TO: AIRPORT COMMISSION

FROM: Matthew Kazmierczak
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SUBJECT: LEGISLATIVE UPDATE

DATE: April 28, 2017

❑ Federal

Raising the Passenger Facility Charge Cap

- 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 and why the Airport supports the passage of H.R. 1265, a bill to remove the cap. The potential of an infrastructure bill may provide the opportunity to achieve that objective. Since PFCs are local user fees, lifting the cap would allow the infusion of needed funding for airports without requiring a major infusion of federal dollars. The Congress is not expected to consider infrastructure legislation until later this year.

Federal Funding for FAA Programs

- As of this writing, funding authorization for all FAA programs – along with funding for the federal government – is scheduled to run out on April 28. Congress is expected to adopt a short-term extension of one week to provide themselves with more time to come up with an overall plan to fund the government through September 30, 2017. The FAA program impacted by this funding include the Airport Improvement Program (AIP), a program that funds airport safety and capacity improvements such as runways, taxiways, aprons, etc.

FAA Reauthorization

- Both the PFC and AIP funding are part of FAA reauthorization legislation that Congress needs to pass before authorization for all FAA programs (as opposed to funding) expires on September 30, 2017. Chairman Shuster of the House Transportation & Infrastructure (T&I) Committee is trying to include a controversial provision to privatize the U.S. air traffic control system. There is opposition in the House and Senate to this. The Chairman has been trying to generate enough support for the provision to get it through both the House and the Senate as part of the next FAA reauthorization bill. President Trump has indicated his support for the provision. The airport industry has thus far been neutral on the issue.

President Trump's Blueprint Budget's Potential Impacts on Airports

In mid-March, President Trump released his budget blueprint ("skinny budget") for funding the federal government for FY 2017-18. The more detailed budget will be released later this spring. The proposed budget raises concern for the Airport in several areas:

The Department of Transportation: The budget blueprint proposes to reduce funding for the Department of Transportation by $2.4 billion (13 percent). The Airport is concerned because the President's budget proposal does not clarify how it would impact: 1) the Airport Improvement Program (currently $3.35 billion a year), which funds airport capital projects; 2) the cap on the PFC; or 3) the ability of the FAA to provide its basic services to airports.

The Department of Homeland Security: The blueprint budget proposes to increase funding to the Department of Homeland Security (DHS) by $2.8 billion (6.8 percent).

- *Customs and Border Protection (CBP)* – Much of the increase would go to Border Patrol agents to beef up federal law enforcement presence at U.S. land crossings, particularly along the southern border with Mexico, as well as Immigration and Customs Enforcement (ICE). In fact, border security would see a proposed increase of $4.5 billion, requiring a reduction of services in other parts of the DHS budget. Of particular concern to the Airport is the fact that no new funding is proposed for Customs and Border Patrol (CBP) to recruit, hire, and train new CBP officers for airport ports of entry. All three of the Bay Area's commercial airports share CBP officers to process the growing number of international passengers arriving in the Bay Area. San Jose gets a baseline of eight hours a day of CBP coverage. The Airport pays overtime costs for an additional 2-3 hours of daily coverage to accommodate early and late arriving international flights. The Airport is now advocating for additional permanent CBP officers in San Jose to provide the Airport with the ability to bring in more international flight service that supports economic growth and job creation in the region – objectives that directly align with the Administration's emphasis on job creation. The best way to accomplish those objectives is for CBP to have additional funding to hire and train more officers. However, as noted earlier, the President's proposed budget does not provide that additional funding.
- *Transportation Security Administration (TSA)* – The proposed blueprint budget also creates concerns about TSA funding. The proposed budget eliminates Behavioral Detection Officers program in DHS. The program's funding and staff were moved to the TSA's front lines. Nevertheless, airports remain concerned about the impact of the move on TSA's overall staffing. The budget would also eliminate law enforcement grants TSA provides local jurisdictions to *partially* offset local costs for the federal mandate that airports have a law enforcement presence. For example, TSA relies on San José police officers to make arrests – even at checkpoints – since TSA officers do not have the power to detain or make arrests. San Jose currently receives $490,000 a year to reimburse the Airport for law enforcement to help secure the Airport. If the grant program is eliminated,

that cost would become an unfunded mandate that would need to be fully covered by the Airport. The proposed blueprint budget would also increase the TSA security fee. However, because of the 2013 budget deal reached in Congress, part of the TSA security fee is now being used for deficit reduction and there is nothing in the proposed blueprint budget to change that formula.

The President's blueprint budget represents his proposed budget for the federal government. However, it is unlikely to get through Congress without significant revisions. Nevertheless, because the potential impacts on the Airport could be significant, the Airport is working in concert with other airport industry stakeholders to minimize the potential impacts.

Infrastructure Package Delayed

- Senate Democrats have introduced their version of a $1 trillion infrastructure bill. The package included $30 billion for AIP, Next Gen and FAA equipment facilities account. The proposal did not specify how much should go to which account. However, according to the House Transportation and Infrastructure Committee (T&I) Chairman, Congress will not develop an infrastructure proposal until after the first 100 days of the new Administration. In general, Congress and Administration have a number of other higher priority issues to address (e.g., adopting a federal budget for the remainder of the year, repeal ad replace of Obamacare, tax reform, etc.). Congressional Republicans have also made it clear they do not support an Obama-style stimulus package involving the direct distribution of federal funds. Airports hope the infrastructure legislation will provide an opportunity to repair and rebuild parts of their facilities.

Airport Infrastructure Needs

- ACI-NA released a report that U.S. airports have nearly $100 billion in infrastructure needs for 2017-2021 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

Potential Effects of President Trump's Executive Orders on Airports

- President Trump has threatened to cut off federal funding to sanctuary cities if they do not cooperate with federal government on immigration matters. There are more than 300 sanctuary cities nationwide, including San José. A federal cut off could affect the Airport's AIP grant funding but it is too early to say. The preliminary assessment is that a cut-off would not affect entitlement funding but could affect discretionary funding. As of the writing of this, a federal judge has blocked the Trump Administration's executive order on immigration tying billions of dollars in federal funding to immigration enforcement.

- The executive order the freezing of federal hiring was lifted on April 12, 2017. The freeze did not directly impact TSA or CBP.

- As part of the Presidential Executive Order to curtail regulations, ACI-NA and AAAE are complying a list of potential regulations for modification or elimination.

Letters to Congress

- SJC sent the following letters to Congress:
  - Opposition to President Trump's proposed FY 2018 budget request to eliminate funding for the Transportation Security Administration's (TSA) law enforcement officer (LEO) reimbursable agreement program.
  - Support for HR 1265 to eliminate the cap on the PFC.
  - Request to appropriately fund the Department of Homeland Security to address the shortage of Customs and Border Protection (CBP) officers at airports across the country.

❑ California

Aviation Fuel Tax

- Status: Issue currently resides with the California Department of Finance (DOF). DOF maintains that the State is in compliance with FAA policy. Current indications are that DOF will wait until the December 2017 deadline and then intends to sue the FAA.
  Summary: The State of California is currently collecting sales taxes on aviation fuel. The 1987 Airport and Airway Safety and Capacity Expansion Act restricts the use of airport revenue to include any local taxes on aviation fuel. Consequently, the taxing authorities must use local aviation fuel taxes (except taxes in effect on December 30, 1987) for airport capital and operating costs or for state aviation program or for noise mitigation purpose on or off the airport.

CARB/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 staff to study options for adopting indirect source 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.

CPUC Reviewing the Use of Biodata for TNC Driver Background Checks

- Status: The California Public Utilities Commission is reviewing a series of regulatory measures related to TNCs and will be issuing regulations in the future on whether TNCs will be required to use biodata. The Airport weighed in with comments in early 2016 and continues to monitor progress on this issue.

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

- Status: Passed Assembly (74-0); referred to Senate
  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 427 (Muratshcuhi) – California Aerospace Commission

- Status: Referred to the Transportation Committee
  Summary: This bill would establish the California Aerospace Commission to foster the development of activities in California related to the aerospace industry, including aviation, commercial and governmental space travel, unmanned aerial vehicles, aerospace education and job training, infrastructure and research launches, manufacturing, academic research, applied research, economic diversification, business development, tourism, and education. .

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

- Status: Referred to Assembly Committee on Communications and Conveyance
  Summary: Authorizes a city or county 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.

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

- Status: Passed Judiciary Committee; On Assembly Floor
  Summary: CAC-sponsored bill that eliminates the January 1, 2018 sunset date for airports to commence the process to impose the alternative daily CFC.

SB 498 (Skinner) – Vehicle fleets: electric vehicles

- Status: Passed Senate Committee on Transportation and Housing and referred to the Senate Committee on Environmental Quality
  Summary: Requires the California Air Resources Board, for the purposes of public and private sector vehicle fleets, to develop electric vehicle adoption targets for 2021 and make available to the owners of vehicle fleets research and support in order to facilitate the adoption of electric vehicles.

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