

Wildfire fund opponent sues state for financial records

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The lawyer who challenged the wildfire mitigation funding bill is now suing the state's finance department for withholding records he believes are part of a scheme to transfer taxpayer and ratepayer money to utilities liable for wildfires.

The suit, filed Wednesday by Michael J. Aguirre of Aguirre & Severson LLP, also questions how much of Assembly Bill 1054 is actually the result of utility lobbying, instead of the state's consideration of the issues' underlying merits. *Michael J. Aguirre v. California Department of Finance* (Sac. Super. Ct., filed Jul. 31, 2019).

AB 1054 authorizes the state's Department of Water Resources to issue as many bonds as necessary to capitalize a fund to pay utilities' wildfire liabilities, the complaint says.

Aguirre based his accusations on emailed correspondence discovered between the governor's office, private consultants and the Department of Finance. Records show the parties "sought to determine how the state could use taxpayer money to capitalize a fund through which bonds would be raised, after which utility ratepayer money would be used to pay for the bonds," according to the complaint.

A spokesperson and the Department of Finance has not been served with the complaint and could not comment.

Aguirre claims the Department of Finance delayed the production of all the records he requested until after AB 1054 was adopted. He said he did receive some of the fiscal impact reports but believes there might be more records of significant public interest, given the email exchanges.

The lawsuit points to a July 1 email where Paul Rosenstiel, special advisor to the governor, asks the state treasurer how much money was in the state's Surplus Money Investment Fund. The lawsuit speculated Rosenstiel wanted to know how much could be used to turn over state bond money to Southern California Edison Co. and Pacific Gas & Electric Co. to pay their uninsured wildfire costs.

Another email, from Holly Vocal of a Merrill Lynch investment banking team to Rosenstiel, called AB 1054's bond-issuance plan an "attractive security structure for funding a portion of the Wildfire Victims' Fund with a securitization of [utility] ratepayer contributions," according to the lawsuit.

Furthermore, Filsinger Energy Partners, hired to analyze the wildfire fund durability, gave inconsistent statements of exactly when and how much the fund would be depleted, the suit alleged. Filsinger initially said the proposed \$10 billion fund had 98% chance of being depleted by 2030, but then recently concluded the \$21 billion fund had only a 22% chance of being depleted by 2035, the suit claimed.

Aguirre said he asked the Department of Finance for the records for weeks in hopes of analyzing AB 1054 before it passed. However, the bill was hurriedly signed into law July 12, he said. The records were pertinent for the public to meaningfully participate in the legislative process of the bill, he argued.

“The governor is exploiting the wildfire uninsured cost problem into an investment for utility investors,” said Aguirre. “He’s already worked the deal by doing away with the prudent manager standard so the cash flows from utility customers to bond investors, probably many of the same investors who already own PG&E and Edison, even if the utilities caused these fires negligently.”

Last month, Aguirre [sued the state, challenging AB 1054](#), claiming it was a bailout for utilities that negligently caused the wildfires. *Nelson v. California Department of Water Resources Director Karla Nemeth* 19-CV-04171 (N.D. Cal., filed July 19, 2019).

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