



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER

File #: 21-749

Board Meeting Date: 9/28/2021

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 #6

RECOMMENDATION:

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

BACKGROUND:

The Legislature returned from their month-long summer recess on Monday, August 16, 2021 to finish out the first year of the two-year session. Pending priorities included deciding the fate of all legislation with a state fiscal impact and passage of additional trailer bills reflecting agreement between the Legislature and Administration on pending state budget issues. The Senate and Assembly Appropriations Committees held their Suspense File Hearings on Thursday, August 26th to meet the August 27th fiscal committee deadline and the Senate and Assembly Budget Committees met to review

Following the fiscal deadline, both houses worked to pass the remaining bills by the end of session on Friday, September 10th.

The Legislature also completed needed action on the FY 2021-22 State Budget, passing 15 new trailer bills, and one new expenditure bill (Budget Bill, Jr.).

At the federal level, the House and Senate returned to Washington, D.C. to continue divided partisan discussions on federal FY 2022 Appropriations, raising the debt ceiling, and President Biden's "social infrastructure and economic" plans.

DISCUSSION:

2021 State Update

Legislative Update-The following are a few notable bills that failed to pass out of their respective Appropriations Committees and are now considered two-year bills. The Legislature will be able to

consider these measures this coming January:

- **AB 240 (Rodriguez)** would have required the California Department of Public Health to conduct an evaluation of the local health department infrastructure and make recommendations in order to adequately fund local public health.
- **AB 1038 (Gipson)** would have established a competitive grant program to address health equity.
- **SB 17 (Pan)** would have established a statewide Office of Racial Equity.
- **SB 57 (Wiener)** would have decriminalized certain hallucinogenic substances.

Of the bills that passed through the Appropriations Committees, not all made it to the Governor's Desk. Several significant bills died in this final stretch, some due to the political complications brought on by the gubernatorial recall election, including:

- **AB 1395 (Muratsuchi)** would have declared that it is the policy of the state to achieve net zero greenhouse gas (GHG) emissions and reduce anthropogenic GHG emissions by at least 90% below the 1990 level no later than 2045.
- **SB 262 (Hertzberg)** would have reformed California's bail system by requiring courts to take into account a defendant's ability to pay when setting bail.

This year it is important to note other key actions that were not taken by the Legislature, including:

- **Vaccine mandate:** Despite multiple Assembly members confirming their intent to introduce legislation that would mandate vaccinations for certain individuals or scenarios, no such bill was introduced this year. A few legislators have expressed their desire to introduce a bill addressing vaccine mandates next year.
- **Eviction moratorium:** The Legislature did not extend eviction protection despite the current protections expiring after September 30th.
- **Emergency paid sick leave:** Similarly, the Legislature did not extend California's COVID-19 sick-leave policy, which is set to expire after September 30th.

The Legislature sent the Governor a variety of major bill packages, including a set of bills that aim to increase housing supply through various upzoning strategies and another set of bills that intends to better regulate peace officer certification, as well as their use of force policies. Other important bills sent to the Governor focused on the Brown Act, local government relief for implementation of SB 1383 (the organic waste rule), and a trio of broadband bills that would assist with the deployment of broadband service to unserved Californians. Notably, the majority of impactful environmental measures failed to reach the Governor's desk this.

In all, the Legislature passed over 1,100 bills in the 2021 session. The Governor has signed over 400 bills to-date, including the bills that enact the State Budget Act. Currently, there are nearly 700 bills awaiting the Governor's signature or veto. He has until October 10, 2021 to sign or veto bills that were passed by the Legislature. The Legislature is now in recess with members returning to their districts. Both houses of the legislature are scheduled to return for the second year of the session on January 3, 2022.

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-As previously reported, in mid-June, the Legislature and Governor passed and signed (AB 128) a budget “framework” bill intended to meet the June 15th constitutional deadline for passage of the state budget and allowing the parties to continue budget discussions on the allocations of billions of dollars in state and federal funds over a large number of priority areas. In mid-July, the Legislature passed and the Governor signed 3 additional Junior Budget Bills (SB 129, AB 161 and AB 164) that clarified, correctly or modified the previously enacted Budget Bill (AB 128) and acted on 26 separate trailer bills ranging from the election recall to broadband to education and human services. Unfortunately, the Legislature and Administration were unable to reach consensus on spending related to the drought and climate resiliency before the start of the Legislature’s Summer Recess necessitating action on a third round of budget trailer bills in mid-September. This latest round of trailer bills includes a fourth Budget Bill, Jr. (AB 170) and 15 new trailer bills focused on drought and climate resilience, K-12 education, the courts (includes County backfill for newly eliminated criminal justice-related fines and fees), housing/homelessness to name a few. A detailed table summarizing all the FY 2021-22 State Budget items being tracked by the CMO, including the newest trailer bills, is included as an attachment to this report.

Of note to the County was an appropriation of \$8 million in funding included in AB 170 for One Shoreline, the County’s Flood and Sea Level Rise Resiliency District. Funding secured through the efforts of Assembly Member Kevin Mullin will be used by the District for project development and possibly operations support depending on the Coastal Conservancy’s interpretation of the allocation. Also included in the final batch of trailer bills was AB 177 that eliminates an additional 17 criminal administrative fees effective January 1, 2022, makes past debt for these fees uncollectable, and allocates backfill funding to counties for the associated loss of revenue from these fee repeals. It also allocates \$25 million in General Fund for counties for FY 2021-22, and \$50 million ongoing starting in FY 2022-23.

Finally, due to the controversy over high-speed rail funds, the Legislature and Newsom Administration failed to reach an agreement on a transportation trailer bill before the end of the legislative session. This bill was needed in order for the \$4 billion in transportation funding passed earlier this year (for Transit and Intercity Rail Capital Program, Active Transportation Program, and others) to be dispersed. As such, this funding will revert to the state General Fund in the absence of an agreement. Negotiations are expected to continue during the fall with early action anticipated in January 2022 to ensure these funds are distributed to fund transportation projects.

2021 Federal Update

FY 2022 Appropriations-Current funding for the government expires on September 30th. On September 21, the House (voting along party lines) advanced a stopgap government funding bill (HR 5305) that would extend current federal spending levels through December 3, 2021. The legislation, which is known as a Continuing Resolution (CR), includes several “anomalies” that would adjust the amount available to certain agencies (e.g. \$28.6.5 billion in supplemental funding for disaster recovery assistance) and extend a number of statutory authorities (e.g., National Flood Insurance Program (NFIP) and Temporary Assistance for Needy Families (TANF)) slated to expire after September 30th.

The House has passed all 13 FY 2022 appropriation bills and sent them to the Senate for action. However, the Senate has yet to pass any appropriations bills and it is unclear at this time when they will do so given partisan disagreements.

Debt Ceiling-The government will run out of money sometime in October or November 2021, if Congress fails to raise the debt ceiling. The federal government operates on a deficit. In order to fund the deficit, the government needs to borrow money and maintain the highest level of “full faith and credit.” Thus, unless Congress raises or suspends the limit on issuing debt, the Treasury will no longer be able to pay all of the nation’s creditors.

A default would be unprecedented and could lead to a far-reaching financial crisis-or at least a crisis in confidence in the government, banks, and other creditors that keep the federal government afloat by purchasing its bonds and notes. The threat of a default would also be counterproductive to the

nation's fiscal health, lowering the nation's financial standing and making borrowing even more expensive once a deal on the debt ceiling is reached.

Historically, raising the debt ceiling has been a bipartisan issue; however, in the past decade, it has become a political tool for lawmakers to extract concessions. Rather than raise the debt ceiling by a specific amount, lawmakers often vote to suspend it for a period of time to allow the Treasury Department to borrow what it needs. As the debt ceiling fight has become more politicized, lawmakers have suspended it for longer and longer periods of time.

Currently, the two parties are engaged in a game of chicken: Democrats say the debt limit increase must pass the regular way bills get passed, not by attaching it to the reconciliation bill containing all their spending priorities that can pass with a simple majority vote in the Senate. For Democrats to pass it on their own would be a complicated, and possibly prolonged process, which they may not have time for given the Treasury Department's estimated default deadline. Moreover, in the Senate most legislation requires 60 votes-meaning that at least 10 Republicans would need to join all 50 Democrats to approve raising the debt ceiling.

On the House-side, Democrats included language in the CR that would suspend the nation's debt limit through December 16, 2022 in the hope that Republicans will back down on their threat vote against the debt ceiling. While GOP leaders are generally supportive of the CR, they are opposed to including the debt limit language in the bill. In fact, Senate Republicans have drafted their own CR that tracks closely with HR 5305, but does not address the nation's borrowing authority. Senate Minority Leader Mitch McConnell (R-KY) has said that because Democrats control all the levers of power in Washington and want to spend trillions of dollars in a bill filled with Democratic priorities, it is on them to figure out a way to raise the debt ceiling. Absent an agreement to move forward, the partisan stalemate could ultimately result in a federal government shutdown.

American Families Plan, Economic Plan (Infrastructure), and Reconciliation-President Biden's "human infrastructure and economic" plans are all inextricably tied to the \$3.5 trillion budget reconciliation which is currently being negotiated in the House. In order to address the President's initiatives, Congress must first pass the Reconciliation bill to fund them. Reconciliation removes the threat of a filibuster in the Senate and allows the bill to pass on a simple majority vote.

To this end, numerous congressional committees met the week of September 13th to complete their respective titles of a legislative package that will include key elements of President Biden's American Families Plan. Pursuant to the fiscal year 2022 budget resolution (S Con Res 14), 13 House committees were given a September 15 deadline to advance their portions of the plan. These various measures will be compiled into a single package by the House Budget Committee before being considered on the House floor.

Despite Democratic leadership's action to advance a legislative package totaling \$3.5 trillion, there is disagreement among some moderate Democrats regarding its size. Notably, Senators Joe Manchin (D-WV) and Krysten Sinema (D-AZ) whose votes will be crucial in the evenly split Senate have both balked at the measure's price tag. For his part, Senator Manchin publicly renewed his objection to the multi-trillion-dollar proposal in past weeks and has indicated that he would only be willing to support up to \$1.5 trillion in spending. Senator Bernie Sanders (I-VT), Chairman of the Senate Budget Committee, has said that \$3.5 trillion is minimum.

At the time of the writing of this update, House Democratic leaders had announced their intention to bring the Senate-passed infrastructure package (HR 3684) before the chamber as early as September 27th. However, Democratic leaders may have to adjust this timeline as centrists only

agreed to support a \$3.5 trillion budget blueprint-which would allow President Biden's economic agenda to move forward-in exchange for a commitment to hold a vote on the traditional infrastructure package by the week of September 27th and progressives are now threatening to withhold their support unless the legislation is voted on in tandem with the much larger "human infrastructure" package. Further complicating matters, House Republicans have begun whipping against the bill because they see it as linked to the forthcoming \$3.5 trillion spending measure. With negotiations on the larger infrastructure package still ongoing, it is unclear how and whether Democratic leaders will move forward with HR 3684.