CITY OF
SAN JOSE
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# Memorandum

**TO:** AIRPORT COMMISSION

**FROM:** Matthew Kazmierczak
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**SUBJECT: LEGISLATIVE UPDATE**

**DATE:** October 31, 2017

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## FEDERAL

### ❑ Raising the Passenger Facility Charge Cap

*Background:* With recent proposals for a $1 billion infrastructure, the airport industry has launched a major effort to eliminate the $4.50 cap on Passenger Facility Charges (PFCs). The PFC is a locally-raised user fee (not a tax) paid by passengers who use airports to help fund the cost of capital construction projects. Since the $4.50 fee was last raised in 2000, the PFC has lost nearly half of its buying power because of rising costs over the past 17 years and now has purchasing power of $2.50. This severely impacts the ability of airports to fund capital projects or pay down debts for past projects. For example, revenue collected from SJC's PFC is currently fully committed for over the next 20 years to paying off SJC's Terminal B construction bonds. Given this, lifting or removing the cap on the PFC has been the Airport's highest legislative priority.

*Status:* The Senate Appropriations Committee approved a FY 2018 DOT/FAA spending bill that increases the PFC cap to $8.50 for originating passengers, but was not part of the House DOT/FAA spending bill. The outcome of the PFC increase will depend on negotiations over the year-end government funding package.

### ❑ FAA Reauthorization

After clearing a six-month extension in late September, it seems increasingly unlikely that Congress will pass a long-term FAA bill before the end of the year. The key stumbling block continues to be House Transportation and Infrastructure Committee Chairman Bill Shuster's controversial proposal to corporatize the ATC system. The current extension expires on March 31, 2018. Whether Congress opts for another temporary fix next year or manages to pass a multi-year bill may largely depend on Shuster. If he continues to push for corporatization, look for more stop-gap measures. If he abandons his ATC plan and the Senate resolves its dispute over the pilot shortage, Congress should be able to pass the FAA bill fairly quickly.

## ❑ FY2018/2019 Appropriations

Congress will need to finish the Fiscal Year 2018 appropriations process or pass another stop-gap measure by December 8, 2017, when the current continuing resolution is set to expire. Party line divisions over the proposed border wall, immigration, and defense vs. non-defense spending, will significantly complicate a possible deal and could result in another continuing resolution.

Current proposed legislation includes:

- Funding for TSA staffing of exit lanes. The House Appropriations bill rejected the White House proposal to shift those costs to airports.

- House appropriators did not provide any funds for LEO reimbursements in its FY18 bill. SJC receives over $400,000 in LEO grants to help pay for congressionally mandated police officers at the Airport.

## ❑ Infrastructure Package Delayed

*Infrastructure package continues to be delayed.* – Transportation Secretary Chao said, "Infrastructure will not be taken up until tax reform has been completed." While GOP leaders in Congress and the Administration have set an end-of-year deadline for passing a tax reform package, the issue could spill into 2018 and further delay a potential infrastructure package.

*Airport Infrastructure Needs* - ACI-NA released a report that U.S. airports have nearly $100 billion in infrastructure needs to accommodate growth in passenger and cargo activity, rehabilitate existing facilities, and support aircraft innovation. To download:
http://aci-na.org/sites/default/files/2017infrastructureneedsstudy-web.pdf

## ❑ Border Security/Facilitation

The House Homeland Security Committee has passed a border security bill that would increase the number of CBP officers and require full implementation of biometric exit at airports within five years. Senator Cornyn has introduced a border security bill with similar provisions, but his bill also includes extensive immigration provisions that make consideration, let alone passage, problematic. It is possible, but unlikely, that a year-end bipartisan agreement to extend DACA ("Dreamers") could include these and other border security provisions.

Acting CBP Commissioner Kevin McAleenan recently told Congress that CBP has submitted to Congress a workload staffing model that reflects a need for 2,500 new CBP officers. McAleenan also expressed his view that more CBP officers are needed nationwide to improve passenger and cargo processing. Even if additional CBP officers are authorized as part of a year-end agreement, there are questions about how CBP could fill these positions given that CBP has more than 1,200 vacancies that currently need to be filled. One plan is to allow the agency to utilize specific incentives, pay rates, and authorities to move more quickly to onboard existing law enforcement officers and veterans who meet CBP background check and experience standards.

### ❑ DHS Grants REAL ID Extensions to Several States

DHS is giving some states another year to comply with the REAL ID mandate. With more than 20 states not yet complying with the federal mandate, the department contacted some states last week notifying them that they had until October 10, 2018, to begin issuing driver's licenses and ID cards that meet federal standards. California will start issuing REAL ID compliant driver licenses and ID cards starting on January 22, 2018. Under current plans, in order to a Real ID compliant driver’s license or ID card Californians and will need to physically go to a DMV office with the required documents and request the new documents.

Until October 2020, all California driver’s licenses or ID cards can be used to board domestic flights. After this date, all passengers must have a Real ID compliant document, passport, or other federally permitted form of identification in order to go through TSA security.

Driver licenses or ID cards renewed by mail will not be Real ID compliant and will not be accept for travel. You can track the states of REAL ID compliance on the DHS website here.

### ❑ Letters to Congress

SJC sent a letter to local Congressional Members voicing support for increasing the PFC cap to allow for more funding for infrastructure projects.

## STATE

### ❑ South Coast Air Quality Management Update

*Status:* The South Coast Air Quality Management District (the agency for Los Angeles, Orange, Riverside, and San Bernardino Counties) has asked their staff to study options for adopting indirect source and other rules for commercial airports.

*Summary:* An indirect source rule aims to regulate emission from a facility, rather than individual source. These indirect sources can include any source that may attract mobile sources of pollution, such as roads, highways, or ground transportation equipment. It places the owner of the facility in charge of emission reductions rather than the owners of the individual sources of emissions. There has been a request for more information about the assumptions that SCAQMD is using for airport emissions.

### ❑ California Air Resources Board (CARB)

CARB has a plan to require airport-owned shuttle buses, and other shuttles operating on a fixed route to and from airports, to begin transitioning to zero-emission technologies by 2023. If this plan becomes mandatory, there is concern that airports would see a reduction in the Voluntary Airport Low Emission (VALE) Grants or other zero emission grants. Once the regulation become mandatory, it is no longer a voluntary action by the airport and therefore the funding would no longer be eligible or needed.

- Legislation

AB 218 (Bonta): Local agencies: airports: customer facility charges

- *Status:* Signed into law, Chapter 311
  *Summary:* AB 218 proposes the use of Customer Facility Charges (CFC) at airports to be collected as a financing option without the fiscal burden of bonds or other forms of indebtedness until January 1, 2023; sponsored by the Port of Oakland.

AB 1069 (Low): Local government: taxicab transportation services

- *Status:* Signed into law, Chapter 753
  *Summary:* Authorizes a city or county, except the City and County of San Francisco, to establish a maximum rate structure that would prohibit a taxicab transportation service from charging a rate to a passenger that is greater than a rate established by the city. This bill also requires that a city or county ensure that any charge imposed on a taxicab transportation service does not exceed the reasonable regulatory costs of administering and enforcing the program. The bill also provides an airport operator with separate and ultimate authority to regulate taxicab access to the airport and set access fees for taxicabs at the airport.

AB 1286 (Friedman): Airports: alternative customer facility chargers

- *Status:* Signed into law, Chapter 325
  *Summary:* Eliminates the January 1, 2018 sunset date for airports to commence the process to impose the alternative daily CFC.