



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 2020 calendar year and includes an analysis of their potential impact on cities. This informational report provides a summary by department, on the impact of some of the newly passed laws to Sunnyvale, as well as consideration of potential legislation that may impact the City.

City Attorney's Office

AB 992 (Mullin) Open Meetings. Local Agencies. Social Media. Chaptered 9/18/20

Summary: The Brown Act prohibits a majority of members of a legislative body from meeting outside a properly noticed public meeting to “discuss, deliberate, or take action on an item” that is within the legislative body’s subject matter jurisdiction. (Government Code section 54952.2) AB992 amends Government Code section 54952.2 to clarify that most communications on social media are permissible. Under AB992 officials subject to the Brown Act can communicate with members of the public on social media, but cannot directly respond or react to anything posted or shared on social media regarding agency business by another member of the same legislative body.

Service/Operational Impact: This new law provides clarity surrounding social media conversations with constituents that was previously unclear or unaddressed in previous versions of the Brown Act. The bill also modernizes the Brown Act by capturing the City’s increased use of social media platforms to engage residents and provide information.

AB 2617 (Gabriel) Firearms. Gun Violence Restraining Orders. Chaptered 9/29/20

Summary: In addition to clarifying procedural changes, this bill provides that if a person who is prohibited in another state obtains a firearm in California, they may be subject to a misdemeanor.

Service/Operational Impact: This new law provides additional grounds for the Department of Public Safety (DPS) and the Office of the City Attorney (OCA) to seek a Gun Violence Restraining Order (GVRO) where there is an immediate and present danger and the prohibition of having or obtaining firearms is necessary for the protection of City residents. OCA and DPS have been very successful using the GVRO process to obtain firearms prohibitions in civil court.

SB 1146 (Umberg) Civil Procedure. Electronic Filing, Trial Delays, and Remote Depositions. Chaptered 9/18/20

Summary: This bill codifies several emergency court orders relating to trial court delays, remote court proceedings, and electronic service of documents.

Service/Operational Impact: The Office of the City Attorney (OCA) is actively managing and overseeing litigation in state and federal court and has already experienced delays or significant changes in procedure due to COVID-19 remote appearance requirements. This new law provides clarity on electronic service and remote appearances that may be required for some time.

Human Resources

AB 685 (Reyes) COVID-19. Imminent Hazard to Employees. Exposure. Notification. Serious Violations. Chaptered 9/17/20

Summary: Effective January 1, 2021, this bill requires that if an employer or representative of the employer receives a notice of potential exposure to COVID-19, the employer must take a prescribed set of actions within one business day of the notice of potential exposure.

Service/Operational Impact: Though this law goes into effect in 2021, Human Resources staff has been proactively conducting workplace risk assessments and notifying employees of exposures, potential exposures, and positive COVID-19 tests since April 2020.

Human Resources staff will continue to follow confidentiality laws and notify employees of exposures, potential exposures, and positive COVID-19 tests as follows:

- All employees of an affected workplace (department, divisions, etc.);
- The employee's exclusive representative, if any;
- Employers of subcontracted employees, who, in turn, must notify their employees of the same exposure; and,
- Employer reporting to CalOSHA (when specific criteria are met).

The employee notification includes information associated with COVID-19 related benefits, options for employee leave, disinfecting protocols, and workplace safety plans. City employees will comply with the July 2020 City of Sunnyvale COVID-19 Return-to-the-Workplace Protocols.

SB 1159 (Hill) Workers' Compensation. COVID-19. Critical Workers. Chaptered 9/17/20

Summary: Effective January 1, 2021, this bill requires that if an employer or representative of the employer receives a notice of potential exposure to COVID-19, the employer must take a prescribed set of actions within one business day of the notice of potential exposure.

This bill defines "injury" for an employee to include illness or death resulting from COVID-19 under specified circumstances, until January 1, 2023. The bill creates a disputable presumption that the injury arose out of and in the course of the employment and is compensable, for specified dates of injury. The bill limits the applicability of the presumption under certain circumstances. The bill requires an employee to exhaust their paid sick leave benefits and meet specified certification requirements before receiving any temporary disability benefits or, for police officers, firefighters, and other specified employees, a leave of absence. The bill also makes a claim relating to a COVID-19 illness

presumptively compensable, as described above, after 30 days or 45 days, rather than 90 days.

Service/Operational Impact: Human Resources staff has been tracking COVID-19 test results and illnesses since March 2020. The City has filed SB 1159 reporting as required since September, whether the positive cases are work related or not. Additionally, Human Resources staff works closely with the City's Workers' Compensation Third Party Administrator to ensure that staff provides appropriate information within the designated timeframe.

SB 1383 (Jackson) Unlawful Employment Practice. California Family Rights Act. Chaptered 9/17/20

Summary: This bill expands the California Family Rights Act (CFRA) to make it an unlawful employment practice for any employer with five or more employees to refuse to grant a request by an employee to take up to 12 workweeks of unpaid protected leave during any 12-month period to bond with a new child of the employee or to care for themselves or a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as specified. The bill also requires an employer who employs both parents of a child to grant leave to each employee.

Service/Operational Impact: Beginning on January 1, 2021, the California Family Rights Act (CFRA) will expand to cover children over the age of 18, grandparents, grandchildren and siblings. The City will offer CFRA to employees who are married (and both work as regular employees for the City) to both take up to 12 weeks of time off of work to bond with a new child (to be coordinated with any leave taken under the Family and Medical Leave Act (FMLA)). Human Resources staff will update information that is shared with new employees and with employees requesting leaves of absence to care for family members, including maternity and/or paternity bonding leave.

AB 2257 (Gonzalez) Worker Classification. Employees and Independent Contractors. Occupations. Professional Services. Chaptered 9/4/20

Summary: This bill provides that public agencies may engage in bona fide business to business relationships without having the contracted business be classified as employees under the AB 5 (2019) employment test.

Service/Operational Impact: Human Resources staff will need to analyze and assess if any changes are necessary for the Independent Contractor compliance checklist and, if so, will update as necessary.

AB 1867 (Committee on Budget) Small Employer Family Leave Mediation: Handwashing. Supplemental Paid Sick Leave. Chaptered 9/9/20

Summary: This bill establishes additional employer requirements related to the health and safety of employees during the COVID-19 emergency as follows:

- Establishes a COVID-19 Supplemental Paid Sick Leave program for workers not performing duties from home employed by entities with 500 or more employees or those employed as health care providers or emergency responders. This bill applies the supplemental leave provisions to public entities; and

- Requires a food employee working in any food facility to be permitted to wash their hands every 30 minutes and more often as needed.

Service/Operational Impact: Effective April 2, 2020, the City administered leaves under the Families First Coronavirus Response Act (FFCRA), which provides eligible employees with paid sick leave or expanded family and medical leave benefits for specified reasons related to COVID-19. The City and the Public Safety Officers Association (PSOA) further negotiated to make the leaves available to emergency responders. The COVID-19 related leave requirements under the FFCRA and AB 1867 are set to expire on December 31, 2020.

Pending Legislation

SB 1173 (Durazo) Public Employment. Labor Relations. Employee Information. (Failed deadline, but may be acted upon in 2021)

Summary: Existing law requires public employers to provide certain labor representatives with the names and home addresses of newly hired employees, as well as their job titles, departments, work locations, telephone numbers, and personal email addresses, within 30 days of hire or by the first pay period of the month following hire. This bill, beginning on July 1, 2021, would generally authorize an exclusive representative to file a charge of an unfair labor practice with the Public Employment Relations Board, as specified, alleging a violation of the above-described requirements and subject a violator to a penalty, not to exceed \$10,000, and would require the penalty to be deposited in the General Fund. The bill would require the board to award a party who prevails in these circumstances specified attorney's fees and costs.

Service/Operational Impact: SB 1173 would place substantial burdens on public employers who are making a good faith effort to provide employee information to labor representatives. The unfair labor practice claims would create financial damages to public agencies by increasing compliance and litigation costs rather than encouraging the labor unions to work cooperatively with public agencies to resolve matters without legal involvement. The City provides the required information to labor representatives on a pay period basis, which exceeds the requirement of existing law. Additionally, the City will maintain communication with the labor representative to ensure that they are receiving the required employee information. Sunnyvale OPPOSED via correspondence on July 6, 2020.

Community Development

AB 2345 (Gonzalez) - Planning and Zoning: Density Bonuses. Annual Report. Affordable Housing. Chaptered 9/28/20

Summary: Increases maximum state density bonus allowance to 50%. Lowers thresholds for when concessions can be requested and further reduces parking requirements for eligible projects. Requires annual reporting on multiple housing-related items including progress on meeting Regional Housing Needs Allocation (RHNA) numbers.

Service/Operational Impact: Development projects taking advantage of this new law will follow the current process; however, staff must get up to speed on the changes in order to effectively review such projects and understand if concessions apply. Additionally, annual reporting of projects that take advantage of this density bonus is required and will be conducted by the Housing Division when

required.

AB 2782 (Stone) Mobilehome Parks: Change of Use. Rent Control.

Chaptered 8/31/20

Summary: Amends the Mobilehome Residency Law to: extend the length of notice that parks must give to residents in certain instances, require fair market value be paid for mobile homes during closure or conversion, and allow long term leases signed on or after 2/13/20 to be included in mobilehome rent control policies. This bill also prohibits local authorities from a conversion/closure unless they find that it will not result in a shortage of affordable housing within the local jurisdiction.

Service/Operational Impact: Once further analysis on this new law is complete, staff will verify if any changes need to be made to our existing mobilehome park conversion ordinance. In addition, this new law will affect the upcoming Housing Strategy mobile home park (MHP) MOU process and staff will ensure the eventual MOU complies with all aspects of this new law.

Public Safety

AB 1872 (Committee on Budget) Cannabis. Chaptered 9/18/20

Summary: This bill prohibits the California Department of Tax and Fee Administration from adjusting the state excise tax on cannabis upward until July 1, 2021 and from adjusting the cultivation tax for inflation until 2021. This bill also clarifies that the Board of State and Community Corrections (BSCC) is prohibited from making grants to local governments that have banned both indoor and outdoor commercial cannabis cultivation or have banned the retail sale of cannabis or cannabis products.

Service/Operational Impact: The Department of Public Safety (DPS) received a BSCC grant in FY 2016/17 that funded officer training, a Youth Leadership Academy for three years, and a Citizen's Academy for two years. DPS will no longer be eligible for this type of funding. These are important programs and the department will seek alternative funding opportunities when COVID-19 restrictions are lifted.

AB 846 (Burke) Public Employment. Public Officers or Employees Declared by Law to be Peace Officers. Chaptered 9/30/20

Summary: This bill requires the Commission on Peace Officer Standards and Training to evaluate bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation during peace officer evaluations by a physician, surgeon, or psychologist. Under current law, peace officers are required to be evaluated to be found free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer. Additionally, this bill requires every law enforcement agency that employs peace officers to review and change the job descriptions used in the recruitment and hiring process to deemphasize the paramilitary aspects of the job and place more emphasis on community interaction and collaborative problem-solving.

Service/Operational Impact: The Department of Public Safety (DPS) will work with the Human Resources Department to review of job descriptions, ensuring that they de-emphasize paramilitary aspects of the law enforcement jobs and place more emphasis on community interaction and collaborative problem solving.

Public Works

AB 1286 (Muratsuchi) Shared Mobility Devices. Agreements. Chaptered 9/18/20

Summary: This bill requires shared mobility device providers to obtain a permit or agreement with the city or county it seeks to operate in and comply with all local operation, parking, maintenance, and safety rules. This bill also requires shared mobility device providers to maintain minimum commercial general liability insurance coverage of not less than \$1 million for each occurrence of bodily injury or property damage and not less than five million dollars aggregate for all occurrences during the policy period.

Service/Operational Impact: This law requires shared mobility device providers to comply with local operations, parking, maintenance and safety rules. It requires that a shared mobility provider obtain a City permit, which will generate income and allow staff to ensure that providers are in compliance with local rules. Additionally, this law requires the providers to have commercial general liability insurance before operating in a specified jurisdiction.

NOVA

SB 1447 (Bradford) Income Tax. Sales and Use Tax. Credit. Small Business. Chaptered 9/9/20

Summary: Referred to as “Main Street Hiring Credit” this bill creates a new small business hiring tax credit program, totaling \$100 million, that will disburse tax credits to small businesses, with 100 or fewer employees, who hire or rehire employees. Small businesses would receive \$1,000 for each net increase in qualified employee, not to exceed a total of \$100,000 for each qualified small business employer.

Service/Operational Impact: Small businesses and their workforce have experienced unprecedented loss from the economic impacts of the COVID-19 pandemic. NOVA is experiencing this impact firsthand with the customers, both job seekers and employers, it is serving. This law helps mitigate these impacts by providing tax credits to small businesses to hire or rehire workers, providing financial relief to small businesses and jobs for unemployed workers that will promote future economic recovery.

PUBLIC CONTACT

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

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ATTACHMENTS

1. 2020 LCC Legislative Report