



Santa Clara Valley Water District

File No.: 19-0250

Agenda Date: 2/26/2019

Item No.: *7.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Recommended Positions on State Legislation: Senate Bill (SB) 19 (Dodd) Water Resources: Stream Gages; Assembly Constitutional Amendment (ACA) 1 (Aguiar-Curry) Local Government Financing of Affordable Housing and Public Infrastructure: Voter Approval; *SB 204 (Dodd) State Water Project: Contracts; and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

RECOMMENDATION:

- A. Adopt a position of "Support" on: SB 19 (Dodd) Water Resources: Stream Gages;
- B. Adopt a position of "Support" on: ACA 1 (Aguiar-Curry) Local Government Financing of Affordable Housing and Public Infrastructure: Voter Approval; and
- *C. Adopt a position of "Oppose Unless Amended" on: SB 204 (Dodd) State Water Project: Contracts.

SUMMARY:

SB 19 (Dodd) Water Resources: Stream Gages (I-12/03/18)

Position Recommendation: Support

Priority Recommendation: 3

SB 19 would require the Department of Water Resources (DWR) to develop a plan to deploy a network of stream gages that includes a determination of funding needs and opportunities for reactivating existing gages. The bill would require DWR, in consultation with the State Water Resources Control Board, the California Department of Fish and Wildlife, the Central Valley Flood Protection Board, interested stakeholders, and local agencies, to prioritize the deployment of stream gages based upon gaps in the existing system of gages. SB 19 is authored by Senator Bill Dodd of Napa and is sponsored by The Nature Conservancy.

Stream gages measure the volume of water moving through a channel or stream. The data collected informs water management decision making, particularly in understanding highly variable flows over time to better predict the flow of water in the future. Stream gage data received in real-time can be used to detect when a levee has breached or a channel is approaching or exceeding flood stage, enabling officials to initiate emergency response. Gage data also are used to study the relationship

between stream flows and ecosystem response, including impacts to fish species.

DWR manages state-owned water infrastructure, maintains monitoring programs used to collect data on water resources from local, state, federal, and academic sources, and makes that data available for public purposes. The Open and Transparent Water Data Act of 2016 requires DWR, in conjunction with other natural resources agencies, to develop a Water Data Platform that will integrate local, state, and federal water data, and make it available for water management and research purposes. However, for many significant watersheds, California's stream gage network is disorganized, poorly funded, and deficient in its current state. There are more than 3,600 locations in California where stream gages were once active, but no longer function, and many others fail to report key data points such as flow, temperature, and drainage.

SB 19 would direct DWR, upon appropriation by the Legislature, to develop a plan for the deployment of a statewide network of stream gages, assess where there are data gaps or deficiencies, estimate the costs to deploy needed gages, and identify opportunities for reactivating existing gages. The bill does not authorize the deployment of stream gages or identify a funding source. However, understanding what is needed across the state and the potential costs of deployment may inform future actions by the Legislature and the Governor.

Importance to the District

The District has an extensive local network of more than 140 stream and rain gages, with an annual budget of approximately \$1.8 million. In addition, the District monitors stream gages operated by the U.S. Geological Survey (USGS), which historically has been the single largest funder of stream gages across California. However, local agencies like the District, in cooperation with the federal government, collectively funded 48 percent of the cost of USGS gages in California in fiscal year 2017; and local agencies are expected to continue to be a primary source of stream gage funding.

SB 19 may set the stage for future legislation that provides more state funding for stream gages. If that potential funding were directed to streams in our region, the District could benefit from additional data to further assess flood risk. More stream gage data may better inform decisions regarding water for both environmental and human needs.

Given that the District's stream gage network is well-developed, potential future funding may be directed to other jurisdictions; however, the District may still benefit. For example, more accurate measurement of key data points in Delta tributaries and across the state could assist in the recovery of threatened or endangered fish species. Imported water operations also may benefit from real-time measurements that inform the management of the Central Valley Project and the State Water Project to minimize ecosystem impacts and take advantage of periods of higher flows resulting from a warming climate and increased storm intensity.

After the SB 19 plan for a statewide stream gage network is developed and costs are estimated, it is possible that the state would seek further funding from local agencies or mandate stream gage improvements to address the deficiencies identified in the plan.

However, the state cannot begin to assess how to pay for a statewide stream gage network without first understanding what the needs are and how to prioritize state investments. The SB 19 plan would be a first step toward improving stream gage infrastructure and data collection, and would provide that local agencies and other stakeholders be consulted in setting the criteria for prioritizing stream gage deployment.

Staff recommends that the District take a position of “Support” for SB 19.

Pros:

- SB 19 would direct the state to develop a plan, in consultation with local agencies and other stakeholders, for a statewide stream gage network and would estimate costs of deployment.
- An enhanced local stream gage network, if funded by future legislative action, could better inform local flood risk reduction efforts and decisions regarding water for both environmental and human needs.
- A statewide stream gage network, if funded by future legislative action, could better inform statewide flood risk reduction priorities, assist in the recovery of threatened or endangered species, and provide real-time measurements that may improve operation of the Central Valley Project and the State Water Project.

Cons:

- To the extent that stream gage data may indicate a need for increased environmental flows for fisheries, the District’s access to water sources could be negatively impacted.
- DWR may determine that stream gage needs are greater in other jurisdictions that have not invested in stream gages at a level similar to the District’s program.
- Future legislation may assign costs to the District or seek to mandate improvements to the District’s extensive local stream gage network.

ACA 1 (Aguiar-Curry) Local Government Financing of Affordable Housing and Public Infrastructure: Vote Threshold (I-12/03/18)

Position Recommendation: Support

Priority: 2

Assembly Constitutional Amendment 1 (ACA 1) was introduced by Assembly Member Cecilia M. Aguiar-Curry for the 2019-2020 Session of the California Legislature. ACA 1, if passed by a two-thirds vote of both houses of the Legislature and approved by a majority of the voters in a statewide election, would lower the necessary voter threshold from a two-thirds supermajority to 55 percent to approve local general obligation (GO) bonds and special taxes for affordable housing and public infrastructure projects.

Specifically, this resolution would propose to California voters at the next statewide election an amendment to the Constitution of the State that would revise Sections 1 and 4 of Article XIII A, amend Section 2 and add Section 2.5 to Article XIII C, amend Section 3 of Article XIII D, and amend Section 18 of Article XVI, all relating to local government finance. Generally, these existing constitutional provisions require a two-thirds vote of the people for both GO bonds and special taxes proposed by a city, county, or special district.

If approved by the voters, ACA 1 would enable GO bonds and special taxes, used for affordable housing and public infrastructure, to be enacted with a 55 percent vote threshold. “Public infrastructure” would be defined to include, but is not limited to, projects that provide any of the following:

- (1) Water or protect water quality;
- (2) Sanitary sewer;
- (3) Treatment of wastewater or reduction of pollution from stormwater runoff;
- (4) Protection of property from impacts of sea level rise;
- (5) Parks;
- (6) Open space and recreation facilities;
- (7) Improvements to transit and streets and highways;
- (8) Flood control;
- (9) Broadband Internet access service expansion in underserved areas; and
- (10) Local hospital construction.

“Affordable housing” would be defined to include housing developments, or portions of housing developments, that provide workforce housing affordable to households earning up to 150 percent of countywide median income, and housing developments, or portions of housing developments, that provide housing affordable to lower, low-, or very low income households, as those terms are defined by the Legislature through state law.

Importance to the District

If enacted by the voters, ACA 1 would enhance the ability for local governments, including the District, to raise revenue. This would likely result in more public investments at the local level to address water supply, flood protection, water quality, and climate change impacts.

The District is facing increasing costs as existing water supply and flood protection infrastructure needs retrofit and repair, as the costs of imported water and the development of new local supplies increase, and as the impacts of a changing climate take their toll with intensified storm events, reduced Sierra snowpack, and sea level rise. A 55 percent vote threshold on GO bonds and on special taxes would enable the District and our other local government partners to better meet these growing challenges, and would still require strong voter support for these funding measures to be approved.

The 2019 Legislative Guiding Principles adopted by the Board on October 23, 2019, include Guiding Principle #4: Protect revenues, enhance revenues, and contain costs. The goals

enumerated under that principle include #8: Support reducing the voting requirement for special taxes. ACA 1 would do exactly that. Consequently, staff recommends that the Board adopt a position of “Support” on ACA 1.

Pros

- Lowers the necessary voter threshold from a two-thirds supermajority to 55 percent to approve local general obligation bonds and special taxes for affordable housing and public infrastructure projects.
- Enables the District and our other local government partners to better meet the growing challenges in housing, water supply, flood protection, and climate change response.
- Requires strong voter support (55 percent) for enactment of financing measures.
- Is consistent with the District’s 2019 Legislative Guiding Principles.

Cons

- More special taxes and public indebtedness may increase the cost of home ownership in Santa Clara County.
- If not used judiciously, the voters and taxpayers may grow weary of measures to fund affordable housing and public infrastructure.

*** SB 204 (Dodd) State Water Project: Contracts**
Position Recommendation: Oppose Unless Amended
Priority: 2

Senate Bill 204 (SB 204) was introduced by Senator Bill Dodd for the 2019-2020 Session of the California Legislature. SB 204, if passed by both houses of the Legislature and signed by the Governor, would replace existing law (Section 147.5 of the California Water Code) that requires the Legislature’s Joint Legislative Budget Committee (JLBC) to hold a public hearing at least 60 days prior to the final approval of the renewal or extension of a long-term water supply contract between the California Department of Water Resources (DWR) and a State Water Project (SWP) contractor.

This bill would instead do the following.

- A. Require DWR to provide at least ten days’ notice to the JLBC and relevant policy and fiscal committees of the Legislature before holding public sessions to negotiate any potential amendment of a long-term water supply contract.
- B. Require DWR, at least 60 days prior to final approval of a long-term water supply contract amendment, to submit to the JLBC and relevant policy and fiscal committees of the Legislature, the terms and conditions of the proposed amendment and a list of specified supporting documents.

-
- C. Prohibit DWR from approving a long-term water supply contract for 90 days after the first hearing by a committee of the Legislature to review the proposed amendment, if such a hearing is held.
 - D. Require the Delta Conveyance Design and Construction Joint Powers Authority (DCA), at least 60 days prior to finalizing any contract for the planning, design, or construction of the California WaterFix (WaterFix), to submit information regarding the terms and conditions of the proposed contract.
 - E. If the JLBC or relevant policy and fiscal committees hold a hearing to review a contract of the DCA, the bill would prohibit the DCA from approving the contract for 90 days after the first hearing by a committee to review the proposed contract. The bill does not specify how the DCA would proceed should no committee of the Legislature hold a hearing.

Under the bill, efficient contracting by the DCA would be substantially compromised because it would require contractors to keep pricing in bids viable for a minimum of 150 days, and likely much longer. To account for the uncertainty, bidders may inflate the contract price, thereby unnecessarily increasing the cost of the project. On May 10, 2018, DWR submitted a contract extension to the JLBC pursuant to the current law. The JLBC, after scheduling and canceling the hearing twice, finally held the public hearing required by law on September 11, 2018, four months after DWR's initial request. Because this bill does not require that a public hearing be held promptly following the submittal of a contract for the planning, design, or construction of the WaterFix, and because it requires that a contract not proceed until 90 days after the first hearing by a committee of the Legislature, contracting by the DCA could be significantly delayed or even suspended indefinitely.

Importance to Valley Water

The WaterFix is intended to help restore the health of the Delta ecosystem and to ensure the long-term reliability of water supplies conveyed through the Delta. The project, planned to include two tunnels under the Delta, would provide an alternative conveyance pathway for moving water from the north Delta to the existing pumping plants in the south Delta. The location of the WaterFix intakes in the north Delta would reduce risks to water supplies from increasing salinity due to projected sea level rise and other climate change effects, and allow improved flow patterns in the south Delta to protect fish.

On February 12, 2019, in his State of the State Address, Governor Gavin Newsom stated his support for a one-tunnel approach to the WaterFix, and work to refine the project is now beginning. The Valley Water Board has advocated for a right-sized project, and the Board Chair issued a statement pledging to work with the Newsom Administration.

The need to secure the conveyance of water through the Delta from the threats of sea level rise, levee failure, and regulatory uncertainties due to the environmental impacts of the existing conveyance, is well documented by scientific evidence compiled over the last decade. Because Santa Clara County relies on SWP and Central Valley Project (CVP) water supplies conveyed through the Delta to meet 40 percent, on average, of its water supply needs, Valley Water has an interest in the development of the WaterFix as a potential cost-effective project that could improve the reliability of Valley Water's imported supplies.

After extensive consideration and public participation in numerous hearings on the subject, on May 8, 2018, the Valley Water Board approved the agency's participation in the WaterFix out of concern for the future of the Delta and the need to ensure the long-term reliability of the County's water supply. SB 204 would further delay the implementation of the WaterFix and increase the final cost of the project, endangering reliability and affordability of the water supply for Santa Clara County and for tens of millions of other Californians.

Valley Water's 2019 Legislative Guiding Principles, adopted by the Board on October 23, 2018, under the title *Water Supply and Drought* in item number 1 state: *Support legislative, administrative or other efforts that protect and/or advance the District's interests in the California WaterFix, including efforts to ensure financially prudent project delivery.* In item number 4, under that same title, the Legislative Guiding Principles state: *Oppose measures that reduce the reliability or quality of the District's imported water supplies.*

Staff recommends that the Board adopt a position of "Oppose Unless Amended" on SB 204, and that staff be directed to concurrently convey that Valley Water is not opposed to transparency for the WaterFix. Further, Valley Water will continue to oppose SB 204, unless Senator Dodd amends the bill to remove provisions of delay and to focus on the timely and efficient implementation of enhanced transparency.

Pros

- May provide enhanced transparency for SWP contracting through review by committees of the Legislature and by requiring specified summary information about potential amendments to long-term water supply contracts between DWR and SWP contractors.

Cons

- Enacts an open-ended public hearing process that would delay, or suspend indefinitely, contracting by the DCA for the planning, design, or construction of the WaterFix.
- Would complicate the competitive bidding process, likely resulting in higher costs due to increased uncertainty for bidders.

Endangers the reliability and affordability of the imported water supply for Santa Clara County and for tens of millions of other

FINANCIAL IMPACT:

There is no financial impact associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

- *Attachment 1: Original Agenda Memo
- *Attachment 2: Supplemental Agenda Memo

UNCLASSIFIED MANAGER:

Rachael Gibson, 408-630-2884