



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

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

Notice of Time Change

**LEGISLATIVE/HUMAN RESOURCES
COMMITTEE MEETING**

10:30 a.m.

Tuesday, December 11, 2018

Notice is hereby given that the Tuesday, December 11, 2018 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: December 6, 2018

A handwritten signature in dark ink, appearing to read 'Rischa S. Cole', is written over a horizontal line.

Rischa S. Cole

Secretary of the District



**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, December 11, 2018
10:30 a.m.
Training Resource Center**

(Committee Members: Directors Coleman {Chair}, Patterson and Young)

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. 09-18 and consider a position on the following bill:
S. 3564 (Cardin) Low-Income Water Customer Assistance Programs Act of 2018
 - State Legislative Initiatives for 2019 Legislative Year
 - 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, and can be viewed on our website at www.ebmud.com.

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: December 6, 2018

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Legislative Report No. 09-18

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 December 11, 2018.

RECOMMENDED ACTION

Approve a position on the following bill: Support S. 3564 (Cardin) Low-Income Water Customer Assistance Programs Act of 2018.

FEDERAL LEGISLATION

RECOMMENDED POSITION

S. 3564 (Cardin)	LOW-INCOME WATER CUSTOMER ASSISTANCE PROGRAMS ACT OF 2018	SUPPORT
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S. 3564 (Cardin), the “Low-Income Water Customer Assistance Programs Act of 2018,” is intended to help low-income families across the country pay for drinking water and wastewater utility bills. S. 3564 would primarily require the United States Environmental Protection Agency (EPA) to establish a low-income drinking water assistance pilot program and a low-income wastewater assistance pilot program. In addition, the bill includes other provisions including a requirement for the EPA to conduct a study regarding the prevalence of low-income households that lack access to affordable drinking water and affordable wastewater service, and make recommendations to increase access to affordable drinking water and wastewater service.

Under S. 3564, the EPA would award grants under the two pilot programs for public utilities to assist low-income households, as defined in the bill, in maintaining access to water and wastewater service. Not fewer than 64 grants would be available for the two pilot programs – not fewer than 32 grants for drinking water assistance and not fewer than 32 grants for wastewater assistance. The grants available under each pilot program would be awarded according to the following categories: 8 grants for utilities that serve more than 1 million people; 8 grants for utilities that serve between 100,000 and 1 million people; 8 grants for utilities that serve between 10,000 and 100,000 people; and 8 grants for utilities that serve less than 10,000 people. An

eligible entity may apply for both pilot programs, but can only be awarded a grant under one of the pilot programs.

Eligible entities for the low-income drinking water assistance pilot program are defined as a municipality or a public entity that owns or operates a community water system. Eligible entities for the low-income wastewater assistance pilot program are defined as a municipality or public entity that owns or operates a publicly owned treatment works, a municipal wastewater treatment system, or a municipal separate stormwater sewer system. EBMUD would be considered an eligible entity.

Under S. 3564, the EPA would develop requirements for how the grants must be used which could include direct financial assistance, a lifeline rate, bill discounting, special hardship provisions, a percentage-of-income payment plan, or water efficiency assistance. Assistance provided to low-income households under the bill would be exempt from federal income tax.

In awarding grants, priority would be given to entities that are affected by consent decrees, entities whose residential customers have experienced rate or fee increases greater than 30 percent during the three years prior to enactment of the bill, entities that develop an equivalent assistance program, as determined by the EPA, or provide matching funds equal to or greater than the grant. Grants cannot be used to replace funds for an existing program, but can be used to supplement an existing program.

With regard to cost-benefit to EBMUD, this measure could provide direct benefit to EBMUD's ratepayers if EBMUD is able to participate in one of the pilot programs and it would not impose additional cost burdens on ratepayers.

The intent of this measure, to assist low-income families pay for drinking water and wastewater services, is consistent with EBMUD's Policy 1.14 – Customer Assistance Policy, and EBMUD's own efforts to provide assistance within its service area. More broadly, this measure takes an important step toward providing national assistance to help low-income households pay their drinking water and wastewater utility bills while preserving the robust environmental protections afforded by The Clean Water Act. Earlier this year EBMUD supported a similar bill, S. 3015 (Harris), to have the EPA establish a pilot program to award grants for public water utilities to assist low-income households with bill payment.

ARC:MD:JW

Attachment

115TH CONGRESS
2D SESSION

S. 3564

To amend the Safe Drinking Water Act and the Federal Water Pollution Control Act to establish pilot programs to assist low-income households in maintaining access to sanitation services and drinking water, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 10, 2018

Mr. CARDIN (for himself and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Safe Drinking Water Act and the Federal Water Pollution Control Act to establish pilot programs to assist low-income households in maintaining access to sanitation services and drinking water, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Low-Income Water
5 Customer Assistance Programs Act of 2018”.

1 **SEC. 2. LOW-INCOME DRINKING WATER ASSISTANCE PILOT**
 2 **PROGRAM.**

3 Part E of the Safe Drinking Water Act (42 U.S.C.
 4 300j et seq.) is amended by adding at the end the fol-
 5 lowing:

6 **“SEC. 1459C. LOW-INCOME DRINKING WATER ASSISTANCE**
 7 **PILOT PROGRAM.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
 10 tity’ means a municipality or public entity that owns
 11 or operates a community water system.

12 “(2) HOUSEHOLD.—The term ‘household’
 13 means any individual or group of individuals who
 14 are living together as 1 economic unit.

15 “(3) LOW-INCOME HOUSEHOLD.—The term
 16 ‘low-income household’ means a household—

17 “(A) in which 1 or more individuals are re-
 18 ceiving—

19 “(i) assistance under a State program
 20 funded under part A of title IV of the So-
 21 cial Security Act (42 U.S.C. 601 et seq.);

22 “(ii) supplemental security income
 23 payments under title XVI of the Social Se-
 24 curity Act (42 U.S.C. 1381 et seq.);

25 “(iii) supplemental nutrition assist-
 26 ance program benefits under the Food and

1 Nutrition Act of 2008 (7 U.S.C. 2011 et
2 seq.); or

3 “(iv) payments under—

4 “(I) section 1315, 1521, 1541, or
5 1542 of title 38, United States Code;
6 or

7 “(II) section 306 of the Veterans’
8 and Survivors’ Pension Improvement
9 Act of 1978 (38 U.S.C. 1521 note;
10 Public Law 95–588); or

11 “(B) that has an income that, as deter-
12 mined by the State in which the household is lo-
13 cated, does not exceed the greater of—

14 “(i) an amount equal to 150 percent
15 of the poverty level for that State; and

16 “(ii) an amount equal to 60 percent of
17 the median income for that State.

18 “(4) SMALL COMMUNITY-SERVING ELIGIBLE
19 ENTITY.—The term ‘small community-serving eligi-
20 ble entity’ means an eligible entity that provides
21 drinking water services to a city, county, or munici-
22 pality with a population of fewer than 10,000 resi-
23 dents, at least 20 percent of whom are at or below
24 the Federal poverty level.

25 “(b) ESTABLISHMENT.—

1 “(1) IN GENERAL.—The Administrator shall es-
2 tablish a pilot program to award grants to not fewer
3 than 32 eligible entities in accordance with para-
4 graph (2) to develop and implement programs to as-
5 sist low-income households in maintaining access to
6 affordable drinking water.

7 “(2) REQUIREMENTS.—

8 “(A) IN GENERAL.—The Administrator
9 shall award grants under the pilot program de-
10 scribed in paragraph (1) to—

11 “(i) not fewer than 8 eligible entities
12 that provide drinking water services to a
13 population of 1,000,000 or more residents;

14 “(ii) not fewer than 8 eligible entities
15 that provide drinking water services to a
16 population of 100,000 or more, but fewer
17 than 1,000,000, residents;

18 “(iii) not fewer than 8 eligible entities
19 that provide drinking water services to a
20 population of 10,000 or more, but fewer
21 than 100,000, residents;

22 “(iv) subject, as applicable, to sub-
23 paragraph (B), not fewer than 8 eligible
24 entities that provide drinking water serv-

1 ices to a population of fewer than 10,000
2 residents; and

3 “(v) not more than 2 eligible entities
4 in each State.

5 “(B) SMALL COMMUNITY-SERVING ELIGI-
6 BLE ENTITIES.—To be eligible to receive a
7 grant under the pilot program under this sub-
8 section, a small community-serving eligible enti-
9 ty shall enter into a memorandum of under-
10 standing with the State in which the small com-
11 munity-serving eligible entity is located, under
12 which the State shall—

13 “(i) submit to the Administrator an
14 application under paragraph (6) on behalf
15 of the small community-serving eligible en-
16 tity; and

17 “(ii) on receipt of a grant under the
18 pilot program, administer the low-income
19 household assistance program developed by
20 the small community-serving eligible entity.

21 “(3) LIMITATIONS.—

22 “(A) USE.—A grant awarded under the
23 pilot program—

24 “(i) shall not be used to replace funds
25 for any existing similar program; but

1 “(ii) may be used to supplement or
2 enhance an existing program.

3 “(B) GRANTS UNDER MULTIPLE PRO-
4 GRAMS.—An eligible entity—

5 “(i) may apply for a grant under the
6 pilot program and under the low-income
7 wastewater assistance pilot program estab-
8 lished under section 124(b)(1) of the Fed-
9 eral Water Pollution Control Act; but

10 “(ii) may be awarded a grant under
11 only 1 of the programs described in clause
12 (i).

13 “(4) TERM.—The term of a grant awarded
14 under the pilot program shall be 5 years.

15 “(5) MINIMUM PROGRAM REQUIREMENTS.—

16 “(A) IN GENERAL.—Not later than 2 years
17 after the date of enactment of this section, the
18 Administrator shall develop, in consultation
19 with all relevant stakeholders, the minimum re-
20 quirements for a program carried out by an eli-
21 gible entity (or a State, on behalf of a small
22 community-serving eligible entity) using a grant
23 under this subsection.

1 “(B) INCLUSIONS.—The program require-
 2 ments developed under subparagraph (A) may
 3 include—

4 “(i) direct financial assistance;

5 “(ii) a lifeline rate:

6 “(iii) bill discounting;

7 “(iv) special hardship provisions;

8 “(v) a percentage-of-income payment
 9 plan; or

10 “(vi) water efficiency assistance, in-
 11 cluding direct installation of water efficient
 12 fixtures and leak repair, which may be
 13 completed through a contracted third
 14 party.

15 “(C) ASSISTANCE EXEMPT FROM TAX-
 16 ATION.—Notwithstanding any other provision of
 17 law, assistance provided to a low-income house-
 18 hold under a program carried out by an eligible
 19 entity (or a State, on behalf of a small commu-
 20 nity-serving eligible entity) using a grant under
 21 this subsection shall be exempt from income tax
 22 under the Internal Revenue Code of 1986.

23 “(6) APPLICATION.—To receive a grant under
 24 this subsection, an eligible entity (or a State, on be-
 25 half of a small community-serving eligible entity)

1 shall submit to the Administrator an application
2 that demonstrates that—

3 “(A) the proposed program of the eligible
4 entity or small community-serving eligible enti-
5 ty, as applicable, meets the requirements devel-
6 oped under paragraph (5)(A);

7 “(B) the eligible entity or small commu-
8 nity-serving eligible entity, as applicable, has a
9 long-term financial plan to fund the activities
10 necessary to achieve or maintain compliance
11 with this Act; and

12 “(C) a grant awarded under this sub-
13 section would support the efforts of the eligible
14 entity (or the State, on behalf of a small com-
15 munity-serving eligible entity) to generate the
16 necessary funds to achieve or maintain compli-
17 ance with this Act while mitigating the cost to
18 low-income households.

19 “(7) PRIORITY.—In awarding grants under this
20 subsection, the Administrator shall give priority to
21 eligible entities or small community-serving eligible
22 entities, as applicable—

23 “(A) that are affected by consent decrees
24 relating to compliance with the Federal Water
25 Pollution Control Act (33 U.S.C. 1251 et seq.);

1 “(B) the residential customers of which
2 have experienced rate or fee increases for drink-
3 ing water, wastewater, or stormwater services
4 greater than or equal to 30 percent during the
5 period beginning on the date that is 3 years be-
6 fore the date of enactment of this section;

7 “(C) that—

8 “(i) develop an equivalent program, as
9 determined by the Administrator, that is
10 administered separately by the eligible en-
11 tity or small community-serving eligible en-
12 tity, as applicable; or

13 “(ii) provide matching funds equal to
14 or greater than the amount of the grant
15 from—

16 “(I) the applicable State or unit
17 of local government; or

18 “(II) a State-sponsored nonprofit
19 organization or private entity; or

20 “(D) that are described in subsection
21 (a)(1)(B).

22 “(8) LOWER INCOME LIMIT.—For purposes of
23 this section, an eligible entity (or a State, on behalf
24 of a small community-serving eligible entity) may
25 adopt an income limit that is lower than the limit

1 described in subsection (a)(3)(B), except that the el-
 2 igible entity or State, respectively, may not exclude
 3 a household from eligibility in a fiscal year based
 4 solely on household income if that income is less
 5 than 110 percent of the poverty level for the State.

6 “(9) REPORTING REQUIREMENTS.—

7 “(A) IN GENERAL.—In addition to any
 8 other applicable Federal or agency-specific
 9 grant reporting requirements, as a condition of
 10 receiving a grant under this subsection, an eli-
 11 gible entity (or a State, on behalf of a small
 12 community-serving eligible entity) shall submit
 13 to the Administrator an annual report that
 14 summarizes, in a manner determined by the
 15 Administrator, the low-income household assist-
 16 ance program developed by the eligible entity or
 17 small community-serving eligible entity, as ap-
 18 plicable, using the grant, including—

19 “(i) key features;

20 “(ii) sources of funding;

21 “(iii) eligibility criteria;

22 “(iv) participation rates;

23 “(v) the monetary benefit per partici-
 24 pant;

25 “(vi) program costs;

1 “(vii) the demonstrable impacts of the
2 program on arrearage and service dis-
3 connection for residential customers, to the
4 maximum extent practicable; and

5 “(viii) other relevant information re-
6 quired by the Administrator.

7 “(B) PUBLICATION.—The Administrator
8 shall publish each report submitted under sub-
9 paragraph (A).

10 “(c) TECHNICAL ASSISTANCE.—The Administrator
11 shall provide technical assistance to each eligible entity,
12 and each State, on behalf of a small community-serving
13 eligible entity, that receives a grant under this section to
14 ensure—

15 “(1) full implementation of the pilot program;
16 and

17 “(2) maximum enrollment of low-income house-
18 holds.

19 “(d) REPORT.—Not later than 2 years after the date
20 on which grant funds are first disbursed to an eligible enti-
21 ty (or a State, on behalf of a small community-serving eli-
22 gible entity) under this section, and every year thereafter
23 for the duration of the terms of the grants, the Adminis-
24 trator shall submit to Congress a report on the results
25 of the pilot program established under this section.”.

1 **SEC. 3. LOW-INCOME WASTEWATER ASSISTANCE PILOT**
 2 **PROGRAM.**

3 Title I of the Federal Water Pollution Control Act
 4 (33 U.S.C. 1251 et seq.) is amended by adding at the end
 5 the following:

6 **“SEC. 124. LOW-INCOME WASTEWATER ASSISTANCE PILOT**
 7 **PROGRAM.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
 10 tity’ means—

11 “(A) a municipality or public entity that
 12 owns or operates—

13 “(i) a publicly owned treatment
 14 works;

15 “(ii) a municipal wastewater treat-
 16 ment system; or

17 “(iii) a municipal separate stormwater
 18 sewer system; and

19 “(B) 2 or more municipalities or public en-
 20 tities described in subparagraph (A) that have
 21 entered into a partnership agreement or a coop-
 22 erative agreement.

23 “(2) HOUSEHOLD.—The term ‘household’
 24 means any individual or group of individuals who
 25 are living together as 1 economic unit.

1 “(3) LOW-INCOME HOUSEHOLD.—The term
2 ‘low-income household’ means a household—

3 “(A) in which 1 or more individuals are re-
4 ceiving—

5 “(i) assistance under a State program
6 funded under part A of title IV of the So-
7 cial Security Act (42 U.S.C. 601 et seq.);

8 “(ii) supplemental security income
9 payments under title XVI of the Social Se-
10 curity Act (42 U.S.C. 1381 et seq.);

11 “(iii) supplemental nutrition assist-
12 ance program benefits under the Food and
13 Nutrition Act of 2008 (7 U.S.C. 2011 et
14 seq.); or

15 “(iv) payments under—

16 “(I) section 1315, 1521, 1541, or
17 1542 of title 38, United States Code;
18 or

19 “(II) section 306 of the Veterans’
20 and Survivors’ Pension Improvement
21 Act of 1978 (38 U.S.C. 1521 note;
22 Public Law 95–588); or

23 “(B) that has an income that, as deter-
24 mined by the State in which the household is lo-
25 cated, does not exceed the greater of—

1 “(i) an amount equal to 150 percent
2 of the poverty level for that State; and

3 “(ii) an amount equal to 60 percent of
4 the median income for that State.

5 “(4) SMALL COMMUNITY-SERVING ELIGIBLE
6 ENTITY.—The term ‘small community-serving eligi-
7 ble entity’ means an eligible entity that provides
8 wastewater or municipal stormwater services to a
9 city, county, or municipality with a population of
10 fewer than 10,000 residents, at least 20 percent of
11 whom are at or below the Federal poverty level.

12 “(b) ESTABLISHMENT.—

13 “(1) IN GENERAL.—The Administrator shall es-
14 tablish a pilot program to award grants to not fewer
15 than 32 eligible entities in accordance with para-
16 graph (2) to develop and implement programs to as-
17 sist low-income households in maintaining access to
18 affordable wastewater or municipal stormwater serv-
19 ices.

20 “(2) REQUIREMENTS.—

21 “(A) IN GENERAL.—The Administrator
22 shall award grants under the pilot program de-
23 scribed in paragraph (1) to—

1 “(i) not fewer than 8 eligible entities
2 that provide drinking water services to a
3 population of 1,000,000 or more residents;

4 “(ii) not fewer than 8 eligible entities
5 that provide drinking water services to a
6 population of 100,000 or more, but fewer
7 than 1,000,000, residents;

8 “(iii) not fewer than 8 eligible entities
9 that provide drinking water services to a
10 population of 10,000 or more, but fewer
11 than 100,000, residents;

12 “(iv) subject, as applicable, to sub-
13 paragraph (B), not fewer than 8 eligible
14 entities that provide drinking water serv-
15 ices to a population of fewer than 10,000
16 residents; and

17 “(v) not more than 2 eligible entities
18 in each State.

19 “(B) SMALL COMMUNITY-SERVING ELIGI-
20 BLE ENTITIES.—To be eligible to receive a
21 grant under the pilot program under this sub-
22 section, a small community-serving eligible enti-
23 ty shall enter into a memorandum of under-
24 standing with the State in which the small com-

1 community-serving eligible entity is located, under
2 which the State shall—

3 “(i) submit to the Administrator an
4 application under paragraph (6) on behalf
5 of the small community-serving eligible en-
6 tity; and

7 “(ii) on receipt of a grant under the
8 pilot program, administer the low-income
9 household assistance program developed by
10 the small community-serving eligible entity.

11 “(3) LIMITATIONS.—

12 “(A) USE.—A grant awarded under the
13 pilot program shall not be used to replace funds
14 for any existing similar program.

15 “(B) GRANTS UNDER MULTIPLE PRO-
16 GRAMS.—An eligible entity—

17 “(i) may apply for a grant under the
18 pilot program and under the low-income
19 drinking water assistance pilot program es-
20 tablished under section 1459C(b)(1) of the
21 Safe Drinking Water Act; but

22 “(ii) may be awarded a grant under
23 only 1 of the programs described in clause
24 (i).

1 “(4) TERM.—The term of a grant awarded
2 under the pilot program shall be 5 years.

3 “(5) MINIMUM PROGRAM REQUIREMENTS.—

4 “(A) IN GENERAL.—Not later than 2 years
5 after the date of enactment of this section, the
6 Administrator shall develop, in consultation
7 with all relevant stakeholders, the minimum re-
8 quirements for a program to be carried out by
9 an eligible entity (or a State, on behalf of a
10 small community-serving eligible entity) using a
11 grant under this subsection.

12 “(B) INCLUSIONS.—The program require-
13 ments developed under subparagraph (A) may
14 include—

15 “(i) direct financial assistance;

16 “(ii) a lifeline rate;

17 “(iii) bill discounting;

18 “(iv) special hardship provisions;

19 “(v) a percentage-of-income payment
20 plan; or

21 “(vi) water efficiency assistance, in-
22 cluding direct installation of water efficient
23 fixtures and leak repair, which may be
24 completed through a contracted third
25 party.

1 “(C) ASSISTANCE EXEMPT FROM TAX-
2 ATION.—Notwithstanding any other provision of
3 law, assistance provided to a low-income house-
4 hold under a program carried out by an eligible
5 entity (or a State, on behalf of a small commu-
6 nity-serving eligible entity) using a grant under
7 this subsection shall be exempt from income tax
8 under the Internal Revenue Code of 1986.

9 “(6) APPLICATION.—To receive a grant under
10 this subsection, an eligible entity (or a State, on be-
11 half of a small community-serving eligible entity)
12 shall submit to the Administrator an application
13 that demonstrates that—

14 “(A) the proposed program of the eligible
15 entity or small community-serving eligible enti-
16 ty, as applicable, meets the requirements devel-
17 oped under paragraph (5)(A);

18 “(B) the eligible entity or small commu-
19 nity-serving eligible entity, as applicable, has a
20 long-term financial plan to fund the activities
21 necessary to achieve or maintain compliance
22 with this Act; and

23 “(C) a grant awarded under this sub-
24 section would support the efforts of the eligible
25 entity (or the State, on behalf of a small com-

1 munity-serving eligible entity) to generate the
2 necessary funds to achieve or maintain compli-
3 ance with this Act while mitigating the cost to
4 low-income households.

5 “(7) PRIORITY.—In awarding grants under this
6 subsection, the Administrator shall give priority to
7 eligible entities or small community-serving eligible
8 entities, as applicable—

9 “(A) that are affected by consent decrees
10 relating to compliance with this Act;

11 “(B) the residential customers of which
12 have experienced rate or fee increases for
13 wastewater, stormwater, or drinking water serv-
14 ices greater than or equal to 30 percent during
15 the period beginning on the date that is 3 years
16 before the date of enactment of this section;

17 “(C) that—

18 “(i) develop an equivalent program, as
19 determined by the Administrator, that is
20 administered separately by the eligible en-
21 tity or small community-serving eligible en-
22 tity, as applicable; or

23 “(ii) provide matching funds equal to
24 or greater than the amount of the grant
25 from—

1 “(I) the applicable State or unit
2 of local government; or

3 “(II) a State-sponsored nonprofit
4 organization or private entity; or

5 “(D) that are described in subsection
6 (a)(1)(B).

7 “(8) LOWER INCOME LIMIT.—For purposes of
8 this section, an eligible entity (or a State, on behalf
9 of a small community-serving eligible entity) may
10 adopt an income limit that is lower than the limit
11 described in subsection (a)(3)(B), except that the el-
12 igible entity or State, respectively, may not exclude
13 a household from eligibility in a fiscal year based
14 solely on household income if that income is less
15 than 110 percent of the poverty level for the State.

16 “(9) REPORTING REQUIREMENTS.—

17 “(A) IN GENERAL.—In addition to any
18 other applicable Federal or agency-specific
19 grant reporting requirements, as a condition of
20 receiving a grant under this subsection, an eli-
21 gible entity (or a State, on behalf of a small
22 community-serving eligible entity) shall submit
23 to the Administrator an annual report that
24 summarizes, in a manner determined by the
25 Administrator, the low-income household assist-

1 ance program developed by the eligible entity or
2 small community-serving eligible entity, as ap-
3 plicable, using the grant amount, including—

4 “(i) key features;

5 “(ii) sources of funding;

6 “(iii) eligibility criteria;

7 “(iv) participation rates;

8 “(v) the monetary benefit per partici-
9 pant;

10 “(vi) program costs;

11 “(vii) the demonstrable impacts of the
12 program on arrearage and service dis-
13 connection for residential customers, to the
14 maximum extent practicable; and

15 “(viii) other relevant information re-
16 quired by the Administrator.

17 “(B) PUBLICATION.—The Administrator
18 shall publish each report submitted under sub-
19 paragraph (A).

20 “(c) TECHNICAL ASSISTANCE.—The Administrator
21 shall provide technical assistance to each eligible entity
22 and each State, on behalf of a small community-serving
23 eligible entity, that receives a grant under this section to
24 ensure—

1 “(1) full implementation of the pilot program;
2 and

3 “(2) maximum enrollment of low-income house-
4 holds.

5 “(d) REPORT.—Not later than 2 years after the date
6 on which grant funds are first disbursed to an eligible enti-
7 ty (or a State, on behalf of a small community-serving eli-
8 gible entity) under this section, and every year thereafter
9 for the duration of the terms of the grants, the Adminis-
10 trator shall submit to Congress a report on the results
11 of the pilot program established under this section.”.

12 **SEC. 4. NEEDS ASSESSMENT FOR NATIONWIDE RURAL AND**
13 **URBAN LOW-INCOME COMMUNITY WATER AS-**
14 **SISTANCE PROGRAM.**

15 (a) DEFINITIONS.—In this section:

16 (1) ADMINISTRATOR.—The term “Adminis-
17 trator” means the Administrator of the Environ-
18 mental Protection Agency.

19 (2) LOW-INCOME HOUSEHOLD.—The term
20 “low-income household” means a household—

21 (A) in which 1 or more individuals are re-
22 ceiving—

23 (i) assistance under a State program
24 funded under part A of title IV of the So-
25 cial Security Act (42 U.S.C. 601 et seq.);

1 (ii) supplemental security income pay-
 2 ments under title XVI of the Social Secu-
 3 rity Act (42 U.S.C. 1381 et seq.);

4 (iii) supplemental nutrition assistance
 5 program benefits under the Food and Nu-
 6 trition Act of 2008 (7 U.S.C. 2011 et
 7 seq.); or

8 (iv) payments under—

9 (I) section 1315, 1521, 1541, or
 10 1542 of title 38, United States Code;
 11 or

12 (II) section 306 of the Veterans'
 13 and Survivors' Pension Improvement
 14 Act of 1978 (38 U.S.C. 1521 note;
 15 Public Law 95–588); or

16 (B) that has an income that, as deter-
 17 mined by the State in which the household is lo-
 18 cated, does not exceed the greater of—

19 (i) an amount equal to 150 percent of
 20 the poverty level for that State; and

21 (ii) an amount equal to 60 percent of
 22 the median income for that State.

23 (b) STUDY; REPORT.—

24 (1) IN GENERAL.—Not later than 2 years after
 25 the date of enactment of this Act, the Administrator

1 shall conduct, and submit to Congress a report de-
2 scribing the results of, a study regarding the preva-
3 lence throughout the United States of low-income
4 households that do not have access to—

5 (A) affordable and functional centralized
6 or onsite wastewater services that protect the
7 health of individuals in the households;

8 (B) affordable municipal stormwater serv-
9 ices; or

10 (C) affordable public drinking water serv-
11 ices to meet household needs.

12 (2) INCLUSIONS.—The report under paragraph
13 (1) shall include—

14 (A) recommendations of the Administrator
15 regarding the best methods to increase access
16 to affordable and functional centralized and on-
17 site wastewater, stormwater, and drinking
18 water services;

19 (B) a description of the cost of each meth-
20 od described in subparagraph (A);

21 (C) with respect to the development of the
22 report, a consultation with all relevant stake-
23 holders; and

24 (D) a description of the results of the
25 study with respect to low-income renters who do

- 1 not receive bills for wastewater, stormwater,
- 2 and drinking water services but pay for the
- 3 services indirectly through rent payments.

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EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: December 6, 2018

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Marlaigne Dumaine, Manager of Legislative Affairs *MD*

SUBJECT: State Legislative Initiatives for 2019 Legislative Year

Each year, the Office of Intergovernmental Affairs develops specific legislative initiatives for the coming year. These initiatives represent priority focus areas for EBMUD that may include proposals for EBMUD-sponsored legislation, and high priority policy areas with the potential to directly affect EBMUD operations and that are likely to be considered by the legislature in the coming year. The Office of Intergovernmental Affairs is proposing four legislative initiatives for the 2019 state legislative year – one on-going initiative has been updated, and three items have been added that are likely to carryover from the last legislative year. Evaluations of each of the four legislative initiatives currently proposed for 2019 are set forth below.

In addition to these legislative initiatives, staff will continue to assess all legislation for a nexus to EBMUD operations and policy objectives and bring relevant bills to the Board for consideration, as appropriate.

SUMMARY

The following legislative initiatives are evaluated in the attachment to this memo:

1. Advance EBMUD's interests in the context of utility wildfire mitigation plans including the de-energization of electric lines.
2. Advance EBMUD's interests in legislative efforts to address forest health.
3. Seek constructive ways to advance EBMUD's interests as the legislature continues to consider providing access to safe drinking water for disadvantaged communities.
4. Seek constructive ways to advance EBMUD's interests as the administration and the legislature consider ways to provide assistance to low-income water customers.

LEGISLATIVE PROPOSAL	2019 RECOMMENDATIONS
1. Advance EBMUD's interests in the context of utility wildfire mitigation plans including the de-energization of electric lines.	<p>Proceed – The discussion of electric utility wildfire mitigation plans, including the de-energization of electric lines to prevent wildfires, may continue in the legislature in 2019 and may be considered in the context of follow-up legislation to SB 901 (Dodd). Staff will seek opportunities to strengthen wildfire mitigation plan requirements related to de-energization and critical water utility facilities.</p> <ol style="list-style-type: none"> Staff will continue to work with PG&E and the CPUC to seek robust inclusion of water utility facilities in electric utility wildfire mitigation plans with regard to preparing for and undertaking de-energization, and given prioritization during re-energization. Staff will work with other water agencies and relevant statewide associations to build a coalition, as appropriate. Staff will seek opportunities to strengthen wildfire mitigation plan requirements related to de-energization, in the context of any follow-up legislation to SB 901, to ensure robust inclusion of water utility facilities in electric utility wildfire mitigation plans with regard to preparing for and undertaking de-energization, and given prioritization during re-energization.
2. Advance EBMUD's interests in legislative efforts to address forest health.	<p>Proceed – The legislature is likely to continue to discuss forest health in the context of wildfire preparedness in 2019 and will likely consider follow-up legislation to SB 901 (Dodd). Though SB 901 included some funding for forest health and wildfire fuels reduction, there may be efforts in 2019 to identify additional sustainable funding for on-going forest health efforts.</p> <ol style="list-style-type: none"> Staff will continue to monitor legislation on forest and watershed health, and identify potential opportunities for EBMUD to engage, particularly through its role in the Upper Mokelumne River Watershed Authority. This is consistent with EBMUD's current approach.
3. Seek constructive ways to advance EBMUD's interests as the legislature continues to consider providing access to safe drinking water for disadvantaged communities.	<p>Proceed – The issue of providing access to safe drinking water for disadvantaged communities, and establishing a steady source of funding for this purpose remains outstanding before the legislature. It is likely discussions will continue in 2019.</p> <ol style="list-style-type: none"> Staff will bring specific legislative proposals on this issue to the Board for discussion and consideration, as appropriate. Staff will consider any proposals that include a statewide retail water user surcharge in the context of the April 24, 2018 EBMUD Board adopted revised policy position on statewide retail water user surcharges.

<p>4. Seek constructive ways to advance EBMUD's interests as the administration and the legislature consider ways to provide assistance to low-income water customers.</p>	<p>Proceed - The State Water Resources Control Board (SWRCB) has been directed to develop a plan for the funding and implementation of a low-income water-rate assistance program by AB 401 (Dodd). The SWRCB was expected to report to the legislature in 2018 on its recommendations for a low-income water-rate assistance program, including recommendations for any legislative action that may be needed. However, this report has been delayed indefinitely.</p> <ol style="list-style-type: none">1. Staff will continue to engage with the SWRCB as it works to finalize its report.2. Staff will bring relevant legislative proposals on this issue to the Board for discussion and consideration, as appropriate. Staff will consider any proposals that include a statewide retail water user surcharge in the context of the April 24, 2018 EBMUD Board adopted revised policy position on statewide retail water user surcharges.
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ARC:MD:JW

Attachment

STATE LEGISLATIVE INITIATIVES – 2019

INITIATIVE #1 – ADVANCE EBMUD’S INTERESTS IN THE CONTEXT OF UTILITY WILDFIRE MITIGATION PLANS INCLUDING THE DE-ENERGIZATION OF ELECTRIC LINES

Legislative discussions on electric utility wildfire mitigation plans, including the de-energization (shutting off power) of electric lines to prevent wildfires, may continue under the broader context of wildfire mitigation and liabilities in 2019.

It is imperative that critical water supply facilities be robustly incorporated into electric utility wildfire mitigation plans to protect public health and safety. EBMUD has direct experience with wildfires in its service area. The 1991 Tunnel Fire in the Berkeley-Oakland Hills was in EBMUD’s service area and resulted in 25 deaths and the loss of approximately 3,000 homes. According to CalFire, the Tunnel Fire is considered to be the third worst fire in the state’s history in terms of loss of life and property.

SB 901 (Dodd)

The 2017 and 2018 destructive wildfire seasons prompted the legislature to convene a Wildfire Preparedness and Response Conference Committee in the summer of 2018. This bipartisan committee made up of both senators and assembly members, was convened with the intent to develop legislation to “strengthen disaster preparedness and ... respond to the increasing wildfire danger.”

The conference committee held a series of hearings in the summer of 2018 that covered a variety of topics including: the role of electric utilities and climate change with regard to wildfires; ensuring a safe and reliable electric grid; electric utility wildfire mitigation plans; and wildfire fuels reduction. The conference committee’s work concluded with the issuance of report language in the final days of the legislative session. The report language, intended to be a comprehensive framework to address and prevent catastrophic wildfires, was amended into SB 901 (Dodd). SB 901 was passed by the legislature and signed into law.

SB 901’s provisions include, but are not limited to, the following: 1) requiring electric utilities (both investor-owned and local publicly owned utilities) to implement comprehensive wildfire mitigation plans that include protocols for de-energizing electric lines, and procedures for notifying customers who may be impacted; 2) expediting small landowner incentives and projects to reduce excess fuel and remove dead and dying trees and chaparral; 3) facilitating access to property to carry out projects to improve overall forest health and resistance to wildfires; 4) requiring the California Public Utilities Commission (CPUC) to oversee the allocation of utility wildfire costs and expenses, including consideration of climate change impacts; 5) authorizing a financing mechanism so investor-owned utilities can spread out wildfire costs, which is intended to minimize impacts to ratepayers; and 6) adding worker protections and prohibiting investor-owned utilities from charging their customers for executive compensation. SB 901’s wildfire mitigation plan requirements do not include robust requirements for the specific incorporation of critical water utility facilities in the wildfire mitigation plans.

CPUC

On July 12, 2018, and prior to passage of SB 901, the CPUC adopted Resolution ESRB-8 to strengthen existing de-energization policies that up until that time only applied to San Diego Gas and Electric, and expand the policies to apply to all investor-owned utilities. The resolution states that “De-energizing electric facilities during dangerous conditions can save lives and property and can prevent wildfires. This resolution provides guidelines that IOUs must follow and strengthens public safety requirements when an IOU decides to de-energize its facilities during dangerous conditions.” While the resolution explicitly includes “water plants” in the identification of critical facilities, the requirements with regard to “water plants” are limited to general notifications prior to de-energization.

In October 2018, the CPUC began its SB 901 implementation proceeding. The current proceeding schedule calls for the electric utilities to submit initial wildfire mitigation plans in February 2019, with CPUC decisions on the wildfire mitigation plans expected in Spring 2019. Stakeholders will have several opportunities to provide comments during the proceeding. EBMUD has submitted comments and plans to continue to actively participate in the process, as appropriate.

EBMUD Engagement

EBMUD is seeking to have robust provisions for critical water utility facilities incorporated into the wildfire mitigation plans so that the communication channels are clear and established ahead of time; critical facilities served by the circuits and power lines that will be de-energized are identified and advance notice of de-energization is provided so that preparations can be made for pumping and standby power to help ensure water supply availability and water quality is maintained for public safety and health; and post de-energization communication protocols are in place to facilitate including critical water utility facilities when prioritizing during re-energization. Engagement to date has been with the local electric utility that provides electric power to EBMUD’s service area, Pacific Gas & Electric (PG&E), and the CPUC.

It is highly likely that the legislature will continue to discuss wildfire-related issues in 2019, including the de-energization of electric lines to prevent wildfire, which could be considered in the context of follow-up legislation to SB 901.

1. Staff will continue to work with PG&E and the CPUC to seek robust inclusion of water utility facilities in electric utility wildfire mitigation plans with regard to preparing for and undertaking de-energization, and given prioritization during re-energization.
2. Staff will work with other water agencies and relevant statewide associations to build a coalition, as appropriate.
3. Staff will seek opportunities to strengthen wildfire mitigation plan requirements related to de-energization, in the context of any follow-up legislation to SB 901, to ensure robust inclusion of water utility facilities in electric utility wildfire mitigation plans with regard to preparing for and undertaking de-energization, and given prioritization during re-energization.

INITIATIVE #2 – ADVANCE EBMUD’S INTERESTS IN LEGISLATIVE EFFORTS TO ADDRESS FOREST HEALTH

The issue of forest health is expected to be discussed in the legislature in 2019 in the context of wildfire preparedness. As discussed above, the 2017 and 2018 destructive wildfire seasons prompted the legislature to convene a Wildfire Preparedness and Response Conference Committee in 2018. The committee held a hearing specific to wildfire fuels reduction, which included discussions on the issues of forest thinning and the need for additional funding to promote healthy forests and address wildfire fuels reduction. The conference committee’s report language was amended into SB 901 (Dodd) in the final days of the legislative session. SB 901 was subsequently passed by the legislature and signed into law.

With regard to forest health, SB 901 provides for \$1 billion in funding over five years for healthy forest and fuel reduction projects. Specifically, SB 901 requires that \$165 million from cap and trade funds be continuously appropriated each budget year through 2023-2024 for healthy forest and fire prevention programs, and \$35 million from cap and trade funds be continuously appropriated for prescribed fire and fuel reduction projects each budget year through 2023-2024. Some of this funding may result in grant funding opportunities for entities that undertake forest health restoration and fire prevention projects, such as the Upper Mokelumne River Watershed Authority (UMRWA), of which EBMUD is a member.

It is likely that the legislature will consider follow-up legislation related to wildfire preparedness and forest health in 2019. Though SB 901 included some funding for forest health and wildfire fuels reduction, there may be efforts in 2019 to identify additional sustainable funding for on-going forest health efforts.

1. Staff will continue to monitor legislation on forest and watershed health, and identify potential opportunities for EBMUD to engage, particularly through its role in UMRWA. This is consistent with EBMUD’s current approach.

INITIATIVE #3 – SEEK CONSTRUCTIVE WAYS TO ADVANCE EBMUD’S INTERESTS AS THE LEGISLATURE CONTINUES TO CONSIDER PROVIDING ACCESS TO SAFE DRINKING WATER FOR DISADVANTAGED COMMUNITIES

Discussions on providing access to safe drinking water for disadvantaged communities, and establishing a steady source of funding for this purpose, will likely continue in the legislature in 2019.

Three approaches were considered during the 2018-19 legislative session, though none advanced. In 2017, Senator Monning introduced SB 623 which was intended to provide assistance to disadvantaged communities without access to safe drinking water by imposing a surcharge on retail water bills and imposing taxes on specified segments of the agriculture industry. SB 623 did not advance out of the legislature during the 2017-18 legislative session. EBMUD adopted an “oppose unless amended” position on SB 623.

In early 2018, the administration proposed a similar approach to 2017's SB 623 (Monning) via draft budget trailer bill language. That language was never formally amended into a legislative vehicle and did not advance out of the legislature. EBMUD did not adopt a formal position on the administration's proposed language.

During the final weeks of the 2018 legislative session, SB 845 (Monning) was amended to provide assistance to disadvantaged communities without access to safe drinking water by creating the Safe and Affordable Drinking Water Fund (Fund) to provide assistance via grants, loans, services and contracts to eligible applicants. Two methods were proposed to collect money for the Fund. First, SB 845 proposed to use an "opt out" approach for a voluntary donation that would appear as a line item on retail water bills for collection and forwarding to the state by retail water agencies. Second, a companion measure, SB 844 (Monning), would have imposed taxes on specified segments of the agriculture industry. The measures did not advance out of the legislature. EBMUD did not adopt positions on SB 844 and SB 845.

While none of the measures advanced during the 2017-18 legislative session, Assembly Speaker Anthony Rendon has indicated that the State Assembly is committed to identifying a sustainable funding source to ensure safe drinking water for all Californians, and will work with the State Senate on this effort.

1. Staff will bring specific legislative proposals on this issue to the Board for discussion and consideration, as appropriate. Staff will consider any proposals that include a statewide retail water user surcharge in the context of the April 24, 2018 EBMUD Board adopted revised policy position on statewide retail water user surcharges.

INITIATIVE #4 – SEEK CONSTRUCTIVE WAYS TO ADVANCE EBMUD'S INTERESTS AS THE ADMINISTRATION AND THE LEGISLATURE CONSIDER WAYS TO PROVIDE ASSISTANCE TO LOW-INCOME WATER CUSTOMERS

The issue of providing assistance to low-income water customers may be discussed in the legislature in 2019. AB 401 (Dodd) in 2015 directed the State Water Resources Control Board (SWRCB) to develop a plan for the funding and implementation of a low-income water-rate assistance program. The SWRCB held a series of meetings in 2016, 2017, and 2018 to solicit public input on the design and scope of the program. The SWRCB was expected to report to the legislature by February 1, 2018, with findings on the feasibility, financial stability, and desired structure of the program, as well as recommendations for any legislative action that may need to be taken. However, the report has been delayed indefinitely. Up to now, the legislature has sought to address the issue of access to safe drinking water for disadvantaged communities prior to addressing the low-income water-rate assistance issue. While it is not clear at this time what approach the new administration will take, the SWRCB could submit its low-income water-rate assistance report to the legislature in 2019.

EBMUD was one of the first water agencies in California to provide assistance to low-income customers through its Customer Assistance Program (CAP), instituted in 1987. The CAP provides assistance to households with income at or below the U.S. Department of Housing and Urban Development's very low income level for Alameda County, which is higher than 200 percent of the

Federal Poverty Level. Over the years, the program has evolved and now offers a 50 percent discount on the standard bimonthly water service charge and a 50 percent discount on the home water use charges for each eligible household or homeless shelter, up to a maximum of 1,050 gallons per person per month. In addition, a 35 percent discount is provided to offset wastewater service and flow charges. As of October 2018, about 6,700 of EBMUD's residential accounts and six homeless shelters participate in the CAP, with many more customers having received assistance over the years. EBMUD's program is funded with non-rate revenue as the use of rate revenue is limited by Proposition 218.

While it is not clear whether low-income water-rate assistance will be a priority for the new administration, it is possible that the SWRCB will provide a report to the legislature in 2019 on the proposed low-income water-rate assistance program. It is likely that some aspects of the report will require legislative action.

1. Staff will continue to engage with the SWRCB as it works to finalize its report.
2. Staff will bring relevant legislative proposals on this issue to the Board for discussion and consideration, as appropriate. Staff will consider any proposals that include a statewide retail water user surcharge in the context of the April 24, 2018 EBMUD Board adopted revised policy position on statewide retail water user surcharges.

