

Text of Proposed Law

This law proposed by Assembly Bill 1732 (Statutes of 1984, Ch. 377) 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 15 (commencing with Section 13999) is added to Division 7 of the Water Code, to read:

CHAPTER 15. CLEAN WATER BOND LAW OF 1984

13999. This chapter shall be known and may be cited as the Clean Water Bond Law of 1984.

13999.1. The Legislature finds and declares as follows:

(a) Clean water is essential to the public health, safety, and welfare. Clean water fosters the beauty of California's environment, the expansion of industry and agriculture, maintains fish and wildlife, and supports recreation.

(c) California's abundant lakes and ponds, streams and rivers, coastline, and groundwater are threatened with pollution, which could threaten public health and impede economic and social growth if left unchecked.

(d) The state's growing population has increasing needs for clean water supplies and adequate treatment facilities.

(e) It is of paramount importance that the limited water resources of the state be protected from pollution, conserved, and reclaimed whenever possible to ensure continued economic, community, and social growth.

(f) The chief cause of water pollution is the discharge of inadequately treated waste into the waters of the state.

(g) Local agencies have the primary responsibility for construction, operation, and maintenance of facilities to cleanse our waters.

(h) Rising costs of construction and technological changes have increased the cost of constructing treatment facilities beyond the reach of local agencies alone.

(i) Because water knows no political boundaries, it is desirable for the state to contribute to construction of these facilities in order to meet its

obligations to protect and promote the health, safety, and welfare of its people and environment.

(j) *Voluntary, cost-effective capital outlay water conservation programs can help meet the growing demand for clean water supplies.*

(k) (1) *It is the intent of this chapter to provide necessary funds to ensure the full participation by the state under the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and any acts amendatory thereof or supplementary thereto.*

(2) *It is also the intent of this chapter to provide special assistance to small communities to construct facilities necessary to eliminate water pollution and public health hazards.*

(3) *It is the further intent of this chapter to provide funds for state participation in the financing of the development and implementation of programs and systems for water reclamation.*

(4) *It is the further intent of this chapter to provide funds for voluntary, cost-effective capital outlay water conservation programs cooperatively carried out by public agencies and the department,*

13999.2. As used in this chapter, and for purposes of this chapter as used 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), the following words shall have the following meanings:

(a) "Committee" means the Clean Water Finance Committee created by Section 13999.4.

(b) "Board" means the State Water Resources Control Board.

(c) "Fund" means the 1984 State Clean Water Bond Fund.

(d) "Municipality" shall have the same meaning as in the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and shall also include the state or any agency, department, or political subdivision thereof.

(e) "Treatment works" shall have the same meaning as in the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.).

(f) "Construction" shall have the same meaning as in the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.).

(g) "Eligible project" means a project for the construction of treatment works which is all of the following:

(1) Necessary to prevent water pollution.

(2) Eligible for federal assistance, whether or not federal funds are then available.

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(3) Certified by the board as entitled to priority over other treatment works, and which complies with applicable water quality standards, policies, and plans.

(h) "Eligible water reclamation project" means a water reclamation project which is cost-effective when compared to the development of other new sources of water, and for which no federal assistance is currently available. These projects or activities shall comply with applicable water quality standards, policies, and plans.

(i) "Federal assistance" means funds available to a municipality, either directly or through allocation by the state, from the federal government to construct treatment works pursuant to the federal Clean Water Act.

(j) "Small community" means a municipality with a population of 5,000 persons or less, or a reasonably isolated and divisible segment of a larger municipality encompassing 5,000 persons or less, with a financial hardship as defined by the board.

(k) "Supplemental state assistance" means a grant given to a qualifying small community, in addition to the normal federal and state contributions, to reduce the local share of a project.

(l) "Federal Clean Water Act" means the existing federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and any acts amendatory thereof or supplementary thereto.

(m) "Voluntary, cost-effective capital outlay water conservation programs" means those feasible capital outlay measures to improve the efficiency of water use through benefits which exceed their costs. The programs include, but are not limited to, leak detection and repair within the water distribution and consumption system, distribution and installation of new and replacement water conserving fixtures and devices, valve repair and replacement, meter calibration and replacement, physical improvements to achieve corrosion control, irrigation system improvements to reduce leakage which results in the loss of otherwise usable water, tailwater pumpback recovery systems, construction of small reservoirs within irrigation systems which conserve water which has already been captured for irrigation use, and other physical improvements to irrigation systems. In each case, the department shall determine that there is a net savings of water as a result of each proposed project and that the project is cost-effective.

(n) "Department" means the Department of Water Resources.
13999.3. There is in the State Treasury the 1984 State Clean Water Bond Fund, which fund is hereby created. There shall be established in the fund a Clean Water Construction Grant Account for the purpose of implementing Section 13999.8, a Small Communities Assistance Account for the purpose of implementing Section 13999.9, a Water Reclamation Account for the purpose of implementing Section 13999.10 and a Water Conservation Account for the purpose of implementing Section 13999.11.

13999.4. There shall be a Clean Water Finance Committee consisting of the Governor or his designated representative, the Controller, the Treasurer, the Director of Finance, and the Executive Director of the State Water Resources Control Board. The Clean Water Finance Committee shall be the "committee" as that term is used in the State General Obligation Bond Law.

13999.5. (a) The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of three hundred twenty-five million dollars (\$325,000,000), in the manner provided in this chapter. The debt or debts, liability or liabilities, shall be created for the purpose of providing the fund to be used for the object and work specified in this section and in Sections 13999.6, 13999.8, 13999.9, 13999.10, 13999.11, and 13999.14.

(b) The board is authorized to enter into contracts with municipalities having authority to construct, operate, and maintain treatment works and reclamation projects, for grants and loans to the municipalities to aid in the construction of eligible projects and eligible water reclamation projects and may adopt rules and regulations necessary to carry out the provisions of this chapter.

(c) As approved by the Legislature annually in the Budget Act, the board may, by contract or otherwise, undertake plans, surveys, research, development, and studies necessary, convenient, or desirable to carry out the purposes of this division, and may prepare recommendations with regard thereto, including the preparation of comprehensive state-wide or areawide studies and reports on the collection, treatment, and disposal of waste under a comprehensive cooperative plan.

(d) As approved by the Legislature annually in the Budget Act, the board may expend bond funds necessary for administration of this chapter.

(e) Not more than 5 percent of the money deposited in the fund may be used for purposes of subdivisions (c) and (d).

(f) As approved by the Legislature annually in the Budget Act, the department may direct grants and loans to any public agency or, by

contract or otherwise, undertake plans, surveys, research, development, and studies necessary, convenient, or desirable to carry out voluntary, cost-effective capital outlay water conservation programs.

(g) The board may expend funds necessary to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

13999.6. All bonds which have been duly sold and delivered constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is pledged for the punctual payment of both principal and interest.

There shall be collected annually in the same manner, and at the same time as other state revenue is collected, the sum, in addition to the ordinary revenues of the state, required to pay the principal and interest on the bonds. It is the duty of all officers charged by law with any duty in regard to the collection of that revenue to perform each and every act which is necessary to collect this additional sum.

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

13999.7. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and other matters with respect to, the bonds authorized by this chapter. The provisions of that law are included in this chapter as though set out in full in this chapter, except that, notwithstanding any provision in the State General Obligation Bond Law, the bonds authorized under this chapter shall bear the rates of interest, or maximum rates, fixed from time to time by the Treasurer with the approval of the committee. The maximum maturity of the bonds shall not exceed 50 years from the date of the bonds or from the date of each respective series. The maturity of each respective series shall be calculated from the date of the series.

13999.8. (a) The sum of two hundred fifty million dollars (\$250,000,000) of the money in the fund shall be deposited in the Clean Water Construction Grant Account and is appropriated for grants and loans to municipalities to aid in construction of eligible projects and the purposes set forth in this section.

(b) If the federal Clean Water Act authorizes a federal loan program for providing assistance for construction of treatment works, which requires state matching funds, the board may establish a State Water Pollution Control Revolving Fund to provide loans in accordance with the federal Clean Water Act. The board, with the approval of the committee, may transfer funds from the Clean Water Construction Grant Account to the revolving fund for the purposes of meeting federal requirements for state matching funds.

(c) Any contract entered into pursuant to this section may include such provisions as may be determined by the board, provided that any contract concerning an eligible project shall include, in substance, all of the following provisions:

(1) An estimate of the reasonable cost of the eligible project.
(2) An agreement by the board to pay to the municipality, during the progress of construction or following completion of construction as agreed upon by the parties, an amount which equals at least 12½ percent of the eligible project cost determined pursuant to federal and state laws and regulations.

(3) An agreement by the municipality to proceed expeditiously with, and complete, the eligible project; commence operation of the treatment works upon completion and to properly operate and maintain the works in accordance with applicable provisions of law; apply for and make reasonable efforts to secure federal assistance for the eligible project; secure the approval of the board before applying for federal assistance in order to maximize the assistance received in the state; and provide for payment of the municipality's share of the cost of the eligible project.

(d) The board may, with the approval of the committee, transfer moneys in the Clean Water Construction Grant Account to the State Water Quality Control Fund, to be made available for loans to public agencies pursuant to Chapter 6 (commencing with Section 13400).

(e) Grants may be made pursuant to this section to reimburse municipalities for the state share of construction costs for eligible projects which received federal assistance, but which did not receive an appropriate state grant due solely to depletion of the State Clean Water and Water Conservation Fund created pursuant to the Clean Water and Water Conservation Bond Law of 1978 (Chapter 12.5 (commencing with Section 13955)). Eligibility for reimbursement under this section is limited to the actual construction capital costs incurred.

(f) To the extent funds are available, if the federal share of construction funding under Title II of the federal Clean Water Act is reduced below 75 percent, municipalities otherwise eligible for a grant under this section shall also be entitled to a loan from the Clean Water Construction Grant Account of up to 12½ percent of the eligible project cost.

(g) To the extent funds are available, if the federal Clean Water Act authorizes a federal loan program for providing assistance for construction of treatment works, the board may make those loans in accordance

with the federal Clean Water Act and state law. The Legislature may enact legislation that it deems necessary to implement the state loan program.

(h) Notwithstanding any other provision of law, and to the extent funds are available, if federal funding under Title II of the federal Clean Water Act ceases, municipalities shall only be entitled to a loan from the Clean Water Construction Grant Account of 25 percent of the eligible project cost.

(i) All loans pursuant to this section are subject to all of the following provisions:

(1) Municipalities seeking a loan shall demonstrate, to the satisfaction of the board, that an adequate opportunity for public participation regarding the loan has been provided.

(2) Any election held with respect to the loan shall include the entire municipality except where the municipality proposes to accept the loan on behalf of a specified portion, or portions, of the municipality, in which case the referendum shall be held in that portion or portions of the municipality only.

(3) Any loan made pursuant to this section shall be up to 25 years with an interest rate set annually by the board at 50 percent of the average interest rate paid by the state on general obligation bonds for the calendar year immediately preceding the year in which the loan agreement is executed.

(4) The first thirty million dollars (\$30,000,000) in principal and interest from loans made pursuant to this section shall be paid to the Water Reclamation Account. All remaining principal and interest from the loans shall be returned to the Clean Water Construction Grant Account for new obligations.

13999.9. (a) The sum of forty million dollars (\$40,000,000) of the money in the fund shall be deposited in the Small Communities Assistance Account and is appropriated for supplemental state assistance to small communities for construction of treatment works eligible for assistance under Title II of the federal Clean Water Act.

(b) Notwithstanding subdivision (c) of Section 13999.5, the board may make grants to small communities so that the combined federal and state grant is an amount up to 97½ percent of pollution studies, the total estimated cost of planning, design, and construction determined in accordance with applicable state laws and regulations. No supplemental state assistance grant under this section shall be made for projects costing more than two million five hundred thousand dollars (\$2,500,000) unless a finding is made by the board that a higher cost project is the most cost-effective solution to a water quality or public health problem.

(c) Any contract entered into pursuant to this section may include such provisions as may be determined by the board, provided that any contract shall include the provisions required by paragraphs (1) and (3) of subdivision (c) of Section 13999.8.

13999.10. (a) The sum of twenty-five million dollars (\$25,000,000) of the money in the fund shall be deposited in the Water Reclamation Account and is appropriated for loans to municipalities for eligible water reclamation projects which will provide water for beneficial uses.

The board may loan a municipality up to 100 percent of the total eligible costs of design and construction of a reclamation project.

(b) Any contract for an eligible water reclamation project entered into pursuant to this section may include such provisions as determined by the board and shall include both of the following provisions:

(1) An estimate of the reasonable cost of the eligible water reclamation project.

(2) An agreement by the municipality to proceed expeditiously with, and complete, the eligible water reclamation project; commence operation of the project in accordance with applicable provisions of law; provide for payment of the municipality's share of the cost of the project, including principal and interest on any state loan made pursuant to this section; and, if appropriate, apply for and make reasonable efforts to secure federal assistance, other than that available pursuant to the federal Clean Water Act, for the state-assisted project.

(c) Loan contracts may not provide for a moratorium on payments of principal or interest.

(d) Any loans made from the Water Reclamation Account shall be for a period of up to 25 years with an interest rate set annually by the board at 50 percent of the average interest rate paid by the state on general obligation bonds in the calendar year immediately preceding the year in which the loan agreement is executed. All principal and interest from loans shall be returned to the Water Reclamation Account for new loans.

(e) Funds available under this section may be used for loans pursuant to subdivisions (f), (g), and (h) of Section 13999.8 if the Clean Water Construction Grant Account is depleted. All principal and interest on any such loans shall be repaid to the Water Reclamation Account.

(f) No single project may receive more than ten million dollars (\$10,000,000) from the board.

13999.11. (a) Ten million dollars (\$10,000,000) of the money in the fund shall be deposited in the Water Conservation Account and shall be available for appropriation by the Legislature for loans to municipalities to aid in the conduct of voluntary, cost-effective capital outlay water conservation programs and the purposes set forth in this section. Notwithstanding subdivision (e) of Section 13999.5 and subdivision (f) of this section, all of the funds deposited in the Water Conservation Account by this subdivision shall be available for water conservation programs. None of the funds deposited in the Water Conservation Account by this subdivision shall be expended for costs of administration.

(b) Any contract entered into pursuant to this section may include provisions as may be determined by the department. However, any contract concerning an eligible, voluntary, cost-effective capital outlay water conservation program shall include, in substance, all of the following:

(1) An estimate of the reasonable cost and benefit of the program.

(2) An agreement by the public agency to proceed expeditiously with, and complete, the program.

(c) Loan contracts may not provide a moratorium on payments of principal or interest.

(d) Any loans made from the Water Conservation Account shall be for a period of up to 25 years with an interest rate set annually by the board at 50 percent of the average interest rate paid by the state on general obligation bonds in the calendar year immediately preceding the year in which the loan agreement is executed. All principal and interest from loans shall be deposited in the Water Conservation Account for new obligations.

(e) No single project may receive more than five million dollars (\$5,000,000) from the department.

(f) As approved by the Legislature annually in the Budget Act, the department may expend up to 5 percent of the funds in the Water Conservation Account for the administration of this section.

13999.12. Except as expressly provided in this chapter, no money deposited in the fund pursuant to any provision of law requiring repayments to the state for assistance financed by the proceeds of the bonds authorized by this chapter shall be available for transfer to the General Fund.

13999.13. There is hereby appropriated from the General Fund State Treasury for the purpose of this chapter an amount equal to the sum of the following:

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

(2) The sum necessary to carry out Section 13999.14 which is appropriated without regard to fiscal years.

13999.14. For the purpose of carrying out this chapter, the Director of Finance may, by executive 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 authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the board in accordance with this chapter. Any money made available under this section to the board or department shall be returned to the General Fund from money received from the sale of bonds. The withdrawals from the General Fund shall be returned to the General Fund with interest at the rate which would have otherwise been earned by those sums in the Pooled Money Investment Fund.

13999.15. Upon request of the board or department, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized under this chapter in order to make those arrangements, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to make those arrangements progressively, and it shall not be necessary that all of the bonds authorized to be issued shall be sold at any one time.

13999.16. The committee may authorize the Treasurer to sell all or any part of the bonds at times fixed by the Treasurer.