
MEMORANDUM

To: Orange County Sanitation District
From: Townsend Public Affairs
Date: October 4, 2023
Subject: Monthly Legislative Report

State Legislative Update – Overview of the 2023 Legislative Year

September 14 marked the final night of the 2023 Legislative Session, constituting the end of the first year of the two-year 2023-24 legislative cycle. The 2023 legislative year featured a number of anomalies, including a record number of freshman legislators, significant leadership changes in both houses, and the highest number of bill introductions in over a decade. In the final week of the session alone, the Legislature had more than 700 bills that were still active. This set the stage for a frenetic pace of activity, with the Legislature determined to act on a number of consequential policy issues, including behavioral health reform, public safety reforms, conservatorship expansion, and proposed constitutional amendments that would enhance and protect local revenue sources.

Nevertheless, the Legislature decided the fate of a number of bills important to local governments, including sanitation agencies, in its final days of session. Of the 3,030 bills introduced this year, the Legislature passed close to 1,100 measures. As of October 1, the Governor has signed 209 bills, vetoed 11, and still has 738 bills (excluding proposed constitutional amendments and resolutions that do not require executive action) to consider before the October 14 deadline. During Governor Newsom’s first four years in office, he vetoed between 7.9 percent and 16.5 percent of the bills sent to his desk each year for action. Governor Newsom’s vetoes typically trend with concerns about a lack of state resources to effectively support the implementation of measures. It is anticipated that his vetoing of measures from the 2023 Legislative Session will follow a similar pattern.

The end of the 2023 Legislative Session also marked the beginning of interim recess. The Legislature will resume the second half of the 2023-24 Legislative Session on January 3, 2024. In the coming months, lawmakers are expected to return to their districts to meet with constituents and local stakeholders, hold staff retreats to determine policy priorities for the next year, and participate in informational hearings in preparation for major policy reforms anticipated next year.

Looking forward, there are over 400 measures that did not meet specified deadlines for passage in 2023 and were held as “Two-Year Bills.” These measures will be eligible for consideration in January of 2024 and may be re-integrated into the legislative process along with other measures introduced at the beginning of the new session. Some of these measures are important to the water and sanitation world, including measures addressing water rights, source control, and local governance.

Below is a recap of issues pertinent at the State level, organized by issue area:

Budget

This year’s budget process was marred with uncertainty. Throughout the numerous budget proposals and revisions, the Administration and various watchdog agencies iterated concerns about a potential \$30+ billion deficit, which was compounded by an unprecedented tax return delay in response to the severe winter storms in January.

In accordance with constitutional deadlines, Governor Newsom signed the 2023 Budget Act, [SB 101](#), into law, which reflected a \$310.8 billion spending plan for the 2023-24 fiscal year. The agreement also closes an estimated \$32 billion budget deficit while setting aside about \$37.8 billion in reserves. In his budget presentation, the Governor emphasized that his Administration is not modeling for an impending recession but is taking into account the potential for a “mild recession” in the coming years which could further impact the budget to the tune of an additional \$40 billion. He stressed the need to maintain and expand reserve resources. Further, the budget agreement included various spending cuts by pulling back on unallocated one-time spending funds, shifting to future bonds, and instituting funding delays.

During budget negotiations with legislative leaders, the Governor pushed forward several measures to expedite large-scale infrastructure projects by, in part, accelerating the judicial review of California Environmental Quality Act (CEQA) lawsuits and providing funding for transit operations. Ultimately, the negotiations resulted in the Governor conceding to remove the proposed Delta Tunnel water project from being eligible for expedited CEQA review. Key accounts related to housing, homelessness, public safety, and transportation have mostly stabilized from budget amounts in the past few years.

Water and Wastewater Policy

Water and wastewater policies continue to be a major legislative focus of the California Legislature every year regardless of statewide drought conditions. The adopted FY 2023-2024 Budget maintained \$8.1 billion in allocated funding from previous budgets for drought resilience and response programs to help communities avoid immediate impacts from extreme drought, while advancing projects and programs that will improve the state’s resilience to future droughts and floods.

Additional consideration and efforts were made to bolster the state’s spending on drought and flood prevention through work on proposed bonds that aim to address climate priorities. The Senate and Assembly both worked to advance conversations around potential climate bonds with the hope of negotiating a deal for the November 2024 ballot. Funding categories for a proposed climate bond are anticipated to include water recycling, flood protection, clean energy, wildfire mitigation, coastal resiliency, and protection of agricultural resources. TPA is working with OC San staff to advocate for the inclusion of language in the Bond to address water recycling and biosolids management needs.

Headlining the year's legislative agenda was a package of bills aimed at addressing the State's outdated and complex water rights system. Assembly Member Rebecca Bauer-Kahan's [AB 460](#) and Assembly Member Wick's [AB 1337](#) both proposed to increase the State Water Resources Control Board's authority to order diversion curtailments to all water rights holders, regardless of how old. These bills signaled a willingness of some individuals in the Legislature to change decades-old policies that afford different curtailment policies and procedures to pre-1914 water rights holders. AB 460 and AB 1337 were both held for the year and will be the subject of negotiations when the Legislature returns in January 2024.

Other topics of consideration this year that were successful in reaching the Governor's desk include additional perfluoroalkyl and polyfluoroalkyl substances (PFAS) source control measures, exemptions for Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing for water and wastewater utilities, and a directive to eliminate non-functional turf irrigation with potable water.

Brown Act Reform

Following the COVID-19 pandemic and the expanded use of remote teleconferencing capabilities, the Legislature once again introduced several measures that sought to build upon existing Brown Act flexibilities for local agencies. Measures introduced included [AB 817](#) (Pacheco), which allows a subsidiary body of a local agency (committees) to use teleconferencing for its meetings without posting agendas at each teleconference location, identifying each teleconference location in the notice and agenda, making each teleconference location accessible to the public, and requiring at least a quorum of the subsidiary body to participate from within the local agency's jurisdiction, subject to certain conditions. *Ultimately, this bill was made into a 2-year measure and can be acted upon in 2024.* This can be partially attributed to concerns expressed by Local Government Committee chairs, who thought additional flexibilities could have unintended consequences, such as certain local officials opting to utilize teleconferencing instead of in-person appearances and interactions with constituents.

In addition to AB 817, the Legislature considered [AB 557](#) (Hart), which eliminates the sunset date on provisions of law allowing local agencies to use teleconferencing without complying with specified Ralph M. Brown Act (Brown Act) requirements during a proclaimed state of emergency. *This measure was passed by the Legislature and is pending final action from the Governor.* If signed into law, the bill allows local agencies to automatically go back into pandemic-style teleconferencing whenever there is a state of emergency that necessitates social distancing. Additionally, it extends the timeframe by which local governing bodies need to re-certify a state of emergency teleconferencing need, which used to be every 30 days. The bill would extend that to 45 days to minimize the instances where local agencies have to call special meetings just to recertify.

Given the recent leadership changes and the appointment of a new Assembly Local Government Committee Chair, it is likely that Brown Act reform measures will continue to be considered and could have alternative outcomes depending on the priorities and decisions of leadership.

“Taxpayer Protection and Government Accountability Act” Initiative Challenged in Court

On September 26, Governor Newsom, the Legislature, and voter John Burton filed an emergency petition with the California Supreme Court on Tuesday seeking to remove the “Taxpayer Protection and Government Accountability Act” initiative from the November 2024 Ballot.

The Act, sponsored by the California Business Roundtable and its affiliates, seeks to raise voter thresholds to pass state and local taxes and requires local governments to provide a high standard of proof justifying the use, duration, and need for taxes and fees. If passed by voters, the Act would apply to any tax and certain fees adopted after Jan. 1, 2022. Local governments would have one year to ask voters to reapprove those taxes. The Act also imposes new requirements for the ballot materials used to submit taxes to voters. Passage of the Act would result in the loss of billions of dollars annually in critical state and local funding, restricting the ability of local agencies and the State's ability to fund specific services and infrastructure.

The Legislature and Governor argue that the proposed ballot initiative unlawfully revises the state constitution and upends essential state and local government functions, such as the ability to “impose” rather than “propose” tax initiatives required to maintain basic government activities. A petition for a Writ of Mandate in this circumstance is used to question the validity of an initiative before it is considered by voters. Overall, it signals the desire from the Legislature and executive branch to take any actions necessary to stop the harmful measure from becoming law.

Revenue and Taxation

Late into the final night of the Session, [ACA 1](#) (Aguiar-Curry) and [ACA 13](#) (Ward) passed the second house floor, both of which constitute major reforms to protect and enhance local revenue-generating tools. Because these measures propose amendments to the California Constitution, they will face consideration from the voters at the November 2024 General Election.

ACA 1 allows voters to decide whether a 55 percent threshold for approving special taxes or incurring bonded indebtedness to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing projects is an appropriate standard. 2023 marked the fifth year Assembly Member Aguiar-Curry attempted to move the measure forward. The legislation took numerous iterations of amendments, including language that limits the number of propositions authorized by the measure a local government can place on the ballot until all funds from a proposition have been committed, along with other transparency requirements.

ACA 13 requires an initiative constitutional amendment to comply with any increased voter approval threshold that it seeks to impose on future ballot measures. Additionally, ACA 13 guarantees in the state constitution the ability of local governments to submit advisory questions to voters. The most recent amendments specify that the measure’s voter threshold requirement would “apply to statewide initiative measures that appear on the ballot on or after January 1, 2024.

ACA 13 was introduced in response to the Taxpayer Protection and Government Accountability Act, which seeks to raise vote threshold requirements for the passage of state and local tax measures and imposes a stringent burden of proof standard that local governing bodies must meet when modifying or increasing all taxes and fees by justifying their use, need, and duration.

The measure has qualified for the November 2024 ballot and is sponsored by the California Business Round Table and its affiliates. If enacted by voters, it would make it extremely difficult for local governments to maintain existing tax revenues and modify them in the future.

After the bill was approved by the Assembly on the final night of the session, Assembly Member Ward and Assembly Leadership [announced](#) that they would be holding ACA 13 at the Assembly Desk until November 1st (2023) and would then process the measure. While this may seem like a minor processing item, the practical effect is that ACA 13 will not be processed in time to be placed on the March 2024 primary election ballot but will instead be placed on the November 2024 general election ballot.

ACA 13 contains language that states its provisions apply to initiatives that appear on the same ballot, so if ACA 13 passes on the November 2024 ballot, its provisions would apply to initiatives on that same ballot, such as the Taxpayer Protection and Government Accountability Act. It is possible that the Legislature will continue to negotiate with the California Business Round Table to reach a compromise in advance of next year's November General Election. If that compromise requires legislative action, the Legislature will have until June 2024 to approve a new measure.

Leadership Changes

As the Legislature's Interim Recess began in September, the 2023 Legislative Session served as a major year for legislative leadership changes, which included transitions of power from former Assembly Speaker Anthony Rendon and former Senate President Pro Tempore Toni Atkins. These changes were only accentuated by the record number of new state legislators – over a quarter of which took the oath of office for the first time last year.

Following nearly a year-long transition, June 30 marked the final day of the session with Anthony Rendon as the Assembly Speaker, as Robert Rivas was sworn in to serve as the 71st Speaker of the Assembly. Assembly Member Rivas attempted to ascend to the Speakership in May 2022, following long and tense negotiations within the Democratic Caucus. It was then announced that a mid-session transition would take place following the final budget agreement.

Following this transition, the new Assembly Speaker Rivas announced his appointments for Speaker Pro Tem and Assembly Majority Leader. Assembly Member Cecilia Aguiar-Curry will assume the role of Speaker Pro Tem, and Assembly Member Isaac Bryan will be the new Majority Leader for the 62-member Democratic caucus. It is expected that Speaker Rivas will make additional changes to Assembly policy committee chairs, which are likely to include high-profile committees overseeing issues like the state budget, appropriations, housing, and transportation.

In addition to the Assembly Speakership transition, Senate President Pro Tempore Toni Atkins announced during the final month of Session an agreement to transition Senator Mike McGuire into the Pro Tem position, with a final vote and ceremony to occur in early 2024. Senator McGuire was integral to several legislative victories, including the 2022 climate package and the infrastructure streamlining package negotiated alongside this year's state budget. It is anticipated that leadership changes as well as new committee seats will be announced next year after the Pro Tem transition. Due to term limits, Senator McGuire is eligible to serve as Senate President Pro Tem in the California Senate until 2026, an intentional move to toe the line between progressives and moderates until a more permanent Speakership transition deal is reached.