



Santa Clara Valley Water District

File No.: 18-0944

Agenda Date: 6/25/2019

Item No.: 7.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Adopt Recommended Positions on Federal Legislation: S. 403 (Whitehouse) / H.R. 1159 (Cicilline) - the Innovative Materials for America's Growth and Infrastructure Newly Expanded (IMAGINE) Act of 2019; S. 611 (Sanders) - Water Affordability, Transparency, Equity, and Reliability Act of 2019; H.R. 363 (Calvert) - Reducing Environmental Barriers to Unified Infrastructure and Land Development Act of 2019; and Other Legislation That May Require Urgent Consideration for a Position by the Board.

RECOMMENDATION:

- A. Adopt a position of "Support and Amend" on S. 403 (Whitehouse) / H.R. 1159 (Cicilline) - Innovative Materials for America's Growth and Infrastructure Newly Expanded (IMAGINE) Act of 2019;
- B. Adopt a position of "Support" on S. 611 (Sanders) - Water Affordability, Transparency, Equity, and Reliability Act of 2019; and
- C. Adopt a position of "Support" on H.R. 363 (Calvert) - Reducing Environmental Barriers to Unified Infrastructure and Land Development Act of 2019.

SUMMARY:

A. S. 403 (Whitehouse) / H.R. 1159 (Cicilline) - Innovative Materials for America's Growth and Infrastructure Newly Expanded (IMAGINE) Act of 2019

Recommendation: Support and Amend

Priority: 2

This bill would promote the use of innovative materials in the construction of domestic transportation and water infrastructure projects. Materials qualifying as "innovative" would include: high performance asphalt mixtures and concrete formulations, geosynthetic materials, advanced insulating materials, advanced alloys and metals, advanced polymers, and more.

The bill would establish a new Water Infrastructure Innovation Program at the U.S. Environmental Protection Agency (EPA) to provide grants for the design and installation of water infrastructure projects that use these innovative materials to reduce costs and extend the service life of the structures. Eligible projects would be limited to those that serve a community with a population between 3,301 and 99,999. The EPA Administrator would give special consideration to projects in areas that are prone to saltwater intrusion or flooding due to severe storms or projected sea level rise during the expected life of the project. The bill would authorize \$65 million for each of fiscal years 2020 through 2024 for this grant program.

Status:

S. 403 was introduced on February 7, 2019, and was referred to the Senate Committee on Environment and Public Works. H.R. 1159 was introduced on February 13, 2019, and was referred to the House Committee on Transportation and Infrastructure; the Committee on Science, Space, and Technology; and the Committee on Energy and Commerce.

Importance to Valley Water:

This bill would create a new funding source for water infrastructure projects that are constructed with innovative materials, which would help extend the life of the projects and reduce overall costs. The Santa Clara Valley Water District (Valley Water) could potentially access these funds for certain eligible projects, reducing project costs and supporting communities that are prone to flooding.

Proposed Amendments:

The bill would only make funding available for projects that serve communities with a population between 3,301 and 99,999, which would limit Valley Water's ability to access those funds. Valley Water recommends amending the bill to remove the restriction on population of the communities served so that Valley Water projects serving all or any part of Santa Clara County would be eligible for funding.

Pros:

- Creates a new source of funding for water infrastructure projects that use innovative materials, which Valley Water could potentially access.
- Promotes the use of materials in infrastructure that are designed to extend the life of the projects, which could reduce overall costs over the lifetime of the project.
- Prioritizes communities that are prone to saltwater intrusion, severe storms, and sea level rise.

Cons:

- Unless amended, only projects that serve populations between 3,301 and 99,999 would be eligible to receive grant funds. This would eliminate many Valley Water projects.

B. S. 611 (Sanders) - Water Affordability, Transparency, Equity, and Reliability Act of 2019
Recommendation: Support**Priority: 2**

This bill would create a Water Affordability, Transparency, Equity, and Reliability (WATER) Trust Fund to dedicate up to nearly \$35 billion per year for water infrastructure improvements across the nation, focusing on drinking water and wastewater. The bill would prioritize disadvantaged communities and expand funding for technical assistance to small, rural, and indigenous communities. The WATER Trust Fund would support a range of water infrastructure improvements, including:

- Addressing water contamination from per- and polyfluoroalkyl (PFAS), an increasing priority for many communities;
- Upgrading household wells and septic systems;

- Helping homeowners replace lead service lines; and
- Updating water infrastructure in public schools.

The bill also would require the Environmental Protection Agency to study water affordability, shutoffs, discrimination, and other civil rights violations by water providers. The Trust Fund would be funded with any unobligated funds left in the Treasury at the end of each fiscal year.

This is a companion bill to H.R. 1417, which the Board voted to support on April 23, 2019. The primary difference between the two bills is the financing mechanism: S. 611 would fund its trust fund through unobligated funds left in the Treasury, whereas H.R. 1417 would fund its trust fund through an increase in the corporate income tax.

Status:

The bill was introduced on February 28, 2019, and was referred to the Senate Committee on Environment and Public Works.

Importance to Valley Water:

The Santa Clara Valley Water District (Valley Water) is committed to ensuring safe, clean water for all residents of Santa Clara County. This bill would help ensure the delivery of safe, clean, and affordable drinking water throughout the country, particularly for those in disadvantaged communities and in small, rural, or indigenous communities. This directly correlates to Valley Water's Ends Policy E-1, "Provide Silicon Valley safe, clean water for a healthy life, environment, and economy," and Executive Limitation Policy E-1.1, "Promote practices, principles, and programs that support Environmental Justice for Disadvantaged Communities, and shall consider Environmental Justice objectives where appropriate and possible."

Pros:

- Provides much-needed federal investment in water infrastructure improvements throughout the country.
- Prioritizes funding for disadvantaged communities and small, rural, and indigenous communities that often experience environmental injustice. This is in line with Valley Water's mission and policies.
- Unlike its companion, H.R. 1417, this bill would be financed by unobligated funds left in the U.S. Treasury rather than through an increase in the corporate income tax. This is likely to be more palatable to the Republican-led Senate than H.R. 1417.

Cons:

- None identified at this time.

C. H.R. 363 (Calvert) - Reducing Environmental Barriers to Unified Infrastructure and Land Development (REBUILD) Act of 2019**Recommendation: Support****Priority: 2**

This bill would amend the National Environmental Policy Act (NEPA) to delegate federal environmental review responsibilities to the states. This would build upon the 2005 NEPA Pilot

Program included in the federal transportation bill (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)). SAFETEA-LU allows five states, including California, to participate in a pilot program that authorizes the State to assume Federal Highway Administration's responsibilities under NEPA. These include assessing a highway project's environmental impact, preparing the required federal documentation, and consulting with federal agencies, such as the U.S. Fish and Wildlife Service, which are involved in the environmental review process. The goals of the program are to streamline the environmental review process to reduce project delivery time.

This bill would add a section to NEPA allowing any state to assume NEPA responsibilities by entering into a Memorandum of Understanding with a designated federal official who has environmental review responsibilities under NEPA, such as the Secretary of the Interior, EPA Administrator, or the Secretary of the Army.

The Board has voted to support this bill in the past, most recently in 2015.

Status:

The bill was introduced on January 9, 2019, and was referred to the House Committee on Natural Resources.

Importance to Valley Water:

Securing permits for the Santa Clara Valley Water District (Valley Water) projects can take a significant amount of time, even for predictable work such as routine maintenance. Some of the problem can be attributed to the need for meeting requirements under both the California Environmental Quality Act (CEQA) and NEPA. This process requires involvement of and coordination between both state and federal agencies. The REBUILD Act would help to streamline the environmental review process and reduce overall permitting time by essentially substituting CEQA requirements for NEPA requirements and providing a single point of contact within the state.

This bill would implement a Valley Water 2019 Legislative Guiding Principle that states: "Support legislative efforts that allow an applicant to conduct environmental review only under CEQA when both federal and state approval is required for public projects in California."

Pros:

- Allows the State to assume NEPA responsibilities, thereby helping to and streamline and shorten the environmental review process. This could help Valley Water secure permits more quickly.

Cons:

- Delegation of NEPA responsibilities may shift costs from the federal to the state government.
- Delegation of NEPA responsibilities means that the State may be sued in federal court over its decisions.

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:

None.

UNCLASSIFIED MANAGER:

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