



Midpeninsula Regional
Open Space District

R-20-108
Meeting 20-23
October 14, 2020

AGENDA ITEM 5

AGENDA ITEM

2020 State Legislative Session Review

GENERAL MANAGER'S RECOMMENDATION

Receive a report on the concluded 2020 state legislative session. No Board action required.

SUMMARY

Midpeninsula Regional Open Space District (District) legislative consultants from Public Policy Advocates, LLC (PPA) and Environmental and Energy Consulting (EEC) will provide a briefing on the concluded 2020 State of California legislative session. The briefing will include an overview of actions significant to the District taken during the session, in light of COVID-19 impacts to the state, and provide forecasts for the 2021 session, which begins on December 7, 2020. The Board of Directors (Board) last received a briefing on the 2020 legislative session on July 8, 2020.

DISCUSSION

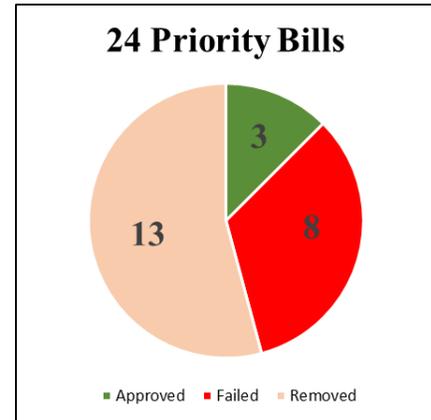
The 2020 Legislative Program, which the Board approved at its February 12, 2020 meeting, reflects Board policy positions on a variety of issues affecting the District, its mission, and its annual strategic goals. The annual Legislative Program guides staff in determining priority legislation to track during the year. Staff and the District's legislative consultants actively use the Legislative Program to communicate District positions on bills, budget recommendations, and other legislative items to the respective authors and/or legislative committees as appropriate. Throughout the 2020 session, staff fielded time-sensitive requests from partners and monitored evolving pieces of legislation based on Board Policy 1.11 (Attachment 1). Legislation deemed a priority by the Board pursuant to this policy was tracked, and, when appropriate, either supported or opposed (Attachment 2).

COVID-19

In response to the threat of COVID-19, Governor Newsom initiated a statewide health order on March 19, 2020, effectively shutting down all activities deemed nonessential across the state. Due to the highly compressed timeline and magnitude of the crisis, both houses significantly reduced the slate of bills under consideration, impacting most of the priority bills and issues of interest to the District.

Legislative Tracking and Statistics:

The Legislative Tracking Matrix (Attachment 2) reflects final legislative results where the District took a position. Bills are labeled as **approved** if they were signed into law by the governor, **failed** if they were vetoed by the governor or did not make it to his desk, or **removed** if the bill was rendered inactive due to adjustments in the legislature's post-COVID workload (approximately 75% of all bills were removed for consideration due to COVID). At the conclusion of the session, of the 24 bills on which the District took a position, three were approved by the governor, eight failed or were vetoed by the governor, and 13 were removed due to COVID. A number of the COVID-removed bills may be reintroduced in 2021. Just five of the 24 bills on which the District took positions were considered priority 1 bills. Of the three priority 1 bills *supported* by the District, two failed and one was signed into law (AB 1788 (Bloom): Rodenticides). The two priority one bills *opposed* by the District, AB 1190 (Irwin): Drones and AB 235 (Mayes) Endangered Species Petitions, failed due to COVID removal and a missed deadline, respectively.

Legislative Categories

In addition to the written reports (Attachments 3 and 4), EEC and PPA typically discusses legislation and topics covering the following during their oral briefing:

- California budget
- Potential state funding measures
- Cap and trade/Greenhouse Gas Reduction Fund/Climate change
- Wildlife corridors
- Water legislation
- Wildfire prevention/forest health
- Workers compensation
- Other COVID-19-related legislation

FISCAL IMPACT

There is no fiscal impact associated with this briefing.

BOARD COMMITTEE REVIEW

Legislative updates are periodically brought to the Legislative, Funding, and Public Affairs Committee (LFPAC) throughout each year. The most recent LFPAC review was January 28, 2020 (Attachment 5).

PUBLIC NOTICE

Public notice was provided as required by the Brown Act. No additional notice is required.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

This concludes the 2020 legislative session. The Governmental Affairs Specialist will bring legislative items and proposals to LFPAC and the Board as needed in preparation for the 2021 legislative session.

Attachments:

1. Board Policy 1.11, Positions on Ballot Measures and Legislative Advocacy
2. 2020 Priority Bill Legislative Status as of October 1, 2020
3. EEC Legislative Report to the Board – September 30, 2020
4. PPA Legislative Report to the Board – October 1, 2020
5. LFPAC Minutes – January 28, 2020

Responsible Department Head:

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Prepared by:

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Midpeninsula Regional Open Space District
Priority Bill Status as of October 1, 2020

Color Key: Approved Failed Removed due to COVID									
Measure	Author	Focus Area	Goal	Topic	Status	Brief Summary	Position	Priority	
AB 2482	Stone, Mark D	Climate	Protect the positive environmental values of open space lands	Agriculture: environmental farming programs and grants.	Removed due to COVID-related reduction of bills at the request of leadership	Would require the Department of Food and Agriculture, upon appropriation by the Legislature of additional funds, to administer the State Water Efficiency and Enhancement Program (grant program) to provide grants to agricultural operations to implement irrigation systems that reduce greenhouse gases and energy use and increase water use efficiency, as prescribed. The bill would also require the department to fund culturally competent training on irrigation and nutrient management, authorize the department to contract with qualified third parties to measure grant program outcomes, and require the department to adopt guidelines for the grant program.	Support	2	
AB 2619	Stone, Mark D	Climate	Protect the positive environmental values of open space lands	Coastal resources: Program for Coastal Resilience, Adaptation, and Access.	Removed due to COVID-related reduction of bills at the request of leadership	Would establish the Program for Coastal Resilience, Adaptation, and Access for the purpose of funding specified activities intended to help the state prepare, plan, and implement actions to address and adapt to sea level rise and coastal climate change. The bill would create the Coastal Resilience, Adaptation, and Access Fund in the State Treasury, and would authorize the California Coastal Commission and specified state agencies to expend moneys in the fund, upon appropriation in the annual Budget Act, to take actions, based upon the best scientific information, that are designed to address and adapt to sea level rise and coastal climate change, as prescribed.	Support	2	
AB 2954	Rivas, Robert D	Climate	Protect the positive environmental values of open space lands	California Global Warming Solutions Act of 2006: climate goal: natural and working lands.	Died in Senate Appropriations Committee	Would require the State Air Resources Board, in collaboration with the California Environmental Protection Agency, the Natural Resources Agency, the Office of Planning and Research, and other relevant departments, to identify by July 1, 2021, an overall climate goal for the state's natural and working lands, as defined, to sequester carbon and reduce atmospheric greenhouse gas emissions. As part of this process, the bill would require the state board, in collaboration with the same agencies and departments, to among other things, identify practices, policy incentives, and potential reductions in barriers that would help achieve the climate goal for integration into the next update to the scoping plan that immediately follows the identification of the climate goal and, on or before January 1, 2022, report to the Legislature recommended policy incentives that the state could enact to help reach the climate goal.	Support	2	
SB 1296	Durazo D	Climate	Protect the positive environmental values of open space lands	Natural resources: the Nature and Parks Career Pathway and Community Resiliency Act of 2020.	Died in Senate Appropriations Committee	Current law establishes various environmental and economic policies and programs. This bill would establish the Nature and Parks Career Pathway and Community Resiliency Act of 2020, which would require state conservancies, the Wildlife Conservation Board, and the Natural Resources Agency to establish independent grant programs to support climate-beneficial and climate resiliency projects that incorporate partnerships with nonprofit organizations that provide certifications and placement services for jobs and careers in the natural resources field, as specified.	Support	2	



SB 795	Beall D	Climate	Protect the positive environmental values of open space lands	Economic development: housing: workforce development: climate change infrastructure.	Died in Assembly Appropriations Committee	This bill, upon appropriation by the Legislature, would make up to \$2,000,000,000 available in each fiscal year for the purpose of providing emergency economic recovery and development, climate change, and disaster response.	Support	2
SB 1100	Atkins D	Climate	Protect the positive environmental values of open space lands	Coastal resources: sea level rise.	Removed due to COVID-related reduction of bills at the request of leadership	This bill would, as part of the procedures the California Coastal Commission is required to adopt, recommendations and guidelines for the identification, assessment, minimization, and mitigation of sea level rise within each local coastal program, as provided.	Support	2
SB 1323	Skinner D	Climate	Protect the positive environmental values of open space lands	Carbon sequestration: state goals: natural and working lands: registry of projects.	Removed due to COVID-related reduction of bills at the request of leadership	Would require, no later than July 1, 2021, that the Natural Resources Agency, in coordination with the California Environmental Protection Agency, the State Air Resources Board, and the department establish carbon sequestration goals for natural and working lands, as defined. The bill would require the board to include specified carbon dioxide removal targets as part of its scoping plan.	Support	2
AB 1922	Rivas, Luz D	Education	Connect people to open space and a regional environmental protection vision	Pupil instruction: science requirements: climate change.	Removed due to COVID-related reduction of bills at the request of leadership	Current law requires the adopted course of study for grades 1 to 6, inclusive, and the adopted course of study for grades 7 to 12, inclusive, to include certain areas of study, including, among others, English, mathematics, social sciences, science, and visual and performing arts, as specified. This bill, with respect to both of the above-referenced adopted courses of study, would require the science area of study to include an emphasis on the causes and effects of climate change. The bill would require that appropriate coursework including this material be offered to pupils as soon as possible, commencing no later than the 2021–22 school year.	Support	2
AB 3256	Garcia, Eduardo D	Funding	Strengthen organizational capacity and long-term financial sustainability to fulfill the mission	Climate risks: bond measure.	Failed deadline in Assembly	The California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, approved by the voters as Proposition 68 at the June 5, 2018, statewide direct primary election, authorizes the issuance of bonds in the amount of \$4,000,000,000 pursuant to the State General Obligation Bond Law to finance a drought, water, parks, climate, coastal protection, and outdoor access for all program. This bill would state the intent of the Legislature to enact a bond measure that would address climate risks to the State of California.	Support	1
AB 1190	Irwin D	Governance	Protect the positive environmental values of open space lands	Unmanned aircraft: state and local regulation: limitations.	Removed due to COVID-related reduction of bills at the request of leadership	Would, among other things, prohibit a state or local agency from adopting any law or regulation that bans the operation of an unmanned aircraft system. The bill would also authorize a local agency to adopt regulations to enforce FAA regulations regarding the operation of unmanned aircraft systems and would authorize local agencies to regulate the operation of unmanned aircraft and unmanned aircraft systems within their jurisdictions, as specified. The bill would also authorize a local agency to require an unmanned aircraft operator to provide proof of federal, state, or local registration to licensing or enforcement officials.	Oppose	1



ACR 179	Voepel R	Governance	Strengthen organizational capacity and long-term financial sustainability to fulfill the mission	Special Districts Week	Removed due to COVID-related reduction of bills at the request of leadership	This measure proclaims the week of May 17, 2020, to May 23, 2020, to be Special Districts Week.	Support	2
SB 1372	Monning D	Habitat Connectivity	Protect the positive environmental values of open space lands	Wildlife corridors and connectivity: Wildlife and Biodiversity Protection and Movement Act of 2020.	Removed due to COVID-related reduction of bills at the request of leadership	Current law requires the Department of Fish and Wildlife, contingent upon funding being provided by the Wildlife Conservation Board or from other appropriate bond funds, upon appropriation by the Legislature, to investigate, study, and identify those areas in the state that are most essential as wildlife corridors and habitat linkages, as well as the impacts to those wildlife corridors from climate change, and requires the department to prioritize vegetative data development in these areas. This bill would additionally require the department to investigate, study, and identify impacts to those wildlife corridors from state infrastructure projects, including transportation and water projects, large-scale development projects not covered by an existing natural community conservation plan or habitat conservation plan, and planned or potential land conversions.	Support	1
AB 2987	Flora R	Planning and Permitting	Strengthen organizational capacity and long-term financial sustainability to fulfill the mission	Local agency public contracts: bidding procedures.	Removed due to COVID-related reduction of bills at the request of leadership	The Uniform Public Construction Cost Accounting Act authorizes a public agency to elect to become subject to uniform construction cost accounting procedures. The act authorizes bidding procedures for public projects, as specified. Those bidding procedures include procedures for the publication or posting and electronic transmission of notice inviting formal bids. This bill would authorize a public agency, as an alternative to the publication or posting requirement, to meet the notice inviting formal bids requirement by transmitting notice electronically, as specified, and publishing the notice electronically in a prescribed manner on the public agency's internet website at least 14 calendar days before the date of opening the bids.	Support	2
AB 3005	Rivas, Robert D	Planning and Permitting	Protect the positive environmental values of open space lands	Leroy Anderson Dam and Reservoir: environmental review, permitting, and public contracting.	Vetoed by Governor	Would require the Department of Fish and Wildlife, within 15 days of receipt of the notification from the Santa Clara Valley Water District, to inform the department whether the Anderson Dam project, as defined, will not substantially adversely affect an existing fish and wildlife resource. If the department determines that the project will substantially adversely affect an existing fish and wildlife resource, the bill would specify the process by which the department is to issue a final agreement to the district that includes reasonable measures necessary to protect the affected resource.	Support	2
SB 940	Beall D	Planning and Permitting	Protect the positive environmental values of open space lands	Housing Crisis Act of 2019: City of San Jose.	Signed by Governor	The Housing Crisis Act of 2019 does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity. This bill would authorize the City of San Jose to proactively change a zoning ordinance to a more intensive use and use the added capacity to subsequently change a zoning ordinance applicable to an eligible parcel, as defined, to a less intensive use as long as there is no net loss in residential capacity. The bill would require that the change to a zoning ordinance to a less intensive use pursuant to these provisions occur within one year of the change to the zoning ordinance to a more intensive use.	Support	2



AB 235	Maves I	Stewardship	Protect the positive environmental values of open space lands	Endangered species: candidate species: petitions: takings.	Failed deadline in Senate	This bill would require the commission to accept a petition for consideration concurrent with a taking if the commission finds that the petition provides sufficient information to indicate that the petitioned action may be warranted, but the geographic proliferation of the species may lead to significant economic hardship or an impact on critical infrastructure during the above-described review of an accepted petition, and if a preponderance of the evidence presented in the petition shows there is no direct threat to the species that would lead to its decline during that period.	Oppose	1
AB 1788	Bloom D	Stewardship	Protect the positive environmental values of open space lands	Pesticides: use of second generation anticoagulant rodenticides.	Signed by Governor	This bill, the California Ecosystems Protection Act of 2020, would prohibit the use of any second generation anticoagulant rodenticide, as defined, in this state until the director certifies to the Secretary of State that, among other things, the Department of Pesticide Regulation has completed a reevaluation of second generation anticoagulant rodenticides and the Department of Pesticide Regulation, in consultation with the Department of Fish and Wildlife, has adopted any additional restrictions necessary to ensure that continued use of second generation anticoagulant rodenticides is not reasonably expected to result in significant adverse effects to nontarget wildlife, as provided.	Support	1
AB 2373	Rubio, Blanca D	Stewardship	Protect the positive environmental values of open space lands	Structural pest control: second generation anticoagulant rodenticides.	Removed due to COVID-related reduction of bills at the request of leadership	Current law provides for the licensure and regulation of structural pest control by the Structural Pest Control Board in the Department of Consumer Affairs. This bill would require a licensee, beginning July 1, 2021, to complete a training course of at least one hour on the ecological impact of second generation anticoagulant rodenticides, as defined, on wildlife with respect to primary and secondary poisoning. The bill would require the training course to be developed by the board or a provider approved by the board, and to meet and apply to the continuing education requirements for licensees established by the board.	Support	2
AB 2502	Quirk D	Water	Protect the positive environmental values of open space lands	Groundwater sustainability plans: impacts on managed wetlands.	Removed due to COVID-related reduction of bills at the request of leadership	The Sustainable Groundwater Management Act requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020. The act prescribes that plans contain certain required contents and requires that plans contain, where appropriate and in collaboration with the appropriate local agencies, additional analyses or components, including, among others, control of saline water intrusion, wellhead protection areas and recharge areas, a well abandonment and well destruction program, well construction policies, and impacts on groundwater dependent ecosystems. This bill would add impacts to managed wetlands, as specified, to the additional analyses or components that a plan is required to contain when appropriate.	Support	2
AB 2518	Wood D	Water	Protect the positive environmental values of open space lands	Voluntary stream restoration landowner liability.	Removed due to COVID-related reduction of bills at the request of leadership	Would exempt a landowner who voluntarily allows land to be used for such a project to restore fish and wildlife habitat from civil liability for property damage or personal injury resulting from the project if the project is funded, at least in part, by a state or federal agency that promotes or encourages riparian habitat restoration, unless the property damage or personal injury is caused by willful, intentional, or reckless conduct of the landowner or by a design, construction, operation, or maintenance activity performed by the landowner.	Support	2



SB 1448	Bradford D	Wildfire	Connect people to open space and a regional environmental protection vision	Fire prevention: electrical corporations: wildfire mitigation plans: workforce diversity.	Failed deadline in Assembly	Would require an electrical corporation's wildfire mitigation plan to include a description of how the electrical corporation will develop sufficient numbers of experienced personnel necessary to complete the work described in the plan, as provided.	Support	2
AB 1659	Bloom D	Wildfire	Protect the positive environmental values of open space lands	Large electrical corporations: wildfire mitigation: securitization.	Failed deadline in Senate	Would enact the Wildfire Prevention and Community Resilience Act of 2020 and would require the Natural Resources Agency, in consultation with the Public Utilities Commission, to adopt an interim expenditure plan and an expenditure plan that are focused on reducing wildfire risk on the ground and in communities through activities such as defensible space implementation, home hardening, improved public safety, including expenditures to add trained emergency medical technicians to the workforce, and other authorized activities, as well as to prepare residents for wildfires through public education and outreach, as provided. The bill would establish the Wildfire Prevention and Community Resilience Fund and, upon appropriation by the Legislature, would require moneys in the fund be used for the implementation of those plans.	Support	1
AB 2475	Flora R	Wildfire	Protect the positive environmental values of open space lands	Electrical corporations: electrical grid monitoring equipment pilot program.	Removed due to COVID-related reduction of bills at the request of leadership	Would require the state's 3 largest electrical corporations, and authorize other electrical corporations, as part of the utility's wildfire mitigation plan, to include a pilot program proposal for the installation of monitoring equipment on transmission and distribution lines in targeted high fire-threat areas designated by the commission.	Support	2
AB 3074	Friedman D	Wildfire	Protect the positive environmental values of open space lands	Fire prevention: wildfire risk: defensible space: ember-resistant zones.	Signed by Governor	Current law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material that is within a very high fire hazard severity zone, as designated by a local agency, or a building or structure in, upon, or adjoining those areas or lands within a state responsibility area, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure, as specified. A violation of these requirements is a crime. This bill would require a person described above to use more intense fuel reductions between 5 and 30 feet around the structure, and to create an ember-resistant zone within 5 feet of the structure, as provided.	Support	2

Midpeninsula Regional Open Space District

Board Policy Manual

<p>Positions on Ballot Measures and Legislative Advocacy</p>	<p>Policy 1.11 Chapter 1 – Administration and Government</p>
<p>Effective Date: 4/13/16</p>	<p>Revised Date: N/A</p>
<p>Prior Versions: N/A</p>	

Purpose

To establish a policy governing positions on local and state ballot measures/propositions and state and federal legislative advocacy. It is intended to cover all matters before the Legislature and the voters.

Definitions

For the purposes of the *Positions on Ballot Measures and Legislative Advocacy* policy, the following terms and definitions shall be used:

Measure – may be included on a municipal, county, or district ballot and includes ordinances, initiatives, referenda, advisory measures, issuance or refunding of bonds, city or county charter amendments, or any other measure or proposition a legislative body may submit to the voters within the body’s jurisdiction.

Ballot Proposition – can be a referendum or an initiative measure that is submitted to the electorate for a direct decision or direct vote. Propositions may be placed on the ballot by the California State Legislature or by a qualifying petition signed by registered voters.

Initiative – power of the electors to propose legislation, and to adopt or reject them. Any proposed ordinance may be submitted to the legislative body by means of a petition.

Referendum – applies to the process for repealing newly enacted legislation. Within specified time limits, the electors may file a petition protesting the adoption of that legislation.

Local Legislation – typically ordinances, which are the laws of a city, charter, or district, often having the force of law, but only within the local jurisdiction.

State or Federal Legislation – bills or proposed legislation under consideration by the legislature at the state or federal level.

Policy

1. Positions on Matters Before the Voters
 - a. From time to time the Board of Directors may be asked or may desire to take a position on local or state measures. The Board may consider taking a position on the measure/proposition if the measure/proposition:
 - i. Would directly impact the District's finances, responsibilities, legal authority, or operations; AND
 - ii. Is in line with or inconsistent with the District's mission and/or commitment to preserve open space within its boundaries and sphere of influence.

The Board, by majority vote, may direct the General Manager to research the measure/proposition and return to the Board at a future meeting with information and a General Manager recommendation. At that time, the Board may vote to take a position on a measure/proposition.
 - b. Measures/propositions determined to not impact District business may nonetheless be analyzed by the General Manager when directed by a majority vote of the Board, of which the analysis report would include possible alternatives for Board action, but no position recommendation.

2. Local, State, and Federal Legislative Advocacy
 - a. The Legislative, Funding, and Public Affairs Committee (LFPAC) receives periodic updates regarding the District's legislative program. When LFPAC determines that proposed legislation may affect District business, it may direct the General Manager to prepare a recommendation for consideration by the full Board or where there is not adequate time to convene the full Board, may direct the General Manager to take action to support or oppose the legislation without full Board approval. In such cases, the General Manager or designee shall report to the Board any actions taken to support or oppose legislation at or before the next Board meeting.
 - b. When time is so short that neither the full Board nor LFPAC can be convened to consider positions to support or oppose local, state or federal legislation, the General Manager is authorized to take a position on behalf of the District if the legislation:
 - i. Is related to the District's mission; AND
 - ii. Would directly impact the District's business, such as project delivery, operations, finances, legal authority, or other District responsibilities; AND
 - iii. The position being taken is consistent/inconsistent with existing District policy, past action, or District Strategic Plan; OR
 - iv. The legislation carries other considerations that make it contrary to the District's interests.

In such instances, the General Manager or designee shall report to the Board any actions taken to support or oppose the legislation at or before the next Board meeting.
 - c. Full Board action is required regarding legislation that is not clearly within the criteria listed above under Section 2.b. or guided by direction previously given by LFPAC.

3. Full Board action is required to support or oppose any type of grassroots advocacy action, such as social, political, or economic movements, that are not legislation.
4. Board members representing the District in their official capacity on regional or other bodies may, at his or her discretion, take actions based on the principles above consistent with previously approved Board positions and policies.
5. This policy is not intended to limit the prerogative of individual Board members from expressing their individual support for or opposition to any local ballot measure, State proposition, State or Federal legislation, or grassroots advocacy actions. However, in doing so, the member should clearly state they are speaking for themselves, and not in an official capacity on behalf of the Board or the District. Individual Board Members who take a position in support or opposition to ballot measure or legislation for which the Board has not previously taken a position are encouraged as a professional courtesy to include the language *for identification purposes only* parenthetically following their signature referencing their position on the Board.



From: Environmental & Energy Consulting
To: Midpeninsula Regional Open Space District
Date: September 30, 2020

Re: EEC 2020 Post-Session Update

As the 2020 legislative session draws to a close, below is a summary of the current status of Midpeninsula Regional Open Space District's (Midpen) legislative and Budget priorities. As a reminder, the California Budget deadline previously passed and all Fiscal Year 2020-2021 Budget conversations and decisions have concluded. The deadline for the Governor to sign or veto bills was September 30th; therefore, the fate of all bills introduced in the 2020-2021 legislative session have been determined. All chaptered bills will go into effect on January 1st, 2021 unless they included an urgency clause.

California Budget: Conservation Priorities

Governor Newsom signed the FY 20-21 State Budget on June 29th. The final 2020 Budget Act was a \$202.1 billion spending plan to strengthen emergency response, protect public health and safety, and promote economic recovery while closing a \$54.3 billion budget shortfall caused by the COVID-19 recession. Key takeaways of the final budget include:

- Retention of baseline funding for the Department of Fish and Wildlife and the Department of Parks and Recreation;
- Retention of funding for the Habitat Conservation Funding;
- Inclusion of \$4M for the Cutting the Green Tape Initiative at the California Natural Resources Agency; and
- Reappropriation and expansion of the original \$10M to the Wildlife Conservation Board (WCB) to support San Jose Water Company (SJWC) land acquisitions.

Senator Beall secured a reappropriation and expansion of the \$10M to the Wildlife Conservation Board in the FY20-21 Budget. This reappropriation did two important things: first, it extended the encumbrance or expenditure deadline for the funds to June 30, 2025; and second, it expanded the eligibility of projects to include the acquisition, planning, design, development, public access, rehabilitation, restoration, protection, and expansion of wildlife corridors and open space, including projects to improve connectivity and reduce barriers between habitat areas in the Upper Guadalupe, Los Gatos Creek, Saratoga Creek and adjacent areas from the San Jose Water Company and other land owners. Midpen has been working closely with WCB to coordinate the distribution of these funds, and most immediately plans to use a portion of these funds to support the acquisition of the 182 El Sereno acquisition from SJWC along with several components of the Highway 17 project.

Cap-and-Trade/Greenhouse Gas Reduction Fund

Governor Newsom's Greenhouse Gas Reduction Fund (GGRF) final proposal for the FY20-21 Budget was significantly altered from previous proposals in response to COVID-19 impacts and the anticipated recession. Due to the anticipation of significantly reduced and unstable Cap-and-Trade auction revenues, the Governor introduced a "pay-as-you-go" Cap-and-Trade funding calculation that would establish quarterly appropriations from the Greenhouse Gas Reduction Fund. His proposal also prioritized the following three investments, which would need to be made whole prior to appropriating funds to any additional priorities:

- 1) Forest Health and Fire
- 2) Air Quality
- 3) Safe Drinking Water

With this proposal, CalFire would receive funding for the Forest Health and Fire Prevention programs. The Governor has expressed interest fuel load management as one of his wildfire priorities to be addressed within this.

Ultimately, because Cap-and-Trade auction revenues were reported at very low numbers, it resulted in the assumption that no new funds would be available for new appropriations. The FY20-21 GGRF appropriations, including the three investments cited above, were completely deferred until next year. We can assume the Governor's office will work off the their proposal from May, but they have not said anything publicly.

Policy Measures

After an unconventional and chaotic legislative year, during which public officials and stakeholders were faced with reacting to the unprecedented impacts of COVID-19 in real-time, the outcomes of Midpen's high priority bills that moved forward include:

- [SB 1372 \(Monning\)](#) Wildlife corridors and connectivity: Wildlife and Biodiversity Protection and Movement Act of 2020
 - Midpen Position: Support, Priority 1
 - Outcome: Held in Committee
- [AB 1788 \(Bloom\)](#) Pesticides: use of second-generation anticoagulant rodenticides
 - Midpen Position: Support, Priority 1
 - Outcome: Signed
- [AB 1190 \(Irwin\)](#) Unmanned aircraft: state and local regulation: limitations
 - Midpen Position: Opposed, Priority 1
 - Outcome: Dead
- [AB 3005 \(R. Rivas\)](#) Leroy Anderson Dam and Reservoir: permitting, environmental review, and public contracting
 - Midpen Position: Support, Priority 2
 - Outcome: Vetoed
- [SB 940 \(Beall\)](#) Housing Crisis Act of 2019: City of San Jose.
 - Midpen Position: Support, Priority 2
 - Outcome: Signed

- [SB 795 \(Beall\)](#) Economic development: housing: workforce development: climate change infrastructure
 - Midpen Position: Support, Priority 2
 - Outcome: Dead
- [AB 2954 \(Rivas\)](#) California Global Warming Solutions Act of 2006: climate goal: natural and working lands
 - Midpen Position: Support, Priority 2
 - Outcome: Dead
- [SB 1448 \(Bradford\)](#) Fire prevention: electrical corporations: wildfire mitigation plans: workforce diversity
 - Midpen Positions: Support, Priority 2
 - Outcome: Dead

SB 1372, authored by Senator Monning, was introduced by in partnership with the Wildlife Corridor Working Group (WCWG), whose membership includes Midpen. The overall goal of SB 1372 was to facilitate the migration of critical wildlife populations by improving coordination between relevant agencies and ensuring wildlife corridors are integrated into CalTrans projects. Currently, Caltrans recognizes projects within a Regional Conservation Investment Strategies (RCIS), but because RCIS's are not statewide, many projects are left out. SB 1372 looked to solve this by developing an alternative strategy. Unfortunately, due to the nature of the 2020 legislative environment, and the restrictions placed on the legislature to limit their bill packages to urgent or no-cost bills, SB 1372 was held in committee. The WCWG is committed to re-introducing this bill in 2021 and continuing conversations with the related Agencies.

AB 1788, authored by Assemblymember Bloom, is a two-year bill that was introduced in 2019. AB 1788 would place restrictions on the use of second generation anti-coagulant rodenticides, which have been shown to be fatal to wildlife. This bill was supported by the AB 1788 Coalition whose membership includes Midpen. After passing out of the legislature, AB 1788 was presented to the Governor on October 4th. Governor Newsom signed the bill on September 29th, and it will go into effect on January 1, 2020.

AB 1190, authored by Assemblymember Irwin, was introduced in 2019 and would provide a framework for local agencies to regulate the use of unmanned aircraft systems and provide qualified immunity to local agencies operating drone recreation areas. Midpen took an oppose position to this bill because it would restrict Midpen's rights to regulate the use of potentially destructive drones on Midpen property. After many conversations we were able to successfully block AB 1190 from moving during the 2019-2020 legislative session.

Funding Measures

Several large-scale conservation funding measures were attempted during this past legislative session as an opportunity to revitalize and stimulate communities suffering from the economic, health and safety, and injustices resulting from COVID-19, wildfires, and climate change. Unfortunately, because legislators were forced to respond to the extreme

and unprecedented district impacts of these emergencies, coupled with the precarious nature of the legislative process due to COVID-19, all of them ultimately failed to pass during the 2019-2020 session.

Several 2020 state bond measures were introduced by legislative members, including [SB 45 \(Allen\)](#), [AB 352 \(E.Garcia\)](#), [AB 1298 \(Mullin\)](#), and [AB 3256 \(E.Garcia\)](#). Although strong and sustained efforts were made by legislative leadership and stakeholders to place a bond on the 2020 ballot as a critical economic stimulus tool, ultimately none of the bond measures made it to the Governor's desk, largely due to the compressed and volatile legislative timeline.

When it became clear that it was unlikely that the legislature would approve a bond for the November ballot the Assembly and Senate [introduced](#) a joint \$100B Economic Stimulus Plan. This plan would offer economic recovery without raising taxes through mechanisms including Senator Hertzberg's novel tax-incentive proposal. Unfortunately, the legislature was also unable to fully entertain this proposal due to the impacts of the pandemic.

Immediately thereafter, as the legislative session was winding down, wildfires began erupting throughout the state. Attention on an economic stimulus plan shifted to a wildfire funding package and interested stakeholders across the state came together to develop policy language. The package was eventually introduced as [AB 1659 \(Bloom\)](#). The bill was introduced a few days before the last day of session, but its last-minute introduction led to its failure to be heard on the Senate Floor.



Legislative Update to the
Midpeninsula Regional Open Space District Board
By Public Policy Advocates, LLC
October 1, 2020

Environmental Protection & Restoration

Wildfire prevention and preparedness: Wildfire prevention and preparedness continued to be an important topic in 2020. Midpen supported or worked on several bills in this area, including funding (see EEC report), modernizing vegetation management statutes, and minimizing wildfire threats posed by electric transmission and distribution lines.

The most successful of these efforts was the passage of [Assembly Bill 3074 \(Friedman, D-Burbank\)](#)ⁱ. AB 3074 is the continuation of a billⁱⁱ worked on last year but vetoed by Governor Newsom. Midpen supported this year's scaled back version because it would modernize defensible space protections through the creation of a third defensible space zone called an ember-resistant zone in high fire severity zones. The importance of the five-foot ember resistant zone has been validated in lab tests and is supported by numerous fire science experts as an effective way to protect structures. Many experts believe the ember resistant zone or zone zero is the most important component of a defensible space strategy. AB 3074 seeks to improve educating Californians living in high fire hazard areas about these life and property saving benefits. PPA assisted with getting AB 3074 on the Governor's desk where he signed the measure.

When introduced, [Senate Bill 1348 \(Stern, D-Thousand Oaks\)](#) was intended to expand funding for vegetation management and target areas of concern such as along the roadside. The bill, however, expanded from that original concept and that expansion gave Midpen an opportunity to introduce the concept of funding for ecologically sensitive fire management policies. Working with Senator Beall's staff, several amendments on this topic were proposed to Senator Stern. While all the amendments were not taken, the final version gave a positive nod to the issue and highlighted the need in fuels management policies to also address the spread of flammable nonnative grasses and weeds.

SB 1348 came up again later in the Session when new language was added that would change private property rights regarding fuel reduction efforts. The change was intended to make the process of creating defensible space around one's property less burdensome but was also clearly infringing on the private property rights of the adjacent landowner. This was of great concern to Midpen for several reasons including the potential to make fuel load worse if invasive species were not given proper consideration. PPA assisted Midpen in successfully negotiating language with the author's office to restore written permission but local governments were given more flexibility on this point as they develop their own local ordinances. Midpen eventually went

neutral on the bill which was steps away from the Governor's desk when time ran out at the end of session leaving the bill still on the Assembly Floor at midnight.

[Senate Bill 182 \(Jackson, D-Santa Barbara\)](#) would impose certain fire hazard planning responsibilities on local governments and requires cities and counties to make specified findings on fire standards prior to permitting development in the very high fire hazard severity zone. Midpen specifically was in support of language that improved clarity and ease implementation of mandates requiring that state-funded forest conservation easements address forest health and resiliency maintenance and improvement. This language in SB 182 would be consistent with the legal structure of conservation easements and resolve issues that have perplexed state granting agencies, land trusts, and landowners in the wake of the passage of previous legislation on this topic. This language, however, fell victim to the author's need to narrow the bill and reduce as much opposition as possible. The bill was vetoedⁱⁱⁱ by the Governor without the preferred conservation easement fix.

Lastly on this topic, Midpen supported [Assembly Bill 2475 \(Flora, R-Ripon\)](#), which would have required California's three largest electrical corporations, and authorize other electrical corporations, to include a pilot program proposal for the installation of monitoring equipment on transmission and distribution lines. With so much electrical infrastructure running either through Midpen lands (much of which is in very high fire zones), or proximate to it, the additional monitoring AB 2475 would have promoted would help minimize the threat of wildfire by requiring utilities to have greater real-time intelligence on the health of electric assets. With more advanced real-time line-level data and insights, utility operators will be better equipped to prevent electric utility failures and related ignitions from occurring. This bill was put on hold due to bill limits imposed because of COVID-19.

Administrative Needs (i.e. Revenue Stability, Workplace Regulation, and Governance)

Workers Compensation: The most significant workers' compensation development was the enactment of [Senate Bill 1159 \(Hill, D-San Mateo\)](#)^{iv} creating a COVID-19 illness rebuttable presumption of work-relatedness for employees required to work outside the home by their employers. The bill codifies and extends Governor Newsom's [Executive Order N-62-20](#) issued in May, which was limited for a duration of 60 days. The measure is restricted to certain categories of workers. Firefighters, peace officers and healthcare workers will continue to have the presumption. The bill also maintains the rebuttable presumption for employees who contract COVID-19 after being exposed to an "outbreak" of such cases at a particular work location. Outbreak is defined for small employers (from 5 to 100 employees) to be 5 or more contracted cases at a specific worksite and for large employers (more than 100 employees) to be 5% or more COVID-19 contracted cases. Both presumptions will sunset on January 1, 2023.

PPA actively engaged on the measure due to the application of [Labor Code Section 3363.5](#), which provides that a person who performs voluntary services for a public agency as authorized by the governing body by adoption of a resolution shall be deemed to be an employee for purposes of workers' compensation. Since Midpen has adopted this policy since 1994, volunteers fell under the definition of the rebuttable presumption created by Executive Order N-62-20. However, the categorical limitations amended into Senate Bill 1159 remove the applicability of the rebuttable presumption for volunteers. It should also be noted that two other pieces of legislation, [Assembly Bill 196 \(Gonzalez, D-San Diego\)](#) and [Assembly Bill 664 \(Cooper, D-Elk Grove\)](#), would have gone further by creating a conclusive presumption of COVID-19 illness as being work-related for workers' compensation purposes. Both bills died in the waning moments of the Legislative Session.

COVID-19 Exposure Reporting: Another COVID-19 bill that was enacted in an acceptable form was [Assembly Bill 685 \(Reyes, D-San Bernardino\)](#)^v. Although technically not a workers' compensation bill, AB 685 will require employers to provide written notice and instructions to workers who have been exposed to COVID-19 at a particular work location and will strengthen the authority of the California Division of Occupational Health and Safety (Cal/OSHA) to enforce health and safety standards to reduce the spread of the virus at the worksite, including suspending operations in the immediate area if an imminent hazard of exposure to the infection is found. The bill was narrowed to prevent imposing new liability provisions.

Federal COVID-19 Funding Relief for Special Districts: We have been engaged for several months as a supporter of Federal legislation to provide additional funds for COVID-19 relief to include a provision directing a portion of the funds to be allocated to special districts. [HR 7073](#) by Congressman John Garamendi and [S. 4308](#) by Senators Kyrsten Sinema and John Cornyn would require states to distribute 5% of future COVID-19 relief funds to special districts within 60 days of receiving funds from the federal treasury. These provisions have been discussed in the context of the ongoing discussions about enacting a second federal stimulus package. It has been estimated that up to \$800 million would be available for California special districts if enacted.

Landlord/Tenant Stabilization Fund: In the early stages of the 2020-21 Budget process, Senate leadership put together a landlord/tenant stabilization fund proposal. This proposal would have created a three-party agreement to resolve unpaid rents among renters, landlords and the state. Senator Caballero (D-Merced) and Senator Bradford (D-Inglewood) introduced [Senate Bill 1410](#) regarding COVID-19 emergency: tenancies. SB 1410 outlines the terms of the tenant-owner rent stabilization agreement, which would protect tenants from eviction during the state of emergency, or for the unpaid rent from the state of emergency. The state of California will pay the unpaid rent in the form of a tax credit and the tenant will repay the state of California by installments over the span of ten years starting in 2024, without interest. Owners of real property would be eligible to participate in this program. We are asking for clarity around how

public entities qualify as owners of real property. Neither the Senate leadership proposal nor SB 1410 advanced most likely due to lack of funding.

Teeter Plan: Governor Newsom issued [Executive Order N-61-20](#), which among other things established a property tax penalty waiver program for taxpayers who are unable to pay due to financial hardship beyond their control caused by the COVID-19 crisis. A reduction in penalty payments would negatively affect Teeter Plan Counties as the Teeter Method allows counties to calculate an upfront payment plan to remit payments to special districts with the penalties ultimately remaining with the counties. PPA met with representatives of the Treasurer Tax Collector Association, County Assessors Association and CSAC and confirmed that the April 10 property tax payment had been remitted as usual and little or no impact has been observed to date. The Legislative Session concluded with no further action on this topic.

California Uniform Public Construction Cost Accounting Act: [Assembly Bill 2987 \(Flora, R-Ripon\)](#) would have allowed California Uniform Public Construction Cost Accounting Act (CUPCCAA) member agencies to notice bidding opportunities for projects over \$200,000 on the CUPCCAA signatory agency website in lieu of noticing in print newspapers. Midpen supported AB 2987 because it would have provided an additional incentive for agencies to opt-in to CUPCCAA, reward those agencies that have already joined, and provide an avenue for feedback on the efficacy of public agency internet website noticing. Due to CUPCCAA's multi-venue public works projects opportunity notice requirement as well as CUPCCAA'S oversight and advertising requirements, it is the appropriate arena to establish this new policy. This bill was put on hold due to bill limits imposed because of COVID-19.

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ⁱ Assembly Bill 3074 (Friedman); Chapter 259, Statutes of 2020

ⁱⁱ Assembly Bill 1516 (Friedman); Vetoed 10/13/2019; [Veto Message](#)

ⁱⁱⁱ Senate Bill 182 (Jackson); Vetoed 09/30/2020; [Veto Message](#)

^{iv} Senate Bill 1159 (Hill); Chapter 85, Statutes of 2020

^v Assembly Bill 685 (Reyes); Chapter 84, Statutes of 2020



Midpeninsula Regional
Open Space District

**MIDPENINSULA REGIONAL OPEN SPACE DISTRICT
LEGISLATIVE, FUNDING, AND PUBLIC AFFAIRS COMMITTEE**

Administrative Office
330 Distel Circle
Los Altos, CA 94022

Tuesday, January 28, 2020

DRAFT MINUTES

CALL TO ORDER

Director Hassett called the meeting of the Legislative, Funding, and Public Affairs Committee to order at 2:00 p.m.

ROLL CALL

Members present: Larry Hassett and Zoe Kersteen-Tucker

Members absent: Jed Cyr

Staff present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Assistant General Manager Brian Malone, District Clerk/Assistant to the General Manager Jennifer Woodworth, Public Affairs Manager Kori Skinner, Governmental Affairs Specialist Joshua Hugg

ORAL COMMUNICATIONS

No speakers present.

ADOPTION OF AGENDA

Motion: Director Kersteen-Tucker moved and Director Hassett seconded the motion to adopt the agenda.

VOTE: 2-0-0 (Director Cyr absent)

COMMITTEE BUSINESS

1. Select Committee Chair for Calendar Year 2020

Public comment opened at 2:00 p.m.

No speakers present.

Public comment closed at 2:00 p.m.

Motion: Director Hassett moved, and Director Kersteen-Tucker seconded the motion to select Director Kersteen-Tucker as Committee Chair for Calendar Year 2020.

VOTE: 2-0-0 (Director Cyr absent)

2. Approve the October 8, 2019 Legislative, Funding, & Public Affairs Committee Meeting Minutes.

Motion: Director Hassett moved, and Director Kersteen-Tucker seconded the motion to approve the October 8, 2019 Legislative, Funding, and Public Affairs committee meeting minutes.

Public comment opened at 2:01 p.m.

No speakers present.

Public comment closed at 2:01 p.m.

VOTE: 2-0-0 (Director Cyr absent)

3. Draft 2020 Legislative Program (R-20-14)

Governmental Affairs Specialist Joshua Hugg described the District’s legislative program, its purposed, and reviewed the District’s legislative priorities for the upcoming 2020-21 legislative session, including supporting efforts to eliminate the use of second-generation anticoagulant rodenticides, effective guidelines for wildland fire fuel reduction, and supporting wildlife and trail corridors. Additionally, the District seeks to strengthen organizational capacity and long-term financial sustainability to fulfill the mission, such as through a potential climate change bond, Proposition 68 implementation, and issuance of green bonds.

Director Kersteen-Tucker suggested including the environmental values of “working lands” in Goal 2 for the next year.

Mr. Hugg reported regional priorities include seeking grant and mitigation opportunities through implementation of several regional funding measures through, such as San Francisco Bay Restoration Authority Measure AA and Santa Clara Valley Transportation Authority Measure B. Federal priorities include advocating for fully funding the federal Land and Water Conservation Fund, supporting policies that protect and designate national monuments within our region, and supporting habitat connectivity projects.

Director Kersteen-Tucker suggested remaining up to date on the “Connect the Coast” initiative to ensure District trails in the coastal areas connect to regional trails.

Director Kersteen-Tucker requested a future update on SB50 related to affordable housing requirements and whether there is a “carve-out” for coastal communities.

Mr. Hugg provided a general overview of SB50 and reported additional information may be provided at the next committee meeting.

Public comment opened at 2:39 p.m.

No speakers present.

Public comment closed at 2:39 p.m.

Motion: Director Hassett moved, and Director Kersteen-Tucker seconded the motion to approve the motion to forward a recommendation to the Board of Directors for approval with any additional changes to the Legislative Program requested by the committee.

VOTE: 2-0-0 (Director Cyr absent)

General Manager Ana Ruiz reported staff may be further consolidating the legislative priorities before they are presented to the Board of Directors, but no substantive changes will be made.

Mr. Hugg provided an update on statewide and regional issues that do not directly affect the District's immediate interests or are related to the built and urban environments as opposed to open space.

Ms. Ruiz provided comments related to the possibility of the District taking an increased role in advocating for various regional issues that may not have a direct impact or nexus on the District's mission.

Director Hassett ~~spoke in favor of~~ [expressed caution related to](#) focusing District resources on issues that are not directly within the District's mission citing concerns about staff and District capacity to advocate for a wide range of issues.

Director Kersteen-Tucker agreed and shared her concerns regarding District capacity to advocate for a wide range of issues. Director Kersteen-Tucker suggested that the Board may weigh in on these issues on an ad hoc basis and determine where the District can have the greatest impact.

ADJOURNMENT

Director Kersteen-Tucker adjourned the meeting of the Legislative, Funding, and Public Affairs Committee at 2:52 p.m.

Jennifer Woodworth, MMC
District Clerk