

# Memorandum

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**TO:** AIRPORT COMMISSION

**FROM:** Jim Webb  
Assistant to the Director/  
Government Affairs

**SUBJECT:** LEGISLATIVE UPDATE

**DATE:** February 16, 2017

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## End of 2016

### Federal

#### New FAA Legislation Stalled

- House Transportation and Infrastructure Chairman Bill Shuster's proposal to separate the Air Traffic Organization from the FAA passed out of the House Transportation and Infrastructure Committee last February. However, after facing opposition from both parties, the proposal has not yet been brought to the House floor as Chairman Shuster tries to build support for his measure.

#### Current FAA Reauthorization Legislation Extended

- Late 2016 saw Congress pass an extension of FAA reauthorization and taxes to September 30, 2017. The March terrorist attack at Brussels Airport and the June terrorist attack at the airport in Istanbul, Turkey focused attention on aviation security. Several security measures were included in the FAA reauthorization legislation extended FAA (including provisions dealing with the insider threat, growing the PreCheck program, and enhancing checkpoint efficiencies).

#### CBP and TSA Funding Extended

- FAA, TSA and Customs and Border Patrol (CBP) funding was extended through April 2017, with the expectation that the new Congress and Trump Administration would set funding priorities for the next federal budget.
- Congress also took steps to address the long TSA lines by reallocating \$60 million in FY16 funding to help TSA hire and deploy additional screeners, pay for overtime, and convert part-time staff to full-timers.

## ❑ State

- The Legislature passed a law prohibiting transportation network companies (TNCs) from contracting with, employing, or retaining a driver convicted of a violent crime, sexual offense fraud, terrorism, property damage or theft. However, the law does not require TNCs to use biodata (fingerprints) to conduct the background checks.
- The Legislature passed a bill that would have brought taxi regulation under statewide jurisdiction. However, the Governor vetoed the bill stating that the case for such legislation had not been established.

## 2017

## ❑ Federal

### Homeland Security Secretary and Department of Transportation Secretary Nominees Approved

- In January, the Senate approved Homeland Security Secretary (former) General John Kelly by a vote of 88-11. In February, Department of Transportation Secretary nominee Elaine Chao was approved by a vote of 93-6.

### 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 and replace of Obamacare, tax reform, confirmation of a Supreme Court Justice, 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 rebuild their facilities.
- Airport industry organizations are encouraging Congress to remove (not just raise) the cap on the Passenger Facility Charge (PFC). Recently Democratic and Republican legislators on the House Transportation and Infrastructure Committee have spoken about raising or eliminating the cap on PFCs as a way to generate funding for airport infrastructure projects without requiring an infusion of federal funds for needed projects.
- President Trump met with airline and airport executives in early February to discuss infrastructure improvements to airports and the air traffic control system.

### FAA Reauthorization Legislation to Come in the Spring

- FAA reauthorization legislation is likely to be re-introduced by the House Transportation and Infrastructure Committee in the spring. The legislation is expected to contain the controversial proposal to remove the ATC function from the FAA and turn it over to a non-profit organization. Last year, the proposal got out of Committee on a partisan party line vote and stalled going forward because of concerns in both the House and Senate by members from both parties. However, the T&I chairman is determined to pursue the proposal again this year.

### 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 the 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. However, again, it is too early to say.
- The executive order freezing federal hiring will not affect the hiring of TSA personnel. However, as of this writing, the impact on CBP has not yet been clarified. A freeze, combined with CBP attrition rates, could result in a noticeable reduction in CBP frontline personnel.
- The Administration's freezing of federal hiring could also impact the hiring of personnel at the FAA, at least in the short term.
- The President's executive order restricting/postponing new regulations for at least 60 days is impacting the FAA's ability to issue safety orders about aircraft (known as "airworthiness directives"). The FAA issues frequent airworthiness directives that result in required inspections or modifications for unsafe conditions on U.S. aircraft. The FAA has issued 53 such directives in the past 60 days but has not issued a directive since January 18. The directives are usually the last step in the regulatory process. Aircraft operators usually receive first bulletins from the manufacturer but some operators wait to receive the final directive from the FAA before acting. The FAA is now working to get a growing backlog of 15 to 20 directives on the Federal Register soon. Such restrictions are not unusual when there is a change in Administrations between the political parties. The Obama administration issued similar restrictions when President Obama took office in 2009. However, the new Administration has not only held up pending directives, it has also withdrawn any Obama administration directives that were finalized but published after the Inauguration.
- The Administration's executive order on environmental streamlining may have some impact on reducing the review time for key airports projects but it is too early to say for sure.

- The Administration also issued an executive order requiring agencies to identify two regulations to repeal for each new regulation that is proposed. It also includes a limit on the cost of the new regulation. While similar 2-for-1 regulatory repeal policies already exist in Canada and the United Kingdom, it is still unknown how exactly this executive order will be implemented and what the full impact will be for the federal agencies overseeing airports and airport operations.

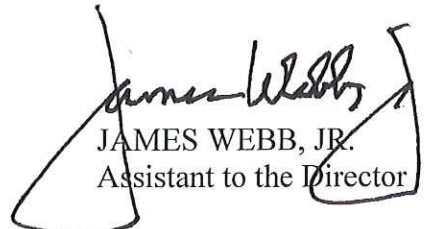
□ **State**

CPUC Reviewing the Use of Biodata for TNC Driver Background Checks

- 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.

Proposed Legislation to Extend the Collection of Customer Facility Charges

- Current legislation requires an airport to stop collecting Customer Facility Charges (CFCs) for a rental car facility when the bonds used to finance that facility have been paid. Legislation has been proposed to allow CFCs to continue to be collected for authorized purposes after the bonds for the rental car facility have been paid. This would allow, for example, the fees to be continued to cover the operation of a common use transportation system. CFCs finance the Airport's consolidated rental car facility.

  
JAMES WEBB, JR.  
Assistant to the Director