

To: East Contra Costa Fire Protection District
From: Townsend Public Affairs, Inc.
Date: February 4, 2021
Subject: Legislative Report for ECCFPD – January 2021

State Legislative Update

On January 11th, the Legislature returned to Sacramento to begin the first year of the current two-year legislative session. For the next month, the Legislature will be focused on introducing bills leading up to the February 19th bill introduction deadline. Once bills are introduced in their respective houses, they must sit for 30 days before they can be acted on. The Legislature is expected to introduce upwards of 2,700 bills before the deadline. A significant portion of these bills will be spot bills, which are bills with little or no substantive language. These bills will be amended as the legislative session continues to address various policy topics.

Topics that are expected to dominate the Legislature's time in Sacramento this year include COVID-19 relief and response, climate resiliency, wildfire preparation and response, housing, homelessness, public safety, and social justice.

Governor's January Budget Proposal

On January 8th, Governor Newsom released his January Budget proposal. The proposed budget is a \$227.2 billion fiscal blueprint that focuses on COVID-19 relief funding, economic strengthening and recovery, vaccine distribution, small business support, housing, homelessness, and education. The Governor's January Budget proposal kick-starts the process of budget hearings, subcommittee hearings, and other discussions leading up to the May Revise and then final Budget adoption by the Legislature prior to June 15th.

As part of the January Budget proposal, the Governor and Department of Finance are projecting the State will have a current-year budget surplus of \$15.5 billion. This surplus is a result of higher-than-expected revenues in the budget year, as well as fewer people accessing state services than was anticipated.

The Governor is proposing to utilize most of those dollars to invest in the economic recovery of the State, as well as to combat the harmful effects of the COVID-19 pandemic. Since the budget surplus is anticipated to be one-time in nature, the Governor proposes to utilize the funds largely for one-time expenditures as opposed to ongoing spending that would need to be cut in a future budget.

Below are a few highlights of key priorities of the Administration contained within the January Budget proposal:



- **COVID-19 Relief:** \$4.4 billion proposed in emergency response to the pandemic
 - \$2 billion for additional coronavirus testing
 - \$473 million for contact tracing
 - \$372 million for vaccine administration
- **Economic Recovery Package:** \$4.5 billion proposed in economy recovery for small businesses and other sectors of the economy
 - \$1.1 billion immediate relief for small businesses
 - \$777 million for California Jobs Initiative
 - \$353 million for Workforce Development
 - \$300 million for Deferred Maintenance
 - \$500 million for Housing Development
 - \$1.5 billion for Zero-Emissions Vehicles
- **Golden State Stimulus:** \$2.4 billion in direct payments to low-income Californians
 - \$600 direct payments to an estimated 4 million Californians
 - Extension of eviction moratorium enacted via AB 3088
 - SB 91 was signed into law on January 29th, which extends the state eviction moratorium and provides \$2.6 billion in federal funding for rental assistance
- **Emergency Preparedness and Response:** The Governor's Budget contains significant proposals to assist with disaster preparedness and emergency response
 - \$143.3 million to CalFIRE to support 30 additional fire crews
 - \$1 billion to support the Wildfire and Forest Resilience Action Plan (funded across numerous programs)
 - \$512 million for Resilient Forests and Landscapes
 - \$335 million for Wildfire Fuel Breaks
 - \$38 million for Community Hardening
 - \$39 million for Science-Based Management
 - \$76 million for Forest Sector Economic Stimulus
- **Housing:** Over \$1 billion in funding to facilitate increased housing production
 - \$500 million for the Infill Infrastructure Grant Program to accelerate economic recovery through the creation of jobs and long-term housing development
 - \$500 million for a third round of low-income housing tax credits
- **Homelessness:** \$1.75 billion in one-time new investments to help provide shelter and services for the homeless
 - \$750 million for competitive local government grants to purchase motels/hotels (Project Homekey Acquisitions)
 - \$750 million in behavioral health continuum infrastructure available over 3 years for developing community mental health housing
 - \$250 million for dedicated housing for vulnerable seniors

The Legislature has begun Budget Committee hearings to receive a broad overview of the Governor's proposals. Additionally, the Administration will continue to develop trailer bill language, which will detail how various budget proposals would be implemented.



The Legislature will continue to conduct Budget Committee, and Subcommittee, hearings to consider the Governor's proposals until the May Revises. At that time, the Assembly and Senate Budget Committee will finalize their versions of the State budget. Afterwards, the leaders of the two Houses will work with the Administration to agree on a final budget proposal that can be voted on by the Legislature prior to the constitutional deadline to approve the budget, on June 15th.

Eviction Moratorium Extension

California's eviction moratorium, put into place last year by the Legislature and the Governor, was set to expire at the end of January 2021. With the State still struggling to contain and defeat the ongoing COVID-19 pandemic, additional action from the Legislature and Governor was needed prior to the deadline to prevent the possibility of mass evictions due to the inability to afford rents.

The Governor made this a priority during his Budget proposal announcement on January 8th; however, did not include any additional negotiated details. Similarly, the Legislature made it clear that this was one of their priorities at the beginning of the legislative session. For the majority of January, the Legislature and the Governor have been engaged in negotiations and discussions around parameters of extending the eviction moratorium.

On January 29th, Governor Newsom signed an eviction moratorium extension into law, extending the current moratorium until June 30, 2021. The approved legislation contains income eligibility rules for renters, as well as notification requirements for landlords before evictions can take place.

Included with the extension is a new funding program for the State, referred to as the State Rental Assistance Program. This program will allocate portions of federal rental assistance funds to local governments to help distribute for rent arrears, prospective rent payments, utilities, or other costs related to housing.

Governor's COVID-19 Action Summary

Below is a summary of the major COVID-19 actions taken by the State Administration in January:

- **January 27th – Executive Order:** Governor Newsom signed an executive order (N-02-21) that will attempt to bolster the State's efforts to vaccinate as many Californians as possible as quickly as possible. The executive order reconfirms laws that grant health professionals and providers legal liability when responding to state and local emergencies, which is expected to increase the number of individuals administering vaccines.
- **January 25th – Improvements to Vaccine Plan:** Governor Newsom announced a series of improvements to the State's vaccination plan. The new steps in the plan will make it easier for people to know when they are eligible for vaccination and how to make an appointment, accelerate the administration of vaccines on hand and improve the State's ability to track vaccination data.
- **January 21st – Executive Order:** Governor Newsom signed an executive order in response to the COVID-19 pandemic, extending the validity of medical cannabis identification cards that would otherwise have expired.



Below are the upcoming relevant dates for the Legislature:

February 19th – Last day for bills to be introduced

April 30th – Last day for policy committees to pass fiscal bills

May 7th – Last day for policy committees to pass non-fiscal bills

May 21st – Last day for fiscal committees to pass bills

June 4th – Last day for bills to pass their House of Origin

Priority Legislation

Approximately 750 bills have been introduced to date, which is about a quarter of bills that are likely to be introduced before the bill introduction deadline on February 19th. All new bills must wait a minimum of 30 days before they can be considered by the Assembly or Senate; however, it is likely that most of the bills that have been introduced in December will not receive a committee hearing until March or April.

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

AB 59 (Gabriel) – Mitigation Fee Act: notices and timelines

This bill would make changes to the notices and timelines associated with the Mitigation Fee Act. This bill would increase, for fees and service charges and for fees for specified public facilities, the time for mailing the notice of the time and place of the meeting to at least 45 days before the meeting, as well as require that information be made available to the public at least 30 days before the meeting. The bill would require a local agency to additionally make available to the public all the data demonstrating the requisite relationship between the amount of a fee for public facilities and the need for the public facilities.

AB 339 (Lee) – State and Local Governments: open meetings

Current law requires all meetings of a house of the Legislature or a committee thereof to be open and public and requires all persons to be permitted to attend the meetings. This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public.

ACA 1 (Aguilar-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.



SB 45 (Portantino) – Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022

This bill would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$5,510,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

SB 206 (McGuire) – Firefighters Procedural Bill of Rights

The Firefighters Procedural Bill of Rights Act grants certain employment rights to firefighters. Among other things, under the act, when a firefighter is under investigation and is interrogated by the firefighter's commanding officer, or another member of the employing agency, on matters that could lead to punitive action, the interrogation must be conducted pursuant to certain requirements. Current law defines "punitive action" for these purposes as any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. This bill would include in the definition of "firefighter" a temporary, seasonal firefighter employed by the Department of Forestry and Fire Protection.

Federal Legislative Update

In January, a few events took up federal attention: on January 5th the Georgia Senate runoff races, in which Democrats won both seats, changes the partisan control of the US Senate; on January 6th violent protestors entered the US Capitol, which led to the House impeachment of President Trump on January 13th; and on January 20th President Biden was sworn into office. While follow up actions from each event are still underway, the Biden Inauguration triggered the greatest number of new policies, as Biden immediately signed over 30 Executive Orders in his first week in office.

Biden Coronavirus Relief Plan

Prior to his Inauguration, President Biden released details about his \$2 trillion coronavirus relief proposal, the "American Rescue Plan." Below are key elements of what was highlighted in the proposal.

- \$350 billion for state and local government relief, including \$3 billion for the Economic Development Administration
 - No formula yet – the Administration indicated they want to work with mayors on how best to allocate, but confirmed that backfilling lost revenue will be eligible
- Direct payments to individuals of \$1,400, which is in addition to the \$600 approved in December
- \$130 billion to reopen schools, including \$35 billion for colleges, with the goal of most schools back to in-person learning within his first 100 days in office
- \$400 per week in supplementary unemployment benefits through September
- \$160 billion in funding for a national program of vaccination, testing and other coronavirus containment efforts
- \$30 billion for rental and small-landlord support
- \$5 billion for homelessness
- Continue national eviction moratorium



- Leverage \$35 billion investment into existing state/local/tribal/nonprofit financing programs, into \$175 billion in additional small business lending/grants
- A new restaurant partnership program funded through FEMA to feed the hungry and keep service industry workers employed
- Raising the federal minimum wage to \$15 an hour
- Extend a 15% boost in SNAP benefits, currently in effect until July, through September

“Phase 5” Coronavirus Aid Package

With the swearing in of President Biden and the Senate flip, Congress immediately set its sights on another coronavirus aid package, and specifically looking to Biden’s “American Rescue Plan” and Democratic priorities that did not get into the “Phase 4” package passed in December.

To do this with a slim margin in the Senate and not enough Democratic votes to overcome the filibuster’s 60-vote threshold, Democrats are turning to a process called budget reconciliation to temporarily overcome the filibuster.

A budget reconciliation bill only needs 51 votes in the Senate to pass, which the Democrats have even if no Republicans vote for the bill. Reconciliation bills cannot change Social Security, have merely “incidental” effects on spending/revenue, or increase deficits after 10 years. If the main effect is not budgetary, it is not reconcilable.

The following are most likely allowed under budget reconciliation:

- A temporary expansion and extension of unemployment benefits
- One-time rebate checks/stimulus payments
- An increase in Paycheck Protection Program (PPP) funding
- Tax credit expansions
- Many spending increases, especially expansions to existing programs (i.e., programs such as Medicare, Medicaid, SNAP)
 - However, these increases could not be enacted on a permanent basis unless fully offset over the long run by the same committee proposing the spending.
- Rental assistance funding

The following are possibly allowed under budget reconciliation (depending on how the provisions are crafted, since reconciliation cannot increase long-term deficits):

- Vaccine funding/virus testing
- Money for schools
- Money for state and local governments

The following are unlikely to be allowed under budget reconciliation:

- Raising the minimum wage
 - There is a heated debate over whether this can be done via reconciliation.
- Mandating that businesses offer paid sick leave

It is possible to enact two sets of reconciliation bills since Congress failed to adopt a FY2021 budget resolution last year. Congress could issue one set of reconciliation instructions by passing



that budget and then take up a budget resolution for fiscal year 2022 (which begins on October 1, 2021) to generate a second reconciliation bill.

Biden Executive Actions

Over the course of his first week in office, President Biden signed a slew of presidential executive orders, memoranda, instruments, and other actions to immediately take action on his policy priorities.

Some of the most salient executive orders include:

- **Executive Order on FEMA Public Assistance:** President Biden signed an executive order increasing FEMA Public Assistance program reimbursement for some local coronavirus-related costs, from 75% to 100%.
- **Executive Order on Nutrition Programs:** President Biden signed an executive order, instructing USDA to expand nutrition assistance to hard-hit families across the country due to the coronavirus pandemic.
- **Executive Order on OSHA Standards:** The Biden Administration ordered the Occupational Safety and Health Administration (OSHA) to determine whether there is a need for emergency temporary standards protecting workers from on-the-job Covid-19 infections. Declaring an emergency need allows the new administration to avoid the lengthy public comment period characteristic of federal rulemaking. There currently is not an explicit national requirement for most employers to protect employees from workplace Covid-19 infections.

Vaccines

The CDC released updated guidance indicating that people may receive their follow-up doses of vaccines up to six weeks after their initial dose if it is not feasible to get them in the recommended interval. The early phases of the vaccination effort were designed to put the highest-risk people at the front of the line, but the pace of inoculations has frustrated experts. The administration's new guidelines aim to speed things up and ultimately move the U.S. closer to the widespread immunity that will put the pandemic behind us.

The federal government is making three big changes:

- Recommending that states open the vaccination process to everyone older than 65 and to adults of all ages who have a pre-existing condition that puts them at greater risk for serious infection.
- Expanding the venues where people can get vaccinated to include community health centers and more pharmacies.
- Getting all the available doses out the door now. Both of the authorized vaccines require two shots; the government will no longer hold back doses for the second shot but will instead try to get today's doses into people's arms now, trusting that supplies will increase rapidly enough to provide second shots.



These changes reflect a changing consensus about how best to distribute the vaccines — shifting away from a strict risk-based prioritization system, toward prioritizing getting as many shots into as many arms as possible, as quickly as possible.

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.



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 is 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 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.

As of yet, there has not been any legislation introduced in the current session related to job order contracting; however, TPA will continue to monitor bill introductions leading up to the bill introduction deadline on February 19th. TPA is also reaching out to industry partners, including CSDA, to determine if their membership has previously expressed interest in this type of legislation or if they would be generally supportive of future legislation.

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.

TPA has met with staff for the Senate Governance and Finance Committee, as well as the Assembly Local Government Committee to discuss the issue and discuss how the committees may view mitigation fee legislation in the coming session. To date, one bill has been introduced related to the Mitigation Fee Act; however, it is anticipated that several more bills will be introduced on the topic prior to the bill introduction deadline on February 19th.

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.

TPA has shared the concerns with the existing bid thresholds with the Senate Governance and Finance Committee. Additionally, TPA worked with stakeholders to determine if there was an opportunity to include language in an omnibus bill that would raise the bid thresholds to be consistent for all types of public agencies. Ultimately, the efforts to advance an omnibus bill did not materialize, as legislators and committees were forced to reduce their bill loads due to the shortened legislative calendar.

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 7th, 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.

While ACA 1 was introduced in December, it has not yet been referred to policy committee. It is likely that the bill will be referred later in February and may be considered by a policy committee in March or April.



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 (Aguilar-Curry). While that measure was unsuccessful, the Legislature was able to approve a measure, ACA 11 (Mullin), for the November ballot, which will appear as Proposition 19. If approved by voters, Proposition 19 would allow 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. If approved, Proposition 19 may create a funding stream that the District can access.

In addition to ACA 11, the Legislature also approved SB 1386 (Moore), which subsequently signed into law by Governor Newsom. SB 1386, which received bi-partisan unanimous support in the Legislature, declares that fire hydrants are part of water service, for the purposes of Proposition 218. This bill is an important measure that can be enacted to protect fire hydrant system funding that would not increase water rates because the costs of fire hydrant system maintenance and operation are already appropriately embedded in customers' water rates. The success of SB 1386 may lead to additional legislation to amend the statutory definitions surrounding Proposition 218.

Legislative Priority 7 – Building a Coalition

With the assistance of the California Special District's Association and the California Fire District's Association, TPA is working to build a coalition with other special fire districts in California that are impacted by Proposition 13 allocations, and growth since Proposition 13 was enacted. This coalition will also provide support for the long-term priorities listed above, as well as future priorities. A coalition will support efforts to show the long-term implications of Proposition 13 are a statewide issue and not unique to the District.

To date, the efforts to identify special districts that are similarly impacted by Proposition 13 have not resulted in a robust coalition. During the legislative interim, TPA will be re-doubling our efforts with our partners, as well as reaching out to new resources to assist in the identification of similar districts. TPA will be meeting with staff from the Senate Governance and Finance Committee, as well as the Assembly Local Government Committee, that work on Proposition 13-related issues to discuss how the District is impacted, as well as to determine if other special districts have raised this issue with committee staff. Additionally, we have reached out to the Senior Consultant on Local Government Issues within the Assembly Speaker's Office to determine if any other Assembly Members have raised this issue to the Speaker, which may help identify additional areas of the state where similar circumstances exist.

