



Legislation Text

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DATE: January 9, 2020

SUBJECT:

PRESENTATION ON NEW LEGISLATION FOR 2019-2020 PORT OF SAN DIEGO LEGISLATIVE PRIORITIES AND DIRECTION TO STAFF

EXECUTIVE SUMMARY:

The 2019-2020 Legislative Priorities encompass the Port of San Diego's policy goals and potential legislative priorities at the state and federal level for a two-year timeframe, concurrent with the 2019-2020 California legislative session. This document is guided by the District's Compass Strategic Plan, the 2018-2022 Legislative Platform, existing Board Policies and direction, and the District's Executive Leadership Group and staff input. Legislative priorities are identified at the local, state, and federal levels of government. Efforts to advance these priorities will range from the District acting as the lead entity in moving legislation to collaborative efforts with multiple stakeholders in which the District is a participant.

RECOMMENDATION:

Receive the presentation on the New Legislation for 2019-2020 Port of San Diego Priorities and give direction to staff.

FISCAL IMPACT:

This item is for presentation purposes only and has no fiscal impact..

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.

DISCUSSION:

Review of 2019

The year 2019 saw the Port continue its very active federal advocacy program targeting federal appropriations, advancing regional priorities, and commenting on legislation. Below are highlighted initiatives achieved in collaboration with Carpi & Clay, the Port's federal legislative advocates based

in Washington, DC.

- 1) Tijuana River Valley Border Sewage - This issue remained a very high priority on the Port's federal advocacy agenda. Through its advocacy and outreach, the Port helped drive a broader regional focus on this issue. Over the course of the year, the Port's leadership and staff participated in many high-level discussions with the White House, Congress and federal agencies, including the U.S. Environmental Protection Agency (EPA) and the White House Office of Management and Budget - the office charged with preparing the president's annual budget request.

In previous years, the Port's challenge was to protect meager appropriations for the EPA's Border Water Infrastructure Grant (BWIP). The final FY19 funding bill secured \$15 million for BWIP. The Port reiterated support for this priority issue early this year. Through regional advocacy and hands-on interactions with the San Diego Congressional Delegation, the House-passed EPA appropriations bill includes \$30 million for BWIP. While well short of the total need, a doubling of appropriations is significant. Meanwhile, Senator Feinstein was able to increase funding in the Senate Bill. As a result, the Port is now advocating for the full \$30 million as part of the year-end government funding negotiations. The Port is also urging adoption of the United States-Mexico-Canada Agreement provisions agreed to by the White House Administration authorizing \$300 million in border project programs.

In addition to working with Congress, the Port has been actively engaging EPA, which included high-level meetings for Port Commissioners.

Significantly, the Port's congressional delegation worked together on a package of legislation targeting this issue. These bills would: (1) reauthorize the BWIP program at higher funding levels; (2) increase funds through the North American Development Bank (NADBANK) for infrastructure; (3) create greater reporting transparency regarding sewage flows, and; (4) require the U.S. Defense Department to report on Tijuana Sewage runoff impacts to readiness.

- 2) Harbor Maintenance Trust Fund - As previously reported, a key legislative victory for the Port in 2016 was passage of a new law, Water Resources Development Act of 2016, that specifically designated the Port as a "donor" port. Under this provision, the Port is eligible to receive donor equity payments. Addressing the port's donor status was an essential step.

An ongoing challenge for the Port, and ports nationally, is to secure full utilization of the Harbor Maintenance Trust Fund (HMTF). Legislation is required to ensure that the funds paid into the harbor maintenance trust fund collected are fully utilized to support navigation and maintain federally authorized harbors, which is not the case today.

The HMTF currently collects more revenue from shippers than Congress has appropriated to the Corps of Engineers to maintain our harbors. Collected revenues of more than \$9 billion are in the HMTF, yet unused. The Port has supported the draw-down of these funds for harbor maintenance projects. On October 28, the House of Representatives passed legislation (206-109) to free-up these funds for eligible operations and maintenance needs at ports nationwide. This legislation is now pending consideration in the Senate Environment and Public Works Committee.

- 3) Aquaculture - The Port's federal advocacy promoting aquaculture in San Diego Bay and in offshore federal waters continued over the course of 2019. Specifically, early this year Port staff met with the Senate Commerce Committee and key Senate offices to evaluate legislative issues and explain the Port's positions and Blue Tech interests. As a result, the Port was asked to review and comment on draft legislation that was based on the AQUAA Act, a bill introduced by Senator Wicker of Mississippi during the previous 115th session of Congress. Chairman Wicker convened a hearing on aquaculture issues but to date has not reintroduced the legislation. Additionally, over the course of the Port's federal advocacy trips this year, commissioners and staff met with senior NOAA leaders.
- 4) Port Security - The Port continued its support for Port Security Grant program appropriations and has ensured an ongoing dialogue with the Department of Homeland Security regarding specific project requests. In addition, the Port supported continued appropriations for the grants. Current-year funding for the program is \$100 million. The House is proposing increased funding to \$110 million for FY20, while the pending Senate bill would continue the program at \$100 million.

2019 was a successful year for the Port of San Diego in Sacramento as well. Below are highlighted initiatives achieved in collaboration with JGC Government Relations, the Port's state legislative advocates based in Sacramento.

- 1) Legislative Engagement - During the first part of 2019, Port staff, members of the San Diego Legislative Delegation, and other stakeholders worked with the Port's state legislative advocate to review and flesh out potential legislative proposals and actively engage with all of the stakeholders, including labor organizations, environmental groups, and other entities before bill introduction helped to ensure that the Port was successful with its legislative program, specifically in regard to SB 507.

In addition to legislative efforts, the Port worked to ensure issues such as finding a solution with State Lands Commission to Zuniga Jetty and abandoned vessels were successfully completed in 2019.

- 2) Tidelands Trust - The Port sponsored Senate Bill 507 by Senator Atkins relating to the management of tidelands within San Diego Bay. Ultimately, the measure was amended to include language to fix an issue between the City of San Diego and State Lands Commission and was signed into law by Governor Newsom.
- 3) Air Quality and Environmental Leadership - Through the state legislative advocate, the Port participated in meetings and monitored regulatory hearings related to community plans (AB 617 implementation) and At Berth Regulations at the California Air Resources Board (CARB). It worked with a wide range of stakeholders on the At Berth Regulation process which is a multi-year effort and ongoing. This was in addition to continued requests in the State Budget process related to funding for clean air actions.
- 4) Other Legislative Issues - The Port also participated in two different sets of meetings in Sacramento with key stakeholders including the Lieutenant Governor's Chief of Staff, the State Controller, Chair of the State Water Resources Control Board, the Governor's Office of

Planning and Research, the Governor's Office of Business and Economic Development, and CARB. The topics of the meetings ranged from Blue Economy, cross border pollution, energy costs related to implementation of emissions reductions programs, and land use planning.

Additionally, the Port actively engaged on nine legislative bills, either supporting, opposing, or requesting amendments. In addition, the Port worked with the San Diego Legislative Delegation to send a joint Senate and Assembly letter to the California Public Utilities Commission related to shore power energy costs.

In short, the Port engaged all three levels of state government (Legislative, state agencies and Executive) and accomplished numerous goals as a result of that direct engagement in Sacramento.

Overview of Current and New Legislation

As the District looks ahead to the second half of the 2019-2020 legislative session, staff proposes an agenda that encompasses the District's policy goals and potential legislative priorities at the state and federal levels. The development of these proposed legislative priorities was guided by the Compass Strategic Plan, the 2018-2022 Legislative Platform, existing Board Policies and direction, and District's Executive Leadership Group and staff input. Efforts to advance these priorities will range from the District acting as the lead entity in moving legislation to collaborative efforts with multiple stakeholders in which the District is a participant.

As in the past, when appraising the legislative areas of focus for the year, Government & Civic Relations staff employs five main criteria to determine the value and wisdom of including a proposal or policy option:

1. Does the proposal fit within the 2018-2022 Legislative Platform?
2. Does the proposal increase the District's ability to serve those who visit or work on the Tidelands?
3. Does the proposal enhance public safety on the Tidelands?
4. Does the proposal assist the District in meeting environmental goals or complying with state or federal regulations?
5. Does the proposal provide necessary revenue or funding opportunity to the District, which is a public agency that is self-sustaining, without the benefit of taxpayer money?

Last year, the Board reviewed 2019-2020 Legislative Priorities, and as the second year of that timeframe begins, new policy goals and potential legislative priorities at the state and federal level have been identified. Those items are featured in italicized text at the end of each section; bold items are already done. Items preceded by an asterisk are highest priority.

Infrastructure and Transportation

1. Support federal and state legislative efforts and/or administrative actions that expand Infrastructure Bank programs which could finance District infrastructure development.
2. **Support the continuation of federal infrastructure grant and loan funds such as INFRA and TIFIA.**
3. Support legislative efforts that would provide the District more options to secure energy independence.
4. Support state legislative efforts to streamline potential disbursement of federal grant monies for Harbor Drive improvement.

5. Support state legislative efforts to expand design-build authority to broaden the options for the District to do Design Build Projects for more than buildings and improvements.
6. **Support legislative efforts to strengthen maritime infrastructure and funding for improvements to goods movement and transportation systems and facilities.**
7. **Support ongoing infrastructure funding and other grant money for maritime cargo terminal infrastructure enhancements, especially as they relate to strategic port and core cargo business capabilities.**
8. Support funding requests for state funding for marine highways.
9. *Support a state evaluation of commercial Truck Parking/Charging capacity of roadside rest areas and prepare statewide network of electric charging stations.*
10. *Support funding for mobility projects on Harbor Drive.*

Maritime and Trade

1. **Support state legislative efforts or state administrative action that would establish marine utility rates for cruise and cargo operations, to help cruise and cargo industries remain competitive in the California market.**
2. **Seek state funding for a Go-Biz Economic Impact Study of the value of California Ports to the California and National Economy.**
3. Support adding California Trade Offices in Asia and Europe.
4. **Support administrative actions and legislative efforts that would provide regulatory pathways at the state and federal level of government to advance sustainable aquaculture and other blue economy goals.**
5. **Support legislative efforts that would temper impacts of tariffs or trade restrictions upon maritime business.**
6. **Support implementation of, and appropriations for, the federal Water Resources Development Act, while protecting the ‘donor port’ provisions beneficial to the Port.**
7. ** Expand parameters for Air Resources Board grant solicitations to allow funding for infrastructure projects that advance the state’s electrification and clean energy goals and enhance compliance with those standards.*
8. *Support legislation that would require the Public Utilities Commission, the Air Resources Board, the Department of Transportation, the State Energy Resources Conservation and Development Commission, and the Governor’s Office of Business and Economic Development to develop and update an integrated action plan for sustainable freight that identifies strategies relating to that state goal, with priority given to actions that significantly reduce air pollution in low-income communities and disadvantaged communities.*
9. *Seek Air Resources Board funding for vessel speed reduction incentives, after requiring the Air Resources Board to develop and implement a voluntary vessel speed reduction incentive program.*
10. *Seek legislation or regulatory action to establish an equitable environment for shore power rates at marine terminals.*
11. *Support funding projects to promote workforce development in maritime trades, particularly near disadvantaged communities.*
12. *Support budget appropriations to Governor’s Office of Business and Economic Development (GO-Biz) for international trade exposure for blue economy ventures.*
13. *Monitor shipping industry proposals to establish carbon emissions funds.*

Environmental Leadership

1. **Support additions to the Diesel Emission Reduction Act, its reauthorization, and**

funding appropriations.

2. Seek state legislative efforts or administrative action to clarify Senate Bill 743 of 2013 to allow alternative methods for considering goods movement land uses when evaluating transportation impacts.
3. **Monitor power procurement strategies employed by partner agencies and regional stakeholders and evaluate alternate paths for procuring lower-cost electricity.**
4. **Support legislative efforts to affirm the importance of aquaculture and clean technology, boosting awareness of the District's innovative collaborations with research, environmental, industry, and other allied stakeholder groups.**
5. Support legislative efforts or administrative action to appropriate funding for Ocean Planning efforts.
6. Support state development of a program to implement watershed-based riverine and riparian stewardship improvements.
7. Support the use of the monies in the Greenhouse Gas Reduction Fund for the reuse of dredged material for wetland restoration projects.
8. Support legislative efforts that would require California Air Resources Board and California Public Utilities Commission to conduct at least two joint meetings per calendar year to coordinate implementation of state climate goals and setting of electrification objectives.
9. Support legislative efforts to clarify the applicability of the California Environmental Quality Act to approval of updates to climate action plans.
10. **Monitor legislative efforts related to electric vehicle charging.**
11. Support legislative efforts that would remove barriers to a flourishing market of locally grown macro- and micro-algae.
12. Support legislative efforts that would further the establishment of submerged and non-submerged land mitigation banks.
13. **Support administrative actions that would promote parity in distributing state funds to environmental justice communities, ensuring that the District's neighboring communities receive their equitable share of those public resources.**
14. **Support legislative efforts that would provide budget control language for future U.S.-Mexico Border Water Infrastructure Program funding.**
15. Support state legislative efforts to boost environmental and blue technology education curriculum in schools.
16. **Support state and federal legislative efforts to eliminate sewage and other waste discharges into the Tijuana River Valley and the Pacific Ocean and support related investigations and remediations.**
17. Support state and federal legislative efforts related to the investigation and remediation of contamination existing on tidelands.
18. ** Promote upstream pollution solutions such as recycling and repurposing trash along California-Mexico border, SB 507 project list item #24, "Recycling Incentives."*
19. *Explore legislation that provides energy acquisition options for special districts.*
20. ** Support maximum budget appropriations for infrastructure planning, design, operations, and maintenance of infrastructure projects proposed in the Senate Bill 507 Needs and Opportunities Assessment being prepared by the County of San Diego and the San Diego Water Board.*

Public Safety and Access

1. Seek improved Customs and Border Patrol inspection capabilities and funding for maritime cargo and cruise ship terminals.

- 2. Support continuation of, and appropriations for, the federal Port Security Grant Program.**
3. Seek a resolution to celebrate the Port of San Diego Harbor Police Department and draw awareness to the public safety benefit of the Harbor Police Department.
4. Support administrative actions to advance a federal cybersecurity pilot at District level and deployment of additional security measures for strategic ports.
5. Support legislative efforts that would improve public safety and alleviate impacts of homelessness among the District's 22 public parks.
6. Support legislative efforts that would protect public access and govern street parking to maximize that access and use.
7. *Support funding for resiliency project planning.*
8. *Sponsor a legislative request that the Governor declare a state of emergency in the Tijuana River Valley.*
9. ** Seek funding for pilot project of enforcement of City of San Diego ordinance regulating anchoring or mooring in Zuniga Jetty Shoals.*

Economic Vitality and Development

1. Seek legislative efforts to encourage the growth of San Diego's blue tech economy including policies that ease funding, development and commercialization of these technologies.
- 2. Support efforts to distinguish Tenth Avenue Marine Terminal as a clean tech test bed or proving ground.**
- 3. Seek legislative efforts that would request an update to North American Industry Classification System codes with blue technology job classifications.**
4. Seek legislative efforts that would request increased funding for US Department of Labor's America's Promise Grant program for resources to assist in furthering blue technology career pathways.
5. Support legislative efforts to encourage domestic reinvestment of foreign profits generated by U.S. Companies into Blue technologies or into infrastructure that benefits maritime and/or import/export activities.
6. Support legislative efforts related to seaport infrastructure financing including forming a Joint Powers Authority for funding for micro-grid technology on the Tidelands.
7. Explore adding consideration of ferry routes in Ocean Planning efforts.
- 8. Seek legislative efforts to modernize the permitting process for new aquaculture technologies.**
9. Seek a resolution to unify support for San Diego's blue technology industrial sector.
10. Support legislative efforts to promote commercial and sportfishing industries.
11. Support legislative efforts that would enhance District tenants' ability to conduct commerce and sustain business operations along the Tidelands.
12. Support efforts to establish a statewide California Aquaculture Advisory Council.
13. *Support direction of appropriate state entities to begin creation of a fee-for-service model of shellfish testing, to allow for expedited testing when needed to avoid harvests going bad.*
14. *Support funding for spatial analyses, under the direction the State Lands Commission, in consultation with appropriate state agencies, for National Centers for Coastal Ocean Science to begin a spatial mapping process of state waters in order to create a comprehensive map of different locations' suitability for aquaculture.*
15. *Support funding for community colleges for programs related to aquaculture, fisheries, or maritime studies.*
16. *Support funding for Department of Fish and Game to complete Programmatic Environmental*

Impact Report and conduct meaningful public outreach and review.

Real Estate and Land Use

1. **Work with State Lands Commission and the State of California on the management of public trust lands to ensure the public interests for all Californians are served efficiently.**
2. Support legislative efforts related to state funding of enhancing District parks, water efficiency and energy generation.
3. Work with State Lands Commission on Public Trust requirements related to the maritime nexus for the development of property based on benefit or retail consistent with State and Port planning documents.
4. **Support legislative efforts to provide that acceptance of a federal grant award does not constitute predetermination under the California Environmental Quality Act.**
5. **Support legislative efforts that would clarify the governance of submerged lands within San Diego Bay and include them under the authority of the Port, on behalf of State Lands Commission.**
6. **Support legislative efforts to include District representation in regional transportation planning bodies.**
7. ** Monitor legislation for opportunities to assist Chula Vista Bayfront Plan, including securing additional infrastructure funding.*

General Administration

1. Support legislative efforts related to Seaport Infrastructure Financing Districts.
2. Support administrative action to request data exchange through California Association of Port Authorities, creating a self-defined repository or aggregation, in advance for federal requests for metrics.
3. Support legislative efforts to protect local tax revenue generated on Tidelands, as well as generate more funding for Port infrastructure and priorities.
4. Support legislative efforts to grant District powers and authority within its jurisdiction commensurate with those already granted to cities, counties and other types of public entities.
5. Support legislative efforts that would protect the workforce stability of the Port District and ensure security and sustainability of pensions.
6. Support legislative efforts that would allow flexibility in administering citation payments.
7. **Monitor legislative efforts that would impact the District's ability to engage in public contracting.**
8. *Support efforts to expand membership of the state's Strategic Growth Council to include ports and harbors.*
9. *Monitor legislation relating to public works contracting, pensions, records retention and release process requirements.*

General Counsel's Comments:

The Office of the General Counsel has reviewed this agenda and attachments, as presented to it, and approves them as to form and legality.

Environmental Review:

The proposed Board direction does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because no direct or indirect

changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of Board's direction that requires the District or the Board's discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a "no project alternative" or adopting a Statement of Overriding Consideration, if required. The proposed Board direction in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

The proposed Board direction complies with Section 35 of the Port Act, which allows for the Board to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board direction is consistent with the Public Trust Doctrine.

The proposed Board direction does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit (CDP) Regulations because it will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District's CDP Regulations. Future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District's certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The proposed Board direction in no way limits the exercise of the District's discretion under the District's CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachment(s):
Attachment A: 2018-2020 Legislative Platform