



**BOARD OF DIRECTORS  
EAST BAY MUNICIPAL UTILITY DISTRICT**

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375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

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***Notice of Time and Location Change***

**LEGISLATIVE/HUMAN RESOURCES  
COMMITTEE MEETING**

**Tuesday, May 10, 2022**

**10:00 a.m.**

**Boardroom**

**375 11<sup>th</sup> Street**

**Oakland, CA 94607**

Notice is hereby given that the Tuesday, May 10, 2022 Legislative/Human Resources Committee Meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 10:00 a.m. and will be held in the Administration Building Boardroom, 375 - 11th Street, Oakland, California.

Dated: May 5, 2022



Rischa S. Cole, Secretary of the District

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**BOARD OF DIRECTORS  
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

**AGENDA  
Legislative/Human Resources Committee  
Tuesday, May 10, 2022  
10:00 a.m.  
Boardroom  
375 11<sup>th</sup> Street  
Oakland, CA 94607**

*Committee Members: Directors Lesa R. McIntosh {Chair}, John A. Coleman, and William B. Patterson*

**\*\*\* Please see appendix for public participation instructions\*\*\***

**ROLL CALL:**

**PUBLIC COMMENT:** The Board of Directors is limited by State law to providing a brief response, asking questions for clarification or referring a matter to staff when responding to items that are not listed on the agenda.

**DETERMINATION AND DISCUSSION:**

1. Legislative Update: (Dumaine)
  - Receive Legislative Report No: 02-22 and consider positions on the following bills: AB 2026 (Friedman) Recycling: Plastic Packaging and Carryout Bags; AB 2419 (Bryan) Environmental Justice: Federal Infrastructure Investment and Jobs Act: Justice40 Oversight Committee; AB 2639 (Quirk) San Francisco Bay/Sacramento-San Joaquin Delta Estuary: Water Quality Control Plan: Water Right Permits; AB 2895 (Arambula) Water: Permits and Licenses: Temporary Changes: Water or Water Rights Transfers; SB 1392 (McGuire) Fish and Wildlife: Steelhead Trout: Fishing Report-Restoration Card; SB 1490, SB 1491, and SB 1492 (Committee on Governance and Finance) Validations; and S. 3956 (Merkley) Wastewater Infrastructure Pollution Prevention and Environmental Safety Act
  - Update on Legislative Issues of Interest to EBMUD
2. Diversity, Equity, and Inclusion Strategic Plan Update (Moten)
3. Peralta Colleges Foundation Internship Stipend Administration (Moten)

**ADJOURNMENT:**

***Disability Notice***

*If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.*

***Document Availability***

*Materials related to an item on this agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11<sup>th</sup> Street, Oakland, California, during normal business hours, and can be viewed on our website at [www.ebmud.com](http://www.ebmud.com).*



## APPENDIX

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### Legislative/Human Resources Committee Meeting Tuesday, May 10, 2022 - 10:00 a.m.

*EBMUD public Board meetings will be conducted in person in the Boardroom and via Zoom.  
These meetings are recorded, live-streamed, and posted on the District's website.*

#### In Person

- In accordance with county health guidance and Cal/OSHA requirements, a completed COVID-19 symptoms checklist will be required before entering the building.
- In accordance with District safety protocols, masks are required while in the building and Boardroom regardless of vaccination status.

#### Online

<https://ebmud.zoom.us/j/98022213415?pwd=Q0JkaXptbSt3eW5XRElvRUNIZHRpUT09>

**Webinar ID:** 980 2221 3415

Passcode: 352334

#### By Phone

Telephone: 1 669 900 6833

**Webinar ID:** 980 2221 3415

Passcode: 352334

International numbers available: <https://ebmud.zoom.us/u/kdplKckQaS>

\*To familiarize yourself with Zoom, please visit <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

**Providing public comment** - *The EBMUD Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.*

- Each speaker is allotted 3 minutes to speak; the Board President has the discretion to amend this time based on the number of speakers
- The Secretary will track time and inform each speaker when the allotted time has concluded
- Comments on **non-agenda items** will be heard at the beginning of the meeting
- Comments on **agenda items** will be heard when the item is up for consideration
- The Secretary will call each speaker in the order received

#### In person

- Fill out and submit a blue speaker card which is available in the foyer of the Boardroom

#### Via Zoom

- Use the raise hand feature in Zoom to indicate you wish to make a public comment  
<https://support.zoom.us/hc/en-us/articles/205566129-Raising-your-hand-in-a-webinar>
  - If you participate by phone, press \*9 to raise your hand
- When prompted by the Secretary, please state your name, affiliation if applicable, and topic

#### Submitting written comments or materials

- Email written comments or other materials for the Board of Directors to [SecOffice@ebmud.com](mailto:SecOffice@ebmud.com)
- Please indicate the meeting date and agenda item number or non-agenda item in the subject of the email. Contact information is optional.
- **Please email by 4 p.m. the day prior to the scheduled regular meeting;** written comments and other materials submitted to the Board of Directors will be filed in the record.

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**To observe the Legislative/Human Resources Committee Meeting,**  
please visit: <https://www.ebmud.com/about-us/board-directors/board-meetings/>


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## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: May 5, 2022

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Marlaigne Dumaine, Manager of Legislative Affairs 

SUBJECT: Legislative Report No. 02-22

The following issues are being referred to the Legislative/Human Resources Committee for review and recommendation to the Board of Directors for action, as appropriate, on May 10, 2022.

### **RECOMMENDED ACTION**

Approve positions on the following bills: 1) Support AB 2026 (Friedman) Recycling: plastic packaging and carryout bags; 2) Support in Concept AB 2419 (Bryan) Environmental justice: federal Infrastructure Investment and Jobs Act: Justice40 Oversight Committee; 3) Oppose unless Amended AB 2639 (Quirk) San Francisco Bay/Sacramento-San Joaquin Delta Estuary: water quality control plan: water right permits; 4) Oppose unless Amended AB 2895 (Arambula) Water: permits and licenses: temporary changes: water or water rights transfers; 5) Support SB 1392 (McGuire) Fish and wildlife: steelhead trout: fishing report-restoration card; 6) Support SB 1490, SB 1491, SB 1492 (Committee on Governance and Finance) Validations; and 7) Support S. 3956 (Merkley) Wastewater Infrastructure Pollution Prevention and Environmental Safety Act.

### **STATE LEGISLATION**

### **RECOMMENDED POSITION**

**AB 2026  
(Friedman)**

**RECYCLING: PLASTIC: PACKAGING  
AND CARRYOUT BAGS**

**SUPPORT**

The Department of Resources Recycling and Recovery (CalRecycle) is responsible for regulating the disposal, management, and recycling of solid waste. Existing law prohibits specified stores from providing single-use carryout bags to customers and requires those stores to only sell or distribute a reusable grocery bag to a customer at the point of sale if the reusable bag meets specified standards.

AB 2026, as amended on April 6, 2022, is substantially similar to AB 1371 (Friedman) which EBMUD supported in 2021. AB 2026 is intended to reduce single-use plastic pollution. The measure would, among other things, do the following: 1) phase out the use of plastic film, including shipping envelopes, void filler, and cushioning, used to transport products consumers

purchase online; and 2) generally prohibit manufacturers, retailers, producers, or other distributors that sell and deliver purchased products in or into the state from using expanded polystyrene (including loose fill or molded foam) to package or transport products.

Under AB 2026, large online retailers would have until January 1, 2024 to phase out the use of single-use plastic used to package products and small online retailers would have until January 1, 2026 to do so. Large online retailers would be subject to civil penalties up to \$50,000 per day for violations of the bill's packaging requirements and small online retailers would be subject to civil penalties of \$1,000 for the first violation, \$2,000 for the second violation, and \$5,000 for the third and subsequent violations. In addition, the bill would reauthorize a program that expired in 2020 to continue requiring operators of stores that provide plastic bags and durable plastic bags to customers to establish at-store recycling programs for those bags.

According to the bill, the e-commerce industry (online retailers) used nearly 2.9 billion pounds of plastic packaging globally in 2020 and that number is estimated to more than double by 2026. In the United States, e-commerce businesses generated 601 million pounds of plastic packaging waste in 2020. "Single-use plastic packaging, including, but not limited to, mailers, bubble wrap, and inflatable pillows, which is often referred to as plastic film, and expanded polystyrene have little to no value on the recycling market." In addition, most municipal recycling programs in the United States do not accept plastic film and expanded polystyrene.

According to the author, "single-use plastic packaging is often added to a packaged good for shipment of a product ordered by consumers online." The plastic film (mailers, bubble wrap, and inflatable air pillows) and expanded polystyrene added to packages are rarely recycled with almost all of it "headed for landfill, incineration, or the environment, where it pollutes waterways and oceans." The author also notes that "plastics are a significant source of global greenhouse gas emissions contributing to climate change, sea level rise, and ocean acidification" and "alternatives to single-use plastic film and expanded polystyrene packaging are available and being used by e-commerce markets to ship products in and into California." AB 2026 will reduce harmful environmental impacts of "unnecessary single-use plastic by phasing out the use of most single-use plastic films and expanded polystyrene in e-commerce packaging for online retail purchases."

With regard to EBMUD, discarded single-use plastic used in packaging can end up in wastewater streams, as well as in rivers and streams thereby disrupting fish habitat and disturbing aesthetic values of natural waterways. AB 2026's requirements to phase out single-use plastic used in shipments of products from online retail purchases is consistent with EBMUD's Policy 7.05 (Sustainability and Resilience). The bill's requirements are expected to help reduce the volume of debris that must be removed from the wastewater stream prior to treatment as well as reduce the amount of debris found on EBMUD lands and waterways and would contribute to watershed habitat improvements.

With regard to anticipated costs and benefits to EBMUD and its ratepayers, some additional costs may accrue if packaging costs for supplies and materials EBMUD uses increases. Benefits

are anticipated in terms of furthering pollution prevention and reducing the amount of clean-up that is required to remove this material from wastewater equipment and watershed lands. The environmental benefit to EBMUD and its ratepayers is expected to outweigh the anticipated costs.

EBMUD has previously supported plastic pollution prevention measures. In 2021, EBMUD supported a substantially similar bill, AB 1371 (Friedman). AB 1371 failed to advance out of the legislature. In 2019, EBMUD supported two companion measures, AB 1080 (Gonzalez) and SB 54 (Allen), that would have required single-use packaging and single-use plastic products be source reduced to the maximum extent feasible as well as require single-use packaging be recyclable or compostable. AB 1080 and SB 54 failed to advance out of the legislature. In 2018, EBMUD supported AB 1884 (Calderon) to reduce the amount of plastic debris found in the environment by requiring full-service restaurants to provide single-use plastic straws only upon request. AB 1884 was signed into law (Chapter 576 of 2018).

The official support and opposition list to AB 2026 is shown below.

#### Support

1000 Grandmothers, Bay Area  
350 Bay Area  
350 Bay Area Action  
350 Humboldt  
350 Humboldt: Grass Roots Climate Action  
350 Silicon Valley  
350 Southland Legislative Alliance  
350 Ventura County Climate Hub  
5 Gyres Institute, the  
7th Generation Advisors  
Active San Gabriel Valley  
Ban SUP  
California Environmental Voters  
California Institute for Biodiversity  
California Interfaith Power & Light  
California Product Stewardship Council  
California Wildlife Center  
Californians Against Waste  
CALPIRG  
CALPIRG Students  
Calpirg, California Public Interest Research Group  
Center for Food Safety; the  
Center for Oceanic Awareness, Research, & Education  
Chop Wood Carry Water CA Newsletter  
Climate Reality Project, San Fernando Valley

Climate Reality Project, Silicon Valley  
Defenders of Wildlife  
Ecology Center  
Elders Climate Action, Norcal and Socal Chapters  
Environment California  
Ethos  
Feminists in Action  
Fillgood  
Friends Committee on Legislation of California  
Greenpeace USA  
Greentown Los Altos  
Habits of Waste  
Heal the Bay  
Indivisible Alta Pasadena  
Indivisible California Green Team  
Indivisible South Bay LA  
Interfaith Solidarity Network  
League to Save Lake Tahoe  
Lemon Frog Shop Vintage Bazaar  
Marine Mammal Care Center LA  
Monterey Bay Aquarium Foundation  
Mountain Lion Foundation  
Napa Climate Now  
National Stewardship Action Council  
Northern California Recycling Association  
Nrdc  
Ocean Conservancy  
Oceana  
Pacific Marine Mammal Center  
Plastic Oceans International  
Sacramento Area Congregations Together  
Sailors for The Sea  
San Diego 350  
San Diego Coastkeeper  
San Francisco Baykeeper  
Save Our Shores  
Save the Albatross Coalition  
Shark Stewards  
Sierra Club California  
Surfrider Foundation  
Sustainable St. Helena  
The Climate Center  
The Last Plastic Straw  
The Nature Conservancy



The Nela Climate Collective  
The Plot  
The Refill Shoppe  
Urban Ecology  
Wholly H2o  
Wildcoast  
Wishtoyo Chumash Foundation  
Wrench & Rodent Seabasstropub  
Zero Waste USA

Opposition

Air Conditioning, Heating and Refrigeration Institute  
American Chemistry Council  
American Cleaning Institute  
American Institute for Packaging and Environment (AMERIPEN)  
Auto Care Association  
California Chamber of Commerce  
California League of Food Producers  
California Manufacturers & Technology Association  
California Retailers Association  
Cawa  
Civil Justice Association of California  
Consumer Technology Association  
Flexible Packaging Association  
National Marine Manufacturers Association  
Personal Care Products Council  
Plastics Industry Association  
Sealed Air Corporation  
Tekni-plex, INC  
The Toy Association

|                            |   |                               |
|----------------------------|---|-------------------------------|
| <b>AB 2419<br/>(Bryan)</b> | <b>ENVIRONMENTAL JUSTICE: FEDERAL<br/>INFRASTRUCTURE INVESTMENT AND<br/>JOBS ACT: JUSTICE40 OVERSIGHT<br/>COMMITTEE</b> | <b>SUPPORT IN<br/>CONCEPT</b> |
|----------------------------|---|-------------------------------|

Under the Biden Administration, several executive actions have focused on delivering federal investments to disadvantaged communities. Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (Justice40 Initiative), establishes a goal to deliver 40 percent of the overall benefits from certain federal investments to disadvantaged communities. Federal Executive Order 14052, *Implementation of the Infrastructure Investment and Jobs Act*, establishes implementation priorities for the Infrastructure Investment and Jobs Act (IIJA), including the commitment to direct 40 percent of investments to disadvantaged communities. This order also

establishes the Infrastructure Implementation Task Force to coordinate effective implementation of the IIA.

AB 2419, as amended April 19, 2022, would establish the California Justice40 Act, intended to facilitate implementation of the federal Justice40 Initiative in California. The bill would require state agencies that are appropriated federal funds to allocate a minimum of 40 percent of IIA funds and other federal moneys for covered programs (those that fall under the Justice40 Initiative) for projects that provide direct benefits to disadvantaged communities in the state. AB 2419 would also require state agencies to allocate a minimum of an additional 10 percent of those covered funds to projects that provide direct benefits to low-income households or communities in the state.

Additionally, the bill would place requirements on state agencies in how they plan to expend federal funds, require agencies to regularly update the legislature on the expended funds, and would establish a Justice40 Oversight Committee in the Strategic Growth Council to have a coordination and oversight role over covered funds.

The provisions of AB 2419 would apply to a wide range of federal government program spending. As outlined in the Interim Implementation Guidance for the Justice40 Initiative released by the Office of Management and Budget, the bill would apply to covered investment benefits in one or more of the following areas:

- Climate change.
- Clean energy and energy efficiency.
- Clean transportation.
- Affordable and sustainable housing.
- Training and workforce development related to climate, natural disasters, environment, clean energy, clean transportation, housing, water and wastewater infrastructure, and legacy pollution reduction, including in energy communities.
- Remediation and reduction of legacy pollution.
- Critical clean water and waste infrastructure.

According to the author, “Without deliberate attention to ensure high-road outcomes, these investments run the risk of repeating inequitable infrastructure development and inadvertently funding a race-to-the-bottom approach that hurts vulnerable Californians and undermines labor and climate goals. As a global leader on climate policy, California is in the position to model best practices.”

While AB 2419 is intended to implement the federal Justice40 Initiative in California, the bill goes beyond the scope of the federal Justice40 Initiative in several ways. The main difference is that AB 2419 would require a minimum of 10 percent of funds go to low-income households or communities (in addition to the 40 percent specified for disadvantaged communities contained in the federal initiative). The bill also sets up a comprehensive oversight process at the state level to ensure that state agencies comply with the funding goals.

Interim federal guidance for federal agencies was released July 20, 2021 and provided implementation direction for an initial set of covered programs under the Justice40 Initiative. In the guidance document, it was noted that additional guidance would be forthcoming. The interim guidance also noted the development of a Climate and Economic Justice Screening Tool (Tool) by the Council on Environmental Quality as part of the implementation of the Justice40 initiative. The beta version of the Tool was released in late February 2022 but has not yet been formally adopted.

AB 2419 is a work in progress and staff is recommending a “Support in Concept.” There are currently outstanding federal efforts to implement the Justice40 Initiative that have not yet concluded but may inform the bill. In addition, there are ongoing conversations in the legislature about the appropriate definitions to use for “disadvantaged communities” that will affect how federal funds are spent. The “support in concept” position acknowledges the efforts of the author to align with the goals of President Biden’s Justice40 Initiative and EBMUD’s own efforts to provide benefit to the disadvantaged communities it serves while recognizing the measure is a work in progress.

Costs are not expected to accrue to EBMUD as a result of this measure. Though limited benefits are expected to accrue from the allocation of IJIA water and wastewater funds, benefits may accrue to the disadvantaged communities served by EBMUD through the allocation of federal funding to one or more of the program areas listed above.

Because this legislation stems from a federal Executive Order, there is no previous relevant legislation.

The official list of support and opposition to AB 2419 is shown below.

#### Support

Asian Pacific Environmental Network (Co-Sponsor)  
Coalition for A California Green New Deal (Co-Sponsor)  
Greenlining Institute; the (Co-Sponsor)  
SCOPE (Co-Sponsor)  
350 Bay Area Action  
350 Conejo / San Fernando Valley  
350 South Bay Los Angeles  
350 Southland Legislative Alliance  
350 Ventura County Climate Hub  
Active San Gabriel Valley  
Advancement Project  
Advancement Project California  
Asian Pacific Environmental Network  
Black Women for Wellness

CA Coalition for Clean Air  
California Calls  
California Environmental Voters  
California Environmental Voters (formerly CLCV)  
CEJA Action  
Center for Climate Change & Health  
Center for Climate Change and Health  
Center for Community Action & Environmental Justice  
Center for Community Action and Environmental Justice  
Center for Environmental Health  
Center on Race, Poverty & the Environment  
Central Valley Partnership  
Ceres  
Climate Action Campaign  
Climate Equity Policy Center  
Climate Reality Project, San Fernando Valley  
Climateplan  
Cloverdale Indivisible  
Coalition for Clean Air  
Communities for A Better Environment  
Communitiy Water Center  
Courage California  
Del Paso Heights Growers' Alliance  
Emerald Cities Collaborative  
Environmental Defense Fund  
Esperanza Community Housing Corporation  
Green for All  
Grid Alternatives  
I Am Green, Inc.  
Idle No More Sf Bay  
Indivisible Alta Pasadena  
Indivisible California Green Team  
Indivisible Marin  
Indivisible Media City Burbank  
Indivisible Mendocino  
Indivisible Riverside  
Indivisible Sacramento  
Indivisible San Jose  
Indivisible Sonoma County  
Indivisible South Bay LA  
Indivisible Stanislaus  
Indivisible Ventura  
Inglewood; City of  
Jobs With Justice San Francisco

LA Waterkeeper  
Latino Coalition for A Healthy California  
Let's Green CA!  
Liberty Hill Foundation  
Little Manila Rising  
Livermore Indivisible  
Long Beach Alliance for Clean Energy  
Los Angeles Alliance for A New Economy  
Move LA  
Move LA, a Project of Community Partners  
Natural Resources Defense Council  
Nextgen California  
Pacoima Beautiful  
Physicians for Social Responsibility - Los Angeles  
PODER  
Policylink  
Public Advocates INC.  
Richmond Our Power Coalition  
Rising Sun Center for Opportunity  
Romero Institute  
Rooted in Resistance  
San Diego 350  
San Diego Green New Deal Alliance  
San Diego 350  
Sierra Club California  
Stand Strong LA Indivisible  
Strategic Concepts in Organizing and Policy Education  
The Climate Center  
The Greenlining Institute  
Union of Concerned Scientists  
Upte Local 9  
Valley Women's Club of San Lorenzo Valley  
Vote Solar

Opposition

Association of California Water Agencies (ACWA)

**AB 2639**                      **SAN FRANCISCO BAY/SACRAMENTO-      **OPPOSE UNLESS****  
**(Quirk)**                      **SAN JOAQUIN DELTA ESTUARY:                      **AMENDED****  
   **WATER QUALITY CONTROL PLAN:**  
   **WATER RIGHT PERMITS**

Existing law establishes the State Water Resources Control Board (SWRCB) and the nine California regional water quality control boards as the principal state agencies with authority over matters relating to water quality. Existing law requires the SWRCB to formulate and adopt state policy for water quality control and adopt water quality control plans for waters that require water quality standards pursuant to the Federal Water Pollution Control Act. Those plans supersede any regional water quality control plans for the same waters to the extent of any conflict.

AB 2639, as amended on April 19, 2022, would implement several of the recommendations from the February 2022 Planning and Conservation League report titled “Updating California Water Laws to Address Drought and Climate Change.” This measure would:

- require the SWRCB, on or before December 31, 2023, to adopt a final update of the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary;
- require the SWRCB to implement, “through regulation or other appropriate implementation methods,” the amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary adopted by the SWRCB pursuant to Resolution No. 2018-0059 on December 12, 2018; and
- prohibit the SWRCB from approving a new water right permit that would result in new or increased diversions to surface water storage from the Sacramento/San Joaquin River watershed until and unless the SWRCB has taken the above actions on the Water Quality Control Plan.

AB 2639 has been amended several times since it was introduced, although amendments have been mainly minor, clarifying changes. When staff brought this bill as an information item for the March 8, 2022, Board meeting, concerns were identified with the introduced version of the bill that are still relevant to the current version. These issues fall into three main areas:

1) concerns about implementation of the Water Quality Control Plan through regulation and the potential loss of due process for EBMUD’s water rights; 2) whether the December 31, 2023 deadline is adequate time for adoption and implementation of the Water Quality Control Plan and the potential impact on public process and stakeholder involvement with such ambitious deadlines; and 3) the legislative precedent of holding up water right permits if a state board or agency is unable to meet legislative deadlines.

The first major issue of concern is the potential removal of due process that could impact EBMUD’s water rights by allowing the SWRCB to implement the Water Quality Control Plan “*through regulation or other appropriate implementation methods.*” Amending water rights by

regulation would skip key evidentiary and other due process steps included in an adjudicatory process.

The second issue involves the bill's mandated deadlines for action by the SWRCB. Should those actions be rushed, it could circumvent the open and public process needed to adequately adopt and implement the Water Quality Control Plan, and by doing so, could potentially open the process up to litigation challenges.

On the third issue, the author recently took an amendment to narrow the scope of the prohibition language for new water right permits for new or increased diversions by deleting language included in the original bill related to "extensions of time for existing permits," which could have impacted EBMUD's long term transfer with Placer County Water Agency. While this change is helpful, the language tying new water right permit approvals to whether a state board or agency completes an action by a certain deadline could set a troubling precedent for future legislation.

An "oppose unless amended" position is recommended to:

- delete the hard deadline by which the SWRCB must adopt a final update to the Sacramento River portion of the Bay-Delta Plan and instead require it as soon as practicable, and also require the SWRCB to submit a report to the legislature by December 31, 2023 that details the progress on completion of the final update;
- delete the requirement that the SWRCB must implement the San Joaquin River/Southern Delta Plan through regulation or other appropriate implementation methods and instead require the SWRCB to release for public review any draft environmental review it has prepared in compliance with CEQA by December 31, 2023; and
- delete provisions that prohibit new water rights permits from being approved if the SWRCB fails to meet the deadlines in the bill.

With regard to anticipated costs and benefits to EBMUD and its ratepayers, AB 2639 could be harmful to EBMUD ratepayers because of the potential to impact EBMUD's water rights, access to Mokelumne water supplies, and the Mokelumne River fishery.

There is no previous relevant legislation.

The official support and opposition list to AB 2639 is shown below.

#### Support

American Rivers  
American Whitewater  
California Outdoors  
California Sportfishing Protection Alliance  
California Water Impact Network  
California Water Research

Center for Biological Diversity  
Coast Action Group  
Communitiy Water Center  
Defenders of Wildlife  
Early Childhood Matters  
Environmental Justice Coalition for Water  
Environmental Water Caucus  
Foothill Conservancy  
Friends of The River  
Golden State Salmon Association  
Natural Resources Defense Council  
Nontoxic Neighborhoods  
O.A.R.S.  
Pacific Coast Federation of Fishermen's Associations  
Planning and Conservation League  
Protect American River Canyons  
Restore the Delta  
Save California Salmon  
Save the American River Association  
Sierra Club California  
South Yuba River Citizens League  
Southern California Watershed Alliance  
Tuolumne River Trust  
Water Climate Trust  
Winnemem Wintu Tribe

#### Opposition

Amador Water Agency  
American Council of Engineering Companies of California  
Anderson-Cottonwood Irrigation District  
Association of California Water Agencies (ACWA)  
Bella Vista Water District  
California Chamber of Commerce  
California Farm Bureau  
California Municipal Utilities Association (CMUA)  
Calleguas Municipal Water District  
Coachella Valley Water District  
Coastside County Water District  
Cucamonga Valley Water District  
El Dorado Irrigation District  
Elsinore Valley Municipal Water District  
Foothill Municipal Water District  
Fresno Irrigation District



Glenn-Colusa Irrigation District  
Kinneloa Irrigation District  
Lake Arrowhead Community Services District  
Las Virgenes Municipal Water District  
Mercy Springs Water District  
Modesto Irrigation District  
Mojave Water Agency  
Northern California Water Association  
Oakdale Irrigation District  
Panoche Water District  
Regional Water Authority  
Rowland Water District  
San Gabriel Valley Municipal Water District  
Three Valleys Municipal Water District  
Turlock Irrigation District  
Upper San Gabriel Valley Municipal Water District  
Valley Center Municipal Water District  
Western Canal Water District  
Western Growers Association  
Western Municipal Water District

**AB 2895  
(Arambula)**

**WATER: PERMITS AND LICENSES:  
TEMPORARY CHANGES: WATER OR  
WATER RIGHTS TRANSFERS**

**OPPOSE  
UNLESS  
AMENDED**

Under existing law, the State Water Resources Control Board (SWRCB) administers a water rights program that appropriates water through permits and licenses. A permit or license holder may temporarily transfer water through a temporary change to the point of diversion, place of use, or purpose of use. The prescribed process requires a petitioner to: 1) submit a temporary change petition to the SWRCB that contains specified information; 2) provide a copy of the petition to the Department of Fish and Wildlife (DFW), the board of supervisors of the counties in which the petitioner stores or uses the subject water, and the board of supervisors of the counties to which the water is proposed to be transferred; and 3) publish a notice of petition in a newspaper. Under current law the SWRCB is required to provide a 30-day comment period and issue a decision on a temporary change petition within 65 days of receipt of the petition.

AB 2895, as amended April 27, 2022, is intended to facilitate the SWRCB's processing of temporary change petitions for water transfers of one year or less. AB 2895 would do five primary things: 1) add a requirement that documentation of consultation with DFW be included in the temporary change petition; 2) establish a separate early "pre-notice" process where participating petitioners could optionally provide notice to the SWRCB by January 31 of the intent to submit a temporary change petition; 3) require petitions noticed by January 31 to be decided within the time allowed by existing law (65 days after notice, unless the petitioner consents to a hearing); 4) for petitions not noticed by January 31, extend the deadline to render a decision to 75 days and

authorize the SWRCB to mandate a hearing without petitioner consent; and 5) eliminate the requirement that a notice of a temporary change petition be published in a newspaper.

According to the author, “efficient review and approval by the State Water Resources Control Board are (sic) needed to ensure that transfers can be successfully executed, particularly as most transfers involve moving water across the Sacramento/San Joaquin Delta. The State Water Project and federal Central Valley Project can typically only accommodate these cross-Delta transfers during the dry summer and early fall months.” According to the assembly policy committee analysis, data from the SWRCB website indicates that over the past decade, the SWRCB received 3 to 18 temporary change petitions per year.

Temporary water transfers are often used to supplement supplies during droughts, are time sensitive, and based on hydrologic conditions that vary over time. EBMUD’s comprehensive water supply management program includes the use of temporary water transfers, in addition to conservation and recycling, to minimize rationing during dry years. Water secured through temporary transfers are generally accessed through the Freeport Regional Water Project. The timing of temporary water transfers depends on hydrology and once water is determined to be available, usually in the spring, there is a very short period within which EBMUD must gain the necessary regulatory approval to secure the water.

Though intended to facilitate the SWRCB’s processing of temporary change petitions, AB 2895 would have the opposite effect by causing unnecessary delays that could hinder timely access to transfer water. The three provisions of primary concern are the new requirement that the petitioner provide documentation of consultation with DFW in the temporary change petition, changes to the SWRCB hearing provisions, and the new “pre-notice” process for temporary transfers.

### DFW

Current law requires a petitioner to provide a copy of the temporary change petition to DFW and allows, but does not require, DFW to communicate input while the SWRCB review process is ongoing. Current SWRCB regulations require petitioners to “request consultation” with DFW on a temporary transfer petition. Existing law and regulation do not require such consultation to be complete when the petition is filed. AB 2895 would add the requirement that “documentation of consultation” with DFW be included in the temporary change petition. This means a petitioner must engage and consult with DFW and DFW must respond before a temporary change petition could be submitted to the SWRCB. Consultation can be a lengthy process and depends upon variety of factors, including staff availability and workload, and is not suited to the time-sensitive nature of temporary water transfers.

Current law expressly facilitates DFW review and balances the need for appropriate agency review with the time-sensitive nature of temporary water transfers. AB 2895’s proposed consultation requirement would have the unintended consequence of unnecessarily slowing down the process, potentially indefinitely, and delaying or preventing needed temporary transfers of water.

### SWRCB hearing provisions

AB 2895 would change the SWRCB hearing provisions to extend the review time for petitions submitted outside the new “pre-notice” process by removing the petitioner consent and decision deadline requirements. Current law requires consent of the petitioner if a hearing is necessary. Under AB 2895, the SWRCB can solely determine a hearing is necessary and if it does so, the timelines for SWRCB review of a temporary change petition would not apply. This would have the unintended consequence of jeopardizing temporary water transfers by adding significant uncertainty to the process, reducing transparency, and delaying final action on temporary change petitions.

### New pre-notice process

AB 2895 would establish a new “pre-notice” process that would enable a petitioner to notify the SWRCB of the potential to submit a temporary change petition by January 31 of the year in which the transfer may be initiated and provide an “expedited” review time of up to 55 days for the petition once it is submitted (the same timeline provided under existing law). This new process is intended to incentivize petitioners that are contemplating a temporary transfer to notify the SWRCB in advance of submitting a petition so that the SWRCB can plan its petition review time for the year. This new pre-notice process is problematic because it would require submittal at a time that does not make sense from a water management perspective and create a duplicative public comment period.

The timing of the “pre-notice” process is not suitable for temporary water transfers. A January 31 due date for a notice of transfer is unrealistic as hydrologic conditions are often not known until the spring. Providing an incentive in the form of reduced SWRCB review time for petitions noticed by January 31 could attract notices for speculative transfers that may or may not materialize later in the year and result in a false workload for the SWRCB that would delay the review process for legitimate petitions.

The “pre-notice” process would also create a double public comment period because a public comment period would be required for both the notice and the temporary change petition. Before a petitioner could submit a temporary change petition, comments expressed in response to the notice would have to be resolved, creating a time-consuming duplicative process that may impact the ability of a petitioner to submit a temporary change petition with sufficient time for a water transfer to occur. Existing law appropriately provides for notice to the public and potentially affected stakeholders and a public comment period when the temporary change petition is submitted.

### Amendments

In its current form AB 2895 could directly impair the ability of EBMUD and others to access supplemental water supplies through temporary water transfers. Significant amendments are needed to address the concerns discussed above:

- delete section 1726(b)(3) that requires documentation of consultation with DFW to accompany each petition; or revise it to conform it with the existing requirement in 23 CCR section 794 that requires a petition to include proof that a copy of the petition has been served on DFW.
- restore the SWRCB hearing provisions for temporary change petitions back to existing law by reinserting the petitioner approval and decision deadline language.
- delete or substantially narrow the “pre-notice” provisions (section 1727) to only apply to temporary transfers that are certain at the time the notice is submitted.
- consider whether a double public comment period is consistent with intent to facilitate timely temporary transfers of water.

Regarding anticipated costs and benefits to EBMUD and its ratepayers, AB 2895 has the potential to harm EBMUD’s ability to access supplemental water supplies through temporary transfers and result in significant costs to ratepayers. Though minimal benefits would accrue to EBMUD and its ratepayers from the elimination of the newspaper noticing requirement, the costs would far outweigh any benefit.

There has been no similar legislation in recent years that had the potential to directly impact EBMUD’s ability to secure temporary water transfers. EBMUD has taken a variety of actions to preserve access to supplemental water supplies through transfers, as exemplified by its investment in and operation of the Freeport Regional Water Project.

The official list of support and opposition to AB 2895 is shown below.

#### Support

Sustainable Conservation

#### Opposition

Association of California Water Agencies (unless amended)

|                  |   |                |
|------------------|---|----------------|
| <b>SB 1392</b>   | <b>FISH AND WILDLIFE: STEELHEAD TROUT</b> | <b>SUPPORT</b> |
| <b>(McGuire)</b> | <b>FISHING REPORT-RESTORATION CARD</b>    |                |

Existing law, until July 1, 2022, requires a person taking steelhead trout in inland waters to purchase a steelhead trout fishing report-restoration card annually, complete the card with certain information when catching steelhead trout, and return the card to the Department of Fish and Wildlife (DFW) the following January. Revenue from the purchase of the report-restoration cards may only be expended, upon appropriation by the legislature, to monitor, restore, or enhance steelhead trout resources and to administer the fishing report-restoration card program. Existing law required DFW to report to the legislature on or before July 1, 2021, regarding the

steelhead trout projects undertaken using these revenues, the benefits derived, and its recommendations for revising the fishing report-restoration card requirement, if any.

SB 1392, as amended on March 15, 2022, would extend the sunset of the steelhead trout fishing report-restoration card program and allow the program to continue operating until January 1, 2028. SB 1392 would also require DFW to provide a report on the program to the legislature on or before July 1, 2026.

SB 1392 would implement the recommendation in DFW's 2021 report to the legislature titled "Steelhead Report and Restoration Card Program Report to the Legislature 2015-2019" to continue the steelhead trout fishing report-restoration card program. According to DFW the steelhead trout fishing report-restoration card is used to gather fishing data that is then used in making management and regulatory decisions. The revenue generated from the sales of the report-restoration cards is used to administer the program and fund projects that contribute to the conservation, monitoring, or recovery of steelhead populations. DFW reports that between 2015 and 2019 almost 250,000 cards were sold, generating \$1.6 million in revenue, and a little over \$1 million in revenue was used to fund 20 projects that directly or indirectly benefited steelhead and steelhead anglers.

According to the author, "California's iconic steelhead trout has suffered devastating population declines over the past several generations. The declines have been so dramatic, the Federal Government has listed almost every steelhead trout species as endangered in California's watersheds. Through the past two decades, this program has become an indispensable tool for the Department of Fish and Wildlife to manage steelhead fisheries and curb declines in population. Obtaining information on angler effort and harvest of both wild and hatchery fish is crucial for this effort. The Department of Fish and Wildlife's goal is to improve steelhead habitat and populations while enhancing steelhead fishing opportunities and success."

With regard to EBMUD, the Mokelumne River is home to a steelhead trout population and the Mokelumne River Fish Hatchery raises steelhead trout, as well as fall-run Chinook salmon, as part of EBMUD's efforts to preserve and enhance the fisheries on the Mokelumne River. Both the hatchery and natural segments of the steelhead trout population on the Mokelumne River are federally listed as threatened.

By extending the sunset provision in existing law, SB 1392 would enable DFW to continue the steelhead trout fishing report-restoration card program and is consistent with EBMUD's efforts to preserve and enhance the fisheries on the Mokelumne River. Continuing to collect data to inform management of steelhead trout statewide could be beneficial to the Mokelumne steelhead trout populations. In addition, SB 1392 could provide potential funding opportunities for steelhead habitat improvement or enhancement projects and would not impose costs on EBMUD.

EBMUD has historically taken positions on legislation intended to facilitate fishery enhancement. In 2010, the Board adopted a "support in concept" position on AB 2063

(Huffman), which urged more collaboration between state and federal agencies to restore Chinook salmon populations. AB 2063 was vetoed. In 2009, the Board adopted a support position on AB 1189 (Skinner) that would have facilitated Caltrans' remediation of fish passage barriers. This measure failed to advance out of the legislature.

There are currently no entities listed in support or opposition to SB 1392.

**SB 1490, SB 1491,    VALIDATIONS  
SB 1492  
(Committee on  
Governance and  
Finance)**

**SUPPORT**

SB 1490, SB 1491, and SB 1492 (Committee on Governance and Finance), as introduced on February 28, 2022, would enact the Validating Acts of 2022. The legislature usually enacts three bills known as the Validating Acts each year to retroactively correct procedural errors or omissions that public officials of state agencies, cities, counties, and special districts may make inadvertently.

Banks, pension funds, and other investors will not buy municipal securities unless they are sound investments. Without the enactment of Validating Acts to cure minor errors that could undermine a bond's legal integrity, bond counsel would be reluctant to certify public agencies' bonds as good risks because of potential mistakes that could invalidate future payments. Safer bonds mean higher ratings and lower costs.

While the three Validating Acts save California taxpayers millions of dollars by protecting investors from minor procedural mistakes that might otherwise imperil bonds, boundary changes, proceedings, and other official acts, they will not cure fraudulent, illegal, or unconstitutional actions. A Validating Act cannot protect public officials who have acted illegally from prosecution.

With regard to cost benefit to EBMUD, this measure could benefit EBMUD by protecting investors from any minor procedural mistakes in bond issuances or other official acts. These measures are not expected to impose additional cost burdens on EBMUD ratepayers.

EBMUD has historically supported the Validating Acts. Most recently, in 2021, EBMUD's Board adopted a "support" position on the Validating Acts of 2021, SB 810, SB 811, and SB 812, which were signed into law (Chapter 36, Chapter 37, and Chapter 38 of 2021, respectively).

The official list of support and opposition to SB 1490, SB 1491, SB 1492 is shown below.

Support

California Association of Local Agency Formation Commissions  
California Special Districts Association  
California State Association of Counties

Opposition

None listed

**FEDERAL LEGISLATION**

**RECOMMENDED  
POSITION**

**S. 3956  
(Merkley)**

**WASTEWATER INFRASTRUCTURE  
POLLUTION PREVENTION AND  
ENVIRONMENTAL SAFETY ACT**

**SUPPORT**

S. 3956, the Wastewater Infrastructure Pollution Prevention and Environmental Safety Act (WIPPEs Act), is a companion measure and substantially similar to H.R. 4602 (Lowenthal), which EBMUD supports, and is intended to address the problem of non-flushable wipes being flushed into, and creating obstructions in, sewer and wastewater systems.

The WIPPEs Act would create a national standard for the labeling of non-flushable disposable wet wipes, essentially adopting national wet wipe labeling requirements similar to California's requirements established by AB 818 (Bloom) in 2021, which EBMUD supported. The WIPPEs Act would primarily do three things: 1) require manufacturers of non-flushable wet wipes to label the products clearly and conspicuously with "DO NOT FLUSH" notices and symbols; 2) set fines for not complying with the labeling requirements; and 3) require the United States Environmental Protection Agency (U.S. EPA) to establish a grant program to support education and outreach activities that raise consumer awareness about the meaning of the new labeling, why the labeling is required, and the adverse impact of these wet wipes on sewer and wastewater infrastructure when flushed.

The WIPPEs Act's labeling requirements and fine provisions are substantially similar to H.R. 4602 though the WIPPEs Act differs from H.R. 4602 in education and outreach component. The WIPPEs Act includes a U.S. EPA grant program to support education and outreach activities undertaken by various entities such as states and local governments whereas H.R. 4602 would require manufacturers of non-flushable wet wipes to conduct education and outreach.

According to the California Association of Sanitation Agencies, due to the lack of proper disposal instructions "consumers unwittingly end up flushing these single-use, synthetic wipes that can clog pipes, pumps, and treatment equipment."

When items, such as wet wipes, that are not designed for safe disposal in the sewer system are flushed, these items can cause sewer blockages and backups at homes, businesses and in sewer collection systems, as well as potentially damage sewer lines and lead to costly sanitary sewer overflows. These materials can also clog machinery at the wastewater treatment plant, resulting in increased costs for sewage treatment.

For EBMUD, significant amounts of fibrous material have been found when cleaning the digesters at the Main Wastewater Treatment Plant. This material is likely the result of non-flushable materials, such as wet wipes, being flushed into the system. The fibrous material catches grit and retains it in the digesters, causing problems for digester operations.

The WIPPES Act would help reduce the amount of non-flushable wet wipes being disposed into sewer systems, including EBMUD's wastewater treatment system, by ensuring that non-flushable wet wipes are properly labeled.

With regard to anticipated costs and benefits to EBMUD and its ratepayers, benefits are anticipated in terms of reducing the amount of maintenance required for cleaning pumps and other equipment that is currently required to deal with non-flushable material. Some cost savings could accrue in the form of reduced maintenance and decreased disposal costs. Additional costs are not expected to accrue as a result of the measure.

Support for S. 3956 is consistent with EBMUD's support of H.R. 4602 (Lowenthal). Support for this measure is also consistent with support for state measures intended to reduce the amount of non-flushable wipes that are flushed into the sewer system, most recently AB 818 (Bloom), Chapter 590 of 2021, which established state labeling requirements for non-flushable wipes.

Consistent with other federal measures, there is no official support and opposition list for the S. 3956.

CCC:MD:DM/JW

Attachments



AMENDED IN ASSEMBLY APRIL 6, 2022

AMENDED IN ASSEMBLY MARCH 23, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

## ASSEMBLY BILL

**No. 2026**

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**Introduced by Assembly Members Friedman and Ting**  
**(Principal coauthors: Assembly Members Bloom, Kalra, and Quirk)**  
(Principal coauthors: Senators Stern and Wiener)  
**(Coauthors: Assembly Members Bennett, Luz Rivas, and Stone)**

February 14, 2022

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An act to add Chapter 3.2 (commencing with Section 42100) to, and to add and repeal Chapter 5.1 (commencing with Section 42250) of, Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2026, as amended, Friedman. Recycling: plastic packaging and carryout bags.

(1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste, including, among other solid waste, plastic packaging containers.

This bill would prohibit an online retailer that sells or offers for sale and ships purchased products in or into the state from using single-use plastic packaging that consists of shipping envelopes, cushioning, or void fill to package ship or transport the products, on and after January 1, 2024, for large online retailers, as defined, and on and after January 1, 2026, for small online retailers, as defined. The bill would prohibit a manufacturer, retailer, producer, or other distributor that sells or offers

for sale and ships purchased products in or into the state from using expanded or extruded polystyrene ~~packaging to package or transport the products, except as provided.~~ *products. The bill would establish exemptions from these prohibitions.*

The bill would make a violation of the foregoing requirements subject to civil penalties and would require penalties collected by the Attorney General to be deposited into the Plastic Packaging Reduction Penalty Account, which the bill would create, for expenditure by the Attorney General, upon appropriation by the Legislature, to enforce those requirements.

(2) Existing law prohibits stores, including convenience food stores, foodmarts, and other specified entities that have a specified amount of sales in dollars or retail floor space, from providing a single-use carryout bag to a customer and prohibits those stores from selling or distributing a recycled paper bag at the point of sale unless the store makes the bag available for purchase for not less than \$0.10.

This bill would establish the At-Store Recycling Program. The bill would require an operator of a store, as defined, to establish an at-store recycling program that provides customers the opportunity to return clean plastic carryout bags and clean reusable bags, as defined, to the store. The bill would require a plastic carryout bag or a reusable bag provided by a store to have specified information printed or displayed on the bag, and would require the placement of a collection bin in each store that is visible and easily accessible to the consumer. The bill would require a store to maintain records describing the collection, transport, and recycling of plastic bags pursuant to these provisions for 3 years and to make the records available to the department and the local jurisdiction, upon request. The bill would make a violation of these requirements subject to civil penalties and would require penalties collected by the Attorney General to be deposited into the At-Store Recycling Program Penalty Account, which the bill would create, for expenditure by the Attorney General, upon appropriation by the Legislature, to enforce those requirements. The bill would make these requirements, except for the records and civil penalty provisions, inoperative on January 1, 2031, and would repeal the provisions, including the records and civil penalty provisions, as of January 1, 2034.

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

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

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

3     (1) ~~Plastic packaging used for~~ *Single-use plastic used to package*  
4 products sold by an online retailer, also known as e-commerce  
5 packaging, becomes plastic waste immediately after a package is  
6 opened. Almost all plastic waste is landfilled, is burned, or enters  
7 and pollutes the environment, including waterways and oceans,  
8 where plastic can harm marine life.

9     (2) Once discarded, plastic breaks up into smaller and smaller  
10 pieces that can starve or choke wildlife when ingested and acts as  
11 conduits for harmful pollutants that make their way into the food  
12 chain.

13     (3) More than 900 marine life species have ingested or become  
14 entangled in plastic and plastic has been detected in melting Arctic  
15 sea ice and found sitting at the deepest point of the ocean floor.

16     (4) Plastic is harming human health through every single stage  
17 of its life cycle, from extraction and production to consumer use.  
18 It is making its way into our food, water, and air.

19     (5) Local governments in California spend more than  
20 \$420,000,000 annually in efforts to clean up and prevent plastic  
21 and other litter from entering oceans and waterways. Ultimately,  
22 these costs are borne by ratepayers.

23     (6) Plastic is a major contributor to climate change. Life cycle  
24 assessments that favor plastic often do not fully consider the  
25 material's full environmental impact, particularly on the oceans.

26     (7) Plastic is a significant source of global greenhouse gas  
27 emissions that contribute to climate change, sea level rise, and  
28 ocean acidification. The environmental and public health impacts  
29 of plastic pollution are devastating, and the environmental  
30 externalities and public costs of cleaning up and mitigating plastic  
31 pollution are already staggering and continue to grow.

32     (8) Most plastics are petrochemicals made from hydrocarbons  
33 derived from fossil fuels and the production of these materials  
34 furthers the reliance on nonrenewable resources. Litter of these  
35 plastics constitutes a form of oil pollution spilling into the oceans  
36 and contaminating the environment.

37     (9) Globally, the e-commerce industry used nearly  
38 2,900,000,000 pounds of plastic packaging in 2020, according to

1 analysts, and that number is estimated to more than double by  
2 2026.

3 (10) The highest growth by volume is expected for flexible  
4 plastic and plastic mailer markets over the medium term.

5 (11) More than a quarter of the world's population is now buying  
6 online.

7 (12) According to industry analysts, in 2020, e-commerce  
8 businesses in the United States generated 601,300,000 pounds of  
9 plastic packaging waste.

10 (13) ~~Plastic~~ *Single-use plastic* packaging, including, but not  
11 limited to, mailers, bubble wrap, and inflatable pillows, which is  
12 often referred to as plastic film, and expanded or extruded  
13 polystyrene ~~packaging~~ have little to no value on the recycling  
14 market. Most often, plastic film and expanded or extruded  
15 polystyrene ~~packaging~~ is landfilled, is burned, or pollutes the  
16 environment, including the oceans. Additionally, most municipal  
17 recycling programs in the United States do not accept plastic film  
18 or expanded or extruded ~~polystyrene packaging~~. *polystyrene*.

19 (14) Expanded or extruded polystyrene, including loose fill  
20 packaging and molded foam, is rarely recycled. Once in the  
21 environment, it breaks up into small pieces that are nearly  
22 impossible to remove.

23 (15) Recycling alone is not enough to solve the plastic crisis.  
24 In the United States, less than 9 percent of all plastic waste created  
25 has been recycled.

26 (b) It is the intent of the Legislature in enacting this act to reduce  
27 the harmful environmental and economic impacts of plastic  
28 pollution caused by unnecessary single-use plastic film ~~packaging~~  
29 and expanded or extruded polystyrene ~~packaging~~ used in  
30 e-commerce *packaging* by phasing out *expanded or extruded*  
31 *polystyrene and* shipping envelopes, void fill, and cushioning that  
32 contain single-use plastic.

33 SEC. 2. Chapter 3.2 (commencing with Section 42100) is added  
34 to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 3.2. PLASTIC PACKAGING

Article 1. Definitions

42100. For purposes of this chapter, the following definitions apply:

(a) “Cushioning” means material used to protect goods by absorbing shocks and vibrations during shipping. Plastic cushioning includes, but is not limited to, plastic bubble wrap and inflatable plastic pillows.

(b) ~~“Expanded polystyrene packaging”~~ *polystyrene* means any ~~packing~~ material made of polystyrene that has been expanded or blown using a blowing agent into a solid foam, including, but not limited to, loose fill, often referred to as packing peanuts, and molded foam.

(c) ~~“Extruded polystyrene packaging”~~ *polystyrene* means any ~~packing~~ material made of polystyrene that when manufactured is forced through a die, a process known as extrusion, then allowed to cool and expand into the desired shape to form a foam product.

(d) “Large online retailer” means an online retailer that has both of the following:

(1) Annual gross sales equal to or more than one million dollars (\$1,000,000) in or into the state.

(2) Equal to or more than 2,500 shipping units sold and transported in or into the state annually.

(e) (1) “Online retailer” means a business that sells goods over the internet and transports goods by mail or parcel delivery. An online retailer includes business-to-business and business-to-consumer sales of products.

(2) An online retailer does not include an online marketplace that satisfies all of the following:

(A) Is an online or mobile application providing user services and facilitating sales solely from third-party sellers to third-party buyers.

(B) Does not own any of the inventory for sale on the online marketplace.

(C) Does not ship or control the distribution, packaging, or transport of any products on the online marketplace.

(D) Facilitates and permits direct, unhindered communication between the third-party buyer and the third-party seller.

1 (E) Conspicuously displays the third-party seller's location.

2 (F) Does not determine the price for the product offered on the  
3 online marketplace.

4 (G) Is not a large online retailer.

5 (3) An online retailer does not include a public or privately  
6 operated motor carrier, as defined in Section 13102 of Title 49 of  
7 the United States Code, that only transports a parcel that has been  
8 placed into packaging prior to the motor carrier's taking possession  
9 of the parcel and is not opened until after the motor carrier has  
10 delivered the parcel.

11 ~~(f) "Packaging" includes, but is not limited to, all of the~~  
12 ~~following:~~

13 ~~(1) Primary packaging that most closely protects the product or~~  
14 ~~sales unit and is the last piece of packaging the consumer opens.~~

15 ~~(2) Secondary packaging that is the outermost layer or layers~~  
16 ~~of packaging around a sales unit or sales units shipped to~~  
17 ~~consumers that may contain a single product or be used to group~~  
18 ~~products during transit.~~

19 ~~(3) Tertiary packaging or dunnage such as cushioning and void~~  
20 ~~fill used to facilitate the protection, handling, and transportation~~  
21 ~~of a sales unit or sales units to consumers.~~

22 ~~(g) "Plastic film" means thin flexible sheets of plastic, sold in~~  
23 ~~thicknesses of up to 10 mils, of which the majority produced are~~  
24 ~~made of polyethylene resins. Plastic film is used to produce, and~~  
25 ~~includes, shipping envelopes, cushioning, and void fill.~~

26 ~~(h) "Reusable packaging" means packaging that is all of the~~  
27 ~~following:~~

28 ~~(f) "Primary packaging" means material or materials that most~~  
29 ~~closely encompass the product or sales unit, are the last piece of~~  
30 ~~packaging the consumer opens, and are substantially similar to~~  
31 ~~the product's packaging in a retail store.~~

32 ~~(g) "Reusable" means satisfies all of the following:~~

33 ~~(1) Designed for reuse in the same or similar application, or for~~  
34 ~~another purposeful packaging use in a supply chain.~~

35 ~~(2) Highly durable to function properly in its original condition~~  
36 ~~for multiple trips and its lifetime is measured in years.~~

37 ~~(3) Repeatedly recovered, inspected, and repaired, if necessary,~~  
38 ~~and reissued into the supply chain for reuse.~~

~~(4) Prevented, at the end of its life, from becoming solid waste with a process in place for recovery and recycling at the final destination of the packaging.~~

~~(i)~~

(h) “Shipping envelope” means packaging used for the containment, protection, handling, or delivery of smaller goods by a manufacturer or retailer for the user or consumer. A plastic shipping envelope includes, but is not limited to, plastic mailers, envelope mailers, lightweight plastic mailers, padded plastic mailers, poly mailers, poly bubble mailers, plastic shipping mailers, and paper mailers with plastic lining.

~~(j) “Single-use packaging” means packaging that satisfies any of the following:~~

~~(i) “Single-use plastic” means material that is wholly or partially made of plastic and is any of the following:~~

~~(1) Is intended—Intended for a single use.~~

~~(2) Is regularly—Regularly discarded, recycled, or otherwise disposed of after a single use.~~

~~(3) Is not reusable packaging—Not reusable.~~

~~(k)~~

(j) “Small online retailer” means an online retailer that has either of the following:

(1) Annual gross sales of less than one million dollars (\$1,000,000) in or into the state.

(2) Less than 2,500 shipping units sold and transported in or into the state annually.

~~(l)~~

(k) “Void fill” means a filler material used to close up the free space in a shipping container and prevent excessive movement. Plastic void fill includes, but is not limited to, sealed air and expanded or extruded ~~polystyrene packaging~~; *polystyrene*.

## Article 2. Plastic Packaging

42101. (a) (1) An online retailer that sells or offers for sale and ships purchased products in or into the state shall not use single-use plastic ~~packaging that consists of shipping envelopes, cushioning, or void fill to package~~ *ship* or transport the products.

(2) A large online retailer shall comply with ~~this subdivision~~ *paragraph (1)* on and after January 1, 2024.

1 (3) A small online retailer shall comply with ~~this subdivision~~  
2 *paragraph (1)* on and after January 1, 2026.

3 (4) *Paragraph (1) does not apply to primary packaging.*

4 (b) (1) Except as provided in paragraphs (2) and (3), a  
5 manufacturer, retailer, producer, or other distributor that sells or  
6 offers for sale and ships purchased products in or into the state  
7 shall not use expanded or extruded polystyrene ~~packaging~~ to  
8 package or transport the products.

9 (2) A manufacturer, retailer, producer, or other distributor that  
10 sells or offers for sale and ships purchased products in or into the  
11 state may use expanded or extruded polystyrene ~~packaging~~ to  
12 package or transport televisions, printers, computer screens, and  
13 large appliances until January 1, 2025.

14 (3) A manufacturer, retailer, producer, or other distributor that  
15 sells or offers for sale and ships purchased products in or into the  
16 state may use expanded or extruded polystyrene ~~packaging~~ to  
17 package or transport any of the following items:

18 (A) Prescription drugs that require cold storage.

19 (B) Fragile medical devices.

20 (C) Drugs that are used for animal medicines that require cold  
21 storage, including, but not limited to, parasiticide products for  
22 animals.

23 (D) Medical food, as defined pursuant to Section 360ee(b)(3)  
24 of Title 21 of the United States Code, that requires cold storage.

25 (E) Fortified oral nutritional supplements used for persons who  
26 require supplemental or sole source nutrition to meet nutritional  
27 needs due to special dietary needs directly related to cancer, chronic  
28 kidney disease, diabetes, or other medical conditions as determined  
29 by the department that require cold storage.

30 (c) ~~This chapter~~ *section* does not apply to any of the following:

31 (1) ~~Packaging~~ *Single-use plastic shipping envelopes, cushioning,*  
32 *and void fill and expanded or extruded polystyrene* that is used as  
33 primary packaging for raw, uncooked, or butchered meat, fish,  
34 poultry, or seafood sold for the purpose of cooking or preparing.

35 (2) ~~Packaging~~ *Single-use plastic shipping envelopes, cushioning,*  
36 *and void fill and expanded or extruded polystyrene* that is necessary  
37 to prevent the contamination or extends the shelf life of fresh  
38 produce.

39 (3) ~~Packaging~~ *Single-use plastic shipping envelopes, cushioning,*  
40 *and void fill and expanded or extruded polystyrene* for which the



1 application of this ~~chapter~~ *section* would conflict with regulations  
2 issued by the United States Food and Drug Administration or the  
3 United States Department of Food and Agriculture or pursuant to  
4 the federal FDA Food Safety Modernization Act (21 U.S.C. Sec.  
5 2201 et seq.).

6  
7 Article 3. Enforcement  
8

9 42105. This chapter does not prohibit the adoption,  
10 implementation, or enforcement of a local ordinance, resolution,  
11 regulation, or rule governing curbside or dropoff recycling  
12 programs operated by, or pursuant to a contract with, a city, county,  
13 or other public agency, including any action relating to fees for  
14 these programs.

15 42106. (a) An action to enforce this chapter may be brought  
16 by the Attorney General upon a complaint from the department,  
17 or brought by a county counsel, or city attorney from a city or city  
18 and county with a full-time city prosecutor, upon a complaint by  
19 a local agency, resident located within the jurisdiction, the  
20 department, or the Statewide Commission on Recycling Markets  
21 and Curbside Recycling.

22 (b) An entity authorized to bring an action pursuant to  
23 subdivision (a) may impose civil liability on a person or entity that  
24 knowingly violated this chapter, in the amount of one thousand  
25 dollars (\$1,000) per day for the first violation of this chapter, two  
26 thousand dollars (\$2,000) per day for the second violation, and  
27 five thousand dollars (\$5,000) per day for the third and subsequent  
28 violations of this chapter, if the entity is a small online retailer.

29 (c) An entity authorized to bring an action pursuant to  
30 subdivision (a) may impose civil liability in the amount not to  
31 exceed fifty thousand dollars (\$50,000) per day for a violation of  
32 this chapter, if the entity is a large online retailer.

33 (d) Any civil penalties collected pursuant to this section shall  
34 be paid to the office of the Attorney General, county counsel, or  
35 city attorney, whichever office brought the action. The penalties  
36 collected pursuant to this section by the Attorney General shall be  
37 deposited into the Plastic Packaging Reduction Penalty Account,  
38 which is hereby created in the State Treasury. Moneys in the  
39 account may be expended by the Attorney General, upon  
40 appropriation by the Legislature, to enforce this chapter.

(e) In addition to any civil penalties collected in accordance with this section, the Attorney General, county counsel, or city attorney may seek all costs and attorney's fees incurred by the prosecuting entity as well as the costs incurred by the department or a local agency in investigating the matter.

42107. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 3. Chapter 5.1 (commencing with Section 42250) is added to Part 3 of Division 30 of the Public Resources Code, to read:

#### CHAPTER 5.1. AT-STORE RECYCLING PROGRAM

42250. For purposes of this chapter, the following definitions apply:

(a) "Manufacturer" means the producer of a plastic carryout bag sold to a store.

(b) "Operator" means a person in control of, or having daily responsibility for, the daily operation of a store, which may include, but is not limited to, the owner of the store.

(c) "Plastic carryout bag" means a plastic carryout bag provided by a store to a customer at the point of sale, including, but not limited to, plastic reusable bags.

(d) "Reusable bag" is a bag that meets the criteria described in subdivision (a) of Section 42281.

(e) "Store" means a retail establishment that provides plastic carryout bags to its customers as a result of the sale of a product and that meets either of the following requirements:

(1) Meet the definition of a "supermarket" in Section 14526.5.

(2) Has over 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

42251. (a) The operator of a store shall establish an at-store recycling program pursuant to this chapter that provides an opportunity for a customer to return to the store clean plastic carryout bags and clean reusable bags.

1 (b) A retail establishment that does not meet the definition of a  
2 store and that provides plastic carryout bags to customers at the  
3 point of sale may also adopt an at-store recycling program, as  
4 specified in this chapter.

5 42252. An at-store recycling program provided by the operator  
6 of a store shall include all of the following:

7 (a) A plastic carryout bag or reusable bag provided by the store  
8 shall have printed or displayed on the bag, in a manner visible to  
9 a consumer, the words “PLEASE RETURN TO A  
10 PARTICIPATING STORE FOR RECYCLING.”

11 (b) A collection bin for plastic carryout bags and reusable bags  
12 shall be placed at each store and shall be visible, easily accessible  
13 to the consumer, and clearly marked that the collection bin is  
14 available for the purpose of collecting and recycling plastic carryout  
15 bags and reusable bags.

16 (c) All plastic bags collected by the store shall be collected,  
17 transported, and recycled in a manner that does not conflict with  
18 the local jurisdiction’s source reduction and recycling element,  
19 pursuant to Chapter 2 (commencing with Section 41000) and  
20 Chapter 3 (commencing with Section 41300) of Part 2.

21 (d) The store shall maintain records describing the collection,  
22 transport, and recycling of plastic bags collected for a minimum  
23 of three years and shall make the records available to the  
24 department and the local jurisdiction, upon request, to demonstrate  
25 compliance with this chapter.

26 42253. (a) This chapter does not prohibit the adoption,  
27 implementation, or enforcement of any local ordinance, resolution,  
28 regulation, or rule governing curbside or dropoff recycling  
29 programs operated by, or pursuant to a contract with, a city, county,  
30 or other public agency, including any action relating to fees for  
31 these programs.

32 (b) This chapter does not affect any contract, franchise, permit,  
33 license, or other arrangement regarding the collection or recycling  
34 of solid waste or household hazardous waste.

35 42254. (a) A city, a county, or the Attorney General may  
36 impose civil liability in the amount of five hundred dollars (\$500)  
37 for the first violation of this chapter, one thousand dollars (\$1,000)  
38 for the second violation of this chapter, and two thousand dollars  
39 (\$2,000) for the third and any subsequent violation of this chapter.

1 (b) Any civil penalties collected pursuant to subdivision (a)  
2 shall be paid to the office of the city attorney, city prosecutor,  
3 district attorney, or Attorney General, whichever office brought  
4 the action. The penalties collected pursuant to this section by the  
5 Attorney General shall be deposited into the At-Store Recycling  
6 Program Penalty Account, which is hereby created in the State  
7 Treasury. Moneys in the account may be expended by the Attorney  
8 General, upon appropriation by the Legislature, to enforce this  
9 chapter.

10 42255. (a) This chapter, except for subdivision (d) of Section  
11 42252 and for Section 42254, shall become inoperative on January  
12 1, 2031.

13 (b) This chapter shall remain in effect only until January 1,  
14 2034, and as of that date is repealed.

AMENDED IN ASSEMBLY APRIL 19, 2022

AMENDED IN ASSEMBLY APRIL 7, 2022

AMENDED IN ASSEMBLY MARCH 28, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

## ASSEMBLY BILL

**No. 2419**

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**Introduced by Assembly Member Bryan**  
**(Coauthors: Assembly Members Cristina Garcia and Stone) *Stone,***  
***Bennett, and Muratsuchi***  
**(Coauthor: Senator Stern)**

February 17, 2022

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An act to add and repeal Part 3.2 (commencing with Section 71119) of Division 34 of the Public Resources Code, relating to environmental justice.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2419, as amended, Bryan. Environmental justice: federal Infrastructure Investment and Jobs Act: Justice40 Oversight Committee.

Existing law establishes the Strategic Growth Council consisting of specified state agency members and members of the public. Existing law requires the council, among other things, to recommend policies and investment strategies and priorities to the Governor, the Legislature, and to appropriate state agencies to encourage the development of sustainable communities, such as those communities that promote equity, strengthen the economy, protect the environment, and promote public health and safety.

The federal Infrastructure Investment and Jobs Act (IIJA) provides additional federal funds to rebuild the nation's infrastructures. Executive orders issued by President Biden established the federal Justice40

Initiative with the goal that 40% of the overall federal benefits flow to disadvantaged communities and stating that the implementation of the IJA should prioritize investing public dollars equitably, including through the Justice40 Initiative.

This bill would require a minimum of 40% of funds received by the state under the IJA *and certain other federal funds* to be allocated to projects that provide direct benefits to disadvantaged communities and a minimum of an additional 10% be allocated for projects that provide direct benefits to low-income households and low-income communities, as provided. The bill would require ~~specified state~~ agencies administering *those* federal funds to perform specified tasks related to the expenditure of those federal funds.

This bill would establish the Justice40 Oversight Committee in the council, as provided, to perform various actions related to the expenditure of those federal funds. The bill would require the committee, by December 31, 2024, to provide an interim report, and by December 31, 2027, to provide a final report, to the Legislature, and to the council at a public meeting of the council, on various subjects related to the expenditure of those federal funds. The bill would provide that those provisions would be repealed by their own terms on a specified date.

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

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

1 SECTION 1. The Legislature finds and declares all of the  
2 following:  
3 (a) On January 27, 2021, President Biden signed Executive  
4 Order 14008, which established the federal Justice40 Initiative  
5 “with the goal of delivering 40 percent of the overall benefits of  
6 relevant federal investments to disadvantaged communities.”  
7 (b) On May 28, 2021, the White House Environmental Justice  
8 Advisory Committee submitted its final recommendations on the  
9 federal Justice40 Initiative to President Biden. This included the  
10 request “that there must be a transformative and accountable  
11 process developed for the fair and just distribution of 40% or more  
12 of the benefits to be invested in frontline communities. Otherwise,  
13 the investment will not reach frontline communities, given the bias  
14 and ambivalence of many state and local governments, and the

1 systemic racial bias, inertia, and resistance to change that we must  
2 never underestimate.”

3 (c) On November 15, 2021, President Biden signed into law the  
4 federal Infrastructure Investment and Jobs Act (Public Law  
5 117-58), hereinafter “IIJA.”

6 (d) On the same day, President Biden also signed Executive  
7 Order 14052, which was published on November 18, 2021, stating  
8 that implementation of the IIJA should prioritize “investing public  
9 dollars equitably, including through the [federal] Justice40  
10 Initiative, which is a Government-wide effort toward a goal that  
11 40 percent of overall benefits from Federal investments in climate  
12 change and clean energy flow to disadvantaged communities.”

13 (e) Throughout the history of the United States, racist  
14 infrastructure policies and investments have cemented inequities  
15 in housing, education, economic opportunity, health, and  
16 environmental pollution. These inequities lock millions of  
17 Americans out of prosperity and opportunity, nowhere more so  
18 than in low-income communities of color.

19 (f) California has its own legacy of creating, upholding, or  
20 exacerbating inequities through infrastructure investments.  
21 California’s highway system was often built in ways that broke  
22 up Black, Indigenous, and people of color communities, forcing  
23 the destruction of homes and displacing residents.

24 (g) Equity should be a primary consideration in determining  
25 how to spend billions of dollars in infrastructure investments to  
26 deliver jobs and other benefits where they are needed most.

27 (h) This is a historic moment to seize the opportunities provided  
28 by the IIJA and the federal Justice40 Initiative to reverse inequities  
29 and build a new vision of infrastructure as the foundation for an  
30 inclusive society.

31 (i) States must play a crucial role in achieving the goals of the  
32 federal Justice40 Initiative by ensuring that these investments  
33 target and benefit disadvantaged communities, especially those  
34 harmed by the long history of inequitable and racist policies.

35 (j) On September 1, 2021, Governor Newsom joined a group  
36 of 10 governors to submit a letter to Congressional leaders  
37 requesting that “any infrastructure package ensure 40 percent of  
38 the benefits of climate and clean infrastructure investments are  
39 directed to disadvantaged communities and invests in rural

1 communities and communities impacted by the market-based  
2 transition to clean energy.”

3 (k) California’s disadvantaged communities need significant  
4 improvements in the areas of public transit, broadband access,  
5 water systems, and climate resilience throughout the state.

6 (l) Committing to the federal Justice40 Initiative could help  
7 provide, among other things, better and less polluting public transit,  
8 reliable and affordable high-speed internet access, and clean  
9 drinking water to those communities.

10 (m) California is committed to being a leader in the push for a  
11 cleaner and more just future.

12 SEC. 2. Part 3.2 (commencing with Section 71119) is added  
13 to Division 34 of the Public Resources Code, to read:

14  
15 PART 3.2. CALIFORNIA JUSTICE40 ACT

16  
17 71119. This part shall be known, and may be cited, as the  
18 California Justice40 Act.

19 71119.1. (a) For purposes of this section, the following  
20 definitions apply:

21 (1) “Committee” means the Justice40 Oversight Committee  
22 established pursuant to subdivision (i).

23 (2) “Council” means the Strategic Growth Council established  
24 pursuant to subdivision (a) of Section 75121.

25 (3) “Covered program” means a federal government program,  
26 as outlined in the Interim Implementation Guidance for the  
27 Justice40 Initiative (*Justice40 Initiative*) released by the Office of  
28 Management and Budget (M-21-28), that makes covered  
29 investment benefits in one or more of the following areas:

30 (A) Climate change.

31 (B) Clean energy and energy efficiency.

32 (C) Clean transportation.

33 (D) Affordable and sustainable housing.

34 (E) Training and workforce development related to climate,  
35 natural disasters, environment, clean energy, clean transportation,  
36 housing, water and wastewater infrastructure, and legacy pollution  
37 reduction, including in energy communities.

38 (F) Remediation and reduction of legacy pollution.

39 (G) Critical clean water and waste infrastructure.



1 (4) “Disadvantaged community” means a community identified  
2 as disadvantaged pursuant to Section 39711 of the Health and  
3 Safety Code.

4 (5) “Federal act” means the federal Infrastructure Investment  
5 and Jobs Act (Public Law 117-58).

6 (6) “Federal funds” means moneys received by the state under  
7 the federal ~~act~~, *act and other federal moneys for covered programs*  
8 *that fall under the Justice40 Initiative*.

9 (7) “Infrastructure” means all sectors included in the federal  
10 act, including, but not limited to, transportation, water, energy,  
11 broadband, and resilience and rehabilitation of the nation’s natural  
12 resources.

13 (8) “Low-income communities” are census tracts with median  
14 household incomes at or below 80 percent of the statewide median  
15 income or with median household incomes at or below the  
16 threshold designated as low income by the Department of Housing  
17 and Community Development’s list of state income limits adopted  
18 pursuant to Section 50093 of the Health and Safety Code.

19 (9) “Low-income households” are those with household incomes  
20 at or below 80 percent of the statewide median income or with  
21 household incomes at or below the threshold designated as low  
22 income by the Department of Housing and Community  
23 Development’s list of state income limits adopted pursuant to  
24 Section 50093 of the Health and Safety Code.

25 (b) (1) ~~In—allocating administering federal—funds, funds~~  
26 *appropriated by the Legislature, a state agency shall allocate a*  
27 *minimum of 40 percent of the federal those funds—shall be allocated*  
28 *to projects that provide direct benefits to disadvantaged*  
29 *communities in the state.*

30 (2) ~~In—allocating administering federal—funds, funds~~  
31 *appropriated by the Legislature, a state agency shall allocate a*  
32 *minimum of an additional 10 percent of the federal those funds*  
33 *shall be allocated* to projects that provide direct benefits to  
34 low-income households in the state or to projects that provide  
35 direct benefits to low-income communities in the state.

36 (c) *When a state agency makes a request to the Legislature to*  
37 *expend federal funds for a covered program, the state agency shall*  
38 *submit to the appropriate subcommittees of the Budget Committees*  
39 *of each house of the Legislature a plan on how the state agency*  
40 *will meet the requirements of subdivision (b).*

1     (d) *Each state agency receiving federal funds appropriated in*  
2 *the annual Budget Act shall annually provide an update to the*  
3 *appropriate subcommittees of the Budget Committee of each house*  
4 *of the Legislature on how the state agency is meeting the*  
5 *requirements of subdivision (b) until the appropriated moneys are*  
6 *fully expended.*

7     ~~(e)~~

8     (e) All investments of federal funds shall avoid substantial  
9 burdens to disadvantaged communities, low-income communities,  
10 and low-income households, including physical or economic  
11 displacement of low-income households and small businesses in  
12 disadvantaged communities and low-income communities,  
13 increased local exposure to toxics or other health risks, or other  
14 substantial economic, environmental, or public health burdens.

15     ~~(f)~~

16     (f) All investments of federal funds shall maximize economic  
17 cobenefits by including labor and workforce standards, and give  
18 preference to projects that include wage standards, targeted hire  
19 provisions for disadvantaged and underrepresented workers, project  
20 labor agreements, community workforce agreements, and  
21 community benefits agreements.

22     (g) *A state agency administering federal funds appropriated by*  
23 *the Legislature shall do all of the following:*

24     ~~(e) A public agency administering federal funds shall maximize~~

25     (1) *Maximize* benefits for disadvantaged communities,  
26 low-income households, and low-income communities in alignment  
27 with the framework established by the investment plan developed  
28 by the State Air Resources Board pursuant to Chapter 4.1  
29 (commencing with Section 39710) of Part 2 of Division 26 of the  
30 Health and Safety Code.

31     ~~(f) Administering agencies shall conduct,~~

32     (2) *Conduct*, or participate in, outreach and engagement and  
33 require qualifying projects to demonstrate community support to  
34 improve funding accessibility and to maximize participation by,  
35 and benefits to, disadvantaged communities, low-income  
36 communities, and low-income households.

37     ~~(g) A public agency administering federal funds shall consider~~

38     (3) *Consider* a project's potential impacts on goals that include,  
39 but are not limited to, advancing environmental justice, reducing  
40 emissions of greenhouse gases, promoting climate adaptation and

1 resilience, meaningfully consulting with and incorporating input  
2 from communities, promoting registered apprenticeship and  
3 preapprenticeship programs, and creating high-road jobs.

4 ~~(h) A state agency administering federal funds shall annually~~  
5 (4) *Annually* report on, and make available to the public, the  
6 state agency's activities and progress toward *meeting the*  
7 *requirements of subdivision (b), including* implementing the  
8 committee's recommendations ~~and once released~~, the use of federal  
9 funds for projects, ~~including~~ the total amount of federal funds  
10 disbursed, the entities that received federal funds, and the projects  
11 ~~funded. funded by the federal funds.~~

12 ~~(i)~~  
13 (h) The Justice<sup>40</sup> Oversight Committee is hereby established  
14 in the Strategic Growth Council to do all of the following:

15 (1) Identify infrastructure deficiencies in disadvantaged  
16 communities and low-income communities throughout the state.

17 ~~(2) Recommend climate, clean energy, and infrastructure~~  
18 ~~projects under any covered program~~ for federal funding.

19 (3) Recommend climate and labor standards for projects that  
20 receive federal funds.

21 ~~(j)~~  
22 (i) (1) The committee shall consist of the following members:  
23 (A) Not less than eight members appointed by the Governor as  
24 follows:

25 (i) At least one representative of a Native American tribal  
26 community.

27 (ii) At least one representative of a local or regional group that  
28 works on environmental issues affecting frontline communities.

29 (iii) A representative of a local or regional group that works on  
30 transportation equity.

31 (iv) A representative of an environmental justice organization.

32 (v) At least one representative of an equity- or racial  
33 justice-focused organization that works with a disadvantaged  
34 community.

35 (vi) At least one representative of a local or regional group that  
36 works with a low-income community.

37 (vii) A representative of a public sector labor union.

38 (viii) A representative from a labor union that represents  
39 building and construction trades.

40 (B) Two members appointed as follows:

1 (i) One public member appointed by the Speaker of the  
2 Assembly.

3 (ii) One public member appointed by the Senate Committee on  
4 Rules.

5 (2) Committee members shall serve on the committee without  
6 compensation, but may be reimbursed for their actual expenses  
7 incurred in connection with their duties as members of the  
8 committee.

9 ~~(k) The committee shall work with the California Environmental  
10 Protection Agency, the Transportation Agency, and other  
11 appropriate entities to implement this section.~~

12 ~~(l) The~~  
13 *(j) Each state agency receiving federal funds appropriated by*  
14 *the Legislature shall provide to the council information in the*  
15 *report specified in paragraph (4) of subdivision (g). The council*  
16 *shall track the use of federal funds and make that information*  
17 *available to the committee and to the public on the council's*  
18 *internet website the tracking information website.*

19 ~~(m)~~  
20 *(k) A public state agency administering federal funds shall*  
21 *coordinate with the council's Community Assistance for Climate*  
22 *Equity Program to assist communities in applying for, and*  
23 *accessing, federal funds for infrastructure projects.*

24 ~~(n)~~  
25 *(l) (1) On or before December 31, 2024, the committee shall*  
26 *submit an interim report to the Legislature, and to the council at*  
27 *a public meeting of the council, that identifies infrastructure*  
28 *deficiencies in disadvantaged communities, recommends*  
29 *infrastructure projects, provides agency guidelines on the climate*  
30 *and labor standards developed pursuant to paragraph (3) of*  
31 *subdivision (i), and reports on the expenditure of federal funds.*

32 *(2) On or before December 31, 2027, the committee shall submit*  
33 *a final report to the Legislature, and to the council at a public*  
34 *meeting of the council, on the expenditure of federal funds and*  
35 *that includes an evaluation of state agencies' success in meeting*  
36 *the climate and labor standards developed pursuant to paragraph*  
37 *(3) of subdivision (i).*

38 *(3) The reports submitted to the Legislature pursuant to*  
39 *paragraphs (1) and (2) shall be submitted in accordance with*  
40 *Section 9795 of the Government Code.*

(4) The council shall make available to the public on its internet website the reports required pursuant to paragraphs (1) and (2).

(~~⊖~~)

(~~m~~) This ~~section~~ *part* shall remain in effect only until January 1, 2031, or January 1 of the year following the date of the submission of the *final* report, whichever is earlier, and as of that date is repealed.

REVISIONS:

Heading—Line 2.

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AMENDED IN ASSEMBLY APRIL 19, 2022

AMENDED IN ASSEMBLY MARCH 22, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

## ASSEMBLY BILL

No. 2639

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### Introduced by Assembly Member Quirk

February 18, 2022

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An act to add Section 13170.6 to the Water Code, relating to water.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2639, as amended, Quirk. ~~Water—San Francisco Bay/Sacramento-San Joaquin Delta Estuary: water quality control plans and plan: water rights right permits.~~

Existing law establishes the State Water Resources Control Board and the 9 California regional water quality control boards as the principal state agencies with authority over matters relating to water quality. Existing law requires the state board to formulate and adopt state policy for water quality control. Existing law authorizes the state board to adopt water quality control plans for waters that require water quality standards pursuant to the Federal Water Pollution Control Act, and provides that those plans supersede any regional water quality control plans for the same waters to the extent of any conflict.

This bill would require the state board, on or before December 31, 2023, to adopt a final update of the 1995 Water Quality Control Plan for the ~~Bay-Delta, San Francisco Bay/Sacramento-San Joaquin Delta Estuary~~, as specified, and to implement the amendments to the ~~Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary plan~~ adopted by the state board pursuant to Resolution No. 2018-0059 on December 12, 2018. The bill would prohibit the state

~~board~~ board, on or after January 1, 2024, from approving ~~any~~ a new water right ~~permits or extensions of time for any existing permits~~ resulting permit that would result in new or increased diversions to surface water storage from the Sacramento River/San Joaquin River watershed until *and unless* the state board has taken those actions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 13170.6 is added to the Water Code, to  
2 read:

3 13170.6. (a) The board shall, on or before December 31, 2023,  
4 adopt a final update of the 1995 Water Quality Control Plan for  
5 the ~~Bay-Delta~~ San Francisco Bay/Sacramento-San Joaquin Delta  
6 Estuary adopted by the board in Resolution No. 95-24 on May 22,  
7 1995, as amended by the 2006 amendment adopted by the board  
8 in Resolution No. 2006-0098 on December 13, 2006.

9 (b) The board shall, on or before December 31, 2023, through  
10 regulation or other appropriate implementation methods, implement  
11 the amendments to the Water Quality Control Plan for the San  
12 Francisco Bay/Sacramento-San Joaquin Delta Estuary adopted by  
13 the board pursuant to Resolution No. 2018-0059 on December 12,  
14 2018.

15 (c) ~~The~~ On or after January 1, 2024, the board shall not approve  
16 ~~any~~ a new water right ~~permits or extensions of time for any existing~~  
17 ~~permits~~ resulting permit that would result in new or increased  
18 diversions to surface water storage from the Sacramento River/San  
19 Joaquin River watershed until *and unless* the board has taken the  
20 actions described in subdivisions (a) and (b).



AMENDED IN ASSEMBLY APRIL 27, 2022

AMENDED IN ASSEMBLY MARCH 17, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2895**

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**Introduced by Assembly Member Arambula**

February 18, 2022

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An act to amend Sections 1015, 1725, and 1726 of, to amend, renumber, and add Section 1727 of, to add Section 1725.5 to, and to repeal Section 1728 of, the Water Code, relating to water.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2895, as amended, Arambula. Water: permits and licenses: temporary changes: water or water rights transfers.

Under existing law, the State Water Resources Control Board administers a water rights program pursuant to which the board grants permits and licenses to appropriate water. Existing law authorizes a permittee or licensee to temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of the water, and would not unreasonably affect fish, wildlife, or other instream beneficial uses.

Existing law prescribes the process for a permittee or licensee to petition the board for a temporary change due to a transfer or exchange of water rights and subsequent notice, decision, and hearing requirements by the board. Under that process, a petitioner is required to publish notice of a petition in a newspaper, as specified. Existing law

requires a petition to contain specified information and requires a petitioner to provide a copy of the petition to the Department of Fish and Wildlife, the board of supervisors of the county or counties in which the petitioner currently stores or uses the water subject to the petition, and the board of supervisors of the county or counties to which the water is proposed to be transferred.

Existing law authorizes a person entitled to the use of water to petition the board for a change for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation and authorizes the board to approve the petition only if certain requirements are met. Existing law authorizes that petition to be submitted pursuant to specified existing law, including, among other existing law, the provisions regulating temporary changes due to a transfer or exchange of water rights.

This bill would revise and recast the provisions regulating temporary changes due to a transfer or exchange of water rights, including, among other revisions, specifying that those provisions apply to a person who proposes a temporary change for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation. The bill would delete the requirement that a petitioner publish notice of a petition in a newspaper and would additionally require the petition to include documentation of consultation with the Department of Fish and Wildlife.

The bill would revise the definition of “temporary change” for purposes of these provisions and make related changes. The bill would establish a new process for petitions for a temporary change due to a transfer or exchange of water rights and subsequent notice, decision, and hearing requirements by the board for which notice is submitted to the board no later than January 31 of the year in which the transfer will be initiated. Under this new process, the board would be required, among other things, to post on its internet website and disseminate by email LISTSERV by February 15 of each year a list of all timely and complete notices for which notice is filed.

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

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

1     SECTION 1. Section 1015 of the Water Code is amended to  
2     read:

1015. During the term of a temporary change, as defined in Section 1725.5, if an enforcement action or other proceeding is commenced that alleges that the use of water violates Section 2 of Article X of the California Constitution, Sections 100, 101, 1410, and 1675, or any other legislative, administrative, or judicial limitation on the water that is subject to that water transfer and the water involved is, at the time of the alleged violation, subject to a water transfer, the determination of the alleged violation shall be based on an assessment of the transferee's use of transferred water. If a transferee's right to use transferred water is divested, in whole or in part, on the basis of the transferee's abandonment, forfeiture, waste, or unreasonable use of the transferred water, the divested portion of the right shall revert immediately to the transferor.

SEC. 2. Section 1725 of the Water Code is amended to read:

1725. (a) A permittee or licensee may temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of the water, and would not unreasonably affect fish, wildlife, or other instream beneficial uses.

(b) The provisions of this article applicable to a permittee or licensee proposing a temporary change apply to a person entitled to the use of water who proposes pursuant to this article a temporary change under Section 1707 and the temporary change shall be deemed a transfer of water or water rights.

SEC. 3. Section 1725.5 is added to the Water Code, to read:

1725.5. For purposes of this article, the following definitions apply:

(a) "Consumptively used" means the amount of water that has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.

(b) "Temporary change" means a change involving a transfer of water or water rights for a period of one year or less. The one-year period does not include any time required for monitoring, reporting, or mitigation before or after the temporary change is carried out. If, within a period of one year or less, the water involved in the temporary change is moved to offstream storage

1 outside of the watershed where the water originated, the change  
2 shall be considered a temporary change, and the water moved to  
3 offstream storage outside the watershed where the water originated  
4 may be put to beneficial use in the place of use and for the purposes  
5 of use specified in the board's order approving the temporary  
6 change either during or after that period.

7 (c) "Transfer" includes an exchange of water or water rights.

8 SEC. 4. Section 1726 of the Water Code is amended to read:

9 1726. (a) (1) A permittee or licensee who proposes a  
10 temporary change shall submit to the board a petition to change  
11 the terms of the permit or license as required to accomplish the  
12 proposed temporary change. The petition for a temporary change  
13 shall be filed by the permittee or licensee. If the proposed  
14 temporary change is for the benefit of a contractor or user supplied  
15 directly or indirectly by the permittee or licensee, the permittee or  
16 licensee may authorize the contractor or user to participate as a  
17 copetitioner. The permittee or licensee shall identify any  
18 copetitioner in the petition.

19 (2) A contractor or user described in paragraph (1), whether or  
20 not designated as a copetitioner, and the person to whom the water  
21 is proposed to be transferred, shall be named as parties to the  
22 proceeding, with the same rights to receive notices, respond to  
23 board determinations, and petition for writ of mandate as the  
24 petitioner.

25 (b) In order to be complete, a petition shall include all of the  
26 following:

27 (1) Reference to the permit or license, or to the water right  
28 proposed to be changed under Section 1707, that serves as the  
29 basis for the water transfer.

30 (2) A written description of the changes in water storage, timing,  
31 point of diversion, place and purpose of use, point of return flow,  
32 water quality, or instream flows that are likely to occur as a result  
33 of the proposed temporary change.

34 (3) Documentation of consultation with the Department of Fish  
35 and Wildlife.

36 (c) A petitioner shall provide a copy of the complete petition to  
37 the Department of Fish and Wildlife, the board of supervisors of  
38 the county or counties in which the petitioner currently stores or  
39 uses the water subject to the petition, and the board of supervisors

1 of the county or counties to which the water is proposed to be  
2 transferred.

3 (d) The board shall, in a timely manner, provide to the petitioner  
4 a list of water right holders of record on file with the board who  
5 may be affected by the transfer, and the petitioner shall provide  
6 written notice to those water right holders ~~by a not later than 15~~  
7 ~~days after the date specified by on which the board petition is~~  
8 ~~submitted.~~ The board shall post the notice of petition on its internet  
9 ~~website. website not later than 15 days after the date on which the~~  
10 ~~petition is submitted.~~ The notice of the petition shall specify the  
11 date on which comments are due. The board may impose on the  
12 petitioner any other notice requirement it determines to be  
13 necessary.

14 (e) ~~After~~ *Within 15 days of the date of* receipt of a complete  
15 petition, the board shall commence an investigation of the proposed  
16 temporary change. Pursuant to that investigation, the board shall  
17 determine if the water proposed to be transferred would have been  
18 consumptively used or stored pursuant to the petitioner's permit  
19 or license in the absence of the proposed transfer or conserved  
20 pursuant to Section 1011. The board also shall evaluate the changes  
21 in water storage, timing, point of diversion, place and purpose of  
22 use, point of return flow, water quality, instream flows, and other  
23 changes that are likely to occur as a result of the proposed  
24 temporary change.

25 (f) Water users that may be affected by a proposed temporary  
26 change and any other interested party may file a written comment  
27 regarding a petition with the board. Comments shall be filed not  
28 later than 30 days after the date that the notice was provided  
29 pursuant to subdivision (d). The board shall evaluate and take into  
30 consideration all comments that are filed in a timely manner.

31 (g) *(1) Except as specified in paragraphs (2) and (3), the board*  
32 *shall render a decision on the petition not later than 55 days after*  
33 *the date that investigation commenced or the date that the notice*  
34 *was distributed, whichever is later. The board's decision shall be*  
35 *in accordance with the substantive standards set forth in Section*  
36 *1728. The board shall explain its decision in writing and shall*  
37 *send copies of the decision to the petitioner, the Department of*  
38 *Fish and Wildlife, the board of supervisors of the county or*  
39 *counties described in subdivision (c), the proposed transferee, and*

1 any party who has filed a written comment in accordance with  
2 subdivision (f).

3 (2) If comments are filed in accordance with subdivision (f), or  
4 for any other good cause, the board may extend the date of its  
5 decision for up to 20 days.

6 (3) If the board or the petitioner determines that an additional  
7 extension of time for a decision is necessary for the board to make  
8 the findings required by Section 1728, the board may extend the  
9 time for a decision with the consent of the petitioner.

10 ~~(g)~~

11 (4) If the board determines that a hearing is necessary, the  
12 timeline described in paragraph (1) shall not apply. The board  
13 shall identify the issues for which additional evidence is required  
14 and shall fix a time and place for the hearing. The board shall  
15 provide notice of the time, place, and subject matter of the hearing  
16 to the petitioner, the Department of Fish and Wildlife, the board  
17 of supervisors of the county or counties described in subdivision  
18 (c), the water right holders of record identified pursuant to  
19 subdivision (d), the proposed transferee, and any party who has  
20 filed a written comment in accordance with subdivision (f).

21 SEC. 5. Section 1727 of the Water Code is amended and  
22 renumbered to read:

23 1728. (a) The board shall review a petition for a temporary  
24 change of water rights in accordance with this section.

25 (b) The board shall approve a temporary change if it determines  
26 that a preponderance of the evidence shows both of the following:

27 (1) The proposed temporary change would not injure any legal  
28 user of the water, during any potential hydrologic condition that  
29 the board determines is likely to occur during the proposed change,  
30 through significant changes in water quantity, water quality, timing  
31 of diversion or use, consumptive use of the water, or reduction in  
32 return flows.

33 (2) The proposed temporary change would not unreasonably  
34 affect fish, wildlife, or other instream beneficial uses.

35 (c) The petitioner shall have the burden of establishing that a  
36 proposed temporary change would comply with paragraphs (1)  
37 and (2) of subdivision (b). If the board determines that that  
38 petitioner has established a prima facie case, the burden of proof  
39 shall shift to any party that has filed a comment pursuant to  
40 subdivision (f) of Section 1726 to prove that the proposed

1 temporary change would not comply with paragraphs (1) and (2)  
2 of subdivision (b). The board may make a determination required  
3 by this subdivision without a hearing.

4 (d) In reviewing a petition for a temporary change, the board  
5 shall not modify any term or condition of the petitioner's permit  
6 or license, including those terms that protect other legal users of  
7 water, fish, wildlife, and other instream beneficial uses, except as  
8 necessary to carry out the temporary change in accordance with  
9 this article.

10 (e) In applying the standards set forth in paragraphs (1) and (2)  
11 of subdivision (b), the board shall not deny, or place conditions  
12 on, a temporary change to avoid or mitigate impacts that are not  
13 caused by the temporary change. Neither the Department of Fish  
14 and Wildlife, nor any other state agency that comments on the  
15 proposed temporary change, shall propose conditions to mitigate  
16 effects on fish, wildlife, or other instream beneficial uses that are  
17 not caused by the proposed temporary change. This subdivision  
18 does not limit the board, the Department of Fish and Wildlife, or  
19 any other state agency, in proceedings pursuant to any provision  
20 of law other than this article.

21 (f) The board shall explain its decision on a petition in writing  
22 and provide copies of the decision to the petitioner, the Department  
23 of Fish and Wildlife, the board of supervisors of the county or  
24 counties in which the petitioner currently stores or uses the water  
25 subject to the petition, the board of supervisors of the county or  
26 counties to which the water is proposed to be transferred, the  
27 proposed transferee, and any party who has filed a written comment  
28 on the petition.

29 SEC. 6. Section 1727 is added to the Water Code, to read:

30 1727. (a) This section applies to a petition for temporary  
31 change for which notice is provided to the board under this section  
32 no later than January 31 of the year in which the transfer will be  
33 initiated.

34 (b) A permittee or licensee considering a temporary change may  
35 provide notice to the board as provided in this section. The notice  
36 shall be in a form required by the board and shall include all of  
37 the following:

38 (1) The permit or license number, or the water right proposed  
39 to be changed under Section 1707, being considered for a  
40 temporary change.

1 (2) The method by which water will be made available for the  
2 transfer.

3 (3) An email address to which interested parties or the board  
4 may submit inquiries regarding the potential temporary change.

5 (c) By February 15 of each year, the board shall post on its  
6 internet website and disseminate by email LISTSERV a list of all  
7 timely and complete notices for which notice is filed under this  
8 section.

9 (d) By March 1 of each year, an interested person may request  
10 notice of a petition submitted under Section 1726 by submitting  
11 to the board that person's email address, the permit or license, or  
12 water right to be changed under Section 1707, for which the  
13 interested person requests notice of a petition for temporary change,  
14 and the concerns related to effects on other legal users, fish,  
15 wildlife, instream beneficial uses, or groundwater conditions the  
16 person may raise in comments on the petition.

17 (e) A petition for a temporary change submitted under Section  
18 1726 for which notice is provided under this section shall describe  
19 the efforts that were made or approval conditions developed to  
20 resolve potential concerns identified in subdivision (d).

21 (f) After submittal of a complete petition for which notice is  
22 provided under this section, the board shall provide notice of the  
23 petition by sending a copy to all persons who submitted complete  
24 requests under subdivision (d), posting the petition on its internet  
25 website, and disseminating the petition by email LISTSERV. Any  
26 interested party may file a written comment on the petition not  
27 later than 30 days after submittal of a complete petition.

28 (g) The board shall issue a decision within 35 days after  
29 submittal of a complete petition for which notice is provided under  
30 this section. If comments are filed in accordance with subdivision  
31 (f), or for any other good cause, the board may extend the date of  
32 its decision for up to 20 days. If the board or the petitioner  
33 determines that an additional extension of time for a decision is  
34 necessary for the board to make the findings required by Section  
35 1728, or that a hearing is necessary for the board to make those  
36 findings, the board may extend the time for a decision with the  
37 consent of the petitioner.

38 SEC. 7. Section 1728 of the Water Code is repealed.

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AMENDED IN SENATE MARCH 15, 2022

**SENATE BILL**

**No. 1392**

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**Introduced by Senator McGuire**

February 18, 2022

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~~An act relating to fish and wildlife.~~ *An act to amend Sections 7381 and 7382 of the Fish and Game Code, relating to fishing, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1392, as amended, McGuire. ~~Fish and wildlife.~~ *Fish and wildlife: steelhead trout: fishing report-restoration card.*

*Existing law, until July 1, 2022, requires a person taking steelhead trout in inland waters to possess a steelhead trout fishing report-restoration card, issued by the Department of Fish and Wildlife for a specified fee, on which the person is required to record certain information for the department when catching steelhead trout. Upon appropriation by the Legislature, moneys from the fees are required to be expended only to monitor, restore, or enhance steelhead trout resources and to administer the fishing report-restoration card program. Existing law requires the department to report to the Legislature on or before July 1, 2021, regarding the steelhead trout projects undertaken using these revenues, the benefits derived, and its recommendations for revising the fishing report-restoration card requirement, if any.*

*This bill would extend the operation of this report-restoration card program until January 1, 2028. The bill would require the department to report to the Legislature regarding those same steelhead trout fishing report-restoration card program issues again on or before July 1, 2026.*

*Because this bill would extend the operation of the fishing report-restoration card requirements, the violation of which would be a crime, it would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

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

~~Existing law establishes the Department of Fish and Wildlife and prescribes the functions and responsibilities of the department with regard to the implementation, administration, and enforcement of laws regulating fish and wildlife in the state.~~

~~This bill would declare the intent of the Legislature to enact subsequent legislation relating to fisheries and aquaculture.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

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

1     SECTION 1. Section 7381 of the Fish and Game Code is  
2     amended to read:

3     7381. (a) Revenue received pursuant to Section 7380 may be  
4     expended, upon appropriation by the Legislature, only to monitor,  
5     restore, or enhance steelhead trout resources consistent with  
6     Sections 6901 and 6902, and to administer the fishing  
7     report-restoration card program. The department shall submit all  
8     proposed expenditures, including proposed expenditures for  
9     administrative purposes, to the Advisory Committee on Salmon  
10    and Steelhead Trout for review and comment before submitting a  
11    request for inclusion of the appropriation in the annual Budget  
12    Bill. Act. The committee may recommend revisions in any  
13    proposed expenditure to the Legislature and the commission.

14    (b) The department shall report to the Legislature on or before  
15    July 1, ~~2021~~, 2026, regarding the steelhead trout fishing  
16    report-restoration card program's projects undertaken using  
17    revenues derived pursuant to that program, the benefits derived,  
18    and its recommendations for revising the fishing report-restoration

1 card requirement, if any. The report submitted pursuant to this  
2 subdivision shall be submitted in compliance with Section 9795  
3 of the Government Code.

4 *SEC. 2. Section 7382 of the Fish and Game Code is amended*  
5 *to read:*

6 7382. This article shall ~~become inoperative on July 1, 2022,~~  
7 ~~and, as of remain in effect only until January 1, 2023, is repealed,~~  
8 ~~unless a later enacted statute 2028, and as of that date is enacted~~  
9 ~~before January 1, 2023, deletes or extends the dates on which it~~  
10 ~~becomes inoperative and is repealed.~~

11 *SEC. 3. No reimbursement is required by this act pursuant to*  
12 *Section 6 of Article XIII B of the California Constitution because*  
13 *the only costs that may be incurred by a local agency or school*  
14 *district will be incurred because this act creates a new crime or*  
15 *infraction, eliminates a crime or infraction, or changes the penalty*  
16 *for a crime or infraction, within the meaning of Section 17556 of*  
17 *the Government Code, or changes the definition of a crime within*  
18 *the meaning of Section 6 of Article XIII B of the California*  
19 *Constitution.*

20 *SEC. 4. This act is an urgency statute necessary for the*  
21 *immediate preservation of the public peace, health, or safety within*  
22 *the meaning of Article IV of the California Constitution and shall*  
23 *go into immediate effect. The facts constituting the necessity are:*

24 *In order to ensure the sustainability of steelhead trout and to*  
25 *extend the operation of the fishing report-restoration card*  
26 *program, it is necessary for this act to take effect immediately.*

27 ~~SECTION 1. It is the intent of the Legislature to enact~~  
28 ~~subsequent legislation relating to fisheries and aquaculture.~~

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**Introduced by Committee on Governance and Finance (Senators  
Caballero (Chair), Durazo, Hertzberg, Nielsen, and Wiener)**

February 28, 2022

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An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1490, as introduced, Committee on Governance and Finance. Validations.

This bill would enact the First Validating Act of 2022, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

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

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

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

1 SECTION 1. This act shall be known, and may be cited, as the  
2 First Validating Act of 2022.

3 SEC. 2. As used in this act:

4 (a) "Public body" means all of the following:

5 (1) The state and all departments, agencies, boards,  
6 commissions, and authorities of the state. Except as provided in  
7 paragraph (2), "public body" also means all cities, counties, cities

1 and counties, districts, authorities, agencies, boards, commissions,  
2 and other entities, whether created by a general statute or a special  
3 act, including, but not limited to, the following:

4 Agencies, boards, commissions, or entities constituted or  
5 provided for under or pursuant to the Joint Exercise of Powers Act  
6 (Chapter 5 (commencing with Section 6500) of Division 7 of Title  
7 1 of the Government Code).

8 Affordable housing authorities.

9 Air pollution control districts of any kind.

10 Air quality management districts.

11 Airport districts.

12 Assessment districts, benefit assessment districts, and special  
13 assessment districts of any public body.

14 Bridge and highway districts.

15 California water districts.

16 Citrus pest control districts.

17 City maintenance districts.

18 Community college districts.

19 Community development commissions in their capacity to act  
20 as a housing authority for other community development purposes  
21 of the jurisdiction in which the commission operates, except for  
22 any action taken with respect to the commission's authority to act  
23 as a community redevelopment agency.

24 Community facilities districts.

25 Community rehabilitation districts.

26 Community revitalization and investment authorities.

27 Community services districts.

28 Conservancy districts.

29 Cotton pest abatement districts.

30 County boards of education.

31 County drainage districts.

32 County flood control and water districts.

33 County free library systems.

34 County maintenance districts.

35 County sanitation districts.

36 County service areas.

37 County transportation commissions.

38 County water agencies.

39 County water authorities.

40 County water districts.

- 1 County waterworks districts.
- 2 Department of Water Resources and other agencies acting
- 3 pursuant to Part 3 (commencing with Section 11100) of Division
- 4 6 of the Water Code.
- 5 Distribution districts of any public body.
- 6 Districts acting pursuant to Section 53395.82 of the Government
- 7 Code.
- 8 Drainage districts.
- 9 Enhanced infrastructure financing districts.
- 10 Fire protection districts.
- 11 Flood control and water conservation districts.
- 12 Flood control districts.
- 13 Garbage and refuse disposal districts.
- 14 Garbage disposal districts.
- 15 Geologic hazard abatement districts.
- 16 Harbor districts.
- 17 Harbor improvement districts.
- 18 Harbor, recreation, and conservation districts.
- 19 Health care authorities.
- 20 Highway districts.
- 21 Highway interchange districts.
- 22 Highway lighting districts.
- 23 Housing authorities.
- 24 Improvement districts or improvement areas of any public body.
- 25 Industrial development authorities.
- 26 Infrastructure financing districts.
- 27 Integrated financing districts.
- 28 Irrigation districts.
- 29 Joint highway districts.
- 30 Levee districts.
- 31 Library districts.
- 32 Library districts in unincorporated towns and villages.
- 33 Local agency formation commissions.
- 34 Local health care districts.
- 35 Local health districts.
- 36 Local hospital districts.
- 37 Local transportation authorities or commissions.
- 38 Maintenance districts.
- 39 Memorial districts.
- 40 Metropolitan transportation commissions.

- 1 Metropolitan water districts.
- 2 Mosquito abatement and vector control districts.
- 3 Multifamily improvement districts.
- 4 Municipal improvement districts.
- 5 Municipal utility districts.
- 6 Municipal water districts.
- 7 Nonprofit corporations.
- 8 Nonprofit public benefit corporations.
- 9 Open-space maintenance districts.
- 10 Parking and business improvement areas.
- 11 Parking authorities.
- 12 Parking districts.
- 13 Permanent road divisions.
- 14 Pest abatement districts.
- 15 Police protection districts.
- 16 Port districts.
- 17 Property and business improvement areas.
- 18 Protection districts.
- 19 Public cemetery districts.
- 20 Public utility districts.
- 21 Rapid transit districts.
- 22 Reclamation districts.
- 23 Recreation and park districts.
- 24 Regional justice facility financing agencies.
- 25 Regional park and open-space districts.
- 26 Regional planning districts.
- 27 Regional transportation commissions.
- 28 Resort improvement districts.
- 29 Resource conservation districts.
- 30 River port districts.
- 31 Road maintenance districts.
- 32 Sanitary districts.
- 33 School districts of any kind or class.
- 34 School facilities improvement districts.
- 35 Separation of grade districts.
- 36 Service authorities for freeway emergencies.
- 37 Sewer districts.
- 38 Sewer maintenance districts.
- 39 Small craft harbor districts.
- 40 Special municipal tax districts.



1 Stone and pome fruit pest control districts.  
2 Storm drain maintenance districts.  
3 Storm drainage districts.  
4 Storm drainage maintenance districts.  
5 Stormwater districts.  
6 Toll tunnel authorities.  
7 Traffic authorities.  
8 Transit development boards.  
9 Transit districts.  
10 Unified and union school districts' public libraries.  
11 Vehicle parking districts.  
12 Water agencies.  
13 Water authorities.  
14 Water conservation districts.  
15 Water districts.  
16 Water replenishment districts.  
17 Water storage districts.  
18 Watermaster districts.  
19 Wine grape pest and disease control districts.  
20 Zones, improvement zones, or service zones of any public body.  
21 (2) Notwithstanding paragraph (1), a "public body" does not  
22 include any of the following:  
23 (A) A community redevelopment agency formed pursuant to  
24 the Community Redevelopment Law (Part 1 (commencing with  
25 Section 33000) of Division 24 of the Health and Safety Code).  
26 (B) A community development commission, with respect to its  
27 exercise of the powers of a community redevelopment agency.  
28 (C) A joint powers authority that includes a community  
29 redevelopment agency or a community development commission  
30 as a member, with respect to its exercise of the powers of a  
31 community redevelopment agency.  
32 (3) "Public body" includes both of the following:  
33 (A) The successor agency to the Redevelopment Agency of the  
34 City and County of San Francisco, solely for the purpose of issuing  
35 bonds or incurring other indebtedness pursuant to the provisions  
36 of Section 34177.7 of the Health and Safety Code.  
37 (B) A successor agency, as defined in subdivision (j) of Section  
38 34171 of the Health and Safety Code, solely for the purpose of  
39 issuing bonds or incurring other indebtedness pursuant to the  
40 provisions of Section 34177.5 of the Health and Safety Code.

(b) “Bonds” means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) “Hereafter” means any time subsequent to the effective date of this act.

(d) “Heretofore” means any time prior to the effective date of this act.

(e) “Now” means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under any law, or under color of any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

1 SEC. 6. (a) All acts and proceedings heretofore taken by or  
2 on behalf of any public body under any law, or under color of any  
3 law, for, or in connection with, the authorization, issuance, sale,  
4 execution, delivery, or exchange of bonds of any public body for  
5 any public purpose are hereby authorized, confirmed, validated,  
6 and declared legally effective. This shall include all acts and  
7 proceedings of the governing board of public bodies and of any  
8 person, public officer, board, or agency heretofore done or taken  
9 upon the question of the authorization, issuance, sale, execution,  
10 delivery, or exchange of bonds.

11 (b) All bonds of, or relating to, any public body heretofore issued  
12 shall be, in the form and manner issued and delivered, the legal,  
13 valid, and binding obligations of the public body. All bonds of, or  
14 relating to, any public body heretofore awarded and sold to a  
15 purchaser and hereafter issued and delivered in accordance with  
16 the contract of sale and other proceedings for the award and sale  
17 shall be the legal, valid, and binding obligations of the public body.  
18 All bonds of, or relating to, any public body heretofore authorized  
19 to be issued by ordinance, resolution, order, or other action adopted  
20 or taken by or on behalf of the public body and hereafter issued  
21 and delivered in accordance with that authorization shall be the  
22 legal, valid, and binding obligations of the public body. All bonds  
23 of, or relating to, any public body heretofore authorized to be issued  
24 at an election and hereafter issued and delivered in accordance  
25 with that authorization shall be the legal, valid, and binding  
26 obligations of the public body. Whenever an election has heretofore  
27 been called for the purpose of submitting to the voters of any public  
28 body the question of issuing bonds for any public purpose, those  
29 bonds, if hereafter authorized by the required vote and in  
30 accordance with the proceedings heretofore taken, and issued and  
31 delivered in accordance with that authorization, shall be the legal,  
32 valid, and binding obligations of the public body.

33 SEC. 7. (a) This act shall operate to supply legislative  
34 authorization as may be necessary to authorize, confirm, and  
35 validate any acts and proceedings heretofore taken pursuant to  
36 authority the Legislature could have supplied or provided for in  
37 the law under which those acts or proceedings were taken.

38 (b) This act shall be limited to the validation of acts and  
39 proceedings to the extent that the same can be effectuated under  
40 the California Constitution and the United States Constitution.

1 (c) This act shall not operate to authorize, confirm, validate, or  
2 legalize any act, proceeding, or other matter being legally contested  
3 or inquired into in any legal proceeding now pending and  
4 undetermined or that is pending and undetermined during the  
5 period of 30 days from and after the effective date of this act.

6 (d) This act shall not operate to authorize, confirm, validate, or  
7 legalize any act, proceeding, or other matter that has heretofore  
8 been determined in any legal proceeding to be illegal, void, or  
9 ineffective.

10 (e) This act shall not operate to authorize, confirm, validate, or  
11 legalize a contract between any public body and the United States.

12 SEC. 8. Any action or proceeding contesting the validity of  
13 any action or proceeding heretofore taken under any law, or under  
14 color of any law, for the formation, organization, or incorporation  
15 of any public body, or for any annexation thereto, detachment or  
16 exclusion therefrom, or other change of boundaries thereof, or for  
17 the consolidation, merger, or dissolution of any public bodies, or  
18 for, or in connection with, the authorization, issuance, sale,  
19 execution, delivery, or exchange of bonds thereof upon any ground  
20 involving any alleged defect or illegality not effectively validated  
21 by the prior provisions of this act and not otherwise barred by any  
22 statute of limitations or by laches shall be commenced within six  
23 months of the effective date of this act, otherwise each and all of  
24 those matters shall be held to be valid and in every respect legal  
25 and incontestable. This act shall not extend the period allowed for  
26 legal action beyond the period that it would be barred by any  
27 presently existing valid statute of limitations.

28 SEC. 9. Nothing contained in this act shall be construed to  
29 render the creation of any public body, or any change in the  
30 boundaries of any public body, effective for purposes of assessment  
31 or taxation unless the statement, together with the map or plat,  
32 required to be filed pursuant to Chapter 8 (commencing with  
33 Section 54900) of Part 1 of Division 2 of Title 5 of the Government  
34 Code, is filed within the time and substantially in the manner  
35 required by those sections.

36 SEC. 10. This act is an urgency statute necessary for the  
37 immediate preservation of the public peace, health, or safety within  
38 the meaning of Article IV of the Constitution and shall go into  
39 immediate effect. The facts constituting the necessity are:

1     In order to validate the organization, boundaries, acts,  
2     proceedings, and bonds of public bodies as soon as possible, it is  
3     necessary that this act take immediate effect.

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**Introduced by Committee on Governance and Finance (Senators  
Caballero (Chair), Durazo, Hertzberg, Nielsen, and Wiener)**

February 28, 2022

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An act relating to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1491, as introduced, Committee on Governance and Finance. Validations.

This bill would enact the Second Validating Act of 2022, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

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

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

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

1 SECTION 1. This act shall be known, and may be cited, as the  
2 Second Validating Act of 2022.

3 SEC. 2. As used in this act:

4 (a) "Public body" means all of the following:

5 (1) The state and all departments, agencies, boards,  
6 commissions, and authorities of the state. Except as provided in  
7 paragraph (2), "public body" also means all cities, counties, cities

1 and counties, districts, authorities, agencies, boards, commissions,  
2 and other entities, whether created by a general statute or a special  
3 act, including, but not limited to, the following:  
4 Agencies, boards, commissions, or entities constituted or  
5 provided for under or pursuant to the Joint Exercise of Powers Act  
6 (Chapter 5 (commencing with Section 6500) of Division 7 of Title  
7 1 of the Government Code).  
8 Affordable housing authorities.  
9 Air pollution control districts of any kind.  
10 Air quality management districts.  
11 Airport districts.  
12 Assessment districts, benefit assessment districts, and special  
13 assessment districts of any public body.  
14 Bridge and highway districts.  
15 California water districts.  
16 Citrus pest control districts.  
17 City maintenance districts.  
18 Community college districts.  
19 Community development commissions in their capacity to act  
20 as a housing authority for other community development purposes  
21 of the jurisdiction in which the commission operates, except for  
22 any action taken with respect to the commission's authority to act  
23 as a community redevelopment agency.  
24 Community facilities districts.  
25 Community rehabilitation districts.  
26 Community revitalization and investment authorities.  
27 Community services districts.  
28 Conservancy districts.  
29 Cotton pest abatement districts.  
30 County boards of education.  
31 County drainage districts.  
32 County flood control and water districts.  
33 County free library systems.  
34 County maintenance districts.  
35 County sanitation districts.  
36 County service areas.  
37 County transportation commissions.  
38 County water agencies.  
39 County water authorities.  
40 County water districts.



- 1 County waterworks districts.
- 2 Department of Water Resources and other agencies acting
- 3 pursuant to Part 3 (commencing with Section 11100) of Division
- 4 6 of the Water Code.
- 5 Distribution districts of any public body.
- 6 Districts acting pursuant to Section 53395.82 of the Government
- 7 Code.
- 8 Drainage districts.
- 9 Enhanced infrastructure financing districts.
- 10 Fire protection districts.
- 11 Flood control and water conservation districts.
- 12 Flood control districts.
- 13 Garbage and refuse disposal districts.
- 14 Garbage disposal districts.
- 15 Geologic hazard abatement districts.
- 16 Harbor districts.
- 17 Harbor improvement districts.
- 18 Harbor, recreation, and conservation districts.
- 19 Health care authorities.
- 20 Highway districts.
- 21 Highway interchange districts.
- 22 Highway lighting districts.
- 23 Housing authorities.
- 24 Improvement districts or improvement areas of any public body.
- 25 Industrial development authorities.
- 26 Infrastructure financing districts.
- 27 Integrated financing districts.
- 28 Irrigation districts.
- 29 Joint highway districts.
- 30 Levee districts.
- 31 Library districts.
- 32 Library districts in unincorporated towns and villages.
- 33 Local agency formation commissions.
- 34 Local health care districts.
- 35 Local health districts.
- 36 Local hospital districts.
- 37 Local transportation authorities or commissions.
- 38 Maintenance districts.
- 39 Memorial districts.
- 40 Metropolitan transportation commissions.

- 1 Metropolitan water districts.
- 2 Mosquito abatement and vector control districts.
- 3 Multifamily improvement districts.
- 4 Municipal improvement districts.
- 5 Municipal utility districts.
- 6 Municipal water districts.
- 7 Nonprofit corporations.
- 8 Nonprofit public benefit corporations.
- 9 Open-space maintenance districts.
- 10 Parking and business improvement areas.
- 11 Parking authorities.
- 12 Parking districts.
- 13 Permanent road divisions.
- 14 Pest abatement districts.
- 15 Police protection districts.
- 16 Port districts.
- 17 Property and business improvement areas.
- 18 Protection districts.
- 19 Public cemetery districts.
- 20 Public utility districts.
- 21 Rapid transit districts.
- 22 Reclamation districts.
- 23 Recreation and park districts.
- 24 Regional justice facility financing agencies.
- 25 Regional park and open-space districts.
- 26 Regional planning districts.
- 27 Regional transportation commissions.
- 28 Resort improvement districts.
- 29 Resource conservation districts.
- 30 River port districts.
- 31 Road maintenance districts.
- 32 Sanitary districts.
- 33 School districts of any kind or class.
- 34 School facilities improvement districts.
- 35 Separation of grade districts.
- 36 Service authorities for freeway emergencies.
- 37 Sewer districts.
- 38 Sewer maintenance districts.
- 39 Small craft harbor districts.
- 40 Special municipal tax districts.

1 Stone and pome fruit pest control districts.  
2 Storm drain maintenance districts.  
3 Storm drainage districts.  
4 Storm drainage maintenance districts.  
5 Storm water districts.  
6 Toll tunnel authorities.  
7 Traffic authorities.  
8 Transit development boards.  
9 Transit districts.  
10 Unified and union school districts' public libraries.  
11 Vehicle parking districts.  
12 Water agencies.  
13 Water authorities.  
14 Water conservation districts.  
15 Water districts.  
16 Water replenishment districts.  
17 Water storage districts.  
18 Watermaster districts.  
19 Wine grape pest and disease control districts.  
20 Zones, improvement zones, or service zones of any public body.  
21 (2) Notwithstanding paragraph (1), a "public body" does not  
22 include any of the following:  
23 (A) A community redevelopment agency formed pursuant to  
24 the Community Redevelopment Law (Part 1 (commencing with  
25 Section 33000) of Division 24 of the Health and Safety Code).  
26 (B) A community development commission, with respect to its  
27 exercise of the powers of a community redevelopment agency.  
28 (C) A joint powers authority that includes a community  
29 redevelopment agency or a community development commission  
30 as a member, with respect to its exercise of the powers of a  
31 community redevelopment agency.  
32 (3) "Public body" includes both of the following:  
33 (A) The successor agency to the Redevelopment Agency of the  
34 City and County of San Francisco, solely for the purpose of issuing  
35 bonds or incurring other indebtedness pursuant to the provisions  
36 of Section 34177.7 of the Health and Safety Code.  
37 (B) A successor agency, as defined in subdivision (j) of Section  
38 34171 of the Health and Safety Code, solely for the purpose of  
39 issuing bonds or incurring other indebtedness pursuant to the  
40 provisions of Section 34177.5 of the Health and Safety Code.

(b) “Bonds” means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) “Hereafter” means any time subsequent to the effective date of this act.

(d) “Heretofore” means any time prior to the effective date of this act.

(e) “Now” means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under any law, or under color of any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

1 SEC. 6. (a) All acts and proceedings heretofore taken by or  
2 on behalf of any public body under any law, or under color of any  
3 law, for, or in connection with, the authorization, issuance, sale,  
4 execution, delivery, or exchange of bonds of any public body for  
5 any public purpose are hereby authorized, confirmed, validated,  
6 and declared legally effective. This shall include all acts and  
7 proceedings of the governing board of public bodies and of any  
8 person, public officer, board, or agency heretofore done or taken  
9 upon the question of the authorization, issuance, sale, execution,  
10 delivery, or exchange of bonds.

11 (b) All bonds of, or relating to, any public body heretofore issued  
12 shall be, in the form and manner issued and delivered, the legal,  
13 valid, and binding obligations of the public body. All bonds of, or  
14 relating to, any public body heretofore awarded and sold to a  
15 purchaser and hereafter issued and delivered in accordance with  
16 the contract of sale and other proceedings for the award and sale  
17 shall be the legal, valid, and binding obligations of the public body.  
18 All bonds of, or relating to, any public body heretofore authorized  
19 to be issued by ordinance, resolution, order, or other action adopted  
20 or taken by or on behalf of the public body and hereafter issued  
21 and delivered in accordance with that authorization shall be the  
22 legal, valid, and binding obligations of the public body. All bonds  
23 of, or relating to, any public body heretofore authorized to be issued  
24 at an election and hereafter issued and delivered in accordance  
25 with that authorization shall be the legal, valid, and binding  
26 obligations of the public body. Whenever an election has heretofore  
27 been called for the purpose of submitting to the voters of any public  
28 body the question of issuing bonds for any public purpose, those  
29 bonds, if hereafter authorized by the required vote and in  
30 accordance with the proceedings heretofore taken, and issued and  
31 delivered in accordance with that authorization, shall be the legal,  
32 valid, and binding obligations of the public body.

33 SEC. 7. (a) This act shall operate to supply legislative  
34 authorization as may be necessary to authorize, confirm, and  
35 validate any acts and proceedings heretofore taken pursuant to  
36 authority the Legislature could have supplied or provided for in  
37 the law under which those acts or proceedings were taken.

38 (b) This act shall be limited to the validation of acts and  
39 proceedings to the extent that the same can be effectuated under  
40 the California Constitution and the United States Constitution.

1 (c) This act shall not operate to authorize, confirm, validate, or  
2 legalize any act, proceeding, or other matter being legally contested  
3 or inquired into in any legal proceeding now pending and  
4 undetermined or that is pending and undetermined during the  
5 period of 30 days from and after the effective date of this act.

6 (d) This act shall not operate to authorize, confirm, validate, or  
7 legalize any act, proceeding, or other matter that has heretofore  
8 been determined in any legal proceeding to be illegal, void, or  
9 ineffective.

10 (e) This act shall not operate to authorize, confirm, validate, or  
11 legalize a contract between any public body and the United States.

12 SEC. 8. Any action or proceeding contesting the validity of  
13 any action or proceeding heretofore taken under any law, or under  
14 color of any law, for the formation, organization, or incorporation  
15 of any public body, or for any annexation thereto, detachment or  
16 exclusion therefrom, or other change of boundaries thereof, or for  
17 the consolidation, merger, or dissolution of any public bodies, or  
18 for, or in connection with, the authorization, issuance, sale,  
19 execution, delivery, or exchange of bonds thereof upon any ground  
20 involving any alleged defect or illegality not effectively validated  
21 by the prior provisions of this act and not otherwise barred by any  
22 statute of limitations or by laches shall be commenced within six  
23 months of the effective date of this act, otherwise each and all of  
24 those matters shall be held to be valid and in every respect legal  
25 and incontestable. This act shall not extend the period allowed for  
26 legal action beyond the period that it would be barred by any  
27 presently existing valid statute of limitations.

28 SEC. 9. Nothing contained in this act shall be construed to  
29 render the creation of any public body, or any change in the  
30 boundaries of any public body, effective for purposes of assessment  
31 or taxation unless the statement, together with the map or plat,  
32 required to be filed pursuant to Chapter 8 (commencing with  
33 Section 54900) of Part 1 of Division 2 of Title 5 of the Government  
34 Code, is filed within the time and substantially in the manner  
35 required by those sections.

36 SEC. 10. This act shall become operative on September 1,  
37 2022.

38 SEC. 11. This act is an urgency statute necessary for the  
39 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the Constitution and shall go into  
2 immediate effect. The facts constituting the necessity are:  
3 In order to validate the organization, boundaries, acts,  
4 proceedings, and bonds of public bodies as soon as possible, it is  
5 necessary that this act take immediate effect.

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**Introduced by Committee on Governance and Finance (Senators  
Caballero (Chair), Durazo, Hertzberg, Nielsen, and Wiener)**

February 28, 2022

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An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced.

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, as introduced, Committee on Governance and Finance. Validations.

This bill would enact the Third Validating Act of 2022, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

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

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

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Third Validating Act of 2022.
- 3 SEC. 2. As used in this act:
- 4 (a) "Public body" means all of the following:
- 5 (1) The state and all departments, agencies, boards,
- 6 commissions, and authorities of the state. Except as provided in
- 7 paragraph (2), "public body" also means all cities, counties, cities
- 8 and counties, districts, authorities, agencies, boards, commissions,
- 9 and other entities, whether created by a general statute or a special
- 10 act, including, but not limited to, the following:

1 Agencies, boards, commissions, or entities constituted or  
2 provided for under or pursuant to the Joint Exercise of Powers Act  
3 (Chapter 5 (commencing with Section 6500) of Division 7 of Title  
4 1 of the Government Code).  
5 Affordable housing authorities.  
6 Air pollution control districts of any kind.  
7 Air quality management districts.  
8 Airport districts.  
9 Assessment districts, benefit assessment districts, and special  
10 assessment districts of any public body.  
11 Bridge and highway districts.  
12 California water districts.  
13 Citrus pest control districts.  
14 City maintenance districts.  
15 Community college districts.  
16 Community development commissions in their capacity to act  
17 as a housing authority for other community development purposes  
18 of the jurisdiction in which the commission operates, except for  
19 any action taken with respect to the commission's authority to act  
20 as a community redevelopment agency.  
21 Community facilities districts.  
22 Community rehabilitation districts.  
23 Community revitalization and investment authorities.  
24 Community services districts.  
25 Conservancy districts.  
26 Cotton pest abatement districts.  
27 County boards of education.  
28 County drainage districts.  
29 County flood control and water districts.  
30 County free library systems.  
31 County maintenance districts.  
32 County sanitation districts.  
33 County service areas.  
34 County transportation commissions.  
35 County water agencies.  
36 County water authorities.  
37 County water districts.  
38 County waterworks districts.

1 Department of Water Resources and other agencies acting  
2 pursuant to Part 3 (commencing with Section 11100) of Division  
3 6 of the Water Code.  
4 Distribution districts of any public body.  
5 Districts acting pursuant to Section 53395.82 of the Government  
6 Code.  
7 Drainage districts.  
8 Enhanced infrastructure financing districts.  
9 Fire protection districts.  
10 Flood control and water conservation districts.  
11 Flood control districts.  
12 Garbage and refuse disposal districts.  
13 Garbage disposal districts.  
14 Geologic hazard abatement districts.  
15 Harbor districts.  
16 Harbor improvement districts.  
17 Harbor, recreation, and conservation districts.  
18 Health care authorities.  
19 Highway districts.  
20 Highway interchange districts.  
21 Highway lighting districts.  
22 Housing authorities.  
23 Improvement districts or improvement areas of any public body.  
24 Industrial development authorities.  
25 Infrastructure financing districts.  
26 Integrated financing districts.  
27 Irrigation districts.  
28 Joint highway districts.  
29 Levee districts.  
30 Library districts.  
31 Library districts in unincorporated towns and villages.  
32 Local agency formation commissions.  
33 Local health care districts.  
34 Local health districts.  
35 Local hospital districts.  
36 Local transportation authorities or commissions.  
37 Maintenance districts.  
38 Memorial districts.  
39 Metropolitan transportation commissions.  
40 Metropolitan water districts.

- 1 Mosquito abatement and vector control districts.
- 2 Multifamily improvement districts.
- 3 Municipal improvement districts.
- 4 Municipal utility districts.
- 5 Municipal water districts.
- 6 Nonprofit corporations.
- 7 Nonprofit public benefit corporations.
- 8 Open-space maintenance districts.
- 9 Parking and business improvement areas.
- 10 Parking authorities.
- 11 Parking districts.
- 12 Permanent road divisions.
- 13 Pest abatement districts.
- 14 Police protection districts.
- 15 Port districts.
- 16 Property and business improvement areas.
- 17 Protection districts.
- 18 Public cemetery districts.
- 19 Public utility districts.
- 20 Rapid transit districts.
- 21 Reclamation districts.
- 22 Recreation and park districts.
- 23 Regional justice facility financing agencies.
- 24 Regional park and open-space districts.
- 25 Regional planning districts.
- 26 Regional transportation commissions.
- 27 Resort improvement districts.
- 28 Resource conservation districts.
- 29 River port districts.
- 30 Road maintenance districts.
- 31 Sanitary districts.
- 32 School districts of any kind or class.
- 33 School facilities improvement districts.
- 34 Separation of grade districts.
- 35 Service authorities for freeway emergencies.
- 36 Sewer districts.
- 37 Sewer maintenance districts.
- 38 Small craft harbor districts.
- 39 Special municipal tax districts.
- 40 Stone and pome fruit pest control districts.

1 Storm drain maintenance districts.  
2 Storm drainage districts.  
3 Storm drainage maintenance districts.  
4 Storm water districts.  
5 Toll tunnel authorities.  
6 Traffic authorities.  
7 Transit development boards.  
8 Transit districts.  
9 Unified and union school districts' public libraries.  
10 Vehicle parking districts.  
11 Water agencies.  
12 Water authorities.  
13 Water conservation districts.  
14 Water districts.  
15 Water replenishment districts.  
16 Water storage districts.  
17 Watermaster districts.  
18 Wine grape pest and disease control districts.  
19 Zones, improvement zones, or service zones of any public body.  
20 (2) Notwithstanding paragraph (1), a "public body" does not  
21 include any of the following:  
22 (A) A community redevelopment agency formed pursuant to  
23 the Community Redevelopment Law (Part 1 (commencing with  
24 Section 33000) of Division 24 of the Health and Safety Code).  
25 (B) A community development commission, with respect to its  
26 exercise of the powers of a community redevelopment agency.  
27 (C) A joint powers authority that includes a community  
28 redevelopment agency or a community development commission  
29 as a member, with respect to its exercise of the powers of a  
30 community redevelopment agency.  
31 (3) "Public body" includes both of the following:  
32 (A) The successor agency to the Redevelopment Agency of the  
33 City and County of San Francisco, solely for the purpose of issuing  
34 bonds or incurring other indebtedness pursuant to the provisions  
35 of Section 34177.7 of the Health and Safety Code.  
36 (B) A successor agency, as defined in subdivision (j) of Section  
37 34171 of the Health and Safety Code, solely for the purpose of  
38 issuing bonds or incurring other indebtedness pursuant to the  
39 provisions of Section 34177.5 of the Health and Safety Code.

(b) “Bonds” means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) “Hereafter” means any time subsequent to the effective date of this act.

(d) “Heretofore” means any time prior to the effective date of this act.

(e) “Now” means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under any law, or under color of any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. (a) All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

(b) All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization as may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that the same can be effectuated under the California Constitution and the United States Constitution.

1 (c) This act shall not operate to authorize, confirm, validate, or  
2 legalize any act, proceeding, or other matter being legally contested  
3 or inquired into in any legal proceeding now pending and  
4 undetermined or that is pending and undetermined during the  
5 period of 30 days from and after the effective date of this act.

6 (d) This act shall not operate to authorize, confirm, validate, or  
7 legalize any act, proceeding, or other matter that has heretofore  
8 been determined in any legal proceeding to be illegal, void, or  
9 ineffective.

10 (e) This act shall not operate to authorize, confirm, validate, or  
11 legalize a contract between any public body and the United States.

12 SEC. 8. Any action or proceeding contesting the validity of  
13 any action or proceeding heretofore taken under any law, or under  
14 color of any law, for the formation, organization, or incorporation  
15 of any public body, or for any annexation thereto, detachment or  
16 exclusion therefrom, or other change of boundaries thereof, or for  
17 the consolidation, merger, or dissolution of any public bodies, or  
18 for, or in connection with, the authorization, issuance, sale,  
19 execution, delivery, or exchange of bonds thereof upon any ground  
20 involving any alleged defect or illegality not effectively validated  
21 by the prior provisions of this act and not otherwise barred by any  
22 statute of limitations or by laches shall be commenced within six  
23 months of the effective date of this act, otherwise each and all of  
24 those matters shall be held to be valid and in every respect legal  
25 and incontestable. This act shall not extend the period allowed for  
26 legal action beyond the period that it would be barred by any  
27 presently existing valid statute of limitations.

28 SEC. 9. Nothing contained in this act shall be construed to  
29 render the creation of any public body, or any change in the  
30 boundaries of any public body, effective for purposes of assessment  
31 or taxation unless the statement, together with the map or plat,  
32 required to be filed pursuant to Chapter 8 (commencing with  
33 Section 54900) of Part 1 of Division 2 of Title 5 of the Government  
34 Code, is filed within the time and substantially in the manner  
35 required by those sections.



117TH CONGRESS  
2D SESSION

# S. 3956

To direct the Administrator of the Environmental Protection Agency to establish a grant program to improve the effectiveness of education and outreach on “Do Not Flush” labeling, and to require the Federal Trade Commission, in consultation with the Administrator, to issue regulations requiring certain products to have “Do Not Flush” labeling, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 30, 2022

Mr. MERKLEY (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To direct the Administrator of the Environmental Protection Agency to establish a grant program to improve the effectiveness of education and outreach on “Do Not Flush” labeling, and to require the Federal Trade Commission, in consultation with the Administrator, to issue regulations requiring certain products to have “Do Not Flush” labeling, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Wastewater Infrastruc-  
3 ture Pollution Prevention and Environmental Safety Act”  
4 or the “WIPPEs Act”.

5 **SEC. 2. CONSUMER EDUCATION AND OUTREACH GRANT**  
6 **PROGRAM.**

7       (a) IN GENERAL.—The Administrator of the Envi-  
8 ronmental Protection Agency (referred to in this section  
9 as the “Administrator”) shall establish a program (re-  
10 ferred to in this section as the “grant program”) to award  
11 competitive grants to eligible entities to improve the effec-  
12 tiveness of residential and community education and out-  
13 reach on “Do Not Flush” labels.

14       (b) CRITERIA.—The Administrator shall award  
15 grants under the grant program for projects that, by using  
16 one or more eligible activities described in subsection (d),  
17 inform and educate the public about—

18               (1) the “Do Not Flush” label printing on cov-  
19 ered products;

20               (2) the types of covered products with the “Do  
21 Not Flush” label;

22               (3) the purpose for the “Do Not Flush” label-  
23 ing requirement and the adverse impacts to water  
24 collection and wastewater treatment infrastructure  
25 of the improper disposal of covered products; and

1 (4) proper disposal methods for covered prod-  
2 ucts.

3 (c) ELIGIBLE ENTITIES.—

4 (1) IN GENERAL.—An entity that is eligible to  
5 receive a grant under the grant program is—

6 (A) a State;

7 (B) a unit of local government;

8 (C) a Tribal government;

9 (D) a nonprofit organization; or

10 (E) a public-private partnership.

11 (2) COORDINATION OF ACTIVITIES.—Two or  
12 more entities described in paragraph (1) may receive  
13 a grant under the grant program to coordinate the  
14 provision of information to ratepayers and busi-  
15 nesses within shared or combined service areas.

16 (d) ELIGIBLE ACTIVITIES.—An eligible entity that  
17 receives a grant under the grant program may use the  
18 grant funds for activities including—

19 (1) public service announcements;

20 (2) a door-to-door education and outreach cam-  
21 paign;

22 (3) social media and digital outreach;

23 (4) an advertising campaign on “Do Not  
24 Flush” label awareness;

25 (5) the development and dissemination of—

1 (A) a toolkit for a municipal and publicly  
2 owned treatment works;

3 (B) notices advertising the presence of the  
4 label notice on covered products;

5 (C) covered products that carry the “Do  
6 Not Flush” label;

7 (D) notices describing the intended effects  
8 of the label notice on consumer behavior with  
9 respect to the disposal of covered products;

10 (E) notices describing the adverse impacts  
11 that covered products have on sewer and waste-  
12 water infrastructure when improperly disposed;  
13 and

14 (F) other materials for education and out-  
15 reach to promote the proper disposal of covered  
16 products; and

17 (6) other activities that the Administrator de-  
18 termines are appropriate to carry out the purposes  
19 of this section.

20 (e) PROHIBITION ON USE OF FUNDS.—No funds  
21 may be awarded under the grant program for a public out-  
22 reach campaign that promotes or advocates any wipes  
23 product that is not a covered product or falsely depicts  
24 a covered product as not a covered product.

1 (f) AUTHORIZATION.—There is authorized to be ap-  
2 propriated to the Administrator \$5,000,000 for each of  
3 fiscal years 2023 through 2027 to carry out this section.

4 **SEC. 3. “DO NOT FLUSH” LABELING.**

5 (a) IN GENERAL.—Not later than 2 years after the  
6 date of the enactment of this section, the Federal Trade  
7 Commission, in consultation with the Administrator of the  
8 Environmental Protection Agency, shall issue regulations  
9 under section 553 of title 5, United States Code, requiring  
10 covered entities to label covered products clearly and con-  
11 spicuously with “Do Not Flush” label notices and symbols  
12 in accordance with this section.

13 (b) REQUIREMENTS.—

14 (1) CYLINDRICAL PACKAGING.—In issuing reg-  
15 ulations under subsection (a), the Commission shall  
16 require a covered product sold in cylindrical or near-  
17 cylindrical packaging, and intended to dispense indi-  
18 vidual wipes, to have—

19 (A) the symbol and label notice on the  
20 principal display panel in a location reasonably  
21 visible to the user each time a wipe is dis-  
22 pensed; or

23 (B) the symbol on the principal display  
24 panel and the label notice, or a combination of  
25 the label notice and symbol, on a flip lid in a

1 manner that covers at least 8 percent of the  
2 surface area of the flip lid.

3 (2) FLEXIBLE FILM PACKAGING.—In issuing  
4 regulations under subsection (a), the Commission  
5 shall require a covered product sold in flexible film  
6 packaging, and intended to dispense individual  
7 wipes, to have—

8 (A) the symbol on the principal display  
9 panel and, if the principal display panel is not  
10 on the dispensing side of the packaging, on the  
11 dispensing side panel; and

12 (B) the label notice on either the principal  
13 display panel or the dispensing side panel, in a  
14 prominent location reasonably visible to the  
15 user each time a wipe is dispensed.

16 (3) RIGID PACKAGING.—In issuing regulations  
17 under subsection (a), the Commission shall require  
18 a covered product sold in a refillable tub or other  
19 rigid packaging that may be reused by a customer,  
20 and intended to dispense individual wipes, to have  
21 the symbol and label notice on the principal display  
22 panel in a prominent location reasonably visible to  
23 the user each time a wipe is dispensed.

24 (4) PACKAGING NOT INTENDED TO DISPENSE  
25 INDIVIDUAL WIPES.—In issuing regulations under

1 subsection (a), the Commission shall require a cov-  
2 ered product sold in packaging that is not intended  
3 to dispense individual wipes to have the symbol and  
4 label notice on the principal display panel in a  
5 prominent location reasonably visible to the user of  
6 the covered product.

7 (5) BULK PACKAGING.—

8 (A) IN GENERAL.—In issuing regulations  
9 under subsection (a), the Commission shall re-  
10 quire a covered product sold in bulk at retail to  
11 have labeling in compliance with such regula-  
12 tions on both the outer packaging visible at re-  
13 tail and the individual packaging contained  
14 within the outer packaging.

15 (B) EXEMPTION.—The Commission shall  
16 exempt from the requirements under subpara-  
17 graph (A) the following:

18 (i) Individually packaged covered  
19 products that are contained within outer  
20 packaging, are not intended to dispense in-  
21 dividual wipes, and have no retail labeling.

22 (ii) Outer packaging that does not ob-  
23 scure the symbol and label notice on indi-  
24 vidually packaged covered products con-  
25 tained within.

1 (6) PACKAGING OF COMBINED PRODUCTS.—

2 (A) OUTER PACKAGING.—In issuing regu-  
3 lations under subsection (a), the Commission  
4 shall exempt the outer packaging of a combined  
5 product from the requirements of such regula-  
6 tions.

7 (B) PACKAGES LESS THAN 3 BY 3  
8 INCHES.—In issuing regulations under sub-  
9 section (a), the Commission shall provide that,  
10 with respect to a covered product in packaging  
11 smaller than 3 inches by 3 inches (such as an  
12 individually packaged wipe in tear-top pack-  
13 aging) and sold as part of a combined product,  
14 if a symbol and label notice are placed in a  
15 prominent location reasonably visible to the  
16 user of the covered product, such covered prod-  
17 uct is considered to be labeled clearly and con-  
18 spicuously in accordance with such regulations.

19 (c) REASONABLE VISIBILITY OF SYMBOL AND LABEL  
20 NOTICE.—

21 (1) IN GENERAL.—In requiring the symbol and  
22 label notice under this section, the Commission shall  
23 require that—



1 (A) packaging seams or folds or other  
2 packaging design elements do not obscure the  
3 symbol or label notice;

4 (B) the symbol and label notice are each  
5 equal in size to at least 2 percent of the surface  
6 area of the principal display panel; and

7 (C) the symbol and label notice have high  
8 contrast with the immediate background of the  
9 packaging so that such symbol and label notice  
10 may be seen and read by an ordinary individual  
11 under customary conditions of purchase and  
12 use.

13 (2) PROXIMITY OF SYMBOL AND LABEL NO-  
14 TICE.—In requiring the symbol and label notice  
15 under this section, the Commission may allow a  
16 symbol and label notice on a principal display panel  
17 to be placed adjacently or on separate areas of the  
18 principal display panel.

19 (3) EXCEPTION.—Paragraph (1)(C) does not  
20 apply to an embossed symbol or label notice on the  
21 flip lid of a covered product sold in cylindrical or  
22 near-cylindrical packaging.

23 (d) ADDITIONAL WORDS OR PHRASES.—In issuing  
24 regulations under subsection (a), the Commission shall  
25 allow additional words or phrases on a covered product

1 that describe consequences associated with flushing or dis-  
2 posing of such covered product, if such words or phrases  
3 are consistent with the purposes of this section.

4 (e) REPRESENTATIONS OF FLUSHABILITY.—In  
5 issuing regulations under subsection (a), the Commission  
6 shall prohibit, with respect to a covered product, the rep-  
7 resentation or marketing of flushable attributes, perform-  
8 ance, or efficacy benefits.

9 (f) COMPLIANCE WITH OTHER REQUIREMENTS.—

10 (1) FIFRA REQUIREMENTS.—

11 (A) IN GENERAL.—Not later than 2 years  
12 after the date of the enactment of this Act, the  
13 Commission and the Administrator of the Envi-  
14 ronmental Protection Agency, acting jointly,  
15 shall issue regulations that, with respect to a  
16 covered product that contains a pesticide re-  
17 quired to be registered under the Federal Insec-  
18 ticide, Fungicide, and Rodenticide Act (7  
19 U.S.C. 136 et seq.), include the following:

20 (i) Instructions describing how such a  
21 covered product may comply with the re-  
22 quirements of such Act and the regulations  
23 issued under subsection (a).

24 (ii) A requirement that, not later than  
25 90 days after the date on which regula-

1           tions are issued under this subparagraph,  
2           a covered entity shall submit for approval  
3           by the Administrator of the Environmental  
4           Protection Agency a product label compli-  
5           ant with such instructions.

6           (B) ENFORCEMENT.—For purposes of sub-  
7           section (h), a violation of a regulation issued  
8           under subparagraph (A) shall be treated as a  
9           violation of a regulation issued under subsection  
10          (a).

11          (2) TYPE SIZE EXCEPTION.—If the label notice  
12          type size otherwise required by the regulations  
13          issued under subsection (a) for a covered product  
14          would conflict with a labeling requirement under the  
15          Federal Insecticide, Fungicide, and Rodenticide Act  
16          (7 U.S.C. 136 et seq.) or the Federal Hazardous  
17          Substances Act (15 U.S.C. 1261 et seq.), the Com-  
18          mission may, in issuing such regulations, provide for  
19          a label notice type size requirement for the covered  
20          product under this section that—

21                (A) in the case of a covered product re-  
22                quired to display a warning pursuant to the  
23                Federal Insecticide, Fungicide, and Rodenticide  
24                Act regarding a pesticide in such covered prod-  
25                uct, requires a type size for the label notice

1 under this paragraph that is equal to or greater  
2 than the type size required for the “keep out of  
3 reach of children” statement under such Act;  
4 and

5 (B) in the case of a covered product re-  
6 quired to contain first aid instructions pursuant  
7 to the Federal Hazardous Substances Act, re-  
8 quires a type size for the label notice under this  
9 paragraph that is equal to or greater than the  
10 type size required for such first aid instruc-  
11 tions.

12 (g) APPLICABILITY.—The Commission shall provide  
13 that the regulations issued under subsection (a) apply with  
14 respect to covered products manufactured on or after the  
15 date that is 90 days after the date on which such regula-  
16 tions are issued.

17 (h) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
18 SION.—

19 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
20 TICES.—A violation of a regulation promulgated  
21 under subsection (a) shall be treated as a violation  
22 of a regulation under section 18(a)(1)(B) of the  
23 Federal Trade Commission Act (15 U.S.C.  
24 57a(a)(1)(B)) regarding unfair or deceptive acts or  
25 practices.

1           (2) POWERS OF COMMISSION.—Except as pro-  
2       vided in paragraph (3), the Commission shall en-  
3       force the regulations promulgated under subsection  
4       (a) in the same manner, by the same means, and  
5       with the same jurisdiction, powers, and duties as  
6       though all applicable terms and provisions of the  
7       Federal Trade Commission Act (15 U.S.C. 41 et  
8       seq.) were incorporated into and made a part of this  
9       section, and any person who violates such a regula-  
10      tion shall be subject to the penalties and entitled to  
11      the privileges and immunities provided in the Fed-  
12      eral Trade Commission Act.

13           (3) PENALTY AMOUNTS.—Notwithstanding sec-  
14      tion 5 of the Federal Trade Commission Act (15  
15      U.S.C. 45), any civil penalties imposed under such  
16      section with respect to a violation of a regulation  
17      promulgated under subsection (a) of this section  
18      shall be in accordance with the following:

19                   (A) A fine of not more than \$2,500 for  
20                   each day that a violation occurs.

21                   (B) In no event may the total amount of  
22                   fines imposed for a single violation exceed  
23                   \$100,000.

24           (i) PREEMPTION OF STATE LAWS.—No State or po-  
25      litical subdivision of a State may directly or indirectly es-

1 tablish or continue in effect under any authority restric-  
 2 tions with respect to the “Do Not Flush” labeling of cov-  
 3 ered products that are not identical to the restrictions  
 4 under this section.

5 (j) DEFINITIONS.—In this Act:

6 (1) COMBINED PRODUCT.—The term “com-  
 7 bined product” means two or more products sold in  
 8 shared retail packaging, of which—

9 (A) at least one of the products is a cov-  
 10 ered product; and

11 (B) at least one of the products is another  
 12 consumer product intended to be used in com-  
 13 bination with such covered product.

14 (2) COMMISSION.—The term “Commission”  
 15 means the Federal Trade Commission.

16 (3) COVERED ENTITY.—The term “covered en-  
 17 tity” means a manufacturer, wholesaler, supplier, or  
 18 retailer that is responsible for the labeling or retail  
 19 packaging of a covered product that is sold or of-  
 20 fered for sale in the United States.

21 (4) COVERED PRODUCT.—

22 (A) IN GENERAL.—The term “covered  
 23 product” means a premoistened, nonwoven dis-  
 24 posable wipe sold or offered for retail sale—

1 (i) that is marketed as a baby wipe or  
2 diapering wipe; or

3 (ii) that is a household or personal  
4 care wipe (including wipes described in  
5 subparagraph (B)) that—

6 (I) is composed entirely, or in  
7 part, of petrochemical-derived fibers;  
8 and

9 (II) has significant potential to  
10 be flushed.

11 (B) INCLUSIONS.—The wipes described in  
12 this subparagraph are—

13 (i) antibacterial wipes and disinfecting  
14 wipes;

15 (ii) wipes intended for general purpose  
16 cleaning or bathroom cleaning, including  
17 toilet cleaning and hard surface cleaning;  
18 and

19 (iii) wipes intended for personal care  
20 use on the body, including hand sanitizing,  
21 makeup removal, feminine hygiene, adult  
22 hygiene (including incontinence hygiene),  
23 and body cleansing.

1           (5) HIGH CONTRAST.—The term “high con-  
 2           trast” means, with respect to the symbol or label no-  
 3           tice, that such symbol or label notice—

4                   (A) is either light on a solid dark back-  
 5                   ground or dark on a solid light background; and

6                   (B) has a contrast percentage of at least  
 7           70 percent between such symbol or label notice  
 8           and the background, using the formula  $(B1 - B2) / B1 * 100 = \text{contrast percentage}$ , where  
 9           B1 is the light reflectance value of the lighter  
 10          area and B2 is the light reflectance value of the  
 11          darker area.  
 12          darker area.

13          (6) LABEL NOTICE.—The term “label notice”  
 14          means the written phrase “Do Not Flush”.

15          (7) PRINCIPAL DISPLAY PANEL.—The term  
 16          “principal display panel” means the side of a prod-  
 17          uct package that is most likely to be displayed, pre-  
 18          sented, or shown under customary conditions of dis-  
 19          play for retail sale, and—

20                   (A) in the case of a cylindrical or near-cy-  
 21                   lindrical package, the surface area of which  
 22                   constitutes at least 40 percent of the product  
 23                   package, as measured by multiplying the height  
 24                   by the circumference of the package; or



1 (B) in the case of a flexible film package  
2 in which a rectangular prism or near-rectan-  
3 gular prism stack of wipes is housed within the  
4 film, the surface area of which is measured by  
5 multiplying the length by the width of the side  
6 of the package when the flexible packaging film  
7 is pressed flat against the stack of wipes on all  
8 sides of the stack.

9 (8) SYMBOL.—The term “symbol” means the  
10 “Do Not Flush” symbol, as depicted in the Guide-  
11 lines for Assessing the Flushability of Disposable  
12 Nonwoven Products (Edition 4; May 2018) pub-  
13 lished by the Association of the Nonwoven Fabrics  
14 Industry (INDA) and the European Disposables  
15 And Nonwovens Association (EDANA), or an other-  
16 wise identical symbol depicting an individual of an-  
17 other gender.




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## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: May 5, 2022

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Derry L. Moten, Special Assistant to the General Manager 

SUBJECT: Diversity, Equity, and Inclusion Strategic Plan Update

### SUMMARY

This memo provides an update on implementation of the Diversity, Equity, and Inclusion Strategic Plan (DEISP) projects from the plan adoption on February 22, 2022 through April 29, 2022.

### DISCUSSION

The DEISP is divided into five strategic pillars which guide plan implementation including Leadership Commitment, Workforce Diversity, Inclusive Culture, Supplier Diversity, and Social Responsibility. This update provides information on efforts within the Leadership Commitment, Workforce Diversity, and Inclusive Culture pillars.

#### Leadership Commitment

- **DEI Town Hall Sessions.** DEI presentations were conducted with seven departments. The sessions provided an overview of the DEISP and engaged attendees with thought questions on their role in DEI at the District. All other departments will be scheduled during the fourth quarter of Fiscal Year 2022.
- **Cultural Competency Assessment.** The assessment has been integrated into the current Emotional Intelligence (EQ) course related to relationship management. The course is required of all District managers and supervisors but is open to any staff interested in building their EQ skills.
- **Leading Inclusively Workshop.** The workshop was held for Engineering and Construction and Operations and Maintenance leadership teams. Leaders engaged with a model for inclusive leadership, which is a primer for a new foundational course for all managers and supervisors. The new course “Meeting Leadership Challenges” guides leaders through the development of five inclusive leadership practices and the related 30 behaviors for exemplary leadership.
- **Inclusive Leadership Forum.** Staff conducted the April Inclusive Leadership Forum on the topic “Addressing the Imposter Syndrome: Women in Construction.” A panel of three EBMUD female leaders shared their leadership journey, methods used for addressing the challenges related to the imposter syndrome, and how leaders can support and encourage leaders from underrepresented groups.

- **Equity-based Budgeting.** The Finance Department is evaluating options for applying equity-based budgeting practices to the District's budgeting processes. Members of the Budget Office attended a training titled "Rethinking Local Government Budgeting: Fairness & Justice" provided by the Government Finance Officers Association. The group will continue to research models and options, and review existing processes for opportunities to integrate more equity-based practices into the District's next Biennial Budget cycle in summer 2022.

## **Workforce Diversity**

The District is engaged in a variety of efforts to attract and retain talented and diverse employees, with emphasis on identifying and providing opportunities for individuals from underrepresented groups. One area of emphasis is developing and enhancing recruiting partnerships with a variety of community organizations.

- **Peralta Community Foundation (PCF) Partnership.** The District has a partnership with the PCF to expand the District's internship opportunities. The agreement creates a nimble and flexible method to create internships and training programs for approximately 100 internships for high school students in areas including skilled trades, Ranger/Naturalist, Fisheries/Wildlife, Information Technology, special populations (veterans, individuals with disabilities etc.) and community partnerships (e.g., community colleges, pre-apprentice programs, and community workforce development agencies).
- **Community Employment Trainees (formerly Special Employment Program – SEP).** The District hired two limited-term Grounds Maintenance trainees. The trainees competed in the civil service hiring process but received their vocational training through EBMUD's partner Civicorps. Three additional trainee positions will be utilized in the Operations and Maintenance and Pipeline divisions.
- **Cypress Mandela Pre-Apprentice Training Center.** Staff coordinated with the Cypress Mandela Pre-Apprentice Training Center to provide a water and wastewater educational display as an outreach tool for program participants. The display will formally launch in June 2022.
- **Workforce Development Interns.** The Diversity and Inclusion Office (DIO) hired two part-time Workforce Development interns to assist with administration of the High School Summer Youth Employment program.
- **The Recruitment and Classification Division** has made a modification to the online assessment/testing process to provide more information and better assist candidates requesting reasonable accommodations in the testing process.

## **Inclusive Culture**

Staff is piloting an Alternative Dispute Resolution process, beginning with facilitated discussions with parties to address Equal Employment Opportunity (EEO) complaints that under informal investigation are identified as interpersonal issues and not full EEO violations. Two pilot engagements are currently in process. Staff is also piloting an EEO aftercare plan which provides support for employees and work groups after an EEO determination has been granted by the

DIO. The emphasis of aftercare is on restoration of the work environment and working relationships.

## **NEXT STEPS**

In addition to the actions above, the Equity Core Team, pilot project teams, and staff from Human Resources and the Office of Diversity, Equity, and Culture are actively engaged in the following projects and actions from the DEISP.

- Conducting a review of degree requirements for job classifications and researching alternative qualification methods.
- Developing an ongoing series of work-based learning events to encourage diverse community candidates to pursue District careers and understand the hiring process.
- Designing an exit interview process and protocols.

Staff will continue implementing the DEISP and provide the Legislative/Human Resource Committee with regular updates on actions and outcomes.

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## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: May 5, 2022

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Derry L. Moten, Special Assistant to the General Manager 

SUBJECT: Peralta Colleges Foundation Internship Stipend Administration

### SUMMARY

This memo provides background on the District's internship program and agreement with the Peralta Colleges Foundation (PCF) to cover the administrative costs and stipends to EBMUD interns participating in a variety of internship programs through June 30, 2023. The agreement with PCF provides the District with a flexible mechanism to work with local community partners and community colleges to meet its workforce development goals. This item will be discussed at the May 10, 2022 Legislative/Human Resources Committee meeting.

### DISCUSSION

Under this agreement, the District will facilitate eight internship programs serving approximately 100 interns – primarily individuals from underrepresented communities – during Fiscal Years 2022 and 2023. PCF will serve as the employer of record and will manage the payment of participant stipends. Individuals in these internships will be referred from community partners and community colleges and participate in either virtual or on-site internships. The participants will gain valuable experiences on the pathway to potential full-time employment with EBMUD.

This agreement supports the District's Diversity, Equity, and Inclusion Strategic Plan goals by enhancing the District's ability to recruit a highly qualified diverse staff. The District's internship programs are an important component of the District's workforce diversity strategies to increase the pool of diverse, qualified job candidates, especially in careers identified as priority in the District's Affirmative Action Plan.

The internships will include the following:

- High School program
- Career Pathway Internships (In partnership with Peralta Community College District)
  - Web design
  - Pre-engineering Aide
- Fisheries/Wildlife Biology
- Ranger/Naturalist
- Recycled Water Program

- Skilled Trades (connected with community colleges and pre-apprentice programs)
- Special Population Internships (veterans, individuals with disabilities etc.)

In addition to the internships referenced in this agreement, the District will continue to internally administer internship programs like the Maintenance Trades Training Program (MTTP), Pipeline Training Academy, Community Trainee Program (formerly SEP), and the traditional High School Internship program.

## **NEXT STEPS**

The Board will be asked to consider the internship stipend agreement with PCF at its May 10, 2022 meeting. If approved, the agreement will be effective from May 2022 through June 2023.

CCC:DLM:sc