

- Legislative Report

## Summary

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October 2007 update on federal and state legislation.

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## Attachments

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None

## Detailed Report

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### Federal Legislative Update (as of 11/5/07)

#### Climate Management Legislation

S. 2191 (Lieberman): America's Climate Security Act (ACSA) was introduced this month by the Senate Environment and Public Works Subcommittee on Private Sector and Consumer Solutions to Global Warming and Wildlife Protection Chairman and Ranking Member, Senator Joseph Lieberman (I-Conn.) and John Warner (R-VA). The legislation, which would implement an economy-wide cap-and-trade program to govern the release of greenhouse gases, passed its first test last week as it was approved at a Subcommittee hearing on a 4-3 vote. The Subcommittee made several changes to the bill, such as adding the natural gas industry to the list of industries required to purchase emissions credits and reorganizing how revenues from emissions auctions would be distributed. As amended, the government would annually deposit 20 percent of auction revenues into an Adaptation Fund aimed at mitigating effects of climate change on wildlife and the environment. Ten percent of this fund (not to exceed \$900 million per year) would go to the federal Land and Water Conservation Fund, and 22 percent would go to EPA and the Army Corps of Engineers to protect aquatic ecosystems. Before the end of November, Senate Environment and Public Works Committee Chairwoman Barbara Boxer (D-CA) plans to hold a full committee markup on the bill, with the goal of it gaining committee approval before Congress adjourns for the year. Currently under MWD staff review.

S. 2156 (Bingaman): A bill to increase water use efficiency; to expand data acquisition & analysis of the nation's water resources to improve its management; and to enhance the understanding of climate change impacts on water availability and energy production in the U.S. Introduced earlier this month, the bill was referred to the Senate Committee on Energy and Natural Resources, with no hearings yet scheduled. The legislation is currently under Metropolitan staff review as it could make grants available to local water agencies to fund research and development studies related to water project planning. Currently under MWD staff review.

S. 1807 (Hutchinson): A bill to establish the Weather Mitigation Advisory and Research Board. Introduced on July 17 and referred to the Senate Committee on Commerce, Science and Transportation. Hearings have yet to be scheduled. Currently under staff review. Companion bill to H.R.3445 (Udall). (*No further activity since last report*).

H.R. 3445 (Udall): Weather Mitigation Research and Technology Transfer Act of 2007. This legislation would establish the Weather Mitigation Operations and Research Board to increase and enhance research and development in weather mitigation in order to better understand its effectiveness in addressing drought in the United States. If enacted, the legislation could lead to research grants to develop potential regional drought management and prevention tools. Introduced on August 3 and referred to the House Committee on Science and Technology. No hearings have yet been scheduled. Currently under staff review. Companion bill to S.1807 (Hutchinson). (*No further activity since last report*).

#### Habitat Conservation Legislation

S. 300 (Kyl): A bill to authorize the terms the Lower Colorado River Multi-Species Conservation Plan and the use of water for environmental purposes under the plan. Referred to the Senate Energy and Natural Resources

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Subcommittee on Water and Power. Metropolitan in support and working with Senator Kyle's office. A legislative hearing was held on July 24, with an expectation of a mark-up in the fall. *(No further activity since last report).*

H.R. 2515 (Heller): A House bill to authorize the terms of the Lower Colorado River Multiple Species Habitat Conservation Plan and the use of water for environmental purposes under the plan. Metropolitan in support and working with Congressman Heller's staff as the bill moves forward. Referred to House Resources Subcommittee on Water and Power with a legislative hearing held on July 22. Mark-up expected this fall. *(No further activity since last report).*

S. 1870 (Feingold). Clean Water Restoration of 2007. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States. Introduced on July 25 and referred to the Senate Committee on Environment and Public Works. No hearings have yet to be scheduled. Currently under staff review. *(No further activity since last report).*

H.R. 2421 (Oberstar): Clean Water Restoration Act of 2007. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States. Hearings held by both the House Transportation and Infrastructure Committee, and its Subcommittee on Water and Power. Further action possible after the summer recess, as Congress is expected to focus on several environmental issues to coincide with the 35th anniversary of the passage of the Clean Water Act. Legislation is currently under staff review. Companion bill of S.1870 (Feingold). *(No further activity since last report).*

### **Local Water Project Legislation**

H.R. 30 (Issa): A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Eastern Municipal Water District Recycled Water System Pressurization and Expansion Project. Metropolitan in support of the bill. Passed in the House on May 7. Legislative Hearing held by the Senate Energy and Natural Resources Subcommittee on Water and Power on August 1. Marked up in Full Committee on October 10.

H.R. 122 (Dreier): A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga Valley Water District recycling project. Metropolitan in support of the bill. Passed the House on March 5. Legislative Hearing held by the Senate Energy and Natural Resources Subcommittee on Water and Power on August 1. Marked up in Water and Power Subcommittee on October 16.

H.R. 1175 (Sanchez): A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project. Metropolitan in support of the bill. Passed in the House on June 5. Legislative Hearing held by the Senate Energy and Natural Resources Subcommittee on Water and Power on August 1.

### **Tax Credit Bond Legislation**

H.R. 3452 (Becerra): Introduced just prior to the August recess, this legislation would amend the Internal Revenue Code of 1986 to allow a credit with respect to clean renewable water supply bonds. The bill could potentially allow for local and regional water supply enhancements, improved capital, and reverse streams to Member Agency project funding. Metropolitan in support of this legislation. Referred to the House Committee on Ways and Means, with hearings yet to be scheduled. *(No further activity since last report).*

### **Water Resources Legislation**

H.R. 1495 (Oberstar): Water Resources Development Act. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States. Metropolitan in support of the bill. By a vote of 81-12, the Senate completed the legislation in October and sent it to President Bush, despite a clear White threat of a veto. The House easily passed the measure by a vote of 381-40 in August. The Senators said it is likely that each house will have the two-thirds vote necessary to override a Presidential veto.

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### **Water Quality Legislation**

S. 24 (Boxer): A bill to amend the Safe Drinking Water Act to require a health advisory and monitoring of drinking water for perchlorate. Referred to the Senate Committee on Environment and Public Works. Hearing expected this fall. Metropolitan in support and working with Senator Boxer's staff as the legislation evolves in both Houses of Congress. *(No further activity since last report)*.

S. 150 (Boxer): A bill to amend the Safe Drinking Water Act to protect the health of pregnant women, fetuses, infants, and children by requiring a health advisory and drinking water standard for perchlorate. Referred to the Senate Committee on Environment and Public Works. Hearing expected this fall. Metropolitan in support and working with Senator Boxer's staff as the legislation evolves in both Houses of Congress. *(No further activity since last report)*.

H.R. 1747 (Solis): A bill to amend the Safe Drinking Water Act to require a national primary drinking water regulation for perchlorate. On April 25 a hearing was held by the House Energy and Commerce Subcommittee on Environment and Hazardous Materials. Metropolitan in support and working with Congresswoman Solis' staff as legislation moves forward. A hearing is expected to be scheduled in the next few weeks.

**Moab Tailings Clean-Up:** There have been no significant changes on the Moab issue. Congressional offices continue to work on strategies to accelerate the remediation of the radioactive uranium mill tailings located on the banks of the Colorado River. This effort includes "directing language" in the FY08 Energy and Water Appropriations Bills (House and Senate) directing the DOE to speed up its environmental clean-up. Neither the House nor the Senate Appropriations bill added federal funding above the President's FY08 request. Regarding the Defense Authorizations bill, there is now language, in both the House and Senate versions of the bill that while similar, is still technically different between the two bodies. The Senate language orders the Department of Energy to complete and file a report with a plan to the relevant Congressional Committees explaining how it intends to meet the 2019 deadline for remediation instead of the previously stated 2028 date. This Defense Authorization Act difference between the House and Senate Bills will need to be reconciled during the Conference Committee process. Metropolitan in support of this effort.

### **Appropriations**

The Senate has now finished action on 7 of 12 annual appropriations bills having completed the Commerce, Justice, Science; and the Labor, HHS bills since the last report. Appropriations staff are working to resolve as many of the differences as they can before the Conferees meet. It is hopeful that the Leadership would like to send the LHHS bill to the President before the middle of November to see if the President will veto the bill as he has indicated.

The current Continuing Resolution (CR) will expire on November 16, with the expectation that another short term CR will be passed until just before Christmas. During that time, it is likely that there will be some type of catchall omnibus bill passed to fund agencies for the remainder of FY 2008. If there is no agreement on an omnibus bill, it is probable that another CR will be passed to carry through next year, or even a full year CR.

At this time, the leadership doesn't seem to have a plan on how to complete the domestic appropriations bills. The Defense and Military Construction, and the Veteran's Affairs bills appear to be the only ones that have a chance of being finalized.

### **Key Legislative Dates**

November 16: Target adjournment for Thanksgiving recess

December 3: Return to session to complete legislative business for the first session

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### State Legislative Update (as of 10/30/07)

#### State Legislation

SB 1002 (Perata), a near-term expenditure measure approved by the Legislature during the regular legislative session, was vetoed by Governor Schwarzenegger on October 14, on the grounds it was not part of a comprehensive plan to fund surface storage and Delta conveyance. SB 1002 and the two pending special session measures would invest in Delta “no-regrets” ecosystem restoration actions, fund Delta emergency preparedness and provide critical funding for groundwater clean-up projects.

#### Special Session on Water

The Legislature was unable to reach accord on a funding package for the February 2008 ballot prior to the October 16 deadline set by the Secretary of State. Secretary of State Debra Bowen has indicated, however, if the Governor and Legislature choose to fund the cost of a supplemental ballot, the Democrats and Republicans could have another month to settle their differences on a February 2008 bond proposal.

On October 9, Senator Don Perata’s bond measure, SBXX 2, fell four votes short of passage by the full Senate. The bill sought to authorize a \$6.835 billion general obligation bond for the February 2008 ballot that provides funding for water supply reliability, Delta sustainability, conservation and pollution cleanup, protection against invasive species, groundwater protection and water quality and water recycling.

On October 10, following the vote the day prior, Senators Perata and Machado filed an initiative with the Attorney General’s Office to begin to gather signatures for qualifying the measure for the November 2008 ballot. The initiative, officially titled the “Safe Drinking Water Act of 2008” is nearly identical to SBXX 2 (Perata).

Senator Dave Cogdill’s measure, SBXX 3, would authorize a \$9.085 billion general obligation bond for February 2008 which would provide funds for Delta sustainability, water supply reliability, water storage projects, resource stewardship and environmental restoration and protect against invasive species. On October 8, SBXX 3 failed passage in the Senate policy committee on a party-line vote.

The main difference between SBXX 2 and SBXX 3 boils down to the treatment of public funding for surface storage projects. Senator Perata authorizes surface storage projects that are consistent with an integrated regional water management plan. Senator Cogdill’s proposal would authorize \$5.1 billion for the construction of three surface storage projects - Temprance Flat, Sites Reservoir and expansion of Los Vaqueros Reservoir.

The two expenditure measures introduced during the special session, SBXX 1 (Perata) and SBXX 4 (Cogdill), both direct existing, voter-approved bond funds for projects and programs that could provide direct assistance for near-term investments to stabilize the state’s water supply system. Both measures are pending in the Senate.

#### Key Legislative Dates

##### **2007**

October 23: Senate Energy, Utilities and Communications Committee was to host an informational hearing in Oceanside on the status of nuclear power in California. Hearing was postponed due to Southern California wildfires. No new date for the hearing has been announced.

October 30: Assembly Utilities and Commerce Committee hosts an informational hearing in Beverly Hills on the status of implementing the California Solar Initiative.

October 31: Assembly Health Committee hosts an informational hearing in the State Capitol on Governor Schwarzenegger’s health care reform proposal.

November 1: Metropolitan Member Agency legislative retreat at Union Station to recap 2007 federal and state legislation and preview potential legislation for 2008.

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November 13: Senate Select Committee on Emerging Technologies and Economic Competitiveness hosts an informational hearing in Mountain View on emerging green technology and economic growth and California's ability to remain competitive.

November 14: Assembly Utilities and Commerce Committee hosts an informational hearing in the State Capitol regarding oversight of the California Energy Commission.

### **2008**

January 1: Statutes passed in 2007 take effect.

January 7: Legislature reconvenes.