



# City of Sunnyvale

## Agenda Item

---

19-0177

Agenda Date: 1/29/2019

---

### 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 2018 calendar year and includes an analysis of 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.

#### Human Resources

##### **AB 1749 (Daly). Workers' compensation: off-duty peace officer.**

**Summary:** This measure makes clear certain peace officers injured out of state while performing defined law enforcement duties are eligible to receive workers' compensation benefits, in the discretion of the employing agency. This measure permits each city to determine the policy of awarding workers' compensation benefits for out-of-state and off-duty peace officers based in California.

**Service/Operational Impact:** This new law allows the City the flexibility to establish its own policy of awarding workers' compensation benefits for out-of-state and off-duty peace officers. This will increase the City's cost on workers' compensation claims. City staff has determined not to adopt a policy and not to cover/approve such workers' compensation claims.

##### **SB 866 (Comm. on Budget and Fiscal Review Budget). Employment.**

**Summary:** This measure makes various changes relating to the US Supreme Court's *Janus* decision:

- Requires public employers to direct employee requests to cancel or change deductions to the employee organization;
- Requires public employers to honor requests by employee organizations for employee payroll deductions to pay dues;
- Requires public employers to honor employee authorizations for dues deductions, and states that the revocability of the authorization is determined by the terms of that authorization;
- Requires the employee organization to rely on information provided by the employee organization as to whether a request is made in conformity with the authorization, and indemnify the public employer for any claims made by an employee over deductions made in reliance on that information;
- Authorizes public employers to deduct reasonable costs from the amount transmitted to the employee organization;

- Prohibits public employers from discouraging or deterring applicants or existing employees from becoming or remaining members of an employee organization; and
- Prohibits the time, date or place of a new public employee orientation from being disclosed to anyone other than the employees, the exclusive representative and a vendor contracted to provide services at the orientation.

**Service/Operational Impact:** This new law removes the City acting as a middle agent between employees and employee organizations on dues and membership matters, and removes liability of the City should there be disputes between employees and employee organizations on dues matters. The City process has been standardized across all bargaining units since this new law took effect.

### **Community Development**

#### **AB 686 (Santiago). Housing discrimination: affirmatively further fair housing.**

**Summary:** The bill requires a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and prohibits a public agency from taking any action that is materially inconsistent with that obligation.

**Service/Operational Impact:** This bill mirrors the existing federal “affirmatively further fair housing” (AFFH) requirements. It is City policy to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of its zoning and building laws. This is a safety measure in case the federal AFFH regulations are eliminated.

#### **AB 1771 (Bloom). Planning and zoning: regional housing needs assessment.**

**Summary:** This bill makes changes to the regional housing needs allocation (RHNA) plan objectives and methodology to ensure the allocations are equitably distributed among cities and counties throughout the state. The bill authorizes Council of Governments to identify significant barriers to affirmatively furthering fair housing at the regional level and recommend strategies or actions to overcome those barriers. AB 1771 envisions that additional state oversight will ensure that the process is less political and consistent with statewide climate change goals by requiring the RHNA to affirmatively further fair and equitable housing and more accurately reflect job growth and market demand for housing.

**Service/Operational Impact:** AB 1771 reduces the time to appeal RHNA draft allocation to 45 days from 60 days. Additionally, the bill allows specified housing organizations to challenge the RHNA share, when under current law only the affected city or county can appeal. This appeal process can create some challenges, because after the appeals are completed, one jurisdiction’s allocation can change, and consequently other jurisdictions’ allocations will be impacted very late in the process.

#### **SB 828 (Wiener). Land use: housing element.**

**Summary:** SB 828 makes changes to the regional housing needs allocation (RHNA) methodology including removal of the acknowledgement that cities may not meet RHNA. The bill would prohibit cities from using a prior underproduction of housing in some income categories and stable population numbers to justify calculating or reducing the city’s share of the RHNA. SB 828 further requires the Association of Bay Area Governments (ABAG) to provide the Housing and Community Development Department (HCD) with data on the overcrowding rate for a comparable housing market, and define the vacancy rate for a healthy housing market as between 5% and 8% of both rental and ownership housing. The bill also requires ABAG to include data on the percentage of households deemed cost

burdened, the rate of housing costs for a healthy housing market, and data on the projected household income growth.

**Service/Operational Impact:** This would require cities to provide additional data with their Annual Progress Report and account for these requirements in the future housing element update. The requirements are including but not limited to the vacancy rates, overcrowding rates and percentage of households deemed cost burdened in the jurisdiction's existing housing stock.

**AB 2162 (Chiu). Planning and zoning: housing development: supportive housing.**

**Summary:** AB 2162 requires supportive housing to be a use by right in zones where multifamily and mixed uses are permitted, including in non-residential zones permitting multifamily uses, if the proposed housing development satisfies a certain set of requirements, such as onsite supportive services. The bill allows a local government to require a supportive housing development to comply with objective, written development standards and policies that apply to any multifamily development within the same zone. This type of project is exempt from discretionary local government review or CEQA review which triggers public hearings and potential opposition to a housing development. There will be no minimum parking requirements for the supportive housing units if located within 0.5 mile of a public transit stop.

**Service/Operational Impact:** This bill requires the City to amend the zoning code to streamline the application review processes for affordable supportive housing developments.

**Other initiatives:** In November 2018 California voters approved two new financing mechanisms for affordable housing. Prop 1, a \$4 billion general obligation bond, will fund a variety of items including construction and renovation of affordable housing, provide home loan and down payment assistance for Veterans, and provide loans for agricultural workforce housing development. Prop 2, a \$2 billion bond measure, will fund supportive housing (affordable housing with onsite social and medical services) for those with mental illnesses. Guidelines for funding will likely be established in 2019.

**Pending Legislation:**

**SB 50 (Wiener). Planning and zoning: housing development: equitable communities incentive.**

**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 apartment 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."

**Service/Operational Impact:** While the bill's intention to increase affordable housing stock is good, it would remove local control over the project approval process. The City will be tracking this bill in the upcoming year.

**ACA 1 (Aguiar-Curry). Local government financing: affordable housing and public infrastructure: voter approval.**

**Summary:** This bill would lower the current local vote threshold from 2/3 approval to 55% for city, county, or city and county issued general obligation bonds, placed on a local ballot, for construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing projects. The bill also contains authorization for cities, counties, and a city and county, to impose, extend, or increase a sales and use tax, transactions and use tax, or parcel tax for the purpose of funding the

construction, rehabilitation, or replacement of public infrastructure or affordable housing, subject to approval by 55% of the voters.

**Service/Operational Impact:** This bill would increase the likelihood that voter approved tax measures for infrastructure or housing would be passed.

### **Public Safety**

#### **SB 1205 (Hill). Fire protection services: inspections: compliance reporting.**

**Summary:** This new law will require Public Safety to annually report to Council compliance with mandated fire and life safety inspections. In previous years, inspections have been conducted annually in accordance with the applicable code, but local reporting was not required.

**Service/Operational Impact:** Staff has addressed the impact of the added reporting requirement by developing an internal process to include mandated safety inspections as a workload indicator associated with the annual budget. To comply with this new state law, Council will review, and adopt by resolution, annual fire inspection compliance data as defined under this Bill.

#### **AB 939 (Low). Local government: taxicab transportation services.**

**Summary:** This legislation impacts taxicab franchises, licenses and permits. Effective January 1, 2019, the City will only be able to enter into franchise agreements and Department of Public Safety (DPS) can only issue taxicab licenses/permits to companies that are substantially located in Sunnyvale. The new law will also allow taxis licensed elsewhere in the county to operate in the City without a Sunnyvale franchise or permit.

**Service/Operational Impact:** Staff has addressed this change by working with the City Attorney to amend the existing taxi ordinance, and by meeting with representatives from neighboring cities to discuss a plan for regional communication and cooperation moving forward. The Council introduced an ordinance making the required amendments to Sunnyvale Municipal Code (SMC) Chapter 5.36 (Taxicabs) on October 30, 2018 at a public hearing; the ordinance was adopted on November 13, 2018 and took effect on December 13, 2018.

#### **AB 2164 (Cooley). Local ordinances: fines and penalties: cannabis.**

**Summary:** This legislation will allow DPS code enforcement to issue administrative penalties to businesses or individuals who violate the existing City ban on cultivation and distribution of medical/recreational marijuana when the violation occurs. Previous law required that cities allow a period of correction before imposing penalties.

**Service/Operational Impact:** There may be a minor impact to staff in terms of time spent on issuance of fines and maintenance of records; however, the benefit of issuing fines without a period of correction is that the monetary penalty creates an immediate and meaningful incentive to cease the illegal activity.

#### **SB 212 (Jackson). Solid waste: pharmaceutical and sharps waste stewardship.**

**Summary:** Establishes statewide take-back programs for sharps and pharmaceutical waste operated by manufacturers or distributors and overseen by CalRecycle.

**Service/Operational Impact:** SB 212 will provide beneficial impacts by reducing exposure of contracted recycling/waste workers and City employees to hazards of illegally disposed drugs and

sharps (needles, lancets, etc.). It may also reduce drug abuse and overdoses in the community by providing convenient, no-cost drug disposal options. SB 212 "grandfathered" a previously passed Santa Clara County pharmaceutical ordinance that is already providing drug disposal kiosks in many private and public locations, including the DPS headquarters lobby.

### **Environmental Services**

#### **SB 100 (De León). California renewables portfolio standard program: emissions of greenhouse gases.**

**Summary:** Establishes state policy that 100% of electricity supplies be sourced from renewable portfolio standard (RPS) eligible and zero-carbon resources by December 31, 2045.

**Service/Operational Impact:** SB 100 will provide greater alignment across the state to securing clean energy supplies and more consistent with the approach Silicon Valley Clean Energy has already taken. SB 100 will motivate additional investments in clean energy projects. The increased supply and demand on clean energy supplies, depending on timing, could create upward or downward pressure on electricity costs. Energy costs are important to City operations. Additionally, the availability of affordable clean energy supplies are essential to City policy considerations on accelerating climate action, as the prevailing trend is to electrify buildings and transportation to shift away from current fossil fuel uses to reduce greenhouse gas emissions.

#### **SB 237 (Hertzberg). Electricity: direct transactions.**

**Summary:** Expands capacity of the Direct Access (DA) program, which authorizes direct energy transactions between electricity suppliers and retail end-use customers (typically large commercial accounts).

**Service/Operational Impact:** SB 237 will very likely result in more commercial customers pursuing direct access contracts for electricity, as an alternative to PG&E and Silicon Valley Clean Energy (SVCE). Because the program is likely to attract customers seeking only lowest cost energy, and such portfolios are only required to meet the minimum standards for renewable supplies, an increase in this customer base is likely to result in an increase in Sunnyvale's community Green House Gas (GHG) emissions. This effect would attenuate over the long term as the state targets under SB 100 come to maturity in 2045.

### **Finance**

#### **SB 998 (Dodd). Discontinuation of residential water service: urban and community water systems.**

**Summary:** This bill amends Health and Safety Code Section 116900 to require a new and expanded set of policies and procedures for water utility shut offs.

**Service/Operational Impact:** The bill among other things, prohibits water systems from shutting off service until a customer has been delinquent for at least 60 days, limits reconnection fees for low-income customers and adds an enforcement role for the Attorney General. The City already meets the following requirements outlined in this measure: 1) prohibits water shutoff for persons with documented life threatening health concerns; 2) prohibit shutoff until the bill has been delinquent for 60 days; and, 3) reconnection fees are within the amounts set by the measure.

### **Public Works**

#### **SB 946 (Lara). Sidewalk vending.**

**Summary:** This bill decriminalizes sidewalk vending and establishes various requirements for local

regulation of sidewalk vendors. It prohibits a city, county, or city and county from regulating sidewalk vendors, except in accordance with the provisions of the bill. The bill applies to a charter or general law city, county, or city and county.

**Service/Operational Impact:** SB 946 has a significant impact on our ability to regulate pushcart vendors in Sunnyvale. The City may no longer cite pushcart vendors for criminal violations of our regulations, nor can it have a blanket prohibition on “roving” pushcart vending (SMC Section 5.26.060 (a)(2)). Additionally, the City will not be able to prohibit pushcart vending in parks solely on the basis that it’s a commercial activity (SMC Section 9.62.080).

**AB 2249 (Cooley). Bidding thresholds.**

**Summary:** Codifies the California Uniform Construction Cost Accounting Commission recommendation to increase the no-bid cap from \$45,000 to \$60,000, the informal bid level for projects between \$45,000 and \$175,000 to a new range of \$60,000 and \$200,00, and continue the formal bidding procedures for any project over \$200,000

**Service/Operational Impact:** AB 2249 will allow the City to expedite the bidding process to reduce project wait times. The new amounts will allow for increased flexibility for project bidding in a highly competitive market.

**Information Technology**

**AB 1999 (Chau). Local government: public broadband services.**

**Summary:** The new law allows the County of Santa Clara (County) to include broadband services (e.g., acquisition, construction, maintenance, etc.) to the list of services the City can provide within the County’s jurisdiction. It also requires the City to comply with net neutrality rules when providing broadband services.

**Service/Operational Impact:** The new law will allow the City to continue investing in its broadband infrastructure which the City is currently doing as it acquires and/or updates its community parks and recreation areas. It will also allow the City to continue supporting equitable and uninterrupted access to online content for all City residents and businesses.

**AB 2225 (Limón). State government: storing and recording: public records.**

**Summary:** The new law requires the Secretary of State (SOS) to approve and adopt uniform standards for recording and storing public records in electronic media or on cloud computing storage devices. The bill would require a cloud computing storage service that complies with specified requirements that provide administrative users with controls to prevent stored public records from being overwritten, deleted, or altered to be considered a trusted system, and would require all public records stored or recorded in electronic media or in a cloud computing service by a state agency to comply with a trusted system as defined in the uniform statewide standards and as otherwise specified.

**Service/Operational Impact:** The new law will require the City to meet or exceed the standards set forth by the SOS.

***Pending Legislation:***

**S. 3157 (Thune). To streamline siting processes for small cell deployment.**

**Summary:** The proposed federal law would force the City to lease out publicly owned infrastructure for the installation of “small cell” wireless equipment. It will also prevent the City from negotiating fair leases for “small cell” sites and it will shelter the sites from environmental impact and design reviews.

**Service/Operational Impact:** The proposed law will 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 will also deprive the City of control over its infrastructure and it will limit the City’s lease revenue as it relates to “small cell” sites.

**Library and Community Services****AB 1766 (Maienschein). Swimming pools: public safety.**

**Summary:** Requires certain public swimming pools to provide an Automated External Defibrillator (AED) during pool operations; Applies to public swimming pools that (1) provide lifeguard services and (2) charge a direct fee.

**Service/Operational Impact:** The City is in compliance with this regulation. All the pools, including Fremont Pool, have AEDs and are staffed with lifeguards when we are providing services.

***Pending Legislation:*****SCA 3 (DODD). Local government financing: public libraries: vote approval.**

**Summary:** This bill would lower the local vote threshold for library bonds from the current two-thirds vote to 55%. This will align library bond measures to school bond measures and we will continue to track this.

**NOVA****AB 2915 (Caballero). Workforce development boards: mutual disaster aid assistance: memorandum of understanding.**

**Summary:** This measure requires the California Workforce Development Board to develop, in conjunction with the Employment Development Department and with input from local workforce development boards, a policy regarding mutual aid agreements between local boards to enable them to effectively respond to disasters.

**Service/Operational Impact:** The California Workforce Association, of which NOVA is a member, sponsored this bill in response to the wildfires last year and local workforce boards’ interest in assisting those boards who were directly impacted by this disaster. This new law would provide the vehicle for local boards to better assist boards affected by disasters and their residents and businesses through an established memorandum of understanding that will expedite and streamline assistance, when and where it is needed most.

**AB 2138 (Chiu). Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.**

**Summary:** This measure limits the current discretion provided to regulatory entities within the Department of Consumer Affairs (DCA) to apply criminal history background, as it relates to denial of

an application for licensure and suspension or revocation of an existing license, by specifying that these actions can be taken if the applicant or licensee was formally convicted of a crime substantially related to the qualifications, functions or duties for which the individual is seeking licensure or is licensed.

**Service/Operational Impact:** Many professions require formal licensure/accreditation that are considered mandatory for those individuals seeking employment in these fields. The formerly incarcerated face significant barriers to securing self-sufficient reemployment and without the appropriate licensure these barriers become insurmountable. NOVA is participating in a statewide Prison2Employment initiative, in partnership with the California Department of Corrections and Rehabilitation, and this new law will pave the way for customers served through this program to better compete for high demand occupations.

**AB 2420 (Quirk-Silva). Workforce development: soft skills training.**

**Summary:** This measure authorizes the Employment Training Panel (ETP) to include “soft skills” in the type of job-related basic and literacy skills training for which a training contract may be provided. “Soft skills” is defined as behaviors and competencies to allow people to navigate professional environments, work well with colleagues, and perform up to standards for professional success.

**Service/Operational Impact:** Employers report that among the most critical workforce skills necessary to succeed in business are the “soft skills”, which are often the most difficult to find in recruiting to fill positions. NOVA job seeker customers often need training to acquire these important skills. This new law will authorize the ETP to fund “soft skills” training requested by employers for their workforce in order to enhance business operations and prevent future layoffs/dislocation.

**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.

Prepared by: Lupita Alamos, Senior Management Analyst

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

**ATTACHMENTS**

1. 2018 LCC Legislative Report