
MEMORANDUM

To: Orange County Sanitation District
From: Townsend Public Affairs
Date: February 7, 2024
Subject: State Legislative Monthly Report

STATE LEGISLATIVE UPDATES

The State Legislature returned from interim recess on January 3 to begin the second year of the 2023-24 legislative session. As it is the second year of a two-year session, those bills that did not progress in the previous session and were marked as “Two-Year Bills” had the opportunity to progress at the behest of their authors by the end of January. Critical issues on the forefront of Member’s minds include matters such as housing affordability, climate change initiatives, disaster preparedness, and education reforms.

Legislative trends that have emerged for 2024 include governing the deployment of artificial intelligence, [Proposition 47](#) reform and theft prevention, and electric bicycle and firearm safety. New bills will continue to trickle in until the February 16 bill introduction deadline, which marks the final day for new bill vehicles. As always, Members will have the opportunity to amend or “gut and amend” existing bills into entirely new policies throughout the session, so long as their progress adheres to the 72-hour in print rule.

Additionally, the month of January also included the release of the Governor Newsom’s Proposed Budget for the 2024-25 fiscal year. The Proposed Budget, released on January 10, includes an estimated \$37.9 billion budget shortfall. The Governor stated that the shortfall can be attributed to two main factors; the substantial decline in the stock market that drove down revenues in 2022 and the unprecedented delay in critical income tax collections.

Below is an overview of pertinent legislative actions taken during the month of January.

Governor Newsom Announces 2024-24 Proposed Budget

On January 10, Governor Newsom [released his 2024-25 State Budget](#). The Proposed Budget includes an estimated \$37.9 billion budget shortfall. According to the Governor, the shortfall can be attributed to two main factors; the substantial decline in the stock market that drove down revenues in 2022 and the unprecedented delay in critical income tax collections. (NOTE: The Governor’s shortfall estimate is significantly lower than the Legislative Analyst’s estimate of \$68 billion primarily due to differing accounting measures and more optimistic revenue estimates.)

Last year, due to the unprecedented tax deadline delays, the majority of the State’s revenues did not arrive until October and November of 2023. This means that the revision of the State’s spending plan that typically would come as part of last year’s May Revision is instead being made in the January 2024 proposed budget release.

In June 2023, the State passed a budget that planned accordingly, setting aside record reserves of just under \$38 billion. Now, the State faces a budget that must solve last year's shortfall while adjusting State spending to ensure continued fiscal stability for years to come.

Following the budget surpluses in 2021 and 2022, the State Budget approved \$8.7 billion over multiple years to mitigate impacts from extreme drought and flood as well as protect fish and wildlife. The Governor's 2024-2025 January Budget proposes to maintain \$7.3 billion of the previously allocated \$8.7 billion over multiple years, but also proposes to cut or delay approximately \$900 million in previously allocated or budgeted funds. Major cuts and retractions in the budget include water recycling, per-and polyfluoroalkyl substances (PFAS) remediation, and watershed climate resiliency.

While the budget proposal includes various spending reductions and deferrals, it is important to note that the budget situation will continue to evolve over the next few months before its enactment. The Governor's proposal will be updated in May to reflect changes to tax returns, inflationary pressures, and federal monetary policy that could result in additional spending cuts or the restoration of spending programs.

Looking forward, in late January, the Legislature's budget subcommittees will begin their hearings, reviewing and recommending changes to the proposed budget. After a few months of the Legislature's budget hearings, the Governor must present a revised budget by May 14 based on updated revenue estimates. After negotiations between the Governor and the Legislature, the Legislature's deadline to pass a balanced budget is June 15 and the Governor needs to approve a final 2024-25 spending plan before the new budget year beginning July 1.

Assembly and Senate Hold Budget Committee Hearings

On January 23, both the Assembly and Senate held their respective Budget Committee hearings. In both hearings Chief Deputy Director of the Department of Finance Erika Li and Legislative Analyst Gabriel Patek presented to the Committee members their perspectives and recommendations on the upcoming budget. Ms. Li laid out the basis for the Administration's deficit estimate and discussed broadly the Governor's solutions to the budget problem. Mr. Patek commented that, while the Governor's budget estimates are potentially accurate, his office believes that the revenue assumptions are quite optimistic and therefore the Legislature may need to find more solutions than the Governor has thus far outlined.

Both presenters agreed on two points. First, that the State has done a relatively good job in building its reserve funds to address what may be a minor recession in the State's economy. Second, that it is likely that there will be budget deficits in the out years beyond this coming fiscal year and the Legislature must keep in mind that ongoing solutions could be in order.

Most members of each Committee took time to ask clarifying questions from the presenters, as well as to discuss their priorities for the upcoming budget. Each Committee Chair spoke of the many upcoming budget subcommittee hearings at which the work of compiling the balanced budget will take place.

Legislative Analyst's Office (LAO) Report on Urban Water Use Efficiency Requirements

In 2018, the Legislature passed legislation that worked to establish a long-term urban water use efficiency framework to “Make Conservation a California Way of Life.” This framework creates new requirements for about 405 urban retail water suppliers that supply water to nearly 95 percent of state residents and requires these suppliers to evaluate their actual water use against a Water Use Objective. This framework was stringent in its development and established objectives and targets for urban water suppliers that are difficult to reach, even with appropriate investment into drinking water systems. The wastewater community is also concerned that decreased wastewater flows could potentially have a negative impact to collection and treatment infrastructure.

The LAO, a nonpartisan office within the state government that gives fiscal and policy advice to the Legislature, released a report in January on the effectiveness of the legislation and subsequent regulations from the State Water Resources Control Board and the Department of Water Resources. The report found that the proposed regulations create significant implementation challenges for urban water suppliers and go beyond what the 2018 legislation requires or what DWR recommended. Furthermore, the report outlined that the urban water efficiency targets will be difficult to achieve in the aggressive time period given in the regulations, will be far most costly than originally assumed, and could disproportionately affect low-income customers.

The LAO report concluded with a list of recommendations for the Legislature to consider adopting to improve the current goals set in statute and the ongoing regulation process. Such recommendations include enhanced technical assistance to urban water suppliers, reduce complexity and improve variances, and re-evaluate the framework’s key milestones set out in the 2018 legislation. Suppliers in the service area of OC San are eligible for recycling variances from the legislation/regulation, however, recommendations suggest that these variances should be expanded and simplified for regions recycling a majority or all their wastewater.

The Make Conservation a California Way of Life regulations are expected to be adopted in Summer/Fall 2024, giving the Legislature a narrow window to make improvements to the statute this year.

Assembly Members Introduce Healthy Environment Constitutional Amendment

On January 25, Assembly Members Bryan, Kalra and Muratsuchi introduced [ACA 16](#), a resolution to amend the California Constitution that would enshrine the people’s right to clean air and water and a healthy environment. The measure is coauthored by Assembly Members Friedman, Jackson, Lee, McKinnor, and Valencia as well as Senators Limon and Stern. If enacted, this measure could have significant impacts on all levels of government as it could essentially become a legal guarantee that all residents of California never be exposed to anything but a healthy environment – and if a resident is exposed to anything unhealthy, the government(s) with jurisdiction could be found liable for that exposure. This could open substantial courses of litigation and costs for a variety of governmental entities, including OC San as it relates to air quality around the wastewater treatment plants, the quality of effluent being discharged into the ocean, and the disposal/use of biosolids and biogas.

As with all proposed Constitutional amendments it must pass both houses of the Legislature with two-thirds votes and then is placed on the statewide ballot. The Governor has no involvement and therefore cannot veto if passed by the Legislature. It is unclear whether the authors of the measure intend to move forward with it or if it has the support of leadership in either house.

Supreme Court Hears Case on Impact Fees

Earlier this month, a dispute arising from a resident of Placerville over El Dorado County's imposition of \$23,420 in impact fees rose to the highest court in the state. The legal saga began in 2016 when George Sheetz built a small, manufactured home on a vacant tract in the city of Placerville. The County imposed a development impact fee of over \$20,000 which Mr. Sheetz paid before launching a lawsuit against the County for violation of property rights.

Specifically, the lawsuit alleged that the county failed to prove that the impact fee accurately reflected the impact his project would have on the surrounding local infrastructure. Instead, the County should have completed a thorough, property-specific inspection and analysis of the local impacts to justify the fee.

The State courts ultimately ruled against him, citing the decades-old California law that permits local governments to charge fees to builders for "costs attributable to the increased demand for public facilities reasonably related to the development project." Justice Elena Duarte, who presided over the initial case, iterated that the fee leveraged by the County was "imposed pursuant to a legislatively authorized fee program that generally applies to all new development projects within the County."

However, upon appeal, the case rose to the ranks of the U.S. Supreme Court, which took up the issue on January 9. The plaintiff has since received support from various organizations and housing affordability advocates, including the California Building Industry Association and the National Association of Homebuilders.

Ultimately, the outcome of the case will be incredibly consequential to how local governments can apply – and the steps they must take to justify – development impact fees. Local government advocates cite the potential for a dangerous decline in critical local revenues in a world with dwindling property taxes to subsidize infrastructure development, alongside the potential for permitting approval delays associated with the administratively burdensome fee justification process. Housing advocates, on the other hand, argue that impact fee reductions and transparency would eliminate cost barriers to build.

A ruling is anticipated in February 2024.