
MEMORANDUM

To: City of Beaumont
From: Townsend Public Affairs
Date: August 13, 2020
Subject: Monthly Report for the City of Beaumont — August 2020

State Legislative Update

The Legislature is into their final month of the 2020 legislative session. The last day of session is August 31 when members will return to their districts in preparation of the November election. Following adjournment on August 31, Governor Newsom will have 30 day to sign or veto legislation. Assembly and Senate Leaders are discussing the possibility of a special legislative session with the Administration; however, any decisions will likely depend on the growing number of COVID-19 cases throughout the state.

Governor's COVID-19 Action Summary

- **Efforts on Evictions:** Governor Newsom noted that his Administration is working closely with the Legislature to address the issue of eviction protections for tenants who are impacted by coronavirus. To date, the State has issued Executive Orders on this topic and the Legislature has introduced several proposals to build upon those orders. Earlier in the year, Judicial Council issued a moratorium that prevented the State's courts from processing cases related to evictions. The Judicial Council eviction moratorium expires this month, and they have requested that the Legislature and Governor take statutory action. The Legislature is currently working with the Administration on bills to address the looming eviction issues for both renters and property owners. The Administration had previously issued Executive Orders providing local governments with the authority to issue their own eviction moratorium orders. The State Executive Orders have since been extended through September 30th

Housing Legislation

On July 28, the Assembly Housing and Community Development Committee met to consider 10 housing bills and on August 11, the Assembly Local Government Committee met to consider several housing bills. Below is a summary of the relevant legislation that passed those committees and has been referred to the Appropriations Committee:

- *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 899 (Wiener): Planning and zoning: housing development: higher education institutions, nonprofit hospitals, or religious institutions*
 - This bill provides that housing is a use by right on land owned by a religious institution, nonprofit hospital, or nonprofit college, as specified.
- *SB 902 (Weiner): Planning and zoning: housing development: density*
 - This bill allows counties and cities to pass ordinances to zone any parcel for up to 10 units of residential density per parcel in transit-rich or jobs-rich areas or urban infill sites, and exempts these ordinances from the California Environmental Quality Act (CEQA). The bill took an amendment in its policy committee hearing to remove the authority of city councils to pass a housing/zoning ordinance, in spite of restrictions enacted by a local voter initiative.
- *SB 1120 (Atkins): Subdivisions: tentative maps*
 - This bill requires ministerial approval of housing developments with two units (duplexes) and subdivision maps that meet certain conditions and increases the length of time that cities and counties can extend the validity of existing subdivision maps.
- *SB 1138 (Wiener): Housing element: emergency shelters: rezoning of sites*
 - This bill makes changes to housing element law with regards to where shelters may be zoned, as specified. This bill also requires localities that fail to adopt a legally compliant housing element within 120 days of the statutory deadline, to complete a rezone program within one year instead of the current three-year requirement.
- *SB 1299 (Portantino): Housing development: incentives: rezoning of idle retail sites*
 - This bill requires the California Housing and Community Development Department (HCD) to administer a program to provide grants to local governments that rezone idle sites used for a big box commercial shopping center to instead allow the development of workforce housing, as defined.

Similarly, the Senate Housing Committee met on August 6 and considered 16 housing bills. A summary of the legislation that passed and been referred to the Appropriations Committee is below.

- *AB 725 (Wicks): General plans: housing element: moderate-income and above moderate-income housing: suburban and metropolitan jurisdictions.*
 - Amends Housing Element law to require certain jurisdictions to zone for multi-family moderate and above-moderate income housing.

- *AB 2345 (Gonzalez): Planning and zoning: density bonuses: annual report: affordable housing*
 - Revises Density Bonus Law to increase the maximum allowable density and the number of concessions and incentives a developer can seek.
- *AB 3040 (Chiu): Local planning: regional housing need assessment.*
 - Allows cities and counties to receive a specified credit towards meeting their Regional Housing Needs Allocation (RHNA) for rezoning single-family neighborhoods to allow four units per parcel.
- *AB 3269 (Chiu): State and local agencies: homelessness plan.*
 - Creates the Office of the Housing and Homelessness Inspector General to provide accountability for state and local actions to address homelessness, imposes new requirements on local governments to develop actionable plans to address homelessness, and creates a public right of action for the Inspector General to compel compliance with those new plans.

TPA will continue to advocate on behalf of the City as the Legislature considers these housing measures in the coming weeks.

Public Safety

Since the death of George Floyd, the Legislature has been focused on several bills that would address police reform, use of force, and public safety across the State. The Legislature will spend the next four weeks debating a variety of public safety bills, including bills that will ban the use of tear gas and rubber bullets, change immunity protections for peace officers, and increase the transparency of use-of-force cases.

Last year, the Legislature took action to change the use of force standards in the State while providing training protocols for officers to adhere to the updated standards. The legislation (AB 396: Weber, D-San Diego) was seen as the most significant use-of-force reform passed by the Legislature in recent memory. After months of negotiating with police advocates, the bill eventually passed with bipartisan support in both houses. In the wake of recent national calls for police reforms and the condensed timeline to pass legislation due to COVID-19, police reform bills will be hotly debated in the coming weeks. The below bills are moving through the legislative process.

- *AB 66 (Gonzalez) Police/Use of Force*
 - The purpose of this legislation is to 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 767 (Grayson) Victim compensation*
 - The purpose of this bill is to expand eligibility for compensation under the Victims Compensation Program for injuries or death caused by use of force by a police officer.
- *AB 1022 (Holden) Peace officers: use of force*
 - The purpose of this legislation is to; 1) clarify and strengthen policies related to law enforcement officers' duty to intervene when force is used, 2) prohibit retaliation

for reporting on a fellow officer and 3) impose additional penalties for specified uses of force and for failure to intervene when excessive force is used.

- *AB 1196 (Gipson) Peace officers: use of force. (Urgency)*
 - The purpose of this legislation is to prohibit law enforcement agencies from authorizing 1) carotid restraint holds; 2) choke holds, and 3) techniques or transport methods that involve a substantial risk of positional asphyxia.
- *AB 2655 (Gipson) Invasion of privacy: first responders.*
 - The purpose of this legislation is to create a misdemeanor for any first responder who photographs a deceased person other than for an official purpose or for a genuine public interest.
- *AB 1506 (McCarty) Police use of force*
 - The purpose of this legislation is to allow law enforcement agencies and district attorneys to request a new division of the Attorney General's office to investigate, report on, and potentially prosecute a criminal case when there is an officer involved shooting that results in a death of a member of the public.
- *AB 2342 (McCarty) Parole*
 - The purpose of this bill is to create a program through which parolees are able to earn "reintegration credits" to reduce the length of their parole term.
- *AB 1775 (Jones Sawyer) 911 emergency system: harassment*
 - The purpose of this bill is to make a number of changes in criminal and civil law to discourage individuals from using 911 or other communications with law enforcement to harass a person because that person belongs to a protected class.
- *AB 2338 (Weber) Courts: contempt orders*
 - The purpose of this bill is to provide an alternative punishment of probation or a conditional sentence for parties found in contempt of a family law court order or judgement.
- *AB 2542 (Kalra) Criminal procedure: discrimination*
 - The purpose of this bill is to prohibit the state from seeking or upholding a conviction or sentence that is discriminatory based on race, ethnicity, or national origin as specified.

Federal Legislative Update

Over the past month, Congressional lawmakers were quite active in passing several major pieces of legislation. COVID-19 relief funding remained was the primary point of concern, however, as many provisions from the previously passed CARES ACT, including federal supplements for unemployment insurance, expired on July 31. Both chambers are now on their annual August Recess. The House is scheduled to return on September 14 and the Senate will return on September 8.

Executive Orders

President Trump took steps to try to mitigate the economic impact caused by the impasse in the Phase 4 negotiations. The President, though limited in the legislative actions he can take, signed a series of directives in an attempt to fill in gaps left by the lack of a negotiated Congressional package.

The actions contained in the Executive Orders signed by President Trump included a President Memorandum, which directs the Department of Education to extend the student loan relief granted in the CARES Act until the end of the year.

The President also issued an Executive Order directing Health and Human Services and Center for Disease Control (CDC) to consider whether any measures temporarily halting residential evictions of any tenants for failure to pay rent are reasonably necessary.

Third, the President issued Presidential Memorandum deferring payroll tax for Americans earning under \$100,000 per year ear until December. The expectation is that taxes must be paid at the end of the year unless Congress passes law forgiving. This would potentially provide an additional \$600, at most, to employees and would equate to a \$300 billion tax cut. The payroll tax deferral has been criticized by Democrats as a backhanded way to defund Social Security and Medicare. President Trump has indicated that if he is re-elected in November, he may extend the deferral and terminate the tax for some workers altogether.

Finally, the mandates also included a redirection of \$44 million in Federal Emergency Mangement Agency (FEMA) money for a new “low-wage assistance” under the Stafford Act, which reduces the CARES Act’s \$600 per week in federal unemployment to \$300 with a \$100 state match. In the coming weeks, the Executive Orders are likely to be tied up in litigation over whether they violate core constitutional principles such as the separation of powers.

Governor Newsom addressed the Presidential Memorandum on Unemployment Insurance and stated that it would cost California at least \$700 million per week, for the state’s match, to access the low-wage assistance. In this plan, the Federal government would only provide 75% of the money for the supplemental assistance while the remainder of the funding would need to provided by the State. Although CARES Act funding could be used for the state match, over 75% of the California’s share of CARES Act funding has already been allocated for pandemic response (schools, health, social programs, local government assistance, etc.)

Any funding that cannot be covered through CARES Act funding would ultimately need to come from the State’s general fund. Under this proposal, the State would exhaust the entire 2020-21 Budget reserve in approximately three weeks. Like many other states, California will not be able to handle the expense that the Federal proposal would impose without significant cuts to important services or by raising revenue.

Appropriations

The House has finished the bulk of its initial Fiscal 2021 appropriations work. House lawmakers recently voted to pass a six-bill spending package (H.R. 7617) including \$1.3 trillion in discretionary spending. The minibus is the second of two appropriations packages and it included funding for Transportation, Defense, Education, Housing and other agencies. The first package of fiscal 2021 appropriations bills (H.R. 7608), includes \$259.5 billion in spending for Agriculture-FDA, Interior-Environment, Military Construction-Veterans Affairs, and State-Foreign Operations programs.

The passage of both packages means that the House has funded everything except Homeland Security and Legislative Branch appropriations. However, House Democrats did add a measure to the H.R. 7617 package to include language from the Legislative Branch bill (H.R. 7611) that would require statues and busts of Confederate leaders to be removed from the U.S. Capitol.

The House and Senate will finalize funding levels for each line item. TPA advocates for the Senate and the House to fully fund these programs in order to increase the likelihood of funding opportunities.

Census

The Census Bureau recently announced it would end its decennial count of the U.S. population on September 30, a month earlier than expected. This decision raised concerns about the accuracy of the survey, which serves as the basis for congressional and state legislative district boundaries and government funding. The agency said 63 percent of the estimated 121 million U.S. households have responded to the census by phone, mail or online, and that it will hire additional data collectors to maximize responses by the end of next month. Previously, the Census Bureau said it would need an extra 4 months to overcome hurdles created by coronavirus

The move is already receiving pushback from Congress in addition to President Trump's recently signed Apportionment Memorandum to exclude undocumented immigrants from census population counts. As you may recall, in June 2019, the Supreme Court blocked an effort to include a question on citizenship in the census, ruling it a violation of the constitution's enumeration clause, which mandates Congressional representation, but sent it back to a district court for further deliberation. The Administration ended its effort to pursue the citizenship question through the courts last July due to printing deadlines, but President Trump vowed to find a work-around

The 14th Amendment states that the Census must count the "whole number of persons in each state" for Congressional representation, which includes undocumented immigrants. The order cites estimates that "one state" (apparently referring to California) has more than 2.2 million illegal immigrants, six percent of its population. It argues that, as a result, including illegal immigrants in the population for apportionment could result in the allocation of two or three more congressional seats than if they were not included.

Land and Water Conservation Fund

On July 22, the House passed the "Great American Outdoors Act" (H.R. 1957), which provides mandatory annual funding of \$900 million to the Land and Water Conservation Fund (LWCF) and allocates billions toward fixing national parks and public lands. The bill passed the House on a bipartisan vote of 310-107. Since it previously passed the Senate, it was sent to President Trump who signed it into law. The \$900 million provided to the LWCF annually will now fall outside of the appropriations process, making the program and its funding less dependent on the political winds of any given year.

Wireless Infrastructure

The U.S. Court of Appeals for the Ninth Circuit recently upheld a Federal Communications Commission (FCC) order that limits local governments' authority to regulate the installation of 5G cell towers in their communities.

In a 2-1 decision, the panel of judges ruled that the order is largely “in accord with the congressional directives” and “not otherwise contrary to law.” The order in question originates from a 2018 decision by FCC to cap fees for wireless carriers to deploy “small cells” essential to the adoption of next generation 5G networks. The 2018 FCC order limited local governments’ ability to regulate telecommunications providers and prevented owners and operators of utility poles from discriminatorily denying or delaying 5G and broadband service providers access to poles. The appeals court upheld the orders, except in reference to a provision dealing with local governments’ authority on aesthetic regulations.

FCC commissioners have said the United States will need to install as many 800,000 small cells for 5G networks over the next decade. The FCC has claimed that some 5G services will provide data speeds 100 times faster than current service and create faster response times. The FCC continued on indicating that 5G networks could eventually lead to capabilities such as remote surgical procedures. There is the belief that this decision may ultimately be appealed at some point in the future.

WRDA

On July 29, the House of Representatives passed H.R. 7575, the “Water Resources Development Act of 2020.” WRDA 2020 was quickly introduced and passed by the House Transportation & Infrastructure Committee Chairman DeFazio (D-OR) on July 15, who introduced the bill just two days earlier. The bill authorizes the U.S. Army Corps of Engineers to start several navigation, flood control, storm damage, and other water-related infrastructure projects.

The modified version included an additional project modification authorization and language regarding the bill’s budgetary effects:

- **Project Authorizations:** The measure would authorize funding for construction of 34 projects nationwide, including \$1.22 billion, with a federal share of \$314.5 million, for flood risk management in Westminster and East Garden Grove, CA.
- **Feasibility Studies:** Under Section 7001 of the Water Resources Reform and Development Act of 2014, the Secretary of the Army would be allowed to conduct a feasibility study on the impacts of projects reducing coastal storm damage for nearly all of Southern California.
- **Harbor Maintenance Trust Fund (HMTF):** The bill also would adjust the treatment of \$10 billion in spending from the Harbor Maintenance Trust Fund. Under the CARES Act (Public Law 116-136), those amounts won’t count against future annual discretionary spending caps. Under WRDA 2020, only amounts Congress appropriates into certain accounts and designates as being for harbor operations and maintenance activities would be cap exempt. The bill also would increase the share of inland water infrastructure project costs from 50% from the general Treasury fund to 65%, while the remaining 35% would be funded by the Inland Waterways Trust Fund, which is based on fees levied on barge operators.
- **PFAS:** The Corps of Engineers would have to compile an inventory of its facilities that are or could become contaminated by per- and polyfluoroalkyl substances (PFAS), often called “forever chemicals.” It would include the nature and extent of any existing and

potential contamination, pathways for human exposure, response measures taken, the entities responsible for any contamination, and the costs to remediate and reduce the risk of human exposure.

- **Flood Control Pumps:** The bill would authorize \$60 million for rehabilitation of flood control pump stations necessary for the function of flood risk management projects. Funds could be used to upgrade the design, capacity, and reliability of the stations
- **Repetitive Flooding:** The bill would authorize the Corps to conduct a program to study, design, and construct new flood control works, modify existing works, and incorporate natural and nature-based features to control flooding in areas that have received emergency flood-fighting assistance from the Corps related to multiple flooding events over a ten-year period. Separate authorization wouldn't be required under the program for projects with a federal share of \$15 million or less.

The bill now moves to the Senate, who passed related legislation earlier this year. The Senate Environment and Public Works Committee approved its own 2020 WRDA legislation, called the "America's Water Infrastructure Act of 2020," by a vote of 21-0 on May 6. The Senate has yet to consider that measure. Current WRDA funding expires on September 30, so Congress must agree on a package by that deadline to prevent any lapse in funding.

Title XVI Grant Announcement

The Bureau of Reclamation has published a funding opportunity for Title XVI Water Reclamation and Reuse Research Projects. This opportunity is for research sponsors to submit proposals to cost-share Title XVI Research activities that seek to address water supply challenges by establishing or expanding the use of water reclamation and reuse, improving existing water reuse facilities, and/or streamlining the implementation of state-of-the-art technology for new facilities.

Title XVI of P.L. 102-575, as amended (Title XVI), provides authority for Reclamation's water recycling and reuse program, titled "Title XVI." Through the Title XVI program, Reclamation identifies and investigates opportunities to reclaim and reuse wastewaters and impaired ground and surface water in the 17 Western States and Hawaii. Title XVI includes funding for the planning, design, and construction of water recycling and reuse projects in partnership with local government entities. Title XVI funding can be used for water projects focused on the following:

- Expanding the use of water reclamation and reuse
- Improving existing water reuse facilities
- Streamlining the implementation of state-of-the-art technology for new facilities.

Fiscal year (FY) 2020 appropriations include \$63.617 million for the Title XVI Program. It is estimated that up to \$3 million will be available for development of new water reclamation and reuse research studies under this opportunity. Applications submitted under this opportunity also may be considered if other funding becomes available in FY 2020 or thereafter. TPA is prepared to work with the City on this application.