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California Safe Drinking Water Bond Law of 1988

Official Title and Summary Prepared by the Attorney General

CALIFORNIA SAFE DRINKING WATER BOND LAW OF 1988. This act provides for a bond issue of seventy-five million dollars (\$75,000,000) to provide funds for improvement of domestic water systems to meet minimum drinking water standards.

Text of Proposed Law

This law proposed by Assembly Bill 1439 (Statutes of 1988, Ch. 45), as amended by Assembly Bill 1720 (Statutes of 1988, Ch. 297), is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law adds sections to the Water Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Chapter 16 (commencing with Section 14000) is added to Division 7 of the Water Code, to read:

CHAPTER 16. CALIFORNIA SAFE DRINKING WATER BOND LAW OF 1988 Article 1. General Provisions

14000. This chapter shall be known and may be cited as the California Safe Drinking Water Bond Law of 1988.

14001. The Legislature hereby finds and declares all of the following:

(a) The State Department of Health Services has discovered toxic chemicals in 126 of California's large public drinking water systems.

(b) Many of the chemical contaminants in California's drinking water supplies are known or suspected of causing cancer, birth defects, and other serious illnesses.

(c) New monitoring programs for small public water systems are expected to identify many new toxic contamination problems. It is unlikely that these problems can be solved without financial assistance from the State of California.

14002. The Legislature further finds and declares that the protection of the health, safety, and welfare of the people of California requires that water supplied for domestic purposes be at all times pure, wholesome, and potable, and that it is in the interest of the people that the State of California provide technical and financial assistance to the end that the people of California are assured a safe, dependable, and potable supply of water for domestic purposes and that water is available in adequate quantity at sufficient pressure for health, clean-
and other domestic purposes.

14003. The Legislature further finds and declares that it is the intent of the Legislature to provide for the upgrading of domestic water supply systems to assure that all domestic water supplies at least meet minimum domestic water supply standards established under Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

14004. As used in this chapter, the following terms shall have the following meanings:

(a) "Committee" means the Safe Drinking Water Finance Committee created by Section 14032.

(b) "Cost-per-connection" means the total amount of funds in grants or loans, or combination thereof, to be provided by the department to a supplier for any project, divided by the number of service connections in the water system.

(c) "Department" means the Department of Water Resources.

(d) "Domestic water system" means a system for the provision to the public of piped water for human consumption, if the system has at least five service connections or regularly supplies water to at least 25 individuals. The term includes any water supply, treatment, storage, and distribution facilities under the control of the operator of the system.

(e) "Fund" means the California Safe Drinking Water Fund created pursuant to Section 14010.

(f) "Supplier" or "supplier of water" means any person, partnership, corporation, association, or other entity or political subdivision of the state which owns or operates a domestic water system.

(g) "Federal assistance" means funds available, or which may become available, to a supplier either directly or through allocation by the state from the federal government as grants or loans for the improvement of domestic water systems.

(h) "Treatment works" means any devices or systems used in the treatment of water supplies, including necessary lands, which render water supplies pure, wholesome, and potable for domestic purposes.

(i) "Project" means proposed facilities for the construction, improvement, or rehabilitation of the domestic water system, and may include water supply, treatment works, and all or part of a water distribution system, if necessary to carry out the purpose of this chapter.

"Public agency" means any city, county, city and county, district, joint powers authority, or other political subdivision of the state which owns or operates a domestic water system. For purposes of this chapter, Chapter 10.2 (commencing with Section 13810), Chapter 10.5 (commencing with Section 13850), Chapter 10.6 (commencing with Section 13880), and Chapter 10.7 (commencing with Section 13895) a

political subdivision of the state may be any public agency.

Article 2. California Safe Drinking Water Program

14010. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the California Safe Drinking Water Fund, which is hereby created.

14011. (a) Notwithstanding Section 13340 of the Government Code, an aggregate amount of seventy-five million dollars (\$75,000,000) of the moneys in the fund are hereby continuously appropriated and shall be used for the purposes set forth in this section and Section 14029.

(b) The department may enter into contracts with suppliers having authority to construct, operate, and maintain domestic water systems, for loans to suppliers to aid in the construction of projects which will enable the supplier to meet, at a minimum, safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

(c) Any contract entered into pursuant to this section may include provisions as agreed by the parties thereto, and the contract shall include, in substance, all of the following provisions:

(1) An estimate of the reasonable cost of the project.

(2) An agreement by the department to loan to the supplier, during the progress of construction or following completion of construction as agreed by the parties, an amount which equals the portion of construction costs found by the department to be eligible for a state loan.

(3) An agreement by the supplier to repay the state over a period not to exceed 50 years, (A) the amount of the loan, (B) the administrative fee as described in Section 14022, and (C) interest on the principal, which is the amount of the loan plus the administrative fee.

(4) An agreement by the supplier, (A) to proceed expeditiously with, and complete, the project, (B) to commence operation of the project upon completion thereof, and to properly operate and maintain the project in accordance with the applicable provisions of law, (C) to apply for, and make reasonable efforts to secure, federal assistance for the project, (D) to secure approval of the department and of the State Department of Health Services before applying for federal assistance in order to maximize and best utilize the amounts of that assistance available, and (E) to provide for payment of the supplier's share of the cost of the project, if any.

(d) Bond proceeds may be used for a grant program in accordance with this chapter, with grants provided to suppliers that are political subdivisions of the state that are otherwise unable to meet minimum safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code. The total amount of grants made pursuant to this chapter shall not exceed twenty-five million dollars (\$25,000,000).

(e) Notwithstanding any other provision, the proceeds of any bonds authorized to be issued under the California Safe Drinking Water Bond Law of 1976 (Chapter 10.5 (commencing with Section 13850)), the California Safe Drinking Water Bond Law of 1984 (Chapter 10.2 (commencing with Section 13810)), and the California Safe Drinking Water Bond Law of 1986 (Chapter 10.7 (commencing with Section 13895)) which are unissued and uncommitted on the effective date of this chapter, shall be used for loans and grants to suppliers in accordance with the terms, conditions, and purposes of this chapter.

(f) The Treasurer shall determine the interest rate to be paid on loans issued under the Safe Drinking Water Bond Law of 1976 (Chapter 10.5 (commencing with Section 13850)), as required under Section 13867, equal to the average interest rate, computed by the true interest cost method, paid by the state on general obligation bonds sold pursuant to that chapter up to the effective date of this chapter.

14012. (a) The department may make state grants to suppliers that are political subdivisions of the state, from moneys in the fund available for that purpose pursuant to subdivision (d) of Section 14011, to aid in the construction of projects which will enable the public agency to meet, at a minimum, safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code. A grant may be made by the department only upon the specific approval of the Legislature.

(b) Any contract for a grant entered into pursuant to this chapter may include provisions as agreed by the parties thereto, and the contract shall include, in substance, all of the following provisions:

(1) An estimate of the reasonable cost of the project.

(2) An agreement by the department to grant to the public agency, during the progress of construction or following completion of construction as agreed by the parties, an amount which equals the portion of construction costs found by the department to be eligible for a state grant.

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(3) An agreement by the public agency, (A) to proceed expeditiously with, and complete, the project, (B) to commence operation of the project upon completion thereof, and to properly operate and maintain the project in accordance with the applicable provisions of law, (C) to apply for, and make reasonable efforts to secure, federal assistance for the project, (D) to secure approval of the department and of the State Department of Health Services before applying for federal assistance in order to maximize and best utilize the amounts of that assistance available, and (E) to provide for payment of the public agency's share of the cost of the project, if any.

14013. Applications for loans and grants under this chapter shall be made to the department in the form and with the supporting material as prescribed by the department.

14014. The department shall prepare an annual report on all grant commitments made, or grant contracts entered into, pursuant to this chapter. The report shall be filed with the Legislature, if it is in session or, if it is not in session, with the Joint Rules Committee. The report shall be filed on or before January 31 of each year for grant commitments made, or grant contracts entered into, by the department during the previous calendar year.

14015. (a) Loans and grants may be made only for projects for domestic water systems. The State Department of Health Services may make reasonable allowance for future water supply needs and may provide for additional capacity when excessive costs would be incurred by later enlargement. The loans and grants may be made for all, or any part, of the cost of constructing, improving, or rehabilitating any system when, in the judgment of the State Department of Health Services, improvement or rehabilitation is necessary to provide pure, wholesome, and potable water in adequate quantity at sufficient pressure for health, cleanliness, and other domestic purposes. The State Department of Health Services shall determine and notify applicants of eligibility of components requested to be included in the proposed project. The department shall use this determination as a basis for disbursing funds. No single public agency shall receive grants pursuant to this chapter totaling more than four hundred thousand dollars (\$400,000). Loans may be made to provide for the purchase of a water system or the purchase of watershed lands. No loan to an individual supplier shall exceed the sum of five million dollars (\$5,000,000), unless

the Legislature by an act raises the limit specified in this section.

(b) Upon receipt of an application for a grant or loan pursuant to this chapter, the department shall propose to the applicant improvements to the applicant's water development, distribution, and utilization system which will conserve water in a cost-effective manner. These improvements may include, but need not be limited to, leak detection and repair programs, valve repair and replacement, meter calibration and replacement, physical improvements to achieve corrosion control, distribution and installation of water conservation devices and fixtures, and other capital improvements which can be demonstrated to conserve water in a cost-effective manner. The department and applicant may agree to include these capital improvements in the grant or loan. Failure by the applicant to include water conservation capital improvements in the grant or loan application shall not be sufficient cause for the department to refuse to make the grant or loan.

14016. An application for a grant pursuant to this chapter shall not be approved by the department, unless the State Department of Health Services determines that the public agency is otherwise unable to meet minimum safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

No grant shall be made by the department except upon approval by the State Department of Health Services of project plans submitted by the applicant and upon written approval by the State Department of Health Services that the proposed project is consistent with Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

14017. First priority for grants shall be granted to public agencies having immediate health related problems, as certified by the State Department of Health Services. Additional high priority shall be granted to projects to correct immediate problems, as opposed to grants for construction of projects to meet future growth needs.

14018. First priority for loans shall be given to suppliers with the most critical public health problems. Priority for loans shall also be given to suppliers which have a lesser capability to reasonably finance system improvements.

14019. Preliminary design work, including a cost estimate for the project, shall be completed before a loan or grant is awarded. Operation and maintenance costs shall be the responsibility of the supplier and may not be considered as part of the project cost. Costs for planning and

preliminary engineering studies may be reimbursed following the receipt of a loan or grant, subject to approval by the department and the State Department of Health Services.

14020. No application for a grant may be made pursuant to this chapter unless the public agency has also applied for a loan pursuant to this chapter. A public agency shall be eligible for a grant only to the extent that the department finds that the agency is found unable to pay the full costs of a loan.

If the department has determined that the applicant is unable to repay the full costs of a loan, the applicant may also file for a grant. Upon receipt of a grant application, the department shall determine that portion of the full costs that the applicant is capable of repaying. Grant funds shall only be provided for that portion that the applicant is not capable of repaying.

14021. Grant funds shall be expended by the public agency within three years of the making of the grant. No grant funds may be expended by the public agency unless the public agency is able to demonstrate to the department, within one year of the making of the grant, supported by an acceptable bid, that the amount to be expended for the project will be within 20 percent of the public agency's cost estimate for the project.

14022. For the purpose of administering this chapter, the total expenditures of the department and the State Department of Health Services may not exceed 5 percent of the total amount of the bonds authorized to be issued under this chapter. The department shall establish a reasonable schedule of administrative fees for loans, which fees shall be paid by the supplier pursuant to Section 14011, to reimburse the state for the costs of state administration of this chapter.

Charges incurred by the Attorney General in protecting the state's interests in the use and repayment of grant and loan funds under this chapter shall be paid from the proceeds of bond sales under this chapter. These charges shall not be paid from funds allocated for administrative purposes, but shall be treated as a program expense not to exceed 1.5 percent of the total amount of the bonds authorized to be sold under this chapter.

14023. Repayment of all or part of the principal, which is the loan plus the administrative fee, may be deferred during a development period not exceeding 10 years within the maximum 50-year repayment period, when, in the department's judgment, the development period is justified under the circumstances. Interest on the principal shall not be deferred. Repayment of principal which is deferred during a development period may, at the option of the supplier, be paid in annual installments during the remainder of the loan repayment period.

14024. The department shall establish the interest rate for loans pursuant to this chapter at 50 percent of the true interest cost to the state of general obligation bonds issued most recently prior to the loan being executed. All loans made pursuant to this chapter shall carry the established interest rate for the calendar year in which the funds are committed to the loan, as of the date of the letter of commitment from the department, and shall remain at that interest rate for the duration of the loan.

14025. (a) The department, after public notice and hearing and with the concurrence of the State Department of Health Services, shall adopt rules and regulations necessary to carry out the purposes of this chapter. The regulations shall include, but not be limited to, criteria and procedures for establishing the eligibility of a supplier.

(b) The department shall adopt rules and regulations that, in its judgment, will most effectively carry out this chapter in the public interest, to the end that the people of California are most efficiently and most economically provided supplies of pure, wholesome, and potable domestic water. The rules and regulations may provide for the denial of funds when the purposes of this chapter may most economically and efficiently be attained by means other than the construction of the proposed project.

(c) Notwithstanding subdivision (a) or any other provision of law, existing rules and regulations adopted by the department pursuant to the California Safe Drinking Water Bond Law of 1984 (Chapter 10.2 (commencing with Section 13810)) which are in effect on the effective date of this chapter, may, at the option of the department, be utilized upon voter approval of this chapter for purposes of implementing this chapter. The department, with the concurrence of the State Department of Health Services, may subsequently revise those rules and regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code as necessary to implement provisions of this chapter which differ from Chapter 10.2 (commencing with Section 13810) or Chapter 10.7 (commencing with Section 13895) or for any other reason to carry out the purposes of this chapter.

14026. The State Department of Health Services shall notify suppliers that may be eligible for loans pursuant to this chapter of (a) the purposes of this chapter and (b) the rules and regulations adopted by the department.

14027. (a) The State Department of Health Services, after public notice and hearing and with the advice of the department, shall, from time to time, establish a priority list of projects to be considered for financing.

(b) Notwithstanding subdivision (a) or any other provision of law, the priority list established by the State Department of Health Services pursuant to the California Safe Drinking Water Bond Law of 1986

(Chapter 10.7 (commencing with Section 13895)) in effect on the effective date of this chapter may, at the option of the State Department of Health Services, be utilized upon voter approval of this chapter until the State Department of Health Services adopts a new priority list.

14028. Not more than twenty-five million dollars (\$25,000,000) of state loans for projects shall be authorized by the department in a single calendar quarter. No contract shall be approved by the department, unless the department finds that the supplier has the capacity to repay the loan amounts specified in the contract.

At the request of the department, the Public Utilities Commission shall furnish comments concerning the ability of suppliers subject to its jurisdiction to finance the project from other sources and the ability to repay the loan.

14029. (a) As approved annually by the Legislature in the Budget Act, the department, notwithstanding Section 14022, may expend money repaid to the state pursuant to any contract executed under Section 14011 as necessary for the administration of contracts entered into by the department under this chapter, but those expenditures may not in any year exceed 1.5 percent of the amount repaid to the state in that year. Charges incurred by the Attorney General in protecting the state's interest in the use and repayment of grant and loan funds under this chapter may be paid by the department from these funds, but those charges may not exceed one-half of 1 percent of the amount repaid to the state in that year. Any of the above sums approved by the Legislature, but unexpended by the department at the end of any year, shall automatically revert to the General Fund.

(b) Except as provided in subdivision (a), all money repaid to the state pursuant to any contract executed under Section 14011 shall be deposited in the General Fund and, when so deposited, shall be applied as a reimbursement to the General Fund on account of principal and interest on bonds issued pursuant to this chapter which has been paid from the General Fund.

(c) The department may enter into contracts with suppliers of water for grants or short-term loans for the purpose of investigating and identifying alternatives for system improvements. Any loans or grants pursuant to this section shall be made from the fund. No supplier may receive for a single investigation more than twenty-five thousand dollars (\$25,000) in the form of a loan or grant pursuant to this section. The State Department of Health Services shall review all proposed investigations and shall determine if they are necessary and appropriate.

(d) Any contract entered into pursuant to this section shall include terms and conditions consistent with this chapter, and any loan contract shall provide for a repayment period not to exceed 24 months.

(e) Not more than six million dollars (\$6,000,000) may be expended for the purposes of this section, of which not more than two million dollars (\$2,000,000) may be used for grants to public agencies. A loan or grant made for the purposes of this section shall not decrease the maximum amount of any other loan or grant which may be made under this chapter, Chapter 10.2 (commencing with Section 13810), Chapter 10.5 (commencing with Section 13850), Chapter 10.6 (commencing with Section 13880), or Chapter 10.7 (commencing with Section 13895).

Article 3. Fiscal Provisions

14030. Bonds in the total amount of seventy-five million dollars (\$75,000,000), exclusive of refunding bonds issued pursuant to Section 14039, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California are hereby pledged for the punctual payment of both principal and interest thereof.

14031. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

14032. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the California Safe Drinking Water Finance Committee is hereby created. For purposes of this chapter, the California Safe Drinking Water Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Governor, the Treasurer, the Director of Finance, the Director of Water Resources, and the State Director of Health Services, or their designated representatives. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Department of Water Resources is designated the "board."

14033. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 14011, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be

authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any time.

14034. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue, to do and perform each and every act which shall be necessary to collect the additional sum.

14035. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 14036, appropriated without regard to fiscal years.

14036. For the purposes of carrying out this chapter, the Director of Finance may, by written order, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any money made available under this section shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money

Investment Account from money received from the sale of bonds for the purpose of carrying out this chapter.

14037. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

14038. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are "proceeds of taxes" as that term is used in Article XIII B of the California Constitution disbursement of these proceeds is not subject to the limitations imposed by that article.

14039. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of these bonds shall include the approval of any bonds issued to refund any bonds originally issued or previously issued refunding bonds.

14040. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out the provisions of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute such documents as are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.