

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: November 1, 2018

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst Assignment No.: 18-10-0955

SUBJECT: Los Angeles World Airports' 2019-2020 Legislative Proposals

CLA RECOMMENDATION:

1. ADOPT the attached Resolutions recommending legislative positions for the 2019-2020 Federal and State Legislative Programs, as submitted by Los Angeles World Airports, to support the following legislative proposals:
 - Eliminating or increasing the cap on the Passenger Facility Charge
 - Increasing Customs and Border Protection Officer staffing and funding entry and exit technology programs at LAX
 - Local/airport authority to set clean fuel requirements for Transportation Network Companies operating at airports

2. INSTRUCT the Chief Legislative Analyst, with the assistance of Los Angeles World Airports, to monitor the following proposals and instruct the CLA to report and prepare resolutions, if necessary, when additional details regarding the legislation are available:
 - Streamlined CEQA review of critical local public works infrastructure projects for identified, large-scale public events
 - Safe integration of Unmanned Aircraft Systems into national and regional airspace that prohibits activity that presents a risk to aviation or public safety

SUMMARY

In September 2018, the Mayor and Council President requested that City departments submit recommendations for legislation to be included in the new 2019-2020 Federal and State Legislative Program. In response, Los Angeles World Airports (LAWA) submitted five proposals for consideration. Our office recommends that Council support and/or sponsor a number of these proposals and monitor for specific legislation as described in this report.

BACKGROUND

Increasing or eliminating the Passenger Facility Charge

The Passenger Facility Charge (PFC) is a fee that airports are authorized to charge on each enplaned passenger for commercial flights. Airports can use these fees to fund FAA-approved projects such as new terminals, ground transportation improvements, or projects that enhance the

safety and security of the airport. Currently, the PFC an airport can charge per passenger is capped at \$4.50 per flight segment and this rate has been unchanged since 2000. While the PFC could be adjusted through Federal Aviation Administration (FAA) Reauthorization, HR 302 (Guthrie), the FAA Reauthorization Act of 2018, was signed by the President on October 5, 2018 and authorized and funded the FAA for the next five years and left the PFC's current cap in place.

Upcoming projects at the Los Angeles International Airport (LAX), such as the North Airfield Safety Improvement Program, could be funded through PFCs and eliminating or increasing the current cap is a top priority for LAWA. Since the FAA has been authorized for the next five years, separate legislation will need to be introduced at the federal level to increase the PFC. In the past, the City has supported legislation that would have raised the PFC cap, but legislation raising the PFC above its current 2000-level cap has failed to pass Congress.

Streamlined CEQA review of critical local public works infrastructure projects to facilitate identified, large-scale public events (e.g. the Olympic Games, the World Cup, etc.)

The California Environmental Quality Act (CEQA) requires lead agencies to prepare and certify environmental impact reports on projects that may have significant environmental effects or adopt negative declarations if the project will not have a significant environmental impact. Projects can be delayed due to the CEQA process and litigation challenging agencies' negative declarations or environmental impact reports. LAWA has stated that numerous large-scale public works projects are proposed in advanced of large public events, such as the Olympics, and any delays to these projects could prevent the host City from having the necessary infrastructure in place by the time of the event. LAWA has proposed sponsoring legislation that would streamline the CEQA process for identified, critical, public works infrastructure projects intended to support the hosting of large-scale regional events.

While individual projects have been approved for a streamlined CEQA process in the past and the City has previously supported specific legislation for CEQA exemptions and streamlining for specific types of development or projects, given the broad nature of the proposal, this Office is recommending that the CLA be instructed to monitor for legislation that would provide streamlined CEQA review of critical local public works infrastructure projects to facilitate large-scale events and prepare resolutions of support on an individual basis.

Safe integration of Unmanned Aircraft Systems into the national and regional airspace while prohibiting and eliminating activity that presents a risk to aviation and public safety

Congress, the FAA, and the State legislature have passed legislation and taken steps in the past to regulate Unmanned Aircraft Systems (UAS), commonly known as drones, specifically in sensitive-use areas such as airports, wildfires, and residential neighborhoods. HR 302, which was recently signed into law, authorizes a UAS Integration Pilot Program to research the integration of UAS into the national airspace system in conjunction with State, local, or Tribal jurisdictions and agencies.

According to LAWA, UAS have the potential to greatly benefit commercial and public service applications, though aviation and public safety should be the top priority of any UAS deployment. In the past, the Council has supported legislation restricting the use of UAS around sensitive areas,

including airports, and supported legislation giving local control over UAS regulation. Given the broad nature of the proposal and the continuous development of UAS technology, this Office is recommending that the CLA be instructed to monitor for legislation that would safely integrate UAS into the national and regional airspace and draft resolutions of support on an individual basis.

Increasing Customs and Border Protection Officer staffing levels and funding Customs and Border Protection entry and exit technology programs

Customs and Border Protection (CBP) officers handle the security screening and processing of international passengers arriving at LAX. LAWA is requesting that the City support legislation that would increase the number of authorized positions to staff airport arrival halls (without staffing levels or federal funding contingent upon local reimbursable service agreements). To further expedite CBP inspection and processing times, LAWA is requesting support of any legislation that would fund entry and exit technology programs. LAWA has made significant local contributions including pilot programs to test biometric entry and exit and Automated and Mobile Passport Control. LAWA states that CBP, the Department of Homeland Security, and the Transportation Security Administration should be funding new security and processing technologies as well as CBP staffing increases. The Council has, in the past, supported legislation which would have increased CBP staffing levels at LAX in order to enhance customer experience, minimize inspection and processing times, and strengthen airport security.

Legislation or regulations granting local government or airport authority over clean fuel mix of Transportation Network Companies' fleets

Under current State law, the Public Utilities Commission has exclusive authority to regulate Transportation Network Companies (TNCs), commonly known as ridesharing companies such as Lyft and Uber. However, airports have the ability to regulate access to airport property. On August 25, 2015, Council concurred with the Board of Airport Commissioners' approval of a Non-Exclusive License Agreement covering TNCs servicing LAX, which allowed TNCs to operate at LAX. Council requested that LAWA report back on TNC Clean Fleet requirements. LAWA reported that its Clean Fleet program only applied to commercial vehicles under 8,500 pounds, thus excluding TNCs. LAWA has also stated that LAX has clean fuel requirements for nearly all commercial vehicle operators at the airport, with taxis as an exception. Legislation giving local agencies or airports the authority to regulate the clean fuel mix and/or emissions profiles of TNC fleets would provide LAWA and/or the City with the needed authority to set clean fuel targets for TNCs, reducing carbon emissions and pollution in and around the LAX area.



Matthew Shade
Analyst

Attachments: 1. LAWA Legislative Proposals
 2. Resolutions

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the Passenger Facility Charge (PFC) is a local fee that airports are authorized to charge on each enplaned passenger for commercial flights; and

WHEREAS, the funds raised from the PFC may be used to fund FAA-approved projects such as new terminals, ground transportation improvements, projects that enhance the safety and security of the airport, and other important airport infrastructure; and

WHEREAS, the PFC has not been raised for 18 years beyond its current level of \$4.50 per flight segment per passenger despite aging infrastructure, increased security needs, and record numbers of passengers traveling through our airports; and

WHEREAS, eliminating or increasing the PFC cap will not raise costs for the federal budget, but allow local airports to raise billions of dollars for significant airport projects; and

WHEREAS, an increase of the PFC would be an important source of funding for the Los Angeles International Airport for upcoming projects such as the North Airfield Safety Improvement Program, which would make critical long-term improvements, some mandated by the federal government, to the safety and usability of the airfield; and

WHEREAS, additional revenue for necessary airport infrastructure will create thousands of jobs across the country in the construction, aviation, and travel industries, including within the City;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2019-2020 Federal Legislative Program SUPPORT or SPONSORSHIP for any legislation or administrative action that would eliminate or increase the cap on the Passenger Facility Charge.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, Los Angeles International Airport (LAX) is one of the busiest airports in the world and travelers' positive customer experience is critical to the long-term success of LAX; and

WHEREAS, the screening and processing time that international passengers arriving at LAX encounter profoundly affects their customer experience and first experience in the City; and

WHEREAS, the United States Customs and Border Protection (CBP) is responsible for the screening and processing of arriving international passengers; and

WHEREAS, an increase in CBP officer staffing levels and the deployment of entry and exit technology could vastly expedite screening and processing times, while strengthening security at the airport; and

WHEREAS, Los Angeles World Airports has already made significant local contributions to the screening and processing of arriving passengers including pilot programs to test biometric entry and exit technologies and the procurement and deployment of Automated and Mobile Passport Control; and

WHEREAS, it should be the responsibility of CBP, the Department of Homeland Security, and the Transportation Security Administration to fund new security and processing technologies as well as CBP staffing; and

WHEREAS, CBP staffing levels should not be dependent on local reimbursable service agreements, but on the processing needs of the airport;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2019-2020 Federal Legislative Program SUPPORT or SPONSORSHIP for any legislation or administrative action that would increase Customs and Border Protection officer staffing levels and fund entry and exit technology programs at the Los Angeles International Airport.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, Transportation Network Companies (TNCs), commonly known as ridesharing companies such as Uber and Lyft, connect users with drivers through use of internet-based platforms to provide taxi-like ride services; and

WHEREAS, the State Public Utilities Commission has exclusive authority to regulate TNCs with the exception that airports are able to regulate TNC access to airport property; and

WHEREAS, on August 25, 2015, the Council concurred with the Board of Airport Commissioners' approval of a Non-Exclusive License Agreement covering TNCs servicing the Los Angeles International Airport (LAX), which allowed TNCs to operate at LAX; and

WHEREAS, Los Angeles World Airports has clean fuel requirements for nearly all commercial vehicle operators at LAX except for taxis and TNCs; and

WHEREAS, giving local agencies or airports the authority to regulate clean fuel requirements for TNCs operating at airports would allow LAX to set clean fuel targets TNCs must meet, reducing carbon emissions and pollution in and around the LAX area;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2019-2020 State Legislative Program SUPPORT or SPONSORSHIP for any legislation or administrative action that would grant local governments or airports the authority to regulate the clean fuel mix or emissions profiles of Transportation Network Company fleets operating at airports.



Los Angeles
World Airports

October 12, 2018

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Deborah Flint
Chief Executive Officer

Dear Ms. Pete and Ms. Tso,

This is to transmit Los Angeles World Airports' recommendations for 2019-2020 federal and state legislation, as recently requested by Mayor Garcetti and City Council President Wesson.

LAWA has a number of legislative priorities addressing airport infrastructure development, airport finance, environmental mitigation, and ground transportation, and we have selected the five highest priority proposals for your consideration at this time. We have consulted with other City departments, and have adjusted our proposals to present a consensus approach. We look forward to discussing these proposals and other legislative priorities for 2019 with you and your respective staffs.

Please contact Mark Adams, LAWA Government Affairs Director, for additional information or follow-up needs. He may be reached at madams2@lawa.org or (424) 646-5114.

Sincerely,

Deborah Flint
Chief Executive Officer



CITY OF LOS ANGELES
LEGISLATIVE PROPOSAL REPORT

DEPARTMENT: Los Angeles World Airports
PREPARED BY: Mark Adams, LAWA Government Affairs Directorb (424) 646-5114

RECOMMENDATION:

Sponsor/Support any efforts to eliminate or increase the authorized cap on the Passenger Facility Charge to support airport development programs such as the LAX North Airfield Safety Improvement Program (NASIP).

Background:

LAWA's highest legislative priority remains increasing the Passenger Facility Charge (PFC) authorized to be collected at airports. This locally-approved user fee is a vital aviation infrastructure funding mechanism that has not been adjusted in 18 years. Unlike AIPs, PFCs can be used to pay for new terminals and ground transportation improvements. At LAX, this would be particularly beneficial for upcoming projects such as the North Airfield Safety Improvement Program.

LAWA supports uncapping the PFC and allowing local market forces determine the appropriate level at each airport, although any increase would be of great value to LAWA and the aviation community. There have been numerous attempts to adjust the PFC in the past, all of which have failed in the face of staunch opposition from airline interests. The PFC authorization could be adjusted via FAA Reauthorization, although this path will closed for as long as five years by approval of HR 302. It could also proceed as a standalone bill, as part of a larger infrastructure authorizing package, or as part of a THUD appropriations bill.

Cost/Benefit:

The financial benefit to LAWA and its capital programs would be very significant, although the precise benefit depends on the nature of the PFC increase. The current fee is \$4.50 per enplaned passenger, and LAX currently enplanes over 40 million passengers per year. An increase in this authorization may lead to an uncapped fee, limited only by local authorities, or it may be limited to a particular increase over \$4.50 or limited to originating departing passengers (i.e., excluding connecting passengers).

Interested Parties:

The PFC increase has historically been supported by all airport operating authorities, many local and state governments, as well as many business and labor groups. The PFC increase is opposed by most airlines.

RECOMMENDATION:

Sponsor/support legislation to provide streamlined CEQA review of critical local public works infrastructure projects (e.g., NASIP) to facilitate identified, large-scale public events such as the Olympic Games and World Cup.

Background:

Airports, including LAWA, have committed to a wide variety of infrastructure modernization projects. While airports have a solid record in CEQA compliance, projects can be delayed due to the CEQA process and litigation.

A number of individual projects have been approved for a streamlined CEQA process in recent years. Numerous large-scale public works projects are proposed in advance of upcoming regional events (e.g. Olympics and World Cup) that will put a focus on Los Angeles infrastructure. Delays for these projects will reduce the region's ability to properly host these events.

Airport modernization programs are valuable infrastructure projects on a statewide and regional level, and airports would be able to complete specific projects more quickly if they were to benefit from streamlined environmental review, including judicial review, as has been approved for a number of other regionally significant facilities.

Cost/Benefit:

Significant project cost savings may be realized depending on the nature of CEQA streamlining. Project timelines will also be shorter and more predictable.

Interested Parties:

At the City/local level, Metro and City agencies sponsoring public works projects are potential supporters. At the state level, the California Airports Council, individual airports, local and regional government, and aviation industry stakeholders would potentially benefit from this, depending on the specifics of the legislation. Business and labor groups are also likely to be supportive. Opposition may consist of environmental groups and others based on their perceived impact on environmental regulation.

RECOMMENDATION:

Support legislation and regulations that promote the safe integration of Unmanned Aircraft Systems into the national and regional airspace, including the deployment of commercial and public service UAS technology, while prohibiting and eliminating UAS activity that presents a risk to aviation or public safety.

Background:

Congress and FAA have taken some steps to regulate UAS (aka drones), although regulators have had considerable difficulty keeping up with the needs of the rapidly evolving industry. FAA regulation has historically faced an obstacle in existing statute related to regulation of small, unmanned aircraft that was originally intended to deregulate use of model airplanes. UAS have the capability to deliver great benefits in commercial and public service applications, however the overarching consideration in UAS deployment should be the safety of piloted aircraft and persons on the ground. It is critical that regulators address these needs to prevent tragic consequences. While HR 302 will give the FAA much-needed leeway in its drone regulation efforts, much work remains. The solutions are elusive, and simple "no-drone zones" around airports or other facilities do not recognize the complexity of the aviation system and measures to ensure aviation safety are needed.

Cost/Benefit:

Insignificant cost to LAWA. Everyone benefits from a national aviation system that maximizes safety.

Interested Parties:

At the City/local level, LADOT, LADWP, LAPD & LAFD are potential supporters. Nationally, airports and all aviation interests will have a stake in this, although individual stakeholder positions will depend on the specifics of future FAA regulatory proposals.

RECOMMENDATION:

Sponsor/support legislation to increase Customs and Border Protection Officer staffing levels and fund CBP entry and exit technology programs, particularly in light of future large-scale events such as Olympics and World Cup. (LA Tourism is potential co-sponsor)

Background:

The guest experience at LAX depends greatly on the international passenger's CBP screening experience. It is critical that CBP have adequate staff levels in airport arrival halls consistent with the CBP's Workforce Staffing Model, to avoid gridlock and to facilitate the free flow of business and leisure travelers into Los Angeles. With additional staff, CBP can deploy additional officers and improve the customer experience. Past attempts to increase the number of authorized positions have stalled, but many in Congress recognize the need to provide additional resources. Future Federal Inspection Service staffing also should not be dependent on local reimbursable service agreements (aka 559 agreements).

LAWA and other airports have made and continue to make significant local contributions to improve facilitation technology, including pilot programs to test biometric entry and exit, and the procurement and deployment of Automated Passport Control and Mobile Passport Control. DHS and CBP continue to look at new technology deployments, but such technologies should be funded by DHS/CBP/TSA and entering passenger user fees, not by airport resources.

In recent years, CBP airport resource needs have faced greater competition with resource demands at the southern land border. The airport passenger experience cannot be sacrificed at the expense of other CBP needs.

Cost/Benefit:

Historically, CBP screening has been funded by user fees on arriving international passengers. In recent years, lack of resources, including diversion of user fees, required airports to invest their own resources in CBP operations, through the initiation of 559 agreements and the funding of new technology like Automated Passport Control kiosks. Airports, including LAX, will continue to look at ways to use airport resources to improve the customer experience, but federal resources should fund more, if not all CBP operations and technology improvements.

Interested Parties:

At the City/local level, LA Tourism is a potential supporter, and business groups have historically been strong supporters. At the national level, all stakeholders have supported additional CBP resources.

RECOMMENDATION:

Sponsor/support legislation and regulations to give local government or airports authority over clean fuel mix of TNC fleets (LADOT is likely supporter, potential co-sponsor)

Background:

Currently, the state legislature has granted the Public Utilities Commission exclusive authority to regulate Transportation Network Companies (e.g., Uber and Lyft) in the state. The principal exception is the PUC in turn conveying to airports the ability to regulate access to airport property and to charge fees for that access. As a result, TNCs have entered into permit agreements with a many California airports.

In California, particularly in the South Coast Air Basin, airports are under pressure to find reductions to facility emissions. LAX, for example, has clean fuel requirements for almost all commercial vehicle operators at LAX. One exception to this is the City's clean fuel regulations over taxis.

In its mission to reduce facility air emissions, airports need the authority to not just permit TNC access, but to also make clean fuel targets part of that authority, to put TNCs on par with all other commercial transportation modes. The legislature should direct the PUC to include in its regulations the ability for airports to regulate not just fleet access to the airport, but also the fleet mix and/or air emissions profiles in that fleet.

Cost/Benefit:

This measure is expected to have little if any direct cost to airports or City. Any compliance burden would be borne by TNC companies, although this could be close to zero cost based on the specific nature of any regulations if they consider vehicle emissions when enrolling drivers.

Interested Parties:

At the City/local level, LADOT is a potential supporter. At the state level, local governments and environmental groups are likely to be supportive of these efforts. TNCs are likely to oppose this effort.