



**C&L Committee**

G. Cordero, Chair  
C. Kurtz, Vice Chair  
J. Abdo  
L. Ackerman  
D. Erdman  
M. Luna  
J. Morris  
G. Peterson  
T. Quinn  
R. Record  
H. Repenning  
T. Smith

**Communications and Legislation  
Committee**

Meeting with Board of Directors \*

**April 11, 2022**

**1:00 p.m.**

Teleconference meetings will continue until further notice. Live streaming is available for all board and committee meetings on [mwdh2o.com](http://mwdh2o.com) ([Click Here](#))

A listen only phone line is also available at 1-800-603-9516; enter code: 2176868#. Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via teleconference only. To participate call (404) 400-0335 and enter Code: 9601962.

**Monday, April 11, 2022  
Meeting Schedule**

09:30 am - RP&AM  
10:00 am - E&O  
11:30 am - Break  
12:00 pm - L&C  
01:00 pm - C&L  
02:00 pm - OP&T  
02:30 pm - F&I

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MWD Headquarters Building • 700 N. Alameda Street • Los Angeles, CA 90012

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\* The Metropolitan Water District's meeting of this Committee is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to this Committee may participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the committee as advisory to the Board, members of the Board who are not assigned to this Committee will not vote on matters before this Committee.

**1. Opportunity for members of the public to address the committee on matters within the committee's jurisdiction (As required by Gov. Code Section 54954.3(a))**

**\*\* CONSENT CALENDAR ITEMS -- ACTION \*\***

**2. CONSENT CALENDAR OTHER ITEMS - ACTION**

- A. Approval of the Minutes of the Meeting of the Communications and Legislation Committee held March 7, 2022 [21-1016](#)

**Attachments:** [04112022 CL 2A minutes.pdf](#)

**3. CONSENT CALENDAR ITEMS - ACTION**

- 7-16** Express support for SB 991 (Newman, D-Fullerton): Public contracts: progressive design-build: local agencies; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA [21-1006](#)

**Attachments:** [04122022 CL 7-16 B-L.pdf](#)  
[04112022 CL 7-16 Presentation.pdf](#)

**\*\* END OF CONSENT CALENDAR ITEMS \*\***

**4. OTHER BOARD ITEMS - ACTION**

NONE

**5. BOARD INFORMATION ITEMS**

NONE

**6. COMMITTEE ITEMS**

- a. Report on Activities from Washington, D.C. [21-1018](#)

**Attachments:** [04112022 CL Federal Legislative Matrix.pdf](#)  
[04112022 CL 6a Presentation.pdf](#)

- b. Report on Activities from Sacramento [21-1019](#)

**Attachments:** [04112022 CL State Legislative Matrix.pdf](#)

**7. MANAGEMENT REPORTS**

- a. External Affairs Management's Report [21-1020](#)

**Attachments:** [041122 CL 7a Presentation.pdf](#)

**8. FOLLOW-UP ITEMS**

NONE

**9. FUTURE AGENDA ITEMS**

**10. ADJOURNMENT**

**NOTE:** This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Agendas for the meeting of the Board of Directors may be obtained from the Board Executive Secretary. This committee will not take any final action that is binding on the Board, even when a quorum of the Board is present.

Writings relating to open session agenda items distributed to Directors less than 72 hours prior to a regular meeting are available for public inspection at Metropolitan's Headquarters Building and on Metropolitan's Web site <http://www.mwdh2o.com>.

Requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Board Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**COMMUNICATIONS AND LEGISLATION COMMITTEE**

**March 7, 2022**

Chair Cordero called the teleconference meeting to order at 1:35 p.m.

Members present: Chair Cordero, Vice Chair Kurtz, Directors Abdo, Ackerman, Erdman, Luna, Morris, Peterson, Record, and Smith.

Members absent: Directors Quinn and Repenning.

Other Board Members present: Chairwoman Gray, Directors Atwater, Blois, De Jesus, Dennstedt, Dick, Faessel, Fellow, Fong-Sakai, Goldberg, Hawkins, Jung, Lefevre, Miller, Ramos, and Tamaribuchi.

Committee Staff present: Hagekhalil, Holmes, Scully, and Sims.

**1. OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMITTEE ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION**

None

**CONSENT CALENDAR ITEMS – ACTION**

**2. CONSENT CALENDAR OTHER ITEMS – ACTION**

- A. Approval of the Minutes of the Meeting of the Communications and Legislation Committee held February 7, 2022.

**3. CONSENT CALENDAR ITEMS – ACTION**

- |     |          |   |
|-----|----------|---|
| 7-5 | Subject: | Authorize entering into a three-year contract with GP Generate, LLC for media placement services related to drought awareness and water conservation not to exceed \$10.5 million; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA |
|     | Motion:  | Authorize the General Manager to enter into a three-year agreement with GP Generate, LLC for media placement and advertising consulting services not to exceed \$10.5 million   |

The following Directors provided comments or asked questions:

1. Abdo
2. Ackerman
3. Cordero
4. Luna

Staff responded to the Directors' comments or questions.

After completion of the presentation, Director Peterson made a motion, seconded by Director Abdo to approve item 2A and 7-5:

The vote was:

Ayes: Directors Abdo, Ackerman, Cordero, Erdman, Kurtz, Luna, Morris, Peterson, Record, and Smith.  
Noes: None  
Abstentions: None  
Absent: Directors Quinn and Repenning

The motion passed by a vote of 10 ayes, 0 noes, 0 abstain, and 2 absent.

#### **END OF CONSENT CALENDAR ITEMS**

#### **4. OTHER BOARD ITEMS – ACTION**

None

#### **5. BOARD INFORMATION ITEMS**

None

#### **6. COMMITTEE ITEMS**

- a. Subject: Report on Activities from Washington, D.C.  
Presented by: Abby Schneider, Executive Legislative Representative

Ms. Schneider reported on legislative activities from Washington, D.C. including government funding, the Water Resources and Development Act 2022, and meetings with Bureau of Reclamation to discuss large-scale recycled water program.

b. Subject: Report on Activities from Sacramento

Presented by: Kathy Viatella, Executive Legislative Representative

Ms. Viatella reported on activities from Sacramento including an update on the proposed FY 2022/23 state budget and legislative initiatives on drought, water quality, infrastructure investments, climate change and resiliency.

The following Directors provided comments or asked questions:

1. De Jesus
2. Lefevre
3. Luna

Staff responded to the Directors' comments or questions.

## **7. MANAGEMENT REPORTS**

a. Subject: External Affairs Management's Report

Presented by: Sue Sims, External Affairs Group Manager

Ms. Sims provided an update on water conservation and climate-resiliency messaging and outreach activities. Current advertising on drought in multiple languages has been expanded via digital, radio and social media. Staff is now developing new creative for a spring/summer advertising campaign.

The following Director provided a comment or asked a question:

1. Cordero

## **8. FOLLOW-UP ITEMS**

None

## **9. FUTURE AGENDA ITEMS**

None

Next meeting will be held on April 11, 2022.

Meeting adjourned at 2:10 p.m.

Gloria Cordero  
Chair



- Board of Directors  
*Communications and Legislation Committee*

4/12/2022 Board Meeting

7-16

## Subject

Express support for SB 991 (Newman, D-Fullerton): Public contracts: progressive design-build: local agencies; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

## Executive Summary

Senate Bill (SB) 991 (**Attachment 1**) would authorize water and wastewater agencies to use the progressive design-build (PDB) project delivery method for any public works project in excess of \$5 million that would produce, store, supply, treat, or distribute water from any source.

PDB is a method in which a single entity is hired to do both the design and construction at an early stage in the project to allow increased collaboration among the owner, designer, and builder. SB 991 could benefit water agencies, including Metropolitan, by giving them the option to use PDB, which can reduce the overall project costs, risk, and schedules.

## Details

Current California statutes place explicit limits on the types of contracting methods that public agencies can use on public works projects. The traditional design-bid-build method, where the lowest responsive and responsible bid is selected, is common practice. However, agencies that wish to use alternative delivery methods must first obtain authorization from the State legislature. Existing law, until January 1, 2025, authorizes certain local agencies, as defined, to use the design-build procurement process for specified public works with prescribed cost thresholds. Existing law requires specified information submitted by a design-build entity in the design-build procurement process to be certified under penalty of perjury.

The Water Collaborative Delivery Association, formerly the Design Build Council, an industry education group that supports collaborative-delivery methods for water and wastewater projects, is sponsoring SB 991 to expand project delivery options to include PDB. PDB authorization would benefit water agencies that plan to make significant investments in new sustainable water supply projects, such as those to advance the use of recycled water, by allowing the design-build contractor to work with the project owner during the project's design phase. Early collective engagement and collaboration by the owner, designer, and the contractor has potential benefits, which can reduce overall project risks, costs, and schedules.

If passed, SB 991 would authorize water and wastewater agencies to use the PDB method for public works projects in excess of \$5 million, similar to the California Department of General Services' authorization (Public Contract Code § 10187.5). SB 991 would allow water and wastewater agencies to use PDB through January 1, 2029.

## Comparison of Bills

Metropolitan is separately sponsoring a bill to seek authorization for three new delivery methods: design-build, PDB, and construction manager/general contractor for the Regional Recycled Water Program and a select number of emergency drought mitigation projects. There are some notable differences between the Metropolitan-sponsored bill - AB 1845 (Calderon): Metropolitan Water District of Southern California: alternative project delivery method – and SB 991, which are identified below and outlined in **Table 1**.



SB 991 applies to local agencies, as defined. SB 991 allows only PDB and requires that the PDB entity be chosen through a qualifications-based selection process. Projects under SB 991 would also have a cost threshold of \$5 million. SB 991 contains a conflict of interest provision as well as a very prescriptive request for qualification (RFQ) process and requires that all construction subcontracts be awarded through a specified, owner-controlled process. SB 991 has no requirements for owner inspections, and while it is silent on design-build-operate (DBO) contracts, it does not specifically prohibit DBO contracts.

AB 1845 applies specifically to Metropolitan, and sets a cap on the number of projects irrespective of price. In addition, AB 1845 allows more owner discretion in the selection process, allowing for either a qualifications-based selection of the design-build entity, or a best-value selection through a request for proposal following an initial RFQ process. AB 1845 requires owner inspections and specifically prohibits DBO contracts. Both bills specifically require that all contractors and subcontractors performing work on applicable projects or contracts use a skilled and trained workforce that falls within an apprenticeable occupation in the building or construction trades. Both bills also allow for the identification of specific types of subcontractors to be included in the design-build entity's statement of qualifications.

**Table 1**

<b>Category</b>	<b>SB 991</b>	<b>AB 1845</b>
Alternative delivery method	PDB only	DB, PDB, CM/GC
Coverage	Water-related projects > \$5M	RRWP and drought projects
Sunset Date	January 1, 2029	DB January 1, 2025 PDB and CM/GC January 1, 2028
Conflict of Interest Language	Yes	Yes
Skilled & Trained Workforce Requirements	Enforceable commitment required unless agency has a project labor agreement (PLA)	Enforceable commitment required unless agency has PLA
Selection Process	Qualifications-based	Qualifications-based or Best Value
Subcontractor Selection Process	Owner's discretion	Owner's discretion

Staff recommends Metropolitan support SB 991 to allow water and wastewater agencies to use the PDB project delivery method, which has the following benefits:

- Enhanced opportunities for collaboration between owner and contractor through the design and construction process
- Enhanced potential for project risk identification and allocation between owner and contractor
- Greater flexibility in the contract award process, not limited to the lowest responsible bidder
- Potentially shorter project completion schedules, leading to earlier online dates
- Earlier cost certainty with the potential for lower overall project costs
- Increased opportunities for innovation through the collaborative design process

Supporters of the bill include the Association of California Water Agencies, California Association of Sanitation Agencies, California Municipal Utilities Association, Inland Empire Utilities Agency, Santa Clara Valley Water District, Silicon Valley Leadership Group, State Building & Construction Trades Council of California, The Bay Area Council, and Watereuse Association. There is no registered opposition.

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**Policy**

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Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

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**California Environmental Quality Act (CEQA)**

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**CEQA determination for Option #1:**

The proposed action is not defined as a project under CEQA because it involves legislative proposals that do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Public Resources Code Section 21065 and Section 15378(b)(1) of the State CEQA Guidelines).

**CEQA determination for Option #2:**

None required

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**Board Options**

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**Option #1**

Express a support position on SB 991 (Newman, D-Fullerton): Public contracts: progressive design-build: local agencies

**Fiscal Impact:** No direct fiscal impact; possible cost savings to local agencies that utilize PDB, including Metropolitan, if passed.

**Business Analysis:** Should SB 991 become law, local agencies would have the option to use the PDB project delivery method for projects that exceed \$5,000,000.

**Option #2**

Take no position.

**Fiscal Impact:** No direct fiscal impact

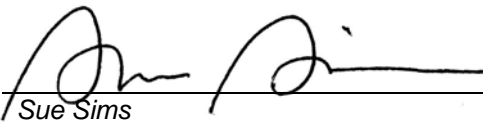
**Business Analysis:** Should SB 991 become law, local agencies would have the option to use the PDB project delivery method for projects that exceed \$5,000,000.

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**Staff Recommendation**

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**Option #1**

  
Sue Sims  
External Affairs Manager  
4/6/2022  
Date

  
Adel Hagekhalil  
General Manager  
4/6/2022  
Date

**Attachment 1 – SB 991 (Newman, D-Fullerton): Public contracts: progressive design-build: local agencies.**

Ref# ea 12687305

AMENDED IN SENATE MARCH 22, 2022

**SENATE BILL****No. 991**

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**Introduced by Senator Newman**

February 14, 2022

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An act to add *and repeal* Chapter 4.1 (commencing with Section 22170) ~~to~~ of Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 991, as amended, Newman. Public contracts: progressive design-build: local agencies.

Existing law, until January 1, 2025, authorizes local agencies, as defined, to use the design-build procurement process for specified public works with prescribed cost thresholds. Existing law requires specified information submitted by a design-build entity in the design-build procurement process to be certified under penalty of perjury.

Existing law authorizes the Director of General Services to use the progressive design-build procurement process for the construction of up to 3 capital outlay projects, as jointly determined by the Department of General Services and the Department of Finance, and prescribes that process. Existing law defines "progressive design-build" as a project delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection at the earliest feasible stage of the project. Existing law, pursuant to the process, after selection of a design-build entity, authorizes the Department of General Services to contract for design and preconstruction services sufficient to establish a guaranteed maximum price, as defined. Existing law authorizes the department, upon agreement on a guaranteed maximum price, to amend the contract

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in its sole discretion, as specified. Existing law requires specified information to be verified under penalty of perjury.

This bill, until January 1, ~~2033~~, ~~authorizes 2029~~, *would authorize* local agencies, defined as any city, county, city and county, or special district authorized by law to provide for the production, storage, supply, treatment, or distribution of any water from any source, to use the progressive design-build process for public works projects in excess of \$5,000,000, similar to the progressive design-build process authorized for use by the Director of General Services. *The bill would require a local agency that uses the progressive design-build process to submit, no later than January 1, 2028, to the appropriate policy and fiscal committees of the Legislature a report on the use of the progressive design-build process containing specified information, including a description of the projects awarded using the progressive design-build process.* The bill would require *the design-build entity and its general partners or joint venture members to verify* specified information ~~to be~~ *verified* under penalty of perjury. By expanding the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 4.1 (commencing with Section 22170)  
2 is added to Part 3 of Division 2 of the Public Contract Code, to  
3 read:

4  
5 CHAPTER 4.1. LOCAL AGENCY PROGRESSIVE DESIGN-BUILD  
6 CONTRACTING  
7

8 22170. For purposes of this chapter, the following definitions  
9 apply:

10 (a) ~~“Best value” means a value determined by evaluation of~~  
11 ~~objective criteria that relate to demonstrated competence and on~~  
12 ~~the professional qualifications necessary for the satisfactory~~

1 ~~performance of the services required. Other factors such as price,~~  
2 ~~features, functions, and life-cycle costs may be considered. If the~~  
3 ~~qualifications-based selection process includes estimates of cost~~  
4 ~~as a factor, a best value determination may involve the selection~~  
5 ~~of the lowest cost proposal meeting the interests of the local agency~~  
6 ~~and meeting the objectives of the project, or a tradeoff between~~  
7 ~~price and other specified factors.~~

8 *(a) (1) “Best value” means a value determined by evaluation*  
9 *of objective criteria that may include, but are not limited to, price,*  
10 *features, function, life-cycle costs, experience, and past*  
11 *performance.*

12 *(2) A best value determination may involve the selection of the*  
13 *lowest cost proposal meeting the interests of the local agency and*  
14 *the objectives of the project, selection of the best proposal for a*  
15 *stipulated sum established by the procuring local agency, or a*  
16 *tradeoff between price and other factors.*

17 (b) “Construction subcontract” means each subcontract awarded  
18 by the design-build entity to a subcontractor that will perform work  
19 or labor or render service to the design-build entity in or about the  
20 construction of the work or improvement, or a subcontractor  
21 licensed by the State of California that, under subcontract to the  
22 design-build entity, specially fabricates and installs a portion of  
23 the work or improvement according to detailed drawings contained  
24 in the plans and specifications produced by the design-build team.

25 (c) “Design-build entity” means a corporation, limited liability  
26 company, partnership, joint venture, or other legal entity that is  
27 able to provide appropriately licensed contracting, architectural,  
28 and engineering services as needed pursuant to a design-build  
29 contract.

30 (d) “Design-build project” means any project that treats, pumps,  
31 stores, or conveys water, wastewater, recycled water, or advanced  
32 treated water using the progressive design-build construction  
33 procurement process described in this chapter.

34 (e) “Design-build team” means the design-build entity itself  
35 and the individuals and other entities identified by the design-build  
36 entity as members of its team. Members shall include the general  
37 contractor and, if utilized in the design of the project, all electrical,  
38 mechanical, and plumbing contractors.

39 (f) “Guaranteed maximum price” means the maximum payment  
40 amount agreed upon by the local agency and the design-build entity

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1 for the design-build entity to finish all remaining design,  
2 preconstruction, and construction activities sufficient to complete  
3 and close out the project.

4 (g) “Local agency” means a city, county, city and county, or  
5 special district authorized by law to provide for the production,  
6 storage, supply, treatment, or distribution of any water from any  
7 source.

8 (h) “Progressive design-build” means a project delivery process  
9 in which both the design and construction of a project are procured  
10 from a single entity that is selected through a qualifications-based  
11 selection at the earliest feasible stage of the project.

12 (i) “Qualifications-based selection” means the process by which  
13 the local agency solicits for services from the design-build entities  
14 and that price is not the sole factor as the basis of award.

15 22171. A local agency may procure progressive design-build  
16 contracts and use the progressive design-build contracting process  
17 described in this chapter for public works projects in excess of  
18 five million dollars (\$5,000,000).

19 22171.5. A local agency entering into design-build contracts  
20 authorized under this chapter shall develop guidelines for a  
21 standard organizational conflict-of-interest policy, consistent with  
22 applicable law, regarding the ability of a person or entity that  
23 performs services for the local agency relating to the solicitation  
24 of a design-build project, to submit a proposal as a design-build  
25 entity, or to join a design-build team.

26 22172. The procurement process for progressive design-build  
27 projects shall progress as follows:

28 (a) The local agency shall prepare and issue a request for  
29 qualifications in order to select a design-build entity to execute  
30 the project. The request for qualifications shall include, but is not  
31 limited to, the following elements:

32 (1) Documentation of the size, type, and desired design character  
33 of the project and any other information deemed necessary to  
34 describe adequately the local agency’s needs, including the  
35 expected cost range, the methodology that will be used by the local  
36 agency to evaluate the design-build entity’s qualifications, the  
37 procedure for final selection of the design-build entity, and any  
38 other information deemed necessary by the local agency to inform  
39 interested parties of the contracting opportunity.

(2) Significant factors that the local agency reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other non-price-related factors. The local agency may require that a cost estimate, including the detailed basis for the estimate, be included in the design-build entities' responses and consider those costs in evaluating the statements of qualifications.

(3) The relative importance or the weight assigned to each of the factors identified in the request for qualifications.

(4) A standard template request for statements of qualifications prepared by the local agency. In preparing the standard template, the local agency may consult with the construction industry, the building trades and surety industry, and other local agencies interested in using the authorization provided by this chapter. The template shall require the following information:

(A) If the design-build entity is a privately held corporation, limited liability company, partnership, or joint venture, a listing of all of the entity's shareholders, partners, or members known at the time of the statement of qualification submission who will perform work on the project.

(B) Evidence that the members of the design-build team have completed, or have demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the design-build entity has the capacity to complete the project.

(C) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(E) Information concerning workers' compensation experience history and a worker safety program.

(F) If the proposed design-build entity is a corporation, limited liability company, partnership, joint venture, or other legal entity,

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1 a copy of the organizational documents or agreement committing  
2 to form the organization.

3 (G) An acceptable safety record. A proposer's safety record  
4 shall be deemed acceptable if its experience modification rate for  
5 the most recent three-year period is an average of 1.00 or less, and  
6 its average total recordable injury or illness rate and average lost  
7 work rate for the most recent three-year period does not exceed  
8 the applicable statistical standards for its business category or if  
9 the proposer is a party to an alternative dispute resolution system  
10 as provided for in Section 3201.5 of the Labor Code.

11 (5) The information required under this subdivision shall be  
12 certified under penalty of perjury by the design-build entity and  
13 its general partners or joint venture members.

14 (b) (1) A design-build entity shall not be evaluated for selection  
15 unless the entity provides an enforceable commitment to the local  
16 agency that the entity and its subcontractors at every tier will use  
17 a skilled and trained workforce to perform all work on the project  
18 or contract that falls within an apprenticeable occupation in the  
19 building and construction trades, in accordance with Chapter 2.9  
20 (commencing with Section 2600) of Part 1.

21 (2) This subdivision shall not apply if one or more of the  
22 following requirements are met:

23 (A) The local agency has entered into a project labor agreement  
24 that will bind all contractors and subcontractors performing work  
25 on the project or contract to use a skilled and trained workforce,  
26 and the entity agrees to be bound by that project labor agreement.

27 (B) The project or contract is being performed under the  
28 extension or renewal of a project labor agreement that was entered  
29 into by the local agency ~~prior to~~ *before* January 1, 2023.

30 (C) The entity has entered into a project labor agreement that  
31 will bind the entity and all its subcontractors at every tier  
32 performing the project or contract to use a skilled and trained  
33 workforce.

34 (3) For purposes of this subdivision, "project labor agreement"  
35 has the same meaning as provided in paragraph (1) of subdivision  
36 (b) of Section 2500.

37 (c) At the close of the solicitation period, the local agency shall  
38 review the submissions. The local agency may evaluate  
39 submissions based solely upon the information provided in each  
40 design-build entity's statement of qualifications. The local agency



1 may also interview some or all of the design-build entities to further  
2 evaluate their qualifications for the project.

3 (d) Notwithstanding any other provision of this code, upon  
4 issuance of a contract award, the local agency shall publicly  
5 announce its award, identifying the design-build entity to which  
6 the award is made, along with a statement regarding the basis of  
7 the award. The statement regarding the local agency's contract  
8 award and the contract file shall provide sufficient information to  
9 satisfy an external audit.

10 22172.1. (a) The design-build entity shall provide payment  
11 and performance bonds for the project in the form and in the  
12 amount required by the local agency, and issued by a California  
13 admitted surety. The amount of the payment bond shall not be less  
14 than the amount of the performance bond.

15 (b) The design-build contract shall require errors and omissions  
16 insurance coverage for the design elements of the project.

17 (c) The local agency shall develop a standard form of payment  
18 and performance bond for its design-build projects.

19 22172.2. (a) After selecting a design-build entity based upon  
20 qualifications, the local agency may enter into a contract and direct  
21 the design-build entity to begin design and preconstruction  
22 activities sufficient to establish a guaranteed maximum price for  
23 the project.

24 (b) (1) Upon agreement of the guaranteed maximum price for  
25 the project, the local agency, at its sole and absolute discretion,  
26 may amend its contract to direct the design-build entity to complete  
27 the remaining design, preconstruction, and construction activities  
28 sufficient to complete and close out the project, and may add funds  
29 not exceeding the guaranteed maximum price to the contract for  
30 these activities.

31 (2) If the cost for completing all remaining design,  
32 preconstruction, and construction activities sufficient to complete  
33 and close out the project exceed the guaranteed maximum price,  
34 the costs exceeding the guaranteed maximum price shall be the  
35 responsibility of the design-build entity. If the cost for these  
36 activities are less than the guaranteed maximum price, the  
37 design-build entity shall not be entitled to the difference between  
38 the cost and the guaranteed maximum price. These amounts shall,  
39 at the discretion of the local agency, be shared, based on  
40 preestablished percentages, defined in the request for qualifications.

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(c) If the local agency and the design-build entity do not reach agreement on a guaranteed maximum price, or the local agency otherwise elects not to amend the design-build entity's contract to complete the remaining work, the local agency may solicit proposals to complete the project from firms that submitted statements of qualifications pursuant to Section 22172. The local agency may also, upon written determination that it is in the best interest of the city, county, city and county, or special district, as applicable, to do so, formally solicit proposals from other design-build entities, and contract award shall be made on a best value basis.

22172.3. (a) The local agency, in each design-build request for qualifications, may identify specific types of subcontractors that shall be included in the design-build entity's statement of qualifications. All construction subcontractors that are identified in the statement of qualifications shall be afforded the protections of Chapter 4 (commencing with Section 4100) of Part 1.

(b) Following award of the design-build contract, except for those construction subcontractors listed in the statement of qualifications, the design-build entity shall proceed as listed in this subdivision in awarding construction subcontracts with a value exceeding one-half of 1 percent of the contract price allocable to construction work for projects with a contract value of greater than or equal to ten million dollars (\$10,000,000).

(1) Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the local agency, including a fixed date and time on which qualifications statements, bids, or proposals will be due.

(2) Establish reasonable qualification criteria and standards.

(3) Award the subcontract ~~either on a best value basis or to the lowest responsible bidder.~~ *on a best value basis.* The process may include prequalification or short-listing.

(c) Subcontractors awarded construction subcontracts under this subdivision shall be afforded all the protections of Chapter 4 (commencing with Section 4100) of Part 1.

*(d) A licensed construction contractor or subcontractor that provides design services used on a project authorized by this chapter shall not be subject to any liability arising from their*

1 *design if the construction contract or subcontract for that design*  
2 *is not performed by that contractor or subcontractor.*

3 22172.4. (a) If the local agency elects to award a project  
4 pursuant to this chapter, retention proceeds withheld by the local  
5 agency from the design-build entity shall not exceed 5 percent if  
6 a performance and payment bond, issued by an admitted surety  
7 insurer, is required in the solicitation. Work performed to establish  
8 the guaranteed maximum price shall not be subject to retention.

9 (b) In a contract between the design-build entity and a  
10 subcontractor, and in a contract between a subcontractor and any  
11 subcontractor thereunder, the percentage of the retention proceeds  
12 withheld shall not exceed the percentage specified in the contract  
13 between the local agency and the design-build entity. If the  
14 design-build entity provides written notice to any subcontractor  
15 that is not a member of the design-build entity, before or at the  
16 time the bid is requested, that a bond may be required, and the  
17 subcontractor subsequently is unable or refuses to furnish a bond  
18 to the design-build entity, then the design-build entity may withhold  
19 retention proceeds in excess of the percentage specified in the  
20 contract between the local agency and the design-build entity from  
21 any payment made by the design-build entity to the subcontractor.

22 22172.5. (a) *Notwithstanding Section 10231.5 of the*  
23 *Government Code, no later than January 1, 2028, a local agency*  
24 *that uses the progressive design-build process pursuant to this*  
25 *chapter shall submit to the appropriate policy and fiscal*  
26 *committees of the Legislature a report on the use of the progressive*  
27 *design-build process.*

28 (b) *The report shall include, but is not limited to, the following*  
29 *information:*

30 (1) *A description of the project or projects awarded using the*  
31 *progressive design-build process.*

32 (2) *The contract award amounts.*

33 (3) *The design-build entities awarded the project or projects.*

34 (4) *A description of any written protests concerning any aspect*  
35 *of the solicitation, bid, or award of the contracts, including the*  
36 *resolution of the protests.*

37 (5) *A description of the prequalification process.*

38 (6) *The number of specialty subcontractors listed by construction*  
39 *trade type, on each project, that provided design services, but did*

**SB 991****— 10 —**

1 *not meet the target price for their scope of work, and therefore did*  
2 *not perform construction services on that project.*

3 *(7) Whether or not any portion of a design prepared by the*  
4 *specialty subcontractor that did not perform the construction work*  
5 *for that design was used by the local agency.*

6 *(8) The number of specialty subcontractors listed by construction*  
7 *trade type, on each project, that meet the definition of a small*  
8 *business, as specified in paragraph (1) of subdivision (d) of Section*  
9 *14837 of the Government Code.*

10 *(9) The number of specialty subcontractors listed by construction*  
11 *trade type, on each project, that meet the definition of a*  
12 *microbusiness, as specified in paragraph (2) of subdivision (d) of*  
13 *Section 14837 of the Government Code.*

14 *(10) If a project awarded under this chapter has been completed,*  
15 *an assessment of the project performance, including, but not limited*  
16 *to, a summary of any delays or cost increases.*

17 *(c) The report submitted pursuant to subdivision (a) shall be*  
18 *submitted in compliance with Section 9795 of the Government*  
19 *Code.*

20 22173. Nothing in this chapter affects, expands, alters, or limits  
21 any rights or remedies otherwise available at law.

22 22174. This chapter shall remain in effect only until January  
23 1, ~~2033~~, 2029, and as of that date is repealed.

24 SEC. 2. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.

O



Communications & Legislation Committee

Express support for SB 991  
(Newman, D-Fullerton):  
Public contracts: progressive design-  
build: local agencies

Item # 7-16  
April 11, 2022

# Background

- Traditional Delivery Method for Local Agencies
- Agencies with Alternative Delivery Authority
- Assembly Bill 1845

## Definition of Term

### Progressive Design Build (PDB)

- Contracting method where a single entity is hired to do both design and construction
- Selection through qualification-based process

## SB 991 Background & Provisions

- Sponsored by **The Water Collaborative Delivery Association**
- Would authorize local water/wastewater agencies to use PDB
- Applicable to public works projects in excess of **\$5 million**
- Sunset date: January 1, 2029



## Potential Benefits of PDB

- Potential for schedule advancement (earlier online dates)
- Enhanced opportunities for:
  - Collaboration during project development phase
  - Risk identification & allocation
- Earlier cost certainty; possible cost savings
- Greater flexibility in selection process
- Increased opportunities for innovation

# SB 991 Comparison with AB 1845 (Calderon)

Category	SB 991	AB 1845
Alternative delivery method	PDB only	DB, PDB, CM/GC
Coverage	Water-related projects > \$5M	RRWP and drought projects
Sunset Date	January 1, 2029	DB January 1, 2025 PDB and CM/GC January 1, 2028
Conflict of Interest Language	Yes	Yes
Skilled & Trained Workforce Requirements	Enforceable commitment required unless agency has PLA	Enforceable commitment required unless agency has PLA
Selection Process	Qualifications-based	Qualifications-based or Best Value
Subcontractor Selection Process	Owner's discretion	Owner's discretion

# Support & Opposition

## Support

- Association of California Water Agencies
- California Association of Sanitation Agencies
- California Municipal Utilities Association
- Inland Empire Utilities Agency
- Santa Clara Valley Water District
- Silicon Valley Leadership Group
- State Building & Construction Trades Council of California
- The Bay Area Council
- WaterReuse Association

## Opposition

- None registered

# Options.

## Option #1

Express a support position on SB 991  
(Newman): Public contracts: progressive  
design-build: local agencies

## Option #2

Take no position

# Staff Recommendation.

Option #1



**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

Topic	Bill / Author	Status	Title – Summary	MWD Position	Effects on MWD
Assistance for Disadvantaged Communities	<b>H.R. 3293</b> <b>(Rochester, D-DE)</b>	7/2/21: Passed the House as part of H.R. 3684 (DeFazio, D-OR), Invest in America Act.	<b>Low Income Water Customer Assistance Programs Act of 2021</b>  Establishes programs to assist low-income households with their drinking water and wastewater bills.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill does not directly impact Metropolitan but would help its member agencies. It creates a voluntary EPA grant program to help water systems expand the scope of their existing ratepayer assistance programs or create new ones.
Conservation	<b>H.R. 4647</b> <b>(Huffman, D-CA)</b>  <b>S. 2430</b> <b>(Feinstein, D-CA)</b>	11/19/21: Passed the House as part of H.R. 5376 (Yarmuth, D-KY), Build Back Better Act.  7/22/21: Referred to the Senate Committee on Finance.	<b>Water Conservation Rebate Tax Parity Act</b>  Amends the Internal Revenue Code of 1986 to expand the exclusion for conservation subsidies to include water conservation or efficiency measures and storm water management measures.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill makes rebates that homeowners receive for water conservation improvements to their home, including smart irrigation systems and turf removal, exempt from federal taxes. If enacted Metropolitan and its member agencies would no longer need to provide tax forms at the end of the year to customers that have received \$600 or more in water conservation rebates.

**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

Topic	Bill / Author	Status	Title – Summary	MWD Position	Effects on MWD
Conservation	<b>H.R. 5438</b> <b>(Cartwright, D-PA)</b>	9/30/21: Referred to the House Committees on Energy and Commerce, Energy and Reform, and Ways and Means.	<b>Water Advanced Technologies for Efficient Resource Use Act of 2021</b>  Addresses federal procurement of WaterSense products, creates a grant program for water conservation incentives, and makes water conservation incentives federally non-taxable.	<b>SUPPORT</b>  Based on Board-adopted January 2022 Federal Legislative Priorities	This bill authorizes a new grant program to help water agencies provide financial incentives to consumers for the purchase of WaterSense products. It also includes tax parity for water conservation measures. If enacted There could be some considerable water conservation effects in Metropolitan’s service territory, grants could be used to increase rebate amounts for smart irrigation controllers and customers who receive rebates over \$600 will not be taxed.
Conservation	<b>H.R. 6088</b> <b>Gallego, D-AZ)</b>  <b>S. 3282</b> <b>(Kelly, R-WV)</b>	11/30/21: Referred to the House Committee on Energy and Natural Resources.  11/30/21: Referred to the Senate Committee on Environment and Public Works.	<b>Water Infrastructure Modernization Act of 2021</b>  Authorizes a new grant program to help wastewater and drinking water systems detect leaks and reduce water loss.	<b>SUPPORT</b>  Based on Board-adopted January 2022 Federal Legislative Priorities	This bill directly benefits Metropolitan and its member agencies by creating a grant program to help cover the costs for conveyance leak detection and reduce supplier-side water loss. It could be used for a variety of investments including smart water network technologies, real-time sensing technologies, real-time decision support, and advanced metering infrastructure.



**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

Topic	Bill / Author	Status	Title – Summary	MWD Position	Effects on MWD
Endangered Species Act Oversight.	<b>H.R. 866</b> <b>(Calvert, R-CA)</b>	3/3/21: Referred to the House Natural Resources Subcommittee on Water, Oceans and Wildlife.	<b>Federally Integrated Species Health Act or the “FISH Act”</b>  Transfers the authority to oversee ESA-related responsibilities for anadromous fish from the Secretary of Commerce to the Secretary of the Interior.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This would simplify ESA consultations by consolidating those functions/authorities to one federal agency (US Fish and Wildlife Service) rather than two under the current law (the second being National Marine Fisheries Service). This would directly benefit Metropolitan's interests in the Delta related to SWP operations and facilities, as well as Delta islands activities.
Financing Tools for Water Infrastructure Projects	<b>H.R. 535</b> <b>(Garamendi, D-CA)</b>  <b>S. 91</b> <b>(Sinema, D-AZ)</b>	1/28/21: Referred to the House Committees on Oversight Reform and Financial Services.  1/28/21: Referred to the Senate Committee on Finance.	<b>Special Districts Provide Essential Services Act</b>  Allows special districts to access future federal funding to help offset costs associated with responding to the COVID-19 pandemic. It also defines special districts in federal statute for the first time.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	Metropolitan and some of its member agencies would qualify as special districts under the Act. If additional funds are allocated to states to help offset costs associated with the COVID-19 pandemic, special districts would be eligible to receive funding.
Financing Tools for Water Infrastructure	<b>H.R. 1848</b> <b>(Pallone, D-NJ)</b>	11/15/21: Funding for PFAS removal and EPA’s State Revolving Funds included in the Infrastructure Investment and Jobs Act, Public Law 117-58.	<b>Leading Infrastructure for Tomorrow’s America Act or the LIFT America Act</b>  To rebuild and modernize the Nation's infrastructure, rehabilitate drinking water infrastructure, modernize the electric grid and energy supply infrastructure.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill would positively impact Metropolitan and its member agencies. It reauthorizes EPA’s drinking water state revolving loan fund and establishes a grant program to provide capital funding for PFAS remediation, and lead service line replacement. It creates DOE programs to provide funding for enhanced physical and cybersecurity, accelerate the use of renewable energy and transition to zero-emission vehicle fleets.

**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

Topic	Bill / Author	Status	Title – Summary	MWD Position	Effects on MWD
Financing Tools for Water Infrastructure Projects	<b>H.R. 1915 (DeFazio, D-OR)</b>	11/19/21: Clean water SRF funding included in the Infrastructure Investment and Jobs Act, Public Law 117-58. Other provisions included in House passed H.R. 5376 (Yarmuth, D-KY), Build Back Better Act.	<b>Water Quality Protection and Job Creation Act of 2021</b>  Authorizes \$50 billion in investment over 5 years for wastewater and stormwater infrastructure improvements.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill would benefit Metropolitan and its member agencies by authorizing increased funding for EPA’s clean water state revolving fund and other wastewater and stormwater programs. It also authorizes \$1 billion in grants to implement treatment standards for PFAS and other emerging contaminants.
Financing Tools for Water Infrastructure Projects	<b>H.R. 3282 (McKinley, R-WV)</b>	5/17/21: Referred to the House Committees on Energy and Commerce and Transportation and Infrastructure.	<b>Drinking Water Funding for the Future Act of 2021</b>  To reauthorize funding for EPA drinking water programs under the Safe Drinking Water Act and America's Water Infrastructure Act of 2018.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill would benefit Metropolitan and its member agencies by reauthorizing numerous EPA water infrastructure programs including the drinking water state revolving fund, WIFIA, the lead testing in school programs, and workforce development program.

**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

Topic	Bill / Author	Status	Title – Summary	MWD Position	Effects on MWD
Financing Tools for Water Infrastructure Projects	<b>H.R. 3404</b> <b>(Huffman, D-CA)</b>	5/21/21: Referred to the House Committees on Energy and Commerce, Judiciary, Natural Resources, Science, Space and Technology, and Transportation and Infrastructure.	<b>Furthering Underutilized Technologies and Unleashing Responsible Expenditures (FUTURE) Western Water Infrastructure and Drought Resiliency Act</b>  The bill authorizes funding for water infrastructure projects, including storage, recycling, and desalination projects, in Reclamation states. It also creates a new Reclamation program to help underserved communities have access to drinking water, authorizes investments to improve the use of technology and data in water forecasting, provides tax parity for water conservation and efficiency measures, and authorizes habitat restoration funding.	<b>SUPPORT AND AMEND</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	Metropolitan and its member agencies would benefit from numerous provisions in this bill including the additional funding for water recycling projects, tax parity for water conservation and efficiency measures, and new financing mechanism for water projects including habitat restoration and dam safety. Metropolitan is seeking amendments to ensure groundwater and surface storage projects have access to federal funding.
Financing Tools for Water Infrastructure Projects	<b>H.R. 4099</b> <b>(Napolitano, D-CA)</b>  <b>S. 2334</b> <b>(Cortez Masto, D-NV)</b>	11/15/21: Included in the Infrastructure Investment and Jobs Act, Public Law 117-58.  7/13/21: Referred to the Senate Committee on Energy and Natural Resources.	<b>Large Scale Water Recycling Project Investment Act</b>  Directs the Secretary of the Interior to establish a competitive grant program for the planning, design, and construction of large-scale water recycling and reclamation projects that provide substantial water supply and other benefits to drought stricken regions within the Reclamation States.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill would benefit Metropolitan and our member agencies by authorizing a new Reclamation program to provide funding for the Regional Recycled Water Project and other large-scale recycled water projects. This new program would provide more federal financial assistance for recycled water projects than is available through the current Title XVI, water recycling program.

**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

<b>Topic</b>	<b>Bill / Author</b>	<b>Status</b>	<b>Title – Summary</b>	<b>MWD Position</b>	<b>Effects on MWD</b>
Financing Tools for Water Infrastructure Projects	<b>S. 479 (Wicker, R-MS)</b>	2/25/21: Referred to the Senate Committee on Finance.	<b>Lifting Our Communities through Advance Liquidity for Infrastructure Act or the LOCAL Infrastructure Act</b>  To amend the Internal Revenue Code of 1986 to reinstate advance refunding bonds	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	The ability to advance refund bonds on a tax-exempt basis would benefit Metropolitan and its member agencies by allowing municipal issuers to lower borrowing costs to take advantage of favorable interest rates.
Financing Tools for Water Infrastructure Projects	<b>S.914 (Duckworth, D-IL)</b>	4/29/21: Passed the Senate, 89-2.  11/15/21: Included in the Infrastructure Investment and Jobs Act, Public Law 117-58.	<b>Drinking Water and Wastewater Infrastructure Act of 2021</b>  Authorizes \$35 billion in investment over 5 years for drinking water and wastewater infrastructure improvements.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill would benefit Metropolitan and its member agencies by authorizing increased funding for numerous EPA programs including the clean water and drinking water state revolving fund program, WIFIA, an infrastructure resiliency and sustainability program, and a grant program to remove lead service lines.
Financing Tools for Water Infrastructure Projects	<b>S. 2454 (Padilla, D-CA)</b>	7/22/21: Referred to the Senate Committee on Environment and Public Works.	<b>Water Reuse and Resiliency Act of 2021</b>  Authorizes \$1 billion over five years for the EPA's Pilot Program for Alternative Water Source Projects grants program.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill would benefit Metropolitan and its member agency by authorizing increased funding for an EPA program to provide grants for water recycling and stormwater management projects.
Source Water Protection	<b>H.R. 1881 (Garamendi, D-CA)</b>	3/15/21: Referred to the House Transportation and Infrastructure Subcommittee on Water Resources and Environment	<b>Federal Water Pollution Control Permitting Terms</b>  Amends the Federal Water Pollution Control Act with respect to permitting terms.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This legislation would extend the maximum term for National Pollutant Discharge Elimination System (NPDES) permits issued under the Clean Water Act from 5 to 10 years, for public agencies that have demonstrated compliance with existing permit conditions. This changed is designed to better reflect the construction schedules for public agencies.

**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

Topic	Bill / Author	Status	Title – Summary	MWD Position	Effects on MWD
Source Water Protection	<b>H.R. 2008</b> <b>(Craig, D-MN)</b>  <b>S. 29</b> <b>(Klobuchar, D-MN)</b>	6/15/21: Passed the House, referred to the Senate Committee on Environment and Public Works.  1/22/21: Referred to the Senate Committee on Environment and Public Works.	<b>Local Water Protection Act</b>  Amends the Federal Water Pollution Control Act (Clean Water Act) to reauthorize through FY25 a grant program to help states manage nonpoint source water pollution or protect groundwater quality. Authorizes \$200 million per year for this program.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill would benefit Metropolitan and its member agencies by providing funding to help address non-point source pollution. Pollutants commonly associated with non-point sources include nutrients and pesticides. According to EPA, more than 40 percent of all impaired waters were affected solely by nonpoint sources, while less than 10 percent of water quality criteria exceedances were caused by point source discharges alone.
Source Water Protection	<b>H.R. 2682</b> <b>(Crow, D-CO)</b>  <b>S. 1248</b> <b>(Bennet, D-CO)</b>	6/15/21: Referred to the House Agriculture Subcommittee on Conservation and Forestry.  4/20/21: Referred to the Senate Committee on Agriculture, Nutrition, and Forestry	<b>Outdoor Restoration Partnership Act</b>  Establishes a \$60 billion fund at the Treasury Department for use by the Secretary of Agriculture for restoration and resilience projects, wildfire risk reduction projects and habitat restoration projects.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill would benefit Metropolitan and its member agencies by funding projects to improve watershed health. It creates a grant program for restoration and resilience projects to improve forest conditions, rangeland health, watershed functions, or wildlife habitat. Additional grants would provide funding for partnership projects to reduce wildfire risk, restore habitat, and expand access to the outdoors. State agencies, local and tribal governments, and special districts may use these funds along with partner organizations.

**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

Topic	Bill / Author	Status	Title – Summary	MWD Position	Effects on MWD
Source Water Protection	<b>H.R. 3534</b> <b>(Panetta, D-CA)</b>  <b>S. 2806</b> <b>Feinstein, D-CA)</b>	7/7/21: Referred to the House Agriculture Subcommittee on Conservation and Forestry.  10/21/21: Hearing held before the Senate Committee on Energy and Natural Resources.	<b>Wildfire Emergency Act of 2021</b>  Provides for programs and activities in support of forest restoration, wildfire mitigation, and energy resilience.	<b>SUPPORT</b>  Based on Board-adopted January 2022 Federal Legislative Priorities	This bill has water supply, water quality, and ecosystem benefits for the Colorado River watershed and State Water Project watershed. Proper forest management and wildfire prevention promotes runoff, helps protect water quality, and improves habitat.
Water Infrastructure Improvements for the Nation (WIIN) Updates.	<b>H.R. 1015</b> <b>(Napolitano, D-CA)</b>	11/15/21: \$500 million for water recycling projects included in the Infrastructure Investment and Jobs Act, Public Law 117-58.	<b>Water Recycling Investment and Improvement Act</b>  Authorizes an increase in federal funding for the water recycling program created in the WIIN Act from \$50M to \$500M, raises the cap in federal funding from \$20M to \$30M per project, makes the program permanent by removing the 2021 expiration date, and removes the requirement that approved projects to be specifically named in appropriation legislation.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	A ten-fold increase in federal funding for water recycling projects could have a significant effect on Metropolitan and its member agencies with funding to significantly accelerate the development of recycled water projects that, once completed, would reduce or offset the need for new imported water supplies.

**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

Topic	Bill / Author	Status	Title – Summary	MWD Position	Effects on MWD
Water Infrastructure Improvements for the Nation (WIIN) Updates.	<b>H.R. 1563 (Garcia, R-CA)</b>	3/3/21: Referred to the House Committee on Natural Resources.	<b>To Extend Authorities Under the Water Infrastructure Improvements for the Nation Act</b>  Extends the WIIN Act programs funding storage projects, water recycling projects, and desalination projects for seven years. Authorizes these programs at funding levels consistent with prior years: \$134 million/year for storage, \$20 million/year for recycling, and \$12 million/year for desalination.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This bill would benefit Metropolitan and its member agencies by providing funding for a variety of water infrastructure projects. Without an extension these Reclamation programs will expire at the end of the year.
Water Project Authorizations	<b>H.R. 2552 (Costa, D-CA)</b>  <b>S. 1179 (Feinstein, D-CA)</b>	4/15/21: Referred to the House Committee on Natural Resources.  4/15/21: Referred to the Senate Committee on Energy and Natural Resources.	<b>Canal Conveyance Capacity Restoration Act</b>  This bill authorizes the Bureau of Reclamation to provide financial assistance to mitigate the impacts of subsidence on California’s water delivery system.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	This legislation would authorize repairs to the Friant-Kern Canal, Delta-Mendota Canal, and California Aqueduct to restore conveyance capacity lost due to subsidence.

**Metropolitan Water District of Southern California**  
**Federal Legislative Matrix**  
**April 11, 2022 – 117<sup>th</sup> Congress, Second Session**

Topic	Bill / Author	Status	Title – Summary	MWD Position	Effects on MWD
Water Science	<b>H.R. 4832</b> <b>(Lee, D-NV)</b>  <b>S. 2568</b> <b>(Cortez-Mastro, D-NV)</b>	11/5/21: Hearing held before the House Natural Resources Subcommittee on Water, Oceans, and Wildlife.  7/29/21: Referred to the Senate Committee on Energy and Natural Resources.	<b>Open Access Evapotranspiration Data Act</b>  Establishes the Open Access Evapotranspiration (OpenET) Data Program to provide satellite-based evapotranspiration data from across the western U.S. to Federal agencies, States, and Indian Tribes. Authorizes \$14 million per year for five years for this program.	<b>SUPPORT</b>  Based on Board-adopted January 2021 Federal Legislative Priorities	The OpenET platform is currently supported by NASA and private philanthropy. Dedicated federal funding and support will improve the quantification of evaporation and consumptive water use and help provide data users with field-scale estimates of evapotranspiration over user-defined time periods. This information will help Metropolitan measure consumptive water use in Palo Verde and throughout the Colorado River basin, including areas where there is currently little data available. Metropolitan could use this data to study water use trends, verify partner compliance with the terms of new and existing agricultural conservation programs, and measure the water supply benefits from such programs.





Communications & Legislation Committee

# Report on Activities from Washington, D.C.

Item #6A  
April 11, 2022

# FY 22 Funding.



	IIJA	Appropriations	Total
<b>Reclamation</b>			
Water Recycling (Title XVI)	\$245 M	\$17.5 M	\$262.5 M
Safety of Dams	\$100 M	\$182.5 M	\$282.5 M
Lower CR DCP	\$50 M	\$52.2 M	\$102.5 M
CALFED	0	\$33 M	\$33 M
<b>EPA</b>			
Drinking Water SRF	\$1.9 B	\$1.1 B	\$3.0 B
Clean Water SRF	\$1.9 B	\$1.6 B	\$3.5 B
WIFIA	0	\$69.5 M	\$69.5 M

# Cybersecurity.



- Cyber Incident Reporting for Critical Infrastructure Act
  - Requires certain critical infrastructure operators to report incidents of cyberattacks within 72 hours and ransomware payments within 24 hours.
  - Rulemaking process to determine which critical infrastructure entities will be subject to the new reporting requirements.
- More legislation possible



# FY 23 Budget Request.



	President's Request
<b>Reclamation</b>	
Water Recycling (Title XVI)	0
Safety of Dams	\$182.5 M
Lower CR DCP	\$50 M
CALFED	\$33 M
<b>EPA</b>	
Drinking Water SRF	\$1.1 B
Clean Water SRF	\$1.6 B
WIFIA	\$72 M

# Stakeholder Hearings: Water Infrastructure.







**Metropolitan Water District of Southern California**  
**State Legislative Matrix**  
**April 11, 2022 – Second Year of Legislative Session**

<b>Topic</b>	<b>Bill Number Author</b>	<b>Status</b>	<b>Title – Summary</b>	<b>MWD Position</b>	<b>Effects on Metropolitan</b>
Metropolitan-sponsored bills	<b>SB 230</b> <b>Portantino (D)</b>  Sponsors:  Metropolitan and the California Municipal Utilities Association (CMUA)	Amended 1/20/2022  Assembly Desk	<b>State Water Resources Control Board: Constituents of Emerging Concern Program</b>  Seeks to create a statewide program to identify and evaluate Constituents of Emerging Concern (CECs) in drinking water sources.	<b>CO-SPONSOR</b>  Based on October 2019 Board Action	Metropolitan and CMUA are co-sponsoring legislation in response to growing public concern about CECs in drinking water. The bill would establish a five-year CEC Drinking Water Program at the State Water Resources Control Board. The program would set up a consistent and science-based approach for assessing the public health and drinking water consequences of CECs, with the intent to improve knowledge and future regulatory determinations. The bill excludes PFAS from the program of review and requires the State Water Board to present a final report to the Legislature. The recent amendments make implementation of a CEC Drinking Water Program contingent upon an appropriation by the Legislature.
Metropolitan-sponsored bills	<b>AB 1845</b> <b>Calderon (D)</b>  Sponsor:  Metropolitan	Amended 4/4/2022  Assembly Water Parks & Wildlife Committee  Hearing: 4/26/2022	<b>Metropolitan Water District of Southern California: alternative project delivery methods</b>  Allows the Metropolitan Water District of Southern California to use alternative project delivery methods for the design and construction of a Regional Recycling Water Program	<b>SPONSOR</b>	Metropolitan is limited to the traditional Design-Bid-Build method for delivery of public works construction contracts which can be inefficient and inflexible for large, time-sensitive, and complex projects like its Regional Recycled Water Program and emergency drought mitigation projects. The bill would amend the Public Contracting Code to permit Metropolitan to use Design-Build, Progressive Design-

**Metropolitan Water District of Southern California**  
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			and a limited set of drought-related projects.		Build, and Construction Manager/General Contractor. These methods have the potential to expedite construction of critical new water infrastructure projects and reduce their overall costs.
Delta/State Water Project	<b>SB 832 Dodd (D)</b>  Sponsor:  Author	Amended 3/23/2022  Senate Appropriations Committee	<b>Water rights: measurement of diversion</b>  Clarifies existing law that a person diverting 10 acre-feet or more of water per year under a registration is subject to existing water diversion measurement, recording, and reporting requirements. Also, authorize the State Water Board to modify water diversion measurement requirements to allow open satellite data methods to estimate evapotranspiration if the board makes certain findings regarding use of water for irrigation.	<b>SUPPORT</b>  Based upon Board-adopted 2022 Legislative Priorities and Principles	Metropolitan supports metering and reporting of diversions to prevent unlawful diversion of State Water Project supplies in the Delta and other locations that may lead to additional regulatory burdens. Metropolitan is installing meters on its Delta Islands to comply with existing statutory requirements. While OpenET would be a useful tool for water management and could be used as an indicator of unlawful diversions in the Delta, it is a new methodology for California. The bill requires the State Water Board to conduct a five-year study to determine the adequacy of evapotranspiration methods as a substitute for conventional metering methods to comply with State Water Board reporting requirements.
Governance	<b>AB 2449 B. Rubio (D)</b>	Introduced 2/17/2022	<b>Open meetings: local agencies: teleconferences</b>	<b>SUPPORT</b>  Based upon	Metropolitan currently hosts teleconferencing public meetings in accordance with Executive Order, N-29-20. AB 2449 allows the option to hold



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Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
	Sponsor:  Three Valleys Municipal Water District	Assembly Local Government Committee	Amends the Ralph M. Brown Act to allow a local agency to voluntarily use teleconferencing for public meetings during non-emergencies. Requires a quorum of the members meet in person at a noticed location that is open to the public and within the agency's jurisdiction. The bill prescribes requirements for this exception related to notice, agendas, means and manner of access, and procedures for disruptions. Requires procedures for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.  Requires a quorum of the legislative body present at the location noticed on the agenda, an audio and video live-feed of the remote member of the legislative body during the meeting.	Board Action on 3/9/2021 on AB 703 (B. Rubio)	teleconferenced meetings into the future after the COVID-19 public health emergency is over and the Executive Order is lifted as long as a quorum of the Board's directors participate in person, give notice and post agendas as prescribed, ensure that directors attending meeting by teleconference participate through both audio and visual technology, and allow the public to address the Board in person or by teleconference. Waives the requirement to post an agenda at each teleconferenced location and assure public access to those locations. If there is a disruption to the call-in or streaming options, then no action can be taken by the board.
Regulatory Reform	<b>AB 2313 Bloom (D)</b>  Sponsor:  Author	Amended 3/30/2022  Assembly Water, Parks & Wildlife Committee	Water: judges and adjudications  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	<b>SUPPORT</b>  Based upon Board-adopted 2022 Legislative	Metropolitan's interests in enforcement of water quality law and water rights would be better served by judges, court staff, and special masters who have received training in the legal, scientific and technical issues involving water quality, water rights and water transfers.

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Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
		Hearing: 4/26/2022	quality, groundwater, water transfers and water rights. Requires the Judicial Council to identify independent and nonpartisan experts in water issues who will be available to any judge adjudicating a water dispute and authorizes judges to appoint special masters in water cases to investigate technical and legal issues among other duties.	Priorities and Principles	
Water Bond Infrastructure Funding	<b>SB 559 Hurtado (D)</b>  Sponsors:  Friant Water Authority, San Luis & Delta Mendota Water Authority, and State Water Contractors	Amended 8/30/2021  Senate Inactive File  Two-year bill	<b>Department of Water Resources: water conveyance systems: Canal Conveyance Capacity Restoration Fund</b>  Establishes the Canal Conveyance Capacity Restoration Fund that would upon appropriation provide up to \$785 million in funding for the Department of Water Resources (DWR) to help pay for subsidence repairs to the State Water Project and Central Valley Project water conveyance systems and for necessary road and bridge upgrades.	<b>WATCH</b>  Based upon Board adopted 2021 State Legislative Priorities and Principles	Portions of the California Aqueduct, the Friant Kern Canal and the Delta Mendota Canal have lost capacity due to subsidence. The Fund would upon appropriation provide funding to DWR to support a 10-year program to restore the capacity of the canals and ensure a more secure water supply. Funds could be used to cover one-third of the cost to restore the capacity of the canals. A federal companion bill is envisioned that would provide one-third the cost and local partners would contribute the remaining one-third of the cost. The creation of the Fund is contingent upon all the following: an appropriation of funds; an agreement is executed to provide for local cost share; and the provision of adequate cost share as determined by the DWR Director. The

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<b>Topic</b>	<b>Bill Number Author</b>	<b>Status</b>	<b>Title – Summary</b>	<b>MWD Position</b>	<b>Effects on Metropolitan</b>
					August 8 Assembly Amendments are problematic causing the State Water Contractors and Metropolitan to withdraw support for the bill.
Water Conservation	<b>AB 2142 Gabriel (D)</b>  Sponsor:  Association of California Water Agencies	Amended 4/6/2022  Assembly Revenue and Taxation Committee	<b>Income taxes: exclusion: turf replacement water conservation program.</b>  Would provide an exclusion from gross income for any amount received as a rebate, voucher or other financial incentive issued by a local water agency or supplier for participation in a turf replacement water conservation program during the taxable years of January 1, 2022 through January 1, 2027.	<b>SUPPORT</b>  Based upon Board adopted 2022 Legislative Priorities and Principles	Metropolitan previously supported the Making Conservation a Way of Life legislation and is working hard to promote indoor and outdoor conservation. Conservation rebates are key to success. California law previously exempted turf rebates from taxable income, but those provisions were allowed to sunset in December 2019. This bill would reinstate an important tax exemption for turf replacement rebates from gross income in California, aligning it with certain other permanently exempt efficiency rebates.
Water Governance and Funding	<b>AB 1195 C. Garcia (D)</b>  Sponsor:  Author	Amended 5/24/2021  Senate Natural Resources and Water Committee  Two-year bill	<b>Drinking water.</b>  Requires the State Water Resources Control Board (State Water Board) to appoint a commissioner to implement the Safe and Affordable Fund for Equity and Resilience Program (SAFER Program) in Southern Los Angeles County.	<b>OPPOSE UNLESS AMENDED</b>  Based upon May 2021 Board Action	Seeks to address the needs of public water systems in Southern Los Angeles County struggling to provide safe and affordable retail water. The May 24, 2021 amendments limit the role of the commissioner to focus on implementation of the SAFER Program and create a pilot program with Los Angeles County LAFCO to extend service or consolidate struggling systems. Metropolitan is

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Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
					seeking additional amendments to further clarify the role of the commissioner; strike a provision that grants the commissioner the authority to audit public water systems and bypass the public process created by the Legislature; and strike a section that would grant the State Water Board jurisdiction over decisions to transfer or abandon groundwater rights.
Water Quality	<b>AB 1817 Ting (D)</b>  Sponsors:  Breast Cancer Prevention Partners, Natural Resources Defense Council, and Clean Water Action	Amended 03/24/2022  Assembly Third Reading	<b>Product safety: textile articles: perfluoroalkyl and polyfluoroalkyl (PFAS).</b>  Prohibits as of January 1, 2024, any person from distributing, selling, or offering for sale in California any textile articles that contain “regulated PFAS” as defined, and requires the manufacturer to use the least toxic alternative to regulated PFAS.	<b>SUPPORT AND AMEND</b>  Based upon Board adopted 2022 Legislative Priorities and Principles	Metropolitan supports the removal or reduction of PFAS in manufactured products in order to protect source water quality. Metropolitan is seeking amendments to clarify that the bill applies to manufacturers and not state and local agencies and to change the term “regulated PFAS” to “detected PFAS” in consumer products and not drinking water.
Water Quality	<b>AB 2247 Bloom (D)</b>  Sponsors:	Amended 03/21/2022  Assembly Environmental	<b>Perfluoroalkyl and polyfluoroalkyl substances (PFAS) and PFAS products and product components: publicly accessible reporting platform.</b>	<b>SUPPORT AND AMENDED</b>  Based upon Board adopted 2022	Metropolitan supports the removal or reduction of PFAS in manufactured products to protect source water quality. Metropolitan is seeking an

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	Environmental Working Group, Clean Water Action, and California Association of Sanitation Agencies	Safety and Toxic Materials Committee	Requires the Department of Toxics and Substances Control to develop a publicly accessible reporting platform to collect information about PFAS and products containing PFAS by January 1, 2024. By March 1, 2024, manufactures will be required to register the PFAS or product on the reporting platform.	Legislative Priorities and Principles	amendment to change “regulated PFAS” to “detected PFAS” and to clarify the bill applies to consumer products and not drinking water.
Water quality	<b>AB 2771 Friedman (D)</b>  Sponsor:	Amended 3/30/2022  Assembly Health Committee	<b>Cosmetic products: safety</b>  Prohibits a person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product that contains PFAS.	<b>SUPPORT</b>  Based upon Board adopted 2022 Legislative Priorities and Principles	Metropolitan supports the removal or reduction of PFAS in manufactured products to protect source water quality.



Communications & Legislation Committee

# External Affairs Management Report

Item #7a  
April 11, 2022

## Newsom orders stricter conservation of water

By HAYLEY SMITH  
AND JONAH VALDEZ

On the heels of the driest ever start to the year in California, Gov. Gavin Newsom on Monday issued a sweeping executive order calling on local water suppliers to implement more aggressive conservation measures as reservoirs dwindle and residents backslide in their efforts to cut back.

Specifically, the order requires that urban water suppliers activate "Level 2" of their locally customized contingency plans, meaning they must prepare for a shortage of up to [See Water, B5]



DANIEL VAN DER BRUG: Los Angeles Times  
**A FORMERLY** submerged bridge is exposed as water levels recede at Folsom Lake.



# Messaging Strategy

- Elevate conservation messages to reflect current conditions and drought actions by MWD, member agencies
- Target advertising for maximum impact and efficiency
- Expand our reach using earned media and events



External Affairs  
Management Report

# Media Coverage

Approx. 3 million views

# Generated strong media coverage on local TV, radio & print





# Metropolitan in the Media

March 2022



## METROPOLITAN IN THE MEDIA

PARTNERING WITH THE STATE TO BRING OUR  
CONSERVATION MESSAGE TO SOUTHERN CALIFORNIA

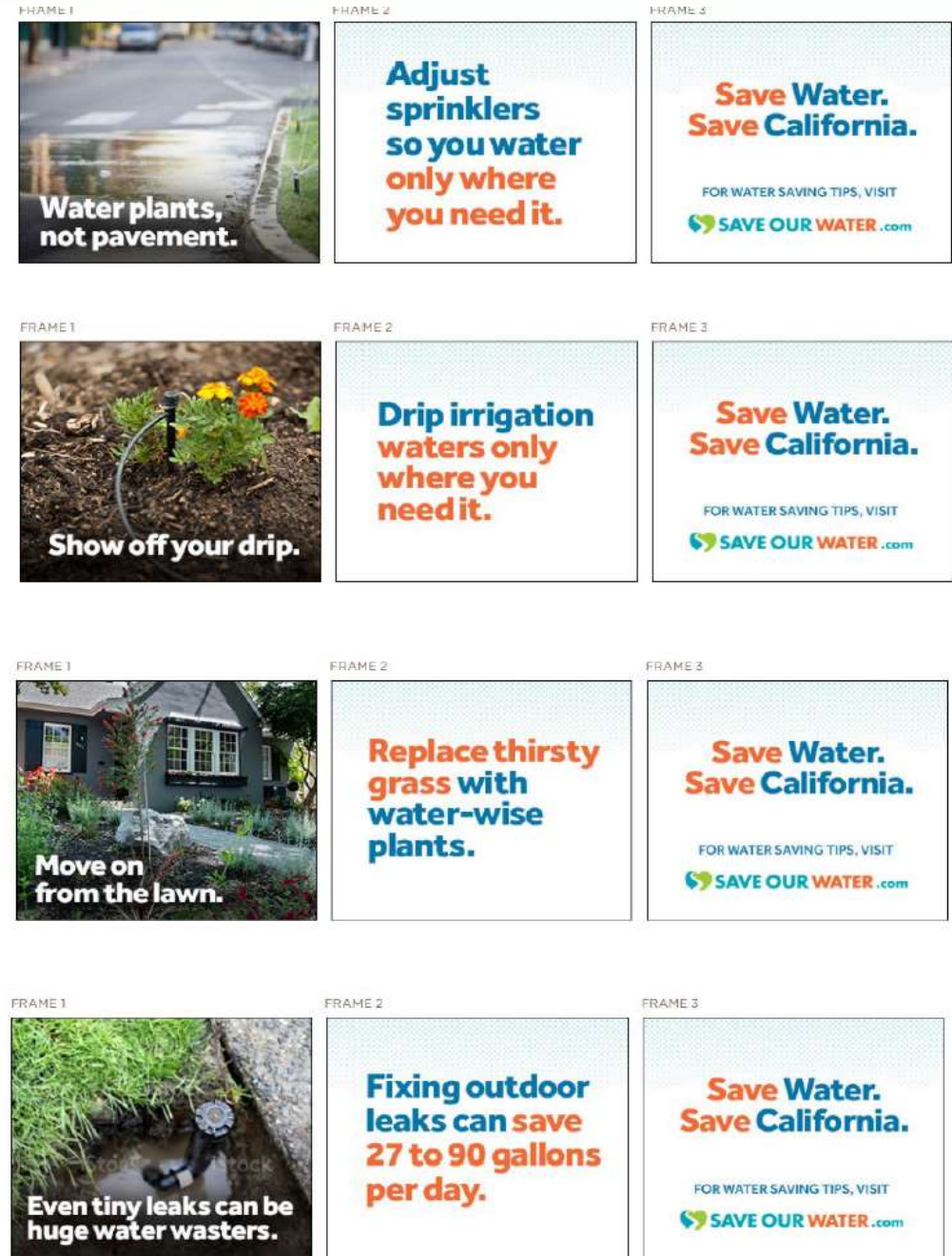
MARCH 2022

# A United Front

Spring/Summer  
2022 Campaign

## Complementary Messaging & Strategy

- Partnering with State of California's "Save Our Water" Campaign
- Targeted Delivery to High Volume Water Users



External Affairs  
Management Report

# Transition Campaign

Direct **call to action**  
guided by tips

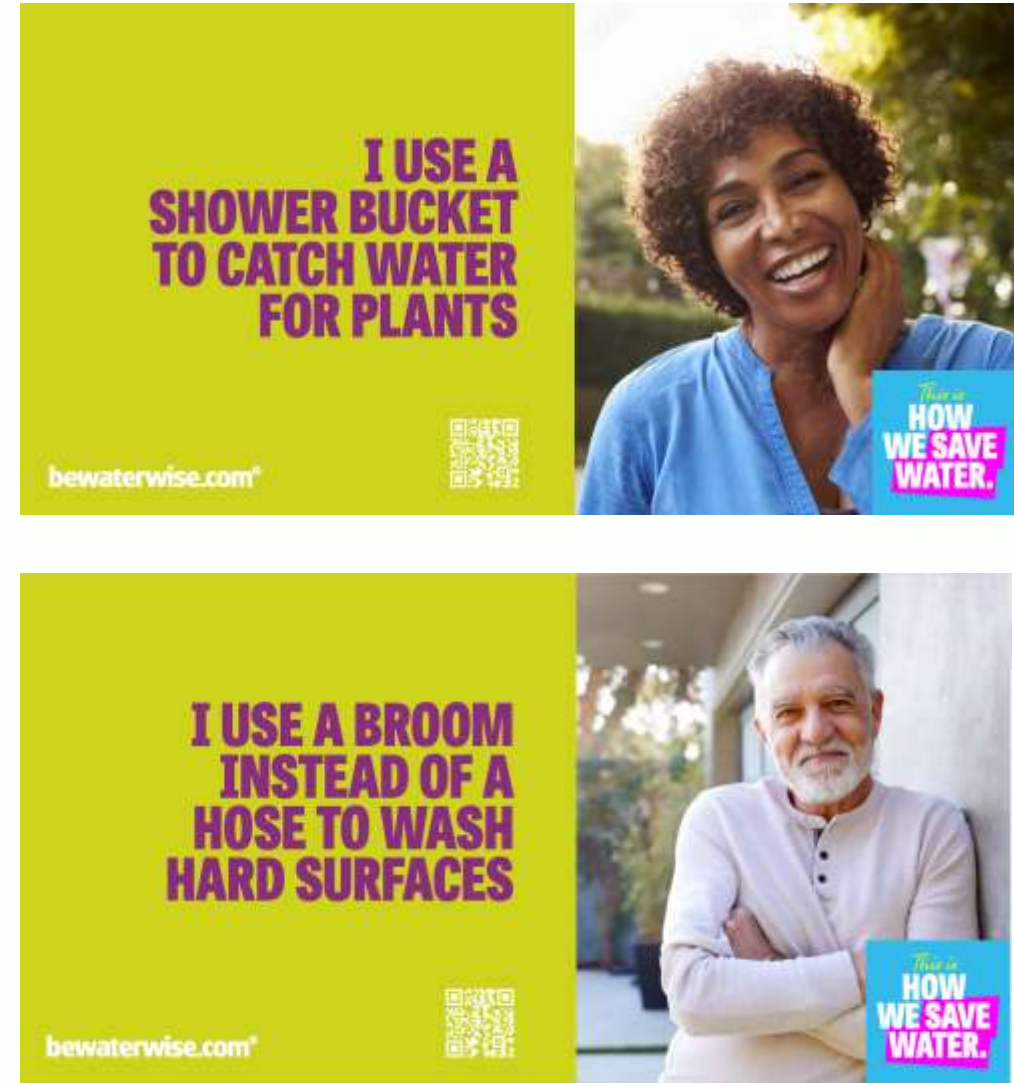




# Spring/ Summer 2022 Campaign



- Helpful tips presented in a friendly & personal way
- Co-branding opportunities for member agencies
- Photography-based campaign showcasing real people across our service area



External Affairs  
Management Report

# Digital Marketing Video

Latest in a series of high-performing, cost-efficient digital assets **produced in-house**



External Affairs  
Management Report

# Digital Marketing Video



