County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER
File #: 21-519

Board Meeting Date: 6/29/2021

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 #4

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

BACKGROUND:
Over the past several weeks, legislators faced two major policy bill deadlines-the Appropriations Committee (May 21) and House of Origin (June 4) deadlines. In addition, the leaders of both houses imposed a 12-bill cap per author, meaning that every legislator may only move a maximum of a dozen bills to the second house. Bills that advanced now have until July 14 to pass out of policy committees in the opposite house. Both houses have until September 10 to pass all bills.

On June 14, both houses of the Legislature approved an initial expenditure measure for the 2021-22 state budget (AB 128), reflecting a two-house agreement.

On May 28th, the Biden Administration released its budget for fiscal year 2022 as negotiations on a potential infrastructure plan continue. In addition, the House Transportation and Infrastructure Committee advanced HR 3684, the *Investing in a New Vision for the Environment and Surface Transportation in America (INVEST in America) Act.*

DISCUSSION:

2021 State Update
Legislative Update-The following are a few notable bills that failed to move out of their house of origin and are now considered “dead” for the year (barring creative legislative maneuvers):

- **AB 1139 (Gonzalez, Lorena)** would have directed the California Public Utilities Commission to adopt a new net-energy metering standard, thus reducing the credits solar owners receive when selling energy to utilities. The bill’s intended goal was to create a more equitable energy market for those who cannot afford rooftop solar.

- **AB 1371 (Friedman)** would have prohibited online retailers from using single-use plastic packaging.
- **AB 650 (Muratsuchi)** would have required health care employers to provide “hero pay” to healthcare workers.
- **AB 1223 (Levine)** would have levied a new excise tax of 10% for new handguns and 11% for ammunition, rifles, long guns and precursor parts. The proceeds would have been deposited in the Gun Violence Prevention, Healing, and Recovery Fund.

Of the bills that advanced, the Legislature is considering a variety of measures to boost early childhood education and childcare throughout the State. The County Manager’s Office (CMO) is closely monitoring these measures in collaboration with the Childcare Partnership Council:

- **AB 92 (Reyes)** would change the amount of the family fee collected for preschool and childcare development services, reducing it from 10% to 1% of a family’s income.
- **AB 1112 (Carrillo)** would remove the cap on grant awards and daily rates for certain expanded learning programs.
- **SB 246 (Leyva)** would establish a single reimbursement rate for early learning and care programs, which would include variation for regional costs and quality adjustment factors.

The Legislature is also acting on measures that could impact transportation planning, funding, and safety in our County and the greater Bay Area region, including:

- **AB 43 (Friedman)** would grant Caltrans and local authorities greater flexibility in setting speed limits based on recommendations from the Zero Traffic Fatality Task Force.
- **AB 1238 (Ting)** would decriminalize jaywalking.
- **SB 640 (Becker)** would authorize local governments to pool their SB 1 dollars for certain multi -jurisdictional transportation projects.

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

State Budget Action-California legislators approved a placeholder state budget (AB 128) on June 14 to meet a constitutional deadline. This “framework” budget tees up a long summer of negotiations between the Legislature, Governor and interest groups. While there is general consensus on priority areas in the budget, the final spending amounts, as well as the allocation and distribution methods, have yet to be agreed upon. Key disagreements remain over the amount of money available to spend in future years, how quickly to spend the money on key initiatives, and the best uses of the state’s American Rescue Plan Act (ARPA) funds. Discussions between the Legislature and the Administration are ongoing. Because of the volume of issues being considered-the Legislative Analyst’s Office (LAO) noted that there were over 400 new proposals and programs introduced in the May Revision-and the complexity of many of those issues, combined with the fact the Administration has not yet released its proposed trailer bill language for some of its May Revision proposals, it is expected that negotiations and policy development will continue throughout the summer months.

Included in AB 128 is a one-time $10 million state General Fund allocation to San Mateo County and its cities in backfill funds for a FY 2019-20 Vehicle License Fee (VLF) payment shortfall. In addition, and in an effort to seek a permanent fix to this ongoing problem, which is expected to grow in the coming years, the County partnered with the Counties of Napa and Alpine to develop a proposal that establishes an ongoing statutory mechanism to fully reimburse counties and cities where there are insufficient revenues to fund the State’s in-lieu VLF swap obligation. The counties are working to include this language in an upcoming budget trailer bill with the support of members of the counties state delegation.

Finally, the CMO is working closely with the California State Association of Counties (CSAC) and the Urban Counties of California (UCC) to ensure the adoption of trailer bill language that would hold counties that are close to their Gann Limit harmless as a result of state action. The trailer bill language was developed in direct response to recent legislative actions, which seek to use the Legislative Analyst's Office higher revenue forecasts and redefine local government subventions (i.e., 1991 and 2011 Realignment) so that these proceeds are counted against local governments and not the state. Currently, the Constitution allows subventions to local governments to be counted against that local government's limit (instead of the state's limit). In advancing this statutory change, the Legislature seeks to increase its spending capacity by approximately $10-$12 billion in the upcoming fiscal year.

A detailed table summarizing all the FY 2021-22 State Budget items being tracked by the CMO is included as an attachment to this report.

2021 Federal Update

Federal Fiscal Year 2022 Budget and Appropriations Process- On May 28, President Biden released his first full budget request to Congress, laying out comprehensive proposals for Fiscal Year (FY) 2022 and the ensuing decade. The plan, which serves as a blueprint for his party's priorities for spending over the next decade, proposes a $6 trillion budget for the year beginning October 1-an increase of 8.4%, or $118 billion from the $1.4 trillion authorized in FY 2021-excluding emergency measures tied to the coronavirus pandemic. The budget includes detailed costs for its proposals to spend $4.5 trillion over the next decade on infrastructure and social programs, which the administration is hoping to advance through Congress this summer. Elements of note in the plan include: $17 billion next year for improvements to roads, bridges and airports; $45 billion to replace lead water pipes across the country, $13 billion to expand high-speed broadband; $8.8 billion on direct spending on families (including $6.7 billion for affordable child care and $750 billion for paid leave).

The Administration projects a deficit of $1.84 trillion in fiscal 2022, which comes to 7.8% of gross domestic product, down from a deficit of $3.67 trillion in fiscal 2021, when emergency spending to battle the pandemic and its economic fallout added to the red ink. Debt held by the public would rise to 111.8% in 2022, surpassing the level seen in the wake of World War II. Administration officials maintain that higher spending would be offset by revenue from tax increases on wealthy individuals and corporations as the Biden plan seeks to increase the corporate tax rate from 21% to 28% and the top capital-gains rate from 23.8% to 43.4%.

The President's ability to enact his plan is uncertain and will depend on Congress, where Democrats have slim majorities and members of his own party have expressed reservations about his proposal. Passing a budget in Congress unlocks reconciliation, a process that allows lawmakers to pass legislation directly related to the budget with a simple Senate majority, instead of the usual 60 votes and without GOP support. Democrats have indicated they may try to pass legislation tied to the budget (e.g., infrastructure, childcare and education) under this process if a deal with Republicans cannot be reached. Finally, because the federal government is funded through 12 appropriations, or spending bills that must be passed by October 1st, lawmakers routinely ignore the White House's budget requests in favor of their own plans. Those spending bills can be passed along party lines in the House, where Democrats control the majority, but need bipartisan support in the Senate before being sent to the president for approval.

On June 15, House Appropriations Committee Chair Rosa DeLauro (D-CT) announced the Committee's expected schedule for marking up fiscal year 2022 appropriations bills, which is set to begin on June 24 and conclude on July 16. The bills, the first under the Biden presidency, will total $1.506 trillion in discretionary spending, with upward adjustments for disaster relief and tax enforcement. The spending measures are expected to include "community funding projects" or earmarks. Chair DeLauro has set a limit of 10 requests per member and capping total earmark spending at 1 percent of discretionary spending. The County is requesting $500,000 in funding for furniture, fixtures, and equipment (FF&E) for the new Maple Street Navigation Center through Congresswoman Jackie Speier. The Senate Appropriations Committee, chaired by Senator Patrick Leahy (D-VT), has not yet announced when or even if it will mark up fiscal 2022 bills this summer. Given the level of disagreement between the parties, it is likely that Congress will need a series of stopgap spending bills to keep the government up and running once the new fiscal year begins October 1.

Infrastructure Plan Discussions Update-Discussions continue at the federal level over the development of an infrastructure plan. In early June, after reaching a stalemate, President Biden ended an effort to reach a deal with a group of Senate Republicans led by Senator Shelley Moore Capito (R-WV) on an infrastructure package that had been narrowed down from $2.2 trillion to $1 trillion. In mid-June, a larger bipartisan group of 20 senators (10 Republicans, 10 Democrats) released a slimmed down proposal ($1 trillion over 5 years); however, the parties remain divided over the cost, scope and means of paying for the plan.

In response, the Administration has been in discussions with Congressional leaders about how to move forward with the President's infrastructure plan, and other elements of his budget blueprint, through the budget reconciliation process. Earlier this week, House Budget Chairman, John Yarmuth (D-KY) announced plans to mark up a fiscal 2022 budget resolution-a prerequisite for any filibuster-proof reconciliation bill-in mid-July. Democrats will then try to adopt the budget with reconciliation instructions on the floor before the August recess. Senate Majority Leader Chuck Schumer (D-NY), on the other hand, has stated his intent to pursue the party's agenda on two tracks: brokering a bipartisan compromise on infrastructure while advancing Biden's other, more progressive proposals (possibly totaling $6 trillion in spending) also through the budget reconciliation process. Senator Schumer has stated that he seeks to advance infrastructure reforms in July. However, with very narrow margins in both the House and Senate, the Democrats will need to remain united to be able to advance these packages through the reconciliation process.

Surface Transportation Bill-On June 10th, the House Transportation and Infrastructure (T&I) Committee advanced legislation (HR 3684) that would reauthorize highway, transit, rail and safety programs. The bill - entitled the *Investing in a New Vision for the Environment and Surface Transportation in America (INVEST in America) Act* - would authorize $547 billion in spending over five years, representing a 54 percent boost in funding when compared to current levels of investment.

The measure largely aligns with many of the infrastructure priorities outlined in President Biden's *American Jobs Plan* and was approved on a mostly party-line vote.

Looking ahead, the full House could vote on the *INVEST in America Act* in June. As of this writing, however, Democrats have not identified how the new surface transportation spending would be financed.

HR 3684 would authorize $5.7 billion for nearly 1,500 Member-designated highway and transit projects (earmarks), including numerous projects throughout San Mateo County, emphasize the state of good repair as program goal for bridge investment and various discretionary grant programs, authorize a "Pre-Disaster Hazard Mitigation Pilot Program," authorize a number of new discretionary grant programs, and expand what is eligible under the surface transportation program, among other things.