



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

LEGISLATIVE COMMITTEE MEETING

Committee Members

Councilmember Michael A. Cacciotti, Chair
Mayor Patricia Lock Dawson
Supervisor Curt Hagman
Supervisor V. Manuel Perez
Councilmember Nithya Raman
Councilmember José Luis Solache

June 9, 2023 ♦ 9:00 a.m.

TELECONFERENCE LOCATION

Lynwood City Hall 11330 Bulls Road (City Council Conf. Room) Lynwood, CA 90262	Riverside City Hall 3900 Main St. (7 th Floor Conf. Room) Riverside, CA 92522
Los Angeles City Hall 200 N. Spring St. Room 415 Los Angeles, CA 90012	Office of Supervisor V. Manuel Perez 73710 Fred Waring Drive, Ste. 222 Palm Desert, CA 92260

A meeting of the South Coast Air Quality Management District Legislative Committee will be held at 9:00 a.m. on Friday, June 9, 2023 through a hybrid format of in-person attendance in the Dr. William A. Burke Auditorium at the South Coast AQMD Headquarters, 21865 Copley Drive, Diamond Bar, California, and remote attendance via videoconferencing and by telephone. Please follow the instructions below to join the meeting remotely.

Please refer to South Coast AQMD's website for information regarding the format of the meeting, updates if the meeting is changed to a full remote via webcast format, and details on how to participate:

<http://www.aqmd.gov/home/news-events/meeting-agendas-minutes>

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION AT BOTTOM OF AGENDA

Join Zoom Webinar Meeting - from PC or Laptop
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Zoom Webinar ID: 995 7405 0701 (applies to all)

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Audience will be able to provide public comment through telephone or Zoom connection during public comment periods.

PUBLIC COMMENT WILL STILL BE TAKEN

AGENDA

Members of the public may address this body concerning any agenda item before or during consideration of that item (Gov't. Code Section 54954.3(a)). If you wish to speak, raise your hand on Zoom or press Star 9 if participating by telephone. All agendas for regular meetings are posted at South Coast AQMD Headquarters, 21865 Copley Drive, Diamond Bar, California, at least 72 hours in advance of the regular meeting. Speakers may be limited to three (3) minutes each.

CALL TO ORDER

- **Roll Call**

ACTION/DISCUSSION ITEMS (Item 1):

1. Recommend Position on State Bill
(Motion Requested)
This item is to seek approval from the Committee on staff's recommendation for a position on the following bill:
[Attachment 1a-1h]

<u>Bill#</u>	<u>Author</u>	<u>Bill Title</u>	
AB 985	Arambula	San Joaquin Valley Unified Air Pollution Control District: emission reduction credit system	<i>Philip Crabbe III Senior Public Affairs Manager Legislative, Public Affairs & Media</i>
SB 310	Dodd	Prescribed fire: civil liability: cultural burns	<i>Philip Crabbe III</i>
SB 410	Becker	Powering Up Californians Act	<i>Philip Crabbe III</i>

<u>Bill#</u>	<u>Author</u>	<u>Bill Title</u>	
SB 537	Becker	Open meetings: multijurisdictional, cross-county agencies: teleconferences	<i>Denise Peralta Gailey Public Affairs Manager Legislative, Public Affairs & Media</i>

DISCUSSION ITEMS (Items 2 through 3):

2. Update and Discussion on Federal Legislative Issues
(No Motion Required)
Consultants will provide a brief oral report of Federal legislative activities in Washington D.C.
[Attachment 2a-2c - Written Reports]

*Gary Hoitsma
Carmen Group*

*Jed Dearborn
Cassidy & Associates*

*Mark Kadesh
Kadesh & Associates, LLC*
3. Update and Discussion on State Legislative Issues
(No Motion Required)
Consultants will provide a brief oral report on State legislative activities in Sacramento.
[Attachment 3a-3c - Written Reports]

*David Quintana
Resolute*

*Ross Buckley
California Advisors, LLC*

*Paul Gonsalves
Joe A. Gonsalves & Son*

OTHER MATTERS:

4. Other Business
Any member of this body, or its staff, on his or her own initiative or in response to questions posed by the public, may ask a question for clarification, may make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter, or may take action to direct staff to place a matter of business on a future agenda. (Govt. Code Section 54954.2)
5. Public Comment Period
At the end of the regular meeting agenda, an opportunity is provided for the public to speak on any subject within the Legislative Committee's authority that is not on the agenda. Speakers may be limited to three (3) minutes each.
6. **Next Meeting Date** – Friday, August 11, 2023 at 9:00 a.m.

ADJOURNMENT

Document Availability

All documents (i) constituting non-exempt public records, (ii) relating to an item on an agenda for a regular meeting, and (iii) having been distributed to at least a majority of the Committee after the agenda is posted, are available by contacting Aisha Reyes at (909) 396-3074 or send the request to areyes2@aqmd.gov.

Americans with Disabilities Act and Language Accessibility

Disability and language-related accommodations can be requested to allow participation in the Legislative Committee meeting. The agenda will be made available, upon request, in appropriate alternative formats to assist persons with a disability (Gov't Code Section 54954.2(a)). In addition, other documents may be requested in alternative formats and languages. Any disability or language-related accommodation must be requested as soon as practicable. Requests will be accommodated unless providing the accommodation would result in a fundamental alteration or undue burden to South Coast AQMD. Please contact Aisha Reyes at (909) 396-3074 from 7:00 a.m. to 5:30 p.m., Tuesday through Friday, or send the request to areyes2@aqmd.gov.

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION

Instructions for Participating in a Virtual Meeting as an Attendee

As an attendee, you will have the opportunity to virtually raise your hand and provide public comment.

Before joining the call, please silence your other communication devices such as your cell or desk phone. This will prevent any feedback or interruptions during the meeting.

Please note: During the meeting, all participants will be placed on mute by the host. You will not be able to mute or unmute your lines manually.

After each agenda item, the Chairman will announce public comment.

A countdown timer will be displayed on the screen for each public comment.

If interpretation is needed, more time will be allotted.

Once you raise your hand to provide public comment, your name will be added to the speaker list. Your name will be called when it is your turn to comment. The host will then unmute your line.

Directions for Video ZOOM on a DESKTOP/LAPTOP:

- If you would like to make a public comment, please click on the “**Raise Hand**” button on the bottom of the screen.
- This will signal to the host that you would like to provide a public comment and you will be added to the list.

Directions for Video Zoom on a SMARTPHONE:

- If you would like to make a public comment, please click on the “**Raise Hand**” button on the bottom of your screen.
- This will signal to the host that you would like to provide a public comment and you will be added to the list.

Directions for TELEPHONE line only:

- If you would like to make public comment, please **dial *9** on your keypad to signal that you would like to comment.

South Coast Air Quality Management District
Legislative Analysis Summary – AB 985 (Arambula)
Version: As Amended – 5/18/23
Analyst: PC

AB 985 (Arambula)

San Joaquin Valley Unified Air Pollution Control District: emission reduction credit system.

Summary: This bill would require:

- 1) The San Joaquin Valley Air Pollution Control District (San Joaquin District) to revise their New Source Review regulation to specify a time period by which existing and future emission reduction credits (ERCs) will expire; and
- 2) Require CARB to conduct an analysis of the San Joaquin District's ERC banks for certain pollutants and to complete the analysis by January 1, 2027.

Background: The federal Clean Air Act and state law requires every air district in California to operate a New Source Review program that ensures that all new and modified permitted sources install the cleanest available technology referred to as Best Available Control Technologies (BACT) and that any emissions increase is offset with Emission Reduction Credits called "ERCs." However, an ERC cannot be used in lieu of meeting BACT. Due to stringent federal requirements, generating ERCs is difficult and requires substantial discounts which has decreased the supply of ERCs overtime. Moreover, although a source can over control to generate an ERC, nearly all ERCs are generated from equipment or facility shutdowns. Establishing an expiration date on existing and future ERCs will accelerate the depletion of ERCs, increasing the price of permitting new and modified sources and potentially resulting in a permit moratorium if the availability of ERCs is eliminated.

Federal law requires a credit to be valued at time-of-use, meaning that if a regulation would have reduced emissions from a source granted a credit, that credit must be discounted when used as an offset to reflect emissions after required controls from the regulation. The value of a credit will always be the same or lower at time-of-use than at time of issuance. The current San Joaquin District credit bank contains nearly 11 million pounds per year of NOx credits when valued at time of issuance, more than 80% of which were generated more than 20 years ago. However, over the years, the San Joaquin District's regulatory program has become more stringent, and it estimated in 2016 that these NOx credits, when valued at time-of-use, were worth about 18% of the time of issuance value. This reduction in time of issuance value is directly related to the stringency of the San Joaquin District's regulatory program.

In 2019, the Central Valley Air Quality Coalition (CVAQC) petitioned CARB to conduct a review of the San Joaquin District's ERC bank. In support of the petition, CVAQC included a report prepared by Earthworks, which questioned the validity of selected older ERCs, the annual federal offset equivalency demonstration, and made a number of recommendations, including that CARB review the ERC program. In June 2020, CARB released its review of the San Joaquin District's ERC program, which documented a number of issues with the program. For example, in 15 of the 52 ERC projects reviewed, CARB found that the San

Joaquin District granted credits, generated by facility shutdowns, in which emissions ceased more than 180 days before submission of the credit application. In addition, in four of the projects reviewed, CARB determined that it was unclear whether the emission reductions were surplus of every federal, state, or district law, rule, order, permit, or regulation. This benefited the applicant by providing a greater face value to the credit. But, as a result, the San Joaquin District had to find additional reductions to cover the non-surplus credits. The author contends it is likely that a similar analysis of the other major banks for PM10, CO, and SOx may reveal similar errors and should be reviewed.

CARB notes this bill requires a review of the ERC bank that is redundant to its previous review, in which no ERCs were invalidated. It is unclear to CARB what an additional review would provide with respect to the integrity of the program or federal Clean Air Act compliance. CARB notes the San Joaquin District already has a rule to address the banks' failing of an equivalency demonstration. If such a failure occurs, the ERCs must become time-of-use. CARB does not have the authority to require the District to value ERCs at time-of-use. Generally, CARB believes neither CARB nor the District have the authority to invalidate or change a permit based on the bill's retrospective permit analysis.

Status: 5/22/23 - Read second time. Ordered to third reading.

Specific Provisions: Specifically, this bill would:

- 1) Require the San Joaquin District to revise the regulation establishing its ERC system to specify a time period by which existing and future ERC's will expire.
- 2) Provide that this revision of the ERC system is subject to disapproval by CARB within 60 days after adoption by the San Joaquin District.
- 3) Require CARB to conduct an analysis of the San Joaquin District's ERC banks for certain pollutants and to complete the analysis no later than January 1, 2027.
 - a. As part of the analysis, the bill would require CARB to ensure that ERCs are deemed invalid if they were issued in violation of state, local, or district laws, rules, regulations, or procedures in place at the time of original issuance.
 - b. If the invalidation of those credits leads, or would have led, to the San Joaquin District's program failing to meet applicable federal emission reduction requirements, the bill would require current and future credits to be valued at the time of use.
- 4) Require CARB to conduct a stationary source analysis for all permits in the San Joaquin District that use a credit for oxides of nitrogen (NOx), volatile organic compounds (VOCs), or a pollutant for which the invalidation of credits leads, or would have led, to the failure to meet federal requirements.
- 5) Require, upon completion of the analyses, CARB to submit a report to the Legislature that includes a summary of the results of the analyses.

Impacts on South Coast AQMD’s Mission, Operations or Initiatives: By establishing an expiration date on existing and future ERCs, this bill would create a scarcity of ERCs in the San Joaquin Valley and make it infeasible to permit a wide range of activities in one of the most underserved regions in the state. The San Joaquin District and other California air quality districts already operate stringent state and federally approved permitting and stationary source regulatory programs. Unlike cap-and-trade style programs, ERCs cannot be used to satisfy or avoid stationary source emission control requirements. Due to stringent federal requirements, generating ERCs is difficult and requires substantial discounts which has decreased the supply of ERCs overtime. Moreover, although a source can over control to generate an ERC, nearly all ERCs are generated from equipment or facility shutdowns. Federal requirements also require that ERCs are generated based on a source’s actual emissions while the amount a source is offset is based on the source’s potential emissions plus an additional 20 percent. Stringent generation, discounting, use, and environmental benefits have resulted in a diminishing supply of ERCs.

Under state and federal New Source Review requirements, all new and modified sources must install BACT. Offset requirements are in addition to BACT. Also, over time, air districts update regulations to reflect Best Available Retrofit Control Technology (BARCT) requirements, thus facilities are required to install lower emitting equipment approved by US E.P.A. as the most stringent in the nation.

If this bill were to apply to South Coast AQMD, it has the potential to have significant impacts to the agency’s permitting program, further diminishing the supply of ERCs to larger sources (greater than 4 tons per year). As the supply of ERCs decreases, the price of these offsets also increases. Permits for new or modified sources would need to be delayed if there are not sufficient ERCs. AB 985 would require CARB and the San Joaquin District to conduct costly analysis of the ERC banks for PM10, CO, and SOx as well as a review of all permits that utilize ERCs in the San Joaquin Valley (estimated at \$6 million annual and ongoing for CARB costs, alone). This requirement does not recognize that ERCs are publicly noticed, and that CARB and US EPA review and approve every ERC prior to their issuance and that the permit review is duplicative of work that CARB and EPA have already done. Additionally, consistent with existing state and federal regulations, the San Joaquin District is already required to constantly re-evaluate, and receive CARB/US EPA approval, for BARCT, Best Available Control Measures (BACM), and Most Stringent Measures (MSM).

AB 985 would impose arbitrary expiration dates on ERCs that would accelerate the depletion of ERCs and would eliminate the limited remaining bank of surplus ERCs. Given the stringency of the existing regulatory program, it is already extremely difficult to generate new ERCs and most ERCs are generated from equipment shutdowns, with heavy discounts. The requirement to expire ERCs would not only eliminate the existing registry of ERCs but would also create strong disincentives for the proactive investment for operators

to modernizing and expanding their operations that are using the cleanest technologies - BACT. Additionally, given the complexity and timing of large capital projects, facilities would face the uncertainty of relying on credits secured early in project design that may be expired when needed during final permitting.

Overall, this bill would set a bad precedent in California for targeting and negatively impacting an air district's ERC system. This could lead to negative impacts on other air districts, including the South Coast AQMD, that could hurt emission reduction efforts and unnecessarily raise air district costs.

Recommended Position: OPPOSE

Support:

Clean Water Action
Coalition for Clean Air
Central Valley Air Quality Coalition
Pesticide Action Network
Central California Environmental Justice Network
Valley Improvement Projects
Leadership Counsel for Justice & Accountability
Mi Familia Vota
Public Health Advocates
Santa Cruz Climate Action Network
Little Manila Rising
Families Advocating for Chemical and Toxics Safety
Ban Single Use Plastic
The Climate Center
350 Humboldt
Elders Climate Action NorCal Chapter
Elders Climate Action SoCal Chapter
California Environmental Voters
Climate Action California

Opposition:

California State Association of Counties
California Air Pollution Control Officers Association
Western States Petroleum Association
San Joaquin Valley Air Pollution Control District
County of Fresno
San Joaquin County Board of Supervisors
Stanislaus County
Madera County

South Coast Air Quality Management District
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City of Avenal
Merced County
Rural County Representatives of California (RCRC)
Urban Counties of California
Vector Environmental, INC.

AMENDED IN ASSEMBLY MAY 18, 2023

AMENDED IN ASSEMBLY APRIL 10, 2023

AMENDED IN ASSEMBLY MARCH 23, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 985

Introduced by Assembly Member Arambula

February 15, 2023

An act to add Sections 40714 and 40714.2 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 985, as amended, Arambula. San Joaquin Valley Unified Air Pollution Control District: emission reduction credit system.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution and air pollution control and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources.

Existing law requires the board of every air district to establish by regulation a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants be banked prior to use to offset future increases in emissions, except as specified. Existing law requires the state board to develop and adopt a methodology for use by air districts to calculate the value of credits issued for emission reductions from stationary, mobile, indirect, and areawide sources when those credits

are used interchangeably, consistent with certain requirements. Existing law also requires the state board to periodically update the methodology as it applies to future transactions, if necessary.

Existing law provides for the establishment of the San Joaquin Valley Unified Air Pollution Control District vested with the authority to regulate air emissions from stationary sources located in the San Joaquin Valley Air Basin.

This bill would require the district to revise the regulation establishing its emission reduction credit system to ~~require specify a time period by which~~ existing and future emission reduction credits ~~to expire after a specified time period.~~ *will expire.* The bill would provide that this revision of the emission reduction credit system is subject to disapproval by the state board within 60 days after adoption by the district.

This bill would require the state board, except as provided, to conduct an analysis of the San Joaquin Valley Unified Air Pollution Control District's emission reduction credit banks for ~~particulate matter below 10 microns (PM10), carbon monoxide (CO), and oxides of sulfur (SO_x)~~ *certain pollutants* and to complete the analysis no later than January 1, 2027. As part of the analysis, the bill would require the state board to ensure that emission reduction credits are deemed invalid if they were issued in violation of state, local, or district laws, rules, regulations, or procedures in place at the time of original issuance. If the invalidation of those credits leads, or would have led, to the district's program failing to meet applicable federal emission reduction requirements, the bill would require current and future credits to be valued at the time of use. The bill would also require the state board to conduct a stationary source analysis for all permits in the district that use a credit for oxides of nitrogen ~~(NO_x) or (NO_x)~~, volatile organic compounds (VOCs), *or a pollutant for which the invalidation of credits leads, or would have led, to the failure to meet federal requirements*, as provided. The bill would require, upon completion of the analyses, the state board to submit a report to the Legislature that includes a summary of the results of the analyses.

By adding to the duties of the district, this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the San Joaquin Valley Air Basin.

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.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Poor air quality is intimately linked with negative health
4 impacts, including respiratory illness and premature deaths, with
5 recent studies estimating air pollution as the cause of over 100,000
6 premature deaths in the United States in 2011. However, the
7 distribution of premature deaths is not equal.

8 (b) Rural communities, farmworker communities, disadvantaged
9 communities, tribal nations, young people, and those living at or
10 below the poverty level often live adjacent to transportation
11 corridors or commercial and industrial facilities with highly
12 localized and severe pollution levels and are at the highest risk of
13 adverse health outcomes.

14 (c) The United States Environmental Protection Agency is
15 responsible for establishing national ambient air quality standards
16 for a number of criteria pollutants, including oxides of nitrogen
17 ~~(NO_x)~~, (NO_x), volatile organic compounds (VOCs), carbon
18 monoxide (CO), oxides of sulfur ~~(SO_x)~~, (SO_x), and particulate
19 matter below 10 microns (PM10).

20 (d) When facilities voluntarily control emissions to levels
21 beyond current or future regulatory requirements, they earn
22 emission reduction credits that new sources of pollution purchase
23 to offset the pollution resulting from their operations. Unused
24 emission reduction credits are stored by the San Joaquin Valley
25 Unified Air Pollution Control District in banks organized by
26 pollutant.

27 (e) In 2020, the State Air Resources Board discovered errors
28 that invalidated some of the credits within the banks for oxides of
29 nitrogen ~~(NO_x)~~ (NO_x), and volatile organic compounds (VOCs).
30 This caused the San Joaquin Valley Unified Air Pollution Control
31 District to fail the equivalency demonstrations for these two banks
32 and triggered the federal requirement that all credits in these two
33 banks be valued at the time of use.

1 (f) It is likely that a similar analysis of the ~~other three major~~
 2 ~~banks, which are for particulate matter below 10 microns (PM10),~~
 3 ~~carbon monoxide (CO), and oxides of sulfur (SOx), San Joaquin~~
 4 ~~Valley Unified Air Pollution Control District's other emission~~
 5 ~~reduction credit banks will reveal similar errors and should be~~
 6 reviewed.

7 SEC. 2. Section 40714 is added to the Health and Safety Code,
 8 to read:

9 40714. (a) The district shall revise its regulation adopted
 10 pursuant to Section 40709 to ~~require specify a time period by which~~
 11 ~~existing and future emission reduction credits in all banks to expire~~
 12 ~~after a time period that is equal to, or less than, the shortest~~
 13 ~~expiration period in effect as of January 1, 2024, for emission~~
 14 ~~reduction credits issued by any state or any other district. will~~
 15 ~~expire.~~

16 (b) The revision of the system made pursuant to subdivision (a)
 17 shall be subject to disapproval by the state board pursuant to
 18 Chapter 1 (commencing with Section 41500) of Part 4 within 60
 19 days after adoption by the district.

20 (c) For purposes of this section, “district” means the San Joaquin
 21 Valley Unified Air Pollution Control District.

22 SEC. 3. Section 40714.2 is added to the Health and Safety
 23 Code, to read:

24 40714.2. (a) (1) Except as provided in subdivision (c), the
 25 state board, building on the June 2020 report, shall conduct an
 26 analysis of *all of* the district’s emission reduction credit banks ~~for~~
 27 ~~particulate matter below 10 microns (PM10), carbon monoxide~~
 28 ~~(CO), and oxides of sulfur (SOx)~~ established pursuant to Section
 29 ~~40709~~ 40709, *other than the banks for oxides of nitrogen (NO_x)*
 30 *and volatile organic compounds (VOCs)*, to determine if any credits
 31 for those pollutants were issued in violation of state, local, or
 32 district laws, rules, regulations, or procedures in place at the time
 33 of original issuance. The analysis shall be completed no later than
 34 January 1, 2027.

35 (2) *For purposes of the analysis described in paragraph (1),*
 36 *the state board shall use the same statistical sampling methods*
 37 *used in the June 2020 report.*

38 (b) As part of the analysis conducted pursuant to subdivision
 39 (a), the state board shall ensure all of the following:

1 (1) An emission reduction credit issued in violation of state,
2 local, or district laws, rules, regulations, or procedures in place at
3 the time of original issuance shall be deemed invalid.

4 (2) If an emission reduction credit is deemed invalid pursuant
5 to paragraph (1), the credit shall be removed from the bank.

6 (3) If removal of credits from the banks for ~~particulate matter~~
7 ~~below 10 microns (PM10), carbon monoxide (CO), or oxides of~~
8 ~~sulfur (SO_x)~~ *the pollutants analyzed pursuant to subdivision (a)*
9 *leads, or would have led, to failing an equivalency demonstration*
10 *for any of these banks, current and future credits in the bank or*
11 *banks with the failed equivalency demonstration shall be valued*
12 *at the time of use.*

13 (c) The state board is not required to conduct the analysis
14 described in subdivision (a) ~~if it for a particular pollutant if the~~
15 ~~state board~~ *requires the district to value at the time of use all*
16 *current and future emission reduction credits in the banks bank*
17 *established pursuant to Section 40709 for particulate matter below*
18 *10 microns (PM10), carbon monoxide (CO), and oxides of sulfur*
19 *(SO_x). that pollutant.*

20 (d) (1) The state board shall conduct a stationary source
21 analysis for all permits in the district that use a credit for oxides
22 of nitrogen (~~NO_x~~) (*NO_x*), or volatile organic compounds (VOCs).
23 ~~The review shall identify~~ *analysis shall include information on*
24 *the permit issued, including, but not limited to, all of the following:*

25 (1) ~~The amount and source of emissions of oxides of nitrogen~~
26 ~~(NO_x) and volatile organic compounds (VOCs).~~

27 (2) ~~The type of pollution control equipment currently being~~
28 ~~used at each source.~~

29 (3) ~~The emission reduction opportunities at each source,~~
30 ~~including the availability of a retrofit using best available retrofit~~
31 ~~control technology, and the cost.~~

32 (A) *Permit applicant information.*

33 (B) *Facility name and reduction site location information for*
34 *all relevant credits.*

35 (C) *Estimated permitted emissions by type and quantity.*

36 (D) *Any best available control technology, best available retrofit*
37 *control technology, or other emissions control measures identified*
38 *as a requirement of the permit.*

39 (2) *If removal of credits from the banks for the pollutants*
40 *analyzed pursuant to subdivision (a) leads, or would have led, to*

1 *failing an equivalency demonstration pursuant to paragraph (3)*
2 *of subdivision (b), the state board shall conduct a stationary source*
3 *analysis pursuant to paragraph (1) for all permits in the district*
4 *that use a credit for the pollutant with the failed equivalency*
5 *demonstration.*

6 (e) (1) Upon completion of the analyses pursuant to subdivision
7 (a) and subdivision (d), the state board shall submit a report to the
8 Legislature summarizing the results of the analyses.

9 (2) The report to be submitted pursuant to this subdivision shall
10 be submitted in compliance with Section 9795 of the Government
11 Code.

12 (f) For purposes of this section, the following definitions apply:

13 (1) “June 2020 report” means the report published by the state
14 board on June 4, 2020, reviewing the district’s emission reduction
15 credit system.

16 (2) “District” means the San Joaquin Valley Unified Air
17 Pollution Control District.

18 SEC. 4. The Legislature finds and declares that a special statute
19 is necessary and that a general statute cannot be made applicable
20 within the meaning of Section 16 of Article IV of the California
21 Constitution because of the unique need to address air pollution
22 and environmental injustices in the San Joaquin Valley Air Basin.

23 SEC. 5. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act, within the meaning of Section
28 17556 of the Government Code.

SB 310 (Dodd)

Prescribed fire: civil liability: cultural burns.

Summary: This bill would:

- 1) Authorize the California Natural Resources Agency (CNRA) Secretary, with concurrence of the Secretary of the California Environmental Protection Agency (CalEPA), to enter into agreements with certain California Native American Tribes to waive certain state and local permitting or regulatory requirements for cultural burns, including air district requirements, and
- 2) Expand the definition of burn boss for purposes of the qualified immunity provided for prescribed burning in California.

Background: Cultural burns, also described as prescribed fires, are a highly effective tool in reducing wildfire risk. The air districts recognize this and are supporting its use by implementing programs and engaging in discussions that expand the use of prescribed fire on the state’s natural and working lands. Per CAPCOA, air districts generally approved most requested prescribed burns and through coordination with CalFire, Federal Land Managers, and tribes, are taking steps to streamline the permitting process through outreach and training.

While prescribed fire is a beneficial activity, it must be implemented carefully and judiciously so that its use does not cause adverse impacts on public health or safety. The air districts, in partnership with the California Air Resources Board (CARB), CalFire, Federal Land Managers, tribes, and others work closely to ensure that emissions from prescribed fires do not significantly impact downwind communities. The permitting process considers factors provided by tribal, federal and state land managers which include meteorological conditions, type of vegetation to be treated, estimated emissions, topography, fire suppression techniques and location to the nearest population centers. Proper safeguards must be implemented to avoid adverse health and safety impacts.

Status: 5/18/23 – Passed Senate Appropriations. Read second time. Ordered to third reading.

Specific Provisions: Specifically, this bill would:

- Expand the definition of “burn boss” to match the definition in the Prescribed Fire Liability Pilot Program.
- Redefine “cultural fire practitioner” to mean a person recognized by a California Native American tribe or tribal organization with substantial experience in burning to meet cultural goals or objectives.

- Authorize the CNRA Secretary, only with concurrence of the CalEPA Secretary, to enter into agreements with federally recognized California Native American tribes that waive compliance with specified state and local permitting or regulatory requirements for cultural burns, including air district requirements.
- Require the CNRA Secretary, to convene a cultural burn working group consisting of, but not limited to, the Secretary, the CalEPA Secretary, CARB, the State Water Resources Control Board, the Department of Fish and Wildlife, the Department of Forestry and Fire Protection, the Department of Parks and Recreation, the California Coastal Commission, California Native American tribes, and local governments, with the goal of determining a framework to enable conditions conducive to cultural burning.
- On or before January 1, 2025, the working group shall report to the Legislature on the findings of the workgroup.
- Clarify that it does not provide authorization to enter or burn property without the permission of the landowner.
- Provide that the provisions relating to agreements to waive compliance and the working group shall sunset on January 1, 2029.

Impacts on South Coast AQMD’s Mission, Operations or Initiatives: Out of respect for tribal sovereignty and in compliance with the US Constitution, air districts do not require Native American tribes to obtain permits when practicing cultural burns on federally recognized trust lands as defined in 25 USC 2201. Unfortunately, SB 310 would allow cultural burns to be carried out anywhere in the state without regard to the above outlined safety measures. Additionally, there is no standardized system to document tribal membership. Each tribe has its own standards and maintains its own list which is not available for access by state and local governments. As a result, there is no existing system to document who is a “tribal member” for purposes of this legislation.

Further, SB 310 would override local government’s ability to protect public health and safety by shifting authority for making burn decisions to the state. Burn decisions are made using highly localized data often in real time, and without this data, prescribed burn decisions will be based on incomplete knowledge of local conditions which will either slow the ability to implement prescribed fire, or risk jeopardizing public health and safety. CAPCOA is concerned that SB 310 may allow significant expansion of cultural burning without the safeguards described above, resulting in adverse public health impacts and the danger for a cultural burn to escape control.

Recommended Amendments: Consequently, staff recommends that this bill be amended to:

- 1) Clarify that areas exempted from permitting and regulatory requirements are limited to federal trust land as defined in 25 USC 2201 or other appropriate federal code; and
- 2) Require that cultural burn practitioners continue to ensure that public health and safety is protected by working with local air districts through the permitting process and allowing burn decisions to continue to be made at the local level.

Recommended Position: OPPOSE UNLESS AMENDED

SUPPORT:

Karuk Tribe (sponsor)
California Farm Bureau Federation
California Native Plant Society
Defenders of Wildlife
Humboldt Redwood Company
Mendocino Redwood Company
Midpeninsula Regional Open Space District
Pacific Forest Trust
Salmon River Restoration Council
Sierra Forest Legacy
The Watershed Research and Training Center

OPPOSITION:

CAPCOA – (Oppose Unless Amended)

AMENDED IN SENATE APRIL 12, 2023

AMENDED IN SENATE MARCH 30, 2023

SENATE BILL

No. 310

Introduced by Senator Dodd

February 6, 2023

An act to amend Section 3333.8 of the Civil Code, and to amend Sections 4002.4 and 4002.6 of, and to add *and repeal* Article 4.5 (commencing with Section 4505) *to* of Chapter 7 of Part 2 of Division 4 of, the Public Resources Code, relating to fire prevention.

LEGISLATIVE COUNSEL'S DIGEST

SB 310, as amended, Dodd. Prescribed fire: civil liability: cultural burns.

Existing law provides that no person shall be liable for any fire suppression or other costs otherwise recoverable for a prescribed burn if specified conditions are met, including, among others, a burn boss, as certified through a certification program developed by the State Fire Marshal, has reviewed and approved a written prescription for the burn, the burn complies with that written prescription, and either the landowner has provided written permission or the governing body of a Native American tribe has given approval, as provided. Existing law exempts cultural burns conducted by a cultural fire practitioner from those requirements that a person certified as a burn boss review and approve a written prescription and that the burn be conducted in compliance with the written prescription. Existing law defines cultural burn and cultural fire practitioner, as provided.

This bill would revise and recast those provisions by, among other things, expanding the definition of burn boss to also include a person qualified for specified positions through the National Wildfire

Coordinating Group, as provided, and limiting the tribal approval condition to the approval of the governing body of a California Native American tribe. The bill would also revise and recast the definitions of cultural burn and cultural fire practitioner by, among other things, specifying that the definitions only apply to California Native American tribes.

Existing law imposes various permitting requirements and prohibitions related to prescribed burns, as provided.

This bill would authorize the Secretary of the Natural Resources Agency to enter into agreements with *federally recognized* California Native American tribes in support of tribal sovereignty with respect to cultural burning. The bill would provide that, in deference to tribal sovereignty, the secretary may ~~agree~~ *agree, with regard to cultural burning*, that compliance with *specified* state permitting or regulatory requirements ~~relating to burning, as provided~~, is not required. *In order to support those agreements, the bill would also require the secretary to convene a cultural burn working group consisting of state agencies, California Native American tribes, and local governments, with the goal of determining a framework to enable conditions conducive to cultural burning. The bill would require the working group to report its findings to the Legislature on or before January 1, 2025. The bill would repeal these provisions on January 1, 2029.*

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

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

1 SECTION 1. Section 3333.8 of the Civil Code is amended to
2 read:
3 3333.8. (a) The Legislature finds and declares that in order to
4 meet fuel management goals, the state must rely on private entities
5 to engage in prescribed burning for public benefit.
6 (b) Notwithstanding Sections 13009 and 13009.1 of the Health
7 and Safety Code, no person shall be liable for any fire suppression
8 or other costs otherwise recoverable pursuant to Section 13009 or
9 13009.1 of the Health and Safety Code resulting from a prescribed
10 burn if all of the following conditions are met:
11 (1) The purpose of the burn is for wildland fire hazard reduction,
12 ecological maintenance and restoration, cultural burning,
13 silviculture, or agriculture.

1 (2) A burn boss, as defined in paragraph (1) of subdivision (a)
2 of Section 4500 of the Public Resources Code, has reviewed and
3 approved a written prescription for the burn that includes adequate
4 risk mitigation measures.

5 (3) The burn is conducted in compliance with the written
6 prescription.

7 (4) The burn is authorized pursuant to Chapter 6 (commencing
8 with Section 4411) or Chapter 7 (commencing with Section 4461)
9 of Part 2 of Division 4 of the Public Resources Code.

10 (5) The burner has a landowner's written permission or the
11 approval of the governing body of a California Native American
12 tribe to burn.

13 (6) The burn is conducted in compliance with any air quality
14 permit required pursuant to Article 3 (commencing with Section
15 41850) of Chapter 3 of Part 4 of Division 26 of the Health and
16 Safety Code.

17 (7) Cultural burns conducted by a cultural fire practitioner are
18 exempt from paragraphs (2) and (3).

19 (c) This section shall not be construed to grant immunity from
20 fire suppression or other costs otherwise recoverable pursuant to
21 Section 13009 or 13009.1 of the Health and Safety Code to any
22 person whose conduct constitutes gross negligence.

23 (d) Nothing in this section affects the ability of a private or
24 public entity plaintiff to bring a civil action against any defendant.

25 (e) "Cultural burn" means the intentional application of fire to
26 land by California Native American tribes, tribal organizations,
27 or cultural fire practitioners to achieve cultural goals or objectives,
28 including sustenance, ceremonial activities, biodiversity, or other
29 benefits.

30 (f) "Cultural fire practitioner" means a person recognized by a
31 California Native American tribe or tribal organization with
32 substantial experience in burning to meet cultural goals or
33 objectives, including sustenance, ceremonial activities, biodiversity,
34 or other benefits.

35 SEC. 2. Section 4002.4 of the Public Resources Code is
36 amended to read:

37 4002.4. "Cultural burn" or "cultural burning" means the
38 intentional application of fire to land by California Native
39 American tribes, tribal organizations, or cultural fire practitioners

1 to achieve cultural goals or objectives, including for sustenance,
2 ceremonial activities, biodiversity, or other benefits.

3 SEC. 3. Section 4002.6 of the Public Resources Code is
4 amended to read:

5 4002.6. “Cultural fire practitioner” means a person recognized
6 by a California Native American tribe or tribal organization with
7 substantial experience in burning to meet cultural goals or
8 objectives, including for sustenance, ceremonial activities,
9 biodiversity, or other benefits.

10 SEC. 4. Article 4.5 (commencing with Section 4505) is added
11 to Chapter 7 of Part 2 of Division 4 of the Public Resources Code,
12 to read:

13
14 Article 4.5. Tribal Sovereignty with Respect to Cultural Burning

15
16 4505. (a) The Legislature finds and declares that *federally*
17 *recognized* California Native American tribes retain sovereignty
18 with respect to cultural burning within their ancestral territories.

19 (b) (1) The Secretary of the Natural Resources Agency may
20 enter into agreements with *federally recognized* California Native
21 American tribes in support of tribal sovereignty with respect to
22 cultural burning. In deference to tribal sovereignty, the secretary
23 may ~~agree~~ *agree, with regard to cultural burning*, that compliance
24 with ~~the state permitting or regulatory requirements relating to~~
25 ~~burning is not required. These requirements include, but are not~~
26 ~~limited to, those in Article 3 (commencing with Section 4491) of~~
27 ~~this chapter, chapter and Article 3 (commencing with Section~~
28 ~~41850) of Chapter 3 of Part 4 of Division 26 of the Health and~~
29 ~~Safety Code, and the related restrictions for burning under permit~~
30 ~~in Article 2 (commencing with Section 4421) of Chapter 6 of this~~
31 ~~part. Code is not required.~~

32 (2) *The Secretary of the Natural Resources Agency may enter*
33 *into an agreement with a federally recognized California Native*
34 *American tribe related to Article 3 (commencing with Section*
35 *41850) of Chapter 3 of Part 4 of Division 26 of the Health and*
36 *Safety Code only with the concurrence of the Secretary of the*
37 *California Environmental Protection Agency.*

38 (c) *Nothing in this section provides authorization to enter or*
39 *burn property without the permission of the landowner.*

1 *(d) In order to support the agreements described in subdivision*
2 *(b), the Secretary of the Natural Resources Agency shall convene*
3 *a cultural burn working group consisting of, but not limited to,*
4 *the Secretary of the Natural Resources Agency, the Secretary of*
5 *the California Environmental Protection Agency, the State Air*
6 *Resources Board, the State Water Resources Control Board, the*
7 *Department of Fish and Wildlife, the Department of Forestry and*
8 *Fire Protection, the Department of Parks and Recreation, the*
9 *California Coastal Commission, California Native American tribes,*
10 *and local governments, with the goal of determining a framework*
11 *to enable conditions conducive to cultural burning. On or before*
12 *January 1, 2025, the cultural burn working group shall report to*
13 *the Legislature on the findings of the workgroup, in compliance*
14 *with Section 9795 of the Government Code.*

15 ~~(e)~~

16 *(e) For purposes of this article, “ancestral territory” means the*
17 *area over which a California Native American tribe exercises*
18 *jurisdiction pursuant to its constitution.*

19 *(f) This article shall remain in effect only until January 1, 2029,*
20 *and as of that date is repealed.*

SB 410 (Becker)
Powering Up Californians Act.

Summary: This bill would require the California Public Utilities Commission (PUC) to establish by September 30, 2024, reasonable average and maximum target energization time periods in order to connect new customers and upgrade the service of existing customers to the electrical grid. This bill also requires reporting by electrical corporations and authorizes specified annual cost-recovery, subject to a cap.

Background: Existing law establishes and vests the PUC with regulatory authority over public utilities, including electrical corporations. It also requires the State Energy Resources Conservation and Development Commission (CEC), in collaboration with CARB, the PUC, and others, to annually gather fleet data for on-road and off-road vehicles in the medium- and heavy-duty sectors and share that data with electrical corporations to inform electrical grid plans. Existing law requires electrical corporations, as part of distribution planning, to consider fleet data to facilitate the readiness of their distribution systems in support of the state’s anticipated level of electric vehicle charging.

Status: 5/25/23 - In Assembly. Read first time. Held at Desk.

Specific Provisions: This bill, on or before September 30, 2024, would require the PUC to:

- 1) Establish reasonable, average and maximum target energization time periods. The targets may vary depending on the complexity and magnitude of the work required and project readiness. The targets may also recognize any factors beyond the electrical corporation’s control.
- 2) Establish requirements for an electrical corporation to report performance which shall include the time between receiving an application for energizing the electrical service, explanations for periods that exceed the target maximum, constraints, and obstacles such as funding limitations, qualified staffing, equipment availability, and any other required information.
- 3) Make all reports publicly available.
- 4) Ensure that electrical corporations have sufficient and timely recovery of costs, including for emergent electrification projects.

This bill would also require electrical corporations to:

- 1) Include, in a rate case application, a detailed analysis of staffing levels required for each job classification.
- 2) Consider including the following in its annual distribution planning process:
 - a. Federal, state, regional, and local air quality and decarbonization standards, plans, and regulations.
 - b. The state’s transportation and building electrification policies.

- c. State agency, local agency, and local government plans and requirements related to transportation and building electrification.

Impacts on South Coast AQMD’s Mission, Operations or Initiatives: It is the policy of the state to reach carbon neutrality no later than 2045 and to maintain net negative emissions of greenhouse gases after 2045. To meet those goals, the state’s electrical distribution systems must be substantially upgraded, new customers must promptly connect to the electrical distribution system and existing customers must have their service level promptly upgraded. This bill would require the PUC to improve electrical corporations' ability to be informed of increases needed in distribution system capacity, establish time periods for energization projects, and provide for project cost recovery from ratepayers. It also holds electrical corporations accountable to plan, hire, and build the grid necessary to comply with federal and state law.

This bill is consistent with South Coast AQMD’s clean energy goals and would facilitate the expansion of EV infrastructure needed to increase the use of zero emission vehicles throughout the South Coast region.

Recommended Position: SUPPORT

SUPPORT:

Coalition of California Utility Employees (sponsor)
California State Association of Electrical Workers
City of San Jose
Elders Climate Action, NorCal and SoCal chapters
Rural County Representatives of California (RCRC)
Sonoma Clean Power
Volvo Group North America (Volvo Group)

OPPOSITION:

N/A

AMENDED IN SENATE MAY 18, 2023

AMENDED IN SENATE MAY 2, 2023

AMENDED IN SENATE MARCH 14, 2023

SENATE BILL

No. 410

Introduced by Senator Becker

February 9, 2023

An act to add Article 14 (commencing with Section 930) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 410, as amended, Becker. Powering Up Californians Act.

Existing law vests the Public Utilities Commission (PUC) with regulatory authority over public utilities, including electrical corporations. Existing law requires the State Energy Resources Conservation and Development Commission, in collaboration with the State Air Resources Board, the PUC, and other relevant stakeholders, to annually gather from state agencies, as provided, specified entities' fleet data for on-road and off-road vehicles in the medium- and heavy-duty sectors and share that data with electrical corporations to help inform electrical grid planning efforts, as specified. Existing law requires electrical corporations, as part of their distribution planning processes, to consider that produced fleet data, and other available data, to facilitate the readiness of their distribution systems to support the state's anticipated level of electric vehicle charging, as specified.

This bill, the Powering Up Californians Act, ~~would require the PUC to establish a working group on or before March 1, 2024, as provided, to, among other things, propose processes that would improve the ability~~

~~of electrical corporations to be informed well in advance of needed increases in distribution system capacity for future housing developments, building electrification, electric vehicle charging infrastructure, and other activities that require increased distribution system capacity. The bill would require the PUC to establish, on or before September 30, 2024, reasonable average and maximum target energization time periods, as defined, and certain reporting requirements so that electrical corporation performance can be tracked and improved, as provided. The bill would require the PUC to require the electrical corporation to take any remedial actions necessary to achieve the PUC's targets and would require all reports to be publicly available, among other reporting requirements.~~

The bill would require, as part of each report and in each general rate case application, each electrical corporation to include a detailed analysis of its current qualified staffing level and future required qualified staffing level for each job classification, as specified, among other requirements related to staffing and apprentice training. ~~The bill would~~ *would, among other requirements placed on electrical corporations,* ~~require each electrical corporation's~~ *an electrical corporation to consider, in its annual evaluation and planning for distribution circuit upgrade needs to consider the transportation and building electrification policies of state law, and state agency, local agency, and local government plans and requirements related to transportation and building electrification.* ~~distribution planning process, certain standards, plans, regulations, policies, and requirements.~~ The bill would require the commission to ensure that electrical corporations have sufficient and timely recovery of costs, as specified. If requested by the electrical corporation, the bill would require the commission to authorize the use of a one-way balancing account mechanism or other mechanism that, among other things, authorizes electrical corporations to track costs for energization projects ~~more frequently than the 4-year general rate case cycle.~~ *that exceed those included in the electrical corporation's annual authorized revenue requirement for energization, as specified.*

Under the Public Utilities Act, a violation of an order, decision, rule, direction, demand, or requirement of the commission is a crime.

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.

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

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

1 SECTION 1. Article 14 (commencing with Section 930) is
2 added to Chapter 4 of Part 1 of Division 1 of the Public Utilities
3 Code, to read:

4

5

Article 14. Powering Up Californians

6

7 930. This act shall be known, and may be cited, as the Powering
8 Up Californians Act.

9 931. For purposes of this article, the following definitions
10 apply:

11 (a) “Electrification” means any new, expanded, or change in
12 use of electricity related to the policies described in Section 933,
13 including, but not limited to, in the industrial, commercial,
14 agricultural, housing, or transportation sectors.

15 (b) “Energization” and “energize” mean connecting new
16 customers to the electrical distribution *or transmission* grid,
17 establishing adequate electrical distribution capacity to provide
18 service for a new customer, or upgrading electrical distribution *or*
19 *transmission* capacity to provide upgraded service to an existing
20 customer. “Energization” and “energize” do not include activities
21 related to connecting electricity supply resources.

22 (c) “Energization time period” means the elapsed time beginning
23 when the electrical corporation receives a substantially complete
24 energization project application and ending when the electric
25 service is installed and energized.

26 932. The Legislature finds and declares all of the following:

27 (a) It is the policy of the state to reach carbon neutrality no later
28 than 2045 and to maintain net negative emissions of greenhouse
29 gases after 2045. To meet these ~~goals~~, *goals and federal, state,*
30 *regional, and local air quality and decarbonization standards,*
31 *plans, and regulations*, projections from the commission and the
32 Energy Commission show the need for a large increase in both the
33 quantity of electricity used and the functions for which electricity
34 will be used.

1 (b) To meet these decarbonization ~~goals~~, *goals and federal,*
2 *state, regional, and local air quality and decarbonization*
3 *standards, plans, and regulations*, the state's electrical distribution
4 systems must be substantially upgraded, new customers must
5 promptly connect to the electrical distribution system and existing
6 customers must have their service level promptly upgraded.

7 (c) There are many reports of large housing developments that
8 are unable to be promptly energized. California has an urgent need
9 to increase its supply of housing, requiring both new electrical
10 distribution capacity and the prompt energization of new housing.

11 (d) There are many reports of individual customers who are
12 unable to have their electrical service promptly upgraded *or*
13 *energized* and ~~electric vehicle~~ charging stations *for light-duty,*
14 *medium-duty, and heavy-duty vehicles and off-road vehicles,*
15 *vessels, trains, and equipment* that are unable to be promptly
16 energized. These delays may inhibit the state's ability to meet its
17 decarbonization ~~goals~~: *goals and federal, state, regional, and local*
18 *air quality and decarbonization standards, plans, and regulations.*

19 (e) To improve the speed at which energization and service
20 upgrades are performed, electrical corporations that distribute
21 electricity must improve their advance planning, engineering, and
22 construction of increased distribution system capacity.

23 (f) Electrifying transportation and buildings may put downward
24 pressure on rates by spreading fixed costs over more kilowatthours
25 of usage.

26 (g) Delays in energization, including service upgrades, are costly
27 both to the customers awaiting service and to other customers
28 deprived of the downward pressure on rates.

29 (h) To carry out the planning, engineering, and construction of
30 electrical distribution systems needed to promptly serve customers,
31 electrical corporations that distribute electricity must recruit, train,
32 and retain an adequately sized, qualified workforce.

33 (i) The commission should establish target deadlines for utilities
34 that distribute electricity to energize new customers and upgrade
35 the service of existing customers.

36 (j) The commission should establish reporting requirements for
37 electrical corporations that distribute electricity to report the extent
38 to which they comply with the target deadlines and the reasons for
39 their noncompliance.

1 933. It is the policy of the state that electrical corporations do
2 all of the following:

3 (a) Upgrade the state’s electrical distribution systems as needed
4 and in time to achieve the state’s decarbonization goals and
5 ~~implement state agency plans to meet those goals: federal, state,~~
6 ~~regional, and local air quality and decarbonization standards,~~
7 ~~plans, and regulations.~~

8 (b) Conduct sufficient advance planning, engineering, and
9 construction of increased distribution system capacity so that
10 customers can be energized without substantial delay.

11 (c) Promptly energize new customers, including by ensuring
12 that new housing, new businesses, and new ~~electric vehicle~~
13 ~~charging stations~~ *charging, including bidirectional charging, for*
14 *light-duty, medium-duty, and heavy-duty vehicles and off-road*
15 *vehicles, vessels, trains, and equipment* can be used without delay
16 caused by a failure of the utility to implement energization projects.

17 (d) Promptly upgrade service when requested by customers.

18 (e) Recruit, train, and retain an adequately sized and qualified
19 workforce to carry out the planning, engineering, and construction
20 of electrical distribution systems needed to promptly serve
21 customers seeking energization and service upgrades without
22 sacrificing other necessary activities of the workforce.

23 ~~934. (a) On or before March 1, 2024, the commission shall~~
24 ~~establish a working group consisting of interested parties, including~~
25 ~~representatives of electrical corporations, labor organizations whose~~
26 ~~members engineer and construct energization projects, developers~~
27 ~~who submit applications for energization, and others with relevant~~
28 ~~expertise and experience to do all of the following:~~

29 ~~(1) Provide advice regarding the development of the~~
30 ~~requirements described in subdivision (b).~~

31 ~~(2) Propose processes that would improve the ability of electrical~~
32 ~~corporations to be informed well in advance of needed increases~~
33 ~~in distribution system capacity for future housing developments,~~
34 ~~building electrification, electric vehicle charging infrastructure,~~
35 ~~and other activities that require increased distribution system~~
36 ~~capacity.~~

37 ~~(3) Explore options and opportunities to reduce energization~~
38 ~~time periods.~~

39 ~~(b)~~

1 934. (a) On or before September 30, 2024, the commission
2 shall do both of the following:

3 (1) Establish reasonable average and maximum target
4 energization time periods. The targets shall ensure that work is
5 completed in a manner that minimizes delay in meeting the date
6 requested by the customer to the greatest extent possible and
7 prioritizes work in a manner consistent with Sections 932 and 933.
8 The targets may vary depending on the complexity and magnitude
9 of the work required and uncertainties regarding the readiness of
10 the customer project needing energization. The targets may also
11 recognize any factors beyond the electrical corporation's control.

12 (2) Establish requirements for—~~a~~ *an* electrical corporation to
13 report to the commission, at least annually, so that electrical
14 corporation performance can be tracked and improved. Electrical
15 corporation reporting shall include the average, median, and
16 standard deviation time between receiving an application for
17 energizing the electrical service, explanations for energization time
18 periods that exceed the target maximum for energization projects,
19 constraints and obstacles to each type of energization such as
20 funding limitations, qualified staffing availability, or equipment
21 availability, and any other information required by the commission.

22 ~~(e)~~

23 (b) If energization time periods exceed the commission's target
24 averages or if the electrical corporation has a substantial number
25 of energization projects that exceed the commission's target
26 maximums, the electrical corporation shall include in its report
27 pursuant to paragraph (2) of subdivision—~~(b)~~ (a) a strategy for
28 meeting the targets in the future.

29 ~~(d)~~

30 (c) Electrical corporations shall report anonymized or averaged
31 data to the extent necessary to prevent identifying individual
32 customers. The commission shall require all reports to be publicly
33 available.

34 ~~(e)~~

35 (d) The commission shall require the electrical corporation to
36 take any remedial actions necessary to achieve the commission's
37 targets.

38 935. (a) As part of each report required pursuant to paragraph
39 (2) of subdivision—~~(b)~~ (a) of Section 934, and in each general rate
40 case application, each electrical corporation shall include a detailed

1 analysis of its current qualified staffing level and future required
2 qualified staffing level for each job classification needed to be
3 consistent with the findings and achieve the policies and
4 requirements of this article.

5 (b) The commission shall require each electrical corporation to
6 have adequate qualified staffing needed to be consistent with the
7 findings and achieve the policies and requirements of this article.

8 (c) For job classifications that have apprentice training
9 requirements, the commission shall require each electrical
10 corporation to maintain a pipeline of apprentices sufficient to meet
11 future qualified staffing needs, subject to any limitations based on
12 safe staffing ratios.

13 936. In addition to the requirements of Section 740.21, the
14 commission shall require ~~each electrical corporation's annual~~
15 ~~evaluation and planning for distribution circuit upgrade needs to~~
16 ~~consider the~~ *an electrical corporation to do both of the following:*

17 (a) *Consider, in its annual distribution planning process, all of*
18 *the following:*

19 (1) *Federal, state, regional, and local air quality and*
20 *decarbonization standards, plans, and regulations.*

21 (2) *The transportation and building electrification policies of*
22 *state law, and state law.*

23 (3) *State agency, local agency, and local government plans and*
24 *requirements related to transportation and building electrification.*

25 (b) *Adopt and implement plans to meet the energization time*
26 *periods established pursuant to paragraph (1) of subdivision (a)*
27 *of Section 934.*

28 937. (a) The commission shall ensure that electrical
29 corporations have sufficient and timely recovery of costs to be
30 consistent with the findings and achieve the policies and
31 requirements of this article, including for emergent electrification
32 projects.

33 (b) If requested by the electrical corporation, the commission
34 shall authorize the use of a one-way balancing account mechanism
35 or other mechanism that does all of the following:

36 (1) ~~Authorizes electrical corporations to track costs for~~
37 ~~energization projects on a more frequent basis than solely the~~
38 ~~four-year general rate case cycle. that exceed those included in the~~
39 *electrical corporation's annual authorized revenue requirement*

1 *for energization, as established in the electrical corporation's*
2 *general rate case.*

3 (2) Requires the commission to establish an annual cap on the
4 amount that each electrical corporation can ~~track~~ *recover* within
5 the ~~account that exceeds those included in the electrical~~
6 ~~corporation's annual authorized revenue requirement for~~
7 ~~energization, as established in the electrical corporation's general~~
8 ~~rate case.~~ *account.*

9 (3) Requires the commission to authorize the recovery of costs
10 tracked within the account *through an annual rate adjustment* if
11 the costs are just and reasonable. *The commission may authorize*
12 *annual recovery of costs subject to refund after it reviews the*
13 *reasonableness of costs in the general rate case or another*
14 *proceeding.*

15 (4) Requires only costs associated with energization to be
16 included in the account.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.

SB 537 (Becker)

Open meetings: multijurisdictional, cross-county agencies: teleconferences.

Summary: Allows, until January 1, 2028, a legislative body of a multijurisdictional, cross-county local agency to teleconference public meetings without having to fully notice and make publicly accessible each teleconference location, if at least a quorum of members participate from locations within the agency’s jurisdiction.

Background: Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use teleconferencing (emergency) provisions during a proclaimed state of emergency or public health event. The emergency provisions impose different requirements for notice, agenda, and public participation, as prescribed. Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency’s jurisdiction.

Status: 5/4/23 – Read second time. Ordered to third reading.

Specific Provisions: Specifically, this bill would until January 1, 2028:

- By an adopted authorizing resolution, allow appointed bodies of a multijurisdictional, cross-county agency to teleconference public meetings without having to fully notice or make publicly accessible every teleconference location, if a quorum of members participate from locations within the agency’s jurisdiction.
- Require a legislative body to provide a record of attendance and number of public comments on its internet website within seven days after a teleconference meeting.
- Require the legislative body to identify in the agenda each member who plans to participate remotely and to include the address of the publicly accessible building from where each member will participate via teleconference.
 - The specific room or location within the publicly accessible building from which a member participates via teleconference is not required to be publicly accessible.
- Prohibit a member from participating remotely, unless the remote location is the member’s office or another location in a publicly accessible building and is more than 40 miles from the location of the in-person meeting.
- Define “eligible legislative body” to mean a board, commission, or advisory body of a multijurisdictional cross county agency, the membership of which board, commission, or advisory body is appointed.
- Define “multijurisdictional” to mean a legislative body that includes representatives from more than one county, city, city and county, special district, or a joint powers entity.

- Expands the circumstances of “just cause” to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.

Impacts on South Coast AQMD’s Mission, Operations or Initiatives: Revised Brown Act virtual meeting provisions have enabled local public entities to hold teleconferenced public meetings without the need to make all locations noticed and publicly accessible. The added flexibility has facilitated board members’ and the public’s ability to safely participate in public meetings and resulted in increased participation, while maintaining transparency. This particular bill would benefit South Coast AQMD and the residents living within its jurisdiction, particularly because of how geographically large the South Coast region is.

However, the distance requirement of 40 miles in the bill seems arbitrary and too far and would limit the effectiveness of the bill’s provisions. Thus, staff recommends that this distance be shortened to 20 miles, particularly because traffic conditions, especially in urban areas, can make even that distance extremely burdensome to attend a meeting in person.

Recommended Position: SUPPORT

Support:

Peninsula Clean Energy (Sponsor)
California Association of Councils of Governments (CALCOG)
City of Brisbane
City of Burlingame
City of San Bruno
City of San Carlos
City of San Mateo
League of California Cities
Los Angeles County Sanitation Districts
Menlo Park City Councilmember Betsy Nash
San Diego Community Power
Sonoma Clean Power
South San Francisco
Streets for All
Town of Atherton
Town of Colma

Opposition:

ACLU California Action
Cal Aware
California Broadcasters Association
California News Publishers Association

South Coast Air Quality Management District
Legislative Analysis Summary – SB 537 (Becker)
Version: As Amended on 4/24/23
Analyst: DPG/PC

First Amendment Coalition
Howard Jarvis Taxpayers Association (HJTA)
Leadership Council for Justice and Accountability

AMENDED IN SENATE APRIL 24, 2023
AMENDED IN SENATE MARCH 22, 2023

SENATE BILL

No. 537

Introduced by Senator Becker

February 14, 2023

An act to amend Section 54953 of, and to add *and repeal* Section 54953.4 to, of, the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 537, as amended, Becker. Open meetings:—~~local~~ *multijurisdictional, cross-county* agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements

(emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. These circumstances include if a member shows "just cause," including for a childcare or caregiving need of a relative that requires the member to participate remotely.

This bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.

~~This~~

~~The bill would authorize certain legislative bodies the legislative body of a multijurisdictional, cross-county agency, as specified, to use alternate teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency. if the eligible legislative body has adopted an authorizing resolution, as specified. The bill would also require a the legislative body to provide a record of attendance and the number of public comments on its internet website within 7 days after a teleconference meeting, as specified. The bill would define "legislative body" for this purpose to mean a board, commission, or advisory body of a multijurisdictional cross county agency, the membership of which board, commission, or advisory body is appointed and which board, commission, or advisory body is otherwise subject to the act. The bill would also define "multijurisdictional" to mean a legislative body that includes representatives from more than one county, city, city and county, special district, or a joint powers entity. require at least a quorum of members of the legislative body to participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The bill would require the legislative body to identify in the agenda each member who plans to participate remotely and to include the address of the publicly accessible building from each member will participate via teleconference. The bill would prohibit a~~

member from participating remotely pursuant to these provisions unless the remote location is the member's office or another location in a publicly accessible building and is more than 40 miles from the location of the inperson meeting. The bill would repeal these alternative teleconferencing provisions on January 1, 2028.

~~With respect to the alternative teleconferencing provisions operative until January 1, 2026, the bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.~~

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

- 1 SECTION 1. Section 54953 of the Government Code, as
- 2 amended by Section 1 of Chapter 285 of the Statutes of 2022, is
- 3 amended to read:
- 4 54953. (a) All meetings of the legislative body of a local
- 5 agency shall be open and public, and all persons shall be permitted
- 6 to attend any meeting of the legislative body of a local agency,
- 7 except as otherwise provided in this chapter.
- 8 (b) (1) Notwithstanding any other provision of law, the
- 9 legislative body of a local agency may use teleconferencing for
- 10 the benefit of the public and the legislative body of a local agency

1 in connection with any meeting or proceeding authorized by law.
2 The teleconferenced meeting or proceeding shall comply with all
3 otherwise applicable requirements of this chapter and all otherwise
4 applicable provisions of law relating to a specific type of meeting
5 or proceeding.

6 (2) Teleconferencing, as authorized by this section, may be used
7 for all purposes in connection with any meeting within the subject
8 matter jurisdiction of the legislative body. If the legislative body
9 of a local agency elects to use teleconferencing, the legislative
10 body of a local agency shall comply with all of the following:

11 (A) All votes taken during a teleconferenced meeting shall be
12 by rollcall.

13 (B) The teleconferenced meetings shall be conducted in a
14 manner that protects the statutory and constitutional rights of the
15 parties or the public appearing before the legislative body of a
16 local agency.

17 (C) The legislative body shall give notice of the meeting and
18 post agendas as otherwise required by this chapter.

19 (D) The legislative body shall allow members of the public to
20 access the meeting and the agenda shall provide an opportunity
21 for members of the public to address the legislative body directly
22 pursuant to Section 54954.3.

23 (3) If the legislative body of a local agency elects to use
24 teleconferencing, it shall post agendas at all teleconference
25 locations. Each teleconference location shall be identified in the
26 notice and agenda of the meeting or proceeding, and each
27 teleconference location shall be accessible to the public. During
28 the teleconference, at least a quorum of the members of the
29 legislative body shall participate from locations within the
30 boundaries of the territory over which the local agency exercises
31 jurisdiction, except as provided in subdivisions (d) and (e).

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

34 (2) The legislative body of a local agency shall publicly report
35 any action taken and the vote or abstention on that action of each
36 member present for the action.

37 (3) Prior to taking final action, the legislative body shall orally
38 report a summary of a recommendation for a final action on the
39 salaries, salary schedules, or compensation paid in the form of
40 fringe benefits of a local agency executive, as defined in

1 subdivision (d) of Section 3511.1, during the open meeting in
2 which the final action is to be taken. This paragraph shall not affect
3 the public's right under the California Public Records Act (Division
4 10 (commencing with Section 7920.000) of Title 1) to inspect or
5 copy records created or received in the process of developing the
6 recommendation.

7 (d) (1) Notwithstanding the provisions relating to a quorum in
8 paragraph (3) of subdivision (b), if a health authority conducts a
9 teleconference meeting, members who are outside the jurisdiction
10 of the authority may be counted toward the establishment of a
11 quorum when participating in the teleconference if at least 50
12 percent of the number of members that would establish a quorum
13 are present within the boundaries of the territory over which the
14 authority exercises jurisdiction, and the health authority provides
15 a teleconference number, and associated access codes, if any, that
16 allows any person to call in to participate in the meeting and the
17 number and access codes are identified in the notice and agenda
18 of the meeting.

19 (2) Nothing in this subdivision shall be construed as
20 discouraging health authority members from regularly meeting at
21 a common physical site within the jurisdiction of the authority or
22 from using teleconference locations within or near the jurisdiction
23 of the authority. A teleconference meeting for which a quorum is
24 established pursuant to this subdivision shall be subject to all other
25 requirements of this section.

26 (3) For purposes of this subdivision, a health authority means
27 any entity created pursuant to Sections 14018.7, 14087.31,
28 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
29 and Institutions Code, any joint powers authority created pursuant
30 to Article 1 (commencing with Section 6500) of Chapter 5 of
31 Division 7 for the purpose of contracting pursuant to Section
32 14087.3 of the Welfare and Institutions Code, and any advisory
33 committee to a county-sponsored health plan licensed pursuant to
34 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
35 Health and Safety Code if the advisory committee has 12 or more
36 members.

37 (e) (1) The legislative body of a local agency may use
38 teleconferencing without complying with the requirements of
39 paragraph (3) of subdivision (b) if the legislative body complies

1 with the requirements of paragraph (2) of this subdivision in any
2 of the following circumstances:

3 (A) The legislative body holds a meeting during a proclaimed
4 state of emergency, and state or local officials have imposed or
5 recommended measures to promote social distancing.

6 (B) The legislative body holds a meeting during a proclaimed
7 state of emergency for the purpose of determining, by majority
8 vote, whether as a result of the emergency, meeting in person
9 would present imminent risks to the health or safety of attendees.

10 (C) The legislative body holds a meeting during a proclaimed
11 state of emergency and has determined, by majority vote, pursuant
12 to subparagraph (B), that, as a result of the emergency, meeting
13 in person would present imminent risks to the health or safety of
14 attendees.

15 (2) A legislative body that holds a meeting pursuant to this
16 subdivision shall do all of the following:

17 (A) In each instance in which notice of the time of the
18 teleconferenced meeting is otherwise given or the agenda for the
19 meeting is otherwise posted, the legislative body shall also give
20 notice of the means by which members of the public may access
21 the meeting and offer public comment. The agenda shall identify
22 and include an opportunity for all persons to attend via a call-in
23 option or an internet-based service option.

24 (B) In the event of a disruption that prevents the legislative body
25 from broadcasting the meeting to members of the public using the
26 call-in option or internet-based service option, or in the event of
27 a disruption within the local agency's control that prevents
28 members of the public from offering public comments using the
29 call-in option or internet-based service option, the legislative body
30 shall take no further action on items appearing on the meeting
31 agenda until public access to the meeting via the call-in option or
32 internet-based service option is restored. Actions taken on agenda
33 items during a disruption that prevents the legislative body from
34 broadcasting the meeting may be challenged pursuant to Section
35 54960.1.

36 (C) The legislative body shall not require public comments to
37 be submitted in advance of the meeting and must provide an
38 opportunity for the public to address the legislative body and offer
39 comment in real time.

1 (D) Notwithstanding Section 54953.3, an individual desiring to
2 provide public comment through the use of an internet website, or
3 other online platform, not under the control of the local legislative
4 body, that requires registration to log in to a teleconference may
5 be required to register as required by the third-party internet
6 website or online platform to participate.

7 (E) (i) A legislative body that provides a timed public comment
8 period for each agenda item shall not close the public comment
9 period for the agenda item, or the opportunity to register, pursuant
10 to subparagraph (F), to provide public comment until that timed
11 public comment period has elapsed.

12 (ii) A legislative body that does not provide a timed public
13 comment period, but takes public comment separately on each
14 agenda item, shall allow a reasonable amount of time per agenda
15 item to allow public members the opportunity to provide public
16 comment, including time for members of the public to register
17 pursuant to subparagraph (F), or otherwise be recognized for the
18 purpose of providing public comment.

19 (iii) A legislative body that provides a timed general public
20 comment period that does not correspond to a specific agenda item
21 shall not close the public comment period or the opportunity to
22 register, pursuant to subparagraph (F), until the timed general
23 public comment period has elapsed.

24 (3) If a state of emergency remains active, or state or local
25 officials have imposed or recommended measures to promote
26 social distancing, in order to continue to teleconference without
27 compliance with paragraph (3) of subdivision (b), the legislative
28 body shall, not later than 30 days after teleconferencing for the
29 first time pursuant to subparagraph (A), (B), or (C) of paragraph
30 (1), and every 30 days thereafter, make the following findings by
31 majority vote:

32 (A) The legislative body has reconsidered the circumstances of
33 the state of emergency.

34 (B) Any of the following circumstances exist:

35 (i) The state of emergency continues to directly impact the
36 ability of the members to meet safely in person.

37 (ii) State or local officials continue to impose or recommend
38 measures to promote social distancing.

1 (4) This subdivision shall not be construed to require the
2 legislative body to provide a physical location from which the
3 public may attend or comment.

4 (f) (1) The legislative body of a local agency may use
5 teleconferencing without complying with paragraph (3) of
6 subdivision (b) if, during the teleconference meeting, at least a
7 quorum of the members of the legislative body participates in
8 person from a singular physical location clearly identified on the
9 agenda, which location shall be open to the public and situated
10 within the boundaries of the territory over which the local agency
11 exercises jurisdiction and the legislative body complies with all
12 of the following:

13 (A) The legislative body shall provide at least one of the
14 following as a means by which the public may remotely hear and
15 visually observe the meeting, and remotely address the legislative
16 body:

17 (i) A two-way audiovisual platform.

18 (ii) A two-way telephonic service and a live webcasting of the
19 meeting.

20 (B) In each instance in which notice of the time of the
21 teleconferenced meeting is otherwise given or the agenda for the
22 meeting is otherwise posted, the legislative body shall also give
23 notice of the means by which members of the public may access
24 the meeting and offer public comment.

25 (C) The agenda shall identify and include an opportunity for all
26 persons to attend and address the legislative body directly pursuant
27 to Section 54954.3 via a call-in option, via an internet-based service
28 option, and at the in-person location of the meeting.

29 (D) In the event of a disruption that prevents the legislative body
30 from broadcasting the meeting to members of the public using the
31 call-in option or internet-based service option, or in the event of
32 a disruption within the local agency's control that prevents
33 members of the public from offering public comments using the
34 call-in option or internet-based service option, the legislative body
35 shall take no further action on items appearing on the meeting
36 agenda until public access to the meeting via the call-in option or
37 internet-based service option is restored. Actions taken on agenda
38 items during a disruption that prevents the legislative body from
39 broadcasting the meeting may be challenged pursuant to Section
40 54960.1.

1 (E) The legislative body shall not require public comments to
2 be submitted in advance of the meeting and must provide an
3 opportunity for the public to address the legislative body and offer
4 comment in real time.

5 (F) Notwithstanding Section 54953.3, an individual desiring to
6 provide public comment through the use of an internet website, or
7 other online platform, not under the control of the local legislative
8 body, that requires registration to log in to a teleconference may
9 be required to register as required by the third-party internet
10 website or online platform to participate.

11 (2) A member of the legislative body shall only participate in
12 the meeting remotely pursuant to this subdivision, if all of the
13 following requirements are met:

14 (A) One of the following circumstances applies:

15 (i) The member notifies the legislative body at the earliest
16 opportunity possible, including at the start of a regular meeting,
17 of their need to participate remotely for just cause, including a
18 general description of the circumstances relating to their need to
19 appear remotely at the given meeting. The provisions of this clause
20 shall not be used by any member of the legislative body for more
21 than two meetings per calendar year.

22 (ii) The member requests the legislative body to allow them to
23 participate in the meeting remotely due to emergency circumstances
24 and the legislative body takes action to approve the request. The
25 legislative body shall request a general description of the
26 circumstances relating to their need to appear remotely at the given
27 meeting. A general description of an item generally need not exceed
28 20 words and shall not require the member to disclose any medical
29 diagnosis or disability, or any personal medical information that
30 is already exempt under existing law, such as the Confidentiality
31 of Medical Information Act (Chapter 1 (commencing with Section
32 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes
33 of this clause, the following requirements apply:

34 (I) A member shall make a request to participate remotely at a
35 meeting pursuant to this clause as soon as possible. The member
36 shall make a separate request for each meeting in which they seek
37 to participate remotely.

38 (II) The legislative body may take action on a request to
39 participate remotely at the earliest opportunity. If the request does
40 not allow sufficient time to place proposed action on such a request

1 on the posted agenda for the meeting for which the request is made,
2 the legislative body may take action at the beginning of the meeting
3 in accordance with paragraph (4) of subdivision (b) of Section
4 54954.2.

5 (B) The member shall publicly disclose at the meeting before
6 any action is taken, whether any other individuals 18 years of age
7 or older are present in the room at the remote location with the
8 member, and the general nature of the member’s relationship with
9 any such individuals.

10 (C) The member shall participate through both audio and visual
11 technology.

12 (3) The provisions of this subdivision shall not serve as a means
13 for any member of a legislative body to participate in meetings of
14 the legislative body solely by teleconference from a remote location
15 for a period of more than three consecutive months or 20 percent
16 of the regular meetings for the local agency within a calendar year,
17 or more than two meetings if the legislative body regularly meets
18 fewer than 10 times per calendar year.

19 (g) The legislative body shall have and implement a procedure
20 for receiving and swiftly resolving requests for reasonable
21 accommodation for individuals with disabilities, consistent with
22 the federal Americans with Disabilities Act of 1990 (42 U.S.C.
23 Sec. 12132), and resolving any doubt in favor of accessibility. In
24 each instance in which notice of the time of the meeting is
25 otherwise given or the agenda for the meeting is otherwise posted,
26 the legislative body shall also give notice of the procedure for
27 receiving and resolving requests for accommodation.

28 (h) The legislative body shall conduct meetings subject to this
29 chapter consistent with applicable civil rights and
30 nondiscrimination laws.

31 (i) (1) Nothing in this section shall prohibit a legislative body
32 from providing the public with additional teleconference locations.

33 (2) Nothing in this section shall prohibit a legislative body from
34 providing members of the public with additional physical locations
35 in which the public may observe and address the legislative body
36 by electronic means.

37 (j) For the purposes of this section, the following definitions
38 shall apply:

1 (1) “Emergency circumstances” means a physical or family
2 medical emergency that prevents a member from attending in
3 person.

4 (2) “Just cause” means any of the following:

5 (A) A childcare or caregiving need of a child, parent,
6 grandparent, grandchild, sibling, spouse, or domestic partner that
7 requires them to participate remotely. “Child,” “parent,”
8 “grandparent,” “grandchild,” and “sibling” have the same meaning
9 as those terms do in Section 12945.2.

10 (B) A contagious illness that prevents a member from attending
11 in person.

12 (C) A need related to a physical or mental disability as defined
13 in Sections 12926 and 12926.1 not otherwise accommodated by
14 subdivision (g).

15 (D) Travel while on official business of the legislative body or
16 another state or local agency.

17 (E) *An immunocompromised child, parent, grandparent,*
18 *grandchild, sibling, spouse, or domestic partner that requires them*
19 *to participate remotely.*

20 (3) “Remote location” means a location from which a member
21 of a legislative body participates in a meeting pursuant to
22 subdivision (f), other than any physical meeting location designated
23 in the notice of the meeting. Remote locations need not be
24 accessible to the public.

25 (4) “Remote participation” means participation in a meeting by
26 teleconference at a location other than any physical meeting
27 location designated in the notice of the meeting. Watching or
28 listening to a meeting via webcasting or another similar electronic
29 medium that does not permit members to interactively hear,
30 discuss, or deliberate on matters, does not constitute remote
31 participation.

32 (5) “State of emergency” means a state of emergency proclaimed
33 pursuant to Section 8625 of the California Emergency Services
34 Act (Article 1 (commencing with Section 8550) of Chapter 7 of
35 Division 1 of Title 2).

36 (6) “Teleconference” means a meeting of a legislative body,
37 the members of which are in different locations, connected by
38 electronic means, through either audio or video, or both.

39 (7) “Two-way audiovisual platform” means an online platform
40 that provides participants with the ability to participate in a meeting

1 via both an interactive video conference and a two-way telephonic
2 function.

3 (8) “Two-way telephonic service” means a telephone service
4 that does not require internet access, is not provided as part of a
5 two-way audiovisual platform, and allows participants to dial a
6 telephone number to listen and verbally participate.

7 (9) “Webcasting” means a streaming video broadcast online or
8 on television, using streaming media technology to distribute a
9 single content source to many simultaneous listeners and viewers.

10 (k) This section shall remain in effect only until January 1, 2024,
11 and as of that date is repealed.

12 ~~SECTION 1.~~

13 *SEC. 2.* Section 54953 of the Government Code, as amended
14 by Section 2 of Chapter 285 of the Statutes of 2022, is amended
15 to read:

16 54953. (a) All meetings of the legislative body of a local
17 agency shall be open and public, and all persons shall be permitted
18 to attend any meeting of the legislative body of a local agency,
19 except as otherwise provided in this chapter.

20 (b) (1) Notwithstanding any other provision of law, the
21 legislative body of a local agency may use teleconferencing for
22 the benefit of the public and the legislative body of a local agency
23 in connection with any meeting or proceeding authorized by law.
24 The teleconferenced meeting or proceeding shall comply with all
25 otherwise applicable requirements of this chapter and all otherwise
26 applicable provisions of law relating to a specific type of meeting
27 or proceeding.

28 (2) Teleconferencing, as authorized by this section, may be used
29 for all purposes in connection with any meeting within the subject
30 matter jurisdiction of the legislative body. If the legislative body
31 of a local agency elects to use teleconferencing, the legislative
32 body of a local agency shall comply with all of the following:

33 (A) All votes taken during a teleconferenced meeting shall be
34 by rollcall.

35 (B) The teleconferenced meetings shall be conducted in a
36 manner that protects the statutory and constitutional rights of the
37 parties or the public appearing before the legislative body of a
38 local agency.

39 (C) The legislative body shall give notice of the meeting and
40 post agendas as otherwise required by this chapter.

1 (D) The legislative body shall allow members of the public to
2 access the meeting and the agenda shall provide an opportunity
3 for members of the public to address the legislative body directly
4 pursuant to Section 54954.3.

5 (3) If the legislative body of a local agency elects to use
6 teleconferencing, it shall post agendas at all teleconference
7 locations. Each teleconference location shall be identified in the
8 notice and agenda of the meeting or proceeding, and each
9 teleconference location shall be accessible to the public. During
10 the teleconference, at least a quorum of the members of the
11 legislative body shall participate from locations within the
12 boundaries of the territory over which the local agency exercises
13 jurisdiction, except as provided in subdivision (d).

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

16 (2) The legislative body of a local agency shall publicly report
17 any action taken and the vote or abstention on that action of each
18 member present for the action.

19 (3) Prior to taking final action, the legislative body shall orally
20 report a summary of a recommendation for a final action on the
21 salaries, salary schedules, or compensation paid in the form of
22 fringe benefits of a local agency executive, as defined in
23 subdivision (d) of Section 3511.1, during the open meeting in
24 which the final action is to be taken. This paragraph shall not affect
25 the public's right under the California Public Records Act (Division
26 10 (commencing with Section 7920.000) of Title 1) to inspect or
27 copy records created or received in the process of developing the
28 recommendation.

29 (d) (1) Notwithstanding the provisions relating to a quorum in
30 paragraph (3) of subdivision (b), if a health authority conducts a
31 teleconference meeting, members who are outside the jurisdiction
32 of the authority may be counted toward the establishment of a
33 quorum when participating in the teleconference if at least 50
34 percent of the number of members that would establish a quorum
35 are present within the boundaries of the territory over which the
36 authority exercises jurisdiction, and the health authority provides
37 a teleconference number, and associated access codes, if any, that
38 allows any person to call in to participate in the meeting and the
39 number and access codes are identified in the notice and agenda
40 of the meeting.

1 (2) Nothing in this subdivision shall be construed as
2 discouraging health authority members from regularly meeting at
3 a common physical site within the jurisdiction of the authority or
4 from using teleconference locations within or near the jurisdiction
5 of the authority. A teleconference meeting for which a quorum is
6 established pursuant to this subdivision shall be subject to all other
7 requirements of this section.

8 (3) For purposes of this subdivision, a health authority means
9 any entity created pursuant to Sections 14018.7, 14087.31,
10 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
11 and Institutions Code, any joint powers authority created pursuant
12 to Article 1 (commencing with Section 6500) of Chapter 5 of
13 Division 7 for the purpose of contracting pursuant to Section
14 14087.3 of the Welfare and Institutions Code, and any advisory
15 committee to a county-sponsored health plan licensed pursuant to
16 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
17 Health and Safety Code if the advisory committee has 12 or more
18 members.

19 (e) (1) The legislative body of a local agency may use
20 teleconferencing without complying with paragraph (3) of
21 subdivision (b) if, during the teleconference meeting, at least a
22 quorum of the members of the legislative body participates in
23 person from a singular physical location clearly identified on the
24 agenda, which location shall be open to the public and situated
25 within the boundaries of the territory over which the local agency
26 exercises jurisdiction and the legislative body complies with all
27 of the following:

28 (A) The legislative body shall provide at least one of the
29 following as a means by which the public may remotely hear and
30 visually observe the meeting, and remotely address the legislative
31 body:

32 (i) A two-way audiovisual platform.

33 (ii) A two-way telephonic service and a live webcasting of the
34 meeting.

35 (B) In each instance in which notice of the time of the
36 teleconferenced meeting is otherwise given or the agenda for the
37 meeting is otherwise posted, the legislative body shall also give
38 notice of the means by which members of the public may access
39 the meeting and offer public comment.

1 (C) The agenda shall identify and include an opportunity for all
2 persons to attend and address the legislative body directly pursuant
3 to Section 54954.3 via a call-in option, via an internet-based service
4 option, and at the in-person location of the meeting.

5 (D) In the event of a disruption that prevents the legislative body
6 from broadcasting the meeting to members of the public using the
7 call-in option or internet-based service option, or in the event of
8 a disruption within the local agency's control that prevents
9 members of the public from offering public comments using the
10 call-in option or internet-based service option, the legislative body
11 shall take no further action on items appearing on the meeting
12 agenda until public access to the meeting via the call-in option or
13 internet-based service option is restored. Actions taken on agenda
14 items during a disruption that prevents the legislative body from
15 broadcasting the meeting may be challenged pursuant to Section
16 54960.1.

17 (E) The legislative body shall not require public comments to
18 be submitted in advance of the meeting and must provide an
19 opportunity for the public to address the legislative body and offer
20 comment in real time.

21 (F) Notwithstanding Section 54953.3, an individual desiring to
22 provide public comment through the use of an internet website, or
23 other online platform, not under the control of the local legislative
24 body, that requires registration to log in to a teleconference may
25 be required to register as required by the third-party internet
26 website or online platform to participate.

27 (2) A member of the legislative body shall only participate in
28 the meeting remotely pursuant to this subdivision, if all of the
29 following requirements are met:

30 (A) One of the following circumstances applies:

31 (i) The member notifies the legislative body at the earliest
32 opportunity possible, including at the start of a regular meeting,
33 of their need to participate remotely for just cause, including a
34 general description of the circumstances relating to their need to
35 appear remotely at the given meeting. The provisions of this clause
36 shall not be used by any member of the legislative body for more
37 than two meetings per calendar year.

38 (ii) The member requests the legislative body to allow them to
39 participate in the meeting remotely due to emergency circumstances
40 and the legislative body takes action to approve the request. The

1 legislative body shall request a general description of the
2 circumstances relating to their need to appear remotely at the given
3 meeting. A general description of an item generally need not exceed
4 20 words and shall not require the member to disclose any medical
5 diagnosis or disability, or any personal medical information that
6 is already exempt under existing law, such as the Confidentiality
7 of Medical Information Act (Chapter 1 (commencing with Section
8 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes
9 of this clause, the following requirements apply:

10 (I) A member shall make a request to participate remotely at a
11 meeting pursuant to this clause as soon as possible. The member
12 shall make a separate request for each meeting in which they seek
13 to participate remotely.

14 (II) The legislative body may take action on a request to
15 participate remotely at the earliest opportunity. If the request does
16 not allow sufficient time to place proposed action on such a request
17 on the posted agenda for the meeting for which the request is made,
18 the legislative body may take action at the beginning of the meeting
19 in accordance with paragraph (4) of subdivision (b) of Section
20 54954.2.

21 (B) The member shall publicly disclose at the meeting before
22 any action is taken whether any other individuals 18 years of age
23 or older are present in the room at the remote location with the
24 member, and the general nature of the member's relationship with
25 any such individuals.

26 (C) The member shall participate through both audio and visual
27 technology.

28 (3) The provisions of this subdivision shall not serve as a means
29 for any member of a legislative body to participate in meetings of
30 the legislative body solely by teleconference from a remote location
31 for a period of more than three consecutive months or 20 percent
32 of the regular meetings for the local agency within a calendar year,
33 or more than two meetings if the legislative body regularly meets
34 fewer than 10 times per calendar year.

35 (f) The legislative body shall have and implement a procedure
36 for receiving and swiftly resolving requests for reasonable
37 accommodation for individuals with disabilities, consistent with
38 the federal Americans with Disabilities Act of 1990 (42 U.S.C.
39 Sec. 12132), and resolving any doubt in favor of accessibility. In
40 each instance in which notice of the time of the meeting is

1 otherwise given or the agenda for the meeting is otherwise posted,
2 the legislative body shall also give notice of the procedure for
3 receiving and resolving requests for accommodation.

4 (g) The legislative body shall conduct meetings subject to this
5 chapter consistent with applicable civil rights and
6 nondiscrimination laws.

7 (h) (1) Nothing in this section shall prohibit a legislative body
8 from providing the public with additional teleconference locations.

9 (2) Nothing in this section shall prohibit a legislative body from
10 providing members of the public with additional physical locations
11 in which the public may observe and address the legislative body
12 by electronic means.

13 (i) For the purposes of this section, the following definitions
14 shall apply:

15 (1) “Emergency circumstances” means a physical or family
16 medical emergency that prevents a member from attending in
17 person.

18 (2) “Just cause” means any of the following:

19 (A) A childcare or caregiving need of a child, parent,
20 grandparent, grandchild, sibling, spouse, or domestic partner that
21 requires them to participate remotely. “Child,” “parent,”
22 “grandparent,” “grandchild,” and “sibling” have the same meaning
23 as those terms do in Section 12945.2.

24 (B) A contagious illness that prevents a member from attending
25 in person.

26 (C) A need related to a physical or mental disability as defined
27 in Sections 12926 and 12926.1 not otherwise accommodated by
28 subdivision (f).

29 (D) Travel while on official business of the legislative body or
30 another state or local agency.

31 (E) An immunocompromised child, parent, grandparent,
32 grandchild, sibling, spouse, or domestic partner that requires them
33 to participate remotely.

34 (3) “Remote location” means a location from which a member
35 of a legislative body participates in a meeting pursuant to
36 subdivision (e), other than any physical meeting location designated
37 in the notice of the meeting. Remote locations need not be
38 accessible to the public.

39 (4) “Remote participation” means participation in a meeting by
40 teleconference at a location other than any physical meeting

1 location designated in the notice of the meeting. Watching or
 2 listening to a meeting via webcasting or another similar electronic
 3 medium that does not permit members to interactively hear,
 4 discuss, or deliberate on matters, does not constitute remote
 5 participation.

6 (5) “Teleconference” means a meeting of a legislative body,
 7 the members of which are in different locations, connected by
 8 electronic means, through either audio or video, or both.

9 (6) “Two-way audiovisual platform” means an online platform
 10 that provides participants with the ability to participate in a meeting
 11 via both an interactive video conference and a two-way telephonic
 12 function.

13 (7) “Two-way telephonic service” means a telephone service
 14 that does not require internet access, is not provided as part of a
 15 two-way audiovisual platform, and allows participants to dial a
 16 telephone number to listen and verbally participate.

17 (8) “Webcasting” means a streaming video broadcast online or
 18 on television, using streaming media technology to distribute a
 19 single content source to many simultaneous listeners and viewers.

20 (j) This section shall become operative January 1, 2024, shall
 21 remain in effect only until January 1, 2026, and as of that date is
 22 repealed.

23 ~~SEC. 2.~~

24 SEC. 3. Section 54953.4 is added to the Government Code, to
 25 read:

26 54953.4. (a) ~~(1)~~ *For purposes of this section, the following*
 27 *definitions apply:*

28 (1) *“Eligible legislative body” means a board, commission, or*
 29 *advisory body of a multijurisdictional, cross-county agency, the*
 30 *membership of which board, commission, or advisory body is*
 31 *appointed and which board, commission, or advisory body is*
 32 *otherwise subject to this chapter.*

33 (2) *“Multijurisdictional” means a legislative body that includes*
 34 *representatives from more than one county, city, city and county,*
 35 *special district, or a joint powers entity formed pursuant to Article*
 36 *1 (commencing with Section 6500) of Chapter 5 of Division 7 of*
 37 *Title 1.*

38 (b) *An eligible legislative body included in subdivision (c) may*
 39 *use teleconferencing without complying with paragraph (3) of*

1 subdivision (b) of Section 54953 if the legislative body complies
2 with ~~paragraph (2)~~ of this section.

3 (c) *An eligible legislative body shall not use teleconferencing*
4 *pursuant to this section unless the eligible legislative body has*
5 *adopted a resolution that authorizes the eligible legislative body*
6 *to use teleconferencing at a regular meeting in open session.*

7 ~~(2) A~~

8 (d) *An eligible legislative body that holds a meeting pursuant*
9 *to this ~~subdivision shall do~~ section shall comply with all of the*
10 *following:*

11 ~~(A)~~

12 (1) *In each instance in which notice and posting of the time or*
13 *agenda of the teleconferenced meeting is otherwise given or the*
14 *agenda for the meeting is otherwise posted, meeting, the eligible*
15 *legislative body shall also give notice of include the means by*
16 *which members of the public may access the meeting and offer*
17 *public comment. The agenda shall identify and include an*
18 *opportunity for all persons to attend via a call-in option or an*
19 *internet-based service option.*

20 ~~(B)~~

21 (2) *In the event of a disruption that prevents the eligible*
22 *legislative body from broadcasting the meeting to members of the*
23 *public using the call-in option or internet-based service option, or*
24 *in the event of a disruption within the local agency's eligible*
25 *legislative body's control that prevents members of the public from*
26 *offering public comments using the call-in option or internet-based*
27 *service option, the eligible legislative body shall take no further*
28 *action on items appearing on the meeting agenda until public access*
29 *to the meeting via the call-in option or internet-based service option*
30 *is restored. Actions taken on agenda items during a disruption that*
31 *prevents the eligible legislative body from broadcasting the meeting*
32 *may be challenged pursuant to Section 54960.1.*

33 ~~(C)~~

34 (3) *The eligible legislative body shall not require public*
35 *comments to be submitted in advance of the meeting and shall*
36 *provide an opportunity for the public to address the legislative*
37 *body and offer comment in real time.*

38 ~~(D) Notwithstanding Section 54953.3, an individual desiring to~~
39 ~~provide public comment through the use of an internet website, or~~
40 ~~other online platform, not under the control of the legislative body,~~

1 that requires registration to log in to a teleconference may be
 2 required to register as required by the third-party internet website
 3 or online platform to participate.

4 ~~(E) (i) A~~

5 (4) (A) If an eligible legislative body that provides a timed
 6 public comment period for each agenda-item item, the eligible
 7 legislative body shall not close the public comment period for the
 8 agenda item, or the opportunity to register, pursuant to
 9 subparagraph ~~(D)~~, subdivision (f), to provide public comment until
 10 that timed public comment period has elapsed.

11 ~~(ii) A~~

12 (B) If an eligible legislative body that does not provide a timed
 13 public comment period, but takes public comment separately on
 14 each agenda item, the eligible legislative body shall allow a
 15 reasonable amount of time per agenda item to allow public
 16 members the opportunity to provide public comment, including
 17 time for members of the public to register pursuant to subparagraph
 18 ~~(D)~~, or otherwise be recognized for the purpose of providing public
 19 comment. subdivision (f).

20 ~~(iii) A~~

21 (C) If an eligible legislative body that provides a timed general
 22 public comment period that does not correspond to a specific
 23 agenda-item item, the eligible legislative body shall not close the
 24 public comment period or the opportunity to register, pursuant to
 25 subparagraph ~~(D)~~, subdivision (f), until the timed general public
 26 comment period has elapsed.

27 ~~(F)~~

28 (5) Except as provided in Section 54953.3, ~~a~~ an eligible
 29 legislative-body body, within seven days of holding a teleconference
 30 meeting, shall provide ~~a~~ both of the following on its internet
 31 website:

32 (A) A record of attendance of both community-members,
 33 members and members of the eligible legislative-body seven days
 34 after a teleconference meeting on its internet website. The
 35 legislative body shall also note on its website the body.

36 (B) The number of public comments in the ~~previous meeting~~
 37 ~~within seven days.~~ meeting.

38 (6) (A) At least a quorum of the members of the eligible
 39 legislative body shall participate from locations within the

1 *boundaries of the territory over which the local agency exercises*
2 *jurisdiction.*

3 *(B) The eligible legislative body shall identify each member of*
4 *the eligible legislative body who plans to participate remotely in*
5 *the agenda and shall include the address of the publicly accessible*
6 *building from where they will participate via teleconference. The*
7 *specific room or location within the publicly accessible building*
8 *from which a member participates via teleconference is not*
9 *required to be publicly accessible.*

10 ~~(3) This subdivision shall not be construed to require the~~

11 ~~(7) The eligible legislative body to shall provide a physical~~
12 ~~location from which the public may attend or comment.~~

13 ~~(b)~~

14 ~~(8) The eligible legislative body shall comply with all other~~
15 ~~requirements of Section 54953. 54953 except paragraph (3) of~~
16 ~~subdivision (b) of that section.~~

17 ~~(e) As used in this section, “legislative body” means a board,~~
18 ~~commission, or advisory body of a multijurisdictional, cross-county~~
19 ~~agency, the membership of which board, commission, or advisory~~
20 ~~body is appointed and which board, commission, or advisory body~~
21 ~~is otherwise subject to this chapter. As used in this subdivision,~~
22 ~~“multijurisdictional” means a legislative body that includes~~
23 ~~representatives from more than one county, city, city and county,~~
24 ~~special district, or a joint powers entity formed pursuant to Article~~
25 ~~1 (commencing with Section 6500) of Chapter 5 of Division 7 of~~
26 ~~Title 1.~~

27 ~~(e) A member of the eligible legislative body shall not participate~~
28 ~~in a meeting remotely pursuant to this section unless they meet~~
29 ~~both of the following requirements:~~

30 ~~(1) The location from which the member participates is more~~
31 ~~than 40 miles from the location of the inperson meeting.~~

32 ~~(2) The member participates from their office or another~~
33 ~~location in a publicly accessible building.~~

34 ~~(f) Notwithstanding Section 54953.3, an individual desiring to~~
35 ~~provide public comment through the use of a third-party internet~~
36 ~~website or other online platform during a meeting held pursuant~~
37 ~~to this section may be required to register to log in to the~~
38 ~~teleconference if both of the following conditions are met:~~

39 ~~(1) The internet website or online platform requires that~~
40 ~~registration.~~

1 (2) *The decision to require registration is not under the control*
2 *of the legislative body.*

3 (g) *This section shall remain in effect only until January 1, 2028,*
4 *and as of that date is repealed.*

5 ~~SEC. 3.~~

6 *SEC. 4.* The Legislature finds and declares that Sections ~~1 and~~
7 ~~2~~ 1, 2, and 3 of this act, which amend Section 54953 of, and add
8 Section 54953.4 to, the Government Code, impose a limitation on
9 the public's right of access to the meetings of public bodies or the
10 writings of public officials and agencies within the meaning of
11 Section 3 of Article I of the California Constitution. Pursuant to
12 that constitutional provision, the Legislature makes the following
13 findings to demonstrate the interest protected by this limitation
14 and the need for protecting that interest:

15 Permitting remote participation for just cause due to a member's
16 immunocompromised family member, as well as extending the
17 operation of teleconferencing for legislative bodies of
18 multijurisdictional, ~~cross-county~~ *cross-county* agencies with
19 appointed membership, will further increase public participation,
20 increase the pool of people who are able to serve on these bodies,
21 *including those that would otherwise have to travel long distances*
22 *to attend meetings in person*, and protect the health and safety of
23 the public.

24 ~~SEC. 4.~~

25 *SEC. 5.* The Legislature finds and declares that Sections ~~1 and~~
26 ~~2~~ 1, 2, and 3 of this act, which amend Section 54953 of, and add
27 Section 54953.4 to, the Government Code, further, within the
28 meaning of paragraph (7) of subdivision (b) of Section 3 of Article
29 I of the California Constitution, the purposes of that constitutional
30 section as it relates to the right of public access to the meetings of
31 local public bodies or the writings of local public officials and
32 local agencies. Pursuant to paragraph (7) of subdivision (b) of
33 Section 3 of Article I of the California Constitution, the Legislature
34 makes the following findings:

35 Permitting remote participation for just cause due to a member's
36 immunocompromised family member, as well as extending the
37 operation of teleconferencing for legislative bodies of
38 multijurisdictional, ~~cross-county~~ *cross-county* agencies with
39 appointed membership, will further increase public participation,
40 increase the pool of people who are able to serve on these bodies,

1 *including those that would otherwise have to travel long distances*
2 *to attend meetings in person, and protect the health and safety of*
3 *the public.*

4 ~~SEC. 5.~~

5 SEC. 6. This act is an urgency statute necessary for the
6 immediate preservation of the public peace, health, or safety within
7 the meaning of Article IV of the California Constitution and shall
8 go into immediate effect. The facts constituting the necessity are:
9 Virtual meetings have allowed much easier access to appointed
10 bodies of local agencies with far more members of the public
11 participating in each meeting. This has created greater equity in
12 the process and fostered the health of our democracy. In-person
13 meetings may jeopardize the health and safety of vulnerable
14 citizens due to ongoing risks of illnesses.

O



Carmen Group
I N C O R P O R A T E D

To: South Coast AQMD Legislative Committee
From: Carmen Group
Date: May 25, 2023
Re: Federal Update -- Executive Branch

Department of Transportation

Truck Emissions at Ports Grant Program Funds Available: In April, the Federal Highway Administration (FHWA) announced the availability of \$160 million for the first round of the new Reduction of Truck Emissions at Port Facilities (RTEPF) discretionary grant program, authorized under the Bipartisan Infrastructure Law. The funding will focus on projects that reduce emissions from idling trucks at ports which negatively impact air quality for port workers and surrounding communities. Carmen Group contacted RTEPF staff and attended the agency's virtual webinar about the program on May 18. Applications due June 26, 2023.

Advanced Transportation Technology Grants Announced: In May, the FHWA announced more than \$52 million in grants for eight states from the Advanced Transportation Technology and Innovation (ATTAIN) program, authorized under the Bipartisan Infrastructure Law. These grants will fund technology-based solutions that improve highway or transit systems with expanded eligibility for projects in communities that have previously lacked investments and areas of persistent poverty. One of the eight grant projects is located in California: Caltrans received \$7.7 million to deploy its "Southern California Mobility Wallet" project for open-loop payments technology to offer seamless payment to highway and transit services for Los Angeles County residents, including in areas of persistent poverty and disadvantaged communities.

Environmental Protection Agency

EPA Proposes New Emissions Standards for Power Plants: In May, the Environmental Protection Agency proposed new greenhouse gas emissions standards for fossil-fuel fired power plants. According to news reports, the White House leaned heavily on the EPA to make the proposed standards more stringent than originally contemplated, in part by extending their coverage from new plants to existing power plants. The new proposed rule is the third iteration of EPA's attempt to upgrade New Source Performance Standards for coal and natural gas fired stationary combustion turbines, transcending separate and different rulemakings in the Obama and Trump Administrations that were both buried in litigation before they could be fully put into effect. The Supreme Court last summer essentially struck down the EPA's Clean Power Plan which was originally

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proposed in 2015, and now the EPA’s latest new proposed rule is likely to have to navigate a similar legal gauntlet before it can be finalized and implemented.

EPA Seeks Input on New Clean Ports and Clean Trucks Programs: In May, the EPA announced planned future investments in two new programs funded under the Inflation Reduction Act and requests public input on the potential technologies involved. This includes the new Clean Ports Program which will invest \$3 billion in technologies to “reduce harmful air and climate pollutants at U.S. ports and create a zero-emission shipping future” and the new Clean Heavy-Duty Vehicle Program which will invest \$1 billion to “reduce vehicle emissions and better protect the health of the people living and working near ports, schools, and other truck routes.” The Agency’s Request for Information (RFI) seeks input on zero-emission trucks and port equipment as well as their associated charging and fueling infrastructure requirements. Responses due June 5, 2023.

EPA Releases Annual Air Report: In May, the EPA released its annual interactive report tracking America’s progress in controlling air pollution. “Our Nation’s Air: Trends Through 2022” provides information about the health and environmental impacts of air pollution, trends in air quality and emissions data; efforts to improve visibility at national parks; and community-level impacts of air toxics emissions reported for 2020. The report includes interactive graphics and detailed information by pollutant, geographic location and year. [Our Nation's Air: Trends Through 2022](#)

Department of Energy

DOE/DOT Funds Available to Enhance EV Charging Network: In May, the EPA/DOT Joint Office announced a \$51 million Ride and Drive funding opportunity (aligned with the President’s Justice40 Initiative) to accelerate the electrification of the nation’s transportation sector and spur related private sector investments. The funding opportunity seeks ways to increase the reliability of chargers, advance new business models for electrified shared mobility and services, and to increase opportunities for underserved communities. Concept papers due June 16, 2023. Full applications due July 28, 2023. In addition, the DOE/DOT Office announced the launch of the National Charging Experience (ChargeX) Consortium to collaborate with organizations representing the EV charging industry on usability and accessibility issues.

DOE/VTO Funding Availability to Improve EV Charging Infrastructure: In May, the Department of Energy’s Vehicle Technologies Office (VTO) announced the availability of \$99.5 million to support projects to reduce soft costs to improve EV charging infrastructure in underserved communities. Concept papers due June 26, 2023. Full applications due August 11, 2023.

Outreach: Contacts included staff at the Federal Highway Administration overseeing the Reduction of Truck Emissions at Port Facilities (RTEPF) grant program.

###



To: South Coast Air Quality Management District
From: Cassidy & Associates
Date: May 25, 2023
Re: May Report

HOUSE/SENATE

Congress

The House is in session this week, and out next week. The Senate is out this week, and in session next week. Both chambers are out Friday, May 26 through Monday, May 29 for Memorial Day recess.

With less than a week remaining before the U.S. could default on the national debt, President Biden and Speaker Kevin McCarthy (R-CA-20) are spending the week negotiating in order to avoid a default. These meetings follow talks last week between White House officials and House GOP negotiators. Meanwhile, some Democrats are floating the idea of President Biden invoking the 14th Amendment to address the debt limit. However, there are doubts from President Biden and Treasury Secretary Janet Yellen regarding the timeline of this method, and possible legal challenges.

On the Floor this week, the House is considering a variety of legislation, including two bills out of the House Financial Services Committee. One aims to [prevent the financing of illegal synthetic drugs](#), and the [other](#) would require the Treasury Secretary to publish a report on the United States' exposure to China's financial sector. There are also three bills heading to the House floor from the House Veterans' Affairs Committee that focus on expanding access to healthcare, education, and other benefits for veterans.

EPA

In early May, the Biden-Harris Administration [announced](#) \$4 billion in funding for clean port upgrades and clean heavy-duty vehicles, with the goal of improving air quality. The EPA presented its initial steps and is seeking public input to inform the development of two new programs, the Clean Ports Program (\$3 billion) and the Clean Heavy-Duty Vehicle Program (\$1

billion). The Clean Ports Program will build on EPA's current Port Initiative and aims to revitalize port infrastructure and invest in zero-emission port equipment and technology that improves air quality. The Clean Heavy-Duty Vehicle Program funds the replacement of heavy-duty commercial vehicles with zero-emission vehicles and the corresponding needed infrastructure and workforce development. The Request for Information for the Clean Ports Program can be found [here](#).

On May 17, the EPA [announced](#) a proposed rule which would require safe management of coal ash dumped in federally unregulated areas, including inactive power plants with surface impoundments and historical coal ash disposal areas at power plants with regulated coal ash units. EPA will be accepting public comment through July 17, 2023, and more information can be found [here](#).

The EPA is also [inviting](#) small entities to serve as Small Entity Representatives for a Small Business Advocacy Review Panel, focusing on the agency's development of a rule regarding imposing and collecting charges for methane emissions from certain facilities which report to the Greenhouse Gas Reporting Program. Self-nominations can be submitted [here](#) and must be received by June 1.

On May 23, EPA released their annual report on air pollution. The report showed overall continued reductions in air pollution. It shows that between 1970 and 2022 the combined emissions of the six common pollutants dropped by 78 percent. Emissions continue to decline from 1990 levels, driven by federal and state implementation of regulations. The report also shows a decrease in unhealthy air quality days, established by the Air Quality Index.

The full report can be found here: ["Our Nation's Air: Trends Through 2022"](#)

Cassidy and Associates support in May:

- Secured key meetings with the Biden Administration for Executive staff
- Worked with South Coast AQMD staff to strategize on DC outreach
- Provided an overview of COVID funding recessions in play for debt ceiling deal
- Advised staff on DOT funding programs (MEGA and RAISE)
- Continued to monitor and report on activities in Congress and the Administration that impact South Coast AQMD

IMPORTANT LEGISLATIVE DATES

Summer 2023:

The nation is expected to hit its debt limit.

June 30, 2023:

Pause on student loan payments and interest schedule to expire.

September 30, 2023:

FY 2023 appropriations expire.

September 30, 2023:

The Farm Bill, an omnibus package of legislation that supports US agriculture and food industries; the bill is reauthorized on a five-year cycle.

September 30, 2023:

Deadline for the Federal Aviation Administration reauthorization.

September 30, 2023:

National Flood Insurance Program reauthorization deadline.

AGENCY RESOURCES

USA.gov is cataloging all U.S. government activities related to coronavirus. From actions on health and safety to travel, immigration, and transportation to education, find pertinent actions [here](#). Each Federal Agency has also established a dedicated coronavirus website, where you can find important information and guidance. They include: Health and Human Services ([HHS](#)), Centers of Medicare and Medicaid ([CMS](#)), Food and Drug Administration ([FDA](#)), Department of Education ([DoED](#)), Department of Agriculture ([USDA](#)), Small Business Administration ([SBA](#)), Department of Labor ([DOL](#)), Department of Homeland Security ([DHS](#)), Department of State ([DOS](#)), Department of Veterans Affairs ([VA](#)), Environmental Protection Agency ([EPA](#)), Department

of the Interior ([DOI](#)), Department of Energy ([DOE](#)), Department of Commerce ([DOC](#)), Department of Justice ([DOJ](#)), Department of Housing and Urban Development ([HUD](#)), Department of the Treasury ([USDT](#)), Office of the Director of National Intelligence ([ODNI](#)), and U.S. Election Assistance Commission ([EAC](#)).

Helpful Agency Contact Information:

U.S. Department of Health and Human Services – Darcie Johnston (Office – 202-853-0582 / Cell – 202-690-1058 / Email – darcie.johnston@hhs.gov)

U.S. Department of Homeland Security – Cherie Short (Office – 202-441-3103 / Cell – 202-893-2941 / Email – Cherie.short@hq.dhs.gov)

U.S. Department of State – Bill Killion (Office – 202-647-7595 / Cell – 202-294-2605 / Email – killionw@state.gov)

U.S. Department of Transportation – Sean Poole (Office – 202-597-5109 / Cell – 202-366-3132 / Email – sean.poole@dot.gov)

KADESH & ASSOCIATES

South Coast AQMD Report for the June 2023
Legislative Meeting covering May 2023
Kadesh & Associates

The White House and Speaker McCarthy's leadership team tell reporters and their respective caucuses that they're making progress on a deal to raise the debt ceiling and cut spending by the June deadline. However, other than the negotiators themselves, it is not clear that anyone in Washington has visibility into what is on the table, and members of Congress on the left and on the right are laying out their red lines, which is making Capitol Hill increasingly tense.

On the right, the Freedom Caucus and others have questioned the accuracy of the June 1 "X Date" – the projected date when the Treasury Department will not be able to make all necessary payments – and have called for Speaker McCarthy to seek increased cuts, a border bill, and the entirety of the House-passed provisions that were attached to last month's debt limit bill (including blocking student loan forgiveness and changing permitting rules). On the left, the Progressive Caucus and others have opposed permitting proposals and have begun to express frustration that the White House has not more forcefully and publicly framed the argument so that voters know the stakes of the negotiations. In both chambers, the final vote will need to be bipartisan in order to reach the necessary majority thresholds.

The Senate was out of session the week of May 22, and the House left D.C. on Thursday for the Memorial Day week recess. If, and when, a final deal is made, both Senators and House Members have been told they should be ready to return to DC to vote.

The House narrowly approved a resolution in May to undo the EPA's clean truck rule, using the procedures of the Congressional Review Act; the Senate had approved it 50-49. President Biden will veto the resolution, and neither chamber will have enough votes to overturn it.

The regular appropriations process is on pause until the debt ceiling negotiations conclude. House Appropriations Chair Granger postponed markups on four FY24 spending bills (Agriculture, Military Construction-Veterans, Homeland Security, and the Legislative branch) that were scheduled for late May. Presumably, if budget cuts are included in a final debt limit deal, those topline budget numbers will allow the markups to move forward with more clarity.

Kadesh & Associates Activity Summary-

-Worked with South Coast AQMD and the congressional delegation on whole-of-government efforts to address air quality through BIL and IRA funding programs.

Contacts:

Contacts included staff and Members throughout the CA delegation, especially new members of the delegation, authors of priority legislation, Senate offices, and members of key committees. We have also been in touch with administration staff.

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RESOLUTE^{*}

South Coast Air Quality Management District Legislative and Regulatory Update – May 2023

❖ Important Upcoming Dates

June 2 – House of Origin Deadline
June 15 – Budget Bill Must be Passed by Midnight

❖ RESOLUTE Actions on Behalf of South Coast AQMD. RESOLUTE partners David Quintana, and Alfredo Arredondo continued their representation of South Coast AQMD before the State’s Legislative and the Executive branch. Selected highlights of our recent advocacy include:

- Provided key updates regarding the availability of funding for key priorities of South Coast in the State Budget.
- Set and attended meetings with legislative offices in support of sponsored legislation.

❖ SB 563 Independent Districts Legislation. On May 18th, the Senate Appropriations committee held their Suspense File hearing.

- **SB 563 was Held by the Committee. The bill is no longer moving forward this year.**

❖ \$4 Billion in Revenue for the GGRF Raised at auction in 2022-2023 Fiscal Year.

On May 25th, CARB released the auction results for the fourth Cap-And-Trade Auction of the 2022-2023 Fiscal Year. A total of \$1.107 billion was raised for the Greenhouse Gas Reduction Fund (GGRF), adding to the nearly \$3 billion already raised in prior auctions during the fiscal year.

❖ EV Adoption Brings Cleaner Air to California but Mostly in Wealthy Communities

BY SHARON UDASIN - 05/03/23 2:00 PM ET

The adoption of electric vehicles (EVs) might be helping curb pollution in California’s wealthier neighborhoods, but such improvements may be occurring at the expense of disadvantaged communities, a new analysis has found.

Although widespread EV adoption is likely leading to an overall decrease of greenhouse gas emissions, the reduction may be redistributing such pollutants from the vehicles themselves to electric generating units, according to the study, published Wednesday in PLOS Climate.

“Emissions may decrease in some locations and increase in others, with implications for equity,” wrote the authors of the study, led by researchers at the University of California, Berkeley.

To investigate this hypothesis, the authors analyzed the effects of California’s Clean Vehicle Rebate Project from 2010–2021, which has offered rebates from \$1,000 to \$7,500 for the purchase or lease of eligible zero-emissions vehicles.

They found that the project reduced total statewide emissions of carbon dioxide, nitrous oxides and sulfur dioxide, but that it increased accumulation of fine particulate matter (PM 2.5).

The shift to cleaner cars could be causing an overall boost in PM 2.5 emissions because vehicle electrification only minimally reduces the release of particulate matter, according to the study.

At the same time, the authors explained, as power production facilities work to meet rising energy demands, they may end up emitting increasing quantities of PM 2.5.

In their decadelong analysis, the authors observed not only a rise in PM 2.5 levels, but also that “changes in air pollution are not distributed equally.”

Their results showed that net reductions of primary PM 2.5, nitrous oxide and sulfur dioxide emissions disproportionately occurred in the wealthiest communities.

Among the public health threats associated with increased exposure to air pollutants are elevated cancer risk, cardiovascular disease, respiratory illness, diabetes and diminished school performance among affected children, according to the study.

If the current socioeconomic and demographic distribution of EV rebates remains unchanged, the researchers warned that these inequities will remain — persisting even if the state achieves its goal of 1.5 million zero-emission vehicles by 2025.

The authors expressed hope that their findings could “help policymakers avoid exacerbating the inequitable distribution of environmental burdens in the pursuit of greenhouse gas emissions reductions.” “Increased uptake of electric vehicles in communities facing the highest air pollution exposure, along with accelerated clean energy generation, could ameliorate associated environmental inequities,” they concluded.

<https://thehill.com/policy/equilibrium-sustainability/3986012-ev-adoption-brings-cleaner-air-to-california-but-mostly-in-wealthy-communities/>

Study: <https://journals.plos.org/climate/article?id=10.1371/journal.pclm.0000183>

❖ **Governor Releases Proposed Permitting Reform:**

STANISLAUS COUNTY – At the site of a future solar farm in the Central Valley, Governor Gavin Newsom today announced the state’s most ambitious permitting and project review reforms in a half-century to build California’s clean energy future while creating thousands of good jobs. The measures will facilitate and streamline project approval and completion to maximize California’s share of federal infrastructure dollars and expedite the implementation of projects that meet the state’s ambitious economic, climate, and social goals.

Through unprecedented investments over the past two state budgets, as well as funding from the federal Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act (IRA), California will invest up to \$180 billion over the next decade in clean infrastructure, which will create 400,000 good jobs while helping meet the state’s climate goals. By streamlining permitting, cutting red tape, and allowing state agencies to use new types of contracts, these proposals will maximize taxpayer dollars and accelerate timelines of projects throughout the state, while ensuring appropriate environmental review and community engagement.

Today’s announcement follows Thursday’s [report](#) urging permitting reform from Infrastructure Advisor to California, former Los Angeles Mayor Antonio Villaraigosa, and California Forward.

Together, these proposals could:

- Cut project timelines by more than three years
- Save businesses and state and local governments hundreds of millions of dollars
- Reduce paperwork by hundreds of thousands pages

Also today, Governor Newsom signed an [executive order](#) to stand up a strike team to accelerate clean infrastructure projects across the state by implementing an all-of-government strategy for planning and development.

The legislative package and executive order will:

- **Speed Up Construction:** Current construction procurement processes drive delays and increase project costs. The Governor’s proposals include methods to offer a streamlined process for project delivery to reduce project timeframes and costs.
- **Expedite Court Review:** Legal challenges often tie up projects even after they’ve successfully gone through environmental review. These proposals would authorize expedited judicial review to avoid long delays on the back end and advance projects without reducing the environmental and government transparency benefits of CEQA.
- **Streamline Permitting:** Makes various changes to California law to accelerate permitting for certain projects, reducing delays and project costs.
- **Address cumbersome CEQA processes across the board:** Streamlines procedures around document retention and review.
- **Maximize Federal Dollars:** Establish a Green Bank Financing Program within the Climate Catalyst Fund so that the state can leverage federal dollars for climate projects that cut pollution, with an emphasis on projects that benefit low-income and disadvantaged communities.

What Governor Newsom said: “The only way to achieve California’s world-leading climate goals is to build, build, build – faster. This proposal is the most ambitious effort to cut red tape and streamline regulations in half a century. It’s time to make the most out of taxpayer dollars and deliver results while creating hundreds of thousands of good jobs. Not since the Pat Brown era have we had the opportunity to invest in and rebuild this state to create the clean future Californians deserve.”

The Governor visited the future site of Proxima Solar Farm in Patterson to unveil the legislation. The facility, which broke ground in August 2022 and is expected to be operational as early as December, could power 60,000 homes in the surrounding region and is capable of generating up to 210 megawatts of clean, renewable energy and 177 megawatts of battery energy storage. NextEra Energy expects the project to create 300 construction jobs and generate \$35 million in local revenue.

Some examples of projects that could be streamlined include:

- Hundreds of solar, wind, and battery storage projects
- Transit and regional rail construction
- Clean transportation, including maintenance and bridge projects
- Water storage projects funded by Proposition 1
- Delta Conveyance Project
- Semiconductor fabrication plants
- Wildlife crossings along the I-15 corridor

The legislation builds on the Administration’s efforts to reform the California Environmental Quality Act (CEQA) to better serve the needs of today while also preserving the state’s historic commitment to protecting the environment. It also complements actions the Governor and the Legislature have taken to streamline state laws to maximize housing production, with 20 CEQA reform bills signed into law in recent years.

Trailer Bills Released by Governor’s Office:

Administrative Record Reform

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/953>

Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/954>

CEQA Judicial Streamlining

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/955>

Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/956>

IRA Green Financing

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/957>
Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/958>

Accelerating Environmental Mitigation for Transportation

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/959>
Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/960>

NEPA Assignment for Rail Projects

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/961>
Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/962>

Direct Contracting Authority for I-15 Wildlife Crossings

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/963>
Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/964>

Job Order Contracting

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/965>
Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/966>

Progressive Design Build Authority for DWR and CalTrans

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/967>
Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/969>

Fully Protected Species Reclassification

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/970>
Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/971>

Delta Reform Act Streamlining

Language: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/972>
Fact Sheet: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/973>



CALIFORNIA ADVISORS, LLC

South Coast AQMD Report
California Advisors, LLC
June 9, 2023, Legislative Committee Hearing

Legislative Update

June 2nd marks the House of Origin deadline which means legislation needs to be out of the house in which it was introduced in. The two weeks before the deadline will have several lengthy floor sessions in both houses to pass the hundreds of bills before each chamber. Once they have passed this first deadline the bills will swap houses and begin their policy hearings starting in early June. This traditionally represents the half-way point for the Legislative year.

May 18th was the Appropriations Suspense hearing in both the Senate and the Assembly. Most bills with a cost to the State are referred to the “suspense list” in each house. In total, both committees heard nearly 1200 bills between the two houses. However, when the dust settled 861 bills were passed out of their respective committees. Given California’s budget shortfall, there were some expectations that bills with significant costs would not be passed by the Appropriations Committees. The Senate committee approved 326 measures, or 78%, and the Assembly approved 535 measures, or 71% of the bills before them.

Budget Update

On May 12th, Governor Gavin Newsom submitted his revised 2023-24 State Budget proposal to the Legislature. The “May Revise” calls for \$306.5 billion in spending – \$224.1 billion from the state’s General Fund, \$79.5 billion from special funds, and \$2.9 billion from bonds. California has built up its reserve accounts over the past few years and the May Revise includes \$37.2 billion in total budget reserves. These include \$22.3 billion from the Budget Stabilization Account (Rainy Day Fund) and \$10.7 billion from the Public School System Stabilization Account.

Since the release of the Governor’s January Budget proposal, monthly revenue shortfalls have steadily continued, which has contributed to the May Revision General Fund revenue estimate shortfall of \$8.4 billion (before transfers and adjustments). The additional budget shortfall at the May Revision, after transfers and adjustments, is estimated to be \$9.3 billion. When combined with, and accounting for slight adjustments to the \$22.5 billion shortfall identified in the January proposal, California is now facing a \$31.5 billion budget problem.

The Governor did note that his budget still does not project a recession. However, should a moderate recession occur, revenue declines below the May Revision forecast could be significant. Based on a moderate recession scenario in fiscal year 2023-24, revenues could decrease by \$40 billion alone, largely driven by losses in personal income tax.

The independent Legislative Analyst’s Office released their analysis of the Governor’s May Revision and they forecast the budget problem to be higher at \$34.5 billion. Additionally, they find it *Very Unlikely the State Will Be Able to Afford the May Revision Spending Levels*. Under their estimates, the State faces operating deficits throughout the multiyear window, meaning revenues would need to come in above their projections for the budget to be balanced. While the revenues required to balance the budget are optimistic, but plausible, in the budget window, they are improbable in the out-years. For example, to eliminate the operating deficit in 2024-25, revenues would need to be roughly \$30 billion higher than their forecast. The LAO’s analysis suggests that level of revenue is very unlikely—there is less than a one-in-six chance the State can afford the May Revision spending level across the five-year period. This means that, if the Legislature adopts the Governor’s May Revision proposals, the State very likely will face more budget problems over the next few years.

The Governor’s revised budget opens what is expected to be an intense month of negotiations with the Legislature. Notably, it is the first time Governor Newsom and many lawmakers have confronted a financial shortfall. They must reach a budget agreement by the start of the new fiscal year on July 1st. The Legislature must pass a balanced budget bill by midnight on June 15th of each year.



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TO: South Coast Air Quality Management District
FROM: Anthony, Jason & Paul Gonsalves
SUBJECT: Legislative Update – May 2023
DATE: Thursday, May 25, 2023

During the month of May, the Legislature’s focus was on two things; the Governor’s May revision to the state budget and moving their 2,745 bills out of policy and fiscal committees. In January, the Governor’s proposed budget identified a \$22.5 billion budget deficit that ballooned to \$31.5 billion in his May Revise. Simultaneously, the Legislature had until May 12th to move all bills out of policy committee and until May 19th to move all bills out of the fiscal committee. The Legislature has until June 2nd to move all bills out of their house of origin and until June 15th to adopt a state budget.

The following will provide you with updates of interest to the District:

GOVERNOR’S MAY REVISE

On May 12, 2023, Governor Newsom released his May revision to his proposed budget plan that attempts to maintain investments in our biggest challenges while preparing for continued economic uncertainty. The Governor’s budget proposal closes a projected \$31.5 billion budget shortfall while protecting key investments that including education, health care, housing and homelessness, public safety, and climate action.

Following two years of unprecedented growth, revenues have fallen short of monthly estimates since the 2022 Budget Act was enacted last June. California has planned for this potential shortfall, with the Governor and Legislature paying down the state’s prior debts, building unprecedented reserves and prioritizing one-time investments.

Despite the growing shortfall, California’s overall budget is now expected to be \$306 billion, including special funds, which is less than a 1% decline from a record \$308 billion in the current fiscal year. Although the May revision does not forecast a recession, it does recognize increased risks to the budget that could significantly change the state’s fiscal stability in the near term. Taking this into account, the May revision proposes \$37.2 billion in total budgetary reserves, including \$22.3 billion in the Budget Stabilization Account.

Governor Newsom proposes to close the deficit by shifting an additional \$3.3 billion in existing commitments out of the general fund, including paying for \$1.1 billion in climate spending and \$1.1 billion in college student housing projects with bonds, and pulling back another \$1 billion in unused money from programs such as middle-class tax refunds and utility bill support for low-income residents.

Under the governor's proposal, the state would also borrow \$1.2 billion from special funds and increase by \$2.5 billion a tax on managed care health plans to address the spending gap. The rainy day funds would remain largely untouched, except for a \$450 million withdrawal from one reserve account.

California's fiscal picture has worsened since January, when finance officials projected the state would face a deficit of \$22.5 billion. Newsom called it a "modest shortfall" and proposed to delay billions of dollars in spending commitments, reverse recent steps to shore up the state's fiscal health and shift around funding sources to limit program cuts.

Monthly tax revenues came in billions of dollars below forecasts this spring, and fears of a recession continue to loom, which Governor Newsom said could reduce state revenues by tens of billions of dollars even in the mildest scenario. Adding to the unpredictability, most Californians don't have to file their income taxes until October because of the intense damage and disruption from winter storms. Officials estimate that \$42 billion in payments will be delayed until the new deadline.

As previously mentioned, the Governor's May revision proposed paying for \$1.1 billion in climate spending with bonds. The Governor said that if a future Climate Bond isn't approved, it could mean the shift of an additional \$1.1 billion from climate resilience programs, including water recycling, the Salton Sea restoration and the statewide parks program. The May revision doesn't discuss details of the bond, including its amount, but the Governor said the climate programs remain a high priority, and his proposal does maintain funding for programs such as wildfire and forest resilience, coastal resilience and extreme heat programs.

The governor's updated budget proposal kicks off a month of negotiations with the Legislature, which must pass a budget by June 15 to get paid, though some items may remain unresolved after the July 1 start of the fiscal year. Legislative leaders have been largely optimistic about the budget situation, noting that the deficit is less drastic than during the last recession more than a decade ago and arguing that they have plenty of fiscal tools at their disposal to avoid deep spending cuts. Last month, Senate Democrats pitched increasing taxes on large corporations and suspending a major business tax credit to raise new funds, an idea that Governor Newsom quickly rejected.

SENATE BUDGET PROPOSAL

Prior to the Governor's May Revision, Senate Leaders released their budget plan, entitled "Protect Our Progress," that, they said, would close the State's deficit while maintaining last year's new spending. Their plan proposes to accomplish this by borrowing money from the State's rainy day funds and raising corporate income taxes by more than \$7 billion. Spending advocates immediately praised the Senate's budget framework saying the plan acknowledges

that the projected budget shortfall will never be solved by putting more burden on those who are struggling, but by asking California corporations to chip in more of their vast wealth. However, business groups denounced the proposed corporate tax increase saying that now is not the time to test California's ability to withstand the impact of an economic downturn or a recession by placing our economic success at risk.

More importantly, Governor Newsom immediately rejected the tax increase and the Senate's plan didn't have an endorsement from Assembly leaders. In January, Assembly Speaker Anthony Rendon, a Democrat from Lakewood, said he would prefer to tap the state's rainy-day reserves if the deficit widened.

It remains to be seen if the Legislature and Governor will agree on deeper spending cuts, new taxes, dipping into the reserves, or a combination of all three.

GOVERNOR'S CLEAN ENERGY PLAN

On May 19, 2023, Governor Newsom announced a proposal that would streamline projects to construction across the state in an attempt to accelerate the building of clean infrastructure so California can reach its climate goals while creating hundreds of thousands of jobs.

Governor Newsom's proposed plan would be the most ambitious permitting and project review reforms the State has seen in a half-century. The measures would facilitate and streamline project approval and completion to maximize California's share of federal infrastructure dollars and expedite the implementation of projects that meet the state's economic, climate, and social goals.

With the investments over the past two state budgets, as well as funding from the federal Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act (IRA), California will invest up to \$180 billion over the next decade in clean infrastructure, which could create 400,000 jobs while helping meet the state's climate goals. By streamlining permitting, cutting red tape, and allowing state agencies to use new types of contracts, these proposals could maximize taxpayer dollars and accelerate timelines of projects throughout the state, while ensuring appropriate environmental review and community engagement.

Additionally, Governor Newsom signed an executive order to create a strike team to accelerate clean infrastructure projects across the state by implementing an all-of-government strategy for planning and development. The legislative package and executive order will:

- **Speed Up Construction:** Current construction procurement processes drive delays and increase project costs. The Governor's proposals include methods to offer a streamlined process for project delivery to reduce project timeframes and costs.
- **Expedite Court Review:** Legal challenges often tie up projects even after they've successfully gone through environmental review. These proposals would authorize expedited judicial review to avoid long delays on the back end and advance projects without reducing the environmental and government transparency benefits of CEQA.
- **Streamline Permitting:** Makes various changes to California law to accelerate permitting for certain projects, reducing delays and project costs.

- Address cumbersome CEQA processes across the board: Streamlines procedures around document retention and review.
- Maximize Federal Dollars: Establish a Green Bank Financing Program within the Climate Catalyst Fund so that the State can leverage federal dollars for climate projects that cut pollution, with an emphasis on projects that benefit low-income and disadvantaged communities.

Some examples of projects that could be streamlined include:

- Hundreds of solar, wind, and battery storage projects
- Transit and regional rail construction
- Clean transportation, including maintenance and bridge projects
- Water storage projects funded by Proposition 1
- Delta Conveyance Project
- Semiconductor fabrication plants
- Wildlife crossings along the I-15 corridor

CA Climate Projects

California has released the annual report for California Climate Investments, which in 2022 implemented nearly 19,500 new projects through \$1.3 billion in funding, with \$933 million directly benefiting disadvantaged communities and low-income communities and households.

In 2022, California Climate Investments, which are funded by Cap-and-Trade proceeds, implemented \$1.3 billion in projects throughout the State to cut pollution, create jobs, get people into ZEVs, conserve and restore land, improve public health, and more.

In 2022, 74% of investments, almost \$1 billion, supported communities and households facing greater economic and environmental challenges. The 2022 investments are expected to cut 10.4 million metric tons of pollution over the course of the projects.

The State has invested more than \$9.3 billion under this program statewide since 2014, which has:

- Planted more than 20 million trees in urban and wildland areas
- Conserved or restored 891,000 acres of land
- Funded 10,300 affordable housing units
- Implemented 1,060 projects expanding or creating new transit services
- Supported employment opportunities with over 21,300 jobs
- Issued more than 427,500 rebates for zero-emission or plug-in hybrid vehicles

2023 LEGISLATIVE DEADLINES

May 5 - Last day for policy committees to hear and report to the Floor nonfiscal bills introduced in their house

May 12 - Last day for policy committees to meet prior to June 5

May 19 - Last day for fiscal committees to hear and report to the Floor bills introduced in their house. Last day for fiscal committees to meet prior to June 5

May 30-June 2 - Floor session only. No committee may meet for any purpose except Rules Committee, bills referred pursuant to A.R. 77.2, and Conference Committees

June 2 - Last day for each house to pass bills introduced in that house

June 5 - Committee meetings may resume

June 15 - Budget Bill must be passed by midnight

July 14 - Last day for policy committees to meet and report bills. Summer Recess begins upon adjournment, provided Budget Bill has been passed

August 14 - Legislature reconvenes from Summer Recess

September 1 - Last day for fiscal committees to meet and report bills

September 5-14 - Floor session only. No committees may meet for any purpose, except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees

September 8 - Last day to amend on the Floor

September 14 - Last day for each house to pass bills. Interim Recess begins upon adjournment