



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Annual Review of New Laws (Information Only)

DISCUSSION

The League of California Cities (LCC) published its annual LCC Legislative Report, which summarizes laws passed in the 2019 calendar year and includes an analysis of their potential impact on cities. This informational report provides a highlight of new laws that will impact the City of Sunnyvale and recently passed laws with impacts beginning in 2020 as well as a preview of draft legislation that will be taken up in the second year of the legislative session.

City Manager's Office

AB 571 (Mullin) Political Reform Act of 1974: contribution limits.

Summary: Establishes default campaign contribution limits for elective county or city office at the same level as the limit on contributions from individuals to candidates for Senate and Assembly, effective January 1, 2021. A county or city may establish its own contribution limits, which would prevail over default limits.

Service/Operational Impact: The City of Sunnyvale does not currently have campaign contribution limits. If no action is taken to establish campaign contribution limits, candidates for Council and Mayor (if Measure B passes) would be subject to state contribution limits beginning January 1, 2021.

Human Resources

AB 9 (Reyes) Employment discrimination: limitation of actions.

Summary: The California Fair Employment and Housing Act makes specified employment and housing practices unlawful, including discrimination against or harassment of employees and tenants, among others. This law extended the one-year filing period to 3 years for complaints alleging employment discrimination.

Service/Operational Impact: Employees will have an additional two years to file complaints of harassment and/or discrimination for charges arising from incidents occurring after January 1, 2019. This law could expose public employers to costly litigation and increase employment practices liability. *Sunnyvale OPPOSED, through our membership in CJPRMA and CAJPA.*

SB 542 (Stern) Workers' Compensation. Traumatic Treatment Act.

Summary: This new law provides only until January 1, 2025, that in the case of certain state and local firefighting personnel and peace officers, the term "injury" also includes post-traumatic stress that develops or manifests itself during a period in which the injured person is in the service of the department or unit. The bill would apply to injuries occurring on or after January 1, 2020.

Service/Operational Impact: Negative fiscal impact. Dating back to January 1, 1990, Sunnyvale has incurred 13 stress related claims by public safety personnel with 4 claims being denied and 9 claims being accepted. Of the 9 accepted claims, only 2 of these claims were diagnosed and accepted as post-traumatic stress injury (PTSI). With this new presumptive injury category under the Labor Code, the City will now bear the burden of proof that a PTSI injury is not job related. It is anticipated that these types of claims will increase over time thereby increasing the cost of workers' compensation liabilities to the City. It remains unclear what happens to this legislation beyond the January 1, 2025 sunset provision. Sunnyvale OPPOSED SB 542 via correspondence on June 3, 2019.

Human Resources - Draft Legislation

SB 266 (Leyva) Public Employees' Retirement System: disallowed compensation: benefit adjustments. (Pulled by author, but may be amended and acted upon in January 2020).

Summary: SB 266 would require public agencies to directly pay retirees and/or their beneficiaries disallowed retirement benefits using general fund dollars. SB 266 places 100 percent of the total liability for such overpayments on public agencies-abdicating all responsibility previously held by CalPERS to ensure that retirement benefits are calculated and administered correctly. As such, SB 266 is a de facto and retroactive benefit enhancement measure that will further strain local agency budgets at a time where retirement obligations are effectively eliminating agencies' ability to provide critical services to the public.

Service/Operational Impact: Beginning with the 2018/19 Budget, the City established a Trust Account to offset rising costs of actuarially determined CalPERS and Other Post-Employment Benefits (OPEB) for the City's future retirees. This Trust Account is budgeted to be annually funded for the next ten fiscal years. SB 266 would disrupt the City's ability to offset these rising costs and could give rise to a gift of public funds in violation of the California Constitution. This measure would also require cities to track and maintain current records of all retirees and their beneficiaries to facilitate direct payments. Sunnyvale OPPOSED via correspondence on July 8, 2019.

Community Development

AB 1763 (Chiu) - 100% Density Bonus and Other Incentives for 100% Affordable Housing.

Summary: California's current Density Bonus Law allows developers to take advantage of a by-right density bonus for up to a 35% increase in residential units, depending on the number of affordable residential units they provide. In addition, they have access to other incentives or concessions to help ease construction. AB 1763 allows developers of 100% affordable housing developments, typically non-profit developers, to receive a density bonus up to 80%; however, development projects located within ½ mile of a major transit stop are now exempt from any maximum controls on density with no more than one-half parking spot required per unit. Developers under AB 1763 can also receive up to 4 incentives or concessions and, if the development is located within ½ mile of a major transit stop, a by right height increase of up to 3 additional stories or 33 feet.

Service/Operational Impact: The City has a variety of major transit stop locations near land zoned for residential use and VTA launched a new service schedule at the end of 2019. This legislation limits the City's ability to impose density, parking, and height requirements on certain affordable housing developments. While the City supports legislation focused on providing affordable housing, the City does not support loss of local control. Staff expects to see two separate developments apply for planning entitlements under this legislation in 2020.

AB-1482 (Chiu) Tenant Protection Act of 2019.

Summary: This bill places a limit of 5% plus inflation on annual rent increases to prevent landlords from engaging in rent-gouging by evicting tenants. This bill also requires landlords to have just cause for evicting tenants who have occupied the unit for one year or more. Both the rent cap and the just-cause provisions are subject to exemptions, including housing built in the past 15 years, single-family homes unless owned by a real estate trust or a corporation. AB 1482 sunsets after ten years and does not preempt any local rent control or just cause ordinances.

Service/Operational Impact: The City would not directly enforce the legislation. A tenant could raise the legislation as a defense to an unlawful detainer action, or file a private civil lawsuit against the landlord to enforce the provisions of the legislation. The City's Housing Division will likely see an increased amount of calls or emails in regards to needing assistance under this legislation. Additional funding may be requested by the City's human service partners to provide additional fair housing services.

SB 330 (Skinner). Housing Crisis Act of 2019.

Summary: SB 330 amends the Housing Accountability Act to further streamline residential development projects, and creates a more transparent development process by requiring jurisdictions to publish development application requirements, including fees. SB 330 also creates a "Preliminary Application" process in which a developer can lock in their development/impact fees by providing the City with limited information (set forth in the bill) prior to submittal of their formal application.

Service/Operational Impact: This bill significantly changes the development application process for residential development in the City. Staff has recently put in place internal checklists for residential applications to ensure compliance. SB 330 still allows a City to analyze the project's environmental impact under the California Environmental Quality Act (CEQA). Locking in the fees at "Preliminary Application" phase may also result in less development related fees collected as fees increase on an annual basis. Sunnyvale OPPOSED via correspondence on June 17, 2019.

Community Development - Draft Legislation

SB 50 (Wiener). Planning and zoning: housing development: equitable communities incentive. (Failed deadline, but may be acted upon in January 2020)

Summary: After SB 827 failed, State Sen. Scott Wiener reintroduced a new bill that addresses concerns about displacement of existing renters. Like SB 827, SB 50 prevents cities from banning high density residential construction in zones that are within a half mile of rail transit access, within a quarter mile of a high-frequency bus stop, or within a "job-rich housing project." It also creates new rights to build additional housing units in single-family zoning districts under certain circumstances.

Service/Operational Impact: This bill would further remove local control over the project approval process. Sunnyvale OPPOSED via correspondence on March 25, 2019 and May 13, 2019.

Public Safety

AB 392 (Weber). Peace officers: deadly force.

Summary: This bill redefines the circumstances under which a homicide by a peace officer is deemed justifiable to include when the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person, or to apprehend a fleeing person for a felony

that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless the person is immediately apprehended. The bill would also affirmatively prescribe the circumstances under which a peace officer is authorized to use deadly force to effect an arrest, to prevent escape, or to overcome resistance.

Service/Operational Impact: This law will have an impact on processes that are already in place at the Department of Public Safety (DPS), with a potential to increase workload. AB 392 may require additional review and revision of the department's existing Use of Force Policy.

SB 230 (Caballero) Law enforcement: use of deadly force: training: policies.

Summary: This measure establishes guidelines to standardize use-of-force training statewide. It requires law enforcement agencies to maintain an internal policy that provides specified guidelines on the use of force, utilizing de-escalation techniques, and other alternatives to use of force, specific guidelines for the application of deadly force, and factors for evaluating and reviewing all use of force incidents. Internal policies must be accessible to the public.

Service/Operational Impact: This law will impact processes already in place in DPS, with a potential to increase workload. SB 230 will require additional Peace Officer Standards and Training coursework and training for sworn staff.

AB 1297 (McCarty) Firearms: concealed carry license.

Summary: This measure requires, rather than authorizes, a local licensing authority to charge a fee equal to the reasonable costs associated with processing a concealed carry weapon (CCW) license application, issuing a CCW license, and enforcing the license. It also removes the prohibition on charging a fee of more than \$100.

Service/Operational Impact: AB 1297 will change the City's authority to issue Concealed Carry Licenses. Currently, the City fee schedule contains a nominal \$100 fee for issuance of a Concealed Weapons Permit, with a \$25 renewal fee. This measure will require the City to charge a fee equal to the reasonable costs associated with processing a concealed carry weapon (CCW) license application, issuing a CCW license, and enforcing the license, which will increase cost recovery.

Public Safety - Draft Legislation

AB 1288 (Cooley) Cannabis. Track and Trace. (Held in suspense in Assembly Appropriations Committee)

Summary: The law would require that the California Bureau of Cannabis Control fully integrate its current track and trace system for cannabis distribution with the California Law Enforcement Telecommunications System (CLETS) no later than July 1, 2020.

Service/Operational Impact: Access to CLETS data will enhance investigations of related crimes in Sunnyvale. Staff will watch this bill.

SB 23 (Wiener) Unlawful Entry of a Vehicle. (Held in suspense in Assembly Appropriations Committee)

Summary: The law would make forcibly entering a vehicle with the intent to commit auto burglary punishable by imprisonment in a county jail for a period not to exceed one year.

Service/Operational Impact: Under SB 23, law enforcement would retain the ability to appropriately prosecute individuals for damaging and stealing property. Sunnyvale SUPPORTED via correspondence on April 2, 2019.

Environmental Services

AB 827 (McCarty). Customer Access to Recycling.

Summary: Requires businesses to make organic waste and recycling bins accessible to customers at restaurants, malls, and other businesses, by July 1, 2020, to collect materials purchased on the premises. The bill exempts full-service restaurants.

Service/Operational Impact: Enforcement is complaint-based. There may be a minor impact to staff in terms of time spent on site visits.

SB 576 (Umberg). Coastal Resources. Climate Ready Program and Coastal Climate Change Adaptation, Infrastructure, and Readiness Program. Chapter 374, Statutes of 2019.

Summary: This measure establishes the Climate Ready Program to be administered by the State Coastal Conservancy (SCC), and requires the Ocean Protection Council (OPC) to develop and implement a coastal climate change adaptation, infrastructure, and readiness program to recommend best practices and strategies to improve the climate change resiliency of the state's coastal communities, infrastructure, and habitat. This Bill rephrases previously outlined responsibilities of the SCC and the OPC related to climate preparedness and adaptation into a formal program entitled the Climate Ready Program. The Bill authorizes the SCC and OPC to work with coastal communities to be better prepared for climate change impacts.

Service/Operational Impact: This bill may apply to Sunnyvale, depending on how coastal communities are defined. It also does not articulate the extent or format of coordination with local communities that would be needed under the Program. If applicable to Sunnyvale, a moderate amount of staff time would be required for coordination with State entities.

SB 1383 (Lara). Short-lived climate pollutants (SLCPs): methane emissions: dairy and livestock: organic waste: landfills. (Chaptered September 19, 2016)

Summary: Among its many goals, a top goal is reducing statewide methane emissions through reduced landfilling of organic waste (yard trimmings, food scraps, paper, wood, and more). SLCPs are powerful greenhouse gases much more potent than carbon dioxide and have dramatic and detrimental effects on human health and climate change. Reducing these emissions will have immediate beneficial impacts on climate and public health. This bill also aims to divert 20% of edible food that is currently being disposed of, to be recovered for human consumption by 2025. In addition to avoiding landfill methane emissions, the diversion of edible food from landfills allows for a new opportunity to feed the millions of food insecure Californians.

Service/Operational Impact: The current draft regulations as a result of SB 1383 require agencies to provide organics recycling programs, create mandatory participation policies, increase edible food recovery efforts, and subject residents and businesses to systematic enforcement of organics recycling program participation. SB 1383 will have significant impact on staff to implement new programs, conduct outreach, and ensure compliance. Sunnyvale SUPPORTED via correspondence on March 4, 2019.

Environmental Services - Draft Legislation

SB 332 (Hertzberg). Wastewater treatment: recycled water. (Held in committee and under submission)

Summary: Would declare that the discharge of treated wastewater from ocean outfalls is a waste and unreasonable use of water. The bill would require wastewater treatment facility that discharges through an ocean outfall to reduce the facility's annual flow by at least 50% on or before January 1, 2030, and by at least 95% on or before January 1, 2040. The bill would subject the owner or operator of a wastewater treatment facility, as well as the affiliated water suppliers, to a civil penalty of \$2,000 per acre-foot of water above the required reduction in overall volume discharge for the failure to meet these deadlines.

Service/Operational Impact: Would require the City to reduce discharge through our outfall to the Bay, likely through increased recycled water production/distribution. Would likely require significant capital investment in increased tertiary treatment capacity, advanced treatment processes, and distribution infrastructure. Staff recommends opposing this legislation. While making the best and highest use of all water resources is a good idea, decisions with local impact are best left to local jurisdictions and not mandated by the state.

SB 667 (Hueso). Greenhouse gases: recycling infrastructure and facilities. (Awaiting hearing in Assembly Appropriations Committee)

Summary: Would require the Department of Resources Recycling and Recovery to develop a 5-year needs assessment to support innovation and technological and infrastructure development, to meet specified organic waste reduction and recycling targets, as provided. The bill would require the department to develop financial incentive mechanisms, including, among other mechanisms, loans and incentive payments, to fund and accelerate public and private capital towards organic waste diversion and recycling infrastructure.

Service/Operational Impact: SB 667 could potentially lead to additional funding sources for co-digestion of diverted organic waste at the City's water pollution control plant. Staff recommends a support position.

Finance

SB 205 (Hertzberg). Business licenses: stormwater discharge compliance

Summary: Requires cities to collect stormwater permit information from businesses in certain regulated industries when processing a business license.

Service/Operational Impact: Business license staff will need to determine if the business classification provided by the customer is within a regulated industry and, if so, work with the Environmental Services department to verify that the business is compliant with the National Pollution Discharge Elimination System (NPDES) permit program.

SB 998 (Dodd). Discontinuation of residential water service: urban and community water systems. (Chaptered September 28, 2018)

Summary: Passed in 2018, SB 998 requires a new and expanded set of policies and procedures for water utility shut offs by April 1, 2020.

Service/Operational Impact: The City already meets the following requirements outlined in this

measure: 1) prohibits water shutoff for persons with documented life threatening health concerns; 2) prohibits shutoff until the bill has been delinquent for 60 days; and, 3) reconnection fees are within the amounts set by the measure. An administrative policy is being established in accordance with the requirements of the bill, and will be provided to customers to explain our policies related to payment arrangements and discontinuation of water service. The bill also requires translation of the policy in multiple languages. Staff is working on these updates and expects to implement the policy by the April 1, 2020 deadline.

Public Works

AB 1768 (Carrillo). Prevailing Wage: Public Works..

Summary: This measure expands the definition of public works to include work conducted during site assessment or feasibility studies. This measure also adds preconstruction work, including design, site assessment, feasibility studies, and land surveying to be part of public works, regardless of whether any further construction work is conducted for purposes of paying prevailing wage.

Service/Operational Impact: Currently, DPW is monitoring 47 projects for prevailing wage. With the expanded definition, an increase in project monitoring is estimated to occur. At this time, there is no way to estimate the increased workload for staff. Additionally, some components are still unclear, such as potential cost increases based on employment classifications that may not currently be included in the Department of Industrial Relations Wage Determinations. In time, as the definition of “public works” continues to grow and new areas of prevailing wage monitoring are required, project costs will increase.

Information Technology

Information Services - Draft Legislation

H.R. 530 (Eshoo). Accelerating Broadband Development by Empowering Local Communities Act of 2019. (Referred to the Subcommittee on Communications and Technology on January 25, 2019)

Summary: This bill nullifies rules issued by the Federal Communications Commission that revoke state and local authority to regulate telecommunications equipment deployment.

Service/Operational Impact: If passed, the City would retain the right to manage public right-of-way and deployment of small cell wireless equipment. It would also prevent private small cell developers from circumventing comprehensive environmental impact reviews. Sunnyvale SUPPORTED via correspondence on April 5, 2019.

S. 1699 (Thune). STREAMLINE Small Cell Deployment Act.

Replaced S. 3157 (Thune) to streamline siting processes for small cell deployment. (Referred to the Committee on Commerce, Science, and Transportation on June 3, 2019 Summary: The proposed federal law would force the City to lease out publicly owned infrastructure for the installation of “small cell” wireless equipment. It would also prevent the City from negotiating fair leases for “small cell” sites and shelter the sites from environmental impact and design reviews.

Service/Operational Impact: The proposed federal law would allow “small cell” developers to circumvent environmental impact reviews thereby exposing the City’s environment, residents, and businesses to the potential harms of “small cell” technologies. It would also deprive the City of control over its infrastructure and limit the City’s lease revenue as it relates to “small cell” sites. Staff will

watch this bill.

NOVA

AB 593 (Carrillo) Unemployment insurance: use of information: public workforce development programs.

Summary: This bill would add a chief elected official of local workforce investment areas, as defined under federal law, to the list of entities permitted to use information obtained in the administration of the Unemployment Insurance Code, for the purpose of evaluating, researching, or forecasting the effectiveness of public workforce development programs when the evaluation, research or forecast is directly connected with those programs. This may include accessing any relevant quarterly wage data necessary for the evaluation and report of specified workforce program performance outcomes, as required, and permitted by various state and federal laws.

Service/Operational Impact: Under the previous statute, local workforce development programs that received funding from other sources of funding, beyond the federal Workforce Innovation and Opportunity Act (WIOA), were prohibited from accessing performance information from the State database for customers served through this other funding. This limited organizations' ability to determine program effectiveness. While NOVA's funding is primarily from WIOA, it is exploring new sources of revenue to enhance its services and, now with this new law, will be able to access performance information for all of the customers it serves, regardless of the funding source.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

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ATTACHMENTS

1. 2019 LCC Legislative Report