



**SPECIAL NOTICE REGARDING  
CORONAVIRUS DISEASE 2019 (COVID-19)  
AND PARTICIPATION IN PUBLIC MEETINGS**

On March 4, 2020, Governor Newsom declared a State of Emergency resulting from the threat of COVID-19. On September 16, 2021, Governor Newsom signed Assembly Bill No. 361 into law. Assembly Bill No. 361 amends Government Code section 54953(e) by adding provisions for remote teleconferencing participation in meetings by members of a legislative body, without the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions. The San Bernardino Valley Municipal Water District adopted a resolution determining, by majority vote, that, as a result of the declared State of Emergency, a meeting in person would present imminent risks to the health or safety of attendees. Accordingly, it has been determined that all Board and Workshop meetings of the San Bernardino Valley Municipal Water District will be held pursuant to the Brown Act and will be conducted via teleconference. There will be no public access to the meeting venue.

**BOARD OF DIRECTORS WORKSHOP - POLICY  
THURSDAY, MAY 12, 2022 – 2:00 P.M.**

**PUBLIC PARTICIPATION**

Public participation is welcome and encouraged. You may participate in the May 12, 2022, meeting of the San Bernardino Valley Municipal Water District online and by telephone as follows:

**Dial-in Info: (877) 853 5247 US Toll-free**

**Meeting ID: 831 7559 3663**

**PASSCODE: 3802020**

**<https://sbvmwd.zoom.us/j/83175593663>**

If you are unable to participate online or by telephone, you may also submit your comments and questions in writing for the District's consideration by sending them to [comments@sbvmwd.com](mailto:comments@sbvmwd.com) with the subject line "Public Comment Item #" (insert the agenda item number relevant to your comment) or "Public Comment Non-Agenda Item". Submit your written comments by 6:00 p.m. on Wednesday, May 11, 2022. All public comments will be provided to the Chair and may be read into the record or compiled as part of the record.

**IMPORTANT PRIVACY NOTE: Participation in the meeting via the Zoom app is strongly encouraged. Online participants MUST log in with a Zoom account. The Zoom app is a free download. Please keep in mind: (1) This is a public meeting; as such, the virtual meeting information is published on the World Wide Web and available to everyone. (2) Should you participate remotely via telephone, your telephone number will be your "identifier" during the meeting and available to all meeting participants; there is no way to protect your privacy if you elect to call in to the meeting.**



**SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT**  
380 E. Vanderbilt Way, San Bernardino, CA 92408

**BOARD OF DIRECTORS WORKSHOP - POLICY**

**AGENDA**

**2:00 PM Thursday, May 12, 2022**

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**CALL TO ORDER**

Chairperson: Director Botello

Vice-Chair: Director Kielhold

**1) INTRODUCTIONS**

**2) PUBLIC COMMENT**

Any person may address the Board on matters within its jurisdiction.

**3) SUMMARY OF PREVIOUS MEETING**

3.1 Board of Directors' Workshop - Policy - April 14, 2022 (Page 3)  
[Summary Notes BOD Workshop - Policy 041422](#)

**4) DISCUSSION ITEMS**

4.1 Quarterly Investment Portfolio Update with PFM Asset Management and Review of the District's Investment Policy (Page 10)  
[Staff Memo - Quarterly Investment Portfolio Update with PFM Asset Management and Review of the District's Investment Policy](#)  
[PFM 1st Quarter 2022 Investment Portfolio Presentation](#)  
[PFM Asset Management Review of SBVMWD Investment Policy](#)  
[SBVMWD Investment Policy](#)

4.2 Update on IE Works Program Participation (Page 44)  
[Staff Memo - Update on IE Works Program Participation](#)  
[IE Works Bylaws Final 04 07 2022](#)

**5) REPORTS**

5.1 State and Federal Legislative Report (Page 71)

6) **FUTURE BUSINESS**

7) **ADJOURNMENT**

PLEASE NOTE:

Materials related to an item on this Agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the District's office located at 380 E. Vanderbilt Way, San Bernardino, during normal business hours. Also, such documents are available on the District's website at [www.sbvmd.com](http://www.sbvmd.com) subject to staff's ability to post the documents before the meeting. The District recognizes its obligation to provide equal access to those individuals with disabilities. Please contact Melissa Zoba at (909) 387-9228 two working days prior to the meeting with any special requests for reasonable accommodation.



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**DATE:** May 12, 2022  
**TO:** Board of Directors Workshop – Policy  
**FROM:** Staff  
**SUBJECT:** Summary of April 14, 2022, Board of Directors Workshop – Policy

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The Resources Workshop convened on April 14, 2022. Director Botello chaired the meeting via video conference.

Directors Present: President Kielhold, Vice President Hayes, Director Botello, Director Harrison, and Director Longville.

**Staff Present:**

Heather Dyer, MS, MBA – Chief Executive Officer/General Manager  
Jose Macedo, ML, CPT-P (USA Retired) – Chief of Staff / Clerk of the Board  
Cindy Saks, CPA – Deputy General Manager / Chief Financial Officer  
Bob Tincher, PE, MS – Deputy General Manager / Chief Water Resources Officer  
Melissa Zoba, MBA, MPA – Chief Information Officer

Kristeen Farlow, MPA – Strategic Communications Manager  
Anthony Flordelis – Business Systems Analyst  
Adekunle Ojo, MPA – Water Resources Manager  
Karen Resendez, MA – Human Resources / Risk Manager

**Members of the Public Present:**

Melody McDonald, San Bernardino Valley Water Conservation District  
Devin Arciniega, City of San Bernardino Municipal Water District  
Chris Mann, Yucaipa Valley Water District  
Nyles O’Harra, Yucaipa Valley Water District  
Drew Tatum, Innovative Federal Solutions  
Letitia White, Innovative Federal Solutions

**1. Introductions**

Chair Botello invited introductions: There were none.

## **2. Public Comment**

Chair Botello invited public comment. There was none.

## **3. Summary of Previous Meeting**

The meeting notes from the March 10, 2022, Board of Directors Workshop – Policy were accepted with no corrections.

### **4.1 Consider Contract Amendment No. 1 with Rincon Consultants, Inc. for the Climate Adaptation and Resilience Plan (CARP)**

Water Resources Manager Adekunle Ojo explained the purpose of the CARP is to build on the Strategic Plan to assure that Valley District is ready for present and future climate uncertainties. It pulls together all activities into integrated solutions, followed by projects.

Mr. Ojo outlined the CARP development process, which is currently at the stakeholder engagement stage involving vision setting, and development of goals, strategies, and scenarios. He detailed the components of a proposed amendment for expanded outreach, noting the importance of gathering stakeholder input. These essential changes will lead to an additional 62 hours and a \$12,287 increase in the project budget, he advised.

Mr. Ojo described pitfalls experienced by other agencies and emphasized the importance of incorporating the voices of critical stakeholders early in the process.

Director Longville indicated this is a reasonable sum to amend the scope of work for these activities. She asked when the interviews and Board workshops will take place. Mr. Ojo noted he is working with Chief of Staff / Clerk of the Board Jose Macedo to work around summer schedules.

Director Longville pointed out the opportunity to consider nature-based solutions. Mr. Ojo advised that such discussion will be held during the solutions and prioritized strategies stage.

In response to President Kielhold, Mr. Ojo described the community workshops. The proposed outreach plan allows more flexibility in the format of the meetings. The added small group conversations will be with special interest groups such as young people, retailers, non-profits, and key voices as identified by staff working with the consultant, he explained. The workshop debrief will be a staff discussion with the consultant to distill the workshop content, Mr. Ojo stated.

Vice President Hayes requested information following the community workshops, including where the workshops were held, whether they were in-person, the number of attendees, and which special interest groups were included.

Director Longville said there is opportunity to frame this in a way that would make sense to business leaders, she noted. It would also be worthwhile to have a conversation to look at how there might be possibilities for investment in some of the strategies that Valley District includes in the CARP.

Director Botello asked for assurance on how the small groups would be identified and pointed to seniors and businesses. Mr. Ojo noted that directors can provide recommendations on those groups during their interviews with the consultant. Director Botello suggested the debrief assure that the correct information is collected from everyone involved, including directors and staff, and represents a good sampling.

**Action Item(s):** The Board voted to add this item to a future agenda by the following roll-call vote:

	APPROVED: 4-0
AYES:	Botello, Hayes, Longville, Kielhold
NOES:	None
ABSTAIN:	None
ABSENT:	Harrison

*Director Harrison joined the meeting at 2:36 p.m.*

#### **4.2 Discuss State and Federal Legislative Update**

Strategic Communications Manager Kristeen Farlow introduced Drew Tatum and Letitia White with Innovative and Federal Solutions (IFS). Ms. White reported on the Federal government's legislative activities.

Ms. White reported that both House and Senate are set to return on April 25. Highlights of this work session include:

- Passage of FY 2022 Omnibus Appropriations Bill fully funding all federal agencies through September 30, 2022
- Appointment of new Supreme Court Justice Jackson

- Passage of the Russian sanctions bills

Ms. White detailed ongoing issues related to a COVID-19 supplemental bill. IFS has been working closely with the Valley District team on the Fiscal Year (FY) 2023 community project Congressionally directed funding for the Santa Ana River Enhanced Stormwater Recharge Project Phase 1B and it has been submitted to Senator Feinstein, Senator Padilla, and Representative Aguilar. It will also soon be submitted to Representative Obernolte, who has visited Valley District. IFS looks forward to hosting Senator Feinstein's staff this week, she noted.

IFS has also been working to highlight the importance of other appropriations accounts where grants have been won in the past few years. IFS continues working with other agencies on grant programs that impact the Upper Santa Ana River Habitat Conservation Plan (HCP). Mr. Tatum acknowledged Director Harrison's involvement in the national HCP Coalition and reported conversations with appropriators and authorizers on the importance of HCPs as well as the importance of funding for land acquisition to be able to implement HCPs.

Mr. Tatum detailed Senator Feinstein's STREAM Act (the name may be changed) which includes reauthorization of expiring provisions of the Water Infrastructure Improvements for the Nation (WIIN) Act. The President's FY 2023 budget request was released which started the appropriations process, he said. There is a large amount of work to be done related to the WaterSMART program, Water Infrastructure Finance and Innovation Act (WIFIA), and other programs that impact the HCP, Tatum advised.

Strategic Communications Manager Kristeen Farlow reported that the State legislature will have an aggressive schedule in order for bills to pass out of policy committees by the April 29 deadline. She briefed the Board on the following bills of interest:

- AB 2078 Atmospheric Rivers. Valley District signed a letter of support for this bill which would expand the current Department of Water Resources (DWR) Atmospheric Rivers Program
- AB 1944 and AB 2449 Open Meetings and Teleconferences are aimed at addressing how agencies can continue to use teleconferencing. There is some movement to loosen some requirements once the emergency order is done
- SB 1157 Urban Water Use Objectives would significantly lower the indoor water use standards
- Taxpayer Protection and Government Accountability Act – could have potential consequences for special districts if it qualifies for the November 2022 ballot and is

enacted. It could make it more difficult to adopt fees and assessments for specific things including water and sewer service and infrastructure. The California Special Districts Association (CSDA) has requested letters of opposition.

Ms. Farlow thanked the Gualco Group for facilitating productive meetings with State elected leaders regarding Watershed Connect and requests for funding. The goal is to reach as many of the local delegation as possible before the Governor's May budget revise, she said. She reported that Senator Connie Leyva is willing to send letters of support for the District's interest in the Governor's budget surplus and the State Revolving Fund (SRF) loan.

Director Longville advised that the purpose of SB 1157 is to reflect the best available data on trends in indoor water use and efficiency. It would implement the joint recommendation of DWR and the State Water Resources Control Board to strengthen the efficiency standards to 47 gallons per capita per day (GCPD) by 2025, and 42 by 2030. It is based on extensive two-year analysis of median indoor water use, which has dropped below the provisional standard of 50 GCPD that was set in 2018. This is important because water efficiency programs help reduce the cost of water to customers and mitigate rate increases, she continued, especially for lower income customers who can least afford to waste water. Director Longville said she was disappointed in what she is seeing from the Association of California Water Agencies and CSDA about this bill, as it is misleading. She said she wished there were conversation to support it if amended.

Vice President Hayes expressed concern that it makes it difficult for retailers to plan through this, as most of Valley District is not dual-metered (as is the case in Yucaipa) and most have no idea how much is used indoors. There are not yet outdoor standards to allow the retailers to start moving forward to prepare.

Director Longville pointed out that just a small amount of consumption is related to gallons per capita per day; indoor use represents 20 percent or less and most of the rest is used for irrigation. When State agencies point out that numbers should reflect the evidence, it should have a minimal impact on ratepayers, she said.

President Kielhold pointed out that only newer homes in Yucaipa are dual-metered, most of the housing stock is not.

Director Botello requested an update on the District's legislative platform. Ms. Farlow advised that she and CEO / General Manager Dyer have been discussing the platform but since it is nearing the end of the legislative session this may be a moot point. The conversation can be restarted in the next couple of months in order to be ready for the next



legislative session with positions aligned with the Strategic Plan and the ability to be more proactive, she advised.

**Action Item(s): Receive and File**

**4.3 Consider Request for Sponsorship of the 2022 Inland Solar Challenge**

Ms. Farlow reminded the Board that Valley District began participating in the Solar Challenge in 2008. In the last couple of years, the event has not moved forward due to COVID-19, but it is coming back and will be in person.

The Inland Solar Challenge Chair for 2022 Devin Arciniega of the City of San Bernardino Municipal Water Department explained the May 20-22, 2022, event will be held at Yucaipa Regional Park, and she invited directors to participate. She briefed the Board on the educational event spearheaded by a committee of local water agencies. This year's theme is Recharging Communities with Groundwater. The participants will be developing public service announcements (PSAs) about water conservation, she explained.

Costs of the event are covered by sponsorships, Ms. Arciniega explained. The Committee is requesting \$6,000, which is greater than the sponsorship from Valley District in 2019 but is the same amount that was requested by the 2020 event (which was canceled). The cost increase is due to the establishment of a 501(c)3 non-profit, park rental and other increased venue fees.

Vice President Hayes noted 60 percent of the participants are not from Valley District and asked about other contributions, and when the PSAs would be available. Ms. Arciniega listed other sponsors and advised that the PSAs would be presented on the Saturday evening around 6 p.m. Director Hayes indicated she would attend.

Director Longville volunteered as a judge of the PSAs. She described an associate board member program for students at another water district and pointed to the importance of reaching young people.

Ms. Farlow noted that the item is within the approved budget.

Director Botello commended the program and indicated support for the effort.

Vice President Hayes requested the 501(c)3 documentation and Ms. Arciniega assured that all would be sent.

**Action Item(s):** The Board voted to approve sponsorship of the 2022 Inland Solar Challenge for \$6,000 by the following roll-call vote:

	APPROVED: 5-0
AYES:	Botello, Hayes, Longville, Kielhold, Harrison
NOES:	None
ABSTAIN:	None
ABSENT:	None

**5. Future Business**

None added.

**7. Adjournment.**

Chair Botello adjourned the meeting at 3:08 p.m.

**Staff Recommendation**

Receive and file.



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**DATE:** May 12, 2022

**TO:** Board of Directors' Workshop - Policy

**FROM:** Cindy Saks, Chief Financial Officer / Deputy General Manager

**SUBJECT:** Quarterly Investment Portfolio Update with PFM Asset Management and Review of the District's Investment Policy

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**Recommendation**

Receive and file the quarterly portfolio update report from PFM and review the District's Investment Policy as required by California Government Code.

**Summary**

Richard Babbe, Senior Managing Consultant of PFM Asset Management will be available via the Zoom meeting to make a presentation on the status of the District's investments based on the current investment strategy, provide a brief market update and provide annual review the District's Investment Policy.

**Background**

One of the specific tasks outlined by the Board is to meet quarterly with the investment advisor. The Board approved Investment Advisory services from PFM Asset Management and to continue with the investment strategy developed and adopted by the Board. Periodically over the years the Board has reviewed the investment strategy. On February 10, 2022, the board reviewed and directed staff to continue with the same investment strategy which provides greater portfolio diversity with a slightly longer average maturity while not increasing risk, all of which is in accordance with the District's investment policy.

As required by the California Government Code (CGC), the District's investment policy needs to be reviewed and updated periodically to remain in compliance with current laws. The investment policy of the District is intended to provide guidelines for prudent investment of the

District's cash as well as authorize types of investments that can be utilized by the District. Richard Babbe has reviewed the District's Investment Policy and has found it in compliance with the current CGC. PFM has provided a memo on their Investment Policy Review. The policy is being brought to the workshop today for the Board's required review and discussion with staff and Richard Babbe.

### **Fiscal Impact**

There is no fiscal impact to receive and file the quarterly investment report and reviewing the District's investment policy.

### **Attachments**

- PFM Asset Management presentation on the District's investments through March 2022
- PFM Asset Management review of District's Investment Policy
- SBVMWD Investment Policy



# San Bernardino Valley Municipal Water District

## Investment Performance Review For the Quarter Ended March 31, 2022

### Client Management Team

Sarah Meacham, Managing Director  
James Sims, CFO, Managing Director  
Richard Babbe, CCM, Senior Managing Consultant

### PFM Asset Management LLC

633 W 5th St., 25th Floor  
Los Angeles, CA 90071  
214-415-1699

213 Market Street  
Harrisburg, PA 17101-2141  
717-232-2723

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# Market Update

## Current Market Themes



- ▶ Commodity prices soared, especially energy
- ▶ Created significant geopolitical uncertainty
- ▶ Triggered market volatility



- ▶ A strong labor market
- ▶ Inflation at a 40-year high
- ▶ Depressed consumer confidence

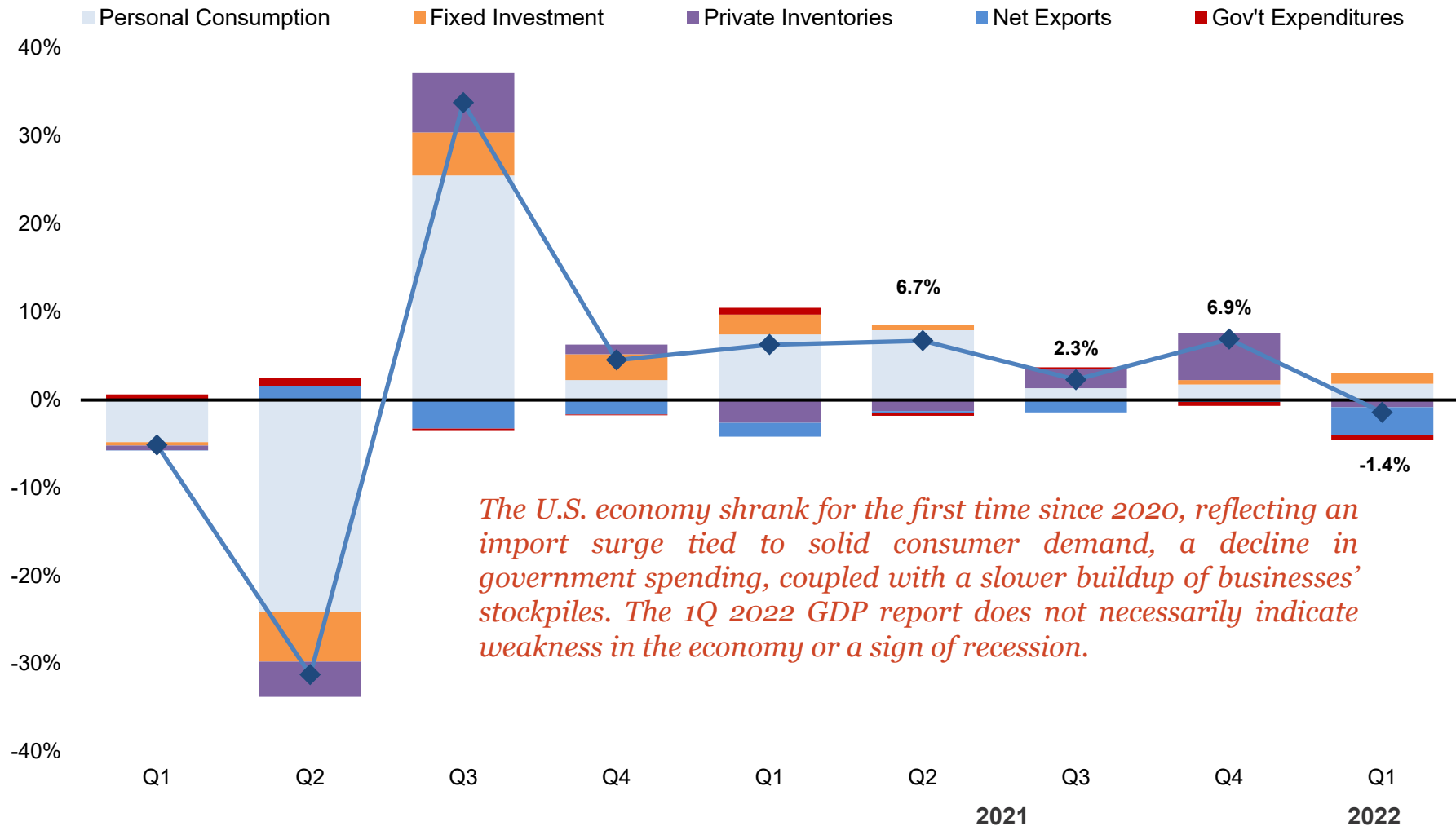


- ▶ Initiated the first of what will be many rate hikes in 2022
- ▶ Balance sheet reduction likely to start soon



- ▶ Yield on 2-year Treasury notes rose above the 10-year Treasury
- ▶ One early, but imperfect warning sign for a future recession

### U.S. Real GDP Contracts in the First Quarter

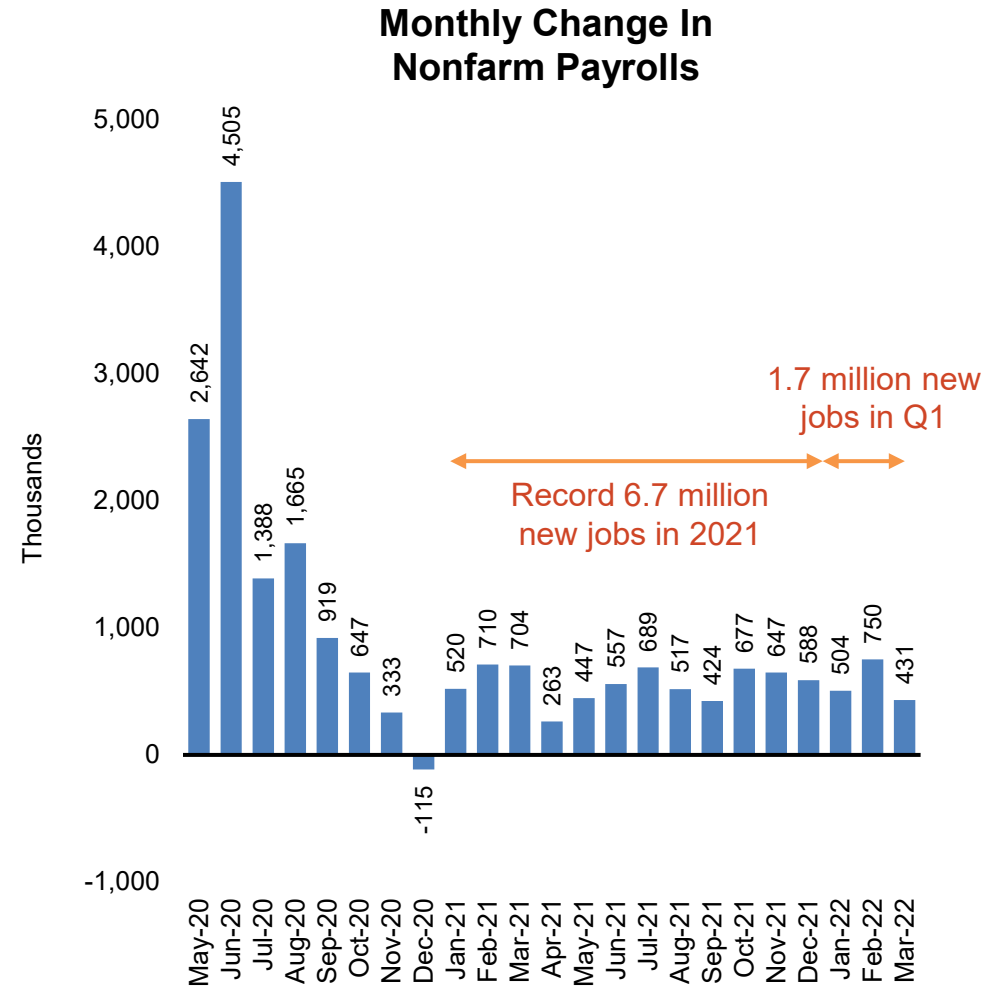
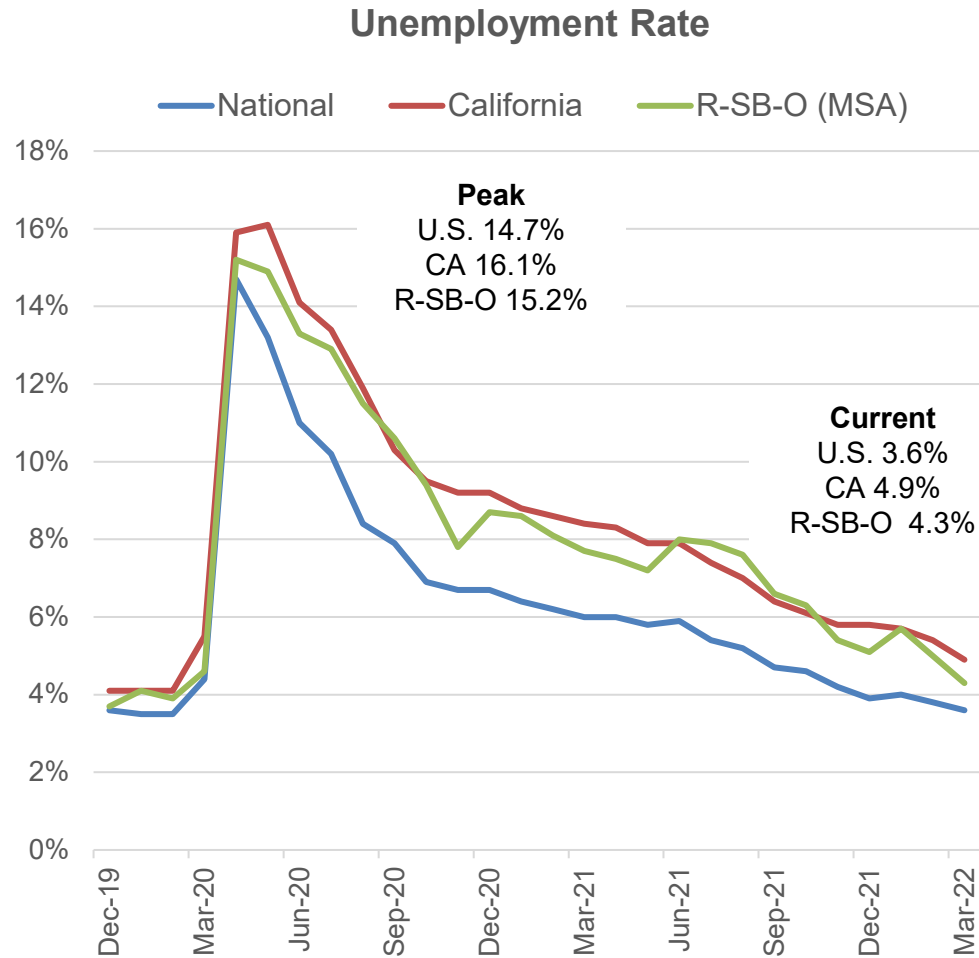


*The U.S. economy shrank for the first time since 2020, reflecting an import surge tied to solid consumer demand, a decline in government spending, coupled with a slower buildup of businesses' stockpiles. The 1Q 2022 GDP report does not necessarily indicate weakness in the economy or a sign of recession.*

Source: Bureau of Economic Analysis.



## U.S. Economy Added 431,000 Jobs in March; Unemployment Rate Falls to 3.6%



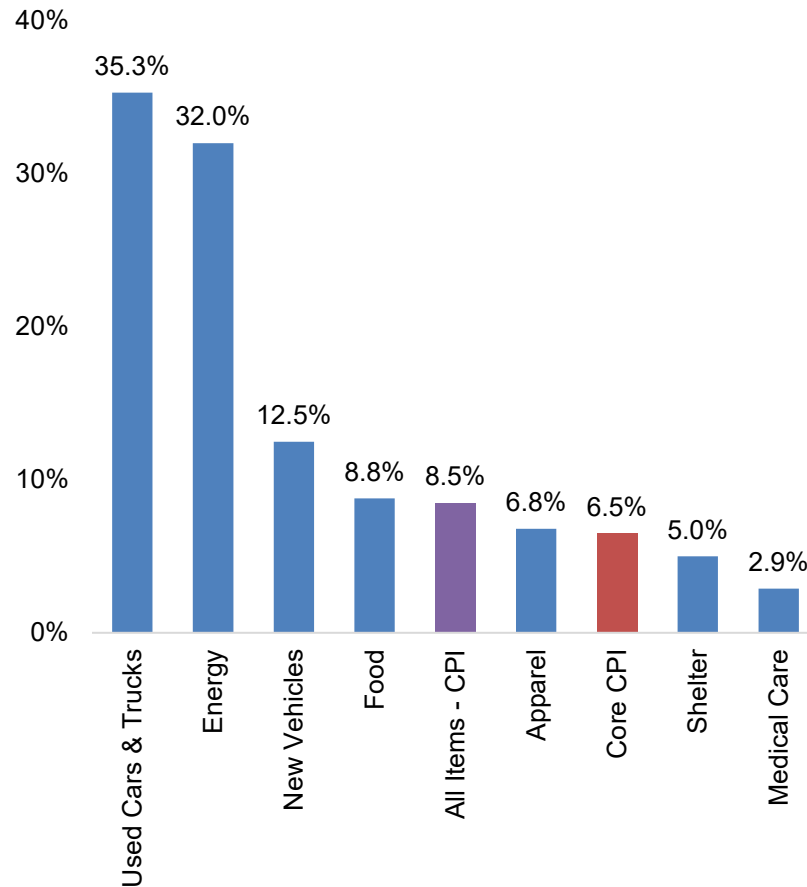
Source: U.S. Bureau of Labor Statistics. US. Data as of March 2022. California and Riverside-San Bernardino-Ontario (MSA) data as of February 2022.

### Inflation at a 40-year High

**Consumer Price Index**  
% Change YoY



**Key Consumer Price Index Components**  
% Change YoY



**Other Inflation Measures**

**Core CPI: 6.5%**

**R-SB-O CPI: 10.0%**

**R-SB-O Core CPI: 6.9%**

**PCE: 6.4%**

**Core PCE: 5.4%**

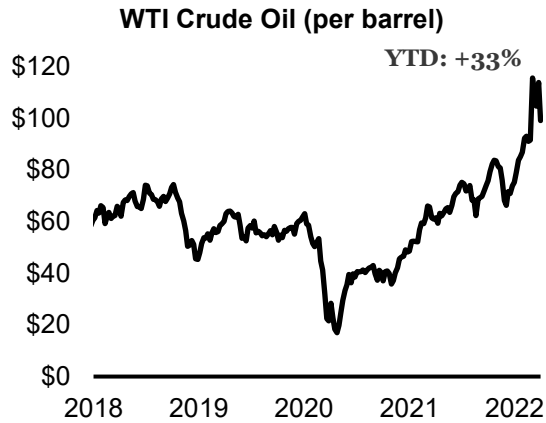
**PPI: 11.2%**

**CA CCCI: 22.5%**

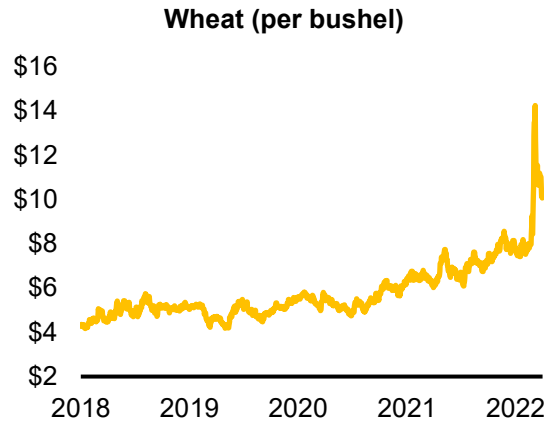
Source: CPI (consumer Price Index) and PPI (Producer Price Index) BLS.gov, data as of March 2022. PCE (Person Consumption Expenditures) bea.gov as of February 2022. CA CCCI (CA Department of Governmental Services Construction Cost) dgs.ca.gov as of March 2022.

## Invasion Has Put Additional Pressure on Supply Chains and Commodity Prices

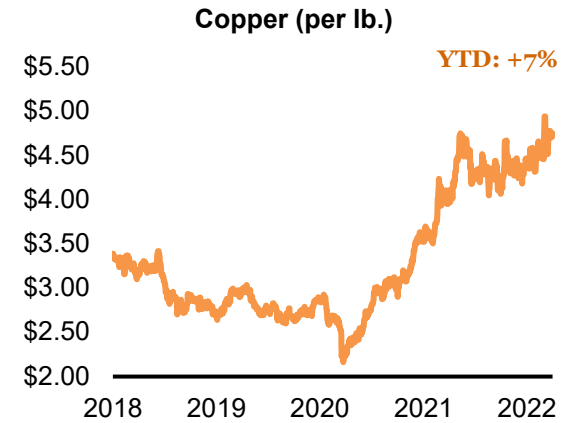
### Energy



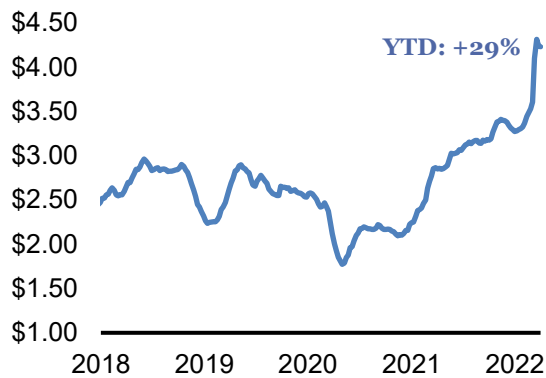
### Agriculture



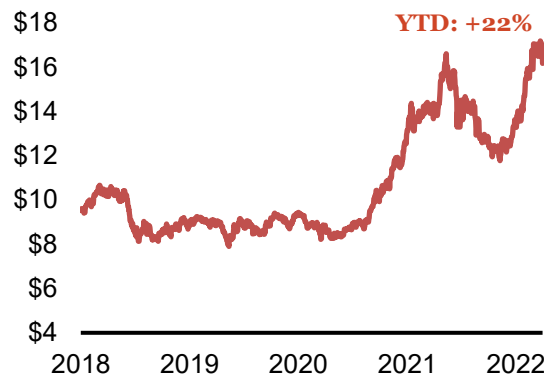
### Industrial Metals



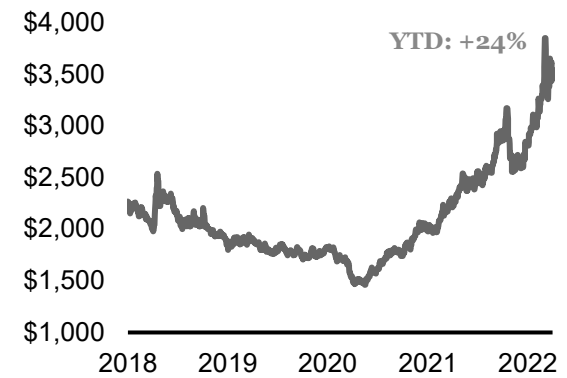
### Retail Gasoline (per gallon)



### Soybean (per bushel)



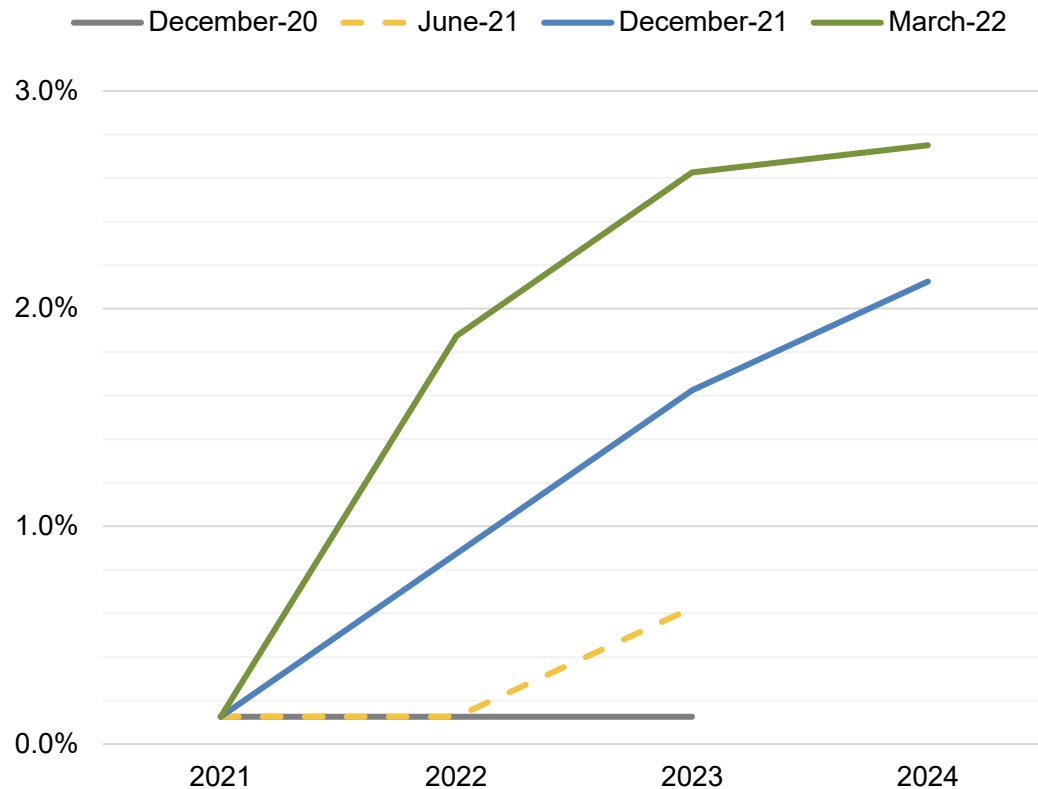
### Aluminum (per metric ton)



Source: Bloomberg, as of 3/31/2022.

## Federal Reserve Pivots on Monetary Policy

### Fed Participants' Assessments of 'Appropriate' Monetary Policy



**December 2020:** With Inflation running persistently under its goal, the median assessment sees no rate hikes through 2023.

2-Year U.S. Treasury: 0.13%

**June 2021:** Inflation up but largely due to transitory factors. Widening dispersion between Fed participant's views on monetary policy as economy improves; more officials indicate rate-lift off is expected by end of 2023.

2-Year U.S. Treasury: 0.21%

**December 2021:** Inflation has exceeded the target range for some time; therefore, the Fed expects to maintain the target range until maximum employment is reached. The Fed announces an accelerated tapering of asset purchases; the median assessment is for three rate hikes in 2022.

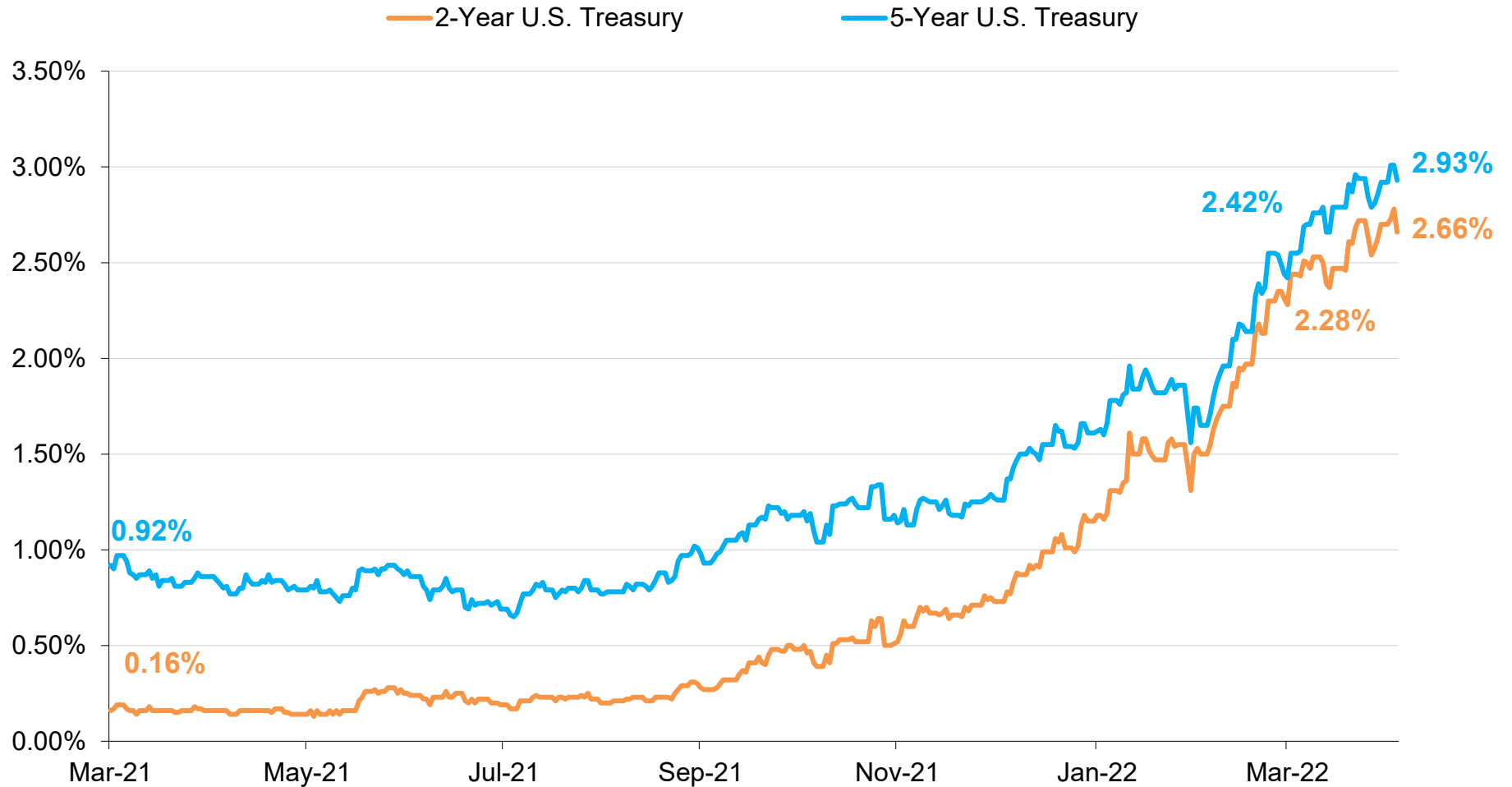
2-Year U.S. Treasury: 0.69%

**March 2022:** Indicators of economic activity continued to strengthen; inflation remains elevated; the Fed executed its first rate hike; the median forecast is for a total of seven rate hikes during 2022.

2-Year U.S. Treasury: 1.95%

Source: Federal Reserve and Bloomberg, as of 3/31/22. Lines represent the median assessment based on each Fed members' judgement of the midpoint of the appropriate target range for the federal funds rate at each year-end for each meeting.

### U.S. Treasury Yields March 31, 2021 – May 4, 2022



Source: Bloomberg, as of May 4, 2022

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# Portfolio Review

**Combined Portfolio – Composition: By Fund**

<b>Fund</b>	<b>December 31, 2021</b>	<b>March 31, 2022</b>
General Fund	\$138,609,875	\$85,034,145
State Water Contract Fund	\$410,408,189	\$423,014,371
Devils Canyon/Castaic Fund	\$4,593,945	\$4,596,612
<b>Total</b>	<b>\$553,612,008</b>	<b>\$512,645,128</b>

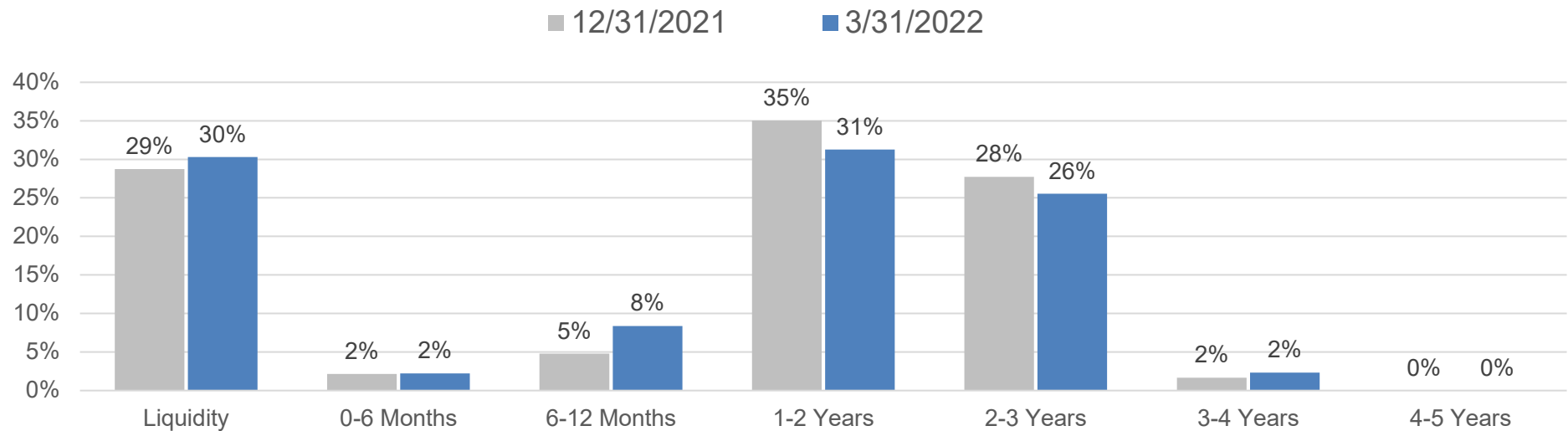
### Combined Portfolio - Sector Allocations

Security Type	Market Value as of December 31, 2021	% of Portfolio	Market Value as of March 31, 2022	% of Portfolio	Change vs. 12/31/21	Sector Limits
U.S. Treasury	\$228,610,977	41.3%	\$196,200,179	38.3%	-3.0%	100%
Federal Agency	\$68,898,648	12.5%	\$67,692,077	13.2%	0.8%	100%
Municipal	\$11,219,689	2.0%	\$10,944,605	2.1%	0.1%	30%
Negotiable CDs	\$6,445,207	1.2%	\$6,363,707	1.2%	0.1%	30%
Corporate Notes	\$69,793,467	12.6%	\$75,654,033	14.8%	2.2%	30%
<b>Securities Sub-Total</b>	<b>\$384,967,988</b>	<b>69.6%</b>	<b>\$356,854,600</b>	<b>69.7%</b>		
Accrued Interest	\$695,585		\$674,244			
<b>Securities Total</b>	<b>\$385,663,573</b>		<b>\$357,528,845</b>			
LAIF	\$74,532,820	13.5%	\$74,575,729	14.6%	1.1%	\$75 Million
Money Market Fund	\$71,581	0.0%	\$171,281	0.0%	0.0%	20.0%
CAMP	\$93,344,035	16.9%	\$80,369,273	15.7%	-1.2%	50.0%
<b>Total Liquidity</b>	<b>\$167,948,436</b>	<b>30.4%</b>	<b>\$155,116,283</b>	<b>30.3%</b>		
<b>Total Investments</b>	<b>\$553,612,008</b>	<b>100.0%</b>	<b>\$512,645,128</b>	<b>100.0%</b>		



### Combined Portfolio - Maturity Distribution

- ◆ The District maintains ample liquidity in the LAIF/CAMP.
- ◆ For the managed portfolio, we continue to emphasize maturities in the 1-3 year maturity range, consistent with the portfolio’s benchmark.



Weighted Average Maturity (Years)	December 31, 2021	March 31, 2022
Overall	1.3	1.2
Managed Portfolio	1.9	1.8

## Managed Portfolio Total Return Performance

- Total return expresses annualized rate of return over a specified period and takes into account all changes in the portfolio, including market value changes, reinvestment rates, cash flows, and interest earned plus realized gains/losses.
- Interest rates for the quarter rose rapidly, as a result market values fell sharply resulting in negative total returns.

Periods Ending March 31, 2022					
			Annualized		
ICE BofAML Indices	Duration (years)	Quarter	Past 12 Months	Past 3 Years	Since Inception
State Water Contract Fund	1.79	-2.24%	-2.65%	1.10%	1.16%
General Fund	1.80	-2.15%	-2.51%	1.14%	1.19%
ICE BofAML 1 Year UST Index (GC03)	0.91	-0.80%	-0.94%	1.00%	0.80%
ICE BofAML 1-3 Year UST Index (G1O2)	1.82	-2.34%	-2.84%	0.88%	0.86%
ICE BofAML 1-5 Year UST Index (GVQ0)	2.58	-3.16%	-3.72%	0.92%	1.00%

ICE BofAML Indices provided by Bloomberg Financial Markets.

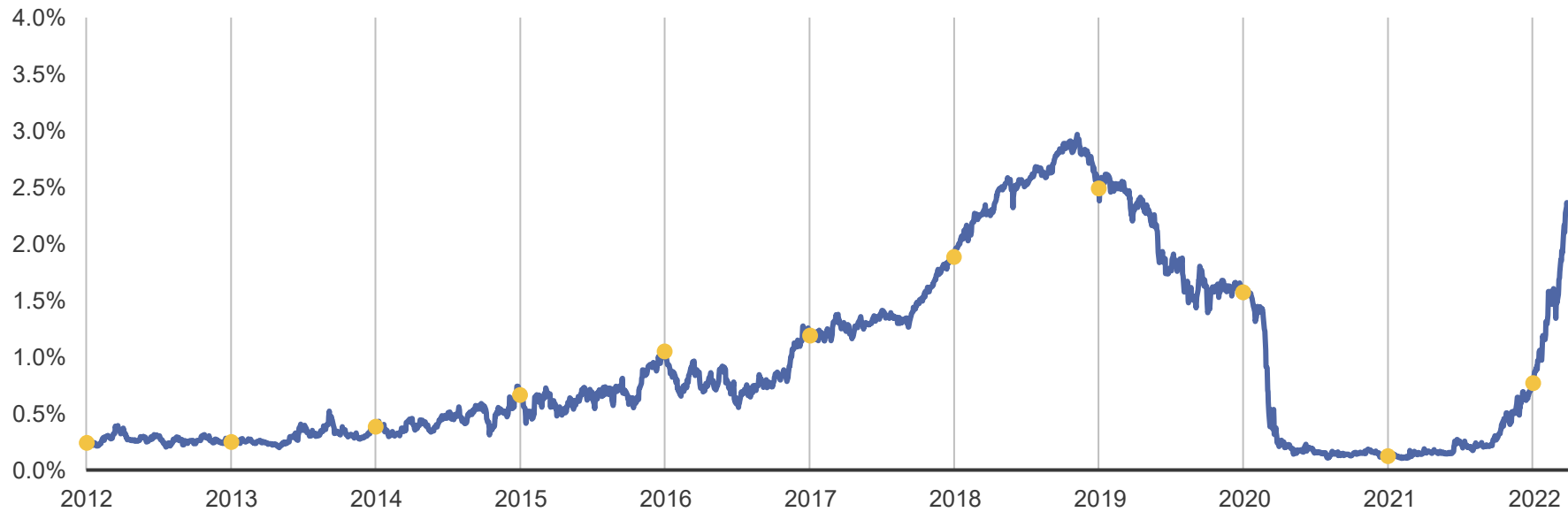
The District's portfolios are not managed on a total return basis, so the indices are shown for information only. Performance on trade-date basis, gross (i.e., before fees), in accordance with the CFA Institute's Global Investment Performance Standards (GIPS).

Periods less than one year are on an unannualized basis. Periods greater than one year are on an annualized basis.

Portfolio inception date as of June 30, 2012

## Total Return Performance Has Historically Suffered as the Fed Raised Rates

### 2-Year Treasury Yield



### Annual Returns of the ICE BofAML 1-3 Year Treasury Index

2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	YTD
0.43%	0.36%	0.62%	0.54%	0.89%	0.42%	1.58%	3.55%	3.10%	-0.56%	-2.34%

Source (graph): Bloomberg, data as of 3/31/2022. Source (table): ICE BofAML Indices, data as of 3/31/2022.

### Combined Portfolio - Market Value and Accrual Basis Earnings

Market Value Earnings	3 Months	1 Year	3 Years	5 Years	Since Inception
Interest Earned <sup>2</sup>	\$709,289	\$3,565,721	\$17,593,933	\$29,176,888	\$41,170,308
Change in Market Value	(\$8,963,845)	(\$13,491,122)	(\$6,076,536)	(\$6,934,940)	(\$8,896,529)
<b>Total Dollar Return</b>	<b>(\$8,254,556)</b>	<b>(\$9,925,401)</b>	<b>\$11,517,397</b>	<b>\$22,241,948</b>	<b>\$32,273,779</b>

Accrual Basis Earnings	3 Months	1 Year	3 Years	5 Years	Since Inception
Interest Earned <sup>2</sup>	\$709,289	\$3,565,721	\$17,593,933	\$29,176,888	\$41,170,308
Change in Market Value	(\$132,906)	\$1,419,374	\$5,028,864	\$3,964,924	\$4,101,165
Realized Gains / (Losses) <sup>3</sup>	(\$107,550)	(\$437,694)	(\$246,353)	(\$416,012)	(\$2,440,023)
<b>Total Earnings</b>	<b>\$468,833</b>	<b>\$4,547,401</b>	<b>\$22,376,444</b>	<b>\$32,725,800</b>	<b>\$42,831,450</b>

1. Performance inception date is June 30, 2012.

2. Interest earned calculated as the ending accrued interest less beginning accrued interest, plus net interest

3. Realized gains / (losses) are shown on an amortized cost basis

## Important Disclosures

This material is for general information purposes only and is not intended to provide specific advice or a specific recommendation, as it was prepared without regard to any specific objectives or financial circumstances.

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It is not possible to invest directly in an index. The index returns shown throughout this material do not represent the results of actual trading of investor assets. Third-party providers maintain the indices shown and calculate the index levels and performance shown or discussed. Index returns do not reflect payment of any sales charges or fees an investor would pay to purchase the securities they represent. The imposition of these fees and charges would cause investment performance to be lower than the performance shown.

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- Market values that include accrued interest are derived from closing bid prices as of the last business day of the month as supplied by Refinitiv, Bloomberg, or Telerate. Where prices are not available from generally recognized sources, the securities are priced using a yield-based matrix system to arrive at an estimated market value.
- In accordance with generally accepted accounting principles, information is presented on a trade date basis; forward settling purchases are included in the monthly balances, and forward settling sales are excluded.
- Performance is presented in accordance with the CFA Institute's Global Investment Performance Standards (GIPS). Unless otherwise noted, performance is shown gross of fees. Quarterly returns are presented on an unannualized basis. Returns for periods greater than one year are presented on an annualized basis. Past performance is not indicative of future returns.
- Bank of America/Merrill Lynch Indices provided by Bloomberg Financial Markets.
- Money market fund/cash balances are included in performance and duration computations.
- Standard & Poor's is the source of the credit ratings. Distribution of credit rating is exclusive of money market fund/LGIP holdings.
- Callable securities in the portfolio are included in the maturity distribution analysis to their stated maturity date, although, they may be called prior to maturity.
- MBS maturities are represented by expected average life.

## Memorandum

**To:** Cindy Saks, C.P.A., Chief Financial Officer - Deputy General Manager  
*San Bernardino Valley Municipal Water District*

**From:** Sarah Meacham, Managing Director  
Richard Babbe, CCM, Senior Managing Consultant  
*PFM Asset Management LLC*

**RE:** Annual Investment Policy Review

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At your request, we reviewed the San Bernardino Valley Municipal Water District's (the "District") Investment Policy (the "Policy"), as part of the District's annual review process. As written, the Policy is in compliance with all applicable California Government Code (the "Code") sections regulating the investment of public funds. Furthermore, there have been no changes to the relevant Code sections, effective January 1, 2022, that would require any changes the District's Policy. Therefore, we are not recommending any changes to the Policy at this time.

Please contact us if you have any questions.

*San Bernardino Valley Municipal Water District*

**STATEMENT OF INVESTMENT POLICY**

**Revised and adopted on August 13, 2020**

**Reviewed by the Board on May 12, 2022**

**I. POLICY**

This Statement of Investment Policy (Policy) is intended to provide guidelines for the prudent investment of San Bernardino Valley Municipal Water District (SBVMWD)'s temporary idle cash, and outline the policies for maximizing the effectiveness and efficiency of SBVMWD's cash management system. The goal is twofold; one is to preserve SBVMWD's capital resources while maximizing investment earnings pursuant to the "Prudent Investor Standard", the second is to provide guidelines for authorized investments.

**II. SCOPE**

All moneys entrusted to SBVMWD shall be pooled in an actively managed portfolio. The Chief Executive Officer (CEO) / General Manager or their designee is authorized to invest funds in accordance with California Government Code (CGC) Section 53600 et seq. This Policy applies to all financial assets and investment activities of SBVMWD and includes, but is not limited to, the following funds:

General Funds  
State Water Contract Funds  
Capital Project Funds  
Enterprise Funds, and any new fund, unless specifically exempted.

This Policy, however, specifically excludes the employees' retirement and deferred compensation funds. In accordance with CGC Section 53601 (m), bond proceeds will be invested according to the applicable bond documents. If the bond documents are silent as to the investment of the proceeds, the proceeds will be invested according to this Policy.

**III. PRUDENCE**

SBVMWD shall follow the standards within the content of the Prudent Investor Standard as set forth in CGC Section 53600.3 that states in part: "When investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds, a trustee shall act with care, skill and prudence and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims to safeguard the principal and maintain the liquidity needs of the agency."



#### **IV. OBJECTIVES**

SBVMWD's cash management system is designed to monitor and forecast expenditures and revenues, thus enabling the SBVMWD to invest funds to the fullest extent possible. The SBVMWD attempts to obtain the highest yield available, while investments meet the criteria established for safety, liquidity, and yield, in that order of priority.

##### **A. SAFETY**

Safety of principal is the foremost objective of the SBVMWD. Each investment transaction shall seek to ensure that capital losses are avoided, whether from securities default, rating downgrades, broker-dealer defaults, or erosion of market value. SBVMWD shall seek the preservation of capital by mitigating two types of risk; credit risk and market risk.

1. Credit risk - is the risk of loss due to failure of the issuer and is mitigated by investing in safe securities, and diversifying the investment portfolio so the failure of one issuer would not materially affect the cash flow of the agency.
2. Market risk - is the risk of market value fluctuations due to changes in the general level of interest rates, and shall be mitigated by structuring the portfolio so maturing securities match cash outflows, eliminating the need to sell securities prior to their maturity. Market risk shall also be mitigated by limiting the maturity of the SBVMWD investment portfolio to the terms described in Section C subparagraph V in this policy.

It is recognized that within a diversified portfolio, occasional measured losses are inevitable, and must be considered within the context of the overall return on the investment.

##### **B. LIQUIDITY**

SBVMWD will endeavor to invest in a manner consistent with its anticipated cash flow requirements. SBVMWD's investment portfolio will remain satisfactorily liquid, enabling the agency to meet all anticipated and operating cash flow requirements.

##### **C. RETURN ON INVESTMENTS**

SBVMWD's investment portfolio shall be designed to attain a market rate of return over budgetary and economic cycles. Whenever possible with respect to budgetary and cash flow requirements, and consistent with risk limitations and prudent investment principles, the CEO / General Manager or their designee shall seek to augment returns above the market rate of return.

SBVMWD will operate in an active capacity in the investment strategy. The basis of the strategy used by the CEO / General Manager or their designee to determine whether market yields are achieved shall be the State of California Local Agency Investment Fund (L.A.I.F.).

**V. MAXIMUM MATURITIES**

The longer the maturity of securities, the greater the market price volatility. Therefore, it is the general policy of SBVMWD to limit the potential effects from erosion in market values by adhering to the following guidelines:

- A. All immediate and anticipated liquidity requirements will be addressed prior to purchasing all investments.
- B. Maturity dates for longer-term investments will coincide with significant cash flow requirements where possible, to assist with short term cash requirements at maturity.
- C. All longer-term securities will be purchased with the intent to hold all investments to maturity under then-prevailing economic conditions. However, economic or market conditions may change, making it in SBVMWD's best interest to sell or trade a security prior to maturity.
- D. Per CGC Sections 53601 et seq. where a maximum maturity is not stated, the maximum maturity of any investment shall not exceed five (5) years, without specific approval of the SBVMWD Board of Directors of the investment or of an investment program, not less than three months prior to initiating that investment or program.
- E. The average maturity of the overall portfolio shall not exceed 1,275 days (3.5 years).

**VI. DELEGATION AND GRANTS OF AUTHORITY**

Management responsibility for the investment program is delegated by the Board of Directors for a period of one-year to the CEO / General Manager or their designee who shall establish written procedures and policies for the operation of the investment program consistent with this Policy. Subject to review, the Board of Directors may renew the delegation of authority pursuant to this section each year.

No person shall engage in an investment transaction except as provided under the terms of this Policy and the procedures established by the Board of Directors. The CEO / General Manager or their designee shall establish a series of internal accounting controls to regulate and/or restrict the activities of subordinate representatives within the SBVMWD. As authorized by the Board of Directors, the CEO / General Manager or their designee may engage an investment advisor to assist with the SBVMWD's investment program. Under the direction of the CEO / General Manager or their designee, the investment advisor will have responsibility for providing recommendations for and managing designated funds and recommending procedures for executing day-to-day investment transactions. The investment advisor shall follow this investment policy and such other written instructions as are provided.

**VII. INVESTMENT COMMITTEE**

The SBVMWD Board of Directors shall act as the investment committee to provide general oversight and guidance concerning the investment policy related to the management of SBVMWD's investments. The committee shall meet as needed. The CEO / General Manager or their designee shall be responsible for the day-to-day investments of the agency.

**VIII. ETHICS AND CONFLICT OF INTEREST**

The CEO / General Manager and all investment personnel shall refrain from personal business activity which could create a conflict with proper execution of the investment program, or which could impair the ability to execute impartial investment decisions. The CEO / General Manager and all investment personnel shall disclose to SBVMWD's legal counsel any material financial interests in financial institutions that conduct business within the jurisdiction, and shall disclose any material financial investment positions that could be related in a conflicting manner to the performance of the SBVMWD's investment portfolio.

The CEO / General Manager, Chief Financial Officer (CFO) / Deputy General Manager and Investment Advisor shall complete on an annual basis, State of California Form 700, Statement of Economic Interests disclosure.

**IX. SAFEKEEPING AND CUSTODY AGREEMENTS**

To protect against potential losses caused by collapse of individual securities dealers, all securities owned by SBVMWD shall be kept in safekeeping by a third party bank trust department, acting as agent for the SBVMWD under the terms of a custody agreement executed by the bank and the SBVMWD. All securities will be received and delivered using standard delivery versus payment procedures with the SBVMWD's custodial bank, and evidenced by safekeeping receipts. The only exception to the foregoing shall be depository accounts and securities purchases made with: (i) placement service CDs, (ii) LAIF, (iii) local government investment pools; and, (iv) money market mutual funds, since these securities are not deliverable. These investments shall be made in the name of the SBVMWD and the CEO / General Manager or their designee shall keep a record of any funds in any of these investments. Custodial statements shall be reconciled against transaction schedules on a monthly basis.

**X. INTERNAL CONTROLS**

Separation of duties among employees involved in cash management activities is designed to provide an ongoing internal review to prevent the potential for converting assets or concealing transactions.

Proper documentation obtained from confirmation and cash disbursement wire transfers is required for each investment transaction. Timely bank reconciliation shall be conducted to ensure proper handling of all transactions.

The investment portfolio and all related transactions shall be reviewed and balanced to appropriate general ledger accounts on a monthly basis.

An independent analysis by an external auditor shall be conducted annually to review internal control, account activity, and compliance with policies and procedures. The audit shall also include a review for compliance with SBVMWD's Statement of Investment Policy.

#### **XI. FINANCIAL REPORTING**

As recommended by CGC Section 53646, the CEO / General Manager or their designee shall render a monthly report to the SBVMWD Board of Directors, providing the type of investment, financial institution from which the investment was purchased, the date of maturity, the date upon which the investment becomes subject to redemption provisions, amount (to include both par and book value) of the investment. Additionally, the report shall also include the rate of interest and other data so required by the SBVMWD Board of Directors. The report shall include a statement denoting SBVMWD's ability to meet its expenditure requirements for the following six-month period, or an explanation as to why sufficient moneys will not be available. Additionally, the CEO / General Manager and their designee shall state whether the SBVMWD is in compliance with this Policy by signature required on the Treasurers' Report. As required by CGC Section 53607, the CEO / General Manager or their designee shall also provide a monthly list of transactions to the Board of Directors.

#### **XII. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS**

Investments not purchased directly from the issuer, shall be purchased from banks, savings and loan institutions, and registered investment securities dealers. The dealers should either be primary dealers authorized to buy and sell government securities in direct dealings with the Federal Reserve Bank of New York, or regional dealers qualifying under the Securities and Exchange Commission Rule 15C3-1.

If the SBVMWD is utilizing financial dealers or institutions to execute transactions, the CEO / General Manager or their designee shall examine financial institutions that wish to perform business with the SBVMWD, in order to confirm whether the participating financial institutions are satisfactorily capitalized, are market makers in securities appropriate to the SBVMWD's financial investment universe and agree to comply by the conditions set forth in SBVMWD's Policy. The CEO / General Manager or their designee shall send a copy of the current Statement of Investment Policy to all dealers approved to do business with the SBVMWD. Signed Dealer/Broker Confirmation Certificates shall be kept on file documenting the dealer/broker's understanding of SBVMWD's Policy.

If an investment advisor has been engaged to assist with SBVMWD's investment program, the investment advisor is authorized to use their own list of approved broker/dealers/issuers/ financial institutions to conduct investment transactions on SBVMWD's behalf subject to the provisions of SBVMWD's policy.

#### **XIII. AUTHORIZED AND ACCEPTABLE INVESTMENTS**

SBVMWD is subject to CGC Section 53601 et seq. Within the context of the governing language, the following investments are authorized and accepted as defined below. In the event an apparent discrepancy is found between this Policy and the CGC, the more restrictive parameters will take precedence. Percentage holding limits listed in this section apply at the time the security is purchased. In the event a security held by the

SBVMWD is subject to a credit rating change that brings it below the minimum credit ratings specified in this Policy, the CEO / General Manager or their designee shall notify the Board of Directors of the change. The course of action to be followed will then be decided on a case-by-case basis, considering such factors as the reason for the change, prognosis for recovery or further rate drops, and the market price of the security.

- A. United States Treasuries. United States Treasury Bills, Notes and Bonds, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest There is no limitation as to the percentage of the portfolio that can be invested within this category.
- B. Federal Agencies. Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. Although there is no percentage limitation on "federal agency" issues, the prudent investor standard shall apply for a single agency name.
- C. Banker's Acceptances. Time drafts drawn on and accepted by a commercial bank, otherwise known as Banker's Acceptances (BAs). To be eligible for purchase, the issuer must have debt that is rated in a rating category of at least "A-1" short-term or "A" long-term by a Nationally Recognized Statistical Rating Organization (NRSRO). Eligible banker's acceptances shall have a maximum maturity of 180 days or less. Purchases of banker's acceptances may not exceed 40% of the market value of the portfolio.
- D. Commercial Paper. Commercial Paper rated in the highest ranking or of the highest letter and number rating as provided for by a NRSRO and issued by a corporation organized and operating within the United States having assets exceeding five hundred million dollars (\$500,000,000) and having debt other than commercial paper, if any, that is rated in a rating category of "A" or higher by an NRSRO. Eligible commercial paper shall have a maximum maturity of 270 days or less. Purchases of commercial paper cannot exceed 25% of the market value of the portfolio. Purchases of commercial paper may not exceed 10% of outstanding paper of an issuing corporation.
- E. Negotiable Certificates of Deposit (NCD). NCDs issued by a nationally or state-chartered bank, a savings association or a federal association, a state or federal credit union, or by a federally licensed or state-licensed branch of a foreign bank. To be eligible for purchase by the SBVMWD, the NCD must be issued by an issuer whose short-term debt is rated in a rating category of at least "A-1", or "A" long-term by a NRSRO. Purchases of NCDs may not exceed 30% of the market value of the portfolio. A maturity limitation of five (5) years is applicable on NCDs.
- F. Placement Service Deposits. Deposits placed with a private sector entity that assists in the placement of deposit with eligible financial institutions located in the United States. The full amount of the principal and the interest that may be accrued during the maximum term of each deposit shall at all times be insured by federal deposit insurance. Placement service deposits shall meet all of the requirements of CGC 53601.8. Purchases of placement service deposits may not exceed 30% of the market value of the portfolio.

- G. Repurchase Agreements. Repurchase Agreements with banks and dealers with which the SBVMWD has entered into a Master Repurchase Agreement which specifies terms and conditions of Repurchase Agreements. A signed copy of the Master Repurchase Agreement shall be required from the authorized financial dealer prior to the execution of any applicable transaction. The maturity of Repurchase Agreements shall not exceed one year. In order to conform with provisions of the Federal Bankruptcy Code, which provides for the liquidation of securities held as collateral for Repurchase Agreements, the only securities acceptable as collateral shall be eligible Negotiable Certificates of Deposit, eligible Banker's Acceptances, or securities that are fully guaranteed as to principal and interest by the United States or by any agency of the United States government. All securities held as collateral shall have a maximum maturity of five (5) years. The market value of securities used as collateral for Repurchase Agreements shall be monitored daily, and will not be allowed to fall below 102% of the value of the Repurchase Agreement as set forth in CGC Section 53601 (i) (2).
- H. Local Agency Investment Fund. The Agency may invest in the Local Agency Investment Fund (L.A.I.F.) established by the State Treasurer for the benefit of local agencies up to the maximum permitted by State law.
- I. Medium-Term Notes. Medium-term Notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Medium-Term Notes eligible for investment shall be rated in a rating category of "A," or its equivalent, or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30% of the market value of the portfolio.
- J. Local Government Investment Pools. Shares of beneficial interest issued by a joint powers authority organized pursuant to CGC 6509.7 that invests in the securities and obligations authorized in CGC Section 53601 subdivisions (a) to (o), inclusive. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets the requirements of CGC 53601(p). Investments are limited to pools that seek to maintain a constant net asset value and which are rated in a rating category of "AA" or better. Purchases of local government investment pools may not exceed 50% of the market value of the portfolio.
- K. Money Market Funds. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.). The company shall have met either of the following criteria: (i) Attain the highest ranking or the highest letter and numerical ranking provided by not less than two NRSROs; or (ii) Have an investment advisor registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000). The purchase price of shares of beneficial interest (purchased pursuant to this subdivision shall not include any commission that

these companies may charge. Purchases of money market funds may not exceed 20% of the market value of the portfolio.

- L. All positions in pooled investment programs (per Sections H, J, and K above) shall be subject to periodic review by the CEO / General Manager, or a designee thereof, in order to ensure that the moneys in question are managed in a manner consistent with the standards and objectives set forth elsewhere in this Policy.
- M. Bank Deposits. FDIC insured or fully collateralized demand deposit accounts, savings accounts, market rate accounts, or time certificates of deposits in financial institutions located in California. Any financial institution accepting SBVMWD funds for deposit must comply with the requirements of CGC 53630 et seq., including collateralization of deposits. The CEO / General Manager or their designee may waive the collateralization requirements for any portion of the deposit that is covered by Federal Deposit Insurance. As provided by CGC 53649, the SBVMWD shall have a signed contract with each financial institution that has SBVMWD funds on deposit. There is no limitation as to the percentage of the portfolio that may be invested in bank deposits; however, no more than 25% of the market value of the portfolio may be invested in time certificates of deposit.
- N. Municipal Bonds. Registered treasury notes or bonds issued by any of the 50 United States, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by agency state or by a department, board, agency, or authority of any state.

Bonds, notes, warrants, or other evidences of indebtedness of any local agency within the State of California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

Purchases of municipal bonds may not exceed 30% of the market value of the portfolio.

#### **XIV. PROHIBITED INVESTMENTS**

In accordance with CGC Section 53601.6, SBVMWD will not invest any funds in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages. The purchase of securities issued by companies organized outside the United States is prohibited. The SBVMWD may hold previously permitted but currently prohibited investments until their maturity dates.

#### **XV. LEGISLATIVE CHANGES**

Any State of California legislative action that further restricts allowable maturities, investment type, or percentage allocations shall be incorporated into SBVMWD's Investment Policy, and supersede any and all previous applicable language.

#### **XVI. INTEREST EARNINGS**

All moneys earned and collected from investments authorized in this policy shall be allocated on a quarterly basis to various fund accounts where required by law, or other agreement, based on the cash balance in each fund as a percentage of the respective pooled portfolio. However, fiduciary accounts requiring full liquidity will receive their proportional distribution of moneys based on the lower of pooled or LAIF rates.

#### **XVI. PORTFOLIO MANAGEMENT ACTIVITY**

The investment program shall seek to augment returns consistent with the intent of this policy, identified risk limitations and prudent investment principles. The objectives will be achieved by use of the following strategies:

- A. Active Portfolio Management. Through active fund and cash flow management taking advantage of current economic and interest rate trends, the portfolio's yield may be enhanced with limited and measurable increases in risk.
- B. Portfolio Maturity Management. When structuring the maturity composition of the portfolio, the SBVMWD shall evaluate current and expected interest rate yields and necessary cash flow requirements. It is recognized that in normal market conditions longer maturities produce higher yields. However, the securities with longer maturities also experience greater price fluctuations when the level of interest rates change.
- C. Competitive Bidding. It is the policy of the SBVMWD to require competitive bidding for investment transactions whenever practical.
- D. Diversification. To promote diversification, no more than 5% of the market value of the portfolio may be invested in the securities of any one issuer, regardless of security type; with the exception of U.S. Treasuries, federal agencies, supranationals, and pooled investments such as LAIF, money market funds, or local government investment pools.

#### **XVIII. INVESTMENT POLICY REVIEW**

This Policy is intended to conform to all applicable statutes at the time of adoption. The Policy shall be reviewed and approved annually by the SBVMWD Board of Directors at a public meeting to ensure consistency with the SBVMWD's investment objectives and to ensure its compliance and relevance to the current law, financial and economic trends, and to meet the cash flow requirements of the SBVMWD.

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Heather Dyer  
CEO / General Manager

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Reviewed Date



## **GLOSSARY OF INVESTMENT TERMS**

**AGENCIES**: Securities issued by any of several U. S. Government Agencies including, but not limited to, the Federal Home Loan Bank (FHLB), the Federal Farm Credit Bank (FFCB), and the Federal National Mortgage Association (FNMA or “Fannie Mae”).

**ASKED**: The price at which securities are offered.

**BANKERS' ACCEPTANCE (BA)**: A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**BID**: The price offered for securities.

**BROKER**: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides.

**COLLATERAL**: Securities, evidence of deposit or other property that a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**CERTIFICATE OF DEPOSIT (CD)**: A time deposit with a specific maturity evidenced by a certificate. Certificate of Deposit may be issued in either negotiable or nonnegotiable form. Nonnegotiable certificates cannot be resold on the secondary market and may face penalties for early redemption whereas a negotiable CD may be resold.

**COUPON**: (a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a payment date.

**DEALER**: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

**DEBENTURE**: A bond secured only by the general credit of the issuer.

**DERIVATIVE**: A financial instrument created from, or whose value depends on (is derived from) the value of one or more underlying assets or indexes of asset values.

**DISCOUNT**: The difference between the cost price of a security and its value at maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**DISCOUNT SECURITIES**: Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U.S. Treasury bills.

## **GLOSSARY OF INVESTMENT TERMS**

**DIVERSIFICATION:** Dividing investment funds among a variety of securities offering independent returns.

**FEDERAL CREDIT AGENCIES:** Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S & L's, small business firms, students, farmers, farm cooperatives, and exporters.

**FEDERAL FUNDS RATE:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**FEDERAL RESERVE SYSTEM:** The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., twelve regional Banks and about 5,700 commercial banks that are members of the system.

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC):** A federal agency that insures bank deposits, currently up to \$250,000 per deposit.

**FEDERAL HOME LOAN BANKS (FHLB):** The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-à-vis member commercial banks.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae):** Securities guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by FHA, VA or FMHM mortgages. The term pass-through is often used to describe Ginnie Mae's.

**LIQUIDITY:** A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

**LOCAL AGENCY INVESTMENT FUND (LAIF):** The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**MARKET VALUE:** The price at which a security is trading and could presumably be purchased or sold.

**MATURITY:** The date upon which the principal or stated value of an investment becomes due and payable.

## **GLOSSARY OF INVESTMENT TERMS**

**MONEY MARKET:** The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

**MUNICIPAL BONDS:** Offered by state and local governments, these bonds are primarily issued to finance infrastructure improvements, such as highways or sewers.

**PORTFOLIO:** Collection of securities held by an investor.

**PRUDENT PERSON RULE:** An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the state - the so-called legal list. In other states the trustee may invest in a security if it is one that would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**PRIMARY DEALER:** A group of government securities dealers that submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC) registered securities broker-dealers, banks, and a few regulated firms.

**RATE OF RETURN:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

**QUALIFIED PUBLIC DEPOSITORIES:** A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

**SAFEKEEPING:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

**SECONDARY MARKET:** A market made for the purchase and sale of outstanding issues following the initial distribution.

**SECURITIES & EXCHANGE COMMISSION:** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

## **GLOSSARY OF INVESTMENT TERMS**

**TREASURY BILLS:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

**TREASURY BOND:** Long-term U.S. Treasury securities having initial maturities of more than ten years.

**TREASURY NOTES:** Intermediate term coupon bearing U.S. Treasury securities having initial maturities of from one to ten years.

**YIELD:** The rate of annual income return on an investment, expressed as a percentage. (a) INCOME YIELD is obtained by dividing the current dollar income by the current market price for the security. (b) NET YIELD or YIELD TO MATURITY is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.



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**DATE:** May 12, 2022  
**TO:** Board of Directors Workshop – Policy  
**FROM:** Heather Dyer, CEO/General Manager  
**SUBJECT:** Update on IE Works Program Participation

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### **Staff Recommendation**

Staff recommends the Board of Directors discuss and consider the District's appropriate level of participation in the regional IE Works - the Inland Empire Career Pathways Program. If the Board wishes to participate in the governance structure of the organization, staff recommends the Board President appoint one of our Directors to the IE Works Board.

### **Summary**

The San Bernardino Valley Municipal Water District signed onto IE Works as a charter member on March 11, 2021. District Staff have participated in the IE Works program through leadership and board meetings over the last 14 months. As the program has evolved, the District's understanding of the governance structure and by-laws for the proposed non-profit corporation has become more refined. Staff is presenting this item for a discussion of the District's continued participation in IE Works as a customer and/or as a member of the governance structure.

### **Background**

Through a grant from the U.S. Department of Education secured by the West Valley Water District, IE Works received approximately \$1.1 million to develop a local workforce program for water and wastewater agencies to participate in program development and maintenance. The Inland Empire Water Wastewater Careers Pathways Collaborative (IEWWCP), known as IE Works, is a partnership with San Bernardino Valley College designed to develop water industry partnerships that raise awareness of careers in the water and wastewater field. IE Works is modeled after the successful BAYWORK program in the northern California Bay area.

IE Works has a goal of increasing the number of qualified candidates in Riverside and San Bernardino Counties to fill future water and wastewater job vacancies resulting from the upward

movement of current employees and the retirement of more seasoned individuals. The partnership intends to draw in more school district participation to develop a robust pipeline of talent through apprenticeship, internship, and career awareness opportunities. We have heard from our neighboring public agencies that the quality of apprentices coming out of the program is outstanding and many of have hired participants after their apprenticeships are complete.

Valley District agreed to become a charter member of IE Works in March 2021 at an annual cost of \$765, which is based on the size of member organizations. Since kicking off, IE Works has held leadership meetings every two weeks for charter members to discuss program development and assess the financial model. Staff has participated in these meetings on a regular basis since becoming a charter member. Our CEO/General Manager has also participated on the IE Works board calls once a month to discuss the strategic direction of the program and formation of the nonprofit corporation by-laws. Staff will give an update on the program, a summary of our legal counsel's review of the IE Works bylaws and if they are appropriate for public agency participation, and several other issues for consideration.

For your discussion is the Board's preference of how Valley District would like to continue engaging with the IE Works program. This could include continuing to participate at the governance level as a member of the Board or, alternatively, whether as a "customer", basically paying for access to the IE Works apprentices and interns, as needed by our agency. If the Board wishes to participate in the governance structure of the organization, staff recommends the Board President appoint one of our Directors to the IE Works Board.

### **Fiscal Impact**

There is no fiscal impact related to this update.

### **Attachments**

IE Works Bylaws Final 04 07 2022

**BYLAWS OF**



INLAND EMPIRE WORKS – “IEWorks”

a California Nonprofit Public Benefit Corporation

**TABLE OF CONTENTS**

ARTICLE 1 PRINCIPAL OFFICE ..... 1

ARTICLE 2 MEMBERSHIP..... 1

    Section 2.01 Classification of Members. .... 1

    Section 2.02 Qualifications for Membership ..... 1

    Section 2.03 Admission of Members..... 1

    Section 2.04 Membership Dues, Fees, and Assessments. .... 1

    Section 2.05 Members in Good Standing ..... 1

    Section 2.06 Membership Roster ..... 2

    Section 2.07 Nonliability of Members..... 2

    Section 2.08 Transferability of Memberships..... 2

    Section 2.09 Designated Representatives.. ..... 2

    Section 2.10 Ex-Officio Members. .... 2

    Section 2.11 Basis for Termination..... 2

    Section 2.12 Termination Procedures. .... 2

ARTICLE 3 MEMBERSHIP RIGHTS ..... 4

    Section 3.01 Voting Rights.: ..... 4

    Section 3.02 Inspection Rights ..... 4

    Section 3.03 Other Rights..... 4

ARTICLE 4 MEMBER MEETINGS AND VOTING ..... 5

    Section 4.01 Brown Act..... 5

    Section 4.02 Member Vote. .... 5

    Section 4.03 Annual Member Meetings. .... 5

    Section 4.04 Time and Manner of Notice of Regular Meetings. .... 5

    Section 4.05 Special Meetings of Members ..... 5

    Section 4.06 Meetings Called Pursuant to Emergency Situation..... 6



Section 4.07 Closed Session.....	6
Section 4.08 Contents of Agenda of Meeting.....	6
Section 4.09 Congregations or Writings as Meetings..	6
Section 4.10 Record Dates.....	6
Section 4.11 Notice of Certain Actions Required.....	7
Section 4.12 Member Quorum.....	7
Section 4.13 Acts of the Members.....	7
Section 4.14 Manner of Voting.....	7
Section 4.15 Adjournments and Continuances.....	8
Section 4.16 Curing of Brown Act Violations.....	8
Section 4.17 Electronic Meetings.....	8
ARTICLE 5 BOARD OF DIRECTORS .....	9
Section 5.01 Powers.....	9
Section 5.02 Number and Qualification of Directors.....	9
Section 5.03 Election and Term of Office of Directors.....	9
Section 5.04 Ex-Officio Members.....	9
Section 5.05 Limitation on Interested Persons.....	10
Section 5.06 Vacancies.....	10
Section 5.07 Resignation.....	10
Section 5.08 Removal.....	10
Section 5.09 Annual and Regular Meetings .....	10
Section 5.10 Special Meetings.....	10
Section 5.11 Notice of Annual and Special Meetings.....	10
Section 5.12 Waiver of Notice.....	11
Section 5.13 Action at a Meeting; Quorum.....	11
Section 5.14 Telephone and Electronic Meetings.....	11
Section 5.15 Standard of Care.....	11

Section 5.16 Investments.....	12
Section 5.17 Inspection.....	12
Section 5.18 Compensation..	12
ARTICLE 6 COMMITTEES.....	13
Section 6.01 Standing Board Committees .....	13
Section 6.02 Advisory Committees. ....	13
Section 6.03 Audit Committee.....	13
Section 6.04 Meetings of Board Committees. ....	14
Section 6.05 Meetings of Advisory Committees..	14
ARTICLE 7 OFFICERS.....	15
Section 7.01 Officers. ....	15
Section 7.02 Election. ....	15
Section 7.03 Vacancies..	15
Section 7.04 Resignation. ....	15
Section 7.05 Removal..	15
Section 7.06 President.....	15
Section 7.07 Vice President. ....	15
Section 7.08 Secretary. ....	15
Section 7.09 Treasurer. ....	15
ARTICLE 8 CERTAIN TRANSACTIONS.....	16
Section 8.01 Loans.....	16
Section 8.02 Self-Dealing Transactions.....	16
Section 8.03 Approval. ....	16
ARTICLE 9 INDEMNIFICATION AND INSURANCE .....	17
Section 9.01 Right of Indemnity.....	17
Section 9.02 Approval of Indemnity.....	17
Section 9.03 Advancing Expenses.....	17

Section 9.04 Insurance.....	17
ARTICLE 10 MISCELLANEOUS .....	18
Section 10.01 Fiscal Year.....	18
Section 10.02 Contracts, Notes, and Checks.....	18
Section 10.03 Representation of Corporate Shares.....	18
Section 10.04 Annual Reports to Members and Directors. ....	18
Section 10.05 Required Financial Audits.. ....	19
Section 10.06 Electronic Transmissions.....	19
Section 10.07 Maintenance of Certain Records.....	19
Section 10.08 Amendments. ....	19
Section 10.09 Governing Law.. ....	19
CERTIFICATE OF SECRETARY.....	20

**BYLAWS  
OF  
IEWORKS**

**ARTICLE 1  
PRINCIPAL OFFICE**

The principal office of the corporation is located at 855 Base Line Road, Rialto, California.

**ARTICLE 2  
MEMBERSHIP**

**Section 2.01 Classification of Members.** The corporation shall have one class of voting members, designated as “Voting Members,” with voting rights as specified in these Bylaws. The qualifications of or eligibility requirements for membership and the rights and obligations of members shall be as provided in these Bylaws or under applicable law. The Board of Directors (“Board”) may, by resolution, establish one or more classes of nonvoting members, and provide for their rights and obligations. The Board may establish dues for voting and nonvoting members. Unless otherwise stated or established, members of the corporation are the agencies, and not the respective representatives that are designated by the agency.

**Section 2.02 Qualifications for Membership.** Water agencies, community-based organizations, collective bargaining units, community college districts, and other water companies in the state of California shall be eligible to be voting members of the corporation.

**Section 2.03 Admission of Members.** Any application for membership must be made in writing and may be submitted to the Board at any time. The Board, or a person or committee authorized by the Board, will review each application and, if appropriate, will certify that the applicant meets the qualifications for membership. Membership shall begin upon such certification and agreement to pay applicable member dues. Processes and procedures for confirmation and approval of the admission of new members shall be set by resolution of the Board.

**Section 2.04 Membership Dues, Fees, and Assessments.** Each member must pay, within the time and on the conditions set by the Board, the dues, fees, and assessments in amounts to be fixed by the Board. Such dues, fees, and assessments shall be computed by a formula applied for all members of the class.

**2.04.1 Tiered Membership Status.** The corporation may create a tier of membership(s) that require fees that are non-uniform in nature and creates a special designation for those member agencies that accept such designation and fees. Such fees and designations shall be set by resolution of the Board.

**Section 2.05 Members in Good Standing.** Those members who have paid the required dues, fees, and assessments, if any, and who are not suspended, shall be members in good standing of the corporation.

**Section 2.06 Membership Roster.** The corporation shall keep a membership roster containing the name and last known street address, telephone number, and e-mail address of each member. The roster shall indicate whether the member is in good standing. A copy of the membership roster shall be kept at the corporation's principal place of business.

**Section 2.07 Nonliability of Members.** No member of the corporation shall be personally liable for the debts, liabilities, or obligations of the corporation.

**Section 2.08 Transferability of Memberships.** No member may transfer a membership or any rights arising therefrom, and all rights as a member shall cease upon the member's dissolution.

**Section 2.09 Designated Representatives.** Any members of the corporation that are organizations shall exercise all of the rights and obligations of membership, including the right to vote, through a designated representative. Each member organization shall designate its representative in a writing executed by an authorized officer of the organization and delivered to the Secretary of this corporation. Such written designations shall be retained with the membership records of the corporation. Member organizations may change their designated representatives at any time, with 24 hours' written notice prior to any vote of the Board.

**Section 2.10 Ex-Officio Members.** The corporation may, as it desires, appoint ex-officio members that are not selected representatives of any respective member agency ("Ex-Officio"). Unless otherwise provided for, these members shall be voting members. There are no membership dues, fees, or assessments required to maintain the membership of ex-officio members. The nomination, election, termination, and ability to function without ex-officio members shall be done pursuant to Section 5.04 of these Bylaws.

**Section 2.11 Basis for Termination.** Membership in the corporation shall terminate upon the occurrence of any of the following:

(a) A member's failure to pay dues, fees, or assessments (if any), within sixty (60) days after such member is sent written notice of failure to pay. A member may avoid such termination by paying the amount of delinquent dues or fees within the sixty-day period.

(b) A member's failure to continue to meet the qualifications for membership set forth in these Bylaws.

(c) Upon a good faith determination by the Board that continued participation by the member in the corporation is not in the best interests of the corporation or in furtherance of its purposes.

**Section 2.12 Termination Procedures.** The following procedures shall apply in the case of a suspension or termination under parts (c) or (d) of subsection 2.11.1 above.

**2.12.1** The Board shall give the member at least 15 days' prior written notice of the suspension or termination, the reasons for it, the effective date, and the date, time, and place (if any) of the hearing described in the next subsection. Notice given by mail must be given by first-class or registered mail to the last address of the member shown on the corporation's records.

**2.12.2.** The member shall be given an opportunity to be heard, either orally or in writing, not less than five days before the effective date of the proposed suspension or termination, by the Board or a committee authorized by the Board to decide whether the proposed suspension or termination will take place. If the member does not appear and has not notified the Secretary of any adequate reason for not appearing, the suspension or termination shall be effective automatically on the proposed date of suspension or termination.

**2.12.3** Following the hearing date, the Board or the committee authorized by the Board shall decide whether the member should in fact be terminated, suspended, or sanctioned in some other manner. The member shall be promptly notified of the decision, and that decision shall be final. If the membership is terminated, all membership rights of such member in the corporation shall cease on the effective date in the written notice given pursuant to this Section.

**2.12.4** The Board may determine whether any prorated refund of dues shall be paid upon termination under this Section.

## ARTICLE 3 MEMBERSHIP RIGHTS

**Section 3.01 Voting Rights.** Members of the corporation shall have the right to vote, as set forth in these Bylaws, on:

- (a) the election of directors;
- (b) the removal of directors without cause, pursuant to California Corporations Code Section 5222;
- (c) any amendment to these Bylaws that materially and adversely affects member voting rights, and any amendment to the Articles of Incorporation, except for amendments permitted to be adopted by the Board alone under California Corporations Code Section 5812(b);
- (d) the disposition of all or substantially all of the assets of the corporation;
- (e) any merger of the corporation;
- (f) any dissolution of the corporation; and
- (g) any other matters that are properly presented to the members for a vote, pursuant to the Corporation's Articles of Incorporation, Bylaws, Board Resolution, or by operation of the law.

### **Section 3.02 Inspection Rights**

**3.02.1 Articles and Bylaws.** The corporation shall keep at its principal office in Rialto, California, current copies of its Articles of Incorporation and Bylaws, which shall be open to inspection by members during regular business hours of the business.

**3.02.2 Accounting Records and Minutes.** On written request, any member (in person or through an agent or attorney) may inspect and copy the accounting books and records of the corporation, at any reasonable time, for a purpose that is reasonably related to the member's interests as a member.

**3.02.3 Review of Records by Members of the Public.** All agendas, minutes, and supporting documents will be made available for review and inspection by any member of the public as required by the California Brown Act.

**3.02.4 Membership Records.** The right of members to have access to membership records shall be governed by California Corporations Code Sections 6330 through 6332.

**Section 3.03 Other Rights.** In addition to the rights described in these Bylaws, members of the corporation shall have any other rights afforded voting members under the California Nonprofit Public Benefit Corporation Law.

**ARTICLE 4**  
**MEMBER MEETINGS AND VOTING**

**Section 4.01 Brown Act.** The meetings of the corporation shall be subject to the Ralph M. Brown Act (Chapter 9 commencing with section 54950) of Part 1 of Division 2 of Title 5 of the Cal. Govt. Code) (“Brown Act”).

**Section 4.02 Member Vote.** Each member in good standing shall have one vote on each matter on which members are entitled to vote.

**Section 4.03 Annual Member Meetings.** Members shall hold an annual meeting at a date, place, and time determined by the Board for the purpose of electing directors and transacting such business as may be brought before the meeting. Any annual meeting of the Board of Directors shall be noticed as a regular meeting under the requirements of the Brown Act.

**Section 4.04 Time and Manner of Notice of Regular Meetings.**

**4.04.1** Regular meetings of the corporation’s Board of Directors shall be noticed and conducted in-line with the requirements of the Brown Act. The corporation shall, by resolution, provide the time and place for regular meetings. If an otherwise regular meeting is held at a time or place other than that specified for regular meetings, it is a special or emergency meeting. At least 72 hours prior to a regular meeting the corporation shall post an agenda containing a brief general description of the items to be discussed or transacted at the meeting.

**4.04.2 Non-Agendized Items.** Any items not agendized pursuant to the Brown Act may only be considered by the Board during a regular meeting if within the exceptions codified in Cal. Gov’t. Code § 54954.2.

**4.04.3 Public Comment.** The corporation shall provide an opportunity for members of the public to address the Board before or during the Board’s consideration of an item.

**4.04.4 Notice to Any Voting Members.** The Secretary shall give written notice of each member meeting to each member who, as of the record date for notice of such meeting, would be entitled to vote at such meeting. The notice shall be delivered to the last addressor e-mail address provided by the member to the corporation for purposes of notice, either personally, by electronic transmission, or by first class, registered, or certified mail not less than ten (10), nor more than ninety (90), days before the date of such meeting, or by any other mail not less than twenty (20), nor more than ninety (90), days before the date of such meeting. Notice shall not be given by electronic transmission by the corporation after either of the following: (a) the corporation is unable to deliver two consecutive notices to the member by that means, or (b) the inability to so deliver the notices to the member becomes known to the Secretary, any assistantsecretary, the transfer agent, or other person responsible for the giving of the notice.

**Section 4.05 Special Meetings of Members**

**4.05.1** Special meetings of the corporation’s Board of Directors shall be noticed and conducted in-line with the requirements of the Brown Act.

**4.05.2 Who May Call Special Meetings.** Special meetings of the members may be called by the presiding officer, or a majority of the members of the Board.



**4.05.3 Procedures for Calling Special Meetings Requested by Members.** If a special meeting is called by the presiding officer or a majority of the Board, the requesting members shall deliver a written notice specifying the business proposed to be transacted along with the time and place of the special meeting. Any special meeting must be noticed pursuant to the Brown Act, at least twenty-four (24) hours before the time of the meeting. All special meetings must be conducted pursuant to the Brown Act.

**4.05.4 Public Comment.** The corporation shall provide an opportunity for members of the public to address the Board before or during the Board's consideration of an item.

**Section 4.06 Meetings Called Pursuant to Emergency Situation.** The corporation may call emergency meetings without abiding by regular notice requirements of the Brown Act in emergency situations as provided for by Cal. Gov't. Code § 54956.5.

**Section 4.07 Closed Session.** The corporation may hold closed sessions during its meetings as provided for by the Brown Act. All closed session items must be properly agendaized pursuant to the requirements of the Brown Act. After a closed session meeting, the corporation shall reconvene to open session and report any action taken as required by the Brown Act.

**Section 4.08 Contents of Agenda of Meeting.** The notice shall state the place, date, and time of the meeting and in the case of special meetings, the general nature of the business to be transacted, and no other business may be transacted. In the case of the annual meeting, the notice shall state the names of all those who are nominees for director as of the date of the notice, and those matters which the Board, as of the date of the notice, intends to present for action by the members, but any proper matter may also be presented at the annual meeting.

**Section 4.09 Congregations or Writings as Meetings.** The majority of the Board of Directors of the corporation shall not meet, discuss items, take action, or sign a document binding the corporation at a congregation that is not noticed or conducted pursuant to the Brown Act, or via written means (including e-mail) outside of a meeting of the Board of Directors in violation of the Brown Act.

**4.09.1 Exceptions.** So long as members of the Board do not discuss amongst themselves specific issues within the jurisdiction of the corporation, the following meeting types shall not constitute a violation of the Brown Act if a majority of the Board is present:

- (a) Conferences/Retreats
- (b) Other Public Meetings
- (c) Meetings of other Legislative Bodies
- (d) Social/Ceremonial Occasions (*See Cal. Gov't. Code § 54952.2*).

**4.09.2 Serial Meetings.** Communications that involve less than a quorum, but when taken as a whole, involve a majority of the Board of Directors, are prohibited.

**Section 4.10 Record Dates.** For any notice, vote at a meeting, or exercise of rights, the Board may, by advance resolution, fix a record date and only members of record on that date shall be entitled to such notice, vote, or exercise of rights, notwithstanding any transfer of any membership

on the books of the corporation after the record date, except as otherwise required by law. For this purpose, a person or organization holding a membership as of the close of business on the record date shall be deemed to be a member of record.

**4.10.1 Notice of Record Dates of Meetings.** Unless otherwise fixed by the Board, the record date for the purpose of determining which members are entitled to notice of any member meeting, shall be the business day of the corporation preceding the date on which notice for that meeting is given. If the Board, by resolution, fixes a record date for notice, the record date shall not be less than ten (10), nor more than ninety (90), days before the date of the meeting.

**4.10.2 Voting at Meetings.** Unless otherwise fixed by the Board, the record date for determining which members are entitled to vote at any member meeting shall be the date of that meeting. If the Board, by resolution, fixes a record date for voting, the record date shall not be more than sixty (60) days before the date of the meeting.

**4.10.3 Other Lawful Action.** Unless otherwise fixed by the Board, the record date for determining which members are entitled to exercise any rights in respect to any other lawful action shall be the date on which the Board adopts the resolution relating thereto or the sixtieth (60<sup>th</sup>) day before the date of such other lawful action, whichever is later. If the Board, by resolution, fixes a record date for determining entitlements, the record date shall not be more than sixty (60) days before the date of such other lawful action.

**Section 4.11 Notice of Certain Actions Required.** Approval by the members of any of the following actions, other than by unanimous approval by those entitled to vote, is valid only if the notice of the meeting at which the vote occurred specified the general nature of the action: (a) to remove a director without cause, (b) to fill a vacancy on the Board, (c) to amend the corporation's Articles of Incorporation, or (d) to voluntarily dissolve the corporation.

**Section 4.12 Member Quorum.** Fifty percent (50%) of members then in effect, or seven (7) members of the full thirteen-member Board of Directors (if at full capacity) shall constitute a quorum for the transaction of business at a meeting of voting members. However, in no event shall the required quorum be less than two directors. A meeting at which a quorum was initially present may continue to conduct business notwithstanding the withdrawal of enough members to leave less than a quorum, so long as any action taken thereafter is approved by a majority of the required quorum.

**Section 4.13 Acts of the Members.** Every decision or act made or done by a majority of voting members present and voting at a duly held meeting at which a quorum is present is the act of the members, unless the law, the Articles of Incorporation, or these Bylaws, require a greater number.

#### **Section 4.14 Manner of Voting**

**4.14.1 Voting at Meetings.** Voting at meetings must be done by voice, and may not be done by secret ballot.

**4.14.2 Proxy Voting Prohibited.** Proxy voting shall not be permitted on any vote put to the members.

**4.14.3 Cumulative Voting Prohibited.** Cumulative voting shall not be permitted.

**Section 4.15 Adjournments and Continuances.** Regular and Special meetings may be adjourned to a later date. The Board must observe requirements of the Brown Act in any adjournment and later continuance of the meeting.

**Section 4.16 Curing of Brown Act Violations.** Within thirty (30) days of receipt of a timely demand to cure a Brown Act violation, the corporation shall either (1) cure or (2) inform an interested party in writing of its decision not to cure. If the corporation takes no action within the thirty-day period, it will be deemed to be a decision not to cure, and the corporation must give the interested party information regarding its decision not to cure. (*See* Cal. Gov't. Code § 54960.1)

**Section 4.17 Electronic Meetings.** A meeting of the members may be conducted, in whole or in part, by electronic transmission or by electronic video screen communication as provided by the Brown Act.

**4.17.1 Public Health Emergencies.** At any time that the national, state, or local authorities have found that there is a public health emergency necessitating social distancing, all meetings may be held on a virtual platform. The meeting shall still be noticed, agendaized, and held pursuant to the Brown Act, and any applicable state or local public health orders, executive orders, and other applicable orders.

## **ARTICLE 5 BOARD OF DIRECTORS**

**Section 5.01 Powers.** The corporation shall have powers to the full extent allowed by law. Subject to any limitations in the Articles of Incorporation or these Bylaws relating to actions requiring approval by the members, all powers and activities of the corporation shall be exercised and conducted by or under the direction of the Board. The Board may delegate the management of activities of the corporation to any person or persons, management company, or committee however composed, provided that the activities and affairs of the corporation shall be managed, and all corporate powers shall be exercised under the ultimate direction of the Board.

**Section 5.02 Number and Qualification of Directors.** The number of directors shall be thirteen members with the exact authorized number of directors to be fixed by resolution of the Board and shall be composed as follows: up to eight (8) seats for water/wastewater agencies, up to two (2) seats for community-based groups, two (2) seats for Ex-Officio directors, and one (1) seat for an IEWorks student/alumnus or worker representative. Any amendment to the preceding sentence shall require the approval of the members. With the exception of the initial directors appointed by the incorporator, all directors shall be chosen from among the signatory and Ex-Officio members of the Corporation.

**5.02.1 Selection of Student/Alumni Members.** Selection and appointment of Student/Alumni Members shall be governed by the procedure and process fixed by resolution of the Board of Directors of the Corporation.

**Section 5.03 Election and Term of Office of Directors.** Except for the initial directors appointed by the incorporator, Ex-Officio directors, and the Student/Alumni Member, the directors of the corporation shall be representatives selected by their respective member agency and shall serve for a term of two (2) years. Directors designated by a member agency shall hold office until a successor has been elected and qualified.

**Section 5.04 Ex-Officio Members.** Ex-Officio members do not require designation by any respective member agencies, and unless stated otherwise, shall be voting members on the Corporation's Board of Directors. The nomination, election, termination, and operation of the Corporation without Ex-Officio members shall be done pursuant to this Section.

**5.04.1 Nomination of Ex-Officio Members.** Ex-Officio members of the Board of Directors shall be nominated by the regular (non-Ex-Officio) members of the Board of Directors. A nomination shall be made by one member of the Corporation's regular (non-Ex-Officio) Directors and shall be seconded or confirmed by a separate member of the regular (non-Ex-Officio) Directors of the Corporation.

**5.04.2 Election and Term of Ex-Officio Members.** After nomination, Ex-Officio members of the Board of Directors shall be elected by a simple majority vote (51%) the regular (non-Ex-Officio) members of the Board of Directors and shall serve for a term of five (5) years.

**5.04.3 Existing Ex-Officio Members.** Channing Hawkins and Gracie Torres are recognized by the corporation as ex-officio members due to the integral role each played in the formation of the corporation. Both Existing Ex-Officio members are granted voting status on the Board of Directors.

**5.04.4 Operation of Corporation without Ex-Officio Members.** In the instance the Corporation, through its Board of Directors elects to operate with Ex-Officio Members, the two (2) seats allocated for Ex-Officio members shall be reallocated as follows: One (1) seat shall become an additional seat to be filled by a water/wastewater agency, one (1) seat shall become an additional seat to be filled by a community-based group.

**5.04.5 Termination of Ex-Officio Members.** Membership of Ex-Officio Members in the corporation shall automatically terminate at the end of the five (5) year term or shall terminate if a written notice memorializing an Ex-Officio Member's desire to resign is served on the Corporation before the member's term expires. The Corporation also may terminate the Ex-Officio member's membership upon a good faith determination that continued participation by the Ex-Officio Member is not in the best interests of the corporation or the furtherance of its purpose by a simple majority vote (51%) of its non-Ex-Officio members of its Board of Directors.

**Section 5.05 Limitation on Interested Persons.** No more than 49% of the directors of the corporation may be interested persons. An interested person is:

(a) any person currently being compensated by the corporation for services rendered to it within the previous twelve months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director in his or her capacity as director; and

(b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

**Section 5.06 Vacancies.** A vacancy shall be deemed to exist on the Board whenever the actual number of directors is less than the authorized number for any reason. Vacancies may be filled by the remaining directors (unless the vacancy was created by removal of a director by the members) or by the members for the unexpired portion of the term.

**Section 5.07 Resignation.** Resignations shall be effective upon receipt in writing by the President, the Secretary, or the Board unless a later effective date is specified in the resignation. Except upon notice to the California Attorney General, no director may resign if the corporation would be left without any duly elected directors.

**Section 5.08 Removal.** The members may remove any director at any time, with or without cause. Removal of a director shall require a majority of all voting members at the time of the decision.

**Section 5.09 Annual and Regular Meetings.** Annual meetings of the Board shall be held at least once a year. Annual meetings shall be called by the presiding officer or any two directors and noticed in accordance with Section 4.03. The time and place of regular meetings of the Board shall be set by resolution by the corporation and shall be noticed pursuant to the Brown Act.

**Section 5.10 Special Meetings.** Special meetings of the Board may be called by the presiding officer, or a majority of the Board of the corporation and shall be noticed and conducted pursuant to Section 4.05.

**Section 5.11 Notice of Annual and Special Meetings.** Notice of the annual meeting and any special meetings of the Board shall state the date, time, and place of the meeting and shall be

given to each director at least four days before the meeting if given by first-class mail or forty-eight (48) hours before the meeting if delivered personally or by telephone, including a voice messaging system, or by other electronic transmission such as e-mail. All other meetings shall be noticed pursuant to Section 4.05 of these bylaws.

**Section 5.12 Waiver of Notice.** Notice of a meeting need not be given to any director who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting need not be given to any director who attends the meeting without protesting the lack of notice before or at the beginning of the meeting.

**Section 5.13 Action at a Meeting; Quorum.** Fifty percent (50%) of the directors then in office, or seven (7) members if the Board is at full capacity (thirteen members) shall constitute a quorum of the Board for the transaction of business. However, in no event shall the required quorum be less than two directors. Every action taken or decision made by a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, except as otherwise provided in Section 5.05 (filling Board vacancies), Section 5.13 (taking action without a meeting), Section 6.01 (appointing Board Committees), Section 8.03 (approving self-dealing transactions), Section 9.02 (approving indemnification), and Section 10.08 (amending Bylaws) of these Bylaws or in the California Nonprofit Public Benefit Corporation Law. Directors at a meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of directors, if any action taken or decision made is approved by at least a majority of the required quorum for such meeting, or a greater number as required by law or by these Bylaws.

**Section 5.14 Telephone and Electronic Meetings.** Directors may participate in a meeting through use of conference telephone or video screen communication so long as all participating directors can hear each other. Directors may participate in a meeting through the use of other electronic transmission so long as all of the following apply:

- (a) each director participating in the meeting can communicate concurrently with all of the other directors, and
- (b) each director is provided with the means of participating in all matters before the Board, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

**Section 5.15 Standard of Care.** A director shall perform the duties of a director, including duties as a member of any Board Committee, in good faith, in a manner such director believes to be in the best interest of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

In performing such duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

- (a) one or more officers or employees of the corporation whom the director believes to be reliable and competent as to the matters presented;
- (b) counsel, independent accountants, or other persons as to matters which the

director believes to be within such person's professional or expert competence; or

(c) a committee upon which the director does not serve composed exclusively of any or any combination of directors, persons described in paragraph (a), or persons described in paragraph (b), as to matters within its designated authority, provided that the director believes such committee merits confidence; so long as in any such case, the director acts in good faith after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

Except as provided in California Corporations Code Section 5233, a person who performs the duties of a director in accordance with this Section shall have no liability based upon any alleged failure to discharge that person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which the corporation, or assets held by the corporation, are dedicated.

**Section 5.16 Investments.** Except with respect to assets held for use or used directly in conducting the corporation's public or charitable programs, in investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing the corporation's investments, the Board shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the corporation's capital. No investment violates this Section where it conforms to provisions authorizing such investment contained in an instrument or agreement pursuant to which the assets were contributed to the corporation.

**Section 5.17 Inspection.** Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents, and to inspect the physical properties of the corporation.

**Section 5.18 Compensation.** The directors shall not be compensated for their services as directors. The Board may authorize the advance or reimbursement to a director of actual reasonable expenses incurred in performing his or her duties as a director, including expenses for attending meetings of the Board and Board Committees.

## ARTICLE 6 COMMITTEES

**Section 6.01 Standing Board Committees.** The Board may, by resolution adopted by a majority of the directors then in office, create one or more Standing Board Committees, to serve at the pleasure of the Board. Appointments to such Board Committees shall be by a majority vote of the directors then in office. Meetings of Standing Committees shall be conducted pursuant to the Brown Act. Standing Board Committees may be given all the authority of the Board, except for the powers to:

- (a) set the number of directors within a range specified in these Bylaws;
- (b) elect directors or remove directors without cause;
- (c) create any other Board Committees or appoint the members of any Board Committees;
- (d) fill vacancies on the Board or any Board Committee;
- (e) fix compensation of directors for serving on the Board or any Board;
- (f) amend the Articles of Incorporation;
- (g) amend or repeal these Bylaws or adopt new Bylaws;
- (h) amend or repeal any resolution of the Board which by its express terms is not so amendable or repealable; or approve any merger, reorganization, voluntary dissolution, or disposition of substantially all of the assets of the corporation.

**Section 6.02 Advisory Committees.** The Board may establish Advisory Committees to the Board. The members of any Advisory Committee may consist of directors or non-directors and may be appointed as the Board determines. Advisory Committees may not exercise the authority of the Board to make decisions on behalf of the corporation but shall be restricted to making recommendations to the Board or Board Committees and implementing Board or Board Committee decisions and policies under the supervision and control of the Board or Board Committee.

**Section 6.03 Audit Committee.** For any tax year in which the corporation is required to have an audit pursuant to Section 10.05, because it has gross revenues of \$2,000,000 or more, the corporation shall have an Audit Committee appointed by the Board. The Audit Committee may include both directors and non-directors, subject to the following limitations: (a) a majority of the members of the Audit Committee may not consist of members of the Finance Committee; (b) the chair of the Audit Committee may not be a member of the Finance Committee; (c) the Audit Committee may not include any member of the staff or the President or Treasurer; (d) the Audit Committee may not include any person who has a material financial interest in any entity doing business with the corporation; and (e) Audit Committee members may not receive compensation greater than the compensation paid to directors for their Board service.

**6.03.1 Advisory Committees Subject to Brown Act.** The following types of Advisory Committee meetings shall be conducted pursuant to the requirements of the Brown Act:

- (a) Advisory Committee meetings composed of members of the Board of Directors



and non-members of the Board of Directors. (i.e., corporation staff, non-voting members of the corporation, worker representatives)

(b) Advisory Committee meetings where more than a quorum of the Board of Directors is present

(c) Advisory Committee meetings where the committee has continuing jurisdiction over specific issues presented to the corporation.

(d) Advisory meetings that has a regular meeting schedule fixed by the corporation's Board of Directors.

**6.03.2 Advisory Committees not Subject to the Brown Act** Where an Advisory Committee is composed solely of less than a quorum of members of the Board of Directors, and has a limited term objective, the meeting need not be noticed or conducted pursuant to the Brown Act. ("Ad Hoc Committee")

**Section 6.04 Meetings of Board Committees.** Meetings and actions of Board Committees shall be governed by the provisions of Article 5 of these Bylaws concerning meetings and actions of the Board with such changes in the content of those Bylaws as are necessary to substitute the Board Committee and its members for the Board and its members. Minutes shall be kept of each meeting of a Board Committee and shall be filed with the corporate records.

**Section 6.05 Meetings of Advisory Committees.** Advisory Committees may determine their own meeting rules and whether minutes shall be kept, subject to the authority of the Board.

## **ARTICLE 7 OFFICERS**

**Section 7.01 Officers.** The officers of the corporation shall be a President, a Vice President, a Secretary, a Treasurer, and such other officers with such titles and duties as shall be determined by the Board. Any number of offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the President or the Chair of the Board. All officers shall be elected from among the directors of the corporation.

**Section 7.02 Election.** Except for the initial officers appointed by the incorporator, who shall serve as long as required by the Corporation, the officers of the corporation shall be elected by the Board and shall serve for two (2) years, at the pleasure of the Board.

**7.02.1 Process for Election.** The election of officers shall be fixed pursuant to the process and procedure set forth by resolution by the board of directors of the corporation.

**Section 7.03 Vacancies.** A vacancy in any office for any reason shall be filled in the same manner as these Bylaws provide for election to that office.

**Section 7.04 Resignation.** Any officer may resign at any time by giving written notice to the Board. The resignation shall take effect on the date the notice is received or at any later time specified in the notice. Any resignation shall be without prejudice to any rights of the corporation under any contract to which the officer is a party.

**Section 7.05 Removal.** The Board may remove any officer with or without cause.

**Section 7.06 President.** The President shall be the chief executive officer of the corporation and shall, subject to the control of the Board, generally supervise, direct, and control the corporation's activities, affairs, and officers. The President shall preside at all meetings of the Board. The President shall have the general powers and duties of management usually vested in the office of President of the corporation and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

**Section 7.07 Vice President.** The Vice President shall, in the absence of the President, perform all the duties of the President and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

**Section 7.08 Secretary.** The Secretary shall keep or cause to be kept a full and complete record of the proceedings of the members and the Board and its committees, shall supervise the giving of such notices as may be proper or necessary, shall keep or cause to be kept the minute books of the corporation, shall keep or cause to be kept a record of the corporation's members, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

**Section 7.09 Treasurer.** The Treasurer shall be the chief financial officer of the corporation and shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the corporation's properties and transactions. The Treasurer shall supervise the charge and custody of all funds of the corporation, shall supervise the deposit of such funds in the manner prescribed by the Board, shall render reports and accountings as required, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

## ARTICLE 8 CERTAIN TRANSACTIONS

**Section 8.01 Loans.** The corporation shall not lend any money or property to, or guarantee the obligation of, any director or officer, except as permitted by California Corporations Code Section 5236. The corporation may, however, advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such director or officer so long as such individual would be entitled to be reimbursed for such expenses absent that advance.

**Section 8.02 Self-Dealing Transactions.** The Board shall not approve or permit the corporation to engage in any self-dealing transaction, except as provided in Section 8.03 below. A self-dealing transaction is a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest and which is not described in California Corporations Code Section 5233(b).

**Section 8.03 Approval.** Pursuant to California Corporations Code Section 5233(d), the corporation may engage in a transaction that would otherwise be a self-dealing transaction if the transaction is approved by a court or by the California Attorney General; or if the Board determines, before the transaction, that:

- (a) the corporation is entering into the transaction for its own benefit;
- (b) the transaction is fair and reasonable to the corporation at the time; and
- (c) after reasonable investigation, the Board determines that it could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

Such determinations must be made by the Board in good faith, with knowledge of the material facts concerning the transaction and the director's interest in the transaction, and by a vote of a majority of the directors then in office, without counting the vote of the interested director or directors.

Where it is not reasonably practicable to obtain approval of the Board before entering into a self-dealing transaction, a Board Committee may approve such transaction in a manner consistent with the requirements above; provided that, at its next meeting, the full Board determines in good faith that the Board Committee's approval of the transaction was consistent with the requirements above and that it was not reasonably practicable to obtain advance approval by the full Board, and ratifies the transaction by a majority of the directors then in office without counting the vote of any interested director.

## ARTICLE 9 INDEMNIFICATION AND INSURANCE

**Section 9.01 Right of Indemnity.** To the fullest extent allowed by law, the corporation may indemnify its agents against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any proceeding by reason of the fact that such person is or was an agent of the corporation. “Agent” shall have the same meaning as in California Corporations Code Section 5238(a) and shall include the corporation’s directors, officers, employees, and other agents. “Proceeding” shall have the same meaning as in Section 5238(a) and shall include any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; “expenses” shall have the same meaning as in Section 5238(a) and shall include reasonable attorneys’ fees.

**Section 9.02 Approval of Indemnity.** On written request to the Board by any agent seeking indemnification, to the extent that the agent has been successful on the merits, the Board shall promptly authorize indemnification in accordance with California Corporations Code Section 5238(d). Otherwise, the Board shall promptly determine, by a majority vote of a quorum consisting of directors who are not parties to the proceeding, whether the agent has met the applicable standard of conduct stated in Section 5238(b) or Section 5238(c), and, if so, may authorize indemnification to the extent permitted thereby. If the Board cannot do so because there is no quorum of directors who are not a party to the proceeding for which indemnification is sought the Board shall promptly call a meeting of the members. At that meeting, the members shall determine whether, in the specific case, the applicable standard of conduct in Section 5238(b) or Section 5238(c) has been met, and, if so, the members shall authorize indemnification to the extent permitted thereby.

**Section 9.03 Advancing Expenses.** The Board may authorize the advance of expenses incurred by or on behalf of an agent of the corporation in defending any proceeding prior to final disposition, if the Board finds that:

(a) the requested advances are reasonable in amount under the circumstances;  
and

(b) before any advance is made, the agent submits a written undertaking satisfactory to the Board to repay the advance unless it is ultimately determined that the agent is entitled to indemnification for the expenses under this Article.

**Section 9.04 Insurance.** The corporation shall have the power to purchase and maintain insurance on behalf of any agent against any liability asserted against or incurred by the agent in such capacity or arising out of the agent’s status as such, and such insurance may provide for coverage against liabilities beyond the corporation’s power to indemnify the agent under law; provided, however, that the corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the corporation for a violation of California Corporations Code Section 5233.

## ARTICLE 10 MISCELLANEOUS

**Section 10.01 Fiscal Year.** The fiscal year of the corporation shall end each year on June 30. Each fiscal year shall begin on July 1.

**Section 10.02 Contracts, Notes, and Checks.** All contracts entered into on behalf of the corporation must be authorized by the Board or the person or persons on whom such power may be conferred by the Board. Except as required by law, every check, draft, promissory note, money order, or other evidence of indebtedness of the corporation shall be signed by the person or person on whom such power may be conferred by the Board.

**Section 10.03 Representation of Corporate Shares.** The President and Vice President of the corporation are each authorized to vote, represent, and exercise on behalf of the corporation all rights incident to any and all shares of any other corporation held by the corporation. The authority hereby granted to these officers may be exercised either by such officers in person or by any other person authorized to do so by proxy or power of attorney duly executed by said officers.

**Section 10.04 Annual Reports to Members and Directors.** The Treasurer shall provide an annual written report to all of the members and directors within 120 days after the end of the corporation's fiscal year. The report shall contain the following information:

(a) the assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;

(b) the principal changes in assets and liabilities, including trust funds, during the fiscal year;

(c) the revenue or receipts of the corporation, both unrestricted and restricted to a particular purpose, for the fiscal year;

(d) the expenses or disbursements of the corporation, for both general and restricted purposes, for the fiscal year;

(e) any transaction during the previous fiscal year between the corporation (or its parent or subsidiary, if any) and any of its directors or officers (or the directors or officers of its parent or subsidiary, if any) or any holder of more than ten percent of the voting power of the corporation (or its parent or subsidiary, if any), involving (i) more than \$50,000 or (ii) any of a number of such transactions, which in the aggregate involved more than \$50,000, in which the same person had a direct or indirect material financial interest. For each transaction, the report must disclose the names of the interested persons involved in such transaction, stating such person's relationship to the corporation, the nature of such person's interest in the transaction and, where practicable, the value of such interest; and

(f) the amount and circumstances of any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any director or officer of the corporation pursuant to California Corporations Code Section 5238; provided that no such report need be made in the case of indemnification approved by the members pursuant to California Corporations Code Section 5238(e).

This annual report shall be accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without an audit from the books and records of the corporation.

**Section 10.05 Required Financial Audits.** The corporation shall obtain a financial audit by an independent certified public accountant for any tax year in which it receives or accrues gross revenues of \$2,000,000 or more, excluding income from any governmental entity for which the governmental entity requires an accounting. Any audited financial statements obtained by the corporation shall be made available for inspection by the Attorney General and the general public within nine months after the close of the fiscal year to which the statements relate.

**Section 10.06 Electronic Transmissions.** Subject to procedures that the Board may adopt, the term “written” and “in writing” as used in these Bylaws includes electronic transmissions, such as facsimile or e-mail, provided that: (a) for electronic transmissions from the corporation, the corporation has obtained an unrevoked written consent from the recipient to the use of such means of communication; (b) for electronic transmissions to the corporation, the corporation has in effect reasonable measures to verify that the sender is the individual purporting to send the transmission; and (c) for electronic transmissions both from and to the corporation, the transmission creates a record that is capable of retention, retrieval, and review, and may be rendered into clearly legible tangible form.

**Section 10.07 Maintenance of Certain Records.** The corporation shall keep at its principal office the original or a copy of its Articles of Incorporation and Bylaws as amended to date. The corporation shall keep its accounting books and records, and minutes of the proceedings of the members, Board, and Board Committees at its principal office or at such other place as designated by the Board. The minutes and the accounting books and records shall be kept either in printed form or in any other form capable of being converted to printed form within a reasonable time. A record of each member’s name, address, telephone number, email address, and class of membership shall also be kept at the principal office of the corporation or at such other place as designated by the Board.

**Section 10.08 Amendments.** Amendments to these Bylaws may be adopted by the vote of a majority of the directors then in office or by the unanimous written consent of the directors, provided that the members must approve any Bylaws amendment that would materially and adversely affect the rights of the members as to voting or transfer. Proposed bylaw amendments shall be submitted in writing to each director at least one week prior to their vote on or written consent to such amendments.

**Section 10.09 Governing Law.** In all matters not specified in these Bylaws, or in the event these Bylaws shall not comply with applicable law, the California Nonprofit Public Benefit Corporation Law, and the California Brown Act as then in effect shall apply.

**CERTIFICATE OF SECRETARY**

I, the undersigned, certify that I am presently the duly elected and acting Secretary of Inland Empire Works (“IEWorks”), a California nonprofit public benefit corporation, and that the above Bylaws, consisting of 22 pages, are the Bylaws of the corporation as adopted by approval of the Board of Directors at their meeting on \_\_\_\_\_, 2022.

Date: \_\_\_\_\_

\_\_\_\_\_  
Gracie Torres, Secretary



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**DATE:** May 12, 2022  
**TO:** Board of Directors Workshop – Policy  
**FROM:** Kristeen Farlow, Strategic Communications Manager  
**SUBJECT:** State and Federal Legislative Report

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**Staff Recommendation**

Receive and file.

**Summary**

Staff is providing the Board of Directors with a report on current significant legislation from the state and federal legislatures.

**Background**

Each month, staff provides the Board of Directors with a summary of State and Federal Legislative highlights. This information is provided by the District's lobbying firms and supplemented by District Staff. The Gualco Group, Inc., is the District's State lobbyist in Sacramento; Innovative Federal Strategies is the District's Federal lobbyist in Washington D.C. This month, the State and Federal Legislative Update is being provided as a report.

*State Legislative Update*

- AB 2142 (Gabriel): Income tax exclusions for turf replacement. This bill is sponsored by the Association of California Water Agencies. It is moving through the legislative process and is currently in Committee.



- AB 2387 (E. Garcia): bond proposal. This proposal is in Committee process and expected to keep moving forward; nothing major and new to report here.
- AB 2419 (Bryan): Environmental justice: federal Infrastructure Investment and Jobs Act. This bill would require 40% of funds received through the Infrastructure Investment and Jobs Act by the State be allocated to projects that provide direct benefits to disadvantaged communities and a minimum of an additional 10% be allocated for projects that provide direct benefits to low-income households and low-income communities. Opponents of this bill would like to see this as a “goal” and not a mandate.
- AB 2639 (Quirk): San Francisco Bay/Sacramento-San Joaquin Delta Estuary: water quality control program. This bill would change deadlines for Bay Delta Plan related to the State Water Resources Control Board. There is some opposition to this bill due to the change in dates for reviewing and approving future water diversion permits. This bill is moving through the Committee process.
- AB 1944 and AB 2449 are both related to open meetings and teleconferencing, and both continue to move through the Committee process. Each would increase the flexibility Brown Act requirements related to remote meeting participation. For example, one consideration is not requiring specific addresses of the location from where a director is calling in (with other considerations). AB 2449 is the Three Valleys Municipal Water District sponsored bill.
- SB 230 (Portantino): State Water Resources Control Board and Constituents of Emergency Concern in Drinking Water program. It is in the Assembly and pending referral. This bill is sponsored by the Metropolitan Water District of Southern California.
- SB 1157 (Hertzberg): Urban Water Use Objectives. This bill is a bit unique. It did not have a hearing in Appropriations because it has no fiscal effect on the State, so it moved out of Appropriations and onto the Floor. It made it out of the Senate in mid-April and is now in the Assembly pending committee assignment. A number of industry associations and agencies are opposed to this bill.
- SB 1219 (Hurtado): 21<sup>st</sup> century water laws and agencies. This bill originally included a clause related to the State Water Resources Control Board but that has since been removed. With that removal, there is not much substantive content in this bill anymore. It is being watched by agencies and associations.
- The last day for bills to pass out of house of origin is May 27 so we expect to see a lot of movement in the next couple weeks.

### *Federal Legislative Update*

In early April, the Supreme Court issued a stay of a lower court ruling that vacated a Trump-era Clean Water Act "certification rule", effectively reinstating the rule while challenges make their way through the courts. The ruling does not impact the current rulemaking process, as the Biden administration has already indicated it expects to release an updated rule in Spring

2023. When the United States District Court for the Northern District of California issued an order in October 2021 remanding and vacating the United States Environmental Protection Agency's 2020 Clean Water Act Section 401 Certification Rule, the agency returned to using a 1971 rule. That process delayed issuance of permits nationwide. The Supreme Court's ruling may have an impact on to-be-issued Corps permits while the agency puts out guidance to regional offices.

States are demanding greater flexibility in how they spend money from last year's infrastructure law to overcome rising project costs and supply chain shortages. However, a top EPA official said only Congress can grant that leeway. More than \$50 billion Congress earmarked for water system upgrades demands that local water officials think creatively about how to spend it. States have a severe lack of resources though as supply chain shortages are driving up project costs. The infrastructure money will be provided to the states over the next five years, but they have to spend it quickly, and only have through the following fiscal year to spend each annual tranche of the money once they receive it.

The District finalized its submittal to Representative Pete Aguilar's office for consideration of Community Project Funding. These requests were due for submittal by the Representatives office by April 29. We should hear by mid-May whether our project – the Santa Ana River Enhanced Recharge Phase 1B Project (SARER) – was forwarded by the Representative for funding consideration. Additionally, Staff provided a second tour of the SARER to staff from Senator Dianne Feinstein's office in consideration of funding through the Congressionally Directed Funding program. These requests must be submitted by the end of May for further consideration.

### **District Strategic Plan Application**

The District's state and federal legislation program aligns with the District's mission of *working collaboratively to provide a reliable and sustainable water supply to support the changing needs of our region's people and environment*. By staying active and engaged in legislative issues, the District can establish a presence and build relationships with our State and Federal legislators. We have positioned ourselves to best represent our region on issues of concern regarding ensuring a reliable and sustainable water supply.

### **Fiscal Impact**

There is no fiscal impact related to this update.

**Attachments**

State Priority Legislative Tracking Report 042622  
April 2022 Federal Legislative Matrix  
April 2022 Federal Monthly Newsletter



**San Bernardino Valley  
Municipal Water District  
Priority Bills  
Legislative Tracking Report  
April 26, 2022**



**Provided by: The Gualco Group, Inc.**

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**Top Ten/Priority**

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**AB 284 (Rivas, Robert D) California Global Warming Solutions Act of 2006: climate goal: natural and working lands.**

**Current Text:** Amended: 7/14/2021 [html](#) [pdf](#)

**Status:** 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/2/2021)(May be acted upon Jan 2022)

**Location:** 9/10/2021-S. 2 YEAR

**Summary:** Would require the State Air Resources Board, as part of the next scoping plan update, in collaboration with the Natural Resources Agency and other relevant state agencies and departments and no later than January 1, 2023, to identify a 2045 climate goal, with interim milestones, for the state's natural and working lands, as defined, and to integrate into the scoping plan update recommendations developed by the Natural Resources Agency and the Department of Food and Agriculture regarding practices, policy and financial incentives, market needs, and potential reductions in barriers that would help achieve the 2045 climate goal, among other recommendations. The bill would require the state board, in collaboration with the Natural Resources Agency and other relevant state agencies and departments, to include this information in each subsequent update to the scoping plan and update that information, as appropriate.

**Position**

**AB 455 (Wicks D) San Francisco-Oakland Bay Bridge: transit-only traffic lanes.**

**Current Text:** Amended: 5/20/2021 [html](#) [pdf](#)

**Status:** 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was TRANS. on 6/9/2021)(May be acted upon Jan 2022)

**Location:** 7/14/2021-S. 2 YEAR

**Summary:** Under current law, the San Francisco-Oakland Bay Bridge is part of the state highway system. Existing law authorizes the department to construct exclusive or preferential lanes for buses only or for buses and other high-occupancy vehicles, and may authorize or permit the exclusive or preferential use of designated lanes on existing highways that are part of the state highway system. This bill would authorize the authority, in consultation with the department, to designate transit-only traffic lanes on the San Francisco-Oakland Bay Bridge.

**Position**

**AB 2313 (Bloom D) Water: judges and adjudications.**

**Current Text:** Amended: 3/30/2022 [html](#) [pdf](#)

**Status:** 3/31/2022-Re-referred to Com. on W.,P., & W.

**Location:** 3/29/2022-A. W.,P. & W.

**Summary:** Would require the Judicial Council, on or before January 1, 2025, to establish a program that provides training and education to judges in specified actions relating to water, as defined. The bill would provide that the program may be funded by an appropriation from the General Fund in the annual Budget Act or another statute, or by using existing funds for judicial training. The bill would authorize the Chairperson of the Judicial Council to assign to certain actions relating to water a judge with that training or education.

**Position**

Support

**AB 2362 (Mullin D) Environmentally beneficial projects: interagency coordination: permits.**

**Current Text:** Amended: 4/18/2022 [html](#) [pdf](#)

**Status:** 4/19/2022-Re-referred to Com. on APPR.

**Location:** 4/4/2022-A. APPR.

**Summary:** Current law requires the Natural Resources Agency, by July 1, 2017, and every 3 years thereafter, to update the state's climate adaptation strategy to identify vulnerabilities to climate change by sectors and priority actions needed to reduce the risks in those sectors. Current law requires the agency to explore, and authorizes the agency to implement, options within the agency's jurisdiction to establish a more coordinated and efficient regulatory review and permitting process for coastal adaptation projects that use natural infrastructure. This bill would require the agency, on or before July 1, 2023, to evaluate existing state interagency collaborations functioning at the regional level to gain applicant and agency staff perspective on process and outcome efficiencies for issuing permits for proposed environmentally beneficial projects, as defined. The bill would require the agency to provide, at the request of an applicant for a permit for a proposed environmentally beneficial project, a voluntary preapplication consultation to the applicant that includes permit analysts from all state agencies with permitting authority over the proposed project, as provided.

**Position**

Support

**SB 559 (Hurtado D) Department of Water Resources: water conveyance systems: Water Conveyance Restoration Fund.**

**Current Text:** Amended: 8/30/2021 [html](#) [pdf](#)

**Status:** 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/8/2021)(May be acted upon Jan 2022)

**Location:** 9/10/2021-A. 2 YEAR

**Summary:** Would establish the Water Conveyance Restoration Fund in the State Treasury to be administered by the Department of Water Resources in consultation with the State Water Resources Control Board and the Department of Fish and Wildlife. The bill would require all moneys deposited in the fund to be expended, upon appropriation by the Legislature, in support of subsidence repair costs, including environmental planning, permitting, design, and construction and necessary road and bridge upgrades required to accommodate capacity improvements. The bill would require the Director of Water Resources to apportion money appropriated from the fund, subject to specified requirements, for the Friant-Kern Canal, Delta-Mendota Canal, San Luis Field Division of the California Aqueduct, and San Joaquin Division of the California Aqueduct.

**Position**

Support

**SB 832 (Dodd D) Water rights: measurement of diversion.**

**Current Text:** Amended: 4/6/2022 [html](#) [pdf](#)

**Status:** 4/25/2022-April 25 hearing: Placed on APPR suspense file.

**Location:** 4/25/2022-S. APPR. SUSPENSE FILE

**Summary:** Current law defines various terms applicable to the Water Code. This bill would define "water year," unless otherwise specified, to mean the 12-month period beginning October 1 and ending September 30.

**Position**

Support If Amended

**SB 890 (Nielsen R) Department of Water Resources: Water Storage and Conveyance Fund: water storage and conveyance.**

**Current Text:** Amended: 2/23/2022 [html](#) [pdf](#)

**Status:** 3/8/2022-March 8 set for first hearing. Failed passage in committee. (Ayes 3. Noes 6.)

**Location:** 2/9/2022-S. N.R. & W.

**Summary:** Would establish the Water Storage and Conveyance Fund in the State Treasury to be administered by the Department of Water Resources. The bill would require all moneys deposited in the fund to be expended, upon appropriation by the Legislature, in support of subsidence repair and reservoir storage costs, including environmental planning, permitting, design, and construction and all necessary road and bridge upgrades required to accommodate capacity improvements. The bill would require the department to expend from the fund, upon appropriation by the Legislature, specified monetary amounts to complete funding for the construction of the Sites Reservoir, and to restore the capacity of 4 specified water conveyance systems, as prescribed, with 2 of those 4 expenditures being in the form of a grant to the Friant Water Authority and to the San Luis and Delta-Mendota Water Authority. This bill would make these provisions inoperative on July 1, 2030, and would repeal it as of January 1, 2031.

**Position**

**SB 1157 (Hertzberg D) Urban water use objectives: indoor residential water use.**

**Current Text:** Introduced: 2/17/2022 [html](#) [pdf](#)

**Status:** 4/21/2022-Read third time. Passed. (Ayes 28. Noes 9.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.

**Location:** 4/21/2022-A. DESK

**Summary:** Current law requires the Department of Water Resources, in coordination with the State Water Resources Control Board, and including collaboration with and input from stakeholders, to conduct necessary studies and investigations and authorizes the department and the board to jointly recommend to the Legislature a standard for indoor residential water use. Current law, until January 1, 2025, establishes 55 gallons per capita daily as the standard for indoor residential water use. Existing law establishes, beginning January 1, 2025, the greater of 52.5 gallons per capita daily or a standard recommended by the department and the board as the standard for indoor residential water use, and beginning January 1, 2030, establishes the greater of 50 gallons per capita daily or a standard recommended by the department and the board as the standard for indoor residential water use. This bill would eliminate the option of using the greater of 52.5 gallons per capita daily and the greater of 50 gallons per capita daily, as applicable, or a standard recommended by the department and the board as the standard for indoor residential water use.

**Position**

Bill Number	Sponsors	Title and/or Summary	Summary/Status	Latest Action
H.R.5376	President Joe Biden / Congressional Democrats	Build Back Better Act	The Build Back Better Act proposes spending nearly \$2 trillion over a 10-year period, with certain programs expiring after only a year or two to keep the total cost of the bill down.	<p>Congressional Democrats hope to use the budget reconciliation process to pass elements of the administration's American Families Plan.</p> <p>Efforts to pass the legislation in 2021 were unsuccessful even after the House passed a modified version of the legislation.</p> <p>Senator Joe Manchin came out in opposition to the legislation in late-2021, though he has recently expressed a willingness to pass a scaled-back version of the legislation that is paid for through tax increases. He has indicated that the scope of the legislation would need to be limited to do a few things permanently rather than create several new programs for a short period of time.</p> <p>There is no current timeline or legislative language for a package that may be considered in the Senate.</p>
S. 29 / H.R. 2008	Sen. Amy Klobuchar (D-MN) / Rep. Angie Craig (D-MN)	Local Water Protection Act	A bill to amend the Federal Water Pollution Control Act to reauthorize certain programs relating to nonpoint source management, and for other purposes.	<p>The Senate legislation was introduced on January 22, 2021 and referred to the Committee on Environment and Public Works.</p> <p>The legislation in the House was introduced on March 18, 2021 and passed the House under suspension of the rules on June 15.</p>

H.R 1563	Rep. Mike Garcia (R-CA)	To extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California	The legislation would extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California. The legislation would extend 4007 authorities through January 1, 2028.	Introduced on March 3, 2021 and was referred to the House Committees on Natural Resources and Science, Space, and Technology.
S.984 / H.R.2238	Sen. Jeff Merkley (D-OR) / Rep. Alan Lowenthal (D-CA)	Break Free from Plastic Pollutions Act	The comprehensive legislation would require corporations to take responsibility for pollution, incentivize corporations to make reusable products and items that can be recycled, create a nationwide beverage container refund program, and other items to promote recycling and other investments in U.S. domestic recycling.	Introduced on March 25, 2021 and referred to the House Committees on Energy and Commerce, Ways and Means, Transportation, and Foreign Affairs.
H.R 866	Rep. Ken Calvert (R-CA)	FISH Act	This bill gives the Fish and Wildlife Service (FWS) the sole authority to protect endangered or threatened species that are anadromous species (species of fish that spawn in fresh or estuarine waters and that migrate to ocean waters) or catadromous species (species of fish that spawn in ocean waters and migrate to fresh waters). Currently, the FWS shares this authority with the National Marine Fisheries Service.	Introduced on February 5, 2021 and referred to the House Committee on Natural Resources.
H.R.1881	Rep. John Garamendi (D-CA)	To amend the Federal Water Pollution Control Act with respect to permitting terms, and for other purposes.	The legislation would extend permit terms for publicly owned water infrastructure projects under the National Pollutant Discharge Elimination System (NPDES) from 5 years to a maximum of 10 years.	Introduced on March 12, 2021 and referred to the Committee on Transportation and Infrastructure.



H.R. 1015	Rep. Grace Napolitano (D-CA)	Water Recycling Investment and Improvement Act	This bill makes permanent, and otherwise revises, the Bureau of Reclamation's grant program for the funding of water recycling and reuse projects. Specifically, the bill removes priority under the program for projects in areas that, in the preceding four-year period, have been (1) identified as experiencing severe, extreme, or exceptional drought; or (2) designated as a disaster area by a state. Additionally, the bill increases through FY2025 the authorization of appropriations for the program and otherwise revises provisions related to program funding.	Introduced on February 11, 2021 and referred to the House Committee on Natural Resources.
Draft Legislation	Sen. Dianne Feinstein	STREAM Act	This draft legislation would authorize additional funding for water infrastructure; expedites recycling, desalination and non-federal storage projects with less than \$250 million in federal funding by allowing Interior to approve projects; eliminates the WIIN Act requirement that the Appropriations Committee must not only appropriate storage, recycling, and desal funding but approve funding awards for specific projects; and expedites future federal storage projects through a "Reclamation WRDA" process, where Reclamation notifies Congress of completed feasibility studies each year to set up an orderly process to authorize projects.	Senator Feinstein has not yet introduced the legislation. She is currently seeking public comment and support prior to introducing the legislation.
H.R. 737	Rep. David Valadao (R-CA)	RENEW WIIN Act	Extends the authorities under the WIIN Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.	Introduced on February 2, 2021 and referred the House Committee on Natural Resources. 10 members of the CA delegation have cosponsored the legislation.

S.91 / H.R.535	Sen. Krysten Sinema (D-AZ) / Rep. John Garamendi (D-CA)	Special Districts Provide Essential Services Act	The legislation would include special districts in the coronavirus relief fund and direct the Secretary of the Treasury to include special districts as an eligible issuer under the Municipal Liquidity Facility.	Introduced on January 28, 2021, in both the House and Senate. It has been referred to relevant committees in both chambers.
H.R. 2515	Rep. Garret Graves (R-LA)	Building U.S. Infrastructure through Limited Delays and Efficient Reviews (BUILDER) Act	The legislation modernizes the National Environmental Policy Act (NEPA) and aims to make infrastructure project reviews more efficient, reduce project costs, and spur economic recovery.	Introduced on April 14, 2021 and was referred to the House Committee on Natural Resources.  The legislation's 46 cosponsors are all Republican, including members of GOP leadership.
H.R. 939	Rep. Doug LaMalfa (R-CA)	Combustion Avoidance along Rural Roads (CARR) Act	The bill exempts wildfire mitigation activities conducted within 300 feet of a road from all laws governing environmental review of proposed agency actions or protection of endangered or threatened species.	Introduced on February 8, 2021 and was referred to the House Committees on Natural Resources and Agriculture.
H.R.3267	Rep. Brendan Boyle (D-PA)	Protect Drinking Water from PFAS Act	The bill amends the Safe Drinking Water Act to require the Administrator of the Environmental Protection Agency to publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for total per- and polyfluoroalkyl substances.	The legislation was introduced on May 17, 2021 and referred to the House Committee on Energy and Commerce.
H.R.3293	Rep. Lisa Blunt Rochester (D-DE)	Low-Income Water Customer Assistance Programs Act	The legislation would amend the Safe Drinking Water Act and the Federal Water Pollution Control Act to establish programs to assist low-income households in maintaining access to drinking water and wastewater services.	The legislation was introduced on May 18, 2021 and referred to the relevant committees. The legislation has passed out of the House Energy and Commerce Committee by a vote of 32-24 and now moves on to consideration on the House floor.

S. 953	Sen. Ron Wyden (D-OR)	Water for Conservation and Farming Act	The legislation would create a Reclamation fund of \$300M to support water recycling projects, water-use efficiency projects and dam safety projects; the WaterSMART program to increase water supply reliability by funding infrastructure and conservation projects; establishes a grant program for any Reclamation States, Tribes, nonprofit conservation organizations, irrigation or water districts, and regional and local authorities to complete habitat restoration projects that improve watershed health and mitigate climate change; among other actions.	Introduced on March 24, 2021 and referred to the Committee on Energy and Natural Resources.
H.R. 3286	Rep. Raul Ruiz (D-CA)	Emergency Order Assurance, Safety, and Inspection of water Systems (Emergency OASIS Act)	The legislation would require the EPA to establish regulations to flush a drinking water system if contaminants were present in the system for longer than six months, or if water stood motionless in the system for longer than six months.	Introduced on May 17, 2021 and referred to the House Committee on Energy and Commerce.
H.R. 3622 / S. 1907	Rep. Chris Pappas (D-NH) / Sen. Kirsten Gillibrand (D-NY)	Clean Water Standards for PFAS Act	The legislation would require the Administrator of the Environmental Protection Agency to develop effluent limitations guidelines and standards and water quality criteria for PFAS under the Federal Water Pollution Control Act, to provide Federal grants to publicly owned treatment works to implement such guidelines and standards	Introduced in the House on May 28, 2021, and in the Senate on May 27, 2021.  The legislation in the House is bipartisan.

S. 2168 / S.2567	Sen. Mike Braun (R-IN) / Sen. Shelley Moore Capito (R-WV)	Define WOTUS Act / Navigable Waters Protection Act of 2021	The legislation would amend the Federal Water Pollution Control Act to modify the definition of navigable waters, and to make the definition of the "waters of the United States" permanent.	These bills were introduced in June and July of 2021 in response to the EPA's announcement earlier in June of its intent to rewrite the Navigable Waters Protection rule.
H.R. 3814 / S. 717	Rep. Liz Cheney (R-WY) / Sen. Mike Lee (R-UT)	Undoing NEPA's Substantial Harm by Advancing Concepts that Kickstart the Liberation of the Economy Act (UNSHACKLE Act)	The legislation combines the following five stand-alone NEPA reform bills on agency process, state expansion, legal changes, and data reporting into one comprehensive text. - NEPA Agency Process Accountability Act - NEPA Accountability and Enforcement Act - NEPA State Assignment Expansion Act - NEPA Legal Reform Act - NEPA Data Transparency Act	The Senate legislation was introduced on March 11, 2021 and referred to the Committee on Environment and Public Works.  The House legislation was introduced on June 11, 2021 and referred to the House Committees on Natural Resources; Judiciary; Transportation and Infrastructure; and Energy and Commerce.
H.R. 4647 / S. 2430	Rep. Jared Huffman (D-CA) / Sen. Dianne Feinstein (D-CA)	Water Conservation Rebate Tax Parity Act	The legislation would amend federal tax law so that homeowners wouldn't pay income tax on rebates from water utilities for water conservation and water runoff management improvements	The House legislation was introduced on July 22, 2021 and referred to the House Committee on Ways and Means. The legislation in the Senate was introduced on July 22, 2021 and referred to the Senate Committee on Finance.
S.2454	Sen. Alex Padilla (D-CA)	Water Reuse and Resiliency Act	The legislation would authorize \$1 billion over five years for the EPA's Pilot Program for Alternative Water Source Projects grants program. This is an increase from the \$125 million over five years authorized for the program in the Drinking Water and Wastewater Infrastructure Act passed by the Senate in April.	The legislation was introduced on July 22, 2021 and referred to the Senate Committee on Environment and Public Works.

H.R. 1352	Rep. Brenda Lawrence (D-MI)	Water Affordability, Transparency, Equity, and Reliability Act of 2021	The bill would create a trust fund to support drinking water and clean water infrastructure. Additionally, the bill provides \$34.85 billion a year to drinking water and wastewater improvements; creates a water trust fund; creates up to nearly 1 million jobs across the economy and protect American workers; prioritizes disadvantaged communities with grants and additional support; expands funding for technical assistance to small, rural, and indigenous communities; funds projects to address water contamination from PFAS; requires US EPA to study water affordability, shutoffs, discrimination, and civil rights violations by water providers; upgrades household wells and septic systems; helps homeowners replace lead service lines; and provides more than \$1 billion a year to update water infrastructure in public schools.	<p>The legislation was introduced on February 25, 2021 and was referred to the relevant committees.</p> <p>The legislation has 86 cosponsors, including 14 members of the California delegation.</p>
H.R.4915	Rep. Tom McClintock (R-CA)	Water Supply Permitting Coordination Act	The legislation would authorize the Secretary of the Interior to coordinate Federal and State permitting processes related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture and to designate the Bureau of Reclamation as the lead agency for permit processing.	The legislation was introduced on August 3, 2021 and referred to the House Committee on Natural Resources.
H.R. 4976	Rep. Elissa Slotkin (D-MI)	Ensuring PFAS Cleanup Meets or Exceeds Stringent Standards Act	The legislation directs the Secretary of Defense to ensure that removal and remedial actions relating to PFAS contamination result in levels meeting or exceeding certain standards.	The legislation was introduced in the House on August 6, 2021 and was referred to the House Committees on Armed Services, Transportation and Infrastructure, and Energy and Commerce.

<p>S.2372 / H.R.2773</p>	<p>Sen. Heinrich, Martin (D-NM) / Representative Debbie Dingell (D-MI)</p>	<p>Recovering America's Wildlife Act of 2021</p>	<p>The legislation would fund conservation efforts for more than 12,000 species of wildlife and plants in need of assistance by providing \$1.3 billion in dedicated annual funding for proactive, on-the-ground efforts across the country, ensure wildlife recovery efforts will be guided by the Congressionally-mandated State Wildlife Action Plans, which identify specific strategies to restore the populations of species of greatest conservation need, accelerate the recovery of 1,600 U.S. species already listed as threatened or endangered under the Endangered Species Act, and include improvements to ensure funds are appropriately targeted to the areas of greatest need and facilitate additional investments in protecting at-risk plant species.</p> <p>In the Senate, RAWA also directs fees and penalties assessed for environmental violations to help fund RAWA, using fee and penalty amounts that aren't already targeted for existing environmental funds.</p>	<p>The legislation was introduced on July 15, 2021 and referred to the Committee on Environment and Public Works. It was reported favorably out of Committee on April 27 and placed on the Senate calendar.</p> <p>The House bill was introduced on April 22. The House Natural Resources Subcommittee on Water, Oceans, and Wildlife held a hearing on the legislation on July 29, 2021. On January 19, the legislation passed out of the House Natural Resources Committee by a vote of 29-15 and now moves on to consideration on the House floor.</p>
<p>H.R.4602 / S.3956</p>	<p>Rep. Alan Lowenthal (D-CA) / Rep. Lisa McClain (R-MI) and Sen. Jeff Merkley (D-OR) / Sen. Susan Collins (R-ME)</p>	<p>WIPPES Act</p>	<p>The legislation would direct the Federal Trade Commission to issue regulations requiring certain products to have "Do Not Flush" labeling</p>	<p>The legislation was introduced on July 21, 2021 and referred to the Committee on Energy and Commerce.</p> <p>Rep. Lowenthal introduced the stand-alone bill after introducing a similar amendment to the House's infrastructure bill.</p> <p>The Senate bill was introduced on March 30, 2022.</p>

H.R.6591	Rep. Lisa McClain (R-MI) / Rep. Alan Lowenthal (D-CA)	PIPES Act	The legislation would require the Administrator of the Environmental Protection Agency to publish a rule that establishes standards for the flushability of disposable nonwoven wipes.	The legislation was introduced on February 3, 2022 and was referred to the House Committee on Energy and Commerce.
S. 2806 / H.R. 3534	Sen. Dianne Feinstein (D-CA) / Rep. Jimmy Panetta (D-CA)	Wildfire Emergency Act of 2021	Amongst other things, the legislation authorizes \$250 million over 5 years for up to 20 Forest Service projects of 100,000 acres or greater; Establish a new \$100 million grant program to assist critical facilities like hospitals and police stations become more energy efficient and better adapted to function during power shutoffs; Establishes one or more Prescribed Fire Centers to coordinate research and training of foresters and forest managers in the western United States in the latest methods and innovations in prescribed fire (controlled burns) practices.	The Senate legislation was introduced on September 22, 2021 and referred to the Committee on Energy and Natural Resources.  The House bill was introduced on May 25, 2021 and was referred to the Subcommittee on Conservation and Forestry.
S. 3011 / H.R. 5735	Sen. John Cornyn (R-TX) / Rep. Dusty Johnson (R-SD)	State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act	The legislation provides additional flexibility for States, Tribes, and units of local government to spend their allocations of the COVID Relief Funds on certain infrastructure projects, including water, wastewater, and broadband infrastructure projects. The bill also allows these funds to be used to provide emergency relief from natural disasters. There is a cap—the greater of \$10 million or 30% of the funds—on how much of the COVID money can be spent on these new purposes.	The legislation was introduced on October 19, 2021 and passed the Senate by unanimous consent that day.  Senator Alex Padilla (D-CA) is an original cosponsor of the legislation.  The act was introduced in the House on October 26 and referred to the House Committee on Oversight and Reform.

<p>H.R. 6461 / S. 3531</p>	<p>Rep. Scott Peters (D-CA) / Sen. Chris Coons (D-DE)</p>	<p>National Climate Adaptation and Resilience Strategy Act</p>	<p>The legislation creates a Chief Resilience Officer, among other positions, that will assist the President to streamline the federal response to climate hazards that threaten human health, safety, and critical infrastructure.</p> <p>The act also calls for a Climate Adaptation and Resilience Strategy that outlines the federal government's response to climate hazards such as sea level rise, drought, biodiversity loss, and coastal bank erosion.</p>	<p>The legislation was introduced in the House on January 20, 2022 and referred to the Committee on Energy and Commerce.</p> <p>The legislation was introduced in the Senate on January 20, 2022, read twice, and referred to the Committee on Homeland Security and Government Affairs.</p>
<p>H.R. 6396</p>	<p>Rep. Earl Blumenauer (D-OR)</p>	<p>Climate RESILIENCE Act</p>	<p>The act amends FEMA's disaster definition to include extreme temperature events, like heat waves and freezes; changes FEMA's definitions and cost share eligibility requirements for disadvantaged communities and underserved communities; includes a focus on resiliency planning and investments; provides both financial and non-financial technical assistance for hazard mitigation planning, as well as for grant applications for small impoverished and disadvantaged communities; and expands Pre-Disaster Mitigation Assistance funding to address FEMA's oversubscription issues.</p>	<p>The legislation was introduced in the House on January 13, 2022 and referred to the Committee on Transportation and Infrastructure.</p> <p>The legislation has 32 cosponsors, including 8 members of the California delegation.</p>



H.R.6492	Rep. Pramila Jayapal (D-WA)	Climate Resilience Workforce Act	<p>The bill establishes a climate resilience workforce in communities most affected by the climate crisis. It also funds the development of regional, state, local, and community-based climate resilience action plans.</p> <p>The legislation creates an Office of Climate Resilience within the White House, starts new workforce development programs, and removes barriers to employment in climate resilience jobs based on immigration status and prior involvement with the criminal justice system.</p>	<p>The legislation was introduced in the House on January 25, 2022 and referred to the Subcommittee on Conservation and Forestry.</p> <p>The legislation has 38 cosponsors, including 9 members of the California delegation.</p>
H.R. 6989	Rep. Ted Lieu (D-CA)	Housing for All Act of 2022	<p>This legislation would address critical affordable housing shortages in California and across the country by investing in hotel and motel conversions to permanent supportive housing with supportive services; investing in the Eviction Protection Grant Program; investing in mobile crisis intervention teams to help those with medical or psychological needs avoid the criminal justice system; investing in libraries that support people experiencing homelessness; investing in programs that offer a safe place to park overnight and facilitate access to rehousing services and essential services; and investing in inclusive, transit-oriented development and infill development</p>	<p>The legislation was introduced in the House on March 8, 2022 and referred to the Subcommittee on Highways and Transit.</p> <p>The legislation has 14 cosponsors, including 12 members of the California delegation.</p>
S. 623	Sen. Marco Rubio (R-FL)	Sunshine Protection Act of 2021	<p>This bill makes daylight saving time the new, permanent standard time, effective November 5, 2023.</p>	<p>The legislation passed the Senate on March 15, 2022 and sent to the House.</p>

S. 4081	Sen. Tammy Baldwin (D-WI)	Healthy H2O Act	The bill provides grants for water testing and treatment technology directly to individuals, non-profits and local governments in rural communities. Grants, provided by the USDA, would allow the purchase and installation of point-of-use or point-of-entry water quality improvement systems that remove or significantly reduce contaminants from drinking water.	The legislation was introduced in the Senate on April 26, 2022 and referred to the Senate Committee on Agriculture, Nutrition, and Forestry.
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Enacted Legislation (Removed after 2 months)

H.R. 2471	Rep. Hakeem Jeffries (D-NY)	Consolidated Appropriations Act, 2022	This \$1.5 trillion bill provides appropriations to federal agencies for the remainder of FY22, provides supplemental appropriations for activities to support Ukraine, and modifies or establishes various programs that address a wide range of policy areas. The bill includes the 12 regular appropriations bills that fund federal agencies for FY2022.	The legislation passed the House on March 9, 2022 and passed the Senate the following day.  President Biden signed the bill into law on March 15, 2022.
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# INNOVATIVE FEDERAL STRATEGIES, LLC

*Comprehensive Government Relations*

## MEMORANDUM

**To:** SBVMWD Board of Directors – Policy Workshop

**From:** Letitia White, Jean Denton, and Drew Tatum

**Date:** May 2, 2022

**Re:** April Monthly Legislative Update

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### **Top Appropriators Meet to Begin Fiscal Year 2023 Spending Talks**

On Thursday, April 28, top House and Senate appropriators met to kick off bipartisan spending talks for fiscal year 2023. However, they said it will take time before they come to a deal on government funding levels.

The so-called “four corners” met to discuss how to fund the government, approximately five months before the September 30th deadline. The meeting included Senate Appropriations Chairman Patrick Leahy (D-VT), Vice Chairman Richard Shelby (R-AL), House Appropriators Chair Rosa DeLauro (D-CT), and Ranking Member Kay Granger (R-TX).

In an interview with reporters, House Majority Leader Steny Hoyer (D-MD) said that it’s his hope lawmakers will agree on a topline spending figure soon. However, Appropriators are skeptical they’ll strike a deal soon.

Representative DeLauro spoke to reporters saying, “It’s an initial meeting. There’ll be maybe several more.”

Senator Shelby has said that he’ll push for an increase to defense spending given inflation. This comes with the support of Senate Armed Services Committee ranking member Jim Inhofe (R-OK) who has said that the defense number should be 3-5% higher than the rate of inflation.

Appropriators are motivated to make progress as DeLauro has signaled saying, “Everybody seems to want to be moving as quickly as we can, which is very, very good, with the goal of getting the bills done without a continuing resolution. And so all of that is very positive, but we have to try to figure out how to get there.”

Appropriators are hoping to come to an agreement on defense and non-defense topline spending numbers soon to avoid a repeat of the fiscal year 2022 appropriations cycle. During the FY22 cycle, negotiations didn’t produce final topline numbers until early 2023, which delayed final passage of the FY22 Consolidated Appropriations Act. With no agreement last year, the Senate Appropriations Committee did not mark up most of its individual FY22 bills and the House moved ahead with subcommittee allocations that include a modest defense increase and substantial non-defense increases.

## *Innovative Federal Strategies LLC*

### **Democrats Attempt to Address Gas Costs by Targeting Oil Companies**

On Thursday, April 29, Democratic leaders from both the House and Senate accused the nation's largest oil companies of "price gouging" and causing the spike in gas prices around the world.

Speaker Nancy Pelosi (D-CA) and Senate Majority Leader Chuck Schumer (D-NY) announced they would be moving quickly in the upcoming weeks to vote on legislation to empower the government at the federal and state level to be able to curb the industry to reduce costs.

Democrats argue that since the oil companies are reporting enormous profits, they can pass those gains on to the consumers instead of shareholders.

Pelosi said, "They are hoarding the windfall while keeping prices high for people at the pump. This time of war — in any time — there is no excuse for big oil companies to profiteer, to price-gouge or exploit families."

The legislation would give a new authority to the Federal Trade Commission (FTC) as well as the state attorneys general to scrutinize the way in which fuel prices are set at the wholesale and retail level. This would also include the powers to impose civil penalties on those companies in violation.

The proposal is currently moving through both the House and Senate.

Senate Commerce Committee Chair Maria Cantwell (D-WA) said, "We know that energy markets can be manipulated. We need to make sure that there is a policeman on the beat."

She added that the FTC "has some authority now...but they need more tools."

Gas prices are increasingly becoming an issue for Democrats as they approach this election season. Senator Schumer said the leadership strategy of focusing on oil companies is supported by the American public.

"If you ask the American people, in all the survey data, what is causing the increase in gas prices, number one is market manipulation and Big Oil not giving a break. That is what we're focusing on," Schumer said this week.

Democratic leaders intend to finish drafting both bills and bring them to the House and Senate floor as soon as possible.

Pelosi said "Ours [the House version] has a little more to be done in the course of the next week. We would hope to have all of this done pretty soon."

Democrat leadership remains confident that some Republicans will be forced to support.

She asked, "If the Republicans stand in the way of us feeling the consumer of the stranglehold of Big Oil, you think they're going to blame that on the Democrats?"

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### **Senate Works to Finalize Additional COVID-19 Legislation**

Senate negotiators have reached a bipartisan agreement to provide \$10 billion in funding for the continued response to COVID-19. The negotiations were led by Senator Mitt Romney (R-UT) and Senate Majority Leader Chuck Schumer (D-NY).

The Senate negotiations came after provisions to provide roughly \$15 billion in funding were pulled from the FY22 Consolidated Appropriations Act due to objections from Democrats on how to pay for the spending. That \$15 billion had been partially offset by rescinding funding from American Rescue Plan Act funding for states, which would have had an unequal impact on states. Several Democrats threatened to withhold their support for the rule for the legislation, which forced the leadership to remove the funding from the omnibus.

The new legislation is offset, primarily by repurposing funds from other provisions of the American Rescue Plan Act. While Democrats had called for additional funding for global vaccination efforts, no additional funding was included according to a press release from Senate Appropriations Committee Chairman Patrick Leahy (D-VT).

Funding in this legislation would only go to the Department of Health and Human Services, with \$9.25 billion going to the Biomedical Advanced Research and Development Authority (BARDA), of which \$5 billion would be used to research, develop, manufacture, produce, purchase, and administer therapeutics.

A one-page summary of the legislation's expenditures and offsets can be found here: <https://www.romney.senate.gov/wp-content/uploads/2022/04/COVID-deal-one-pager.pdf>

While the House and Senate had hoped to pass the legislation before the two-week recess, that ran from April 11 – 22, neither chamber was able to advance the legislation.

Republicans have objected to expedited consideration of new coronavirus legislation without taking votes on amendments related to Title 42. The Centers for Disease Control issued a public health order on March 20, 2020, that officials said aimed to stop the spread of Covid-19. The order allowed authorities to swiftly expel migrants at US land borders. President Joe Biden has indicated he intends to end the use of Title 42 authorities in May, which has drawn criticism from Republicans who say it will cause another surge of migrants at the southern border.

Senate Minority Leader Mitch McConnell (R-KY) has indicated Senate Republicans will continue to insist for a Title 42 vote on a Covid funding package when it is brought up in the Senate. A number of Democrats have also raised concerns about the administration's Title 42 policy.

In an effort to address Democratic defections on the administration's decision to end Title 42, Department of Homeland Security Secretary Alejandro Mayorkas has released a 20-page memo on the department's plan for "Southwest Border Security and Preparedness."

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Note that the U.S. District Court for the Western District of Louisiana on Monday April 18 granted a request from a multistate coalition to temporarily preserve Title 42.

### **Senate Confirms Judge Ketanji Brown Jackson to Supreme Court**

The Senate voted to confirm Judge Ketanji Brown Jackson to serve as an Associate Justice on the United States Supreme Court on April 7, 2022. Jackson will be the first Black female to sit on the Supreme Court. Her appointment will take effect upon the retirement of Supreme Court Justice Stephen Breyer at the end of the Court's current term this summer.

Senators voted 53-47 on Jackson's confirmation. GOP Senators Susan Collins (R-ME), Lisa Murkowski (R-AK), and Mitt Romney (R-UT) joined the chamber's 50 Democrats in supporting the nomination.

Senate Majority Leader Chuck Schumer (D-NY) called the confirmation, "a joyous, momentous, groundbreaking day. In the 233-year history of the Supreme Court, never — never — has a Black woman held the title of 'justice.' Ketanji Brown Jackson will be the first, and I believe the first of more to come."

Senator Raphael Warnock (D-GA), one of three Black lawmakers in the Senate, added "The historic nature of the appointment isn't lost on me. I know what it has taken for Judge Jackson to get to this moment, and nobody is going to steal my joy."

Vice President Harris, who is the first female and first Black and Asian American person to hold the office, presided over the chamber's confirmation.

She told reporters, "I'm overjoyed, deeply moved. You know, there's so much about what's happening in the world now that is presenting some of the worst of ... human behaviors and then we have a moment like this that I think reminds us that there is still so much yet to accomplish and that we can accomplish, including a day like today that is so historic and so important, for so many reasons. I do believe it is a very important statement about who we are as a nation, that we have just made a decision to put this extraordinary jurist on the highest court of our land. It's a good statement about who we are."

The vote ended a forty-day sprint to her confirmation as the White House and Senate Democrats worked quickly to confirm her nomination.

### **Inflation Hits Highest Rates in Decades**

The Biden Administration was bracing for "extraordinarily elevated" inflation numbers ahead of the Department of Labor's release of March inflation data.

The consumer price index, which measures a wide-ranging basket of goods and services, jumped 8.5% from the same time in 2021 on an unadjusted basis.

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Excluding food and energy, so-called “core CPI” increased 6.5% on a 12-month basis, in line with the expectation. However, there were signs that core inflation appeared to be ebbing, as it rose just 0.3% for the month, less than the 0.5% estimate. That in turn sparked some hope that inflation overall was easing, and that March might represent the peak.

Federal Reserve Governor Lael Brainard said the slowing increase in core CPI is a “welcome” development in the effort to bring down inflation.

“I’ll be looking to see whether we continue to see moderation in the months ahead,” Brainard said after the release of the numbers.

The data reflected price rises not seen in the U.S. since the stagflation days of the late 1970s and early ’80s. March’s was the highest since December 1981. Core inflation was the hottest since August 1982.

Due to the surge in inflation, worker wages, despite rising 5.6% from a year ago, weren’t keeping pace with the cost of living. Real average hourly earnings posted a seasonally adjusted 0.8% decline for the month, according to a separate Bureau of Labor Statistics report.

The inability of wages to keep up with costs could add to inflation pressures.

### **Opportunity Zone Legislation Seeks to Make Program Changes**

A bipartisan coalition of lawmakers want to change and extend the opportunity zone program created by the 2017 tax law to enhance investment and business creation in economically underserved areas of the U.S.

The Republican-led tax law established capital gains tax incentives for investors who develop real estate or fund businesses in more than 8,700 designated areas across the U.S.

The new legislation would establish reporting requirements for funds that raise capital for opportunity zone projects and the investors who are putting money into those funds. The absence of those data requirements—which were present in an original standalone opportunity zones proposal but weren’t in the 2017 tax law—has been a source of criticism for the program.

Senators Cory Booker (D-NJ) and Tim Scott (R-SC) introduced the new proposal in the Senate, while Representatives Ron Kind (D-WI) and Mike Kelly (R-PA) introduced the House companion.

“The Opportunity Zone incentive has the potential to unleash much-needed economic growth in high poverty communities across the country—communities that investors too often overlook,” Booker said in a statement. “But without robust guardrails in place, the incentive could be undermined or abused by those who aren’t committed to uplifting rural and urban communities across the country.”

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The bill also would extend the program by two years, which the sponsors said would help facilitate further investment in the program. Under the proposal, investors would be allowed to defer paying taxes on capital gains invested in opportunity zones until the end of 2028.

The bipartisan proposal also would:

- sunset opportunity zone designation for census tracts at or above 130% of the national median for family income and allow states to replace those areas with eligible high-need communities;
- allow qualified funds to be organized as a “fund of funds” that can invest in other opportunity zone funds; and
- create a federal grant program for state governments to assist and encourage opportunity zone projects.

States would have a limited opportunity to make new areas eligible for opportunity zone tax breaks under the bill.

More than 8,700 census tracts across the U.S. are eligible for capital gains tax perks created in the Republican-led 2017 tax law with the intention of driving investment into overlooked communities.

The two provisions of the legislation that would allow for changes to the opportunity zones maps include the proposal to strip eligibility from more affluent neighborhoods and language allowing for more zones in previously contaminated areas known as brownfields.

Under original designation rules, areas with no residents weren't eligible for the tax breaks. The new legislation would allow for population-free areas to be designated as an opportunity zone as long as are adjacent to an existing zone and include a brownfield.

Reopening the opportunity zone map offers a chance to create new zones that aren't currently eligible for the incentives while also partly addressing criticism that the incentives are benefiting projects that would have been built anyway.

There has been a lot of interest in re-drawing the opportunity zone maps to make more areas eligible, but this proposal would only impact a very narrow subset of opportunity zones.

### **Administration Pauses Student Loan Payments Again**

President Joe Biden has extended the pause on federal student loans through August 31, 2022, pushing back the deadline to restart payments for the fourth time during his administration. The most recent extension was set to expire at the end of April.

The student loan relief began at the start of the Covid-19 pandemic under the CARES Act (Public Law 116-136) and was initially extended by President Donald Trump through executive action.



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Approximately 42.3 million borrowers with federal student debt don't have to make payments during the moratorium and interest doesn't accrue on their loans. Democrats have pushed for additional loan forgiveness, while Republicans say waiving the debts presents a burden to taxpayers.

More information from the Department of Education can be found here:

<https://www.ed.gov/news/press-releases/biden-harris-administration-extends-student-loan-pause-through-august-31>

### **Supreme Court Reinstates Trump-era CWA Certification Rule**

The Supreme Court reinstated a Trump-era rule that curtails the power of states and tribes to block pipelines and other energy projects.

In a decision that split the court 5-4, the justices agreed to halt a lower court judge's order throwing out the rule. The Supreme Courts stayed a decision from the United States District Court for the Northern District of California issued in October 2021 that remanded and vacated the United States Environmental Protection Agency's (USEPA) 2020 Clean Water Act Section 401 Certification Rule (2020 Rule).

The Biden administration had told the justices in a court filing that it agreed that the U.S. District Court Judge William Alsup lacked the authority to throw out the rule without first determining that it was invalid. But the administration had urged the court not to reinstate the rule, saying that in the months since the Alsup's ruling, officials have adapted to the change, reverting to regulations in place for decades. Another change would "cause substantial disruption and disserve the public interest," the administration said.

Note that the Biden administration has also signaled that it is already rewriting the rule, which it expects to publish in the federal register in early 2023. The current litigation does not impact the rule's rewrite. When the Trump administration was vacated by the District Court, the agency reverted to using the 1971 rule that had been in effect prior.

The section of federal law at issue in the case is Section 401 of the Clean Water Act. For decades, it had been the rule that a federal agency could not issue a license or permit to conduct any activity that could result in any discharge into navigable waters unless the affected state or tribe certified that the discharge was complied with the Clean Water Act and state law, or waived certification.

The Trump administration in 2020 curtailed that review power after complaints from Republicans in Congress and the fossil fuel industry that state officials had used the permitting process to stop new energy projects. The Trump administration said its actions would advance then-President Donald Trump's goal to fast-track energy projects such as oil and natural gas pipelines.

States, Native American Tribes and environmental groups sued. Several mostly Republican-led states, a national trade association representing the oil and gas industry and others have

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intervened in the case to defend the Trump-era rule. The states involved in the case are: Arkansas, Louisiana, Mississippi, Missouri, Montana, West Virginia, Wyoming and Texas.

### **Marijuana Legalization Bill Timeline Pushed to Before August Recess**

Democrat Senators behind the push to legalize marijuana are now saying they plan on introducing legislation before the August recess. This statement comes after an initial announcement to file a comprehensive reform bill.

Senate Majority Leader Chuck Schumer (D-NY), Senator Cory Booker (D-NJ), and Ron Wyden (D-OR) are leading the push. In a statement, Senator Schumer said that he's proud of the progress made in a "bring this vital bill closer to its official introduction."

Schumer said the bill, called the Cannabis Administration and Opportunity Act, will "remove cannabis from the federal list of controlled substances and help repair our criminal justice system, ensure restorative justice, protect public health, and implement responsible taxes and regulations."

The announcement follows one made by Senator Schumer weeks before stating that the senators behind the bill planned to bring the legislation to the floor later this month.

Previously, Senator Schumer said, "We hope to do that towards the end of April" and noted he had been in talks with "a few Republicans to see what they want."

A large number of Republicans are opposed to legislation legalizing marijuana, one of the largest hurdles to the legislation in the 50-50 split Senate. Senate Democrats will need the support of the entire caucus as well as 10 Republicans to break ranks to get past the filibuster.

Some Senate Democrats have expressed reservations about the use of recreational marijuana putting up an additional roadblock to the legislation.

Senator Wyden said in a statement that it is important for the text of the bill to be complete before the August recess to "continue building momentum for cannabis reform."

### **Bipartisan Infrastructure Package Success Lost in Inflation Woes**

During this campaign season, Democrats are touting the benefits of the of the bipartisan infrastructure package and assuring voters about what they're doing to combat inflation.

The \$550 billion infrastructure law was thought to be a surefire win for lawmakers on the campaign trail as it funded many local projects. However, their victories are being overshadowed by rising prices due to inflation.

President Biden and his cabinet secretaries began traveling to reinforce the messaging of the benefits that came from infrastructure spending. They are doing so while simultaneously

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addressing concerns about the state of inflation. This balance will be key in Democrats ability to maintain control of the Senate and House.

Senator Raphael Warnock (D-GA) is seeking a six-year term after he won a special election in 2020. He has taken the approach of reminding the voters of the impact of the infrastructure legislation.

In an interview, he has said, “I don’t think it’s an either or. The bipartisan infrastructure bill in the long run is good news for jobs, for opportunity, and for energy. But immediately I’m focused on dealing with addressing rising costs. We need to hold oil and gas corporations accountable.”

Senator Mark Kelly (D-AZ) is also running for a full term after winning a special election, has been highlighting his work to complete neglected interstate highway projects.

In an interview, he said, “They know there’s funding there, and they know that we’re going to get a lot of these problems fixed. I know people don’t focus on that. They focus on what else is the next problem. It’s the rising cost of gasoline.”

Republicans, however, are using inflation to as a pressure point for the midterms.

Senator Rick Scott (R-FL) said in an interview, “I think [the American people] just feel like the Democrats know they’re responsible and they’re not fixing things.”

Democrats continue to push back with the successes they’ve had push the infrastructure law across the finish line.

States with tight races, have seen ads specifically touting the infrastructure law. Senator Sherrod Brown (D-OH) ran an ad demonstrating how the infrastructure law will lead to replacements for lead pipes.

Senator Gary Peters (D-MI), Democratic Senatorial Campaign Committee Chair, has said, “We’re pushing it across the board. Battleground states are places like Arizona that need to have infrastructure to keep up with the growth they’re seeing. And places like Pennsylvania and Ohio where we need to make sure infrastructure is maintained and improved.”

### **Department of Justice Appeals Mask Mandate Ruling**

The Justice Department has filed an appeal that seeks to reverse a judge's recent ruling that ended the nation's mask mandate on public transit. The Centers for Disease Control and Prevention had asked the department to appeal the decision, issuing a statement Wednesday, April 20 that said the mandate "remains necessary for the public health."

"CDC continues to recommend that people wear masks in all indoor public transportation settings," the CDC's statement continued. "CDC's number one priority is protecting the public health of our nation. As we have said before, wearing masks is most beneficial in crowded or poorly ventilated locations, such as the transportation corridor."

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The Justice Department said it would appeal U.S. District Judge Kathryn Kimball Mizelle's decision only if the CDC said the mandate was still necessary. The department said that it disagreed with the district court's decision, and upon filing the appeal, Justice Department spokesman Anthony Coley issued a statement saying, "In light of today's assessment by the CDC that an order requiring masking in the transportation corridor remains necessary to protect the public health, the Department has filed a notice of appeal in *Health Freedom Defense Fund, Inc., et al., v. Biden, et al.*"

On Monday, April 18, Mizelle voided the CDC's requirement covering airplanes and other public transit, ruling that the mandate exceeded the authority of U.S. health officials. In the aftermath, the Transportation Security Administration said it would no longer enforce the mandate.

Even though the administration has appealed the decision, it did not request that the judge's ruling in the case be stayed so that the mandate could go back into place.

### **FERC Releases Proposed Rules to Factor in Bad Weather**

The top U.S. energy regulator released the first set of draft rules for upgrading and expanding the country's aging electric grid to create a cleaner, more resilient network.

The Federal Energy Regulatory Commission (FERC) proposed rules that would require regional transmission planning to consider at least 20-year impacts, including the changing power-and-demand mix and extreme weather events, according to a staff presentation released. Utilities and planners will also be required to seek agreement from states in each region for cost allocation. The comment period is 75 days.

The current planning approach doesn't sufficiently anticipate the grid's transformation and pressures from extreme weather, said Chairman Richard Glick said in a webcast of the commissioners' first in-person meeting since the start of the pandemic. Glick and Commissioner Mark Christie said states will have unprecedented opportunity to participate in this process.

"The nation's electricity grid is the backbone for an increasingly digitalized and electrified U.S. economy," Commissioner Allison Clements said. "Its affordability, reliability, resilience and security are essential to every individual and families' ability to thrive and to access economic opportunities."

FERC committed last summer to make the biggest push to overhaul outdated transmission rules in a decade to spur more competition and allocate costs to help speed up projects. Big transmission projects can take a decade or longer to build. An "enormous" amount of high voltage lines are needed, Glick said last month, to connect hundreds of gigawatts of solar and wind in remote areas to consumers, who ultimately pay for it all.

Separately, FERC issued an order to the country's six regional grids to file reports about their changing systems and the need for potential reforms for the next five years and during the next decade. They have 180 days to file.

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About 70% of the U.S. power network is at least 25 years old and some regions are much older, “making it vulnerable to disruption and attack,” Clements said. There are also more than 1,400 gigawatts of new power supply and storage stuck in grid queues, she said.

The transmission rules would “provide a much-needed catalyst” for grid upgrades, especially when paired with investments from Congress, John Moore, director of the Sustainable FERC Project at the Natural Resources Defense Council, said in a statement.

The Notice of Proposed Rulemaking, along with information on the process to comment on the process, can be found here: <https://ferc.gov/news-events/news/ferc-issues-transmission-nopr-addressing-planning-cost-allocation>

### **States Call for Feds to Drop Constrains on Water Funding**

States are demanding greater flexibility in how they spend money from last year’s infrastructure law to overcome rising project costs and supply chain shortages, but a top EPA official said Thursday, April 21 that only Congress can grant them that leeway.

More than \$50 billion Congress earmarked for water system upgrades demands that local water officials think creatively about how to spend it, Radhika Fox, the Environmental Protection Agency’s assistant administrator for water, told state officials in Washington.

States have a severe lack of resources right now as supply chain shortages drive up project costs, Theresa Enright, Iowa State Revolving Fund coordinator, told Fox at a Council of Infrastructure Finance Authorities conference.

“There’s something about the timing of this funding that’s really going to be a struggle,” Enright said.

The infrastructure money will be provided to the states over the next five years, but they have to spend it quickly. States have only through the following fiscal year to spend each annual tranche of the money once they receive it, according to EPA guidance.

“Let’s waive some of those regulations that are costing our projects more—just for the time being,” Enright said.

But those waivers can only be granted by Congress, Fox said.

States are in charge of disbursing most of the \$50 billion through the EPA’s Drinking Water and Clean Water state revolving funds. Those funds assume states know best which water systems need upgrades and where their lead pipes are.

Fox urged states to “embrace complexity” and creativity in spending infrastructure funds using “possibility thinking,” even though states must work within legal constraints.

### **Administration Announces Staff to States**

The Biden administration is hiring federal workers to go to Georgia, Kentucky, New Mexico, Mississippi and tribal nations in Arizona to help rural communities access the federal resources available to them.

The initiative is the latest in the White House's push to spread the word about the bipartisan infrastructure law and Covid-19 relief funding, touting President Joe Biden's past legislative successes after a bigger domestic spending package stalled out in Congress.

Senior administration officials said that the initiative, led by the Agriculture Department, aims to continue expanding until it reaches all 50 states—if Congress provides the support requested in Biden's budget for fiscal 2023. An official said the administration is “hopeful” there will be bipartisan support for the effort, branded the Rural Partners Network.

“We will make the case to the American people, and they will help us make the case to Congress,” a senior official said, speaking to reporters on condition of anonymity. An administration official said each state in the network will get a team to support them as part of the effort.