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RE: Legislative Update

COP26: This week, members of the Legislature and Lieutenant Governor Eleni Kounalakis traveled to and have been reporting from the 26th UN Climate Change Conference of the Parties (COP26) in Glasgow, Scotland. Governor Newsom was originally scheduled to participate in the conference, however canceled his plans sending the Lieutenant Governor in his stead. Over the past year, the governor has signed executive orders to phase out internal-combustion vehicles, preserve 30 percent of the state's land and water by 2030, and phase out fracking by 2024 and oil extraction by 2045. \$15 billion was allocated in the 2021-22 Budget Act over the next three years by the governor and Legislature for climate programs.

Although California legislators originally branded the trip as one to showcase California's leadership in climate change, it became clear quickly that we still have a lot to learn from other countries and states as well as additional work to do in California.

Assembly Speaker Anthony Rendon (D-Lakewood), said that he anticipates reconsideration of AB 1395 or a similar measure in 2022 as a follow-up to the conference. AB 1395 (Muratsuchi), which failed passage on the Senate Floor in September, declares it is the policy of the state to achieve net zero greenhouse gas (GHG) emissions as soon as possible, but no later than 2045, and to achieve and maintain net negative GHG emissions thereafter. Additionally, it declares that it is a policy of the state to ensure that by 2045, statewide anthropogenic (originating from human activity) GHG emissions are reduced by at least 90% below 1990 levels, which includes emissions prevented by carbon capture and storage.

Senator Josh Becker (D-Menlo Park) also announced his intent this week to introduce a bill requiring California to reduce its emissions from state-owned vehicles, buildings, and other sectors to net zero by 2035, 10 years before the economy-wide target of 2045. He is

additionally exploring legislation to streamline the building of low-carbon construction projects.

On Monday November 8, the California Air Resources Board, on behalf of the state of California, signed a [Joint Declaration](#) of cooperation in the fight against climate change with the governments of New Zealand and Québec. AB 32 (Chapter 488, Statutes of 2006) requires consultation with other states, the federal government, and other nations to identify the most effective strategies and methods to reduce greenhouse gases, manage greenhouse gas control programs, and to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs. The Joint Declaration states the intent to:

- *Share information, experiences, and best practices on the implementation of strategies, policies, and programs on the design of cap-and-trade systems for greenhouse gas emissions, measurement, reporting and verification systems, sustainable mobility, forestry, agriculture, and aligning incentives and investments to support and bolster climate action.*
- *Foster research, development, deployment, and exchange of clean technologies including in renewable energy, energy efficiency, energy storage, agriculture, and zero-emission transportation.*
- *Promote environmental integrity of carbon pricing instruments to reduce greenhouse gas emissions worldwide.*
- *Explore opportunities for potential future alignment of our respective cap-and-trade programs through focused information sharing and discussions related to cap setting, scope, auctions, allocation, market rules, and other key program design features.*

Legislators attending the conference included Senators Josh Becker, Lena Gonzalez (D-Long Beach), Bob Hertzberg (D-Van Nuys), John Laird (D-Santa Cruz) and Bob Wieckowski (D-Fremont), Assembly Speaker Anthony Rendon, and Assemblymembers Isaac Bryan (D-Los Angeles), Lisa Calderon (D-Whittier), Laura Friedman (D-Glendale), Tasha Boerner Horvath (D-Encinitas), Eduardo Garcia (D-Coachella), Al Muratsuchi (D-Torrance), Luz Rivas (D-North Hollywood), Mark Stone (D-Scotts Valley), and Christopher Ward (D-San Diego).

2022 Statewide Initiative on Local Land Use: With about 12 months before the next general election, the number of potential initiatives on the ballot is increasing. There are currently 21 proposals pending at the Attorney General's Office, and an additional 16 have been cleared for signature gathering. Among those initiatives pending at the AG's office is a local land use measure filed, in part, in response to the Legislature's recent passage of SB 9 and SB 10, impacting local control of land use.

(SB 9 makes it a ministerial act to build a duplex in an area zoned for single family housing, and it would make it a ministerial act to split a parcel zoned for residential use. SB 10 allows cities and counties to adopt an ordinance to rezone any parcel to include up to 10 units if the parcel is near high quality transit or within an urban in-fill site.)

The 2022 ballot initiative on local land use would allow charter and general law cities and counties to retain local affairs over state laws related to zoning. This would mean that if voters were to enact a local law conflicting with state law, the local law would prevail.

Under this measure, any local laws that currently conflicts with state law would immediately become enforceable. So rather than follow state law, cities and counties could enact local laws that conflict with state law and the local laws would prevail. Some exceptions, to both general law and charter cities and counties, would be land use in the areas of coastal zones; siting of a power plant that could generate more than 50 megawatts of electricity; and development of water, communication, or transportation infrastructure projects.

Lastly, this proposal prohibits the State from modifying the way it appropriates state funding as a result of the measure. The state would not be able to deny nor provide a preference in appropriating state funding to communities with zoning laws that conflict or conform with state law.

California's Recall Process: The Little Hoover Commission held its second hearing on California's recall system on Thursday, October 28. Because the current system is over 100 years old, a panel of election experts were called upon to suggest ways to modernize the process.

The biggest hurdle for county clerks in administering a recall are the tight timelines to organize and conduct an election after its qualification for the ballot. Although state law provides 60-80 days, new mandates require that every registered voter in California receive a vote-by-mail ballot at least 29 days prior to the election, truncating the timeline to a 31-day window. The commission suggests modernizing these timelines to address new state mandates in the election process.

County officials also highlighted the costs to organize an election which are typically funded by counties. With each election, funding otherwise used for day-to-day services provided by a county such as public safety, health, and human services, are diverted. As a result of the increasing number of recalls on a local and statewide level, local programs are impacted, and less funding is available for core county programs.

In addition, the Assembly Elections Committee and Senate Elections & Constitutional Amendments Committee held their first joint informational hearing on evaluating California's recall process since Governor Newsom's success in retaining his position. The large margin of the governor's win has prompted questions regarding whether California's recall process should be reformed to be more stringent in its qualifications. The panel of speakers consisted of both former and current California Secretary of States, former members of the state Senate and Assembly, along with experts in the elections and redistricting field.

Issues highlighted included the low signature threshold to qualify a recall, which is 12% of the past vote for the position in question, paired with the long timeline to collect signatures - currently 160 days. However, raising the signature threshold and/or shortening the timeline to

collect signatures would create a system where only the wealthy would be able to qualify a recall on the ballot, due to the higher cost of collecting signatures in a shorter collection window. Proponents of changing the recall process believe that the signature threshold should be reflective of the total number of registered voters to avoid an abnormally low threshold in the event of low voter turnout in the prior election.

A panel of election experts concluded the hearing by providing some potential solutions that have been used in recall processes across the country. This included breaking up California's recall election into two elections. The first election would ask whether the officer in question should be recalled. If the majority votes yes on the recall, it would prompt a subsequent election for the replacement candidates to be voted on, which some panelists suggested should be a ranked choice vote. This then raises the question about whether the sitting officer who is being recalled would be able to qualify as a replacement candidate in the second election. Senator Ben Allen has already introduced Senate Constitutional Amendment 3 which would allow the incumbent to be a replacement candidate in the event of a recall.