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TOWNSEND

PUBLIC AFFAIRS

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MEMORANDUM

To: Mayor Libby Schaaf
Council President Larry Reid and Members of the City Council

From: Townsend Public Affairs, Inc.

Date: October 23, 2018

Subject: Ongoing update of the 2018-2019 State & Federal Budgets

State Budget

As a recap, the State Budget was signed by the Governor on June 27, 2018. TPA provided the City with ongoing, multiple updates throughout the month of June highlighting the actions of the various Senate and Assembly Budget committees and what it means for the City.

The City/TPA team, specifically the Mayor and her office, were very active both individually and as part of various coalitions advocating for increased funding through the State Budget for homelessness.

Additionally, TPA worked with various City Departments to ensure two previous state grant awards were extended thereby giving the City ample time to finish the projects. These extensions are secured through the State Budget and trailer bills and are for a park project and affordable housing project.

As a summary, the highlights from the 2018 State Budget include:

- \$500 million in the General fund for cities, counties and nonprofits for direct and immediate actions to help address your local homeless issues. This is called the "Homeless Emergency Aid Program" and these funds are one-time flexible block grants to address the immediate homelessness challenges.
- The No Place Like Home program was placed on the November ballot. As you recall, No Place Like Home dedicates \$2 billion in bond proceeds to invest in the development of permanent supportive housing for persons who are in need of mental health services and are experiencing homelessness, chronic homelessness, or who are at risk of chronic homelessness. The bonds are repaid by funding from the Mental Health Services Act (MHSA).



- The state's Rainy Day Fund, established by a vote of the people in 2014, saves money when the economy is strong for uncertain times ahead. The budget fully fills the fund, growing the balance to an unprecedented \$13.8 billion.
- The budget increased funding by more than \$4,600 per student over 2011-12 levels and directs \$78.4 billion in funding to K-14 schools – a 66 percent increase in annual funding from seven years ago. Additionally, the state will fully implement the Local Control Funding Formula.
- This budget included the first full year of funding under Senate Bill 1 – the state's Road Repair and Accountability Act – with \$4.6 billion in new transportation funding in 2018-19. The funding will repair neighborhood roads, state highways and bridges, fill potholes, ease congestion in busy trade and commute corridors and improve and modernize passenger rail and public transit.
- The budget increased funding for the state's university and community colleges systems with no tuition or fees hikes and establishes the state's first-ever online community college. Since 2012, the University of California has received \$1.2 billion in new funding, with \$1.7 billion for the California State University and \$2.4 billion for community colleges over the same period.
- The budget included a \$1.4 billion Cap and Trade Expenditure Plan to invest in programs that further reduce carbon pollution and support climate resiliency efforts, including \$210 million for forest improvement and fire prevention projects that protect the state's forests from wildfires and \$334.5 million for the California Energy Commission and the California Air Resources Board to begin the implementation of a multi-year initiative to accelerate sales of zero-emission vehicles through vehicle rebates and infrastructure investments.
- The budget provides \$79 million to support immigrants through a number of legal services programs, including deportation defense, naturalization services and DACA assistance.

Additionally, TPA has started working with the Department of Parks and Recreation and the Public Works Agency on the recently approved Park Bond and its various opportunities. The Proposition 68 Statewide Park Program guidelines have been released and TPA has been participating in the upcoming review sessions and grant writing workshops. This program is a direct continuation of the previous Proposition 84 Statewide Parks Program, with few changes to criteria and eligibility, including a larger emphasis on disadvantaged communities. This is a great opportunity for Oakland projects and our efforts are already underway.

Federal Budget

Federal Budget & Appropriations Overview

- At the federal level, the **budget** is a non-binding, broad outline of spending that is recommended but not required, which is followed by appropriations bills that fund all federal government agencies.
- **Appropriations bills**, which fund the federal government, are traditionally adopted in twelve individual bills pertaining to the various federal departments and agencies. These bills may also advance in the form of a:
 - **Continuing Resolution (CR)**: Extension of federal funding for a set amount of time at the same level as previously negotiated
 - **Omnibus**: Full-year funding, all in one bill
 - **Minibus**: Full-year funding, but for several departments at a time
 - **CRomnibus**: Combination CR and omnibus, which negotiates new funding levels for some areas of government and simply extends federal funding at same levels for other areas of government
- In a typical legislative year, Congress begins crafting their annual funding bills after the president submits his proposal in February, followed by appropriation committee hearings in early spring, appropriation bill mark-ups in late spring, floor debate and passage in summer, conference committee negotiations in early fall and final approval by the House and Senate before the September 30 end of the fiscal year.
- However, for the past several years, Congress has been unable to pass all twelve bills in time, and has relied in a series of CRs or omnibus bills.
- An omnibus (and sometimes minibuses) can be unwieldy and under-scrutinized compared to the individual twelve bills, but ultimately, they fund the government in the same way individual appropriation bills would.

FISCAL YEAR 2019 BUDGET AND APPROPRIATIONS

On September 28, President Trump signed a continuing resolution to fund the federal government through December 7, 2018, avoiding a government shutdown that could have started on Monday, October 1. President Trump also approved bills that funds Defense, Labor, Health and Human Services, and Education Departments through the end of Fiscal Year (FY) 2019 (October 1, 2019). Earlier in September, President Trump signed a package of the Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs spending bills, which ensures full-year funding for those areas as well.

Housing/Community Development:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Community Development Block Grant (CDBG)	\$3.3 billion	\$0	\$3.3 billion	\$3.37 billion	FY 18 level through 12/7/18
HOME Investment Partnerships	\$1.36 billion	\$0	\$1.2 billion	\$1.36 billion	FY18 level through 12/7/18
Homeless Assistance Grants	\$2.51 billion***	\$2.38 billion***	\$2.57 billion***	\$2.61 billion***	FY18 level through 12/7/18
HUD Tenant-Based Rental Assistance	\$22.02 billion	\$20.55 billion	\$22.48 billion	\$22.78 billion	FY18 level through 12/7/18
HUD Project-Based Rental Assistance	\$11.52 billion	\$11.15 billion	\$11.75 billion	\$11.75 billion	FY18 level through 12/7/18
Economic Development Administration (EDA)	\$302 million	\$0	\$302 million	\$306 million	FY18 level through 12/7/18

*** Maintaining and increasing homelessness funding is a major success this year. Top line numbers for homelessness nationwide have been down, but numbers on the West Coast have gone way up. Increasing funding for these programs indicates federal appropriators are listening to us and specifically prioritizing the homelessness crisis in California and other West Coast states.

Transportation:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Better Utilizing Investments to Leverage Development (BUILD) Transportation Discretionary Grants, formerly known as TIGER***	\$1.5 billion***	\$0	\$750 million***	\$1 billion***	FY18 level through 12/7/18

*** In FY 2018, BUILD/TIGER grants received triple funding of the previous year as a one-time boost... proposed FY 2019 levels are 50-100% higher than FY 2017 levels before the one-time boost.

Public Safety:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Community Oriented Policing Services (COPS)	\$276 million***	\$99 million***	\$226 million***	\$310 million***	FY18 level through 12/7/18
Recidivism/Reentry Grants	\$85 million	\$30 million	\$85 million	\$90 million	FY18 level through 12/7/18
Assistance to Firefighters (AFG) Grants	\$350 million	\$344 million	\$350 million	\$350 million	FY18 level through 12/7/18
Staffing for Adequate Fire and Emergency Response (SAFER) Grants	\$350 million	\$344 million	\$350 million	\$350 million	FY18 level through 12/7/18
FEMA Pre-Disaster Mitigation Grant Program	\$249 million	\$39 million	\$249 million	\$150 million	FY18 level through 12/7/18

*** In response to a lawsuit, COPS has put a hold on several grant programs for the FY18 cycle, including the COPS hiring program. If the hold is not resolved soon, this could affect appropriations for FY19 full-year funding, including prompting a one-year cut while COPS allocates its delayed FY18 award funding. While congressional appropriators are not currently factoring this in, we are aware of its ability to change in the near future. Additionally, the House version would move the COPS office into the larger Office of Justice Programs within the U.S. Department of Justice per the President's budget request.

Education:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Head Start	\$9.86 billion	\$9.28 billion	\$9.91 billion	\$10.1 billion	\$10.1 billion
Job Training/WIOA	\$3.49 billion	\$2.02 billion	\$3.47 billion	\$3.5 billion	\$3.5 billion

Environment:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Brownfields Grants	\$80 million	\$62 million	\$80 million	\$80 million	FY18 level through 12/7/18

Welfare Assistance:

Program	FY 2018 enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate	FINAL
Supplemental Nutrition Assistance Program (SNAP) ***	\$74.01 billion***	\$73.22 billion***	\$73.22 billion***	\$73.22 billion***	FY18 level through 12/7/18

*** SNAP and WIC funding levels are currently proposed to be lower than last year, but the decrease is small enough that we do not anticipate an observable change in access to assistance on the ground.

Cannabis

According to the continuing resolution passed last month, as has been included in previous appropriations bills, no federal funds may be used to prevent the use, distribution, possession, or cultivation of medical cannabis in the states in which it is legal.

Furthermore, Majority Leader Mitch McConnell got a provision in the Senate version of the Farm Bill, a major agricultural policy bill, to legalize hemp under federal law.

The current hemp-related provisions of the Farm Bill, including descheduling, would go into effect immediately after being signed by the President.

With respect to the regulation of hemp production, USDA would issue its own regulation plan as well as a framework for states to be able to apply to be the primary regulatory authority if they desire to do so. However, there is no specific timeline for the promulgation of such regulations. As a result, the specific timeline for the development and release of these regulations would be up to USDA.

The Farm Bill has been passed by the House and Senate and is currently being conferenced before both chambers re-vote and send a final version to the President for signature.

Sanctuary Cities

A judge in Southern California ruled in September that the City of Huntington Beach has the right to defy California's "sanctuary state" law, effective immediately.

Orange County Superior Court Judge James Crandall did not comment extensively on the lawsuit's argument that SB 54 violates a charter city's sovereignty, but criticized SB 54 as forcing cities into "one size fits all" policing.

In April, Huntington Beach City Attorney Michael Gates filed a lawsuit against the state claiming that Senate Bill 54 unconstitutionally interferes with the city's charter authority to enforce local laws and regulations. SB 54 limits interaction between local law enforcement and federal immigration officials with some exceptions, including cases that involve violent or other serious felonies. The State has argued that the California Constitution makes charter cities subject to the same state laws as other cities on matters of statewide concern.

There is less certainty about what happens next. Judge Crandall acknowledged that the case would be considered in higher courts for many more months. Gates stated that the ruling will stand for all 121 charter cities in the state, but the American Civil Liberties Union of Southern California

stated they believe the ruling applies solely to Huntington Beach. There was no immediate written decision as Crandall ruled from the bench – a written statement with clarification will be forthcoming from the judge, and we will pass more information along as we have it.

Immigration

DACA

As Congress continues to struggle over how to act on immigration policy, the House Appropriations Committee approved an amendment to its version of the Fiscal Year (FY) 2019 Homeland Security spending bill that would temporarily bar the federal government from detaining or deporting recipients of the Deferred Action for Childhood Arrivals (DACA) program.

This bipartisan amendment, offered by Congressman Pete Aguilar (D-CA), would protect DACA recipients from the threat of deportation throughout FY 2019 (October 1, 2018 to September 30, 2019). These protections still must be agreed to by the full House and the Senate. The Senate version does not include a provision protecting DACA recipients.

Now that a Continuing Resolution has been passed to fund the Department of Homeland Security and most of the rest of the government through December 7, the House will not vote on this bill until after the November election.

The House bill would provide \$5 billion for the construction of a border wall and fencing. The Senate bill would allocate \$1.6 billion for these purposes. The debate over the DACA and border wall provisions will likely be important to negotiations between congressional Democrats and Republicans to get the votes necessary to pass a spending bill, particularly given the 60 votes needed in the Senate.

Public Charge

In September, the Department of Homeland Security released the proposed public charge rule, which proposes to ensure that immigrants who legally use public benefits like food assistance and Section 8 housing vouchers could be denied green cards. This would seek to keep out people the Trump administration deems a drain on the country.

The rule would not apply to families making less than 15 percent of the official poverty designation. Immigrants could be asked in limited cases to post cash bonds of at least \$10,000 to avoid being denied green cards under the new regulation. The Trump administration said would affect about 382,000 people a year.

Pro-immigrant activists predict that poor immigrants will immediately begin withdrawing from public assistance programs — even at the risk of losing needed assistance for food, shelter and medicine — out of a fear that they will be denied green cards and will be deported.

The proposal does not include tax credits and other health benefits that were under consideration in previous drafts.

The changes, if adopted, would potentially affect those applying for immigration visas or legal permanent residency, such as a temporary worker with an expiring visa. It would have little or no bearing on immigrants who entered the country illegally, but it could weigh on the cases of the more than 600,000 with Deferred Action for Childhood Arrival benefits if they file for permanent residency.

The proposal will publish in the Federal Register in the coming weeks, according to DHS, triggering a 60-day public comment period.

Immigration Judge Authority

In September, U.S. Attorney General Jeff Sessions announced new limits on the ability of immigration judges to terminate deportation cases.

Sessions said judges can only terminate or dismiss cases in “specific and circumscribed” circumstances, and that judges “have no inherent authority to terminate removal proceedings even though a particular case may pose sympathetic circumstances.”

The decision laid out specific circumstances under which immigration judges can terminate deportation proceedings, including in cases where the government cannot prove its case for removal.

Judges can also terminate proceedings if the government asks for a dismissal or to allow an immigrant time for a final hearing on a pending petition for naturalization when the matter involves “exceptionally appealing or humanitarian factors.”

This is a change for those pursuing legal status. Having a deportation case terminated does not confer legal status on an immigrant, but it does give them time to pursue other avenues of remaining in the country legally, including asylum. Previously, even if judges dismiss the case, the Department of Homeland Security still had the authority to place immigrants whose cases are dismissed back into deportation proceedings with a new charging document.

Local Authority over Wireless Infrastructure

Last month, the Federal Communications Commission (FCC) voted on a 3-1 party-line vote to approve the new rule to limit fees on wireless provider use of local infrastructure, and limit the amount of time that local authorities can take to review businesses proposal for deploying wireless infrastructure.

As a reminder, these rules are designed to facilitate the expansion of 5G technology. Unlike 4G signals, which can be transmitted for miles by large cell towers, the 5G waves can only travel short distances and will require refrigerator-sized stations every few city blocks (as little as 300 feet apart).

The rule is similar to some provisions seen in SB 649 at the state level last year, and S. 3157 (the STREAMLINE Small Cell Deployment Act) at the federal level this year, though the FCC rule is narrower in scope than either bill.

Review of What the New Rule Does:

- Rent Caps
 - The proposal will cap rents on utility poles
 - New cap per pole: \$270 per year
 - Current average fee per pole: \$2400 a year
 - This is an average of negotiated rates that wireless companies agreed to
 - Estimated that this will result in a nearly 90% cut to utility pole rents wireless providers pay to local governments nationwide, worth approximately \$3 billion annually.

- Application Fees
 - The proposal will cap fees levied on wireless applications to local governments
 - New application fee: \$100
 - Current average fee per application: \$1000
 - Based on urban estimates
 - Charging any rent will also require extensive and expensive documentation by local governments
- Prevents In-Kind Negotiations
 - In some cases, cities negotiated for more service in poor neighborhoods in return for wireless providers using existing municipal conduits.
 - In these areas, profits can be smaller because fewer people buy add-ons to their cell phone services such as data, texts and voicemail.
 - Also, many cities negotiated utility pole rents with discounts as wireless providers rent more poles, in order to encourage better service in poor neighborhoods, narrowing the digital access divide.
- Review Timeline Shortened
 - The rule would also tighten to 60 days, from 90, the time limit for localities to review new small antennas on existing structures
 - The rule would place a 90-day limit for considering new installations, down from 150 days.
 - The original 90- and 150-day limits still apply to large towers.
- Deadline to Comply
 - The proposal imposes a 30-day deadline on every municipality in America to comply
 - Opponents have pointed out that many municipalities cannot change their codes in less than 45 days due to separate public hearing and ordinance consideration rules

In Favor:

- Proponents of the new rule argued that limiting what they saw as exorbitant fees will free up capital to invest in networks in underserved rural areas, though nothing in the order incentivizes companies to reinvest the money in rural access.
- Supporters included Representative Billy Long (R-MO) along with 25 other Republican signatories (none from California), on a letter arguing that it is important to ensure cities are 5G ready.
- The Wall Street Journal Editorial Board also came out in favor of the FCC proposal, decrying "self-serving behavior" by local officials.

In Opposition:

- Mayors and local officials stand on the whole in opposition, arguing that the FCC would override their authority to regulate the use of new technology in their municipalities.
- Opposers include Representatives Jerry McNerney (D-CA), Anna Eshoo (D-CA), and seven other Democrats who signed a letter opposing the vote.
- Other groups opposed to the action: the National Governors Association, the National Conference of State Legislatures.

What happens now:

- The rule is set to take effect 30 days after it's published in the Federal Register (has not happened yet, but expected very soon)
- Our sources tell us that there are multiple lawsuits brewing that would act on behalf of local government leaders, including from US Conference of Mayors, that will be filed in the 10 days after the order is published.
 - They will ask a court to issue a stay, keeping the order from taking effect during the litigation.
 - Expect these lawsuits to slow progress in implementation.
 - Broader litigation will likely stretch until end of 2019.
- We will be collaborating with the Conference and other stakeholders who have affirmed their opposition to strategize how we can be most influential.
 - We will let you know when the opportunity arises to sign onto an amicus brief for lawsuits or other actions