

**To:** East Contra Costa Fire Protection District  
**From:** Townsend Public Affairs, Inc.  
**Date:** October 6, 2021  
**Subject:** Legislative Report for ECCFPD – September 2021

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### **State Legislative Update**

On September 10<sup>th</sup>, the Legislature adjourned the 2021 legislative session and will return for the second year of the two-year session in January. Of the 2,776 bills introduced this year, the Legislature passed a total of 1,104. As of Monday evening, the Governor has signed 764 bills, vetoed 15, and still has 325 bills to consider before the October 10<sup>th</sup> deadline. As of Monday, the Governor has not yet considered the majority of higher education related measures that were passed by the Legislature.

Since the Legislature's adjournment, Governor Newsom has signed over half of the Legislature's passed bills into law, many of which have been packaged with other similar measures to address economic recovery, the housing crisis, and extreme weather events, including drought and wildfires. For instance, the Newsom Administration has been focused on the implementation of the *California Comeback Plan* through significant budget allocations to both accelerate the State's recovery from the pandemic and tackling persistent challenges. Part of the \$100 billion plan has included over \$20 billion in housing and homelessness investments, with the goal of producing 84,000 homes. Other investments include a climate resiliency package and stimulus payments to the state's vulnerable residents. Below is an overview of a few of the bills the Governor has signed into law, organized by issue area:

#### *Climate Resiliency Investments and Legislation Package*

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



Atkins' SB 1, which establishes the California Sea Level Rise Mitigation and Adaptation Act to help coordinate and fund state efforts to prepare for sea level rise.

### *Police Reform Legislation*

The Governor also signed a package of bills that will implement major police reform measures. Legislation in this package included SB 2 (Bradford), which creates a system to investigate and revoke or suspend peace officer certification for serious misconduct along with imposing changes to qualified immunity standards, and SB 16 (Skinner), which expands on the existing laws related to public access of police officer misconduct records related to excessive use of force and failure to intervene, among other things. Other bills include AB 89 (Jones-Sawyer) which increases the minimum qualified age for peace officers and establishes a college-level curriculum for certification, and AB 48 (Gonzalez), which prohibits the use of rubber bullets and pepper spray against peaceful protestors. Each of these bills represent major change to policing, from the local to the state levels. While the signing of these measures is significant, the positive consideration of these measures was not surprising, as the bills align with his goals for policing and protesting reform set forth in a series of recommendations provided to the Legislature in 2020.

### *Labor and Pensions*

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

### *Housing Production and Accountability Package*

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

After the enactment of the first round of housing and land use bills, the Governor signed a 27-bill package to further address the state's housing crisis, with more focus on accountability and enforcement as it pertains to development goals. The bills included in this package include AB 215 (Chiu), which increases enforcement within The Department of Housing and Community Development (HCD) and housing element transparency standards, AB 602 (Grayson), which increases the transparency of impact fees through revised nexus study requirements, and SB 478 (Wiener), which prohibits local governments from imposing certain floor area ratio standards on specified housing projects. These highly contentious bills mark significant, top-down changes to the state's housing production, accountability, and land use standards, with each of these bills representing renditions of bills that have attempted to pass the policy committee process for years but have previously failed.



## Modified Brown Act Requirements In Place

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

## Recall Election Update

On September 14<sup>th</sup>, California held a statewide special election to consider the recall of Governor Gavin Newsom. Over 12.7 million Californians cast a ballot in the special election and voters overwhelmingly rejected the recall of Governor Newsom. While the election results do not need to be certified by the Secretary of State until October 22<sup>nd</sup>, there is no question regarding the outcome, as the current vote shows 38.0% in favor of the recall, and 62.0% opposed.

The outcome of the recall election did not come as a surprise to most, as polling leading up to the election consistently showed a lack of sufficient support for the recall; however, the level of opposition was more than most had anticipated. In the days before the election, most polls had the opposition to the recall in the mid-50% range, and no publicly available poll had indicated opposition to the recall above a 60% threshold.

Since the recall failed to pass, the vote for the replacement candidates did not come into play; however, it is worth noting that Larry Elder finished as the top vote getter with 48.4%. Following Elder were Kevin Paffrath (9.6%), Kevin Falconer (8.1%), Brandon Ross (5.4%), and John Cox (4.1%).

Governor Newsom will look to build on the support he received in the recall as he heads gears up for re-election in 2022. On the other side of the aisle, Republicans will be looking to see how they can be competitive against the Governor, as well as in the down ticket races, in 2022. While Larry Elder received nearly half of the replacement candidate vote, it is unclear if the Republican Party will want Elder to challenge Governor Newsom in 2022 given that Newsom was able to easily fend off the recall while running a campaigning that primarily focused on Elder. Republicans will need to act quickly if they are going to try and consolidate behind a single candidate for Governor, as the Declaration of Candidacy period will begin in just over three months.



## COVID-19 Regulations

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

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

In addition to requirements for businesses, on October 1<sup>st</sup>, Governor Newsom announced that the state would be implementing a vaccine requirement for eligible K-12 students in 2022. Under the Governor's plan, students will be required to be vaccinated for in-person learning starting the term following full FDA approval of the vaccine for a student's grade span (7-12 and K-6). Students who are under the age of full approval, but within the grade span, will be required to be vaccinated once they reach the age covered by the full approval. The vaccination requirement will be a condition of in-person attendance for all pupils of any private or public elementary or secondary school.

## Priority Legislation

The Legislature has adjourned for interim recess and will return to session on January 3, 2022. Bills that did not pass out of their house of origin will be eligible to be considered when the Legislature returns. While the official 2022 Legislative Calendar has not yet been released, it is likely that two-year bills will need to pass out of their house of origin by the end of January 2022.

Below are bills that may be of interest to the District.

### *AB 450 (Gonzalez) – Paramedic Disciplinary Review Board*

The bill would create the Paramedic Disciplinary Review Board to take disciplinary actions previously granted to the Emergency Medical Services Authority against an EMT-P license holder and to hear appeals regarding the authority's denial of licensure, among other things. The bill would specify the composition and appointment of the 7-member board, which would be required to select a salaried executive officer to perform duties delegated to them by the board. The bill would require the employer of a paramedic to report to the director of the authority and the board regarding the suspension or termination of a paramedic for cause and would require the board to consider employer-imposed discipline and other criteria to determine an appropriate licensure action. CalChiefs/FDAC: Support. **This measure was signed into law by Governor Newsom on October 4<sup>th</sup>.**



*AB 642 (Friedman) – Wildfires*

Current law requires the Director of Forestry and Fire Protection to identify areas of the state as very high fire hazard severity zones. Current law also requires a local agency, within 30 days of receiving a transmittal from the director that identifies very high fire hazard severity zones, to make the information available for public review. This bill would require the director to identify areas in the state as moderate and high fire hazard severity zones. The bill would modify the factors the director is required to use to classify areas into fire hazard severity zones, as provided. The bill would require a local agency, within 30 days of receiving a transmittal from the director that identifies fire hazard severity zones, to make the information available for public comment. CalChiefs/FDAC: Support. **This measure was signed into law by Governor Newsom on September 28<sup>th</sup>.**

*AB 1104 (Grayson) – Air ambulance services*

Current law imposes a penalty of \$4 until July 1, 2021, upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, other than a parking offense. The act requires the county or court that imposed the fine to transfer the revenues collected to the Treasurer for deposit into the Emergency Medical Air Transportation and Children’s Coverage Fund. Current law requires the assessed penalty to continue to be collected, administered, and distributed until exhausted or until December 31, 2022, whichever occurs first. These provisions remain in effect until January 1, 2024, and are repealed effective January 1, 2025. This bill would extend the assessment of penalties pursuant to the above-described provisions until December 31, 2022, and would extend the collection and transfer of penalties until December 31, 2023. CalChiefs/FDAC: Support. **This measure was signed into law by Governor Newsom on October 4<sup>th</sup>.**

*ACA 1 (Aguiar-Curry) – Affordable housing and public infrastructure: voter approval*

The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions. This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements. CalChiefs/FDAC: Support. **This measure has been referred to the Assembly Local Government Committee. The measure has not yet been set for a hearing.**

*SB 12 (McGuire) – Planning and Zoning: wildfires*

Current law requires that the Office of Planning and Research, among other things, coordinate with appropriate entities, including state, regional, or local agencies, to establish a clearinghouse for climate adaptation information for use by state, regional, and local entities. This bill would require the safety element, upon the next revision of the housing element or the hazard mitigation plan, on or after July 1, 2024, whichever occurs first, to be reviewed and updated as necessary to include a comprehensive retrofit strategy to reduce the risk of property loss and damage during wildfires and would require the planning agency to submit the adopted strategy to the Office of





Planning and Research for inclusion into the above-described clearinghouse. CalChiefs/FDAC: Support. **This measure was approved by the Assembly Local Government Committee (6-0) and has been referred to the Assembly Housing and Community Development Committee but was not considered prior to the policy committee deadline. The measure is now a two-year bill and will be eligible for consideration in January.**

*SB 63 (Stern) – Fire prevention: vegetation management: public education grants*

This bill makes multiple changes in state law to enhance fire prevention efforts by the California Department of Forestry and Fire Prevention, including, among other things, improved vegetation management and expanding the area where fire safety building standards apply. CalChiefs/FDAC: Support. **This measure was signed into law by Governor Newsom on September 28<sup>th</sup>.**

*SB 109 (Dodd) – Office of Wildfire Technology Research and Development*

Current law requires the Office of Emergency Services and the Department of Forestry and Fire Protection to jointly establish and lead the Wildfire Forecast and Threat Intelligence Integration Center, and sets forth the functions and duties of the center, including serving as the state's integrated central organizing hub for wildfire forecasting. This bill would, until January 1, 2029, also establish the Office of Wildfire Technology Research and Development within the Department of Forestry and Fire Protection under the direct control of the Director of the department. The bill would make the office responsible for studying, testing, and advising regarding procurement of emerging technologies and tools in order to more effectively prevent and suppress wildfires throughout the state, through specified activities. CalChiefs/FDAC: Support. **This measure was signed into law by Governor Newsom on September 23<sup>rd</sup>.**

## **Federal Legislative Update**

The end of the federal fiscal year on September 30<sup>th</sup> is often characterized by a flurry of legislative activity, but this year was unique. September saw an unprecedented legislative avalanche. High-stakes negotiations around President Joe Biden's legislative agenda were coupled with the expiration of government funding and an impending federal debt crisis to create a complex set of interconnected deadlines and political considerations. The continued debate over federal infrastructure legislation entered a new phase with Senate moderate Democrats negotiating directly with congressional leadership and the White House over the scope of the reconciliation bill, while House progressives held up passage of the bipartisan infrastructure bill until they received sufficient assurances that reconciliation would proceed. While Congress did avert a government shutdown by passing a nine-week continuing resolution to December 3, the debate on infrastructure and the debt limit will continue into October.

### **Fiscal Year 2022 Appropriations**

#### *Overview and Continuing Resolution*

The process of enacting federal government funding for fiscal year 2022 (FY22) has been months behind all year. September 30 marked the end of fiscal year 2021 but by the required deadline the House of Representatives had only passed nine of the necessary twelve spending bills while the Senate had passed none. To avert a government shutdown, the House and Senate passed a continuing resolution – commonly referred to as a CR – which temporarily extends government



funding at FY21 levels until December 3, 2021. With this new deadline in hand, House and Senate negotiators will continue their work with the goal of reaching agreement on a final FY22 spending agreement.

In addition to keeping the federal government's lights on for two months, the CR also contains \$28.6 billion for states recovering from hurricanes and wildfires as well as \$6.3 billion to resettle refugees from the U.S. war in Afghanistan.

The \$28.6 billion for disaster aid would provide:

- \$1.36 billion for the U.S. Forest Service to address damage caused by natural disasters.
- \$1.2 billion for the Small Business Administration's Disaster Loans Program.
- \$5 billion for the Housing and Urban Development Department's Community Development Fund for major disasters that occurred in 2020 and 2021.
- \$2.6 billion for Transportation Department reimbursements to states and territories to repair damage to roads and bridges caused by natural disasters.
- \$10 billion for the Agriculture Department to cover crop losses that occurred in 2020 and 2021. Of that amount, \$750 million would be provided to livestock producers.
- \$5.68 billion for the Army Corps of Engineers. Of that amount, \$3 billion would be used to accelerate flood and storm risk reduction projects and \$2.08 billion would be used to repair disaster-related damages.
- \$565 million for the Navy to repair facilities damaged by storms that occurred in 2020 and 2021.
- The measure also would cancel outstanding balances for Federal Emergency Management Agency Community Disaster Loans as of Sept. 30, 2021.

#### Bipartisan Infrastructure Bill – H.R. 3684, the *Infrastructure Investment and Jobs Act*

On August 10<sup>th</sup>, the Senate passed H.R. 3684, the *Infrastructure Investment and Jobs Act*, a nearly \$1.2 trillion infrastructure package including approximately \$550 billion in new spending over five years. The bipartisan 69-30 vote was widely praised by the Biden Administration and Congressional leaders but passage by the House of Representatives has been delayed due to political considerations by House progressives who are using their votes for the bill as leverage to secure consideration of a larger economic package.

H.R. 3684 would extend highway, safety, transit, rail, pipeline, and research programs. It also includes provisions to address climate change, imposes domestic content requirements on construction materials, authorizes programs to enhance the electric grid, and includes a robust package of water infrastructure programs and funding. In summary it would provide:

- \$46 billion for wildfire, drought, flood, coastal, and ecosystem resiliency.
- \$110 billion for roads, bridges, and major projects.
- \$66 billion for passenger and freight rail.
- \$11 billion for transportation safety programs.
- \$39.2 billion for public transit.
- \$17.3 billion for ports and waterways.
- \$25 billion for airports.
- \$55 billion for drinking water and wastewater infrastructure.
- \$73 billion for power and the electrical grid.



- \$15 billion for low-carbon and zero-emission transportation alternatives.

Negotiations on President Biden's broader legislative agenda and a resolution on vote timing for the *Infrastructure Investment and Jobs Act* will continue into October.

### Budget Reconciliation Package – the *Build Back Better Act*

In early September, House committees began to report legislative language to fulfill the instructions laid forth in the \$3.5 trillion budget resolution that passed the House and Senate in August. Together with the bipartisan \$1.2 trillion *Infrastructure Investment and Jobs Act*, this bill would implement President Joe Biden's sweeping social spending and economic agenda. But as the month progressed disagreements among Congressional Democrats on the scope of the bill emerged, leading to intense negotiations on the path forward. As Congress enters October, it is likely that the size of the bill changes as negotiations continue.

The negotiations and politics surrounding the approval of the budget reconciliation package also impact the ability of Congress to act on other important matters, including the infrastructure bill and the appropriations measures discussed above. President Biden, and Democratic congressional leaders, do not need Republican support to move a bill through the budget reconciliation process, but they do require the support of all Democrats in the Senate. A handful of moderate Senate Democrats have expressed an unwillingness to support the President's complete Build Back Better plan, so it is quite likely that the President will need to slim down the overall package in order to get the Democratic support that he needs. The negotiations on budget reconciliation are likely to continue for a few more weeks.

### Statutory Debt Ceiling

On July 31, 2021, a two-year suspension of the statutory debt limit expired. Since then, the U.S. Treasury has employed extraordinary measures, such as deferring payments on government employee pensions and deferring Social Security investments, to avoid a default on the nation's debt. In September, Treasury Secretary Janet Yellen informed Congress that she would no longer be able to sustain these measures past October 18, 2021 and after that date the United States would almost certainly default on its debt obligations for the first time in history.

Raising or suspending the current \$28.4 trillion debt limit has become a political hot potato, with neither party in Congress willing to take responsibility. Democrats are in power in the White House and in both chambers of Congress, but they want Republicans to agree to raise the limit, noting that they supported debt limit hikes during the Trump Administration even though they were opposed to the 2017 Tax Cuts and Jobs Act which increased the debt. Senate Republican Leader Mitch McConnell says Democrats should raise the debt limit on their own, given that they want to spend up to \$3.5 trillion on President Joe Biden's economic agenda. Democrats have countered, saying raising the ceiling is needed merely to accommodate spending under President Trump. While Democrats have the power to raise the debt limit by simple majority votes through a budget reconciliation bill, so far they have chosen not to go that route. As a result, it would take a supermajority of 60 votes to overcome a filibuster in the Senate, requiring the agreement of at least 10 Republicans. The first two weeks of October will see a showdown on this issue of the debt limit as both parties acknowledge that a default is not an option, but neither party has presented a path toward a resolution.





## Federal Policing Reform

After many months of negotiations, that began in June, the bipartisan effort to pass a police reform bill has ended without a deal. The efforts were being championed by Representative Karen Bass and Senator Cory Booker. Senator Booker stated that there is too large a gap between the negotiating partners and a bipartisan deal had too many obstacles in front of it. Rep. Bass conceded that the political moment may have passed. Stating that the House passed a bill that Republicans in the Senate would not go for, and an uptick in crime made reaching a deal that much harder. This appears to be the end of the road for the foreseeable future of the federal police reform effort.

## COVID-19 Initiatives

### *Vaccine Requirements*

On September 9<sup>th</sup>, President Biden unveiled a six-part plan for combating the COVID-19 pandemic, in response to the recent increase in Delta variant cases. President Biden's COVID Action Plan will affect roughly two-thirds of the United States workforce. Included in the plan is a requirement for all federal workers to be vaccinated. There will be no option for being regularly tested as an alternative. The order, for all executive branch federal workers to be vaccinated, will also apply to federal contractors that do business with the federal government. It does not cover congressional or court system employees (only executive branch).

Biden has pushed for private sector companies to adopt a similar approach. OSHA will be drafting the rule in order to ramp up these efforts for the workplace. The rule will require vaccinations or once a week testing for companies with more than 100 employees, to be implemented in the coming weeks.

The plan will also require vaccinations for over 17 million health care workers at Medicare and Medicaid Participating Hospitals and Doctors' Offices.

Biden continues to urge schools to implement regular testing for students, teachers, and staff. The White House had previously allocated \$10 billion to assist schools in creating COVID testing centers. This plan continues that work by calling for school districts to create vaccination requirements for employees and provide additional resources to the FDA as it continues to review vaccines for individuals under the age of 12.

Some additional highlights of the plan include urging large entertainment venues to require proof of vaccination or testing for entry, bolstering COVID-19 testing, including increasing the supply of over the counter at-home tests, and reducing the cost of these tests by ensuring manufactures set at-cost for the next three months.

### *Vaccine Booster Shots*

The Administration had developed a plan to start booster shots on September 20<sup>th</sup>, pending approval from the CDC. On September 24<sup>th</sup> the CDC, with consideration from the vaccine advisory board, approved a recommendation for certain individuals within vulnerable populations to begin



receiving booster shots. The recommendation is for individuals who have received their initial doses at least 6 months prior and includes individuals 65 and older, individuals 18 and older with an underlying health condition, and those who may have an increased risk of exposure/transmission, such as health care workers. These recommendations were with consideration for the Pfizer vaccine and the CDC will continue to issue advisories for Moderna and Johnson & Johnson vaccines, as well as update recommendations for additional populations as data becomes available.

### **District Legislative Priorities**

TPA works to further the mission of the East Contra Costa Fire Protection District in Sacramento and Washington DC. In addition to providing feedback on the priorities of the State and Federal government, the District has its own priorities that we continue to advance.

#### **Legislative Priority 1 – Chapter 13 EMS System Modifications**

California operates on a two-tiered emergency medical services (EMS) system. EMSA is the lead agency and centralized resource to oversee emergency and disaster medical services. The California Emergency Medical Services Authority (EMSA) is charged with providing leadership in developing and implementing local EMS systems throughout California, and in setting standards for the training and scope of practice of various levels of EMS personnel. California has 33 local EMS systems that provide EMS for California's 58 counties.

Local EMS agencies are responsible for planning, implementing, and managing local trauma care systems, including assessing needs, developing the system design, designating trauma care centers, collecting trauma care data, and providing quality assurance.

In late 2019, EMSA issued proposed Chapter 13 regulations that would have aimed to define the standards, policies, and procedures for all local EMS systems. Additionally, the proposed regulations would have clarified and made specific criteria for determining whether a city or fire district that has contracted for, or provided prehospital EMS as of June 1, 1980, has consistently provided that service without any reduction in the level of service since that time. The regulations would have also made specific criteria for the determining when an exclusive operating area may be created without a competitive process and the process to be used when awarding an exclusive operating area via a competitive process.

The EMSA proposed regulations garnered opposition from numerous entities. Additionally, CFCA's legal counsel requested that EMSA withdraw the proposed Chapter 13 regulations for failure to comply with certain substantive and procedural requirements for rulemaking under the Administrative Procedures Act. Ultimately, in August 2020, EMSA gave notice that it decided not to proceed with the rule making action related to Chapter 13.

While EMSA has withdrawn its previous regulatory proposal, it is possible that they could re-initiate the rule-making process or pursue statutory changes through the Legislature. TPA is coordinating efforts with the District to be prepared in the event of future legislative or regulatory action. TPA has provided the District with more detailed background information on this subject and possible avenues for action. Additionally, TPA has working to coordinate with industry



partners to educate legislators and staff on this issue, as well as to prepare for any potential legislative or regulatory action.

There is one bill introduced in the current legislative session directly related to local EMS agencies, AB 389 (Grayson). AB 389 would authorize a county to contract for emergency services with a fire agency that is governed by the county's board of supervisors and provides those services through a written subcontract with a private ambulance provider. This bill was also recently amended to prohibit, after January 1, 2022, a county from entering into, or renewing, these contracts unless the county board of supervisors has adopted a written policy setting forth issues to be considered for inclusion in the county contract for emergency services and requires the contract to be awarded through a competitive bidding process. AB 389 is sponsored by Contra Costa County. AB 389 was ultimately approved by the Legislature and signed into law by Governor Newsom on October 4<sup>th</sup>.

### Legislative Priority 2 – Job Order Contracting

Job order contracting is a procedure that allows for the awarding of contracts based on prices for specific construction tasks, rather than bids, for a specific project. A catalog or book identifies all work that could be performed, typically maintenance or modernization, and the unit prices for each of those tasks. The tasks are based on accepted industry standards and process include the cost of materials, labor, and equipment for performing the work, but exclude overhead and profit. A contractor, who has been prequalified, rather than bid a total price for the project, will bid an adjustment factor, which reflects specified costs, to the preset unit prices.

The State Legislature first authorized job order contracting on a pilot basis at Los Angeles Unified School District from 2004 through 2007. The Legislature later extended and modified the pilot program. Based on the results of the pilot program, legislation was approved in 2015 that authorized all school districts that have entered into a project labor agreement to utilize job order contracting. Additional legislation was approved in 2017, which further authorized community college districts that have entered into a project labor agreement to utilize job order contracting.

Current law does not provide special districts with the ability to utilize job order contracting and legislation would be needed to grant this permission. Since job order contracting utilizes accepted industry standards to form the basis of the preset unit prices for work to be performed, it is likely that legislation would need to apply to a class of special districts, such as fire protection districts, to make practical sense.

As noted above, previously approved bills related to job order contracting has limited its use to those that have entered into a project labor agreement that applies to all public works in excess of \$25,000. Given the politics surrounding the previous legislative efforts, it is unlikely that future job order contracting legislation will be successful unless it contains the existing provisions related to project labor agreements. As such, the District may wish to consider the potential benefits of job order contracting, in conjunction with other actions it that may be required to take in order to utilize job order contracting.

Earlier this year, Assembly Member Low introduced AB 846, related to job order contracting. This bill would extend the current December 31, 2021, sunset date that allows school districts and community colleges to utilize job order contracting until January 1, 2027. Additionally, the bill



modifies the job order contracting provisions to specify that any entity awarded a contract in excess of \$25,000 shall provide an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the job order contract that falls within an apprenticeable occupation in the building and construction trades. AB 846 was ultimately approved by the Legislature and signed into law by Governor Newsom on September 24<sup>th</sup>.

### Legislative Priority 3 – Mitigation Fee Act

Under existing law, the Mitigation Fee Act authorizes local agencies to impose fees to offset the impacts of new development in the form of new services and/or facilities required. The Mitigation Fee Act also imposes a variety of administrative requirements on the fees collected. No voter approval is required to impose impact fees. The same does not apply to a District board, who is prohibited from charging a fee on new construction or development.

Last year, numerous bills were introduced that attempted to modify the Act in ways that would have resulted in a decreased ability for public agencies to collect impact fees. The aim of these legislative efforts has been to reduce the overall cost of housing in California and provide more opportunities for home ownership or for people to be able to afford to rent housing near employment centers.

This year there have not been nearly as many bills introduced dealing with mitigation fees as there were last year. Building on the roundtable discussions that were held early last year, Assembly Member Grayson has introduced two measures, AB 602, and AB 678, to continue the conversation around mitigation fees.

AB 602 includes provisions related to nexus studies, including best practices and standards for transparency, assessment based on proportional square footage, and cleanup on posting fee schedules. AB 602 was ultimately approved by the Legislature and signed into law, as part of a 31 bill housing package, by Governor Newsom on September 28<sup>th</sup>.

### Legislative Priority 4 – Professional Services

Under existing law, the Public Contract Code provides that contracts over \$25,000 must be awarded to the lowest bidder. In addition to be a low threshold, Section 20812 is inconsistent with the requirements for many public agencies, and inconsistent with other laws pertaining to Professional and Special Services.

This session legislation has been introduced by Assembly Member Gallagher, AB 577, which would establish a \$50,000 threshold amount for county drainage districts, levee districts, and reclamation districts for the requirement to award to the lowest bidder. AB 577 was referred to the Assembly Local Government Committee for consideration, but was not set for hearing by the committee, and as such, the measure is now a two-year bill.

### Legislative Priority 5 – Parcel Tax

Currently, a parcel tax requires a two-thirds vote to pass and must be applied to all parcels equally. This means that a residential property, a commercial property, and an undeveloped property



would have to be assessed the same amount for fire service even though they place different levels of demand for service on the Fire District.

On December 7<sup>th</sup>, Assembly Member Aguiar-Curry reintroduced ACA 1 which would create an exception to the 1% limit that would authorize a city, county, or special district to levy an ad valorem tax to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, if the proposed tax measure is approved by 55% of voters. For purposes of the bill, “public infrastructure” includes public safety buildings or facilities, equipment related to fire suppression, emergency response equipment, or interoperable communications equipment for direct and exclusive use by fire, emergency response, police, or sheriff personnel.

Last year, ACA 1 was supported by a coalition of individual public agencies and associations, including: California Special Districts Association, League of California Cities, California State Association of Counties, East Bay MUD, and East Bay Parks. The measure also received significant support from labor, including from California Professional Firefighters.

ACA 1 has been referred to the Assembly Local Government Committee, which is chaired by the bill’s author, Assembly Member Aguiar-Curry. Since constitutional amendments are not subject to the same legislative timelines as regular bills, so the measure may still be considered by the Assembly Local Government Committee despite being past the deadline for policy committees to consider bills in their House of Origin. Last session, ACA 1 was approved by the committee on a 5-2 vote.

#### Legislative Priority 6 – Proposition 218

Proposition 218 restrict local governments’ ability to impose assessments and property-related fees, as well as requires elections to approve many local government revenue raising methods. Over time, the responsibilities expected of local fire districts have grown, however, their share of local tax revenue has not grown to meet the increased demand.

Every few years, efforts have failed to modify the State Constitution to reduce the vote threshold for parcel tax measures to 55%. That included an effort earlier in the 2019-20 legislative session, ACA 1 (Aguiar-Curry). While that measure was unsuccessful, the Legislature was able to approve a measure, ACA 11 (Mullin), for the November ballot, which appear on the ballot as Proposition 19. Proposition 19 was approved at the November 2020 General Election and allows homeowners who are over 55, disabled, or victims of wildfire or natural disaster to transfer their primary residence’s property tax base value to a replacement residence of any value, anywhere in the state. An individual could use these rules up to three times in their lifetime. The measure would also limit the ability of new homeowners who inherit properties to keep their parents’ or grandparents’ low property tax payments. The measure would allocate most resulting state revenue to fire protection services and reimbursement to local governments for taxation-related changes.

SB 539 (Hertzberg) has been introduced this year to assist with the implementation of Proposition 19. SB 539, which is co-sponsored by the California Professional Firefighters and the California Association of Realtors, provides many of the needed details and clarifications of how the provisions of Proposition 19 are to be carried out. The bill makes a number of changes including





providing the statutory detail for taxpayers to claim base year value transfers under Prop 19, as well as implements the propositions limitations on parent-child/grandparent-grandchild change in ownership exclusions. The provisions that are contained within SB 539 will ensure that the Board of Equalization (BOE) and local assessors have the guidance, needed to implement Proposition 19 uniformly across the state. SB 539 was ultimately approved by the Legislature and signed into law by Governor Newsom on September 30<sup>th</sup>.

#### Legislative Priority 7 – Building a Coalition

TPA continues to work with the California Special Districts Association in efforts to further strengthen the relationship between CSDA and the District, as well as to ensure alignment on issues of importance to fire districts. To that end, CSDA has included the District on their “Secondary List” for the CSDA Legislative Committee. This list provides the District with access to all of the materials that are prepared for the CSDA Legislative Committee and will also allow the District to participate in the Legislative Committee meetings as a non-voting participant. Additionally, CSDA has encouraged the District to consider applying for a full voting position on the CSDA Legislative Committee for 2022. TPA has worked with CSDA and the District to complete the CSDA process for applying for a position on the Legislative Committee. CSDA staff will be making recommendations for membership on the Legislative Committee in October, which will then need to be approved by the CSDA Board in November.

In addition to participation in the CSDA Legislative Committee, TPA and ECCFPD staff have been working closely with CSDA to generate support for the inclusion of funding, within the state budget, to reimburse special districts for costs incurred in response to the COVID-19 pandemic. These efforts have included working with CSDA to directly advocate for funding with the District’s representatives, generating support for funding from Contra Costa County, as well as cities within the County, and publishing an op-ed outlining the important role that special districts have in their communities and the need to direct coronavirus response funding to special districts. These efforts, along with the efforts of other stakeholders, resulted in the Legislature including \$100 million in their proposed budget to reimburse independent special districts for costs incurred in response to COVID-19.

On October 1<sup>st</sup>, the Department of Finance officially began accepting COVID-19 funding requests from special districts, pursuant to the provisions that were contained in the state budget. The Department will be accepting applications until October 15<sup>th</sup>, after which they will review all of the funding applications that were submitted to ensure that the funds that are being requested are in line with federal and state guidelines. Once the Department has reviewed the funding applications, they will determine the level of funding that each special district is entitled to; assuming that over \$100 million in funding is requested, each special district will get a proportional share of the funding requested. The Department of Finance will then work with the State Controller’s Office to get the appropriation funding to each district.

