



TAKE ACTION BRIEF

March 2020

Between January 1 and the State Legislature’s February 21 deadline to introduce legislation in 2020, legislators authored a total of 2,203 new bills. Just over half (1,120 new bills) were introduced on the final two days prior to the deadline. On March 6, CSDA’s Legislative Committee will begin taking positions on this new legislation. This Take Action Brief offers a first look at the newly proposed laws special districts will be facing this year, with plenty more sure to come in the form of amendments and budget trailer bills. Stay tuned, stay engaged, and be sure to join your colleagues at the 2020 Special Districts Legislative Days, May 19-20 in Sacramento.



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➤ REVENUE, FINANCES, AND TAXATION

CSDA's long range policy priority on revenue, finances, and taxation is to ensure adequate funding for special districts' safe and reliable core local service delivery. Protect special districts' resources from the shift or diversion of revenues without the consent of the affected districts. Promote the financial independence of special districts and afford them access to revenue opportunities equal to that of other types of local agencies.

New Impact Fee Legislation Introduced Just Before Deadline

Due to the affordable housing and homelessness crisis in California, the Legislature is considering restricting, capping, or eliminating development impact fees (DIFs).

On February 26, the four respective Senate and Assembly Committees for housing and local government held a joint informational hearing on DIFs entitled "[The Price of Civilization](#)." Representatives from Irvine Ranch Water District and North of the River Recreation and Park District [spoke on a panel and discussed capacity and connection charges and development impact fees respectively](#).

Below are 10 active development impact fee bills CSDA is currently tracking:

- [AB 1484](#) (Grayson): Provides a comprehensive reform of the nexus standards that cities and counties use to determine their fees.
- [AB 1924](#) (Grayson): Requires jurisdictions to assess fees on a per-square-foot basis, giving developers the option to build smaller, more affordable units without being penalized with multiple fees.
- [AB 3144](#) (Grayson): Provides state funding to reimburse local governments who waive impact fees on affordable projects.
- [AB 3145](#) (Grayson): Establishes a ceiling for development fees based on the median home price in a jurisdiction. Cities and counties that exceed this ceiling will be required to seek approval from the Department of Housing and Community Development, and justify the need to do so.
- [AB 3146](#) (Bonta and Grayson): Requires cities and counties to report a wide variety of essential housing data to the Department of Housing and Community Development, including the number of new housing units that have been issued a completed entitlement, a building permit, or a certificate of occupancy. Housing data that is accurate, valuable, and timely will support smart solutions to our housing affordability crisis.
- [AB 3147](#) (Gabriel): Ensures that certain impact fees are payable under protest. This allows for a developer to pay a fee they consider to be unreasonably high so they can continue construction, even as they negotiate for a more reasonable amount.
- [AB 3148](#) (Chiu): Reduces the impact fees paid on affordable housing units that are built using the state's density bonus program.
- [AB 3149](#) (Gloria): Modernizes the way that local agencies notify interested parties prior to levying a new fee or service charge or prior to approving an increase in an existing fee or service charge.
- [AB 831](#) (Grayson) Department of Housing and Community Development: study: local fees: new developments. Also introduced in 2019.
- [AB 2722](#) (McCarty) Development fees and charges: deferral. Prohibits a noncompliant local agency that imposes any fees or charges on a qualified development, from requiring the payment of those fees or charges until 20 years from the date of the final inspection, or the date the certificate of occupancy is issued.



➤ 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

Costly Email Retention Legislation is Back

The email retention legislation that was successfully stopped last year is back again. Following the veto of AB 1184, Assembly Member Todd Gloria has reintroduced the same bill again this year as [AB 2093](#). Just like last year, this bill mandates that public agencies keep all emails related to the public's business for at least two years. Over 100 CSDA members have already submitted opposition letters to this costly California Public Records Act (CPRA) bill and CSDA is calling on all affected agencies to add on.

The practical effect of AB 2093 is that every public agency, including special districts, will need to keep all emails, sent and received, including out-of-office and spam emails for two years. The bill states that this is to be done in furtherance of the CPRA in order to avoid Constitutional requirements for the State to reimburse public agencies for the additional costs associated with this new mandate.

In his veto message of last year's identical legislation, Governor Gavin Newsom stated:

"I am returning Assembly Bill 1184 without my signature. This bill would require state and local public agencies to retain every public record transmitted by e-mail for at least two years. This bill does not strike the appropriate balance between the benefits of greater transparency through the public's access to public records, and the burdens of a dramatic increase in records-retention requirements, including associated personnel and data-management costs to taxpayer. Therefore, I am unable to sign this bill."

AB 2093 will require many agencies to purchase additional servers to store the massive amounts of data contained within two-year's worth of emails. Additionally, many agencies will likely need to hire additional staff to respond to CPRA requests in order to review and filter through all the additional emails agencies would maintain. **AB 2093 will also likely result in lengthened response times to CPRA requests.**

While we all support transparency, this bill does not create greater transparency, it is simply an unnecessary data retention bill. AB 2093 makes no changes to what agencies are required to disclose or what is exempt from disclosure under the CPRA. Draft documents and internal memos remain exempt from disclosure should an agency wish to exercise that exemption.

This bill will impose negative impacts on all public agencies that aren't currently retaining all of their emails for two years.

**Help stop AB 2093 from becoming a law
by submitting a letter of opposition from your district**

Visit csda.net/take-action to get more information on AB 2093 and download a sample letter of opposition. Contact CSDA's Senior Legislative Representative, Dillon Gibbons at dillong@csda.net with questions.



ACR 179: Special Districts Week 2020

Assembly Member Randy Voepel, Member of the Assembly Committee on Local Government, has introduced [ACR 179](#), proclaiming the week of May 17, 2020, to May 23, 2020, to be “Special Districts Week.”

[ACR 179](#) encourages all Californians to be involved in their communities and be civically engaged with their local government.

Should the resolution successfully pass both houses of the Legislature, then Special Districts week will coincide with CSDA's annual [Special Districts Legislative Days](#), where attendees will meet with lawmakers and their staff.

This resolution highlights that:

- Special districts are local governmental entities created by a community’s residents, funded by those residents, and overseen by those residents to provide specialized services and infrastructure.
- Communities and regions throughout California receive essential services from special districts, including water, sanitation and water recycling, fire protection, electricity, parks and recreation, healthcare, open space, ports and harbors, flood protection, mosquito abatement, cemeteries, resource conservation, airports, transit, road maintenance, veterans’ facilities, and more.
- A series of sunshine laws ensure special districts remain transparent and accountable to the communities they serve.
- Local leaders formed the California Special Districts Association over 50 years ago to provide districts with resources necessary to best serve their communities.

ACR 179 raises awareness and understanding about the special districts that provide millions of Californians with essential services and infrastructure.

For more information about ACR 179, email CSDA Legislative Representative Anthony Tannehill at anthonyt@cdda.net.

Promote Special Districts Week 2020

Visit cdda.net/take-action to download a sample support letter and access the Special Districts Week Toolkit, including a sample district resolution, sample press release, and sample newsletter article.



➤ INFRASTRUCTURE, INNOVATION, AND INVESTMENT

CSDA's long range policy principal regarding infrastructure, innovation, and investment is to encourage prudent planning for investment and maintenance of innovative long-term infrastructure. CSDA supports the development of fiscal tools and incentives to assist special districts in their efforts to meet California's changing demands, ensuring the efficient and effective delivery of core local services.

New Bills Seek to Help with Public Safety Power Shutoffs

In response to the Public Safety Power Shutoff (PSPS) events that took place statewide last year, hampering critical services, slowing local economies, and highlighting gaps in emergency response and disaster preparedness protocols, the Legislature has introduced a bevy of new bills aimed at mitigating impacts. Below are the top ten PSPS bills that could potentially affect special districts the most. A full list of the 36 PSPS bills CSDA is currently tracking can be viewed at csda.net/bill-tracking.

Local Government Cost Recovery or Relief:

- **AB 1915 (Chu) Electrical Corporations: De-Energization Event Conditions**
This bill would require the CPUC to adopt rules dictating the circumstances under which a de-energization event may be implemented and continued, including the appropriate geographic range for the event. Additionally, post event the CPUC would be required to determine if the electrical corporation complied with the rules, and could force the electrical corporation to pay claims by customers for losses.
- **AB 1936 (Rodriguez) Price Gouging: Public Safety Power Shutoffs**
This bill would apply price gouging prohibition and penalties upon an announcement of a public safety power shutoff.
- **AB 2178 (Levine) De-Energization State of Emergency**
This bill would add a de-energization event to the existing list of conditions under which the Governor may declare a state of emergency and/or local officials of a county, city, or city and county may declare a local emergency. This would potentially allow special districts to receive financial reparation for costs incurred during the event as well as grant additional flexibility provided through the provisions of the California Emergency Services Act.
- **SB 378 (Wiener) De-Energization Cost Recovery**
This bill would require the Public Utilities Commission in consultation with the Public Advocate's Office to establish a procedure for customers, local governments, and others affected by a de-energization event to recover costs accrued during the de-energization event from an electrical corporation with more than 2,500,000 electrical service connections in California.
- **SB 862 (Dodd) Planned Power Outage Protocols and Access for Functional Need Individuals**
This bill would include a planned de-energization event within those conditions constituting a state of emergency and a local emergency and would require an electrical corporation, as a part of its public safety mitigation protocols, to include protocols that deal specifically with access and functional need individuals. This does not apply to publicly owned utilities.



Operational and Regulatory Flexibility for use of Back-Up Emergency Generators:

- **AB 2182 (Rubio, Blanca) Emergency Backup Generators: Water and Wastewater Facilities Exemption**

This bill would provide that use of an alternative power source by an essential public service to power a critical facility during a planned de-energization event initiated by electric utilities is considered emergency use even if an official emergency has not been declared by the State or local government and states that its use shall not be subject to any local, regional, or state regulations regarding the operation of an alternative power source.

- **SB 802 (Glazer) Emergency Backup Generators: Health Facilities Exemption**

This bill would require an air district to allow a health facility that has received a permit from the district to construct and operate an emergency backup generator to use that emergency backup generator during a de-energization event without having that usage count toward any time limitation on actual usage and routine testing and maintenance included as a condition for issuance of that permit.

- **SB 1099 (Dodd) Emergency Backup Generators: Critical Facilities Exemption**

This bill would require air districts to allow critical facilities with a permitted emergency backup generator to 1) use the emergency backup generator during a de-energization event or other loss of power, 2) test or maintain the emergency backup generator for consistency without having it count toward the generator's time limitation on actual usage and routine testing and maintenance. Further, an air district would not be able to impose a fee on the issuance or renewal of a permit issued for an emergency backup generator.

Enhanced Local Government Emergency Response:

- **AB 2179 (Levine) Electrical Corporations: Wildfire Mitigation Plans**

This bill would require the Public Utilities Commission to adopt rules requiring an electrical corporation to provide or make available information relative to those customers receiving medical baseline rates that may lose electrical service during a de-energization event upon request from an entity of local government with responsibility for mitigating public safety impacts of a de-energization event, including appropriate special districts.

Local Control of Utility Services:

- **SB 917 (Wiener) Northern California Energy Utility District**

This bill would authorize a local publicly owned energy utility to elect to join in the eminent domain action brought by the California Consumer Power and Conservation Financing Authority and acquire that portion of the electrical or gas system necessary to provide service within its borders if the local publicly owned energy utility contributes its proportionate share of the compensation paid for the assets or ownership of the public utility and would establish the Northern California Energy Utility District, with a governing board elected by district and with powers and duties similar to a municipal utility district, to provide electrical and gas service, and authorizes the authority to transfer any public utility acquired by eminent domain to the district or to a local publicly owned energy utility that participates in the eminent domain action.

If you have input or questions regarding these or any of the PSPS measures, please contact Alyssa Silhi, the legislative representative working PSPS issues, at alyssas@csda.net or by calling the CSDA front office at 877-924-CSDA.



CSDA Sponsors Legislation to Reinstate Securitized Limited Obligation Notes

Securitized Limited Obligation Notes (SLONs) are a financial tool created in statute for special districts in 2004, (Government Code section 53835-53839) expired on December 31, 2019. CSDA has sponsored AB 2107 (Rodriguez and Gray) to reinstate this short-term financing tool.

SLON interest rates are limited by statute and cannot exceed two million dollars, with a term not to exceed 10 years. SLONs may be securitized by any available revenues and do not require two-thirds vote of the electorate.

While some lenders may view special districts' promissory notes or other instruments as risky, SLONs are backed by a pledge of existing revenues with terms of 10 years or less, providing more certainty for lenders.

This type of loan may be useful to those special districts funding relatively small projects of less than \$2 million, and those districts who do not have suitable real property for a lease agreement as security for loan. Additionally, some might find SLONs to be more practical than long-term bonds (with terms of 20-30 years and the associated interest payments) for small projects.

SLONS could be issued only after a special district adopts, by a four-fifths vote, a resolution that contains several key features. Some of those features include:

- The purposes of incurring the indebtedness, and that the indebtedness shall be used solely for those purposes.
- The estimated amount of the indebtedness.
- The maximum number of notes to be issued, and the source of revenue or revenues to be used to secure the limited obligation notes.
- The maturity date of the securitized limited obligation notes.

Would your district benefit from reinstatement of this short-term financing tool?

Special Districts and other stakeholders are invited to join our coalition supporting AB 2107. Please visit csda.net/take-action to download a sample support letter, or contact Legislative Representative Anthony Tannehill at anthonyt@csda.net.



➤ 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.

Legislators Introduce 34 Independent Contractor Bills in Aftermath of AB 5

Last Year the Legislature passed [AB 5](#) by Assembly Member Lorena Gonzalez related to independent contractor classifications in response to a California Supreme Court decision in the case of [Dynamex Operations West, Inc v. Superior Court of Los Angeles](#). Just like the case, AB 5 centered on the factors used to determine if an individual can be classified as an independent contractor or an employee. **So far in 2020, 34 bills related to exemptions from AB 5 have been introduced, including two ([AB 1850](#) and [AB 2465](#)) from Assembly Member Gonzalez.**

Prior to the recent *Dynamex* court decision and subsequent passage of AB 5, employers used what's referred to as the "Borello Test" to determine employment classifications of employees. Under *Borello*, there was an 11-point test with the primary test known as the "Right to Control Test," determining whether the hiring entity controlled the manner and means of accomplishing the desired result by the person providing services. If it could be proven that the hiring entity had the "right to control," the worker was deemed an employee by this standard.

However, under AB 5 the 11-point Borello Test has been narrowed to three, and is referred to as the "ABC Test." The new AB 5 now requires a worker meet each of the following three conditions to be considered an independent contractor:

- Part A: The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact; and
- Part B: The worker performs work that is outside the usual course of the hiring entity's business; and
- Part C: The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

The narrower ABC Test has led to a significant number of independent contractors across various business sectors in California no longer meeting the legal definition of an independent contractor. For more information about the specifics of AB 5 and whether or not your organization is properly classifying employees visit the [Department of Industrial Relations website](#).

Does your district use independent contractors you believe may be improperly reclassified by AB 5?

Contact CSDA Senior Legislative Representative Dillon Gibbons at dillong@csda.net if your district believes it needs an exemption from AB 5. Please provide specifics about why your contractors pass the Borello Test, but cannot pass the new ABC Test.



➤ 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 Weighs in on Biggest CVRA Court Case to Affect At-Large Elections

As special districts throughout the state have begun to face legal challenges to their voting systems, many have sought guidance on switching from an “at-large” to “by-district” voting method and how to comply with the California Voting Rights Act (CVRA). **Recently, CSDA filed an amicus brief in a case currently pending in the California Court of Appeal that may provide guidance to districts that wish to keep an “at-large” voting system: [Pico Neighborhood Association, et al. v. City of Santa Monica](#).**

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[.]” In the *City of Santa Monica* case, the City argues that the evidence at trial demonstrates that Santa Monica’s 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 points to the fact that Santa Monica has a history of electing 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.

The CSDA brief, filed in support of the City of Santa Monica, addresses two narrow issues. First, it asks the Court for sorely needed guidance and clarity regarding the appropriate methodologies for determining liability under the CVRA. Local agencies are finding that the bar is low to substantiate a finding of “racially polarized voting,” and that the factors used by courts are sometimes not indicative of the true breadth of representation. Second, it asks the Court of Appeal to reverse the trial court because the court-ordered districting plan that was prepared by the Plaintiff’s experts did not include participation from the public nor the City’s governing body. Special district voters must be allowed to participate in crafting such a significant change in how their governing bodies are elected.

CSDA will continue to monitor the case and report any updates in the law to our members. If your district has an “at-large” voting system and you would like more information, read the [CSDA White Paper](#), “CONVERTING FROM AT-LARGE TO BY-DISTRICT ELECTIONS UNDER THE CALIFORNIA VOTING RIGHTS ACT: UNDERSTANDING THE “SAFE HARBOR” PROCESS FROM START TO FINISH,” prepared by attorneys Derek Cole and Sean DeBurgh from CSDA Business Affiliate Cole Huber LLP.

Sean DeBurgh and other experts will participate in a breakout session on the CVRA and its affect on special district elections and redistricting at Special Districts Legislative Days, May 19-20 at the Sheraton Grand Sacramento. Early bird registration ends April 20. Register at legislativedays.csda.net.

You can find a copy of the amicus brief filed in this case on the [CSDA Legal Advocacy webpage](#). If you have questions about this case, contact CSDA Deputy General Counsel Mustafa Hessabi at mustafah@csda.net.



➤ OTHER WAYS TO TAKE ACTION

Learn More

Registration Now Open for 2020 Special Districts Legislative Days

Gain the edge on policy changes impacting your agency and exchange ideas with California's top decision-makers at the 2020 Special Districts Legislative Days, an interactive and informative two-day legislative conference in our State's Capitol. Make Districts Stronger Together May 19-20 at the Sheraton Grand Sacramento.

Early Bird Discount!

Register by April 20 and find the latest details at legislatedays.csdanet.net.

Utilize Resources

Central and Northern CA Special Districts Can Reduce Electricity Charges in 2020

Special districts served by PG&E have the option to transition to new electricity rates before automatically transitioning in November 2020. If districts are transitioned at the optimal time, they will save significantly.

CSDA Endorsed Affiliate Member Utility Cost Management, LLC (UCM) can analyze detailed 15-minute interval data to identify which accounts will benefit from pre-emptive rate changes, and more importantly, precisely when the changes should be made to maximize savings. While these savings are short-term (i.e., only through November 2020), they can be substantial.

In order to fully take advantage of this opportunity, most accounts should be analyzed in the next 45 days, because the savings start to diminish as we get closer to November 2020. For more information, call UCM at (559) 261-9237, or email to cw@utilitycostmanagement.com.

Join Today

Join an Expert Feedback Team to provide CSDA staff with invaluable insights on policy issues. Email 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 advocacy@csda.net for help accessing these additional member resources.