

**SENATE COMMITTEE ON NATURAL RESOURCES AND WATER**  
**Senator Fran Pavley, Chair**  
**2013-2014 Regular Session**

**BILL NO:** SB 848

**AUTHOR:** Wolk

**VERSION:** As proposed to be amended

**DUAL REFERRAL:** Environmental Quality and Governance and Finance

**FISCAL:** Yes

**SUBJECT:** Safe Drinking Water, Water Quality, and Water Supply Act of 2014.

**HEARING DATE:** February 11, 2014

**URGENCY:** Yes

**CONSULTANT:** Dennis O'Connor

**BACKGROUND AND EXISTING LAW**

In November 2009, the legislature passed and the governor signed SBX7 2 (Cogdill). Also known as the Safe, Clean, and Reliable Drinking Water Supply Act of 2010, that law placed on the November 2010 ballot an \$11.14 B general obligation bond before the voters to fund various water resources programs and projects.

The legislature has amended the bond proposal three times, including twice delaying the placement of the bond before the voters. After initially being delayed to the November 2012 ballot, the bond was subsequently delayed to the November 2014 ballot, where it remains now.

Over the course of the last year or two, there has been much discussion on whether the public would support the current November 2014 bond proposal. Moreover, if the voters would not support that bond proposal, what, if anything, should take its place on the ballot?

To help answer those questions, this Committee held a joint hearing in February with the Senate Governance and Finance Committee titled "Overview of California's Debt Condition: Priming the Pump for a Water Bond." That hearing explored California's overall debt condition, the fund balances for various bond funded programs, and the implications for the November 2014 water bond.

This was followed two weeks later by a second hearing which asked the question "What's Changed Since the Legislature Passed the Safe, Clean, and Reliable Drinking Water Supply Act of 2010?" That hearing highlighted some of the unanticipated developments that occurred since the drafting of the bond, and posed the policy question "What changes, if any, should be made to the bond in light of recent developments?"

Later, on September 24, 2013, the Senate Environmental Quality and the Natural Resources and Water Committees held a joint hearing titled "Setting the Stage for a 2014 Water Bond: Where Are We and Where Do We Need To Go?" That hearing focused on where the various legislative bond discussions stood, identified issues that may need additional attention, and, where appropriate, suggested alternative approaches for consideration by the members.

## PROPOSED LAW

This bill would replace the \$11.14 B water bond that is currently on the November 2014 ballot with a new \$6.825 B general obligation bond titled “The Safe Drinking Water, Water Quality, and Water Supply Act of 2014.” The bill would also seek voter approval to make unappropriated bond funds from specific water bonds, which were authorized in 2000 and earlier, eligible for appropriation for water supply projects.

The proposed bond measure is organized as follows:

	Chapter 1.	Short Title
	Chapter 2	Findings and Declarations
	Chapter 3.	Definitions
\$900 M	Chapter 4.	Safe Drinking Water and Water Quality Projects
2,000	Chapter 5.	Water Supply Enhancement Projects
1,200	Chapter 6.	Sacramento San Joaquin Delta
1,700	Chapter 7.	Watershed and Ecosystem Improvements
1,025	Chapter 8	Water Storage Projects
	Chapter 9.	General Provisions
	Chapter 10.	Fiscal Provisions
<hr/>		
\$6,825 M		

Chapter 4. Safe Drinking Water and Water Quality Projects. This chapter would authorize \$900 M in funding for the following:

- \$400 M to the State Water Board (Board) for projects to address immediate safe drinking water needs.
- At least 10 percent of the funds would be allocated for projects serving severely disadvantaged communities.
  - Up to \$25 M may be used for technical assistance to disadvantaged communities.
  - Up to \$10 M may be used to finance development and demonstration of new technologies and related facilities for water contaminant removal and treatment appropriate for use by small and state small water system.

\$100 M for grants and direct expenditures to finance urgent public health emergency actions to ensure that safe drinking water supplies are available to all Californians.

\$400 M to the Board for deposit in the Small Communities Grant Subaccount for grants for wastewater treatment projects. The Board would be required to give priority to projects that serve disadvantaged communities and severely disadvantaged communities, and to projects that address public health hazards. Eligible projects include projects that identify, plan, design, and implement regional mechanisms to consolidate wastewater systems or provide affordable treatment technologies.

Of the \$400 M, \$20 M would be allocated to the Board for grants and loans to private well and septic owners to protect drinking water sources.

Chapter 5. Water Supply Enhancement Projects. This chapter would provide \$2,000 M in funding for the following:

1,500 M to the Department of Water Resources (DWR) for competitive grants for projects that develop, improve, or implement an adopted integrated regional water management plan (IRWMP) and improve the quality or supply of safe drinking water, reduce the amount of water imported to the region, or address any of the following other critical water supply reliability issues:

- Groundwater clean-up or pollution prevention in sources of drinking water.
- Advanced water treatment technology projects to remove contaminants from drinking water, water recycling, and related projects, such as distribution or groundwater recharge infrastructure.
- Urban and agricultural water conservation and water use efficiency projects.
- Other integrated water infrastructure projects that address one or more water management activities and improve the reliability or quality of regional water supplies, including the repair or replacement of aging water management infrastructure.

Projects receiving IRWMP funds would be required to have at least a 25% local match. However, DWR would be authorized to suspend or reduce the cost share requirement for either of the following:

- Projects serving disadvantaged communities, or
- Projects that result in a direct reduction in water imported from the Delta.

To be eligible for IRWMP funding, a region must comply with the following requirements:

- Have an adopted integrated regional water management plan.
- For each urban or agricultural water supplier that would benefit from the project, have adopted and submitted to DWR an urban or agricultural water management plan, as appropriate. DWR would be required to certify that the plans met the requirements of the Urban or Agricultural Water Management Planning Act, and the urban and agricultural water conservation requirements established under SB7X 7(2009, Steinberg).
- For each local agency whose service area includes a groundwater basin that would benefit from a groundwater management project, have adopted and submit to DWR a groundwater management plan. DWR would be required to certify that the groundwater management plan met the requirements of the Groundwater Management Planning Act.
- Have a water budget that describes local and imported water supplies and uses in sufficient detail to inform long-term efforts towards sustainable water management, and, where applicable, include a description of any measures anticipated to reduce the amount of water imported to the region in the future. DWR would be required to develop guidelines for complying with this requirement.
- Where applicable, an integrated water management plan shall be consistent with and implement WC §85021 (state policy to reduce reliance on the Delta).

Where applicable, IRWMP funding would be made available to water agencies to assist in directly reducing the amount of water imported from the Delta.

The California Water Commission would be required to review the DWR's implementation of the IRWMP program and certify that requirements for grant eligibility are met prior to DWR making final grant awards.

\$1,400 M would be distributed to regions pursuant to a specific schedule. The schedule is based on each region receiving \$50 M, the balance of the funds were distributed to each region in proportion to population.

100 M would be available for grants for projects that significantly advance the application and effectiveness of innovative integrated regional water management strategies. Priority would be given to projects that address groundwater overdraft and related impacts. Eligible projects include the following:

- Innovative decision support tools to model future regional climate change impacts.
- Groundwater management plans and projects that further sustainable groundwater management.
- Other projects determined by DWR to advance innovative strategies for the integration of water management.

500 M to the Board for competitive grants for projects that develop, implement, or improve a stormwater capture and reuse plan and that capture and put to beneficial use stormwater or dry weather runoff. Stormwater capture and reuse projects developed pursuant to an adopted integrated regional water management plan are also eligible for funding provided the projects were developed in substantive compliance with the Stormwater Resources Planning Act. Eligible projects include any of the following:

- Projects that reduce capture, convey, treat, or put to beneficial use stormwater or dry weather runoff.
- The development of stormwater capture and reuse plans.
- Decision support tools, data acquisition, and data analysis to identify and evaluate the benefits and costs of potential stormwater capture and reuse projects.
- Projects that, in addition to improving water quality, provide public benefits, such as augmentation of water supply, flood control, open space and recreation, and projects designed to mimic or restore natural watershed functions.

Special consideration would be given to plans or projects that provide multiple benefits such as water quality, water supply, flood control, natural lands, or recreation. A 25% local cost share would be required for grant funds, which may be suspended or reduced requirements for disadvantaged communities.

Chapter 6. Sacramento San Joaquin Delta. This chapter would provide \$1,200 M in funding for the following:

800 M to the Delta Conservancy for water quality, ecosystem restoration, fish protection facilities, and community sustainability projects that benefit the Delta. Eligible projects would include:

1. Projects to improve water quality facilities or projects that would contribute to improvements in water quality in the Delta.
2. Habitat restoration, conservation and enhancement projects to improve the condition of special status, at risk, endangered, or threatened species in the Delta and the Delta counties.

3. Projects to assist in preserving economically viable and sustainable agriculture and other economic activities in the Delta.
4. Multi-benefit recycled water projects that improve groundwater management and Delta tributary ecosystems.
5. Scientific studies and assessments that support the Delta Science Program.

Not less than \$500 million would be made available for items 1 & 2 above.

Would require the Conservancy to:

- Achieve wildlife conservation objectives through projects on public lands or voluntary projects on private lands to the extent possible. Funds could be used for payments to landowners for the creation of measurable habitat improvements or other improvements to the condition of endangered or threatened species.
- Coordinate, cooperate, and consult with the city or county in which a grant is proposed to be expended or an interest in real property is proposed to be acquired and with the Delta Protection Commission. Acquisitions shall be from willing sellers only.

Would require grantees to demonstrate to the Conservancy how local economic impacts, including impacts related to the loss of agricultural lands, would be mitigated.

Would authorize the Conservancy to develop and implement a competitive habitat credit exchange mechanism in order to maximize voluntary landowner participation in projects that provide measurable habitat or species improvements in the Delta. These funds could not be used to subsidize or decrease the mitigation obligations of any party.

- 400M to reduce the risk of levee failure and flood in the Delta for any of the following:
- Local assistance under the Delta levee maintenance subventions program.
  - Special flood protection projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6, as that chapter may be amended.
  - Levee improvement projects that increase the resiliency of levees within the Delta to withstand earthquake, flooding, or sea level rise.
  - Emergency response and repair projects.

Chapter 7. Watershed and Ecosystem Improvement. This chapter would provide \$1,700 M in funding for the following:

- 500 M for water quality, river, and watershed protection and restoration projects of statewide importance outside of the Delta. Funds would be allocated as follows:
- \$250 M to implement the Klamath Hydroelectric Settlement Agreement. Up to \$50 M may be made available for restoration projects in California pursuant to Klamath Basin Restoration Agreement provided that the full \$250 M is not needed for dam removal projects.
  - \$100 M to help fulfill state obligations under the Quantification Settlement Agreement.
  - \$100 M for projects that help fulfill state obligations under the San Joaquin River Restoration Settlement.

\$50 M for projects that help fulfill state obligations under the Tahoe Regional Planning Compact. Funds to implement this provision would be appropriated to the Tahoe Conservancy.

875 M for projects that protect and improve California's watersheds, wetlands, forests, and floodplains. Funds would be allocated to specific conservancies, the Wildlife Conservation Board (WCB), and the Ocean Protection Council (OPC) according to a specific schedule.

250 M to the Secretary for Natural Resources for a competitive program to fund multi-benefit watershed and urban rivers enhancement projects in urban watersheds that increase regional and local water self-sufficiency and that meet at least two or more of the following objectives:

- Promote groundwater recharge and water reuse.
- Reduce energy consumption.
- Use soils, plants and natural processes to treat runoff.
- Create or restore native habitat.
- Increase regional and local resiliency and adaptability to climate change.

20 M to the Department of Parks and Recreation to address public health deficiencies in drinking water and wastewater quality at state parks.

30 M to the Board to fund watershed activities by resources conservation districts.

25 M to the Board to fund competitive grants to special districts and nonprofit organizations for projects that reduce or manage runoff from agricultural lands for the benefit of surface and groundwater quality.

Chapter 8. Water Storage Projects. This chapter would provide \$1,025 M in funding for the following:

\$1,000M to the California Water Commission for any of the following:

- Surface storage projects identified in the CALFED Bay-Delta Programmatic Record of Decision, excluding projects at Lake Shasta.
- Groundwater storage projects and groundwater contamination prevention or remediation projects that create additional groundwater storage capacity.
- Conjunctive use and reservoir reoperation projects including associated infrastructure.
- Projects that restore the capacity of reservoirs currently impaired by sediment buildup, seismic vulnerability, or other impairment.
- Projects that result in a permanent reduction of water exported from the Delta and a transfer of the equivalent water right to instream flow. Priority shall be given to projects that also result in the permanent elimination of irrigation runoff contributing to salinity in the San Joaquin Valley.
- Recycled water storage facilities.

A project within the Delta watershed must provide measurable improvements to the Delta ecosystem.

Funds may be expended solely for the following public benefits:

- Ecosystem improvements, including, but not limited to, changing timing of diversions, improvement in flow conditions, temperature, or other benefits that contribute to restoration of aquatic ecosystems and native fish and wildlife.
- Water quality improvements in the Delta or in other river systems that provide significant public trust resources or that clean up and restore groundwater resources.
- Flood control benefits, including, but not limited to, increases in flood reservation space in existing reservoirs by exchange for existing or increased water storage benefits.

The commission would select projects through a competitive process based on expected public benefits received for public investment. The commission, in consultation with the Department of Fish and Wildlife (DFW), the Board, and DWR, would be required to develop and adopt, by regulation, methods for quantification and management of public benefits. The regulations must include priorities and relative environmental value of ecosystem benefits provided by the Department of Fish and Wildlife and the priorities and relative environmental value of water quality benefits as provided by the Board. Funds could not be expended for the costs of environmental mitigation measures or compliance obligations except for those associated with providing the public benefits. The public benefit cost share of a project could not exceed 50 percent of the total cost of the project.

No funds could be allocated to a project until the commission approves the project based on the following determinations:

- The commission has adopted the regulations and specifically quantified and made public the cost of the public benefits associated with the project.
- DWR has entered into a contract with each party that will derive benefits, other than public benefits, from the project that ensures the party will pay its share of the total costs of the project. The benefits available to a party shall be consistent with that party's share of total project costs.
- DWR has entered into a contract with DFW and the state board, after those agencies have made a finding that the public benefits of the project for which that agency is responsible meet all the requirements of this chapter, to ensure that public contributions of funds pursuant to this chapter achieve the public benefits identified for the project.
- The commission has held a public hearing for the purposes of providing an opportunity for the public to review and comment on the information required to be prepared pursuant to this section.
- The commission has found and determined that the project is feasible, is consistent with all applicable laws and regulations, and will advance the long-term objectives of restoring ecological health and improving water management, including the beneficial uses of the Delta.
- All environmental documentation has been completed and all other federal, state, and local approvals, certifications, and agreements required to be completed have been obtained.

25 M to the department for studying the feasibility of additional surface storage projects. Funds provided by this provision are not available to study the feasibility of any storage project identified in the CALFED Bay-Delta Programmatic Record of Decision.

Other Provisions of the Bond:

- All moneys provided by the bond are subject to appropriation by the Legislature.
- Requires the bonds authorized by this measure to be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law *except* those provisions restricting the use of bonds to fund the costs of construction or acquisition of capital assets.
- Eligible applicants under this division are public agencies, nonprofit organizations, public utilities, mutual water companies, and Indian tribes having a federally recognized governing body carrying out substantial governmental duties in and powers over any area. To be eligible for funding under this division, a project proposed by a public utility that is regulated by the Public Utilities Commission or a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the water system.
- Up to 10 percent of funds allocated for each program could be used to finance planning and monitoring necessary for the successful design, selection, and implementation of the projects authorized under that program. Water quality monitoring would be required to be integrated into the surface water ambient monitoring program administered by the state board.
- No more than 5 percent of the funds allocated for a program could be used to pay the administrative costs of that program.
- Funds provided by this bond:
  - Could not be used to acquire land via eminent domain.
  - Could not be used to support or pay for the costs of environmental mitigation measures or compliance obligations of any party except as part of the environmental mitigation costs of projects financed by this division.
  - Could not be expended to pay costs associated with design, construction, operation, maintenance, or mitigation of new Delta conveyance facilities.
  - Could not be used to acquire or transfer water rights except for a permanent dedication of water for in stream purposes.
- Projects funded with proceeds from this bond would be required to promote state planning priorities consistent with Gov. Code §65041.1 and sustainable communities strategies consistent with Gov. Code §65080(b)(2)(B).
- Whenever feasible, restoration and ecosystem protection projects must use the services of the California Conservation Corps or certified community conservation corps.
- Special consideration would be given to projects that employ new or innovative technology or practices, including decision support tools that demonstrate the multiple benefits of integration of multiple jurisdictions, including, but not limited to, water supply, flood control, land use, and sanitation.
- Exempts all bond funded programs, except those funded by Chapter 8. Water Storage Projects, from Administrative Law review of guidelines, funding criteria, etc.
- Each state agency administering a bond funded competitive grant program would be required to develop project solicitation and evaluation guidelines. The guidelines could include a limitation on the dollar amount of grants to be awarded. Before disbursing grants, the state agency must conduct three public meetings to consider public comments prior to finalizing the guidelines. The state agency must publish the draft solicitation and evaluation guidelines on its Internet Web site at least 30 days before the public meetings. Upon adoption, the state agency must transmit copies of the guidelines to the fiscal committees and the appropriate policy committees of the Legislature.



- The State Auditor would be required to conduct an annual programmatic review and an audit of expenditures from the fund. The State Auditor shall report its findings annually on or before March 1 to the Governor and the Legislature, and shall make the findings available to the public.
- The Legislature would be authorized to enact legislation necessary to implement programs funded by this measure.

#### Other Provisions of the Bill

Would seek voter approval authorizing the Legislature to appropriate currently unappropriated funds from specific water bonds. The funds would then be available to be appropriated for grants and direct expenditures to accomplish the purposes of Chapter 5. Water Supply Enhancement Projects. The specific bond measures with unappropriated balances are:

- The Water Conservation and Water Quality Bond Law of 1986
- The Water Conservation Bond Law of 1988
- The Safe, Clean, Reliable Water Supply Act of 1996
- The Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act of 2000

#### **ARGUMENTS IN SUPPORT**

According to the author, “California faces critical water challenges in the next decade. Legal battles and controversial projects have slowed the response to the ecosystem crisis in the Delta. Small communities throughout the Central Valley lack access to safe drinking water. Our cities face some of the highest flood risks of any metropolitan areas in the country. Climate change is stressing water supplies throughout California.”

“Funding to meet these water challenges is dwindling. Yet, controversy and lack of fiscal restraint have resulted in water bond proposals that are not viable and cannot be supported by California’s voters.”

“SB848 is a \$6.8 billion water bond that focuses on California’s most critical and broadly supported water needs: regional and local water supplies throughout the state; critical drinking water needs; delta ecosystem restoration and stronger levees to improve water delivery; groundwater and surface water storage that provide public benefits; and better flood protection.”

“SB848 would replace the \$11.45 billion, pork-filled water bond currently slated for the 2014 ballot—which is too expensive and too controversial to ever pass with the voters.”

“SB848 doesn’t fund everything. It doesn’t fund enormous tunnels or large projects that lack consensus. But it does fund a great number of water supply improvements for every community in the state, including new water systems, surface and groundwater storage projects, groundwater cleanup, recycling and conservation. Only the most fiscally competitive projects will be funded.”

“SB848 focuses on financing the most cost-effective local and regional projects, projects that will provide greater water supply independence and self-reliance while delivering a more clean and reliable supply of water for all of California’s communities.”

## ARGUMENTS IN OPPOSITION

The arguments against SB 848 made by Association of California Water Agencies (ACWA) are typical of those made by the opposition.

“ACWA supports the existing, \$11.14 billion version of the 2014 Water Bond but recognizes that changes to avoid earmarks and reduce its size will aid its passage. That said, SB 848 as currently drafted is fundamentally flawed.”

“SB 848 would dramatically reduce bond funding for Delta Sustainability and storage – two categories that are critical for meeting the coequal goals.”

“SB 848 would eliminate continuous appropriation for storage – thus creating uncertainty for additional storage which is critical to a providing a more reliable water supply for California.”

“ACWA’s board-level California Water Finance Task Force deliberated for months in 2012 and 2013 on how the bond could be downsized in a way that protects key statewide priority areas and still retains significant funding for other important categories (e.g., disadvantaged communities, Integrated Regional Water Management Plans (IRWMPs), groundwater quality, recycling and conservation and watersheds).”

“Amendments that address the above concerns and are consistent with [ACWA’s \$8.2 B] proposal would allow ACWA to engage further on SB 848”

## COMMENTS

Picking up where we left off, the committee background for our September 25, 2013 informational hearing raised a number of issues for the members’ consideration regarding the various water bond proposals. Issues raised in that background relevant to this bill include:

- *Eligible Parties.* Previous versions of this measure limited eligibility to receive bond funds to public agencies, nonprofit organizations, public utilities, and mutual water companies. The measure, as proposed to be amended, also makes federally recognized Indian tribes that own or operate a public water system eligible for bond funds.
- *Definitions.* This bill adopts the same definition of “disadvantaged community” and “severely disadvantaged community” as was used by propositions 50 and 84 and designates specific allocations of project funding in those communities. However, the 2010 federal census did not collect the household economic data necessary for making this determination about communities. As such the state does not have current data necessary to identify such disadvantaged communities as required by this bill. This is an issue that will likely be explored in greater detail in the Senate Environmental Quality Committee.
- *Compliance.* The background observed that while each bond proposal made grants contingent on complying with specific statutes, proposals were not consistent regarding which statutes are prerequisite. This bill has multiple levels of requirements: For some of the programs, for example, DWR would have to certify or otherwise determine that the plan or program meets the requirements of the law. For IRWMP grants, for example, such programs and requirements include:
  - The Urban Water Management Planning Act
  - The Agricultural Water Management Planning Act

- The Groundwater Management Act

DWR would not be required to certify or otherwise determine compliance with other requirements of the law, including:

- IRWMP Act
- Water budgets that include, where applicable, a description of any measures anticipated to reduce the amount of water imported to the region in the future
- Where applicable, consistency of an integrated water management plan to the policy of reducing dependence on the Delta

However, the California Water Commission would be required to ensure IRWMP grant eligibility requirements are met prior to DWR making final grant awards.

More generally, the measure as proposed to be amended would require consistency with all laws, including all provisions of the Sacramento San Joaquin Delta Reform Act of 2009.

- *Funding Regions.* This measure would use the same funding regions as was used in the most recent water bond, Proposition 84.
- *Funding Formulae.* This measure would distribute IRWMP funds across the regions as follows: Each region received a \$50 M allocation, and the balance was distributed based on population. This is similar to how Proposition 84 distributed funds across the regions.

Compared to a strict allocation by population, such a system reduces the allocation to high population areas and boosts the allocation to low population areas. Under this measure, the North and Central Coasts, along with the Lahontan and Colorado River regions would see the largest boosts in allocations compared to a strict allocation by population.

- *Matching Rates.* Previous versions of this bill would have required a 50% cost share for IRWMP grants. The measure as proposed to be amended would reduce this requirement to a 25% rate.

As with previous versions of this bill, this measure would allow the matching rate to be reduced or waived for projects that directly benefit a disadvantaged community. This bill would additionally allow the rate to be reduced or waived for projects that result in a direct reduction in water exported from the Delta, thereby creating an incentive for such projects. Presumably, this is intended to encourage projects that would further the policy goal in WC §85021. That policy goal is to reduce reliance on the Delta by regions that depend on water from the “Delta watershed” through investments in projects that improve regional self-reliance. If incentivizing that policy goal is the reason for the reduced rate, it might make sense to extend the provision for reduced matching rates to include projects that reduce exports from not only the Delta, but the greater Delta watershed per water code WC §85021.

- *Delta.* This measure provides all non-levee related Delta funds to the Delta Conservancy, who would then make specific funding decisions. The jurisdiction of the conservancy is the Delta and Suisun Marsh. However, in furtherance of its role in implementing the Delta Plan, the conservancy may fund an action outside the Delta and Suisun Marsh if the board makes all of the following findings:
  - The project implements the ecosystem goals of the Delta Plan.

- The project is consistent with the requirements of any applicable state and federal permits.
- The conservancy has given notice to and reviewed any comments received from affected local jurisdictions and the Delta Protection Commission.
- The conservancy has given notice to and reviewed any comments received from any state conservancy where the project is located.
- The project will provide significant benefits to the Delta.

The question is, would the Delta Conservancy be the best funding agency for all the projects likely to be funded from this program? Stated another way, are there projects that are likely to be funded through this program that would be better funded by some other agency? The answer to the second question likely is “yes.”

In 2012, a very diverse group of stakeholders came together to identify near-term Delta projects that should move forward through the regulatory and other processes. This Coalition to Support Delta Projects identified \$1.1 B in no and low risk Delta projects. Not counting delta levee projects, (which this bond would fund through a separate provision), a number of those recommended projects were either on-going DWR efforts or projects on DWR owned lands.

- *Regional Watersheds.* The background observed that the current 2014 bond (as with Propositions 84 and 50) specifically identifies and provides funds to the different conservancies and watershed programs. This measure, as proposed to be amended, would also distribute fund to specific conservancies and watershed programs.
- *Studies?* The background observed that none of the proposals included funding for studying the feasibility of additional surface storage projects. This measure, as proposed to be amended, would provide \$25 M to DWR for studying the feasibility of additional surface storage projects.

Additional Comments. The committee background for our September 25, 213 informational hearing focused on broad, overarching issues common to each of the various bond proposals. These comments are more focused on this measure.

- *IRWMPs* – This bill would make the repair or replacement of aging water management infrastructure serving disadvantaged communities an eligible use for IRWMP funds. This has not been an explicitly authorized use of IRWMP funds under previous water bonds.
- *Stormwater Capture and Reuse* – Stormwater management is an evolving concept. At one time, it was viewed as a part of flood management. Indeed, Proposition 1E, a “flood bond,” included a stormwater program and directed DWR, the state’s flood agency, to administer it. The Stormwater Resource Planning Act views stormwater management as a method to address a significant source of urban water pollution while opportunistically addressing water supply, water quality, flood management, and ecosystem restoration. The Integrated Regional Water Management Planning Act views stormwater management plans as a component of IRWMPs. This measure reflects a growing perspective that stormwater is an underutilized source of water supply and provides funds to help change that.
- *Delta Conservancy* – In implementing the Delta grant program, this bill would require grantees to demonstrate to the Delta Conservancy how local economic impacts, including

impacts related to the loss of agricultural lands, would be mitigated. While mitigation of “significant effects” is generally required under CEQA, the CEQA guidelines state that an economic or social change by itself shall not be considered a significant effect on the environment. So what would happen under this provision of the bond if the only impact was economic or is not even all or part of a CEQA project? Moreover, it is not clear what would happen if the Conservancy determined that the economic impacts were not sufficiently mitigated. Would that mean that the project could not be funded? At a minimum, this provision would likely increase the costs of many otherwise desirable projects.

- *Delta Conservancy* – In implementing the Delta grant program, this bill would require the Delta Conservancy to “coordinate, cooperate, and consult with the city or county in which a grant is proposed to be expended or an interest in real property is proposed to be acquired and with the Delta Protection Commission.” This language can (and is) being read a couple of different ways. Some interpret this language as merely stating the usual practice of conservancies – namely, keeping all affected and interested parties in the loop on what the conservancy is planning. Others interpret this language as ensuring that cities, counties, and the Delta Protection Commission have an opportunity to veto any project they find lacking. Additional clarification would be helpful.
- *Delta Conservancy* – To maximize voluntary landowner participation in projects that provide measurable habitat or species improvements in the Delta, this bill would authorize the Delta Conservancy to develop and implement a “competitive habitat credit exchange mechanism.” The notion is to allow habitat to be traded as a commodity by creating habitat credits that willing landowners can sell to private and public investors. Investors will include state agencies seeking credits for mitigation requirements or restoration mandates. Through the Exchange, farmers will be paid to “grow” habitat. The result will be a new funding stream that enables landowners to earn revenue by implementing innovative strategies to restore functional habitat and will effectively put rural communities at the center of the new conservation economy.

While such an exchange mechanism might be helpful, this measure does not provide sufficient administrative guidance to the Delta Conservancy to ensure it is properly developed and managed. Such guidance is usually provided through adoption of a policy bill.

- *Delta Levees* – This measure, as with many previous bonds, provides funding for the Delta Levee Maintenance Subvention Program and the Delta Special Flood Protection Projects Program. Unlike previous bond proposals, this bill would also include funding for levee improvement projects that increase the resiliency of levees within the Delta to withstand earthquake, flooding, or sea level rise and emergency response and repair projects. These may or may not be good ideas, but again this measure does not provide sufficient administrative details to know one way or another. Again, some additional legislative guidance would be helpful.
- *Storage* – This bill would make many more types of storage projects eligible for funding compared to the existing 2014 water bond, with the potential of greatly expanding the state’s water storage capacity at more competitive costs. There are a number of reservoirs in the state that are not allowed to fill completely because of seismic safety concerns. And, staff is aware of studies that suggest desilting the state’s reservoirs could restore over 1.7 M acre feet of storage. Additionally, storage for recycled water has the potential to expand recycled

water use by creating it in the winter when it is not needed and using it in the summer when there is great demand.

- *Continuous Appropriation.* A number of opponents to this measure object that, unlike the measure currently on the November 2014 ballot, this measure does not propose to make funds for storage continuously appropriated to the California Water Commission. On March 1, 2006, the Senate Committee on Natural Resources and Water, in its Report to the Conference Committee on Infrastructure Bonds: Recommendations for the Proposed Infrastructure Bonds, described a set of bond financing principles to guide its recommendation to the Conference Committee. This included:

*“The Legislative Branch’s Power To Allocate Funds.* One of the fundamental checks on the executive branch is the budget process. In that process, the role of the Governor is to develop and propose a budget; the role of the Legislature is to review the proposed budget, amend where necessary, and to appropriate the funds to implement the budget. Bond funded programs that are funded by continuous appropriations bypass the formal budget process with its inherent checks and balances system. Consequently, continuously appropriated bond programs should be avoided.”

- *Rising administrative costs* – This proposal, like most recent water bond proposals, caps administrative costs at 5 percent. This is already a challenge for many existing bond funded programs. This proposal also adds administrative costs, by requiring an annual programmatic audit by State Auditor, and by adding additional findings by DWR in implementing IRWMP, to name two examples. If the administrative costs cannot be covered by bond proceeds, then some other funding source must be used.
- *State Planning Priorities* – Projects funded by this proposal would be required to promote state planning priorities and sustainable communities strategies. Under current law, the state planning priorities are:
  - To promote infill development.
  - To protect environmental and agricultural resources.
  - To encourage efficient development patterns by ensuring that any infrastructure associated with development, other than infill development, supports new development that does all of the following:
    - Uses land efficiently.
    - Is built adjacent to existing developed areas.
    - Is located in an area appropriately planned for growth.
    - Is served by adequate transportation and other essential utilities and services.
    - Minimizes ongoing costs to taxpayers.

Despite concerns raised by some, it is not obvious why complying with those provisions of current law would also conflict with good water resources management.

#### Related Measures:

- SB 927 (Cannella and Vidak) – would amend the water bond currently on the November 2014, reducing the authorized amount from \$11.14 B to \$9.217 B, and rename the measure the Safe, Clean, and Reliable Drinking Water Supply Act of 2014.
- AB 1331 (Rendon) – would repeal the water bond currently on the November 2014 and would replace it with the Clean and Safe Drinking Water Act of 2014, a \$6.5 B general obligation bond to finance a variety of water resources related programs and projects.

- AB 1445 (Logue) – would repeal the water bond currently on the November 2014 and would replace it with the California Water Infrastructure Act of 2014, a \$5.8 B general obligation bond to finance public benefits associated with water storage projects.

Referred to Environmental Quality Committee. This analysis does not address issues within the purview of the Senate Environmental Quality Committee. Issues likely to be raised by that committee include:

- Definitions of “disadvantaged community” and “severely disadvantaged community.”
- Funds provided for safe drinking water needs including the use of bond proceeds to fund operations and maintenance costs of interim water treatment equipment and systems.
- Funds provided to protect and improve water quality, including the creation of a private well and septic system program.
- Whether the Department of Conservation is the appropriate agency to implement the agricultural lands runoff grant program.
- Requirements for water quality monitoring.
- Whether to provide funds to State Parks to comply with drinking water and wastewater requirements.
- Other water quality related issues raised in the committee background for the September 25, 2013 joint hearing.

Referred to Governance and Finance Committee. This analysis does not address issues within the purview of the Senate Governance and Finance Committee. Issues likely to be raised by that committee include:

- The potential effect of this measure on the state’s bonded indebtedness.
- The appropriateness of and method to access previously authorized but unused water bond proceeds.
- Other issues associated with the authorization of general obligation debt.

Positions. The committee has received many letters regarding this and other water bond measures. Many letters did not reflect a formal support or oppose position, but instead addressed specific areas of interest or concerns or were otherwise supportive of further discussion. This analysis only lists entities that have taken a formal position on this specific measure. Be assured, however, that the committee has received and considered the issues raised in each of the different letters.

**SUGGESTED AMENDMENTS:** None

**SUPPORT**

American Planning Association  
Big Sur Land Trust  
California Association of Local  
Conservation Corps  
California Trout (Seek Amendments)  
Clean Water Action (Seek Amendments)  
Community Water Center (Seek  
Amendments)  
Contra Costa County Board of Supervisors  
Environmental Defense Fund  
Land Trust of Santa Cruz County  
Leadership Counsel for Justice and  
Accountability (Seek Amendments)  
Monterey Bay Aquarium  
PolicyLink (Seek Amendments)  
Sacramento County Board of Supervisors  
Sacramento Regional County Sanitation  
District  
Sierra Club California  
Solano County Board of Supervisors  
Sonoma County Water Agency  
Trout Unlimited (Seek Amendments)  
Yolo County Board of Supervisors  
Water Bond Coalition

**OPPOSITION**

Association of California Water Agencies  
(Unless Amended)  
Browns Valley Irrigation District (Unless  
Amended)  
California Alliance for Jobs  
California Building Industry Association  
(Unless Amended)  
California Business Properties Association  
California Chamber of Commerce  
California Citrus Mutual  
California Cotton Ginners and Growers  
Association  
California Farm Bureau Federation (Unless  
Amended)  
Calleguas Municipal Water District (Unless  
Amended)  
Castaic Lake Water Agency  
Corona, City of  
Dublin San Ramon Services District (Unless  
Amended)  
Eastern Municipal Water District (Unless  
Amended)

Helix Water District (Unless Amended)  
Kern County Water Agency  
Las Virgenes Municipal Water District  
(Unless Amended)  
Mesa Water District (Unless Amended)  
Metropolitan Water District of Southern  
California (Unless Amended)  
Mojave Water Agency  
Monte Vista Water District (Unless  
Amended)  
Moulton Niguel Water District (Unless  
Amended)  
Nesei  
Northern California Water Association  
(Unless Amended)  
Riverside Public Utilities (Unless Amended)  
San Bernardino Valley Municipal Water  
District  
Santa Ana Watershed Project Authority  
South Tahoe Public Utilities District (Unless  
Amended)  
Southern California Water Committee  
Three Valley's Municipal Water District  
(Unless Amended)  
Upper San Gabriel Valley Municipal Water  
District  
Valley Center Municipal Water District  
(Unless Amended)  
Western Agricultural Processors Association  
Western Growers Association  
Western Municipal Water District  
Westlands Water District  
Wheeler Ridge-Maricopa Water Storage  
District