

Monterey Peninsula Water Management District

2017 Budget and Legislative Report: Highlights and Emerging Issues

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Introduction and Highlights:

The Governor and the Legislature convened the 2017-18 legislative session poised to do something they have not had to ever do – defend the state’s constitution, laws and values against the federal government on multiple fronts.

Armed with a super-majority in both Houses and a newly-appointed Attorney General, the Governor and Leadership locked step in strengthening the state’s immigration and sanctuary policies, healthcare, cannabis and environmental laws.

Another outstanding issue they faced was passing a funding package aimed at fixing the state’s ailing transportation infrastructure. After two-years of an extraordinary session, they were successful in securing a few Republican votes to pass this unprecedented tax increase.

The following are highlights summarized from this year’s session:

2017 Legislative Highlights:

WATER –

Just two years after California’s historic drought and passage of a water bond package, the Legislature is still trying to legislate long-term reform. Some of these reforms included two water conservation bills – AB 1668 and SB 606. These identical bills became the vehicles for a conservation framework after the Assembly Water Parks and Wildlife Committee heard and passed seven bills related to this said framework. A month later, the Assembly formed a bipartisan 10 member water working group. The working group submitted a letter on June 7, 2017, to the administration requesting the administration pursue policy bills that include principles which the working group had developed.

In response to the letter, the administration agreed to work through the legislative policy process.

Despite the Legislature’s commitment to moving these bills, strong opposition from the Association of California Water Agencies (ACWA) was able to persuade Leadership to hold the bills, hence making them two-year bills.

SB 623 (Monning) - This bill creates the Safe and Affordable Drinking Water Fund, administered by the State Water Resources Control Board (SWRCB), and imposes water, fertilizer and dairy fees to fund safe drinking water programs.

The public water fee was added two days prior to the bill being heard in Assembly Appropriations which drew ire on several fronts: 1) Violating the new 3-day in print rule 2) General concern over this public charge, and 3) The Chair represents one of the poorest areas in CA and is over-sensitive to taxes, charges and fees in general. For these reasons, the bill was held but the Chair spoke at the beginning of the hearing saying that there needed to be more public discussion on these new fees

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and that Monning should use the recess to try and build consensus, especially with ACWA, who is vigilantly opposed.

SB 231 (Hertzberg) - This bill adds a definition for "sewer" to Prop 218. The definition of "water" and "sewer" under the Act is significant because the election requirements are on fees for services other than water, sewer, and trash services. This bill provides a definition of "sewer" in the Act using the definition of "sewer" from the Public Utilities Code, which includes storm drainage. Additionally, this bill adds a number of findings and declarations to the Act. This bill is sponsored by the Water Foundation.

In hopes of providing flexibility to local agencies, the Governor signed SB 231 into law, however expect a lawsuit challenging the validity by the Howard Jarvis Association on the constitutionality of the bill. Specifically, "SB 231 amends the Proposition 218 Omnibus Implementation Act in ways that violate the California Constitution and will only lead to unnecessary litigation and increased costs for ratepayers. Most importantly, SB 231 contravenes the appellate court case of *HJTA v. City of Salinas*...By including storm water within the definition of a property related fee, SB 231 ensures that voters will be unable to have a say at the ballot box. SB 231 shows contempt for the separation of powers by proposing, in a statute, the same plan that the judiciary has already found unconstitutional."

TRANSPORTATION – On April 28th, the Governor signed SB 1(Beall), which will raise about \$5.2 billion per year in new revenues, which would represent the most significant statewide investment in transportation infrastructure in many years. The deal allocates \$3 billion per year to fix-it-first road and highway maintenance projects, split evenly between state and local government. Counties' share of this funding would be continuously appropriated, allocated by formula, and distributed to counties on a monthly basis.

Below is a brief summary of key points of the deal:

Revenues:

- 12-cent gasoline excise tax increase effective Nov 1, 2017
- A new "transportation improvement fee" charged on vehicle registrations starting spring 2018
 - The fee would be on a sliding scale from \$25 to \$175/year per vehicle based on value. Cars valued under \$5,000 (46% of the vehicles in the state) would pay \$25, while vehicles valued over \$60,000 would be charged \$175/year.
- An additional \$100/vehicle fee for new Zero-Emission Vehicles effective 2020
- 20-cent diesel excise tax increase effective Nov 1, 2017
- 4% diesel sales tax increase, effective Nov 1, 2017
- The excise taxes and registration fees would be annually adjusted for inflation

One-Time Loan Repayments:

- \$686 million in one-time loan-repayments, consisting of \$236 million for transit capital and \$450 million split between cities and counties.

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Annual Expenditures:

- \$3 billion/year at full implementation split between state/local governments for highway and road maintenance
 - The first tax increases are effective in late 2017, after a partial year of funding in 2017-18; the average *new* funding for city/county road maintenance would be \$1.59 billion/year over the rest of the decade.
- \$750 million for transit operations and capital improvements
- \$400 million for bridge repair and maintenance
- \$300 million for trade corridors
- \$200 million for local partnerships with “self-help” counties
- \$100 million for the Active Transportation Program
- \$25 million for Freeway Service Patrol
- \$25 million for SB 375 regional and local planning
- \$7 million for UC and CSU transportation research

Reforms:

- A constitutional amendment to ensure that transportation revenues are not diverted for other purposes will accompany the policy bill
- CSAC has not reviewed full language yet, but we understand the deal also includes at least these additional reform measures:
 - Creation of a Transportation Inspector General to provide oversight
 - Enhanced CTC oversight over Caltrans project delivery
 - Advanced mitigation program for state highway projects

Monterey County will receive over \$118 million over the next years for county roads, in addition to an equal amount for the State Transportation Infrastructure Project (STIP) funding.

AFFORDABLE HOUSING REFORM –

At the end of session, the Governor and Leadership came to an agreement on a comprehensive affordable housing package.. Subsequently, the Governor signed 15 bills to help increase the supply and affordability of housing in California. The measures provide funding for affordable housing, reduce regulations, boost construction and strengthen existing housing laws.

More specifically:

SB 2 (Atkins), the Building Homes and Jobs Act, establishes a permanent funding source for affordable housing through a \$75 fee on real estate transaction documents. The fee is capped at \$225 per transaction and exempts real estate sales. The fees would generate roughly \$250 million a year, which would be split among state and local housing programs.

SB 3 (Beall) authorizes \$4 billion in general obligation bonds for affordable housing programs and a veteran's home ownership program. SB 3 must be approved by voters next November.

SB 35 (Wiener) streamlines the approval process for infill developments in local communities that have failed to meet their regional housing needs.

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SB 166 (Skinner) ensures that cities maintain an ongoing supply of housing construction sites for residents of various income levels.

SB 167 (Skinner) increases the standard of proof required for a local government to justify a denial of low- and moderate-income housing development projects. (SB 167 is identical to AB 678.)

SB 540 (Roth) streamlines the environmental review process for certain local affordable housing projects.

AB 72 (Santiago/Chiu) strengthens the state's ability to enforce laws that require local governments to achieve housing goals.

AB 73 (Chiu) gives local governments incentives to create housing on infill sites near public transportation.

AB 571 (E. Garcia) makes it easier to develop farmworker housing by easing qualifications for the Farmworker Housing Tax Credit.

AB 678 (Bocanegra) increases the standard of proof required for a local government to justify its denial of low- to moderate-income housing development projects. (AB 678 is identical to SB 167.)

AB 879 (Grayson) authorizes a study of local fees charged to new residential developments that will also include a proposal to substantially reduce such fees.

AB 1397 (Low) makes changes to the definition of land suitable for residential development to increase the number of sites where new multifamily housing can be built.

AB 1505 (Bloom/Bradford/Chiu/Gloria) authorizes cities and counties to adopt an inclusionary ordinance for residential rental units in order to create affordable housing.

AB 1515 (Daly) allows housing projects to be afforded the protections of the Housing Accountability Act if the project is consistent with local planning rules despite local opposition.

AB 1521 (Bloom/Chiu) gives experienced housing organizations a first right of refusal to purchase affordable housing developments in order to keep the units affordable.

CANNABIS REGULATION –

In addition to the \$94.6 million appropriated in the budget to implement California's cannabis laws, the budget package includes an updated and comprehensive trailer bill, SB 94, that consolidates the medical and adult-use cannabis regulatory frameworks, established under the Medical Cannabis and Regulatory Safety Act (MCRSA) and Proposition 64, the Adult Use of Marijuana Act (AUMA), into one single regulatory system for commercial cannabis activity, known as the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act (MAUCRSA).

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State-Local Licensure Process

The trailer bill outlined a process that requires local verification of applicants for state cannabis licenses. The process respects the dual licensure approach included in the MCRSA while working within the confines of the system established by the AUMA, which placed the burden on the state rather than the applicant to ensure that any state licensee is in full compliance with local rules and regulations related to commercial cannabis activity.

Most notably, SB 94 undid the recent regulatory requirements under the MCRSA, therefore the regulations released in April are nullified and a single set of regulations for both medicinal and recreational will be released in mid-November.

SANCTUARY DESIGNATIONS –

As a direct result of the federal government’s recent executive orders on immigration, the Legislature introduced a number of bills aimed at protecting their rights and the rights of those localities that offer “sanctuary”. The most controversial was SB 54 (De Leon) which approved on the last day of the 2017 legislative session, would limit whom state and local law enforcement officers can hold and question on immigration violations.

Dubbed the “California Values Act,” SB 54 would establish clear divisions between law enforcement and federal immigration authorities in an attempt to ensure local officers do not become part of deportation efforts under the Trump administration.

The law would largely prohibit state and local law enforcement agencies, including school and security officers, from using money or staff to investigate, question, hold or arrest people for immigration violations. For many officers across the state, the expanded restrictions wouldn’t change much. Some police and sheriff agencies have already developed similar boundaries against working with immigration agents through their own policies or under local “sanctuary city” rules that limit collaboration between local agencies and federal immigration authorities. For other officers, the legislation would set new guidelines.

If signed, the state is expecting a legal battle with the federal government. U.S. Atty. Gen. Jeff Sessions, who has called SB 54 “unconscionable,” is already locked in a legal battle with several cities, including San Francisco, over his move to withhold Justice Department grant funds to discourage “sanctuary city” policies.

The Senate Leader and the author has stated that leaders are prepared to defend it in court. Some legal experts say an effort to block California’s law would likely be unsuccessful, pointing to the 10th Amendment and previous rulings in which courts have found the federal government can't compel local authorities to enforce federal laws.

CAP-AND-TRADE

In another historic defiance to the federal government, the Governor and Legislature passed and signed AB 398 (E. Garcia) which extends and improves the state's world-leading cap-and-trade program to ensure California continues to meet its ambitious climate change goals.

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This legislation extends the program by 10 years until 2030 in the most cost-effective way possible, and makes the following improvements based on years of operation, analysis and input:

- Ensures that carbon pollution will decrease as the program's emissions cap declines.
- Cuts the use of out-of-state carbon offsets and brings those environmental benefits back to California.
- Designates the California Air Resources Board as the statewide regulatory body responsible for ensuring that California meets its statewide carbon pollution reduction targets, while retaining local air districts' responsibility and authority to curb toxic air contaminants and criteria pollutants from local sources that severely impact public health.
- Decreases free carbon allowances over 40 percent by 2030.
- Prioritizes cap-and-trade spending to ensure funds go where they are needed most, including reducing diesel emissions in the most impacted communities.

PARK BOND

If enacted, the bill would place the Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018 on the November 2018 General Election Ballot. The Act proposes the issuance of \$3.997 billion in general obligation bonds for parks, water, recreation, and wildlife conservation. The bond also includes \$5 million specifically for grants to improve county fairgrounds.

Breakdown of funds available by category:

- \$1.37 billion dollars for park and recreation improvements;
- \$1.467 billion for water projects, including water way improvement, coastal protection, clean drinking water projects, and flood control.
- \$652 million for conservancies and wildlife; and
- \$503 million for climate preparedness, habitat improvement and resource enhancement.

2017 Budget Highlights:

On June 27th, the Governor signed 2017-18 budget package totaling \$125 billion in General Fund revenue to the Governor. This included the standard main budget bill as well as over a dozen trailer bills that addressed significant policy ranging from cannabis regulation, employee orientation mandates, state agency reorganization, etc.

The final budget agreement between the Governor and legislative leadership focuses on a combination of creating more robust reserves, paying down liabilities, and investing in schools and programs serving working families. Uncertainties about the state's continued economic recovery are somewhat shadowed by the pending policy changes under the Trump Administration related to healthcare, tax reform, and other programs that could upend the years of prudence under the Brown Administration. Specifically, the 2017-18 budget package:

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- Augments the Rainy Day Fund by \$1.8 billion bringing the fund to a total of \$8.5 billion in 2017-18.
- Provides an additional \$1.4 billion next year for the Local Control Funding Formula for K12 schools and a total of \$14.5 billion General Fund for higher education, with additional funds provided in the next year to expand capacity for California students at the state's public institutions.
- Reduces pension liability with a \$ 6 billion supplemental payment to the California Public Employees' Retirement System (CalPERS) through a loan from the Surplus Money Investment Fund, which is estimated to save the State \$11 million by 2020.
- Accelerates \$2.8 billion toward improving commutes, fixing roads, strengthening overpasses and bridges and building mass transit.
- Expands California's Earned Income Tax Credit for people who are self-employed and for outreach services.
- Continues investments in Medi-Cal, including \$546 million for Proposition 56 programs

Emerging Issues for 2018:

With the 2015-16 legislative session closed out, many vital issues remain unresolved and/or emerging for the next year. The following is our assessment of issues that MPWMD should consider for the next session:

Cannabis Regulation and Clean-up – All stakeholders are expecting a plethora of new bills to further regulate and remediate any issues with the January rollout of recreational use legalization. One of the biggest concerns for additional regulation is, and will continue to be, is the environmental impact of cannabis cultivation and manufacturing – especially water use. Expect for the State Water Resource Control Board (SWRCB) to start taking a larger role, along with Department of Fish and Wildlife, in the upcoming year.

Unresolved Water Bills – As mentioned previously, the Legislature will have to address the three outstanding two-year water bills – AB 1668, SB 606 and SB 623. To date, all of the authors are continuing to work stakeholders, local and statewide. JEA & Associates will continue to monitor closely, especially for any additional amendments, which is expected sometime in January.

2018 Election – This upcoming election will play a critical role the state's policy projector for the upcoming years, and longer. To date, there are two bonds that would bring significant dollars to local municipalities – SB 3 (Affordable Housing) and SB 5 (Park Bond). Like most, we expect there to be a number of propositions on the general election ballot. Another important initiative could be the repeal of the transportation funding package (SB 1), if its proponents are able to gather enough of the signatures. Aside from the initiative process, California will be electing a new Governor, as well as deciding on twenty Senate seats and eighty Assembly seats up for election/re-election. While the Democrats expect to remain in the majority in both Houses, it remains unclear if they will be able to retain their super-majority.

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Advancing and Defending MPWMD Interests in 2017

JEA & Associates has proudly represented MPWMD and its interests before the California Legislature, the Governor's Administration and numerous regulatory bodies. MPWMD has expected and received proactive information reporting; clear and concise analysis and reports on the Governor's budget and related legislation; developed and maintained strong and effective relationships with advocacy organizations and coalitions, key members of the Administration, as well as key policy and decision makers in the Legislature.

Each year, JEA & Associates works closely with the MPWMD to assist in developing and framing your legislative priorities and then allocates JEA's resources to advance and defend those priorities. Through timely legislative bill tracks, JEA & Associates assists in keeping MPWMD informed on vital policy and political happenings, in addition to providing critical feedback and strategy on developments as they occur. JEA & Associates' Capitol Weekly Report provides current stories and analysis on legislation, hot issues, budget plays and key staff moves.

Throughout this year's legislative session, we closely watched a multitude of bills ranging from to human trafficking to locally significant bills relating to water and transportation; drafted and delivered position letters; participated in a wide-range of meetings with regulatory agencies, legislators, their staff and stakeholders; and conveyed MPWMD's position on bills in key policy and fiscal committees.

Despite the state's lingering fiscal, policy and political challenges in 2017, JEA & Associates is proud to have helped MPWMD understand and navigate the legislative and budget process.