

# SESSION FOUR

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## Legal, Legislative, and Regulatory Updates

# Legislative Updates

## Taxpayer Initiative and Government Accountability Act (the “Taxpayer Initiative 1”)

- Would have required that certain information re proposed new taxes or charges be placed in the ballot measure, including the type and rate of the tax, the duration of the tax, the use and estimated annual amount of the revenue generated by the tax.
- Most CFD formation ballots do not contain all of the above information in the ballot measure itself.
- California Supreme Court directed Secretary of State to not place measure on November 2024 ballot.

# Legislative Updates (cont. 2 of 2)

## Local Taxpayer Protection Act to Save Proposition 13 (the “Taxpayer Initiative 2”)

- Taxpayer Initiative 2 potentially on the November 2026 ballot.
- Amends Article XIII A the California Constitution.
- *California Cannabis Coalition v. City of Upland* re voter initiatives
- The Taxpayer Initiative 2 would require voter initiatives for new, increases in, or extensions of ad valorem and certain non-ad valorem taxes to be passed by 2/3 vote.
- Retroactive application; may invalidate voter approved taxes if not compliant with the taxpayer initiative 2.

# Other Legislation

## **Government Code Section 51179 – Fire Hazard Severity Zones**

(Gov't Code Section 54950 et. Seq)

- In 2024 and 2025, CalFIRE released updated maps identifying State Responsibility Areas and Local Responsibility Areas.
- Identified areas of moderate, high to very high fire hazard severity zones.
- Local agencies must designate by ordinance, the areas so identified by CalFIRE within 120 days of recommendation by CalFIRE.
- Local agency may not decrease the level of fire hazard severity zone designated by CalFire (but may adopt higher designation).
- Fuel modification and defensible space requirements.

# Other Legislation (cont. 2 of 8)

## Governor Executive Order N-10-25 – Cancellation of Interest and Penalties on Property Taxes

- Governor Executive Order suspending penalties and interest on late property taxes (including Mello-Roos special taxes) on specified ZIP codes affected by the Los Angeles area fires in January 2025.
- Currently in effect through April 2026.
- Risk factor for bondholders – could result in draws on reserve and default on bond payments.
- Similar exemptions could be applied in other areas affected by wildfires/natural disasters in the future.

# Other Legislation (cont. 3 of 8)

## **AB 1819 (Waldron) Enhanced Infrastructure Financing Districts** (Civil Code Section 1103.2)

- Authorizes EIFDs in high or very high fire hazard severity zones to finance heavy equipment for vegetation clearance and firebreaks, undergrounding of local publicly owned electric utilities against wildfires, and equipment used for fire watch, prevention, and fighting.
- Prohibits use of bond proceeds for heavy equipment to be used for vegetation clearance and firebreaks and equipment used for fire watch, prevention, and fighting.
- Passed and currently in effect.

# Other Legislation (cont. 4 of 8)

## **AB 1294 (Haney) Disclosure of Mello-Roos Taxes**

(Gov't Code Section 65940.1)

- Requires that a city, county or special district post on its website a current schedule of fees, exactions and affordability requirements applicable to a proposed housing project.
- A Mello-Roos special tax that is levied on new housing units is included in the definition of “exaction.”
- Currently in committee.

# Other Legislation (cont. 5 of 8)

## **SB 390 (Becker) Special Legislation for San Mateo**

**(Gov't Code Section 53312.8)**

- Existing law requires the consent of the landowner to include or annex property to a Mello-Roos district if the property is dedicated or restricted to agricultural, open-space or conservation uses (GC 53312.8).
- Development proposal is to construct/modernize public infrastructure in an area of South San Francisco (generally east of Hwy 101 along the waterfront).
- Certain properties (which may be developed) along portion of waterfront in South San Francisco have conservation easement on portions of the properties.
- In 2018, developer attempted to form a CFD. Certain property owners with conservation easement sued based on GC 53312.8 and prevailed.



# Other Legislation (cont. 6 of 8)

## **SB 390 (Becker) Special Legislation for San Mateo** (cont. 2 of 2) **(Gov't Code Section 53312.8)**

- Question of Fairness – property owners with conservation easement (and therefore excluded from CFD) will benefit from public improvements but not required to pay special taxes
- SB 390 special legislation exempts property located on the regional shoreline of the County of San Mateo from GC 53312.8 if:
  - parcel has existing entitlements for development of commercial, residential, or industrial uses; or
  - parcel in the territory is already developed with commercial, residential, or industrial uses.
- Currently in committee.

# Other Legislation (cont. 7 of 8)

## New CEQA Exemptions Relating to Housing

- SB 1361 – Actions take by local agencies to approve a contract for providing services for people experiencing homelessness is exempt from CEQA. SB 1361 extends that exemption to providers with whom local governments contract.
- AB 3057 – Ordinances relating to certain approvals of ADUs are exempt from environmental review requirements under CEQA. AB 3057 extends those exemptions to junior ADUs.
- Both laws in effect as of January 1, 2025.

# Other Legislation (cont. 8 of 8)

## **AB 707 (Durazo) Proposed Brown Act Amendments**

**(Gov't Code Section 54950 et. Seq)**

- “Eligible legislative bodies” must allow public to attend meetings via 2-way telephonic or audiovisual platform (requirement until 2030).
- Requires agendas for eligible legislative bodies to be translated into all applicable languages (languages spoken jointly by 20% or more of the population in the city or county where the body is located and that speaks English less than “very well”).
- Uniformly apply requirements for public and member attendance via teleconference (e.g. noticing, accessibility and public commenting provisions).
- Ability to limit/remove participation of a disruptive member of the public applies to virtual participants.
- Currently in committee.

# SEC Updates

## David Sanchez, SEC Director of the Office of Municipal Securities, Remarks at California *The Bond Buyer* Conference

- David Sanchez delivered remarks at the California Bond Buyer Conference on October 24, 2024.
- In these remarks, Mr. Sanchez highlighted areas of concern in the public finance market.
- Joint Powers Agencies:
  - Lack of oversight by public agency members.
  - Some appear to exist only to allow private sector participants to access lower cost tax-exempt market.
  - JPAs may have conflicts of interest and may need to disclose those conflicts consistent with obligations under federal securities laws.
  - JPAs being paid on a contingency basis and/or based on par amount could raise conflict of interest issues.
  - Could potentially void contracts under Government Code 1092.

# SEC Updates (cont. 2 of 5)

David Sanchez, SEC Director of the Office of Municipal Securities,  
Remarks at California *The Bond Buyer* Conference (cont. 2 of 2)

- Climate and Environmental Risks.
  - “Silo effect” when compartmentalized organizational structure causes material facts known by one group/department to go undisclosed because the facts were not shared with other groups/departments.
    - Put in place disclosure policies/practices.
- Inconsistency in disclosure amongst issuers located within the same geographical area.
- Issuers should look to other local and regional agencies or similarly situated entities for their respective reports and disclosures on climate and environmental risks.

# SEC Updates (cont. 3 of 5)

## David Sanchez Remarks at SEC Compliance Conference (December 2023)

- Mentions the “emergence and reemergence of certain deal structures” that have come under scrutiny, including housing deals for essential workers and students, taxable forward refundings, and tenders.
- Mentions that “certain municipal entities have been ceding authority for issuing conduit bonds to privately-run entities that are the leading issues of defaulted bonds.”
- The SEC is also concerned with the number of municipal entities choosing to do negotiated sales as opposed to competitive sales.

# SEC Updates (cont. 4 of 5)

## David Sanchez Remarks at SEC Compliance Conference (cont. 2 of 2)

- Discusses municipal advisor activity conducted by persons and entities who failed to register:
  - P3 advisors and other participants in P3 space.
  - Attorneys, particularly for private placements.
  - Non-bank participants in lease financings and private placements.
  - Charter school advisors.
  - Special tax consultants.
  - Vendors who embed financing in equipment sales.
  - State and local associations of governments that promote for compensation certain financing packages.
- Closed remarks by mentioning anti-fraud liability can include many members of the deal team, and stressing the importance of ensuring complete, fair and accurate disclosure.

# SEC Updates (cont. 5 of 5)

## Recent Enforcement Actions

- Several SEC enforcement actions in 2024 and 2025 against Municipal Advisors for failing to register with the SEC and record-keeping deficiencies.
- SEC v. Randall et al. (April 2025) – SEC charged three Arizona individuals with fraud.
  - Alleged that individuals created false documents that were provided to investors in two bond offerings that raised \$284 million to build a large sports complex.
  - Investors were to be paid from revenues of the sports complex and were given financial projections that showed healthy coverage. SEC alleged that fabricated or doctored documents formed the basis of projections.
  - Sports complex and generated far less revenue.
  - SEC seeks permanent injunction, disgorgement and civil penalties.
  - Case is ongoing.