

AMADOR COUNTY BOARD OF SUPERVISORS
COUNTY ADMINISTRATION CENTER
BOARD OF SUPERVISORS CHAMBERS
810 Court Street
Jackson, CA 95642

Public hearing items will commence no sooner than the times listed on the agenda. Closed Session agenda items may be heard before or after scheduled public hearings, dependent upon progression of the agenda.

TO PARTICIPATE REMOTELY BY CALLING IN USING THE FOLLOWING NUMBER:
+1-669-900-6833 (alternate phone numbers listed on amadorgov.org)
Access Code: 758 573 6084#

YOU MAY ALSO VIEW AND PARTICIPATE IN THE MEETING USING THIS LINK:
<https://zoom.us/j/7585736084>

If all Board Members are present in person, public participation by Zoom is for convenience only. If the zoom feed is lost/hacked for any reason, the meeting may nevertheless go forward at the discretion of the Chair. The only assurance of live comments being received by the Board is to attend in person. The Chair will call the meeting to order and after Board input, will invite the public to comment in person and online.

REGULAR MEETING AGENDA

DATE: Tuesday, September 10, 2024
TIME: 9:00 AM
LOCATION: COUNTY ADMINISTRATION CENTER
BOARD OF SUPERVISORS CHAMBERS
810 Court Street
Jackson, CA 95642

****PLEASE NOTE CLOSED SESSION WILL BEGIN AT 8:00 A.M.****

CLOSED SESSION **8:00 A.M.** may be called for labor negotiations (pursuant to Government Code §54957.6), personnel matters (pursuant to Government Code §54957), real estate negotiations/acquisitions (pursuant to Government Code §54956.8), and/or pending or potential litigation (pursuant to Government Code §54956.9).

1.CONFERENCE WITH LABOR NEGOTIATORS: Pursuant to Government Code Section 54957.6.

- 1.a. County Negotiators: Greg Gillott, County Counsel, Chuck Iley, County Administrative Officer, Greg Ramirez, IEDA and Lisa Gaebe, Human Resources Director
Employee Organization: All Units
Suggested Action: Discussion and possible action.

2.CONFERENCE WITH COUNTY COUNSEL: ANTICIPATED LITIGATION - {Government Code 54956.9(d) (2)}

- 2.a. Claim of Terry Sanders, Claim No. 24-10
Suggested Action: Discussion and possible action.

3.CONFIDENTIAL MINUTES:

- 3.a. Review and possible approval of the August 27, 2024 Confidential Minutes.
Suggested Action: Approval.

REGULAR SESSION **9:00 A.M.**

PLEDGE OF ALLEGIANCE:

PUBLIC MATTERS NOT ON THE AGENDA: Discussion items only, no action to be taken. Any person may address the Board at this time upon any subject within the jurisdiction of the Amador County Board of Supervisors; however, any matter that requires action may be referred to staff and/or Committee for a report and recommendation for possible action at a subsequent Board meeting. Please note - there is a three (3) minute limit per person.

APPROVAL OF AGENDA: Approval of agenda for this date; any and all off-agenda items must be approved by the Board (pursuant to §54954.2 of the Government Code.)

APPROVAL OF ITEMS ON THE CONSENT AGENDA: Items listed on the consent agenda are considered routine and may be enacted by one motion. Any item may be removed for discussion and possible action, and made a part of the regular agenda at the request of a Board member(s).

4. REGULAR AGENDA:

- 4.a. Behavioral Health - Resolution declaring week of September 8th-14th, 2024 as National Suicide Prevention Week and September 2024 as National Suicide Prevention Month.
Suggested Action: Approval
[RES_24-0XX_Suicide_Prevention_Week_8.19.2024.doc](#)
- 4.b. Local Agency Formation Commission-Project 341: Discussion and possible action relative to adoption of a Resolution affirming no changes to Property Tax allocations for Lockwood Fire Protection District and Amador Fire Protection District Reorganizations.
Suggested Action: Approval
[draft Reso Affirming No Property Tax Revenue Changes \(1\).doc](#)
- 4.c. Discussion and possible action relative to a letter of opposition to AB 98. CSAC is urging the Governor to veto this bill.
Suggested Action: Pleasure of the Board
[AB 98 As Amended](#)
[AB 98 -Senate Floor Analyses.pdf](#)
[AB 98 - Assembly Floor Analysis.pdf](#)
[CSAC AB 98 Oppose.pdf](#)
- 4.d. California State Association of Counties (CSAC): Report by Supervisor Richard Forster relative to the August 29, 2024 CSAC Board of Directors Meeting.
Suggested Action: Report only.
[20240828103354.pdf](#)
- 4.e. Review and possible approval of the August 27, 2024 Board of Supervisors Meeting Minutes.
Suggested Action: Approval.

5.PUBLIC HEARING: **10:30 A.M.**

- 5.a. Planning Department – Consideration of the Planning Commission’s recommendation to approve Zone Change (ZC-24;6-3). The zone changes affect seven parcels to be rezoned from the X/Special Use District to the R1A/Single-family Residential & Agricultural district. The current X zoning is inconsistent with the land use designations adopted with the 2016 General Plan Land Use Element update. APNs 011-050-026, 021-210-060, 030-290-027, 038-130-012, 038-680-003, 040-030-075, and 040-080-011.

Suggested Action: Following the public hearing, the first action of the Board should be a decision on the adequacy of the CEQA categorical exemption. Next, the Board may make a decision to approve or deny the requested Zone Change Ordinance, subject to the recommended findings in the staff report.

[SR_BOS.ZC-24;6-3.docx](#)

[ORDINANCE - ZC-24;6-3 X to R1A.docx](#)

[Project parcels Map.pdf](#)

[PC Meeting Minutes excerpt.pdf](#)

[PC Item Packet.pdf](#)

- 5.b. Planning Department - Continuation of a public hearing for the consideration and possible determination of the mine status and financial capability of the operator to complete reclamation obligations for the Seaton mine, pursuant to Public Resources Code §2773.1(b); CA Mine ID #91-03-0026; APN 008-140-016. In May, 2024, the mine operator's bonding company issued a Notice of Cancellation/Nonrenewal of the required financial assurance mechanism for mine reclamation effective October 1, 2024. The statutorily required financial assurance has not been renewed or replaced.

Suggested Action: After taking public comment, staff recommends the Board find Michael Gornet, operator of Seaton Mine (Mine ID #91-03-0026), financially incapable of completing the required reclamation in accordance with the approved Reclamation Plan, due:

- 1) Failure to timely replace an expiring financial assurance as required by Public Resources Code 2773.1(a)(2) and County Code Section 7.36.120);
- 2) Failure to timely remit statutorily required annual reports and fees to the CA Division of Mine Reclamation for 2021, 2022, and 2023;
- 3) Staff further recommends the Board direct staff to take all steps necessary to cause the forfeiture of New Chicago Highlands, Inc.’s surety bond held by Atlantic Specialty Insurance Company in the amount of \$20,000.00 to complete reclamation required by Public Resources Code 2773.1(b)(2).

[SR-SEATON.Forfeit.docx](#)

[FAM-MOAR hearing letter.07-23-24.pdf](#)

[2023 FACE deficiency letter.07-23-24.pdf](#)

[03-0026_2024-06-04_Notice-of-Cancellation-or-Nonrenewal.05-17-24.pdf](#)

[Notice of Withdrawal of Concillation.01-05-24.pdf](#)

[03-0026_2024-02-21_Notice-of-Cancellation-or-Nonrenewal.12-05-23.pdf](#)

[91-03-0026 Surety Bond.11-03-21.\\$20,000.pdf](#)

[County of Amador Mail - NOTICE OF HEARING.pdf](#)

[County of Amador Mail - Seaton Mine \(CA Mine ID# 91-03-0026\) Financial Assurance Mechanism.pdf](#)

- 5.c. Discussion and possible action relative to a public hearing to consider the adoption of the 2024-25 Fiscal Year Proposed Adopted Budget.
Suggested Action: Adopt the 2024-2025 Fiscal Year Proposed Budget and associated Resolutions.
[24-25 Proposed Adopted Budget \(1\).pdf](#)
[APPROPRIATIONS FOR ADOPTED BUDGET.pdf](#)
[Resolution Adopt Budget-Other Funds.pdf](#)
[Resolution Adopt Budget Gov Funds.pdf](#)

6. CONSENT AGENDA: Items listed on the consent agenda are considered routine and may be enacted by one motion. Any item may be removed for discussion and possible action, and made a part of the regular agenda at the request of a Board member(s).

- 6.a. Approve the Purchase of One 1-Ton Truck with Dump Box and Plow Package and Approval of Unbudgeted Fixed Asset for the Transportation and Public Works Department
Suggested Action: 1. Approve the unfunded fixed asset.
2. authorize the Purchasing Agent to purchase one (1) Ford F550 one-ton truck with dump box from Future Ford in the amount not to exceed \$102,000 and outfit the said truck with a plow package in an amount not to exceed \$20,000.
3. Direct staff to enroll the new vehicle in the vehicle replacement plan with an appropriate depreciation schedule.
[BOS Memo Truck Purchase.pdf](#)
[Ford F550 Quotation Comparison Summary.pdf](#)
[F550 Quotation Future Ford.pdf](#)
- 6.b. General Services Administration: Hangar Ground Lease #166 (McKeage, A.)
Suggested Action: Approve the Ground Lease Agreement with Aaron McKeage.
[Memo Lease Agreement \(McKeage, A.\).pdf](#)
[Lease Agreement Signed by Tenant \(8.27.24\).pdf](#)
- 6.c. Airport Advisory Committee: Approval of appointment to the subject Committee as follows: Brad Stahl as a regular member representing District I. *Term coincides with the term of the Supervisor which the appointee represents.
Suggested Action: Approve appointment.
[Brad Stahl - Airport Advisory Committee Application.pdf](#)
- 6.d. Victim Witness: Approval of a Resolution authorizing the District Attorney to sign any amendments and extensions to the 2023-2024 Victim Witness (VW) Grant.
Suggested Action: Approval
[RES 24-0XX DA Signature Authorization-Victim Witness.docx](#)
- 6.e. Commission on Aging: Appointments of Sally Norris and Helen Stanley, to the subject committee for three year terms ending September 9, 2027.
Suggested Action: Approve appointments.
[Sally Norris - Commission on Aging Application.pdf](#)
[Helen Stanley - Commission on Aging Application.pdf](#)
- 6.f. Resolution approving the Undersheriff as the authorizing official for grant funding through the State of California; Board of State and Community Corrections; Byrne State Crisis Intervention Program (Byrne SCIP) grant.

Suggested Action: Approval of resolution approving the Undersheriff as the authorizing official for grant funding through the State of California; Board of State and Community Corrections; Byrne State Crisis Intervention Program (Byrne SCIP) grant
[RES 24-0XX BSCC Byrne SCIP Grant Program.doc](#)

- 6.g. General Services Administration: Budget Increase Request for Economic Development to account for additional funding coming from the State. No additional General Funds are being requested from the General Fund.
Suggested Action: Approve the recommended Budget Increase.
[Budget Increase Request Memo 1120 9.10.24.pdf](#)
[Budget Increase Request 9.10.24.pdf](#)
- 6.h. Building Department-Limited Density Owner-Built Rural Dwelling / LD244975 - GARLAND
Suggested Action: Adopt the resolution and authorize the Chairperson to sign the "Agreement".
[LDRD Resolution.docx](#)
[NOTARIZED AGREEMENT.pdf](#)
[ATF.pdf](#)
- 6.i. Social Services: CDSS representation for Resource Family Approval (RFA) Legal Consultation and Legal Representation on Appeals/State Hearings Division (SHD) and Office of Administrative Hearings (OAH)
Suggested Action: Review agreement for CDSS to act as the sole legal representative on behalf of the county and adopt resolution authorizing Director of Social Services, Anne Watts, to execute agreement on behalf of the county.
[Resolution for CDSS RFA Legal Agreement 24-5026.doc](#)
[24-5026 07.01.24-06-30-2026.pdf](#)
[24-5026 Exhibits 2024-2026.pdf](#)
[Memo 24-5026 .docx](#)
- 6.j. Social Services: Budget Increase Request
Suggested Action: Review and approve budget increase request for the Family Urgent Response System (FURS) program following a last reinstatement of the program after the 2024/25 budget was approved within the County. These are grant funds and no General Funds are being requested.
[FURS Budget Increase 09.2024.pdf](#)
- 6.k. Social Services: Resource Family Approval (RFA) Complaints Investigations
Suggested Action: Review agreement for CDSS to investigate all complaint allegations made against the resource families per the terms of the agreement and adopt the resolution authorizing Director of Social Services, Anne Watts, to execute agreement on behalf of the county. This is not in response to a particular complaint, but CDSS is contracted to investigate any and all complaints.
[Resolution for CDSS RFA Agreement 24-5011.doc](#)
[24-5011 07.01.24-06.30.26.pdf](#)
[24-5011 Exhibits 2024-2026.pdf](#)
[Memo 24-5011.docx](#)
- 6.l. Replace the Plans Examiner I in the Building Department with a Supervising Building Inspector.

Suggested Action: Approve
Memo - Supervising Building Inspector.doc

7.ADJOURNMENT: UNTIL TUESDAY, SEPTEMBER 24, 2024 AT 9:00 A.M. (CLOSED SESSION BEGINS AT 8:30 A.M.)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the Clerk of the Board staff, at (209) 223-6470 or (209) 257-0619 (fax). Requests must be made as early as possible and at least one-full business day before the start of the meeting. Assisted hearing devices are available in the Board Chambers for public use during all public meetings.

Pursuant to Government Code 54957.5, all materials relating to an agenda item for an open session of a regular meeting of the Board of Supervisors which are provided to a majority or all of the members of the Board by Board members, staff or the public within 72 hours of but prior to the meeting will be available for public inspection, at and after the time of such distribution, in the office of the Clerk of the Board of Supervisors, 810 Court Street, Jackson, California 95642, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except for County holidays. Materials distributed to a majority or all of the members of the Board at the meeting will be available for public inspection at the public meeting if prepared by the members of the Board or County staff and after the public meeting if prepared by some other person. Availability of materials related to agenda items for public inspection does not include materials that are exempt from public disclosure under Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

Board of Supervisors Agenda Item Report

Submitting Department: Board of Supervisors

Meeting Date: September 10, 2024

SUBJECT

County Negotiators: Greg Gillott, County Counsel, Chuck Iley, County Administrative Officer, Greg Ramirez, IEDA and Lisa Gaebe, Human Resources Director

Employee Organization: All Units

Recommendation:

Discussion and possible action.

4/5 vote required:

No

Distribution Instructions:

N/A

ATTACHMENTS

-

Board of Supervisors Agenda Item Report

Submitting Department: Board of Supervisors

Meeting Date: September 10, 2024

SUBJECT

Claim of Terry Sanders, Claim No. 24-10

Recommendation:

Discussion and possible action.

4/5 vote required:

No

Distribution Instructions:

County Counsel, File

ATTACHMENTS

-

Board of Supervisors Agenda Item Report

Submitting Department: Board of Supervisors

Meeting Date: September 10, 2024

SUBJECT

Review and possible approval of the August 27, 2024 Confidential Minutes.

Recommendation:

Approval.

4/5 vote required:

No

Distribution Instructions:

File

ATTACHMENTS

-

Board of Supervisors Agenda Item Report

Submitting Department: Behavioral Health

Meeting Date: September 10, 2024

SUBJECT

Behavioral Health - Resolution declaring week of September 8th-14th, 2024 as National Suicide Prevention Week and September 2024 as National Suicide Prevention Month.

Recommendation:

Approval

4/5 vote required:

No

Distribution Instructions:

Please return signed resolution to Karen Vaughn/Behavioral Health

ATTACHMENTS

- [RES_24-0XX_Suicide_Prevention_Week_8.19.2024.doc](#)

**BEFORE THE BOARD OF SUPERVISORS OF THE
COUNTY OF AMADOR, STATE OF CALIFORNIA**

IN THE MATTER OF:

RESOLUTION PROCLAIMING SEPTEMBER)
8th THROUGH SEPTEMBER 14th 2024)
AS NATIONAL SUICIDE PREVENTION)
WEEK

RESOLUTION NO. 24-0XX

WHEREAS, the week of September 8th through 14th, 2024 is National Suicide Prevention Week and September is National Suicide Prevention Month, a time in which individuals, organizations and communities around the country join their voices to amplify the message that suicide can be prevented; and

WHEREAS, it is recognized that people of all ages benefit from common tenets of wellness, such as access to effective health and behavioral health care, social support, and a sense of meaning and purpose; and

WHEREAS, attitudes and perceptions about aging, behavioral health challenges, and suicide have a significant impact on individual wellness and the willingness to reach out for support and services that can alleviate distress; and

WHEREAS, cultivating and maintaining wellness is a lifelong pursuit, and individuals of all ages can benefit from integrating wellness into their daily routine to prevent or reduce the severity of a broad range of health and behavioral health problems;

WHEREAS, knowing the signs of suicide, finding the words to talk with someone that may be thinking of suicide, and reaching out to local resources are actions everyone can take to care for themselves and others; and

WHEREAS, all Californians are urged to take action for suicide prevention and promote mental health and wellness as we strive towards zero suicides; and

WHEREAS, September 8th through 14th is recognized across the United States as National Suicide Prevention Week and September is recognized as Suicide Prevention Month, providing the opportunity to educate and engage everyone in our community to find their role in suicide prevention; NOW, THEREFORE,

THEREFORE, BE IT PROCLAIMED, by Amador SPEAKS, Amador County's Suicide Prevention Coalition and all members of the Amador County Board of Supervisors on this 10th Day of September 2024, that the week of September 8th through 14th, 2024 be declared 'SUICIDE PREVENTION WEEK' and that the month of September be declared 'SUICIDE PREVENTION MONTH'.

The foregoing resolution was duly passed and adopted by the Board of Supervisors in the County of Amador at a regular meeting thereof, held on the xx day of xxxx, 20xx, by the following vote:

(RESOLUTION NO. 24-0xx)

(M/DD/YY)

AYES:

NOES: None

ABSENT: None

Chairman, Board of Supervisors

ATTEST:
JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California

Deputy

Board of Supervisors Agenda Item Report

Submitting Department: Administration

Meeting Date: September 10, 2024

SUBJECT

Local Agency Formation Commission-Project 341: Discussion and possible action relative to adoption of a Resolution affirming no changes to Property Tax allocations for Lockwood Fire Protection District and Amador Fire Protection District Reorganizations.

Recommendation:

Approval

4/5 vote required:

No

Distribution Instructions:

Clerk, AFD, Auditor-Controller

ATTACHMENTS

- [draft Reso Affirming No Property Tax Revenue Changes \(1\).doc](#)

**BEFORE THE BOARD OF SUPERVISORS OF THE
COUNTY OF AMADOR, STATE OF CALIFORNIA**

IN THE MATTER OF:

RESOLUTION AFFIRMING NO CHANGES TO) RESOLUTION NO. 24-xxx
PROPERTY TAX ALLOCATIONS FOR LOCKWOOD)
FIRE PROTECTION DISTRICT AND AMADOR)
FIRE PROTECTION DISTRICT REORGANIZATIONS)
LAFCO PROJECT #341)

WHEREAS, Article 13A, Section 1 of the Constitution of the State of California limits ad valorem taxes on real property to one percent (1%) of full cash value; and

WHEREAS, Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code (Section 95 et seq.) provides for the allocation of property tax revenues; and

WHEREAS, Lockwood Fire Protection District does not receive any property tax revenues; and

WHEREAS, the reorganizations of Lockwood Fire Protection District (LFPD) and Amador Fire Protection District (AFPD) whereby LFPD is to be annexed into AFPD, will not result in any changes to the allocation of property tax revenues because LFPD does not receive any property tax revenues,

THEREFORE BE IT RESOLVED by the Board of Supervisors of the County of Amador, State of California that said Board does hereby affirm that there will be no changes to the allocation of property tax revenues because of the reorganizations of LFPD and AFPD, resulting in annexation of LFPD into AFPD.

The foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 10th day of September 2024, by the following vote:

AYES:

NOES:

Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California

Deputy

Board of Supervisors Agenda Item Report

Submitting Department: Administration

Meeting Date: September 10, 2024

SUBJECT

Discussion and possible action relative to a letter of opposition to AB 98. CSAC is urging the Governor to veto this bill.

Recommendation:

Pleasure of the Board

4/5 vote required:

No

Distribution Instructions:

Clerk

ATTACHMENTS

- [AB 98 As Amended](#)
- [AB 98 -Senate Floor Analyses.pdf](#)
- [AB 98 - Assembly Floor Analysis.pdf](#)
- [CSAC AB 98 Oppose.pdf](#)



AB-98 Planning and zoning: logistics use: truck routes. (2023-2024)

As Amends the Law Today

SECTION 1. Chapter 2.8 (commencing with Section 65098) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 2.8. Warehouse Design and Build Standards
65098. As used in this chapter:

(a) "21st century warehouse" means a logistics use that meets all of the following:

(1) Complies with or exceeds all requirements of the most current building energy efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations and the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations), including, but not limited to, the following requirements related to:

(A) Photovoltaic system installation and associated battery storage.

(B) Cool roofing.

(C) Medium- and heavy-duty vehicle charging readiness.

(D) Light-duty electric vehicle charging readiness and installed charging stations.

- (2) Has skylights in at least 1 percent of the roof area, or equivalent LED efficient lighting.
- (3) Provides conduits and electrical hookups at all loading bays serving cold storage. Idling or use of auxiliary truck engine power to power climate control equipment shall be prohibited if the truck is capable of plugging in at the loading bay.
- (4) Ensures that any heating, ventilation, and air-conditioning is high-efficiency.
- (5) (A) Ensures that all classes of forklifts used on site, pursuant to State Air Resources Board's Zero-Emission Forklifts regulation, as drafted, shall be zero-emission by January 1, 2030, to the extent operationally feasible, commercially off-the shelf available, and adequate power available on site.
- (B) (i) If not operationally feasible, commercially off-the shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used.
- (ii) Cost shall not be a factor in determining operational feasibility pursuant to this subparagraph.
- (6) (A) Ensures that equipment used on site utilizing small off-road engines shall be zero-emission, to the extent operationally feasible, commercially off-the shelf available, and adequate power available on site.
- (B) (i) If not operationally feasible, commercially off-the shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used.
- (ii) Cost shall not be a factor in determining operational feasibility pursuant to this subparagraph.
- (C) Should any equipment used on site utilizing small off-road engines be contracted out, the logistics use facility shall preferentially contract for services utilizing zero-emission small off-road engines.
- (b) "Expansion of an existing logistics use" means the expansion of an existing logistics use by 20 percent or more of the existing square footage. Office space shall not be included as part of the existing square footage or in the square footage for the 20-percent expansion threshold.
- (c) "Heavy-duty truck" means a class 7 or class 8 truck. As used in this subdivision:
- (1) "Class 7 truck" means a truck with a gross vehicle weight rating of 26,001 to 33,000 pounds.
- (2) "Class 8 truck" means a truck with a gross vehicle weight rating of greater than 33,000 pounds.

- (d) "Logistics use" means a building in which cargo, goods, or products are moved or stored for later distribution to business or retail customers, or both, that does not predominantly serve retail customers for onsite purchases, and heavy-duty trucks are primarily involved in the movement of the cargo, goods, or products. "Logistics use" does not include any of the following:
- (1) Facilities where food or household goods are sold directly to consumers and are accessible to the public.
 - (2) A building primarily served by rail to move cargo goods or product.
 - (3) (A) A Strategic Intermodal Facility.
- (B) For purposes of this subdivision, "Strategic Intermodal Facility" means a project that satisfies all of the following requirements:
- (i) Logistics facilities, including warehousing and transloading facilities, served by rail.
 - (ii) Intermodal freight transport services.
 - (iii) All facility structures and related rail operations are located within a single site footprint.
- (e) "Sensitive receptor" means one or more of the following:
- (1) A residence, including, but not limited to, a private home, apartment, condominium unit, group home, dormitory unit, or retirement home.
 - (2) A school, including, but not limited to, a preschool, prekindergarten, or school maintaining kindergarten or any of grades 1 to 12, inclusive.
 - (3) A daycare facility, including, but not limited to, in-home daycare.
 - (4) Publicly owned parks, playgrounds, and recreational areas or facilities primarily used by children, unless the development of the park and recreation areas are included as a condition of approval for the development of a logistics use.
 - (5) Nursing homes, long-term care facilities, hospices, convalescent facilities, or similar live-in housing.
 - (6) Hospitals, as defined in Section 128700 of the Health and Safety Code.
 - (f) "Small off-road engines" means spark-ignition engines rated at or below 19 kilowatts.

- (g) "Tier 1 21st century warehouse" means a logistics use that meets all of the following:
- (1) Complies with or exceeds all requirements of the most current building energy efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations and the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations), including, but not limited to, the following requirements related to:
 - (A) (i) Photovoltaic system installation and associated battery storage.
 - (ii) For purposes of the photovoltaic system installation requirement in clause (i), all warehouse square footage should be considered conditioned space.
 - (B) Cool roofing.
 - (C) Medium- and heavy-duty vehicle charging readiness.
 - (D) Light-duty electric vehicle charging readiness and installed charging stations.
 - (2) Has skylights in at least one percent of the roof area, or equivalent LED efficient lighting.
 - (3) Has a microgrid-ready switchgear system capable of supporting distributed energy resources.
 - (4) Is advanced smart metering ready.
 - (5) Has a minimum of 50 percent of all passenger vehicle parking spaces preinstalled with conduit and all necessary physical infrastructure to support future charging of electric vehicles.
 - (6) Has a minimum of 10 percent of all passenger vehicle parking spaces installed with electric vehicle charging stations.
 - (7) Provides conduits and electrical hookups at all loading bays serving cold storage. Idling or use of auxiliary truck engine power to power climate control equipment shall be prohibited if the truck is capable of plugging in at the loading bay.
 - (8) Ensures that any heating, ventilation, and air-conditioning is high-efficiency.
 - (9) (A) Ensures that all classes of forklifts used on site, pursuant to State Air Resources Board's Zero-Emission Forklifts regulation, as drafted, shall be zero-emission by January 1, 2028, to the extent operationally feasible,

commercially off-the shelf available, and adequate power available on site.

(B) (i) If not operationally feasible, commercially off-the shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used.

(ii) Cost shall not be a factor in determining operational feasibility pursuant to this subparagraph.

(10) (A) Ensures that equipment used on site utilizing small off-road engines shall be zero-emission, to the extent operationally feasible, commercially off-the shelf available, and adequate power available on site.

(B) (i) If not operationally feasible, commercially off-the shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used.

(ii) Cost shall not be a factor in determining operational feasibility pursuant to this subparagraph.

(C) Should any equipment used on site utilizing small off-road engines be contracted out, the logistics use facility shall preferentially contract for services utilizing zero-emission small off-road engines.

(h) "Warehouse concentration region" includes the Counties of Riverside and San Bernardino and the Cities of Chino, Colton, Fontana, Jurupa Valley, Moreno Valley, Ontario, Perris, Rancho Cucamonga, Redlands, Rialto, Riverside, and San Bernardino.

65098.1. (a) Commencing January 1, 2026, any proposed new or expanded logistics use development 250,000 square feet or more where the loading bay is within 900 feet of a sensitive receptor that is utilizing a site zoned for industrial use or any site where an application was submitted to the jurisdiction by September 30, 2024, to rezone as industrial and the rezone to industrial was ultimately approved shall comply with all of the following:

(1) Include all Tier 1 21st century warehouse design elements described in subdivision (g) of Section 65098.

(2) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible.

(3) Locate truck loading bays a minimum of 300 feet from the property line of the nearest sensitive receptor to the nearest truck loading bay opening using a direct straight-line method.

(4) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses.

(5) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.

(6) Include buffering and screening to mitigate for light and noise, as described in Section 65098.2.

(b) Commencing January 1, 2026, except as provided for in subdivision (c), any proposed new or expanded logistics use development that is on land that is not zoned industrial, whether developed or undeveloped, or land that needs to be rezoned, where the loading bay is within 900 feet of a sensitive receptor, shall comply with all of the following:

(1) If the logistics use development is 250,000 square feet or more it shall include all Tier 1 21st century warehouse design elements described in subdivision (g) of Section 65098. If the logistics use development is less than 250,000 square feet it shall include all 21st century warehouse design elements described in subdivision (a) of Section 65098.

(2) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible.

(3) Locate truck loading bays a minimum of 500 feet from the property line of the nearest sensitive receptor to the nearest truck loading bay opening using a direct straight-line method.

(4) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses.

(5) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.

(6) Include buffering and screening to mitigate for light and noise, as described in Section 65098.2.

(c) Commencing January 1, 2026, any proposed new or expanded logistics use development that is on land that is not zoned industrial, whether developed or undeveloped, or land that needs to be rezoned, and is located in the warehouse concentration region, shall comply with all of the following:

(1) If the logistics use development is 250,000 square feet or more it shall include all Tier 1 21st century warehouse design elements described in subdivision (g) of Section 65098. If the logistics use development is less

- than 250,000 square feet it shall include all 21st century warehouse design elements described in subdivision (a) of Section 65098.
- (2) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible.
 - (3) Locate truck loading bays a minimum of 500 feet from the property line of the nearest sensitive receptor to the nearest truck loading bay opening using a direct straight-line method.
 - (4) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses.
 - (5) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.
 - (6) Include buffering and screening to mitigate for light and noise, as described in Section 65098.2.
- (d) Commencing January 1, 2026, any proposed new or expanded logistics use development less than 250,000 square feet where the loading bay is within 900 feet of a sensitive receptor that is utilizing a site zoned for industrial use or any site where an application was submitted to the jurisdiction by September 30, 2024, to rezone as industrial and the rezoned industrial was ultimately approved shall comply with all of the following:
- (1) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible.
 - (2) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.
 - (3) Include buffering and screening to mitigate for light and noise, as described in Section 65098.2.
 - (4) Complies with or exceeds all requirements of the most current building energy efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations and the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations), including, but not limited to, the following requirements related to:

- (A) Photovoltaic system installation and associated battery storage.
- (B) Cool roofing.
- (C) Medium- and heavy-duty vehicle charging readiness.
- (D) Light-duty electric vehicle charging readiness and installed charging stations.
- (5) Provides conduits at loading bays equal to one truck per every loading bay serving cold storage. Idling or use of auxiliary truck engine power to power climate control equipment shall be prohibited if the truck is capable of plugging in at the loading bay.
- (6) Ensures that any heating, ventilation, and air-conditioning is high-efficiency.
- (7) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses.
- (e) (1) Except as provided in paragraph (2), on or before January 1, 2028, a city, county, or city and county shall update its circulation element to include truck routes, as specified in Section 65302.02.
- (2) On or before January 1, 2026, all cities and counties in the warehouse concentration region shall update its circulation element to include truck routes, as specified in Section 65302.02.
- 65098.1.5. (a) (1)** Notwithstanding any other provision of law, any existing logistics use development in existence as of September 30, 2024, shall not be subject to the requirements described in paragraph (3) of subdivision (a) of, paragraph (3) of subdivision (b) of, or paragraph (3) of subdivision (c) of Section 65098.1, as applicable, if a new sensitive receptor is constructed, established, or permitted after the effective date of this chapter.
- (2) Notwithstanding any other provision of law, if, by September 30, 2024, a proposed expansion of a logistics use development is in a local entitlement process, then the proposed expansion shall not be subject to the requirements described in paragraph (3) of subdivision (a) of, paragraph (3) of subdivision (b) of, or paragraph (3) of subdivision (c) of Section 65098.1, as applicable, if a sensitive receptor is constructed, established, or permitted after the effective date of this chapter.
- (3) Notwithstanding any other provision of law, if, by September 30, 2024, a property is currently in a local entitlement process to become a logistics use, then the proposed logistics use development shall not be subject to the requirements described in paragraph (3) of subdivision (a) of, paragraph (3) of subdivision (b) of, or

paragraph (3) of subdivision (c) of Section 65098.1, as applicable, if a sensitive receptor is constructed, established, or permitted after the effective date of this chapter.

(b) (1) Any new logistics use developments that require the rezoning of land and must undergo a municipal entitlement process shall not be subject to the requirements described in paragraph (3) of subdivision (a) of, paragraph (3) of subdivision (b) of, or paragraph (3) of subdivision (c) of Section 65098.1, as applicable, if the start of the entitlement process for the logistics use began before any sensitive receptor started its own entitlement or permitting process, unless the proposed sensitive receptor was an existing allowable use according to local zoning regulations.

(2) During a logistics use development's entitlement process for a new or expanded logistics use, if a new sensitive receptor is proposed or established within the distances required by paragraph (3) of subdivision (a) of, paragraph (3) of subdivision (b) of, or paragraph (3) of subdivision (c) of Section 65098.1, as applicable, then those distance requirements shall not apply to the logistics use development so long as the logistics use development was not already subject to those requirements prior to the new sensitive receptor being proposed or established.

(c) This chapter shall not apply to any logistics projects that were subject to a commenced local entitlement process prior to September 30, 2024.

(d) The protection afforded by this section shall remain in effect from the time of the initial application submission through the completion of the entitlement process, including any necessary rezoning actions and through the development period. If no development activity occurs within five years of entitlement approvals, the protections shall be waived.

(e) This chapter shall not apply to a logistics project that received an approval by a local agency prior to the effective date of this chapter. For purposes of this subdivision, "approval" shall have the same meaning as set forth in subdivision (a) of Section 15352 of Chapter 3 of Division 6 of Title 14 of the California Code of Regulations.

65098.2. (a) Any new logistics use facility within 900 feet of a sensitive receptor shall have a buffer as follows:

(1) If the logistics use development is subject to the requirements of subdivision (a) or (d) of Section 65098.1, the buffer shall be 50 feet in width measured from the property line of all adjacent sensitive receptors that fully screen the project from the sensitive receptor.

(2) If the logistics use development is subject to either subdivision (b) or subdivision (c) of Section 65098.1, the buffer shall be 100 feet in width measured from the property line of all adjacent sensitive receptors that fully screen the project from the sensitive receptor.

(b) Buffer areas shall include a solid decorative wall, landscaped berm and wall, or landscaped berm 10 feet or more in height, drought tolerant natural ground landscaping with proper irrigation, and solid-screen buffering trees as described in subdivision (c).

(c) Trees shall be used as part of a solid-screen buffering treatment and planted in two rows along the length of the property line adjacent to the sensitive receptor. Trees used for this purpose shall be evergreen, drought tolerant, to the extent feasible, composed of species with low biogenic emissions, of a minimum 36-inch box size at planting, and spaced at no greater distance than 40 feet on center. Palm trees shall not be utilized.

65098.2.5. The entry gates into the loading truck court for a new or expanded logistics use facility shall be positioned after a minimum of 50 feet of total available stacking depth inside the property line. The stacking depth shall be increased by 70 feet for every 20 loading bays beyond 50 loading bays, to the extent feasible.

65098.2.7. (a) The purpose of this section is to ensure that logistics use developments, beginning January 1, 2026, are sited in locations that minimize adverse impacts on residential communities and enhance transportation efficiency. This is achieved by restricting logistics use development to roadways that are suited to handle the associated traffic and that predominantly serve commercial uses.

(b) (1) Any new logistics use development shall be sited on roadways that meet the following classifications:

(A) Arterial roads.

(B) Collector roads.

(C) Major thoroughfares.

(D) Local roads that predominantly serve commercial uses.

(2) For purposes of this chapter, local roads shall be considered to predominantly serve commercial uses if more than 50 percent of the properties fronting the road within 1000 feet are designed for commercial or industrial use according to the local zoning ordinance.

(c) A waiver may be granted where siting on the designated roadways pursuant to subdivision (b) is impractical due to unique geographic, economic, or infrastructure-related reasons. The waiver shall be approved by the city,

county, or city and county, provided that the applicant demonstrates all of the following:

- (1) There is no feasible alternative site that exists within the designated roadways.
 - (2) A traffic analysis has been completed and submitted to the local approving authority.
 - (3) The site is an existing industrial zone.
 - (4) The proposed site will incorporate mitigations to minimize traffic and environmental impacts on residential areas to the greatest extent feasible.
- 65098.3.** (a) Anti-idling signs indicating a three-minute heavy-duty truck engine idling restriction shall be posted at logistics use developments along entrances to the site and at the truck loading bays.
- (b) Signs shall be installed at all heavy-duty truck exit driveways directing truck drivers to the truck route as indicated in the truck routing plan, as described in Section 65098.4, and in the state highway system.
- 65098.4.** Prior to the issuance of a certificate of occupancy, a facility operator shall establish and submit for approval to the planning director or equivalent position for the city, county, or city and county a truck routing plan to and from the state highway system based on the latest truck route map of the city, county, or city and county. The truck routing plan shall describe the operational characteristics of the use of the facility operator, including, but not limited to, hours of operation, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that, to the greatest extent possible, avoid passing sensitive receptors. The truck routing plan shall include measures, such as signage and pavement markings, queuing analysis, and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. The facility operator shall be responsible for enforcement of the truck routing plan. A revised truck routing plan shall be submitted to the planning director or equivalent position prior to a business license being issued by the city, county, or city and county for any new tenant of the property. The planning director or equivalent position shall have discretion to determine if changes to the truck routing plan are necessary, including, but not limited to, any additional measures to alleviate truck routing and parking issues that may arise during the life of the facility.
- 65098.5.** (a) A city, county, or city and county shall not approve development of a logistics use that does not meet or exceed the standards outlined in this chapter.

(b) This section shall not be construed to restrict the existing authority of a city, county, or city and county to deny a logistics use facility altogether.

65098.6. A city, county, or city and county shall condition approval of a logistics use on the following:

(a) Two-to-one replacement of any demolished housing unit that was occupied within the last 10 years, unless the housing unit was declared substandard by a building official, pursuant to Section 17920.3 of the Health and Safety Code, prior to purchase by the developer. For each housing unit demolished, regardless of market value of the unit, two units of affordable housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that are deed-restricted shall be built within the jurisdiction. Funds from any fee imposed for the replacement of demolished housing units shall be placed in a housing-specific set-aside account and shall be used for housing within three years of collection.

(b) If residential dwellings are affected through purchase, the developer shall be required to provide any displaced tenant with an amount equivalent to 12 months' rent at the current rate.

65098.7. Nothing in this chapter shall be construed to supersede mitigation measures required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

65098.8. The Legislature finds and declares that the movement and storage of freight and the impact of this activity on public health and communities across the state as set forth in this chapter is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

65098.9. The provisions of this chapter shall not apply to a logistics use development if it meets both of the following:

(a) The logistics use development is a mixed-use development that may create sensitive receptors on the site of the new logistics use development.

(b) There are no existing sensitive receptors within 900 feet of the loading bay.

SEC. 2. Section 65302.02 is added to the Government Code, to read:

65302.02. By January 1, 2028, except as provided for in subdivision (h), a county or city shall update its circulation element, as required by subdivision (b) of Section 65302, to do all of the following:

(a) Identify and establish specific travel routes for the transport of goods, materials, or freight for storage, transfer, or redistribution to safely accommodate additional truck traffic and avoid residential areas and sensitive receptors, as defined by Section 65098.

- (b) Maximize the use of interstate or state divided highways as preferred routes for truck routes. The county or city shall also maximize use of arterial roads, major thoroughfares, and predominantly commercially oriented local streets when state or interstate highways are not utilized. Truck routes shall comply with the following:*
- (1) Major or minor collector streets and roads that predominantly serve commercially oriented uses shall be used for truck routes only when strictly necessary to reach existing industrial zones.*
 - (2) Trucks shall be routed via transportation arteries that minimize exposure to sensitive receptors.*
 - (3) On and after January 1, 2028, all proposed development of a logistics use development, as defined in subdivision (d) of Section 65098, shall be accessible via arterial roads, major thoroughfares, or roads that predominantly serve commercially oriented uses.*
- (A) The purpose of this section is to ensure that logistics use developments are sited in locations that minimize adverse impacts on residential communities and enhance transportation efficiency. This is achieved by restricting logistics use developments to roadways that are suited to handle the associated traffic and that predominantly serve commercial uses.*
- (B) For purposes of this section, local roads shall be considered to predominantly serve commercial uses if more than 50 percent of the properties fronting the road within 1000 feet are designated for commercial or industrial use according to the local zoning ordinance.*
- (c) The county or city may consult with the Department of Transportation and the California Freight Advisory Committee for technical assistance.*
- (d) The county or city shall provide for posting of conspicuous signage to identify truck routes and additional signage for truck parking and appropriate idling facility locations.*
- (e) The county or city shall make truck routes publicly available in geographic information system (GIS) format and share GIS maps of the truck routes with warehouse operators, fleet operators, and truck drivers.*
- (f) The city or county shall provide opportunities for the involvement of citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, educational, and other community groups through public hearings and any other means the planning agency deems appropriate, consistent with Section 65351.*

(g) The city or county shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the changes required pursuant to this section.

(h) The warehouse concentration region, as defined in Section 65098, shall implement the provisions of this section by January 1, 2026.

(i) The Attorney General may enforce this section.

(1) The Attorney General may impose a fine against a jurisdiction that is in violation of this section of up to fifty thousand dollars (\$50,000) every six months if the required updates have not been made.

(2) Upon appropriation by the Legislature, any fines collected shall be distributed by the Attorney General and returned to the local air quality management district in which the fine was imposed and be used for the district's efforts to improve air quality.

SEC. 3. Section 40458.5 is added to the Health and Safety Code, to read:

40458.5. (a) Subject to an appropriation for this express purpose, the south coast district shall, beginning on January 1, 2026, and until January 1, 2032, deploy mobile air monitoring systems within the Counties of Riverside and San Bernardino to collect air pollution measurements in communities that are near operational logistics use developments.

(b) The south coast district shall use the data collected pursuant to subdivision (a) to conduct an air modeling analysis to evaluate the impact of air pollution on sensitive receptors, as defined in Section 65098 of the Government Code, from logistics use development operations in the Counties of Riverside and San Bernardino, including relative pollution concentrations from logistics use developments at varying distances from sensitive receptors.

(c) The south coast district shall submit its findings to the Legislature on or before January 1, 2033. On or before January 1, 2028, the south coast district shall submit an interim report to evaluate the impact of air pollution on sensitive receptors, as defined in Section 65098 of the Government Code, from logistics use development operations in the Counties of Riverside and San Bernardino, including relative pollution concentrations from logistics use developments at varying distances from sensitive receptors. This report shall be used to assess the effectiveness of setbacks on public health.

(d) (1) The requirement for submitting a report imposed pursuant to subdivision (c) is inoperative on January 1, 2040, pursuant to Section 10231.5 of the Government Code.

(2) A report to be submitted pursuant to subdivision (c) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 4. Section 40522.7 is added to the Health and Safety Code, to read:

40522.7. The south coast district shall establish a process for receiving community input on how any penalties assessed and collected for violations of the Warehouse Indirect Source Rule are spent. The south coast district shall ensure a wide range of community groups are included in the process and that groups represent the geographic areas where there are high numbers of warehouse facilities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

THIRD READING

Bill No: AB 98
Author: Juan Carrillo (D) and Reyes (D)
Amended: 8/28/24 in Senate
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 4-2, 8/29/24
AYES: Durazo, Skinner, Wahab, Wiener
NOES: Seyarto, Dahle
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/30/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Seyarto
NO VOTE RECORDED: Jones

SUBJECT: Planning and zoning: logistics use: truck routes

SOURCE: Author

DIGEST: This bill prohibits, commencing January 1, 2026, cities and counties from approving new or expanded logistics uses unless they meet specified standards, requires cities and counties to update their circulation elements to include truck routes, and imposes study requirements on the South Coast Air Quality Management District (AQMD).

Senate Floor Amendments of 8/28/24 delete the contents of the bill and insert the current provisions pertaining to logistics uses.

ANALYSIS:

Existing law:

- 1) Allows a city or a county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police

power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority.

- 2) Requires, pursuant to Planning and Zoning Law, every city and county to adopt a general plan that sets out planned uses for all of the area covered by the plan, and requires the general plan to include seven mandatory elements, including a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities.
- 3) Requires, pursuant to the California Environmental Quality Act (CEQA) lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or an environmental impact report (EIR) for this action, unless the project is exempt from CEQA.

This bill establishes standards that new or expanded logistics uses must meet beginning January 1, 2026, requires cities and counties to update their circulation elements to include truck routes, and imposes study requirements on the South Coast AQMD. Specifically, this bill:

- 1) Prohibits, commencing January 1, 2026, a local agency from approving development of a logistics use that does not meet or exceed specified standards, described below.
- 2) Defines the following terms:
 - a) “Logistics use” to mean a building in which cargo, goods, or products are moved or stored for later distribution to business or retail customers, or both, that does not predominantly serve retail customers for onsite purchases, and heavy-duty trucks are primarily involved in the movement of the cargo, goods, or products, with specified exceptions.
 - b) “Sensitive receptors” are defined to mean a residence, school, daycare facility, recreational facilities primarily used by children, nursing homes and similar facilities, and hospitals.
 - c) “Warehouse concentration region” (WCR) to include the Counties of San Bernardino and the Cities of Chino, Colton, Fontana, Jurupa Valley, Moreno Valley, Ontario, Perris, Rancho Cucamonga, Redlands, Rialto, Riverside, and San Bernardino.

- 3) Establishes siting criteria:
 - a) Requires any new logistics use development must be sited on roadways that meet the following classifications:
 - i) Arterial roads;
 - ii) Collector roads;
 - iii) Major thoroughfares; or
 - iv) Local roads that predominantly serve commercial uses, which mean 50 percent of the properties fronting the road within 1,000 feet are designed for commercial or industrial use according to the local zoning ordinance.
 - b) However, a waiver may be granted where siting on these roadways is impractical due to unique geographic, economic, or infrastructure-related reasons. The waiver shall be approved by the city, county, or city and county, provided that the applicant demonstrates all of the following:
 - i) There is no feasible alternative site that exists within the designated roadways;
 - ii) A traffic analysis has been completed and submitted to the local approving authority;
 - iii) The site is an existing industrial zone; and
 - iv) The proposed site will incorporate mitigations to minimize traffic and environmental impacts on residential areas to the greatest extent feasible.
- 4) Establishes requirements for buffers:
 - a) Any new logistics use facility within 900 feet of a sensitive receptor must include a buffer that fully screens all adjacent sensitive receptors and include a solid decorative wall, landscaped berm and wall, or landscaped berm 10 or more feet in height, drought tolerant natural ground landscaping with proper irrigation, and specified types of trees (excluding palm trees) planted in two rows along the length of the property line with specified spacing. The buffer must meet the following widths, measured from the property line of all adjacent sensitive receptors:
 - i) 50 feet if the logistics use is located in an industrial area; or

- ii) 100 feet if the logistics use is located in a non-industrial area.
- 5) Requires new or expanded logistics uses to meet certain requirements for setbacks from sensitive receptors, design and construction standards, and electrification requirements, as follows:
- a) Requires new “Tier 1 21st Century warehouse standards” (Tier 1 standards) and a less stringent set of “21st century warehouse standards” (base standards), as specified.
 - b) Requires, for new or expanded logistics uses that have a loading bay within 900 feet of a sensitive receptor and are located on industrial land (whether in the WCR or not):
 - i) A logistics use that includes 250,000 or more square feet must have loading bays set back at least 300 feet from the property line of the nearest sensitive receptor and meet Tier 1 standards.
 - ii) Smaller logistics uses have no setback requirement and must meet a set of standards that incorporate some, but not all of the requirements in the base standards, specifically no requirement for zero emissions forklifts, and the conduit at loading bays must be equal to one truck per every loading bay serving cold storage.
 - c) For new or expanded logistics uses that have a loading bay within 900 feet of a sensitive receptor and are located on non-industrial land, as specified, loading bays must be set back 500 feet from the property line of the nearest sensitive receptor. If the use is 250,000 square feet or more, it must meet the Tier 1 standards, or the base standards if smaller than that.
 - d) If the use is located in the WCR, all new or expanded logistics uses on nonindustrial land, regardless of whether there are sensitive receptors within 900 feet, must have a 500-foot setback. If the use is 250,000 square feet or more, the Tier 1 standards apply; if below that, then the base standards apply. Logistics uses on industrial land in the WCR are treated the same as uses on industrial land in the rest of the state.
 - e) Requires all logistics uses subject to any of the above requirements must also meet the following design standards:
 - i) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible;

- ii) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses;
 - iii) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.
 - iv) All new or expanded logistics uses, regardless of size or location, must position entry gates into the loading truck court after a minimum of 40 feet of total available stacking depth inside the property line. This stacking depth must be increased by 70 feet for every 20 loading bays beyond 50 loading bays to the extent feasible.
- 6) Requires two new units of affordable housing for each unit of housing demolished to build a logistics use, as specified, and if residential dwellings are affected through purchase, the developer must provide any displaced tenant with an amount equivalent to 12 months' rent at the current rate.
- 7) Requires submission of a truck routing plan, as follows:
- a) Prior to the issuance of a certificate of occupancy, a facility operator must establish and submit for approval to the planning director or equivalent position for the city or county a truck routing plan, as specified, to and from the state highway system based on the latest truck route map of the city or county.
- 8) Exempts from the above requirements any logistics projects that:
- a) Are subject to a commenced local entitlement process prior to September 30, 2024;
 - b) Receive an approval by a local agency prior to the effective date of the bill;
or
 - c) Are a mixed use development that may create sensitive receptors on the site of the new logistics use development, and there are no existing sensitive receptors within 900 feet of the loading bay.
- 9) Exempts from the setback requirements (but not the other requirements of the bill) any of the following developments even if a new sensitive receptor is constructed, permitted, or established after the bill goes into effect:

- a) Any logistics use development already in existence as of September 30, 2024;
 - b) Development of a property for a logistics use or a proposed expansion of a logistics use that is in the entitlement process as of September 30, 2024;
 - c) New logistics use developments that require rezoning of land, if the start of the entitlement process for the logistics use began before any sensitive receptor started its own entitlement process, unless the proposed sensitive receptor was an existing allowable use according to local zoning regulations;
 - d) A logistics use in the entitlement process if it wasn't already subject to the setback requirements because of the presence of a sensitive receptor.
- 10) Provides that the bill does not supersede mitigation measures required by CEQA, and does not affect the ability of a local government to deny a logistics use.
- 11) Requires changes to the circulation element of a general plan, as follows:
- a) Requires cities and counties to update their circulation elements to include the following requirements regarding truck routes. Cities and counties in the WCZ must update their circulation elements by January 1, 2026; all remaining cities and counties have an additional two years, until January 1, 2028.
 - b) The update to the circulation element must do all of the following:
 - i) Identify and establish specific travel routes for the transport of goods, materials, or freight for storage, transfer, or redistribution to safely accommodate additional truck traffic and avoid residential areas and sensitive receptors; and
 - ii) Maximize the use of interstate or state divided highways as preferred routes for truck routes. The county or city must also maximize use of arterial roads, major thoroughfares, and predominantly commercially oriented local streets when state or interstate highways are not utilized.
 - c) Requires truck routes to comply with the following:

- i) Major or minor collector streets and roads that predominantly serve commercially oriented uses must be used for truck routes only when strictly necessary to reach existing industrial zones;
- ii) Trucks must be routed via transportation arteries that minimize exposure to sensitive receptors; and
- iii) On and after January 1, 2028, all proposed development of a logistics use development must be accessible via arterial roads, major thoroughfares, or roads that predominantly serve commercially oriented uses. For purposes of the circulation element, local roads shall be considered to predominantly serve commercial uses if more than 50 percent of the properties fronting the road within 1,000 feet are designated for commercial or industrial use according to the local zoning ordinance.

12) Requires a county or city to:

- a) Provide for posting of conspicuous signage to identify truck routes and additional signage for truck parking and appropriate idling facility locations;
- b) Make truck routes publicly available in geographic information system (GIS) format and share GIS maps of the truck routes with warehouse operators, fleet operators, and truck drivers;
- c) Include public participation as specified.

13) Allows the Attorney General to enforce the circulation element requirements and subjects a city or county that fails to comply to a penalty of up to \$50,000 every six months if the required updates have not been made. Upon appropriation by the Legislature, any fines collected must be distributed by the Attorney General and returned to the local AQMD in which the fine was imposed and be used for the district's efforts to improve air quality.

14) Anti-idling signs indicating a three-minute heavy-duty truck engine idling restriction must be posted at logistics use developments along entrances to the site and at the truck loading bays. These signs must be installed at all heavy-duty truck exit driveways directing truck drivers to the truck route as indicated in the truck routing plan and in the state highway system.

15) Subject to an appropriation for this express purpose, requires South Coast AQMD, beginning on January 1, 2026, and until January 1, 2032, deploy

mobile air monitoring systems within the Counties of Riverside and San Bernardino to collect air pollution measurements in communities that are near operational logistics use developments.

- 16) Requires South Coast AQMD to use the data collected to conduct an air modeling analysis to evaluate the impact of air pollution on sensitive receptors from logistics use development operations in the Counties of Riverside and San Bernardino, including relative pollution concentrations from logistics use developments at varying distances from sensitive receptors.
- 17) Requires South Coast AQMD to submit its findings to the Legislature on or before January 1, 2033, and on or before January 1, 2028, it must submit an interim report. This report must be used to assess the effectiveness of setbacks on public health.
- 18) Requires South Coast AQMD to establish a process for receiving community input on how any penalties assessed and collected for violations of the Warehouse Indirect Source Rule are spent. The South Coast AQMD must ensure a wide range of community groups are included in the process and that groups represent the geographic areas where there are high numbers of warehouse facilities.
- 19) Defines additional terms and includes findings and declarations to support its purposes.

Background

Warehouses and other logistics uses. The proliferation of e-commerce and consumer expectations for rapid shipping contributed to a boom in warehouse development in California. The Environmental Justice Bureau at the California Attorney General’s Office notes that in the Inland Empire alone, 150 million square feet of new industrial space was developed from 2009-2019, and that 21 of the largest 100 logistics leases signed in 2019 were located in the Inland Empire.

Warehouse impacts. Numerous studies have correlated the presence of warehouses with negative health effects on nearby communities, due primarily to the truck traffic associated with the warehouses. Under Attorney General Xavier Becerra, the Office of the Attorney General (OAG) adopted a guidance memo titled Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act. The memo notes: “among other pollutants, diesel trucks visiting warehouses emit nitrogen oxide (NOx)—a primary precursor to smog formation and a significant factor in the development of respiratory

problems like asthma, bronchitis, and lung irritation—and diesel particulate matter (a subset of fine particulate matter that is smaller than 2.5 micrometers)—a contributor to cancer, heart disease, respiratory illnesses, and premature death. Trucks and on-site loading activities can also be loud, bringing disruptive noise levels during 24/7 operation that can cause hearing damage after prolonged exposure.”

A staff report from the South Coast Air Quality Management District (South Coast AQMD) analyzed the impacts of warehouses at different distances and found that:

- a) Communities within ½ mile of large warehouses had scored more poorly on measures of environmental health than the basin as a whole;
- b) These communities have significantly higher proportions of Hispanic residents than the basin as a whole;
- c) Risks posed from particulate matter are also higher for populations located within ½ mile of warehousing facilities; and
- d) Measures of environmental health improve the further communities are from warehouses.

Warehouse mitigation measures. The OAG’s memo identifies best practices for avoiding and mitigating impacts associated with warehouse development. The memo relies heavily on research prepared by the California Air Resources Board (CARB) in 2005. Among the recommendations proposed in the memo related to the siting and design of warehouses the memo notes that a best practice includes: “Per CARB guidance, siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors.” Sensitive receptors are areas that children, the elderly, and other vulnerable populations congregate, such as residences or schools. The underlying data the memo cites in support of this recommendation found an 80 percent drop off in the concentration of diesel particulate matter emissions from distribution centers, and associated cancer risk, at approximately 1,000 feet. CARB and South Coast AQMD analyses indicate that providing a separation of 1,000 feet substantially reduces diesel particulate matter concentrations and public exposure downwind of a distribution center.

The Attorney General also intervened in a recent warehouse development, reaching a settlement with the City of Fontana in April 2022 resolving allegations that the city violated CEQA by approving a 205,000 square foot warehouse project that borders a public high school and is located in a low-income neighborhood. As part

of the settlement, the warehouse developer must implement mitigation measures and the city adopted an ordinance that requires new warehouse developments of greater than 400,000 square feet to be powered by solar energy, use zero emission (ZE) equipment on site, and set loading docks back by at least 300 feet from sensitive receptors, such as residences or schools. The author wants to establish minimum mitigation measures for new logistics uses.

Comments

- 1) *Purpose of the bill.* According to the author, “For more than a decade, the Legislature has heard outcries from communities where local governments have prioritized economic development over the quality of life and health of their communities. AB 98 is the product of months of discussion and collaborations from environmental advocates, leaders in industry, labor, and dedicated public health advocates to raise the standards of warehouse development. This bill requires warehouse operators and developers to build a better product, operate responsibly, and be good neighbors to the communities they set up shop in. AB 98 also requires local agencies to make responsible decisions that promote economic development while maintaining or improving the quality of life for their constituencies. AB 98 provides protections for disadvantaged communities from bad actors while allowing leaders of industry to operate. This bill is a necessary compromise for communities and business entities alike.”
- 2) *Getting the number right.* This bill establishes a set of standards at the state level that apply to new or expanded logistics uses across the state to protect nearby residents from the impacts of those uses. Among the most critical protections for residents are setbacks between the uses and homes, daycares, and other sites that have sensitive receptors. If sufficiently large, setbacks can reduce pollution and noise impacts, and reduce conflicts over truck traffic with other road users and pedestrians, by pushing logistics uses away from populated areas. This bill applies 300-foot setbacks from the loading bay in industrial areas, and 500-foot setbacks in non-industrial areas. These are relatively small setbacks compared to the OAG best practice that recommends 1,000-foot setbacks from property line to property line.

Additionally, it is unclear how frequently the 500-foot setback will apply. This bill applies a 500-foot setback to warehouses proposed on land that isn't zoned industrial. This means that if a developer submits an application for a project that also includes a rezoning to industrial, they would have to meet that requirement. However, if the local government rezones independently of an application for a project, or rezones at the request of a developer, but the

developer doesn't propose a project until after the rezoning is complete, the 300-foot setbacks apply. The Legislature may wish to consider whether this bill's setback requirements are sufficiently protective.

- 3) *Unintended consequences.* When taken together, the requirements in this bill may reduce available sites for new or expanded logistics uses. A coalition of logistics developers and business entities argue that the buffer zones and mandatory truck route provisions would severely limit the availability of land suitable for logistics uses. They argue that this could push logistics uses further from population centers, increasing the distance that trucks must travel. This could increase the cost of transportation and the emissions from truck traffic. They also state that the bill could hinder efforts to redevelop blighted areas and reduce economic opportunities, particularly in the Inland Empire where logistics uses are a significant driver of economic growth.

On the other hand, the bill provides numerous offramps that relax its rules if they are found infeasible. For example, if the forklift or small engine electrification requirements are found infeasible for various reasons, then they don't apply. Similarly, the requirement to orient truck bays away from sensitive receptors only applies to the extent feasible, and if siting a warehouse on larger roads is impractical, the developer of a logistics use can receive a waiver if they make certain findings. Environmental justice advocates are concerned that these offramps and other provisions negate the protections of the bill. The Legislature may wish to consider how this bill balances the impact on the logistics industry and nearby communities.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- 1) Unknown, major one-time local mandated costs, likely in the range of tens of millions to potentially the hundreds of millions of dollars in the aggregate, for 483 cities and 58 counties to update circulation elements by 2026 or 2028, as applicable, and to post specified signage and make specified geographic information system (GIS) data and maps publicly available. Local costs related to circulation element updates would generally not be state-reimbursable because cities and counties have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new local planning mandates, but local costs to post signage and make GIS truck route data publicly available may be reimbursable from the General Fund, subject to a determination by the Commission on State Mandates. (local funds,

General Fund)

- 2) Staff estimates that the Attorney General (AG) would incur unknown, likely significant costs for attorney workload to conduct enforcement actions and impose fines against local agencies that fail to update their circulation elements by January 1, 2026 or by January 1, 2028, as applicable. (General Fund)
- 3) Unknown, potentially significant penalty revenue gains. The bill allows the AG to impose a fine of up to \$50,000 against a jurisdiction every six months if the updates to the circulation element have not been made, and requires penalty revenues, upon appropriation by the Legislature, to be distributed by the AG to local air districts for air quality improvement efforts. The bill does not specify a fund or account to receive deposits of penalty revenues, and from which appropriations would be made.
- 4) Unknown significant one-time cost pressures in 2025-26, likely in the low millions, to provide an appropriation of state funds for the South Coast District to deploy mobile air monitoring systems in Riverside and San Bernardino Counties to collect air pollution measurements in communities that are near operational logistics use developments, to conduct air modeling analysis, and report findings to the Legislature. (General Fund)
- 5) Unknown, likely minor costs for the Department of Transportation to provide consultation and technical assistance to local agencies regarding the mandatory circulation element updates. (State Highway Account)

SUPPORT: (Verified 8/30/24)

Associated General Contractors of California
Associated General Contractors-san Diego Chapter
California Federation of Labor Unions, Afl-cio
California Federation of Teachers
California Hospital Association
California Nurses Association
California State Council of Laborers
California Teachers Association
Southern California Contractors Association
United Domestic Workers/AFSCME Local 3930
United Food and Commercial Workers, Western States Council
United Nurses Association of California

OPPOSITION: (Verified 8/30/24)

Active San Gabriel Valley
Air Quality Monitoring and Exposure Lab
Alliance for Community Empowerment
Alliance of Californians for Community Empowerment
American Planning Association, California Chapter
Atmospheric Modeling Lab
Building Owners and Managers Association of California
California Association for Local Economic Development
California Building Officials
California Business Properties Association
California Business Roundtable
California Environmental Justice Alliance Action
California Grocers Association
California Hispanic Chamber of Commerce
California Manufacturers & Technology Association
California State Association of Counties
California Taxpayers Association
Can Manufacturers Institute
Center for Community Action & Environmental Justice
Center on Race, Poverty & the Environment
Central California Asthma Collaborative
Central California Environmental Justice Network
Central Valley Air Quality Coalition
City of Bakersfield
City of Beaumont
City of Chino
City of Colton
City of Corona
City of Cypress
City of Eastvale
City of Fontana
City of Gustine
City of Hesperia
City of Indio
City of Inglewood
City of Kernan
City of Lakewood
City of Merced

City of Oakley
City of Ontario
City of Pico Rivera
City of Rancho Cucamonga
City of Rocklin
City of Roseville
City of San Bernardino
City of San Diego
City of Shafter
City of Stockton
City of Visalia
City of Woodland
Clean Water Action
Cleaneart4kids.org
Communities for A Better Environment
Community Alliance With Family Farmers
Concerned Neighbors of Bloomington
County of Kern
County of Placer
County of Sacramento
County of San Bernardino
County of Tulare
Cultiva LA Salud
Decolonial Praxis Collective
Earthjustice
East Yard Communities for Environmental Justice
Environmental Justice Coalition for Water
Faith in The Valley
Family Business Association of California
Fresno Building Healthy Communities
Friends of Calwa
Greenhouse Gas Emissions Lab
Inland Empire Economic Partnership
Inland Valley Alliance for Environmental Justice
Invest Fresno
Leadership Counsel for Justice and Accountability
League of California Cities
Los Angeles Area Chamber of Commerce
Mead Valley Coalition for Clean Air
Naiop California

National Federation of Small Businesses
Orange County Business Council
People's Collective for Environmental Justice
Perris Neighbors in Action
Physicians for Social Responsibility - Los Angeles
Planning and Conservation League
Powerca Action
Public Health Institute
Real Estate Development Associates
Riverside Neighbors Opposing Warehouses
Rural County Representatives of California
San Joaquin County Board of Supervisors
San Joaquin Partnership
See
Several Individuals
Sierra Club
Southern California Leadership Council
The Institute of Real Estate Management
Town of Apple Valley
Unite for Colton
Urban Counties of California
Valley Improvement Projects
Warehouse Worker Resource Center

Prepared by: Anton Favorini-Csorba / L. GOV. / (916) 651-4119
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**** END ****

CONCURRENCE IN SENATE AMENDMENTS

AB 98 (Juan Carrillo and Reyes)

As Amended August 28, 2024

Majority vote

SUMMARY

Establishes warehouse standards, requires local agencies to update their circulation elements to include truck routes, and requires the South Coast Air Quality Management District to collect air pollution data near operational logistic use developments in the Counties of San Bernardino and Riverside.

Senate Amendments

- 1) Establish standards for new and expanded warehouses or "logistics uses," as outlined below.
- 2) Define the following:
 - a) "21st century warehouse" means a logistics use that meets all of the following:
 - i) Complies with or exceeds all requirements of the most current building energy efficiency standards specified in the Energy Code and the California Green Building Standards Code, as specified, including, but not limited to, the following requirements related to:
 - I) Photovoltaic system installation and associated battery storage.
 - II) Cool roofing.
 - III) Medium- and heavy-duty vehicle charging readiness.
 - IV) Light-duty electric vehicle charging readiness and installed charging stations.
 - ii) Has skylights in at least 1% of the roof area, or equivalent LED efficient lighting.
 - iii) Provides conduits and electrical hookups at all loading bays serving cold storage. Idling or use of auxiliary truck engine power to power climate control equipment shall be prohibited if the truck is capable of plugging in at the loading bay.
 - iv) Ensures that any heating, ventilation, and air-conditioning is high-efficiency.
 - v) Ensures that all classes of forklifts used on site, pursuant to State Air Resources Board's Zero-Emission Forklifts regulation, as drafted, shall be zero-emission by January 1, 2030, to the extent operationally feasible, commercially off-the shelf available, and adequate power available on site.
 - I) If not operationally feasible, commercially off-the shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used.
 - II) Cost shall not be a factor in determining operational feasibility.

- vi) Ensures that equipment used on site utilizing small off-road engines shall be zero-emission, to the extent operationally feasible, commercially off-the shelf available, and adequate power available on site.
 - I) If not operationally feasible, commercially off-the shelf available, or if there is inadequate power available on site, the cleanest technology commercially available shall be used. Cost shall not be a factor in determining operational feasibility.
 - II) Should any equipment used on site utilizing small off-road engines be contracted out, the logistics use facility shall preferentially contract for services utilizing zero-emission small off-road engines.
- b) "Tier 1 21st century warehouse" means a logistics use that meets the definition of "21st Century Warehouse," with the following additions:
 - i) For purposes of the photovoltaic system installation requirement, all warehouse square footage should be considered conditioned space.
 - ii) Has a microgrid-ready switchgear system capable of supporting distributed energy resources.
 - iii) Is advanced smart metering ready.
 - iv) Has a minimum of 50% of all passenger vehicle parking spaces preinstalled with conduit and all necessary physical infrastructure to support future charging of electric vehicles.
 - v) Has a minimum of 10% of all passenger vehicle parking spaces installed with electric vehicle charging stations.
 - vi) Applies the forklift requirements for 21st century warehouses two years earlier, by January 1, 2028.
- c) "Expansion of an existing logistics use" means the expansion of an existing logistics use by 20% or more of the existing square footage. Office space shall not be included as part of the existing square footage or in the square footage for the 20% expansion threshold.
- d) "Heavy-duty truck" means a class 7 or class 8 truck, defined as:
 - i) "Class 7 truck" means a truck with a gross vehicle weight rating of 26,001 to 33,000 pounds.
 - ii) "Class 8 truck" means a truck with a gross vehicle weight rating of greater than 33,000 pounds.
- e) "Logistics use" means a building in which cargo, goods, or products are moved or stored for later distribution to business or retail customers, or both, that does not predominantly serve retail customers for onsite purchases, and heavy-duty trucks are primarily involved in the movement of the cargo, goods, or products. "Logistics use" does not include any of the following:

- i) Facilities where food or household goods are sold directly to consumers and are accessible to the public.
 - ii) A building primarily served by rail to move cargo goods or product.
 - iii) A Strategic Intermodal Facility, which is a project that satisfies all of the following requirements:
 - I) Logistics facilities, including warehousing and transloading facilities, served by rail.
 - II) Intermodal freight transport services.
 - III) All facility structures and related rail operations are located within a single site footprint.
 - f) "Sensitive receptor" means one or more of the following:
 - i) A residence, including, but not limited to, a private home, apartment, condominium unit, group home, dormitory unit, or retirement home.
 - ii) A school, including, but not limited to, a preschool, prekindergarten, or school maintaining kindergarten or any of grades one to 12, inclusive.
 - iii) A daycare facility, including, but not limited to, in-home daycare.
 - iv) Publicly owned parks, playgrounds, and recreational areas or facilities primarily used by children, unless the development of the park and recreation areas are included as a condition of approval for the development of a logistics use.
 - v) Nursing homes, long-term care facilities, hospices, convalescent facilities, or similar live-in housing.
 - vi) Hospitals, as defined in Section 128700 of the Health and Safety Code.
 - g) "Small off-road engines" means spark-ignition engines rated at or below 19 kilowatts.
 - h) "Warehouse concentration region" includes the Counties of Riverside and San Bernardino and the Cities of Chino, Colton, Fontana, Jurupa Valley, Moreno Valley, Ontario, Perris, Rancho Cucamonga, Redlands, Rialto, Riverside, and San Bernardino.
- 3) Require, beginning January 1, 2026, any proposed new or expanded logistics use development 250,000 square feet or more where the loading bay is within 900 feet of a sensitive receptor that is utilizing a site zoned for industrial use or any site where an application was submitted to the jurisdiction by September 30, 2024, to rezone as industrial and the rezone to industrial was ultimately approved to comply with all of the following:
- a) Include all Tier 1 21st century warehouse design elements, as specified.
 - b) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible.

- c) Locate truck loading bays a minimum of 300 feet from the property line of the nearest sensitive receptor to the nearest truck loading bay opening using a direct straight-line method.
 - d) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses.
 - e) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.
 - f) Include buffering and screening to mitigate for light and noise, as specified.
- 4) Require, beginning January 1, 2026, except as provided in 5), below, any proposed new or expanded logistics use development that is on land that is not zoned industrial, whether developed or undeveloped, or land that needs to be rezoned, where the loading bay is within 900 feet of a sensitive receptor, to comply with all of the following:
- a) A logistics use development that is 250,000 square feet or more shall include all Tier 1 21st century warehouse design elements, as specified. If the logistics use development is less than 250,000 square feet, it shall include all 21st century warehouse design elements, as specified.
 - b) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible.
 - c) Locate truck loading bays a minimum of 500 feet from the property line of the nearest sensitive receptor to the nearest truck loading bay opening using a direct straight-line method.
 - d) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses.
 - e) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.
 - f) Include buffering and screening to mitigate for light and noise, as specified.
- 5) Require, beginning January 1, 2026, any proposed new or expanded logistics use development that is on land that is not zoned industrial, whether developed or undeveloped, or land that needs to be rezoned, and is located in the warehouse concentration region, to comply with all of the following:
- a) If the logistics use development is 250,000 square feet or more it shall include all Tier 1 21st century warehouse design elements, as specified. If the logistics use development is less than 250,000 square feet it shall include all 21st century warehouse design elements, as specified.
 - b) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible.

- c) Locate truck loading bays a minimum of 500 feet from the property line of the nearest sensitive receptor to the nearest truck loading bay opening using a direct straight-line method.
 - d) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses.
 - e) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.
 - f) Include buffering and screening to mitigate for light and noise, as specified.
- 6) Require, beginning January 1, 2026, any proposed new or expanded logistics use development less than 250,000 square feet where the loading bay is within 900 feet of a sensitive receptor that is utilizing a site zoned for industrial use or any site where an application was submitted to the jurisdiction by September 30, 2024, to rezone as industrial and the rezone to industrial was ultimately approved shall comply with all of the following:
- a) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible.
 - b) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.
 - c) Include buffering and screening to mitigate for light and noise, as specified.
 - d) Comply with or exceed all requirements of the most current building energy efficiency standards specified in the Energy Code and the California Green Building Standards Code, as specified, including, but not limited to, the following requirements related to:
 - i) Photovoltaic system installation and associated battery storage.
 - ii) Cool roofing.
 - iii) Medium- and heavy-duty vehicle charging readiness.
 - iv) Light-duty electric vehicle charging readiness and installed charging stations.
 - e) Provide conduits at loading bays equal to one truck per every loading bay serving cold storage. Idling or use of auxiliary truck engine power to power climate control equipment shall be prohibited if the truck is capable of plugging in at the loading bay.
 - f) Ensures that any heating, ventilation, and air-conditioning is high-efficiency.
 - g) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses.

- 7) Require a city, county, or city and county to update its circulation element to include truck routes by January 1, 2028, as specified. Cities and counties in the warehouse concentration region must complete this requirement by January 1, 2026.
- 8) Provide that the following are not subject to the specified setback requirements of this bill:
 - a) Any existing logistics use development in existence as of September 30, 2024, if a new sensitive receptor is constructed, established, or permitted after the effective date of this bill.
 - b) A proposed expansion of a logistics use development if it is in a local entitlement process by September 30, 2024, if a sensitive receptor is constructed, established, or permitted after the effective date of this bill.
 - c) A property that is in a local entitlement process by September 30, 2024, to become a logistics use if a sensitive receptor is constructed, established, or permitted after the effective date of this bill.
 - d) Any new logistics use developments that require the rezoning of land and must undergo a municipal entitlement process if the start of the entitlement process for the logistics use began before any sensitive receptor started its own entitlement or permitting process, unless the proposed sensitive receptor was an existing allowable use according to local zoning regulations.
- 9) Provide that, during a logistics use development's entitlement process for a new or expanded logistics use, if a new sensitive receptor is proposed or established within the setbacks specified in this bill, then those setbacks shall not apply to the logistics use development so long as the logistics use development was not already subject to those requirements prior to the new sensitive receptor being proposed or established.
- 10) Provide that this bill shall not apply to any logistic projects that were subject to a commenced local entitlement process prior to September 30, 2024.
- 11) Provide that the provisions outlined in 8) through 10), above, shall remain in effect from the time of the initial application submission through the completion of the entitlement process, including any necessary rezoning actions and through the development period. If no development activity occurs within five years of entitlement approvals, the protections shall be waived.
- 12) Provide that this bill's standards shall not apply to a logistics project that received an approval by a local agency prior to the effective date of this bill, as specified.
- 13) Require any new logistics use facility within 900 feet of a sensitive receptor to have a buffer as follows:
 - a) If the logistics use development is subject to the requirements outlined in 3) or 6), above, the buffer shall be 50 feet in width measured from the property line of all adjacent sensitive receptors that fully screen the project from the sensitive receptor.

- b) If the logistics use development is subject to the requirements outlined in 4) or 5), above, the buffer shall be 100 feet in width measured from the property line of all adjacent sensitive receptors that fully screen the project from the sensitive receptor.
- 14) Require buffer areas to include a solid decorative wall, landscaped berm and wall, or landscaped berm 10 feet or more in height, drought tolerant natural ground landscaping with proper irrigation, and solid-screen buffering trees as described in 15), below.
- 15) Require trees to be used as part of a solid-screen buffering treatment and planted in two rows along the length of the property line adjacent to the sensitive receptor. Trees used for this purpose shall be evergreen, drought tolerant, to the extent feasible, composed of species with low biogenic emissions, of a minimum 36-inch box size at planting, and spaced at no greater distance than 40 feet on center. Palm trees shall not be utilized.
- 16) Require the entry gates into the loading truck court for a new or expanded logistics use facility to be positioned after a minimum of 50 feet of total available stacking depth inside the property line. Require that the stacking depth be increased by 70 feet for every 20 loading bays beyond 50 loading bays, to the extent feasible.
- 17) State that the purpose of this bill is to ensure that logistics use developments, beginning January 1, 2026, are sited in locations that minimize adverse impacts on residential communities and enhance transportation efficiency. This is achieved by restricting logistics use development to roadways that are suited to handle the associated traffic and that predominantly serve commercial uses.
- 18) Require any new logistics use development to be sited on roadways that meet the following classifications:
- a) Arterial roads.
 - b) Collector roads.
 - c) Major thoroughfares.
 - d) Local roads that predominantly serve commercial uses.
- 19) Require, for purposes of this bill's standards, local roads to be considered to predominantly serve commercial uses if more than 50% of the properties fronting the road within 1000 feet are designed for commercial or industrial use according to the local zoning ordinance.
- 20) Allow a waiver to be granted where siting on the designated roadways pursuant to 18) and 19), above, is impractical due to unique geographic, economic, or infrastructure-related reasons. The waiver shall be approved by the city, county, or city and county, if the applicant demonstrates all of the following:
- a) There is no feasible alternative site that exists within the designated roadways.
 - b) A traffic analysis has been completed and submitted to the local approving authority.
 - c) The site is an existing industrial zone.

- d) The proposed site will incorporate mitigations to minimize traffic and environmental impacts on residential areas to the greatest extent feasible.
- 21) Require anti-idling signs indicating a three-minute heavy-duty truck engine idling restriction to be posted at logistics use developments along entrances to the site and at the truck loading bays.
- 22) Require signs to be installed at all heavy-duty truck exit driveways directing truck drivers to the truck route as indicated in the truck routing plan, as specified, and in the state highway system.
- 23) Require a facility operator to establish and submit for approval to the planning director or equivalent position for the city, county, or city and county a truck routing plan to and from the state highway system based on the latest truck route map of the city, county, or city and county, prior to the issuance of a certificate of occupancy.
- 24) Require the truck routing plan to include all of the following:
 - a) Descriptions of the operational characteristics of the use of the facility operator, including, but not limited to, hours of operation, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that, to the greatest extent possible, avoid passing sensitive receptors.
 - b) Prevention measures, such as signage and pavement markings, queuing analysis, and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets.
- 25) Require the facility operator to enforce the truck routing plan.
- 26) Require a revised truck routing plan to be submitted to the planning director or equivalent position prior to a business license being issued by the city, county, or city and county for any new tenant of the property. Authorize the planning director or equivalent position to have discretion to determine if changes to the truck routing plan are necessary, including, but not limited to, any additional measures to alleviate truck routing and parking issues that may arise during the life of the facility.
- 27) Prohibit a city, county, or city and county from approving the development of a logistics use that does not meet or exceed the standards outlined by this bill.
- 28) Clarify that this bill does not restrict a city, county, or city and county's authority to deny a logistics use facility altogether.
- 29) Require a city, county, or city and county to condition approval of a logistics use on the following:
 - a) Two-to-one replacement of any demolished housing unit that was occupied within the last 10 years, unless the housing unit was declared substandard by a building official, as specified, prior to purchase by the developer.
 - i) Require that for each housing unit demolished, regardless of market value of the unit, two units of affordable housing for persons and families of low or moderate income, as

specified, that are deed-restricted shall be built within the jurisdiction. Funds from any fee imposed for the replacement of demolished housing units shall be placed in a housing-specific set-aside account and shall be used for housing within three years of collection.

- b) Require a developer to provide any displaced tenant with an amount equivalent to 12 months' rent at the current rate if residential dwellings are affected through purchase.
- 30) Clarify that this bill does not superseded mitigation measures required by the California Environmental Quality Act (CEQA).
- 31) Find and declare that the movement and storage of freight and the impact of this activity on public health and communities across the state is a matter of statewide concern and is not a municipal affair and, therefore, the provisions of this bill apply to all cities, including charter cities.
- 32) Provide that the provisions of this bill do not apply to a logistics use development if it meets both of the following:
- a) The logistics use development is a mixed-use development that may create sensitive receptors on the site of the new logistics use development.
 - b) There are no existing sensitive receptors within 900 feet of the loading bay.
- 33) Require a city or county to update its circulation element by January 1, 2028, to do all of the following:
- a) Identify and establish specific travel routes for the transport of goods, materials, or freight for storage, transfer, or redistribution to safely accommodate additional truck traffic and avoid residential areas and sensitive receptors, as specified.
 - b) Maximize the use of interstate or state divided highways as preferred routes for truck routes. The county or city shall also maximize use of arterial roads, major thoroughfares, and predominantly commercially oriented local streets when state or interstate highways are not utilized. Truck routes shall comply with the following:
 - i) Major or minor collector streets and roads that predominantly serve commercially oriented uses shall be used for truck routes only when strictly necessary to reach existing industrial zones.
 - ii) Trucks shall be routed via transportation arteries that minimize exposure to sensitive receptors.
 - iii) On and after January 1, 2028, all proposed development of a logistics use development, as defined by this bill, shall be accessible via arterial roads, major thoroughfares, or roads that predominantly serve commercially oriented uses.
 - c) State that the purpose of this bill's circulation update requirement is to ensure that logistics use developments are sited in locations that minimize adverse impacts on residential communities and enhance transportation efficiency. This is achieved by

- restricting logistics use developments to roadways that are suited to handle the associated traffic and that predominantly serve commercial uses.
- d) Require, for purposes of this bill's circulation update requirement, local roads to be considered to predominantly serve commercial uses if more than 50% of the properties fronting the road within 1000 feet are designated for commercial or industrial use according to the local zoning ordinance.
 - e) Allow the county or city to consult with the Department of Transportation and the California Freight Advisory Committee for technical assistance.
 - f) Require the county or city to post conspicuous signage identifying truck routes and additional signage for truck parking and appropriate idling facility locations.
 - g) Require the county or city to make truck routes publicly available in geographic information system (GIS) format and share GIS maps of the truck routes with warehouse operators, fleet operators, and truck drivers.
 - h) Require the city or county to provide opportunities for the involvement of citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, educational, and other community groups through public hearings and any other means the planning agency deems appropriate, as specified.
 - i) Require the city or county to make a diligent effort to achieve public participation of all economic segments of the community in the development of the circulation element update.
 - j) Require the warehouse concentration region, as specified, to update the circulation element by January 1, 2026.
 - k) Authorize the Attorney General to enforce the circulation element update requirements of this bill, and further provides that:
 - i) The Attorney General may impose a fine against a jurisdiction that is in violation of the bill of up to fifty thousand dollars (\$50,000) every six months if the required updates have not been made.
 - ii) Upon appropriation by the Legislature, any fines collected shall be distributed by the Attorney General and returned to the local air quality management district in which the fine was imposed and be used for the district's efforts to improve air quality.
- 34) Require, upon appropriation for this purpose, the South Coast Air Quality Management District (SCAQMD) to deploy mobile air monitoring systems within the Counties of Riverside and San Bernardino to collect air pollution measurements in communities that are near operational logistic use developments beginning on January 1, 2026 until January 1, 2032.
- 35) Require SCAQMD to conduct an air modeling analysis with the data collected pursuant to 34), above, to evaluate the impact of air pollution on sensitive receptors, as specified, from logistics use development operations in the Counties of Riverside and San Bernardino,

including relative pollution concentrations from logistics use developments at varying distances from sensitive receptors.

- 36) Require SCAQMD to submit its findings to the Legislature on or before January 1, 2033. SCAQMD must also submit an interim report to the Legislature by January 1, 2028, to evaluate the impact of air pollution on sensitive receptors from logistic use development operations in the Counties of San Bernardino and Riverside, including relative pollution concentrations from logistic use developments at varying distances from sensitive receptors. This report shall be used to assess the effectiveness of setbacks on the public health.
- 37) Provide that the requirements related to reporting, as specified in 36) above, are inoperative on January 1, 2040, and are subject to specified existing law governing reports submitted to the Legislature.
- 38) Require SCAQMD to establish a process for receiving community input on how penalties assessed and collected for violation of the Warehouse Indirect Source Rule are spent. Require SCAQMD to ensure that a wide range of community groups are included in the process and that groups represent the geographic areas where there are high numbers of warehouse facilities.
- 39) Provide that no reimbursement is required pursuant to the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill, as specified.

COMMENTS

- 1) *Logistics Development in California.* The proliferation of e-commerce and consumer expectations for rapid shipping contributed to a boom in warehouse development in California. The Environmental Justice Bureau at the Department of Justice (DOJ) notes that in the Inland Empire alone, 150 million square feet of new industrial space was developed from 2009-2019, and that 21 of the largest 100 logistics leases signed in 2019 were located in the Inland Empire.
- 2) *Best Practices and Mitigation Measures.* DOJ adopted a guidance memo titled *Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act*, last updated September 2022. The memo identifies best practices for avoiding and mitigating impacts associated with warehouse development. The memo relies heavily on research prepared by the CARB. Among the recommendations proposed in the memo related to the siting and design of warehouses, the memo notes that a best practice includes "Per CARB guidance, siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors." The underlying data the memo cites in support of this recommendation found an 80% drop off in the concentration of diesel particulate matter emissions from distribution centers at approximately 1,000 feet. CARB and the South Coast Air Quality Management District analyses indicate that providing a separation of 1,000 feet would substantially reduce diesel particulate matter concentrations and public exposure downwind of a distribution center.
- 3) *CEQA and Local Approval.* CEQA requires public agencies to study and mitigate, to the extent feasible, the environmental impacts of proposed projects, providing a key protection for the environment and residents of California. Under CEQA, a local agency carrying out a

discretionary project must first determine if the project may have a significant effect on the environment. If a local agency finds that the potential for significant environmental impacts exists, CEQA requires the agency to prepare and certify the completion of an EIR.

A lead agency may approve a project with unavoidable (unmitigated) adverse environmental impacts. When doing so, CEQA requires the agency to make a statement in the record of its views on the ultimate balancing of the merits of approving the project despite the environmental impacts in a "statement of overriding considerations." Approval of discretionary projects such as warehouse facilities is subject to CEQA and the lead agency must prepare an EIR if the project may have potentially significant environmental impacts.

In practice, cities and counties may exercise this authority to approve projects that may significantly impact local residents. For example, the City of Perris prepared a Statement of Facts and Findings and Overriding Considerations for a proposed logistics development involving more than 1.7 million square feet of warehouse space. The City found in the Final EIR that the proposed project, located 300 feet from existing residents, would create long-term operational emission and cumulative criteria pollutants that constituted significant and unavoidable impacts. However, the City found such unmitigated effects were acceptable in view of specified overriding considerations. Among the overriding considerations cited were the creation of 685 new jobs and an estimated increase of \$215,000 in additional city tax revenue.

- 4) *Stockton and Fontana Warehouse Settlement Agreements.* In 2022, DOJ reached two separate settlement agreements with the City of Fontana and the City of Stockton relative to their approval of warehouse developments. In both settlements, DOJ intervened during the CEQA process where the city was acting as the lead agency approving a warehouse development. In the City of Fontana, DOJ filed a lawsuit against the city in July of 2021 challenging its approval of the project and arguing that Fontana's limited environmental review violated CEQA. In the City of Stockton, DOJ submitted letters to the city outlining concerns that its environmental review of the proposed warehouse project failed to adopt all feasible mitigation measures as required by CEQA. In April of 2022, DOJ announced a settlement agreement with the City of Fontana, the warehouse developer, and other litigants in the case. In December of 2022, DOJ announced a settlement agreement with the City of Stockton regarding its approval of warehouse developments.
- 5) *CARB Clean Truck Rules.* In 2020, CARB adopted the Advanced Clean Truck (ACT) regulation to accelerate a large-scale transition to zero-emission medium-and heavy-duty vehicles from Class 2b to Class 8. One component of the regulation is a manufacturer sales requirement. Manufacturers who certify Class 2b-8 chassis or complete vehicles with combustion engines would be required to sell zero-emission trucks as an increasing percentage of their annual California sales from 2024 to 2035. By 2035, zero-emission truck/chassis sales would need to be 55% of Class 2b– 3 truck sales, 75% of Class 4 – 8 straight truck sales, and 40% of truck tractor sales.

To further the transition to a zero-emission fleet, at the end of 2020, Governor Newsom issued Executive Order (EO) N-79-20, which requires 100% of medium- and heavy-duty vehicles in the state be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. EO N-79-20 charges CARB with developing and proposing medium- and heavy-duty vehicle regulations requiring increasing volumes of new zero-emission trucks and

buses sold and operated in the state towards that goal. CARB has finalized the Advanced Clean Fleet regulation, which sets a schedule for light-duty, medium-duty, and heavy-duty vehicles to meet zero-emission goals.

- 6) *South Coast Indirect Source Rule (ISR)*. In 2021, the South Coast Air Quality Management District (SCAQMD) adopted the Warehouse ISR, which requires warehouses greater than 100,000 square feet to directly reduce nitrogen oxide (NOx) and diesel particulate matter (PM) emissions, or to otherwise reduce emissions and exposure of these pollutants in nearby communities.

As part of the rule, warehouse operators will need to earn a specified number of points annually. These points can be earned by completing actions from a menu that includes acquiring and using natural gas near-zero and/or zero-emission on-road trucks, zero-emission cargo handling equipment, solar panels, or zero-emission charging and fueling infrastructure and more. As alternatives to the points system, warehouse operators can prepare and implement a custom plan specific to their site or choose to pay a mitigation fee. Funds from mitigation fees will be used to incentivize the purchase of cleaner trucks and charging/fueling infrastructure in communities near the warehouse that paid the mitigation fee.

- 7) *General Plans*. State law provides additional powers and duties for cities and counties regarding land use. Each city and county must prepare and periodically update a comprehensive, long-range general plan to guide future planning decisions. The general plan has seven mandatory elements: land use, circulation, housing, conservation, open-space, noise, and safety. General plans must also either include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements. Cities and counties may adopt optional elements that address issues of their choosing, and once adopted, those elements have the same legal force as the mandatory elements. The general plan must be "internally consistent," which means the various elements cannot have conflicting information or assumptions.

Although state law spells out the plans' minimum contents, it also says local officials can address these topics to the extent to which they exist in their cities and counties, and with a specificity and level of detail reflecting local circumstances. Similarly, state law does not require cities and counties to regularly revise their general plans (except for the housing element, which must generally be revised every eight years).

- 8) *Circulation Element*. The circulation element identifies the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities. Generally, this element contains detailed maps, standards for operation, policies, and financing plans. It serves as an infrastructure plan and must correlate with the land use element.

According to the Author

"For more than a decade, the Legislature has heard outcries from communities where local governments have prioritized economic development over the quality of life and health of their communities. AB 98 is the product of months of discussion and collaborations from environmental advocates, leaders in industry, committed representatives from labor, and dedicated public health advocates to raise the standards of warehouse development. This bill requires warehouse operators and developers to build a better product, operate responsibly, and be good neighbors to the communities they set up shop in. AB 98 also requires local agencies to

make responsible decisions that promote economic development while maintaining or improving the quality of life for their constituencies.

"AB 98 provides protections for disadvantaged communities from bad actors while allowing leaders of industry to operate. This bill is a necessary compromise for communities and business entities alike."

Arguments in Support

LiUNA writes in support, "California's ports and distribution centers are critical to our local, state, and national economies and it is imperative that our policy makers develop comprehensive solutions that improve the environments, spur economic growth, and support goods movement. AB 98 brings innovative solutions to tackle immediate are quality, safety, and supply chain issues while also bringing our distribution processes into the 21st century. The work associated with industrial warehouse construction has provided the opportunity for thousands of hardworking laborers to purchase homes and build for their family's future in the very communities in which they work. AB 98 is a well-thought-out compromise that will continue to grow the state's economy and drive down poverty, while accomplishing the primary goal of making the industrial warehouse industry more community friendly..."

"AB 98 balances the important of redevelopment that logistics project provide to communities and California's priority to improve the existing housing crisis. Under this bill, any housing demolished by an approved logistics development would trigger a two-to-one ratio of in-lieu fees paid by the developer when certain broad conditions are met."

Arguments in Opposition

The Center for Community Action and Environmental Justice and a coalition of environmental justice groups write in opposition, "Warehouse development comes with a range of pollution and risks for kids, seniors, and adults living, playing, working, and praying in the shadows of those warehouses, including air pollution from trucks, heat island effects, wear and tear on roads, and sound and light nuisances. Unfortunately, the late gut-and-amend will not achieve what we can and must achieve to promote health and well-being in parts of the state that are bearing the impacts of warehouse development. We cannot, in the last week of session, give any meaningful feedback or amendments to the bill, and while the bill includes elements that could be beneficial, it includes language that would be actively harmful for our work to protect people from the impacts of warehousing..."

"For the sake of time, we have laid out five examples of concerns that are most alarming: 1. Includes toothless setbacks that would set a harmful precedent in California; 2. Fails to address cumulative impacts from warehouse growth and development; 3. Fails to adequately address harms from truck traffic; 4. Omits requirements for smaller warehouses and delivery trucks; 5. Sets different standards for different communities."

FISCAL COMMENTS

According to the Senate Appropriations Committee:

- 1) "Unknown, major one-time local mandated costs, likely in the range of tens of millions to potentially the hundreds of millions of dollars in the aggregate, for 483 cities and 58 counties to update circulation elements by 2026 or 2028, as applicable, and to post specified signage and make specified geographic information system (GIS) data and maps publicly available.

- 2) "Local costs related to circulation element updates would generally not be state-reimbursable because cities and counties have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new local planning mandates, but local costs to post signage and make GIS truck route data publicly available may be reimbursable from the General Fund, subject to a determination by the Commission on State Mandates. See Staff Comments. (local funds, General Fund)
- 3) "Staff estimates that the Attorney General (AG) would incur unknown, likely significant costs for attorney workload to conduct enforcement actions and impose fines against local agencies that fail to update their circulation elements by January 1, 2026 or by January 1, 2028, as applicable. See Staff Comments. (General Fund)
- 4) "Unknown, potentially significant penalty revenue gains. The bill allows the AG to impose a fine of up to \$50,000 against a jurisdiction every six months if the updates to the circulation element have not been made, and requires penalty revenues, upon appropriation by the Legislature, to be distributed by the AG to local air districts for air quality improvement efforts. The bill does not specify a fund or account to receive deposits of penalty revenues, and from which appropriations would be made. See Staff Comments.
- 5) "Unknown significant one-time cost pressures in 2025-26, likely in the low millions, to provide an appropriation of state funds for the South Coast District to deploy mobile air monitoring systems in Riverside and San Bernardino Counties to collect air pollution measurements in communities that are near operational logistics use developments, to conduct air modeling analysis, and report findings to the Legislature. (General Fund)
- 6) "Unknown, likely minor costs for the Department of Transportation to provide consultation and technical assistance to local agencies regarding the mandatory circulation element updates. (State Highway Account)"

VOTES:

ASM AGRICULTURE: 8-0-3

YES: Mathis, Aguiar-Curry, Alanis, Connolly, Irwin, Soria, Villapudua, Wood

ABS, ABST OR NV: Flora, Jones-Sawyer, Robert Rivas

ASSEMBLY FLOOR: 74-0-6

YES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner Horvath, Bonta, Bryan, Calderon, Juan Carrillo, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

ABS, ABST OR NV: Wendy Carrillo, Cervantes, Chen, Maienschein, Mathis, McCarty

UPDATED

VERSION: August 28, 2024

CONSULTANT: Linda Rios / L. GOV. / (916) 319-3958

FN: 0005071



Only hand-picked stakeholders negotiated AB 98 and they are NEUTRAL on the bill.

**IF THE STAKEHOLDERS NEGOTIATING THE BILL CAN'T SUPPORT IT,
NEITHER SHOULD YOU.**

FLOOR ALERT AB 98 OPPOSE

**AB 98 PICKS WINNERS AND LOSERS AMONG LOCAL GOVERNMENTS,
HAMPERS VALUABLE JOB OPPORTUNITIES, AND STIFLES ECONOMIC
GROWTH.**

**LOCAL COMMUNITY-BASED SOLUTIONS ARE NOW OFF THE TABLE.
THE IS NOT A WELL VETTED BILL. THE DETAILS MATTER TO COMMUNITIES.**

**THE CIRCULATION ELEMENT UPDATE ALONE WILL IMPOSE COSTLY,
UNFUNDED MANDATES FOR ALL LOCAL GOVERNMENTS TO COMPLY,
WITH PUNATIVE ENFORCEMENT FINES.**

**NO ENFORCEMENT MEASURES OR ACCOUNTABILITY ON TRUCKING
ROUTES AND WAREHOUSE GREENING ARE INCLUDED, LEAVING
COMMUNITIES UNPROTECTED.**

SENATE APPROPS ANALYSIS:

*"Unknown, major one-time local mandated costs, likely in the range
of tens of millions to potentially the hundreds of millions of dollars..."*

**AB 98 IS A CLOSED DOOR DEAL THAT EXCLUDED KEY
STAKEHOLDERS & IS NOW A PROBLEMATIC GUT-AND-AMEND IN THE
FINAL DAYS OF THE LEGISLATIVE SESSION**

Vote NO on AB 98!

Board of Supervisors Agenda Item Report

Submitting Department: Board of Supervisors

Meeting Date: September 10, 2024

SUBJECT

California State Association of Counties (CSAC): Report by Supervisor Richard Forster relative to the August 29, 2024 CSAC Board of Directors Meeting.

Recommendation:

Report only.

4/5 vote required:

No

Distribution Instructions:

N/A

ATTACHMENTS

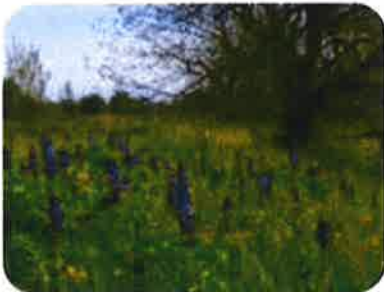
- [20240828103354.pdf](#)

CSAC BOARD OF DIRECTORS

BRIEFING MATERIALS

Thursday, August 29, 2024

10am - 2pm



Tsakopoulos Library Galleria | 828 I Street, Sacramento

Zoom: <https://us02web.zoom.us/j/86930325773?pwd=AaQLYrVcBZhZJLhehF8Gk1VNKhVcpD.1>

Meeting ID: 869 3032 5773

Passcode: 314528

California State
Association of Counties



CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, August 29, 2024 | 10:00 AM – 2:00 PM

Tsakopoulos Library Galleria
828 I Street, Sacramento

Zoom: <https://us02web.zoom.us/j/86930325773?pwd=AaQLYrVcBZhZJLhehF8Gk1VnKhVcpD.1>
Conference Line: (669) 900-6833 | Meeting ID: 869 3032 5773 | Password: 314528

AGENDA

Presiding: Bruce Gibson, President

THURSDAY, AUGUST 29

10:00 AM **PROCEDURAL ITEMS**

1. Pledge of Allegiance *Page 1*
2. Roll Call *Page 2-3*
3. Approval of Minutes from April 19, 2024 – **ACTION ITEM** *Page 4-6*
4. Consideration of 2028 & 2029 Annual Meeting Site Selection – **ACTION ITEM** *Page 7-10*
 - *Chastity Benson | Chief Operating Officer*
 - *Deb Kurtti | Meeting Planner*

SPECIAL PRESENTATIONS

5. CEO's Report *Page 11*
 - *Graham Knaus | CEO*
6. Presentation from League of California Community Foundations
 - *Laura Seaman | CEO*

PROPOSITIONS: NOVEMBER 5, 2024, BALLOT

***Executive Committee recommendation is the required first motion for consideration.
30 votes required for Association to take a position.***

7. Proposition 5: "Local Government Financing" (ACA 1 & ACA 10) – **ACTION ITEM** *Page 12-16*

Executive Committee Recommendation: SUPPORT

 - *Jacqueline Wong-Hernandez | Chief Policy Officer*
 - *Eric Lawyer | Legislative Advocate*
8. Proposition 35: "Provides Permanent Funding for Medi-Cal Health Care Services" (MCO Tax) – **ACTION ITEM** *Page 17-25*

Executive Committee Recommendation: SUPPORT

 - *Jacqueline Wong-Hernandez | Chief Policy Officer*
 - *Jolie Onodera | Senior Legislative Advocate*

9. Proposition 36: "The Homelessness, Drug Addiction, and Theft Reduction Act"
(Prop. 47 Reforms) – **ACTION ITEM**

Page 26-32

Executive Committee Recommendation: SUPPORT

- *Jacqueline Wong-Hernandez | Chief Policy Officer*
- *Ryan Morimune | Senior Legislative Advocate*

10. Proposition 4 (Climate Bond) – **ACTION ITEM**

Page 33-44

Executive Committee Recommendation: SUPPORT

- *Jacqueline Wong-Hernandez | Chief Policy Officer*
- *Catherine Freeman | Senior Legislative Advocate*
- *Ada Waelder | Legislative Advocate*

INFORMATION AND DISCUSSION ITEMS

11. Legislative Update

- *Jacqueline Wong-Hernandez | Chief Policy Officer*

Administration of Justice

- *Ryan Morimune | Senior Legislative Advocate*
- *Michaela Stone | Legislative Analyst*

Agriculture, Environment & Natural Resources

- *Catherine Freeman | Senior Legislative Advocate*
- *Ada Waelder | Legislative Advocate*
- *Amber Rossow | Legislative Analyst*

Government, Finance & Administration

- *Eric Lawyer | Legislative Advocate*
- *Stanica Boatner | Legislative Analyst*

Health & Human Services

- *Jolie Onodera | Senior Legislative Advocate*
- *Justin Garrett | Senior Legislative Advocate*
- *Danielle Bradley | Legislative Analyst*

Housing, Land Use & Transportation

- *Mark Neuburger | Legislative Advocate*
- *Kristina Gallagher | Legislative Analyst*

12:00 PM **LUNCH**

12:45 PM **CSAC REPORTS**

12. Operations and Member Services Report

Page 45-47

- *Chastity Benson | Chief Operating Officer*
- *Brian Ferguson | Director of Public Affairs*

13. CSAC Finance Corporation Report

Page 48-64

- *Supervisor Oscar Villegas | President, CSAC FC*
- *Alan Fernandes | Chief Executive Officer, CSAC FC*
- *Jim Manker | Director of Business Development, CSAC FC*
- *Corporate Partner Presentation: Enterprise Mobility*

14. California Counties Foundation Report

Page 65-68

- *Supervisor Jeff Griffiths | President, California Counties Foundation*
- *Paul Danczyk | Chief Operating Officer, California Counties Foundation*

15. Minute Mics: Board of Directors Roundtable

- What's going on in your county? – in one minute

16. Informational Items without Presentation

- CSAC Litigation Coordination Program
- CSAC Institute Course Guide
- Institute for Local Government (ILG) Reports
- 2024 CSAC Calendar of Events

Page 69-76

Page 77-80

Page 81-85

Page 86

2:00 PM **ADJOURN**

**If requested, this agenda will be made available in appropriate alternative formats to persons with a disability. Please contact Korina Jones kjones@counties.org or (916) 327-7500 if you require modification or accommodation in order to participate in the meeting.*



OFFICERS

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- 1st Vice President**
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Inyo County
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Susan Ellenberg
Santa Clara County
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Chuck Washington
Riverside County
- CEO**
Graham Knaus

August 29, 2024

To: CSAC Board of Directors

From: Eric Lawyer, Legislative Advocate
Stanicia Boatner, Legislative Analyst

Re: **Proposition 5: "Local Government Financing" (ACA 1 and ACA 10) – ACTION ITEM**

Government Finance & Administration Policy Committee and Executive Committee Action

The Government Finance & Administration Policy Committee voted on July 29 to take a "SUPPORT" position on Proposition 5, initially moved as Assembly Constitutional Amendment (ACA) 1 and amended through passage ACA 10. Subsequently, the Executive Committee voted on August 8 to take a "SUPPORT" position on the initiative. As a result, the recommendation is being forwarded to the Board of Directors for consideration and action.

CSAC Ballot Measure Review and Position Process

CSAC policy committees may recommend a position of support, oppose, or no position on the measure. The recommendation is considered by the CSAC Executive Committee, and the Executive Committee's recommendation will be considered by the CSAC Board of Directors. The Executive Committee recommendation shall be the first motion made. No substitute motion can be made until the Executive Committee recommendation has been voted upon. More information regarding CSAC's policy for consideration of and positioning on statewide initiatives is available in the Policies and Procedures Manual, beginning on page 11.

Measure Status and Title – A Note for Clarity

The Legislature passed ACA 1 (Chapter 173, Statutes of 2023) on September 14, 2023. The Legislature passed ACA 10 (Chapter 134, Statutes of 2024) on June 27, 2024, to remove the provisions of ACA 1 that would apply the reduced vote requirements to special taxes. On July 3, 2024, Secretary of State Shirley Weber formally set ACA 1 on the ballot and designated it as Proposition 5.

Due to the familiarity with the title "ACA 1," we will use that term to refer to the measure throughout this memo for the sake of consistency and clarity.

Measure Summary

This constitutional amendment would reduce the voter approval threshold from two-thirds to 55% for general obligation bonds that fund public infrastructure, affordable housing projects, and permanent supportive housing for persons at risk of chronic homelessness—and any associated ad valorem taxes needed to pay the interest and redemption charges on bonded indebtedness.

Background

The changes proposed in this measure are not without precedent. Assembly Member Aguiar-Curry introduced similar constitutional amendments in 2017 (ACA 4), 2019 (ACA 1), and 2021 (ACA 1). These measures were substantially similar and would have lowered the voter-approval threshold to 55% for local governments to both incur bonded indebtedness or impose specified special taxes to fund projects for housing or public infrastructure.

CSAC's past advocacy regarding these measures includes:

- ACA 4, 2017: Support, in coalition with other local government advocacy groups.
- ACA 1, 2019: Support
- ACA 1, 2021: The measure was referred to the Assembly Local Government Committee but was ultimately never heard. Therefore, CSAC did not have the opportunity to file a notice of support.
- ACA 1, 2023: Support via CSAC staff and formal support of the measure adopted by the CSAC Board of Directors on April 19, 2024

Staff Comments

Amendments to ACA 1

ACA 1 was passed by the Legislature in 2023 and set for the November 2024 ballot. Since then, the measure has been amended through two separate legislative vehicles, with one vehicle needed to make constitutional amendments, ACA 10, and another to make statutory changes, AB 2813.

ACA 10 significantly amended ACA 1 by removing its application of a reduced 55% vote requirement to special taxes used to support affordable housing, permanent supportive housing, and public infrastructure, as defined. Instead, due to the passage of ACA 10, ACA 1 would only reduce vote requirements *only* for general obligation bonds used to support affordable housing, permanent supportive housing, and public infrastructure—and any associated ad valorem taxes needed to pay the interest and redemption charges on bonded indebtedness.

AB 2813 made a series of technical amendments to the statutory provisions of ACA 1, including specifying accountability requirements for ACA 1 bonded indebtedness, clarifying the role of the State Auditor in reviewing ACA 1 audits, clarifying the roles and responsibilities of citizens' oversight committees on ACA 1 projects, and providing some restrictions on the uses of ACA 1 projects. Notably, those restrictions would clarify that ACA 1 funds cannot be used to acquire or lease real property with one to four dwelling units or to finance the reconstruction or rehabilitation of a sports arena. AB 2813 was passed by the Legislature on July 3, 2024.

Potential ACA 1 Projects

Broadly, ACA 1 would apply its reduced vote requirements to three categories: affordable housing, permanent supportive housing, and public infrastructure. While the measure is written in a way to apply somewhat broadly to projects meeting those definitions, the collective ACA 1 laws include both explicit prohibitions and authorizations on specific categories of projects that are qualified under ACA 1.

Affordable Housing

The definition of affordable housing under ACA 1, includes the purchase or lease of real property for rental housing, ownership housing, and interim housing. Affordable housing is also defined to include financial programs including downpayment assistance, first-time homebuyer programs, and owner-occupied affordable housing rehabilitation programs.

Affordability is defined as housing for households earning up to 150% of countywide median income or housing developments that include portions available to extremely low¹, very low², low³, or moderate-income households⁴, as defined in state law.

Late amendments to AB 2813 narrowed the use of affordable housing projects to multifamily housing projects, excluding real property with one to four dwelling units.

Permanent Supportive Housing

Permanent Supportive Housing is designed to apply to housing projects for persons at risk of chronic homelessness and those with mental illnesses. The projects are defined to include services aimed at helping residents retain housing, improve their health, and enhance their ability to live and work within their community.

Administrative costs for permanent supportive housing, and any other use of ACA 1 revenue, are limited to 5% of the proceeds of ACA 1 general obligation bonds.

Public Infrastructure

The definition of public infrastructure is broad, applying to facilities or infrastructure needed for the delivery of public services. Those can include police, fire protection, parks, recreation, emergency medical, public health, libraries, broadband, home hardening, flood protection, streets and roads, public transit, railroad, airports, and seaports. Public safety infrastructure can include equipment used exclusively by fire, emergency response, police, and sheriff personnel.

Public infrastructure projects can also include utility projects, including energy, communications, water, and wastewater infrastructure, as well as projects that provide protection of property from sea level rise.

ACA 1 proceeds cannot be used to pay for the construction, reconstruction, or rehabilitation of a sports stadium used predominantly for private ticketed events.

Aside from public safety equipment, public infrastructure projects must have a useful life of at least 15 years. Public safety equipment, on the other hand, must have a useful life of at least five years.

Oversight and Accountability

ACA 1 requires citizens oversight committees to ensure that ACA 1 general obligation bonds and projects comply with state laws and the local initiatives that implement them. The committees are modeled on those established for Proposition 39 for school district bonds. ACA 1 oversight committees must be established within 90 days of certifying an election that includes an ACA 1 general obligation bond. The committees would be empowered to review copies of independent performance and financial audits of ACA 1 projects, inspect infrastructure and housing projects funded with ACA 1 revenue, and governing boards are required to provide the committees with any necessary technical assistance and resources needed to operate, without using ACA 1 proceeds to fund them.

¹ [Health and Safety Code § 50106](#)

² [Health and Safety Code § 50105](#)

³ [Health and Safety Code § 50079.5](#)

⁴ [Health and Safety Code § 50093](#)

Counties implementing ACA 1 general obligation bonds are required to conduct annual independent performance and financial audits of ACA 1 projects and submit them to the California State Auditor for review.

Parity with School Districts

The California Constitution currently requires a two-thirds vote at the local level for general obligation bonds for cities, counties, and special districts. However, due to the passage of Proposition 39 in 2000, local school districts can receive approval for bonded indebtedness with only a 55% vote threshold for the construction, reconstruction, rehabilitation, or replacement of schools.

The changes included in ACA 1 will create parity for cities, counties, and special districts for voter approval thresholds already granted to school districts. In November 2022, California voters statewide approved 72% of all local school bond measures on local ballots (71 of 99 total measures), which only require a 55% voter approval threshold. In comparison, in November 2022 voters statewide approved 40 percent of all county general obligation bonds on local ballots, which require approval by two-thirds of voters.

Recorded Support and Opposition

Attachment 1 includes entities and individuals that filed a notice of support or opposition to Proposition 5 after it qualified for the November 2024 ballot and for ACA 1 as the measure moved through the legislative process. Attachment 2 includes the list of registered support or opposition to ACA 10 and AB 2813. CSAC did not take a position on ACA 10 because the measure amended the version of ACA 1 already approved by the CSAC Board of Directors.

Policy Considerations

The California County Platform, CSAC's adopted statement of the basic policies of concern and interest to California's counties, states, in part, that:

Local Authority: Counties should be granted enhanced local revenue-generating authority to respond to unique circumstances in each county to provide needed infrastructure and county services. Any revenue raising actions that require approval by the electorate should require a simple majority vote.

Local revenue-generating authority is a means of local control and remains a chief advocacy principle for California counties. CSAC's County Platform has long maintained that when communities have control over their services and revenues, they can choose the level of services they want from their government and the right level of revenue to provide those services, which is why lowering the two-thirds vote threshold continues to be a staple of the CSAC's advocacy efforts. Requiring a 55% supermajority would still require overwhelming support from local votes, giving them control over how their tax dollars are spent.

Staff Contacts: Please contact Eric Lawyer at elawyer@counties.org or Stanicia Boatner at sboatner@counties.org.

Materials and Resources for Further Reading

- Attachment 1: Proposition 5 and ACA 1 Recorded Support and Opposition (As of August 19, 2024)
- Attachment 2: ACA 10 and AB 2813 Recorded Support and Opposition
- Attachment 3: Full Text of ACA 1 (As Chaptered September 20, 2023)
- Attachment 4: Full Text of ACA 10 (As Chaptered June 27, 2024)
- Attachment 5: Full Text of AB 2813 (As Enrolled July 8, 2024)
- Attachment 6: CSAC ACA 1 Support Letter (Submitted September 11, 2023)
- Attachment 7: Michael Coleman, California Local Government Finance Almanac: Local Revenue Measure Results, November 2022



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August 29, 2024

To: CSAC Board of Directors

From: Eric Lawyer, Legislative Advocate
Stanicia Boatner, Legislative Analyst

Re: **Proposition 5: “Local Government Financing” (ACA 1 and ACA 10) – ACTION ITEM**

Recorded Support and Opposition to Proposition 5

Support

- Habitat for Humanity
- League of Women Voters of California
- California Professional Firefighters
- AARP
- Housing California
- California Federation of Teachers
- California Alliance for Jobs
- American Society of Civil Engineers
- State Building and Construction Trades Council of California
- California Labor Federation
- Middle Class Taxpayers Association
- Move LA
- California Nurses Association
- League of California Cities
- Non-Profit Housing Association of Northern California
- Southern California Association of Nonprofit Housing
- California Alliance for Retired Americans
- United Ways of California
- Bay Area Council
- PICO California
- Hundreds of other organizations representing seniors, veterans, working families, small businesses, housing advocates, and more.

Opposition

- California Business Roundtable
- California Business Properties Association
- California Consumer Advocates for Affordability and Safety
- California Hispanic Chambers of Commerce
- California Senior Alliance
- California Republican Party
- California Taxpayers Association
- Howard Jarvis Taxpayers Association
- Valley Industry and Commerce Association
- Women Veterans Alliance

Recorded Support and Opposition to ACA 1 (Aguilar-Curry) Legislation

Support

California Professional Firefighters (co-sponsor)
California State Building and Construction Trades Council (co-sponsor)
AARP California
Abode Communities
Abundant Housing LA
Affirmed Housing
AIDS Healthcare Foundation
All Home
Alta Housing
American Council of Engineering Companies, California
American Federation of State, County and Municipal Employees, AFL-CIO
American Planning Association
American Society of Civil Engineers
Associated General Contractors, California Chapter
Association of Bay Area Governments – Metropolitan Transportation Commission
Brilliant Corners
California Alliance for Jobs
California Asphalt Pavement Association
California Association of Local Housing Finance Agencies
California Association of Recreation and Park Districts
California Association of Resource Conservation Districts
California Conference of Carpenters
California Construction and Industrial Materials Assoc.
California Democratic Party
California Fire Chiefs Association
California Housing Consortium
California Housing Partnership
California IATSE Council
California Labor Federation
California Library Association
California School Employees Association
California Special Districts Association
California State Association of Counties
California State Association of Electrical Workers
California State Council of Laborers
California Stormwater Quality Association
California Transit Association
California YIMBY
Canal Alliance
Circulate San Diego
City and County of San Francisco
City of Alameda

Support (continued)

City of Belmont
City of Emeryville
City of Fremont
City of Glendale
City of Half Moon Bay
City of Hayward
City of Kingsburg
City of Long Beach
City of Oakland
City of Palo Alto
City of Petaluma
City of Redwood City
City of San Diego
City of San Luis Obispo
City of Santa Monica
City of Santa Rosa
City of Soledad
City of Tulare
City of Walnut Creek
City of West Hollywood
City of West Sacramento
City of Winters
CivicWell
College Democrats of Sacramento State University
Council of Community Housing Organizations
County of Marin
County of Mono
County of Santa Clara
County of Yolo
Desert Recreation District
Destination: Home
Devine & Gong, Inc.
District Hospital Leadership Forum
EAH Housing
East Bay for Everyone
East Bay Housing Associations
East Bay Municipal Utility District
East Bay YIMBY
Eden Housing
Enterprise
Evolve California
Fire Districts Association of California
Generation Housing
Grow the Richmond

Support (continued)

Habitat for Humanity California
Housing Crisis Action
Housing Leadership Council of San Mateo County
Housing Trust Silicon Valley
How To ADU
International Union of Operating Engineers, Cal-Nevada Conference
League of California Cities
League of Women Voters of California
Local Initiatives Support Corporation Bay Area
Mercy Housing California
Metropolitan Transportation Commission
MidPen Housing Corporation
Midpeninsula Regional Open Space District
Mission Housing Development Corporation
Monterey Bay Economic Partnership
Mountain View YIMBY
Move LA
Mutual Housing California
Napa-Solano for Everyone
Non-Profit Housing Association of Northern California
Nor Cal Carpenters Union
North Bay Leadership Council
Northern Neighbors
Old Valley Homes and Loans
PATH
Peninsula Corridor Joint Powers Board
Peninsula for Everyone
People for Housing Orange County
Professional Engineers in California Government
Progress Noe Valley
Public Policy Advocates
Rebuild SoCal Partnership
Regional Asthma Management and Prevention
Resources for Community Development
Rural County Representatives of California
San Francisco Bay Area Planning and Urban Research Association
San Francisco Foundation
San Francisco Housing Accelerator Fund
San Francisco Housing Development Corporation
San Francisco YIMBY
San Joaquin Valley Housing Collaborative
San Luis Obispo YIMBY
San Mateo County Transit District
San Ramon Valley Fire Protection District

Support (continued)

Santa Clara Valley Water District

Santa Cruz YIMBY

Santa Rosa YIMBY

Save the Bay

Seifel Consulting, Inc.

Sierra Business Council

SLO Co YIMBY

Solano Transportation Authority

Sonoma County Area Agency on Aging

South Bay YIMBY

South Side Forward

Southern California Contractors Association

St. Mary's Center

State Building and Construction Trades Council of California

Streets for People

SV@HomeActionFund

Tenderloin Neighborhood Development Corp.

Transportation California

Tri-Valley Cities of Dublin, Livermore, Pleasanton, San Ramon, and the Town of Danville

United Contractors

United Way Bay Area

Urban Counties of California

Urban Environmentalists

Valley Water

Ventura County YIMBY

Washington Hospital Healthcare System

Western Center on Law and Poverty

Western Regional Association for Pavement Preservation

YIMBY Action

Opposition

Affordable Housing Management Association – Pacific Southwest

Alameda County Taxpayers Association

Apartment Association of Greater Los Angeles

Apartment Association of Orange County

Apartment Owners Association of America, California

Building Owners and Managers Association

California Association of Realtors

California Attractions and Parks Association

California Business Properties Association

California Cattlemen's Association

California Chamber of Commerce

California Independent Petroleum Association

California Land Title Association

Opposition (continued)

California Manufacturers and Technology Association
California Railroads
California Rental Housing Association
California Retailers Association
California Self Storage Association
California Taxpayer Association
California Taxpayer Protection Committee
Catalysts for Local Control
Central Coast Taxpayers Association
Central Valley Taxpayers Association
Coalition of Labor, Agriculture, and Business, Santa Barbara County
Coalition of Sensible Taxpayers
Contra Costa Taxpayers Association
East Bay Rental Housing Association
Escrow Institute of California
Family Business Association of California
Glendora Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Howard Jarvis Taxpayers Association
Kern County Taxpayers Association
Laguna Niguel Chamber of Commerce
NAIOP: Commercial Real Estate Development Association
National Federation of Independent Businesses
Orange County Business Council
Orange County Taxpayers Association
Placer County Taxpayers Association
San Diego Tax Fighters
San Gabriel Valley Economic Partnership
Silicon Valley Leadership Group
Silicon Valley Taxpayers Association
Solano County Taxpayers Association
Southern California Rental Housing Association
Sutter County Taxpayers Association
United Hospital Association
Valley Industry and Commerce Association
Ventura County Taxpayers Association
Western Manufactured Housing Communities Association



August 29, 2024

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CEO

Graham Knaus

To: CSAC Board of Directors

From: Jolie Onodera, Senior Legislative Advocate
Jessica Sankus, Principal Fiscal and Policy Analyst
Danielle Bradley, Legislative Analyst

Re: **Action Item: Proposition 35: Initiative 23-0024A1**
Title: "Provides Permanent Funding for Medi-Cal Health Care Services"

HHS Policy Committee and Executive Committee Action.

The HHS Policy Committee voted on July 22 to take a "SUPPORT" position on Proposition 35, the "Provides Permanent Funding for Medi-Cal Health Care Services" initiative. Subsequently, the Executive Committee voted on August 8 to take a "SUPPORT" position on the initiative. As a result, the recommendation is being forwarded to the Board of Directors for consideration and action.

CSAC Ballot Measure Review and Position Process

CSAC policy committees may recommend a position of support, oppose, or no position on the measure. The recommendation is considered by the CSAC Executive Committee, and the Executive Committee's recommendation will be considered by the CSAC Board of Directors. The Executive Committee recommendation shall be the first motion made. No substitute motion can be made until the Executive Committee recommendation has been voted upon. More information regarding CSAC's policy for consideration of and positioning on statewide initiatives is available in the [Policies and Procedures Manual](#), beginning on page 11.

Measure Status and Title – A Note for Clarity

Filed with the Office of the Attorney General in October 2023 and qualified by the Secretary of State's Office in June 2024, Proposition 35 ([full text](#)) is sponsored by the Coalition to Protect Access to Care and will appear on the November 5 statewide ballot. Initiatives are known by many titles or other labels throughout the often long and intricate process from the time a measure is filed with the Office of the Attorney General and qualification of the measure by the Secretary of State's Office 131 days prior to the next statewide general election. Although this memo will refer to the measure as Proposition 35, the following titles and labels will appear in the media or elsewhere:

- As assigned by the Secretary of State's Office: Proposition 35
- Secretary of State's Title: Provides Permanent Funding for Medi-Cal Health Care Services.
- As assigned by the Office of the Attorney General: Initiative 23-0024A1
- Sponsor's Title: Protect Access to Healthcare Act of 2024

Measure Summary

The Managed Care Organization (MCO) tax is a tax on managed care organizations based on health insurance enrollment in the Medi-Cal program and in the commercial sector. The 2023 Budget Act, with federal approval, authorized the MCO tax from April 2023 to December 2026. The MCO tax revenues offset General Fund spending in the existing Medi-Cal program and support program augmentations. This initiative would make the MCO tax permanent, subject to federal approval, and would limit the structure of the tax, and would establish specific uses for the tax revenue.

BACKGROUND

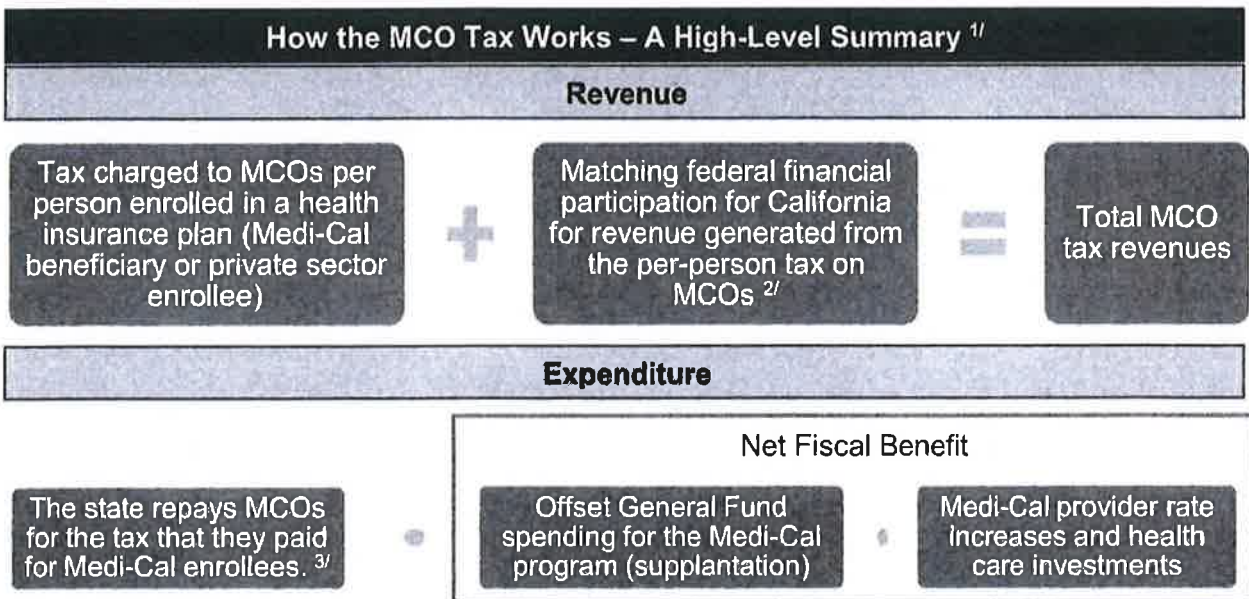
California’s Medi-Cal Program

Medi-Cal is California's Medicaid program. Medicaid is a federal public health insurance program which provides health care services for low-income individuals and families. Medicaid is administered by states (then delegated to counties in California), and funded jointly between the federal government and states. In 2024, there are an estimated 14.5 million Californians enrolled in Medi-Cal. A majority of Medi-Cal beneficiaries are enrolled in managed care plans. “Managed care” is a health care delivery system in which state Medicaid agencies (for California, this is the Department of Health Care Services) contract with managed care organizations (e.g., Kaiser Permanente, Anthem Blue Cross). Managed care organizations accept capitation payments (per person, per month payments) for delivering health benefits to individuals enrolled in Medi-Cal.

In total, the 2024 Budget Act includes \$161 billion (\$35 billion state General Fund) for the Medi-Cal program in 2024-25. The 2024 Budget Act also includes nearly \$7 billion of MCO tax revenues in 2024-25 to support the Medi-Cal program (i.e., offsetting state General Fund expenditures by \$6.9 billion). The balance of the MCO tax revenues are allocated for Medi-Cal provider rate increases (increased reimbursement for, amongst other things, primary care physicians, women’s health services, and ground emergency transport services) and other health care investments. The state and stakeholders are consistently engaged regarding the appropriate use of the MCO tax revenues (level of offsetting existing General Fund cost pressures vs. augmentations for the Medi-Cal program).

History and Structure of the MCO Tax

According to the Department of Health Care Services (DHCS), “the MCO tax is used as a mechanism to generate new state funds that can be used to match with federal funds to bring additional federal Medicaid dollars to California.” California’s MCO tax has existed in various forms for limited durations beginning in 2005. Today, the MCO tax is a tax on managed care organizations based on health insurance enrollment in the Medi-Cal program and in the commercial sector.



1/ This is a high-level summary for illustrative purposes. For more information, see the LAO's May 2023 issue brief.
 2/ Subject to approval from the federal Centers for Medicare and Medicaid Services.
 3/ The state may not hold MCOs harmless for all taxes paid. The state does not repay the portion of the tax on commercial enrollment.

The 2023 Budget Act

The 2023 Budget Act, with federal approval, reauthorized the MCO tax with a new structure from April 2023 through December 2026. Over the lifetime of the tax, it was estimated to yield a net benefit to the state’s General Fund of \$19.4 billion. The 2023 Budget Act agreement included \$8.3 billion in MCO tax revenue to backfill budget shortfalls across several fiscal years, and appropriated \$11.1 billion for investments in the Medi-Cal program, including provider reimbursement rate increases. Although the federal Centers for Medicare and Medicaid Services (CMS) approved California’s 2023 - 2026 MCO tax model in December 2023, in late 2023 the state acknowledged that the federal government has indicated it may not approve such a large MCO tax again. Negotiations to address the state’s budget shortfall throughout Spring 2024 resulted in significant adjustments to the MCO tax spending package included in the 2023 Budget Act.

The 2024 Budget Act

The 2024 Budget Act includes an estimated \$23.1 billion in General Fund offsets for the Medi-Cal program across the lifetime of the tax. The 2024 Budget Act significantly reduces the planned funding for provider rate increases included in the 2023 Budget Act. As enacted, the 2024 Budget Act includes \$133 million in 2024-25, \$728 million in 2025-26, and \$1.2 billion in 2026-27 for new, targeted Medi-Cal provider rate increases and investments funded by MCO tax revenue. The provider rate increases that were preserved in the 2024 Budget Act were fiscally sustainable because the budget also includes another proposed modification to the 2023 Budget Act MCO tax model to increase forecasted revenues (AB 160, Chapter 39, Statutes of 2024).

How did we get here? One year in the life of the MCO tax		
Point-In-Time	Vehicle	Timeline: Recent changes to the 2023-2026 MCO tax
June 2023	2023 Budget Act - Budget Trailer Bills <u>AB 118/119</u>	Effective January 1, 2024, would have increased rates for primary care, maternity care, and non-specialty mental health services to at least 87.5% of Medicare rates. Effective January 1, 2025, would have planned for a second phase of rate increases for a broad array of services.
December 2023	~	CMS approves California’s MCO tax model for 2023 - 2026.
March 2024	Early Action Budget Agreement (<u>SB 136</u>)	<ul style="list-style-type: none"> The Legislature and Administration agreed to a package of early budget actions to shrink the shortfall. DHCS submitted a request to CMS to modify the MCO tax model to increase the amount of the tax; estimated to generate \$1.5 billion in additional net funding to the state over the remaining life of the tax. CMS approval is pending.
May 2024	<u>Governor’s 2024-25 May Revision</u>	To further address the state’s budget deficit, the Administration proposed to eliminate the \$6.7 billion in MCO tax-funded provider rate increases initially planned over multiple fiscal years as of the 2023 Budget Act.
June 2024	2024 Budget Act - Budget Trailer Bills <u>SB 159/AB 160</u>	Authorized new Medi-Cal provider rate increases and modified the MCO tax model (in addition to changes enacted by SB 136 in March 2024). Increases the MCO tax rate, thereby increasing the revenue forecast over the lifetime of the tax, subject to federal approval.

PROVISIONS OF PROPOSITION 35

Composed of 43 pages, Proposition 35 considerably diverts from the state's status quo and makes significant changes to the allowable expenditures of MCO tax revenue, while mostly maintaining the 2023 Budget Act structure of the levied tax. The bulleted information below captures the most significant components and requirements of Proposition 35.

Structure and Implementation of the MCO Tax

- Makes the MCO tax permanent.
- Requires DHCS to employ the models and methodologies used to structure the MCO tax as included in the 2023 Budget Act in perpetuity, to the extent permitted by federal law.
- Places a cap on the per enrollee tax amount assessed on commercial plans and aggregate tax amount – aside from an adjustment every five years for the CPI. Authorizes an increase to the capped amounts – and limits the increase to no more than 10 percent – if necessary to comply with federal law/regulations, secure federal financial participation, or obtain federal approval.

Federal Considerations

- Requires DHCS to seek federal approval necessary to implement Proposition 35.
- Requires DHCS to attempt to maximize the amount of federal matching funds available to California.
- Specifies that Proposition 35 is only operative during periods of federal approval.
- Allows DHCS to modify provisions of Proposition 35 if necessary to obtain federal approval of the MCO tax, within specified limitations.

Appropriation of MCO Tax Revenues

During Calendar Years 2025 and 2026:

- Appropriates \$4.7 billion MCO tax revenues each year for 12 specified purposes, including but not limited to: Medi-Cal managed care rates for primary care services, women's health services, ground emergency transport services, and designated public hospitals.

Beginning January 1, 2027:

- Assumes at least \$4.3 billion in MCO tax revenues annually.
- Creates a layered formula for allocation of MCO tax revenues, including creating more than 18 new state subfunds, accounts, or subaccounts.
- Each account and subaccount includes specific, distinct requirements for revenue expenditure.

Oversight and Accountability

- Requires the State Controller's Office to audit DHCS and programs receiving MCO tax revenues every four years.
- Prohibits borrowing or loan of the MCO tax revenues to the state's General Fund or any other state account, with limited exceptions.
- Prohibits using MCO tax revenue to supplant any other state revenues.
- Requires DHCS to make every reasonable effort to obligate or expend all MCO tax revenues annually, beginning January 1, 2027.
- Requires DHCS to publish an annual compliance report for use of the MCO tax revenues, which will be independently reviewed by the State Controller's Office. The State Controller's Office will publish a separate report evaluating DHCS' compliance.

- Establishes the Protect Access to Healthcare Act Stakeholder Advisor Committee within DHCS to research and analyze best practices for the development and implementation of Proposition 35 by DHCS.
- Requires DHCS to consult with the Stakeholder Advisory Committee to implement the components of Proposition 35, including the design of payment methodologies.

Administrative and Legislative Considerations

- Excludes MCO tax revenue expenditures from the state’s calculations pursuant to the State Appropriations Limit (also known as the “Gann Limit”).
- Provides that if the Legislature introduces a bill to amend Proposition 35 it must receive a 3/4 majority vote.

ESTIMATED IMPACTS AND OUTCOMES

Department of Finance

On August 13, the Senate and Assembly Health Committees held a joint initiative hearing on Proposition 35. During the panel discussion on the overview and fiscal impacts of the measure, the Department of Finance reported the following:

- The 2024 Budget Act includes \$18.5 billion total, \$6.9 billion in 2024-25, \$6.6 billion in 2025-26, and \$5.0 billion in 2026-27, in MCO tax funding to maintain existing services in the Medi-Cal program.
- To the extent voters approve the ballot initiative, the Administration currently estimates a General Fund shortfall of approximately \$11.9 billion associated with the term of the tax, \$2.6 billion in 2024-25, \$4.9 billion in 2025-26, and \$4.3 billion in 2026-27.
- The General Fund shortfall in 2024-25 could be greater by hundreds of millions of dollars if the timing of MCO tax revenue collection and federal approval of the two amendments are delayed.
- Based on the Administration’s estimate, starting January 1, 2025, the initiative would prevent nearly all net revenue from the tax, including additional revenue from the two MCO tax amendments – which are estimated to provide approximately \$6.7 billion additional net revenue to the state – from being used to support the Medi-Cal program.
- Per the 2024 Budget Act, to the extent that voters adopt Proposition 35, the \$133 million in 2024-25, \$728 million in 2025-26, and \$1.2 billion in 2026-27 for new targeted Medi-Cal provider rate increases and investments that will take effect in 2025 and 2026 would become inoperable as both cannot be fiscally sustained.

Legislative Analyst’s Office (LAO)

According to the LAO, this measure will result in three key fiscal effects in the short term (2025 and 2026):

- **No Change to State Tax Revenue** – because there are no changes to the temporary tax on health plans, which expires at the end of 2026, Proposition 35 would have no effect on state tax revenue over this time period.
- **Increased Funding for Health Programs** – because Proposition 35 requires the state to use more health plan tax revenue for funding increases, this will increase funding for Medi-Cal and other health programs. The total increase would likely be between roughly \$2 billion and \$5 billion annually. About half of this amount would come from the tax on health plans and the rest of the funding increase would come from federal funds.

- **Increased State Costs** – because it reduces the amount of health plan tax revenue that can be used to help pay for existing costs in Medi-Cal, Proposition 35 would increase state costs. Instead, the state likely would have to use more money from the General Fund for this purpose. The annual cost would be between roughly \$1 billion to \$2 billion in 2025 and 2026, or 0.5 percent to one percent of the state’s total General Fund budget.

In the long term (2027 and after), the LAO estimates that Proposition 35 will have unknown overall fiscal impacts on state revenues, health program funding, and state spending. Proposition 35 makes the temporary tax on health plans permanent and creates new rules about how to spend the money, which would reduce legislative and state flexibility over the use of MCO tax funds. The extent of this impact depends on federal actions and whether the measure would result in different state decisions around imposing, structuring, and spending proceeds from the MCO tax than in the absence of the measure.

The Governor

Although Governor Newsom has not taken a formal, public position on Proposition 35, the Governor has been quoted as follows, “This initiative hampers our ability to have the kind of flexibility that’s required at the moment we’re living in. I haven’t come out publicly against it. But I’m implying a point of view. Perhaps you can read between those many, many lines.” It is widely understood that the Administration is uncomfortable with the inflexibility of the measure and its potential to disrupt longstanding state policy on use of the MCO tax revenues.

Public Hospitals

California’s 21 public health care systems (PHS) include county-owned or affiliated systems and the five University of California academic medical centers. Together, these systems operate in 15 counties and play an important role in supporting the state’s health care safety net. It should be noted the vast majority of PHS funding is self-financed across a wide array of Medi-Cal subprograms, and their governmental status enables PHS to contribute the non-federal share of costs in place of the state. Public hospitals have been experiencing financing challenges due to low Medi-Cal base payments, which most public hospitals cannot make up through commercial insurance payors, and supplemental payments have not kept up with the growth in the Medi-Cal program. Both the 2024 Budget Act and Proposition 35 include funding increases for some services/providers that will be received by public hospitals, however, Proposition 35 additionally includes dedicated funding for these designated public hospitals as indicated below.

STAFF COMMENTS

As described above, the engagement between the Administration and healthcare providers over the state of Medi-Cal reimbursement rates is longstanding. This was described and affirmed by the Public Policy Institute of California in 2023 in a [literary review](#) on health insurance in California, as follows: “...there are longstanding concerns about whether Medi-Cal coverage offers adequate access to health care providers and services. Researchers and advocates often cite lower payment rates and provider reimbursements as the main reason that fewer health care providers are willing to treat Medi-Cal enrollees. In a recent study, Medi-Cal enrollees did report more problems finding doctors who would accept their insurance compared to people with employer-based insurance or Covered California plans, even after adjusting for socio-economic factors and health status.’ Moreover, against this backdrop, the introduction of Proposition 35 was not entirely unexpected and was not created in a vacuum. However, the PPIC ultimately concluded that ‘Without more detailed information on health care costs and usage patterns, it is difficult to pinpoint a Medi-Cal payment rate that would ensure adequate access.’”

Further, it is worth noting that Proposition 35 is not the first citizen-led tax initiative with the goal of increasing quality of and access to health care delivered via the Medi-Cal program. [Proposition 56 \(2016\)](#) shared some of the same [proponents](#) as Proposition 35, and raised the tax rate on tobacco products by \$2 with the intent that the revenue be used for targeted Medi-Cal provider rate increases and other investments in the Medi-Cal program. Although the Proposition 56 tobacco tax is now a declining revenue source, Proposition 56 currently provides more than \$1 billion annually for a variety of investments in the Medi-Cal program, the largest of which is supplemental payments for physicians' services.

In the aggregate, both the Administration and the proponents of Proposition 35 have presented fiscal strategies to expend the MCO tax revenue in the best interest of the fiscal health of the Medi-Cal program and the literal health of low-income Californians. The true choice before voters is whether to preserve or restrict the state's flexibility, and which providers and services to prioritize. The table on the following page displays a comparison between the MCO tax expenditure plans in the 2024 Budget Act and in Proposition 35:

Services/Providers <i>In alphabetical order with no regard to fiscal year.</i>	2024 Budget Act	Prop 35 ^{1/}
Affordable Drugs ^{2/}		Tier 3
Allied Health Loan Repayment ^{2/}		Tier 3
CalHealthCares Loan Repayment ^{2/}		Tier 3
Clinic Quality Incentive Pool		Tier 1
Community-based adult services	X	
Community health workers ^{2/}	X	Tier 3
Congregate living health facilities	X	
Continuous coverage Ages 0-5	X	
Designated public hospitals ^{3/}		Tier 1
Emergency Department Services		Tier 1
Emergency medical transportation (ground and air)	X	Tier 1
Emergency Department Physician Services	X	Tier 1
Family Planning and Reproductive Health	X	Tier 1
Federally qualified and rural health center services	X	
Graduate medical education		Tier 1
Improved Dental Services		Tier 1
Improved Access to Mental Health ^{4/}		Tier 1
Medi-Cal Access and Support ^{1/}		Tier 1 & 2
Non-emergency medical transportation	X	
Outpatient and clinic access		Tier 1
Pediatric day health centers	X	
Primary Care ^{5/}	X	Tier 1
Private duty nursing	X	
Specialty Care ^{5/}	X	Tier 1
Workforce Capacity ^{1/, 2/}	X	Tier 1 & 3

Footnotes for the table:

Sources: [DHCS MCO Tax-Funded Investments Sheet](#) and Proposition 35 text

^{1/} Proposition 35 includes an initial appropriation of \$4.3 billion to a first tier of 15 specified purposes. \$400 million in revenues received past \$4.3 billion are appropriated to a second tier, Medi-Cal Access and Support (also included in the first-tier allocations). Any additional funding is available to a third tier of allocations.

^{2/} Third tier: Receives funding only after the designated appropriations for the first tier and second tier are satisfied.

^{3/} Funding for Public Hospitals is capped at \$150 million, with any additional funding rolled over to the Emergency Department allocation.

^{4/} Funding for Improved Access to Mental Health is capped at \$200 million, with any additional funding rolled over to the Emergency Department allocation.

^{5/} The designation Physician and Non-Physician Health Professional Services as defined by the Administration and included in their investment sheet includes Primary Care and Specialty Care.

Staff Comments Continued

Any decreases to the enacted and future budgeted General Fund offsets for the Medi-Cal program in current and future years will require more budget-balancing solutions to fill the gap. Notwithstanding the benefits to the Medi-Cal program that the specified provider rate increases could yield, the potential impacts of Proposition 35 should be considered against the fiscal risks to the state and, by extension, local governments. The passage of Proposition 35 would result in renewed budget-balancing negotiations for 2024-25 and subsequent fiscal years, and potentially put at risk the wins that counties secured in the 2024 Budget Act, including but not limited to the \$1 billion in 2024-25 for the Homeless Housing, Assistance and Prevention (HHAP) Program. Further, the potential future state revenue impacts resulting from the cap on the tax amount assessed on commercial plans are still being evaluated and are unknown at this time.

Policy Considerations

While the [CSAC Policy Platform](#) does not include specific statements regarding the MCO tax, there is some broad guidance regarding Medi-Cal reimbursement rates for providers:

- “Counties support Medi-Cal payment reforms that result in increased payments and state General Fund” (page 63).
- “The state needs to recognize county experience with geographic managed care and make strong efforts to ensure the sustainability of county organized health systems. The Medi-Cal program must offer a reasonable reimbursement and rate mechanism for local managed care systems which should help ensure sufficient health plan participation and expand the number of providers serving Medi-Cal participants” (page 63).

Recorded Support

Coalition to Protect Access to Care ([Sponsor](#)) which includes but is not limited to the California Medical Association, California Association of Hospitals and Health Systems, Global Medical Response, California Hospital Association, and Planned Parenthood.

Recorded Opposition

At the August 13 [joint initiative hearing on Proposition 35](#) of the Senate and Assembly Health Committees, the Children’s Partnership spoke in opposition to the measure.

Resources Referenced and Materials for Further Reading

- [Full text](#) of Proposition 35

- [Legislative Analyst's Office Analysis](#)
- [Yes on Prop 35 Coalition List](#)
- [California Budget & Policy Center Prop 35 Report](#)
- [Legislative Analyst's Office May 2023 MCO Tax Issue Brief](#)
- [DHCS 2024 Budget Act MCO Tax-Funded Investments](#)
- [DHCS MCO Tax Primer \(May 2023\)](#)
- [DHCS News Release - CMS Approves MCO Tax \(January 2024\)](#)
- [CMS Approval Letter \(December 2023\)](#)
- [Department of Finance 2024 Budget Act Summary](#)
- [Public Policy Institute of California: The Impact of Health Insurance on Poverty in California \(March 2023\)](#)
- [DHCS: Proposition 56 Expenditures](#)
- [Full text of Proposition 56 \(2016\)](#)
- [CSAC Policy Platform](#)
- [CSAC Policies and Procedures Manual](#)

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August 29, 2024

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TO: CSAC Board of Directors
FROM: Ryan Morimune, Senior Legislative Advocate
Michaela Stone, Legislative Analyst
RE: **ACTION ITEM: Proposition 36**
Title: "The Homelessness, Drug Addiction, and Theft Reduction Act"

ADMINISTRATION OF JUSTICE (AOJ) POLICY COMMITTEE AND EXECUTIVE COMMITTEE ACTION

The Administration of Justice Policy Committee voted on July 31 to take a "SUPPORT" position on Proposition 36, the "The Homelessness, Drug Addiction, and Theft Reduction Act" initiative. Subsequently, the Executive Committee voted on August 8 to take a "SUPPORT" position on the initiative. As a result, the recommendation is being forwarded to the Board of Directors for consideration and action.

CSAC BALLOT MEASURE REVIEW AND POSITION PROCESS

CSAC policy committees may recommend a position of Support, Oppose, or may take no position. The policy committee's recommendation will be considered by the CSAC Executive Committee, and the Executive Committee's recommendation will be considered by the CSAC Board of Directors. More information regarding CSAC's policy for consideration of and positioning on statewide initiatives is available in the Policies and Procedures Manual, beginning on page 11.

MEASURE STATUS AND TITLE

This measure was received by the Office of the Attorney General in September 2023 and will appear on the November 5, 2024, General Election Ballot. The proponents filed more than 601,317 valid signatures with the Secretary of State's Office by the June 2024 deadline, surpassing the signature requirement¹ to go before the voters. Initiatives are often known by many labels or titles, and while this memo will refer to the measure exclusively as Proposition 36, the following is a short list of labels or titles that appear in the media and elsewhere:

- *As Assigned by the Secretary of State's Office:* Proposition 36
- *Secretary of State's Title:* Allows Felony Charges and Increases Sentences for Certain Drug and Theft Crimes
- *As Assigned by the Office of the Attorney General:* Initiative 23-0017A1
- *Proponent's Title:* The Homelessness, Drug Addiction, and Theft Reduction Act

MEASURE SUMMARY

What follows are descriptions of Proposition 36, as provided by the California Secretary of State (SOS) and the proponents of the ballot measure, Californians for Safer Communities. The estimated fiscal impact by

¹ The current initiative signature requirements according to the California Constitution, Article II, Section 8(b) and Elections Code section 9035 are as follows: for an Initiative Statute: 546,651; for an Initiative Constitutional Amendment: 874,641. Learn more: <https://www.sos.ca.gov/elections/ballot-measures/how-qualify-initiative>.

CSAC Board of Directors

ACTION ITEM: Proposition 36

August 29, 2024

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the Legislative Analyst and Director of Finance (DOF) and provided by the SOS² may be found on page 5 under POLICY AND FISCAL CONSIDERATIONS.

California Secretary of State

ALLOWS FELONY CHARGES AND INCREASES SENTENCES FOR CERTAIN DRUG AND THEFT CRIMES. INITIATIVE STATUTE.

Allows felony charges for possessing certain drugs, including fentanyl, and for thefts under \$950—both currently chargeable only as misdemeanors—with two prior drug or two prior theft convictions, as applicable. Defendants who plead guilty to felony drug possession and complete treatment can have charges dismissed. Increases sentences for other specified drug and theft crimes. Increased prison sentences may reduce savings that currently fund mental health and drug treatment programs, K-12 schools, and crime victims; any remaining savings may be used for new felony treatment [programs].

Proponents – Californians for Safer Communities

ADDRESSES ORGANIZED AND SERIAL RETAIL THEFT

Smash-and-grab robberies and retail theft are harming businesses and residents in California because those who commit these crimes know they’ll get away with it, even if they’re caught. This measure will hold repeat offenders accountable for the safety of our communities, rather than putting them back on the streets.

CONFRONTS THE FENTANYL CRISIS IN OUR COMMUNITIES

The fentanyl crisis has reached alarming levels and is now responsible for 20 percent of youth deaths in California. This measure will define fentanyl as a hard drug, hold individuals convicted of trafficking fentanyl accountable, and grant judges greater discretion in sentencing drug traffickers.

PRIORITIZES MENTAL HEALTH AND DRUG TREATMENT

Breaking the cycle of repeat offenders means addressing the many root causes of retail theft. This measure provides critical mental health, drug treatment services, and job training within our justice system for people who are homeless and suffering from mental illness or struggling with substance abuse.

BACKGROUND

Crime Classification(s)

Crimes generally are classified into one of three categories, from the most to least severe: felonies, misdemeanors, and infractions. There are important subcategories within these classifications, especially in the felony class. Sentencing changes enacted pursuant to 2011 Public Safety Realignment mean that individuals convicted of certain lower-level felonies (described as non-serious, non-violent, non-sex offenses) serve their sentences in county jail. Prior to 2011 Realignment, felony sentences generally were served in state prison.

² Note: this summary and estimate is provided by the Legislative Analyst and Director of Finance. It is available via the following link on the Secretary of State’s website: <https://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures>.

Proposition 47 (2014)

Proposition 47, approved by voters in 2014, requires misdemeanor rather than felony sentencing for specified low-level property and drug crimes, and permits incarcerated persons previously sentenced for these reclassified crimes to petition for resentencing. State savings from reduced incarceration costs, determined annually by DOF, are deposited yearly in the Safe Neighborhoods and Schools fund established through the measure.

25 percent of the savings is allocated to the California Department of Education to administer grants that reduce truancy, support at-risk students, and improve outcomes; 10 percent is allocated to the Victim Compensation and Government Claims Board Savings to administer grants to trauma recovery centers that provide crime victim services; and 65 percent is allocated to the Board of State and Community Corrections (BSCC) under the Proposition 47 grant program for public agencies delivering mental health services, substance use disorder treatment and diversion programs that reduce recidivism. These grants, which are awarded competitively, may serve both adults and juveniles and can be used for housing-related assistance and other community-based supportive services, including job skills training, case management or civil legal services pursuant to AB 1056 (Chapter 438, Statutes of 2015). The BSCC requires that at least 50 percent of the award made to grantees is passed through to community-based service providers.

According to the BSCC, an evaluation of the BSCC's Proposition 47 grant program "*suggests participants who received services made available by the 2014 voter-approved initiative are substantially less likely to recidivate compared to those traditionally incarcerated in California.*"³ The most recent evaluation, for Cohort II, is linked as the "Proposition 47 Cohort II Statewide Evaluation Report" under MATERIALS AND RESOURCES.

Legislative Responses

Policymakers have engaged in robust conversation about potential changes to Proposition 47, buoyed by alarming incidents of organized retail thefts (often referred to as "smash-and-grabs").

In June 2023, 66 members⁴ of the Legislature requested that the Little Hoover Commission (LHC) research and report on retail theft in California. Then, in late 2023, the California State Assembly's Select Committee on Retail Theft was announced by Speaker Robert Rivas, followed shortly thereafter by the Governor's release of a framework to address the heightened concern around organized retail theft in January of this year. The Legislature responded in kind, with both the Assembly and the Senate unveiling legislative packages aimed at mitigating the public safety, economic, and social impacts of theft. In total, the Assembly and Senate held five hearings on retail theft and fentanyl response. Earlier this month, the LHC published its report, which concluded:

"Looking at available data, the Commission found that, despite a recent uptick, reported retail theft remains at roughly the same level as during the 2010s and lower than it was in earlier decades. Like many crimes, retail theft is undoubtedly underreported, but the report notes that by its nature, the level of underreporting

³ Board of State and Community Corrections. Proposition 47 Grant Program:
https://www.bscc.ca.gov/s_bsccprop47/.

⁴ California Legislature Letter Request to Research and Report on Retail Theft in California (June 14, 2023):
<https://lhc.ca.gov/wp-content/uploads/LegislativeRequestLetter.pdf>.

is difficult to measure. The Commission concluded that more detailed crime data is needed for policymakers to craft an evidence-based response.”⁵

STAFF COMMENTS

While in recent years, retail theft, property crimes, and opioid and fentanyl use have been statewide priorities, strategies on how to best address these issues have varied and opinions are divided. CSAC’s diverse membership is no different, as supervisors are divided on this measure. There are boards of supervisors, and individual supervisors, who are inclined to support the initiative with recognition that there must be immediate policy changes. Many believe that establishing harsher penalties will provide greater incentives for law enforcement to arrest individuals committing crimes, provide additional tools for prosecutors to attain convictions – which in turn will reduce homelessness, drug use, and retail theft. Conversely, other county boards of supervisors and individual supervisors are inclined to oppose with concerns around the overall public safety and fiscal impacts of the measure, citing existing prosecutorial authority and reinforcing relatively low crime rates in recent years. Reasonable minds can – and do – differ on the relative merits of these policy changes.

RECORDED SUPPORT AND OPPOSITION

Recorded Support

Proposition 36 has support from a broad coalition. The main proponent is Californians for Safer Communities⁶, led by support from district attorneys, large retailers, elected officials, small business owners, law enforcement agencies, veterans, and trade associations. For a list of financial supporters see the SOS’ Campaign Finance Activity Propositions & Ballot Measures page.

- Argument in Favor of Proposition 36⁷

Recorded Opposition

Generally, opposition to Proposition 36 comes from those in favor of existing law. Governor Gavin Newsom, Senate President Pro Tem Mike McGuire, and Speaker Robert Rivas led efforts in developing alternatives to Proposition 36 through their legislative package as well as a potential competing ballot measure that ultimately did not move forward. Proposition 36 will also likely face opposition from various criminal justice reform, human rights, faith-based, and labor organizations, in addition to many current and former legislators and other elected officials that supported Proposition 47 (2014). For a list of financial opponents see the SOS’ Campaign Finance Activity Propositions & Ballot Measures page.

- Argument Against Proposition 36

⁵ Retail Theft: A Data-Driven Response for California. Report #280. July 2024. Little Hoover Commission. Access at: <https://lhc.ca.gov/report/retail-theft/>.

⁶ See full list of supporters under MATERIALS AND RESOURCES. Note: this information is subject to change.

⁷ The law requires the Secretary of State’s Office to place the Official Voter Information Guide on public display for 20 days before publishing and distributing to voters. The public inspection period was from July 23, 2024, through August 12, 2024: <https://www.sos.ca.gov/elections/public-display>. The Official Voter Information Guide for the November 5, 2024, General Election is available here: <https://voterguide.sos.ca.gov/>.

CSAC Board of Directors

ACTION ITEM: Proposition 36

August 29, 2024

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POLICY AND FISCAL CONSIDERATIONS

At its core, Proposition 36 is an effort to amend portions of Proposition 47. CSAC opposed Proposition 47 in 2014. While the staff recommendation was, as it is now, to take no position, the Board deliberated and decided to oppose the measure. Staff recommendations on ballot measures do not dictate the final association-wide position; the members do. Staff base recommendations on the Board-adopted CSAC Policy Platform.

Consistent with the AOJ platform, generally speaking, CSAC does not weigh-in on legislative or ballot measures that create a new crime or changes to existing penalties for crimes. For example, CSAC did not take a position on the original Three Strikes initiative in the 1990s, nor did CSAC take a position on the Three Strikes reform measure of 2012 (Proposition 36).

However, CSAC opposed the 2000 initiative (Proposition 21) that made it easier to charge juveniles in the adult court based on increased costs.

CSAC Platform

Every legislative session, there are dozens, if not hundreds, of bills that propose to create a new crime or enhance a penalty. CSAC does not take a position on these bills for two primary reasons. First, there is an inherent conflict in the county criminal justice structure, with county responsibilities spanning both the prosecution and defense functions. The very nature of that structure limits CSAC advocacy on these policy matters. Secondly, given the diverse perspectives amongst all 58 counties about the relative benefits of a stricter versus more lenient penalty structure, arriving at a consensus across counties on the appropriateness and effectiveness of reforming Proposition 47 is unlikely. Ultimately, CSAC has no specific policy platform guidance related to sentencing reforms, and it will remain so, unless statewide consensus can be reached.

The estimated fiscal impact of Proposition 36 on state and local governments, by the Legislative Analyst’s Office and Department of Finance,⁸ is as follows:

Summary of Estimate by Legislative Analyst and Director of Finance of Fiscal Impact on State and Local Governments

The fiscal estimate indicates increased state criminal justice system costs ranging from several tens of millions of dollars to the low hundreds of millions of dollars annually, primarily due to an increase in the state prison population and state court workload. Some of these costs could be offset by reductions in state spending on local mental health and substance use services, truancy and dropout prevention, and victim services due to requirements in current law. Increased local criminal justice system costs potentially in the tens of millions of dollars annually, primarily due to an increase in local court-related workload and a net increase in the number of people in county jail and under county community supervision.⁹

⁸ Note: this summary and estimate is provided by the Legislative Analyst and Director of Finance. It is available via the following link on the Secretary of State’s website: <https://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures>.

⁹ Qualified Statewide Ballot Measures, California Secretary of State: <https://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures>.

CSAC Board of Directors

ACTION ITEM: Proposition 36

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- Analysis by the Legislative Analyst

CSAC Membership

As referenced above, and perhaps most importantly, we anticipate that the CSAC membership will be divided on this measure. While we are aware of individual supervisors who have weighed-in on the measure, there are likely others that will be inclined to support or oppose for a variety of reasons.

STAFF CONTACTS

- Ryan Morimune, Senior Legislative Advocate at rmorimune@counties.org
- Michaela Stone, Legislative Analyst, mschunk@counties.org

MATERIALS AND RESOURCES

- Initiative 23-0017 – “The Homelessness, Drug Addiction, and Theft Reduction Act” Full Text
- Proposition 36 Coalition – Californians for Safety Communities
- Governor Newsom: Real Public Safety: A Plan to Fight and Prevent Crime in California
- Public Policy Institute of California (PPIC): Crime Data on Retail Theft and Robberies in California
- Board of State and Community Corrections (BSCC): Proposition 47 Cohort II Statewide Evaluation
- Judicial Council of California: Proposition 47 FAQs
- California State Assembly Select Committee on Retail Theft
- Legislative Analyst’s Office (LAO) Review of Proposed Statutory Initiative – October 2023

SECRETARY OF STATE OFFICIAL VOTER INFORMATION GUIDE¹⁰

- Proposition 36 Allows Felony Charges and Increases Sentences for Certain Drug and Theft Crimes. Initiative Statute.

¹⁰ The Official Voter Information Guide for the November 5, 2024, General Election is available here: <https://voterguide.sos.ca.gov/>

CSAC Board of Directors

ACTION ITEM: Proposition 36

August 29, 2024

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SUPPORT

Proposition 36 has support from a broad coalition. The main proponent is [Californians for Safer Communities](#), led by support from district attorneys, large retailers, elected officials, small business owners, law enforcement agencies, veterans, and trade associations. For a list of financial supporters see the [SOS' Campaign Finance Activity Propositions & Ballot Measures](#) page.

OPPOSITION

Generally, opposition to Proposition 36 comes from those in favor of existing law. Governor Gavin Newsom, Senate President Pro Tem Mike McGuire, and Speaker Robert Rivas led efforts in developing alternatives to Proposition 36 through their legislative package as well as a potential [competing ballot measure](#) that ultimately did not move forward. Proposition 36 will also likely face opposition from various criminal justice reform, human rights, faith-based, and labor organizations, in addition to many current and former legislators and other elected officials that supported Proposition 47 (2014). For a list of financial opponents see the [SOS' Campaign Finance Activity Propositions & Ballot Measures](#) page.



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Riverside County



CEO

Graham Knaus

August 29, 2024

To: CSAC Agriculture, Environment and Natural Resources Committee

From: Catherine Freeman, Senior Legislative Advocate
Ada Waelder, Legislative Advocate
Amber Garcia Rossow, Legislative Analyst

Re: **Action Item: Proposition 4 –Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024**

AENR Policy Committee and Executive Committee Action

The Agriculture, Environment, and Natural Resources Policy Committee voted on July 29 to take a “SUPPORT” position on Proposition 4, the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024. Subsequently, the Executive Committee voted on August 8 to take a “SUPPORT” position on the initiative. As a result, the recommendation is being forwarded to the Board of Directors for consideration and action.

According to CSAC policy, the first motion the CSAC Board of Directors considers must be the recommended position of “SUPPORT”. Ultimately, the Board may take a position of Oppose, Support, or it may choose not to take a position.

CSAC Ballot Measure Review and Position Process

CSAC policy committees may recommend a position of Support, Oppose, or Neutral on a measure, or may take no position. The policy committee’s recommendation is then considered by the CSAC Executive Committee, and the Executive Committee’s recommendation is then considered by the CSAC Board of Directors. More information regarding CSAC’s policy for consideration of and positioning on statewide initiatives is available in the Policies and Procedures Manual, beginning on page 11.

Measure Status and Title – A Note for Clarity

After much consideration and negotiation by both houses of the Legislature, SB 867 (Allen), the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024, was passed and signed on July 3, 2024, narrowly meeting an extended deadline for the Legislature to place a bill on the ballot. On July 3, the Secretary of State assigned the legislative measure Proposition 4 on the ballot. The measure is colloquially referred to as the “Climate Bond.” For the sake of consistency and clarity, we will use Climate Bond to refer to the measure throughout this memo.

Measure Summary

The ballot measure would allocate 10 billion in state general obligation bond funding for climate related programs. Full text of the measure can be read here. If the bond passes, these broad category amounts would be dedicated as listed below, with key sub-allocations highlighted. Detailed sub-allocations are listed in Attachment # 1.

- \$3.8 billion for safe drinking water, drought, flood, and water resilience programs
 - \$1.88 billion for water supply and water quality

- \$1.14 billion for flood risk and stormwater management
- \$605 million for watershed restoration and protection
- \$1.5 billion for wildfire and forest resilience programs
 - \$1.2 billion for local fire prevention capacity and improvements to forest health and resilience
 - \$135 million for the Wildfire Mitigation Grant Program
- \$1.2 billion for coastal resilience programs
 - \$415 million for coastal resilience projects and programs
 - \$50 million to implement the Sea Level Rise Adaptation Strategy
- \$1.2 billion for biodiversity protection and nature-based climate solution programs
 - \$870 million for grant programs to protect and enhance fish and wildlife resources
 - \$320 million toward specified conservancies
- \$850 million for clean energy air programs
 - \$475 million for offshore wind development
 - \$325 million for clean energy transmission projects
- \$700 million for park creation and outdoor access programs
 - \$200 million for outdoor recreation opportunities – *includes improvements to county parks*
 - \$200 million for the creation, expansion, and renovation of safe neighborhood parks
- \$450 million for extreme heat mitigation programs
 - \$40 million to fairgrounds for modifications/upgrades that provide community resilience
 - \$60 million for the creation of community resilience centers (includes fairgrounds)
- \$300 million for climate-smart, sustainable, and resilient farms, ranches, and working lands programs
 - \$105 million for improvements in climate resilience of agricultural lands
 - \$15 million for projects for the protection, restoration, conservation, and enhancement of farmland and rangeland

Of note, 40% of funding will be required to go toward disadvantaged communities. A disadvantaged community is defined as a community with a median household income of less than 80% of the area average, or less than 80% of statewide median household income. It is also worth noting that bonds may only be used for capital purposes.

BACKGROUND

The State Budget

The 2024 Budget Act contained a series of reductions to climate-based programs including funds that were appropriated in previous budget years but hadn't yet been expended. The Climate Bond was formulated in anticipation of cuts, though it is not a one-to-one restoration of dollars and programs cut in the final budget.

Recent Natural Resources Bonds

The last natural resources bond to pass with approval of the voters was in 2018 – Proposition 68 – which allocated funding to parks, natural resources protection, climate adaptation, water quality and supply, and flood protection. In 2014, California voters passed Proposition 1 which allocated \$7.1 billion toward funding for water quality, supply, treatment, and storage projects. According to the California Natural

Resources Agency’s bond accountability website (www.bondaccountability.resources.ca.gov), approximately \$40 million from Proposition 1 and \$145.4 million of Proposition 68 remain uncommitted.

Year	Prop. #	Title	Amount	Result	CSAC Position
2018	3	Authorizes Bonds to Fund Projects for Water Supply and Quality, Watershed, Fish, Wildlife, Water Conveyances, and Groundwater Sustainability and Storage.	\$8.9 billion	Failed	Support
2018	68	Authorizes Bonds Funding Parks, Natural Resources Protection, Climate Adaptation, Water Quality and Supply, and Flood Protection.	\$4 billion	Pass	No Position
2014	1	Water Bond. Funding For Water Quality, Supply, Treatment, And Storage Projects.	\$7.1 billion	Pass	Support

ESTIMATED IMPACTS AND OUTCOMES

General Fund

According to the Legislative Analyst’s Office (LAO), the estimated cost to repay the bond would be about \$400 million annually for the next 40 years. Payments would be made from the state General Fund, the account the state uses to pay for most public services, including education, health care, and prisons. While these payments would total less than one-half of 1% of the state’s total General Fund budget, without an increase in revenues, this may equate to a reduction in funds for other key activities.

Local Governments

The LAO predicts the climate bond would result in reduced local costs for natural resources and climate related activities. This is because local governments could receive funding for some essential facilities locals would otherwise need to fund themselves, such as for wastewater treatment. Alternatively, the LAO theorizes the availability of funding could encourage local governments to spend more money and build larger projects than they otherwise would, such as adding additional amenities to a local park. Additionally, investments made toward completing activities that reduce the risk or amount of damage from disasters could reduce state and local costs for responding to and recovering from those events. Overall, the LAO predicts net savings to local governments.

Some of the funding that would be made available to local governments through the bond requires local cost share or loan repayments. As can be found in *The CSAC Platform* section below, CSAC supports the minimization or elimination of local matching requirements.

Fiscal Considerations for Issuing Bonds, Generally

Issuing bonds is a method of financing capital projects through long-term borrowing. The state raises money by issuing financial securities (i.e. selling bonds) to investors. The state repays investors (principal and interest) over a scheduled period of time, usually decades. The term “debt service” is used by the state to describe the amount of money required to pay interest on outstanding bonds and the principal of maturing bonds. Usually, the state’s General Fund pays the principal and interest on general obligation bonds.

The LAO describes debt service as follows: “One of the major downsides of using bonds is that they are costlier overall than cash financing due to the interest that has to be paid. For example, assuming that a bond carries an interest rate of 4 percent, the cost of paying it off with level payments over 20 years is close to \$1.50 for each dollar borrowed—\$1 for repaying the principal amount borrowed and about \$0.50 for interest. This cost, however, is spread over the entire 20-year period. So, the cost after adjusting for inflation is considerably less—about \$1.10 for each \$1 borrowed. The cost of repaying bonds depends primarily on the interest rate and the time period over which the bonds have to be repaid (also known as the term). The state’s interest rate on bonds is generally determined by broader financial market conditions, including rates on U.S. Treasury notes and investor perceptions of the state’s creditworthiness.”

An estimate of the state’s current general obligation bond and commercial paper debt as of January 2024 is available on the Department of Finance’s website. Allocations and statewide bond costs for a substantially similar bond, Proposition 68 (2018), are available on the California Natural Resources Agency’s website.

STAFF COMMENTS

The Platform

Generally, CSAC supports a variety of funding sources but has historically abstained from providing a position on bonds across policy areas. The CSAC Platform contains the following language that may be applicable for this bond:

- *CSAC supports a variety of funding sources which may include but are not limited to: statewide bond measures, statewide and local assessments, developer fees, wheeling charges, beneficiary pays, and the creation of a maintenance endowment fund.*
- *CSAC recognizes that appropriations or bond funds earmarked for flood protection must be equally available to all areas of the state.*
- *CSAC supports identifying specific dollar amounts for flood protection within any bond measure and supports the minimization or elimination of local matching requirements.*

CSAC Advocacy

This year, CSAC conducted extensive advocacy for the inclusion of funding to support local governments with implementation of organic waste (SB 1383) and advanced clean fleet requirements in whatever Climate Bond would appear on the ballot. Despite a coordinated push by CSAC, League of California Cities, Special Districts Association, and Big City Mayors, these top funding priorities were not included by the Legislature in the final iteration.

CSAC is especially concerned about the impact that budget cuts will have on local SB 1383 compliance efforts. This year’s budget lacks meaningful funding to support local governments. Without state support, the financial burden of organic waste targets will have to be shouldered elsewhere, leading to dramatic impacts on ratepayers and the cost of living in California. Of the 44 counties who responded to a CSAC survey, 55% said that they have already increased rates as a direct result of SB 1383, many of those increases ranging from 30-60%. In addition, over 60% of respondents anticipate the need to increase rates within the next 3 years to keep up with SB 1383 regulations.

Staff recognizes that the budget reduced funding for climate-based programs and recognizes the importance of protecting infrastructure providing resilience and protection during times of climate related disasters. However, given the nature of bond financing, and the lack of inclusion of CSAC's priorities, CSAC staff has no recommendation.

Recorded Support

The legislative version of the Climate Bond had a wide net of support. Attachment # 2 includes organizations that were listed as supportive of SB 867 (Allen).

Recorded Opposition

Although no opposition was officially recorded in the legislative version of the bond, there are arguments in opposition submitted by Senate Majority Leader Brian Jones, Assemblymember Jim Patterson, and the Howard Jarvis Taxpayers Association. They believe that "bonds are the most expensive way for the government to pay for things" and especially since this bond "lacks accountability or measured metrics for success."

ATTACHMENTS:

- *Attachment 1 – Climate Bond Funding Allocations*
- *Attachment 2 – SB 867 Support List*

\$3,800,000,000 FOR SAFE DRINKING WATER, DROUGHT, FLOOD, AND WATER RESILIENCE

- **\$1,885,000,000 - California water supply and water quality.**
 - \$610,000,000 toward water quality or drinking water
 - \$386,250,000 for groundwater storage, groundwater banking, groundwater recharge, or instream flow projects
 - \$386,250,000 for water reuse and recycling
 - \$75,000,000 for projects under the Water Storage Investment Program
 - \$62,500,000 for capital investments in brackish desalination, contaminant and salt removal, and salinity management projects
 - \$15,000,000 toward data management and to reactivate existing stream gages and deploy new gages
 - \$75,000,000 regional conveyance projects or repairs to existing conveyances
 - \$75,000,000 to increase water conservation in agricultural and urban areas
- **\$1,140,000,000 - Flood Risk and Stormwater Management**
 - \$550,000,000 for flood management projects:
 - \$150,000,000 for the Sacramento-San Joaquin Delta to improve existing levees
 - \$150,000,000 toward the Flood Control Subventions Program
 - \$250,000,000 for projects related to the State Plan of Flood Control
 - \$480,000,000 Resources for the Dam Safety and Climate Resilience Local Assistance Program that enhance dam safety and reservoir operations
 - \$110,000,000 for urban stormwater management projects
- **\$605,000,000 to protect and restore rivers, lakes, and streams, and to improve watershed resilience, including the resilience of fish and wildlife within the watershed.**
 - \$100,000,000 for projects related to integrated regional water management to improve climate resilience on a watershed basis
 - \$335,000,000 for projects that protect and restore rivers, wetlands, streams, lakes, and watersheds, and improve the resilience of fish and wildlife
 - Funds under this section are specifically designated for the Los Angeles Rivershed, the Riverine Stewardship Program, the State Coastal Conservancy for the Santa Ana River Conservancy Program, the Urban Streams Restoration Program, projects that improve conditions on wildlife refuges and wetland habitat areas, the Wildlife Conservation Board for the Lower American River Conservancy Program, the State Coastal Conservancy to protect and restore watersheds through the Coyote Valley Conservation Program in the County of Santa Clara, the State Coastal Conservancy to protect and restore watersheds through the West Coyote Hills Program, funding for the California-Mexico cross-border rivers and coastal waters, and the Clear Lake Watershed.
 - \$170,000,000 to implement the Salton Sea Management Program 10-year Plan

- \$150,000,000 to the Wildlife Conservation Board with a portion toward projects reintroducing salmon into cold water habitat in the Sacramento and San Joaquin Rivers watersheds
- \$20,000,000 for grants to nature and climate education and research facilities, nonprofit organizations and public institutions, natural history museums, California zoos and aquariums

\$1,500,000,000 FOR WILDFIRE AND FOREST RESILIENCE PROGRAMS

- \$1,205,000,000 to improve local fire prevention capacity, improve forest health and resilience, and reduce the risk of wildfire spreading into populated areas from wildlands, including on federal lands.
 - \$185,000,000 projects that improve forest health and fire resilience, implement community fire preparedness demonstration projects, facilitate greenhouse gas emissions reductions, and increase carbon sequestration in forests and other landscapes across regions and throughout the state
 - \$170,000,000 to implement regional projects, such as landscape-scale projects developed by forest collaboratives
 - \$175,000,000 for long-term forest health projects, including improved forest management, prescribed fire, prescribed grazing, cultural fire, forest watershed restoration, reforestation, upper watershed, riparian, and mountain meadow restoration, and activities that promote long-term carbon storage and sequestration
 - \$185,000,000 for local fire prevention grants and workforce development for fire prevention and wildfire resiliency work
 - \$25,000,000 for the creation or expansion of a fire training center.
 - \$200,000,000 for forest health and watershed improvement projects in forests and other habitats, especially aimed at fire hazard areas
 - \$50,000,000 for grants to conduct fuel reduction, structure hardening, create defensible space, reforestation, or targeted acquisitions to improve forest health and fire resilience
 - \$33,500,000 to the Sierra Nevada Conservancy
 - \$25,500,000 to the California Tahoe Conservancy
 - \$33,500,000 to the Santa Monica Mountains Conservancy
 - \$33,500,000 to the State Coastal Conservancy
 - \$33,500,000 to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
 - \$25,500,000 to the San Diego Rivers Conservancy
 - \$15,000,000 to the Wildfire Conservancy
 - \$15,000,000 to the California Fire Foundation
- \$135,000,000 to the Office of Emergency Services for a wildfire mitigation grant program. Local agencies, among others, would be eligible to apply for grant funding of projects that reduce wildfire risks with an approved community wildfire protection plan; structure

hardening of critical community infrastructure, wildfire smoke mitigation, evacuation centers; creating zero-emission backup power, energy storage, and microgrids for critical community infrastructure due to disasters; and retrofitting hardening, or creating defensible space for homes

- \$50,000,000 for projects in California that provide long-term capital infrastructure to use forest and other vegetative waste removed for wildfire mitigation for noncombustible uses
- \$25,000,000 for technologies that improve detection and assessment of new fire ignitions
- \$35,000,000 for uses to reduce wildfire risk related to electricity transmission.
- \$50,000,000 to the California Conservation Corps or certified community conservation corps, and nonprofit workforce organizations for demonstrated jobs projects. This will include local agencies that have programs that provide park and conservation employment training.

\$1,200,000,000 FOR COASTAL RESILIENCE PROGRAMS

- \$415,000,000 for coastal resilience projects and programs
- \$350,000,000 for coastal and combined flood management projects and activities for developed shoreline areas, including port infrastructure
- \$135,000,000 for deposit into the California Ocean Protection Trust Fund
- \$75,000,000 to implement the California Sea Level Rise Mitigation and Adaptation Act of 2021
- \$50,000,000 to implement the Sea Level Rise Adaptation Strategy
- \$75,000,000, to restore island ecosystem, advance climate-ready fisheries management, and restoration and management of kelp systems
- \$75,000,000 to remove outdated or obsolete dams and for related water infrastructure.
- \$25,000,000 for hatcheries and efforts toward the Central Valley Chinook Salmon

\$450,000,000 FOR EXTREME HEAT MITIGATION PROGRAMS

- \$50,000,000 to the to fund projects that reduce the impact of extreme heat, reduce the urban heat island effect, and build community resilience
- \$150,000,000 to the Strategic Growth Council's Transformative Climate Communities Program
- \$100,000,000 for urban greening including the creation and expansion of green streets and alleyways
- \$50,000,000 to protect or augment California's urban forests
- \$60,000,000 for the creation of strategically located community resilience centers across diverse regions of the state at eligible community facilities such as fairgrounds
- \$40,000,000 to fairgrounds for modifications or upgrades that provide community resilience and Deploy communications and broadband infrastructure

PROPOSITION 4 - THE CLIMATE BOND

\$1,200,000,000 FOR BIODIVERSITY PROTECTION AND NATURE-BASED CLIMATE SOLUTION PROGRAMS

- \$870,000,000 for grant programs to protect and enhance fish and wildlife resources
- \$320,000,000 toward specified conservancies
- \$180,000,000 for projects to improve habitat connectivity and establish wildlife crossings and corridors
- \$10,000,000 for the Tribal Nature-Based Solutions Program
- \$22,000,000 for the southern Ballona Creek Watershed

\$300,000,000 FOR CLIMATE-SMART, SUSTAINABLE, AND RESILIENT FARMS, RANCHES, AND WORKING LANDS PROGRAMS

- \$105,000,000 for improvements in climate resilience of agricultural lands and ecosystem health with dedicated funding toward practices on farms and ranches that improve soil health, or accelerate atmospheric carbon removal or soil carbon sequestration and promote on farm water use efficiency
- \$20,000,000 for purposes of funding invasive species projects and activities
- \$15,000,000 for projects for the protection, restoration, conservation, and enhancement of farmland and rangeland
- \$90,000,000 for grants that benefit small- and medium-sized farms, socially disadvantaged farmers, beginning farmers or ranchers, and veteran farmers or ranchers, as defined, and increase the sustainability of agricultural infrastructure and facilities that support food systems, and increase market access. Funding is specifically designated toward the development and sustainability of farmers market, expand city or suburban community farms or gardens, regional farm equipment sharing, and tribes' food sovereignty to grow, produce, procure, and distribute foods
- \$30,000,000 to improve land access and tenure for socially disadvantaged farmers or ranchers, tribal producers, and beginning farmers and ranchers
- \$15,000,000 to the California Vanpool Authority for grants for the deployment of vanpool vehicles, clean technologies, and related facilities
- \$15,000,000 for purposes of providing grants to public postsecondary educational institutions that are designated as Agricultural Experiment Stations or Agricultural Research Institutes, to develop research farms to improve climate resiliency
- \$10,000,000 Farmworker Housing Component of the Low-Income Weatherization Program, to low-income farmworker households for no-cost energy efficiency upgrades designed to reduce greenhouse gas emissions by saving energy.

\$700,000,000 FOR PARK CREATION AND OUTDOOR ACCESS PROGRAMS

- \$200,000,000 for the creation, expansion, and renovation of safe neighborhood parks in park-poor neighborhoods

PROPOSITION 4 – THE CLIMATE BOND

- \$200,000,000 for the creation, protection, and expansion of outdoor recreation opportunities – eligible projects would include improvements to county parks
- \$100,000,000 for projects to expand recreational opportunities and public access to state and public park nonmotorized trails
- \$175,000,000 to implement projects to address the Department of Parks and Recreation backlog of deferred maintenance.
- \$25,000,000 for grants to nature and climate education and research facilities, nonprofit organizations and public institutions, natural history museums, California zoos and aquariums

\$850,000,000 FOR CLEAN ENERGY AIR PROGRAMS

- \$475,000,000 to support the development of offshore wind generation
- \$325,000,000 for the public financing of clean energy transmission projects necessary to meet the state’s clean energy goals
- \$50,000,000 to support the Long-Duration Energy Storage Program

Attachment 2
SB 867 (Allen) Support List

350 Bay Area Action	California Native Plant Society	Community Alliance with Family Farmers
350 Conejo / San Fernando Valley	California Native Plant Society, Alta Peak Chapter	Community Water Center
350 Humboldt	California Trout	Community Water Center Action Fund
350 Ventura County Climate Hub	California Wind Energy Association	Concerned Off-Road Bicyclists Association
Access Fund	Californians for Pesticide Reform	County of Monterey
Active San Gabriel Valley Agricultural Institute of Marin	California Nurses for Environmental Health and Justice	Courage California
Allensworth Progressive Association	CalWild	Defenders of Wildlife
Almond Alliance	Canopy	Delta Sculling Center
American Clean Power – California	Canopy Offshore Wind, LLC RWE	Ducks Unlimited, Inc.
American Farmland Trust	Carbon Cycle Institute	Endangered Habitats League
Angelenos for Trees	Catholic Charities of Stockton	Environmental Center of San Diego
Asociación de Gente Unida por el Agua	Center for Environmental Health	Environmental Defense Fund
Audubon California	Center for Food Safety	Environmental Protection Information Center
Azul	Central California Environmental Justice Network	Equinor
Ban SUP	Central Valley Partnership	Escondido Neighbors United
California Association of Port Authorities	Citizens Committee to Complete the Refuge	Extinction Rebellion San Francisco Bay Area
California Certified Organic Farmers	City of Huron	ForEverGreen Forestry
California Climate & Agriculture Network	City of Oakland, Department of Parks, Recreation and Youth Development	Fresnans against Fracking
California Coastal Protection Network	Clean Water Action	Friends of Harbors, Beaches, and Parks
California Coastkeeper Alliance	Climate 911	Friends of the River
California Environmental Voters	Climate Action Campaign at the Humboldt UU Fellowship	Gaviota Coast Conservancy
California Forward	Climate Health Now	Golden Gate Bird Alliance
California Institute for Biodiversity	Climate Resolve	Golden Gate Salmon Association
California Mountain Biking Coalition	Coastal Corridor Alliance	Golden State Wind
	Coastal Policy Solutions	Growing Together – Bay Area
		Habitable Designs
		Health Care Without Harm
		Hills for Everyone
		Humboldt Bay Harbor Recreation and Conservation District

IBEW 569
Invenergy | Even Keel Wind
Land Trust of Santa Cruz
County
Latino Outdoors
League to Save Lake Tahoe
Little Manila Rising
Living Classroom
Los Angeles Climate Reality
Project
Los Angeles Neighborhood
Land Trust
Marin Conservation League
Midpeninsula Regional Open
Space District
Mojave Desert Land Trust
Mono Lake Committee
Monterey Bay Aquarium
Monterey Bay Central Labor
Council
Mother Lode Land Trust
Mount Shasta Bioregional
Ecology Center
Mountain Area Preservation
Move California
Napa Climate NOW
National Parks Conservation
Association
Natural Resources Defense
Council
Northern California Regional
Land Trust
Ocean Conservancy
Ocean Defenders Alliance
Oceana
Oceantic Network
Offshore Wind California
Oswit Land Trust
Outdoor Alliance

Pacific Coast Land Design,
Inc.
Pacific Forest Trust
Pacifica Climate Committee
People for Ponto
Pesticide Action Network
Planning and Conservation
League
Point Blue Conservation
Science
Port of Hueneme
Port of Long Beach
Port of San Francisco
Professional Engineers in
California Government
Reinvent South Stockton
Coalition
Resource Renewal Institute
Resources Legacy Fund
Roots of Change
San Diego Audubon Society
San Diego County Water
Authority
San Diego Green
Infrastructure Consortium
San Joaquin Community
Foundation
Santa Cruz Climate Action
Network
Save The Bay
Social Eco Education
Sequoia Riverlands Trust
Sierra Business Council
Sierra CAMP
Sierra County Land Trust
Sierra Institute for
Community and Environment
Sierra Nevada Alliance
Siskiyou Crest Coalition

SoCal 350 Climate Action
Sonoma Land Trust
South Yuba River Citizens
League
SPUR
ST Forward
Sustain Tahoe
Sustainable Agriculture
Education
Sustainable Claremont
The Climate Center
The Conservation Lands
Foundation
The Escondido Creek
Conservancy
The LEAP Institute
The Pew Charitable Trusts
The Sierra Fund
The Tree Pledge
TOGETHER Bay Area
Transform
Trout Unlimited
Trust for Public Land
Tuolumne River Trust
Upper San Gabriel Valley
Municipal Water District
Urban & Environmental
Policy Institute, Occidental
College
Urban Counties of California
Valley Eco
Vineyard Offshore
Vote Solar
Western United Dairies
WILDCOAST
Wildlife Conservation
Network
Winter Wildlands Alliance
ZEV2030



County Counselors' Association of California

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MEMORANDUM

To: Supervisor Bruce Gibson, President, and Members of the CSAC Board of Directors
From: Jennifer Bacon Henning, Litigation Coordinator
Date: August 29, 2024
Re: Litigation Coordination Program Update

This memorandum will provide you with information on the Litigation Coordination Program's new case activities since the Board's April 19, 2024 meeting. Briefs filed on CSAC's behalf are available at: <http://www.counties.org/csac-litigation-coordination-program>.

The following jurisdictions are receiving amicus support in the new cases described in this report:

COUNTIES	CITIES	OTHER AGENCIES
El Dorado	Burbank	---
Inyo	Clearlake	
Los Angeles	Coronado	
Mendocino	Gilroy	
San Francisco	Long Beach	
Ventura	Oakland	
	Pasadena	
	Redlands	

City of Gilroy v. Superior Court (Law Foundation of Silicon Valley)
96 Cal.App.5th 118 (6th Dist. Oct. 23, 2023)(H049552), *petition for review granted* (Feb. 21, 2024)(S282937)
Status: Amicus Brief Due September 25, 2025

The City of Gilroy has a document retention policy that, as relevant here, calls for video footage from officer-worn body cameras to be retained for one year, after which they are automatically destroyed and no longer available to the City. This case centers around footage captured by bodycams during sweeps and clearing of homeless encampments. The Law Foundation of Silicon Valley, in investigating complaints by homeless persons that their personal property was being destroyed during cleanups of homeless encampments, made numerous public record requests for that footage. The City took the position that the video footage was exempt from disclosure as records of investigations and investigatory files. During this period, the Law

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Foundation was continuing to make various CPRA requests for this material, but the footage was continuing to be automatically deleted under the one-year retention policy. The Law Foundation ultimately advised the City of its intent to file a writ petition challenging the City's response to the CPRA requests, at which time the City initiated a litigation hold and began retaining the footage. The City later released video footage from encampment sweeps that did not relate to citations or arrests but continued to withhold footage that showed encounters in which the officers issued citations. A trial court agreed that this footage was properly withheld, and that order was not appealed.

The Law Foundation filed a petition for writ of mandate and complaint for declaratory relief challenging, among other things, the City's destruction of records while CPRA requests were pending and the City's initial assertion of a blanket exemption for the bodycam footage. The trial court granted declaratory relief to the Law Foundation, concluding the City "had a duty to, but did not, watch the bodycam footage before asserting a blanket exception when the details of the footage were unclear on their face in order to determine whether the exemption applies, separate the exempt and nonexempt material, if any, and share information derived from the exempt records with the requester as to why any withheld records were exempt rather than a boilerplate response that parrots the law." However, the trial court rejected the Law Foundation's argument that the City had a duty to retain the records after it received the CRPA request. Both sides appealed.

The Sixth District Court of Appeal ruled in favor of the City. The court overruled the trial court on the validity of the search, finding that the matter was moot and declaratory relief on that issue is not available under the facts of this case: "Since Law Foundation has not raised any issue in this original proceeding as to 'whether a particular record or class of records must be disclosed,' we cannot grant Law Foundation any effective relief under the CPRA." The Court of Appeal affirmed on the issue of record retention. After citing the various Government and Penal Code sections that apply to retention of bodycam footage, the Court concluded: "[T]he CPRA does not govern the retention of public records. The CPRA also does not require public agencies to retain records that are potentially responsive to a public records request, and we may not insert such a requirement in the CPRA. Additionally, the CPRA does not impose a duty on public agencies to advise persons requesting public records of the existence of retention statutes. . . . For that reason, even assuming that Law Foundation seeks prospective relief under Code of Civil Procedure 1060, declaratory relief is not available because City has no duty under the CPRA to preserve all documents that have been withheld as exempt."

The California Supreme Court has granted review to the following issues: (1) May an organization obtain declaratory relief under the Public Records Act based on a public entity's failure to preserve records while the organization's requests for those records were pending? (2) Is it a violation of the Public Records Act for a public entity to fail to preserve records it determined were exempt from disclosure before a court has had an opportunity to conduct a review? CSAC will file a brief in support of the City.

Coronado Citizens for Transparent Government v. City of Coronado

Unpublished Opinion of the Fourth Appellate District, Division One, 2024

Cal.App.Unpub.LEXIS 4548 (4th Dist. Div. 1 July 23, 2024)(D082360), *request for publication denied* (Aug. 13, 2024)

August 29, 2024

Status: Case Closed

The City of Coronado approved a recycle water project for its municipal golf course. Aggrieved neighbor filed this CEQA action, alleging concerns on the City's Mitigated Negative Declaration's (MND) analysis of seismic and aesthetics impacts and impacts on the eelgrass species. The trial court ruled in Plaintiff's favor. But in an unpublished opinion, but the Court of Appeal reversed, concluding that there is no substantial evidence from which Plaintiff can fairly argue that the project as mitigated would have significant impacts. On the seismic issue, the court concluded, among other things, that Plaintiff "cites no authority for the proposition that a lead agency may not rely on mandatory regulatory compliance to demonstrate that a project's potential impacts on the environment will be mitigated into insignificance. In fact, it is well established that '[a] condition requiring compliance with environmental regulations is a common and reasonable mitigating measure.'" The court also rejected Plaintiff's argument that the proximity to the bay means the project will inevitably impact eelgrass habitat: "[Plaintiff] makes no argument and adduces no evidence that the City's proposed mitigation measures are insufficient to negate potentially significant impacts on the eelgrass." Finally, as to aesthetics: "In support of its argument that the project will have a significant, aesthetic impact, Plaintiff cites to a number of public comments, the majority of which are mere conjecture and do not constitute substantial evidence."

Di Lauro v. City of Burbank

Pending in the Second Appellate District (filed Jan. 10, 2024)(B334408)

Status: Amicus Brief Due September 6, 2024

This case raises two California Public Records Act issues: (1) Does the CPRA authorize class action claims? (2) Does a department within a public agency (here, the City's Dept of Water and Power) that has its own website violate the CPRA if that separate website does not have its own CPRA portal?

On the first issue, the trial court concluded that the statute does not provide for class actions: "One must remember that there would be no enforceable claim regarding public records access absent this statute, and, as such, the statute is a focused waiver of the otherwise applicable concept of sovereign immunity. As such, the express limitation of standing to bring a claim under the statute should be respected and not eroded by countervailing considerations that class actions are a desirable procedural device which should be grafted onto all types of litigation."

As to the website portal requirements, the court noted that Plaintiff's argument relied solely on Government Code section 7922.600, which requires, in part, that public agencies assist requestors in identifying records. The court concluded that "this is too vague a provision to lead to the conclusion that a public entity which has a CPRA-sufficient portal on its primary website must have a similar portal on any additional websites it maintains. While it would clearly be good practice to have a link from the additional websites to the primary website where the portal exists, the Court cannot find a sufficiently clear legislative mandate in § 7922.600 that this is an enforceable legal duty." CSAC will file a brief in support of the City.

Gluck v. City and County of San Francisco

Pending in the First Appellate District (filed Apr. 3, 2024)(A170087)

Status: Amicus Brief Due October 14, 2024

August 29, 2024

This action is a Prop. 218 challenge against San Francisco's sewer rates. Plaintiffs alleged that SF was required to have a popular vote to fund stormwater costs, rather than including those costs as part of the sewer rates for its combined sewer system. Plaintiffs also claimed that SF violated Prop. 218's proportionality requirements by recovering costs for stormwater service through sewer rates. The trial court ruled in favor of the City, finding that Plaintiffs' arguments were inconsistent with sections 53750(k) and 53751, which define "sewer" in Proposition 218 to refer to stormwater, sanitary, and industrial wastewater treatment systems. The court rejected the plaintiffs' arguments that these statutory provisions were unconstitutionally inconsistent with Proposition 218, highlighting the deference that courts provide to interpretations of constitutional provisions by the Legislature. Plaintiffs have appealed. CSAC will file a brief in support of San Francisco.

Helm v. City of Los Angeles and County of Inyo

101 Cal.App.5th 1219 (4th Dist. Div. 1 Apr. 19, 2024)(D083075), *request for publication granted* (May 13, 2024)

Status: Case Closed

The City of Los Angeles owns, and the County of Inyo maintains, a recreational area and campground called Diaz Lake. Plaintiff tripped and fell on a wire cable while walking to the Diaz Lake recreational area. That wire cable was suspended between two wooden poles and was intended to prevent vehicles from accessing a pedestrian pathway from a nearby roadway. Plaintiff's action against the City and County alleged dangerous condition on public property, premises liability, and negligence. Summary judgment was granted in favor of defendants based on trail immunity. The Court of Appeal affirmed in an unpublished opinion. The court first concluded that plaintiff was injured accessing a trail, and not on a roadway, and thus the first test of trail immunity was met. The court went on to find that the wire and poles were an integral part of the trail to which immunity extends. The court rejected Plaintiff's argument that trail immunity should not apply to trail component designed to prevent access to a trail (here, to prevent vehicular access). Instead, the court noted that elements of a trail design that allow for access while providing for pedestrian safety are included in trail immunity. CSAC's publication request was granted.

Howard Jarvis Taxpayers Assn v. City of Long Beach

Pending in the Second Appellate District (filed Sept. 1, 2023)(B331453)

Status: Amicus Brief Due August 29, 2024

The City of Long Beach created a "Vacant Lot Monitoring Program," which, among other things, imposed a fee of \$780 per year on vacant lots to cover the cost of the program's requirement that code enforcement officers inspect the vacant lots every month to make sure they are being properly maintained. Only 148 lots in the city were classified as vacant and assessed the fee. Plaintiff alleged the fee violates Prop. 218, thus posing the question of whether the Vacant Lot Monitoring Program fee is imposed as "an incident of property ownership" and is therefore precluded by Prop. 218. The trial court ruled in favor of the city, finding: "[T]he fee is not imposed merely based on normal ownership and normal use of the lots, which is what Article XIII D governs. Rather, the fee is based on the lots being vacant, i.e., non-use. In that sense, the fee does not 'burden landowners as landowners.' The fee burdens landowners as 'non-users.'" Plaintiff has appealed. CSAC will file a brief in support of the City.

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Holguin Family Ventures LLC v. County of Ventura

--- Cal.App.5th ---, 2024 Cal.App.LEXIS 502 (2d Dist. July 24, 2024)(B328569), *request for publication granted* (Aug. 13, 2024)

Status: Case Closed

The County of Ventura cited Holguin and related entities for various violations of the Ventura County Non-Coastal Zoning Ordinance (NCZO). Holguin appealed unsuccessfully to both the Planning Commission and Board of Supervisors. The primary violations were that, without obtaining a conditional use permit (CUP), appellants (1) expanded the winery and wine-tasting area beyond the historical use area, and (2) changed the principal use of the ranch from crop production to a “wine tasting/associated event venue.” The Board also denied Holguin’s request for zoning clearance of its unpermitted installation of a paved parking lot with 40 to 50 parking spaces and charging stations for electric vehicles. Holguin filed suit and the trial court entered judgment for the County, concluding its findings were supported by substantial evidence. Holguin appealed arguing that a fundamental property right in its previously established non-conforming preexisting use was curtailed and that the independent review standard of review of the 4,813-page administrative record should have applied. In an unpublished opinion, the Court of Appeal affirmed the trial court judgment, concluding that the substantial evidence standard of review is correct and that substantial evidence supported the Board’s decision. CSAC joined in Ventura County’s publication request, which was granted.

Koi Nation of Northern California v. City of Clearlake

Pending in the First Appellate District (filed Dec. 18, 2023)(A169438)

Status: Case Fully Briefed and Pending

The City initiated informal communications with the Koi Nation of Northern California (Koi) regarding potential tribal cultural resource (TCR) impacts of a project to extend a public roadway and construct a hotel on a former airstrip. The communications helped inform a subsequent Cultural Report concluding the project would have no cultural resource or tribal cultural resource effects. Consistent with CEQA, the City sent a formal AB 52 Notice of the Project to the Koi and another tribe, Habematolel Pomo of Upper Lake (“Pomo”). The AB 52 Notice informed the tribes of the opportunity to request formal consultation with the City regarding the project. The sole consultation request came from the Pomo, and the City held a formal consultation with the Pomo.

Based on the project’s lack of significant environmental impacts, the City prepared a mitigated negative declaration (MND). The Planning Commission adopted the MND and approved the project, but the Koi appealed the project to the City Council. Before and at the City Council hearing, the Koi asserted, among other things, that the City had failed to adequately consult with them under AB 52. Though the Koi had failed to timely request consultation, the City conditioned the Project to include numerous measures to ensure protection of TCR in the unlikely event of discovery, including a measure requiring all construction workers on the project to undergo cultural sensitivity training from Koi representatives before ground-breaking activities. The City Council denied the Koi’s appeal, adopted the MND, and approved the project.

This appeal followed. The trial court found in favor of the City, concluding: (1) failure to timely request consultation eliminated the City’s requirement to consult under AB 52; (2) although the Koi and Pomo had an inter-governmental agreement to

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assist each other, that did not mean that a consultation request by the Pomo was sufficient to also trigger consultation by the Koi; (3) because the Project site contained no TCR listed or determined to be eligible for inclusion in the California Register or included in a local register of historical resources, the City (as CEQA lead agency) had discretion under the substantial evidence standard to determine the existence of TCR; (4) the City's determination of no TCR was supported by substantial evidence. The Koi has appealed. CSAC has filed a brief in support of the City.

LACERA v. County of Los Angeles

102 Cal.App.5th 1167 (2d Dist. June 24, 2024)(B326977), *petition for review pending* (filed Aug. 2, 2024)(S286264)

Status: Amicus Letter Due September 9, 2024

This case involves proper application of Government Code section 31522.1 to staffing decisions made by a retirement board. The LACERA Board of Retirement determined that it needed several new positions and title and salary changes to several other existing positions. It sent an ordinance to the LA County Board of Supervisors for consideration and adoption to effectuate the changes. The LA County CEO disagreed with the staffing changes requested by LACERA, and ultimately the Board adopted the CEO's recommendation, which was less staff than LACERA was seeking. LACERA sued, alleging that LACERA, not the County Board of Supervisors, has the sole and exclusive authority to decide classification and compensation issues concerning LACERA personnel. The trial court ruled in favor of the County, concluding that "LACERA's claim that it has plenary authority under [Cal. Const., art. XVI], section 17 to classify its employees and set their salaried managers as exempt from civil service is not supported by the correct interpretation of section 17." The court also found that the CERL does not override the Board of Supervisors' constitutional and statutory authority to set job classifications and compensation for LACERA personnel, concluding that "the plenary authority of retirement boards to manage and administer the retirement system does not authorize them to set classifications or salaries for their personnel."

Unfortunately, the Court of Appeal reversed. The court found section 17 operates as a carve out to County Board of Supervisor authority, limiting the ability of counties to establish classifications and salaries for retirement system employees. The court also agreed with LACERA that a retirement board must have hiring authority to fulfill its fiduciary duty, including determining the number and type of personnel and their compensation. As such, Government Code section 31522.1 imposes on a county board of supervisors a ministerial duty to include in the civil service classifications the positions adopted by the retirement boards and to include in the county salary ordinance or resolution the salaries adopted by the retirement boards for retirement system employees. LA County is seeking California Supreme Court review and CSAC will file a letter in support.

Love v. Villacana

Pending in the Ninth Circuit Court of Appeals (filed Dec. 5, 2023)(23-3991)

Status: Case Fully Briefed and Pending

Plaintiff is a 15-year-old minor who resided with Reginald Thomas nearly his entire life. Though Mr. Thomas did not adopt plaintiff, he treated him as a son (took him to school and doctors' appointments, gave him advice, and supported him financially). Thomas died after a struggle with police, who were called to his home

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during a mental health crisis. Plaintiff brought this Section 1983 action alleging that he had a constitutionally protected “liberty interest in [Thomas] companionship and society,” and that the officers’ actions deprived him of his parent-child relationship in violation of the Due Process Clause of the Fourteenth Amendment.

The federal trial court dismissed the action, concluding that Plaintiff did not have a liberty interest in his relationship with Thomas that was protected by the Due Process Clause. The court concluded that to state a viable federal claim for loss of a parent-child relationship under the Fourteenth Amendment, the relationship must have two elements: (1) custodial, and (2) either biological or legal. Here, because the relationship was custodial, but not biological or legal, there was no viable claim. The court rejected Plaintiff’s argument that the case could move forward under California Family Code section 7611(d), which would make Thomas the Plaintiff’s presumed parent. The court held instead that “federal courts look to federal law to determine whether a relationship is protected by the Fourteenth Amendment. . . . Thus, even if Thomas was Plaintiff’s ‘presumed parent’ under California Family Code § 7611(d), he nonetheless lacks any biological or legal connection to Thomas and therefore has no protected liberty interest in their relationship.” Plaintiff has appealed. CSAC filed a brief in support of defendants (City of Pasadena).

Rogers v. City of Redlands

Pending in the Fourth Appellate District, Division Three (filed Nov. 15, 2023)(G063580)

Status: Amicus Brief Filed August 12, 2024

This case is an appeal of a lawsuit challenging the city’s decision to transfer a portion of the revenue collected from its solid waste collection fee to the citywide street paving program to repair road damage caused by solid waste collection vehicles. Plaintiff argued that the charge violates Vehicle Code section 9400.8, which states: “Notwithstanding any other provision of law, . . . no local agency may impose a tax, permit fee, or other charge for the privilege of using its streets or highways, other than a permit fee for extra legal loads. . . .” The City argued that its use of solid waste fee revenue did not violate section 9400.8 because it “charges utility rates calculated to recover the full cost of providing service on a record which properly estimates those costs, including the costs . . . to remedy the impact on streets of regular travel by utility trucks on streets, including residential streets not designed for such loads. This is not a charge for the privilege of using streets, but recovery from service recipients of the cost to remediate damage to streets necessarily incurred to provide the service.” The trial court disagreed, finding that the transfer of a portion of the solid waste fee to the pavement repair program violated section 9400.8. CSAC has filed a brief in support of the City.

Sheetz v. County of El Dorado

Pending in the Third Appellate District (C093682)(returned to court on remand 6/24/24)

Status: Amicus Brief Due October 8, 2024

Earlier this year, the United States Supreme Court ruled in this case that mitigation fees imposed on projects to offset traffic and other impacts are not exempt from a constitutional requirement that such fees be “roughly proportional” simply because such fees are adopted legislatively. The Court remanded back to California state courts to consider the remaining issues in the case: (1) whether the rough

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proportionality standard applies at all to impact mitigation fees, like the traffic mitigation fee at issue in this case, and (2) if it does, whether an agency's compliance with the State's Mitigation Fee Act requirements is sufficient to meet the rough proportionality standard. CSAC a brief in support of El Dorado County that focuses on the second issue, i.e., even if here is a requirement that impact mitigation fees be roughly proportional, that requirement is met through compliance with the Mitigation Fee Act.

Vichy v. City of Ukiah / County of Mendocino

101 Cal.App.5th 46 (1st Dist. Mar. 29, 2024)(A165345), *request for depublication denied* (July 10, 2024)(S285170)

Status: Case Closed

This case involves a rifle club that operates a shooting range on land it leases from the City of Ukiah. The property is owned by the City but is located in an unincorporated area of Mendocino County. The County requested an Attorney General's Opinion to determine whether the City or County had land use authority over the property, but before the opinion was issued (ultimately determining that the County had land use authority), the Club began demolition of its existing range and construction of a new facility. It did so without permits from either the City or the County. Plaintiff Vichy Springs Resort operates a mineral springs resort and spa half a mile from the Club. Vichy sued both the City and County alleging CEQA violations, with the allegations against the County focused on its failure to act in response to a code enforcement complaint against the Club. The County argued that CEQA applies only to project approvals, not to governmental inaction. The County asserted it was neither required to nor capable of conducting environmental analysis of a third party's decision to start work without County approval. But the Court of Appeal disagreed, finding plaintiff could properly challenge an agency's decision that a project is not subject to regulation. "While the Club did not apply for a permit, doing so would have been an idle act so long as the County maintained it had no regulatory authority. In this unusual circumstance, the County's determination meant that the Project was allowed to proceed without environmental review, which directly conflicts with the stated purpose of CEQA." CSAC's depublication request was denied.

Whitehead v. City of Oakland

99 Cal.App.5th 775 (1st Dist. Jan. 22, 2024)(A164483), *request for publication granted* (Feb. 13, 2024), *petition for review granted* (May 15, 2024)(S284303)

Status: Amicus Brief Due October 3, 2024

Plaintiff sued the City of Oakland for injuries he suffered after his bicycle hit a pothole during a fundraiser training ride. Both the trial court and the Court of Appeal ruled in the City's favor, concluding that an agreement signed by plaintiff releasing the "owners/lessors of the course or facilities used in the Event" from future liability was valid and enforceable under existing case law precedent. Unfortunately, the California Supreme Court has granted review and will consider the following question: Does a liability release agreement between a bicyclist and the organizer of a recreational bicycle ride extend to the alleged negligent maintenance of a public road by a municipality named in the agreement but not a party to it? CSAC will file a brief in support of the City.

Board of Supervisors Agenda Item Report

Submitting Department: Board of Supervisors

Meeting Date: September 10, 2024

SUBJECT

Review and possible approval of the August 27, 2024 Board of Supervisors Meeting Minutes.

Recommendation:

Approval.

4/5 vote required:

No

Distribution Instructions:

File

ATTACHMENTS

-

Board of Supervisors Agenda Item Report

Submitting Department: Planning

Meeting Date: September 10, 2024

SUBJECT

Planning Department – Consideration of the Planning Commission’s recommendation to approve Zone Change (ZC-24;6-3). The zone changes affect seven parcels to be rezoned from the X/Special Use District to the R1A/Single-family Residential & Agricultural district. The current X zoning is inconsistent with the land use designations adopted with the 2016 General Plan Land Use Element update. APNs 011-050-026, 021-210-060, 030-290-027, 038-130-012, 038-680-003, 040-030-075, and 040-080-011.

Recommendation:

Following the public hearing, the first action of the Board should be a decision on the adequacy of the CEQA categorical exemption. Next, the Board may make a decision to approve or deny the requested Zone Change Ordinance, subject to the recommended findings in the staff report.

4/5 vote required:

No

Distribution Instructions:

Planning, Assessor

ATTACHMENTS

- [SR_BOS.ZC-24;6-3.docx](#)
- [ORDINANCE - ZC-24;6-3 X to R1A.docx](#)
- [Project parcels Map.pdf](#)
- [PC Meeting Minutes excerpt.pdf](#)
- [PC Item Packet.pdf](#)

**STAFF REPORT TO: THE AMADOR COUNTY BOARD OF SUPERVISORS
FOR MEETING OF: September 10, 2024**

Planning Department – Consideration of the Planning Commission’s recommendation to approve Zone Change (ZC-24;6-3). The zone changes affect seven parcels currently zoned X/Special Use District which is inconsistent with the land use designations adopted with the 2016 General Plan Land Use Element update. APNs 011-050-026, 021-210-060, 030-290-027, 038-130-012, 038-680-003, 040-030-075, and 040-080-011.

Applicant: County of Amador
Supervisorial Districts: 3 & 4

- A. General Plan Designations:** AT, Agricultural-Transition; AG, Agricultural-General; and RR, Rural-Residential
- B. Present Zoning:** X, Special Use
- C. Proposed Zoning:** R1A, Single-family Residential and Agricultural
- D. Acreage Involved:** ±56.12 acres
- E. Description:** The County of Amador is initiating zone changes for properties which have a zoning district classification that is inconsistent with the land use designation adopted with the 2016 General Plan Land Use Element update. The parcels affected by this request are currently zoned X, Special Use. This change aligns with the County's General Plan and aims to ensure consistency and compliance with state and local regulations. The changes include two (2) parcels within District 3 and five (5) parcels within District 4, to be rezoned from the X, Special Use zoning district to the R1A, Single-family Residential and Agricultural zoning district.
- F. Environmental Review:** In accordance with the California Environmental Quality Act (CEQA), the lead agency, Amador County, intends to consider a Notice of Exemption pursuant to Section 15183(a) of State CEQA Guidelines for projects that are consistent with the development density of existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified and to Section 15061(b)(3), the common-sense exemption.

This project is categorically exempt from CEQA per 15183(a):

“CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.”

Additionally, the zone change is consistent with Government Code Section 65860, which requires that zoning ordinances shall be consistent with the General Plan. Government Code Section 65860(c) states:

“--in the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.”

Lastly, this project is not subject to CEQA pursuant to Section 15061(b)3 of the CEQA Guidelines in that the project is covered by the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment.

- G. PLANNING COMMISSION ACTION:** The Planning Commission, following a public hearing on August 13, 2024, recommended approval of the CEQA exemptions and Zone Change to the Board of Supervisors. Per Government Code 65855, the Planning Commission’s recommendation to the

Board includes the following reasons for the recommendation and the relationship of the proposed ordinance to the General Plan.

The proposed ordinance supports the following:

- Goal LU-10: Guide future residential and local commercial uses into established cities, unincorporated Regional Service and Town Centers, and existing community areas (e.g. Pioneer, Volcano, Camanche, Fiddletown, Red Corral).
- Policy LU-1.1: Protect existing land uses and public facilities from encroachment by incompatible land uses.
- Policy E-1.1: Encourage an efficient and consistent regulatory environment, including a predictable development process.
- Policy E-8.1: Ensure future land uses are appropriately located and scaled to fit in with the county’s rural and agricultural context.

H. BOARD ACTION: Following a public hearing, the first action of the Board should be a decision on the adequacy of the CEQA categorical exemption.

Next, the Board may make a decision to approve or deny the requested Zone Change. Should the Board approve an Ordinance to change the zoning of the affected parcels, the findings below are recommended for inclusion with the motion to approve.

I. Recommended Findings:

1. A review of the proposal was conducted by staff who, through their own research, found that the zone changes will not have a significant effect on the environment.
2. There are no project-specific significant effects which are peculiar to the project or its sites.
3. There is no substantial new information which was not known at the time of the General Plan Environmental Impact Report certification that supports findings of new or more severe impacts than those addressed in the General Plan.
4. There are no identified significant impacts caused by this project, and therefore no corresponding feasible mitigation measures identified in the General Plan Environmental Impact Report.
5. The proposal is consistent with the General Plan. The proposed Zone Change is consistent with the goals, objectives, and policies of the Land Use Element of General Plan and the Agricultural General, Agricultural Transition, and Rural Residential land use designations.
6. Based on the record as a whole, the recommendations to the Board of Supervisors represents the Planning Commission’s own independent judgement.

EXHIBIT 1:

Affected Parcels Zoned X, proposed to be changed to R1A, Single-family residential-agricultural:

011050026000	030290027000	038680003000	040080011000
021210060000	038130012000	040030075000	

EXHIBIT 2:

PERMITTED AND CONDITIONAL USES FOR THE EXISTING ZONE X AND THE PROPOSED ZONE R1A:

19.24.030	X district regulations.
A. Uses permitted include all uses not otherwise prohibited by law, subject to securing a use permit as specified in this title; provided, however, that agricultural uses as defined in this title, shall not be subject to a use permit.	
19.24.045	R1A District--Single-family Residential-Agricultural district.
C. Uses Permitted.	

1. Single-family dwelling;
 2. Home occupations as defined by Section 19.08.335;
 3. Crop and tree farming;
 4. General farming, including but not limited to the raising, growing, and harvesting of vegetable, field orchard, bush, and berry crops; vineyards; silviculture;
 5. Wholesale operation of nurseries; greenhouses; mushroom rooms; floriculture; and uses of a similar nature;
 6. Pasture for grazing (including supplemental feeding), raising, maintaining, breeding, and training of horses, cattle, sheep, goats, hogs, and similar livestock, provided there is no feeding of garbage, sewage, refuse, or offal, and subject to any limitations in number of animals in Chapter 19.48 of this code, General Provisions and Exceptions;
 7. Feed lots, feed yards, provided there is no feeding of refuse, garbage, sewage, or offal;
 8. Poultry farms;
 9. Dairies;
 10. The raising, feeding, maintaining, breeding, and slaughtering of livestock, chickens, turkeys, rabbits, pigeons, ducks, geese, fish, frogs, and small animals or fowl;
 11. Processing, packing, selling, shipping of agricultural products not done on an on-site retail sales basis; wells, water storage and reservoirs, including on-site excavation or removal of materials for construction thereof;
 12. Storage of petroleum products for use by the occupants of the premises;
 13. Any structure, building, equipment, or use incidental and necessary to any of the foregoing uses.
- D. Uses Permitted Subject to First Securing an Approved Use Permit.
1. Farm and forestry labor camps;
 2. Recreation uses;
 3.
 - a. Processing, packing, selling, shipping of agricultural products for on-site retail purposes. This includes but is not limited to tasting rooms in conjunction with an on-site winery as defined in Section 19.08.687.
 - b. Wine tasting rooms operated subject to a duplicate 02 license from the California Department of Alcohol Beverage Control may also be permitted subject to at least meeting the standards outlined in Section 19.24.040, District regulations--Generally, subsections (27)(a) through (f) of the "A" agricultural zone district;
 4. Veterinary clinics, animal hospitals, kennels, commercial stabling of horses for public recreation purposes;
 5. Auction and sales yards;
 6. Turkey farms, provided there is a cover crop or other dust control;
 7. Any garbage, sewage, refuse, or offal feeding;
 8. Commercial slaughterhouses and stockyards for livestock, small animals, poultry, and fowl;
 9. Rendering plants, fertilizer plants and yards;
 10. Oil and gas wells, drilling, mining, and excavation of natural minerals;
 11. Any structure, building, use, or equipment incidental and necessary to any of the above uses, located on the same site, and included in the use permit.

ORDINANCE NO. XXXX

AN ORDINANCE AMENDING SECTIONAL ZONING DISTRICT MAP NOS. J-134, N-207, AND Q-222 PURSUANT TO SECTION 19.20.020 OF THE AMADOR COUNTY CODE BY REZONING CERTAIN REAL PROPERTY FROM THE X, SPECIAL USE DISTRICT TO THE R1A, SINGLE-FAMILY RESIDENTIAL AND AGRICULTURAL ZONING DISTRICT.

The Board of Supervisors of the County of Amador, State of California, do ordain:

SECTION I. Recitals of Fact.

WHEREAS, Chapter 19.68 (Amendments) of the Amador County Code provides for a procedure to amend Title 19 (Zoning) or to rezone property in Amador County; and

WHEREAS, rezoning requires an ordinance amending Sectional Zoning District Maps established in accordance with Section 19.20.020 of Title 19 (Zoning); and

WHEREAS, all notices and public hearings mandated by the State Planning Law and Title 19 (Zoning) of the Amador County Code have been adhered to by the Amador County Planning Commission and Board of Supervisors; and

WHEREAS, the Board of Supervisors adopts this ordinance with the findings contained in the pertinent Board minutes and because the public necessity, convenience, and general welfare require such an amendment.

SECTION II. Section 19.20.020 of the Amador County Code is amended by amending Sectional Zoning District Map Nos. J-134, N-207, and Q-222 (Zone Change No. 24;6-3) to change the zoning from the X, Special Use District to the R1A, Single-family Residential and Agricultural Zoning District, for an approximate ± 56.12 acres, locations specifically described in Exhibit A, which is attached hereto.

SECTION III. This ordinance or a summary thereof shall be published in the manner prescribed in Government Code Section 25124.

The foregoing ordinance was duly passed and adopted at a regular session of the Board of Supervisors of the County of Amador, held on the 10th day of September 2024, by the following vote:

AYES:

NOES:

ABSENT:

Brian Oneto
Chairperson, Board of Supervisors

ATTEST:

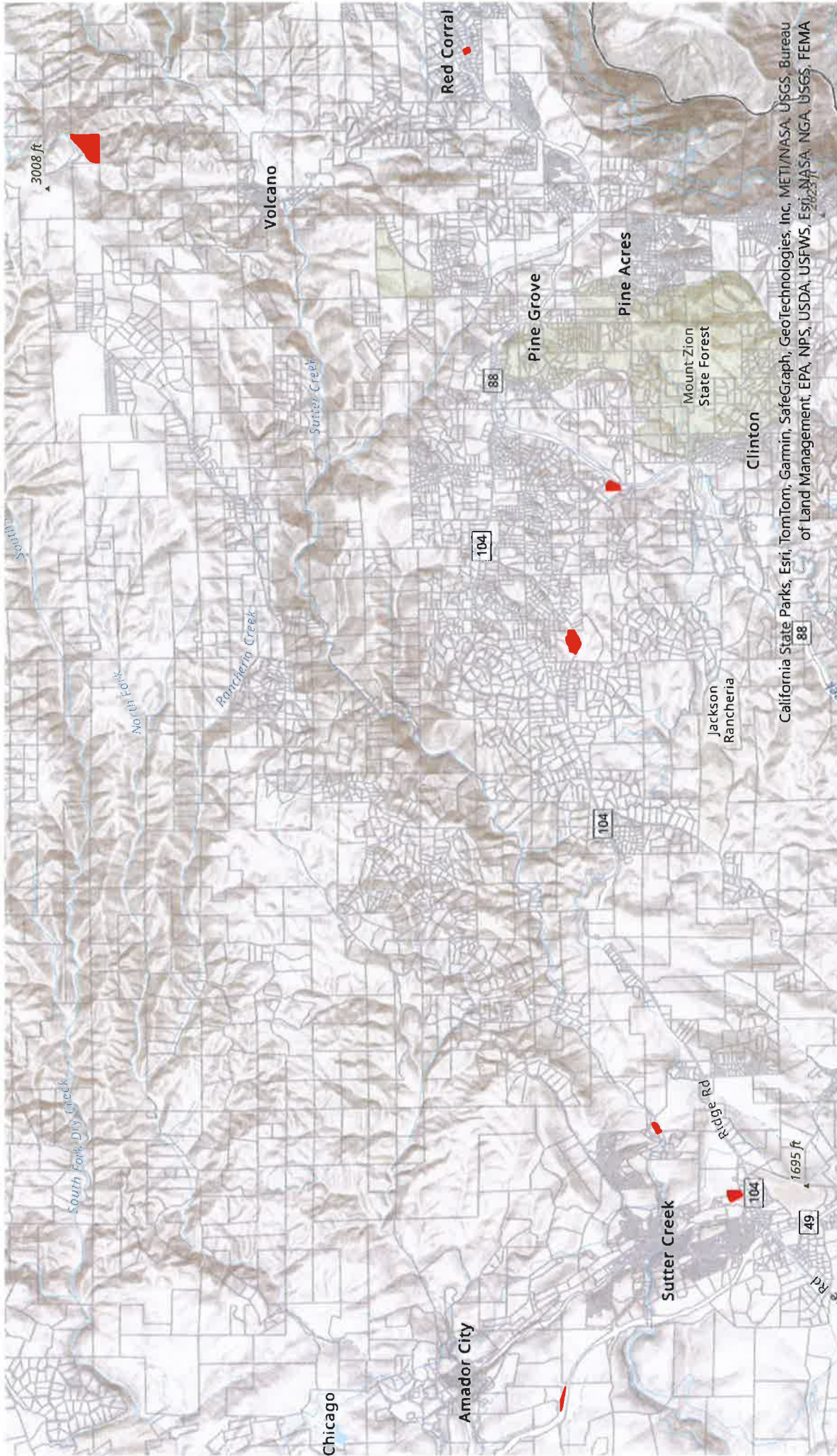
JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County, California

By _____ (ORDINANCE NO. XXXX) (XX/XX/XX)

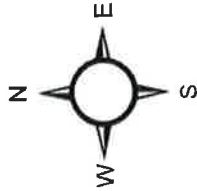
**“EXHIBIT A”
LEGAL DESCRIPTION**

All that real property situated in the State of California, County of Amador, Unincorporated Area for the following parcels are documented in the respective recorded documents as listed below:




- 011050026000
 - Recorded Document Number: [2019R0003302]
- 021210060000
 - Recorded Document Number: [2014R0022322]
- 030290027000
 - Recorded Document Number: [1996R0004734]
- 038130012000
 - Recorded Document Number: [2015R0008044]
- 038680003000
 - Recorded Document Number: [2021R0005914]
- 040030075000
 - Recorded Document Number: [2021R0007469]
- 040080011000
 - Recorded Document Number: [2020R0005459]



**Zone Change (ZC-24;6-3)
X to R1A, Single-family
Residential & Agricultural
(Subject parcels in red)**



Legend

-  AmadorBoundary
-  Assessor Parcels
-  Districts 3 & 4 Project
Parcels

Item 3 - Request for a Zone Change (ZC-24;6-3) from the X Special Use district to the R1A Single-family Residential and Agricultural zoning district for properties that are incompatible with the General Plan designation.

Applicant: County of Amador

Supervisorial Districts: 3 & 4

Location: Affected property owners with land zoned X with an incompatible General Plan land use designation within Supervisorial Districts 3 & 4

Ms. Sheppard introduced the item and shared the staff report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Gonsalves opened the public hearing and asked if there is any public comment.

Craig Baracco, Executive Director of Foothill Conservancy, said that they support the item and that the rezone will give clarity to the property owners of what they can actually do with their property. He added that they encourage the County to complete the rest of the needed zoning changes to implement the 2016 General Plan.

Chair Gonsalves asked if there is further public comment. There was none.

MOTION: It was moved by Commissioner Munnerlyn, seconded by Commissioner Curtis, and unanimously carried to close the public hearing.

Chair Gonsalves asked for discussion.

Commissioner Wardall commented that this is pretty straightforward and reasonable and that he supports it.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner Munnerlyn, and unanimously carried to recommend approval to the Board of Supervisors that the Notice of Exemption is the appropriate document.

MOTION: It was moved by Commissioner Munnerlyn, seconded by Commissioner Wardall, and unanimously carried to recommend approval of ZC-24;6-3 to the Board of Supervisors along with the findings in the staff report and the relationship to the General Plan.

Ms. Sheppard stated that the Planning Commission has recommended that the Board of Supervisors approve ZC-24;6-3 and a public hearing will be held at a later date.

**STAFF REPORT TO: AMADOR COUNTY PLANNING COMMISSION
FOR MEETING OF: August 13, 2024**

ITEM 3 Request for Zoning Change (ZC-24;6-3). The zone change affects parcels that have a zoning district classification which is inconsistent with the land use designation adopted with the 2016 General Plan Land Use Element update.

Applicant: County of Amador
Supervisorial Districts: 3 and 4
Location: Various

- A. General Plan Designation:** AT, Agricultural-Transition; AG, Agricultural-General; and RR, Rural-Residential
- B. Present Zoning:** X, Special Use
- C. Proposed Zoning:** R1A, Single-family Residential and Agricultural
- D. Total Acreage Involved:** ±56.12 acres
- E. Description:** The County of Amador is initiating zone changes for properties which have a zoning district classification that is inconsistent with the land use designation adopted with the 2016 General Plan Land Use Element update. The parcels affected by this request are currently zoned X, Speical Use. This change aligns with the County's General Plan and aims to ensure consistency and compliance with state and local regulations. The changes include two (2) parcels within District 3 and five (5) parcels within District 4, to be rezoned from the X, Special Use zoning district to the R1A, Single-family Residential and Agricultural zoning district.
- F. Environmental Review:** In accordance with the California Environmental Quality Act (CEQA), the lead agency, Amador County, intends to consider a Notice of Exemption pursuant to Section 15183(a) of State CEQA Guidelines for projects that are consistent with the development density of existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified and to Section 15061(b)(3), the common-sense exemption.

This project is categorically exempt from CEQA per 15183(a):

“CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.”

Additionally, the zone change is consistent with Government Code Section 65860, which requires that zoning ordinances shall be consistent with the General Plan. Government Code Section 65860(c) states:

“--in the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.”

Lastly, this project is not subject to CEQA pursuant to Section 15061(b)3 of the CEQA Guidelines in that the project is covered by the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment.

G. Planning Commission Action: As the approval of the proposed project and accompanying CEQA exemption is deferred to the Board of Supervisors, the Planning Commission's actions are to open the Public Hearing and make a recommendation to the Board of Supervisors to approve or deny the Zone Change. Per Government Code 65855, the Planning Commission shall render its decision in the form of a written recommendation to the legislative body. Such recommendation shall include the reasons for the recommendation and the relationship of the proposed ordinance to the General Plan.

The proposed ordinance supports the following:

- **Goal LU-10:** Guide future residential and local commercial uses into established cities, unincorporated Regional Service and Town Centers, and existing community areas (e.g. Pioneer, Volcano, Camanche, Fiddletown, Red Corral).
- **Policy LU-1.1:** Protect existing land uses and public facilities from encroachment by incompatible land uses.
- **Policy E-1.1:** Encourage an efficient and consistent regulatory environment, including a predictable development process.
- **Policy E-8.1:** Ensure future land uses are appropriately located and scaled to fit in with the county's rural and agricultural context.

H. Recommendation to the Board: If the Planning Commission recommends approval of the Zone Changes, the following statement is recommended for the record: "The Planning Commission recommends approval of the proposed zone change, the reason(s) being that the proposed zone change is consistent with the County's General Plan Economic Development Element (policy E-1.1 and policy E-8.1) and Land Use Element (goal LU-10 and policy LU-1.1)" (attached).

I. Recommended Findings:

1. A review of the proposal was conducted by staff who, through their own research, found that the zone changes will not have a significant effect on the environment.
2. There are no project-specific significant effects which are peculiar to the project or its sites.
3. There is no substantial new information which was not known at the time of the General Plan Environmental Impact Report certification that supports findings of new or more severe impacts than those addressed in the General Plan.
4. There are no identified significant impacts caused by this project, and therefore no corresponding feasible mitigation measures identified in the General Plan Environmental Impact Report.
5. The proposal is consistent with the General Plan. The proposed Zone Change is consistent with the goals, objectives, and policies of the Land Use Element of General Plan and the Agricultural General land use designation.
6. Based on the record as a whole, the recommendations to the Board of Supervisors represents the Planning Commissions' own independent judgement.

EXHIBIT 1:

Affected Parcels Zoned X, proposed to be changed to R1-A, Single-family residential-agricultural:

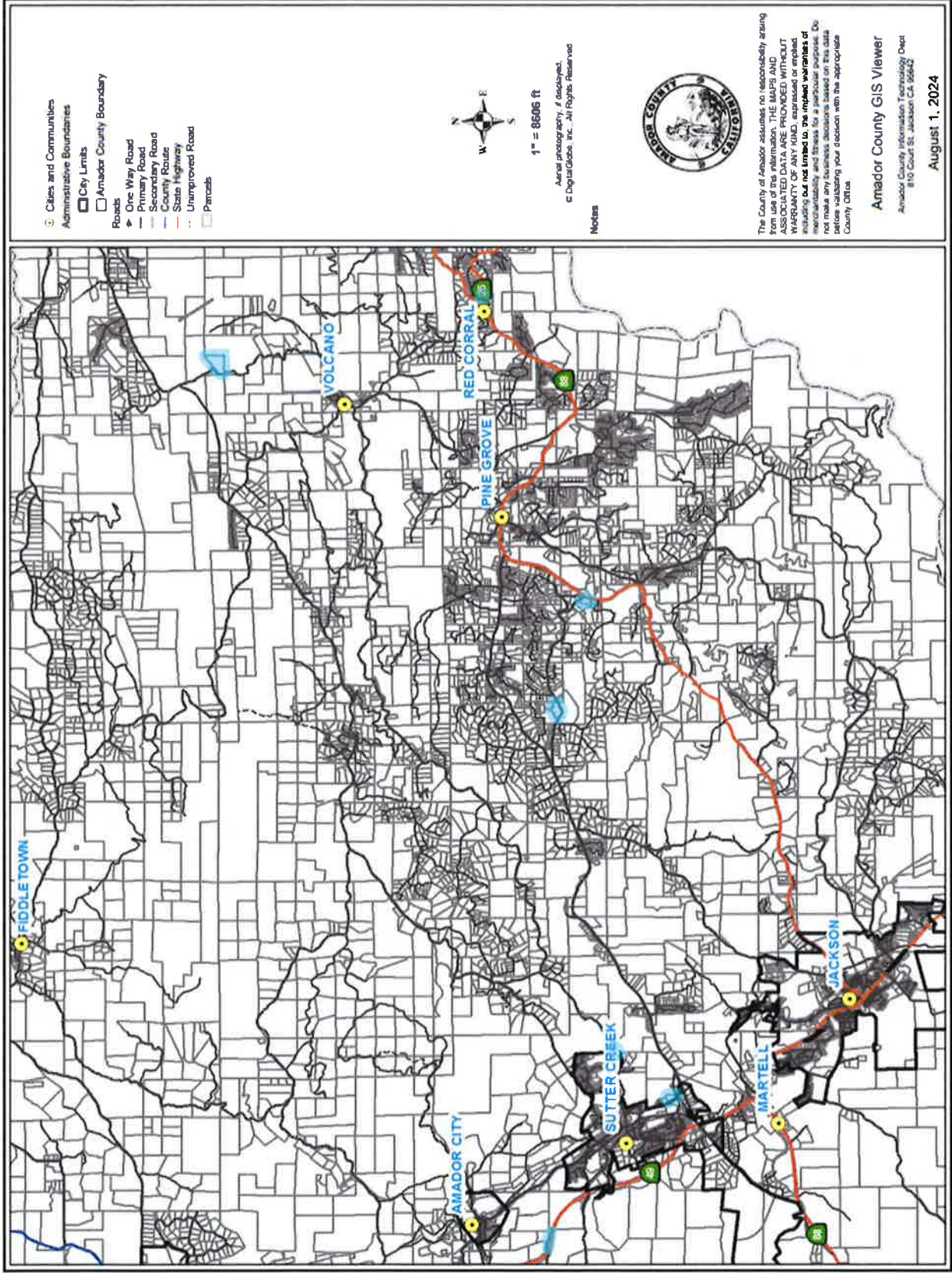
011050026000	030290027000	038680003000
021210060000	038130012000	040030075000
		040080011000

EXHIBIT 2:

PERMITTED AND CONDITIONAL USES FOR THE EXISTING ZONE X AND THE PROPOSED ZONE 1A:

19.24.030	X district regulations.
A. Uses permitted include all uses not otherwise prohibited by law, subject to securing a use permit as specified in this title; provided, however, that agricultural uses as defined in this title, shall not be subject to a use permit.	
19.24.045	R1A District--Single-family Residential-Agricultural district.
C. Uses Permitted.	
1. Single-family dwelling;	
2. Home occupations as defined by Section 19.08.335;	
3. Crop and tree farming;	
4. General farming, including but not limited to the raising, growing, and harvesting of vegetable, field orchard, bush, and berry crops; vineyards; silviculture;	
5. Wholesale operation of nurseries; greenhouses; mushroom rooms; floriculture; and uses of a similar nature;	
6. Pasture for grazing (including supplemental feeding), raising, maintaining, breeding, and training of horses, cattle, sheep, goats, hogs, and similar livestock, provided there is no feeding of garbage, sewage, refuse, or offal, and subject to any limitations in number of animals in Chapter 19.48 of this code, General Provisions and Exceptions;	
7. Feed lots, feed yards, provided there is no feeding of refuse, garbage, sewage, or offal;	
8. Poultry farms;	
9. Dairies;	
10. The raising, feeding, maintaining, breeding, and slaughtering of livestock, chickens, turkeys, rabbits, pigeons, ducks, geese, fish, frogs, and small animals or fowl;	
11. Processing, packing, selling, shipping of agricultural products not done on an on-site retail sales basis; wells, water storage and reservoirs, including on-site excavation or removal of materials for construction thereof;	
12. Storage of petroleum products for use by the occupants of the premises;	
13. Any structure, building, equipment, or use incidental and necessary to any of the foregoing uses.	
D. Uses Permitted Subject to First Securing an Approved Use Permit.	
1. Farm and forestry labor camps;	
2. Recreation uses;	
3. a. Processing, packing, selling, shipping of agricultural products for on-site retail purposes. This includes but is not limited to tasting rooms in conjunction with an on-site winery as defined in Section 19.08.687.	
b. Wine tasting rooms operated subject to a duplicate 02 license from the California Department of Alcohol Beverage Control may also be permitted subject to at least meeting the standards outlined in Section 19.24.040, District regulations--Generally, subsections (27)(a) through (f) of the "A" agricultural zone district;	
4. Veterinary clinics, animal hospitals, kennels, commercial stabling of horses for public recreation purposes;	
5. Auction and sales yards;	
6. Turkey farms, provided there is a cover crop or other dust control;	
7. Any garbage, sewage, refuse, or offal feeding;	
8. Commercial slaughterhouses and stockyards for livestock, small animals, poultry, and fowl;	
9. Rendering plants, fertilizer plants and yards;	
10. Oil and gas wells, drilling, mining, and excavation of natural minerals;	
11. Any structure, building, use, or equipment incidental and necessary to any of the above uses, located on the same site, and included in the use permit.	

PROJECT PARCELS HIGHLIGHTED IN BLUE BELOW



Affidavit

- | | Initial |
|---|-------------|
| 1. Notice of Intent (NOI). | <u> </u> |
| 2. GIS List. <u>300</u> ft. Plus <u>email</u>
<small>(Distance) (Special Instructions: e.g. to end of access road)</small> | <u>NS</u> |
| 3. Checked <u>all</u> APN pages of those parcels from the GIS list for "NOTES" or
a. "SPECIAL INSTRUCTIONS." | <u>NS</u> |
| 4. Project Applicant and Representative(s), if applicable. | <u>NS</u> |
| 5. Checked Project file cover for agency distribution. | <u>NS</u> |
| 6. Checked inside file for special requests for notification. | <u>NS</u> |
| 7. Checked old notification list for additional notification. | <u>NS</u> |
| 8. Other – Specify:

_____ | |


AFFIDAVIT OF SERVICE BY MAIL

I am a citizen of the United States, over eighteen years of age, employed in Amador County, and not a party to the within action; my business address is 810 Court Street, City of Jackson, State of California. I hereby declare I served a copy of the attached public hearing notice regarding 20-24; 6-3 AP inconsistency X to RIA by placing copies in 262 envelopes addressed to: (see attached list).

Said envelopes were then sealed and postage fully paid thereon and were deposited in the United States Mail on July 30, 2024 at Jackson, California.

I declare under penalty of perjury the foregoing is true and correct.

Executed at Jackson, California on July 30, 2024

Signed 

Witness 

- | | Initial |
|---|-----------|
| 1. Notice of Intent (NOI). | _____ |
| 2. GIS List. <u>300</u> ft. Plus <u>email</u>
<small>(Distance) (Special Instructions: e.g. to end of access road)</small> | <u>RS</u> |
| 3. Checked <u>all</u> APN pages of those parcels from the GIS list for "NOTES" or
a. "SPECIAL INSTRUCTIONS." | <u>RS</u> |
| 4. Project Applicant and Representative(s), if applicable. | <u>RS</u> |
| 5. Checked Project file cover for agency distribution. | <u>RS</u> |
| 6. Checked inside file for special requests for notification. | <u>RS</u> |
| 7. Checked old notification list for additional notification. | <u>RS</u> |
| 8. Other – Specify:

_____ | |

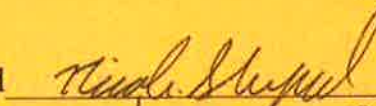
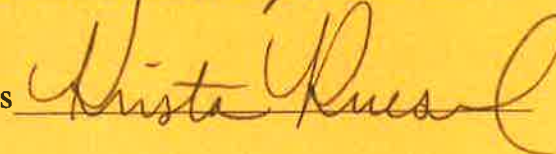
AFFIDAVIT OF SERVICE BY MAIL

I am a citizen of the United States, over eighteen years of age, employed in Amador County, and not a party to the within action; my business address is 810 Court Street, City of Jackson, State of California. I hereby declare I served a copy of the attached public hearing notice regarding 20-24, 6-3 X to RIA - correction by placing copies in 183 envelopes addressed to: (see attached list).

Said envelopes were then sealed and postage fully paid thereon and were deposited in the United States Mail on August 1, 2024 at Jackson, California.

I declare under penalty of perjury the foregoing is true and correct.

Executed at Jackson, California on August 1, 2024

Signed 
Witness 



AMADOR COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

PHONE: (209) 223-6380
FAX: (209) 223-6254
WEBSITE: www.amadorgov.org
E-MAIL: planning@amadorgov.org

COUNTY ADMINISTRATION CENTER • 810 COURT STREET • JACKSON, CA 95642-2132

NOTICE OF PUBLIC HEARING

NOTICE: The County of Amador is initiating a zone change for properties currently zoned X (Special Use) to the R1A (Single-family Residential and Agricultural) zoning district. This change aligns with the County's General Plan designation and aims to ensure consistency and compliance with state and local regulations.

PROJECT NAME AND DESCRIPTION: Request for a Zone Change (ZC-24;6-3) from the X Special Use district to the R1A Single-family Residential and Agricultural zoning district for properties that are incompatible with the General Plan designation.

PROPERTY OWNERS: Affected property owners with land zoned X with an incompatible General Plan land use designation within Supervisorial Districts 3 & 4.

SUPERVISORIAL DISTRICTS: 3 & 4

Staff Report will be available online (typically the Tuesday prior to the meeting) for viewing at <http://www.amadorgov.org> in the "Agendas and Minutes" section.

ENVIRONMENTAL REVIEW PROCESS: In accordance with the California Environmental Quality Act (CEQA), the lead agency, Amador County, intends to consider a Notice of Exemption pursuant to Section 15183 of State CEQA Guidelines for projects that are consistent with the development density of existing zoning, community plan or general plan policies for which an Environmental Impact Report (EIR) was certified and Section 15061(b)(3) common sense exemption.

This project is categorically exempt from CEQA per 15183(a):

"CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies."

Consistency with Government Code Section 65860:

The zone change is consistent with Government Code Section 65860, which requires that zoning ordinances shall be consistent with the General Plan. Government Code Section 65860(c) states:

"in the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended."

PUBLIC HEARING: Notice is hereby given said Planning Commission will hold a public hearing on this project at the County Administration Center, Board of Supervisors Chambers, 810 Court Street, Jackson, California, on **August 13, 2024** at **7:00 p.m.** or as soon thereafter as can be heard. Anyone having comments on the project may attend and be heard.

The meeting may be attended in person or via teleconference by dialing **669-900-6833** and using **meeting ID 537-512-8983**, or by using the following link: <https://us02web.zoom.us/j/5375128983>

The Chairperson will invite the public to comment via phone/online. Public comment will also be accepted by email at planning@amadorgov.org. All emails must be received prior to the start of the meeting and will be included in the record of the meeting. Emails received after those already included in the meeting materials will be printed and distributed to the Commissioners and available to the public, and shall be subject to the same rules as would otherwise govern speaker comments at the Commission meeting.

Letters of comment regarding this matter received by the County prior to the publication of the Staff Report will be sent to each Planning Commissioner as part of the agenda packet (generally the Tuesday prior to the meeting). Letters received after the Staff Report has been published will be copied and circulated to each Commissioner just prior to the public hearing. Be advised that due to time constraints, the Commissioners may not be able to give letters submitted after the Staff Report is published, as detailed a review as those received earlier. Therefore, it may be to your benefit to attend the hearing and summarize your concerns orally. Letters will not be read aloud at the public hearing. If you have any questions or desire more information, please contact this office.

In compliance with the Americans with Disabilities Act, if you require special modification or accommodation to participate in this meeting, please contact the Amador County Planning Department, at (209) 223- 6380, by email to planning@amadorgov.org. Requests must be made as early as possible, and at least two business days before the start of the meeting.

NOTE: If you do not comment at the public hearing or send in written comments and later decide to challenge the nature of this proposed action in court, you may be limited to raising only those issues you raised at the public hearing or have given in written correspondence delivered to the public entity conducting the hearing at, or prior to, the Public Hearing.

AFFECTED PARCELS ZONED X, PROPOSED TO BE CHANGED TO R1A, SINGLE-FAMILY RESIDENTIAL:

011050026000	030290027000	038680003000
021210060000	038130012000	040030075000
		040080011000

PERMITTED AND CONDITIONAL USES FOR THE EXISTING ZONE X AND THE PROPOSED ZONE R1A:

19.24.030	X district regulations.
A. Uses permitted include all uses not otherwise prohibited by law, subject to securing a use permit as specified in this title; provided, however, that agricultural uses as defined in this title, shall not be subject to a use permit.	
19.24.045	R1A District--Single-family Residential-Agricultural district.
C. Uses Permitted.	
<ol style="list-style-type: none"> 1. Single-family dwelling; 2. Home occupations as defined by Section 19.08.335; 3. Crop and tree farming; 4. General farming, including but not limited to the raising, growing, and harvesting of vegetable, field orchard, bush, and berry crops; vineyards; silviculture; 5. Wholesale operation of nurseries; greenhouses; mushroom rooms; floriculture; and uses of a similar nature; 6. Pasture for grazing (including supplemental feeding), raising, maintaining, breeding, and training of horses, cattle, sheep, goats, hogs, and similar livestock, provided there is no feeding of garbage, sewage, refuse, or offal, and subject to any limitations in number of animals in Chapter 19.48 of this code, General Provisions and Exceptions; 7. Feed lots, feed yards, provided there is no feeding of refuse, garbage, sewage, or offal; 8. Poultry farms; 9. Dairies; 10. The raising, feeding, maintaining, breeding, and slaughtering of livestock, chickens, turkeys, rabbits, pigeons, ducks, geese, fish, frogs, and small animals or fowl; 11. Processing, packing, selling, shipping of agricultural products not done on an on-site retail sales basis; wells, water storage and reservoirs, including on-site excavation or removal of materials for construction thereof; 12. Storage of petroleum products for use by the occupants of the premises; 13. Any structure, building, equipment, or use incidental and necessary to any of the foregoing uses. 	
D. Uses Permitted Subject to First Securing an Approved Use Permit.	
<ol style="list-style-type: none"> 1. Farm and forestry labor camps; 2. Recreation uses; 3. <ol style="list-style-type: none"> a. Processing, packing, selling, shipping of agricultural products for on-site retail purposes. This includes but is not limited to tasting rooms in conjunction with an on-site winery as defined in Section 19.08.687. b. Wine tasting rooms operated subject to a duplicate 02 license from the California Department of Alcohol Beverage Control may also be permitted subject to at least meeting the standards outlined in Section 19.24.040, District regulations--Generally, subsections (27)(a) through (f) of the "A" agricultural zone district; 4. Veterinary clinics, animal hospitals, kennels, commercial stabling of horses for public recreation purposes; 5. Auction and sales yards; 6. Turkey farms, provided there is a cover crop or other dust control; 7. Any garbage, sewage, refuse, or offal feeding; 8. Commercial slaughterhouses and stockyards for livestock, small animals, poultry, and fowl; 9. Rendering plants, fertilizer plants and yards; 10. Oil and gas wells, drilling, mining, and excavation of natural minerals; 11. Any structure, building, use, or equipment incidental and necessary to any of the above uses, located on the same site, and included in the use permit. 	

AMADOR COUNTY PLANNING COMMISSION

Date of this notice: August 1, 2024

Board of Supervisors Agenda Item Report

Submitting Department: Planning
Meeting Date: September 10, 2024

SUBJECT

Planning Department - Continuation of a public hearing for the consideration and possible determination of the mine status and financial capability of the operator to complete reclamation obligations for the Seaton mine, pursuant to Public Resources Code §2773.1(b); CA Mine ID #91-03-0026; APN 008-140-016. In May, 2024, the mine operator's bonding company issued a Notice of Cancellation/Nonrenewal of the required financial assurance mechanism for mine reclamation effective October 1, 2024. The statutorily required financial assurance has not been renewed or replaced.

Recommendation:

After taking public comment, staff recommends the Board find Michael Gornet, operator of Seaton Mine (Mine ID #91-03-0026), financially incapable of completing the required reclamation in accordance with the approved Reclamation Plan, due:

- 1) Failure to timely replace an expiring financial assurance as required by Public Resources Code 2773.1(a)(2) and County Code Section 7.36.120);
- 2) Failure to timely remit statutorily required annual reports and fees to the CA Division of Mine Reclamation for 2021, 2022, and 2023;
- 3) Staff further recommends the Board direct staff to take all steps necessary to cause the forfeiture of New Chicago Highlands, Inc.'s surety bond held by Atlantic Specialty Insurance Company in the amount of \$20,000.00 to complete reclamation required by Public Resources Code 2773.1(b)(2).

4/5 vote required:
No

Distribution Instructions:

Planning, County Counsel, Auditor-Controller

ATTACHMENTS

- [SR-SEATON.Forfeit.docx](#)
- [FAM-MOAR hearing letter.07-23-24.pdf](#)
- [2023 FACE deficiency letter.07-23-24.pdf](#)
- [03-0026_2024-06-04_Notice-of-Cancellation-or-Nonrenewal.05-17-24.pdf](#)
- [Notice of Withdrawal of Concillation.01-05-24.pdf](#)
- [03-0026_2024-02-21_Notice-of-Cancellation-or-Nonrenewal.12-05-23.pdf](#)
- [91-03-0026 Surety Bond.11-03-21.\\$20,000.pdf](#)
- [County of Amador Mail - NOTICE OF HEARING.pdf](#)
- [County of Amador Mail - Seaton Mine \(CA Mine ID# 91-03-0026\) Financial Assurance Mechanism.pdf](#)

**STAFF REPORT TO: AMADOR COUNTY BOARD OF SUPERVISORS
FOR MEETING OF: SEPTEMBER 10, 2024**

Consideration and possible determination of the mine status and financial capability of the operator to complete reclamation obligations for the Seaton mine, pursuant to Public Resources Code §2773.1(b); CA Mine ID #91-03-0026; APN 008-140-016.

Mine Operator: Michael Gornet
Property Owner: New Chicago Highlands, Inc.
Supervisorial District: 5
Location: 16270 California Mine Road, Drytown

Amador County, as lead agency, has primary responsibility for enforcing the Surface Mining and Reclamation Act (SMARA). SMARA regulations require that mine operators maintain a Financial Assurance Mechanism (FAM) in effect for the duration of a mining operation until reclamation is completed (PRC 2773.1(a)(2)). Amador County Code Section 7.36.120 requires that financial assurances shall stay in force until an amended financial assurance amount is approved by the county or the reclamation has been completed.

On November 3, 2021, the operator of the Seaton mine provided Amador County and the CA Division of Mine Reclamation (DMR), with Atlantic Specialty Insurance Company surety bond number 810-01-01-41 in the amount of \$20,000.00 as financial assurance for the reclamation of the mine site. The bond amount was based on the approved 2021 Financial Assurance Cost Estimate for reclamation of the site.

On May 17, 2024, the bonding company issued a “Notice of Cancellation or Nonrenewal” for the bond effective 12:01 a.m. on October 1, 2024. Numerous requests for a replacement FAM have been issued by County staff and DMR. To date, no replacement documents have been submitted. Should the current surety bond be allowed to expire without an approved replacement mechanism in place, the County could be financially liable for reclamation of the site. DMR and County staff conducted a site visit on July 12, 2024, to verify that the mine site has reclamation requirements which need to be financially covered by a surety bond.

The Public Resources Code (PRC 2207(b)(1)) also requires mine operators to submit Mining Operation Annual Reports and associated fees to DMR by July 1 for the preceding year. The reports are required regardless of operation status or production volumes in order for the County and DMR to track production, reserves, and rates of depletion of mineral resources. Annual reports and fees for the Seaton mine have not been submitted to DMR for the 2021, 2022, and 2023 operating years. While the reports and fees are due to the State, the County’s role as lead agency requires that we make an investment of staff resources to encourage compliance with SMARA reporting requirements before

Per Public Resources Code 2773.1(b),

(1) If the lead agency... has evidence that an operator may be financially incapable of completing reclamation in accordance with its approved reclamation plan or that the operator may have abandoned the surface mining operation without completing reclamation, the lead agency... shall conduct a public hearing to determine whether the operator is financially capable of completing

reclamation in accordance with the approved reclamation plan or has abandoned the surface mining operation. The hearing shall be noticed to the operator and the supervisor at least 30 days prior to the hearing.

(2) If the lead agency... following the public hearing conducted pursuant to paragraph (1), determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan or has abandoned its surface mining operation without completing reclamation, either the lead agency or the supervisor shall do all of the following:

(A) Notify the operator by personal service or certified mail that the lead agency or the supervisor intends to take appropriate action to forfeit the financial assurances and specify the reasons for so doing.

(B) Proceed to take appropriate action to require forfeiture of the financial assurance mechanisms.

(C) Use the proceeds from the forfeited financial assurance mechanisms to conduct and complete reclamation in accordance with the approved reclamation plan.

An approaching bond cancellation, failure to provide a sufficient replacement instrument in a timely manner, and failure to pay three years of requisite operating fees may be considered evidence of financial incapability. The County has no other means of recourse to correct the problem as an actual violation of SMARA will not occur until the bond expires. Unfortunately, expiration of the bond subjects the County to financial liability for reclamation.

Staff Recommendation: After taking public comment, staff recommends the Board find Michael Gornet, operator of Seaton Mine (Mine ID #91-03-0026), financially incapable of completing the required reclamation in accordance with the approved Reclamation Plan, due:

- 1) Failure to timely replace an expiring financial assurance as required by Public Resources Code 2773.1(a)(2) and County Code Section 7.36.120);
- 2) Failure to timely remit statutorily required annual reports and fees to the CA Division of Mine Reclamation for 2021, 2022, and 2023;
- 3) Staff further recommends the Board direct staff to take all steps necessary to cause the forfeiture of New Chicago Highlands, Inc.'s surety bond held by Atlantic Specialty Insurance Company in the amount of \$20,000.00 to complete reclamation required by Public Resources Code 2773.1(b)(2).



AMADOR COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

PHONE: (209) 223-6380

FAX: (209) 257-5000

WEBSITE: www.amadorgov.org

EMAIL: planning@amadorgov.org

COUNTY ADMINISTRATION CENTER • 810 COURT STREET • JACKSON, CA 95642-2132

July 23, 2024

VIA EMAIL, FIRST CLASS, AND CERTIFIED MAIL

Michael Gornet, Operator, Seaton Mine (Mine ID# 91-03-0026)
PO Box 251
Amador City, CA 95601 mgornet@gmail.com

NOTICE OF HEARING TO DETERMINE THE FINANCIAL CAPABILITY OF SEATON MINE TO COMPLETE RECLAMATION

Dear Mr. Gornet:

Pursuant to Public Resources Code Section 2774.1(g), Amador County, as lead agency, has primary responsibility for enforcing the Surface Mining and Reclamation Act (SMARA). SMARA regulations require that mine operators maintain a Financial Assurance Mechanism (FAM) in effect for the duration of a mining operation until reclamation is completed (PRC 2773.1(a)(2)).

As the operator of the Seaton mine, on November 3, 2021, you provided Amador County and the CA Division of Mine Reclamation (DMR), with Atlantic Specialty Insurance Company surety bond number 810-01-01-41 in the amount of \$20,000.00 as financial assurance for the reclamation of the mine site. On May 17, 2024, the bonding company issued a Notice of Cancellation or Nonrenewal for the bond effective October 1, 2024. You have not complied with County and DMR requests to timely provide replacement documents.

Per PRC 2207(b)(1), mine operators are required to submit Mining Operation Annual Reports and associated fees to DMR by July 1 for the preceding year. The reports are required regardless of production status in order for the County and DMR to track production, reserves, and rates of depletion of mineral resources. Annual reports and fees for the Seaton mine have not been submitted for the 2021, 2022, and 2023 operating years.

Per PRC 2773.1(b)1, if the lead agency has evidence that an operator may be financially incapable of completing reclamation in accordance with its approved reclamation plan, the lead agency shall conduct a public hearing to determine whether the operator is financially capable of completing the reclamation. An approaching bond cancellation, failure to provide a sufficient replacement instrument in a timely manner, and failure to pay requisite operating fees may be considered evidence of financial incapability.

NOTICE IS HEREBY GIVEN that the Amador County Board of Supervisors intends to hold a public hearing to determine whether the operator is financially capable of completing the reclamation *unless a sufficient financial assurance mechanism is approved by the County and DMR prior to the hearing*. The hearing will be **Tuesday, August 27, 2024, at 10:30 a.m. in the Board Chambers of the County Administration Center, 810 Court Street, Jackson**. If the Board determines that the Notice of Cancellation or Nonrenewal of Atlantic Specialty Insurance Company bond number 810-01-01-41, the absence of a suitable replacement financial assurance mechanism, and failure to submit annual operating fees are sufficient evidence that the operator is financially incapable of completing reclamation, the County will take action to require forfeiture of the current bond before it expires. Proceeds from forfeiture would be used for reclamation and closure of the Seaton mine site. If you have questions, please contact me as soon as possible.

Sincerely,

Charles A. Beatty, AICP
Planning Director

cc: CA Division of Mine Reclamation
Greg Gillott, County Counsel



AMADOR COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

PHONE: (209) 223-6380

FAX: (209) 257-5000

WEBSITE: www.amadorgov.org

EMAIL: planning@amadorgov.org

COUNTY ADMINISTRATION CENTER • 810 COURT STREET • JACKSON, CA 95642-2132

July 23, 2024

VIA EMAIL, FIRST CLASS, AND CERTIFIED MAIL

Michael Gornet, Operator
Seaton Mine (Mine ID# 91-03-0026)
PO Box 251
Amador City, CA 95601
mgornet@gmail.com

RE: 2023 FINANCIAL ASSURANCE COST ESTIMATE DEFICIENCY

Dear Mr. Gornet:

Pursuant to Public Resources Code Section 2774.1(g), Amador County, as lead agency, has primary responsibility for enforcing the Surface Mining and Reclamation Act (SMARA). SMARA regulations require that mine operators submit an annual Financial Assurance Cost Estimate (FACE) in compliance with Public Resources Code Section 2773.1(a) and PRC Section 2773.4(d)(1)(A). Amador County finds that the most recent FACE for Seaton Mine is inadequate for the following reasons:

- 1) The title page has a 7/14/2021 date, and is missing the dates and amounts of the most recently approved FACE and Financial Assurance Mechanism (FAM).
- 2) Section I, Supporting Documents, omits reference to the Mitigated Negative Declaration, Use Permit (98;1-6), and Conditions of Approval that govern the reclamation process.
- 3) Section IV, Justification of Cost Decrease, requests FACE a reduction from \$20,000.00 to \$10,902.07 and does not take into consideration required reclamation of additional access roads, removal of modular offices, processing equipment, and a shop building, which were added since the 2021 FACE of \$20,000.00, and is inconsistent reclamation needs identified in the most recent Surface Mining Inspection Reports.
- 4) Section V, Plant Structures and Equipment Removal, indicate that the mobile offices and shop building will remain to facilitate reclamation (which is allowed), but the structures will ultimately have to be removed for reclamation to be deemed complete and those costs are not included in the FACE.

Per Public Resources Code Section 2773.4(d)(6), and County Code Section 7.36.190, you have 30 days from receipt of this notice to provide a revised FACE incorporating the necessary changes or appeal denial of the 2023 FACE to the Amador County Board of Supervisors. After that date, a Notice of Violation may be issued which may impact mining operations or the ability to secure permitting for future projects. In the meantime, if you have questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Charles A. Beatty".

Charles A. Beatty, AICP
Planning Director

cc: CA Department of Conservation, Division of Mine Reclamation

NOTICE OF CANCELLATION OR NONRENEWAL

RECEIVED

JUN 4 2024

DEPARTMENT OF CONSERVATION
DIVISION OF MINE RECLAMATION

NAME AND ADDRESS OF SURETY
Atlantic Specialty Insurance Company
150 Royall Street, Suite 100
Canton, MA 02021

BOND TYPE:
Continuous

BOND NO.: 810-01-01-41
DATE OF MAILING: 05/18/2024

NAME AND ADDRESS OF OBLIGEE
CALIFORNIA DEPARTMENT OF CONSERVATION
DIVISION OF MINE RECLAMATION
715 P ST STOP 1905
SACRAMENTO, CA 95814-6408

EFFECTIVE DATE OF NOTICE: 10/01/2024

NAME AND ADDRESS OF PRINCIPAL
NEW CHICAGO HIGHLANDS, INC.
10645 FLEECHART STREET
AMADOR CITY, CA 95601

12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE OBLIGEE

NAME AND ADDRESS OF PRODUCER:
THE BOND EXCHANGE INC A WHOLESALE
INSURANCE AGENCY
6701 CARMEL RD STE 250
CHARLOTTE, NC 28226

(800) 438-1162

	Applicable Item Marked "X"
Cancellation	<input checked="" type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond, that such bond will cease at and from the hour and date listed as Effective Date of Notice above. See the "Important Notices" section for other information that may apply.
	<input type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond, that such bond will cease at and from the hour and date listed as Effective Date of Notice above for the reason(s) stated in the "Important Notices" section.. See the "Important Notices" section for other information that may apply.
Premium Adjustment	<input type="checkbox"/> Enclosed is \$ _____, being the amount of return premium at pro rata rate for the unexpired term of this bond. <input type="checkbox"/> A bill for the premium earned to the time of cancellation will be forwarded in due course. <input type="checkbox"/> The excess of paid premium, if any, above the pro rata premium for the expired time, (if not tendered) will be refunded upon demand. <input type="checkbox"/> Other: _____
Nonrenewal	<input type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond that the above mentioned bond will expire at and from the hour and date listed as Effective Date of Notice above and the bond will NOT be renewed. See the "Important Notices" section for other information that may apply.
	<input type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond that the above mentioned bond will expire at and from the hour and date listed as Effective Date of Notice above and the bond will NOT be renewed for the reason(s) stated in the "Important Notices" section. See the "Important Notices" section for other information that may apply.
Important Notices	<input checked="" type="checkbox"/> Reason(s) for cancellation or nonrenewal (reason(s) stated only if above marked item indicates such) AGENT NO LONGER REPRESENTING COMPANY

LEGAL NAME OF OBLIGEE:
CALIFORNIA DEPARTMENT OF CONSERVATION
DIVISION OF MINE RECLAMATION

Mary A. Jick Bisher

AUTHORIZED REPRESENTATIVE

3 0-00-0000 05/17/2024 CDP CPW

CALIFORNIA DEPARTMENT OF CONSERVATION
DIVISION OF MINE RECLAMATION
715 P ST STOP 1905
SACRAMENTO, CA 95814-6408

WITHDRAWAL OF NOTICE OF CANCELLATION

NAME AND ADDRESS OF SURETY

Atlantic Specialty Insurance Company
150 Royall Street, Suite 100
Canton, MA 02021

BOND TYPE:

Continuous

BOND NO.: 810-01-01-41**DATE OF MAILING:** 01/05/2024**NAME AND ADDRESS OF PRINCIPAL**

NEW CHICAGO HIGHLANDS, INC.
10645 FLEEHART STREET
AMADOR CITY, CA 95601

NAME AND ADDRESS OF OBLIGEE

See CNR 99 09 SCH 01 13

NAME AND ADDRESS OF AGENT/BROKER:

THE BOND EXCHANGE INC A WHOLESALE
INSURANCE AGENCY
6701 CARMEL RD STE 250
CHARLOTTE, NC 28226

(800) 438-1162

The bond number shown above remains in force and in effect. The Notice of Cancellation that was to take effect on 10/01/2023 at 12:01 a.m. standard time at the Principal's mailing address is withdrawn.

3 0-00-0000 01/05/2024 CDP CPW



AUTHORIZED REPRESENTATIVE

Obligee Schedule

The following were notified:

Department of Conservation
715 P ST STOP 1900
SACRAMENTO, CA 95814-6408

3 0-00-0000 01/05/2024 CDP CPW

Obligee Copy

WITHDRAWAL OF NOTICE OF CANCELLATION

NAME AND ADDRESS OF SURETY

Atlantic Specialty Insurance Company
150 Royall Street, Suite 100
Canton, MA 02021

BOND TYPE:

Continuous

BOND NO.: 810-01-01-41-0002**DATE OF MAILING:** 01/05/2024**NAME AND ADDRESS OF OBLIGEE**

Department of Conservation
715 P ST STOP 1900
SACRAMENTO, CA 95814-6408

NAME AND ADDRESS OF PRINCIPAL

NEW CHICAGO HIGHLANDS, INC.
10645 FLEECHART STREET
AMADOR CITY, CA 95601

NAME AND ADDRESS OF AGENT/BROKER:

THE BOND EXCHANGE INC A WHOLESALE
INSURANCE AGENCY
6701 CARMEL RD STE 250
CHARLOTTE, NC 28226

(800) 438-1162

The bond number shown above remains in force and in effect. The Notice of Cancellation that was to take effect on 10/01/2023 at 12:01 a.m. standard time at the Principal's mailing address is withdrawn.

3 0-00-0000 01/05/2024 CDP CPW



AUTHORIZED REPRESENTATIVE

Department of Conservation
715 P ST STOP 1900
SACRAMENTO, CA 95814-6408

810-01-01-41 -000:

**Department of Conservation
715 P ST STOP 1900
SACRAMENTO, CA 95814-6408**

**Intact Insurance
150 Royall Street, Suite 100
Canton, MA 02021
01/05/2024**

**POLICY NO.: 810-01-01-41 -0002
DATE: 01/05/2024**

810-01-01-41 -0002

**Department of Conservation
715 P ST STOP 1900
SACRAMENTO, CA 95814-6408**

PHS CDP 01/05/2024

Atlantic Specialty Insurance Company
150 Royall Street, Suite 100
Canton, MA 02021

NOTICE OF CANCELLATION OR NONRENEWAL

NAME AND ADDRESS OF SURETY
 Atlantic Specialty Insurance Company
 150 Royall Street, Suite 100
 Canton, MA 02021

BOND TYPE:
 Continuous

Date Received

2/21/2024

NAME AND ADDRESS OF OBLIGEE
 Department of Conservation
 715 P ST STOP 1900
 SACRAMENTO, CA 95814-6408

BOND NO.: 810-01-01-41
DATE OF MAILING: 12/05/2023

Department of Conservation

Division of Mine Reclamation

NAME AND ADDRESS OF PRINCIPAL
 NEW CHICAGO HIGHLANDS, INC.
 10645 FLEEHART STREET
 AMADOR CITY, CA 95601

EFFECTIVE DATE OF NOTICE: 04/09/2024

12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE OBLIGEE

NAME AND ADDRESS OF PRODUCER:
 THE BOND EXCHANGE INC A WHOLESAL
 INSURANCE AGENCY
 11440 CARMEL COMMONS BLVD #207
 CHARLOTTE, NC 28226

JAN 26 2024

DEPARTMENT OF CONSERVATION
 DIVISION OF MINE RECLAMATION

(800) 438-1162

	Applicable Item Marked "X"
Cancellation	<input checked="" type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond, that such bond will cease at and from the hour and date listed as Effective Date of Notice above. See the "Important Notices" section for other information that may apply.
	<input type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond, that such bond will cease at and from the hour and date listed as Effective Date of Notice above for the reason(s) stated in the "Important Notices" section.. See the "Important Notices" section for other information that may apply.
Premium Adjustment	<input type="checkbox"/> Enclosed is \$ _____, being the amount of return premium at pro rata rate for the unexpired term of this bond. <input type="checkbox"/> A bill for the premium earned to the time of cancellation will be forwarded in due course. <input type="checkbox"/> The excess of paid premium, if any, above the pro rata premium for the expired time, (if not tendered) will be refunded upon demand. <input type="checkbox"/> Other: _____
Nonrenewal	<input type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond that the above mentioned bond will expire at and from the hour and date listed as Effective Date of Notice above and the bond will NOT be renewed. See the "Important Notices" section for other information that may apply.
	<input type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond that the above mentioned bond will expire at and from the hour and date listed as Effective Date of Notice above and the bond will NOT be renewed for the reason(s) stated in the "Important Notices" section. See the "Important Notices" section for other information that may apply.
Important Notices	<input checked="" type="checkbox"/> Reason(s) for cancellation or nonrenewal (reason(s) stated only if above marked item indicates such) AGENT'S REQUEST

LEGAL NAME OF OBLIGEE:
 Department of Conservation

Mary A. Fish Baker

 AUTHORIZED REPRESENTATIVE

3 0-00-0000 12/05/2023 CDP CPW

Department of Conservation
715 P ST STOP 1900
SACRAMENTO, CA 95814-6408

NOTICE OF CANCELLATION OR NONRENEWAL

NAME AND ADDRESS OF SURETY

Atlantic Specialty Insurance Company
 150 Royall Street, Suite 100
 Canton, MA 02021

BOND TYPE:

Continuous

NAME AND ADDRESS OF OBLIGEE

Department of Conservation
 715 P ST STOP 1900
 SACRAMENTO, CA 95814-6408

BOND NO.: 810-01-01-41

DATE OF MAILING: 12/06/2023

NAME AND ADDRESS OF PRINCIPAL

NEW CHICAGO HIGHLANDS, INC.
 10645 FLEEHART STREET
 AMADOR CITY, CA 95601

EFFECTIVE DATE OF NOTICE: 04/09/2024

12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE OBLIGEE

NAME AND ADDRESS OF PRODUCER:

THE BOND EXCHANGE INC A WHOLESALE
 INSURANCE AGENCY
 11440 CARMEL COMMONS BLVD #207
 CHARLOTTE, NC 28226

(800)438-1162

	Applicable Item Marked "X"
Cancellation	<input checked="" type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond, that such bond will cease at and from the hour and date listed as Effective Date of Notice above. See the "Important Notices" section for other information that may apply.
	<input type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond, that such bond will cease at and from the hour and date listed as Effective Date of Notice above for the reason(s) stated in the "Important Notices" section.. See the "Important Notices" section for other information that may apply.
Premium Adjustment	<input type="checkbox"/> Enclosed is \$ _____, being the amount of return premium at pro rata rate for the unexpired term of this bond. <input type="checkbox"/> A bill for the premium earned to the time of cancellation will be forwarded in due course. <input type="checkbox"/> The excess of paid premium, if any, above the pro rata premium for the expired time, (if not tendered) will be refunded upon demand. <input type="checkbox"/> Other: _____
Nonrenewal	<input type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond that the above mentioned bond will expire at and from the hour and date listed as Effective Date of Notice above and the bond will NOT be renewed. See the "Important Notices" section for other information that may apply.
	<input type="checkbox"/> You are hereby notified in accordance with the terms and conditions of the above mentioned bond that the above mentioned bond will expire at and from the hour and date listed as Effective Date of Notice above and the bond will NOT be renewed for the reason(s) stated in the "Important Notices" section. See the "Important Notices" section for other information that may apply.
Important Notices	<input checked="" type="checkbox"/> Reason(s) for cancellation or nonrenewal (reason(s) stated only if above marked item indicates such) AGENT'S REQUEST

LEGAL NAME OF OBLIGEE:

Department of Conservation

Mary A. Jial Becker

Department of Conservation
715 P ST STOP 1900
SACRAMENTO, CA 95814-6408

California Mine ID No. 91-03-0026

Reclamation Bond Corporation

Bond No. 810010141

Page 1 of 5

Permit No. UP 98;1-6

Reclamation Plan Name/No. RP 98-1

**DEPARTMENT OF CONSERVATION
DIVISION OF MINE RECLAMATION
and**

County of Amador

(Name of LEAD AGENCY)

SURETY BOND (CORPORATION)

(Public Resources Code §2773.1)

Bond No. 810010141

KNOW ALL PERSONS BY THESE PRESENTS, THAT THE UNDERSIGNED

New Chicago Highlands, Inc.

(Name of Corporation - Permittee and Principal, whose address for service is:)

14542 E School St Amador City, CA 95601

(Street Address) (City) (State) (Zip)

a corporation organized and existing under the laws of the State of California,
as Principal, and Atlantic Specialty Insurance Company

(Name of Surety Company, whose address for service is:)

1 State Street Plaza Floor 31, New York, NY 10004

(Street Address) (City) (State) (Zip)

organized and existing under the laws of the State of New York
and licensed to do business in the State of California, as Surety, are held and firmly bound unto
County of Amador and the Department of Conservation, Division of Mine

(Name of LEAD AGENCY)

Reclamation in the penal sum of Twenty Thousand DOLLARS
(\$ 20,000.00) for the payment of which sum we hereby jointly and

severally bind ourselves, our successors, and assigns. In the event of forfeiture by the
Principal, the Obligees agree that, in the aggregate, they shall not demand in excess of the
penal sum of this bond.

THE CONDITION OF THE ABOVE OBLIGATION is such that:

Whereas, the above-named Principal has an approved permit, number UP 98;1-6
and/or claims a vested right, including an approved reclamation plan, number RP 98-1,
to reclaim mined lands, as defined pursuant to the Surface Mining and Reclamation Act, Public
Resources Code, Division 2, Chapter 9, §2710 et seq. (the Act), and its attendant regulations
(California Code of Regulations, Title 14, §3500 et seq.); and,

Whereas, a demand has been made upon Principal for security under Public Resources
Code §2773.1, to insure compliance with the Act; and this bond is executed and tendered in
accordance therewith;

California Mine ID No. 91-03-0026
Bond No. 810010141
Permit No. UP 98;1-6
Reclamation Plan Name/No. RP 98-1

Reclamation Bond Corporation
Page 2 of 5

Whereas, the Principal has chosen to file this performance bond as a guarantee that the reclamation of the mined lands disturbed during this surface mining operation will be completed as required by the Act and regulations, and as specified in the reclamation plan and any applicable permit as approved by County of Amador;
(Name of LEAD AGENCY)

Whereas, the Surety and their successors and assigns agree to guarantee the obligation and to indemnify County of Amador and the Department of
(Name of LEAD AGENCY)
Conservation, Division of Mine Reclamation from the failure of the Principal to complete the reclamation of the mined lands disturbed during the surface mining operation in conformity with the Act and regulations, and as specified in the reclamation plan and any applicable permit as approved by County of Amador, subject to the penal sum of this bond;
(Name of LEAD AGENCY)

Whereas, the surety, as part of the obligation secured by this bond, and in addition to the penal sum specified in this bond, agrees there shall be included costs and reasonable expenses and fees, including reasonable attorney fees, incurred by County of Amador,
(Name of LEAD AGENCY)
or in the alternative, the Department of Conservation, Division of Mine Reclamation, in successfully enforcing such obligation against the surety, all to be taxed as costs and included in any judgment rendered;

Whereas, obligations guaranteed by this performance bond shall be in effect for the following described lands which are subject to the approved reclamation plan or increment upon which initial or succeeding operations by the principal will be conducted:
CA Mine ID# 91-03-0026 (Seaton mine); APN 008-140-016; 16270 California Mine Road, Drytown;
(Insert legal description or Assessor's Parcel No.)

Now, if the Principal completes all reclamation requirements set forth in the Act, the regulations, and all conditions of the permit related to reclamation, including the reclamation plan, then this obligation shall be void; otherwise, it shall remain in full force and effect:

- (a) beginning on the date of the approval of the reclamation plan and any applicable permit, or prior to commencement of disturbance of mined lands, and extending until all reclamation pursuant to the Act, the regulations, and all conditions of the permit related to reclamation, including the reclamation plan, has been completed to the satisfaction of County of Amador and the Department of Conservation,
(Name of LEAD AGENCY)
Division of Mine Reclamation; and,
- (b) until the bond is released or replaced in accordance with the Act and its attendant regulations with the written concurrence of County of Amador
(Name of LEAD AGENCY)
and the Department of Conservation, Division of Mine Reclamation.

The failure of the Principal to fulfill mined land reclamation obligations specified by the Act, the regulations, and all conditions of the permit related to reclamation, including the reclamation plan, shall result in a forfeiture of this performance bond according to the procedures described in the Act.

California Mine ID No. 91-03-0026

Reclamation Bond Corporation

Bond No. 810010141

Page 3 of 5

Permit No. UP 98;1-6

Reclamation Plan Name/No. RP 98-1

The amount of the Surety's liability may only be reduced by the
County of Amador and the Department of Conservation, Division of
(Name of LEAD AGENCY)

Mine Reclamation pursuant to the Act for lands covered by this bond which have been disturbed by the Principal. If the penal sum of this bond requires adjustment, it shall be by use of an Increase/Decrease Rider.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the reclamation plan and/or any applicable permit, or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the reclamation plan and/or any applicable permit or to the work or to the specifications. Surety further stipulates and agrees that the provisions of Section 2845 of the Civil Code are not a condition precedent to Surety's obligations hereunder and are hereby waived by surety.

The Surety will give notice of cancellation of the bond at least 120 days prior to such cancellation and prompt notice to the Principal,

County of Amador, and the Department of Conservation, Division of Mine
(Name of LEAD AGENCY)

Reclamation of any of the following: 1) any notice received or action filed alleging the insolvency or bankruptcy of the Surety, 2) any notice received alleging any violations or regulatory requirements which could result in suspension or revocation of the Surety's license to do business, 3) the Principal has failed to renew or pay associated premiums causing the bond to lapse.

In the event the Surety becomes unable to fulfill its obligations under the bond for any reason, notice shall be given immediately to the Principal, County of Amador,
(Name of LEAD AGENCY)

and the Department of Conservation, Division of Mine Reclamation.

Upon the incapacity of the Surety by reason of bankruptcy, insolvency, or suspension or revocation of its license, the Principal shall be deemed to be without bond coverage in violation of the Act, and subject to enforcement actions described in the Act.

IN WITNESS THEREOF, the Principal and Surety have hereunto set their signatures and seals as of the dates set forth below.

Date: 11-03-2021

New Chicago Highlands, Inc.

(Corporation - Permittee [Principal])

By:

(Signature of Corporate Officer)

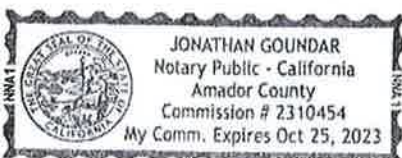
(Corporate Seal)

Michael Gorwet

Typed or Printed Name

Title:

President



California Mine ID No. 91-03-0026
Bond No. 810010141
Permit No. UP 98;1-6
Reclamation Plan Name/No. RP 98-1

Reclamation Bond Corporation
Page 4 of 5

I declare, under penalty of perjury, under the laws of the State of California, that I have executed the foregoing bond under an unrevoked Power of Attorney.

Atlantic Specialty Insurance Company
(Surety Company)



By: *David Gonsalves*
(Signature of Attorney-in-Fact for Surety)

David Gonsalves

Typed or Printed Name

Title: Attorney-in-Fact

Executed in Charlotte, NC on 10/07/2021 under
(City and State) (Date)
the laws of the State of California.

Where one signs by virtue of a Power of Attorney for a Surety Company, such fully executed Power of Attorney must be filed with this bond.

Please identify the agent acting on behalf of the Surety who will accept notices, papers, and other documents, if applicable.

Agent: Jackson Cromer Title: President
Address: PO Box 471023 Charlotte, NC 28247
Phone Number: 800-438-1162 Email Address: service@bondexchange.com

California Mine ID No. 91-03-0026

Bond No. 810010141

Permit No. UP 98;1-6

Reclamation Plan Name/No. RP 98-1

Reclamation Bond Corporation

Page 5 of 5

COMPLETED NOTARIZED ACKNOWLEDGMENT OF CORPORATION – PERMITTEE [PRINCIPAL]

[Attach loose notarial certificate]

COMPLETED NOTARIZED ACKNOWLEDGMENT OF SURETY

[Attach loose notarial certificate]

ACKNOWLEDGMENT OF SURETY

State of North Carolina

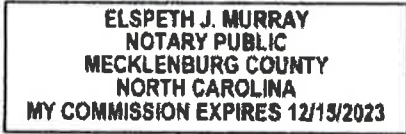
County of Mecklenburg

On 7th before me, Elspeth J. Murray, Notary Public

personally appeared David Gonsalves

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PURJURY under the laws of the state of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

Elspeth J. Murray
Signature of Notary

Elspeth J. Murray

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER
TITLE(s) _____
- PARTNER(S)
- MEMBER of LLC
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

Surety Bond
Title or Type of Document

5
Number of Pages

10/07/2021
Date of Document

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

Signer(s) other than named above



Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: David Gonsalves, Sheralyn Barbara Gibson, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: unlimited and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

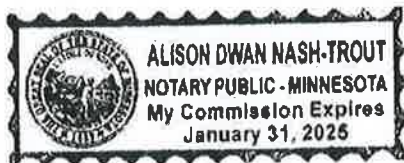
IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this twenty-seventh day of April, 2020.



By Paul J. Brehm
Paul J. Brehm, Senior Vice President

STATE OF MINNESOTA
HENNEPIN COUNTY

On this twenty-seventh day of April, 2020, before me personally came Paul J. Brehm, Senior Vice President of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, that he is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.



Alison Nash-Trout
Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated 7th day of October, 2021.



This Power of Attorney expires
January 31, 2025

Kara Barrow
Kara Barrow, Secretary

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of AMADOR)

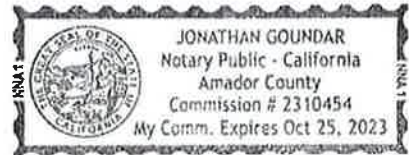
On NOVEMBER 3RD, 2021 before me, JONATHAN GOUDNAR, NOTARY PUBLIC
(insert name and title of the officer)

personally appeared MICHAEL GORNET -----,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)





Chuck Beatty <cbeatty@amadorgov.org>

NOTICE OF HEARING TO DETERMINE THE FINANCIAL CAPABILITY OF SEATON MINE TO COMPLETE RECLAMATION

5 messages

Chuck Beatty <CBeatty@amadorgov.org>

Tue, Jul 23, 2024 at 3:25 PM

To: Michael Gornet <mgornet@gmail.com>

Cc: "DMR-Submittals@DOC" <DMR-Submittals@conservation.ca.gov>, "Gomes, Amy@DOC"

<Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <shahnewaz.mohammad@conservation.ca.gov>,

Gregory Gillott <ggillott@amadorgov.org>

VIA EMAIL, FIRST CLASS, AND CERTIFIED MAIL

July 23, 2024

Michael Gornet, Operator, Seaton Mine (Mine ID# 91-03-0026)

PO Box 251

Amador City, CA 95601 mgornet@gmail.com

NOTICE OF HEARING TO DETERMINE THE FINANCIAL CAPABILITY OF SEATON MINE TO COMPLETE RECLAMATION

Dear Mr. Gornet:

Pursuant to Public Resources Code Section 2774.1(g), Amador County, as lead agency, has primary responsibility for enforcing the Surface Mining and Reclamation Act (SMARA). SMARA regulations require that mine operators maintain a Financial Assurance Mechanism (FAM) in effect for the duration of a mining operation until reclamation is completed (PRC 2773.1(a)(2)).

As the operator of the Seaton mine, on November 3, 2021, you provided Amador County and the CA Division of Mine Reclamation (DMR), with Atlantic Specialty Insurance Company surety bond number 810-01-01-41 in the amount of \$20,000.00 as financial assurance for the reclamation of the mine site. On May 17, 2024, the bonding company issued a Notice of Cancellation or Nonrenewal for the bond effective October 1, 2024. You have not complied with County and DMR requests to timely provide replacement documents.

Per PRC 2207(b)(1), mine operators are required to submit Mining Operation Annual Reports and associated fees to DMR by July 1 for the preceding year. The reports are required regardless of production status in order for the County and DMR to track production, reserves, and rates of depletion of mineral resources. Annual reports and fees for the Seaton mine have not been submitted for the 2021, 2022, and 2023 operating years.

Per PRC 2773.1(b)1, if the lead agency has evidence that an operator may be financially incapable of completing reclamation in accordance with its approved reclamation plan, the lead agency shall conduct a public hearing to determine whether the operator is financially capable of completing the reclamation. An approaching bond cancellation, failure to provide a sufficient replacement instrument in a timely manner, and failure to pay requisite operating fees may be considered evidence of financial incapability.

NOTICE IS HEREBY GIVEN that the Amador County Board of Supervisors intends to hold a public hearing to determine whether the operator is financially capable of completing the reclamation *unless a sufficient financial assurance mechanism is approved by the County and DMR prior to the hearing*. The hearing will be **Tuesday, August 27, 2024, at 10:30 a.m. in the Board Chambers of the County Administration Center, 810 Court Street, Jackson.** If the Board determines that the Notice of Cancellation or Nonrenewal of Atlantic Specialty Insurance Company bond number 810-01-01-41, the absence of a suitable replacement financial assurance mechanism, and failure to submit annual operating fees are sufficient evidence that the operator is financially incapable of completing reclamation, the County will take action to require forfeiture of the current bond before it expires.

Proceeds from forfeiture would be used for reclamation and closure of the Seaton mine site. If you have questions, please contact me as soon as possible.

Sincerely,

Charles A. Beatty, AICP
Planning Director

cc: CA Division of Mine Reclamation
Greg Gillott, County Counsel

--

Chuck Beatty, AICP
Planning Director
Amador County
209-223-6380
www.amadorgov.org

 **FAM-MOAR hearing letter.07-23-24.pdf**
90K

DMR-Submittals@DOC <DMR-Submittals@conservation.ca.gov> Tue, Jul 23, 2024 at 3:45 PM
To: Chuck Beatty <CBeatty@amadorgov.org>, Michael Gornet <mgornet@gmail.com>
Cc: "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, Gregory Gillott <ggillott@amadorgov.org>

Hello,

This is to confirm that the Division of Mine Reclamation has received your email. Thank you for your recent submittal.

Sincerely,



DMR-Submittals

Division of Mine Reclamation

California Department of Conservation

715 P Street, MS 1905, Sacramento, CA 95814

T: (916) 323-9198

E: DMR-Submittals@conservation.ca.gov

[Quoted text hidden]

Michael Gornet <mgornet@gmail.com>
To: Chuck Beatty <CBeatty@amadorgov.org>

Tue, Jul 23, 2024 at 6:05 PM

Chuck, I have until October, 2 more months, shopping bond now, stand down.

Michael Gornet
Gornet Management, Inc.
New Chicago Highlands, Inc.
PO Box 251
Amador City, CA 95601
mgornet@gmail.com
209.660.9020

On Jul 23, 2024, at 3:26 PM, Chuck Beatty <CBeatty@amadorgov.org> wrote:

[Quoted text hidden]
<FAM-MOAR hearing letter.07-23-24.pdf>

Michael Gornet <mgornet@gmail.com>
To: Chuck Beatty <CBeatty@amadorgov.org>

Tue, Aug 13, 2024 at 3:19 PM

What is the Bond amount SMARA Requires after the inspection? Don't I have roughly \$6,000 places with the County now for reclamation?

Michael Gornet
Gornet Management, Inc.
New Chicago Highlands, Inc.
PO Box 251
Amador City, CA 95601
mgornet@gmail.com
209.660.9020

On Jul 23, 2024, at 3:26 PM, Chuck Beatty <CBeatty@amadorgov.org> wrote:

VIA EMAIL, FIRST CLASS, AND CERTIFIED MAIL

[Quoted text hidden]
[Quoted text hidden]
<FAM-MOAR hearing letter.07-23-24.pdf>

Chuck Beatty <CBeatty@amadorgov.org>
To: Michael Gornet <mgornet@gmail.com>
Cc: Krista Ruesel <kruesel@amadorgov.org>

Tue, Aug 13, 2024 at 3:26 PM

Hi, Michael. The bond amount will be the same as the current bond - \$20,000.00.

Thanks,
Chuck

[Quoted text hidden]



Chuck Beatty <cbeatty@amadorgov.org>

Seaton Mine (CA Mine ID# 91-03-0026) Financial Assurance Mechanism (FAM) Withdrawal of Notice of Cancellation

12 messages

Law, Rhonda@DOC <Rhonda.Law@conservation.ca.gov>

Mon, Jun 17, 2024 at 12:30 PM

To: "mgornet@gmail.com" <mgornet@gmail.com>

Cc: "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, Chuck Beatty <CBeatty@amadorgov.org>, "Stevenson, Ian@DOC" <Ian.Stevenson@conservation.ca.gov>, "Balestreri, April@DOC" <April.Balestreri@conservation.ca.gov>

Hello Mr. Gornet:

The Division of Mine Reclamation (DMR) received a Withdrawal of Notice of Cancellation for Bond number 810-01-0141, for the Seaton Mine, CA Mine ID# 91-03-0026. Does a replacement Bond exist, or have you secured another type of Financial Assurance Mechanism (FAM)?

Please submit a copy of the FAM to DMR-Submittals@conservation.ca.gov or feel free to mail a copy to the DMR. The DMR's mailing address is in my signature block.

I look forward to receiving a response, and feel free to contact me if I can be of further assistance.

Thank you,

Rhonda Law



Analyst | Reporting Unit

Division of Mine Reclamation

2023 Annual Reports are due July 1st

Save time and file online!

File Online and Pay Online To Meet The July 1 Deadline

Conservation

California Department of Conservation

NEW ADDRESS!

715 P Street, MS-1905, Sacramento, CA 95814

M: (916) 764-6404

E: Rhonda.Law@conservation.ca.gov

My office hours are: M-F 7:00 am – 4:30 pm

Explore Our Framework
NaturalWorkingLands.com



NOTE: This communication is intended to be in conformance with SMARA statute and regulations and State Mining and Geology Board Guidelines. If a conflict is found to exist, the requirements of SMARA supersede anything stated or implied by this communication.

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication

Chuck Beatty <CBeatty@amadorgov.org>

Thu, Jun 20, 2024 at 4:37 PM

To: "Law, Rhonda@DOC" <Rhonda.Law@conservation.ca.gov>

Cc: "mgornet@gmail.com" <mgornet@gmail.com>, "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, "Stevenson, Ian@DOC" <Ian.Stevenson@conservation.ca.gov>, "Balestreri, April@DOC" <April.Balestreri@conservation.ca.gov>

Hi, Rhonda. Can you send me the Withdraw notice, as well?

Thanks,
Chuck

[Quoted text hidden]

--

Chuck Beatty, AICP
Planning Director
Amador County
209-223-6380
www.amadorgov.org

Michael Gornet <mgornet@gmail.com>

Thu, Jun 20, 2024 at 4:47 PM

To: Chuck Beatty <CBeatty@amadorgov.org>

It was replaced.

Michael Gornet
Gornet Management, Inc.
New Chicago Highlands, Inc.
PO Box 251
Amador City, CA 95601
mgornet@gmail.com
209.660.9020

On Jun 20, 2024, at 4:38 PM, Chuck Beatty <CBeatty@amadorgov.org> wrote:

Hi, Rhonda. Can you send me the Withdraw notice, as well?
Thanks,
Chuck

On Mon, Jun 17, 2024 at 12:30 PM Law, Rhonda@DOC <Rhonda.Law@conservation.ca.gov> wrote:

Hello Mr. Gornet:

The Division of Mine Reclamation (DMR) received a Withdrawal of Notice of Cancellation for Bond number 810-01-0141, for the Seaton Mine, CA Mine ID# 91-03-0026. Does a replacement Bond exist, or have you secured another type of Financial Assurance Mechanism (FAM)?

Please submit a copy of the FAM to DMR-Submittals@conservation.ca.gov or feel free to mail a copy to the DMR. The DMR's mailing address is in my signature block.

I look forward to receiving a response, and feel free to contact me if I can be of further assistance.

Thank you,

Rhonda Law

<image001.png>

Analyst | Reporting Unit

Division of Mine Reclamation

2023 Annual Reports are due July 1st

Save time and file online!

File Online and Pay Online To Meet The July 1 Deadline

Conservation

California Department of Conservation

NEW ADDRESS!

715 P Street, MS-1905, Sacramento, CA 95814

M: (916) 764-6404

E: Rhonda.Law@conservation.ca.gov

My office hours are: M-F 7:00 am – 4:30 pm

<image002.png>

NOTE: This communication is intended to be in conformance with SMARA statute and regulations and State Mining and Geology Board Guidelines. If a conflict is found to exist, the requirements of SMARA supersede anything stated or implied by this communication.

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[Quoted text hidden]

Chuck Beatty <CBeatty@amadorgov.org>
To: Michael Gornet <mgornet@gmail.com>

Thu, Jun 20, 2024 at 4:57 PM

I need the original replacement bond so that the state will issue a release and replace letter.

[Quoted text hidden]

Law, Rhonda@DOC <Rhonda.Law@conservation.ca.gov>

Mon, Jun 24, 2024 at 8:55 AM

To: Chuck Beatty <CBeatty@amadorgov.org>

Cc: "mgornet@gmail.com" <mgornet@gmail.com>, "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, "Stevenson, Ian@DOC" <Ian.Stevenson@conservation.ca.gov>, "Balestreri, April@DOC" <April.Balestreri@conservation.ca.gov>

Hi Chuck:

Per your request, I have attached the Withdrawal of Notice of Cancellation.

[Quoted text hidden]

 **03-0026_2024-02-22_Withdrawal-of-Notice-of-Cancellation.pdf**
124K

Chuck Beatty <CBeatty@amadorgov.org>

Mon, Jun 24, 2024 at 9:06 AM

To: "Law, Rhonda@DOC" <Rhonda.Law@conservation.ca.gov>

Cc: "mgornet@gmail.com" <mgornet@gmail.com>, "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, "Stevenson, Ian@DOC" <Ian.Stevenson@conservation.ca.gov>, "Balestreri, April@DOC" <April.Balestreri@conservation.ca.gov>

Thank you, Rhonda.

The attachment is the withdrawal notice from January, 2024. Did you receive a more recent withdrawal notice?

Thanks,
Chuck

[Quoted text hidden]

Law, Rhonda@DOC <Rhonda.Law@conservation.ca.gov>

Mon, Jun 24, 2024 at 2:44 PM

To: Chuck Beatty <CBeatty@amadorgov.org>

Cc: "mgornet@gmail.com" <mgornet@gmail.com>, "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, "Stevenson, Ian@DOC"

<Ian.Stevenson@conservation.ca.gov>, "Balestreri, April@DOC" <April.Balestreri@conservation.ca.gov>

Hi Chuck:

Yes. That is the only Withdrawal Notice I have on file. The other notice is a Cancellation/Nonrenewal Notice.

[Quoted text hidden]

Chuck Beatty <CBeatty@amadorgov.org>

Mon, Jun 24, 2024 at 2:49 PM

To: "Law, Rhonda@DOC" <Rhonda.Law@conservation.ca.gov>

Cc: "mgornet@gmail.com" <mgornet@gmail.com>, "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, "Stevenson, Ian@DOC" <Ian.Stevenson@conservation.ca.gov>, "Balestreri, April@DOC" <April.Balestreri@conservation.ca.gov>

Thanks, Rhonda.

Michael, please forward the original replacement bond to the County planning department ASAP so we can prepare a release/replace request for DMR.

Thanks,
Chuck

[Quoted text hidden]

Law, Rhonda@DOC <Rhonda.Law@conservation.ca.gov>

Mon, Jun 24, 2024 at 3:00 PM

To: Chuck Beatty <CBeatty@amadorgov.org>

Cc: "mgornet@gmail.com" <mgornet@gmail.com>, "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, "Stevenson, Ian@DOC" <Ian.Stevenson@conservation.ca.gov>, "Balestreri, April@DOC" <April.Balestreri@conservation.ca.gov>

You're welcome.

[Quoted text hidden]

Michael Gornet <mgornet@gmail.com>

Mon, Jul 1, 2024 at 10:51 PM

To: Chuck Beatty <CBeatty@amadorgov.org>

Cc: "Law, Rhonda@DOC" <Rhonda.Law@conservation.ca.gov>, "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, "Stevenson, Ian@DOC" <Ian.Stevenson@conservation.ca.gov>, "Balestreri, April@DOC" <april.balestreri@conservation.ca.gov>

The withdrawal notice I have as well. Not effective until 10/1/2024. Replacement bond for my defunct mine will be in place in advance of that date as the County will not issue an Operating Permit. It sat dormant for years without a reclamation bond, now should be no different.

Michael Gornet
Gornet Management, Inc.
New Chicago Highlands, Inc.
PO Box 251
Amador City, CA 95601
mgornet@gmail.com
209.660.9020

On Jun 20, 2024, at 4:38 PM, Chuck Beatty <CBeatty@amadorgov.org> wrote:

Hi, Rhonda. Can you send me the Withdraw notice, as well?
Thanks,

Chuck

On Mon, Jun 17, 2024 at 12:30 PM Law, Rhonda@DOC <Rhonda.Law@conservation.ca.gov> wrote:

Hello Mr. Gornet:

The Division of Mine Reclamation (DMR) received a Withdrawal of Notice of Cancellation for Bond number 810-01-0141, for the Seaton Mine, CA Mine ID# 91-03-0026. Does a replacement Bond exist, or have you secured another type of Financial Assurance Mechanism (FAM)?

Please submit a copy of the FAM to DMR-Submittals@conservation.ca.gov or feel free to mail a copy to the DMR. The DMR's mailing address is in my signature block.

I look forward to receiving a response, and feel free to contact me if I can be of further assistance.

Thank you,

Rhonda Law

<image001.png>

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[Quoted text hidden]

Law, Rhonda@DOC <Rhonda.Law@conservation.ca.gov>

Mon, Jul 8, 2024 at 10:01 AM

To: Michael Gornet <mgornet@gmail.com>, Chuck Beatty <CBeatty@amadorgov.org>

Cc: "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC"

<Shahnewaz.Mohammad@conservation.ca.gov>, "Stevenson, Ian@DOC" <Ian.Stevenson@conservation.ca.gov>,

"Balestreri, April@DOC" <April.Balestreri@conservation.ca.gov>

Hello Mr. Gornet:

Thank you for your response. DMR looks forward to receiving your updated/replacement FAM as soon as possible.

Feel free to contact me if I can be of further assistance.

Thank you,



Rhonda Law

Analyst | Reporting Unit

Division of Mine Reclamation

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E: Rhonda.Law@conservation.ca.gov

My office hours are: M-F 7:00 am – 4:30 pm

Explore Our Framework
NaturalWorkingLands.com 

[Quoted text hidden]

[Quoted text hidden]

Chuck Beatty <CBeatty@amadorgov.org>

Thu, Jul 11, 2024 at 11:02 AM

To: "Law, Rhonda@DOC" <Rhonda.Law@conservation.ca.gov>

Cc: "Gomes, Amy@DOC" <Amy.Gomes@conservation.ca.gov>, "Mohammad, Shahnewaz@DOC" <Shahnewaz.Mohammad@conservation.ca.gov>, "Stevenson, Ian@DOC" <Ian.Stevenson@conservation.ca.gov>, "Balestreri, April@DOC" <April.Balestreri@conservation.ca.gov>

Hi, Rhonda. If I can get the total sum of annual fees, penalties, and interest owed by the Seaton mine operator for failure to file MOARs, I will include that in my letter to Mr. Gornet.

Thanks

Chuck

[Quoted text hidden]

Board of Supervisors Agenda Item Report

Submitting Department: Board of Supervisors

Meeting Date: September 10, 2024

SUBJECT

Discussion and possible action relative to a public hearing to consider the adoption of the 2024-25 Fiscal Year Proposed Adopted Budget.

Recommendation:

Adopt the 2024-2025 Fiscal Year Proposed Budget and associated Resolutions.

4/5 vote required:

Yes

Distribution Instructions:

Budget Director, Auditor

ATTACHMENTS

- [24-25 Proposed Adopted Budget \(1\).pdf](#)
- [APPROPRIATIONS FOR ADOPTED BUDGET.pdf](#)
- [Resolution Adopt Budget-Other Funds.pdf](#)
- [Resolution Adopt Budget Gov Funds.pdf](#)

**BEFORE THE BOARD OF SUPERVISORS OF THE
COUNTY OF AMADOR, STATE OF CALIFORNIA**

IN THE MATTER OF:

RESOLUTION APPROVING 2024-2025)	RESOLUTION NO.
FISCAL YEAR COUNTY FINAL BUDGET)	
FOR OTHER FUNDS)	

WHEREAS, Section 29080 and 29081 of the Government Code have been complied with; and

WHEREAS, said hearings have been terminated, during which time all additions and deletions to the proposed budget for the 2024-2025 fiscal year were made.

THEREFORE, BE IT RESOLVED in accordance with Section 29089 of the Government Code, the 2024-2025 fiscal year final budgets for the County of Amador are hereby adopted in accordance with the following:

2024– 2025 Total Expenditures Appropriated:

1. Communications (ISF)	150,785.00
2. Insurance (ISF)	4,670,437.00
3. GSA – Motor Pool (ISF)	1,737,654.00
4. GSA – Support Services (ISF)	1,087,481.00
5. Airport	823,273.00
6. Buena Vista Landfill Project	5,011,305.00
7. Victory Lighting	6,873.00
8. County Service Area #4 Martell Drainage	1,539.00
9. County Service Area #5	152,000.00
10. County Service Area #6	14,000.00
11. County Service Area #8 Carbondale	43.00

GRAND TOTAL	\$13,655,390.00
--------------------	------------------------

BE IT HEREBY FURTHER RESOLVED that the appropriations for each budget unit, which constitutes the respective totals for each to the objects and subobjects of the expenditures listed in the proposed budget and as altered through additions or subtractions are hereby adopted by reference.

The foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 10th day of September 2024, by the following vote:

AYES:

NOES:

ABSENT:

Chairman, Board of Supervisors

**BEFORE THE BOARD OF SUPERVISORS OF THE
COUNTY OF AMADOR, STATE OF CALIFORNIA**

IN THE MATTER OF:

RESOLUTION APPROVING 2024-2025)	RESOLUTION NO.
FISCAL YEAR COUNTY FINAL BUDGET)	
FOR GOVERNMENTAL FUNDS)	

WHEREAS, Section 29080 and 29081 of the Government Code have been complied with; and

WHEREAS, said hearings have been terminated, during which time all additions and deletions to the proposed budget for the 2024-2025 fiscal year were made.

THEREFORE, BE IT RESOLVED in accordance with Section 29089 of the Government Code, the 2024-2025 fiscal year final budgets for the County of Amador are hereby adopted in accordance with the following:

2024 – 2025 Total Expenditures Appropriated:

1. Salaries and Employee Benefits	59,977,649.00
2. Services and Supplies	21,708,618.00
3. Other Charges	37,796,540.00
4. Transfers and Other Charges	7,130,512.00
5. Capital Assets	21,069,202.00
6. Interfund Transfers (A87)	(126,257.00)
7. Appropriations for Contingencies	1,400,000.00
8. Provision for Reserves/Designations	2,656,165.00
 GRAND TOTAL	 \$151,612,429.00

BE IT HEREBY FURTHER RESOLVED that the appropriations for each budget unit, which constitutes the respective totals for each to the objects and subobjects of the expenditures listed in the proposed budget and as altered through additions or subtractions are hereby adopted by reference.

The foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 10th day of September 2024, by the following vote:

AYES:

NOES:

ABSENT:

Chairman, Board of Supervisors