# WORKSHOP MEETING OF THE BOARD OF DIRECTORS WITH MET DIRECTORS MUNICIPAL WATER DISTRICT OF ORANGE COUNTY 18700 Ward Street, Fountain Valley, California April 7, 2021, 8:30 a.m.

Due to the spread of COVID-19 and as authorized by the Governor's Executive Order, MWDOC will be holding all upcoming Board and Committee meetings by Zoom Webinar and will be available by either computer or telephone audio as follows:

Computer Audio: You can join the Zoom meeting by clicking on the following link:

https://zoom.us/j/8828665300

Telephone Audio: (669) 900 9128 fees may apply

(877) 853 5247 Toll-free

Webinar ID: 882 866 5300#

#### **AGENDA**

#### **ROLL CALL**

#### PUBLIC PARTICIPATION/COMMENTS

At this time members of the public will be given an opportunity to address the Board concerning items within the subject matter jurisdiction of the Board. Members of the public may also address the Board about a particular Agenda item at the time it is considered by the Board and before action is taken.

The Board requests, but does not require, that members of the public who want to address the Board complete a voluntary "Request to be Heard" form available from the Board Secretary prior to the meeting.

#### ITEMS RECEIVED TOO LATE TO BE AGENDIZED

Determine need and take action to agendize item(s), which arose subsequent to the posting of the Agenda. (ROLL CALL VOTE: Adoption of this recommendation requires a two-thirds vote of the Board members present or, if less than two-thirds of the Board members are present a unanimous vote.)

### ITEMS DISTRIBUTED TO THE BOARD LESS THAN 72 HOURS PRIOR TO MEETING

Pursuant to Government Code Section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection in the lobby of the District's business office located at 18700 Ward Street, Fountain Valley, California 92708, during regular business hours. When practical, these public records will also be made available on the District's Internet Web site, accessible at <a href="http://www.mwdoc.com">http://www.mwdoc.com</a>.

**NEXT RESOLUTION NO. 2108** 

# **ACTION ITEMS**

#### 1. ACR 17 (VOEPEL) – SPECIAL DISTRICTS WEEK

Recommendation: Adopt a support position on ACR 17 (Voepel) proclaiming the

week of May 16, 2021, to May 22, 2021, to be Special Districts

Week.

# 2. H.R. 737 (VALADAO) & H.R. 1563 (GARCIA): WATER INFRASTRUCTURE IMPROVEMENTS FOR THE NATION (WIIN), EXTENSION – SUPPORT

Recommendation: Adopt a Support position on H.R. 737 (Valadao) and H.R 1563

(Garcia).

3. AB 339 (LEE) - STATE AND LOCAL GOVERNMENTS: OPEN MEETINGS

Recommendation: Adopt an Oppose Unless Amended position on AB 339.

4. AB 377 (R. RIVAS) – WATER QUALITY: IMPAIRED WATERS

Recommendation: Adopt an oppose position on AB 377 (R. Rivas).

# PRESENTATION/DISCUSSION ITEMS

- 5. LEGISLATIVE ACTIVITIES
  - a. Federal Legislative Report (NRR)
  - b. State Legislative Report (BBK)
  - c. MWDOC Legislative Matrix
  - d. Metropolitan Legislative Matrix

Recommendation: Review and discuss the information presented.

- 6. INPUT OR QUESTIONS ON MET ISSUES FROM THE MEMBER AGENCIES/MET DIRECTOR REPORTS REGARDING MET COMMITTEE PARTICIPATION
  - a. Update Re MET IRP Meeting

Recommendation: Receive input and discuss the information presented.

7. PRESENTATION BY BILL HASENCAMP (METROPOLITAN) ON COLORADO RIVER ISSUES

Recommendation: Review and discuss the information presented.

#### **INFORMATION ITEMS**

- **8. MET ITEMS CRITICAL TO ORANGE COUNTY** (The following items are for informational purposes only a write up on each item is included in the packet. Discussion is not necessary unless requested by a Director)
  - a. MET's Finance and Rate Issues
  - b. MET's General Manager Recruitment Process
  - c. MET's Water Supply Conditions
  - d. Colorado River Issues
  - e. Delta Conveyance Activities and State Water Project Issues

Recommendation: Review and discuss the information presented.

# 9. METROPOLITAN (MET) BOARD AND COMMITTEE AGENDA DISCUSSION ITEMS

- a. Summary regarding March MET Board Meeting
- b. Review items of significance for MET Board and Committee Agendas

Recommendation: Review and discuss the information presented.

#### **ADJOURNMENT**

Note: Accommodations for the Disabled. Any person may make a request for a disability-related modification or accommodation needed for that person to be able to participate in the public meeting by telephoning Maribeth Goldsby, District Secretary, at (714) 963-3058, or writing to Municipal Water District of Orange County at P.O. Box 20895, Fountain Valley, CA 92728. Requests must specify the nature of the disability and the type of accommodation requested. A telephone number or other contact information should be included so that District staff may discuss appropriate arrangements. Persons requesting a disability-related accommodations should make the request with adequate time before the meeting for the District to provide the requested accommodations.





# ACTION ITEM April 7, 2021

**TO:** Board of Directors

FROM: Robert Hunter Staff Contact: Heather Baez

General Manager

SUBJECT: ACR 17 (VOEPEL) – SPECIAL DISTRICTS WEEK

#### STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a support position on ACR 17 (Voepel) proclaiming the week of May 16, 2021, to May 22, 2021, to be Special Districts Week.

#### **COMMITTEE RECOMMENDATION**

Committee recommends (To be determined at Committee Meeting)

#### **BILL SUMMARY**

ACR 17, an Assembly Concurrent Resolution, proclaims that the week of May 16, 2021 to May 22, 2021 to be Special Districts Week.

#### **BACKGROUND**

ACR 17 is sponsored by the California Special Districts Association (CSDA), which is a statewide association representing over 1,000 special districts and affiliate organizations throughout the state. Special districts are local government entities created by a community's residents, funded by those residents, and overseen by those residents, to provide specialized services and infrastructure.

Budgeted (Y/N): n/a	Budgeted amount: n/a		Core X	Choice	
Action item amount: None		Line item:			
Fiscal Impact (explain if unbudgeted):					

#### **ARGUMENTS IN SUPPORT**

Special districts are local government entities created by a community's residents, funded by those residents, and overseen by those residents, to provide specialized services and infrastructure.

Today, just about 2,000 independent special districts provide millions of Californians with essential services, including services related to water, sanitation and water recycling, fire protection, electricity, parks and recreation, health care, open space, ports and harbors, flood protection, mosquito abatement, cemeteries, resource conservation, airports, transit, road maintenance, veterans' facilities, and more.

#### **ARGUMENTS IN OPPOSITION**

None on file.

#### **BOARD OPTIONS**

### Option #1

Adopt a support position on ACR 17 (Voepel), Special Districts Week

# Fiscal Impact: None

**Business Analysis:** As members of CSDA, it is important for MWDOC to be an active participant in the association. This is one of their sponsored bills this year and are asking all of their members to support it, as well as promote Special Districts Week.

#### Option #2

• Take no action Fiscal Impact: None

**Business Analysis:** There is little impact to taking no action, other than not supporting CSDA's priority legislation.

#### STAFF RECOMMENDATION

Option #1

#### ATTACHED:

ACR 17 Full Text

# **Introduced by Assembly Member Voepel**

February 1, 2021

Assembly Concurrent Resolution No. 17—Relative to Special Districts Week.

#### LEGISLATIVE COUNSEL'S DIGEST

ACR 17, as introduced, Voepel. Special Districts Week. This measure proclaims the week of May 16, 2021, to May 22, 2021, to be Special Districts Week.

Fiscal committee: no.

WHEREAS, Special districts are local governmental entities created by a community's residents, funded by those residents, and overseen by those residents, to provide specialized services and infrastructure; and

WHEREAS, Today, just over 2,000 independent special districts provide millions of Californians with essential services, including services related to water, sanitation and water recycling, fire protection, electricity, parks and recreation, health care, open space, ports and harbors, flood protection, mosquito abatement, cemeteries, resource conservation, airports, transit, road maintenance, veterans' facilities, and more; and

WHEREAS, Special districts first arose when San Joaquin Valley farmers needed a way to access their local water supply;

14 and

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WHEREAS, Under the Wright Act of 1887, the Turlock Irrigation District became California's first special district and  $ACR 17 \qquad \qquad -2 -$ 

1 made it possible for local farmers to intensify and diversify 2 agriculture in California's central valley; and

WHEREAS, In the 20th century, special districts increased dramatically in both number and scope, and during the periods of prosperity and population growth that followed both world wars when the demand for all types of public services increased, and special districts met that need; and

WHEREAS, The statutory authorization for mosquito abatement districts was enacted in 1915 to combat the salt marsh mosquitoes around the San Francisco Bay and higher than average malaria cases in rural counties; and

WHEREAS, Fire protection districts can trace their origins to a 1923 state law, and in 1931 the Legislature authorized recreation districts, the forerunners of today's recreation and park districts; and

WHEREAS, Hospital districts arose in 1945 because of a statewide shortage of hospital beds. In 1994, the Legislature then expanded their breadth and renamed them health care districts in recognition of the diverse, modern needs of California's communities and the importance of proactive, affordable health care beyond the walls of a hospital building; and

WHEREAS, Although originally created to provide individual services, in 1961 the Legislature authorized special districts to address multiple needs, when it provided for multipurpose, community services districts; and

WHEREAS, Special districts vary in size and scope and serve diverse communities throughout California, from small rural neighborhoods, such as the Pine Cove Water District in the San Jacinto Mountains in the County of Riverside, to large urban regions, such as the East Bay Municipal Utility District spanning much of the Counties of Alameda and Contra Costa; and

WHEREAS, Local residents own special districts and govern them through locally elected or appointed boards. A series of sunshine laws ensure special districts remain transparent and accountable to the communities they serve, as these laws require open and public meetings, public access to records, regular audits, online posting of finances and compensation, and more; and

WHEREAS, To prevent overlapping services and ensure that local agencies are operating effectively and efficiently to meet community needs, special districts are formed, reviewed,

-3- ACR 17

consolidated, or dissolved through a methodical local process that includes the oversight of a local agency formation commission and the consent of local voters; and

 WHEREAS, In 1969, several independent special districts formed a statewide association called the California Special Districts Association, commonly referred to as the CSDA, to promote good governance and improved essential local services through professional development, advocacy, and other services for all types of independent special districts; and

WHEREAS, The Legislature seeks to promote democratic institutions, community-based services, local control, and self-determination; and

WHEREAS, The Legislature seeks to promote and educate the public about their local public service providers, including awareness and understanding of special districts; now therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of May 16, 2021, to May 22, 2021, inclusive, to be Special Districts Week and encourages all Californians to be involved in their communities and be civically engaged with their local government: and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.



# ACTION ITEM April 7, 2021

**TO:** Board of Directors

FROM: Robert Hunter Staff Contact: Heather Baez

General Manager

SUBJECT: H.R. 737 (VALADAO) & H.R. 1563 (GARCIA): WATER INFRASTRUCTURE

IMPROVEMENTS FOR THE NATION (WIIN), EXTENSION – SUPPORT

#### STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a Support position on H.R. 737 (Valadao) and H.R 1563 (Garcia).

#### **COMMITTEE RECOMMENDATION**

Committee recommends (To be determined at Committee Meeting)

#### **BILL SUMMARY**

H.R. 737, the RENEW WIIN Act would extend the general and operations provisions of Subtitle J of the WIIN Act and extend the provision requiring consultation on coordinated operations of the Central Valley Project and State Water Project. The legislation would also extend the authorization of appropriations for water storage projects that the Secretary of the Interior finds feasible.

H.R. 1563, like H.R. 737, would extend the authorities under the WIIN Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California and would also authorize additional funding for water infrastructure projects currently funded under the WIIN Act.

# **ARGUMENTS IN SUPPORT**

According to IRWD's General Manager, Paul Cook, who was quoted in Congressman Valadao's press release, "An extension of this provision to 2031 allows more time for the Secretary to evaluate water storage projects currently in the review process. This

Budgeted (Y/N): n/a	Budgeted amount: n/a		Core X	Choice	
Action item amount: None		Line item:			
Fiscal Impact (explain if unbudgeted):					

additional time will allow the environmental and public benefits of projects like the Kern Fan Groundwater Storage Project to be fully understood and considered prior to being funded."

Of H.R. 1563, the author states, "These provisions ensure that California has the storage capabilities and operational flexibility necessary to provide Californians the access to water they deserve and need. Allowing these provisions to expire would put the state at great risk during future droughts. California has experienced its fifth straight month of below average precipitation, setting the stage for what is likely to be a critically dry year for California and making this bill more important than ever."

Congressman Garcia's press release also included a supporting quote from MWD's General Manager, Jeff Kightlinger. "The WIIN Act provides vital funding for projects that help deliver water to millions of Californians. Metropolitan appreciates Congressman Garcia introducing legislation to extend these programs that are so critical to the people and businesses of our state."

# **ARGUMENTS IN OPPOSITION**

H.R. 737 extends the date of sunset for the authorization for storage projects in Section 4007 of the WIIN Act but does not increase the authorized funding level. This could create a situation where projects that are currently eligible for limited WIIN Act storage funds would compete with even more projects for funding. To use a pie analogy, H.R. 737 increases the number of projects eligible to take a bite of the pie but does not increase the overall size of the pie.

Both of these bills will likely be opposed by the typical host of water related NGOs in California due to the extension of the WIIN Act operational provisions.

#### **BOARD OPTIONS**

#### Option #1

Adopt a support position on H.R. 737 and H.R. 1563.

**Fiscal Impact:** Both bills could result in additional funding for projects in Orange County.

# Option #2

Take no action

Fiscal Impact: Same as above

# STAFF RECOMMENDATION

Option #1

#### ATTACHED:

- H.R 737 Full Text
- H.R 1563 Full Text



# 117TH CONGRESS 1ST SESSION

# H. R. 737

To extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.

# IN THE HOUSE OF REPRESENTATIVES

February 2, 2021

Mr. Valadao (for himself, Mr. McCarthy, Mr. Calvert, Mr. Garcia of California, Mr. Issa, Mrs. Kim of California, Mr. Lamalfa, Mr. McClintock, Mr. Nunes, Mr. Obernolte, and Mrs. Steel) introduced the following bill; which was referred to the Committee on Natural Resources

# A BILL

To extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Responsible, No-Cost
- 5 Extension of Western Water Infrastructure Improvements
- 6 Act" or the "RENEW WIIN Act".

# 1 SEC. 2. EXTENSION OF AUTHORITY.

2	Subtitle J of the Water Infrastructure Improvements
3	for the Nation Act (Public Law 114–322) is amended—
4	(1) in section 4007 (43 U.S.C. 390(b) note), in
5	subsection (i), by striking "January 1, 2021" and
6	inserting "January 1, 2031"; and
7	(2) in section 4013 (43 U.S.C. 390(b) note)—
8	(A) in the first sentence, by striking "the
9	date that is 5 years after the date of its enact-
10	ment" and inserting "December 31, 2031"; and
11	(B) in paragraph (1), by striking "10
12	years after the date of its enactment" and in-
13	serting "on December 31, 2036".

 $\bigcirc$ 

	(Original Signature of Member)
	TH CONGRESS 1ST SESSION H.R.
То є	extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.
Mr	IN THE HOUSE OF REPRESENTATIVES  Garcia of California introduced the following bill; which was referred to the Committee on
	A BILL
То	extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.
1	Be it enacted by the Senate and House of Representa-
2	tives of the United States of America in Congress assembled,
3	SECTION 1. EXTENSION OF AUTHORITY.
4	(a) Subtitle J of the Water Infrastructure Improve-
5	ments for the Nation Act (Public Law 114–322) is amend-

(1) in section 4007 (43 U.S.C. 390(b) note)—

7

6 ed—

1	(A) in subsection (i), by striking "January
2	1, 2021" and inserting "January 1, 2028";
3	(B) in subsection (h)(1), by striking the
4	period and inserting "; and;
5	(C) by redesignating subsection $(h)(2)$ as
6	(h)(3); and
7	(D) by adding after subsection (h)(1) the
8	following:
9	"(2) There is authorized to be appropriated
10	\$134,000,000 for each fiscal years 2022 through
11	2028.";
12	(2) in section 4011(e)(2), by inserting "projects
13	found feasible under the provisions of section 4007,"
14	after "construction of water storage"; and
15	(3) in section 4013 (43 U.S.C. 390(b) note)—
16	(A) in the first sentence, by striking "the
17	date that is 5 years after the date of its enact-
18	ment" and inserting "December 31, 2028"; and
19	(B) in paragraph (1), by striking "10
20	years after the date of its enactment" and in-
21	serting "on December 31, 2033".
22	(b) Section 4(a)(1)(F) of the Water Desalination Act
23	of 1996 (42 U.S.C. 10301 note; Public Law 104–298),
24	as amended by section 4009(a) of the WIIN Act (Public
25	Law 114–322), is further amended by striking

- 1 "\$30,000,000 of funding is authorized to remain available
- 2 until expended; and" and inserting "\$12,000,000 is au-
- 3 thorized to be appropriated for each of fiscal years 2022
- 4 through 2028.".
- 5 (c) Section 1602 of the Reclamation Wastewater and
- 6 Groundwater Study and Facilities Act (title XVI of Public
- 7 Law 102–575; 43 U.S.C. 390h et seq.), as amended by
- 8 section 4009(c) of the WIIN Act (Public Law 114–322),
- 9 is further amended in subsection (g) by striking
- 10 "\$50,000,000 to remain available until expended" and in-
- 11 serting "\$20,000,000 for each of fiscal years 2022
- 12 through 2028".



# ACTION ITEM April 7, 2021

**TO:** Board of Directors

FROM: Robert Hunter Staff Contact: Heather Baez

General Manager

SUBJECT: AB 339 (LEE) - STATE AND LOCAL GOVERNMENTS: OPEN MEETINGS

#### STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt an Oppose Unless Amended position on AB 339.

#### **COMMITTEE RECOMMENDATION**

Committee recommends (To be determined at Committee Meeting)

#### **BILL SUMMARY**

Assembly Bill 339 would require all meetings of a house of the Legislature or a committee, a legislative body of a local agency, and a state body include an opportunity for all persons to attend the meeting through a call-in option or an internet-based service option that provides closed captioning services.

The bill would require both a call-in and an internet-based service option be provided to the public, and would require instructions on how to attend the meeting via call-in or internet-based service be posted online with the meeting agenda in an easily accessible location.

For all meetings held by a legislative body of a local agency and a state body, agendas and instructions for accessing the meeting would be required to be translated into all languages that at least five percent of the population speak in the area governed.

In addition, AB 339 would require the legislative bodies of local agencies to employ a sufficient amount of qualified bilingual persons to provide translation during the meeting

Budgeted (Y/N): n/a	Budgeted amount: n/a		Core X	Choice	
Action item amount: None		Line item:			
Fiscal Impact (explain if unbudgeted):					

in the language of the non-English speaking person, in jurisdictions that govern a substantial number of non-English speaking people.

#### **ARGUMENTS IN SUPPORT**

According to the author's office, the purpose of this bill is to remove barriers that have historically prevented constituents from being able to participate in local and state hearings and meetings. Immigrants and low-income Californians have had difficulties participating due to the inability to travel to meeting sites or frequent confusion over how to access meetings through remote technology options.

AB 339 aims to resolve these issues by ensuring the public can participate in meetings through in-person attendance or through a call-in or an internet-service-based option. In addition, to ensure those who do not speak English can participate, language access services would be provided for constituents.

# **ARGUMENTS IN OPPOSITION**

While every agency strives for transparency and encourages public engagement in their meetings, this bill creates some challenges when it comes to the translation requirements. Translating every agenda into multiple language may be unnecessary. Additionally, live translation services present a host of challenges for agencies. Brown Act meetings can run long, and MWDOC has multiple meetings each month. We would need to hire multiple translators to be on-hand during the entire meeting, and possibly need to invest in translation technology (e.g., headphones for every member of the public). This is on top of the closed-captioning service that would also be required.

The California Municipal Utilities Agency (CMUA), on behalf of their members, has been actively working on amendments to AB 339 and working with the author's office. These amendments would only require agencies to make arrangements to provide live translation during meetings *upon request from a member of the public*. Translation services would also only be offered for public comments made by the requesting person. Amendments would specify that an agency shall be considered to have complied with the requirements of this section if it makes a reasonable attempt to obtain either in-house or contracted-for translation services. There would also be a presumption that comments have been correctly translated if the agency provides translation services. Finally, amendments would allow agencies to be exempt from these requirements if, pursuant to a majority vote of its governing body, it adopts a resolution declaring that a hardship exists that prevents the local agency from providing translation services.

CMUA has reported that before the Legislature adjourned for spring recess, that there are amendments pending for AB 339 and many of the changes are responsive to CMUA's feedback. These changes include:

- Removing the piece about closed captioning, recognizing that stipulation presented an unfair burden on local governments;
- Changes to the emergency language;

- Removing all references to the 5% threshold and instead affirm that constituents
  must be able to request interpretation services if they need them, and that entities
  must publicize that these services are available; and
- Removing some of the translation requirements (such as for full agenda packets) and where translations are required, reduced the number of languages to two.

CMUA believes these amendments strike a reasonable balance and help significantly lower the cost of implementation. The ACWA State Legislative Committee voted to adopt an oppose unless amended position as well, and is working with CMUA. The amendments outlined above should be in print in early April.

Other organizations, including California Special Districts Association, the League of California Cities, and Rural County Representatives of California, are opposed to the bill.

## **BOARD OPTIONS**

# Option #1

 Adopt an oppose unless amended position on AB 339 and work with CMUA on their proposed amendments.

**Fiscal Impact:** This bill has the potential to be very costly for the District to implement, if it passes as written.

**Business Analysis:** This bill could fundamentally change the way we prepare our agenda packets. In order for there to be sufficient time for translation services, items could have to be prepared potentially weeks in advance. This could limit the District's ability to act quickly on issues with time constraints such as legislation.

#### Option #2

Take no action

**Fiscal Impact:** Same as above **Business Analysis:** Same as above

#### STAFF RECOMMENDATION

Option #1

### **ATTACHED:**

AB 339 Full Text

### **Introduced by Assembly Members Lee and Cristina Garcia**

January 28, 2021

An act to amend Sections 9027, 54953, 54954.2, 54954.3, 11122.5, 11123, 11125.7 of, and to add Sections 9027.1 and 9028.1 to, the Government Code, relating to state and local government.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 339, as introduced, Lee. State and local government: open meetings.

Existing law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified.

This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation, as provided, and requires translation services to be provided for the 10 most-spoken languages, other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified. The bill would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified.

 $AB 339 \qquad \qquad -2 -$ 

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate.

This bill would require all meetings to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require, even in the case of a declared state or local emergency, teleconferenced meetings to include an in-person public comment opportunity. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified. The bill would also require the legislative bodies of the local agency to employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of a non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people, as defined.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The Act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

This bill would require all meetings, as defined, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified.

Existing law, the Dymally-Alatorre Bilingual Services Act, requires any materials explaining services available to the public to be translated

-3- AB 339

into any non-English language spoken by a substantial number of the public, as defined, served by the agency, and requires every state and local agency serving a substantial number of non-English-speaking people, as defined, to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to ensure provision of information and services in the language of the non-English-speaking person.

This bill would require legislative bodies of local agencies, and state bodies, as defined, to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5% of the population in the area governed by the local agency, or state body's jurisdiction, are speakers.

By imposing new duties on local governments with respect to meetings, 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.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

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

- SECTION 1. Section 9027 of the Government Code is amended to read:
- 3 9027. Except as otherwise provided in this article, all meetings
- 4 of a house of the Legislature or a committee thereof shall be open 5 and public, and all persons shall be permitted to attend the
- 6 meetings. Additionally, all meetings shall include an opportunity
- 7 for all persons to attend via a call-in option or an internet-based
- 8 service option that provides closed captioning services. Both a
- 9 call-in and an internet-based service option shall be provided to

AB 339 —4—

the public. As used in this article, "meeting" means a gathering of a quorum of the members of a house or committee in one place place, including a gathering using teleconference technology, for the purpose of discussing legislative or other official matters within the jurisdiction of the house or committee. As used in this article, "committee" includes a standing committee, joint committee, conference committee, subcommittee, select committee, special committee, research committee, or any similar body.

SEC. 2. Section 9027.1 is added to the Government Code, to read:

9027.1. All meetings shall provide the public with an opportunity to comment on proposed legislation, either in person or remotely via call-in or internet-based service, consistent with requirements in Section 9027. Persons commenting in person shall not have more time or in any other way be prioritized over persons commenting remotely via call-in or internet-based service. Translation services shall be provided for the 10 most-spoken languages, other than English, in California. If there are time restrictions on public comment, persons giving a public comment in a language other than English shall have double the amount of time as those giving a comment in English to allow for translation, unless simultaneous translation equipment is available.

SEC. 3. Section 9028.1 is added to the Government Code, to read:

9028.1. Instructions on how to attend the meeting via call-in or internet-based service shall be posted online in an easily accessible location at the time the meeting is scheduled and notice of the meeting is published. The posted instructions shall include translations into the 10 most-spoken languages, other than English, in California, and shall list a hotline that members of the public can call for assistance, with assistance in the 10 most-spoken languages provided.

SEC. 4. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter. Additionally, all meetings shall include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides

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closed-captioning services. Both a call-in and an internet-based service option shall be provided to the public.

- (b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.
- (2) Teleconferencing, as authorized by this section, may be used by members of the legislative body for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.
- (3) If the legislative body of a local agency elects to use teleconferencing, other than what is required by subdivision (a), it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.
- (4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.
- (5) Notwithstanding any laws that prohibit in-person government meetings in the case of a declared state of emergency, including a public health emergency, teleconferenced meetings shall include an in-person public comment opportunity, wherein members of the public can report to a designated site to give public comment in person.

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 (c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

- (2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
- (3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.
- (d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.
- (2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.
- (3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section

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1 14087.3 of the Welfare and Institutions Code, and any advisory 2 committee to a county sponsored health plan licensed pursuant to 3 Chapter 2.2 (commencing with Section 1340) of Division 2 of the 4 Health and Safety Code if the advisory committee has 12 or more 5 members.

SEC. 5. Section 54954.2 of the Government Code is amended to read:

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54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, internet website, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when request for disability-related modification accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. In compliance with the Dymally-Alatorre Bilingual Services Act (Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1), agendas and instructions for accessing the meeting, whether teleconferenced or in person, shall be translated into all languages for which 5 percent of the population in the area governed by the local agency is a speaker.

- (2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, internet website, the following provisions shall apply:
- (A) An online posting of an agenda shall be posted on the primary—Internet Web site internet website homepage of a city, county, city and county, special district, school district, or political

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subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

- (B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:
- (i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.
  - (ii) Platform independent and machine readable.
- (iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.
- (C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site internet website and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:
- (i) A direct link to the integrated agenda management platform shall be posted on the primary—Internet Web site internet website homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an—Internet Web site internet website with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.
- (ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.
- (iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

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(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

- (D) For the purposes of this paragraph, both of the following definitions shall apply:
- (i) "Integrated agenda management platform" means an Internet Web site internet website of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.
- (ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.
- (E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.
- (3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her the member's own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.
- (b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

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(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

- (2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).
- (3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.
- (c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.
- (d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, internet website, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:
- (1) A legislative body as that term is defined by subdivision (a) of Section 54952.
- (2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.
- SEC. 6. Section 54954.3 of the Government Code is amended to read:
- 54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. All meetings must also provide the public with an opportunity to address the legislative body

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1 remotely via call-in and internet-based service, consistent with 2 requirements in Section 54953. Persons commenting in person 3 shall not have more time or in any other way be prioritized over 4 persons commenting remotely via call-in or internet-based service. Instructions on how to attend the meeting via call-in or 6 internet-based service shall be posted online along with the meeting 7 agenda in an easily accessible location. However, the agenda need 8 not provide an opportunity for members of the public to address the legislative body on any item that has already been considered 10 by a committee, composed exclusively of members of the 11 legislative body, at a public meeting wherein all interested members 12 of the public were afforded the opportunity to address the 13 committee on the item, before or during the committee's 14 consideration of the item, unless the item has been substantially 15 changed since the committee heard the item, as determined by the 16 legislative body. Every notice for a special meeting shall provide 17 an opportunity for members of the public to directly address the 18 legislative body concerning any item that has been described in 19 the notice for the meeting before or during consideration of that 20 item. 21

(b) (1) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

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- (2) Notwithstanding paragraph (1), when the legislative body of a local agency limits time for public comment, the legislative body of a local agency shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body of a local agency.
- (3) Paragraph (2) shall not apply if the legislative body of a local agency utilizes simultaneous translation equipment in a manner that allows the legislative body of a local agency to hear the translated public testimony simultaneously.
- (c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

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(d) Legislative bodies of local agencies shall employ a sufficient amount of qualified bilingual persons to provide translation during the meeting in the language of the non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people. "Non-English-speaking people" is defined as members of a group who either do not speak English, or who are unable to effectively communicate in English because it is not their native language, and who comprise 5 percent or more of the people served by the statewide or any local office or facility of a state agency.

- SEC. 7. Section 11122.5 of the Government Code is amended to read:
- 11122.5. (a) As used in this article, "meeting" includes any congregation of a majority of the members of a state-body body, including a virtual congregation using teleconference technology, at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.
- (b) (1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.
- (2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.
- (c) The prohibitions of this article do not apply to any of the following:
- (1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).
- (2) (A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or

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to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.

- (B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.
- (3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.
- (4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.
- (5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.
- (6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.
- SEC. 8. Section 11123 of the Government Code is amended to read:
- 11123. (a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article. Additionally, all meetings shall include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services. Both a call-in and an internet-based service option shall be provided to the public.

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(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

- (A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.
- (B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.
- (C) If the state body elects to conduct a meeting or proceeding by teleconference, other than what is required by subdivision (a) and such that all members of the body that are present at the meeting are teleconferencing into the meeting, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.
- (D) All votes taken during a teleconferenced meeting shall be by rollcall.
- (E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.
- (F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting. meeting to ensure that members of the public are able to give public comment in person. This location must be publicly accessible and able to accommodate a reasonable amount of people, given the circumstances.
- (2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This While this section requires that both an call-in and internet-based service are available to the public to join all open meetings that are held in-person, this section does

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not prohibit a state body from providing members of the public with additional locations in *or opportunities by* which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) Instructions on how to attend the meeting via call-in or internet-based service shall be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings. In compliance with the Dymally-Alatorre Bilingual Services Act(Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1), the posted instructions shall also be translated into all languages of which 5 percent of the population of the state body's jurisdiction speaks.

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- (d) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
- SEC. 9. Section 11125.7 of the Government Code is amended to read:
- 11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.
- (b) In compliance with subdivision (a) of Section 11123, public comment shall be made available for those attending any meeting

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via call-in or internet-based service option. Persons commenting
 in person shall not have more time or in any other way be
 prioritized over persons commenting remotely via call-in or
 internet-based service.

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(c) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

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- (d) (1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body. In compliance with the Dymally-Alatorre Bilingual Services Act (Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1), translation services shall be provided for all languages of which 5 percent of the population of the state body's jurisdiction speaks. Should there be a limit on speaking time, persons commenting in another language shall be given twice as much time as those commenting in English in order to accommodate time for translation services. This is not required when simultaneous translation services are available.
- (2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.
- (e) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

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36 (f) This section is not applicable to closed sessions held pursuant to Section 11126.

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(g) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section

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1 11500), relating to administrative adjudication, or to the conduct
2 of those proceedings.

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(h) This section is not applicable to hearings conducted by the California Victim Compensation Board pursuant to Sections 13963 and 13963.1.

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- (i) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.
- SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.
- SEC. 11. The Legislature finds and declares that Sections 4, 5, and 6 of this act, which amend Section 54953, 54954.2, and 54954.3 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

The provisions of the act allow for greater public access through requiring specified entities to provide a call-in and internet-based service and instructions on how to access these options to the public for specified meetings and allow for greater accommodations for non-English speakers attending the meetings.

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# ACTION ITEM April 7, 2021

**TO:** Board of Directors

FROM: Robert Hunter Staff Contact: Heather Baez

General Manager

SUBJECT: AB 377 (R. RIVAS) – WATER QUALITY: IMPAIRED WATERS

# STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt an oppose position on AB 377 (R. Rivas).

#### COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

#### BILL SUMMARY

Assembly Bill 377 would require all California surface waters to attain applicable beneficial uses by January 1, 2050. It would require the state and regional boards, when issuing an NPDES permit, a waste discharge requirement, or a waiver of a waste discharge requirement, to require that the discharge to surface water does not cause or contribute to an exceedance of an applicable water quality standard in receiving waters.

It also prohibits the use of a best management practice permit term to authorize a discharge to surface water that causes or contributes to an exceedance of an applicable water quality standard in receiving waters.

AB 377 also creates a new system of penalties for violations of the terms of this measure.

Budgeted (Y/N): n/a	Budgeted amount: n/a		Core X	Choice	
Action item amount: None		Line item:			
Fiscal Impact (explain if unbudgeted):					

#### **ARGUMENTS IN SUPPORT**

The federal Clean Water Act (CWA) was enacted 50 years ago. Despite a half century of effort, the majority of California's surface waters remain impaired. AB 377 draws a firm line to require immediate compliance with the requirements of the CWA and impose meaningful penalties on violators sufficient to realize the goals of the CWA by 2030.

#### ARGUMENTS IN OPPOSITION

In addition to specific requirements, the CWA includes aspirational goals that are not literally feasible in many circumstances. In lieu of arbitrary action to enforce unattainable goals on the part of the State Water Resources Control Board and the nine regional water quality control boards, National Pollution Discharge Elimination System (NPDES) permits contain Best Management Practices (BMPs) that identify the best <u>feasible</u> practices that a discharger should implement. If an NPDES permit holder does in fact implement those BMPs, they are deemed to be in compliance with the CWA Act and the state's Porter-Colonge Water Quality Control Act despite the fact that the discharge may add pollutants to the receiving water. The reason for this regulatory approach is that some pollutants cannot be fully removed in the short term without imposing unreasonable conditions. The compromise is to require the best possible practices that are actually attainable.

AB 377 eliminates this approach in favor of simply stating that NPDES may not allow any CWA violations under most circumstances and imposing heavy fines for violations that are unavoidable. The fines collected from dischargers will go into a new fund created in the state budget and be available for appropriation by the legislature. The new fund will be expended for competitive grants for projects to eliminate pollution. There are no requirements, however, that the projects funded will be required to bring about compliance with all CWA requirements upon completion. In other words, it allows any applicant to pursue funding for their preferred project with fewer demands on them than those placed on permit holders through BMPs. As such, this bill simply creates a new layer of bureaucracy funded by permit holders with no reason to believe it will be any more effective than the current system of enforcement.

#### **BOARD OPTIONS**

#### Option #1

 Adopt an oppose position on AB 377 and send a letter to the author and the Orange County coalition

**Fiscal Impact:** If implemented, this measure has the potential to be very costly to permit holders, however it is difficult to calculate in advance. Under the terms of the bill, there is no limit to how high a fine could go. It could be an amount that would prevent the entity to continue to function.

#### Option #2

Take no action

Fiscal Impact: Same as above

#### STAFF RECOMMENDATION

Option #1

#### ATTACHED:

• AB 377 Full Text

#### AMENDED IN ASSEMBLY MARCH 22, 2021 AMENDED IN ASSEMBLY MARCH 8, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

#### ASSEMBLY BILL

No. 377

Introduced by Assembly Member Robert Rivas
(Principal coauthor: Senator Hertzberg)
(Coauthor: Assembly Member Lee)
(Coauthors: Assembly Members Bloom and Lee)

February 1, 2021

An act to add Article 3.5 (commencing with Section 13150) to Chapter 3 of Division 7 of the Water Code, relating to water quality.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 377, as amended, Robert Rivas. Water quality: impaired waters. (1) Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality and prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Existing law requires each regional board to formulate and adopt water quality control plans for all areas within the region, as provided.

This bill would require all California surface waters to be fishable, swimmable, and drinkable attain applicable beneficial uses by January 1, 2050, as prescribed. 2050. The bill would prohibit require the state board and regional boards from authorizing boards, when issuing an NPDES discharge, or permit, a waste discharge requirement or requirement, or a waiver of a waste discharge requirement for a

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discharge, requirement, to require that the discharge to surface water that causes or contributes does not cause or contribute to an exceedance of an applicable water quality standard in receiving waters, or from authorizing and to not authorize the use of a best management practice permit term to authorize a discharge to surface water that causes or contributes to an exceedance of an applicable water quality standard in receiving waters. The bill would prohibit, on or after January 1, 2030, a regional water quality control plan from including a schedule for implementation for achieving a water quality standard for a surface water of the state that was adopted as of January 1, 2021, and would prohibit a regional water quality control plan from including a schedule for implementation of a water quality standard for a surface water of the state that is adopted after January 1, 2021, unless specified conditions are met. The bill would prohibit an NPDES permit, waste discharge requirement, or waiver of a waste discharge requirement to discharge to a surface water of the state from being renewed, reissued, or modified to contain effluent limitations or conditions that that, among other things, are less stringent than those in the previous permit, requirement, or waiver, except as specified.

(2) Existing law authorizes the imposition of civil penalties for violations of certain waste discharge requirements and requires that penalties imposed pursuant to these provisions be deposited into the Waste Discharge Permit Fund, to be expended by the state board, upon appropriation by the Legislature, for specified purposes related to water quality. For violations of certain other waste discharge requirements, including the violation of a waste discharge requirement effluent limitation, existing law imposes specified civil penalties, the proceeds of which are deposited into the continuously appropriated State Water Pollution Cleanup and Abatement Account, which is established in the State Water Quality Control Fund.

This bill would require, by January 1, 2030, the state board and regional boards to develop an Impaired Waterways Enforcement Program to enforce all remaining water quality standard violations that are causing or contributing to an exceedance of a water quality standard. standard in a surface water of the state. To ensure any water segments impaired by ongoing pollutants are brought into attainment with water quality standards, the bill would require the state board and regional boards, by January 1, 2040, to evaluate the state's remaining impaired state surface waters using a specified report. The bill would require, by January 1, 2040, the state board and regional boards to report to the

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Legislature a plan to bring the final impaired water segments into attainment by January 1, 2050. The bill would create the Waterway Attainment Account in the Waste Discharge Permit Fund and would make moneys in the Waterway Attainment Account available for the state board to expend, upon appropriation by the Legislature, to bring remaining impaired water segments into attainment in accordance with the plan. The bill would create in the Waterway Attainment Account the Waterway Attainment Penalty Subaccount, composed of penalties obtained pursuant to the Impaired Waterways Enforcement Program, and would make moneys in the subaccount available for the state board to expend, upon appropriation by the Legislature, for purposes of the program. The bill would require, by January 1, 2040, and subject to a future legislative act, 50% of the annual proceeds of the State Water Pollution Cleanup and Abatement Account to be annually transferred to the Waterway Attainment Account. The bill would require the state board, upon appropriation by the Legislature, to expend 5% of the annual proceeds of the State Water Pollution Cleanup and Abatement Account to fund a specified state board program.

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

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

- SECTION 1. (a) The Legislature finds and declares all of the following:
  - (1) Water is a necessity of human life, and every Californian deserves access to clean and safe water. Yet climate change jeopardizes the quality and safety of our water. Climate change is impacting the state's hydrology to create water resource vulnerabilities that include, but are not limited to, changes to water supplies, subsidence, increased amounts of water pollution, erosion, flooding, and related risks to water and wastewater infrastructure and operations, degradation of watersheds, alteration of aquatic ecosystems and loss of habitat, multiple impacts in coastal areas, and ocean acidification.
  - (2) Many aspects of climate change and associated impacts will continue for centuries, even if anthropogenic emissions of greenhouse gases are reduced or stopped. Given the magnitude of climate change impacts on California's hydrology and water systems, the state's climate change response should include

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attainment of water quality standards to allow the state's watersheds to resiliently adapt to forthcoming and inevitable climate change stressors.

- (3) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) was enacted on October 18, 1972, to establish the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The objective of the federal Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. To achieve that objective, Congress declared a national goal that the discharge of pollutants into navigable waters be eliminated by 1985.
- (4) California has long been a national and international leader on environmental stewardship efforts, including the areas of air quality protections, energy efficiency requirements, renewable energy standards, and greenhouse gas emission standards for passenger vehicles. The program established by this act will continue this tradition of environmental leadership by placing California at the forefront of achieving the nation's goal of making all waterways swimmable, fishable, and drinkable.
- (5) The State Water Resources Control Board, along with the nine California regional water quality control boards, protect and enhance the quality of California's water resources through implementing the federal Clean Water Act, as amended, and California's Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).
- (6) The State Water Resources Control Board's mission is to "preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations."
- (7) Under Section 303(d) of the federal Clean Water Act (33 U.S.C. Sec. 1313(d)), California is required to review, make changes as necessary, and submit to the United States Environmental Protection Agency a list identifying water bodies not meeting water quality standards (303(d) list). California is required to include a priority ranking of those waters, taking into account the severity of the pollution and the uses to be made of

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those waters, including waters targeted for the development of total maximum daily loads (TMDLs).

- (8) As of the most recent 2018 303(d) list, nearly 95 percent of all fresh waters assessed in California, and over 1,400 water bodies, are listed as impaired, with only 114 TMDLs having been approved since 2009 in California. Of 164,741 assessed miles of rivers and streams, 82 percent were impaired. Of 929,318 assessed acres of lakes, reservoirs, and ponds, 93 percent were impaired. Of 575,000 assessed acres of bays, harbors, and estuaries, 99 percent were impaired. Of 2,180 assessed miles of coastal shoreline, 93 percent were impaired. Of 130,084 assessed acres of wetlands, 99 percent were impaired.
- (b) (1) In honor of the federal Clean Water Act's 50-year anniversary, it is the intent of the Legislature in enacting this act to recommit California to achieve the national goal to restore and maintain the chemical, physical, and biological integrity of the state's waters by eliminating the discharge of pollutants into impaired waterways.
- (2) It is further the intent of the Legislature in enacting this act to require that the State Water Resources Control Board and the California regional water quality control boards meet the national goal of achieving swimmable, fishable, and drinkable waters restoring applicable beneficial uses in surface water by no later than January 1, 2050.
- SEC. 2. Article 3.5 (commencing with Section 13150) is added to Chapter 3 of Division 7 of the Water Code, to read:

#### Article 3.5. State Waters Impairment

- 13150. All California surface waters shall—be fishable, swimmable, and drinkable attain applicable beneficial uses by January 1, 2050. To bring all water segments into attainment with this requirement, the state board and regional boards shall comply with the requirements of this article.
- 13151. (a) (1) The state board and regional boards shall not do either boards, when issuing an NPDES permit, shall comply with both of the following:
- (A) Authorize an NPDES Shall require that the discharge to a surface water of the United States that causes or contributes does

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*not cause or contribute* to an exceedance of an applicable water 2 quality standard in receiving waters.

- (B) Authorize an NPDES permit that uses Shall not authorize the use of an alternative compliance determination, safe harbor "deemed in compliance" term, or any other best management practice permit term to authorize a discharge to a surface water of the United States that causes or contributes to an exceedance of an applicable water quality standard in receiving waters.
- (2) (A) Paragraph (1) does not prohibit enhanced watershed management programs or watershed management programs from being used as a planning tool for achieving compliance with applicable water quality standards in receiving waters.
- (B) Paragraph (1) does not prevent NPDES permittees from using best management practices to meet applicable water quality standards in receiving waters.
- (C) Paragraph (1) does not apply to salt and nutrient management plans, including the program of implementation, approved as of January 1, 2021, that include alternative compliance options.
- (b) The state board and regional boards shall not do either of the following:
- (1) Authorize a permit that does not include monitoring sufficient to demonstrate compliance with water quality standards and, unless infeasible, that does not include end-of-discharge pipe monitoring.
- (2) Authorize a permit unless it establishes criteria for, and requires, monitoring to evaluate compliance with water quality standards.
- (c) (1) The state board and regional boards shall not do either boards, when issuing a waste discharge requirement or waiver of a waste discharge requirement, shall comply with both of the following:
- (A) Authorize a waste discharge requirement or waiver of a waste discharge requirement for a Shall require that the discharge to a surface water of the state that causes or contributes does not cause or contribute to an exceedance of an applicable water quality standard in receiving waters.
- (B) Authorize a waste discharge requirement or waiver of a waste discharge requirement that uses Shall not authorize the use of an alternative compliance determination, safe harbor "deemed

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in compliance" term, or any other best management practice permit term to authorize a discharge to a surface water of the state that causes or contributes to an exceedance of an applicable water quality standard in receiving waters.

- (2) (A) Paragraph (1) does not prevent a waste discharge requirement or waiver of a waste discharge requirement from using best management practices to meet applicable water quality standards in receiving waters.
- (B) Paragraph (1) does not apply to salt and nutrient management plans, including the program of implementation, approved as of January 1, 2021, that include alternative compliance options.
- 13152. (a) (1) Notwithstanding Section 13242, on and after January 1, 2030, a regional water quality control plan, including the program of implementation, shall not include a schedule for implementation for achieving a water quality standard *for a surface water of the state* that was adopted in an approved regional water quality control plan as of January 1, 2021. It is the intent of the Legislature in enacting this requirement to ensure that all water quality standards in effect as of January 1, 2021, are fully implemented and achieved by January 1, 2030.
- (2) Paragraph (1) does not apply to salt and nutrient management plans, including the program of implementation, approved as of January 1, 2021, that include a time schedule for compliance.
- (b) The state board and regional boards shall only include in a regional water quality control plan a schedule for implementation of a water quality standard *for a surface water of the state* that is adopted after January 1, 2021, if all of the following conditions are met:
- (1) The schedule for implementation of the water quality standard is the shortest time necessary, and in no instance exceeds five years.
- (2) The schedule for implementation is necessary for the permittee to undertake physical construction that is necessary to achieve compliance with the water quality standard.
- (3) The water quality standard is not substantially similar to a water quality standard that was in effect as of January 1, 2021.
- (c) (1) An NPDES permit, waste discharge requirement, or waiver of a waste discharge requirement to discharge to a surface water of the state shall not be renewed, reissued, or modified to

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1 contain effluent limitations or conditions that are satisfy any of the following:

- (A) Are less stringent than the comparable effluent limitations or conditions in the previous permit, requirement, or waiver, including, but not limited to, if the implementation of the less stringent effluent limitation or condition would result in a violation of an applicable water quality standard in receiving waters. waiver.
- (2) Notwithstanding paragraph (1), an NPDES permit, waste discharge requirement, or waiver of a waste discharge requirement may be renewed, reissued, or modified to contain a less stringent effluent limitation or condition applicable to a pollutant if any of the following apply:
- (B) Are less stringent than required by effluent limitation guidelines promulgated under Section 304(b) of the federal Clean Water Act (33 U.S.C. Sec. 1314(b)) in effect at the time the permit is renewed, reissued, or modified.
- (C) The implementation of the limitation or condition would result in a violation of a water quality standard under Section 303 of the federal Clean Water Act (33 U.S.C. Sec. 1313) to those waters.
- (2) A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation or condition applicable to a pollutant if any of the following apply:
- (A) Material and substantial alterations or additions to the permitted facility occurred after permit issuance that justify the application of the less stringent effluent limitation or condition.
- (B) Information, other than revised regulations, guidance, or test methods, is available that was not available at the time of permit issuance that would have justified the application of the less stringent effluent limitation or condition at the time of permit issuance.
- (C) The permit issuer determines that technical mistakes or mistaken interpretations of law were made in issuing the permit in accordance with Section 402(a)(1)(B) of the federal Clean Water Act (33 U.S.C. Sec. 1342(a)(1)(B)).
- (D) The less stringent effluent limitation or condition is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy.

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(E) The permittee has received a permit modification pursuant to Section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a) of the federal Clean Water Act (33 U.S.C. Secs. 1311(c), 1311(g), 1311(h), 1311(i), 1311(k), 1311(n), and 1326(a)).

- (F) The permittee has installed the treatment facilities required to meet the effluent limitations or conditions in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations or conditions, in which case the limitations or conditions in the renewed, reissued, or modified permit may reflect the level of pollutant control actually achieved, but shall not be less stringent than required by effluent limitation guidelines promulgated under Section 304(b) of the federal Clean Water Act (33 U.S.C. Sec. 1314(b)) in effect at the time of permit renewal, reissuance, or modification.
- (3) Subparagraphs (B) and (C) of paragraph (2) do not apply to a revised waste load allocation or an alternative grounds for translating water quality standards into effluent limitations or conditions unless both of the following are satisfied:
- (A) The cumulative effect of the revised allocation or alternative grounds results in a decrease in the amount of pollutants discharged into receiving waters.
- (B) The revised allocation or alternative grounds is not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) or for reasons otherwise unrelated to water quality.
- (d) The state board and regional boards shall not authorize an NPDES permit, waste discharge requirement, or waiver of a waste discharge requirement that does not include a complete antidegradation analysis as set out in State Water Resources Control Board Resolution No. 68-16 and Administrative Procedures Update 90-004.
- 13153. (a) (1) By January 1, 2030, the state board and regional boards shall develop an Impaired Waterways Enforcement Program to enforce all remaining water quality standard violations pursuant to Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 and Article 1 (commencing with Section 13300) of Chapter 5 that are causing or contributing to an exceedance of a water quality-standard. standard in a surface water of the state.

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(2) An enforcement action taken pursuant to the program shall result in sufficient penalties, conditions, and orders to ensure the person subject to the enforcement action is no longer causing or contributing to an exceedance of a water quality-standard in a surface water of the state.

- (3) A discharger shall remain liable for a violation of a water quality standard until sampling at the point of discharge demonstrates that the discharge is no longer causing or contributing to the exceedance. exceedance in a surface water of the state.
- (4) A discharger shall not be responsible for natural sources of pollution in surface waters of the state if the discharger can demonstrate all of the following:
- (A) Natural sources are not caused or mobilized by anthropogenic activity contributing to a water quality standard exceedance in receiving waters.
- (B) Anthropogenic sources to a surface water of the state are controlled and do not cause or contribute to an exceedance of an applicable water quality standard in receiving waters.
- (C) The discharge is consistent with any applicable waste load allocation assigned through a total maximum daily load.

(4)

(5) Penalties obtained pursuant to the program shall be deposited into the Waterway Attainment Penalty Subaccount, which is hereby created in the Waterway Attainment Account. Moneys in the subaccount shall be available for the state board to expend, upon appropriation by the Legislature, for purposes of the program.

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- (6) The state board and regional boards may issue an enforcement order pursuant to Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 or Article 1 (commencing with Section 13300) of Chapter 5 that includes a compliance schedule deadline that extends beyond January 1, 2030, to a discharger for a discharge that is causing or contributing to an exceedance of a water quality standard.
- (b) (1) By January 1, 2040, to ensure any water segments impaired by ongoing legacy pollutants and nonpoint source pollution are brought into attainment with water quality standards, the state board and regional boards shall evaluate the state's remaining impaired *state surface* waters using the most current integrated report.

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(2) The state board and regional boards shall, by January 1, 2040, report to the Legislature in compliance with Section 9795 of the Government Code a plan to bring the final impaired water segments into attainment by January 1, 2050.

- (3) The requirement for submitting a report imposed under paragraph (2) is inoperative on January 1, 2044, pursuant to Section 10231.5 of the Government Code.
- (c) (1) The Waterway Attainment Account is hereby created in the Waste Discharge Permit Fund. Moneys in the Waterway Attainment Account shall be available for the state board to expend, upon appropriation by the Legislature, to bring remaining impaired water segments into attainment in accordance with the plan submitted pursuant to paragraph (2) of subdivision (b), subject to subdivision (d).
- (2) (A) By January 1, 2040, subject to a future legislative act, 50 percent of the annual proceeds of the State Water Pollution Cleanup and Abatement Account shall be annually transferred to the Waterway Attainment Account.
- (B) This paragraph shall become inoperative January 1, 2051, or when all water segments are in attainment with water quality standards, whichever comes first.
- (d) Moneys in the Waterway Attainment Account shall be expended by the state board, upon appropriation by the Legislature, to bring impaired waterways into attainment with water quality standards to the maximum extent possible. Moneys expended from the account shall address or prevent water quality impairments or address total maximum daily loads under the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.). Moneys in the account shall only be expended on the following:
- (1) Restoration projects, including supplemental environmental projects, that improve water quality.
- (2) Best management practice research innovation and incentives to encourage innovative best management practice implementation.
- (3) Source control programs.
- (4) Identifying nonfilers.

- (5) Source identification of unknown sources of impairment.
- 37 (6) Enforcement actions that recover at least the amount of 38 funding originally expended, which shall be deposited into the 39 Waterway Attainment Account.

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(7) Competitive grants to fund projects and programs for municipal separate storm sewer system permit compliance requirements that would prevent or remediate pollutants, including zinc, caused by tires in the state. Priority shall be given to applicants that discharge to receiving waters with zinc levels that exceed the established total maximum daily loads and to projects that provide multiple benefits.

- (e) The state board shall, upon appropriation by the Legislature, expend 5 percent of the annual proceeds of the State Water Pollution Cleanup and Abatement Account to fund the state board's SWAMP Clean Water Team Citizen Monitoring Program in order to inform the integrated report.
- 13154. For purposes of this article, the following definitions apply:
- (a) "Best management practice" means a practice or set of practices determined by the state board or a regional board for a designated area to be the most effective feasible means of preventing or reducing the generation of a specific type of nonpoint source pollution, given technological, institutional, environmental, and economic constraints.
- (b) "Drinkable" applies to waters subject to a regional water quality control plan and means that the waters are drinkable to the extent required by the regional water quality control plan.

<del>(c)</del>

(b) "Integrated report" means the state report that includes the list of impaired waters required pursuant to Section 303(d) of the federal Clean Water Act (33 U.S.C. Sec. 1313(d)) and the water quality assessment required pursuant to Section 305(b) of the federal Clean Water Act (33 U.S.C. Sec. 1315(b)).

30 <del>(d)</del>

31 (c) "NPDES" means the national pollutant discharge elimination 32 system established in the federal Clean Water Act (33 U.S.C. Sec. 33 1251 et seq.).

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(d) "Regional board" means a California regional water quality control board.

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(e) "Regional water quality control plan" means a water quality control plan developed pursuant to Section 13240.

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1 (f) "State board" means the State Water Resources Control 2 Board.

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(g) "State Water Pollution Cleanup and Abatement Account" means the State Water Pollution Cleanup and Abatement Account created pursuant to Section 13440.

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(h) "Supplemental environmental project" means an environmentally beneficial project that a person subject to an enforcement action voluntarily agrees to undertake in settlement of the action and to offset a portion of a civil penalty.

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13 (*i*) "Waste Discharge Permit Fund" means the Waste Discharge Permit Fund created pursuant to Section 13260.

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16 (*j*) "Waterway Attainment Account" means the Waterway 17 Attainment Account created pursuant to paragraph (1) of 18 subdivision (c) of Section 13153.

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20 (k) "Waterway Attainment Penalty Subaccount" means the 21 Waterway Attainment Penalty Subaccount created pursuant to 22 paragraph—(4) (5) of subdivision (a) of Section 13153.

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To: Board of Directors, Municipal Water District of Orange County

From: Natural Resource Results

RE: Monthly Board Report – April 2021

#### **Cabinet Nominations**

Congresswoman Deb Halaand was confirmed to be the Secretary of the Interior on March 15<sup>th</sup> with a 51-40 vote. Four Republicans – Senator Graham (SC), Senator Collins (ME), Senator Sullivan (AK) and Senator Murkowski (AK) – joined all Democrats in supporting her confirmation.

Michael Regan was confirmed to be the EPA Administrator on March 10<sup>th</sup> with a 66-34 vote. Regan was supported by sixteen Republicans and all Democrats.

President Biden now has his entire cabinet in place and held his first formal cabinet meeting on April 1<sup>st</sup>.

#### **STREAM Act**

On March 30<sup>th</sup>, Senator Feinstein began circulating a discussion draft of the STREAM Act, a piece of legislation intended to address western water and drought. She is requesting comment letters and letters of support by April 8<sup>th</sup>. Because this is a discussion draft that is subject to change, NRR advises that the MWDOC board defer voting on a formal position until its May board meeting when legislation has been formally introduced. That said, we are currently working with MWDOC staff to analyze the bill and develop comments that can be shared with the Senator.

Highlights of the legislation include the following:

- \$750 million for groundwater and surface storage projects and conveyance
  - \$50 million of these funds are specifically for natural water retention and release projects
- \$250 million for water recycling projects
- \$250 million for environmental restoration projects
- \$100 million in desalination funding
- \$100 million for drinking water assistance to disadvantaged communities
- \$150 million for a Reclamation water infrastructure financing program modeled off of EPA's WIFIA program

One of the more important aspects of this bill is that it expedites water recycling, desalination and non-federal storage projects with less than \$250 million in federal funding by allowing the Department of the Interior to approve projects for funding administratively. Absent this provision, once the WIIN Act expires in December 2021, Congress must individually authorize all water recycling, desalination and non-federal storage projects which is an extremely burdensome and an almost impossible process if the earmark ban is in place.

#### <u>President's Budget and Appropriations</u>

President Biden is expected to submit his "skinny budget" to Congress any day now. The "skinny budget" is essentially a high-level overview of the Administration's FY22 funding priorities and will be followed by a more in-depth, agency by agency budget request in the coming months. To provide some context, former President Trump submitted a "skinny budget" to Congress in the first year of his presidency that was 67 pages (compared to the thousands of pages in a formal budget request) and only detailed topline discretionary appropriations tables for federal agencies.

In Congress, the appropriations process will kick off in earnest once the President's budget request has been transmitted to Congress. The "skinny budget" will allow appropriators to begin crafting topline spending numbers for each of the 12 appropriations bills but not much else. The appropriations process will look different this year as House Democrats plan to revive earmarks. The Senate has not announced how it will handle earmarks which could create some potential headaches in the event that one chamber adopts earmarks and the other does not.

#### <u>Infrastructure Legislation</u>

On March 31<sup>st</sup>, President Biden announced his American Jobs Plan which will be the foundation of an infrastructure package. The plan costs \$2.5 trillion over an eight-year period and is fully offset by an increase in taxes on corporations. The sweeping plan would pump money into transportation, renewable energy, manufacturing and efforts to combat climate change—funded by undoing some of the tax breaks that corporations received from the Tax Cuts and Jobs Act of 2017. The White House plans to release details for its second major infrastructure package in mid-April, which could cost \$1 trillion or more, with a focus on social measures including expanding health care and paid-leave access and extending the child tax credit—offset by tax increases on wealthy individuals.

The White House released a 25-page fact sheet (attached to this memo) outlining the proposal but few details beyond the fact sheet have been made public. The water related portions of the American Jobs Plan are highlighted below:

• \$45 billion in the Environmental Protection Agency's Drinking Water State Revolving Fund and in Water Infrastructure Improvements for the Nation Act (WIIN) grants to eliminate all lead pipes and service lines in the country. In addition to reducing lead exposure in homes, this investment also will reduce lead exposure in 400,000 schools and childcare facilities.

- **\$56 billion** in grants and low-cost flexible loans to states, Tribes, territories, and disadvantaged communities across the country to modernize aging water systems by scaling up existing, successful programs.
- **\$10 billion** in funding to monitor and remediate PFAS (per- and polyfluoroalkyl substances) in drinking water and to invest in rural small water systems and household well and wastewater systems, including drainage fields.

There is also a paragraph (below) that referenced western drought and wildfires, but again, not much detail on these issues:

Maximize the resilience of land and water resources to protect communities and the environment. President Biden's plan will protect and, where necessary, restore nature-based infrastructure — our lands, forests, wetlands, watersheds, and coastal and ocean resources. Families and businesses throughout the United States rely on this infrastructure for their lives and livelihoods. President Biden is calling on Congress to invest in protection from extreme wildfires, coastal resilience to sea-level rise and hurricanes, support for agricultural resources management and climate-smart technologies, and the protection and restoration of major land and water resources like Florida's Everglades and the Great Lakes. Additionally, the President's plan provides funding for the western drought crisis by investing in water efficiency and recycling programs, Tribal Water Settlements, and dam safety. President Biden's plan will empower local leaders to shape these restoration and resilience project funds in line with the Outdoor Restoration Force Act.

The American Jobs Plan has received mixed reviews in Congress. The Progressive wing of the Democrat Party has slammed the plan for not doing enough and has called for \$10 trillion in spending, rather than the \$2.5 trillion proposed by the Administration. Congressional Republicans have also decried the proposal with Senate Minority Leader McConnell stating that the plan would not receive a single Republican vote in the Senate.

House Speaker Nancy Pelosi is reportedly aiming to have the House pass the American Jobs Plan by July 4, with passage very likely to be done under the budget reconciliation process (i.e., the same method that House and Senate Democrats used to pass the American Rescue Plan Act of 2021). The House's July 4 goal means the Senate would not formally take up the infrastructure-only portion of President's Biden proposal until the middle of July 2021 at the absolute earliest.

#### The American Jobs Plan

While the American Rescue Plan is changing the course of the pandemic and delivering relief for working families, this is no time to build back to the way things were. This is the moment to reimagine and rebuild a new economy. The American Jobs Plan is an investment in America that will create millions of good jobs, rebuild our country's infrastructure, and position the United States to out-compete China. Public domestic investment as a share of the economy has fallen by more than 40 percent since the 1960s. The American Jobs Plan will invest in America in a way we have not invested since we built the interstate highways and won the Space Race.

The United States of America is the wealthiest country in the world, yet we rank 13<sup>th</sup> when it comes to the overall quality of our infrastructure. After decades of disinvestment, our roads, bridges, and water systems are crumbling. Our electric grid is vulnerable to catastrophic outages. Too many lack access to affordable, high-speed Internet and to quality housing. The past year has led to job losses and threatened economic security, eroding more than 30 years of progress in women's labor force participation. It has unmasked the fragility of our caregiving infrastructure. And, our nation is falling behind its biggest competitors on research and development (R&D), manufacturing, and training. It has never been more important for us to invest in strengthening our infrastructure and competitiveness, and in creating the good-paying, union jobs of the future.

Like great projects of the past, the President's plan will unify and mobilize the country to meet the great challenges of our time: the climate crisis and the ambitions of an autocratic China. It will invest in Americans and deliver the jobs and opportunities they deserve. But unlike past major investments, the plan prioritizes addressing long-standing and persistent racial injustice. The plan targets 40 percent of the benefits of climate and clean infrastructure investments to disadvantaged communities. And, the plan invests in rural communities and communities impacted by the market-based transition to clean energy. Specifically, President Biden's plan will:

<u>Fix highways, rebuild bridges, upgrade ports, airports and transit systems</u>. The President's plan will modernize 20,000 miles of highways, roads, and main-streets. It will fix the ten most economically significant bridges in the country in need of reconstruction. It also will repair the worst 10,000 smaller bridges, providing critical linkages to communities. And, it will replace thousands of buses and rail cars, repair hundreds of stations, renew airports, and expand transit and rail into new communities.

Deliver clean drinking water, a renewed electric grid, and high-speed broadband to all Americans. President Biden's plan will eliminate all lead pipes and service lines in our drinking water systems, improving the health of our country's children and communities of color. It will put hundreds of thousands of people to work laying thousands of miles of transmission lines and capping hundreds of thousands of orphan oil and gas wells and abandoned mines. And, it will bring affordable, reliable, high-speed broadband to every American, including the more than 35 percent of rural Americans who lack access to broadband at minimally acceptable speeds.

Build, preserve, and retrofit more than two million homes and commercial buildings, modernize our nation's schools and child care facilities, and upgrade veterans' hospitals and federal buildings. President Biden's plan will create good jobs building, rehabilitating, and retrofitting affordable, accessible, energy efficient, and resilient housing, commercial buildings, schools, and child care facilities all over the country, while also vastly improving our nation's federal facilities, especially those that serve veterans.

Solidify the infrastructure of our care economy by creating jobs and raising wages and benefits for essential home care workers. These workers – the majority of whom are women of color – have been underpaid and undervalued for too long. The President's plan makes substantial investments in the infrastructure of our care economy, starting by creating new and better jobs for caregiving workers. His plan will provide home and community-based care for individuals who otherwise would need to wait as many as five years to get the services they badly need.

Revitalize manufacturing, secure U.S. supply chains, invest in R&D, and train Americans for the jobs of the future. President Biden's plan will ensure that the best, diverse minds in America are put to work creating the innovations of the future while creating hundreds of thousands of quality jobs today. Our workers will build and make things in every part of America, and they will be trained for well-paying, middle-class jobs.

Create good-quality jobs that pay prevailing wages in safe and healthy workplaces while ensuring workers have a free and fair choice to organize, join a union, and bargain collectively with their employers. By ensuring that American taxpayers' dollars benefit working families and their communities, and not multinational corporations or foreign governments, the plan will require that goods and materials are made in America and shipped on U.S.-flag, U.S.-crewed vessels. The plan also will ensure that Americans who have endured systemic discrimination and exclusion for generations finally have a fair shot at obtaining good paying jobs and being part of a union.

Alongside his American Jobs Plan, President Biden is releasing a Made in America Tax Plan to make sure corporations pay their fair share in taxes and encourage job creation at home. A recent study found that 91 Fortune 500 companies paid \$0 in federal taxes on U.S. income in 2018. Another study found that the average corporation paid just 8 percent in taxes. President Biden believes that profitable corporations should not be able to get away with paying little or no tax by shifting jobs and profits overseas. President Biden's plan will reward investment at home, stop profit shifting, and ensure other nations won't gain a competitive edge by becoming tax havens.

The President's American Jobs Plan is a historic public investment – consisting principally of one-time capital investments in our nation's productivity and long-term growth. It will invest about 1 percent of GDP per year over eight years to upgrade our nation's infrastructure, revitalize manufacturing, invest in basic research and science, shore up supply chains, and solidify our care infrastructure. These are investments that leading economists agree will give Americans good jobs now and will pay off for future generations by leaving the country more competitive and our communities stronger. In total, the plan will invest about \$2 trillion this

decade. If passed alongside President Biden's Made in America corporate tax plan, it will be fully paid for within the next 15 years and reduce deficits in the years after.

### BUILD WORLD-CLASS TRANSPORTATION INFRASTRUCTURE: FIX HIGHWAYS, REBUILD BRIDGES, AND UPGRADE PORTS, AIRPORTS AND TRANSIT SYSTEMS

President Biden is calling on Congress to make a historic and overdue investment in our roads, bridges, rail, ports, airports, and transit systems. The President's plan will ensure that these investments produce good-quality jobs with strong labor standards, prevailing wages, and a free and fair choice to join a union and bargain collectively. These investments will advance racial equity by providing better jobs and better transportation options to underserved communities. These investments also will extend opportunities to small businesses to participate in the design, construction, and manufacturing of new infrastructure and component parts. President Biden's plan will deliver infrastructure Americans can trust, because it will be resilient to floods, fires, storms, and other threats, and not fragile in the face of these increasing risks. President Biden is calling on Congress to:

#### **Transform our crumbling transportation infrastructure:**

Decades of declining public investment has left our roads, bridges, rail, and transit systems in poor condition, with a trillion-dollar backlog of needed repairs. More than 35,000 people die in traffic crashes on U.S. roads each year, and millions more are seriously and often permanently injured. The United States has one of the highest traffic fatality rates in the industrialized world, double the rate in Canada and quadruple that in Europe. Across cities, suburbs, and rural areas, President Biden's plan will help parents get to work reliably and affordably, reduce the impacts of climate change for our kids, and make sure fewer families mourn the loss of a loved one to road crashes. His investments will use more sustainable and innovative materials, including cleaner steel and cement, and component parts Made in America and shipped on U.S.-flag vessels with American crews under U.S. laws. And, his infrastructure investments will mitigate socio-economic disparities, advance racial equity, and promote affordable access to opportunity.

The President's plan invests an additional \$621 billion in transportation infrastructure and resilience. It will:

• Repair American roads and bridges. One in five miles, or 173,000 total miles, of our highways and major roads are in poor condition, as well as 45,000 bridges. Delays caused by traffic congestion alone cost over \$160 billion per year, and motorists are forced to pay over \$1,000 every year in wasted time and fuel. The President is proposing a total increase of \$115 billion to modernize the bridges, highways, roads, and main streets that are in most critical need of repair. This includes funding to improve air quality, limit greenhouse gas emissions, and reduce congestion. His plan will modernize 20,000 miles of highways, roads, and main streets, not only "fixing them first" but "fixing them right," with safety, resilience, and all users in mind. It will fix the most economically significant

large bridges in the country in need of reconstruction, and it will repair the worst 10,000 smaller bridges, including bridges that provide critical connections to rural and tribal communities. The plan includes \$20 billion to improve road safety for all users, including increases to existing safety programs and a new Safe Streets for All program to fund state and local "vision zero" plans and other improvements to reduce crashes and fatalities, especially for cyclists and pedestrians.

- Modernize public transit. Households that take public transportation to work have twice the commute time, and households of color are twice as likely to take public transportation. Our current transit infrastructure is inadequate the Department of Transportation estimates a repair backlog of over \$105 billion, representing more than 24,000 buses, 5,000 rail cars, 200 stations, and thousands of miles of track, signals, and power systems in need of replacement. This translates to service delays and disruptions that leave riders stranded and discourage transit use. President Biden is calling on Congress to invest \$85 billion to modernize existing transit and help agencies expand their systems to meet rider demand. This investment will double federal funding for public transit, spend down the repair backlog, and bring bus, bus rapid transit, and rail service to communities and neighborhoods across the country. It will ultimately reduce traffic congestion for everyone.
- Invest in reliable passenger and freight rail service. The nation's rail networks have the potential to offer safe, reliable, efficient, and climate-friendly alternatives for moving people and freight. However, unlike highways and transit, rail lacks a multi-year funding stream to address deferred maintenance, enhance existing corridors, and build new lines in high-potential locations. There are currently projects just waiting to be funded that will give millions more Americans reliable and fast inter-city train service. President Biden is calling on Congress to invest \$80 billion to address Amtrak's repair backlog; modernize the high traffic Northeast Corridor; improve existing corridors and connect new city pairs; and enhance grant and loan programs that support passenger and freight rail safety, efficiency, and electrification.
- Create good jobs electrifying vehicles. U.S. market share of plug-in electric vehicle (EV) sales is only one-third the size of the Chinese EV market. The President believes that must change. He is proposing a \$174 billion investment to win the EV market. His plan will enable automakers to spur domestic supply chains from raw materials to parts, retool factories to compete globally, and support American workers to make batteries and EVs. It will give consumers point of sale rebates and tax incentives to buy American-made EVs, while ensuring that these vehicles are affordable for all families and manufactured by workers with good jobs. It will establish grant and incentive programs for state and local governments and the private sector to build a national network of 500,000 EV chargers by 2030, while promoting strong labor, training, and installation standards. His plan also will replace 50,000 diesel transit vehicles and electrify at least 20 percent of our yellow school bus fleet through a new Clean Buses for Kids Program at the

Environmental Protection Agency, with support from the Department of Energy. These investments will set us on a path to 100 percent clean buses, while ensuring that the American workforce is trained to operate and maintain this 21<sup>st</sup> century infrastructure. Finally, it will utilize the vast tools of federal procurement to electrify the federal fleet, including the United States Postal Service.

- Improve ports, waterways, and airports. The United States built modern aviation, but our airports lag far behind our competitors. According to some rankings, no U.S. airports rank in the top 25 of airports worldwide. Our ports and waterways need repair and reimagination too. President Biden is calling on Congress to invest \$25 billion in our airports, including funding for the Airport Improvement Program, upgrades to FAA assets that ensure safe and efficient air travel, and a new program to support terminal renovations and multimodal connections for affordable, convenient, car-free access to air travel. President Biden is calling on Congress to invest an additional \$17 billion in inland waterways, coastal ports, land ports of entry, and ferries, which are all essential to our nation's freight. This includes a Healthy Ports program to mitigate the cumulative impacts of air pollution on neighborhoods near ports, often communities of color. These investments will position the United States as a global leader in clean freight and aviation.
- Redress historic inequities and build the future of transportation infrastructure. The President's plan for transportation is not just ambitious in scale, it is designed with equity in mind and to set up America for the future. Too often, past transportation investments divided communities – like the Claiborne Expressway in New Orleans or I-81 in Syracuse – or it left out the people most in need of affordable transportation options. The President's plan includes \$20 billion for a new program that will reconnect neighborhoods cut off by historic investments and ensure new projects increase opportunity, advance racial equity and environmental justice, and promote affordable access. The President's plan will inspire basic research, like advanced pavements that recycle carbon dioxide, and "future proof" investments that will last decades to leave coming generations with a safe, equitable, and sustainable transportation system. And, the President's plan will accelerate transformative investments, from pre-development through construction, turning "shovel worthy" ideas into "shovel ready" projects. This includes \$25 billion for a dedicated fund to support ambitious projects that have tangible benefits to the regional or national economy but are too large or complex for existing funding programs.
- Invest resources wisely to deliver infrastructure projects that produce real results. America lags its peers including Canada, the U.K., and Australia in the on-time and on-budget delivery of infrastructure, and is falling behind countries like China on overall investment. Delivering this historic investment will require partnership across government, unions, and industry, to produce meaningful outcomes for the American people reliable transportation, safe water, affordable housing, healthy schools, clean

electricity, and broadband for all. When President Biden managed the implementation of the Recovery Act, he insisted on the strongest possible accountability and transparency measures to ensure public dollars were invested efficiently and effectively. When Congress enacts the American Jobs Plan, the President will bring the best practices from the Recovery Act and models from around the world to break down barriers and drive implementation of infrastructure investments across all levels of government to realize the President's vision of safe, reliable, and resilient infrastructure. Critically, in order to achieve the best outcomes on cost and performance for the American people, the Administration will support the state, local, and tribal governments delivering these projects through world-class training, technical assistance, and procurement best practices. In addition, the President's plan will use smart, coordinated infrastructure permitting to expedite federal decisions while prioritizing stakeholder engagement, community consultation, and maximizing equity, health, and environmental benefits.

#### Make our infrastructure more resilient:

Millions of Americans feel the effects of climate change each year when their roads wash out, airport power goes down, or schools get flooded. Last year alone, the United States faced 22 extreme weather and climate-related disaster events with losses exceeding \$1 billion each – a cumulative price tag of nearly \$100 billion. Chronic underinvestment in resilience has harmed American transportation infrastructure, disrupting service, making travel conditions unsafe, causing severe damage, and increasing maintenance and operating costs.

In 2020, the United States endured 22 separate billion-dollar weather and climate disasters, costing \$95 billion in damages to homes, businesses, and public infrastructure. In Louisiana, Hurricane Laura caused \$19 billion of damage, resulting in broken water systems and a severely damaged electrical grid that impeded a quick recovery. Building back better requires that the investments in this historic plan make our infrastructure more resilient in the face of increasingly severe floods, wildfires, hurricanes, and other risks. Every dollar spent on rebuilding our infrastructure during the Biden administration will be used to prevent, reduce, and withstand the impacts of the climate crisis. Additionally, the President is calling for \$50 billion in dedicated investments to improve infrastructure resilience and:

• Safeguard critical infrastructure and services, and defend vulnerable communities. People of color and low-income people are more likely to live in areas most vulnerable to flooding and other climate change-related weather events. They also are less likely to have the funds to prepare for and recover from extreme weather events. In the wake of Hurricane Harvey, Black and Hispanic residents were twice as likely as white residents to report experiencing an income shock with no recovery support. President Biden's plan increases resilience in the most essential services, including the electric grid; food systems; urban infrastructure; community health and hospitals; and our roads, rail, and other transportation assets. His plan also targets investments to support infrastructure in those communities most vulnerable physically and financially to climate-driven disasters and to build back above existing codes and standards. The President's plan will invest in

vulnerable communities through a range of programs, including FEMA's Building Resilient Infrastructure and Communities program, HUD's Community Development Block Grant program, new initiatives at the Department of Transportation, a bipartisan tax credit to provide incentives to low- and middle-income families and to small businesses to invest in disaster resilience, and transition and relocation assistance to support community-led transitions for the most vulnerable tribal communities.

• Maximize the resilience of land and water resources to protect communities and the environment. President Biden's plan will protect and, where necessary, restore nature-based infrastructure – our lands, forests, wetlands, watersheds, and coastal and ocean resources. Families and businesses throughout the United States rely on this infrastructure for their lives and livelihoods. President Biden is calling on Congress to invest in protection from extreme wildfires, coastal resilience to sea-level rise and hurricanes, support for agricultural resources management and climate-smart technologies, and the protection and restoration of major land and water resources like Florida's Everglades and the Great Lakes. Additionally, the President's plan provides funding for the western drought crisis by investing in water efficiency and recycling programs, Tribal Water Settlements, and dam safety. President Biden's plan will empower local leaders to shape these restoration and resilience project funds in line with the Outdoor Restoration Force Act.

## REBUILD CLEAN DRINKING WATER INFRASTRUCTURE, A RENEWED ELECTRIC GRID, AND HIGH-SPEED BROADBAND TO ALL AMERICANS

Too many American families drink polluted water, lack access to affordable, high-speed internet, or experience power outages too often – all while paying more for those services. President Biden's plan invests in the infrastructure necessary to finally deliver the water, broadband, and electricity service that Americans deserve. Specifically, his plan will:

#### Ensure clean, safe drinking water is a right in all communities:

Across the country, pipes and treatment plants are aging and polluted drinking water is endangering public health. An estimated six to ten million homes still receive drinking water through lead pipes and service lines. The President's investments in improving water infrastructure and replacing lead service lines will create good jobs, including union and prevailing wage jobs. President Biden's plan invests \$111 billion to:

• Replace 100 percent of the nation's lead pipes and service lines. According to the CDC, there is no safe level of lead exposure for children. Lead can slow development and cause learning, behavior, and hearing problems in children, as well as lasting kidney and brain damage. President Biden believes that no American family should still be receiving drinking water through lead pipes and service lines. To eliminate all lead pipes and service lines in the country, he is calling on Congress to invest \$45 billion in the

Environmental Protection Agency's Drinking Water State Revolving Fund and in Water Infrastructure Improvements for the Nation Act (WIIN) grants. In addition to reducing lead exposure in homes, this investment also will reduce lead exposure in 400,000 schools and childcare facilities.

• Upgrade and modernize America's drinking water, wastewater, and stormwater systems, tackle new contaminants, and support clean water infrastructure across rural America. Aging water systems threaten public health in thousands of communities nationwide. President Biden will modernize these systems by scaling up existing, successful programs, including by providing \$56 billion in grants and low-cost flexible loans to states, Tribes, territories, and disadvantaged communities across the country. President Biden's plan also provides \$10 billion in funding to monitor and remediate PFAS (per- and polyfluoroalkyl substances) in drinking water and to invest in rural small water systems and household well and wastewater systems, including drainage fields.

#### Revitalize America's digital infrastructure:

Generations ago, the federal government recognized that without affordable access to electricity, Americans couldn't fully participate in modern society and the modern economy. With the 1936 Rural Electrification Act, the federal government made a historic investment in bringing electricity to nearly every home and farm in America, and millions of families and our economy reaped the benefits.

Broadband internet is the new electricity. It is necessary for Americans to do their jobs, to participate equally in school learning, health care, and to stay connected. Yet, by one definition, more than 30 million Americans live in areas where there is no broadband infrastructure that provides minimally acceptable speeds. Americans in rural areas and on tribal lands particularly lack adequate access. And, in part because the United States has some of the highest broadband prices among OECD countries, millions of Americans can't use broadband internet even if the infrastructure exists where they live. In urban areas as well, there is a stark digital divide: a much higher percentage of White families use home broadband internet than Black or Latino families. The last year made painfully clear the cost of these disparities, particularly for students who struggled to connect while learning remotely, compounding learning loss and social isolation for those students.

The President believes we can bring affordable, reliable, high-speed broadband to every American through a historic investment of \$100 billion. That investment will:

• Build high-speed broadband infrastructure to reach 100 percent coverage. The President's plan prioritizes building "future proof" broadband infrastructure in unserved and underserved areas so that we finally reach 100 percent high-speed broadband coverage. It also prioritizes support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities. Moreover,

it ensures funds are set aside for infrastructure on tribal lands and that tribal nations are consulted in program administration. Along the way, it will create good-paying jobs with labor protections and the right to organize and bargain collectively.

- **Promote transparency and competition.** President Biden's plan will promote price transparency and competition among internet providers, including by lifting barriers that prevent municipally-owned or affiliated providers and rural electric co-ops from competing on an even playing field with private providers, and requiring internet providers to clearly disclose the prices they charge.
- Reduce the cost of broadband internet service and promote more widespread adoption. President Biden believes that building out broadband infrastructure isn't enough. We also must ensure that every American who wants to can afford high-quality and reliable broadband internet. While the President recognizes that individual subsidies to cover internet costs may be needed in the short term, he believes continually providing subsidies to cover the cost of overpriced internet service is not the right long-term solution for consumers or taxpayers. Americans pay too much for the internet much more than people in many other countries and the President is committed to working with Congress to find a solution to reduce internet prices for all Americans, increase adoption in both rural and urban areas, hold providers accountable, and save taxpayer money.

#### Reenergize America's power infrastructure:

As the recent Texas power outages demonstrated, our aging electric grid needs urgent modernization. A Department of Energy study found that power outages cost the U.S. economy up to \$70 billion annually. The President's plan will create a more resilient grid, lower energy bills for middle class Americans, improve air quality and public health outcomes, and create good jobs, with a choice to join a union, on the path to achieving 100 percent carbon-free electricity by 2035. President Biden is calling on Congress to invest \$100 billion to:

- Build a more resilient electric transmission system. Through investments in the grid, we can move cheaper, cleaner electricity to where it is needed most. This starts with the creation of a targeted investment tax credit that incentivizes the buildout of at least 20 gigawatts of high-voltage capacity power lines and mobilizes tens of billions in private capital off the sidelines right away. In addition, President Biden's plan will establish a new Grid Deployment Authority at the Department of Energy that allows for better leverage of existing rights-of-way along roads and railways and supports creative financing tools to spur additional high priority, high-voltage transmission lines. These efforts will create good-paying jobs for union laborers, line workers, and electricians, in addition to creating demand for American-made building materials and parts.
- Spur jobs modernizing power generation and delivering clean electricity. President Biden is proposing a ten-year extension and phase down of an expanded direct-pay

investment tax credit and production tax credit for clean energy generation and storage. These credits will be paired with strong labor standards to ensure the jobs created are good-quality jobs with a free and fair choice to join a union and bargain collectively. President Biden's plan will mobilize private investment to modernize our power sector. It also will support state, local, and tribal governments choosing to accelerate this modernization through complementary policies – like clean energy block grants that can be used to support clean energy, worker empowerment, and environmental justice. And, it will use the federal government's incredible purchasing power to drive clean energy deployment across the market by purchasing 24/7 clean power for federal buildings. To ensure that we fully take advantage of the opportunity that modernizing our power sector presents, President Biden will establish an Energy Efficiency and Clean Electricity Standard (EECES) aimed at cutting electricity bills and electricity pollution, increasing competition in the market, incentivizing more efficient use of existing infrastructure, and continuing to leverage the carbon pollution-free energy provided by existing sources like nuclear and hydropower. All of this will be done while ensuring those facilities meet robust and rigorous standards for worker, public, and environmental safety as well as environmental justice – and all while moving toward 100 percent carbon-pollution free power by 2035.

- Put the energy industry to work plugging orphan oil and gas wells and cleaning up abandoned mines. Hundreds of thousands of former orphan oil and gas wells and abandoned mines pose serious safety hazards, while also causing ongoing air, water, and other environmental damage. Many of these old wells and mines are located in rural communities that have suffered from years of disinvestment. President Biden's plan includes an immediate up-front investment of \$16 billion that will put hundreds of thousands to work in union jobs plugging oil and gas wells and restoring and reclaiming abandoned coal, hardrock, and uranium mines. In addition to creating good jobs in hard-hit communities, this investment will reduce the methane and brine that leaks from these wells, just as we invest in reducing leaks from other sources like aging pipes and distribution systems.
- Remediate and redevelop idle real property, and spur the buildout of critical physical, social, and civic infrastructure in distressed and disadvantaged communities. In thousands of rural and urban communities around the country, hundreds of thousands of former industrial and energy sites are now idle sources of blight and pollution. Through a \$5 billion investment in the remediation and redevelopment of these Brownfield and Superfund sites, as well as related economic and workforce development, President Biden's plan will turn this idle real property into new hubs of economic growth and job creation. But it's not enough to redevelop old infrastructure. President Biden's plan also will bring these communities new critical physical, social, and civic infrastructure. This means investing in the Economic Development Agency's Public Works program (while lifting the cap of \$3 million on projects) and in "Main Street" revitalization efforts through HUD and USDA. President Biden's plan also will spur

targeted sustainable, economic development efforts through the Appalachian Regional Commission's POWER grant program, Department of Energy retooling grants for idled factories (through the Section 132 program), and dedicated funding to support community-driven environmental justice efforts – such as capacity and project grants to address legacy pollution and the cumulative impacts experienced by frontline and fenceline communities.

- Build next generation industries in distressed communities. President Biden believes that the market-based shift toward clean energy presents enormous opportunities for the development of new markets and new industries. For example, by pairing an investment in 15 decarbonized hydrogen demonstration projects in distressed communities with a new production tax credit, we can spur capital-project retrofits and installations that bolster and decarbonize our industry. The President's plan also will establish ten pioneer facilities that demonstrate carbon capture retrofits for large steel, cement, and chemical production facilities, all while ensuring that overburdened communities are protected from increases in cumulative pollution. In addition, in line with the bipartisan SCALE Act, his plan will support large-scale sequestration efforts that leverage the best science and prioritize community engagement. And to accelerate responsible carbon capture deployment and ensure permanent storage, President Biden's plan reforms and expands the bipartisan Section 45Q tax credit, making it direct pay and easier to use for hard-to-decarbonize industrial applications, direct air capture, and retrofits of existing power plants.
- Mobilize the next generation of conservation and resilience workers. This \$10 billion investment will put a new, diverse generation of Americans to work conserving our public lands and waters, bolstering community resilience, and advancing environmental justice through a new Civilian Climate Corps, all while placing good-paying union jobs within reach for more Americans.

# BUILD, PRESERVE, AND RETROFIT MORE THAN TWO MILLION HOMES AND COMMERCIAL BUILDINGS; MODERNIZE OUR NATION'S SCHOOLS, COMMUNITY COLLEGES, AND EARLY LEARNING FACILITIES; AND UPGRADE VETERANS' HOSPITALS AND FEDERAL BUILDINGS

There is a severe shortage of affordable housing options in America, and the American Society of Civil Engineers gives our school infrastructure a "D+." President Biden believes we must invest in building and upgrading modern, resilient, and energy-efficient homes and buildings, including our nation's schools, early learning facilities, veterans' hospitals and other federal buildings, and in the process, employ American workers in jobs with good wages and benefits. President Biden's plan will:

Build, preserve, and retrofit more than two million homes and commercial buildings to address the affordable housing crisis:

There is a severe shortage of affordable housing options in America. Millions of families pay more than half their income on rent, and home energy costs are a significant concern for American renters as well. And, across the country, people are struggling to purchase their first home.

The President's plan invests \$213 billion to produce, preserve, and retrofit more than two million affordable and sustainable places to live. It pairs this investment with an innovative new approach to eliminate state and local exclusionary zoning laws, which drive up the cost of construction and keep families from moving to neighborhoods with more opportunities for them and their kids. The President's plan will help address the growing cost of rent and create jobs that pay prevailing wages, including through project labor agreements with a free and fair choice to join a union and bargain collectively.

President Biden is calling on Congress to:

- Produce, preserve, and retrofit more than a million affordable, resilient, accessible, energy efficient, and electrified housing units. Through targeted tax credits, formula funding, grants, and project-based rental assistance, President Biden's plan will extend affordable housing rental opportunities to underserved communities nationwide, including rural and tribal areas.
- Build and rehabilitate more than 500,000 homes for low- and middle-income homebuyers. President Biden is calling on Congress to take immediate steps to spur the construction and rehabilitation of homes for underserved communities. Specifically, he is calling on Congress to pass the innovative, bipartisan Neighborhood Homes Investment Act (NHIA). Offering \$20 billion worth of NHIA tax credits over the next five years will result in approximately 500,000 homes built or rehabilitated, creating a pathway for more families to buy a home and start building wealth.
- Eliminate exclusionary zoning and harmful land use policies. For decades, exclusionary zoning laws like minimum lot sizes, mandatory parking requirements, and prohibitions on multifamily housing have inflated housing and construction costs and locked families out of areas with more opportunities. President Biden is calling on Congress to enact an innovative, new competitive grant program that awards flexible and attractive funding to jurisdictions that take concrete steps to eliminate such needless barriers to producing affordable housing.
- Address longstanding public housing capital needs. Years of disinvestment have left our public housing in disrepair. President Biden is calling on Congress to invest \$40 billion to improve the infrastructure of the public housing system in America. This funding will address critical life-safety concerns, mitigate imminent hazards to residents, and undertake energy efficiency measures which will significantly reduce ongoing

operating expenses. These improvements will disproportionately benefit women, people of color, and people with disabilities.

• Put union building trade workers to work upgrading homes and businesses to save families money. President Biden's plan will upgrade homes through block grant programs, the Weatherization Assistance Program, and by extending and expanding home and commercial efficiency tax credits. President Biden's plan also will establish a \$27 billion Clean Energy and Sustainability Accelerator to mobilize private investment into distributed energy resources; retrofits of residential, commercial and municipal buildings; and clean transportation. These investments have a particular focus on disadvantaged communities that have not yet benefited from clean energy investments.

#### Modernize our nation's schools and early learning facilities:

Too many students attend schools and child care centers that are run-down, unsafe, and pose health risks. These conditions are dangerous for our kids and exist disproportionately in schools with a high percentage of low-income students and students of color. And even before COVID-19, 43 percent of parents reported struggling to find an adequate child care facility for their children. President Biden is calling on Congress to:

- Modernize our public schools. President Biden believes we can't close the opportunity gap if low-income kids go to schools in buildings that undermine health and safety, while wealthier students get access to safe buildings with labs and technology that prepare them for the jobs of the future. The President's plan invests \$100 billion to upgrade and build new public schools, through \$50 billion in direct grants and an additional \$50 billion leveraged through bonds. These funds will first go toward making sure our schools are safe and healthy places of learning for our kids and work for teachers and other education professionals, for example by improving indoor air quality and ventilation. As we make our schools safer, we also will invest in cutting-edge, energy-efficient and electrified, resilient, and innovative school buildings with technology and labs that will help our educators prepare students to be productive workers and valued students. Under the President's plan, better operating school facilities will reduce their greenhouse gas emissions and also will become environments of community resilience with green space, clean air, and safe places to gather, especially during emergencies. Funds also will be provided to improve our school kitchens, so they can be used to better prepare nutritious meals for our students and go green by reducing or eliminating the use of paper plates and other disposable materials.
- Investing in community college infrastructure. Investing in community college facilities and technology helps protect the health and safety of students and faculty, address education deserts (particularly for rural communities), grow local economies, improve energy efficiency and resilience, and narrow funding inequities in the short-term, as we rebuild our higher education finance system for the long-run. President Biden

is calling on Congress to invest \$12 billion to address these needs. States will be responsible for using the dollars to address both existing physical and technological infrastructure needs at community colleges and identifying strategies to address access to community college in education deserts.

Upgrade child care facilities and build new supply in high need areas. Lack of access to child care makes it harder for parents, especially mothers, to fully participate in the workforce. In areas with the greatest shortage of child care slots, women's labor force participation is about three percentage points less than in areas with a high capacity of child care slots, hurting families and hindering U.S. growth and competitiveness. President Biden is calling on Congress to provide \$25 billion to help upgrade child care facilities and increase the supply of child care in areas that need it most. Funding would be provided through a Child Care Growth and Innovation Fund for states to build a supply of infant and toddler care in high-need areas. President Biden also is calling for an expanded tax credit to encourage businesses to build child care facilities at places of work. Employers will receive 50 percent of the first \$1 million of construction costs per facility so that employees can enjoy the peace of mind and convenience that comes with on-site child care. These investments will provide safe, accessible, energy efficient, highquality learning environments for providers to teach and care for children. Public investments in schools and childcare improves children's outcomes—the foundation for future productivity gains. In classrooms with poor ventilation, for example, student absences are 10 to 20 percent higher.

#### Upgrade VA hospitals and federal buildings:

The federal government operates office buildings, courthouses, and other facilities in every state, where millions of workers serve the public from outdated, inefficient, and sometimes unsafe working conditions. While the median age of U.S. private sector hospitals is roughly 11 years, the Veterans Affairs' hospital portfolio has a median age of 58. The President believes our veterans deserve state-of-the-art hospitals and care. President Biden's plan provides \$18 billion for the modernization of Veterans Affairs hospitals and clinics. President Biden's plan also invests \$10 billion in the modernization, sustainability, and resilience of federal buildings, including through a bipartisan Federal Capital Revolving Fund to support investment in a major purchase, construction or renovation of Federal facilities. And, President Biden's plan utilizes the vast tools of federal procurement to purchase low carbon materials for construction and clean power for these newly constructed VA hospitals and federal buildings.

## SOLIDIFY THE INFRASTRUCTURE OF OUR CARE ECONOMY BY CREATING JOBS AND RAISING WAGES AND BENEFITS FOR ESSENTIAL HOME CARE WORKERS

Even before COVID-19, our country was in the midst of a caregiving crisis. In addition to caring for children, families feel the financial burden of caring for aging relatives and family members with disabilities, and there is a financial strain for people with disabilities living independently to

ensure that they are getting care in their homes. At the same time, hundreds of thousands of people who need better care are unable to access it, even though they qualify under Medicaid. In fact, it can take years for these individuals to get the services they badly need. Aging relatives and people with disabilities deserve better. They deserve high-quality services and support that meet their unique needs and personal choices.

Caregivers – who are disproportionally women of color – have been underpaid and undervalued for far too long. Wages for essential home care workers are approximately \$12 per hour, putting them among the lowest paid workers in our economy. In fact, one in six workers in this sector live in poverty. President Biden is calling on Congress to make substantial investments in the infrastructure of care in our country. Specifically, he is calling on Congress to put \$400 billion toward expanding access to quality, affordable home- or community-based care for aging relatives and people with disabilities. These investments will help hundreds of thousands of Americans finally obtain the long-term services and support they need, while creating new jobs and offering caregiving workers a long-overdue raise, stronger benefits, and an opportunity to organize or join a union and collectively bargain. Research shows that increasing the pay of direct care workers greatly enhances workers' financial security, improves productivity, and increases the quality of care offered. Another study showed that increased pay for care workers prevented deaths, reduced the number of health violations, and lowered the cost of preventative care.

#### President Biden's plan will:

- Expand access to long-term care services under Medicaid. President Biden believes more people should have the opportunity to receive care at home, in a supportive community, or from a loved one. President Biden's plan will expand access to home and community-based services (HCBS) and extend the longstanding Money Follows the Person program that supports innovations in the delivery of long-term care.
- Put in place an infrastructure to create good middle-class jobs with a free and fair choice to join a union. The HCBS expansion under Medicaid can support well-paying caregiving jobs that include benefits and the ability to collectively bargain, building state infrastructure to improve the quality of services and to support workers. This will improve wages and quality of life for essential home health workers and yield significant economic benefits for low-income communities and communities of color.

## INVEST IN R&D, REVITALIZE MANUFACTURING AND SMALL BUSINESSES, AND TRAIN AMERICANS FOR THE JOBS OF THE FUTURE

Half the jobs in our high growth, high wage sectors are concentrated in just 41 counties, locking millions of Americans out of a shot at a middle-class job. President Biden believes that, even in the face of automation and globalization, America can and must retain well-paid union jobs and create more of them all across the country. U.S. manufacturing was the Arsenal of Democracy in World War II and must be part of the Arsenal of American Prosperity today, helping fuel an economic recovery for working families. From the invention of the semiconductor to the creation

of the Internet, new engines of economic growth have emerged due to public investments that support research, commercialization, and strong supply chains. President Biden is calling on Congress to make smart investments in research and development, manufacturing and regional economic development, and in workforce development to give our workers and companies the tools and training they need to compete on the global stage. Specifically, President Biden is calling on Congress to:

#### Invest in R&D and the technologies of the future:

Public investments in R&D lay the foundation for the future breakthroughs that over time yield new businesses, new jobs, and more exports. However, we need more investment if we want to maintain our economic edge in today's global economy. We are one of the few major economies whose public investments in research and development have declined as a percent of GDP in the past 25 years. Countries like China are investing aggressively in R&D, and China now ranks number two in the world in R&D expenditures. In addition, barriers to careers in high-innovation sectors remain significant. We must do more to improve access to the higher wage sectors of our economy. In order to win the 21<sup>st</sup> century economy, President Biden believes America must get back to investing in the researchers, laboratories, and universities across our nation. But this time, we must do so with a commitment to lifting up workers and regions who were left out of past investments. He is calling on Congress to make an \$180 billion investment that will:

- Advance U.S. leadership in critical technologies and upgrade America's research infrastructure. U.S. leadership in new technologies—from artificial intelligence to biotechnology to computing—is critical to both our future economic competitiveness and our national security. Based on bipartisan proposals, President Biden is calling on Congress to invest \$50 billion in the National Science Foundation (NSF), creating a technology directorate that will collaborate with and build on existing programs across the government. It will focus on fields like semiconductors and advanced computing, advanced communications technology, advanced energy technologies, and biotechnology. He also is calling on Congress to provide \$30 billion in additional funding for R&D that spurs innovation and job creation, including in rural areas. His plan also will invest \$40 billion in upgrading research infrastructure in laboratories across the country, including brick-and-mortar facilities and computing capabilities and networks. These funds would be allocated across the federal R&D agencies, including at the Department of Energy. Half of those funds will be reserved for Historically Black College and Universities (HBCUs) and other Minority Serving Institutions, including the creation of a new national lab focused on climate that will be affiliated with an HBCU.
- Establish the United States as a leader in climate science, innovation, and R&D. The President is calling on Congress to invest \$35 billion in the full range of solutions needed to achieve technology breakthroughs that address the climate crisis and position America as the global leader in clean energy technology and clean energy jobs. This includes launching ARPA-C to develop new methods for reducing emissions and building climate resilience, as well as expanding across-the-board funding for climate research. In addition

to a \$5 billion increase in funding for other climate-focused research, his plan will invest \$15 billion in demonstration projects for climate R&D priorities, including utility-scale energy storage, carbon capture and storage, hydrogen, advanced nuclear, rare earth element separations, floating offshore wind, biofuel/bioproducts, quantum computing, and electric vehicles, as well as strengthening U.S. technological leadership in these areas in global markets.

• Eliminate racial and gender inequities in research and development and science, technology, engineering, and math. Discrimination leads to less innovation: one study found that innovation in the United States will quadruple if women, people of color, and children from low-income families invented at the rate of groups who are not held back by discrimination and structural barriers. Persistent inequities in access to R&D dollars and to careers in innovation industries prevents the U.S. economy from reaching its full potential. President Biden is calling on Congress to make a \$10 billion R&D investment at HBCUs and other MSIs. He also is calling on Congress to invest \$15 billion in creating up to 200 centers of excellence that serve as research incubators at HBCUs and other MSIs to provide graduate fellowships and other opportunities for underserved populations, including through pre-college programs.

#### Retool and revitalize American manufacturers and small businesses:

The U.S. manufacturing sector accounts for 70 percent of business R&D expenditure, 30 percent of productivity growth, and 60 percent of exports. Manufacturing is a critical node that helps convert research and innovation into sustained economic growth. Workers on the factory floor work hand-in-hand with engineers and scientists to sharpen and maintain our competitive edge. While manufacturing jobs have been a ladder to middle-class life, we have let our industrial heartland be hollowed out, with quality jobs moving abroad or to regions with lower wages and fewer protections for workers. President Biden is calling on Congress to invest \$300 billion in order to:

- Strengthen manufacturing supply chains for critical goods. President Biden believes we must produce, here at home, the technologies and goods that meet today's challenges and seize tomorrow's opportunities. President Biden is calling on Congress to invest \$50 billion to create a new office at the Department of Commerce dedicated to monitoring domestic industrial capacity and funding investments to support production of critical goods. The President also is calling on Congress to invest \$50 billion in semiconductor manufacturing and research, as called for in the bipartisan CHIPS Act.
- **Protect Americans from future pandemics.** This funding provides \$30 billion over 4 years to create U.S. jobs and prevent the severe job losses caused by pandemics through major new investments in medical countermeasures manufacturing; research and development; and related biopreparedness and biosecurity. This includes investments to shore up our nation's strategic national stockpile; accelerate the timeline to research, develop and field tests and therapeutics for emerging and future outbreaks; accelerate

response time by developing prototype vaccines through Phase I and II trials, test technologies for the rapid scaling of vaccine production, and ensure sufficient production capacity in an emergency; enhance U.S. infrastructure for biopreparedness and investments in biosafety and biosecurity; train personnel for epidemic and pandemic response; and onshore active pharmaceutical ingredients. COVID-19 has claimed over 500,000 American lives and cost trillions of dollars, demonstrating the devastating and increasing risk of pandemics and other biological threats. Over the past two decades, outbreaks of SARS, Ebola, influenza, Zika and others have cost billions in lost productivity. The risk of catastrophic biological threats is increasing due to our interconnected world, heightened risk of spillover from animals to humans, ease of making and modifying pandemic agents, and an eroding norm against the development and use of biological weapons. The American Rescue Plan serves as an initial investment of \$10 billion. With this new major investment in preventing future pandemics, the United States will build on the momentum from the American Rescue Plan, bolster scientific leadership, create jobs, markedly decrease the time from discovering a new threat to putting shots in arms, and prevent future biological catastrophes.

- Jumpstart clean energy manufacturing through federal procurement. The federal government spends more than a half-a-trillion dollars buying goods and services each year. As a result, it has the ability to be a first-mover in markets. This incredible purchasing power can be used to drive innovation and clean energy production, as well as to support high quality jobs. To meet the President's goals of achieving net-zero emissions by 2050, the United States will need more electric vehicles, charging ports, and electric heat pumps for residential heating and commercial buildings. The President is calling on Congress to enable the manufacture of those cars, ports, pumps, and clean materials, as well as critical technologies like advanced nuclear reactors and fuel, here at home through a \$46 billion investment in federal buying power, creating good-paying jobs and reinvigorating local economies, especially in rural areas.
- Make it in ALL of America. The President believes we must build social infrastructure to support innovation and productivity across the country. He is calling on Congress to invest \$20 billion in regional innovation hubs and a Community Revitalization Fund. At least ten regional innovation hubs will leverage private investment to fuel technology development, link urban and rural economies, and create new businesses in regions beyond the current handful of high-growth centers. The Community Revitalization Fund will support innovative, community-led redevelopment projects that can spark new economic activity, provide services and amenities, build community wealth, and close the current gaps in access to the innovation economy for communities of color and rural communities that have suffered from years of disinvestment. And, President Biden is calling on Congress to invest \$14 billion in NIST to bring together industry, academia, and government to advance technologies and capabilities critical to future competitiveness. He is calling on Congress to quadruple support for the Manufacturing

Extensions Partnership —increasing the involvement of minority-owned and rurally-located small- and-medium-sized enterprises in technological advancement.

- Increase access to capital for domestic manufacturers. America's manufacturing industry needs to innovate, adapt, and scale to win the industries of the future. President Biden is calling on Congress to invest more than \$52 billion in domestic manufacturers. The President is calling on Congress to invest in existing capital access programs with a proven track record of success, with a focus on supporting rural manufacturing and clean energy. The President's plan also includes specific supports for modernizing supply chains, including in the auto sector, like extending the 48C tax credit program. He also will call for the creation of a new financing program to support debt and equity investments for manufacturing to strengthen the resilience of America's supply chains.
- Create a national network of small business incubators and innovation hubs. Almost all manufacturers (98 percent) are small- and medium-sized firms. Furthermore, small business ownership is a cornerstone of job creation and wealth building. However, even before the pandemic, many entrepreneurs struggled to compete in a system that is so often tilted in favor of large corporations and wealthy individuals. President Biden is calling on Congress to invest \$31 billion in programs that give small businesses access to credit, venture capital, and R&D dollars. The proposal includes funding for community-based small business incubators and innovation hubs to support the growth of entrepreneurship in communities of color and underserved communities.
- Partner with rural and Tribal communities to create jobs and economic growth in rural America. Today, despite the fact that rural and Tribal communities across the country are asset-rich, more than 8 in 10 persistent poverty counties fall outside of a metropolitan area. President Biden's plan invests in rural and Tribal communities, including by providing 100 percent broadband coverage, rebuilding crumbling infrastructure like roads, bridges, and water systems, providing research and development funding to land grant universities, and positioning the U.S. agricultural sector to lead the shift to net-zero emissions while providing new economic opportunities for farmers. President Biden also is proposing to transform the way the federal government partners with rural and Tribal communities to create jobs and spur inclusive economic growth. Rural communities often don't have the same budget as big cities to hire staff needed to navigate and access federal programs. On top of that, they have to navigate a myriad of programs all with different purposes and requirements. As part of his plan to ensure that all communities recover - regardless of geography - President Biden is proposing a \$5 billion for a new Rural Partnership Program to help rural regions, including Tribal Nations, build on their unique assets and realize their vision for inclusive community and economic development. This program will empower rural regions by supporting locallyled planning and capacity building efforts, and providing flexible funding to meet critical needs.

### **Invest in Workforce Development:**

As more Americans rejoin the workforce or seek out new opportunities in a changing economy, there is a greater need for skills development opportunities for workers of all kind. In order to ensure workers have ready access to the skills they will need to succeed, and to improve racial and gender equity, President Biden is calling on Congress to invest \$100 billion in proven workforce development programs targeted at underserved groups and getting our students on paths to careers before they graduate from high school. His plan will:

- Pair job creation efforts with next generation training programs. President Biden is calling on Congress to invest in evidence-based approaches to supporting workers. This includes wraparound services, income supports, counseling, and case management, paired with high-quality training and effective partnerships between educational institutions, unions, and employers. Specifically, he is calling for a \$40 billion investment in a new Dislocated Workers Program and sector-based training. This funding will ensure comprehensive services for workers, who have lost jobs through no fault of their own, to gain new skills and to get career services they need with in-demand jobs. Sector-based training programs will be focused on growing, high demand sectors such as clean energy, manufacturing, and caregiving, helping workers of all kinds to find good-quality jobs in an ever-changing economy.
- Target workforce development opportunities in underserved communities. Structural racism and persistent economic inequities have undermined opportunity for millions of workers. All of the investments in workforce training will prioritize underserved communities and communities hit hard by a transforming economy. President Biden also will call upon Congress to ensure that new jobs created in clean energy, manufacturing, and infrastructure are open and accessible to women and people of color. President Biden is calling on Congress to also specifically target funding to workers facing some of the greatest challenges, with a \$12 billion investment. This includes \$5 billion over eight years in support of evidence-based community violence prevention programs. He is calling on Congress to invest in job training for formerly incarcerated individuals and justice-involved youth and in improving public safety. He also is calling on Congress to tackle long-term unemployment and underemployment through a new subsidized jobs program. And, he is calling on Congress to eliminate sub-minimum wage provisions in section 14(c) of the Fair Labor Standards Act and expand access to competitive, integrated employment opportunities and fair wages for workers with disabilities.
- Build the capacity of the existing workforce development and worker protection systems. The United States has underinvested in the workforce development system for decades. In fact, we currently spend just one-fifth of the average that other advanced economies spend on workforce and labor market programs. This lack of investment <a href="impacts">impacts</a> all of us: better educated workers create spillover effects for other workers and lack of employment has negative social impacts on communities. President Biden is

calling on Congress to invest a combined \$48 billion in American workforce development infrastructure and worker protection. This includes registered apprenticeships and pre-apprenticeships, creating one to two million new registered apprenticeships slots, and strengthening the pipeline for more women and people of color to access these opportunities through successful pre-apprenticeship programs such as the Women in Apprenticeships in Non-Traditional Occupations. This will ensure these underserved groups have greater access to new infrastructure jobs. These investments include the creation of career pathway programs in middle and high schools, prioritizing increased access to computer science and high-quality career and technical programs that connect underrepresented students to STEM and in-demand sectors through partnerships with both institutions of higher education and employers. The President's plan also will support community college partnerships that build capacity to deliver job training programs based on in-demand skills. His plan will better tailor services to workers' job seeking and career development needs through investments in Expanded Career Services and the Title II adult literacy program. The President's plan includes funding to strengthen the capacity of our labor enforcement agencies to protect against discrimination, protect wages and benefits, enforce health and safety safeguards, strengthen health care and pensions plans, and promote union organizing and collective bargaining.

### CREATE GOOD-QUALITY JOBS THAT PAY PREVAILING WAGES IN SAFE AND HEALTHY WORKPLACES WHILE ENSURING WORKERS HAVE A FREE AND FAIR CHOICE TO ORGANIZE, JOIN A UNION, AND BARGAIN COLLECTIVELY WITH THEIR EMPLOYERS

As America works to recover from the devastating challenges of a deadly pandemic, an economic crisis, and a reckoning on race that reveals deep disparities, we need to summon a new wave of worker power to create an economy that works for everyone. We owe it not only to those who have put in a lifetime of work, but to the next generation of workers who have only known an America of rising inequality and shrinking opportunity. This is especially important for workers of color and for women, who have endured discrimination and systematic exclusion from economic opportunities for generations. All of us deserve to enjoy America's promise in full — and our nation's leaders have a responsibility to overcome racial, gender, and other inequalities to make it happen. To that end, the President is calling on Congress to create new, good-quality union jobs for American workers by leveraging their grit and ingenuity to address the climate crisis and build a sustainable infrastructure. Increased unionization can also impact our economic growth overall by improving productivity. President Biden's plan will:

• Empower Workers. President Biden is calling on Congress to update the social contract that provides workers with a fair shot to get ahead, overcome racial and other inequalities that have been barriers for too many Americans, expand the middle class, and strengthen communities. He is calling on Congress to ensure all workers have a free and fair choice to join a union by passing the Protecting the Right to Organize (PRO) Act, and guarantee union and bargaining rights for public service workers. His plan also ensures domestic

workers receive the legal benefits and protections they deserve and tackles pay inequities based on gender.

- Create good jobs. The President's plan demands that employers benefitting from these investments follow strong labor standards and remain neutral when their employees seek to organize a union and bargain collectively. He is asking Congress to tie federal investments in clean energy and infrastructure to prevailing wages and require transportation investments to meet existing transit labor protections. He also is calling for investments tied to Project Labor, Community Workforce, local hire, and registered apprenticeships and other labor or labor-management training programs so that federal investments support good jobs and pathways to the middle class. Finally, he is asking Congress to include a commitment to increasing American jobs through Buy America and Ship American provisions.
- **Protect workers**. President Biden is calling on Congress to provide the federal government with the tools it needs to ensure employers are providing workers with good jobs including jobs with fair and equal pay, safe and healthy workplaces, and workplaces free from racial, gender, and other forms of discrimination and harassment. In addition to a \$10 billion investment in enforcement as part of the plan's workforce proposals, the President is calling for increased penalties when employers violate workplace safety and health rules.

### THE MADE IN AMERICA TAX PLAN

Alongside the American Jobs Plan, the President is proposing to fix the corporate tax code so that it incentivizes job creation and investment here in the United States, stops unfair and wasteful profit shifting to tax havens, and ensures that large corporations are paying their fair share.

The 2017 tax law only made an unfair system worse. A recent independent study found that 91 Fortune 500 companies paid \$0 in federal corporate taxes on U.S. income in 2018. In fact, according to recent analysis by the Joint Committee on Taxation, the 2017 tax bill cut the average rate that corporations paid in half from 16 percent to less than 8 percent in 2018. A number of the provisions in the 2017 law also created new incentives to shift profits and jobs overseas. President Biden's reform will reverse this damage and fundamentally reform the way the tax code treats the largest corporations.

President Biden's reform will also make the United States a leader again in the world and help bring an end to the race-to-the-bottom on corporate tax rates that allows countries to gain a competitive advantage by becoming tax havens. This is a generational opportunity to fundamentally shift how countries around the world tax corporations so that big corporations can't escape or eliminate the taxes they owe by offshoring jobs and profits from the United States.

Together these corporate tax changes will raise over \$2 trillion over the next 15 years and more than pay for the mostly one-time investments in the American Jobs Plan and then reduce deficits on a permanent basis:

- Set the Corporate Tax Rate at 28 percent. The President's tax plan will ensure that corporations pay their fair share of taxes by increasing the corporate tax rate to 28 percent. His plan will return corporate tax revenue as a share of the economy to around its 21<sup>st</sup> century average from before the 2017 tax law and well below where it stood before the 1980s. This will help fund critical investments in infrastructure, clean energy, R&D, and more to maintain the competitiveness of the United States and grow the economy.
- Discourage Offshoring by Strengthening the Global Minimum Tax for U.S. Multinational Corporations. Right now, the tax code rewards U.S. multinational corporations that shift profits and jobs overseas with a tax exemption for the first ten percent return on foreign assets, and the rest is taxed at half the domestic tax rate. Moreover, the 2017 tax law allows companies to use the taxes they pay in high-tax countries to shield profits in tax havens, encouraging offshoring of jobs. The President's tax reform proposal will increase the minimum tax on U.S. corporations to 21 percent and calculate it on a country-by-country basis so it hits profits in tax havens. It will also eliminate the rule that allows U.S. companies to pay zero taxes on the first 10 percent of return when they locate investments in foreign countries. By creating incentives for investment here in the United States, we can reward companies that help to grow the U.S. economy and create a more level playing field between domestic companies and multinationals.
- End the Race to the Bottom Around the World. The United States can lead the world to end the race to the bottom on corporate tax rates. A minimum tax on U.S. corporations alone is insufficient. That can still allow foreign corporations to strip profits out of the United States, and U.S. corporations can potentially escape U.S. tax by inverting and switching their headquarters to foreign countries. This practice must end. President Biden is also proposing to encourage other countries to adopt strong minimum taxes on corporations, just like the United States, so that foreign corporations aren't advantaged and foreign countries can't try to get a competitive edge by serving as tax havens. This plan also denies deductions to foreign corporations on payments that could allow them to strip profits out of the United States if they are based in a country that does not adopt a strong minimum tax. It further replaces an ineffective provision in the 2017 tax law that tried to stop foreign corporations from stripping profits out of the United States. The United States is now seeking a global agreement on a strong minimum tax through multilateral negotiations. This provision makes our commitment to a global minimum tax clear. The time has come to level the playing field and no longer allow countries to gain a competitive edge by slashing corporate tax rates.
- Prevent U.S. Corporations from inverting or claiming tax havens as their residence. Under current law, U.S. corporations can acquire or merge with a foreign company to avoid U.S. taxes by claiming to be a foreign company, even though their place of management and operations are in the United States. President Biden is proposing to make it harder for U.S. corporations to invert. This will backstop the other reforms which should address the incentive to do so in the first place.

- Deny Companies Expense Deductions for Offshoring Jobs and Credit Expenses for Onshoring. President Biden's reform proposal will also make sure that companies can no longer write off expenses that come from offshoring jobs. This is a matter of fairness. U.S. taxpayers shouldn't subsidize companies shipping jobs abroad. Instead, President Biden is also proposing to provide a tax credit to support onshoring jobs.
- Eliminate a Loophole for Intellectual Property that Encourages Offshoring Jobs and Invest in Effective R&D Incentives. The President's ambitious reform of the tax code also includes reforming the way it promotes research and development. This starts with a complete elimination of the tax incentives in the Trump tax law for "Foreign Derived Intangible Income" (FDII), which gave corporations a tax break for shifting assets abroad and is ineffective at encouraging corporations to invest in R&D. All of the revenue from repealing the FDII deduction will be used to expand more effective R&D investment incentives.
- Enact A Minimum Tax on Large Corporations' Book Income. The President's tax reform will also ensure that large, profitable corporations cannot exploit loopholes in the tax code to get by without paying U.S. corporate taxes. A 15 percent minimum tax on the income corporations use to report their profits to investors—known as "book income"—will backstop the tax plan's other ambitious reforms and apply only to the very largest corporations.
- Eliminate Tax Preferences for Fossil Fuels and Make Sure Polluting Industries Pay for Environmental Clean Up. The current tax code includes billions of dollars in subsidies, loopholes, and special foreign tax credits for the fossil fuel industry. As part of the President's commitment to put the country on a path to net-zero emissions by 2050, his tax reform proposal will eliminate all these special preferences. The President is also proposing to restore payments from polluters into the Superfund Trust Fund so that polluting industries help fairly cover the cost of cleanups.
- Ramping Up Enforcement Against Corporations. All of these measures will make it much harder for the largest corporations to avoid or evade taxes by eliminating parts of the tax code that are too easily abused. This will be paired with an investment in enforcement to make sure corporations pay their fair share. Typical workers' wages are reported to the IRS and their employer withholds, so they pay all the taxes they owe. By contrast, large corporations have at their disposal loopholes they exploit to avoid or evade tax liabilities, and an army of high-paid tax advisors and accountants who help them get away with this. At the same time, an under-funded IRS lacks the capacity to scrutinize these suspect tax maneuvers: A decade ago, essentially all large corporations were audited annually by the IRS; today, audit rates are less than 50 percent. This plan will reverse these trends, and make sure that the Internal Revenue Service has the resources it needs to effectively enforce the tax laws against corporations. This will be paired with a broader enforcement initiative to be announced in the coming weeks that will address tax evasion among corporations and high-income Americans.

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These are key steps toward a fairer tax code that encourages investment in the United States, stops shifting of jobs and profits abroad, and makes sure that corporations pay their fair share. The President looks forward to working with Congress, and will be putting forward additional ideas in the coming weeks for reforming our tax code so that it rewards work and not wealth, and makes sure the highest income individuals pay their fair share.



To:	Municipal Water District of Orange County
From:	Syrus Devers, Best & Krieger
Date:	April 1st, 2021
Re:	State Legislative Report

### Legislature:

The Legislature returns from the Spring Recess on April 5th and begins one of the three busiest times of the year. (The other two being the budget deadline and the end of session.) Bill authors who have been slow to set their bills now have to meet the policy committee deadline of Friday, April 30th to keep their bills alive, but not all committees meet every week and authors may be forced to accept whatever hearing date they get. Keep in mind that bills do not really die in the first year of the two-year legislative session, they simply become "two-year bills" and they get another chance next January to continue moving.

In addition to the bills on the Action Item list, staff would like to bring the following bills to the attention of the Board for informational purposes:

AB 1195 (C. Garcia)--This bill would create the Southern Los Angeles County Regional Water Agency for cities and unincorporated communities within the Central Basin and West Coast Basin aquifers, and have the same jurisdiction boundaries as the Water Replenishment District of Southern California. The bill is attracting significant attention because it would grant the new agency all necessary powers to operate a retail water agency, as well as broad powers to consolidate water districts "as directed by the State Water Resources Control Board." The bill has not been set for a hearing. The affected cities and the Central Basin Municipal Water District are discussing amendments with the author at this time and have yet to take positions on the bill, at least as far as BB&K staff has been informed. Likewise, MWD has not adopted a formal position. In light of the current status of the bill, staff is not asking the Board to consider a position on the bill at this time and will keep the Board informed of any changes.

**SB 480** (Stern)-- This bill would amend the Metropolitan Water District Act, which always demands attention. It would require the MWD Board to adopt, by rule, a code of conduct prohibiting inappropriate conduct as defined by the bill. The merits are self explanatory, but it is uncommon for a statute to require a public agency to formally adopt a rule such as this. The bill is not set for a hearing at this time and it will not likely receive significant attention. Staff is reporting on the bill simply because it would be remiss in its duties to not mention a bill that amends the MWD Act to the Board.



AB 1296 (Kamlager)-- Although the South Coast Air Quality Management District (SCAQMD) is not a regular focus for MWDOC, most municipal agencies are impacted by its actions. This bill would give the Assembly and Senate one additional appointee to the SCAQMD board. The purpose of the bill is certainly laudable in that it seeks to give greater representation to disadvantaged and underrepresented communities. The noteworthy issue, however, is the math behind how it achieves this goal. The current board consists of 13 members with the Governor, the Assembly, and the Senate each having one appointee. The others are drawn from local government. That results in 23% of the board coming from state political appointments. This bill would make SCAQMD a 15 member board with 5 state political appointees, or 33%. Giving a greater voice to underrepresented communities requires no justification, but accomplishing that goal by expanding the influence of state government over SCAQMD seems to call out for an explanation.

### **Newsom Recall**:

The proponents of the recall have very likely turned in a sufficient number of signatures to trigger a recall. Once validated, a complicated process begins where there is ample room for political manoeuvring. The two main wildcards are when the election is set and who signs on to challenge Newsom. Secretary of State Shirley Weber, who was just appointed by Newsome, has significant power to determine when the election will take place and, far more importantly, how long challengers have to file and conduct a statewide campaign. Worse for the proponents, Newsom's poll numbers are rising as the pandemic restrictions ease and California moves into the lead pack of state vaccination rates. According to a recent PPIC poll, 56% of voters would oppose the recall if the election were held today.

### Miscellaneous:

Not falling into any particular category but critical to staying informed on matters of interest to the Legislature is redistricting, and nobody seems to be saying much about it. Part of the reason is that the necessary census data will not be available in time for the state's Redistricting Commission to meet its August 15th deadline due to delays caused by the pandemic. A legal ruling has given the Commission until December to draw new maps. Setting deadlines aside, the process itself is one of the most significant political events in California. (Note the period.) Supposedly, politics were taken out of the process back in 2008 when voters established an independent commission to draw political boundaries. In 2011, the Republican Caucus Chair in power at the time believed it would be inappropriate to interfere in the process and Republican operatives were largely sidelined. Democrat operatives, by contrast, shifted into overdrive and the results were devastating for Republicans. That process is about to restart.

### Bill Matrix – April, 2021

Prepared by Syrus Devers, Best Best & Krieger

### **A. Priority Support/Oppose**

Measure	Author	Topic	Location	Calendar	Brief Summary	Position	Priority	Notes 1
AB 339	Lee D	State and local government: open meetings.	A. PRINT		Current law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified. This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public.	Out for Analysis	A. Priority Support/	On the agenda
	Rivas, Robert D	Open meetings: local agencies: teleconference s.	2/12/2021- A. L. GOV.		Would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency, during a declared state or local emergency, as those terms are defined, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency provided the legislative body makes certain determinations by majority vote.	Support	Support/	Support adopted on March 3rd
AB 377	Rivas, Robert D	Water quality: impaired waters.	2/12/2021- A. E.S. & T.M.	Y ENVIRO NMENTA	Would require all California surface waters to attain applicable beneficial uses by January 1, 2050. The bill would require the state board and regional boards, when issuing an NPDES permit, a waste discharge requirement, or a waiver of a waste discharge requirement, to require that the discharge to surface water does not cause or contribute to an exceedance of an applicable water quality standard in receiving waters, and to not authorize the use of a best management practice permit term to authorize a discharge to surface water that causes or contributes to an exceedance of an applicable water quality standard in receiving waters.	Analysis	Support/	On the agenda for April 7th.
AB 442	<u>Mayes</u> I	Surface Mining and Reclamation Act of 1975: exemption: Metropolitan Water District	3/24/2021- A. W.,P. & W.			Support	Support/	March 3rd.

		of Southern California: single master reclamation plan.		purposes; surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control; and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Central Valley Flood Protection Board for the purpose of flood control. This bill would additionally exempt from the provisions of the act emergency excavations or grading conducted by the Metropolitan Water District of Southern California (MWD) for its own operations and infrastructure for specified purposes.			
	Rubio, Blanca D	Open meetings: local agencies: teleconference s.	2/25/2021- A. L. GOV.	Current law, by Executive Order N-29-20, suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic, provided that notice requirements are met, the ability of the public to observe and comment is preserved, as specified, and that a local agency permitting teleconferencing have a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified. This bill would remove the requirements of the act particular to teleconferencing and allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda and the ability of the public to observe the meeting and provide public comment. The bill would require that, in each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the local agency also give notice of the means by which members of the public may observe the meeting and offer public comment and that the legislative body have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act, as provided.	Support	Priority Support/	Support adopted on March 3rd.
AB 1434	Friedman D	Urban water use objectives: indoor residential water use.	3/11/2021- A. W.,P. & W.	Would establish, beginning January 1,	Out for Analysis		On the agenda for April 7th.

					necessary studies and investigations and jointly recommend to the Legislature a standard for indoor residential water use.			
AB 1500	<u>Garcia,</u> <u>Eduardo</u> D	Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.		Capitol, Room 4202 ASSEMBL Y WATER, PARKS AND WILDLIFE , GARCIA,		Out for Analysis	A. Priority Support/ Oppose	
SB 45	Portantino D	Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022.	3/16/2021- S. GOV. & F.		· /		A. Priority Support/ Oppose	
SB 222	<u>Dodd</u> D	Water Affordability Assistance Program.	2/8/2021-S. E. U., & C.	Upon adjournmen t of Session - Senate Chamber SENATE E NERGY, UTILITIES AND COMMUN ICATIONS , HUESO, Chair	Would establish the Water Affordability Assistance Fund in the State Treasury to help provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. The bill would make moneys in the fund available upon appropriation by the Legislature to the state board to provide, as part of the Water Affordability Assistance Program established by the bill, direct water bill assistance, water bill credits, water crisis assistance, affordability assistance, and short-term assistance to public water systems to administer program components.	Watch		Position adopted 2/3/2021
SB 223	<u>Dodd</u> D	Discontinuatio n of residential water service.	S. E. U., &	adjournmen t of Session - Senate Chamber SENATE E NERGY, UTILITIES AND COMMUN ICATIONS , HUESO, Chair	1	n	Priority Support/	Oppose position taken on 2/3/2021

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					2022, to a very small community water system, defined as a public water system that supplies water to 200 or fewer service connections used by year-long residents.			
SB 230	Portantino D	State Water Resources Control Board: Constituents of Emerging Concern Program.			Would require the State Water Resources Control Board to establish, maintain, and direct an ongoing, dedicated program called the Constituents of Emerging Concern Program to assess the state of information and recommend areas for further study on, among other things, the occurrence of constituents of emerging concern (CEC) in drinking water sources and treated drinking water. The bill would require the state board to convene, by an unspecified date, the Science Advisory Panel to review and provide recommendations to the state board on CEC for further action, among other duties. The bill would require the state board to provide an annual report to the Legislature on the ongoing work conducted by the panel.	Out for Analysis	Priority Support/	On the agenda for April 7th.
SB 323	Caballero D	Local government: water or sewer service: legal actions.	3/25/2021- S. JUD.		1		Priority Support/ Oppose	Support adopted on March 3rd.
SB 351	Caballero D	Water Innovation Act of 2021.	S. N.R. & W.	t of Agriculture			Priority Support/ Oppose	Support adopted on March 3rd.

				ATURAL	would require the office, by December 31, 2023, to take specified measures to advance innovation in the water sector. The bill would make findings and declarations regarding the need for water innovation.			
SB 403	Gonzalez D	Drinking water: consolidation.	3/15/2021- S. GOV. & F.		The California Safe Drinking Water Act authorizes the State Water Resources Control Board to order consolidation with a receiving water system where a public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water or where a disadvantaged community is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water. This bill would authorize the state board to also order consolidation where a water system serving a disadvantaged community is at risk of failing to provide an adequate supply of safe drinking water or where a disadvantaged community is substantially reliant on domestic wells that are at risk of failing to provide an adequate supply of safe drinking water.	Out for Analysis	A. Priority Support/ Oppose	
B. V	Vatch							
Measure	Author	Topic	Location	Calendar	Brief Summary	Position	Priority	Notes 1
<u>AB 11</u>	Ward D	Climate change:	1/11/2021-		Would require the Strategic Growth	Watch	B.	
			A. NAT. RES.		Council, by January 1, 2023, to establish up to 12 regional climate change authorities to coordinate climate adaptation and mitigation activities in their regions, and coordinate with other regional climate adaptation autorities, state agencies, and other relevant stakeholders.		Watch	
AB 50 AB 51	Boerner Horvath D	regional climate change	RES.		up to 12 regional climate change authorities to coordinate climate adaptation and mitigation activities in their regions, and coordinate with other regional climate adaptation autorities, state agencies, and		B. Watch	

		adaptation planning groups: regional climate adaptation plans.			2023, and in consultation with certain state entities, to develop criteria for the development of regional climate adaptation plans.			
AB 59	Gabriel D	Mitigation Fee Act: fees: notice and timelines.	1/11/2021- A. L. GOV.		Current law authorizes any party to protest the imposition of a fee, dedication, reservation, or other exactions imposed on a development project within 90 or 120 days of the imposition of the fee, as applicable, and specifies procedures for those protests and actions. The Mitigation Fee Act imposes the same requirements on a local agency for a new or increased fee for public facilities. Current law, for specified fees, requires any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge or modifying an existing fee or service charge to be commenced within 120 days of the effective date of the ordinance, resolution, or motion. Current law also provides that, if an ordinance, resolution, or motion provides for an automatic adjustment in a fee or service charge and the adjustment results in an increase in the fee or service charge, that any action to attack, review, set aside, void, or annul the increase to be commenced within 120 days of the increase. This bill would increase, for fees and service charges and for fees for specified public facilities, the time for mailing the notice of the time and place of the meeting to at least 45 days before the meeting.	Watch	B. Watch	
AB 100	Holden D	Drinking water: pipes and fittings: lead content.	A. E.S. & T.M.	a.m State Capitol, Room 4202 ASSEMBL Y ENVIRO NMENTA L SAFETY AND TOXIC MATERIA LS, QUIR K, Chair	The California Safe Drinking Water Act prohibits, with certain exceptions, the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption. The act defines "lead free" for purposes of conveying or dispensing water for human consumption to mean not more than 0.2% lead when used with respect to solder and flux and not more than a weighted average of 0.25% lead when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. This bill would additionally define "lead free," with respect to endpoint devices, as defined, to mean that the devices do not leach more than one microgram of lead under certain tests and meeting a specified certification.		B. Watch	
AB 1195	Garcia, Cristina D	Southern Los Angeles	3/4/2021-A. L. GOV.		Would create the Southern Los Angeles County Regional Water Agency as a		B. Watch	

		County Regional Water Agency.			regional water agency serving the drinking water needs of the cities, unincorporated areas, and residents in the communities overlying the Central Basin and West Coast Basin aquifers in southern Los Angeles County. The bill would require the agency to serve the region as the leader in interagency collaboration on water resource issues and to be governed by a 5-member board of locally elected officials in the agency's jurisdiction, each appointed by a specified state or local entity. The bill would authorize the agency to serve the water needs of its region through specified activities, including, among others, operating public water systems or other water infrastructure and integrating other water systems in the region into its operations, as prescribed.			
SB 1	Atkins D	Coastal resources: sea level rise.	3/16/2021- S. E.Q.			Watch	B. Watch	
SB 273	Hertzberg D	Water quality: municipal wastewater agencies.	3/11/2021- S. E.Q.	4/12/2021 9 a.m John L. Burton Hearing Room (4203) SENATE E NVIRONM ENTAL QUALITY, ALLEN, Chair	-	Watch	B. Watch	

					formation commissions, the bill would impose a state-mandated local program.		
SB 274	Wieckowsk i D	government meetings: agenda and documents.	S. APPR.	4/5/2021 #8 SENATE S ENATE BILLS - SECOND READING FILE	The Ralph M. Brown Act, requires meetings of the legislative body of a local agency to be open and public and also requires regular and special meetings of the legislative body to be held within the boundaries of the territory over which the local agency exercises jurisdiction, with specified exceptions. Current law authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. This bill would require a local agency with an internet website, or its designee, to email a copy of all the documents constituting the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email. If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by mail or by other electronic means, the bill would require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified.	Watch	B. Watch
SB 480	Stern D	Metropolitan Water District of Southern California: rules: inappropriate conduct.	3/24/2021- S. GOV. & F.		The Metropolitan Water District Act provides for the creation of metropolitan water districts and specifies the powers and purposes of a district. The act requires the Metropolitan Water District of Southern California to establish and operate an Office of Ethics and adopt rules relating to internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics for application to its board members, officers, and employees. This bill would require the Metropolitan Water District of Southern California to adopt rules relating to inappropriate conduct, as defined, by board members, officers, and employees.		B. Watch
SB 526	<u>Min</u> D	Community water systems: lead user service lines.		NVIRONM ENTAL	Current law requires, by July 1, 2020, a community water system with known lead user service lines in use in its distribution system to provide a timeline for replacement of those lines to the State Water Resources Control Board. Current law requires the state board to review and approve an established timeline, and requires, if the state board fails to act within 30 days of the submission of the timeline, the timeline to be deemed approved. Current law authorizes the state board to enforce these requirements, as specified, and a violation is considered a		B. Watch

						i .		
					violation of the California Safe Drinking			
					Water Act, subjecting the violator to			
					specified civil and criminal penalties. This			
					bill would, until January 1, 2025, require a			
					community water system to remove or			
					replace the full lead user service line, if the			
					community water system disturbs,			
					removes, or replaces a portion thereof. The			
					bill would apply the above-described			
					enforcement provisions to a violation of			
					the requirements of the bill, thereby			
					creating a state-mandated local program by			
					expanding the scope of crimes under the			
					California Safe Drinking Water Act.			
<u>SB 552</u>	Hertzberg	Drought	3/3/2021-S.		1 11 /		В.	
	D	planning:	N.R. & W.		defined, and nontransient noncommunity		Watch	
		small water		John L.	water systems that are schools, no later			
		suppliers:		Burton	than December 31, 2022, to develop and			
		nontransient		Hearing	submit to the Division of Drinking Water			
		noncommunity		Room	for the State Water Resources Control			
		water systems.		(4203)	Board an Emergency Response Plan that			
				` /	includes specified drought-planning			
					elements. The bill would require these			
					water systems to report specified water			
				ES AND	supply condition information to the state			
					board through the state board's Electronic			
				TERN,				
				Chair	Annual Reporting System, and to include			
				Chan	water system risk and water shortage			
					information in the water systems'			
					Consumer Confidence Reports, as provided.			
GD			2/2/2021 0	1/2=/2021	ı İ		_	
<u>SB 559</u>	<u>Hurtado</u> D	Department of		I .	Would establish the Canal Conveyance	Watch	В.	
		Water	N.R. & W.		Capacity Restoration Fund in the State		Watch	
		Resources:		John L.	Treasury to be administered by the			
		water		Burton	Department of Water Resources. The bill			
		conveyance		Hearing	would require all moneys deposited in the			
		systems: Canal		Room	fund to be expended, upon appropriation			
		Conveyance		(4203)	by the Legislature, in support of			
		Capacity		SENATE N	subsidence repair costs, including			
		Restoration		I .	environmental planning, permitting,			
		Fund.			design, and construction and necessary			
				ES AND	road and bridge upgrades required to			
					accommodate capacity improvements. The			
					bill would require the department to			
				Chair	expend from the fund, upon appropriation			
					by the Legislature, specified monetary			
					amounts to restore the capacity of 4			
					specified water conveyance systems, as			
					prescribed, with 2 of those 4 expenditures			
					being in the form of a grant to the Friant			
					Water Authority and to the San Luis and			
					Delta-Mendota Water Authority. The bill			
					would make these provisions inoperative			
					on July 1, 2030, and would repeal the			
					provisions as of January 1, 2031.			
Takal M	[AGGILPOG•	27						

**Total Measures: 27** 

**Total Tracking Forms: 27** 

### Item No. 5d

Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
Metropolitan- sponsored bills	AB 442 Mayes (I)	Introduced 2/4/2021	Surface Mining and Reclamation Act of 1975: exemption: Metropolitan Water District of	SPONSOR	Maintaining critical water infrastructure requires coordinated regulatory compliance. Metropolitan is proposing
	Sponsor: Metropolitan	Assembly Natural Resources Committee and	Southern California: single master reclamation plan Amends the Surface Mining and Reclamation Act of 1975 (SMARA) to prepare a single reclamation plan	Based on October 2019 Board Action	legislation to allow it to develop a single reclamation plan to consistently administer and enforce SMARA compliance for responding to emergencies and repairing, maintaining or replacing
		Assembly Water, Parks, and Wildlife Committee	for emergency excavations or grading on lands owned, leased, or with easements for repairs and maintenance of pipelines, infrastructure, or related transmission systems used to distribute water in Metronolitan's		any pipelines, infrastructure, or related transmission systems used to distribute water in Southern California.
Metropolitan- sponsored bills	SB 230 Portantino (D)	Introduced 1/19/2021	Service area.  State Water Resources Control  Board: Constituents of Emerging	CO-SPONSOR	Metropolitan and the California Municipal Utilities Association are co-
	Sponsors: Metropolitan and the California Municipal Utilities	Senate Environmental Quality Committee	Seeks to create a statewide program to identify and evaluate Constituents of Emerging Concern (CECs) in drinking water sources.	Based on October 2019 Board Action	sponsoring legislation in response to growing public concern about CECs in drinking water. The bill would establish a CEC Drinking Water Program at the State Water Resources Control Board. The program would set up a consistent
Page 91 of 126	Association		1		and science-based approach for assessing the public health and drinking water consequences of CECs, with the intent to improve knowledge and future regulatory determinations.

Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
Water Quality and Treatment	AB 377 Rivas, R. (D)	Introduced 2/01/2021	Water quality: impaired waters	OPPOSE	The objective of the bill is to gradually remove California's impaired waterways
			Would require all California surface	Based upon	from the 303(d) impaired waterways list.
	Sponsor:	Assembly	waters to be fishable, swimmable,	Board-adopted	The bill would have serious negative
		Environmental	and drinkable by January 1, 2050.	2021 State	impacts to Metropolitan, its member
	California	Safety and Toxic	Would prohibit the State Water	Legislative Priorities and	agencies, and all sectors that have NPDES
	Alliance	Committee	Regional Water Quality Control	Principles	prohibitions on the issuance of new,
			Boards from authorizing a permit or	1	renewed, or remodified NPDES waivers,
			a waiver that causes or contributes to		waste discharge requirements, and
			an exceedance of a water quality		permits with best management practices.
			standard.		Metropolitan has NPDES permits
					including a statewide general permit,
					drinking water discharge permit, and
					construction general permit.
Delta/State	SB 369	Introduced	Flood control: Yolo Bypass Cache	SUPPORT	The 2020 Water Resources Development
Water Project	Pan (D)	2/10/2021	Slough Partnership Multibenefit		Act authorized a comprehensive study of
			Program	Based upon	the Yolo Bypass and its future role in
	Sponsor:			Board-adopted	regional flood control. A state master plan
		Senate Natural	Codifies State recognition and	2021 State	for the Yolo Bypass-Cache Slough would
	Sacramento Area	Resources &	support for the Yolo Bypass	Legislative	similarly advance multi-benefit
	Flood Control	Water Committee	Partnership and its efforts to advance	Priorities and	restoration projects and encourage state
	Agency		coordinated master planning and	Principles	and federal agencies to coordinate
		Hearing:	accelerate restoration activities for	•	regulatory compliance and funding for
		March 16, 2021	the Yolo Bypass-Cache Slough		flood control, water supply, habitat and
			region.		recreation.
Water/Energy	AB 1161	Introduced	Electricity: eligible renewable	OPPOSE	SB 100 (DeLeon, 2018) set a state goal
<b>€</b> exus	E. Garcia (D)		energy and zero-carbon resources:	UNLESS	for 100% carbon-free resources for all
92 (	i	2/18/2021	state agencies: procurement	<b>AMENDED</b>	state agencies by 2045. Staff have
of 1	Sponsor:				concerns that this bill misplaces the
126			2		

Tonic	Bill Number	Status	Title - Summary	MWD Position	Effects on Metronolitan
	Author				
			Requires the Department of Water		burden of procuring renewable and
			Resources (DWR) to procure newly	Based upon	carbon-free resources and associated
			eligible renewable energy resources	Board-adopted	storage onto DWR. Procuring energy for
			or zero-carbon resources, and	2021 State	other state agencies is outside DWR's
			associated energy storage, for state	Legislative	purpose and core expertise. Moreover,
			agencies to satisfy their 100%	Priorities and	accelerating the state's goal of 100%
			renewable energy goals by	Principles	renewable and carbon-free energy
			December 31, 2030.		resources for all state agencies by 2045 to
					2030 could dramatically increase
					Metropolitan's retail electricity rates
					above what is mandated by SB 100. Staff
					are seeking an amendment to properly
					place the procurement of renewable
					energy on the load-serving entities.
Water Bond	SB 45	Introduced	Wildfire, Safe Drinking Water,	SUPPORT	Would provide funding to restore areas
Infrastructure	Portantino (D)	12/7/2020	Drought Prenaration, and Flood	AND SEEK	damaged by wildfires, mitigate future
Funding	•		Dustodies Dand Act of 2023	<b>AMENDMENTS</b>	wildfires, create healthy forests and
)	Sponsor:	Senate Natural	Frotection Bond Act of 2022		watersheds, protect water supplies and
	Author	Resources &	Dione of \$ 51 billion wildfine and	Based upon Board	water quality, and protect and restore
		Water Committee	Flaces a \$3.31 billion wildlife and	adonted 2021	rivers streams and lakes
				State Legislative	iivers, su cuins and taxes.
			voter approval.	Priorities and	Metropolitan is seeking amendments to
		Hearing		Dringiples and	ancincia political de securità anticimento de ancincia de ancincia de anticimento
		March 16, 2021		Board action on	water projects, water quality monitoring
		`		SB 45 (Allen,	and treatment, and subsidence repairs to
				2018)	conveyance infrastructure projects
Pa				6/11/19	conveyance unhashucture projects.
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	Bill Number				, and the contract of the cont
Lopic	Author	Status	I itle – Summary	MWD Position	Effects on Metropolitan
Water Bond	SB 559	Introduced	Department of Water Resources:	SUPPORT	Portions of the California Aqueduct, the
Intrastructure	Hurtado (D)	7/18/2021	water conveyance systems: Canal	,	Friant Kern Canal and the Delta Mendota
Funding	(	ļ	Conveyance Capacity Kestoration	Based upon Board	Canal have lost capacity due to
	Sponsors:	Senate Rules	Fund	adopted 2021	subsidence. The Fund would upon
	Friant Water			State Legislative	appropriation provide funding to DWR to
	Authority,		Establishes Canal Conveyance	Priorities and	support a 10-year program to restore the
	San Luis & Delta		Capacity Restoration that would	Principles	capacity of the canals and ensure a more
	Mendota Water		upon appropriation provide up to	1	secure water supply. Funds could be used
	Authority, and		\$785 million in funding for the		to cover one-third the cost to restore the
	State Water		Department of Water Resources to		capacity of the canals. A federal
	Contractors		help pay for subsidence repairs to the		companion bill is envisioned that would
			State Water Project and Central		provide another one-third the cost, and
			Valley Project water conveyance		local partners would also contribute one-
			systems and for necessary road and		third.
			bridge upgrades.		
Innovation	SB 351	Introduced	Water Innovation Act of 2021	SUPPORT	The water sector is facing a myriad of
	Caballero (D)	2/19/2021			challenges from climate change, aging
			Would create the Office of Water	Based upon Board	infrastructure, groundwater
	Sponsor:	Senate Natural	Innovation at the California Water	adomted 2021	contamination. Subsidence and freshwater
	California	Reconres &	Commission to foster the adoption of	auopicu 2021	ecosystems villnerable to climate change
	Municinal Hilities	Water Committee	new technologies and other	State Legislative	Innovative technologies and approaches
	Aggoriation		in ovotive convector in the worter	Priorities and	one needed to engine a reliable water
	Association		IIIIIOvative approacties iii the water	Principles	are needed to custing a remain of
		Hearing:	sector. Creates the Water Innovation		supply while trying to address the
		March 16, 2021	Fund, with monies available upon		challenges. An Office of Water
			appropriation, to the Department of		Innovation could increase collaboration
Pa			Water Resources and State Water		among state agencies on innovative
ge			Resources Control Board to support		approaches, engage stakeholders, and
94			water innovation.		review regulations that may inhibit
of					
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Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan	
					innovation in order to recommend	
					regulatory reforms.	



### DISCUSSION ITEM April 7, 2021

TO: Board of Directors

FROM: Robert Hunter,

**General Manager** 

Staff Contact: Melissa Baum-Haley

SUBJECT: PRESENTATION BY BILL HASENCAMP (METROPOLITAN) ON

**COLORADO RIVER ISSUES** 

### STAFF RECOMMENDATION

Staff recommends the Board of Directors review and discuss the information presented.

### **COMMITTEE RECOMMENDATION**

Committee recommends (To be determined at Committee Meeting)

### **REPORT**

MWDOC staff has invited Bill Hasencamp, Manager of Colorado River Resources for the Metropolitan Water District of Southern California, to present and lead discussion on current Colorado River issues including water quality, reservoir levels, and coordinated operation. The following is a brief background on key issues.

### **Paradox Valley Salinity Control Project**

The Paradox Valley salinity control unit (PVU) is one of the original salinity control projects authorized under Title II of the 1974 Colorado River Basin Salinity Control Act (P.L. 93-320, as amended). The PVU is comprised of a series of brine collection wells and a deep injection disposal well that has prevented approximately 100,000 tons of salt each year from entering the waters of the Colorado River until its closure in March 2019 due to increased project-induced seismic activity. Reclamation published the Paradox Valley Unit (PVU)

Budgeted (Y/N): N/A Budgeted a		amount: None	Core _X_	Choice
Action item amount: N/	A	Line item:		
Fiscal Impact (explain if	unbudgete	d):		

Salinity Control Project Final EIS on December 11, 2020, with "No Action" identified as the preferred alternative.

Reclamation had initially identified four replacement alternatives in the PVU Final EIS, including: A) No Action, B) New Injection Well, C) Evaporation Ponds, and D) Zero Liquid Discharge. Combined with the continued closure of the existing PVU brine injection well, the No Action Alternative would result in no further salinity control in Paradox Valley for the foreseeable future.

On January 21, 2021, Reclamation issued a letter to agencies that commented on the FEIS stating Reclamation does not intend to issue a Record of Decision associated with the PVU FEIS, and that Reclamation remains committed to working collaboratively in furthering the objectives of the Salinity Control Program.

Reclamation would like to explore ways to continue operating the existing brine injection well and options for an equivalent replacement project within or outside of Paradox Valley. A recent uptick in seismic activity associated with the existing project has delayed a restart of operations of the existing facilities. Reclamation is also taking a new look at potential alternatives to Paradox Valley salinity control that were not considered in the recent FEIS. These alternatives include the potential to partner with the private sector to use the Paradox Valley salts for commercial products, looking for significant point source controls outside of Paradox Valley, and greatly expanding the Basin-wide Program for on-farm and off-farm salinity control.

### 2007 Interim Guidelines Review

To determine Lake Powell and Mead operations, USBR is reviewing the 2007 Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead. Through the review, Reclamation intended to bring partners, stakeholders, and the public to a common understanding of past operations under the 2007 Interim Guidelines and their effectiveness. The goals of the Review were to: evaluate the effectiveness of the Guidelines and document Reclamation's operational experience since the Guidelines were adopted.

Increasing severity of the drought necessitated additional action to reduce the risk of reaching critically low elevations in Lakes Powell and Mead. Experience over the past 12 years provides important considerations:

- Enhanced flexibilities and transparency for water users
- Expanded participation in conservation and Basin-wide programs
- Increased consideration of the linkage that occurs through coordinated reservoir operations, particularly with respect to the inherent uncertainties in model projections used to set operating conditions
- Demonstrated need for more robust measures to protect reservoir levels

### **Colorado River Basin States DCP Implementation**

The recent 24-Month Study report minimum probable study indicates that Lake Powell could reach elevation 3,525 feet by March 2022. This has triggered the initiation of additional coordination and communication among the Upper Basin states and Reclamation associated with the Upper Basin Drought Operations Agreement that was executed in 2019. In the lower basin, Arizona reported that it has initiated a shortage implementation

discussion among its stakeholders in anticipation of Lake Mead reaching or falling below elevation 1,075 feet in the next few years. California reported that due to the additionally flexibility provided by the 2019 Lower Basin Drought Contingency Plan (DCP) Agreement, that it had created and stored an additional 0.340 MAF of extraordinary conservation intentionally created surplus in Lake Mead in calendar-year 2020.

Additionally, the Central Arizona Water Conservation District (CAWCD) initiated an effort during the fall of 2020 to develop some proposed federal legislation that would provide appropriations for Reclamation's implementation of System water conservation activities that would result in the creation of up to 100,000 acre-feet annually during the remaining interim period of the DCPs and 2007 Interim Guidelines.

The Basin States have also discussed various legislative options and timing, which ranged from the stand-alone legislation proposed by CAWCD, to an add-on to either a larger reauthorization of the Water Infrastructure Improvements for the Nation (WIIN) Act or another large Biden administration infrastructure bill.



### **DISCUSSION ITEM**

April 7, 2021

TO: Board of Directors

FROM: Robert Hunter,

**General Manager** 

Staff Contact: Melissa Baum-Haley

SUBJECT: METROPOLITAN WATER DISTRICT (MET) ITEMS CRITICAL TO ORANGE

COUNTY

### STAFF RECOMMENDATION

Staff recommends the Board of Directors to review and discuss this information.

### **DETAILED REPORT**

This report provides a brief update on the current status of the following key MET issues that may affect Orange County:

- a) MET Finance and Rate Issues
- b) MET General Manager Recruitment Process
- c) MET Review of Equal Employment Opportunity Policies and Practices
- d) MET Integrated Resources Plan Update
- e) MET Water Supply Conditions
- f) Colorado River Issues
- g) Delta Conveyance Activities and State Water Project Issues

### **ISSUE BRIEF #A**

**SUBJECT:** MET Finance and Rate Issues

### RECENT ACTIVITY

### **Current Update**

Water Transactions for January 2021 totaled 91.1 thousand acre-feet (TAF), which was 16.3 TAF lower than the budget of 107.4 TAF. This translates to \$81.1 million in revenues for January 2021, which were \$15.3 million lower than the budget of \$96.4 million.

Year-to-date water transactions through January 2021 were 943.2 TAF, which was 23.8 TAF lower than the budget of 967.0 TAF. Year-to-date water transactions through January 2021 were \$827.1 million, which were \$29.6 million lower than the budget of \$856.7 million.

Following the Metropolitan's Board approval and authorized the distribution of Appendix A for use in the issuance and remarketing of Metropolitan's bonds, in January, Metropolitan priced \$188,890,000 of Water Revenue Bonds. This allowed for interest rates to be lowered, resulting in \$1.27 million in debt service savings, over the life of the bonds. Bond proceeds will provide \$255 million for funding a portion of the Capital Investment Plan for fiscal years 2020/21 and 2021/22.

### **ISSUE BRIEF #B**

**SUBJECT: MET General Manager Recruitment Process** 

### RECENT ACTIVITY

The current steps in the General Manager Recruitment process are as follows:

- At the January 11 OP&T committee, the Hawkins Company presented the Job Description, Recruitment Brochure, and the Outreach Plan to the Metropolitan Board for review and approval.
- Nominations and submittals from interested candidates were accepted up to February 26. While the recruitment is open until the position is filled, candidates are encouraged to apply early; evaluations of all potential candidates will be done throughout the recruitment process.
- At the February 23 Executive Committee meeting, within closed session, the screening criteria, interview process, and interview questions were developed.
- Throughout the month of March, the Hawkins Company will review the submitted candidate applications. Only a select number of highly qualified candidates will be invited to participate in the interview process.
- On March 23, the Hawkins Company presented a short list of candidates to the Executive Committee within closed session.
- Executive Committee will conduct initial interviews, date to be determined.
- Board will conduct interviews of the top candidates, potentially on April 13.
- Board to approve selection of the new General Manager, potentially on May 11.

The MET General Manager Recruitment brochure can be found at the link: https://thehawkinscompany.com/wp-content/uploads/2021/01/metro\_water\_district\_v6.pdf

### **ISSUE BRIEF # C**

### **SUBJECT: MET Review of Equal Employment Opportunity Policies and Practices**

### RECENT ACTIVITY

Metropolitan's Board of Directors and executive management are taking steps to foster and ensure a workplace that values equity, inclusion and diversity – both in policy and in practice.

The Metropolitan Board responded to employee comments alleging systemic harassment by authorizing Metropolitan's Ethics Officer in November 2020 to enter into a contract with Shaw Law Group, a certified women-owned business enterprise with extensive expertise in Equal Employment Opportunity issues. The firm is currently conducting an independent and thorough review of allegations of systemic Equal Employment Opportunity-related discrimination, harassment, retaliation and related concerns.

To help ensure greater transparency and accountability, a <u>microsite</u> has also been created on Metropolitan's website that include information about the Board's actions, policies, correspondence, and related matters.

### Microsite link:

http://www.mwdh2o.com/DocSvcsPubs/MREC/

### **ISSUE BRIEF # C**

### **SUBJECT: MET Integrated Resources Plan Update**

### RECENT ACTIVITY

On March 23, the Metropolitan Board members and member agency general managers participated in an Integrated Resources Plan (IRP) Demand Workshop with an expert panel. The three-hour workshop was facilitated by Ed Means and organized into three segments:

- 1. Panel member discussion of charge questions related to demand
- 2. Panel member feedback on questions submitted by the Board and member agency managers in advance
- 3. Panel member feedback for clarification or additional demand-related questions from Board members or member agency participants

### **Expert Panelists:**

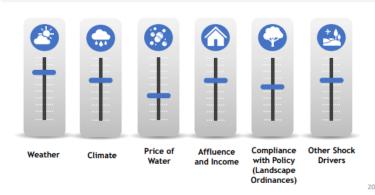
- Tom Chesnutt, A & N Technical Services, Inc.
- Stephen Levy, Center for Continuing Study of the California Economy
- · Lisa Maddaus, Maddaus Water Management Inc.
- Dan Rodrigo, CDM Smith
- Kurt Schwabe, UC Riverside

Metropolitan staff sought feedback from the demand consultants in four primary question areas on driver of demands. Below is a brief recap of the responses as presented during the workshop.

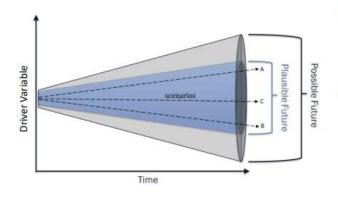
- 1. The most important drivers that influence water demands.
  - a. How they affect demands, in each of the three major demand sectors (single family residential, multi-family residential, Commercial/Industrial).



### Other Important Drivers With Shifting Trends



- a. How to account for uncertainties in future demographic factors and how they can be measured, with the following key takeaways:
  - The level of immigration is the major driver of U.S. population growth and the one with the largest uncertainty. Other demographic drivers are smaller or have less uncertainty including agreement on birthrates decreasing and level of deaths increasing.
  - Competitiveness is in the hands of the local area (residents and policy makers). With the biggest competitiveness challenge being housing (amount, affordability, location and size), as housing has the widest range of uncertainty and is complicated.
- 2. How to estimate plausible ranges of future outcomes for each driver.



- Plausible range includes things that are likely to occur but with considerable variability into the future.
- Possible range includes things that could happen, although we haven't seen evidence of it just yet. Black Swan Events\* often fall in this range.

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- \* A black swan is an <u>unpredictable</u> event that is beyond what is normally expected with potentially severe consequences. They are characterized by their extreme rarity, severe impact, and the widespread insistence they were obvious in hindsight.
- 3. Approaches or methodologies to quantify the effects of the drivers.
  - a. The estimation method should depend on the measures available. For example, demand on wholesaler would look at volume per unit time, whereas retail demand comes from customers (meters) and demand per customer.
  - b. Different methods can be combined to estimate effects of drivers, including prior information, estimation from data alone, and Bayesian methods which

combine the two.

- Major interrelations between ranges and direction of future outcomes for these drivers and how to treat these drivers with internal consistency within the IRP scenarios.
  - a. Assumptions made about population growth (e.g., demographics, housing density/type) should be consistent with assumptions behind drivers of individual water demand (e.g., demographics, housing density/type).
  - b. Water savings associated with one particular driver may be illusory if savings have already been subsumed by another driver. Understanding interrelations can avoid this "double counting".
  - c. When using models to predict future water demand, care must be taken to understand how the contexts that were used to generate model parameters compare to the contexts upon which the predictions are being applied. Representative and up-to-date data are critical to adaptive management.

Additionally, the expert panelists were given/asked individual question from the Metropolitan Board and member agency staff. While the expert panel was not specifically intended to address in these questions in detail, the individual questions were used improve the robustness the discussion at the workshop and will help inform each panel member's written feedback to Metropolitan staff.

### Full Presentation Link:

http://www.mwdh2o.com/PDFWWACurrentBoardAgendas/03232021%20IRP%206a%20Presentation.pdf

### **ISSUE BRIEF # C**

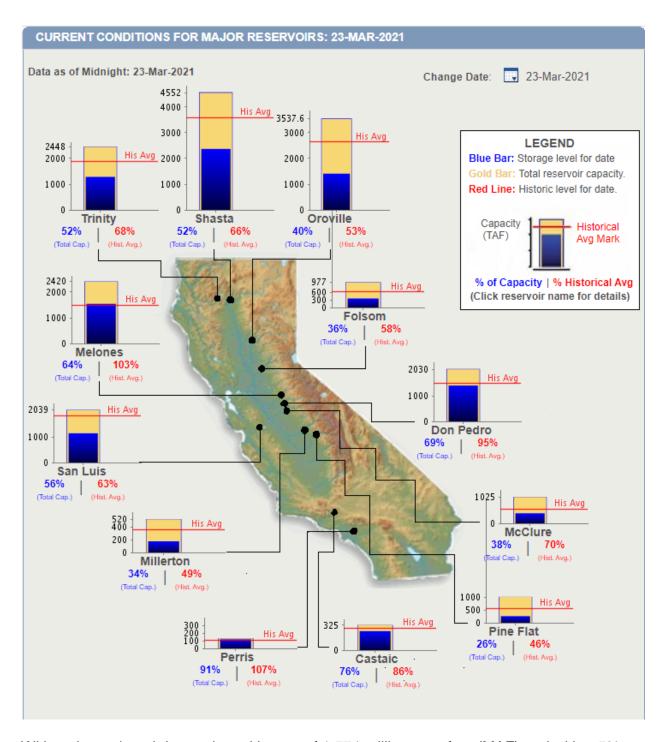
**SUBJECT: MET's Water Supply Conditions** 

### RECENT ACTIVITY

The 2020-21 Water Year (2020-21 WY) officially started on October 1, 2020. Thus far, the Northern California accumulated precipitation (8-Station Index) is reporting **22.3 inches or 56% of normal** as of March 22nd. For 2020-21 WY, the Northern Sierra Snow Water Equivalent is reporting **20.2 inches on March 24th**, which is **71% of normal** for that day. Due to the below average precipitation/snowfall, the Department of Water Resources (DWR) has reduced the initial State Water Project (SWP) "Table A" allocation from 10% to 5%. This allocation provides Metropolitan with approximately **96,575** AF in SWP deliveries this water year. DWR's SWP Allocation considers several factors including existing storage in SWP, conservation reservoirs, SWP operational regulatory constraints, and the 2021 contractor demands. If the Table A allocation remains at 5%, it would be tied for the lowest allocation dating back to 1968. The last time DWR had a Table A Allocation of 5% was in 2014.

The Upper Colorado River Basin accumulated precipitation is reporting 13.1 inches or 77% of normal as of March 22nd. On the Colorado River system, snowpack is measured across four states in the Upper Colorado River Basin. The Upper Colorado River Basin Snow Water Equivalent was reporting 15.5 inches as of March 23rd, which is 87% of normal for that day. Due to the below average precipitation/snowfall in 2020-21 WY, there is now a 60% chance of a shortage at Lake Mead in 2022 and a 82% chance of shortage in 2023.

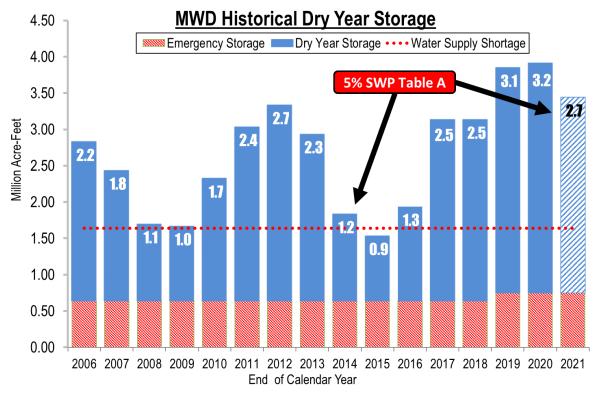
As of March 23rd Lake Oroville storage is at **40% of total capacity and 53% of normal.** As of March 23rd San Luis Reservoir has a current volume of **56% of the reservoir's total capacity and is 63% of normal.** 

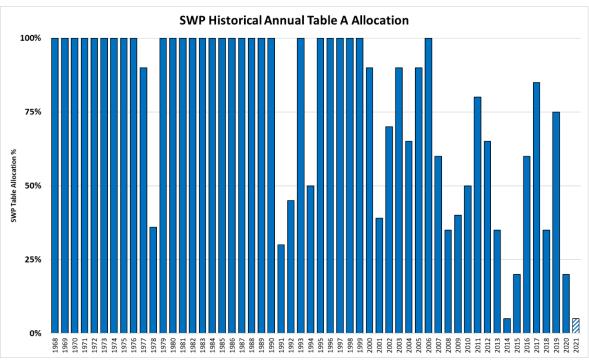


With estimated total demands and losses of 1.574 million acre-feet (MAF) and with a 5% SWP Table A Allocation, Metropolitan is projecting that demands will exceed supply levels in Calendar Year (CY) 2021. Based on this, estimated total dry-year storage for Metropolitan at the end of **CY 2021 will go down to approximately 2.7 MAF.** 

A projected dry-year storage supply of 2.7 MAF will be the third highest amount for Metropolitan, a very impressive accomplishment given that the last two years have

**been extremely dry in Northern California**. A large factor in maintaining a high water storage level are lower than expected water demands. We are seeing regional water demands reaching a 38-year low.



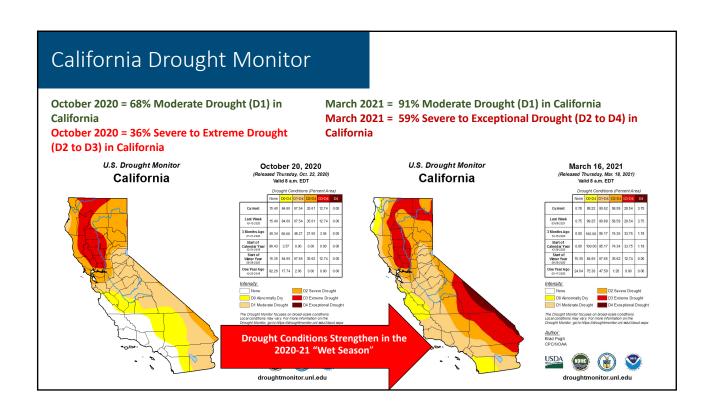


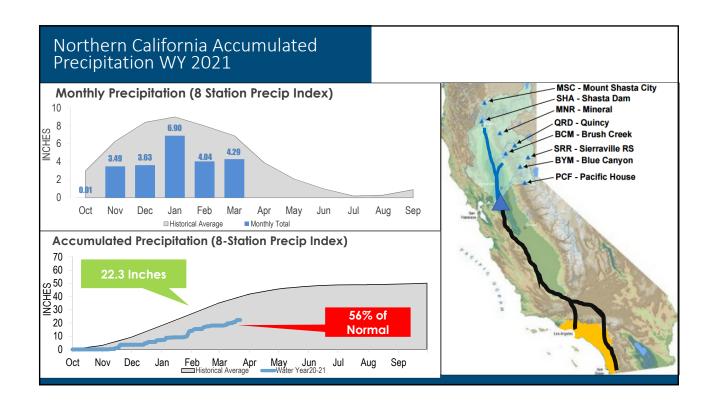
**Attachment: Water Supply Conditions Presentation** 

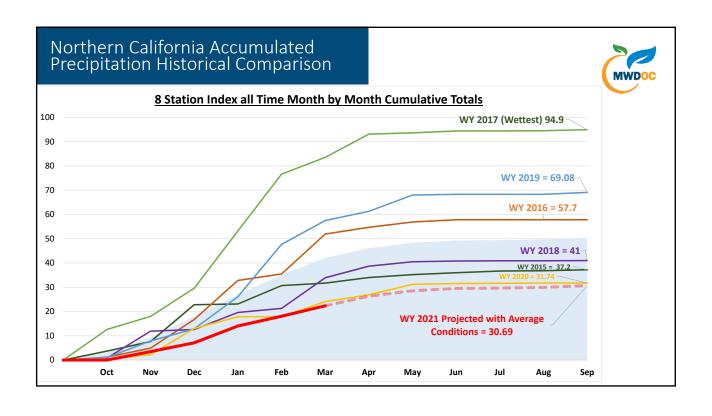


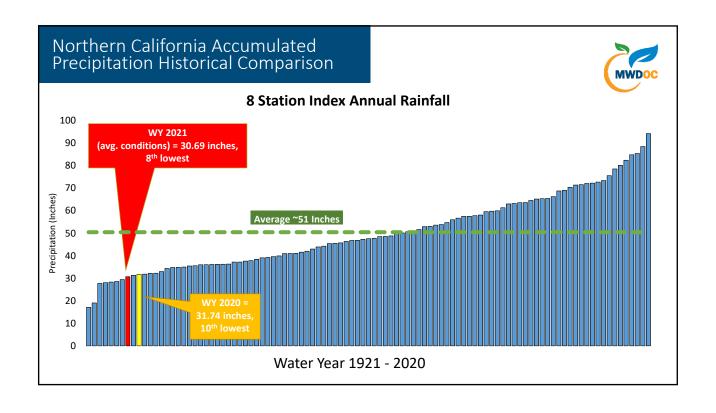
# Water Supply Conditions

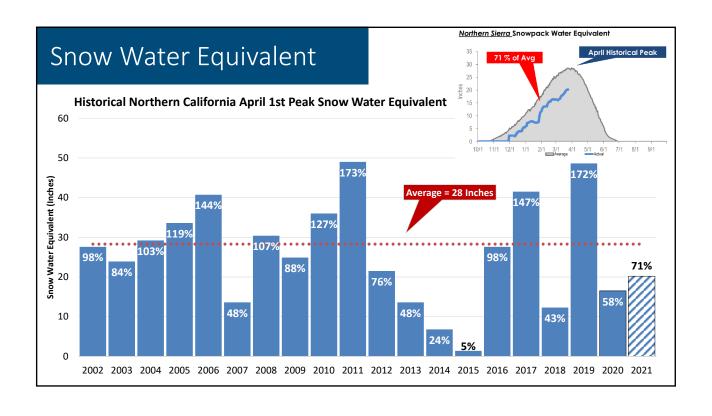
Kevin Hostert, Water Resources Analyst Municipal Water District of Orange County April 7<sup>th</sup> 2021

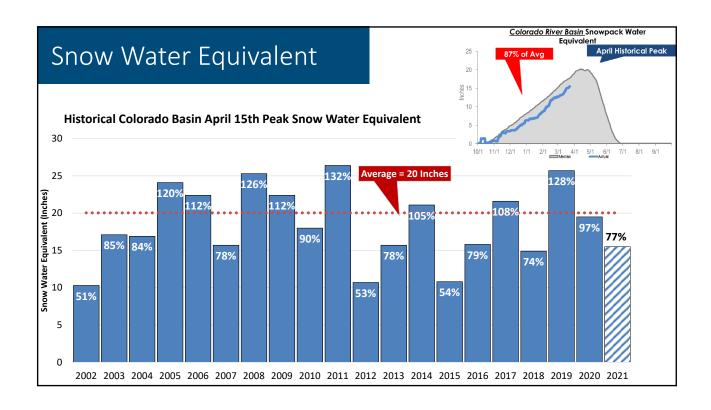


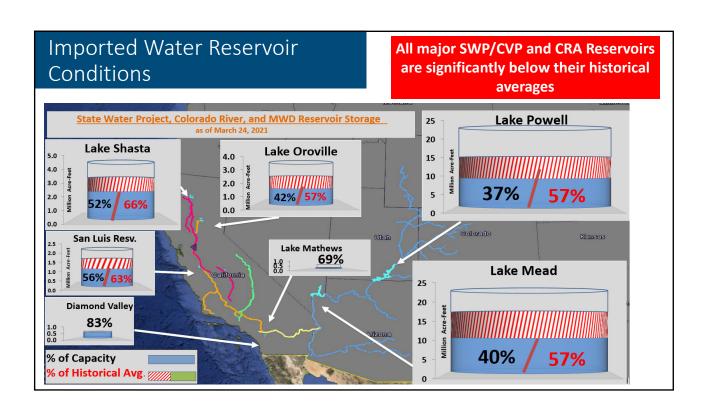


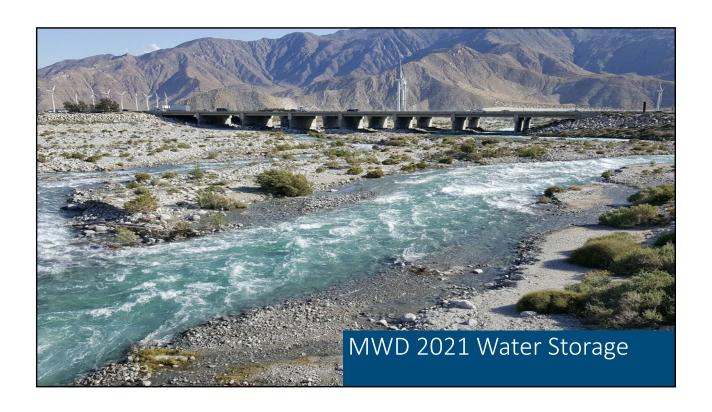


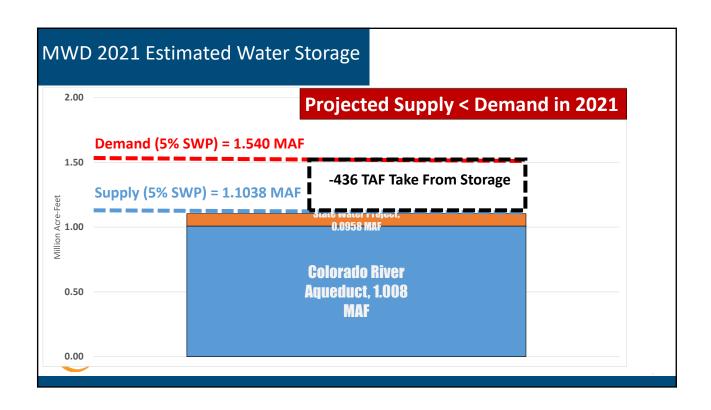


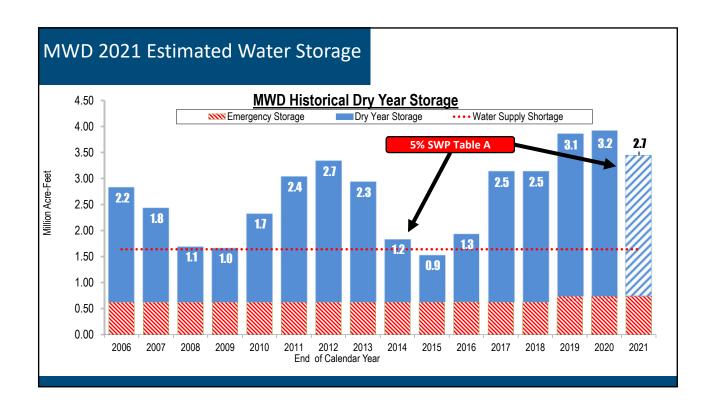


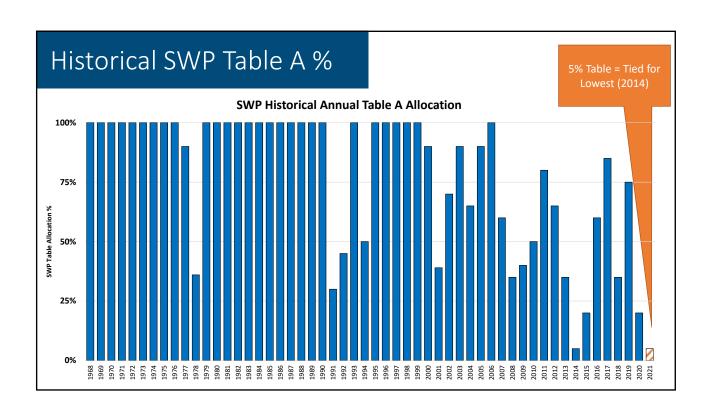


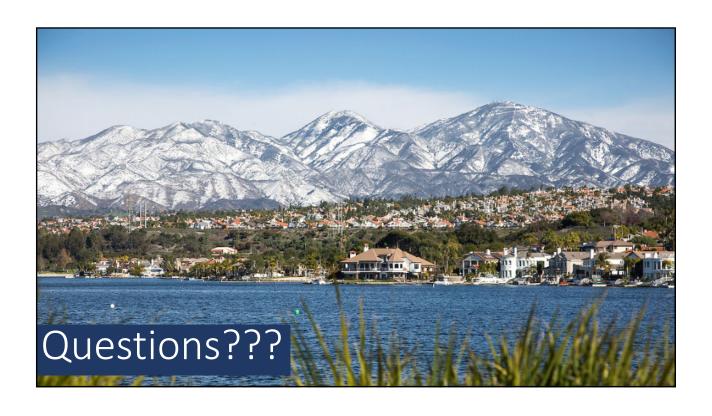












#### **ISSUE BRIEF # D**

**SUBJECT:** Colorado River Issues

**RECENT ACTIVITY** 

#### **Outlook for Lake Mead Continues to Decline**

At the end of February, Lake Mead had reached its high point for the year, and the forecast is for it to drop precipitously for the next 18 months. Lake Mead currently stands at 1,087 feet, which is 12 feet above the shortage trigger. However, as Lower Basin demands begin to increase and releases from Lake Powell decrease, Lake Mead is forecast to decrease by 30 feet by the end of next summer and reach 1,057 feet. It is also likely that this August, Reclamation will declare a first ever shortage for the Lower Basin states. This initial shortage would impact Arizona, Nevada, and Mexico. California, because of its higher priority status, would not be cutback in this initial shortage. However, if Lake Mead were to drop an additional 12 feet below the current forecast, California and Metropolitan would be required to contribute water to Lake Mead under the terms of the Drought Contingency Plan. Staff will keep the Committee updated on the outlook for the Colorado Basin as it enters the key spring months where temperatures can have a large impact on amount of snowmelt runoff.

## Warren H. Brock Reservoir Conservation Summary Report

Warren H. Brock Reservoir (Brock Reservoir), previously known as Drop 2 Reservoir, is an 8,000-acre-foot (AF) capacity regulatory water storage facility. It is in southern California, 25 miles west of Yuma, Arizona, adjacent to the All-American Canal near the Drop 2 Power Plant. The purpose of this facility is to augment regulatory storage capacity in the Colorado River system for flows below Parker Dam, which allows water to be conserved by reducing flows to Mexico in excess of treaty obligations. The construction costs of Brock Reservoir were funded jointly by Southern Nevada Water Authority, Central Arizona Water Conservation District, and Metropolitan. In exchange for the agencies' funding, each agency received Intentionally Created Surplus (ICS) credits in Lake Mead.

In February, the Bureau of Reclamation published a study that documents the volume of water conserved by Brock Reservoir during calendar years 2013 through 2019. Conserved water was estimated based on the modeled difference in regulatory storage below Parker Dam with and without Brock Reservoir based on actual operations during those years. Model results show that Brock Reservoir has conserved approximately 389,339 AF, or 55,620 AF per year. Lake Mead is about 5 feet higher today because of the operation of Brock Reservoir. Based on those results Brock Reservoir is projected to conserve an additional 2,392,000 AF over the remaining life (43 years) of the project. The actual volume will be larger or smaller depending on year-to-year variability of hydrologic conditions, rainfall events, and other operational considerations along the lower Colorado River, though total conservation will be far in excess of the 600,000 AF of System Efficiency ICS granted to project funders. The

estimated annual volume of water conserved by Brock Reservoir will be reported in future Decree Accounting Reports.

#### **ISSUE BRIEF # E**

## SUBJECT: Delta Conveyance Activities and State Water Project Issues

#### **RECENT ACTIVITY**

#### New Delta Conveyance Deep Dive Videos Available

The Delta Conveyance Deep Dive video series, which features interviews with experts on complex project-related topics such as financing, water allocations and climate change, has published several new videos over the last few months. The full list, with links, is below:

- Delta Conveyance Deep Dive:
   Financing the Project
- Delta Conveyance Deep Dive:
   Allocations (Part 1)
- Delta Conveyance Deep Dive:
   Allocations (Part 2)
- Delta Conveyance Deep Dive:
   Climate Change
- Delta Conveyance Deep Dive:
   State Water Project Operations
- Delta Conveyance Deep Dive:
   Soil Investigations

#### Scoping Summary Report for the Delta Conveyance Project

The Department of Water Resources (DWR) recently published an addendum to the Scoping Summary Report for the Delta Conveyance Project, originally published in July 2020. It provides a summary of comments received after the official close of the California Environmental Quality Act (CEQA) scoping period on April 17, 2020 through December 14, 2020. Consistent with the contents of the original Scoping Summary Report, the Addendum includes the comments DWR continued to receive after scoping that pertain to the alternatives considered and the scope of analysis in the Environmental Impact Report (EIR). The Scoping Summary Report Addendum can be accessed on the Delta Conveyance Environmental Planning page on DWR's website.

#### **DWR Approves Modifications to Soil Investigations Project**

Consistent with the need to evaluate the alternatives in the Delta Conveyance Project EIR, DWR has approved modifications to the soil investigations that were originally approved in July of 2020. Before considering the approval of the modifications, DWR prepared an addendum to the Final Initial Study/Mitigated Negative Declaration (IS/MND) for the soil investigations in the Sacramento-San Joaquin Delta (Delta). DWR considered both the Final IS/MND that was adopted in July 2020 and the Addendum prior to approving the project modifications. The approved modified soil investigation activities, as evaluated in the Addendum, include the removal and replacement of geotechnical investigation sites not previously evaluated in the Final IS/MND. DWR has determined and documented that these changes will not result in any new potentially significant impacts and no subsequent EIR or

negative declaration is required. To access a copy of the Addendum and associated Notice of Determination, visit the <u>Delta Conveyance Environmental Planning page</u> on DWR's website.

# **Community Benefits Program Workshops**

As part of the ongoing development of the Community Benefits Program for the proposed Delta Conveyance Project, DWR will be hosting community workshops this spring to hear from people who live, work or play in the Delta on program goals, objectives and project types.

# Summary Report for The Metropolitan Water District of Southern California Board Meeting March 9, 2021

#### **CONSENT CALENDAR ITEMS – ACTION**

#### The Board:

Authorized an agreement with Arcadis U.S., Inc., in amount not-to exceed \$950,000 for engineering services to rehabilitate Garvey Reservoir; and authorized an agreement with Rincon Consultants, Inc., in an amount not-to exceed \$300,000 for CEQA documentation. (Agenda Item 7-1)

Authorized the General Counsel to increase the amount payable under its contract with Hanson Bridgett LLP by \$100,000 to an amount not-to-exceed \$400,000. (**Agenda Item 7-2**)

Authorized the General Manager to exchange access easements with Fondomonte California, LLC, subject to paramount rights, maintenance and other provisions. (**Agenda Item 7-3**)

Authorized the General Manager to execute an agreement with San Bernardino Valley Municipal Water District consistent with key terms outlined in the board letter and in Attachment 1, and in a form approved by the General Counsel; and delegated authority to the General Manager to enter into related future agreements with member agencies and local agencies consistent with the terms outlined in the board letter and in Attachment 2, and in a form approved by the General Counsel. (**Agenda Item 7-4**)

#### Agenda Item 7-5 was Deferred.

Authorized the General Manager to express support for AB 361 (Rivas, R., D-Hollister) Open meetings: local agencies: teleconferences and AB 703 (Rubio, D-Baldwin Park) Open meetings: local agencies: teleconferences. (**Agenda Item 7-6**)

Authorized an increase in the maximum amount payable under contract with Shaw Law Group by \$200,000 to an amount not-to-exceed \$400,000 to conduct an independent review of allegations of systemic Equal Employment Opportunity related discrimination, harassment, and retaliation, and related concerns. (**Agenda Item 7-7**)

#### OTHER BOARD ITEMS – ACTION

Authorized filing cross-complaints in the *SDCWA v. Metropolitan, et al.* litigation, in San Francisco County Superior Court Case Nos. CPF-14-514004, CPF-16-515282, and CPF-18-516389. (**Agenda Item 8-1**)

#### CONSENT CALENDAR OTHER ITEMS – ACTION

Approved committee assignments. Director Erdman was assigned as a member of the Communications and Legislation Committee, the Conservation and Local Resources Committee, and the Real Property and Asset Management Committee; Director Luna was assigned to the Communications and Legislation Committee, the Water Planning and Stewardship Committee, and the Integrated Resources Plan Special Committee; Director Ortega was assigned to the Finance and Insurance Committee, Organization, Personnel and Technology Committee, and the Integrated Resources Plan Special Committee; Director McCoy was appointed as Vice Chair of the Organization, Personnel and Technology Committee. (Agenda Item 6B)

Nominated and elected nonofficer member Michael Camacho representing the Inland Empire Utilities Agency to the Executive Committee for the remainder of a two-year term effective March 9, 2021. (**Agenda Item 6C**)

Approved Commendatory Resolution for Director Adan Ortega representing the City of Fullerton. (**Agenda Item 6D**)

#### OTHER MATTERS AND REPORTS

Induction of new Director Dennis Erdman from the Municipal Water District of Orange County. (**Agenda Item 5B1**)

Induction of Director Adan Ortega from the City of San Fernando. (Agenda Item 5B2)

Induction of new Director Miguel Luna from the City of Los Angeles. (Agenda Item 5B3)

Presentation of Commendatory Resolution for Director Solorio representing the City of Santa Ana. (**Agenda Item 5D**)

Presentation of Commendatory Resolution for Director Treviño representing Upper San Gabriel Valley Municipal Water District. (**Agenda Item 5E**)

# THIS INFORMATION SHOULD NOT BE CONSIDERED THE OFFICIAL MINUTES OF THE MEETING.

Board letters related to the items in this summary are generally posted in the Board Letter Archive approximately one week after the board meeting. In order to view them and their attachments, please copy and paste the following into your browser: <a href="http://mwdh2o.com/WhoWeAre/Board/Board-Meeting/Pages/search.aspx">http://mwdh2o.com/WhoWeAre/Board/Board-Meeting/Pages/search.aspx</a>

All current month materials, before they are moved to the Board Letter Archive, are available on the public website here: <a href="http://mwdh2o.com/WhoWeAre/archived-board-meetings">http://mwdh2o.com/WhoWeAre/archived-board-meetings</a>





Item No. 9b

Regular Board Meeting April 13, 2021 12:00 p.m. – Boardroom

Tuesday, April 12, 2021	
Meeting Schedule	
9:00 AM	L&C
10:30 AM	RP&AM
11:30 AM	Break
12:00 PM	Board

Live streaming is available for all board and committee meetings on our mwdh2o.com website (Click to Access Board Meetings Page)

Public Comment Via Teleconference Only: Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via teleconference only. To participate call (404) 400-0335 and use Code: 9601962.

**MWD Headquarters Building** 

700 N. Alameda Street

Los Angeles, CA 90012

#### 1. Call to Order

(a) Invocation: Hedieh Esfahani, Engineer,

**Engineering Services Group** 

(b) Pledge of Allegiance: Director Matt Petersen,

City of Los Angeles

#### 2. Roll Call

#### 3. Determination of a Quorum

**4.** Opportunity for members of the public to address the Board on matters within the Board's jurisdiction. (As required by Government Code Section 54954.3(a))

#### 5. OTHER MATTERS AND REPORTS

- A. Report on Directors' events attended at Metropolitan expense for month of March
- B. Chairwoman's Monthly Activity Report

Date of Notice: March 30, 2021

- C. General Manager's summary of activities for the month of March
- D. General Counsel's summary of activities for the month of March
- E. General Auditor's summary of activities for the month of March
- F. Ethics Officer's summary of activities for the month of March
- G. Presentation of Commendatory Resolution for Director Adan Ortega representing the City of Fullerton

#### **CONSENT CALENDAR ITEMS — ACTION**

#### 6. CONSENT CALENDAR OTHER ITEMS — ACTION

- A. Approval of the Minutes of the Meeting for March 9, 2021 (Copies have been submitted to each Director)
  Any additions, corrections, or omissions
- B. Approve committee assignments
- C. Approve Commendatory Resolution for Director Sylvia Ballin representing the City of San Fernando
- D. Approve Commendatory Resolution for Director Jesus Quiñonez representing the City of Los Angeles

#### 7. CONSENT CALENDAR ITEMS — ACTION

- 7-1 Approve resolutions fixing and adopting a Readiness-to-Serve Charge and a Capacity Charge for calendar year 2022; the General Manager has determined the proposed action is exempt or otherwise not subject to CEQA. (F&I)
- Adopt a resolution authorizing moneys in the Iron Mountain Landfill Closure/Postclosure Maintenance Fund to be used to pay for potential non-water corrective action activities and amend Administrative Code Sections 5200 and 5201 to reflect the change; the General Manager has determined that this action is exempt or otherwise not subject to CEQA. (F&I)

- 7-3 Authorize the General Manager to: (1) secure one-year water transfers with various Sacramento Valley water districts for up to 100,000 acre-feet of additional supplies; (2) secure storage and conveyance agreements with Department of Water Resource and various Sacramento Valley water districts to facilitate these transfers; and (3) pay up to \$X million from the State Water Project Budget for such transfers; grant final decision-making authority to the General Manager subject to the terms set forth in this letter. (WP&S) [Posting Separately-Pending bid closing]
- Authorize an agreement with HDR Engineering, Inc., in an amount not to exceed \$1,700,000 for engineering design services to replace the Colorado River Aqueduct's transformers, and an agreement with Geosyntec Consultants, Inc., in an amount not to exceed \$360,000 for environmental site assessments; the General Manager has determined that this proposed action is exempt or otherwise not subject to CEQA. (E&O)
- Authorize a four-year, \$483,000 extension to an agreement with ZGlobal Inc., for a new not-to-exceed amount of \$733,000, for power scheduling services associated with the output from up to 14 of Metropolitan's hydroelectric plants, the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (E&O)
- 7-6 Express support if amended for SB 480 (Stern, D-Calabasas)
  Metropolitan Water District of Southern California: rules:
  inappropriate conduct; the General Manager has determined
  that the proposed action is exempt or otherwise not subject to
  CEQA. (C&L) [Posting Separately]
- 7-7 Authorize the General Manager to enter into six temporary skilled labor agreements with 22nd Century Technologies, Inc., Johnson Services Group, Tryfacta, Inc., Abacus Service Corporation, EPCM-RMS, Inc and Skillset Group, LLC, each with an initial amount of \$250,000 for per year, and each with up to four-annual renewal options, with a maximum amount of \$2 million per year for all six contracts; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (OP&T)

- 7-8 Authorize an agreement with Syntech Systems Inc. in an amount not to exceed \$1,104,000 for the Fuel Management System Upgrade; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (OP&T)
- 7-9 Authorize entering into a professional services agreement with Morris and Willner Partners, Inc., not to exceed \$2.43 million, for the design, development, and deployment of an enhanced Water Information System which will replace the existing system and ensure current and future invoicing requirements are met; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (OP&T)
- 7-10 Approve amendments to the Metropolitan Water District Administrative Code to conform to current law, practices, and regulations; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (L&C)
- 7-11 Authorize the grant of a ten-year telecommunications license agreement, with options to renew for up to two additional five-year periods, to Crown Castle on Bouldin Island in the Sacramento-San Joaquin Bay-Delta identified as San Joaquin County Assessor Parcel No. 069-030-38; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (RP&AM)
- Authorize the grant of a ten-year telecommunications license agreement with options to renew for fifteen years to the city of Anaheim, for a site in the city of Yorba Linda, identified as Orange County Assessor Parcel No. 329-021-03; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. (RP&AM)

#### **END OF CONSENT CALENDAR ITEMS**

#### 8. OTHER BOARD ITEMS — ACTION

None

#### 9. BOARD INFORMATION ITEMS

- **9-1** Update on Conservation Program
- 10. FOLLOW-UP ITEMS
- 11. FUTURE AGENDA ITEMS
- 12. ADJOURNMENT

NOTE: Each agenda item with a committee designation will be considered and a recommendation may be made by one or more committees prior to consideration and final action by the full Board of Directors. The committee designation appears in parentheses at the end of the description of the agenda item e.g., (E&O, F&I). Committee agendas may be obtained from the Board Executive Secretary.

Writings relating to open session agenda items distributed to Directors less than 72 hours prior to a regular meeting are available for public inspection at Metropolitan's Headquarters Building and on Metropolitan's Web site <a href="http://www.mwdh2o.com">http://www.mwdh2o.com</a>.

Requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Board Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.