

TO: Members, County of Santa Barbara Legislative Committee

FROM: Cliff Berg, Legislative Advocate
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RE: 2017 August Update

DATE: September 5, 2017

The Legislature reconvened from Summer Recess on August 21st to finish their last month of the first year of the 2017-18 Legislative Session, and will adjourn on September 15th.

Friday, September 1st was the last day for fiscal committees to meet, therefore any legislation with a fiscal impact have either passed Suspense and went to the Floor or have died in Suspense. September 5th-September 15th will be Floor Session only, which means that any legislation that did not pass through the second house and later concurred in the house of origin will become a two-year bill. The Legislation that will pass both houses of the Legislature will go to the Governor's Desk, and the Governor will have until October 15th to act on the legislation, or they will become law beginning January 1st, unless there is an exception in the bill that would postpone implementation.

On July 10th, The Governor and Leadership announced a deal on a legislative package that extended cap and trade and the new air quality program, which consisted of long negotiations between the Legislature, Administration, and the stakeholders of the environmental industry. On July 17th both houses of the legislature passed the cap and trade extension bill, AB 398 (E. Garcia) in the Assembly with a 55-22 vote, and in the Senate with a 28-12 vote, while the air quality companion bill, AB 617 (C. Garcia) passed the Assembly 50-24, and the Senate 27-13. On July 25th, Governor Brown signed AB 398 (E.Garcia), and then signed AB 617 (C.Garcia) on July 26th.

The Governor along with Speaker Rendon and Pro Tem Kevin de Leon announced on July 17th that they plan to pass a package of bills to address the housing crisis in California. The Governor has now linked the housing package along with the water and park bond, which is in AB 18 (E. Garcia) and SB 5 (De Leon). The housing and park bond package is currently being negotiated behind the scene, and was done as part of negotiations during the cap and trade program. Besides the housing funding sources which are SB 2 (Atkins) and SB 3 (Beall), there are a couple housing policy bills that are rumored to be in the package, including bills that will streamline the development process, including – SB 540 (Roth), AB 73 (Chiu), SB 35 (Wiener). As well as other bills that include, AB 1505 (Bloom), SB 277 (Bradford) and AB 1568 (Bloom) that will give local governments a new way to promote housing development and affordability. The specifics on the housing and park bond package are still being negotiated, and could be voted on as soon as the week of September 4th.

Meanwhile, on August 23rd, the Senate Energy Committee held an oversight hearing on the growth of Community Choice Aggregators, which included speakers from the California Public Utilities Commission, the Department of Economics at UC Davis, and a variety of other

stakeholders. They discussed the motivation and reason for forming CCA's, which included local control, local economic development, renewable energy and lower rates.

The County's sponsored legislation, AB 556 (Limon) has passed the Senate Floor and is currently on the Assembly Floor for concurrence in Senate amendments. On June 28th, Supervisor Hartmann and Cliff Berg testified at the Senate Governance and Finance Committee hearing in support of AB 556 (Limon) which passed the Committee with a 6-1 vote.

In its current form, AB 556 (Limon) would change the current \$100 maximum fine for a single occurrence or \$500 maximum after multiple violations of local zoning codes or permit conditions, to allow the County the option to increase these fines to \$150 for a first time violation and up to \$2,500 per violation after three or more violations, and would allow counties to impose larger administrative fines for professionally organized special events that are held on private property and are commercial in nature.

Cap and Trade

On July 25th and 26th the Governor signed AB 398 (E. Garcia), which extends California's cap and trade through December 2030, and AB 617 (C. Garcia), which creates a new air quality program in California.

Senator Hannah-Beth Jackson's and Assemblymember Monique Limon's office sent a letter to the County's Departments and the County's Supervisors for project ideas that would require the Greenhouse Gas Reduction Funds from the 2017-18 round of funding. The negotiations for the appropriations of funding are still ongoing.

AB 398 (E.Garcia) requires:

- The California Air Resources Board (CARB) to set cost containment measures, including a price ceiling, speed bumps, offset credit limits, and industry assistance factors for allowance allocation
- The establishment of a Compliance Offsets Protocol Task Force to advise CARB on establishing new offset projects that have direct environmental benefits, while prioritizing disadvantaged communities, Native American or tribal lands, and rural and agricultural regions
- The establishment of an Independent Emissions Market Advisory Committee to report to CARB and the Legislature on the environmental and economic performance of cap and trade
- The California Workforce Development Board to report on the need for increased education and job training to help transition labor-market changes
- CARB to update the Scoping Plan by January 1, 2018
- The establishment of funding priorities for the allocation of cap and trade funds until January 1, 2031, as follows: air toxic and criteria pollutants from stationary and mobile sources; low and zero-carbon transportation; sustainable agricultural practices that promote the transitions to clean technology, water efficiency, and improved air quality; healthy forests and urban greening; short-

lived climate pollutants (such as methane); climate adaptation and resiliency; climate and clean energy research

- Prohibit local air districts from adopting additional emissions reduction rules from stationary sources that are subject to cap and trade
- Suspension of the State Responsibility Area (SRA) fee effective July 1, 2017, until January 1, 2031
- Extending the 3.94 percent state current exemption from sales and use taxes (SUT) for certain purchases of property used for generation of electric power until July 1, 2030; exempts city and county sales and use taxes

AB 617 (C.Garcia) requires:

- Stationary sources to report annually emissions of criteria air pollutants and toxic air contaminants
- CARB to prepare a statewide strategy to reduce air emissions in communities with a high cumulative exposure burden and update the strategy every five years, determine high priority locations to deploy community level air monitoring systems, and authorize the local air district in selected locations to require stationary sources to deploy fence-line monitoring systems
- The local air districts to develop and implement plans for the communities that have high cumulative emission burdens to achieve emission reductions from mobile and stationary sources. Plans will be required to have reduction targets, specific reduction measures, and an implementation schedule
- The local air districts that have not attained air pollutant goals under the federal Clean Air Act to expedite retrofits of industrial sources
- An increase the penalty for air pollution violations from \$1,000 per day to \$5,000 per day and increases the maximum penalty annually based on the Consumer Price Index

Tribal Tax Issues

AB 653 (Ridley-Thomas) is legislation sponsored by the Chumash Tribe, which was amended on August 23rd to state that beginning the 2018-19 fiscal year, property owned in fee or held in trust by a federally recognized Indian Tribe, or owned in fee or held in trust by a charitable nonprofit organization is exempt from taxation if the following conditions are met: The tribe has submitted an initial written request or trust application to the US Department of the Interior and the department has determined that the initial written request trust application is complete, and that the tribe has submitted both of the following to the assessor: documents establishing that the tribe is federally recognized and documents establishing that the initial written request or trust application is under consideration by the US Department of the Interior. The property is used primarily for tribal housing, an essential governmental function, or other charitable purposes including but not limited to, tribal religious, education, museum, hospital, and cemetery facilities or for the preservation of agriculture and open space.

AB 653 was set for hearing in the Senate Governance and Finance Committee on August 30th. After lengthy discussions between the sponsors, the County, our legislative delegation, CSAC and the rural counties, the sponsors and author decided to cancel the hearing.

It is our understanding that the sponsors of the bill are planning on working on possible ways to address their issues with the County of Santa Barbara, CSAC and RCRC during the fall interim. Current discussions include looking at broadening the current property tax exemption for affordable tribal housing.

No Place Like Home

No Place Like Home divides potential bond funding into a complete pot of \$1.8 billion and a non-competitive pot of \$200 million, which counties will compete for within their own population tier with Los Angeles being in a tier of their own. The program will target three kinds of populations which are the chronically homeless, the homeless and at-risk of chronic homelessness. All target population must be adults living with a diagnosed serious mental disorder, children or adolescents with a serious emotional disturbance.

On August 21st the HCD released the NPLH Program guidelines. Every month, CSAC holds a NPLH technical working group and reported that the California Health Facilities Financing Authority have already approved the guidelines with the rest of the No Place Like Home Program, including all of the financing aspects. The guidelines were sent to the Attorney General's Office, and once the Attorney General's Office files the validation, all conversations on the interpretation of the guidelines or discussions about the process can be considered part of the record and can be used in the court validation. HCD are planning for a court ruling by spring, although the process could take up to two years. After the guidelines have been finalized, HCD will have a NOFA out within 150 days. The next CSAC NPLH Technical Committee working group will meet Friday, September 22nd from 9:30-11am. We will keep the County informed as the implementation of the NPLH program continues.

Cannabis

The passage of Prop 64 allowed the recreational use of marijuana in California which created a number of cannabis bills, trailer bill language and regulations by the Bureau of Marijuana Control and CalCannabis, which will shape cannabis cultivation, retail sale, manufacturing, and distribution in California.

In addition to Prop 64 which was approved in 2016, the Governor signed into law the Medical Cannabis and Regulatory Safety Act (MCRSA) in 2015. These two laws contain several differences, therefore in addition to the \$94.6 million appropriated in the budget to implement California's cannabis laws, the budget package included an updated trailer bill, SB 94, that reinforced the medical and adult-use cannabis regulatory frameworks that were established under the Medical Cannabis and Regulatory Safety Act (MCRSA) and Proposition 64, into one single regulatory system for commercial cannabis activity, known as the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act (MAUCRSA).

The new package includes a number of priority items for local governments, including maintaining comprehensive local control and taxation authority while also creating a more streamlined approach for the state-local licensure process.

Although the Department of Food and Agriculture and CalCannabis published their proposed draft regulations for implementing the Medical Cannabis Regulation and Safety Act (MCRSA) in April, the 2017-18 state budget passed trailer bill legislation changed current law. In order to be consistent with changes in the law, the Bureau will have to withdraw proposed regulations and propose a set of new regulations. Meanwhile, the CalCannabis Cultivation Licensing program prepared a Draft Program Environmental Impact Report in accordance to CEQA, which provides information of potential environmental effects associated with the implementation of cannabis cultivation regulations. CalCannabis is anticipating issuing state cannabis cultivation licenses beginning January 1, 2018.

Cannabis Related Legislation

AB 64 (Bonta) contains a variety of provisions. It adds clarity about for-profit and non-profit types of businesses operating under the Medical Cannabis Regulation and Safety Act (MCRSA), and makes changes to storefront access requirements and restrictions on advertising. AB 64 also makes changes to trademark laws and certain marks related to cannabis that are lawful under state law, and advances a \$3 million loan from the state's general fund to the California Highway Patrol for adopting protocols to determine driver impairment. The bill was held on suspense, and is now a two-year bill.

Licensing and Testing

AB 171 (Lackey) requires reporting on conditional licenses issued by the state. The bill is on the inactive file for this year.

AB 238 (Steinorth) relates to collective bargaining agreements and employees of licensed distributors. The bill is on Senate Floor on its third reading.

AB 1527 (Cooley) would prohibit a former employee of a state or local licensing authority from being employed by a person or entity licensed under AUMA or MCRSA for at least one year.

The author cancelled the hearing; therefore this bill will most likely become a two-year bill.

SB 311 (Pan) relates to testing, and would authorize a licensee to perform testing of cannabis or cannabis products obtained from another licensee for the purpose of quality assurance. The bill is now a two-year bill.

Packaging and Advertising

AB 175 (Chau) would require manufacturers of edible cannabis products to submit packaging and labeling to the state for review of compliance with requirements of Prop 64, including child resistant packaging and labels that do not appeal to children. The bill is now a two-year bill.

AB 350 (Salas) specifies that cannabis products are deemed to appeal to children or easily confused with commercial candy if the product is in the shape of a person, animal, insect, fruit, or any other shape associated with candy. The bill is on the Senate Floor, on its third reading.

SB 663 (Nielsen) specifies that a package or label of cannabis or cannabis products is deemed to be attractive to children if the package or label has specific characteristics, including resembling any candy, snack food, baked good, or beverage commercially sold without marijuana. The bill is currently enrolled, and sent to the Governor's Desk.

AB 420 (Wood) requires advertisements for medical cannabis to identify the responsible licensee. The bill was held on suspense, and is now a two-year bill.

State Requirements

AB 389 (Salas) would require the state to post a consumer guide on the regulation of medical and recreational cannabis online. The bill is now a two-year bill.

AB 1002 (Cooley) would rename the existing California Marijuana Research Program as the Center for Cannabis Research and would expand the purview of the program, including cultivation for research purposes and examining testing methods for detecting harmful contaminants in marijuana, including mold and bacteria. The bill was held on suspense, and is now a two-year bill.

AB 1135 (Wood) relates to public stakeholder input on disbursements to the Department of Health Care Services from the California Marijuana Tax Fund. This bill is now a two-year bill.

AB 1627 (Cooley) transfers the regulation of testing laboratories under AUMA from the State Department of Public Health to the Bureau of Marijuana Control. The bill is now a two-year bill.

Finance and Tax Issues

AB 963 (Gipson) addresses various aspects of taxation related to cannabis. It would require distributors to provide retailers with evidence of prepayment tax amounts collected, and then allow the retailers to credit the prepayments against the amounts due for the same period. AB 963 would authorize a system for prepayment of the excise tax that utilizes stamps or other markings. It also makes changes to taxable sales of medical cannabis products to persons with identification cards, including requiring county health departments to issue identification cards with the capability of storing data, and would limit the sales and use tax exemption for medical purchasers to only sales made with these types of cards. AB 963 would adjust the suspension, revocation, or denial of state permits in some cases related to taxation. Finally, the bill would extend the pilot program for combating criminal tax evasion until January 1, 2020 – with a Cannabis Criminal Enforcement Team to work on these issues specifically. The bill is on the inactive file per the Author's request.

AB 844 (Burke) would change requirements for grantees applying for funding through the California Marijuana Tax Fund. The bill was held on suspense, and is now a two-year bill.

AB 1410 (Wood) relates to taxation and would require licensed distributors to collect cultivation taxes at the time of completion of quality assurance, inspection, and testing. It would require the licensed distributor to file the tax return, instead of the licensed cultivator, and all licensed distributors would need to obtain a separate permit for that work. The bill is on the Senate Floor, on its third reading.

Public Safety

SB 698 (Hill) sets standards for driving under the influence, and would make the first violation punishable as an infraction, requiring successful completion of a three-month program and installation of an ignition interlock device for six months. This bill is now a two-year bill.

AB 903 (Cunningham) would amend AUMA by requiring the Highway Patrol to use funding from the California Marijuana Tax Fund to study the viability of standards for marijuana impairment. This bill was held on the suspense file.

AB 729 (Gray) would require license suspension for certain types of violations. It would also require licensees to post signs visible from public entrances to indicate “No Person Under 21 Allowed,” among other security measures; AB 729 also prohibits the sale or distribution of cannabis or cannabis products in a vending machine. The bill would authorize licensees and employees to refuse to sell cannabis to a person unable to produce adequate identification, and would authorize peace officers or local and state licensing authorities the ability to enter and conduct inspections. AB 729 also contains zoning restrictions, and would prohibit licensees from being located within a 600-foot radius of a playground, hospital, or church, unless a local authority or licensing authority specifies a different radius. This bill did not pass the Assembly.

Interactions with the Federal Government

AB 845 (Wood) would, if federal law authorizes the prescription of a controlled substance containing cannabidiol, a physician to prescribe that substance in accordance with federal law. The bill was held on suspense, and is now a two-year bill.

AB 1578 (Jones-Sawyer) would prohibit a state or local agency from taking certain actions to assist a federal agency investigate, detain, detect, report or arrest a person for cannabis activity that is authorized by the state of California, unless ordered by a judge. The bill is on the Senate Floor, and is on its third reading.

Park and Water Bond

The Governor linked the housing package along with the water and park bond, which is in AB 18 (E. Garcia) and SB 5 (De Leon). The County’s proposed language regarding the Gaviota Coast was incorporated into AB 18 (Garcia), but the package is still currently being negotiated behind the scene.

AB 18 (E. Garcia) The bill would enact the California Parks, Water, Climate, and Coastal Protection and Outdoor Access For All Act of 2016, which, if approved by the voters, would authorize issuance of State General Obligation bonds. The bill was amended on August 30th to amend the amount of \$3.105 billion to \$3.470 billion, to finance parks, water, climate adaptation, coastal protection, and outdoor access programs. The legislation passed the Assembly Floor 54-19 on March 20th, and was referred to Senate Natural Recourses and Senate Governance and Finance Committees. On August 31st, the bill passed the Senate Governance and Finance Committee 4-1 and re-referred to the Committee on Senate Appropriations. The Governor has tied the legislation to the Housing Package, which is currently under negotiation. We have asked our delegation about including language to prioritize funding for the Gaviota Coast, the negotiations are still pending.

SB 5 (De Leon) This bill proposes the Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018, subject to voter approval in the November, 2018, election. The bill was amended on September 5th and will now propose the issuance of \$3.997 billion in general obligation bonds to implement its provisions. The legislation passed the Senate Floor 31-9 on May 30th, and passed the Assembly Water Parks and Wildlife Committee on August 31st with an 11-2 vote. The bill was read a second time on September 5th and amended, and will now be awaiting its second reading. Similarly to AB 18 (Garcia), the Governor has tied the legislation to the Housing Package, which is currently under negotiation. We are in discussion of including funding for the Gaviota Coast.

Bills of Interest to the County

AB 114 (Public Health) The County is in strong support of the MHSA trailer bill because it would preserve critical MHSA funding that might otherwise be clawed-back to the state, which would reduce the local control granted in MHSA to implement the local plan to address Santa Barbara County mental health needs. The trailer bill has been chaptered on July 10th, and is now law.

AB 334 (Cooper) Federal VAWA legislation passed in 2011 mandated the provision of free sexual assault forensic medical exams for patient/victims who do not want to cooperate with law enforcement agencies. The original California statute passed in 1977 mandating that local law enforcement agencies pay for sexual assault exams was amended after 35 years to comply with VAWA. The amended statute specified that law enforcement agencies could be reimbursed \$300 by Cal OES out of their State VAWA appropriation for exams involving the non-cooperative patient/victim. The legislation passed the Senate Judiciary Committee with a 6-1 vote, and will now be heard in the Senate Public Safety Committee on July 11th. The County is in support of the bill. The Author pulled the bill out of the Senate Public Safety Committee; the bill is now a two-year bill.

AB 556 (Limon) The bill would allow Counties to impose larger administrative fines for one-time violations of the County's ordinances specifically where permits are available and when knowledgeable businesses chose to ignore the required permit. The bill will focus on one-time events that purposely don't acquire a permit due to the fee of the permit costing less than the violation fine. The County is sponsoring the bill. The bill passed the Senate Governance and Finance Committee on June 28th with a 6-1 vote, and passed the Senate Floor 30-10, and is now going to the Assembly for concurrence in Senate amendments.

AB 653 (Ridley-Thomas) legislation sponsored by the Chumash Tribe, which was amended on August 23rd to state that beginning the 2018-19 fiscal year, property owned in fee or held in trust by a federally recognized Indian Tribe, or owned in fee or held in trust by a charitable nonprofit organization is exempt from taxation if the following conditions are met: The tribe has submitted an initial written request or trust application to the US Department of the Interior and the department has determined that the initial written request trust application is complete, and that the tribe has submitted both of the following to the assessor: documents establishing that the

tribe is federally recognized and documents establishing that the initial written request or trust application is under consideration by the US Department of the Interior. The property is used primarily for tribal housing, an essential governmental function, or other charitable purposes including but not limited to, tribal religious, education, museum, hospital, and cemetery facilities or for the preservation of agriculture and open space. The legislation passed the Assembly Floor with a 75-1 vote, and has been referred to the Senate Governance and Finance Committee. The Author of the bill cancelled the hearing, and the bill will now become a two-year bill. The County opposes the legislation.

AB 722 (Limon) The bill would allow a member of the Santa Barbara County Board of Supervisors or by any public officer of the County of Santa Barbara or his or her deputy to serve on the board of directors of the Isla Vista district. The bill passed the Assembly Floor 60-13, and passed the Senate Governance and Finance Committee 7-2. The bill then passed the Senate Floor with a 27-12 vote, and is currently in the Assembly for concurrence in Senate Amendments. The County's position is still pending.

AB 1250 (Jones-Sawyer) The bill would establish requirements for a county before it may enter into a contract with a "firm" for personal services, with limited exceptions. The term "firm" is defined as corporation, partnership, nonprofit organization, or sole proprietorship. The term "personal services" is not defined in the relevant code sections or any of the cross-referenced code sections. The bill passed the Senate Governance and Finance Committee on July 12th with a 4-2 vote, with Sen. McGuire abstaining. The bill was heard in the Senate Appropriations Suspense File, and was sent to the Senate Rules Committee for further negotiations because many Legislators had concerns with the bill. Senator Scott Wiener (San Francisco – D) mentioned that he was concerned on the impact to the nonprofits and their services, while Senator Bates (Laguna Hills – R) similarly said that the bill would hurt nonprofits and the people they serve. The Chair of the Committee claimed that there needs to be more negotiations on the bill. The bill was amended on September 5th, but the amendments do not change the positions of the nonprofits, and CSAC. The County remains in strong opposition to the bill.

AB 1472 (Limon) The bill details in statute what the California State Lands Commission (SLC) may take into consideration when reviewing an application to assign, transfer or sublet a lease or permit of state lands for oil and gas production. Assemblymember Limon has asked the County for support of the bill, and the County is currently looking at amendments. The bill passed the Senate Natural Resources Committee 9-0 on June 13th, and was enrolled July 10th, but was vetoed by the Governor with a message that said, "This bill outlines the factors that the CA State Lands Commission may consider when evaluating an application to assign, transfer, or sublet oil and gas lease. The Commission currently has broad authority to assess whether an applicant is able to meet the obligation under the proposed lease. Therefore the bill is unnecessary."

SB 1 (Beall/Frazier) The merged legislation proposes an additional 5.2 billion annually for road repairs and mass transit, by readjusting the state's obsolete gas tax and reform the user-pays system to ensure all motorists contribute their fair share to the maintenance of the roads. The bill was signed by the Governor on April 28th.

SB 44 (Jackson) The legislation requires that for the fiscal year (FY) 2018-19, out of those funds deposited into the General Fund by the commission from tideland oil revenues that the sum of \$2 million be transferred to the fund and be available, upon appropriation, for the purpose of implementing the coastal hazard and legacy oil and gas well removal and remediation program. The legislation has passed the Assembly Natural Resources Committee on July 10th with a 10-0 vote and has passed the Assembly Appropriations Committee 16-0. The bill is now on second reading on the Assembly Floor. The County is supporting this legislation.

SB 190 (Mitchell) The proposed bill would have fees related to local home detention programs be only payable by adults. SB 190 would remove the County's ability to send Institution accounts to the FTB COD leaving accounts uncollectible. The bill also repeals the following: \$100 per day fee for parents who refuse to pick up their minor children from the County's Juvenile Hall or Los Prietos Boys' Camp, the public defender fees paid by parents for their minor child's legal representation, and the Foster Parent training fund. The bill passed the Assembly Public Safety Committee on June 27th with a 6-0 vote, and has passed the Assembly Appropriations Committee 9-1. The bill passed the Assembly Floor 57-9, and is currently in the Senate for concurrence in Assembly amendments. The County opposes the bill.

SB 588 (Hertzberg) This bill substantially revises the existing state rigs-to-reefs program that allows for the partial removal of oil and gas platforms in state or federal waters if the remaining portion is converted into an artificial reef and certain conditions are met. The bill passed the Assembly Water, Parks and Wildlife Committee on June 29th with a 12-2 vote, and then was referred to the Assembly Natural Resources Committee but didn't meet the policy deadline, therefore is now a two-year bill. County opposes the bill.

SB 649 (Hueso) This bill establishes a statewide framework for streamlining the permit siting process of small cell wireless facilities that meet specified requirements. Specifically, this bill requires an administrative permit in lieu of a discretionary permit, limits fees to between \$100 and \$850 for small cell installations in the utility right-of-way, ensures access to most vertical infrastructure in the utility right-of-way and also within a commercial or industrial zone. This bill also requires permits for wireless telecommunications facilities would be automatically renewed for equivalent durations. The bill passed the Assembly Communications and Conveyance Committee on July 12th with a 10-0 vote. The bill passed the Assembly Appropriations Suspense File, and is on the Assembly Floor on its Second Reading. County is opposed to the bill.

Conclusion

The Legislature reconvened from Summer Recess on August 21st, and will be on Floor Session the last two weeks for Session. The Legislature will finish its work on September 15th and adjourn, while the Governor will then have until October 15th to sign or veto bills that reach his desk.

We will continue to work with staff on the many bill and budget items that are moving and keep the committee and Board updated. As always, should you or your staff have any questions, please don't hesitate to let us know.