

MEMORANDUM

TO: BOARD OF DIRECTORS, AMADOR WATER AGENCY

CC: LARRY B. MCKENNEY, GENERAL MANAGER

FROM: JOSH HOROWITZ & BRITTANY BRACE

DATE: NOVEMBER 6, 2020

**RE: LEGISLATIVE REPORT FOR THE NOVEMBER 12, 2020 AMADOR
WATER AGENCY BOARD MEETING**

The following are bills of potential interest to the Amador Water Agency pending in the 2020 session of the California Legislature. [** - denotes bills added since last month's report.]

STATE ASSEMBLY

AB 196 (Gonzalez) – Workers' compensation: COVID-19: essential occupations and industries.

Introduced: 1/10/19

Status: 9/1/20 – ordered to inactive file by unanimous consent; dead.

Existing law establishes a workers' compensation system to compensate an employee for injuries sustained in the course of employment, and creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of the employment. As originally introduced on January 10, 2019, this bill was a spot bill pertaining to paid family leave. On May 5, 2020, this bill was gutted and amended to become COVID-19 response legislation. As amended, this bill would define "injury" for certain employees who are employed in an occupation or industry deemed essential in the Governor's Executive Order N-33-20, or who are subsequently deemed essential, to include COVID-19 that develops or manifests itself during a period of the person's employment in the essential occupation or industry. As further amended on August 25, 2020, the bill would create a disputable, and not conclusive, presumption that the injury developed or manifesting itself arose out of and in the course of employment and would extend that presumption following termination of service for a period of 90 days, commencing with the last date actually worked. As amended, this bill provides that the compensation awarded for an injury shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits. ACWA opposes this bill because the conclusive presumption would be extremely burdensome to water authorities with operational staff that are all defined as essential.

ACWA: Oppose.

AB 289 (Fong) - California Public Records Act Ombudsperson.

Introduced: 1/28/19

Status: 7/2/19 – In Sen. Comm. on Jud. and Sen. Comm. on Gov. Organization: Set, first hearing. Failed passage. Reconsideration granted; dead.

No action has yet been taken on this bill, but it is still active and listed in the committee process. If passed, AB 289 would declare the intent of the Legislature to enact legislation that would establish an ombudsman within the California State Auditor's Office who would serve as the appeals body for all requests related to the California Public Records Act.

ACWA: None.

AB 291 (Chu) – Local Emergency Preparedness and Hazard Mitigation Fund.

Introduced: 1/28/19

Status: 8/18/20 – Failed deadline pursuant to Rule 61(b)(13); dead.

Under the Federal Emergency Management Act (FEMA), the state is required to have a mitigation plan as a condition for disaster assistance and grant funding. The California Emergency Services Act requires the Office of Emergency Services to implement this mandate by coordinating with all interested state agencies to jointly establish a standardized emergency management system for use by all emergency response agencies. This bill would establish a Local Emergency Preparedness and Hazard Mitigation Fund, and the Hazard Mitigation Fund Committee under the Standardized Emergency Management System Advisory Board, to support local governments with staffing, planning, and other emergency mitigation priorities necessary to meet emergency management, preparedness, readiness and resilience goals.

ACWA: Favor.

AB 292 (Quirk) - Recycled water: raw water and groundwater augmentation.

Introduced: 1/28/19

Status: 8/31/20 – Failed deadline pursuant to Rule 61(b)(18); dead.

Current law requires the State Water Resources Control Board (State Water Board), on or before December 31, 2023, to adopt uniform water recycling criteria for direct potable reuse through raw water augmentation. This bill would eliminate the definition of “direct potable reuse” and would instead substitute the term “groundwater augmentation” for “indirect potable reuse for groundwater recharge” in these definitions. The bill would require, on or before December 31, 2023, the State Water Board to adopt uniform water recycling criteria for raw water augmentation. Although this bill has not yet been acted on in 2020, it is still an active bill in the floor process.

ACWA: Support.

AB 402 (Quirk) – State Water Resources Control Board: local primacy delegation: funding stabilization program.

Introduced: 2/6/19

Status: 8/21/20 – Failed deadline pursuant to Rule 61(b)(15); dead.

The California Safe Drinking Water Act requires the State Water Board to administer provisions relating to the regulation of drinking water to protect public health. The act requires the State Water Board to provide certain local agencies (called local primacy agencies), to the extent funds are available from the Safe Drinking Water Account, with an annual drinking water surveillance program grant to cover the costs of conducting inspection, monitoring, surveillance, and water quality evaluation activities. The act requires the State Water Board to adopt a schedule of fees and requires a public water system under the jurisdiction of a local primacy agency to pay these fees to the local primacy agency in lieu of the State Water Board.

Although there has been no 2020 activity on this bill yet, it is still listed as active and in the committee process. Early in this bill's legislative cycle last year, ACWA adopted an oppose-unless-amended position on the bill, after learning that the author intended to amend the bill to authorize the State Water Board to establish and collect fees on all public water systems in order to subsidize this program. However, ACWA withdrew opposition to the bill last August and adopted a "watch" position after reviewing proposed amendments that would reduce the overall cost of the program and potential fees imposed on public water systems.

ACWA: Watch.

AB 992 (Mullin) - Open meetings: local agencies: social media.

Introduced: 2/21/19

Status: 9/18/20 – Approved by the Governor; chaptered by Secretary of State, Chapter 89, Statutes of 2020.

AB 992 would provide guidance on how local elected officials may use social media to engage with their community while complying with the Brown Act. The Brown Act requires that legislative bodies of local agencies conduct meetings openly, and prohibits a majority of the members of a legislative body from using a series of communications of any kind to discuss, deliberate, or take action on any item within the subject matter jurisdiction of the legislative body outside a meeting authorized by the act. This bill would set the same standard for social media as is currently in place under the community meetings exception to the Brown Act, which would allow a majority of the members of a local agency's legislative body to participate in social media platforms so long as those members do not partake in discussion among themselves regarding specific business within the body's subject matter jurisdiction.

ACWA: None.

AB 1415 (Friedman) - Department of Water Resources: reporting requirements: civil penalties.

Introduced: 2/22/19

Status: 08/21/20 – Failed deadline pursuant to Rule 61(b)(15); dead.

Under existing law, certain entities are required to prepare and submit specified plans and reports relating to water management, such as aggregated farm-gate delivery data, urban water management plans, and water loss audit reports to the Department of Water Resources (Department). This bill would require the Department to impose a civil penalty on an entity that fails to file such specified reports or plans by the deadline required for each respective report or plan, subject to exceptions related to curing the entity's reporting requirements and other circumstances. No action has been taken on this bill in 2020, however it is still active and in the committee process.

ACWA: Not favor unless amended.

AB 1936 (Rodriguez) – Price gouging: public safety power shutoffs.

Introduced: 1/16/20

Status: 6/5/20 – Failed deadline pursuant to Rule 61(b)(8); dead.

Under existing law, upon the proclamation of a state of emergency, it is a misdemeanor with specified penalties for a person, contractor, business, or other entity to sell or offer to sell certain goods and services for a price that exceeds the price charged by that person immediately prior to the proclamation or declaration of emergency by ten percent, except as specified. This bill would apply price gouging prohibition and penalties upon an announcement of a public safety power shutoff (PSPS) event by an official, board, or other governing body authorized to make that announcement in any county, city, or city and county. This bill would also expand the price gouging protections, which currently cover fuel costs, to cover costs for generator rentals or parts and repair. ACWA adopted a “Favor if amended” position on this bill, indicating it would support the bill if it was amended to explicitly cover costs associated with generator rentals or parts and repair in the bill's list of protected goods and services.

ACWA: Favor if amended.

AB 1941 (Gallagher) - California Renewables Portfolio Standard: hydroelectric and nuclear generation and suspension.

Introduced: 1/16/20

Status: 5/29/20 – Failed deadline pursuant to Rule 61(b)(5); dead.

Existing law establishes the California Renewables Portfolio Standard Program, which, among other things, requires the Public Utilities Commission to implement annual targets for the procurement of eligible renewable energy resources for all retail sellers. Under this program, it is state policy that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers and 100% of electricity procured to serve all state agencies by December 31, 2045. Currently, eligible renewable energy resources include small hydroelectric generation facilities of 30 megawatts or less that meet specified criteria.

AB 1941 would revise the definition of an eligible renewable energy resource for the purposes of the California Renewables Portfolio Standard Program to include all hydroelectric generating facilities in operation as of January 1, 2021. This bill would also

suspend the requirements of the program and the state policy that are applicable to retail sellers, unless the commission makes unspecified factual determinations and issues an order reinstating those requirements. The bill would require the commission to determine the amount saved by an electrical corporation due to any suspension and would require the electrical corporation to expend that amount to improve its transmission and distribution infrastructure to minimize the risk of wildfire ignition. The bill would prohibit electrical corporations from increasing the salaries of, or providing bonuses to, their executive officers during the suspension of the program's requirements.

ACWA: None.

AB 1947 (Kalra) - Employment violation complaints: requirements: time.

Introduced: 1/17/20

Status: 9/30/20 – Approved by the Governor; chaptered by the Secretary of State, Chapter 344, Statutes of 2020.

This bill would extend the period of time for filing a complaint with the Division of Labor Standards Enforcement alleging unlawful discharge or discrimination from six months to one year after the occurrence of the violation. AB 1947 would also provide reasonable attorney's fees for plaintiffs that bring a successful claim for an employer's violation of whistleblower protections.

ACWA: None.

AB 1958 (Cooper) - State Plan of Flood Control: facilities.

Introduced: 1/17/20

Status: 8/31/20 – Failed deadline pursuant to Rule 61(b)(18); dead.

AB 1958, which is a reintroduction of Assembly member Cooper's AB 137 from last year, would declare that the State Plan of Flood Control (SPFC) is composed of essential public safety infrastructure necessary for the protection of life property, and the economy. In response to the September 2018 Ninth Circuit Court of Appeals ruling in *Martin v. City of Boise* that local governments could not cite homeless individuals for sleeping outside if there are no adequate alternatives, it would ensure that encampments along levees are treated differently from other homeless encampments. The bill would also prohibit a person from altering, occupying, or physically or visually obstructing any levee forming part of any flood control plan without permission of the Central Valley Flood Protection Board. Additionally, this bill would authorize the Board or a local agency that maintains the levee or facility to inspect and remove any physical or visual obstructions or alterations made on any of the levees or facilities that are part of the SPFC.

ACWA: Support.

AB 2076 (Bigelow) - Public lands: Department of Parks and Recreation: wildfire prevention strategy: fire hazard severity zones.

Introduced: 2/5/20

Status: 8/18/20 – Failed deadline pursuant to Rule 61(b)(13); dead.

As amended on May 18, this bill would require the Department of Parks and Recreation (Department), on or before January 1, 2024, to develop and implement a wildfire prevention strategy (prior to the amendments, this was referred to as a “management plan”) for all property that is partially or wholly under the jurisdiction of the Department, including state parks and recreational trails, that is located within a high or a very high fire hazard severity zone, as identified by the Director of Forestry and Fire Protection.

This prevention strategy would outline the Department’s fire prevention goals, future projects for prescribed fire, defensible space, fire resilient restoration projects, and the fire hardening of the Department’s structures. Additionally, the plan must include recommendations for policy changes and resources needed for the Department to adapt to the increasing high severity wildfire threat. This bill would also require the department to provide the relevant policy committees of the Legislature with an update on the implementation of the wildfire prevention strategy. ACWA staff recommended adopting a position in favor of the bill, noting that it may provide tangential benefits for entities whose water supplies travel through Department owned land and by promoting proactive forest management generally.

ACWA: Favor.

AB 2093 (Gloria) – Public records: writing transmitted by electronic mail: retention.

Introduced: 2/5/20

Status: 6/5/20 – Failed deadline pursuant to Rule 61(b)(8); dead.

The California Public Records Act (PRA) authorizes public agencies to destroy or to dispose of duplicate records that are less than two years old when they are no longer required by the agency. AB 2093—a reintroduction of Assembly member Gloria’s AB 1184 from last year—would require public agencies to retain and preserve for at least two years every public record that is transmitted by email. Governor Newsom vetoed AB 1184 last October, indicating that the bill did “not strike the appropriate balance between the benefits of greater transparency through the public’s access to public records, and the burdens of a dramatic increase in records-retention requirements...”

ACWA: Not Favor.

AB 2095 (Cooper) – Public water systems: reduction of water charges: customers impacted by COVID-19.

Introduced: 2/5/20

Status: 5/5/20 – Re-referred to Comm. on Local Gov.

Originally introduced as a “spot” bill related to childhood nutrition, AB 2095 was gutted and amended to address water theft, as defined in California Penal Code section 498. This amendment attempted to address the increasingly prevalent issue of water theft, providing for local agency authority to increase penalties for water theft by ordinance as specified. On May 4, the bill was further gutted and amended, and no longer addresses the issue of water

theft. Instead, the bill would authorize a public water system to reduce water charges imposed on a customer impacted by COVID-19 during the duration of the impact, provided that the reduction does not increase the water charges imposed on another ratepayer.

ACWA: None.

AB 2151 (Gallagher) – Political Reform Act of 1974: online filing and disclosure system.

Introduced: 2/10/20

Status: 9/28/20 – Approved by the Governor; chaptered by Secretary of State, Chapter 214, Statutes of 2020.

The Political Reform Act of 1974 requires the filing of specified statements, reports and other documents relating to the disclosure of campaign finances. Under the act, a local agency may require these filings to be made online or electronically with the local filing officer, as specified. The act requires the local filing officer to make the data from these filings available on the internet in an easily understood format that provides the greatest public access. This bill would require a local agency to post on its website, within 72 hours of the applicable filing deadline, a copy of any specified statement, report, or other document filed with that agency in paper format. The agency also must make such filings available for four years from the date of the election associated with the filing.

ACWA: None.

AB 2155 (Obernalte) – Public officers: contracts: prohibited interests.

Introduced: 2/10/20

Status: 6/5/20 – Failed deadline pursuant to Rule 61(b)(6); dead.

Section 1090 of the Government Code prohibits public officials from being financially interested in any contract made by them in their official capacity, or by any board or body of which they are members, subject to certain exceptions and qualifications. A contract made in violation of these provisions may be avoided at the instance of any “party,” except the interested officer. This bill would define “party” as a California taxpayer for these purposes, applying to any contract formed on or after January 1, 2021.

ACWA: None.

AB 2178 (Levine) – Emergency services.

Introduced: 2/11/20

Status: 8/31/20 – Failed deadline pursuant to Rule 61(b)(18); dead.

The California Emergency Services Act authorizes the Governor, local officials and local governments to proclaim a local emergency when specified conditions exist, and to exercise certain powers in response to that emergency. Existing law defines the terms “state of emergency” and “local emergency” to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by, among other things, fire, storm, or riot. This bill would add “deenergization,” defined as a

public safety power shutoff (PSPS) event, to those conditions constituting a state of emergency and/or a local emergency.

ACWA: Favor.

AB 2182 (Rubio) – Emergency backup generators: water and wastewater facilities: exemption.

Introduced: 2/11/20

Status: 6/5/20 – Failed deadline pursuant to Rule 61(b)(6); dead.

Aimed at addressing unintended consequences of PSPS on water and wastewater agencies, this bill would exempt the operation of an alternative power source to provide power to a “critical facility” during a deenergization event from any local, regional, or state regulation regarding the operation of that source. “Critical facilities” include water and wastewater treatment facilities, treatment plants, pumping stations, and other storage and water facilities. In lieu of compliance with applicable legal requirements, the bill would authorize the providers of these essential public services to comply with the maintenance and testing procedure set forth in the National Fire Protection Association Standard for Emergency and Standby Power System, NFPA 110, for alternative power sources designated by the providers for the support of critical facilities.

ACWA: Support/Sponsor.

AB 2186 (Grayson) – Public contracting: contractor retention withholding.

Introduced: 2/11/20

Status: 6/5/20 – Failed deadline pursuant to Rule 61(b)(6); dead.

Current law authorizes the legislative body of a local agency to prescribe how the agency makes payment on a contract for the creation, construction, alteration, repair, or improvement of any public structure, building, road, or other improvement of any kind that will exceed a total of \$5,000. Current law limits this authority by requiring an agency to withhold payment and make progress payments in a certain manner. This bill would eliminate such limitations on a local agency’s authority to prescribe payments on these contracts, but would prohibit the local agency from withholding more than five percent of the contract price. ACWA adopted a “Pending Committee Input” position, noting that it is currently unaware of the extent to which projects experience administrative delays as a result of this limitation on the agency’s authority to prescribe payments, and whether agencies would find such a provision valuable.

ACWA: Not Favor.

AB 2386 (Bigelow) - Office of Emergency Services: disaster council plans.

Introduced: 2/18/20

Status: 9/29/20 – Approved by the Governor; chaptered by Secretary of State, Chapter 254, Statutes of 2020.

Existing law authorizes cities, cities and counties, and counties to create disaster councils, by ordinance, to develop plans for meeting any condition constituting a local emergency or

state of emergency, including, earthquakes, natural or manmade disasters specific to that jurisdiction, or state of war emergency. The law requires a disaster council to supply a copy of those plans to the Office of Emergency Services. As amended on August 25, AB 2386 would require the Office of Emergency Services to annually review a minimum of 10 emergency plans described above to determine if the plans substantially conform to or exceed specified recommendations made by the Federal Emergency Management Agency. The bill would require the office to prioritize in its review a plan submitted from a county determined to be at a “high risk” of wildfire disaster.

ACWA: None.

AB 2421 (Quirk) - Land use: permitting: wireless communications: emergency standby generators.

Introduced: 2/19/20

Status: 9/29/20 – Approved by the Governor. Chaptered by Secretary of State – Chapter 255, Statutes of 2020.

Under existing law, the installation of certain equipment on or immediately adjacent to an existing wireless telecommunications facility is a non-discretionary permitted use. Under Federal law, local governments may not deny requests for modification of an existing wireless tower if it will not substantially change the physical dimensions of the tower. On March 12, this bill was gutted and amended to require, until January 1, 2024, cities and counties to adopt specified and uniform approval procedures for an application to install an emergency generator within the physical footprint of a macro cell tower site. As amended, this bill aims to improve public safety during Public Safety Power Shutoff (PSPS) events by enabling the rapid deployment of emergency standby generators at macro cell sites that will keep wireless communications networks up and running in the event of a power interruption. An emergency standby generator proposed to be installed within the physical footprint of a macro cell tower site would be permitted as long as it meets the dimensional and power specifications as provided. Further, a local agency that receives a permit application to install an emergency standby generator, shall approve or deny the application within 60 days of submittal. ACWA favors this bill, citing hardships by local water authorities to conduct agency business during increasing PSPS events without phone and cell, and consequently, emergency services.

ACWA: Favor.

AB 2519 (Wood) – Conservation projects: grants: advance payments.

Introduced: 2/19/20

Status: 8/18/20 – Failed deadline pursuant to Rule 61(b)(13); dead.

As introduced on February 19, this bill would have required DWR to send notice of a defective application by ordinary and registered mail or by email. On March 12, the bill was gut and amended and would now require the Natural Resources Agency, the Conservancy, DWR, and the State Water Board, when awarding grants for conservation projects that enhance climate resilience, restore watersheds, or protect and preserve natural lands, to

provide an advance payment of up to 25 percent of the total grant award if requested by a grant recipient. This would only apply to the extent that it is not in conflict with any other laws. ACWA took a “favor” position, noting it would free up limited funding for smaller nonprofit and local government entities.

ACWA: Favor.

AB 2539 (Bigelow) – Electrical corporations: deenergization events: elections.

Introduced: 2/19/20

Status: 3/10/20 – Re-referred to Comm. on Utilities & Energy.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law requires each electrical corporation to annually prepare a wildfire mitigation plan and to submit its plan to the commission for review and approval, as specified. Existing law requires the wildfire mitigation plan to include, among other things, protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety. Originally a bill indicating the Legislature’s intent to make nonsubstantive changes to the provisions relating to wildfire mitigation plans, as amended on March 9, this bill would require an electrical corporation that initiates a deenergization event in the 2 weeks preceding an election, or in the month following an election, to provide assistance to ensure that the deenergization event does not impair the ability of local elections officials to perform official duties.

ACWA: None.

AB 2572 (Dahle) – Worker status: independent contractors.

Introduced: 2/20/20

Status: 3/10/20 – Re-referred to Comm. on Lab. & Employment.

Existing law uses a 3-part test, as the "ABC" test, to determine if workers are employees or independent contractors, and establishes that, for purposes of the Labor Code, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the hiring entity’s control and direction in performing the work, the person performs work outside of the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. As amended in March, this bill would exempt persons who perform work on forested landscapes as geologists and geophysicists, land surveyors, contractors, engineers, and persons in the pest control business, who otherwise meet certain statutory licensing requirements.

ACWA: None.

AB 2642 (Salas) – Department of Conservation: Multibenefit Land Conversion Incentive Program: administration.

Introduced: 2/20/20

Status: 6/3/20 – In committee: Held under submission.

SGMA requires that local agencies designated as groundwater sustainability agencies (GSA) prepare, administer, and enforce the GSPs with the goal of sustainably managing these groundwater basins to avoid undesirable results such as overdrafting groundwater, subsidence, and seawater intrusion, among others. To achieve the sustainability goal, SGMA authorizes a GSA to, among other measures, control groundwater extractions by regulating, limiting, or suspending extractions from groundwater wells, establish a program of voluntary fallowing of agricultural lands, or validate an existing fallowing program.

As amended on May 5, AB 2642 would direct the Department of Conservation to establish and administer the Multibenefit Land Conversion Incentive Program. The Program would provide grants for the development or implementation of local programs supporting or facilitating multibenefit land conversion at the basin scale to GSAs, or a local agency or nongovernmental organization designated by a GSA. In this context, “land conversion” would mean to change the use of agricultural land by fallowing, land retirement, dryland farming, or switching from irrigated agriculture to rangeland. Changing from a “support if amended” to a “watch” position, ACWA indicated that its concerns with the previous bill language that arguably allowed the department to use funds not intended for this program and that it could continue in perpetuity without an identified and durable funding source were adequately addressed, and the bill now specifies that the money will only come from the General Fund, and will sunset after 10 years. However, ACWA adopted a “watch” position, indicating that given the economic circumstances, and the Governor’s recent announcement that there will be a \$54 billion budget deficit this year, it may be more appropriate to pursue this bill later when the financial outlook is better.

ACWA: Watch.

AB 2656 (Eggman) – Wholesale water suppliers: water loss audit reports.

Introduced: 2/20/20

Status: 6/5/20 – Failed deadline pursuant to Rule 61(b)(6); dead.

Current law requires the state to achieve a 20% reduction in urban per capita water use by December 31, 2020. Current law also requires an urban retail water supplier to develop urban water use targets and an interim urban water use target, and requires each urban retail water supplier to annually submit a completed and validated water loss audit report for the previous calendar year or fiscal year. This bill would express the intent of the Legislature to enact legislation that would require wholesale water suppliers to conduct and submit annual water loss audit reports to the Department of Water Resources.

ACWA: None.

AB 2887 (Bonta) – Statewide emergencies: mitigation.

Introduced: 2/21/20

Status: 8/31/20 – Failed deadline pursuant to Rule 61(b)(18); dead.

Under existing law, a municipal corporation, municipal utility district, or public utility district that provides light, water, power, or heat is prohibited from terminating service for certain specified reasons based on, among other things, ability to pay. As amended on March 16 to address impacts related to the COVID-19 pandemic, AB 2887 would prohibit an electrical corporation, gas corporation, water corporation, municipal corporation, municipal utility district, or public utility district from terminating residential or small commercial electrical, gas, or water service for nonpayment for the first three billing cycles following a state of emergency or major disaster for a customer that may have been affected by it, except in accordance with the requirements outlined in the bill. A utility would be subject to the following requirements:

- Include a notice in the first three billing statements made to affected residents or customers that if, as a result of conditions associated with the state of emergency or major disaster, the customer suffered financially and is unable to pay for service, the customer may apply for an amortization agreement or other extension for a reasonable period of time not to exceed 12 months.
- Any affected resident or customer that represents that they have suffered financially as a result of the conditions associated with the state of emergency or major disaster and, as a result, is unable to pay for service, shall be granted an extension to be permitted to amortize the unpaid amounts to be beyond the means of the customer to pay within the normal period for payment, not to exceed 12 months.
- Any utility is prohibited from terminating service for any customer complying with such amortization agreement, as long as the customer also keeps the account current as charges accrue in each subsequent filing period following the first three billing statements made following the state of emergency or disaster.

ACWA adopted a “Watch and Amend” position in April, noting that because existing law already prohibits urban and community water systems with more than 200 service connections from terminating residential service for nonpayment if the customer can demonstrate a financial inability to pay for the residential service within the normal billing cycle, AB 2887 would not substantially expand on shutoff restrictions in existing law. However, ACWA believes the bill would present logistical issues that would need to be amended. For example, because the bill addresses inability to pay by billing cycle, for agencies that bill infrequently, that could mean six months or more that the agency would not receive payment, and the bill otherwise does not present clear enough language for the agency to distinguish between which customers are “affected” by the crisis. Further, given that there are shorter-term emergency declarations that last as temporarily as a few hours, such as with high-wind events where fire is a concern, ACWA is concerned over how often the provisions of this bill could be invoked.

ACWA: Watch and Amend.

AB 3256 (Garcia) – Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020.

Introduced: 2/21/20

Status: 8/31/20 – Failed deadline pursuant to Rule 61(b)(18); dead.

As amended on May 4, 2020, this bill would have enacted the Wildfire Prevention, Safe Drinking Water, Climate Resilience, Drought Preparation, and Flood Protection Bond Act of 2020. As amended on May 18, this bill trades the emphasis on climate resilience for economic recovery, and so would create the Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020. However, the amendments seem to be largely technical, as the bill language still declares the Legislature’s intent to address myriad climate resilience measures, and otherwise largely remained the same besides clarifying certain definitions. If approved by voters in the November statewide general election, AB 3256 would authorize the issuance of \$6,980,000,000 in bonds pursuant to the State General Obligation Bond Law to finance such projects.

ACWA: Favor if Amended.

AB 3279 (Friedman) – California Environmental Quality Act: administrative and judicial procedures.

Introduced: 2/21/20

Status: 8/21/20 – Failed deadline pursuant to Rule 61(b)(15); dead.

The California Environmental Quality Act (CEQA) currently allows a petitioner to bring a claim alleging noncompliance of its provisions, with the litigation subject to certain statutes of limitations and other requirements. AB 3279 would make a series of changes to the CEQA litigation process and repeal a number of obsolete provisions. As amended on July 1, 2020 the respondent public agency would be required to prepare and certify the record of proceedings (to the extent feasible) concurrently with the administrative process in a manner consistent with section 21167.6.2 of the Public Resources Code. If the record of proceedings were not prepared concurrently with the administrative process, the court would be required to schedule a case management conference within 30 days of the filing of the complaint or petition to review the scope, timing, and cost of the record of proceedings. Additionally, the plaintiff or petitioner could elect to prepare the record or the parties could agree to an alternative method of preparation, subject to certification of its accuracy by the public agency, within the 60-day time limit specified.

ACWA: Support.

ACA 17 (Gray) - Energy: hydroelectric generation facilities.

Introduced: 7/9/19

Status: 7/10/19 – From printer: May be heard in committee Aug. 9.

This measure would require that the state’s programs relating to renewable energy and climate change include hydroelectric generation facilities as renewable electrical generation facilities, eligible renewable energy resources, and zero-carbon resources, and would require

that those programs not differentiate between the electricity generated by hydroelectric facilities and the electricity generated by other renewable electrical generation facilities, eligible renewable energy resources, and zero-carbon resources. The measure would require that hydroelectric generation facilities be considered renewable electrical generation facilities, eligible renewable energy resources, and zero-carbon resources for licensing and certification purposes.

ACWA: None.

STATE SENATE

SB 45 (Allen) - Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020.

Introduced: 12/3/18

Status: 8/31/20 – Failed deadline pursuant to Rule 61(b)(18); dead.

This bill would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020. If approved by the voters, the act would authorize the issuance of bonds in the amount of \$5,510,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection programs.

ACWA: Favor if amended.

SB 287 (Nielsen) - Commission on State Mandates: test claims: filing date.

Introduced: 2/13/19

Status: 8/30/19 - Held in Asm. Com. on Appr. and under submission; dead.

Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, the state generally is required to reimburse the local government. To that end, local agencies may file claims for reimbursement with the Commission on State Mandates or the Legislature. Existing law requires a local agency to file a test claim for reimbursement not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later. This bill would specify that, for purposes of filing a test claim based on the date of incurring increased costs, “within 12 months” means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant. Although no action has yet been taken in 2020 on this 2-year bill, it is still listed as active and in the committee process.

ACWA: None.

SB 668 (Rubio) - Fire hydrants: water suppliers: regulations.

Introduced: 2/22/19

Status: 8/31/20 – Failed deadline pursuant to Rule 61(b)(18); dead.

Existing law requires a public water system with 10,000 or more service connections to undertake specified actions, including, among other things, to review and revise its disaster preparedness plan to ensure that it is sufficient to address possible disaster scenarios and, following a declared state of emergency, to furnish an assessment of its emergency response within six months thereafter and implement related recommendations in a timely manner. Existing law also requires the Office of Emergency Services to establish emergency response and recovery plans in coordination with public water systems. This bill would instead require an urban water supplier to review and revise its emergency response plan, and would require the Office of Emergency Services to establish emergency response and recovery plans in coordination with urban water suppliers. As amended, the bill would require an urban water supplier to review and revise its plan every 5 years.

ACWA: Watch.

SB 749 (Durazo) – California Public Records Act: trade secrets.

Introduced: 2/22/19

Status: 8/31/20 – Failed deadline pursuant to Rule 61(b)(18); dead.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Existing law provides that nothing in the act requires the disclosure of corporate proprietary information including trade secrets, among other things. SB 749 would provide that records relating to wages, benefits, working hours, and other employment terms and conditions of employees working for a private industry employer pursuant to a contract with a state or local agency shall not be deemed to be trade secrets under the California Public Records Act. The bill would also provide that records of compliance with local, state, or federal domestic content requirements and records of a private industry employer's compliance with job creation, job quality, or job retention obligations contained in a contract or agreement with a state or local agency shall not be deemed trade secrets under the act.

ACWA: None.

SB 862 (Dodd) - Planned power outage: public safety.

Introduced: 1/16/20

Status: 8/14/20 – Failed deadline pursuant to Rule 61(b)(13); dead.

The California Emergency Services Act authorizes the Governor to proclaim a state of emergency, and local officials and local governments to proclaim a local emergency, when specified conditions exist, and authorizes the Governor or the appropriate local government to exercise certain powers in response to that emergency. Existing law defines the terms “state of emergency” and “local emergency” to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by, among other things, fire, storm, or riot. This bill would additionally include a planned deenergization event within those conditions constituting a state of emergency and a local emergency.

ACWA: None.

SB 1159 (Hill) Workers' compensation: COVID-19: critical workers.

Introduced: 2/20/20

Status: 9/17/20 – Approved by the Governor. Chaptered by Secretary of State. Chapter 85, Statutes of 2020.

Similar to AB 196, this bill would address workers' compensation for COVID-19-related injuries or illnesses for essential workers and would take effect immediately as an urgency statute. Existing law creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of the employment. As introduced on February 20, this bill was a spot bill pertaining to employment wages. On April 22, this bill was gutted and amended to become COVID-19 response legislation. As amended on August 3, 2020, this bill would define "injury" for a critical worker, to include illness or death that results from exposure to COVID-19 if both: (1) the injury arose out of and in the course of employment and is compensable; and (2) the injury is confirmed by a positive lab test. In contrast to AB 196, which creates a conclusive presumption, ACWA does not oppose this bill, but does not favor it unless amended, as it still would place a lot of burden on employers to rebut that the injury was caused at work.

ACWA: Not Favor Unless Amended.

SB 1348 (Stern) Fire prevention: vegetation management: public education: grants: defensible space: fire hazard severity zones: forest management.

Introduced: 2/21/20

Status: 8/26/20 – Ordered to third reading.

Existing law requires the Director of Forestry and Fire Protection to identify areas of the state as very high fire hazard severity zones based on specified criteria and requires a local agency, within 30 days after receiving a transmittal from the director that identifies very high fire hazard severity zones, to make the information available for public review, as provided. It also allows the Director to provide grants to, and enter into contracts and other cooperative agreements with, certain entities for the implementation and administration of projects and programs to improve forest health and reduce GHG emissions.

SB 1348 would, among other things, require the Director to identify areas of the state as moderate and high fire hazard severity zones and would require a local agency to make this information available for public review and comment, and maintain a public database relating to defensible space inspections and assessments conducted by the department, local agencies, or volunteers. This bill would also require the Department, under Good Neighbor Authority agreements, to establish a program for purposes of conducting landscape scale ecological restoration and fire resiliency projects on national forest lands, including the development of NEPA and CEQA documents for landscape scale ecological restoration and fire resiliency projects on national forest lands that are at least 25,000 acres. The bill would authorize the department to contract with Native American tribes,

local governments, forest collaboratives, and qualified nongovernmental organizations to conduct restoration activities on federal forest lands and to develop the federal documents.
ACWA: None.

SB 1386 (Moorlach): Local government: assessments, fees, and charges: water: hydrants.

Introduced: 2/21/20

Status: 9/28/20 – Approved by the Governor. Chaptered by Secretary of State. Chapter 240, Statutes of 2020.

Existing law, known as the Proposition 218 Omnibus Implementation Act (Act), prescribes specific procedures and parameters for local jurisdictions to comply with these requirements and, among other things, authorizes an agency providing water, wastewater, sewer, or refuse collection services to adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water, sewage treatment, or wastewater treatment or adjustments for inflation under certain circumstances. For purposes of assessments, the Act defines “water” to mean any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source.

This bill underwent a series of non-substantive amendments on July 28, 2020. As amended, this bill would clarify that the fees or charges for property-related water service imposed or increased as specified may include the costs to construct, maintain, repair, or replace public hydrants attached to a water system, and the cost of water dispensed through public hydrants. The author of this bill intends it to address the issues associated with the lawsuit filed in March against 81 water suppliers throughout California, claiming that fixed costs for capacity necessary for fire protection and fire hydrants owned by the water suppliers are being subsidized by ratepayers in violation of Proposition 218, and should instead be charged to the particular governmental entity responsible for fire protection. The bill specifies that it is declarative of existing law.

ACWA: Support.

FEDERAL LEGISLATION

H.R. 6643 (Schneider) – Supporting State and Local Leaders Act.

Introduced: 4/28/20

Status: Referred to House Comm. on Ways and Means.

Cited as the Supporting State and Local Leaders Act, this bill repeals the prohibition in the Families First Coronavirus Response Act against granting state and local governments a tax credit for paid sick and paid family and medical leave. The payroll tax credit is currently offered to businesses, corporations, and non-profits for providing paid emergency sick and family leave for COVID-19-impacted employees in addition to established leave

policies. The California Special Districts Association is also advocating for similar language to be included in the upcoming federal relief package.

ACWA: None.

H.R. 7073 (Garamendi) – Special Districts Provide Essential Services Act.

Introduced: 6/1/20

Status: 6/1/20 – Referred to Comm. on Oversight and Reform Comm. on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 7073 would give a “special district,” defined in the bill as a political subdivision, formed pursuant to general law or special act of a state, for the purpose of performing one or more governmental or proprietary function, access to key resources available to local governments under the CARES Act. It would require a state to distribute no less than five percent of any future Coronavirus Relief Fund monies received by a state to special districts in the state within 60 days of receiving the resources. The bill would also authorize the Federal Reserve to consider special districts as “eligible issuers” for its Municipal Liquidity Facilities program to purchase suitable municipal bond and revenue anticipation notes.

ACWA: None.

S. 3590 & S. 3591 (Barrasso) The Drinking Water Infrastructure Act & America’s Water Infrastructure Act of 2020

Introduced: 5/4/20

Status: 10/23/20 – Written report filed, Report No. 116-284, by Senator Barrasso from Comm. on Env. And Pub. Works. (S. 3590)

On May 6, 2020, the Senate’s environmental panel approved two water infrastructure bills relating to drinking water limits for perfluoroalkyl and polyfluoroalkyl substances (PFAS). The bipartisan bills will now go to the full Senate, and would direct the EPA to develop a national drinking water standard for PFAS and provide funding for critical water infrastructure.

On May 6, the committee approved by voice vote a substitute amendment to the drinking water infrastructure bill, S. 3590, clarifying that the program authorized by the bill is intended to “enhance treatment, monitoring, affordability, efficiency, or safety of the drinking water.” The committee also agreed to a substitute amendment to S. 3591, America’s Water Infrastructure Act of 2020, making technical changes. S. 3591 focuses mostly on Army Corps of Engineers projects and policy, authorizing funding for infrastructure projects that support and improve drinking water, while increasing water storage and reducing flood risks. According to caucus members, together, the two bills reported out of the environment committee would authorize a total of \$18 billion in water resource development projects across the country, including to small and disadvantaged communities.

ACWA: None.

S. 1932 (Gardner) -- Drought Resiliency and Water Supply Infrastructure Act.

Introduced: 6/20/2019

Status: 7/18/2019–Hearing in Sen. Energy and Nat. Res. Subcomm. on Water & Power.

This bill would expand and update funding authorizations for the Bureau of Reclamation under the Water Infrastructure Improvements for the Nation (WIIN) Act. It would extend WIIN Act funding for an additional five years, including \$670 million for surface and groundwater storage projects, and supporting conveyance, \$100 million for water recycling projects, and \$60 million for desalination projects. In addition, the bill would create a new loan program at 30-year Treasury rates (currently around 2.6%) for water supply projects. Under this program, repayment can be deferred until five years after completion of the project. The bill also would authorize \$140 million for habitat restoration and environmental compliance projects, including forest, meadow and watershed restoration and projects that benefit threatened and endangered species. The bill contains two provisions to offset the costs of these appropriations: (1) an extension of WIIN Act provisions allowing water districts to prepay outstanding capital debts and to convert to indefinite length water supply contracts to bring in additional revenue over the next ten years, and (2) a process to deauthorize inactive water recycling project authorizations.

ACWA: Support.

****S. 4431 (Feinstein) Emergency Wildfire and Public Safety Act of 2020.**

Introduced: 8/4/20

Status: 9/16/20 – Comm. on Energy and Nat. Res. Subcommittee on Public Lands, Forests, and Mining. Hearings held.

S. 4431 requires the Department of Agriculture (USDA) to select three forest landscapes on which to conduct projects to reduce the risk of wildfire, restore ecological health, or adapt to the increased risk of wildfire due to climate change. The qualifying forest landscapes (1) primarily or entirely contain land that has a high wildfire hazard potential; (2) reduce the risk of wildfire either endangering a nearby at-risk community, damage to a municipal watershed or infrastructure that serves an at-risk community, or prevent the transmission of a high intensity wildfire; and (3) are conducive to the implementation of wildfire resilience and forest health projects. The bill excludes certain forest management activities from federal NEPA review requirements, including mowing or masticating; thinning by manual and mechanical cutting; selling of timber, firewood, biomass, slash, fence-posts and other vegetation products; pesticide application; and controlled burns, among others. The Department of the Interior would also be required to implement a program to provide grants, loans, and loan guarantees to support biomass conversion facilities. Additionally, the Department of Energy would be required to provide support to improve the energy resilience, power needs, and energy efficiency of critical facilities.

ACWA: None.

****S. 2882 (Harris) Wildfire Defense Act.**

Introduced: 11/18/19

Status: 11/18/19 – Read twice and referred to the Comm. on Homeland Security and Governmental Affairs.

In addition to S. 4431, Senator Harris introduced S. 2882 to address wildfire prevention, which would direct the Federal Emergency Management Agency (FEMA) to establish a community wildfire defense grant program and require other actions by FEMA, the Government Accountability Office (GAO), and the Forest Service with respect to wildfires. In awarding grants, FEMA must give priority to state and local governments, Indian tribes, and joint authorities that will carry out projects or plans supporting a low-income community in a fire-hazard area or a severe disaster impacted community in a fire-hazard area.

The GAO would be required to publish within one year of passage of the Act (1) a report on authorities and programs that are available to protect communities from wildfires; and (2) a study on the potential for a community wildfire defense plan to qualify for a certification identifying a level of wildfire survivability and resilience, and how to incentivize insurance companies to accept the certification. The Forest Service would be required to develop, update and publish a map depicting at-risk communities eligible for grant funds. Finally, FEMA would be required to prepare a report relating to insufficient radio frequencies, barriers to interoperability of radio frequencies, and available products and technologies for overcoming barriers to interoperability for wildland fire management.

ACWA: None.

****H.R. 5091 (Huffman) Wildfire Defense Act.**

Introduced: 11/14/19

Status: 12/4/19 – Referred to the Subcommittee on Conservation and Forestry.

A companion bill to S. 2882, H.R. 5091 would introduce the Wildfire Defense Act to the House. The bill language is identical to S. 2882, although no action has been taken on either bill since H.R. 5091 was referred to the House Subcommittee on Conservation and Forestry and S. 2882 was referred to the Senate Committee on Homeland Security and Governmental Affairs in late 2019.

ACWA: None.