

2023 Legislative Platforms

February 8, 2023

Federal

The 118th Congress convened at noon, on January 3, 2023. While periods of divided government at the federal level are, at times, characterized by gridlock, the House of Representatives and the United States Senate have shown an ability to achieve legislative accomplishments, particularly affecting water policy and water infrastructure investment. This trend is likely to continue through 2024.

The Executive Branch will also be industrious over the next two years. For instance, in carrying out its “PFAS Roadmap” and the broadly anticipated revisions to the “Waters of the United States” (WOTUS) or “Navigable Waters Protection Rule,” the Administration has demonstrated a willingness to maintain an active role in federal water policy, and several drinking water and wastewater rulemakings are expected through-in 2024.

While some previously contemplated legislative proposals may be re-introduced in the 118th Congress, there are no anticipated large efforts at reforming the nation’s water policy laws nor at creating new water programs in statute. In the wake of legislative gains -- like those included in the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA) -- Congress will turn its attention to rigorous oversight on the execution of these investments.

In addition to oversight activities, Congress will focus on funding improvements to the nation’s infrastructure. While IIJA and IRA included opportunities for municipal water utilities, ultimately these programs will be reliant on the annual appropriations process, which begins in earnest with the delivery of the President’s FY2024 Budget to Congress the first week of February 2023. As the federal agencies like the Bureau of Reclamation and the Environmental Protection Agency have IIJA, IRA, and FY2023 funds available for awards this calendar year, it remains uncertain what Congress will do to augment these programs in FY2024 and FY2025.

State

Calendar Year 2023 marks the first year of California’s two-year (2023 and 2024) legislative session, with the State legislature having reconvened on Wednesday, January 4, 2023.

With nearly one-third of the State Legislature new to their office, water industry advocacy efforts will be focused on educating members on water policy issues. Additionally, because Governor Newsom’s recent budget proposal projects a \$22.5B shortfall in the upcoming fiscal year, it is anticipated that water-related legislation and regulations will focus on several priority issues: water affordability—arrearages funding, no residential shut-offs, and possibly Proposition 218 reform; water conservation and water use efficiency; water rights; and, continued but reduced investments in climate change, drought response and water resilience, wildfire and forest resilience, and zero-emission vehicles acceleration.

Also in 2023, the state will focus on addressing the following issues relevant to local governments: cannabis enforcement, extreme heat and community resilience, high-speed internet implementation, homelessness and affordable housing, local libraries, and paying down unfunded pension liabilities.

For 2023, it is expected that some legislative proposals and policy discussions from 2022 could return, including legislation and regulations that could significantly impact Mesa Water District

(Mesa Water®). The State administration, legislature, and regulators explored several ongoing water issues in 2022, including, **but not limited to**:

- water use efficiency/conservation regulations pertaining to data reporting, water loss performance standards, and other topics related to implementing [SB 606 and AB 1668](#) (passed in 2018);
- water affordability related to California’s Human Right to Water and the Safe and Affordable Drinking Water Fund (respectively, [AB 685](#) and [SB 200](#)), and Low-Income Water Rate Assistance (LIWRA) programs also called “lifeline rates” ([AB 401](#)), **as well as the and** implementation of the Water Shutoff Protection Act ([SB 998](#));
- water district consolidations;
- headwaters protection, forest management, and wildfires prevention;
- climate adaptation and resilience, and related issues (~~i.e., e.g.,~~ electrification, energy policies, public safety power shutoffs, ~~etc.~~);
- water quality, PFAS, and other Constituents of Emerging Concern (CECs);
- bonus incentives/credits/variances for recycled water, water reuse, and desalination;
- governance and transparency during and following the Covid-19 pandemic;
- affordable housing proposals to alleviate homelessness (~~i.e., e.g.,~~ ADUs, CEQA reform, housing development fees, surplus property, ~~etc.~~); and,
- the Delta (~~i.e., e.g.,~~ Delta Conveyance Project, Endangered Species Act, Voluntary Settlement Agreements, ~~etc.~~).

As policy discussions commence in 2023, the above issues will be the primary areas of legislative and regulatory focus. Additionally, there is talk of work in 2023 on a potential water bond effort -- via an initiative and/or legislative process -- for the November 2024 ballot.

Also, on the air quality front in 2023, the administration and regulators are eager to finalize the state’s [Advanced Clean Fleets Rule](#) that, as currently written, would require 50% of new medium- and heavy-duty vehicle fleet purchases by public agencies to be zero-emission beginning in 2024, increasing to 100% in 2027.

As a reminder, in 2020, Governor Newsom issued two climate-related Executive Orders to require: 1) by 2035, that all new cars and passenger trucks sold in CA are Zero-Emission Vehicles ([N-79-20](#)); and, 2) by 2030, the conservation of 30% of the state’s land and coastal waters ([N-82-20](#)). These state efforts could be augmented by federal funding opportunities, including approximately \$1 billion that was included in the [IRA](#), for Clean Heavy-Duty Vehicles through the Environmental Protection Agency to provide grants, rebates, and contract support to replace heavy duty vehicles with zero-emission alternatives.

Lastly, Mesa Water engaged with various agencies and associations that the district is affiliated with (~~i.e., e.g.,~~ ACC-OC, ACWA, AWWA, CalDesal, CMUA, CSDA, CWSA, MWDOC/MWD, OCBC, OCWD, OC Tax, SCWC, WateReuse, ~~etc.~~) to advocate on legislative/policy issues including, **but not necessarily limited to**: 1) upholding local control; 2) promoting the “true, full cost of water” concept; 3) supporting desalination; and, 4) providing variances for potable reuse water subject to conservation mandates. In 2023, Mesa Water advocacy staff and

continue to focus on these four policy priorities and on federal and state funding opportunities. Listed below, for the Board's consideration, are the proposed legislative and regulatory platforms regarding anticipated high-priority public policy issues in 2023 that could have major consequences for Mesa Water:

- **Water Rates** – Mesa Water supports local rate-setting ~~control~~ authority with rate structures, set by publicly-elected boards and councils, that best serve customers and comply with the law. Furthermore, Mesa Water supports cost-based water rates that:
 - represent the true, full cost of water services, including operational costs and infrastructure funding to ensure water system sustainability ~~into~~ perpetuity; and,
 - harmonize the concepts of conservation and legality, with rates that provide a strong price signal for ratepayers to conserve while also complying with legal mandates (i.e., Article X of the CA Constitution; SB 606 and AB 1668; and, Propositions 13, 26, and 218).
- **Proposition 13** – Mesa Water supports Article XIII A of the California Constitution (Prop. 13) and the taxpayer protections it provides as passed in 1978; and, Mesa Water opposes a “Split Roll” that would remove some of the protections of Prop. 13 from nonresidential properties ~~in order~~ to raise taxes on them.
- **Proposition 218** – Mesa Water supports Article XIII C and D of the California Constitution (Prop. 218) regarding government service assessments, fees, rates, and taxes, specifically:
 - the “2/3 vote” required from the legislature and voters for approval of new levies;
 - the “special benefit and proportionality requirements” provision, which directly connects the special benefits received with reasonable proportionate costs, and ensures that assessments imposed for property-related (water) services must not exceed the proportional cost of the services attributable to the parcel; and,
 - transparent rate-setting procedures that protect consumers from potential government overcharge by providing ample opportunities for consumer participation ~~as well as~~ and the ability for consumers to protest illegal rates.
- **Water Rate Assistance Programs** – Mesa Water supports localized “lifeline rates” or federal/state-funded LIWRA programs that comply with Prop. 218 of the California Constitution and are funded either voluntarily or via non-restricted/non-water-rates revenues. Mesa Water opposes a state tax on local water customer bills.
- **Orange County Groundwater Basin** – Mesa Water opposes any potential streamlined process for adjudicating groundwater basins, including the Orange County groundwater basin, managed by the Orange County Water District (OCWD).
- **Water Bonds Funding (Propositions 1 and 68)** – Mesa Water supports funding from the November 2014 and June 2018 water bonds for OCWD’s priority projects.
- **Water Desalination** – Mesa Water supports CalDesal in its desalination advocacy efforts, ~~as well as~~ and the local and regional development of cost-effective and environmentally-sensitive water desalination projects statewide -- including brackish groundwater and ocean water desalination projects -- to enhance the availability and reliability of local and regional



water supply sources, and improve water supply reliability for Orange County, Southern

California, and statewide. Federal funding opportunities may be considered for these efforts, especially in light of enactment of the IIJA and its 5-year funding outlays.

- **Water Conservation/Water Use Efficiency** – Mesa Water supports accounting for water resource and supply investments -- such as desalination, potable reuse, and water recycling -- as part of any potential statewide effort to update urban water conservation goals. Mesa Water supports compliance flexibility and local control; maximum credit for drought-resilient supplies, including variances for potable reuse water; and, regulatory water use and water loss target-setting that is based on valid data and includes a glide path for enforcement as well as a variance process for unique situations. Mesa Water also supports the streamlining of water reporting data as part of the implementation of, and compliance with, SB 606 and AB 1668.
- **Water Recycling** – Mesa Water supports OCWD and WaterReuse in its efforts to advance potable reuse investment, legislation, and regulations. Mesa Water supports the “Beneficiaries Pay” principle for the development and implementation of new recycled water projects, including stormwater capture.
- **Water Quality and Economic Feasibility** – Mesa Water supports efforts by the Association of California Water Agencies (ACWA) and other water industry associations/organizations to protect public health by using a full impact analysis that includes the best available scientific data, public input, and cost/benefit analyses to inform the development of reasonable and fiscally-responsible water quality standards legislation and regulations -- for current and future constituents of concern (i.e., e.g., microplastics, PFAS, PFOS, etc.) -- which consider technical and economic feasibility of the standards and treatments to ensure clean, safe drinking water. Additionally, the inclusion of certain constituents (like PFAS) as designated under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA or “Superfund”) should be carefully considered by federal agencies and subject to public notice and comment under a formal rulemaking process.
- **Water Storage, Banking and Exchange/Transfer Programs** – Mesa Water supports the “Beneficiaries Pay” principle for water storage/banking and exchange/transfer programs if they are market-based, ensure full cost recovery at a minimum, and account for water loss.
- **Affordable Housing** – Mesa Water supports the advocacy efforts of the California Special Districts Association (CSDA) and other industry associations/organizations on policies related to Accessory Dwelling Units (ADUs), CEQA reform/streamlining, development impact fees (i.e., e.g., capacity charges, connection fees, etc.), metering/sub-metering, surplus property, and other proposed affordable housing solutions provided that they support water utilities’ ability to provide reliable residential water services that are appropriately priced and right-sized for public health and safety.
- **Local Government** – Mesa Water supports the efforts of CSDA and other industry associations/organizations to ensure local control and representation, efficient delivery of government services, and appropriate reserve funds levels.
- **Local Agency Formation Commission (LAFCO)** – Mesa Water supports the existing protest thresholds for LAFCO-initiated reorganizations, per the Cortese-Knox-Hertzberg



(CKH) Act, and opposes changes that would make it more difficult for citizens to protest a LAFCO-initiated reorganization. Additionally, Mesa Water opposes any changes to the CKH Act that would weaken local control and representation and/or broaden the mission,

powers, and scope of LAFCOs without providing any added public benefit.

- **Special Districts Voting Methods** – Mesa Water supports exempting special districts from Cumulative Voting and Ranked Choice Voting methods, and opposes attempts to make these methods an option or a mandate for special districts elections.
- **Delta Solutions** – Mesa Water supports the efforts of ACWA, Municipal Water District of Orange County (MWDOC), Metropolitan Water District of Southern California (MWD), and Southern California Water Coalition (SCWC) to achieve a long-term solution for the Bay Delta that includes functional, unimpaired flows for optimal statewide water supply reliability, sustainability and quality, and Delta ecosystem health and restoration for the public benefit. Mesa Water supports the “Beneficiaries Pay” principle for Delta Solution funding.
- **CA Headwaters and Forest Management** – Mesa Water supports the efforts of ACWA and other water industry coalitions to promote policies that enhance the pace and scale of headwaters protection, forest management and wildfires prevention -- including improved planning, coordination and implementation -- and increase financing, research, and resources to: 1) protect water supply and quality, 2) bring management practices in line with modern challenges, and 3) provide multiple benefits to the State’s water users.
- **Climate Adaptation/Resilience Bond** – Mesa Water supports the efforts of ACWA and other water industry associations/organizations in engaging with the Governor’s Administration, lawmakers, and regulators on resource funding related to the Governor’s Executive Orders on climate change and related issues including, but not necessarily limited to: 1) energy solutions, 2) water resilience, and 3) public safety power shutoffs.
- **Essential Public Utilities** – Mesa Water supports the concept of exempting Essential Public Utilities -- such as water and wastewater service providers -- from future legislation, administrative actions, and regulations that add costs or time delays to a utility’s work by mandating new, unfunded operational practices.
- **Federal Drought Legislation and Water Infrastructure Financing** – Mesa Water supports the efforts of ACWA, the National Special Districts Coalition, and other water industry associations/organizations in collaborating with the California Congressional delegation and other decision-makers to develop bicameral, bipartisan federal drought legislation and investments in water infrastructure.
- **Cannabis Growers’ Negative Water Impacts** – Mesa Water supports legislation and/or regulations that enforce against cannabis growers’ water theft and/or negative impacts to water supplies and sources, and funding for vigorous enforcement of the regulations.
- **ACWA’s Federal Water Policy Priorities** – Mesa Water supports ACWA’s Federal water policy priorities related to: 1) water infrastructure funding, 2) West-Wide Drought Legislation, 3) tax exemptions for water conservation rebates, and 4) regulations related to: a) CECs and PFAS, b) Lead Copper Rule Revisions/Improvements, and c) public water systems’ cybersecurity.



- **CMUA's State Water Policy Priorities** – Mesa Water supports CMUA's State water policy priorities related to advocating for: 1) CARB's Advanced Clean Fleets Rule to provide feasibility, flexibility, and practicality considerations for California's water utilities, 2) workforce development for California's water industry, and 3) Statewide Water Solutions
- legislation -- in partnership with the Solve the Water Crisis coalition -- to create a long-term goal for increasing water supplies for beneficial use throughout California, along with an implementable plan to achieve that goal.
- **Electric Grid Reliability** – Mesa Water supports: 1) energy investments, legislation, and/or regulations that enhance the reliability and/or security of the electrical grid to provide a stable and consistent source of energyelectricity for water operations, 2) variances that allow backup generator use for water operations during electric power disruptions, and 3) incentives to offset the costs of water industry compliance with renewable energy and zero-emission vehicle mandates.
- **MWD's Regional Reliability Focus** – Mesa Water supports collaborating with MWD and its member/sub-member agencies to advance regional water supply reliability throughout Southern California.
- **OCWD's PFAS Cleanup** – Mesa Water supports OCWD's efforts to ensure that public water systems are not responsible for current/future PFAS cleanup costs by: 1) securing PFAS cleanup funding, 2) protecting public water systems that comply with applicable/appropriate management and treatment standards from liability under CERCLA, and 3) upholding the "polluter pays" principle in CERCLA.
- **Water Permitting** – Mesa Water supports CEQA streamlining to expedite the permitting process for water supply development projects.
- **Water Rights** – Mesa Water supports the water industry's interest in: 1) protecting the existing water rights priority system, and 2) potentially improving the administration of existing water rights priority system in collaboration with water associations and water industry coalitions.