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MEMORANDUM

TO: **BKS Public Agency Clients**

DATE: **January 9, 2026**

RE: **Annual New Laws Update - 2026**

This memorandum summarizes laws enacted over this past year which may be relevant to your agency and its operations. Unless noted, these new laws go into effect on January 1, 2026. If your agency has any questions about the new laws discussed in this memorandum or would like help implementing any of their requirements, please contact your primary BKS attorney.

Water

SB 394 – Agency Authority to Punish Water Theft

Existing law authorizes local agencies that provide water service to adopt an ordinance prohibiting water theft and subjects water theft violations to an administrative fine or penalty. Water theft violations are triggered when an individual commits three or more water theft violations within a one-year time period.

SB 394 provides that an individual who commits three or more water theft violations may be subject to an administrative fine or penalty regardless of whether those violations all occurred within a one-year time period. Also, local agencies may now adopt an ordinance prohibiting water theft via an unauthorized connection to a fire hydrant, with an allowable administrative fine or penalty of up to $10,000 for violations of the ordinance. BKS advises that local agencies amend their current water theft ordinance to incorporate these changes to the law.

Existing law also authorizes local agencies to bring a lawsuit for damages against any person who commits, authorizes, solicits, aids, abets, or attempts certain acts, including, diverting or causing to be diverted, utility services. SB 394 adds tampering with a fire hydrant, fire hydrant meter, or fire detector check, or connecting to, diverting water from, or causing water to be diverted from, a fire hydrant without authorization from the local agency that owns the fire hydrant as additional acts for which an agency may file a lawsuit for damages.

AB 149 – Agency Duty Regarding Invasive Mussel Infestation

Existing law requires local agency water suppliers to implement measures to avoid dreissenid mussel infestation and to control or eradicate any such infestations.

AB 149 requires a local agency water supplier—upon detection of an invasive mussel species—to prepare and implement a plan to monitor and control or eradicate the infestation. Detection of any such invasive mussel species must be immediately reported to the California Department of Fish and Wildlife. Any plan prepared and implemented under this law must also address all invasive mussel species and be updated to address additional mussel species listed by Department of Fish and Wildlife within 180 days of the species' listing.

SB 31 – Agency Duty and Authority Regarding Recycled Water Discharge and Use

Existing law requires that, when an unauthorized discharge of 50,000 gallons or more of recycled water into the State's waters occurs, the discharging entity must immediately notify the applicable regional water board. SB 31 redefines "recycled water" for such notices to exclude water discharged from a decorative body of water if the recycled water was used to restore water depletion due to evaporation.

SB 31 also makes the following changes to the Water Code:

- Now allows small amounts of treated recycled water stemming from spray, mist, or runoff to enter outdoor eating areas of parks and open spaces.
- Now allows a local agency to require the use of recycled water for toilet and urinal flushing in certain structures. Specifically, the definition of "structures" has now been expanded to include food handling and processing facilities.
- Clarifies that the outdoor landscape irrigation of common areas, which does not enter the boundaries of a residence, does not qualify the residence as a "dual plumbed system."[1] This clarification may reduce the total number of dual plumbed systems in a local agency's jurisdiction and impact the agency's ability to meet recycled water use goals or obtain funding through the State's water recycling funding program. Please note that this recycled water use must comply with water quality and cost specifications set forth in Water Code section 13550.[2]

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[1] California regulations define "dual plumbed system" as "a system that utilizes separate piping systems for recycled water and potable water within a facility and where the recycled water is used for either of the following purposes: (a) To serve plumbing outlets (excluding fire suppression systems) within a building or (b) Outdoor landscape irrigation at individual residences." (22 CCR, § 60201.250.)

[2] Water Code section 13550 outlines when using potable water for nonpotable uses, "including, but not limited to, cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses," is unreasonable. (Wat. Code, § 13550, subd. (a).)

AB 1466 – Groundwater Adjudications

Existing law provides that a court may exempt claimants from the proceedings of a comprehensive adjudication of groundwater rights if the court finds that the parties' claims of right to extract or divert pertain only to minor quantities of water. A judgment in a comprehensive adjudication does not apply to the exempted parties. AB 1466 now allows courts to choose to either exempt such parties entirely or, instead, process and enter orders for those parties separately from the comprehensive adjudication.

Unless exempted, existing law requires a party to serve on the other parties of a comprehensive adjudication an initial disclosure within six months of the parties appearance in the adjudication. AB 1466 requires the court to presume the accuracy of the facts in a party's initial disclosure if the party claims an annual extraction of 100 acre-feet or less of water per year. If a party's claimed groundwater use is used for agricultural purposes, the party's initial disclosure must include information regarding the types of crops grown and number of acres irrigated during the last 10 years.

Finally, AB 1466 makes changes regarding adjudications in a basin where one or more groundwater sustainability agencies have adopted a groundwater sustainability plan. In such adjudications, a court must now request that groundwater sustainability agencies provide a technical report to the extent that the agency is able to do so at a reasonable effort and expense. The requested report must include, at a minimum, a quantification and description of the groundwater use of parties that have not otherwise appeared before the court. Notably, AB 1466 makes this report's preparation reimbursable by the State.

AB 709 – Sustainable Groundwater Management Act Clarification

The Sustainable Groundwater Management Act ("SGMA") requires that high or medium-priority basins are managed under either a single groundwater sustainability plan or coordinated groundwater sustainability plans and that such plan(s) be submitted to the Department of Water Resources for review. SGMA requires that the Department of Water Resources issue an assessment of the plan(s) within two years of the plan(s) submission to the Department. AB 709 clarifies that groundwater sustainability agencies which developed multiple groundwater sustainability plans may amend their coordination agreement following the Department of Water Resources' issuance of an assessment of the plans.

AB 293 – Groundwater Sustainability Agency Requirements

SGMA requires the board members of a groundwater sustainability agency to file statements of economic interests with the Fair Political Practices Commission using the commission's online system for filing statements of economic interests. AB 293 requires that each GSA publish a list of its board members and a link to the Fair Political Practices Commission's website on its own—or its local agency's—website. The link should direct visitors to a page on the Fair Political Practices Commission's website where the board members' statements of economic interests can be viewed.

SB 598 – Regional Recycled Water Projects or Other Water Infrastructure Projects

Existing law allows the Metropolitan Water District of Southern California to utilize the Construction Manager/General Contractor project delivery method for regional recycled water projects and other water infrastructure projects. The Construction Manager/General Contractor project delivery method provides that the agency utilizing the method may procure a construction manager to provide preconstruction services during the design phase of a project and construction services during the construction phase of the same project. A contract under this delivery method may be awarded on a best value basis or to the lowest responsible bidder.

SB 598 provides that all local agencies that produce, store, supply, treat, or distribute water may utilize the Construction Manager/General Contractor project delivery method for regional recycled water projects or other water infrastructure projects undertaken to alleviate water supply shortages attributable to drought or climate change. A local agency, however, may only utilize this delivery method for up to 15 capital outlay projects in total. SB 598's changes sunset on January 1, 2031, but contracts awarded prior to this date will remain in force after that date.

AB 1075 – Use of Public Water Sources by Privately Contracted Fire Prevention Resources

Existing law requires the Office of Emergency Services to develop standards and prescribe regulations for privately contracted fire prevention resources—including standards governing the use of equipment during active fire emergencies. AB 1075 requires the Office of Emergency Services to develop regulations which would prohibit private fire prevention resources[3] from using public water sources, with limited exceptions.

SB 650 – Water Code Changes Relevant to the Sacramento-San Joaquin Delta Plan

The Sacramento-San Joaquin Delta Plan ("Delta Plan"), enacted in 2009, provides for comprehensive Delta water management, with the ultimate goal of enhancing water quality and providing for statewide supply reliability. SB 650 makes the following changes relating to the Delta Plan:

- Requires that Delta Plan council members have knowledge of both the Delta and the statewide water landscape.
- Allows any state or local agency to appeal a covered action as inconsistent with the Delta Plan.
- Requires all legal challenges to the Delta Plan council's adoption or amendment of the Delta Plan—or determination of appeal—to be brought within 90 days of the council's final decision or determination.

[3] "Private Fire Prevention Resources" is defined as "the personnel, entities and equipment hired by private persons or entities and operating during an active fire incident. These private resources are not employed by or otherwise associated with the agency having jurisdictional authority over the incident response or any other public agency involved in the incident response." (Cal. Code Regs., tit. 19, § 2470.1, subd. (m).)

- Clarifies that invalid provisions of the Delta Plan are severable; that is, invalid provisions may be removed without affecting or otherwise invalidating other provisions in the Delta Plan.

AB 1096 – Lead Testing Outreach by Community Water Systems

Existing law requires that a community water system reach out to all schools and childcare facilities in its service area to provide information relating to lead in water and to offer lead testing. AB 1096 now requires a community water system to compile information during the mandated outreach to schools and childcare facilities. AB 1096 requires a community water system operator to offer schools and childcare facilities which decline lead testing the opportunity to provide information relating to their decision. The information compiled by a community water system operator during the above outreach must be submitted to the State Water Resources Control Board ("SWRCB").

No later than December 31, 2028, a community water system is now required to include the following information in its annual consumer confidence report:

- A written statement that information pertaining to lead testing in schools and childcare facilities, including the names of schools and childcare facilities that received testing from the community water system, is available on the SWRCB's website; and
- A direct link to the webpage containing such information.

SB 466 – Drinking Water Standards

Existing law requires the SWRCB to establish a standard for the maximum level of hexavalent chromium that may be present in a public water system. SB 466 exempts a public water system from being deemed in violation of the hexavalent chromium standard if the public water system is in the process of implementing a SWRCB approved compliance plan or while its submitted compliance plan is pending SWRCB approval.

AB 428 – Water Agencies May Enter into A Joint Powers Agreement for the Purposes of Risk Pooling

The Joint Powers Act allows public agencies to enter into a joint powers agreement ("JPA") to exercise a common power. JPAs may be entered into for the purposes of risk pooling to jointly finance and share common types of insurable risks. Existing law vests the California Public Utilities Commission ("CPUC") with regulatory authority over public utilities, including water corporations.

AB 428 allows a water corporation, a mutual water company, and one or more public agencies to enter into a JPA for the purpose of risk pooling. The CPUC, however, is required to reject the formation of a JPA if it determines that the JPA does not provide the customers of the water corporation with greater benefits than the water corporation's current insurance policy. If the JPA is approved, the water corporation must submit an annual report to the CPUC and resulting joint powers agency that pertains to the corporation's savings that result from the corporation's participation in the JPA.

Land Use and Resource Protection

SB 653 – Wildfire Prevention Projects

Existing law requires the Department of Forestry and Fire Protection to assist local governments in preventing future high-intensity wildland fires and instituting appropriate fuels management by making its wildland fire prevention and vegetation management expertise available to such entities.

SB 653 requires state public entities to consider incorporating specified criteria into their funding guidelines for grant programs that fund environmentally sensitive vegetation management projects, including that the project:

- Maximizes long-term risk reduction of catastrophic wildfire.
- Times vegetation management to minimize the potential impacts to wildlife and minimize the reproduction of invasive plants.
- Minimizes erosion impacts from vegetation management.
- Leaves buffers around bodies of water to protect watershed health.
- Implements measures to avoid impacts to rare or sensitive species and habitats, in consultation with relevant agencies.

SB 653 defines environmentally sensitive vegetation management projects as projects that reduce catastrophic wildfire risk over the long term while supporting native wildlife and biodiversity.

AB 1455 – Fire Protection

Existing law requires an entity that owns, leases, controls, operates, or maintains a building or dwelling to maintain a defensible space around such structures. This responsibility attaches where the structures or dwellings are located in either (1) a moderate, high, or very high fire hazard zone as designated by the State; or (2) a very high fire hazard severity zone as designated by a local agency.

AB 1455 allows local agencies that are responsible for fire protection some latitude in implementing defensible space requirements. Under AB 1455, local agencies are allowed to enact a defensible space ordinance based on regulations promulgated by the State Board of Forestry and Fire Protection that takes into account local variations in fire hazards, geography, development, and other conditions. Moreover, AB 1455 allows the local agency ordinance to require a different set of practices than those found in the State Board of Forestry and Fire Protection's regulations, but only if the alternative practices provide for substantially similar practical effects as those stated in the State Board of Forestry and Fire Protection regulations.

AB 130 & SB 131 – CEQA Reforms

AB 130 and SB 131 aim at removing CEQA obstacles to construction of infill housing. Earlier this year, BKS sent out a memorandum that detailed how these two bills substantively reform CEQA. If you would like a copy of this memorandum or have questions about how AB 130 and SB 131 might impact your agency, please contact your primary BKS attorney.

Brown Act

SB 707 – Modernizing the Brown Act

SB 707 attempts to "modernize" the Brown Act, with its end goals being increased transparency and public participation in local legislative processes. In practical terms, most of SB 707's changes will have only minor impacts on how your agency conducts meetings and otherwise complies with the Brown Act. Earlier this year, BKS sent out a memorandum which more fully explained the numerous Brown Act changes made by SB 707. If you would like a copy of this memorandum or have questions about how SB 707 might impact your agency, please contact your primary BKS attorney.

Financial

SB 595 – Investments in Commercial Paper and Financial Reporting

Existing law allows a local agency to invest public funds in certain securities and financial instruments. One such security is commercial paper of prime quality of the highest letter or number rating that has a maturity of 270 days or less. SB 595 now allows a local agency to invest public funds in commercial paper of prime quality that has a maturity of 397 days or less.

Additionally, existing law authorizes a local agency to invest in commercial paper to 25% or less of its total investment assets if it has less than $100,000,000 of investment assets or up to 40% if it has investment assets of $100,000,000 or more. SB 595 has pushed the sunset date of this authorization from January 1, 2026, to January 1, 2031.

Existing law was set to prohibit, as of January 1, 2026, a local agency from investing certain public funds in any United States government backed security that could result in zero-interest accrual if held to maturity. SB 595 has pushed the operative date of this prohibition back to January 1, 2031.

Finally, existing law requires an officer of a local agency to make and file a financial report with the State Controller. If no report is filed and the State Controller sends a failure to file notice to the local agency, the local agency has 20 days from the receipt of such notice to make and file the report. Failure to file the report may lead to a forfeiture of a percentage of the local agency's revenue to the State Controller. SB 595 changes the deadline to file the financial report to the later of 10 months after the end of the local agency's fiscal year or the time prescribed by the Controller.

SB 499 – Payment of Fees Under the Mitigation Fee Act

The Mitigation Fee Act authorizes local agencies to impose fees as a condition of approval for certain residential development projects. Under the Act, fees are broadly defined as monetary exactions, other than a tax or special assessment, that are charged by local agencies to defray the cost of constructing public improvements or facilities that are needed to serve new development. Excluding certain exceptions, the Act prohibits local agencies from collecting fees from residential developers for the construction of public improvements or facilities until the final inspection of or the date the certificate of occupancy is issued for a residence, whichever occurs earlier. SB 499 provides that local agencies may require the payment of fees or charges earlier than until the final inspection of or the date the certificate of occupancy is issued for a residence for parkland and recreational facilities if the facilities are 1) identified in a local agency's safety element or local hazard mitigation plan and 2) are identified for an emergency purpose beyond general recreational or aesthetic use.

SB 499 also clarifies an inconsistency that was established by the adoption of SB 937 (2024). SB 499 clarifies that utility connection fees and capacity charges may continue to be collected by water and sewer agencies at the time an application is received.

Personnel and Record Keeping

SB 827 – Training for Local Agency Officials

Existing law requires certain local agency officials to undergo ethics training every two years, with the initial training session occurring within an official's first year of service. SB 827 changes these requirements in the following ways:

- Expands the list of those local agency officials required to undergo training. Now included in the list of local agency officials subject to the ethics training requirement are department heads or "other similar" administrative officers. For implementation purposes, local agencies should ensure that all managerial-level employees of the local agency with responsibility over the agency's finances partake in ethics training.
- Agency officials subject to the ethics training requirement now must undergo their initial training session within the first six months of their start of service.
- In addition to ethics training, two hours of fiscal and financial training for relevant officials[4] at least once every two years. Officials in service prior to January 1, 2026, must receive their fiscal and financial training by January 1, 2028.
- Local agencies must post instructions on their website and contact information to assist the public in requesting and obtaining the agency's training records.

BKS advises that local agencies amend their current ethics training policy or procedure to incorporate these changes to the law. Please contact your primary attorney if you would like assistance with amending your agency's policies to implement the above changes.

[4] Local agency officials subject to the fiscal and financial training requirement include the following: (1) any member of a local agency legislative body or any elected officer of a local agency; (2) any official who is appointed by the governing body who, as part of their official duties, makes decisions or recommendations regarding financial administration, budgeting, or the use of public resources; (3) a local agency executive, as defined in subdivision (d) of Section 3511.1, or other similar administrative officer of a local agency; or (4) an employee designated by a local agency governing body to receive the training specified under this article.

SB 852 – Reporting by Public Officials Managing Investments

The Political Reform Act requires certain public officials to file Form 700 Statements of Economic Interest with the Fair Political Practices Commission ("FPPC") through the FPPC's e-filing system. SB 852 amends the Political Reform Act to now require public officials who manage public investments to e-file their Form 700s with the FPPC instead of filing with their local agency. Under the Political Reform Act, the definition of public official includes every member, officer, employee, or consultant of a state or local government agency. While the Political Reform Act does not define the management of public investments, the regulations of the FPPC provide that such management includes the non-ministerial functions of directing the investment of public money, formulating or approving investment policies, approving or establishing guidelines for asset allocations, and approving investment transactions. This has generally been understood to be governing body members, the agency's chief executive, and the agency's finance officer (often called "statutory filers.") As a result, these officials must file their Form 700 through the FPPC's e-filing system, which can be found at this link: https://form700.fppc.ca.gov/.

BKS advises that local agencies review and update their conflict-of-interest codes as necessary to ensure compliance with SB 852's requirements. One policy consideration for the update is if your officials subject to SB 852 should file a copy of their Form 700 with the agency's filing officer. Please contact your primary attorney if you would like assistance with updating your agency's conflict of interest code.

AB 538 – Public Works Project Contractor and Subcontractor Records

Existing law requires that a contractor or a subcontractor on a public works project keep accurate payroll records, and that these records must be made available for inspection or copies provided upon request by the public agency that awarded the public works contract or the Division of Labor Standards Enforcement.

AB 538 now requires that, if a member of the public requests copies of the above records from the public agency that awarded the public works contract, the agency must obtain such records from the relevant contractor and make them available to the requestor if the agency is not in possession of such records at the time of the request. In addition, contractors now must provide the copies to the agency, if not already in its possession within 10 days of the request. AB 538 authorizes the Division of Labor Standards Enforcement to enforce certain penalties if a public agency provides notice to the Division that a contractor has failed to comply with the agency's request for records within 10 days of receipt of such request.

AB 339 – Contracting Notices to Employee Organizations

Existing law requires a public agency to give reasonable written notice of certain agency actions to employee organizations. AB 339 requires public agencies to provide 45 days' written notice to recognized employee organizations before the agency issues a request for proposals, request for quotes, or renews or extends an existing contract to perform services that are within the scope of work of the job classifications represented by the recognized employee organization. If an emergency or other exigent circumstance prevents a public agency from providing 45 days' written notice, the agency must provide notice as soon as possible. Please note that AB 339 only applies to public agencies with a recognized employee organization/association/union.

AB 339 generally applies to procurement contracts for work that is traditionally performed by a local agency's public employees. For example, information technology, human resources, and custodial work may fall within the notice requirements. Notably, AB 339 does not apply to contracts for construction, alteration, demolition, installation, repair, or maintenance work related to specialized data, software, or services or contracts for services related to planning, design, administration, oversight, review, or delivery of public works, buildings, or other infrastructure projects.

It also should be noted that AB 339 does not include any sort of bargaining requirement, remedy for failure to comply or standards for agencies to determine if a proposed outside contract falls within a job classification's scope of work. Given the ambiguities, there is a risk that an aggressive union might try to pursue an unfair labor practice charge or other remedy. We therefore urge clients with employee associations or unions to consult with their labor counsel for additional guidance on the possible impacts of AB 339 and implementation of any new policies or best practices to address this bill.