Notice of Time Change

LEGISLATIVE/HUMAN RESOURCES COMMITTEE MEETING

10:30 a.m.
Tuesday, July 9, 2013

Notice is hereby given that on Tuesday, July 9, 2013 the Legislative/Human Resources Committee Meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 10:30 a.m. The meeting will be held in the Training Resource Center of the Administration Building, 375 - 11th Street, Oakland, California.

Dated: July 3, 2013

[Signature]
Lynelle M. Lewis
Secretary of the District
AGENDA

Legislative/Human Resources Committee
Tuesday, July 9, 2013
10:30 a.m.
Training Resource Center

(Committee Members: Directors McIntosh [Chair], Coleman and Mellon)

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 Report (Dumaine)
   - Receive Legislative Report No. 08-13 and consider positions on the following bill:
     SCA 9 (Corbett) Local Government: Economic Development: Special Taxes: Voter Approval; information on the state Water Bond; and information on the federal Water Resources Development Act (WRDA)
   - Update on Legislative Issues of Interest to EBMUD

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 11th Street, Oakland, California, during normal business hours.

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DATE: July 3, 2013

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager

SUBJECT: Legislative Report No. 08-13

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.

STATE LEGISLATION

SCA 9 (Corbett) LOCAL GOVERNMENT: ECONOMIC DEVELOPMENT: SPECIAL TAXES: VOTER APPROVAL

RECOMMENDED POSITION

SUPPORT

The California Constitution prohibits the ad valorem tax rate on real property from exceeding one percent of the full cash value of the property, subject to certain exceptions. The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of 2/3 of the voters of the city, county, or special district voting on that tax, except that certain school entities may levy an ad valorem property tax for specified purposes with the approval of 55 percent of the voters within the jurisdiction of these entities. In addition, the California Constitution deems any tax levied by a special district to be a special tax.

SCA 9 (Corbett) is a constitutional amendment that, pending voter approval, would change the 2/3 voter-approval requirement for special taxes to, instead, allow cities, counties, or special districts to impose a special tax for the purposes of funding local community and economic development projects with the approval of 55 percent of its voters voting on the tax, if specified accountability provisions are met.

Under SCA 9, in order to impose a special tax using the lower vote threshold the ballot proposition must specify all purposes for which the tax proceeds will be used, include a requirement for an annual independent audit of the tax proceeds and programs funded, and provide for the establishment of a citizens’ oversight committee to review expenditures and financial audits.

Special taxes are a form of parcel taxes which are based on the characteristics of the parcel, not the property value of the parcel. Special districts use revenues from both special taxes and local property taxes to fund public improvements and vital public services. For example, in November 2012, voters in the Santa Clara Valley Water District approved Measure B to renew an existing special parcel tax for 15 years in order to fund specified projects within the district, such as those
to reduce pollution in waterways or to provide flood protection. Passage of Measure B required approval of 2/3 of the voters.

Although SCA 9’s special tax provisions are intended to assist local governments to continue financing economic development projects in the absence of redevelopment agencies, SCA 9 would apply to special districts, including EBMUD. Thus, SCA 9 would enable EBMUD, if it so chooses in the future, to gain voter approval of special taxes to fund water or wastewater projects by the lower voter threshold of 55 percent rather than the now required 2/3 vote if the projects help “improve, upgrade, or revitalize” areas that have become blighted. This would provide a more viable avenue for EBMUD to obtain revenue for projects that have community and economic development benefits than currently exists.

EBMUD has previously supported similar legislation to lower the vote threshold for approval of special taxes. Earlier this year the Board adopted a “support” position on SCA 11 (Hancock), which would lower the vote threshold for approval of any special taxes. SCA 11 is pending in the legislature. In 2009, EBMUD supported ACA 9 (Huffman), which among other things, would have lowered the vote threshold for approval of special taxes. ACA 9 failed passage in the legislature.

The current list of support and opposition to SCA 9 is shown below.

Support
California Labor Federation
California Special Districts Association
California State Association of Counties
City of San Jose
Glendale City Employees Association
League of California Cities
Organization of SMUD Employees
San Bernardino Public Employees Association
San Luis Obispo County Employees Association
Santa Rosa City Employees Association

Opposition
Apartment Association of Greater Los Angeles
Apartment Association of California Southern Cities
Apartment Association of Orange County
Associated Builders and Contractors of California
California Ambulance Association
California Apartment Association
California Association of Realtors
California Business Properties Association
California Chamber of Commerce
California Grocers Association
INFORMATIONAL ITEMS

WATER RESOURCES DEVELOPMENT ACT UPDATE

The Water Resources Development Act (WRDA) is legislation which authorizes federal funding of the U.S. Army Corps of Engineers (Corps) water resources projects and studies related to flood protection and environmental infrastructure. Traditionally, WRDA includes authorizations for specific projects and is reauthorized every two years. However, WRDA has not been reauthorized since 2007. Since the 2007 reauthorization, the house has adopted a formal policy, and the senate has adopted an informal policy, to ban earmarks that previously provided project specific funding.

Currently both the senate and house are working to reauthorize WRDA within the context of the earmark ban through the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure.

On the senate side, Senator Boxer is sponsoring S. 601 as a vehicle for WRDA reauthorization. This measure would set priorities for Corps activities, and effectively authorize projects for which the Corps has recommended authorizations since the passage of the 2007 WRDA. S. 601 would also allow non-federal entities to conduct feasibility studies, allow for the de-authorization of projects, create a new levee safety program, and authorize a pilot infrastructure assistance program – the Water Infrastructure Finance and Innovation Act (WIFIA), which would provide $50 million annually for assistance for projects via low interest loans and loan guarantees. Eligibility for the WIFIA pilot program would be limited to those infrastructure projects in excess of $20 million with $5 million to be set-aside for rural projects.

S. 601 would specifically prohibit the use of tax-exempt bond financing for those projects that receive WIFIA assistance. Though S. 601’s prohibition on the use of tax exempt financing would be limited to those projects that receive WIFIA assistance, the concept of eliminating tax exempt bond financing for municipal projects has come up in broader federal discussions on tax reform.
Tax-exempt bond financing is used by state and local governments, including EBMUD, as a source of low-cost funding for infrastructure projects. Because interest income from these bonds is not subject to federal taxes, investors are willing to accept lower interest rates than they would otherwise receive from taxable bonds such as those issued by corporations. In this way, the federal tax exemption functions as an indirect subsidy to state and local government borrowers. Because it reduces the tax revenues collected by the federal government, it has been targeted for either elimination or more restrictive use.

A prohibition on tax-exempt bond financing would increase local government costs through higher rates on municipal bonds necessary to attract investors in the absence of the tax benefit that would otherwise be available. EBMUD utilizes tax-exempt bonds, among other tools, to finance infrastructure projects such as the Freeport Regional Water Project. If tax-exempt bond financing had been unavailable, the cost of financing the project would have risen by approximately $150 million. Though the elimination of tax-exempt financing that is proposed in S. 601 would be limited to those projects that receive WIFIA funding, it would represent a first step towards the elimination of this form of federal assistance for any infrastructure projects. Accordingly, staff will communicate EBMUD’s opposition to any proposals to eliminate the use of tax-exempt financing. S. 601 was passed by the senate in May and referred to the house.

On the house side, committee staff has indicated that the Committee on Transportation and Infrastructure is developing its own WRDA bill without reference to S. 601. Members have expressed a desire to advance projects for funding in WRDA but acknowledge that the earmark ban precludes project specific funding. Accordingly, members are exploring alternate ways to provide federal assistance for specific projects.

One approach under consideration is the use of programmatic language to provide funding to the Corps for projects that meet criteria specified in the final WRDA measure. EBMUD has provided programmatic language for potential inclusion in the house WRDA measure. This language is intended to provide funding eligibility for EBMUD’s water supply system in the context of increasing regional water supply reliability and emergency preparedness. In addition, and consistent with EBMUD’s 2013 Federal Initiatives, EBMUD staff continues to communicate EBMUD’s project specific funding needs for its Regional EBMUD Seismic Component Upgrade program (RESCU), its San Ramon Valley Recycled Water Project, and its infrastructure projects under the capital improvement program. While the house continues its work to develop a WRDA measure and continues to seek input from others, including EBMUD, it has not yet determined what approach it will take with regard to project funding.

A committee mark-up of the house WRDA measure is expected in early July. At this time it is not clear when the house will complete its work on WRDA or when conference committee efforts are expected to commence.

Staff will continue to work with EBMUD’s house and senate delegation to advance EBMUD’s funding needs and will provide updates to the Board as appropriate.
WATER BOND UPDATE INFORMATION

In November 2009, SB 2X7, which provided for an $11.14 billion bond measure to fund statewide water system improvements, was approved by the legislature as part of a Delta related package of bills. The water bond was originally slated for the November 2010 ballot. Due to concerns that a sluggish economy and state budget shortfall would impact voter approval, the water bond measure has been delayed twice by the legislature. First, AB 1265 (Caballero) in 2010, which moved the water bond to the 2012 November general election, was approved by the legislature and signed by the governor (Chapter 126 of 2010). Most recently, in 2012, AB 1422 (Perea), which delayed the water bond to the November 2014 general election, was approved by the legislature and signed by the governor (Chapter 74 of 2012).

The current 2014 water bond would provide $11.14 billion to fund various projects and programs as follows:

- $455 million - Drought Relief
- $1.400 billion - Water Supply Reliability
- $2.250 billion - Delta Sustainability
- $3.000 billion - Statewide Water System Operational Improvement
- $1.785 billion - Conservation and Watershed Protection
- $1.000 billion - Groundwater Protection and Water Quality
- $1.250 billion - Water Recycling Program

There is general agreement in the legislature and administration that the size of the current water bond is too large and reductions are needed before it is put before the voters. In preparation for its work to revise the bond, the legislature has held three informational hearings this year with an additional informational hearing expected to be held in early July. These hearings have focused on various bond-related topics including the state’s current level of debt service, whether changes in circumstances since the bond measure was originally approved in 2009 merit modifications to the water bond, and what impact encouraging regional sustainable solutions, such as stormwater capture and water recycling, could have on the need for a water bond.

In addition to the informational hearings, five water bond-related bills have been introduced in the legislature. Currently, these bills are considered “spot bills” with little to no operative language but are potential vehicles for any effort to modify the existing water bond. A brief overview of these bills is provided below.

**AB 142 (Committee on Water, Parks and Wildlife) - Water resources: infrastructure**
This measure would require the Department of Water Resources (DWR) to complete a study of California’s state and local water supply infrastructure needs and provide a report to the legislature by July 1, 2014. This measure is a spot bill.

**AB 295 (Committee on Water, Parks and Wildlife) - Water: water supply: infrastructure**
This measure would require the State Water Resources Control Board (SWRCB) and the Department of Public Health (DPH) to complete a study regarding the need for state funding for
projects necessary to ensure access to safe drinking water for all Californians and provide a report to the legislature by July 1, 2014. This measure is a spot bill.

**AB 1331 (Committee on Water, Parks and Wildlife) – Water resources: assessments of public funding**
This measure would declare that the legislature requires additional information in order to evaluate and prioritize the amount of state funding necessary to meet water-related public priorities. AB 1331 would require the Natural Resources Agency, SWRCB, DPH, and the Delta Stewardship Council to report to the legislature by July 1, 2014 on the existing levels of public funding and the estimated additional level of public investment needed in specified areas including infrastructure, integrated water management, water supply reliability, water recycling, watersheds and aquatic ecosystem conservation and protection, ensuring access to safe drinking water for all Californians, and implementing the Delta Plan. This measure is a spot bill.

**SB 40 (Pavley) – Safe, Clean, and Reliable Drinking Water Supply Act of 2012**
This measure contains intent language to amend the Safe, Clean, and Reliable Drinking Water Supply Act of 2012 and change the name to the Safe, Clean, and Reliable Drinking Water Supply Act of 2014. This measure is a spot bill.

**SB 42 (Wolk) – The California Clean, Secure Water Supply and Delta Recovery Act of 2014**
This measure would repeal the provisions of the current 2014 water bond and enact a new water bond in an unspecified amount to provide funding for delta security and recovery; regional water supply security; clean drinking water; protection of rivers, lakes, and watersheds; statewide water supply improvements; and flood protections. This measure is a spot bill.

To date, no significant legislative action has occurred with regard to the water bond and the timing for any modification to the existing bond is uncertain. Outside groups, including the members of the environmental justice community, ACWA, and others, have developed their approaches to modify the water bond in an effort to inform the legislative process.

With regard to the Bay Delta Conservation Plan (BDCP), the current plan relies on bond funding. Chapter 8 of the recently released administrative draft of the BDCP indicates that water bonds are expected to provide over $3.4 billion in funding for the BDCP with approximately $1.5 billion coming from the 2014 water bond and an additional $1.9 billion from future unidentified water bonds.

Overall, the work of the legislature on the water bond is pending. It is not yet clear when the legislature intends to consider water bond modifications or what approach the legislature will take in addressing core issues such as the size of the final water bond, whether project specific earmarks will be included, and whether the final bond will be based on the existing bond or developed independently. Staff will continue to closely monitor these efforts and will provide updates to the Board as appropriate.