



TO: Legislative Committee
FROM: Brent R. Heberlee
DATE: October 3, 2018
RE: Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the October 8, 2018, Legislative Committee meeting.

A. FY2019 Appropriations

President Trump has signed five of the 12 spending bills into law for FY2019, along with a continuing resolution to fund other agencies through December 7th. The five bills include Military Construction-VA, Energy and Water, Defense, Labor-HHS-Education, and Legislative Branch and cover roughly 80 percent of discretionary spending. The remaining unfinished bills include some of the most controversial policy debates that would have to take place during a lame-duck session in December after the midterm elections.

Punting these negotiations until later is by design because lawmakers didn't want to deal with hot-button issues such as immigration before the election where control of both chambers of Congress is at stake. Immigration matters will have to be resolved in talks over the Homeland Security measure, while fights over issues such as the Russia probe and climate change are part of the talks on the Commerce-Justice-Science spending bills. Republican leaders also put off work on the State and Foreign Operations bill, and failed to reach an agreement on a package that included Interior-Environment, Financial Services, Transportation-HUD and Agriculture-FDA. The deal to avoid a shutdown ensures that some of the most contentious debates in the FY2019 appropriations process will take place later this year, including disputes over border wall funds, asylum seekers, the Census Bureau's proposed citizenship question and climate-change programs.

Some of the programs that have been funded for FY2019 that support County priorities include the following:

- **Veteran Homelessness:** \$1.8 billion will be directed to VA's homeless assistance programs such as the Supportive Services for Veteran Families program, which will receive \$380 million.
- \$10.1 billion for **Head Start**, a \$200 million increase.
- \$725 million for the **Community Services Block Grant**, which the administration proposed eliminating, a \$10 million increase from FY2018.
- \$1.63 billion for **community health centers**, the same as FY2018.

- \$926.8 million for **maternal and child health programs**, a \$40 million increase from FY2018.
- \$200 million for grants related to **behavioral health, mental health, or substance use disorder services**.

The Health and Human Services spending bill would require the department to submit a reunification plan to Congress by November 15, 2018, for children separated from their families and placed with the Office of Refugee Resettlement (ORR). It would also direct the department to do the following:

- Place unaccompanied siblings in the same facility or with the same sponsor;
- Submit monthly reports to Congress on children separated from their parents and transferred to ORR; and
- Submit reports on children's language and mental health needs within 45 days of the bill's enactment.

B. Federal Communications Commission (FCC) Proceeding on 5G Deployment

On September 26, the FCC approved a new rule on 5G wireless network deployment that curtails local authority. The FCC decision limits fees local governments may assess on telecommunications companies for the placement, construction or co-location of new wireless service facilities.

The ruling also constrains local governments to 60 days to evaluate applications from wireless companies to attach 5G Small Cells to existing structures and 90 days to review applications for equipment on entirely new structures. By narrowing the window for evaluating 5G deployment applications, the FCC rule could prevent local governments from properly examining the impact that construction, modification or installation of broadcasting facilities may have on public health, safety and welfare of the community.

The County submitted a comment letter in this proceeding on September 19th expressing opposition to the draft order.

The new regulations will go into effect 30 days after publication in the Federal Register. Once in effect, counties will be susceptible to enforcement action if wireless providers or other small cell applicants claim a local government is not in compliance with the new requirements. Specifically, the declaratory ruling and report and order will:

- **Create two new categories of shot clocks** for small cell wireless facility review. Local governments would have 60 days to complete review of applications for collocated small cells, and 90 days for small cells on new structures. These shot clocks include "all aspects of and steps in the siting process," including mandatory pre-application procedures, public notice and meeting periods, and construction permitting.
- **Determine that exceeding the shot clock is a "prohibition on the provision of services,"** and allow wireless site applicants to seek expedited injunctive relief in court

within 30 days of a local government missing a shot clock deadline. More restrictive state laws will remain in effect and will not be replaced by this order.

- **Limit application fees for all small wireless facilities** to \$500 for up to five sites, and \$100 per site for each site thereafter.
- **Limit recurring fees for small cells in public rights-of-way** to a “reasonable approximation” of the locality’s “objectively reasonable costs” for maintaining the rights-of-way, which must be no higher than fees for similar actors. The FCC defines reasonable recurring fees to be limited to \$270 per site, per year. Local governments are expressly prohibited from recovering any cost not directly related to rights-of-way maintenance. The FCC also finds gross revenue fees to be presumptively unreasonable and existing agreements are not grandfathered.
- **Limit allowable local aesthetic requirements**, including minimum spacing requirements, to those that are “(1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments and (3) published in advance.” The FCC notes that undergrounding requirements for wireless facilities would constitute an illegal prohibition of service by a local government.

C. Proposed Change to “Public Charge” Definition for Immigration Purposes

On September 22nd, the Department of Homeland Security (DHS) released a new proposed regulation that would redefine how the government determines whether an individual applying for immigration status meets the definition of a “public charge,” which refers to an individual who relies on public assistance. The draft rule would allow federal immigration authorities to reject an application for admission to the United States if the officer determines the individual is unlikely to earn enough to support their family. It would also allow authorities to deny immigrants already in the country permanent legal residency or visa extensions if they or their dependents have used a wide range of public benefits.

Under current policy, an individual is deemed a public charge if they access government benefits that provide cash assistance – such as the Temporary Assistance for Needy Families (TANF) program or Supplemental Security Income (SSI) – or receive government-funded long-term institutional health care. The proposed rule would broaden the scope of programs considered when evaluating the public charge designation to include the Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps), Medicaid, Section 8 Housing Choice Voucher Program and other housing benefits. If enacted, the rule is likely to impact predominantly legal immigrants and families, since undocumented immigrants cannot access most federal benefits. Certain immigrant populations such as refugees, asylees and survivors of domestic violence, would also not be subject to public charge determinations and would not be affected by the proposed rule.

In addition to broadening the types of benefits programs considered as part of the public charge determination, the administration’s proposed rule would expand immigration authorities’ ability to conduct extensive research on an immigrant’s history and economic prospects. When determining if an individual meets the public charge designation, an individual would not be penalized if their children are U.S. citizens and receive government benefits. However, under the

new proposed rule, if an individual's children are not U.S. citizens, benefits they receive may be considered against the parent.

DHS is expected to submit the proposed rule for publication in the Federal Register in the coming weeks with a 60-day comment period.

D. Pajaro River Flood Control Project – Meetings in Washington, D.C. on October 9-10

Supervisor Phillips and I will be joining officials from Santa Cruz County and the City of Watsonville for two days of meetings in D.C. to discuss the Pajaro River Flood Control Project. Meetings have been scheduled with the White House Office of Management and Budget, U.S. Army Corps of Engineers, staff from the offices of Congressman Jimmy Panetta and Senators Feinstein and Harris, the House and Senate Appropriations Committees, and the House Transportation and Infrastructure Committee.

The purposes of the meetings are to stress the importance of keeping the project on schedule and highlight the unique benefits of the project that are not captured in the normal Army Corps of Engineers economic analysis.

E. Livable Incomes for Families Today (LIFT) the Middle Class Act

Senator Kamala Harris's district staff has requested the County's support for legislation she intends to introduce shortly titled the LIFT the Middle Class Act. According to a summary of the bill, it would provide a tax credit up to \$500 a month, or \$6,000 a year, to help families making under \$100,000 per year with the rising cost of living. Once the bill is introduced I will provide further analysis for your consideration.

Attachments:

- Federal Bill/Issues Track