our State's natural resources and environment by reducing plastic waste, fortifying our coasts from the threat of sea level rise, curbing greenhouse gas emissions and improving resilience to wildfires. Governor Newsom approved the following:

- **AB 1201 (Ting, Ch. 504, Statutes of 2021)** aims to improve the quality of inputs into the compost stream by expanding product-labeling requirements related to biodegradability and compostability. It also prohibits the use of problematic chemicals, including PFAS, in compostable products
- **AB 1276 (Carrillo, Ch. 505, Statutes of 2021)** expands the existing statute that limits the distribution of single-use plastic straws to only upon-request by a customer to apply to all single-use condiments and foodware.
- **SB 343 (Allen, Ch. 507, Statutes of 2021)** prohibits the use of the chasing arrows symbol unless the material is actually recycled in most California communities and is routinely sold to manufacturers to make new products.
- **SB 1 (Atkins, Ch. 236, Statutes of 2021)** creates the California Sea Level Rise State and Regional Support Collaborative to help coordinate and fund state efforts to prepare for sea level rise associated with climate change
- **AB 1346 (Berman, Ch. 753, Statutes of 2021)** requires the California Air Resources Board to adopt regulations to phase out the sale of gas-powered leaf blower, lawn mowers and other small off-road engines.
- **AB 9 (Wood, Ch. 225, Statutes of 2021)** establishes the Regional Forest and Fire Capacity Program with the goal of increasing regional capacity to create fire-adapted communities and landscapes.

Health and human services: The Legislature sent the Governor bills aimed at protecting the welfare, physical health and mental health of populations of particularly vulnerable individuals, including individuals experiencing homelessness, farmworkers, mothers, infants and children:

Governor Newsom signed:

- **AB 941** <https://protect-us.mimecast.com/s/0UbBCDkZQNF0PmB9Fou_I1> (**Bennett, Ch. 203, Statutes of 2021**) establishes a grant program for counties to establish farmworker resource centers that provide farmworkers and their families information and access to services related to, among other things, labor and employment rights, education, housing, immigration, and health and human services.
- **SB 65** <<https://protect-us.mimecast.com/s/QyryCL91v6h4vOPWuWIDRv>> (**Skinner, Ch. 449, Statutes of 2021**) the California Momnibus Act, which establishes a comprehensive program to improve maternal and infant outcomes.
- **SB 224 (Portantino, Ch. 675, Statutes of 2021)**, which mandates mental health instruction in middle schools and high schools with an existing health education course.
- **SB 395 (Caballero, Ch. 489, Statutes of 2021)** <<https://protect-us.mimecast.com/s/7rofCNkKYDFX06DJumEvRtr>> imposes an additional excise tax on all electronic cigarette products sold in the state. Portions of the new funding will support local county First 5 Commissions and local health jurisdictions.

Governor Newsom vetoed:

- **AB 369** <<https://protect-us.mimecast.com/s/beLsCrkqmZFo9jAqFRYUQR>> (**Kamlager**) would have required the Department of Health Care Services to implement a Medi-Cal

presumptive eligibility program for persons experiencing homelessness. The veto message <<https://protect-us.mimecast.com/s/RLEBCv2x8qIKXgW9Tnn3cE>> raises concerns about implementation issues on the eve of the CalAIM transformation.

The County of San Mateo's legislative delegation pushed for important policy changes. In addition to some of the bills highlighted above, our delegation sent the following bills to the Governor's desk:

Governor Newsom signed:

- **AB 1029 (Mullin, Ch. 353, Statutes of 2021)** encourages the preservation of affordable housing units by expanding the list of pro-housing, local policies that HCD considers when developing local pro-housing designations.
- **AB 37 (Berman, Ch. 312, Statutes of 2021)** requires county election officials to mail a ballot to every active registered voter for all elections.
- **SB 640 (Becker, Ch. 108, Statutes of 2021)** authorizes local jurisdictions to partner together and jointly fund project with their local streets and roads apportionments. The County submitted a letter of support for this measure.

Governor Newsom vetoed:

- **AB 1238 (Ting)** would have decriminalized jaywalking.
- **SB 110 (Wiener)** would have required Drug Medi-Cal to include contingency management services for treatment of substance use disorders. The County submitted a letter of support for this measure.

Lastly, after years of attempting to modify state law related to deputy sheriffs, Assemblymember Bigelow successfully passed **AB 779 (Bigelow, Ch. 588, Statutes of 2021)**, which adds the County of San Mateo to the list of counties authorized to permit a limited number of correctional officers to be armed while performing certain corrections-related tasks, such as providing security for inmates while transporting them between facilities. The County advocated for this bill's passage by submitting letters of support throughout the legislative session.

The CMO tracked nearly 1,000 bills with potential impacts to County operations and County residents. The County submitted letters expressing our support for 24 bills this session. Of the 24 proposals, 19 those issues passed either through the respective bill or through the state budget process.

Details on bills tracked by the CMO and letters of support or opposition can be found in the attached 2021 Legislative Activity Report.

2021 Federal Update

On October 28th, President Biden released a smaller plan for a domestic policy bill that sweeps up some of his top priorities. After months of infighting among Democrats, there appears to be a new sense of urgency and optimism that a deal is within reach-one that could pass the House and Senate later this fall. The President's plan is a \$1.75 trillion framework-a scaled-back version of his initial \$3.5 trillion "Build Back Better" plan.

Because Democrats are using a budget process known as reconciliation to get around a GOP

filibuster in the Senate, they need all 50 senators who caucus with the Democrats on board with this framework. Opposition from two key Senate moderates-Sen. Joe Manchin (D-VA) and Sen. Krysten Sinema (D-AZ) forced leaders and the President to trim programs, and lower expectations for those on the left.

Notable elements included in the President's scaled-back framework are:

- Universal pre-K for all 3- and 4-year olds, for 6 years
- Child care support for about 20 million children for six years-limits costs to no more than 7% of income for families earning up to 250% of state median income, as long as parents are working, seeking work, in training or dealing with a serious health issue
- An extension of the child tax credit and earned income tax credit for one-year
- \$555 billion in spending on climate, including clean energy tax credits for rooftop solar, electric vehicles, clean energy production; a civilian climate corps program; and investments in clean energy technology and manufacturing
- Extending the expanded Affordable Care Act premium tax credits through 2025
- Covering hearing costs through Medicare for seniors
- \$100 billion for reforms to reduce backlogs in the immigration asylum process

The following are notable elements not included in the President's revised framework:

- Paid family leave
- Free community college
- Measures to lower the cost of prescription drugs

The President is proposing the following tax increases to pay for the plan: a 15% minimum tax for large corporations that report profits of more than \$1 billion to shareholders; a 1% tax on stock buybacks; a 15% minimum tax on foreign profits of U.S. corporations; and surtax on the top .02% wealthiest Americans of 5% on income over \$10 million, and an additional 3% on income over \$25 million.

House Democratic leaders had hoped to get a bicameral "framework" deal on reconciliation done by the last week of October in hopes of getting the votes of progressives who've been holding up passage of the bipartisan infrastructure bill totaling \$1.2 trillion until the reconciliation bill is done. The Senate approved the infrastructure measure in August on a bipartisan vote. House progressives have sidetracked that bill in an effort to ensure that moderates will back the larger social and environment package.

Progressives have said they would not feel comfortable voting for the infrastructure bill based solely on a framework and want a vote on both bills at the same time. President Biden has said he will defer to Speaker Pelosi to schedule the votes on each bill that he'll lobby lawmakers to support.

At the time of the writing of this update, Democratic leaders had announced that they would like a final House-Senate compromise on Biden's social and environmental plan to be written the last weekend of October, and were hoping for House votes as soon as the first week of November. However, given months of disputes between progressives and moderates over the social and environment bill, it remains unclear whether the ambitious timetable could be met as some Democrats are still seeking to include provisions providing paid family leave, letting Medicare negotiate drug prices and helping millions of immigrants remain in the U.S.

Senate Passes New ARPA-related Legislation

On October 19th, the U.S. Senate passed the State, Local, Tribal, and Territorial Fiscal Recovery Infrastructure, and Disaster Relief Flexibility Act (S. 3011), a bipartisan bill that would provide additional flexibility for the \$350 billion in Coronavirus State and Local Recovery Fund authorized under the American Rescue Plan Act (ARPA). The bill would allow counties nationwide to use a total of over \$27 billion for new transportation and infrastructure projects (e.g., including but not limited to roads, bridges, and safety improvement projects, public transit, and Community Development Block Grant (CDBG) eligible projects) and over \$17 billion for government services without being required to calculate revenue loss. The bill would also grant state and local governments the explicit authority to spend ARPA funds to provide emergency relief from natural disasters and their negative economic impacts.

If enacted, San Mateo County would be able to use approximately \$44.6 million in ARPA funding for transportation and infrastructure projects or up to \$10 million for government services. A companion measure, H.R. 5735, has been introduced in the House of Representatives for a vote. The County has submitted a support letter for the measure and will be tracking it closely.