

Official Title and Summary Prepared by the Attorney General

WATER CONSERVATION AND WATER QUALITY BOND LAW OF 1986. This act provides for a bond issue of one hundred fifty million dollars (\$150,000,000) to provide funds for water conservation, groundwater recharge, and drainage water management, and clarifies language in the Clean Water Bond Law of 1984.

Text of Proposed Law

This law proposed by Assembly Bill 1982 (Statutes of 1986, Ch. 6) 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 6.1 (commencing with Section 13450) is added to Division 7 of the Water Code, to read:

CHAPTER 6.1. WATER CONSERVATION AND WATER QUALITY BOND LAW OF 1986

13450. *This chapter shall be known and may be cited the Water Conservation and Water Quality Bond Law of 1986.*

13451. *The Legislature finds and declares all of the following:*

(a) *An abundant supply of clean water is essential to the public health, safety, and welfare.*

(b) *An abundant supply of clean water fosters the beauty of California's environment, the expansion of industry and agriculture, maintains fish and wildlife, and supports recreation.*

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

(d) *It is of paramount importance that the water resources of the state be protected from pollution and conserved, and that the groundwater basins of the state be recharged whenever possible to ensure continued economic, community, and social growth.*

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

(f) *Local agencies have the primary responsibility for the construction, operation, and maintenance of facilities to cleanse our waters, to conserve water, and recharge groundwater basins.*

(g) *Rising costs of construction have pushed the costs of constructing treatment facilities and facilities to conserve water and recharge groundwater basins beyond the ability of local agencies to pay.*

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

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

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

(j) *Recharge of groundwater basins is an effective way to maximize availability of scarce water supplies throughout the state.*

(k) *California's abundant streams, rivers, bays, estuaries, and groundwater are threatened with pollution from agricultural drainage water which could threaten public health and fish and wildlife resources and impede economic and social growth if left unchecked. Proper containment structures and treatment facilities could provide for the handling of agricultural drainage water in an environmentally sensitive manner.*

(l) (1) *It is the intent of this chapter to provide funds for the construction of cost-effective containment structures and treatment facilities for the treatment, storage and disposal of agricultural drainage water.*

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

13452. *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 have the following meanings:*

(a) *"Board" means the State Water Resources Control Board.*

(b) *"Committee" means the Water Conservation and Water Quality Finance Committee created by Section 13454.*

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

(d) *"Drainage water management units" mean land and facilities for the treatment, storage, or disposal of agricultural drainage water which, if discharged untreated, would pollute or threaten to pollute the waters of the state.*

(1) *Drainage water management units may include any of the following:*

(A) *A surface impoundment which is a natural topo-*

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graphic depression, artificial excavation, or diked area formed primarily of earthen materials, which is designed to hold an accumulation of drainage water, including, but not limited to, holding, storage, settling, and aeration pits, evaporation ponds, percolation ponds, other ponds, and lagoons. Surface impoundment does not include a landfill,

a land farm, a pile, an emergency containment dike, tank, or injection well.

(B) Conveyance facilities to the treatment or storage site, including devices for flow regulation.

(C) Facilities or works to treat agricultural drainage water to remove or substantially reduce the level of constituents which pollute or threaten to pollute the waters of the state, including, but not limited to, processes utilizing ion exchange, desalting technologies like reverse os-

mosis, and biological treatment.

(D) An injection well.

(2) Any or all of the drain water management units, including the land under the unit, may consist of separable features, or an appropriate share of multipurpose features, a larger system, or both.

(e) "Fund" means the 1986 Water Conservation and Water Quality Bond Fund.

(f) "Groundwater recharge facilities" mean land and facilities for artificial groundwater recharge through methods which include, but are not limited to, (1) percolation using basins, pits, ditches and furrows, modified streambed, flooding, and well injection or (2) in-lieu recharge. "Groundwater recharge facilities" also mean capital outlay expenditures to expand, renovate, or restructure land and facilities already in use for the purpose of groundwater recharge.

Groundwater recharge facilities may include any of the following:

(1) Instream facilities for regulation of water levels, but not regulation of streamflow by storage to accomplish diversion from the waterway.

(2) Agency-owned facilities for extraction.

(3) Conveyance facilities to the recharge site, including devices for flow regulation and measurement of recharge waters.

Any part or all of the project facilities, including the land under the facilities, may consist of the separable features, or an appropriate share of multipurpose features, of a larger system, or both.

(g) "In-lieu recharge" means accomplishing increased storage of groundwater by providing interruptible surface water to a user who relies on groundwater as a primary supply, to accomplish groundwater storage through the direct use of that surface water in lieu of pumping groundwater. In-lieu recharge would be used rather than continuing pumping while artificially recharging with the interruptible surface waters. However, bond proceeds shall not be used to purchase surface water for use in lieu of pumping groundwater.

(h) "Local agency" or "agency" means any city, county, district, joint powers authority, or other political subdivision of the state involved with water management.

(i) "Project" means all of the following:

(1) Groundwater recharge facilities.

(2) Voluntary, cost-effective capital outlay water conservation programs.

(3) Drainage water management units.

(j) "Voluntary, cost-effective capital outlay water conservation programs" mean 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, lining or piping of ditches; improvements in water distribution system controls such as automated canal control, construction of small reservoirs within distribution systems which conserve water that has already been captured for use, and related physical improvements; tailwater pumpback recovery systems; major improvements or replacements of distribution systems to reduce leakage; and capital changes in on-farm irrigation systems which improve irrigation efficiency such as sprinkler or subsurface drip. 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.

13453. There is hereby created the 1986 Water Conservation and Water Quality Bond Fund in the State Treasury. There shall be established in the fund a Water Conservation and Groundwater Recharge Account for the purpose of implementing Section 13458, and an Agricultural Drainage Water Account for the purpose of implementing Section 13459.

13454. (a) There is a Water Conservation and Water Quality Finance Committee consisting of the Governor or the Governor's designated representative, the Controller, the Treasurer, the Director of Finance, the Director of the Department of Water Resources, and the Executive Director of the State Water Resources Control Board.

(b) The Water Conservation and Water Quality Finance Committee is the "committee" as that term is used in the State General Obligation Bond Law.

13455. (a) The committee may create a debt or debts, liability or liabilities, of the State of California in the aggregate amount of one hundred fifty million dollars (\$150,000,000), 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 13458 and 13459.

(b) The department may enter into contracts and may adopt rules and regulations necessary to carry out the purposes of Section 13458.

(c) The department may expend not more than 2½ percent of the total amount of the bonds authorized to be issued under this chapter for the administration of Section 13458.

(d) The board may enter into contracts and may adopt rules and regulations necessary to carry out the purposes of Section 13459.

(e) The board may expend not more than 2½ percent of the total amount of the bonds authorized to be issued under this chapter for the administration of Section 13459.

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

13456. 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 amount, in addition to the ordinary revenues of the state, required to pay the principal of, 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 amount.

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.

13457. 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.

13458. (a) The sum of seventy-five million dollars (\$75,000,000) of the money in the fund shall be deposited in the Water Conservation and Groundwater Recharge Account and, notwithstanding Section 13340 of the Government Code, is appropriated for expenditure in the 1986-87 fiscal year for loans to local agencies to aid in the acquisition and construction of voluntary, cost-effective capital outlay water conservation programs and groundwater recharge facilities and the purposes set forth in this section. Loans made in the 1986-87 fiscal year may not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations, to the policy committee of the Assembly as designated by the Speaker of the Assembly and the policy committee of the Senate designated by the Senate Rules Committee, and the Chairperson of the Joint Legislative Budget Committee.

(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 be supported by or 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 local agency to proceed expeditiously with, and complete, the program.

(3) A provision that there shall be no moratorium or deferment on payments of principal or interest.

(4) A loan period of up to 20 years with an interest rate set annually by the department at 50 percent of the interest rate computed by the true interest cost method on bonds most recently issued pursuant to this chapter. The interest rate set for each contract shall be applied throughout the contract's repayment period. There shall be a level annual repayment of principal and interest on the loans.

(5) A provision that the project shall not receive any more than five million dollars (\$5,000,000) in loan proceeds from the department.

The department shall set priority for loans under this subdivision on the basis of the cost effectiveness of the proposed project, with the most cost-effective projects receiving the highest priorities.

(c) Any contract concerning an eligible project for groundwater recharge shall be supported by or shall include, in substance, all of the following:

(1) A finding by the department that the agency has the ability to repay the requested loan, that the project is economically justified, and that the project is feasible from an engineering and hydrogeologic viewpoint.

(2) An estimate of the reasonable cost and benefit of the project, including a feasibility report which shall set

forth the economic justification and the engineering, hydrogeologic, and financial feasibility of the project, and shall include explanations of the proposed facilities and their relation to other water-related facilities in the basin or region.

(3) An agreement by the agency to proceed expeditiously to complete the project in conformance with the approved plans and specifications and the feasibility report and to operate and maintain the project properly upon completion throughout the repayment period.

(4) A provision that there shall be no moratorium or deferment on payment of principal or interest.

(5) A loan period of up to 20 years with an interest rate set annually by the department at 50 percent of the interest rate computed by the true interest cost method on bonds most recently issued pursuant to this chapter. The interest rate set for each contract shall be applied throughout the contract's repayment period. There shall be a level annual repayment of principal and interest on the loans.

(6) A provision that the project shall not receive any more than five million dollars (\$5,000,000) in loan proceeds from the department.

The department shall give priority under this subdivision to projects of agencies located in overdrafted groundwater basins and those projects of critical need, to projects whose feasibility studies show the greatest economic justification and the greatest engineering and hydrogeologic feasibility as determined by the department, and to projects located in areas which have existing water management programs.

(d) The department may make loans to local agencies, at the interest rates authorized under this section and under any terms and conditions as may be determined necessary by the department, for the purposes of financing feasibility studies of projects potentially eligible for funding under this section. No single potential project shall be eligible to receive more than one hundred thousand dollars (\$100,000), and not more than 3 percent of the total amount of bonds authorized to be expended for purposes of this section may be expended for this purpose. A loan for a feasibility study shall not decrease the maximum amount of any other loan which may be made under this section.

13459. (a) The sum of seventy-five million dollars (\$75,000,000) of the money in the fund shall be deposited in the Agricultural Drainage Water Account is appropriated for expenditure in the 1986-87 fiscal year for loans to agencies to aid in the construction of drainage water management units for the treatment, storage, or disposal of agricultural drainage water and the purposes set forth in this section. The board may loan an agency up to 100 percent of the total eligible costs of design and construction of an eligible project. Loans made in the 1986-87 fiscal year may not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations, to the policy committee of the Assembly as designated by the Speaker of the Assembly and the policy committee of the Senate designated by the Senate Rules Committee, and the Chairperson of the Joint Legislative Budget Committee.

(b) Any contract for an eligible project entered into pursuant to this section may include such provisions as determined by the board and 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 agency to proceed expeditiously with, and complete, the eligible project; commence operation of the containment structures or treatment works upon completion and to properly operate and maintain the works in accordance with applicable provisions of law; provide for payment of the agency'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 for the state-assisted project.

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

(1) Agencies 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 agency except where the agency proposes to accept the loan on behalf of a specified portion, or portions, of the agency, in which case the referendum shall be held in that portion or portions of the agency only.

(3) Loan contracts may not provide a moratorium on payment of principal or interest.

(4) Loans shall be for a period of up to 20 years with an interest rate set annually by the board at 50 percent of the interest rate computed by the true interest cost method on bonds most recently issued pursuant to this chapter. The interest rate set for each contract shall be applied throughout the contract's repayment period. There shall be a level annual repayment of principal and interest on loans.

(5) The board in considering eligible projects shall give preference to technologies which treat drainage water where the board finds that the technology is readily available and economically feasible for the agency.

(6) No single project may receive more than twenty million dollars (\$20,000,000) in loan proceeds from the board.

(d) The board may make loans to local agencies, at the interest rates authorized under this section and under any terms and conditions as may be determined necessary by the board, for purposes of financing feasibility studies of projects potentially eligible for funding under this section. No single potential project shall be eligible to receive more than one hundred thousand dollars (\$100,000), and not more than 3 percent of the total amount of bonds authorized to be expended for purposes of this section may be expended for this purpose. A loan for a feasibility study shall not decrease the maximum amount of any other loan which may be made under this section.

13460. 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 as a reimbursement for payment of bond principal and interest.

13461. There is hereby appropriated from the General Fund, for the purpose of this chapter, an amount equal to the sum of the following:

(a) The amount 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.

(b) The amount necessary to carry out Section 13462, which is appropriated without regard to fiscal years.

13462. For the purpose of carrying out this chapter, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of 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.

The amounts withdrawn shall be deposited in the fund and shall be disbursed by the department or the board in accordance with this chapter. Any money made available under this section to the department or the board 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 withdrawals in the Pooled Money Investment Fund.

13463. Upon request of the department or the board, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized under this chapter.

13464. The committee may authorize the Treasurer to sell all, or any part, of the bonds at times fixed by the Treasurer.

13465. Notwithstanding Sections 13458 and 13459, the committee may proscribe further terms and conditions for loan contracts to authorize a deferment on payment of all or part of the principal.

13466. For the 1987-88 fiscal year and each year thereafter, a loan may be made by the department or the board only upon the specific approval of the Legislature, by an act enacted after the receipt of a report filed pursuant to Section 13467.

13467. (a) The department shall annually submit a report to the Legislature on the status of the loan program authorized under Section 13458, including a prioritized list of projects eligible for funding, and the need for financial assistance for voluntary, cost-effective capital outlay water conservation programs and groundwater recharge facilities.

(b) The board shall annually submit a report to the Legislature on the status of the loan program authorized under Section 13459, including a prioritized list of projects eligible for funding, and the status of agricultural drainage problems on a statewide basis.

13468. It is the intent of language in Section 13998.8(i)(3), Section 13999.10(d), and Section 13999.11(d) of the Water Code which was enacted by the voters in the Clean Water Bond Law of 1984 that "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 made" means the interest rate computed by the true interest cost method on the bonds most recently issued pursuant to the Clean Water Bond Law of 1984.

13469. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.