



UPCOMING EVENTS

CASH Complimentary Webinar Series

The Governor’s Order:
Construction Project Delays
and Paying Contractors
During the Coronavirus
Crisis

*Thursday, April 2, 2020
11:00 a.m.-12:15 p.m.
Webinar via Telspan*

K-12 Food Preparation and
Service: Cleaning,
Sanitizing and Maintenance
in the Coronavirus
Environment

*Thursday, April 9, 2020
11:00 a.m.-12:15 p.m.
Webinar via Telspan*

Local Capital Funding
Options in a Time of
Limited State Bond
Availability and a Looming
Coronavirus-Recession

*Thursday, April 16, 2020
11:00 a.m.-12:15 p.m.
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UPDATE

Executive Orders in Response to COVID-19 Pandemic

Governor Newsom issued 15 Executive Orders through March 30th in response to the COVID-19 pandemic. Of these, three are of particular importance to school facilities:

- EO N-25-20 and EO N-29-20 directed that public bodies could comply with open meetings laws by meeting via teleconference or videoconference.
- EO N-26-20 ensures that local educational agencies that close facilities in response to the pandemic will continue to receive funding, provided they continue to provide specified services (providing instruction and meals, daycare if practicable, and paying employees).
- EO N-33-20 ordered all California residents to remain at home per the order of the State Public Health Officer, with the exception of specified “Essential Critical Infrastructure Workers,” such as
 - “Workers supporting public and private childcare establishments, pre-K establishments, K-12 schools, colleges, and universities for purposes of distance learning, provision of school meals, or care and supervision of minors to support essential workforce across all sectors.”
 - This order also exempted workers in construction and related industries from the stay-at-home order.

Emergency Legislation in Response to COVID-19 Pandemic

On March 16, 2020, Governor Newsom sent the Legislature a letter regarding the magnitude of the impact COVID-19 is having across the state, and requesting specified legislation to facilitate the state’s response. The Legislature approved the requested legislation and then adjourned until April 13th. The emergency legislation includes:

- *SB 89 (Committee on Budget and Fiscal Review)*, which appropriates \$500 million to fund the statewide emergency response to the COVID-19 virus, and creates the ability for this amount to increase in increments of \$50 million under specified provisions. This bill also provides \$84.1 million to CalRecycle for debris removal costs related to the 2018 Camp Fire.
- *SB 117 (Committee on Budget and Fiscal Review)*, which appropriates \$100 million to LEAs in order to provide essential support including the purchase personal protective equipment and supplies, and for labor costs to clean and disinfect school sites. SB 117 contains additional provisions relating school operations.

Legislative and Budget Update

In response to the threat of COVID-19, the Legislature is in recess until at least April 13th. Work continues on bills that were introduced this year, however, there is significant uncertainty as to when the Legislature will actually reconvene. We are hearing that legislators may face stricter limits on the number of bills they may advance, and possibly only advance those that address the most critical state priorities, including the COVID-19 crisis or disaster and emergency response.

Budget Process

On March 25, the Department of Finance issued a memo instructing state departments to prepare for a “workload budget” scenario for FY 2020-21, significantly limiting new spending and focusing on paying for existing obligations and core operations.



APRIL 2020

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The memo specifies that the workload approach also applies to capital outlay funding. Assembly Member Ting, Chair of the Assembly Budget Committee, recently cautioned that new spending will likely be limited to coronavirus aid, homelessness, and wildfires. Due to the postponement of federal and state tax deadlines to July 15th, the adjustments typically made during the May Revision will likely be postponed. While the Legislature intends to meet the constitutional Budget deadline of June 15th, that Budget may need to be adjusted later in the summer once the State has a better picture of tax revenues. The State is entering this period with approximately \$20 billion in rainy day reserves, providing some protection against economic uncertainty.

CASH will encourage the Legislature and Administration to prioritize the sale of Proposition 51 bonds to fund school facility projects. These projects can help stimulate the economy while ensuring schools are better able to serve our students in clean, safe, modern learning environments.

Key Legislation

CASH is taking positions or participating in the development of the following bills:

– *AB 2987 (Flora) – CUPCCAA*

Provides an option to noticing requirements for CUPCCAA projects. Current law requires local agencies, including schools, to provide notice of CUPCCAA formal bid projects over \$200,000 in a newspaper of general circulation at least 14 days before the date of bid opening. This bill would allow a local agency to publish this notice inviting formal bids electronically on its website at least 14 days before bid opening, in lieu of the newspaper notice requirement. If the agency chooses this option, it is still required to notify construction trade journals at least 15 days in advance of the bid opening. CASH has taken a support position on this bill, which could serve as a pilot project for possibly expanding the option beyond CUPCCAA projects in the future. The bill is sponsored by the Construction Industry Force Account Council and California State Council of Laborers.

– *AB 2186 (Grayson) – Payment Retention*

Eliminates the requirement for local agencies, including schools, to withhold a minimum of 5% of the contract price for retention. CASH has taken an oppose position on this bill, as the mandatory retention is an important tool used to protect public funds in the event of performance issues. Additionally, we are concerned that this bill would negatively impact a school district's ability to withhold additional retention amounts for substantially complex projects.

– *AB 2162 (O'Donnell) – IAQ/HVAC/Acceptance Testing*

The CalGreen Code/Title 24 requires acceptance testing (a key element of the Commissioning process), and the California Energy Commission (CEC) is in the process of developing regulations intended to increase compliance, which will be enforced by the Division of the State Architect (DSA). Assemblyman O' Donnell's office has assembled stakeholders including CASH to discuss the implications for school facilities and maintenance departments. This bill is a placeholder for this issue. Air quality, HVAC flow rates and acceptance testing have become a hot topic for school M&O and facility departments.



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State Allocation Board

The State Allocation Board met via videoconference on March 25th. The Board extended School Facility Program deadlines. The Office of Public School Construction stated its commitment to adjust deadlines as necessary in response to school closures and stay-at-home orders.

Healthy Schools Act – Use of Disinfectant Wipes, Hand Sanitizers and Antibacterial Soap

The spread of COVID-19 is significantly affecting all of us, including the K-12 education community in California. The Centers for Disease Control (CDC) and the State Department of Education (CDE) are good resources for timely and empirical information about COVID-19 and K-12 schools.

From a more practical standpoint concerning school facilities and maintenance, there have been questions about the use of disinfecting wipes/spray and hand sanitizers and antibacterial soaps under the Health Schools Act (HSA), which has been administered by the Department of Pesticide Regulation (DPR) since 2000; specifically, is HSA training required use the sanitizers outlined above?

As of today, the HSA specifies the following:

- REQUIRES HSA Training: Disinfecting Wipes
- DOES NOT REQUIRE HSA Training: Hand Sanitizers and Antibacterial Soap

HSA training can be done online on the DPR website free of charge, a change to the HSA that the CASH Maintenance Network recommended to ensure that the training does not require leaving your school site.

We are in contact with the Department of Pesticide Regulation (DPR) and the Department of Education (CDE), and will let you know of any changes that may affect this guidance. The following is a link to the CDE website which is an excellent resource on issues related to COVID-19 in a K-12 school environment, including the DPR's website which includes the Healthy Schools Act: www.cde.ca.gov/ls/he/hn/coronavirus.asp

Does Governor Newsom's Executive Order No. N-33-20 Include and Thus Impact K-12 Public School Construction Projects That are in Progress or About to Commence?

During the evening of March 19, 2020 Governor Newsom issued Executive Order No. N-33-20, which ordered all Californians to "stay at home," with certain exemptions for essential services and critical infrastructure projects. This Order has prompted questions and caused some high level of new angst.

In consultation with members of the CASH Legal Advisory Committee, CASH leadership believes school construction projects are included in those projects exempted in the Executive Order to the degree that the construction projects are "essential" in meeting the obligations of the school district or county office (LEAs) responsible for the project. Schools are closed as public buildings and central offices may not be open to the public, however, the legal responsibilities and functions of school districts and county offices of education (LEAs) have not ceased.



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The key to understanding the Order is found on the state website, which was updated at 11:22 on March 19 to clarify the extent of the Order and provides:

“The California State Public Health Officer and Director of the California Department of Public Health is ordering all individuals living in the State of California to stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, **and construction, including housing construction.**”

CASH leaders urge LEAs to review each of their respective construction projects on a case-by-case basis to determine whether these projects are “essential” to meeting their responsibilities and obligations. If essential, we believe that such projects may proceed. We recommend, however, that each LEA consult the guidance of their legal counsel in each project matter.

LEAs must be prepared to re-establish all services to students once the Governor determines that schools reopen. School facilities, including classrooms, toilet rooms, kitchens and food service facilities, school nurse offices, school-based health clinics and administrative offices are essential to providing those services. In the view of CASH leadership all LEAs must be prepared and ready to accept and serve students upon direction of the Governor.

A majority of LEAs in California have agreements with contractors and others in the private sector to deliver projects. Our recommendation is that each LEA communicate with each contractor to determine if work is to continue, and, if so, how such may be accomplished including provisions for social distancing of workers in the various trades, project inspectors, testing lab personnel, architects, district personnel and all who enter the job site.

Those private sector entities doing work for the LEAs will be due payment for work recently completed and work in progress. It is the obligation of LEAs to provide those payments. As in the Great Recession commencing in 2008, we see school construction in California as a key economic driver that will help our state keep people working as fears of a recession continue to emerge.

These are unprecedented times. CASH Leaders are aware of the challenges faced by our members. We will continue to communicate and offer guidance and assistance throughout this crisis. Please note that while CASH is optimistic, if the situation in the State deteriorates, it may be necessary to re-consider the continuation of work and the health effects on individuals working on projects.

~Julie Arthur, CASH Chair

Networking Mixers

All CASH Networking Mixers have been postponed until further notice.

For the latest updates on important matters affecting school facilities, visit www.cashnet.org. Connect with CASH on Facebook or follow us on Twitter: @CASHFacilities.