

May 23, 2023

To: James Corless, Executive Director, Sacramento Area Council of Governments

From: Chris Lee, Partner, Politico Group
Kiana Valentine, Partner, Politico Group

Re: State Advocacy Report for May 2023

Politico Group is pleased to provide the following report to the Sacramento Area Council of Governments (SACOG) on recent state advocacy efforts. This report includes an overview of the Governor's May Revision to the proposed 2023-24 State Budget and initial actions by the Legislature in response. It also includes a summary of the Governor's Executive Order and legislative proposals on infrastructure permitting. Finally, we provide an update on recent actions regarding key state legislation.

AB 350 (Aguiar-Curry) Sustainable Communities Strategy (SCS) Update – SACOG-Sponsored Legislation

AB 350 was approved on the Assembly Consent Calendar with 74 votes (6 members were not present) on May 18. The bill was ordered to the Senate where the Rules Committee will assign it to policy committees for review. The bill must be approved by the relevant policy committees by July 14.

Governor's May Revision

Governor Newsom released his May Revision to his 2023-24 January Budget today with an updated projected budget shortfall of \$31.5 billion. The \$9.3 billion increase in the estimated budget shortfall since the January Budget was expected given ongoing monthly revenue shortfalls, although it is less than the \$40 billion deficit that many budget-watchers in Sacramento were projecting.

- **Key Transportation Provisions:** The May Revision maintains the Governor's proposed \$2.7 billion in General Fund transportation cuts from the January Budget, which were partially offset by \$500 million in state highway funds. The May Revision includes one additional exchange of \$150 million in state highway funds for General Fund for port-related infrastructure projects. While there is no specific proposal for additional state funding to support public transit operations, the May Revision expresses the Administration's intent to work with the Legislature on potential near- and long-term solutions to support the viability of transit across the state (see "*Next Steps*" below for a discussion of the Senate's subsequent action).
- **Key Housing and infrastructure Provisions:** The May Revision maintains the \$350 million in General Fund reductions for housing-related programs from the January Budget and adds a \$17.5 million cut and \$345 million deferral. The May Revision also expresses the Governor's intent to work with the Legislature on a climate resiliency-related bond, including proposing to offset \$1.1 billion in proposed cuts to several climate-related programs with future bond proceeds. This is the second bond proposal the Governor has signaled his interest in advancing, joining his proposal to bond against Mental Health Services Act funds to support capital projects related to mental health services and housing for people experiencing mental illness.

To solve the budget shortfall, the May Revision relies on additional permanent spending reductions and pullbacks; deferred spending; fund shifts and borrowing; new revenue, largely in the healthcare area; and a withdrawal from the State's Safety Net Reserve to avert cuts to health and human services programs. The Governor's May Revision does not propose to draw on reserves from the Budget Stabilization Account due to significant uncertainty in tax revenue and the economy, including the federal debt limit debate which could have impacts to the global economy, additional interest rate increases which could further slow the economy, uncertainty in financial institutions, and delayed tax receipts in California due to catastrophic winter storm events (approximately \$42 billion in tax receipts will not materialize until October 2023).

Transportation

The Governor proposes additional fund shifts to transportation programs in the May Revision. Specifically, the May Revision proposes to shift \$150 million in one-time spending for port and goods movement projects from the General Fund to the State Highway Account (SHA). The January Budget previously proposed shifts of SHA funding to offset \$300 million in General Fund for the Active Transportation Program and \$200 million in General Fund for the regional and local transportation projects under the Climate Adaptation Program. In total, the Governor is proposing to shift \$650 million in one-time General Fund spending to the SHA in FY 2023-24, which will have impacts to the State Highway Operation and Protection Program (SHOPP) in future years.

Infrastructure

Despite the state budget deficit, the May Revision estimates that the state will spend \$180 billion over the next ten years on roads, bridges, clean energy, public transit, water infrastructure and conveyance, broadband and other critical infrastructure from state and federal sources. The May Revision proposes statutory changes to expedite infrastructure projects that advance the state's climate, equity, and economic goals and maximize federal funding return (a discussion of the Governor's infrastructure permitting Executive Order and proposed trailer bills is included below).

Zero Emission Vehicles

The May Revision proposes to shift \$635 million General Fund spending (\$500 million in 2023-24) to the Greenhouse Gas Reduction Fund (GGRF) over three years to support the state's ongoing transition to Zero Emission Vehicles.

Climate Resilience Bond

The Governor's May Revision proposes to shift \$1.1 billion in General Fund from climate resilience programs to a future climate bond proposal, to be developed in collaboration with the Legislature.

Specific program impacts include:

- Water Recycling - \$270 million
- Salton Sea Restoration - \$169 million
- Community Resilience Centers - \$160 million
- Transformative Climate Communities - \$100 million
- Regional Resilience Program - \$100 million
- Urban Greening - \$100 million
- Statewide Parks Program - \$86.6 million

- Sustainable Groundwater Management Act Implementation - \$50 million
- Multi-Benefit Land Repurposing - \$20 million

Housing

The May Revision maintains the \$350 million in cuts and potential trigger restorations from the Governor's Budget, defers an additional \$345 million General Fund for acquisitions of foreclosed properties by non-profits to create affordable housing, and makes a \$17.5 million General Fund reduction to a \$25 million program for adaptive reuse of commercial and industrial structures for housing that failed to attract applications for the full amount of available funding.

The 2021 Budget Act Included \$500 million General Fund for the Foreclosure Intervention Housing Prevention Program through June 30, 2027. The May Revision defers \$345 million over four fiscal years with allocations of \$50 million in 2023-24, \$100 million in 2024-25, \$100 million in 2025-26, and \$95 million in 2026-27.

Next Steps

The Assembly and Senate conducted hearings this week to begin their review of the May Revision. On May 23, Senate Budget Subcommittee No. 5 took the following actions on the Governor's transportation proposals:

- Approved proposed fund shifts for the Active Transportation Program and Climate Adaptation Program; proposed reduction to the Active Transportation Program; and proposed delay to the Grade Separations Program.
- Rejected the proposed reductions to the Transit and Intercity Rail Capital Program (TIRCP).
- Adopted trailer bill language that allows for some flexibility of funds for TIRCP, contingent on meeting specific accountability and reform requirements.

The Committee also approved placeholder trailer bill language to provide statutory relief to transit operators as follows:

- Expand provisions that temporarily hold harmless transit operators that receive state funding and whose ridership levels have been negatively impacted by COVID-19.
- Extend the provisions that temporarily eliminate financial penalties for noncompliance with transit funding efficiency measures in the Transportation Development Act and the State Transit Assistance Program.
- Expand provisions that allow for increased flexibility in the use of funds transit operators receive from the State Transit Assistance - State of Good Repair program and the Low Carbon Transit Operations program.
- Create a Task Force to examine ways to improve transit and increase ridership in the long term, including reforming the Transportation Development Act

The Legislature has a constitutional deadline of June 15 to adopt a balanced budget, however, it is likely that many additional budget bills amending the June 15 budget, as well as trailer bills that make policy changes to implement the budget, will be debated and adopted after the deadline—likely through the end of the legislative session on September 15.

Governor Signs Infrastructure Permitting Executive Order and Unveils Legislative Proposals

Governor Newsom unveiled a package of 10 statutory proposals aimed at accelerating infrastructure projects in California and signed a related Executive Order on May 19 at the site of a future solar farm currently under development in Stanislaus County. [Executive Order N-8-23](#), among other things, orders the creation of an Infrastructure Strike Team (Strike Team) to work across all state agencies to maximize federal and state funding opportunities for infrastructure projects. To do so, the Strike Team will:

1. Identify projects for streamlining efforts with a focus on projects that have significant challenges but also opportunities for meaningful job creation;
2. Support coordination between all levels of government on project review, permitting, and approvals;
3. Support infrastructure in specific sectors by investing in adjacent sectors (e.g. transportation and energy investments that support housing projects); and
4. Share challenges and best practices and identify areas for improvement.

The Executive Order also calls on the Strike Team to track individual projects and establish dashboards so that project status and milestones information is available to the public.

The legislative proposals, which he intends to introduce as trailer bills to the 2023-24 state budget, including the following (language and fact sheets can be found [here](#)):

1. **CEQA Administrative Record** – would clarify and streamline the administrative record requirements to allow CEQA administrative records to be developed more expediently, with fewer litigation delays. Specifically, the bill creates timeframes the petitioner must follow if they elect to prepare the administrative record, provides that internal emails within the lead agency that are not presented to the final decisionmaking body are not required to be included in the record, and allows electronic filing of the record.
2. **CEQA Judicial Streamlining** – to the extent feasible, requires that any judicial challenges and appeals be completed within 270 days for qualifying projects in the areas of energy infrastructure projects, federal CHIPS Act-eligible manufacturing projects, transportation-related projects, and water-related projects. Eligible projects must be certified by designated state officials. For transportation projects, the streamlined litigation pathway is limited to 10 state and 10 local or regional transportation projects certified by the Secretary of Transportation to advance the goals of the Governor’s Climate Action Plan for Transportation Infrastructure.
3. **Accelerating Environmental Mitigation for Transportation** – would allow for the direct purchase of environmental mitigation services when required by an environmental permitting agency and would create an informal provider selection process for other situations.
4. **Job Order Contracting** - would authorize Caltrans to use the job order contracting method to complete routine transportation projects and maintenance work quickly and easily.
5. **NEPA Assignment for Rail and Public Transit Projects** – would remove the current sunset provision and permanently authorizes the consent of California to the jurisdiction of federal courts and waiver of sovereign immunity by California with regards to the performance of certain federal environmental responsibilities under the NEPA.

6. **Progressive Design Build** – would allow the Department of Water Resources (DWR) and Caltrans to establish a progressive design-build pilot program until January 1, 2031 – up to eight projects per department.
7. **Delta Reform Act Refinement** – would establish a 60-day statute of limitations to challenge a Delta Stewardship Council action, including decisions on appeals.
8. **Reclassification of Fully Protected Species** – would reclassify fully protected species to facilitate responsible and appropriate development but would also allow the Department of Fish and Wildlife to require mitigation and other actions to contribute to the conservation of these species.
9. **IRA Green Financing** – would allow the California IBank and DWR to access and utilize federal funding provided in the Inflation Reduction Act to finance projects that reduce greenhouse gas emissions.
10. **Direct Contracting for I-15 Wildlife Crossings** – would authorize Caltrans to directly contract to construct three wildlife crossings over I-15 as part of the Brightline West high-speed rail project between California and Nevada.

At the time of this writing, it is unclear how receptive the Legislature will be to these proposals—both from a policy perspective, as well as the Governor advancing them using budget trailer bills.

Legislative Update – Appropriations Suspense Files

The Assembly and Senate Appropriations Committees met on May 18 to consider their suspense files. During these hearings the Committees consider bills that exceed specified state costs—bills are either passed with a recorded vote, held as two-year bills, or held under submission without a roll call vote.

The Assembly considered 755 suspense bills, of which 220 were held or became two-year bills. The Senate considered 416, of which 90 were held or became two-year bills. The following section includes status updates on key bills approved or held in Appropriations:

Passed (As-is or with amendments; now moves on to a floor vote)

- **[AB 7 \(Friedman\)](#)** – would require the project selection process for each transportation project funded by the state’s major sources of transportation funding to incorporate certain principles regarding resilience, safety, timeliness, accessibility, the environment and climate change, and other topics.
- **[AB 744 \(Carrillo, Juan\)](#)** – would direct the California Transportation Commission (CTC) to coordinate state assessment and implementation of the use of data, modeling and analytic software tools and requires CTC to acquire or procure such data, modeling, and software tools for use by state and local transportation planners.
- **[AB 1053 \(Gabriel\)](#)** – would reduce financing costs for affordable housing by allowing a developer to request funding from the Department of Housing and Community Development (HCD) as a construction loan, the traditional permanent financing option, or a combination of both.
- **[SB 4 \(Wiener\)](#)** – would establish that qualifying affordable housing development projects are a “use by right” on land owned by religious institutions or independent higher education institutions. The bill was passed with amendments.

- **[SB 423 \(Wiener\)](#)** – would extend and make numerous changes to the streamlined ministerial approval process for qualifying housing projects created by SB 35 (Wiener, 2017). The bill was passed with significant amendments related to labor standards and other requirements.

Held in Committee

- **[AB 1525 \(Bonta\)](#)** – would have required 60% of the funding allocated to California State Transportation Agency, California Department of Transportation Caltrans and California Transportation Commission be allocated for projects for priority populations, as defined.
- **[SB 405 \(Cortese\)](#)** – would have created a Department of Housing and Community Development pilot program to use probability analysis to determine if local jurisdictions have identified adequate sites to accommodate their share of regional housing needs and established new online posting requirements for local housing element site inventories.
- **[SB 670 \(Allen\)](#)** – would have required the California Air Resources Board to develop maps of average light-duty vehicle miles traveled at the local, regional, and statewide levels, and provides direction to how those maps should be reconciled with existing ones.

Key Bills Previously Passed by the Appropriations Committees

- **[AB 6 \(Friedman\)](#)** – makes changes to CARB’s review process for sustainable communities strategies and requires project nominations for the Solutions for Congested Corridors Program to demonstrate how projects would contribute to achieving greenhouse gas emissions reductions. The author has proposed amendments to the bill that would create new requirements for regional vehicle miles travelled mitigation banks.
- **[AB 1335 \(Zbur\)](#)** - would require regions to develop the population and housing development projections in their sustainable communities strategies (SCSs) by dividing their eight-year regional housing needs determination by eight and multiplying it by the number of years in the SCS planning period. The bill also expands local government housing element annual report requirements to include new and expansive housing development information related to the local implementation of the SCS.

Contact

Email: Chris Lee (clee@politicogroup.com) or Kiana Valentine (kiana@politicogroup.com)

Phone: (916) 444-3770