
MEMORANDUM

To: City of Huntington Beach

From: Townsend Public Affairs

Date: September 2, 2022

Subject: August Monthly Report

State Legislative Update

August 31 marked the final night of the 2021-2022 Legislative Session. January 2023 will kick off the next two-year legislative cycle, with new bills and concepts. Notably, the new bills will be matched by a massive class of freshman legislators and potential changes to legislative leadership, as this year marked the departure of nearly 30 incumbent lawmakers.

The final night of the legislative session ended at two o'clock in the morning, which can be attributed to numerous last minute legislative pushes for new climate regulations, disputes over a bill that would have allowed legislative staffers to unionize, and the fate of California's last-standing nuclear power plant. In a stark contrast to last years' calm and quick final night of session, many major issues had not been decided and passed with the incremental waves of budget bills and budget trailer bills over the summer and in the month since summer recess.

Nevertheless, the Legislature decided the fate of a number of bills important to local governments in its final days of session. Of the 2,350 bills introduced this year, the Legislature passed a total of 1,440. As of September 2, the Governor has signed 490, vetoed 7, and still has 943 bills to consider before the September 30 deadline.

Following the Legislature's adjournment, it is expected that the Governor will follow his previous bill-signing trends and will package bills with other similar measures for signing into law. These packages are likely to include measures that address housing and land use, behavioral health supportive services, climate change and energy, and Brown Act Modernization, among others. Below is an overview of a few of the bills the Legislature has passed onto the Governor's desk for final consideration, organized by issue area:

Housing and Land Use

Throughout the 2022 Legislative Session, lawmakers were once again keenly focused on land use and zoning reform. These efforts build upon the passage of major land use reform bills from 2021, including SB 9 (Atkins), which requires the ministerial approval of urban lot splits and two-unit developments on single-family zoned parcels.

This year's Session ended with the passage of several notable land use reform measures, including AB 2011 (Wicks) and SB 6 (Caballero), both of which authorize housing development projects in sites zoned for retail, office, parking, or along transit-rich corridors, so long as developers utilize stricter labor standards or adhere to stricter affordability requirements. Despite

their similarities, both bills passed into law – a strategy that legislative leadership has touted as a method to give developers the choice to decide which strategy to use when approaching a housing development project in a non-residential zone: comply with stricter labor standards or stricter affordability standards. As of September 2, both bills are still pending final action from the Governor.

Another major land use reform measure that passed this year was AB 2097 (Friedman), which prohibits public agencies from imposing minimum automobile parking requirements on specified residential, commercial and other developments located within one-half mile of public transit. Notably, this bill is the second iteration of the legislation, which failed in the Appropriations Committee during the 2021 Legislative Session. Like SB 6 and AB 2011, this bill is also currently pending final action from the Governor.

In addition to land use reform measures, the Legislature passed a handful of bills relating to Accessory Dwelling Unit (ADU) requirements. These include SB 897 (Wieckowski), which makes various changes to existing ADU laws, including adjustments to the minimum height limitations that a local agency may impose. Another ADU reform measure is AB 916 (Salas), which prohibits a city or county from requiring a public hearing as a condition of reconfiguring existing space to add up to two bedrooms within an existing dwelling unit. Both bills are pending consideration from the Governor.

Brown Act Reform

The COVID-19 pandemic necessitated reforms to the Brown Act to provide remote flexibilities to adhere to social distancing orders. During the 2021 Legislative Session, the Legislature passed, and the Governor signed, AB 361 (Rivas) into law, which allows local agencies to use teleconferencing without complying with specified Ralph. M Brown Act restrictions in certain state emergencies. Following the passage of AB 361, it was thought there would be no appetite to modify its provisions or look toward additional Brown Act modernization requirements. However, this Session, three measures addressing public meetings requirements were passed by the legislature.

These include AB 2449 (Rubio), which allows 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. AB 2647 (Levine) allows writings that have been distributed to members of a legislative body of a local agency less than 72 hours before an open, regular meeting to be exempt from specified requirements of the Ralph M. Brown Act (Brown Act), if the agency meets certain requirements. Both measures are on the Governor's desk awaiting consideration, as of Friday, September 2.

An additional measure, SB 1100 (Cortese), has already been signed into law. This bill authorizes the presiding member of a legislative body conducting a meeting, or their designee, to remove an individual for disrupting the meeting, and defines "disrupting" for these purposes.

Each of these three measures reflect modest changes to the Brown Act to allow for additional flexibilities for local agencies. Continued remote teleconferencing for *all members* of a legislative body is currently provided via the provisions established under AB 361, which are set to expire January 1, 2024, or when the COVID-19 state of emergency is lifted – whichever comes first.

Behavioral Health Reform

This Session, Governor Newsom and Legislative Leaders made it clear that overhauling the State's existing behavioral healthcare infrastructure was a top priority. On March 3, 2022, Governor Newsom unveiled his CARE (Community Assistance, Recovery, and Empowerment)

Court proposal framework, which was later packaged into SB 1338 (Umberg). This bill would offer court-ordered individualized interventions and services, stabilization medication, advanced mental health directives, and housing assistance to individuals struggling with behavioral health crises. Plans would last anywhere up to 12-24 months. In addition to their full clinical team, the client-centered approach also includes a public defender and a supporter to help individuals make self-directed care decisions.

County behavioral health departments would be responsible for carrying out the care plans. Those who don't comply with their plans could be subject to California's existing system of involuntary hospital stays and conservatorships. Such programs have been in place since the 1960s, following the state's shift away from mental health hospitals and toward community-oriented care. Since California dismantled the hospital system, the state has primarily made use of the Lanterman-Petris-Short Act and Laura's Law to care for people who suffer from severe mental illnesses. According to an October 2021 Department of Health Care Services report, only 218 people received treatment through Laura's Law during the 2018-19 fiscal year – a statistic that many supporters of the program have referenced as an example for new programming.

After numerous iterations of amendments, SB 1338 was passed by the Legislature on the final night of Session. Notably, the bill includes staggered implementation and additional funding resources to allow counties and other local agencies time to implement the program.

Other bills seeking to add reforms to behavioral healthcare were part of a bill package introduced by Senator Eggman. This included bills SB 929, SB 970, SB 1035, SB 1227, and SB 1338 – each of which adds modernizations to California's behavioral health continuum, including increased data collection among agencies and stakeholders to better understand the outcomes of involuntary holds, services provided, waiting periods to receive care, current and projected behavioral health care infrastructure, service needs, and more. Each of these bills are on the Governor's desk awaiting consideration as of September 2, 2022.

Climate and Energy

In mid-August, reports began swirling about the Governor convening meetings with Legislative leaders and the Democratic Caucus to push forward last-minute legislation to address the climate crisis. These priorities materialized into a [memo](#) presented to the Legislature, outlining climate change mitigation tactics the Governor wanted to see pushed forward in legislation before the end of Session. These included laws set interim targets for 100 percent clean energy, regulate projects to remove carbon from the atmosphere and smokestacks, and end new oil drilling near communities.

Ultimately, these efforts resulted in six legislative proposals, five of which passed the Legislature and are pending the Governor's signature as of September 2. These five measures include the following:

Greenhouse Gas Emission Reductions

Measures contained within the package relating to greenhouse gas emissions include AB 1279 (Muratsuchi), which codifies the State's existing goal of carbon neutrality by 2045. For context, the State enacted another greenhouse gas bill, AB 32, in 2006, requiring the State to set a target for emissions to drop to 1990 levels by 2020. While AB 1279 passed, another, more aggressive measure that would have set California's target at 55% below the state's 1990 emissions up from the current 40% target, failed in the Assembly on the final night of session.

Clean Energy and Grid Reliability

Another measure relating to the Governor's climate proposals is SB 1020 (Laird), which sets interim targets for generating clean energy. A current law already requires 100% of retail electricity to be fueled by renewables such as wind and solar by 2045. The new law would add 90% by 2035 and 95% by 2040. In addition, all State agencies must source their energy from 100% renewable sources by 2035, ten years sooner than law now requires.

The question remains, however, if California's electrical grid can handle the surge in energy demand. The State is expected to see a 68% increase in energy consumption by 2045, according to the California Air Resources Board. To handle that increase, the Agency estimates that the state needs to expedite renewable energy projects.

The issue of grid reliability was addressed in SB 846 (Dodd) which aims to keep the state's last remaining nuclear power plant in Diablo Canyon operating until 2030 and gives its operator, Pacific Gas & Electric, a \$1.4 billion loan to do so. This bill was viewed as one of the most contentious bills of the final night of session – with proponents arguing the need to keep the power plant functioning in the face of increase grid demand, and opponents concerned about accidents, nuclear waste issues, and a perceived "PG&E bailout."

Carbon Sequestration

SB 905 (Caballero) directs the California Air Resources Board to develop a program and set regulations for carbon capture, utilization and storage projects at polluting industries, such as oil refineries. The practice is supported by the oil industry, but environmentalists say it has the potential to do more harm than good and prolongs the lives of fossil fuels. The State has yet to see a large scale carbon capture and storage development seen to fruition.

Another bill approved by the Legislature, AB 1757 (C. Garcia), would require the State to set targets for removing planet-warming carbon from the atmosphere with nature-based methods, such as planting trees, restoring wetlands and scaling up public landscaping and urban forestry projects. The bill received widespread support from environmentalists, who say nature-based solutions to combating the existing amount of greenhouse gas emissions in the air is a better approach than relying on engineered technologies.

Oil Well Setbacks

The 2022 Legislative Session saw several attempts to establish buffer zones around oil and gas wells and other large-scale industrial equipment, to prevent their encroachment on "sensitive receptors" like residential zones and schools.

SB 1137 (Gonzalez), which requires 3,200 foot setbacks between new oil and gas wells and sensitive receptors, narrowly passed the Legislature on the final night of session. The bill also requires operators to take certain steps at the thousands of existing wells within that buffer zone. Included is a plan to monitor toxic leaks and emissions, and install alarm systems. In addition, new requirements would include limits on noise, light, dust and vapors.

Looking Forward

As previously mentioned, the Governor will have until the end of September to act on all measures passed by the Legislature. Last year, Governor Newsom approved 92 percent and vetoed 7.9 percent of the bills that made it to his desk. It is expected that he will sign a similar percentage of bills into law this year.

In addition to the onset of new laws, next year will mark massive changes in the State Legislature. The decennial redistricting process caused numerous lawmakers to move, battle for new district spots, or retire. This, coupled with the onset of another graduating class of legislators under the new term limit requirements established by Prop. 140 (1990), has prompted many legislators to not seek reelection. As such, 2023 will bring forward a new class of freshman legislators – specifically, 10 new Senators and 19 new Assembly Members.

This is likely to spark new leadership changes, bill ideas, and shift the makeup of factions within the Democratic Caucus. For instance, Assembly Member Robert Rivas has already signaled his intentions of battling Incumbent Speaker Anthony Rendon for the coveted Assembly Speakership. If he succeeds, it is likely he will appoint new committee chairs and internal leadership positions.

Governor Newsom Issues State of Emergency to Prevent Grid Strain with Increased Energy Demands

On August 31, Governor Newsom proclaimed a State of Emergency to temporarily increase energy production and reduce demand. The California Independent System Operator has called a Flex Alert, asking Californians to reduce their electricity consumption between 4 p.m. and 9 p.m. to save power and reduce the risk of outages.

Actions the State has taken to accelerate the transition to clean energy have put an estimated 4,000 megawatts on the grid that were not available in July 2020. Since then, the State has also developed emergency measures including adding generators and a Strategic Energy Reserve, additional procurement, and demand response to produce 2,000 megawatts available to respond to emergency conditions. However, because the recent heat wave has impacted the entire western United States, limited energy resources are being stretched across multiple states. The prolonged drought has also greatly reduced the State's ability to generate hydroelectric power. Additionally, the duration of the late August- early September heat wave is unlike those experienced in recent history increasing the length of time the grid will face peak demand.

This emergency proclamation will allow power plants to generate additional electricity, permits use of backup generators to reduce the amount of energy they need to draw from the grid during the periods of peak energy demand during this heat wave, and allows ships in California ports to reduce their consumption of electricity from the grid.

CARB Bans Sale of New Gas-Powered Vehicles, Beginning 2035

On August 25, the California Air Resources Board (CARB) adopted their Advanced Clean Cars II (ACC II) Regulations requiring automobile manufacturers to deliver to the California new vehicle market increasing percentages of zero-emission vehicles (ZEVs) as a portion of their overall product deliveries between model years 2026 and 2035. The ACC II regulations' proposal to increase the sale of ZEVs would culminate in nearly 100 percent sales of ZEVs by the 2035 as directed by Governor Newsom's Executive Order N-79-20.

For context, in 2018 and 2019 Assembly Member Ting introduced legislation banning the sale of gas-powered vehicles by 2035. That legislation never made it out of Assembly Transportation Committee due to lingering questions about its viability. Without answers to these and other questions, it appeared that this policy was going to struggle through the Legislature, so instead, in 2020 Governor Newsom produced an Executive Order directing CARB to develop regulations to implement the strategy. The ACC II regulations are the result of that order.

During the development of the regulations, automakers cautioned CARB that while technological advances may lower compliance costs, consumers may still not accept new technologies at the rates required by the regulation and stressed that complementary ZEV policies to facilitate the ZEV market are needed. Other stakeholders representing business associations expressed concerns about ZEV affordability.

CARB staff determined that, when weighing the benefits of emissions reductions against the increased costs imposed by the proposal, the net result of the ACC II regulations are estimated to be a cumulative net benefit to California of \$91.1 billion with a benefit-cost ratio of 1.43, meaning benefits are more than costs between 2026 and 2040. For more information, see the staff board summary [here](#); find the entire proposed resolution [here](#).

Governor Newsom Announces Water Strategy for a Hotter, Drier California

Last month, Governor Newsom announced California's latest actions to increase water supply and adapt to more extreme weather patterns caused by climate change. The actions, outlined in a strategy document published by the Administration called "[California's Water Supply Strategy, Adapting to a Hotter, Drier Future](#)" calls for investing in new sources of water supply, accelerating projects and modernizing how the state manages water through new technology.

To help make up for the water supplies California could lose over the next two decades, the strategy prioritizes actions to capture, recycle, de-salt and conserve more water. These actions include:

- Creating storage space for up to 4 million acre-feet of water, which will allow us to capitalize on big storms when they do occur and store water for dry periods
- Recycling and reusing at least 800,000 acre-feet of water per year by 2030, enabling better and safer use of wastewater currently discharged to the ocean.
- Freeing up 500,000 acre-feet of water through more efficient water use and conservation, helping make up for water lost due to climate change.
- Making new water available for use by capturing stormwater and desalinating ocean water and salty water in groundwater basins, diversifying supplies and making the most of high flows during storm events.

These actions are identified broadly in the Newsom Administration's [Water Resilience Portfolio](#) – the state's master plan for water released in 2020 – but they will be expedited given the urgency of climate-driven changes.

Federal Legislative Updates

Although the month of August is typically reserved for the Congressional recess, this year was marked by a broad last minute effort to sign sweeping climate, health, and tax legislation into law. The Inflation Reduction Act was one key piece of legislation that passed in August, along with the CHIPS and Science Act and the Honoring Our Pact Act. Additionally, the Biden Administration announced new policy initiatives to mitigate student loan debts for low- and middle-income borrowers, protect the DACA program, and address a regional megadrought in the west. Below is an overview of federal legislative updates that occurred during the month of August.

President Biden Signs Inflation Reduction Act

Following months of negotiations on the Inflation Reduction Act ([H.R. 5376](#)) in Congress, President Biden signed the legislation into law on August 16. The President's signing of the bill comes after the Senate voted 51-50 and the House voted 220-207 to pass the legislation. The \$750 billion legislation will address health care, tax, and energy reforms and marks a major victory for the Administration ahead of the November midterm elections.

Following the passage of the Inflation Reduction Act, Congress officially entered its August recess. The Senate is scheduled to return to Washington, DC on September 6, while the House is set to reconvene on September 13.

Update on FY23 Appropriations

Although Congress is in its recess this month, work on the path forward on FY23 appropriations continued throughout August. In June and July, the House and Senate Appropriations Committees released the text of their FY23 appropriations bills. Eight of the twelve annual spending bills passed the House in July, but none have passed the Senate. Due to the slim Democratic majorities in the House and Senate, Congress will need to strike a bipartisan compromise on FY23 appropriations in order to overcome a Republican filibuster in the Senate. The House and Senate bills that have been released are Democratic, partisan bills, with little to no Republican input. Because there is no bipartisan agreement, Congress will take up a Continuing Resolution (CR) in September to fund the government at current levels beyond the end of Fiscal Year 2022 on September 30. This will give the House and Senate negotiators more time to arrive at a compromise. The earliest a compromise will emerge is likely in December.

Capitol Hill sources suggest that the House of Representatives will consider a CR when they return to Washington during the week of September 12. We are told to anticipate this CR lasting until December 16, 2022.

President Biden Signs Executive Order to Implement CHIPS and Science Act

On August 25, President Biden signed an Executive Order (EO) to implement the semiconductor funding in the bipartisan CHIPS and Science Act of 2022 ([H.R. 4346](#)). The CHIPS+ Act establishes over \$52 billion to bolster the U.S. semiconductor industry and increase U.S. industry competitiveness. To coordinate effective implementation of the legislation across the Administration, the EO establishes an interagency CHIPS Implementation Steering Council. The Steering Council will be co-chaired by National Economic Director Brian Deese, National Security Advisor Jake Sullivan, and the Acting Director of the Office of Science and Technology Policy, Alondra Nelson.

The Administration has established six primary priorities to guide CHIPS+ implementation across the federal government. These include:

- Protect taxpayer dollars through a rigorous review of applications, as well as with clear compliance and accountability requirements.
- Meet economic and national security needs by building domestic capacity that reduces U.S. reliance on foreign semiconductor production while simultaneously increasing U.S. economic productivity and competitiveness.
- Ensure long-term leadership in the semiconductor sector through a collaborative network for research and innovation.

- Strengthen and expand regional manufacturing and innovation clusters to bolster investments across the supply chain.
- Catalyze private sector engagement to maximize large-scale private investment in production, technologies, and workers in the industry. The CHIPS+ program will ideally respond to market signals, fill market gaps, and reduce investment risk to private entities.
- Generate benefits for a broad range of stakeholders and communities, especially startups, workers, socially and economically disadvantaged businesses, universities, and local economies.

In addition to the EO, the Department of Commerce has launched CHIPS.gov to provide an essential channel through which the public can learn about CHIPS Program initiatives.

EPA Proposes Designating Certain PFAS Chemicals as Hazardous Substances

On August 26, the Environmental Protection Agency (EPA) [proposed](#) to designate two of the most widely used per- and polyfluoroalkyl substances (PFAS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The rulemaking aims to increase transparency around releases of these harmful chemicals and help to hold polluters accountable for cleaning up their contamination.

The proposal applies to perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) and is based on significant evidence that PFOA and PFOS may present a substantial danger to human health and the environment. PFOA and PFOS can accumulate and persist in the human body for long periods of time and exposure can potentially lead to deadly illnesses, including cancer.

If this designation is finalized, releases of PFOA and PFOS that meet or exceed the reportable quantity would have to be reported to the National Response Center, state or Tribal emergency response commissions, and the local or Tribal emergency planning committees. Additionally, under the rule, polluters would be made to pay in certain circumstances by allowing the EPA to seek to recover cleanup costs. Federal entities that transfer or sell their property will be required to provide a notice about the storage, release, or disposal of PFOA or PFOS on the property and a covenant ensuring the contamination has been cleaned up, as well.

EPA will be publishing the Notice of Proposed Rulemaking in the *Federal Register* in the next several weeks. Upon publication, EPA welcomes comment for a 60-day comment period.

Biden Administration Calls for Colorado River Basin Conservation

On August 16, the Biden Administration [called](#) for the seven states in the Colorado River Basin – California, Arizona, and Nevada in the Lower Basin, and Utah, New Mexico, Colorado and Wyoming in the Upper Basin – to conserve up to 4.2 million-acre feet of water from the river annually through 2026 to ensure enough can serve the region amid a [megadrought](#). Earlier in June, the Bureau of Reclamation asked the states to come up with a long-term plan by mid-August to cut water; however, the states are at an impasse. With tensions running high between states in the Upper and Lower Basins, the need to cut to water is so urgent there is likely not enough time to wait for a legal dispute to play out. If the dispute sparks litigation, it's likely to originate at the Supreme Court—the typical venue for interstate water conflicts—and take years or even decades to resolve.

The Colorado River provides water for 40 million people from Denver to Los Angeles, but the region is 23 years into a [megadrought](#), radically reducing river flows and drying up the largest reservoirs in the Country. The basin's two reservoirs, lakes Mead and Powell, are at a combined 28% of capacity. The Bureau is pushing states to come to a consensus on conservation.

NHTSA Announces U.S. Traffic Deaths Hit 20-Year High

On August 17, the National Highway Traffic Safety Administration released preliminary estimates that show more than 9,500 people were killed in traffic crashes in the first three months of this year – a figure that represents the deadliest start to a year on U.S. road in 20 years. In seven states and the District of Columbia, officials estimated crash deaths jumped at least 50 percent. Nationwide, deaths were up 7 percent compared with the same period last year.

Experts have struggled to come up with an explanation for the spike in deaths but have pointed to less congestion amid changed driving patterns during the pandemic, which they say have allowed more dangerous speeds. Officials say there's also evidence of an uptick in reckless behavior, such as driving impaired or without wearing a seat belt. Transportation Secretary Pete Buttigieg earlier this year said the nation would work to eliminate crash deaths, pledging to adopt a "safe system" approach that would look as much at the design of roads and cars as the behavior of individual drivers. The effort is backed by billions in new safety funding from last year's infrastructure law, including a \$5 billion fund that will provide grants aimed at protecting bicyclists and pedestrians.