



# TAKE ACTION BRIEF

## July/August 2021

As the state opens back up, special districts continue grappling with the effects of the pandemic. Following more than a year of heavy advocacy, the State Legislature has included \$100 million in COVID-19 relief and billions of dollars in other key funding for special districts within [SB 129, the Budget Act of 2021](#). Ongoing budget-wrangling could still alter the details, but CSDA is actively communicating with the Department of Finance and stakeholders to facilitate the most equitable, accessible, and proportional appropriation of available funding.

Stay tuned to the eNews and Advocacy News blog for important updates on COVID-19 relief funding and other legislative developments as the State Legislature works toward its Summer Recess July 16 – August 15. The Legislative Session will then resume for a one-month sprint to September 10, when the Legislature will enter its Interim Study Recess until returning for year two of the biennial session.

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### Contact a local CSDA representative near you!

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## ➤ COVID-19 RELIEF FUNDING

CSDA's advocacy action priority is to work with the Administration, various state agencies, and the federal government to ensure special districts receive equitable access to COVID-19 relief funding should it become available.

### Budget Update: Special District Relief Funding

On June 14 the legislature sent [AB 128 \(Ting\), the Budget Bill in Chief](#), to the Governor in time to meet their constitutionally mandated deadline to pass a balanced budget by July 15. This version of the budget included a \$100 million fiscal relief proposal for COVID-19 impacted independent special districts, as well as other pots of funds certain special districts would be eligible to receive. However, as CSDA previously reported out, AB 128 reflected on the legislature's version of the budget and did not represent agreement with the Administration.

Two weeks later, on June 28, the Legislature passed [SB 129 \(Skinner\), the Budget Act of 2021 – "Budget Bill Junior"](#), sending the package to the Governor's desk for signature or veto in time for the start of the new fiscal year, July 1. The Governor has 12 days to sign or veto a bill, including the budget bill, and has the authority to blue pencil (eliminate) an appropriation within the budget, which can be overridden by a two-thirds vote in the Legislature. The budget is an urgency measure and goes into effect as soon as it is signed.

The Budget Bill Junior updates many provisions of the Budget Bill in Chief and is a reflection of general agreement with the Governor. However, while funding levels have been solidified, the details of many programmatic provisions remain yet to be determined. It is anticipated many budget trailer bills will follow over the coming weeks until the Legislature breaks for the summer recess July 16 and further budget action is almost guaranteed in the month that follows and into the fall.

**While June 28<sup>th</sup>'s budget vote represented more of a framework than final agreement in many areas, CSDA is pleased to report the package retained the \$100 million COVID-19 relief fund for independent special districts that can demonstrate fiscal impacts due to the COVID-19 public health emergency.**

- The language has been amended from that which was proposed in AB 128, the package first sent to the Governor, and now states: *"the amount appropriated in this item shall be available to provide fiscal relief to independent special districts that have encountered unanticipated costs or loss of revenue due to the COVID-19 public health emergency and that have not received other forms of fiscal relief from the state or federal government."*
- In the vein of further detail yet to be determined, the provisional language additionally specifies: *"The Department of Finance, in consultation with the California Special Districts Association, shall develop a plan to distribute the funding provided in this item by September 1, 2021, and shall notify the Joint Legislative Budget Committee of the plan."*
- Further, the language provides additional detail regarding the plan for distribution: *"The plan shall provide to each qualifying district that applies for relief a prorated share of the amount appropriated in this item, with each district's share based on its proportionate share of revenue losses reported by all qualifying districts from all fund sources between the 2018–19 and 2019–20 fiscal years, as reported by the district to the department. Applicant districts shall self-attest to the accuracy of all information reported to the department for purposes of this item. Upon completion of application reviews, the department shall order the Controller to remit funds to each county auditor-controller for all qualifying districts in each county. The county auditor-controller shall disburse these funds to each qualifying district within 30 days of receipt from the Controller."*



While CSDA has advocated heavily for access to fiscal relief for COVID-19 response impacted independent special districts, ultimately the proposal and provisional language has been determined in negotiations between the Assembly, Senate, and Administration. CSDA is pleased to be consulted in the final process and will continue to work with the Department of Finance (DOF) to seek clarification as to the intent of what constitutes “*other forms of fiscal relief from the state or federal government*” and hopes to be a strong partner to DOF as they work to develop a plan for distribution of funds

**Additionally, the budget package retained the following provisions CSDA has advocated for in coordination with our local agency partners supporting the services and infrastructure of special districts, cities, counties, and other agencies:**

- **\$1 billion in water utility household assistance and nearly \$1 billion in energy utility household assistance.** This funding is critical to stabilize public utility fiscal impacts – inclusive of special district utilities – and provide relief to the ratepayers least able to manage the fiscal burdens brought by the pandemic. *While the package indicates agreement for the level of funding, the details of eligibility and distribution are subject to agreement between the Senate, Assembly, and Governor and continue to be negotiated. CSDA is actively advocating for this funding to include eligibility for publicly owned water, wastewater, and energy utilities.*
- **\$250 million in economic assistance California’s public ports.** California’s special district ports and harbors were significantly impacted by COVID-19 response and, as drivers of local economies and contributors to the state’s economic health, we have continuously urged continued support for public port funding relief.
- **Significant investment in local priority transit projects.** Transit districts experienced substantial reductions in ridership and other fiscal impacts related to pandemic response. CSDA has supported these proposed investments for local agency projects.

Other funding of significant interest to districts that made it into the SB 129 agreement:

- **Over \$3 million in one-time General Fund dollars to support grants to local library jurisdictions** to acquire bookmobiles and vans, and provides an additional \$439 million on a one-time basis to support an equity-focused matching infrastructure grant program to support local library maintenance, capital projects, broadband and technology upgrades, and purchasing of devices.
- **\$1 million in ongoing funding for the California Vectorborne Disease Surveillance Gateway (CalSurv) pest abatement program.**
- **Package addressing environmental concerns, with program details yet to be determined. The spending levels are:**
  - Wildfire Prevention & Resilience: \$258 million General Fund, plus additional special funds in 2021-2022, plus \$500 million General Fund in 2022-2023.
  - Agriculture Budget Plan: \$200 million General Fund plus special funds
  - Circular Economy: \$65 million General Fund in 2021-2022
  - Water and Drought Resilience: \$730,700,000 General Fund in 2021-2022
  - Climate Resilience: \$3.7 billion over three years, \$440 million General Fund in 2021-2022
  - Cap-and-Trade Spending Plan: \$720 million

**CSDA will provide updates as the process develops regarding these funds and how to apply to receive them, assuming they are retained when the Governor officially signs the final budg**



## ➤ GOVERNANCE AND ACCOUNTABILITY

*CSDA's long range policy priority on governance and accountability is to enhance special districts' ability to govern as independent, local government bodies in an open and accessible manner. Encourage best practices that avoid burdensome, costly, redundant, or one-size-fits all approaches. Protect meaningful public participation in local agency formations, dissolutions, and reorganizations, and ensure local services meet the unique needs, priorities, and preference of each community*

### **Brown Act and Water Shutoff Emergency Executive Orders Set to Expire September 30**

Governor Gavin Newsom released his plan, Beyond the Blueprint, to fully reopen California on June 15, as well as Executive Order N-08-21, which establishes a timeline to lift the COVID-19 pandemic Executive Orders. Under Governor Newsom's plan his Executive Orders related to the Brown Act and the water shutoff moratorium will expire September 30, 2021.

#### **Brown Act Executive Order Expiring September 30**

Governor Newsom's Executive Order N-29-20 temporarily amended the Brown Act to allow public agencies to hold remote meetings without in-person public participation since last March. Under the Governor's reopening plan, the Brown Act provisions within Executive Order N-29-20 will be lifted on September 30. Any local agency meetings taking place after that time must ensure physical public access to all meeting locations.

Lifting the Executive Order doesn't mean that public agencies will be precluded from allowing the public to participate in meetings by telephone or through online systems like Zoom. During the COVID-19 pandemic many public agencies have experienced both an increased comfort level with the virtual meeting systems as well as seen an increase in public participation in their meetings, many local agencies are likely to continue to offer some form of virtual attendance option in addition to the in-person option.

The Brown Act Executive Order provided valuable flexibility for special districts and other local agencies to continue conducting the public's business in the midst of an emergency. Lessons learned from this experience led CSDA to sponsor AB 361 (Robert Rivas), which will establish this important flexibility in statute in anticipation of future declared emergencies. AB 361 passed the State Assembly 62-4, with widespread bi-partisan support, and will next be heard in the State Senate Governance and Finance Committee. CSDA encourages special districts to submit a letter of support or complete our Automated Form Letter at [csda.net/take-action/brown-act](https://csda.net/take-action/brown-act).

#### **Water Shutoff Moratorium Executive Order Expiring September 30**

Governor Newsom's Executive Order N-42-20, known as the water shutoff moratorium, prevented public agencies from discontinuing water service during the COVID-19 pandemic. Under the Governor's reopening plan, the shutoff moratorium provisions within Executive Order N-42-20 will also be lifted on September 30. Local agencies will still be required to adhere to all existing state laws and regulations related to utility shutoffs.

Until September 30, both the Brown Act Executive Order and water shutoff Executive Order will remain in place and have the full force and effect of law. CSDA will continue to provide updates regarding reopening and the executive orders as they become available.



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## CSDA-Sponsored Remote Meetings Bill Amended, Moves to Senate

CSDA's sponsored bill, Assembly Bill 361 (Rivas), remains active and is currently in the State Senate. At writing, AB 361 was set for a July 1 hearing in the Senate Governance and Finance Committee, proceeding next to the Senate Judiciary Committee should it pass.

Unfortunately, the provisions of AB 361 are expected to be scaled back to satisfy concerns expressed by the chair of the Senate Governance and Finance Committee.

In its May 10 form, AB 361 would have permitted local agencies to transition to remote meetings during emergencies declared by *either* the state or a county. This would have allowed for special districts to transition to remote meetings with Brown Act procedures similar to those used while Governor Newsom's March 2020 Executive Orders remained active, subsequent to a formal county-declared local emergency. Such an arrangement would have allowed for special districts to be more responsive to emergencies given the obvious relative proximity of counties to local emergencies, while also eliminating the need to rely on a timely and accurate gubernatorial declaration.

Pending amendments insisted upon by the chair of the Senate Governance and Finance Committee would remove county-issued local emergency declarations from the bill, thereby leaving only gubernatorial declarations as grounds for local agencies to transition to remote meetings. Additional amendments include a two-year sunset date and other clarifying changes.

Despite the pending amendments to limit AB 361 to gubernatorial declarations of emergency, opposition to AB 361 is expected to press their case in the State Senate. Therefore, CSDA encourages its members to submit position letters in support of AB 361 to encourage its passage.

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## Take Action

*Authorize an AB 361 Automated Form Letter or download a Sample Letter of Support at [csda.net/take-action/brown-act](https://www.csda.net/take-action/brown-act)*

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## Redistricting Measure Feedback Requested

Certain special districts with “by-district” elections, as opposed to those with “at-large” elections, face a November 1, 2021 deadline to adopt their re-districted maps despite a delay in U.S. Census data necessary to adopt the required maps. Thus far, CSDA is aware of fire protection, recreation and park, and community services districts facing this deadline. CSDA supported amendments to Senate Bill 594 (Glazer) to address this concern, but the legislation’s progress recently stalled. Your feedback is needed to guide CSDA’s next steps.

SB 594, as currently drafted, calls for all special districts to adopt their post census re-districting maps at least 180 days before the general election in 2022. The bill now resides in the Assembly Rules Committee, where it remains alive, but is not currently moving. Additionally, some stakeholders are calling for new amendments to SB 594 to push the redistricting map deadline for all agencies to 205 days prior to a general election so as to provide election officials sufficient time to manage the growing number of by-district election contests. Recent legislation adjusted the dates for counties and general law cities to adopt their re-districting maps 205 days prior to a November general election and 174 days prior for a June election.

The State’s independent redistricting commission has yet to finalize what date its Congressional, State Legislature, and State Board of Equalization maps are expected for the June 2022 elections. The commission’s determination may ultimately inform the Legislature how local agencies should also be treated, as local elections officials generally cannot determine voting precincts until all redistricting maps are received. This, along with a general lack of consensus over other concerns, has contributed to the Legislature pausing further action on SB 594 while these issues are ironed out.

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## Take Action

*If your special district conducts by-district elections and would like to provide input in CSDA’s ongoing advocacy on redistricting deadlines, email CSDA Legislative Representative Anthony Tannehill at [anthonyt@csda.net](mailto:anthonyt@csda.net) to join a Working Group on this topic*

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CSDA will continue working with the State Legislature and other local stakeholders to advocate for a smooth, accurate, and feasible redistricting timeline for special districts. However, it has become evident that any formal adjustments to existing redistricting deadlines facing special districts may not be enacted until fall, if at all. Therefore, any special districts with a November 1, 2021 redistricting map adoption deadline should prepare accordingly to proceed in a manner that will permit lawful elections to continue within the existing prescribed deadlines.



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## ➤ HUMAN RESOURCES AND PERSONNEL

*CSDA's long range policy priority on human resources and personnel is to promote policies related to hiring, management, and benefits and retirement that afford flexibility, contain costs, and enhance the ability to recruit and retain highly qualified, career-minded employees to public service. As public agency employers, support policies that foster productive relationships between management and employees, both represented and non-represented.*

### **Pension Rates to Increase, Again**

Everyone is well aware that the costs of public pensions have gone up steadily for the last decade, but you might not be aware that they're about to go up again.

CalPERS is expected to announce that, following the close of the 2020-21 fiscal year on June 30, the fund had investment returns in excess of 15 percent. While that is great news, it also comes with a catch called the "Funding Risk Mitigation Policy" or FRMP. The FRMP was established in 2017 as a way to gradually lower the discount rate from then-7.25 percent to match anticipated lower long-term returns. The FRMP is designed to automatically reduce the discount rate following a year where the investment returns are at least two percent higher than the current discount rate.

The discount rate is the pension fund's anticipated rate of investment returns and is used to calculate member contributions. It is currently set at 7 percent. With a return of 15 percent, the discount rate will automatically be lowered by 10 bases points or 0.10 percent to 6.9 percent.

Lowering the discount rate leads to increased normal costs, annual employer and employee payment rates. In this case, the lowering of the discount rate by .10 percent will result in increased contributions by both employers and employees in the 2023-24 fiscal year.

In addition to the rate increases coming from the FRMP, CalPERS is also in the middle of their Asset Liability Management (ALM) process which will likely further reduce the discount rate when the process ends in February of 2022.

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## **Take Action**

***For more information on the Funding Risk Mitigation Policy and the Asset Liability Management process, visit [calpers.ca.gov](http://calpers.ca.gov) and participate in the upcoming CalPERS Board Meetings July 12-14.***

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## ➤ LEGAL ADVOCACY

CSDA is the leading legal advocacy voice for all special districts regarding public policy in California and actively tracks and reviews cases of significance affecting special districts in state and federal courts. Under the guidance of CSDA's Legal Advisory Working Group, CSDA files amicus briefs and opines on court cases when appropriate.

### CSDA Urges Supreme Court to Provide Special Districts Relief from At-Large Election System Litigation

A case currently pending in the Supreme Court of California concerning the California Voting Rights Act (CVRA) may have wide-ranging impact on any special district that elects its Board of Directors in an at-large election system. In [Pico Neighborhood Association v. City of Santa Monica](#), the Supreme Court will for the first time consider the following question: "What must a plaintiff prove in order to establish vote dilution under the California Voting Rights Act?" On June 15, CSDA joined the League of California Cities ("Cal Cities") to file an amicus brief to the Supreme Court in support of Santa Monica, urging the court to consider the practical concerns guiding special districts' decision to switch to by-district elections, and seeking clarity in how the CVRA is applied to legitimate, non-discriminatory at-large election systems. You can view a copy of the CSDA brief by visiting the CSDA [Legal Advocacy webpage](#).

Special districts throughout the state have begun to face legal challenges to their voting systems in recent years, and many have sought guidance on switching from an "at-large" to "by-district" voting method to comply with the CVRA. The CVRA prohibits any political subdivision from using any at-large method of election that "impairs the ability of a protected class to elect candidates of its choice or influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of the protected class[.]" Prior to the decision in this case, plaintiffs prevailed on CVRA claims simply by presenting evidence of the existence of racially polarized voting without also showing dilution of the vote.

In this case involving the City of Santa Monica, the City argued evidence at trial demonstrated that its at-large election system for City Council members is fair and inclusive and does not dilute the voting power of protected classes. As evidence, the City pointed to the fact that Santa Monica has a history of electing minority people of color to a variety of local positions. Moreover, the evidence at trial showed that under the at-large election system, between 2002 and 2016, candidates preferred by Latino/a voters won at least 70% of the time in Santa Monica city council races.

In February 2019, the trial court ruled in favor of the plaintiffs and ordered Santa Monica to switch from at-large to by-district voting. The City appealed. In February 2020, [CSDA joined](#) the League of California Cities to file an [amicus brief](#) in support of Santa Monica, authored by Derek Cole, Partner at CSDA Business Affiliate law firm [Cole Huber](#). Mr. Cole also authored the amicus brief to the Supreme Court on behalf of CSDA and Cal Cities.

Last year, for the first time since the passage of the California Voting Rights Act (CVRA) in 2003, a local government with an at-large voting system successfully defended a substantive legal challenge to its election method when Santa Monica prevailed at the appellate court. The [ruling from the Second District Court of Appeal](#) held that "the legislature required litigants to prove both dilution *and* racially polarized voting in order to establish a claim, to have a remedy, and to recover fees." Unfortunately, the decision was de-published and the matter is now pending before the California Supreme Court.

CSDA will continue to monitor this case and inform our members when an opinion is issued in the matter. For questions about this case and its impact on your district, contact CSDA Deputy General Counsel Mustafa Hessabi at [mustafah@csda.net](mailto:mustafah@csda.net).





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## ➤ OTHER WAYS TO TAKE ACTION

### Be Recognized

CSDA is pleased to announce additional award recognition opportunities for special districts through our affiliate organization, the **Institute for Local Government (ILG)**. ILG's Beacon Program has provided a framework for local governments to be recognized for voluntary efforts that contribute to more **sustainable and resilient communities**. Special districts are now eligible to join the program and apply for awards. Whether your agency is a Beacon participant or not, you will be able to submit an innovative project, program, plan, or policy your agency has implemented for award consideration due **July 31**.

Details: <https://www.ca-ilg.org/beacon-program>

### Learn More

#### Complete Your Governance Training at our SDLA Conference this September!

September 26 – 29, 2021  
Lake Tahoe Resort Hotel

Register here: <https://sdla.csda.net/home>

### Join Today

Join an Expert Feedback Team to provide CSDA staff with invaluable insights on policy issues. Email [romanw@csda.net](mailto:romanw@csda.net) to inquire about joining one of the following teams:

- Budget, Finance and Taxation
- Environment
- Formation and Reorganization
- Human Resources and Personnel
- Governance
- Public Works and Contracting

### Stay Informed

In addition to the many ways you can **TAKE ACTION** with CSDA's advocacy efforts, CSDA offers a variety of tools to keep you up-to-date and assist you in your district's legislative and public outreach. Make sure you're reading these resources:

- CSDA's weekly e-Newsletter
- Districts in the News
- CSDA's CA Special District Magazine

Email [updates@csda.net](mailto:updates@csda.net) for help accessing these additional member resources.