

AGENDA
COMMUNICATIONS AND LEGISLATIVE LIAISON COMMITTEE MEETING
WITH BOARD OF DIRECTORS*
ORANGE COUNTY WATER DISTRICT
18700 Ward Street, Fountain Valley, CA (714) 378-3200
Thursday, April 4, 2019, 8:00 a.m. - Conference Room C-2

*The OCWD Communications and Legislative Liaison Committee meeting is noticed as a joint meeting with the Board of Directors for the purpose of strict compliance with the Brown Act and it provides an opportunity for all Directors to hear presentations and participate in discussions. Directors receive no additional compensation or stipend as a result of simultaneously convening this meeting. Items recommended for approval at this meeting will be placed on the **April 17, 2019** Board meeting Agenda for approval.

ROLL CALL

ITEMS RECEIVED TOO LATE TO BE AGENDIZED

RECOMMENDATION: Adopt resolution determining need to take immediate action on item(s) and that the need for action came to the attention of the District subsequent to the posting of the Agenda (requires two-thirds vote of the Board members present, or, if less than two-thirds of the members are present, a unanimous vote of those members present.)

VISITOR PARTICIPATION

Time has been reserved at this point in the agenda for persons wishing to comment for up to three minutes to the Board of Directors on any item that is not listed on the agenda, but within the subject matter jurisdiction of the District. By law, the Board of Directors is prohibited from taking action on such public comments. As appropriate, matters raised in these public comments will be referred to District staff or placed on the agenda of an upcoming Board meeting.

At this time, members of the public may also offer public comment for up to three minutes on any item on the Consent Calendar. While members of the public may not remove an item from the Consent Calendar for separate discussion, a Director may do so at the request of a member of the public.

CONSENT CALENDAR (ITEM NO. 1)

All matters on the Consent Calendar are to be approved by one motion, without separate discussion on these items, unless a Board member or District staff request that specific items be removed from the Consent Calendar for separate consideration.

1. MINUTES OF COMMUNICATIONS AND LEGISLATIVE LIAISON COMMITTEE MEETING HELD MARCH 7, 2019

RECOMMENDATION: Approve minutes as presented

END OF CONSENT CALENDAR

MATTERS FOR CONSIDERATION

2. STATE LEGISLATIVE UPDATE

RECOMMENDATION: Agendize for April 17 Board meeting:

1) Adopt the following positions on legislation:

Bill Number	Topic	Recommendation
AB 1180 (Friedman)	Recycled Water	Support
AB 533 (Holden)	Water Conservation Tax Parity	Support
AB 1486 (Ting)	Local Agencies - Surplus Land	Oppose Unless Amended
SB 204 (Dodd)	State Water Project - Contracts	Oppose Unless Amended
AB 441 (Eggman)	Groundwater – Beneficial Use	Watch

2) Adopt an Orange County Water District resolution to support legislative and funding alternatives to a state water tax

3. FEDERAL LEGISLATIVE UPDATE

RECOMMENDATION: Agendize for April 17 Board meeting: Take action as appropriate

CHAIR DIRECTION AS TO WHICH ITEMS IF ANY TO BE AGENDIZED AS A MATTER FOR CONSIDERATION AT THE APRIL 17 BOARD MEETING

DIRECTOR’S ANNOUNCEMENTS/REPORTS

GENERAL MANAGER’S ANNOUNCEMENT/REPORT

ADJOURNMENT

COMMUNICATION AND LEGISLATIVE LIAISON COMMITTEE MEMBERS

Cathy Green- Chair
Jordan Brandman - Vice Chair
Steve Sheldon
Roger Yoh
Ahmad Zahra

Tri Ta
Kelly Rowe
Dina Nguyen
Denis Bilodeau
Vicente Sarmiento

Agenda Posting: In accordance with the requirements of California Government Code Section 54954.2, this agenda is posted in the window of the guard shack at the main entrance of the Orange County Water District, 18700 Ward Street, Fountain Valley, CA and on the OCWD website: www.ocwd.com not less than 72 hours prior to the meeting date and time above. All written materials relating to each agenda item are available for public inspection in the office of the Assistant District Secretary. Backup material for the Agenda is available at the District offices for public review and can be viewed online at the District's website: www.ocwd.com.

Accommodations to the Disabled: Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the District Secretary at (714) 378-3233, by email at jdurant@ocwd.com by fax at (714) 378-3373. Notification 24 hours prior to the meeting will enable District staff to make reasonable arrangements to assure accessibility to the meeting.

Availability of Agenda Material: As a general rule, agenda reports or other written documentation that has been prepared or organized with respect to each item of business listed on the agenda can be reviewed at www.ocwd.com. Copies of these materials and other disclosable public records distributed to all or a majority of the members of the Board of Directors in connection with an Open Session agenda item are also on file with and available for inspection at the Office of the District Secretary, 18700 Ward Street, Fountain Valley, California, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. If such writings are distributed to members of the Board of Directors on the day of a Board meeting, the writings will be available at the entrance to the Board of Directors meeting room at the Orange County Water District office.

MINUTES OF BOARD OF DIRECTORS MEETING
 WITH COMMUNICATIONS AND LEGISLATIVE LIAISON COMMITTEE
 ORANGE COUNTY WATER DISTRICT
 March 7, 2019 @ 8:00 a.m.

Director Ta called the Communications and Legislative Liaison Committee meeting to order in Conference Room C-2 at the District office. The Assistant District Secretary called the roll and reported a quorum as follows:

Committee Members

Cathy Green
 Jordan Brandman
 Steve Sheldon (absent)
 Roger Yoh (absent)
 Tri Ta

OCWD Staff

John Kennedy – Executive Director
 Eleanor Torres – Director of Public Affairs
 Alicia Dunkin – Legislative Affairs Liaison
 Christina Fuller – Assistant District Secretary

Alternates

Kelly Rowe
 Dina Nguyen
 Denis Bilodeau (participated via teleconference)
 Vicente Sarmiento
 Ahmad Zahra

CONSENT CALENDAR

The Consent Calendar was approved upon motion by Director Nguyen, seconded by Director Rowe, with Director Ta abstaining, and carried [3-0-1] as follows:

Ayes – Rowe, Nguyen, Bilodeau

Abstain: Ta

1. Minutes of Previous Meeting

The minutes of the February 7, 2019 Communications/Legislative Liaison Committee meeting are approved as presented.

MATTERS FOR CONSIDERATION

2. State Legislative Update

OCWD staff and Legislative consultants provided a summary of state bills and recommended actions for each bill.

Upon motion by Director Brandman, seconded by Director Ta and carried [5-0], the Committee recommended that the Board at its March 20 Board meeting: Adopt the following positions:

Bill Number	Topic	Recommendation
SB 669 Caballero	Safe Drinking Water Trust	Support
AB 1204 B. Rubio	Maximum Contaminant Levels in Drinking Water Compliance Time	Support
AB 658 Arambula	Groundwater Storage: Beneficial Use	Watch
AB 756 C. Garcia	Public Water Systems	Watch
AB 841 Ting	Drinking Water Contaminants	Watch

AB 292 Quirk	Recycled Water: Raw Water and Groundwater Augmentation	Support
SB 332 Hertzberg	Wastewater Treatment: Recycled Water	Watch
SB 414 Caballero	Small System Water Authority Act of 2019	Support
AB 557 Wood	Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program	Support
SB 19 Dodd	Water Resources: Stream Gages	Support

Ayes – Green, Brandman, Ta, Rowe, Nguyen

3. Federal Legislative Update

Federal consultants provided an update on the upcoming OCWD trip to Washington, D.C. for Board President Sarmiento and General Manager Mike Markus March 25-27. Consultants also provided an update on the Water Recycling Investment and Improvement Act (H.R. 1162), authored by Congresswoman Grace P. Napolitano. Legislative Affairs Liason Alicia Dunkin advised that the District wrote a letter of support for H.R. 1162, on February 28, with the approval of Board President Sarmiento, as it aligns with the 2019-2020 Legislative Platform policy to seek additional federal funding for water recycling projects.

Upon motion by Director Nguyen, seconded by Director Ta and carried [5-0], the Committee recommended that the Board at its March 20 Board meeting: Take a “Support” position on H.R. 1162 (Napolitano) Water Recycling Investment and Improvement Act. Ayes –Green, Brandman, Ta, Rowe, Nguyen

INFORMATIONAL ITEMS

4. 12th Annual Orange County Water Summit

Director of Public Affairs Eleanor Torres stated the 12th annual Orange County Water Summit will take place Friday, May 31, 2019 at the Grand Californian Hotel and Spa at the Disneyland Resort. She provided an update of the event planning activities.

5. Public Affairs Outreach Report (January-February 2019)

Ms. Torres stated the report is in the packet and noted that approximately 1000 guests toured the GWRS and other OCWD facilities during the months of January and February.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 9:15 a.m.

Cathy Green, Chair

AGENDA ITEM SUBMITTAL

Meeting Date: April 4, 2019

To: Communications/Leg. Liaison Cte
Board of Directors

From: Mike Markus

Staff Contact: E. Torres/A. Dunkin

Budgeted: N/A

Budgeted Amount: N/A

Cost Estimate: N/A

Funding Source: N/A

Program/Line Item No.: N/A

General Counsel Approval: N/A

Engineers/Feasibility Report: N/A

CEQA Compliance: N/A

POLICY ISSUE: STATE LEGISLATIVE UPDATE

SUMMARY

The Orange County Water District's (OCWD; the District) state legislative consultants and staff will provide a verbal report on bills of interest to the District and recent meetings with elected officials on District matters.

Attachment(s):

- Joe A. Gonsalves and Son – Edelstein Gilbert Robson & Smith March 2019 State Legislative Update
- AB 1180 (Friedman) Recycled Water
- AB 533 (Holden) Water Conservation Tax Parity
- AB 1486 (Ting) Local Agencies - Surplus Land
- SB 204 (Dodd) State Water Project – Contracts
- AB 441 (Eggman) Groundwater – Beneficial Use

RECOMMENDATION

Agendize for April 17 Board meeting:

1. Adopt the following positions on legislation:

Bill Number	Topic	Recommendation
AB 1180 (Friedman)	Recycled Water	Support
AB 533 (Holden)	Water Conservation Tax Parity	Support
AB 1486 (Ting)	Local Agencies - Surplus Land	Oppose Unless Amended
SB 204 (Dodd)	State Water Project - Contracts	Oppose Unless Amended
AB 441 (Eggman)	Groundwater – Beneficial Use	Watch

2. Adopt an Orange County Water District resolution to support legislative and funding alternatives to a state water tax.

DISCUSSION

AB 1180 (Friedman) Recycled Water

The California Code of Regulations, Title 22 regulates the use of recycled water in California. The regulations for California's vast network of purple pipes, which provide recycled water for non-potable uses in every county in the state, have not been updated for 19 years. An update to these regulations, incorporating the knowledge and lessons learned from nearly two decades of non-potable water recycling, will help the state to achieve its ambitious goals for recycled water use. AB 1180, authored by Assemblymember Laura Friedman (D - Glendale), is sponsored by the WaterReuse California Section. Orange County Water District staff and consultants recommend a "support" position on AB 1180 as it would update recycled water regulations that may aid OCWD groundwater producers.

AB 1180 requires that the State Water Resources Control Board update these regulations by 2023. It also promotes recycled water for dual plumbed buildings and permits the use of a changeover device, or "swivel ell", so that building owners can easily switch back and forth between potable and non-potable water when required for testing or other recycled water shutdowns. The ability to easily and cost-effectively make the switch to potable water will eliminate a barrier for building owners to bring recycled water used for landscape irrigation inside their buildings. Currently, Title 17 of the California Code of Regulations requires an air gap assembly for this purpose, which is costly and generally impractical for use in a building.

Some examples of needed non-potable Title 22 updates include:

- Revising "outdoor eating area" restrictions to clarify that recycled water can be used in parks with picnic tables, etc.
- Revising dual plumbing requirements so food processing or beverage facilities (such as breweries) or buildings with cafeterias can have their restrooms dual plumbed. Continue prohibition on use in the food processing area.
- Adding additional allowable recycled water uses such as for ponds, vehicle washing, pressure testing, and approved fill stations.
- Clarifying that the use of recycled water for homeowner's association common areas where potable water is used for irrigation of individual residences does not constitute a dual plumbed site.

AB 533 (Holden) Water Conservation Tax Parity

AB 533, authored by Assemblymember Chris Holden (D-Pasadena), would exclude from gross income, under personal income and corporation tax laws, amounts received as a rebate, voucher, or other financial incentive issued by a local water agency for participation in water efficiency or stormwater runoff improvement programs. Orange County Water District staff and consultants recommend a "support" position on AB 533 which may aid OCWD groundwater producers to incentivize water conservation. The Metropolitan Water District of Southern California has also taken a "support" position on AB 533.

Consumer rebates and subsidies are cost-effective tools for increasing participation in conservation and stormwater management programs. Yet, when the state is not faced with drought and water use restrictions, it is difficult to maintain public participation in conservation measures. Rebates provide a financial incentive to conserve year-round. Reducing that incentive by making rebates taxable income would be a potential disincentive for households and businesses and may undermine their success.

AB 1486 (Ting) Local Agencies-Surplus Land

Existing law makes various findings and declarations as to the need for affordable housing and the use of surplus government land for that purpose. AB 1486, authored by Assemblymember Phil Ting (D-San Francisco), would express the intent of the Legislature to enact legislation that addresses the need for affordable housing by utilizing surplus land within the state, as specified. Orange County Water District staff and consultants recommend an “oppose unless amended” position for AB 1486 and respectfully request the legislation be amended to limit the scope of the bill to the sale of surplus land and not include property for lease. This position is not a challenge to the need for affordable housing, but a validation of the need for local flexibility when it comes to proper governmental land use management.

Existing law specifies requirements for the disposal of surplus land by a local agency, which includes every city, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property. Existing law defines “surplus land” for these purposes as land owned by any local agency that is determined to be no longer necessary for the agency’s use, except property being held by the agency for the purpose of exchange.

AB 1486 would expand the definition of “local agency” to include sewer, water, utility, and local and regional park districts, joint powers authorities, successor agencies to former redevelopment agencies, housing authorities, and other political subdivisions of this state and any instrumentality thereof that is empowered to acquire and hold real property, thereby requiring these entities to comply with these requirements for the disposal of surplus land.

The bill would revise the definition of “surplus land” to mean land owned by any local agency that is not necessary for the agency’s governmental operations, except property being held by the agency expressly for the purpose of exchange for another property necessary for its governmental operations and would provide that land is presumed to be surplus land when a local agency initiates an action to dispose of it.

The bill would also define the term “dispose of” for these purposes as the sale, lease, transfer or other conveyance of any interest in real property owned by a local agency.

AB 1486 requires public agencies to offer their land for development before leasing their property. The bill requires special districts and other local agencies to offer the right of first refusal to affordable housing developers, schools, and parks before selling, leasing or otherwise conveying their land.

The new requirements in the bill may be problematic for public agencies that have valid reasons to lease or otherwise protect land they own, such as buffer land surrounding a wastewater plant, or the long-term lease of cemetery district property that will be needed for future interments.

Under AB 1486, attempting to lease land in support of an agency's governmental function would trigger the requirements for the disposal of surplus land. As written, AB 1486 would require agencies to offer up property which may be incompatible for use for housing, schools or parks. AB 1486 would also make it more difficult to protect an agency's land for a future governmental use.

AB 1486 is substantially similar to Assemblymember Ting's 2018 bill, AB 2065, which OCWD took an "oppose unless amended" position and requested to narrow the scope of the bill to the sale of surplus property and not trigger the requirements for the disposal of surplus land when an agency attempts to lease their land. Facing strong opposition from special districts, the California Special District Association (CSDA), the Association of California Water Agencies (ACWA) and other public agencies, AB 2065 died on the suspense file in the Assembly Appropriations Committee.

CSDA has taken an "oppose unless amended" position on AB 1486 and is working to narrow the bill only to the sale of surplus property. The Association of California Water Agencies has not yet taken a position on AB 1486.

SB 204 (Dodd) Delta Conveyance

SB 204, authored by Senator Bill Dodd (D-Napa), would further transparency and the sharing of information regarding future State Water Project (SWP) contract amendments, although some sections of the bill would significantly delay action to find a conveyance solution in the Delta or in modifying the SWP contracts in a way that meets the needs for imported water south of the Delta. Orange County Water District's 2019-2020 Legislative Platform has a policy that states, "Support administrative/legislative action and state funding to keep the California WaterFix on schedule to advance conveyance and ecosystem improvements to help achieve the coequal goals of water supply reliability and Delta ecosystem restoration." SB 204 would act to delay action on the California WaterFix; therefore, OCWD staff and consultants recommend an "oppose unless amended" position on SB 204. The Metropolitan Water District of Southern California has also taken an "oppose unless amended" position on SB 204.

SB 204 would add a section to the Government Code requiring that the Delta Conveyance Design and Construction Authority (DCA) submit 60 days in advance the terms and conditions of any contract for planning, design, and construction to the Joint Legislative Budget Committee (JLBC) and relevant policy and fiscal committees. Furthermore, the measure states if the JLBC or relevant policy committees hold a hearing to review a contract, the contract may not be approved for 90 days until after the first review hearing is scheduled. There is no specific language to determine the course of action if a hearing is not held.

This addition to the Government Code could significantly and unnecessarily delay any action on the California WaterFix moving forward and may increase costs to implement the project by creating excessive delays in the contracting process. SB 204 would compromise

efforts to move forward with the project in an efficient manner by making competitive bids of a construction contract essentially impossible, as it would require contractors to keep bid prices viable for a minimum of 150 days. A contractor could decide to inflate prices to compensate for the delay and uncertainty in the process, thereby undermining state contracting practices to hire the most qualified contractor and negotiate a competitive price. Also, if no hearings are scheduled, it is unclear if the contracts could be approved, thus delaying or preventing implementation of the California WaterFix.

Last year, the Joint Legislative Budget Committee sought to bring greater transparency to the SWP's long-term contract extensions, and an informational hearing was held on September 11, 2018. Further transparency to any future amendments to the SWP contracts and construction of the California WaterFix can be done by providing information and testimony during informational hearings, not by creating open-ended processes that could create unnecessary delays and increased costs.

AB 441 (Eggman) Water – Underground Storage

Under existing law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Existing law provides for the reversion of water rights to which a person is entitled when the person fails to beneficially use the water for a period of 5 years.

Existing law also declares that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

AB 441, authored by Assemblymember Susan Talamante Eggman (D-Stockton), would revise the above declaration to additionally provide that certain uses of stored water while underground constitute beneficial use. The bill would provide that the forfeiture periods of a water right do not apply to water being beneficially used, as provided, or being held in storage for later beneficial use. Orange County Water District staff and consultants recommend taking a "watch" position on AB 441 as the legislation does not impact OCWD or its groundwater producers. The Association of California Water Agencies has taken a "watch" position on AB 441 as they have members both opposed and in support of the legislation.

OCWD Resolution to Support Legislative and Funding Alternatives to a State Water Tax

On March 20, 2019, the OCWD Board of Directors took a support position on SB 669, the Safe Drinking Water Trust, authored by Senator Anna Caballero (D-Salinas) and sponsored by ACWA and the California Municipal Utilities Association (CMUA). The bill would create a Safe Drinking Water Trust that will help community water systems in disadvantaged communities provide access to safe drinking water. The Trust would be funded with General Fund dollars during a state budget surplus year. The record budget surplus for the 2019-20 fiscal year makes this a good time to create and fund the Trust. The principal would be invested and the net income from the Trust would be transferred to a Safe Drinking Water Fund, which the State Water Resources Control Board would administer.

This proposal would create an ongoing funding source for costs associated with operation and maintenance (O&M) and consolidation efforts and would complement existing federal and state funding sources for capital costs.

The OCWD Board of Directors also took a support position on SB 414 (Caballero), the Small System Water Authority Act of 2019, that would authorize the creation of a Small System Water Authority that would be authorized to absorb, improve, and competently operate currently non-compliant public water systems with either contiguous or non-contiguous boundaries; and

Combined, SB 668 and SB 414 act as a viable solution to assisting California's disadvantaged communities to accessing clean drinking water and good alternatives to the statewide water tax being proposed by Governor Gavin Newsom through budget trailer bill language.

Orange County Water District staff and consultants will discuss draft resolution language for the OCWD Board of Directors to consider for adoption.

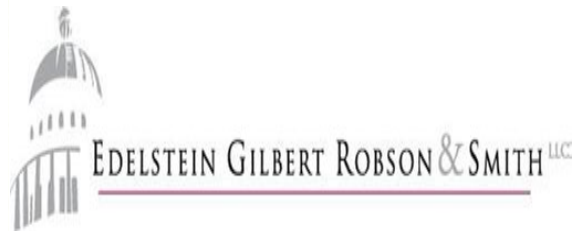
ACTIVITIES

March 15 Assemblymember Cottie Petrie-Norris (D-Laguna) and staff toured the Groundwater Replenishment System (GWRS)

UPCOMING ACTIVITIES

April 17 Senator Thomas Umberg (D-Santa Ana) and staff to tour the GWRS

April 22 Meeting with Wade Crowfoot, Secretary, California Natural Resources Agency



TO: ORANGE COUNTY WATER DISTRICT

FROM: JOE A. GONSALVES AND SON

EDELSTEIN GILBERT ROBSON & SMITHLLC

SUBJECT: LEGISLATIVE UPDATE

DATE: MARCH 26, 2019

February 22, 2019 marked the legislative deadline to introduce bills in the California Legislature. This year, the legislature introduced 2804 pieces of legislation; 1940 bills in the Assembly and 864 bills in the Senate. All bills must be in-print for 30 days before they are eligible to be heard.

A majority of the 2800+ newly introduced bills include intent language (referred to as a “spot bill(s)”), which means they will be substantially amended prior to their first policy committee hearing. Our firms will continue to review all bills and amendments to identify legislation of interest to the District and forward them to your staff.

Our firms continue to work with OCWD staff and other interested water agencies to further our collective strategy to secure a State Budget appropriation to support atmospheric rivers research and Forecast Informed Reservoir Operations (FIRO). Over the past couple months, OCWD and other interested water agencies have been meeting with the Governor’s office, Members of the Legislature and key staff to garner their ongoing support for a budget augmentation. To date the meetings have been well received and quite productive and we will continue to keep you apprised as the issue progresses.

There are several bills this year to address the Safe and Affordable Drinking Water proposal, or “Water Tax”. SB 200 (Monning, majority vote proposal), creates the Safe and Affordable Drinking Water Fund, administered by the State Water Board, to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards. This bill was heard in the Senate Environmental Quality Committee

on March 20, 2019. SB 200 passed out of Committee on a 5-0 vote with 2 members abstaining. The bill now moves to the Senate Natural Resources and Water Committee and will be heard on April 23, 2019.

SB 669 (Caballero, 2/3 vote proposal) proposes to create a Safe Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the SWRCB. Further, the bill would require the SWRCB to administer the fund to assist community water systems in disadvantaged communities that are chronically noncompliant relative to the federal and state drinking water standards and do not have the financial capacity to pay for operation and maintenance costs to comply with those standards. SB 669 bill will be heard on April 9, 2019 in the Senate Environmental Quality Committee. Please note, SB 669 is a 2/3 vote bill, but only if it's done as a policy bill, should it be adopted as part of the budget it's a majority vote (SB 669 is the alternative to the water tax, which is being sponsored by CMUA/ACWA).

AB 217 (E. Garcia, 2/3rds vote proposal) creates the Safe Drinking Water for All Act, which establishes a Safe and Affordable Drinking Water Fund to provide a source of funding to secure access to safe drinking water for all Californians, while also ensuring long-term sustainability of drinking water systems. The bill Imposes several fees on agricultural activities and creates a trust fund using investments from the state General Fund that together would provide the source of revenue to the Fund. In addition, AB 213 allows the Water Board to assess fees on water agencies at a rate of 50 cents per connection served by the agency.

AB 217 passed out of the Assembly Environmental Safety and Toxic Materials Committee on March 26, 2019 on a 5-2 vote and will next be heard in the Assembly Appropriations Committee.

AB 134 (Bloom, majority vote proposal). Requires that the Governor's annual budget show expenditures from Safe and Affordable Drinking Water Fund (Fund) and that the LAO review the effectiveness of expenditures from the Fund. AB 134 was heard on March 26, 2019 in the Assembly Environmental Safety and Toxic Materials Committee and passed on a 5-0 vote and will next be heard in the Assembly Appropriations Committee.

Lastly, the Governor has proposed "trailer bill" language which seeks to establish the Safe and Affordable Drinking Water program to increase access to safe drinking water for Californians. The program would provide local water agencies with grants, loans, contracts, or services to help support their operations and maintenance costs. This funding would be supported by new charges (water tax) proposed by the Governor on water system ratepayers, fertilizer sales, and agricultural entities. This bill is currently pending before the Senate and Assembly Budget Committees and/or sub-committees.

Should you have any questions or concerns please do not hesitate to contact our offices, otherwise we will continue to keep you apprised as these (and many other) issues progress.

ASSEMBLY BILL

No. 1180

Introduced by Assembly Member Friedman

February 21, 2019

An act to amend Section 116407 of the Health and Safety Code, and to add Section 13521.2 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1180, as introduced, Friedman. Water: recycled water.

(1) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law requires, on or before January 1, 2020, the state board to adopt standards for backflow protection and cross-connection control through the adoption of a policy handbook, as specified.

This bill would require that handbook to include provisions for the use of a swivel or changeover device to supply potable water to a dual-plumbed system during an interruption in recycled water service.

(2) Existing law requires the state board to establish uniform statewide recycling criteria for each varying type of use of recycled water where the use involves the protection of public health.

This bill would require, on or before January 1, 2023, the state board to update the uniform statewide criteria for nonpotable recycled water uses.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) On December 11, 2018, the State Water Resources Control
4 Board unanimously adopted an amendment to the policy for water
5 quality control for recycled water, which included a goal to increase
6 the use of recycled water in the state from 714,000 acre-feet per
7 year in 2015 to 1,500,000 acre-feet per year by 2020 and 2,500,000
8 acre-feet per year by 2030.

9 (b) Section 13521 of the Water Code requires the state board
10 to establish uniform statewide recycling criteria for each varying
11 type of use of recycled water where the use involves the protection
12 of public health.

13 (c) The regulations establishing the uniform statewide criteria
14 for recycled water uses are set forth in Chapter 3 (commencing
15 with Section 60301.050) of Division 4 of Title 22 of the California
16 Code of Regulations. The regulations that pertain to nonpotable
17 recycled water uses have not been updated since 2000.

18 (d) The regulations relating to backflow protection and
19 cross-connection control for recycled water are set forth in Article
20 1 (commencing with Section 7583) and Article 2 (commencing
21 with Section 7601) of Group 4 of Subchapter 1 of Chapter 5 of
22 Division 1 of Title 17 of the California Code of Regulations. These
23 regulations have not been updated since 1987.

24 (e) Section 1 of Chapter 533 of the Statutes of 2017 (Assembly
25 Bill 1671 of the 2017–18 Regular Session) required, on or before
26 January 1, 2020, the state board to adopt backflow protection and
27 cross-connection control standards and authorized implementation
28 through a policy handbook.

29 (f) In order to maximize the amount of recycled water California
30 can safely use for beneficial purposes, it is necessary to update the
31 uniform statewide criteria for nonpotable recycled water uses and
32 specify certain associated backflow protection and cross-connection
33 control provisions.

34 SEC. 2. Section 116407 of the Health and Safety Code is
35 amended to read:

36 116407. (a) On or before January 1, 2020, the state board shall
37 adopt standards for backflow protection and cross-connection
38 control.

1 (b) (1) The state board may implement subdivision (a) through
2 the adoption of a policy handbook that is not subject to the
3 requirements of Chapter 3.5 (commencing with Section 11340) of
4 Part 1 of Division 3 of Title 2 of the Government Code. The policy
5 handbook shall include standards for backflow protection and
6 cross-connection control. In developing the standards and any
7 amendments to those standards, the state board shall consult with
8 state and local agencies and other persons whom the state board
9 has identified as having expertise in the subject of backflow
10 protection and cross-connection control. The state board shall hold
11 at least two public hearings before adopting the policy handbook.
12 The policy handbook shall be posted on the board's ~~Internet Web~~
13 ~~site.~~ *internet website.*

14 (2) (A) *The policy handbook described in this subdivision shall*
15 *include provisions for the use of a swivel or changeover device to*
16 *supply potable water to a dual-plumbed system during an*
17 *interruption in recycled water service.*

18 (B) *The use of a swivel or changeover device shall be consistent*
19 *with any notification and backflow protection provisions contained*
20 *in the policy handbook.*

21 (c) (1) Upon the effective date of a policy handbook adopted
22 by the state board pursuant to subdivision (b), the regulations set
23 forth in Article 1 (commencing with Section 7583) and Article 2
24 (commencing with Section 7601) of Group 4 of Subchapter 1 of
25 Chapter 5 of Division 1 of Title 17 of the California Code of
26 Regulations shall become inoperative, and, 90 days thereafter, are
27 repealed, unless the state board makes a determination not to repeal
28 a specific regulation.

29 (2) If the state board determines not to repeal a specific
30 regulation pursuant to paragraph (1), the state board shall provide
31 to the Office of Administrative Law and the Secretary of State
32 written notice of its determination, including identification of the
33 specific regulation that is not repealed. That regulation, upon the
34 provision of that written notice to the Office of Administrative
35 Law and the Secretary of State, shall become operative.

36 SEC. 3. Section 13521.2 is added to the Water Code, to read:

37 13521.2. On or before January 1, 2023, the state board shall
38 update the uniform statewide criteria for nonpotable recycled water
39 uses established in Chapter 3 (commencing with Section

1 60301.050) of Division 4 of Title 22 of the California Code of
2 Regulations.

O

AMENDED IN ASSEMBLY MARCH 19, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 533

Introduced by Assembly Member Holden
(Principal coauthor: Senator Wiener)
(Coauthor: Assembly Member Friedman)

February 13, 2019

An act to add *and repeal* Sections 17139.9 and 24308.9 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 533, as amended, Holden. Income taxes: exclusion: water conservation or efficiency programs: water runoff management improvement ~~program~~ *programs*.

The Personal Income Tax Law and the Corporation Tax Law, in conformity with federal income tax law, generally defines “gross income” as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income. *Existing law limits the collection and use of taxpayer information and provides that any unauthorized use of this information is punishable as a misdemeanor.*

~~This bill~~ *bill, for taxable years beginning on or after January 1, 2019, and before January 1, 2024, would provide an exclusion from gross income for any amount received as a rebate, voucher, or other financial incentive issued by a local water agency or supplier water service provider for any water conservation or efficiency program or water runoff management improvement program, as provided. The bill would require the Department of Finance to include an analysis of these*

exclusions in its annual tax expenditure report provided to the Legislature and further provides that taxpayer information collected pursuant to this requirement is subject to the limitation on the collection and use of that information.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17139.9 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17139.9. (a) ~~Gross~~ *For taxable years beginning on or after*
- 4 *January 1, 2019, and before January 1, 2024, gross income does*
- 5 *not include any amount received as a rebate, voucher, or other*
- 6 *financial incentive issued by a ~~local water agency or supplier~~ water*
- 7 *service provider for any water conservation or efficiency program*
- 8 *the primary purpose of which is to reduce consumption of water*
- 9 *or to improve the management of water demand.*
- 10 (b) ~~Gross~~ *For taxable years beginning on or after January 1,*
- 11 *2019, and before January 1, 2024, gross income does not include*
- 12 *any amount received as a rebate, voucher, or other financial*
- 13 *incentive issued by a ~~local water agency or supplier~~ water service*
- 14 *provider for any water runoff management improvement program*
- 15 *the primary purpose of which is to reduce the amount or manage*
- 16 *the quality of storm water runoff.*
- 17 (c) *For purposes of this section, “water service provider” means*
- 18 *any entity providing water service, including, but not limited to,*
- 19 *a local or regional retail or wholesaler water agency.*
- 20 (d) *This section shall remain in effect only until December 1,*
- 21 *2024, and as of that date is repealed.*

1 SEC. 2. Section 24308.9 is added to the Revenue and Taxation
2 Code, to read:

3 24308.9. (a) ~~Gross~~ *For taxable years beginning on or after*
4 *January 1, 2019, and before January 1, 2024, gross income does*
5 *not include any amount received as a rebate, voucher, or other*
6 *financial incentive issued by a local water agency or supplier water*
7 *service provider for any water conservation or efficiency program*
8 *the primary purpose of which is to reduce consumption of water*
9 *or to improve the management of water demand.*

10 (b) ~~Gross~~ *For taxable years beginning on or after January 1,*
11 *2019, and before January 1, 2024, gross income does not include*
12 *any amount received as a rebate, voucher, or other financial*
13 *incentive issued by a local water agency or supplier water service*
14 *provider for any water runoff management improvement program*
15 *the primary purpose of which is to reduce the amount or manage*
16 *the quality of storm water runoff.*

17 (c) *For purposes of this section, “water service provider” means*
18 *any entity providing water service, including, but not limited to,*
19 *a local or regional retail or wholesaler water agency.*

20 (d) *This section shall remain in effect only until December 1,*
21 *2024, and as of that date is repealed.*

22 SEC. 3. (a) *The Legislature finds and declares all of the*
23 *following:*

24 (1) *Utility-sponsored financial incentives, including consumer*
25 *rebates, are among the most important and cost-effective tools*
26 *available to local water providers to achieve water use efficiency*
27 *objectives, particularly for turf replacement, irrigation controllers,*
28 *leak detection devices, and other high-cost water saving options.*
29 *Local public utilities are using incentive programs to encourage*
30 *local property owners to manage storm water onsite, thus reducing*
31 *urban flooding, improving water quality, and increasing water*
32 *supplies.*

33 (2) *Rebates, vouchers, or other financial incentives issued by*
34 *local water agencies or suppliers have been an effective tool in*
35 *advancing efficiency and water management objectives statewide,*
36 *and individual consumers and businesses should not be taxed for*
37 *providing this statewide benefit.*

38 (3) *Financial incentives issued by a local water agency or*
39 *supplier as part of a water conservation or efficiency program,*
40 *the primary purpose of which is to reduce consumption of water*

1 or to improve the management of water demand, provide a
2 significant public benefit. Financial incentives issued by a local
3 water agency or supplier as part of a water runoff management
4 improvement program, the primary purpose of which is to reduce
5 the amount or manage the quality of storm water runoff, provide
6 a significant public benefit.

7 (4) The income tax exclusions allowed by Sections 17139.9 and
8 24308.9 of the Revenue and Taxation, as added by this act, have
9 the objective of eliminating disincentives to participation in water
10 conservation or efficiency and storm water runoff management
11 improvement programs aimed at increasing water conservation
12 or efficiency or improving storm water quality in California.

13 (b) (1) To enable the Legislature to determine whether the tax
14 expenditures allowed by this act are meeting, failing to meet, or
15 exceeding the objective of the act, the Department of Finance shall
16 include an analysis of these tax expenditures in the annual report
17 required pursuant to Section 13305 of the Government Code.

18 (2) Taxpayer information collected pursuant to this subdivision
19 is subject to Section 19542 of the Revenue and Taxation Code.

20 SEC. 4. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

29 ~~SEC. 3.~~

30 SEC. 5. This act provides for a tax levy within the meaning of
31 Article IV of the California Constitution and shall go into
32 immediate effect.

ASSEMBLY BILL

No. 1486

Introduced by Assembly Member Ting

February 22, 2019

An act to amend Sections 54220, 54221, 54222, 54223, 54225, 54226, 54227, 54230.5, and 54233 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1486, as introduced, Ting. Local agencies: surplus land.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines "local agency" for these purposes as every city, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property. Existing law defines "surplus land" for these purposes as land owned by any local agency that is determined to be no longer necessary for the agency's use, except property being held by the agency for the purpose of exchange.

This bill would expand the definition of "local agency" to include sewer, water, utility, and local and regional park districts, joint powers authorities, successor agencies to former redevelopment agencies, housing authorities, and other political subdivisions of this state and any instrumentality thereof that is empowered to acquire and hold real property, thereby requiring these entities to comply with these requirements for the disposal of surplus land. The bill would revise the definition of "surplus land" to mean land owned by any local agency that is not necessary for the agency's governmental operations, except property being held by the agency expressly for the purpose of exchange for another property necessary for its governmental operations and

would provide that land is presumed to be surplus land when a local agency initiates an action to dispose of it.

The bill would also define the term “dispose of” for these purposes as the sale, lease, transfer, or other conveyance of any interest in real property owned by a local agency. The bill would recast various provisions referring to the sale or lease of surplus land to instead refer to the disposal of surplus land. The bill would also delete certain obsolete references and make related conforming changes.

(2) Existing law requires a local agency disposing of surplus land to send, prior to disposing of that property, a written offer to sell or lease the property to specified entities. Existing law requires that a local agency, upon a written request, send a written offer to sell or lease surplus land to a housing sponsor, as defined, for the purpose of developing low- and moderate-income housing. Existing law also requires the local agency to send a written offer to sell or lease surplus land for the purpose of developing property located within an infill opportunity zone, designated as provided, to, among others, a community redevelopment agency.

This bill would instead require the local agency disposing of surplus land to send, prior to disposing of that property or participating in any formal or informal negotiations to dispose of that property, a written notice of availability. The bill would make various related conforming changes. With regards to a housing sponsor, the bill would require that the written notice of availability be sent if the housing sponsor has notified the applicable regional council of governments or, in the case of a local agency without a council of governments, the Department of Housing and Community Development of its interest in the land, rather than upon written request. With regards to surplus land to be used for the purpose of developing property located within an infill opportunity zone, as described above, the bill would instead require that the written notice of availability be sent to a successor agency to a former redevelopment agency.

(3) After the disposing agency has received a notice from an entity desiring to purchase or lease the land, existing law requires the disposing agency to enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms.

This bill would limit negotiations to sales price and lease terms, including the amount and timing of any payments.

(4) If the local agency receives offers from more than one entity that agrees to meet specified requirements related to the provision of

affordable housing on the surplus land, existing law requires the local agency to give priority to the entity that proposes to provide the greatest number of units that meet those requirements. Notwithstanding that requirement, existing law requires the local agency to give first priority to an entity in specified circumstances.

This bill would define “priority” for these purposes as meaning that the local agency negotiates in good faith exclusively with the entity pursuant to specified requirements. In the event that more than one entity proposes the same number of units that meet the above-described affordable housing requirements, this bill would require that priority be given to the entity that proposes the deepest average level of affordability for the affordable units.

(5) Under existing law, failure by a local agency to comply with these requirements for the disposal of surplus land does not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer of value.

This bill, in the event of failure to comply, would provide that certain requirements, described below, relating to the use of units developed on the parcel for affordable housing purposes would apply.

(6) If a local agency does not agree to price and terms with an entity to which notice and an opportunity to purchase or lease are given and disposes of the surplus land to an entity that uses the property for the development of 10 or more residential units, existing law requires the purchasing entity or a successor in interest to provide not less than 15% of the total number of units developed on the parcels at an affordable housing cost or affordable rent to lower income households.

This bill would revise this requirement to apply if the local agency does not agree to price and terms with an entity to which notice of availability of land was given, or if no entity to which a notice of availability was given responds to that notice, and 10 or more residential units are developed on the property.

(7) Existing law makes various findings and declarations as to the need for affordable housing and the use of surplus government land for that purpose.

This bill would revise these findings.

This bill would express the intent of the Legislature to enact legislation that addresses the need for affordable housing by utilizing surplus land within the state, as specified.

(8) By adding to the duties of local officials with respect to the disposal of surplus land, and expanding the scope of local agencies

subject to the bill’s requirements, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54220 of the Government Code is
2 amended to read:

3 54220. (a) The Legislature reaffirms its declaration that
4 housing is of vital statewide importance to the health, safety, and
5 welfare of the residents of this state and that provision of a decent
6 home and a suitable living environment for every Californian is a
7 priority of the highest order. The Legislature further declares that
8 ~~there is~~ a shortage of sites available for housing for persons and
9 families of low and moderate income *is a barrier to addressing*
10 *urgent statewide housing needs* and that surplus government land,
11 prior to disposition, should be made available for that purpose.

12 (b) The Legislature reaffirms its belief that there is an
13 identifiable deficiency in the amount of land available for
14 recreational purposes and that surplus land, prior to disposition,
15 should be made available for park and recreation purposes or for
16 open-space purposes. This article shall not apply to surplus
17 residential property as defined in Section 54236.

18 (c) The Legislature reaffirms its declaration of the importance
19 of appropriate planning and development near transit stations, to
20 encourage the clustering of housing and commercial development
21 around such stations. Studies of transit ridership in California
22 indicate that a higher percentage of persons who live or work
23 within walking distance of major transit stations utilize the transit
24 system more than those living elsewhere, and that lower income
25 households are more likely to use transit when living near a major
26 transit station than higher income households. The sale or lease of

1 surplus land at less than fair market value to facilitate the creation
2 of affordable housing near transit is consistent with goals and
3 objectives to achieve optimal transportation use. The Legislature
4 also notes that the Federal Transit Administration gives priority
5 for funding of rail transit proposals to areas that are implementing
6 higher-density, mixed-use, and affordable development near major
7 transit stations.

8 SEC. 2. Section 54221 of the Government Code is amended
9 to read:

10 54221. ~~(a)~~ As used in this article, the term ~~“local following~~
11 ~~definitions shall apply:~~

12 (a) *“Local agency”* means every city, whether organized under
13 general law or by charter, county, city and county, ~~and~~ district,
14 including ~~school~~ school, sewer, water, utility, and local and
15 regional park districts of any kind or class, joint powers authority,
16 successor agency to a former redevelopment agency, housing
17 authority, or other political subdivision of this state and any
18 instrumentality thereof that is empowered to acquire and hold real
19 property.

20 ~~(b) As used in this article, the term “surplus~~

21 (b) *“Surplus land”* means land owned by any local agency, that
22 is ~~determined to be no longer~~ not necessary for the agency’s use,
23 governmental operations, except property being held by the agency
24 expressly for the purpose of ~~exchange.~~ exchange for another
25 property necessary for its governmental operations. Land shall be
26 presumed to be *“surplus land”* when a local agency initiates an
27 action to dispose of it.

28 ~~(e) As used in this article, the term “open-space~~

29 (c) *“Open-space purposes”* means the use of land for public
30 recreation, enjoyment of scenic beauty, or conservation or use of
31 natural resources.

32 ~~(d) As used in this article, the term “persons~~

33 (d) *“Persons and families of low or moderate income”* means
34 the same as provided under Section 50093 of the Health and Safety
35 Code.

36 ~~(e) As used in this article, the term “exempt~~

37 (e) (1) Except as provided in paragraph (2), *“exempt surplus*
38 *land”* means either of the following:

39 (1)

40 (A) Surplus land that is transferred pursuant to Section 25539.4.

1 ~~(2)~~
 2 (B) Surplus land that is ~~(A)~~ (i) less than 5,000 square feet in
 3 area, ~~(B)~~ (ii) less than the minimum legal residential building lot
 4 size for the jurisdiction in which the parcel is located, or 5,000
 5 square feet in area, whichever is less, or ~~(C)~~ (iii) has no record
 6 access and is less than 10,000 square feet in area; and is not
 7 contiguous to land owned by a state or local agency that is used
 8 for park, recreational, open-space, or low- and moderate-income
 9 housing purposes and is located neither within an enterprise zone
 10 pursuant to Section 7073 nor a designated program area as defined
 11 in Section 7082. purposes. If the surplus land is not sold to an
 12 owner of contiguous land, it is not considered exempt surplus land
 13 and is subject to this article.

14 ~~(f)~~
 15 (2) Notwithstanding ~~subdivision (e)~~, paragraph (1), the
 16 following properties are not considered exempt surplus land and
 17 are subject to this article:

18 ~~(1)~~
 19 (A) Lands within the coastal zone.

20 ~~(2)~~
 21 (B) Lands within 1,000 yards of a historical unit of the State
 22 Parks System.

23 ~~(3)~~
 24 (C) Lands within 1,000 yards of any property that has been
 25 listed on, or determined by the State Office of Historic Preservation
 26 to be eligible for, the National Register of Historic Places.

27 ~~(4)~~
 28 (D) Lands within the Lake Tahoe region as defined in Section
 29 66905.5.

30 (f) *“Dispose of” shall mean sell, lease, transfer, or otherwise*
 31 *convey any interest in real property owned by a local agency.*

32 SEC. 3. Section 54222 of the Government Code is amended
 33 to read:

34 54222. Any local agency disposing of surplus land shall send,
 35 prior to disposing of that *property or participating in any formal*
 36 *or informal negotiations to dispose of that property*, a written offer
 37 ~~to sell or lease the property as follows:~~ *notice of availability of the*
 38 *property to all of the following entities:*

39 (a) A written ~~offer to sell or lease~~ *notice of availability* for the
 40 purpose of developing low- and moderate-income housing shall

1 be sent to any local public entity, as defined in Section 50079 of
2 the Health and Safety Code, within whose jurisdiction the surplus
3 land is located. Housing sponsors, as defined by Section 50074 of
4 the Health and Safety Code, ~~shall be sent, upon written request, a~~
5 ~~written offer to sell or lease that have notified the applicable~~
6 ~~regional council of governments or, in the case of a local agency~~
7 ~~without a council of governments, the Department of Housing and~~
8 ~~Community Development, of their interest in surplus land shall be~~
9 ~~sent a written notice of availability of surplus land for the purpose~~
10 ~~of developing low- and moderate-income housing. All notices~~
11 ~~shall be sent by first-class mail and, if possible, by electronic mail,~~
12 ~~and shall include the location and a description of the property.~~
13 With respect to any offer to purchase or lease pursuant to this
14 subdivision, priority shall be given to development of the land to
15 provide affordable housing for lower income elderly or disabled
16 persons or households, and other lower income households.

17 (b) ~~A written offer to sell or lease~~ *notice of availability* for park
18 and recreational purposes or open-space purposes shall be sent:

19 (1) To any park or recreation department of any city within
20 which the land may be situated.

21 (2) To any park or recreation department of the county within
22 which the land is situated.

23 (3) To any regional park authority having jurisdiction within
24 the area in which the land is situated.

25 (4) To the State Resources Agency or any agency that may
26 succeed to its powers.

27 (c) ~~A written offer to sell or lease~~ *notice of availability of land*
28 *suitable for school facilities construction or use by a school district*
29 *for open-space purposes shall be sent to any school district in*
30 *whose jurisdiction the land is located.*

31 ~~(d) A written offer to sell or lease for enterprise zone purposes~~
32 ~~any surplus property in an area designated as an enterprise zone~~
33 ~~pursuant to Section 7073 shall be sent to the nonprofit~~
34 ~~neighborhood enterprise association corporation in that zone.~~

35 (e)

36 (d) ~~A written offer to sell or lease~~ *notice of availability* for the
37 purpose of developing property located within an infill opportunity
38 zone designated pursuant to Section 65088.4 or within an area
39 covered by a transit village plan adopted pursuant to the Transit
40 Village Development Planning Act of 1994 (Article 8.5

1 (commencing with Section 65460) of Chapter 3 of Division 1 of
2 Title 7) shall be sent to any county, city, city and county,
3 ~~community~~ *successor agency to a former* redevelopment agency,
4 public transportation agency, or housing authority within whose
5 jurisdiction the surplus land is located.

6 (f)

7 (e) The entity or association desiring to purchase or lease the
8 surplus land for any of the purposes authorized by this section
9 shall notify in writing the disposing agency of its ~~intent to purchase~~
10 ~~or lease interest in purchasing or leasing~~ the land within 60 days
11 after receipt of the agency's ~~notification of intent to sell~~ *notice of*
12 *availability of* the land.

13 SEC. 4. Section 54223 of the Government Code is amended
14 to read:

15 54223. After the disposing agency has received notice from
16 the entity desiring to purchase or lease the ~~land~~, *land on terms that*
17 *comply with this article*, the disposing agency and the entity shall
18 enter into good faith negotiations to determine a mutually
19 satisfactory sales price or lease terms. If the price or terms cannot
20 be agreed upon after a good faith negotiation period of not less
21 than 90 days, the land may be disposed of without further regard
22 to this article, except that Section 54233 shall apply. *Negotiations*
23 *shall be limited to sales price and lease terms, including the amount*
24 *and timing of any payments.*

25 SEC. 5. Section 54225 of the Government Code is amended
26 to read:

27 54225. Any public agency ~~selling~~ *disposing of* surplus land to
28 an entity described in Section 54222 for park or recreation
29 purposes, for open-space purposes, for school purposes, or for
30 low- and ~~moderate-income~~ *moderate-income* housing purposes
31 may provide for a payment period of up to 20 years in any contract
32 of sale or sale by trust deed for the land. The payment period for
33 surplus land ~~sold~~ *disposed of* for housing for persons and families
34 of low and moderate income may exceed 20 years, but the payment
35 period shall not exceed the term that the land is required to be used
36 for low- or moderate-income housing.

37 SEC. 6. Section 54226 of the Government Code is amended
38 to read:

39 54226. This article shall not be interpreted to limit the power
40 of any local agency to ~~sell or lease~~ *dispose of* surplus land at fair

1 market value or at less than fair market value, and any ~~such sale~~
2 ~~or lease disposal~~ at or less than fair market value consistent with
3 this article shall not be construed as inconsistent with an agency's
4 purpose. No provision of this article shall be applied when it
5 conflicts with any other provision of statutory law.

6 SEC. 7. Section 54227 of the Government Code is amended
7 to read:

8 54227. (a) In the event that any local agency disposing of
9 surplus land receives offers for the purchase or lease of that land
10 from more than one of the entities to which notice and an
11 opportunity to purchase or lease shall be given pursuant to this
12 article, the local agency shall give first priority to the entity that
13 agrees to use the site for housing that meets the requirements of
14 Section 54222.5. If the local agency receives offers from more
15 than one entity that agrees to meet the requirements of Section
16 54222.5, then the local agency shall give priority to the entity that
17 proposes to provide the greatest number of units that meet the
18 requirements of Section ~~54222.5 at the deepest level of~~
19 ~~affordability.~~ 54222.5. *In the event that more than one entity*
20 *proposes the same number of units that meet the requirements of*
21 *Section 54222.5, priority shall be given to the entity that proposes*
22 *the deepest average level of affordability for the affordable units.*

23 (b) Notwithstanding subdivision (a), first priority shall be given
24 to an entity that agrees to use the site for park or recreational
25 purposes if the land being offered is already being used and will
26 continue to be used for park or recreational purposes, or if the land
27 is designated for park and recreational use in the local general plan
28 and will be developed for that purpose.

29 (c) *For purposes of this section, "priority" means that the local*
30 *agency shall negotiate in good faith exclusively with the entity in*
31 *accordance with Section 54223.*

32 SEC. 8. Section 54230.5 of the Government Code is amended
33 to read:

34 54230.5. The failure by a local agency to comply with this
35 article shall not invalidate the transfer or conveyance of real
36 property to a purchaser or encumbrancer for ~~value.~~ *value; however,*
37 *Section 54233 shall still apply.*

38 SEC. 9. Section 54233 of the Government Code is amended
39 to read:

1 54233. If the local agency does not agree to price and terms
2 with an entity to which notice ~~and an opportunity to purchase or~~
3 ~~lease are~~ *of availability of land was given pursuant to this article,*
4 *or if no entity to which a notice of availability was given pursuant*
5 *to this article and disposes of the surplus land to an entity that uses*
6 ~~the property for the development of~~ *responds to that notice, and*
7 ~~10 or more residential units, the entity or a successor-in-interest~~
8 ~~shall provide~~ *units are developed on the property, not less than 15*
9 *percent of the total number of units developed on the parcels shall*
10 *be sold or rented at affordable housing cost, as defined in Section*
11 *50052.5 of the Health and Safety Code, or affordable rent, as*
12 *defined in Section 50053 of the Health and Safety Code, to lower*
13 *income households, as defined in Section 50079.5 of the Health*
14 *and Safety Code. Rental units shall remain affordable to, and*
15 *occupied by, lower income households for a period of at least 55*
16 *years. The initial occupants of all ownership units shall be lower*
17 *income households, and the units shall be subject to an equity*
18 *sharing agreement consistent with the provisions of paragraph (2)*
19 *of subdivision (c) of Section 65915. These requirements shall be*
20 *contained in a covenant or restriction recorded against the surplus*
21 *land prior to land use entitlement of the project, and the covenant*
22 *or restriction shall run with the land and shall be enforceable,*
23 *against any owner who violates a covenant or restriction and each*
24 *successor in interest who continues the violation, by any of the*
25 *entities described in subdivisions (a) to (f), inclusive, of Section*
26 *54222.5.*

27 SEC. 10. It is the intent of the Legislature to enact legislation,
28 in addition to Sections 1 to 9, inclusive, of this act, that does the
29 following:

30 (a) Strengthens the provisions of Article 8 (commencing with
31 Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of
32 the Government Code, relating to local surplus land, by directing
33 local agencies to create a full inventory of publicly owned sites
34 within their jurisdiction and report the information to the
35 Department of Housing and Community Development.

36 (b) Requires state agencies to prioritize disposition of surplus
37 land for development of affordable housing by doing all of the
38 following:

39 (1) Specifying a minimum percentage of surplus property to be
40 disposed annually.

1 (2) Expediting disposition timelines.

2 (3) Directing the Department of General Services to review its
3 spatial guidelines for public facilities to allow onsite affordable
4 housing without compromising the quality of onsite public services.

5 (b) Requires the Department of Housing and Community
6 Development to develop a statewide public lands database and
7 empowers the department with referral power to the Attorney
8 General's office to enforce compliance with laws governing the
9 disposition of public land for affordable housing.

10 (c) Incentivizes development of affordable housing on state and
11 local public lands by doing both of the following:

12 (1) Allowing affordable housing projects on surplus land to be
13 more competitive for state funding programs.

14 (2) Allowing public agencies that dispose of surplus land to be
15 more competitive for discretionary transportation funds.

16 (d) Utilizes Article 10.6 (commencing with Section 65580) of
17 Chapter 3 of Division 1 of Title 7 of the Government Code, relating
18 to housing elements, to prioritize disposition of surplus land by
19 doing all of the following:

20 (1) Establishing a presumption in Article 10.6 (commencing
21 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
22 Government Code, that allows residential uses on all developable
23 public land where it is not improper or unsafe, notwithstanding
24 local zoning, for housing in which 100 percent of the units qualify
25 as affordable housing to lower-income households.

26 (2) Requiring housing elements to include a discussion of the
27 jurisdiction's policies and plans to encourage the development of
28 affordable housing on surplus land, including identification of any
29 public land expected to be sold or leased.

30 (3) Requiring jurisdictions to report annually, through housing
31 element progress reports, on how they disposed of surplus sites.

32 (e) Expands the trained labor pool available for housing
33 construction by supporting trained apprentices and prevailing
34 wages on affordable housing projects built on surplus land, with
35 exceptions for emergency temporary housing and housing built
36 by volunteers.

37 SEC. 11. If the Commission on State Mandates determines
38 that this act contains costs mandated by the state, reimbursement
39 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O

AMENDED IN SENATE MARCH 18, 2019

SENATE BILL

No. 204

Introduced by Senator Dodd

(Principal coauthor: Assembly Member Frazier)

(Coauthors: Senators Galgiani, Glazer, and Pan)

(Coauthors: Assembly Members Cooper, Eggman, Grayson, and
McCarty)

February 4, 2019

An act to add Section 6525.5 to the Government Code, and to add Section 147.6 to, and to repeal and add Section 147.5 of, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Dodd. State Water Project: contracts.

(1) Under existing law, the Department of Water Resources operates the State Water Resources Development System, known as the State Water Project, in accordance with the California Water Resources Development Bond Act to supply water to persons and entities in the state. Existing law requires the department to present to the Joint Legislative Budget Committee and relevant policy and fiscal committees of the Legislature the details of the terms and conditions of a long-term water supply contract between the department and a state water project contractor and to submit a copy of one long-term contract, as prescribed.

This bill would instead require the department to provide at least 10 days' notice to the Joint Legislative Budget Committee and relevant policy and fiscal committees of the Legislature before holding public sessions to negotiate any potential amendment of a long-term water supply contract that is of projectwide significance with substantially similar terms intended to be offered to all ~~contractors, or that would~~

~~permanently transfer a contractual water amount between contractors. The bill would require the department, before the execution of a specified proposed amendment to a long-term water supply contract and at least 60 days before final approval of such an amendment, to submit to the Joint Legislative Budget Committee and relevant policy and fiscal committees of the Legislature certain information regarding the terms and conditions of a proposed amendment of a long-term water supply contract and to submit a copy of the long-term contract as it is proposed to be amended. The bill would prohibit the department from finally approving a long-term water supply contract for 90 days after the first hearing by the Legislature to review the proposed amendment, as specified.~~

(2) Existing law, the Joint Exercise of Powers Act, authorizes 2 or more public agencies to enter into an agreement to jointly exercise any power common to the contracting parties.

The bill would require a certain joint powers authority, at least 60 days before it enters into a contract *valued at \$5,000,000 or more* for the planning, design, or construction of California WaterFix, to submit to the Joint Legislative Budget Committee and relevant policy and fiscal committees of the Legislature certain information regarding the proposed contract. ~~The bill would prohibit the joint powers authority from finally approving a contract for 90 days after the first hearing by the Legislature to review the proposed contract.~~

(3) This bill would make legislative findings and declarations as to the necessity of a special statute for the Sacramento-San Joaquin Delta.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6525.5 is added to the Government Code,
2 to read:
3 6525.5. (a) For the purposes of this section, “joint powers
4 authority” means the Delta Conveyance Design and Construction
5 Joint Powers Authority, any successor to that authority, or any
6 joint powers authority created for the purposes of designing or
7 constructing a water conveyance in the Sacramento-San Joaquin
8 Delta to be owned and operated by the Department of Water
9 Resources.

1 (b) At least 60 days before the joint powers authority enters into
2 a contract *valued at five million dollars (\$5,000,000) or more* for
3 the planning, design, or construction of California WaterFix, the
4 joint powers authority shall submit to the Joint Legislative Budget
5 Committee and relevant policy and fiscal committees of the
6 Legislature information regarding the terms and conditions of the
7 proposed contract.

8 ~~(e) If the Joint Legislative Budget Committee or relevant policy~~
9 ~~and fiscal committees of the Legislature hold a hearing to review~~
10 ~~a contract described in subdivision (b), the joint powers authority~~
11 ~~shall not finally approve the contract for 90 days after the first~~
12 ~~hearing by the Legislature to review the proposed contract.~~

13 SEC. 2. Section 147.5 of the Water Code is repealed.

14 SEC. 3. Section 147.5 is added to the Water Code, to read:

15 147.5. The department shall provide at least 10 days' notice
16 to the Joint Legislative Budget Committee and relevant policy and
17 fiscal committees of the Legislature before holding public sessions
18 to negotiate any potential amendment of a long-term water supply
19 contract that is of projectwide significance with substantially
20 similar terms intended to be offered to all ~~contractors, or that would~~
21 ~~permanently transfer a contractual water amount between~~
22 ~~contractors.~~

23 SEC. 4. Section 147.6 is added to the Water Code, to read:

24 147.6. (a) Before the execution of an amendment to a
25 long-term water supply contract described in subdivision ~~(d)~~ (c)
26 and at least 60 days before final approval of such an amendment,
27 the department shall submit to the Joint Legislative Budget
28 Committee and relevant policy and fiscal committees of the
29 Legislature information regarding the terms and conditions of a
30 proposed amendment of a long-term water supply contract.

31 (b) The department shall submit the following information in
32 compliance with subdivision (a):

33 (1) A summary of the provisions of the proposed amendment.

34 (2) The estimated costs associated with the proposed
35 amendment, along with an estimate of the allocation of the costs
36 borne by each contractor.

37 (3) A copy of the long-term contract as it is proposed to be
38 amended.

39 ~~(e) If the Joint Legislative Budget Committee or relevant policy~~
40 ~~and fiscal committees of the Legislature hold a hearing to review~~

1 a proposed amendment described in subdivision (d), the department
2 shall not finally approve the long-term water supply contract for
3 90 days after the first hearing by the Legislature to review the
4 proposed amendment.

5 (d)

6 (c) (1) This section applies to a proposed amendment by the
7 department to a long-term water supply contract that is of
8 projectwide significance with substantially similar terms intended
9 to be offered to all ~~contractors, and to a proposed contract~~
10 ~~amendment that would permanently transfer a contractual water~~
11 ~~amount between contractors.~~

12 (2) This section does not apply to an amendment for which a
13 copy of the long-term water supply contract as it was proposed to
14 be amended was submitted by the department to the Joint
15 Legislative Budget Committee in May 2018.

16 SEC. 5. The Legislature finds and declares that a special statute
17 is necessary and that a general statute cannot be made applicable
18 within the meaning of Section 16 of Article IV of the California
19 Constitution because of the unique circumstances of the
20 Sacramento-San Joaquin Delta.

ASSEMBLY BILL

No. 441

Introduced by Assembly Member Eggman

February 11, 2019

An act to amend Section 1242 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 441, as introduced, Eggman. Water: underground storage.

Under existing law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Existing law provides for the reversion of water rights to which a person is entitled when the person fails to beneficially use the water for a period of 5 years. Existing law declares that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

This bill would revise the above declaration to additionally provide that certain uses of stored water while underground constitute beneficial use. The bill would provide that the forfeiture periods of a water right do not apply to water being beneficially used, as provided, or being held in storage for later beneficial use.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1242 of the Water Code is amended to
2 read:

1 1242. The storing of water underground, including the diversion
2 of streams and the flowing of water on lands necessary to the
3 accomplishment of ~~such~~ that storage, constitutes a beneficial use
4 of water *for which an appropriation may be made* if the stored
5 water ~~so stored~~ is thereafter applied to *beneficial use, consistent*
6 *with this division, or if beneficial use of water, including, but not*
7 *limited to, the ~~beneficial purposes for which~~ protection of water*
8 *quality or recovery of groundwater levels, is made while the*
9 ~~appropriation~~ *water is underground. The forfeiture periods*
10 *described in this article do not apply to water being beneficially*
11 *used in the aquifer or being held in storage for ~~storage was made.~~*
12 *later beneficial use.*

AGENDA ITEM SUBMITTAL

Meeting Date: April 4, 2019

To: Communications/Leg. Liaison Cte
Board of Directors

From: Mike Markus

Staff Contact: E. Torres/A. Dunkin

Budgeted: N/A

Budgeted Amount: N/A

Cost Estimate: N/A

Funding Source: N/A

Program/Line Item No.: N/A

General Counsel Approval: N/A

Engineers/Feasibility Report: N/A

CEQA Compliance: N/A

POLICY ISSUE: FEDERAL LEGISLATIVE UPDATE

SUMMARY

The Orange County Water District's (OCWD; the District) staff and federal consultants James McConnell, Eric Sapirstein of ENS Resources and Holland and Knight will provide a verbal update on legislation of interest to the District, OCWD's March visit to Washington D.C. and OCWD's testimony before the House Committee on Natural Resources' Subcommittee on Water, Oceans, and Wildlife.

Attachment(s):

- James McConnell March 2019 Report
- ENS Resources March 2019 Report

RECOMMENDATION

Agendize for April 17 Board meeting: Take action as appropriate

RELEVANT STANDARDS

- Forge long-term, positive and proactive relationships with elected officials and policy makers.
- Keep abreast of federal funding opportunities and legislation that may impact OCWD, other water agencies and/or special districts.

DISCUSSION/ANALYSIS

Visit to Washington D.C.

An OCWD trip to Washington, D.C. was held for Board President Sarmiento and General Manager Mike Markus March 25-27, 2019 to introduce new members to the District, if they have not yet met with OCWD, and gain support for OCWD's federal goals, per the OCWD 2019-2020 Legislative Platform.

Meetings were held with the following:

- Congressman Alan Lowenthal (D-Long Beach) (CA, District 47)

- Congressman J. Luis (Lou) Correa (D-Santa Ana) (CA, District 34)
- Jonathan Gilbert, Legislative Director to Congressman Mike Levin (D-San Juan Capistrano) (CA, District 49)
- Howard Ou, Policy Adviser to Congressman Gil Cisneros, Jr. (D-Fullerton) (CA, District 39)
- Catherine Pomposi, Legislative Fellow, Office of U.S. Senator Kamala Harris (D-CA)
- Joe Sheehy, Legislative Director to Congresswoman Grace Napolitano (D-El Monte) (CA, District 32)
- Ryan A. Fisher, Principal Deputy Assistant Secretary of the Army (Civil Works)
- Bradd Schwichtenberg, Civil Deputy-South Pacific Division Regional Integration Team, United States Army Corps of Engineers
- Samantha Nelson, Professional Staff, Senate Appropriations Committee, Energy & Water Development Subcommittee
- Steven Cook, Deputy Assistant Administrator, Office of Land and Emergency Management, Environmental Protection Agency
- Andrew Sawyers, Director of Office of Water, Environmental Protection Agency

JAMES F. MCCONNELL
ATTORNEY-AT-LAW
1901 PENNSYLVANIA AVENUE, N.W.
SUITE 700
WASHINGTON, D.C. 20006
917-434-3603
jmccconnell@tfgnet.com

ORANGE COUNTY WATER DISTRICT
Washington Report
March 2019

Board President Sarmiento and General Manager Markus came to Washington the last week of March for a round of meetings with Members of Congress and their staff, staff of congressional committees, and officials of departments and agencies of the Federal Government. All of OCWD's federal issues were discussed at one time or another in the meetings held.

One topic was the Prado Basin Feasibility Study which is still more than a year away from having a completed Chief of Engineer's Report which would make it eligible for inclusion in a Water Resources Development Act (WRDA) bill. And there are issues remaining to be resolved.

Meetings were held with the principal deputy assistant secretary of the Army for Civil Works as well as with headquarters staff of the Army Corps of Engineers to review these issues. As has occurred previously when water conservation agreements at Prado Dam have been negotiated with the Corps, it is important for officials not involved in earlier agreements to understand that water conservation at Prado Dam involves a re-operation of the dam for the temporary capture of storm flows and not a re-allocation of storage at the dam.

The Prado Basin Feasibility Study (FS) would allow the Corps to temporarily store storm flows behind the dam up to elevation 505 feet year round, rather than elevation 498 feet during the rainy season and 505 feet the rest of the year. While such a change in dam operation can be accomplished administratively, there are other features of the study, including sediment removal, that will require authorization in a future WRDA bill.

A meeting was held with staff of Representative Grace Napolitano to discuss WRDA, as she is the new chair of the House Water Resources Subcommittee of the Transportation and Infrastructure Committee which has jurisdiction over WRDA legislation. Congresswoman Napolitano is the author of H.R. 1162, Water Recycling Investment and Improvement Act, under consideration this year. The legislation would reauthorize the WIIN Title XVI program at \$500 million over five years.

Likewise meetings were held with Representatives Alan Lowenthal and Lou Correa regarding possible WRDA legislation in this Congress. Staff to Congressmen Mike Levin, Gil Cisneros and Katie Porter were also briefed on the Prado Basin FS and potential WRDA 2020 legislation.

The congressional delegation along with the Corps and Army Civil Works office were also briefed on OCWD's support for the Forecast-Informed Reservoir Operations (FIRO) program. OCWD is supportive of the Scripps Institute of Oceanography's FIRO program and their efforts to expand the program to three additional sites in California, including Prado Dam. The program's goal is to enable water managers to more accurately monitor and track storm events with a goal of improving the Corps' ability to capture temporary storm flows at federal facilities such as Prado.

Meetings at the Environmental Protection Agency discussed issues such as WIFIA (Water Infrastructure Finance and Innovation Act) and the State Revolving Loan Fund (SRF) program, the proposed listing of the North Basin site on the National Priorities List (NPL), and PFAS (Per- and Polyfluoroalkyl Substances) Action Plan.

Earlier this year, EPA pledged to reduce PFAS releases into ambient waters and sources of drinking water by developing Clean Water Act Section 304(a) ambient water quality criteria for human health should be accelerated and given a higher priority. This activity is not anticipated to begin until 2021, leaving many watersheds vulnerable to continued PFAS drinking water supply/source contamination via industrial and municipal wastewater discharges (e.g., North Carolina and California). Eliminating sources of PFAS to drinking water sources can help limit the need for long-term drinking water treatment.

The PFAS issue is one that is receiving increased attention in Congress, as well. The history of the issue, its potential impact on water agencies nationwide, as well as future EPA action to address the problem was discussed with Congressmen Correa and Lowenthal, and staff for Senator Harris, and Representatives Cisneros, Levin, Porter and Chair Napolitano

OCWD was one of the first recipients of an EPA WIFIA loan and therefore is supportive of continuing and increasing the program in the future. With regard to the SRF program, the Trump Administration proposed a 12 percent reduction for SRF in Fiscal Year 2020. While Congress is highly unlikely to agree to such a cut, OCWD expressed its support for expanding rather than reducing this program of grants to the states.

In addition to OCWD's specific issues, broader events were also underway in Washington during the month. The Office of Management and Budget (OMB) submitted the Administration's budget for Fiscal Year 2020. Among programs of interest to OCWD, in addition to the SRF program, the budget recommended that the Corps of Engineers' budget be cut by one-third.

Congress has already indicated that these proposals will not be given credence as the FY 20 appropriations bills are being prepared. The disdain for these proposed cuts tends to be bipartisan with Senate-majority Republicans opposed as much as House-majority Democrats. Therefore, it is unlikely that the proposed cuts will actually be enacted.

As is nearly always the case, it is also unlikely that many of the appropriations bills will have been completed before the new federal fiscal year begins on October 1.

However, Congress does show serious interest this year in developing and passing an infrastructure bill this year. The Trump Administration is also advocating for legislation in this regard, although there are differences between what shape the legislation would take.

As March ended, there was discussion that the legislation might focus on transportation-related infrastructure issues, while leaving water issues to be dealt with in a potential WRDA 2020 bill. Such an approach is not ideal as WRDA generally deals only with Corps of Engineers projects. Infrastructure legislation has been expected to have a broader scope than just Corps projects.

These issues will continue to occupy congressional attention during the first two weeks of April. Congress will take its spring recess the second half of the month.



MEMORANDUM

TO: Alicia Dunkin
FROM: Eric Sapirstein
DATE: March 27, 2019
SUBJECT: Washington Update

Over the past month, congressional activity returned to regular process with the government fully funded after enactment of a final spending agreement. The focus this month's congressional attention involved the fiscal year 2020 budget development and the ongoing review of the state of the nation's public works, including water infrastructure.

The following summarizes key issues of interest to OCWD.

Legislation to Extend NPDES Permit Terms for Municipalities

Representative John Garamendi (D-CA) introduced legislation that would provide a vital update of the Clean Water Act's permitting process. The bill, if enacted, would provide a state, with delegated authority to administer the Clean Water Act, to issue a clean water agency with a discharge permit term (NPDES) that could be as long as ten-years. This compares with current law's five-year limit. While not of direct importance to OCWD, the impact of a longer permit term would be to reduce costs for dischargers that might construct water recycling facilities and thereby help to reduce overall costs of water treatment. Garamendi has been joined by Representatives Ken Calvert (R-CA), Doug LaMalfa (R-CA), and Rob Woodall (R-GA), making H.R. 1764 bipartisan. The legislation enjoys significant support by affected stakeholders that CASA worked to secure support: National Association of Clean Water Agencies, U.S. Conference of Mayors, National League of Cities, National Association of Counties, WaterReuse, Water Environment Federation, Association of California Water Agencies, and National Water Resources Association. The American Society of Civil Engineers also endorsed the legislation. Environmental

groups have opposed the bill because of unwarranted concerns that the bill would preclude timely changes to a permit's conditions under a longer term. The concern is considered unwarranted given the fact that the law required the revision and adoption of more stringent standards regardless of the time period.

Fiscal Year 2020 Budget Released, Attention Turns to Congress

The Administration transmitted a fiscal year 2020 budget request to Congress, imposing a \$2 billion reduction over current year spending at USEPA and significant reductions at U.S. Bureau of Reclamation and the U.S. Army Corps of Engineers. Overall, the budget seeks to impose significant spending reductions across the domestic discretionary budget and would increase defense spending, including homeland security programs. The proposal was roundly rejected in Congress as being unbalanced in domestic spending cuts while increasing spending on defense and national security programs.

Under the proposed budget, USEPA's key water infrastructure financing program, the Clean Water State Revolving Loan Fund would be reduced by more than half a billion dollars. Similarly, the WIFIA program would be slated to receive \$25 million to support \$2 billion in leveraged financing, representing a \$40 million reduction.

At the same time, the budget seeks to provide resources to maintain regulatory streamlining initiatives, including finalizing the contentious Waters of the U.S. rule that would define the extent and nature of which waters would be subject to regulation under the Clean Water Act and to enhance electronic reporting. Under the proposed rewrite of the rule, water recycling programs would not be impacted by new mandates for any discharges related to groundwater supplies.

Water recycling and other infrastructure programs would also be impacted at the U.S. Bureau of Reclamation. Under the proposed budget for the WaterSmart Program's water recycling and reuse program, the Administration is proposing to reduce funding from the current year level of \$58 million to \$3 million. The reason for the reduction is partly attributable to the fact that the authorization for project assistance under the WIIN Act that supported WaterSmart has been fully utilized because of the decision in the 2019 to appropriate \$30 million. This action denies authority to request additional funding. However, we anticipate that congressional budget leaders will reverse this action in any final spending bill, providing significant funding for the WaterSmart water recycling grants assistance.

Department of the Interior Secretary

The Administration officially transmitted to the Senate the nomination of Acting Secretary of the Interior, David Bernhardt, to become the formal head of the department. According to the Chair of the Senate Committee on Energy and Natural Resources, a confirmation hearing will be scheduled in the coming weeks. Bernhardt's hearing is expected to generate debate because of his actions related to streamlining the review process of listing or delisting endangered species as well as positions related to water transfers in the west and particularly in California related to the delivery of water supplies to the Central Valley. Nonetheless, his nomination is expected to clear the Senate when a floor vote occurs as early as late spring.

Senate Vote for USEPA Administrator Nominee

The Senate voted almost along party lines to confirm Andrew Wheeler to be the next Administrator of USEPA. Wheeler was approved 52-47. His confirmation means that the Administration will need to nominate a Deputy Administrator, a role that Wheeler has performed prior to his confirmation. No names have been announced at this time.