



**California Special
Districts Association**
Districts Stronger Together

April 1, 2020

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

RE: Revenue and Operational Relief from COVID-19 Impacts Requested for Special Districts

Dear Governor Newsom:

The California Special Districts Association (CSDA) thanks you for your leadership on the novel coronavirus (COVID-19) pandemic. On behalf of over 1,000 independent special districts, we appreciate the administrative flexibilities already provided to assist local government in navigating the uncharted public health and economic crisis we collectively face. CSDA and our membership is eager to work together with state, federal, and local counterparts to find solutions as new issues are identified.

Our members are on the front lines, ensuring the delivery of critical local services to California's communities such as water, wastewater, fire and police protection, healthcare delivery and first response, mosquito abatement and vector control, access to parks and open space, safe and respectful burials, transportation and commerce, and more. Many districts serve rural and vulnerable populations and operate with razor thin staffs and budgets. The fiscal, operational, and administrative challenges resulting from COVID-19 responses are many and mounting.

CSDA respectfully requests the following actions to provide immediate and long-term relief to special districts in the ongoing efforts to confront the pandemic:

PROTECT LOCAL GOVERNMENT REVENUE

As referenced in your March 19 letter to congressional leadership regarding COVID-19 impacts, governments are subject to instability arising from the virus. This instability is already being realized, with local governments across the state, including special districts, already experiencing financial stress resulting from COVID-19 response. Many districts anticipate further significant fiscal impacts related to COVID-19, including but not limited to:

- Loss of all programmatic revenues for recreation and park districts, community services districts, veterans memorial districts, and library districts

- Dramatic anticipated increases in pension costs
- Losses in ridership and user fee revenue for transit districts, port and harbor districts, and airport districts
- Losses in utility revenues due to account nonpayment
- Increases in operational costs attributable to the new federal Emergency Family Leave

Future solutions to address what appears to be the perfect storm of economic distress for special district revenue will continue to be explored, and we look forward to collaborating to ensure the viability of California's essential service providers. However, there are actions you can take now to protect local government revenue and prevent further fiscal strain.

Retain the April 10 Property Tax Deadline

Property tax revenue is a primary source of funding for many districts, which do not have access to sales taxes, transit occupancy taxes, and certain other taxes available to cities and counties. As communicated in the March 21 local government coalition letter requesting that you retain the April 10 property tax deadline, unlike nearly every other tax, property tax revenues are not distributed throughout the fiscal year. Instead, nearly all funds—over \$140 billion—are received in the days before the two payment deadlines of December 10 and April 10. Extending the deadline by 60 or 90 days would have a devastating impact on local funding, as almost all local agencies rely on the property tax for the majority of their general funds.

Requested Relief:

Retain the April 10 Property Tax Deadline. This will allow special districts to receive vital operating funds on schedule, avoiding the disruption that would be caused by an extension of this deadline. Further, it would allow local officials to make the determination that any waiver of penalties is appropriate due to reasonable causes and circumstances related to this crisis.

OPERATIONAL FLEXIBILITY

While the state continues to observe the stay at home directives issued earlier this month, local agencies report challenges in maintaining the necessary level of staffing to continue the full scope of operational obligations. Many special districts have re-prioritized and reassigned staff to emergency management duties. Given current operational circumstances, it is vital special districts remain able to appropriately prioritize staff resources to the most pressing matters related to district operations.

Extend CEQA Lead Agency Deadlines Impacted by COVID-19

The California Environmental Quality Act (CEQA) sets forth multiple specific statutory deadlines for lead agencies including publication and public comment periods, determination of

environmental impacts, notice of preparation, project applicant meeting requests, public agency review periods, and completion of reports.

Impact:

Statutory requirements pertaining to the California Environmental Quality Act (CEQA) are creating additional and unrealistic burdens on limited local government resources due to deadlines lead agencies must comply with to determine the environmental impact of proposed projects.

Requested Relief:

Direct the Governor's Office of Planning and Research to adopt guidelines extending lead agency deadlines established pursuant to the California Environmental Quality Act by 120 days from when the deadline would otherwise expire if the deadline would have expired during the State of Emergency, including but not limited to:

- Public Resources Code Section 21000 *et seq.*, which sets forth the requirements of environmental review of projects and establishes publication and public comment periods, as that section applies to applications deemed complete prior to the declaration of the State of Emergency;
- CEQA guidelines section 15102, which provides 30 days to, determine whether an EIR or Negative Declaration will be required;
- CEQA guidelines section 15103, which provides a 30-day window within which an agency must review and comment on a notice of preparation;
- CEQA Guidelines section 15104, which requires that a meeting requested by a project applicant be convened within 30 days of the request;
- CEQA guidelines section 15105, which establishes the public agency review period for a draft environmental impact report or negative declaration;
- CEQA guidelines section 15107, which provides that a negative declaration for a private project must be completed within 180 days of the application being deemed complete; and CEQA guidelines section 15108, which provides that an environmental impact report for a private project must be completed within one year of the application being deemed complete.

California Public Records Act Flexibility

California Public Records Act - Government Code Section 6253(c) requires that “[e]ach agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor.” Agencies are granted the ability to extend this deadline by another 14 days in “unusual circumstances,” as defined.

Impact:

“Unusual circumstances” are narrowly crafted and do not explicitly include provisions related to the declaration of a State of Emergency. While it is likely a judge would rule in favor of local government if response was delayed due to COVID-19 response impacts, the additional staff and cost burdens of potential lawsuit is prohibitive for local governments already significantly strained. Some special districts may have the resources and staffing to be able to continue to comply with the current statutory deadlines. Other special districts do not, due to factors such as limited staffing or IT capability.

Requested Relief:

State that the phrase “unusual circumstances” found in Section 6253(c) includes the State of Emergency. Suspend the provision of Government Code 6253(c) that limits the extension to respond to 14 days for all Public Records Act requests other than those for records created during, and relating to, the State of Emergency.

Mandate Subvention

With regard to California’s Commission on State Mandates, Government Code Section 17551 states, “(a) [t]he commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(b) Except as provided in Sections 17573 and 17574, commission review of claims may be had pursuant to (a) **only if the test claim is filed within the time limits specified** in this section.

(c) Local agency and school district test **claims shall be filed not later than 12 months** following the effective date of the executive order, **or within 12 months** of incurring increased costs as a result of a statute or executive order, whichever is later.”

Impact:

Statutory and regulatory requirements pertaining to the Commission on State Mandates deadlines for claims made by a local agencies for reimbursement for state mandated costs are creating additional and unrealistic burdens on limited local government resources.

Requested Relief:

Temporarily extend the statutory and regulatory timelines related to the Commission on State Mandates to begin upon the conclusion of the State of Emergency declaration related to COVID-19.

COVID-19 RESPONSE SUPPORT

As stated, special districts are continuing to deliver reliable and consistent vital community services as they face the fiscal, operational, and public health challenges presented by the pandemic.

Worker Safety

Special district staff is on the front lines, and staff health and safety is a main concern.

Impact:

Special districts, including water, sanitary, wastewater, waste management, fire protection, and parks have indicated they need help sourcing and obtaining sanitation materials (e.g., wipes, sanitizer, cleaning products, etc.) and Personal Protective Equipment (PPE), as well as access to testing for potentially exposed staff, due to insufficient supply. These are needed to keep these agencies performing essential public services operating and to protect their staff and the public they serve.

Requested Relief:

Special districts are either already working through their county operational command chain or have been encouraged by CSDA to do so. As the State procures additional supply or pools resources and can prioritize outside of the healthcare setting, include special districts who operate and maintain critical infrastructure in distributions of supplies in state response actions. Where appropriate, explicitly include language providing that special districts are eligible to participate in programs or receive funding meant to assist in emergency response efforts

Technical Assistance

The stay-at-home order and transition to a remote workforce is reliant on access to appropriate technologies and broadband service.

Impact:

Many small, rural agencies need technical assistance in acquiring and deploying the technology needed to transition to a remote workforce as the COVID-19 outbreak continues. Additionally, broadband is not equally and readily available in all communities, which has presented challenges for many special districts operating through this crisis in rural areas.

Requested Relief:

Where appropriate, explicitly include language providing that special districts are eligible to participate in programs or receive funding meant to assist in emergency response efforts. In the long-term, funding is needed to help deploy broadband networks in rural communities throughout the state. Utility districts and community services districts are authorized to build and provide this critical infrastructure and may serve an important role in helping to build out California's future broadband for all.

ACCESING FEDERAL RELIEF FUNDS

Despite mounting economic pressures and the vital nature of the critical infrastructure maintained and operated by special districts throughout California and the nation, to date special districts have been left out of federal funding relief provisions.

Eligibility for State Allocations

As only cities with populations of 500,000 and over will receive direct funding from the State's portion of federal relief funds, the remainder of local government remains in need of assistance including special districts. We acknowledge the state will incur significant losses and will additionally have to balance multiple priorities and needs as you allocate those funds and ask that you carefully consider local governments who are critical service providers in those discussions.

Impact:

Special districts are not directly eligible to access funding relief from the federal efforts to date and are experiencing additional costs at the same time revenues are declining. Special districts additionally do not have taxing authority and preliminary feedback indicates many districts anticipate reducing service levels, reducing staffing, as well as the need to raise fees for services where applicable to navigate the budgetary challenges. These actions will have a direct and adverse impact on California communities statewide and are unavoidable pending access to additional relief measures.

Requested Relief:

Explicitly include language providing that special districts are eligible to participate in programs or receive funding meant to assist local government in emergency response efforts or any other funding considerations made to assist local government as the State determines priority for the allocation of its share of the federal relief funding.

Assistance in Accessing Future Federal Relief

In seeking additional relief for special districts, CSDA has also been communicating with the members of California's Congressional Delegation. In the meantime, Congress has passed HR 748, the "Coronavirus Aid, Relief, and Economic Security Act" or the "CARES Act," which unfortunately provided limited opportunities for special districts to benefit from relief efforts. The Federal Emergency Management Agency and the Centers for Disease Control and Prevention have been infused with billions of dollars to assist communities and health care systems in their responses to the pandemic. Individuals and families will receive rebates and unemployment programs have been enhanced to help individuals stay afloat, which will indirectly benefit districts, however, critical needs remain unresolved.

Impact:

In our letter dated March 20, which was additionally sent to your office, CSDA urged members of Congress to consider the implications of the current federal tax code on state and local agency employers. These employers must pay payroll taxes under 26 USC 3111 and must now meet new sick leave and family medical leave requirements, yet public agencies were exempted from the tax credit from the employer share of social security.

Requested Relief:

CSDA has requested that Congress allow state and local agency employers to qualify for the payroll credits for the new requirements for paid leave and paid family leave and additionally requests your assistance in urging Congress to provide relief for local government, specifically including special districts, in the anticipated fourth federal relief package.

CSDA also encouraged Congress to act on the following federal legislation that would help districts counter the economic downturn:

- **Pass HR 2772**, which would restore advance refunding of tax-exempt bonds, thereby allowing states and local governments and other qualifying entities to free up billions of dollars they can reallocate and spend on other projects which, in turn, strengthen local infrastructure networks.
- **Pass HR 3967**, which would increase access to capital for small borrowers, by increasing the bank qualified borrowing limit from \$10 million to \$30 million, and having it apply at the borrower level so the small issuers (both governmental and nonprofit) who may be hardest hit during the downturn can access capital for immediate project needs.

On behalf of CSDA, I would like to personally commend your swift and decisive leadership during this unprecedented time and express our gratitude to your administration for its efforts to assist local governments. I thank you for your consideration of these urgent requests.

If you have questions or would like to further discuss any of the material in this letter or other matters relating to special districts, I welcome the opportunity to assist your efforts in any way possible. Please do not hesitate to contact me at (916) 442-7887 or via email at neilm@csda.net.

Sincerely,



Neil McCormick
Chief Executive Officer

CC: Keely Bosler, Director, California Department of Finance
The Honorable Toni G. Atkins
The Honorable Anthony Rendon
The Honorable Mike McGuire
The Honorable Cecilia M. Aguiar-Curry