



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 23-0126, Version: 1

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 2022 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

SB 1338 (Umberg) Community Assistance, Recovery, and Empowerment (CARE) Court Program. Chaptered 9/14/2022

Summary: This Bill creates the Community Assistance, Recovery, and Empowerment (CARE) Court program, a new civil court process to support individuals living with untreated schizophrenia spectrum and psychotic disorders. The program connects individuals with psychotic or schizophrenic symptoms to a court-ordered care team in the community to provide individualized intervention to address medical, housing, and other supportive services

Service/Operational Impact: The City has been increasingly called upon to answer calls for response to homeless encampments and other related emergencies in the last few years. Public safety and the court system were historically fallback resources. CARE Court may address these gaps for individuals who are not well suited for the court system based on a history of mental health issues.

City Manager's Office

SB 1100 (Cortese) Open Meetings: Orderly Conduct. Chaptered 8/22/2022

Summary: This Bill authorizes a new process in which the presiding member of a legislative body conducting a meeting, or their designee, may remove an individual for disrupting the meeting.

Service/Operational Impact: Existing training for Board and Commission Members along with Council includes providing warning to disruptive members of the public prior to their removal. Training materials are being updated to include the specific warning language of SB 1100 that failure to "promptly cease" their disruptive behavior will subject them to removal.

AB 2449 (B. Rubio) Open Meetings: Local Agencies: Teleconferences.

Chaptered 9/13/2022

Summary: This Bill allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public, a limited number of times per year, subject to certain requirements, if the members have “just cause” or “emergency circumstances,” without holding the remote location(s) open.

Service/Operational Impact: The City Attorney prepared a summary of this bill for Council: *City Attorney’s Summary of Assembly Bill (AB) 2449*. The City Clerk’s Office will monitor Councilmember requests to utilize these provisions.

SB 1439 (Glazer) Campaign Contributions: Agency Officers. Chaptered 9/29/2022

Summary: This Bill applies the existing campaign contribution prohibition for state and local agencies and applies it to local elected agencies, such as city councils and boards of supervisors, and expands the timeframe prohibiting specific contributions following an official’s action from three months to 12 months.

Service/Operational Impact: The City Attorney continues to monitor Fair Political Practices Commission (FPPC) meetings and regulations to help keep Councilmembers informed of how this bill impacts their ability to participate in various agenda items.

Human Resources

AB 152 (Committee on Budget) COVID-19 Relief: Supplemental Paid Sick Leave. Chaptered 8/26/2022

Summary: This Bill extends the expiration date for the provisions of 2022 COVID-19 Supplemental Paid Sick Leave program contained in SB 114 from September 30, 2022 to December 31, 2022.

Service/Operational Impact: The City must continue to administer its sick pay leave program for employees experiencing symptoms or caring for another person due to COVID-19.

AB 1751 (Daly) Workers’ Compensation: COVID-19: Critical Workers. Chaptered 9/29/2022

Summary: Existing workers’ compensation law governs the procedures for filing a claim for workers’ compensation, including filing a claim form, and provides that an injury is presumed compensable if liability is not rejected within 90 days after the claim form is filed, as specified. This Bill extends the provisions relating to COVID-19 until January 1, 2024.

Service/Operational Impact: The extension of the COVID-19 presumption could increase the City’s liability for workers’ compensation costs. Human Resources staff will continue to collect and track exposure reports from all employees, specifically public safety, and work closely with our workers’ compensation third party administrator to ensure tracking and processing of COVID-19 claims in a timely manner.

AB 1041 (Wicks) Employment: Leave. Chaptered 9/29/2022

Summary: Effective January 1, 2023, this Bill expands the definition of family member under the California Family Rights Act (CFRA) and the Healthy Workplaces, Healthy Families Act (HWHFA) to include a “designated person.” This Bill expands the class of people for whom an employee may take leave to care for to include a designated person, defined to mean any individual related by blood or whose association with the employee is the equivalent of a family relationship.

Service/Operational Impact: This change to CFRA does not change the definition of allowable family members under the federal Family Medical Leave Act (FMLA). Human Resources staff will update policy documentation to include the new category of covered family member, update forms, and notify all employees of the change in law. In addition, the City will track the “designated person” for each employee to limit to the same person within a 12-month period.

SB 1127 (Atkins) Workers’ Compensation: Liability Presumptions.

Chaptered 9/29/2022

Summary: This Bill reduces the time period an employer has to deny liability for a workers’ compensation claim from 90 to 75 days for a workers’ compensation claim for specified presumptive injuries. If a liability is found to be unreasonably rejected by an employer for claims of an injury the employer must pay a penalty equal to five times the amount of the delayed benefits.

Service/Operational Impact: Human Resources (HR) staff will work closely with the City’s workers’ compensation third party administrator (TPA) to amend data collection to include when claimant was notified of the claim acceptance. Effective January 1, 2023, presumptive injury claims must be accepted or denied within 75 days after the claim is filed (formerly within 90 days). Temporary Disability benefits are now available for up to 240 weeks to specified public safety personnel for cancer-related claims. Claims that are unreasonably rejected may be subject to fines, not to exceed \$50,000. HR staff will ensure the TPA has incorporated these new rules into their workflow and is keeping track of current claims and processing in a timely manner.

SB 1044 (Durazo) Employers: Emergency Condition: Retaliation.

Chaptered 9/29/2022

Summary: Effective January 1, 2023, this Bill allows employees to take time off for emergency conditions (either conditions or disaster or extreme peril to the safety of persons or property caused by natural forces or criminal act). This provision does not apply to first responders. This Bill prohibits an employer, in the event of an emergency condition, as defined, from taking or threatening adverse action against any employee for refusing to report to, or leaving, a workplace or worksite within the affected area because the employee has a reasonable belief that the workplace or worksite is unsafe, except as specified. The Bill clarifies that these provisions are not intended to apply when emergency conditions that pose an imminent and ongoing risk of harm to the workplace, the worksite, the worker, or the worker’s home have ceased.

Service/Operational Impact: Human Resources staff will share information with employees and managers about additional reasons for employees to request paid time off (PTO). Employees are required to notify their employer of the emergency condition requiring the employee to leave work or refuse to report to work prior to taking the time off.

Pending Legislation

SECURE 2.0 (Setting Every Community Up for Retirement Enhancement) Act (Federal Legislation)

Summary: This series of bills are awaiting vote in Congress. As proposed, they would require employer-sponsored retirement plans to automatically enroll new employees. Employers would be required to prompt non-participating employees to contribute at least every 3 years. Employees aged 62-64 could have an additional catch-up contribution as Roth contributions. Employees paying student loans but not saving for retirement would be eligible for matching retirement funds, up to the cap.

Service/Operational Impact: If passed, this Act would require Human Resources (HR) staff to enroll all employees in the City's deferred compensation (457) plans, increasing data entry and coordination between the two vendors used for retirement planning. Additional system set-up is required if the bills also impact the catch-up provisions for employees over age 62. HR staff would also need a process in place to track non-participating employees for reminders on a regular basis. If the matching retirement funds assistance passes, the City would be responsible for paying additional retirement contributions for employees repaying student loans.

Community Development

AB 2234 (R. Rivas) Planning and Zoning: Housing: Postentitlement Phase Permits. Chaptered 9/28/2022

Summary: This Bill requires a local agency to compile a list of information needed to approve or deny a postentitlement phase permit to post an example of an approved application and an example of a complete set of postentitlement phase permits, by Jan. 1, 2024. This Bill also requires a digital permitting system if the local agency meets a specific population threshold.

Service/Operational Impact: Time limits outlined in the Bill are within the current performance indicators provided through the One-Stop Permit Center. This Bill requires five examples of complete construction project submittals to be available on the City website. Examples of complete projects submittals may require staff engaging design professionals to develop plans that can be provided on the website to guide developers on the parameters of a complete construction submittal package.

AB 2097 (Friedman) Residential, Commercial, or Other Development Types: Parking Requirements. Chaptered 9/22/2022

Summary: This Bill prohibits a public agency from imposing any minimum automobile parking requirement on any residential, commercial, or other development project that is located within one-half mile of public transit, except under limited circumstances.

Service/Operational Impact: Community Development Department staff will make modifications to the City's ordinance to stay compliant. The Bill may impact existing on-street parking if a new development does not provide enough parking, but the market may dictate sufficient parking is still valuable to the developer. Sunnyvale's major transit stops include the two Caltrain stations, the light rail stations (some in Mountain View overlap into Sunnyvale) and one bus stop in Santa Clara that

touches a couple Sunnyvale properties.

AB 2011 (Wicks) Affordable Housing and High Road Jobs Act of 2022.

Chaptered 9/28/2022

Summary: Effective July 1, 2023, this Bill requires cities to ministerially approve, without condition or discretion, certain affordable housing and mixed-use housing developments in zones where office, retail, or parking are a principally permitted use regardless of any inconsistency with a local government's general plan, specific plan, zoning ordinance, or regulation.

Service/Operational Impact: Community Development Department (CDD) staff will make modifications to the City's ordinance to stay compliant. Modifications will mainly include a new non-discretionary permit process for housing development projects. Standard Operating Procedures will be created on how to process an application when received.

SB 6 (Caballero) Local Planning: Housing: Commercial Zones.

Chaptered 9/28/2022

Summary: Current law requires that the housing element include, among other things, an inventory of land suitable and available for residential development. If the inventory of sites does not identify adequate sites to accommodate the need for groups of all households pursuant to specified law, current law requires the local government to rezone sites within specified time periods and that this rezoning accommodate 100% of the need for housing for very low and low-income households on sites that will be zoned to permit owner-occupied and rental multifamily residential use by right for specified developments. This Bill, the Middle Class Housing Act of 2022, deems a housing development project an allowable use on a parcel that is within a zone where office, retail, or parking are a principally permitted use, if specified conditions are met, including requirements relating to density, public notice, hearings, consistency with sustainable community strategy or alternative plans, prevailing wage, and a skilled and trained workforce.

Service/Operational Impact: Community Development Department (CDD) staff will make modifications to the City's ordinance to stay compliant. Modifications will mainly include a new non-discretionary permit process for housing development projects. Standard Operating Procedures will be created on how to process an application when received.

Environmental Services

SB 54 (Allen) Solid Waste: Reporting, Packaging, and Plastic Food Service Ware.

Chaptered 6/30/2022

Summary: This Bill establishes a product responsibility organization (PRO) for single-use plastic products and packaging. Operated by plastic manufacturers, the PRO will be charged with meeting prescribed recyclability and compostability standards for certain types of plastic products and packaging, which will go into full effect by 2032. This measure also requires the PRO to reimburse local governments for any new costs local governments incur during implementation.

Service/Operational Impact: The Bill will reduce the volume of non-recyclable plastic in the waste stream possibly reducing landfill disposal costs. It is unknown what types of new costs to cities could

be incurred during implementation.

AB 1985 (R. Rivas) Organic Waste: Recovered Organic Waste Product Procurement Targets. Chaptered 9/16/2022

Summary: This Bill assists local governments implementing the state's organic waste diversion targets by phasing in, over two years, CalRecycle's SB 1383 (Lara, 2016) organic waste diversion regulation's procurement requirements. This measure requires local governments to meet 33% of total compliance with the procurement requirements by 2023, 66% by 2024, and 100% compliance by 2025.

Service/Operational Impact: The Bill will provide the City with additional time to meet mandated recycled organic waste procurement targets.

SB 1157 (Hertzberg) Urban Water Use Objectives. Chaptered 9/28/2022

Summary: This Bill changes the standards for indoor residential water use beginning 2025 to 47 gallons per capita daily and beginning 2030 to 42 gallons per capita daily.

Service/Operational Impact: The City's water budget for indoor residential water will be based on its population and the gallons per capita figure. In addition to the current water savings standards, the City will be conducting extensive outreach to the residents to meet such goals. Other measures will likely be needed.

AB 2440 (Irwin) Responsible Battery Recycling Act of 2022. Chaptered 9/16/2022

Summary: This Bill requires producers of batteries and battery-embedded products to establish a stewardship program for the collection, transportation, recycling, and the safe and proper management of batteries or battery-embedded products in California.

Service/Operational Impact: Producers have until the 2025 effective date to establish convenient battery collection sites. Safe collection sites will reduce the risk of Li-ion battery fires, especially at the SMaRT Station. Environmental Services staff will need to promote the new collection sites.

SB 1215 (Newman) Electronic Waste Recycling Act of 2003: Covered Battery-Embedded Products. Chaptered 9/16/2022

Summary: The Electronic Waste Recycling Act of 2003 requires a retailer selling a covered electronic device in this state to collect from a consumer at the time of retail sale a covered electronic waste recycling fee, as specified. The Act defines "covered electronic device" to mean a video display device containing a screen greater than 4 inches, measured diagonally, that is identified in the regulations adopted by the Department of Toxic Substances Control (DTSC), subject to certain exclusions. The Act requires all fees collected pursuant to the act to be deposited in the Electronic Waste Recovery and Recycling Account, and outlines certain other requirements related to the establishment, adjustment, and administration of the fee. This Bill, among several things, expands the existing Electronic Waste Recycling Act to include battery-embedded products.

Service/Operational Impact: Beginning in 2026, the Act will update California's E-Waste Recycling

Program and increase proper disposal/recycling for many new devices not covered by the original measure. As a result, hazardous products will be removed from the waste stream, which in turn will reduce the risk of Li-ion and other battery fires at the SMaRT Station.

AB 1279 (Muratsuchi) The California Climate Crisis Act. Chaptered 9/16/2022

Summary: The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions and to update the scoping plan at least once every 5 years. This Bill, the California Climate Crisis Act, declares the policy of the state both to achieve net zero greenhouse gas emissions as soon as possible, but no later than 2045, and achieve and maintain net negative greenhouse gas emissions thereafter, and to ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 85% below the 1990 levels. The Bill requires the state board to work with relevant state agencies to ensure that updates to the scoping plan identify and recommend measures to achieve these policy goals and to identify and implement a variety of policies and strategies that enable carbon dioxide removal solutions and carbon capture, utilization, and storage technologies in California, as specified. The Bill requires the state board to submit an annual report, as specified.

Service/Operational Impact: The goals established by this Bill exceed those of the City's current Climate Action Playbook (CAP). Environmental Services staff will be evaluating the implications of this bill as part of development of the next CAP Game Plan.

Finance

SB 852 (Dodd) Climate Resilience Districts: Formation: Funding Mechanisms. Chaptered 9/9/2022

Summary: This Bill authorizes a city, county, city and county, special district, or a combination of any of those entities to form a climate resilience district to finance projects that address sea level rise, extreme heat, extreme cold, the risk of wildfire, drought, and the risk of flooding.

Service/Operational Impact: Although there are no current projects being discussed, given the magnitude of costs required to fund Climate Resilience this new legislation will allow Sunnyvale to raise revenue through tax increment funding, voter-approved supplemental property taxes, property benefit assessments or fees. It provides the ability to plan, finance and implement climate resilience projects and the means to focus resources on the most urgent aspects of climate change as determined by Sunnyvale.

Pending Legislation

S. 4295 Financial Data Transparency Act (FDTA)

Summary: This legislation would amend securities and banking laws to make the information reported to financial regulatory agencies electronically searchable, to further enable the development of regulatory technologies and artificial intelligence applications. This legislation would require data reported to be in a machine-readable format instead of the current PDF document format.

Service/Operational Impact: The proposed legislation is to standardize the reporting categories into

a single type for all types of public entities disregarding the unique functionality of each entity. This may require costly updates to financial systems or extensive workarounds.

Taxpayer Protection and Government Accountability Act initiative (A.G. File No. 21-0042, Amendment #1)

Summary: This measure amends the State Constitution to change the rules for how the state and local governments can impose taxes, fees, and other charges.

Service/Operational Impact: By expanding the definition of taxes and restricting administrative changes to fees, the measure would make it harder for Sunnyvale to raise revenue. Consequently, future tax and fee revenue could be lower than they would be otherwise. The actual impact on revenue would depend on various factors, including future decisions by the courts, local governing bodies, and voters.

Public Safety

AB 2773 (Holden) Stops: Notification by Peace Officers. Chaptered 9/29/2022

Summary: Existing law requires each state and local agency that employs peace officers to annually report to the Attorney General data on all stops conducted by the agency's peace officers, and requires that data to include specified information, including the time, date, and location of the stop, and the reason for the stop. This bill, beginning on January 1, 2024, requires each state and local agency to include in its annual report the reason given to the person stopped at the time of the stop.

Service/Operational Impact: By imposing new duties on local agencies, the Bill will impose a state-mandated local program. The Bill adds an additional level of reporting to the recently implemented RIPA reporting. Its author stated that the intent of the measure is to promote equity and accountability, which aligns with the City's goals. The Department of Public Safety has provided department-wide officer training related to RIPA reporting and continues to partner with Department of Justice (DOJ) to ensure compliance with new laws related to transparency, equity and accountability.

Public Works

AB 2173 (Petrie-Norris) Public Contracts: Payment. Chaptered 7/19/2022

Summary: This Bill removes the sunset clause on the five percent retention cap policy related to public works.

Service/Operational Impact: Existing law was set to expire on January 1, 2023. The only identified exception to the five percent retention limit is when a public entity deems that a project is substantially complex during a properly noticed and regularly scheduled public meeting prior to bidding the project. In that case, retention proceeds may exceed the five percent retention cap. The law caps the amount an entity could withhold from a progress payment at five percent unless the public entity makes a finding prior to bidding that the project is "substantially complex" and requires a withholding of more than five percent. Public Works staff will review current department practices for public works progress payment withholdings.

AB 2953 (Salas) Department of Transportation and Local Agencies: Streets and Highways:

Recycled Materials. Chaptered 9/30/2022

Summary: This Bill requires the Department of Transportation and a local agency that has jurisdiction over a street or highway, to the extent feasible and cost effective, to use advanced technologies and material recycling techniques that reduce the cost of maintaining and rehabilitating streets and highways and that exhibit reduced levels of greenhouse gas emissions through material choice and construction method.

Service/Operational Impact: The Bill would require, beginning January 1, 2024, a local agency that has jurisdiction over a street or highway, to the extent feasible and cost effective, to apply standard specifications that allow for the use of recycled materials in streets and highways, as specified.

The primary purpose of this Bill is to require local governments to adopt Caltrans recycled materials standards in areas of asphalt pavement, the roadbed underneath the pavement, and concrete. To the extent possible, Sunnyvale uses some form of sustainable materials. Depending on the standard specification for materials established by Caltrans, this may lead to reduced contractor bids and potentially higher costs, although the Bill states that this should be implemented “to the extent feasible and cost effective.”

SB 932 (Portantino) General Plans: Circulation Element: Bicycle and Pedestrian Plans and Traffic Calming Plans. Chaptered 9/28/2022

Summary: This Bill requires substantive revisions of the circulation element of a general plan to include specified contents related to bicycle plans, pedestrian plans, and traffic calming plans, and to implement those plans. This Bill requires a local jurisdiction, upon any substantive revision of the circulation element of a general plan, on or after January 1, 2025, to do both of the following:

- Incorporate in the circulation element the principles of the Federal Highway Administration’s Safe System Approach by including policies that aim to eliminate fatal and serious injuries for all road users through a holistic view of the roadway system, including provisions that account for human error, recognize vulnerable road users, and promote redundant and proactive safety measures.
- Develop bicycle plans, pedestrian plans, and traffic calming plans based on the policies and goals in the circulation element that identify safety corridors, use evidence-based strategies, and set goals for initiation and completion within 25 years of the date of adoption of the modified circulation within the scope of the general plan and projected availability of revenues.

Service/Operational Impact: City staff will need to program funding for the Capital Improvement Projects (CIP) budget to implement the Active Transportation Plan (ATP). The City will need to start implementing the plan two years after adoption, and have it completed within 25 years, or revise the plan during the 25 year period. Generally, staff looks for grants to offset cost related to these types of projects. This change would require the City to put more city funds into expediting project implementation. The cost over the 25-year period is unknown, and they are not reimbursable by the state.

NOVA

SB 1407 (Becker) California Employee Ownership Act. Chaptered 9/29/2022

Summary: This Bill increases awareness of and create pathways to employee ownership opportunities, such as employee stock ownerships plans (ESOPs) and worker cooperatives (co-ops). It establishes a dedicated hub within the Governor's Office of Business and Economic Development that will help educate stakeholders, assist business owners and workers navigate resources, provide funding for technical assistance, and streamline access to the employee ownership process.

Service/Operational Impact: Employee ownership provides greater opportunity for building wealth, skills and job security for lower wage, low-income workers, and communities of color. In addition, this model has proven benefits to businesses and local economies through better overall business performance and resilience during economic downturns. Introducing new career options to NOVA customers with barriers to employment will lead to increased employment advancement and self-sufficiency.

H.R. 4346 Supreme Court Security Funding Act of 2022. Became Law on 8/9/2022

Summary: This Act is intended to revitalize the semiconductor manufacturing industry in the United States through facility development, new jobs, improved supply chains, and emerging new industries. A total of about \$52 billion will be invested, with \$40 billion going to companies through applications for funding. A workforce development component will be required for these projects.

Service/Operational Impact: The technology manufacturing industry has declined across the country and in Silicon Valley over the past few years. This Act provides an infusion of funding to create jobs in the high-wage manufacturing industry locally and to train workers for future career opportunities. NOVA will explore future partnerships with semiconductor companies and align the workforce demands and training needs with the skill sets of NOVA customers.

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 Public Library, Senior Center, Community Center and in the Department of Public Safety Lobby. In addition, the agenda and report are available at the Sunnyvale Public Library, Office of the City Clerk, and on the City's website.

Prepared by: Michelle Zahraie, Senior Management Analyst

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. 2022 LCC Legislative Report