
M E M O R A N D U M

To: Orange County Sanitation District
From: Townsend Public Affairs
Date: October 21, 2022
Subject: Monthly Legislative Report

State Legislative Update

Following the end of the 2022 Legislative Session on August 31, the Governor had until September 30 to sign or veto legislation. The Legislature introduced a total of 2,055 bills this year – 672 in the Senate and 1,383 in the Assembly. Of those bills, the Governor signed 997 into law and vetoed 169. The Governor’s bill consideration trends during the month of September were inconsistent with previous years, largely because of delays associated with pressing matters like grid strain during the months unprecedented heat wave and the Governor’s travels out of state, which precludes him from acting on legislation.

Another anomaly for this year’s final legislative actions is the Governor’s high veto rate. In 2021, the Governor vetoed 66 bills, constituting a 7.8% veto rate. This year, the Governor vetoed 169 bills total – a veto rate of roughly 16% - which is well beyond his typical veto rate. Notably, nearly all of his veto messages point to a lack of planned budget funding to accomplish the goals set forth in the measures. While this messaging is not abnormal, it does point to the Governor’s regimented spending practices for the budget’s one-time spending allocations

The Governor largely followed his previous bill-signing trends and packaged bills with other similar measures for signing into law. These packages include measures that address housing and land use, behavioral health supportive services, climate change and energy, and Brown Act Modernization, among others.

SB 1157 (Hertzberg) – Indoor Residential Water Use Standards

SB 1157 (Hertzberg), the bill to reduce the indoor residential water use standards to an eventual 42 gallons per capita daily (GPCD), was signed into law by the Governor. Included in his signature of the bill was a message to the Legislature and the State Water Resources Control Board encouraging additional variances for water recycling and existing investments in alternative resources. While the measure goes into effect January 1, 2023, the bill does not require a reduction in indoor water use standards until 2025 (47 GPCD) and 2030 (42 GPCD).

Source Control

In the 2022 Legislative Session, several source control bills that aim to keep certain forever chemicals and contaminants out of the environment were passed by the Legislature. For example, AB 2247 (Rubio), the California Association of Sanitation Agencies (CASA) sponsored bill that would have required the creation of a State clearinghouse to track chemicals being used in manufacturing, was passed by the Legislature after significant negotiations and advocacy. Unfortunately, the Governor vetoed the bill citing concerns with the cost to implement the bill at the State's Department of Toxic Substances Control.

However, other source control bills such as AB 2771 (Friedman) and AB 1817 (Ting) both passed and were signed into law by the Governor. These two bills outlawed the sale or manufacturing of cosmetic products and textiles, respectively, that include intentionally added regulated perfluoroalkyl and polyfluoroalkyl substances (PFAS). It is expected that additional safeguards and source control measures that address PFAS related substances will continue to be introduced in the Legislature.

Brown Act Reform

The COVID-19 pandemic necessitated reforms to the Brown Act to provide remote flexibilities to adhere to social distancing orders. During the 2021 Legislative Session, the Legislature passed, and the Governor signed, AB 361 (Rivas) into law, which allows local agencies to use teleconferencing without complying with specified Ralph. M Brown Act restrictions in certain state emergencies. Following the passage of AB 361, it was thought there would be no appetite to modify its provisions or look toward additional Brown Act modernization requirements. However, this Session, three measures addressing public meetings requirements were passed by the legislature and signed into law.

These include AB 2449 (Rubio), which allows members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public. AB 2647 (Levine) allows writings that have been distributed to members of a legislative body of a local agency less than 72 hours before an open, regular meeting to be exempt from specified requirements of the Ralph M. Brown Act (Brown Act), if the agency meets certain requirements. *Both AB 2449 and AB 2547 were signed into law and become effective January 1, 2023.*

An additional measure, SB 1100 (Cortese), has already been signed into law. This bill authorizes the presiding member of a legislative body conducting a meeting, or their designee, to remove an individual for disrupting the meeting, and defines "disrupting" for these purposes.

Each of these three measures reflect modest changes to the Brown Act to allow for additional flexibilities for local agencies. Continued remote teleconferencing for *all members* of a legislative body is currently provided via the provisions established under AB 361, which are set to expire January 1, 2024, or when the COVID-19 state of emergency is lifted in February 2023.

COVID-19 State of Emergency Set To End

On November 17, the Governor announced his plans to lift the COVID-19 State of Emergency on February 28, 2023 – nearly three years since the order was instated. The timing reflects what the Administration believes is enough time to accommodate the transition process at the state and local levels. The State of Emergency provided for the issuance of masking and vaccination mandates, social distancing orders, intergovernmental collaboration for distribution of COVID-19 materials and vaccines, emergency response contracts, and teleconferencing allowances for state and local governing bodies.

For local governments, Brown Act flexibility for meetings was provided under [AB 361](#) (R. Rivas, Statutes of 2021), which allows for teleconferencing only under an existing state of emergency that requires social distancing or physically precludes members of an elected body from meeting in person. Once the State of Emergency is lifted on February 28, the local teleconferencing allowances under AB 361 will also expire. While AB 361 does apply to emergencies arising from the COVID-19 pandemic, it also specifically references Government Code section 8558, which contains a broad definition of emergency including, among others, fire, flood, storm, epidemic and earthquake. However, many state of emergencies do not meet the requirements set forth in AB 361, which requires emergencies to either necessitate social distance or physically precludes a local agency from meeting.

While the usage of AB 361 provisions will expire in February 2023, the provisions of AB 2449 above will come into effect. Looking forward, it is possible that the Legislature could move forward with additional bills that would provide for additional remote meeting flexibility in January.

COVID-19 Paid Sick Leave Extension

Existing law entitles a covered employee to 40 hours of COVID-19 supplemental paid sick leave if the employee is subject to a COVID-19 quarantine or isolation period, is attending a vaccine or vaccine booster appointment, experiencing related symptoms, or caring for a child whose school or place of care is closed. In the final month of session, the Legislature passed AB 152 (Committee on Budget), which extends COVID-19 supplemental paid sick leave provisions contained in SB 114 (Budget and Fiscal Review Committee, Statutes of 2022) from September 30, 2022 to December 31, 2022, which entitles covered employees up to 80 hours of paid sick leave under specified circumstances. *AB 152 was signed into law and became effective immediately.*

Looking Forward

The decennial redistricting process caused numerous lawmakers to move, battle for new district spots, or retire. This, coupled with the onset of another graduating class of legislators under the new term limit requirements established by Prop. 140 (1990), has prompted many legislators to not seek reelection. As such, 2023 will bring forward a new class of freshman legislators – specifically, 10 new Senators and 19 new Assembly Members. This is likely to spark new leadership changes, bill proposals, and shift the makeup of factions within the Democratic Caucus. Assembly Member Robert Rivas has already signaled his intentions of battling incumbent Speaker Anthony Rendon for the coveted Assembly Speakership.