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MEMORANDUM

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**To:** Orange County Sanitation District  
**From:** Townsend Public Affairs  
**Date:** October 18, 2021  
**Subject:** Monthly Legislative Report

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**State Legislative Update**

September 10 marked the final night of the 2021 legislative session. This year's final night starkly contrasted with previous sessions. Instead of chambers marred by disruptive protests and partisan-fueled drama, the Legislature adjourned hours before midnight after a day of frequent pauses, as both chambers took numerous recesses. Most major issues had been decided and passed with the weekly waves of budget bills and budget trailer bills over the summer and in the month since summer recess. Nevertheless, the Legislature decided the fate of a number of bills important to local governments in its final days of session. Of the 2,776 bills introduced this year, 1,104 made it to the Governor's desk. Before the deadline of October 10, the Governor signed 1038 bills and vetoed 66 bills.

The Newsom Administration has been focused on the implementation of the *California Comeback Plan* through significant budget allocations to both accelerate the State's recovery from the pandemic and tackling persistent challenges. Part of the \$100 billion plan has included over \$20 billion in housing and homelessness investments, with the goal of producing 84,000 homes. Other investments include a climate resiliency package and stimulus payments to the State's vulnerable residents. Below is an overview of a few of the bills the Governor has signed into law, organized by issue area:

**The 31-Bill Housing Production and Accountability Package**

Just shy of a week after the Legislature's adjournment, Governor Newsom signed the first round of housing and land use reform bills, which included SB 8 (Skinner), which extends the Housing Crisis Act of 2019, SB 9 (Atkins), which requires the ministerial approval of urban lot splits and two-unit developments on single-family zoned parcels, and SB 10 (Wiener), which authorizes local governments to zone any parcel up to 10 units via ordinance.

After the enactment of the first round of housing and land use bills, the Governor signed a 27-bill package to further address the state's housing crisis, with more focus on accountability and enforcement as it pertains to development goals.

The bills included in this package include AB 215 (Chiu), which increases enforcement within The Department of Housing and Community Development (HCD) and housing element transparency standards, AB 602 (Grayson), which increases the transparency of impact fees through revised nexus study requirements, and SB 478 (Wiener), which prohibits local governments from imposing certain floor area ratio standards on specified housing projects.

These highly contentious bills mark significant, top-down changes to the state's housing production, accountability, and land use standards, with each of these bills representing renditions of bills that have attempted to pass the policy committee process for years but have previously failed.

### Climate Resiliency Investments and Legislation Package

In addition to the Administration's investments in housing production and the Governor's signing of the housing package, Governor Newsom announced his signing of a climate resiliency package, outlining investments in wildfire and forest resilience, drought response, and combatting sea level rise. Bills a part of this package include SB 170 (Skinner) and SB 155 (Committee on Budget and Fiscal Review), which provide a combined \$14.5 billion for climate resiliency and environmental quality related issues. SB 155 contains \$200 million in continuously appropriated funds to CalFire for fire prevention programs. SB 170 includes significant funding to bolster the state's organic waste infrastructure, which includes grants to help local governments implement upcoming SB 1383 organic waste regulations. In addition to these investment bills, the Governor also signed wildfire and forest resiliency legislation like Senator Dodd's SB 109, which creates the Office of Wildfire Technology Research and Development at CAL FIRE to evaluate emerging firefighting technology. Additionally, the funding package includes \$3.7 billion for climate resiliency to combat issues such as extreme heat and sea level rise, which will be complimented by legislation like Senate Pro Tem Atkins' SB 1, which establishes the California Sea Level Rise Mitigation and Adaptation Act to help coordinate and fund state efforts to prepare for sea level rise.

### Labor and Pensions

Governor Newsom also implemented a major change to public agency responsibilities to CalPERS by signing SB 278 (Leyva) into law. SB 278 requires public agencies and schools to directly pay retirees and/or their beneficiaries disallowed retirement benefits using general fund and Proposition 98 dollars. The bill places 100% of the total liability for overpayments on public agencies, abdicating all responsibility previously held by CalPERS. Despite any existing memoranda of understanding between employers and employees on what guides pensionable compensation, this new law significantly alters public agency contributions by shifting liability away from the retirement system administration and onto public agencies.

### Modified Brown Act Requirements In Place

During the pandemic, Governor Newsom issued an executive order temporarily permitting local agencies to meet remotely and bypass the Brown Act's various requirements regarding the public's access to meetings' physical locations. The executive order's provisions were set to expire September 30, until the Legislature passed, and the Governor signed, AB 361 (R. Rivas), which allows exemptions to some of the requirements related to Brown Act meetings held by teleconference during a state of emergency that makes it unsafe to meet in person. AB 361 went into effect October 1, 2021 and will last until its sunset in 2024. Due to the legislation's potential to last longer than previously enacted executive orders, key differences between the two include the new requirement that local agencies reassess and recertify the conditions constituting an emergency every 30 days while meeting remotely to be in compliance. The enactment of this critical Brown Act flexibility legislation will ensure that local agencies can continue to meet remotely and will serve as precedent for future emergencies.

## COVID-19 Regulations

### *Cal/OSHA Releases New Draft Requirements*

Until January 14, 2022, California employers are beholden to state and local COVID-19 requirements, as well as Cal/OSHA's COVID Emergency Temporary Standards (ETS). However, in September, Cal/OSHA released a draft of semi-permanent COVID-19 standards that are set to guide future pandemic emergencies. The draft proposal would create new standards that would be subject to either renewal or expiration after two years. Key differences between the current ETS and new draft standards include requiring employers to address COVID-19 through their Injury and Illness Prevention Program (IIPP), requiring employers to adopt more stringent testing protocols in the event of employee infection, and eliminating the requirement of exclusion pay for employees who are excluded from the worksite to quarantine, among other procedural changes. The draft regulations will likely have numerous administrative hurdles to clear before replacing the existing ETS.

### *Vaccine Mandate for Healthcare and State Employees*

With regard to the implementation of the Department of Public Health's vaccine mandate for healthcare and state workers, September 30 marked the final day for all facilities to be in compliance. This comes after nearly a month and a half of lead time for the identified employees to receive their first dose of a one-dose regimen or their second dose of a two-dose regimen.

### *Upcoming Vaccine Mandate For Students and School Employees*

In addition to the above workplace and vaccine regulations, the Governor recently announced his plans require all school employees and students be vaccinated, following full FDA approval of existing vaccines. The requirements are set to be established by forthcoming regulations from the California Department of Public Health. Students will be required to be vaccinated for in-person learning starting the school term following FDA full approval (meaning either January 1<sup>st</sup> or July 1<sup>st</sup>) of the vaccine for their grade span. Given that the vaccine is now only eligible to be administered to individuals aged 12 and older, the mandate will first apply to students within the applicable age range and will later apply to younger students once the vaccine becomes available to younger age ranges. In addition to students, all school staff will be required to be vaccinated no later than when the requirement takes effect for students aged 12 and older. The mandate will be a condition of in-person attendance and employment for all pupils and employees of any private or public elementary or secondary school.