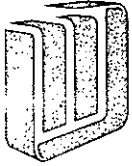


MAR 10 1992

Loren E. Duff
EXECUTIVE SECRETARY

8-9



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

February 24, 1992

To: Board of Directors (Executive Committee--Action)
(Legal & Claims--Action)
(Special Committee on Legislation--Action)
From: General Manager
Subject: Proposed Amendments of the Metropolitan Water District Act
(AB 3522 - Polanco, Los Angeles; AB 3784 - Becerra, Los Angeles)

Report

Two recently introduced bills would amend the Metropolitan Water District Act (Act).

AB 3522 - Polanco, Los Angeles

The changes in the Act proposed by this bill are summarized in Attachment A.

It is inappropriate for Metropolitan's staff to recommend a position affecting the appointment or election of directors, an issue that affects the manner in which member agencies are represented on our Board and on which they may wish to express themselves.

Proposed sections dealing with conflicts of interest, 90 through 92, appear unnecessary since they essentially duplicate existing provisions of statute.

Section 133 would subject Metropolitan to limited Public Utilities Commission jurisdiction if, and only if, an increase in a water rate in excess of 15 percent in any 24-month period is contemplated. But even such limited oversight is unnecessary since the public has access not only to the Board to voice any objection, but can also make its views known through the member agencies.

The deletion of the requirement of uniformity of rates for like classes of service again appears to be of greater potential concern to member agencies than to Metropolitan. This change would permit Metropolitan's ratemaking to reflect a far greater range of factors than is presently possible, though it could also result in variations in rates that may be perceived negatively.

The changes in Section 134.5 should be deemed unacceptable given the fact that Metropolitan, for the first time, seeks to impose both standby and availability of service charges and is making accommodations that will permit member agencies to elect to pay to Metropolitan directly amounts to be raised through standby charges within their boundaries. The proposed changes would introduce an element of uncertainty into the existing process, particularly through the deletion of the reference to Section 31031 of the Water Code, which could impact that process negatively.

Other than for the notice provision, these changes would undermine the so-called Boronkay compromise, which involved the acceptance by Metropolitan of the restrictions on its ad valorem taxing power established by Section 124.5 of the Act in return for the substitution of other forms of firm revenue authority, as included in Section 134.5. Adoption of these amendments would severely limit the ability of Metropolitan to use standby charges or availability of service charges. If this occurs, the complementary restrictions on Metropolitan's taxing power should be similarly eliminated since the fiscal integrity of Metropolitan is dependent upon the availability of effective firm revenue sources which can guarantee the ability of Metropolitan to meet its fixed debt service and state water contract obligations. Water sales revenues that are subject to weather conditions are not adequate for that purpose.

Accordingly, it is recommended that staff, in cooperation with the representatives of the member agencies, be authorized to oppose AB 3522 unless amended in a manner that will satisfactorily address the particular concerns of Metropolitan identified above; and that, if such amendments can be negotiated, Metropolitan thereafter remain neutral on this measure.

AB 3784 - Becerra, Los Angeles

Aside from certain changes pertaining to responsibility for operation of dams or reservoirs, this bill would amend Section 51 of the Act to require directors selected by the governing body of a member agency to be selected by a two-thirds, rather than majority vote. This is perceived as a member agency issue on which staff recommends no position.

Copies of both bills are attached.

Committee Assignments

This letter is referred for action to:

The Executive Committee because of its responsibility to study, advise, and make recommendations with regard to legislation sponsored by the District or in any way affecting the District, pursuant to Administrative Code Section 2417(a);

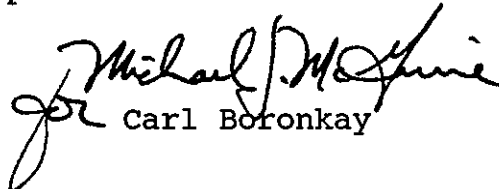
The Legal and Claims Committee because of its responsibility to study, advise, and make recommendations with regard to proposed amendments of the Metropolitan Water District Act, pursuant to Administrative Code Section 2461(f); and

The Special Committee on Legislation because of its responsibility to review staff's recommendations for position on legislation, pursuant to Administrative Code Section 2581(b).

Recommendation

EXECUTIVE COMMITTEE, LEGAL AND CLAIMS COMMITTEE AND SPECIAL COMMITTEE ON LEGISLATION FOR ACTION.

It is recommended that the Board oppose AB 3522 unless amended to remove any referral of Board actions to the Public Utilities Commission and to address the concerns stated in the letter regarding the proposed changes in the provisions of Section 134.5 of the Metropolitan Water District Act.


for Carl Boronkay

ATTACHMENT AChanges Proposed by AB 3522

1. It would, effective with the election of November 1994, require Board members to be elected for two-year terms and would require directors to be residents of the member agency and, where applicable, of the electoral district from which elected. (Revised Sec. 51.)
2. The electoral districts to be established in member agencies entitled to more than one representative would, it appears, divide each member agency into areas of substantially equal population, using the most recent decennial census data. It should be observed, however, that there is no assurance that directors, other than those from a single agency, would represent approximately the same number of constituents. (Revised Sec. 52.)
3. Significantly, the provision establishing how many representatives each member public agency is entitled to would be deleted as of November 1994, as would the provision allocating the number of votes of each member agency equally among its representatives. (Revised Sec. 52.)
4. Section 53 of the Act, which currently bars loss of office by an incumbent director as a result of a change in the assessed valuation of a member agency, would be deleted.
5. Section 54, currently providing for adoption of four-year term ordinances would be deleted as of November 1994. In its place would be enacted a new Section 54 providing for appointments of directors to fill the unexpired term of office of an incumbent.
6. Section 56 would be changed in a non-substantive manner, but also would be repealed as of November 1994. A new Section 56, to become effective in Section 1994, would permit a member of the board of a member agency to be on Metropolitan's board only if elected, thus barring such persons from serving on Metropolitan's board even to serve out the unexpired term of office of an incumbent. The existing provision barring votes by directors who sit on the member agency board and Metropolitan's board on contracts between the two agencies would be carried into the new Section 56.

7. A new Section 90 would be added to bar any interest by a director, officer, or employee in a contract made by the board or by the officer or employee.
8. A new Section 91 would make a violation of Section 90 punishable as a misdemeanor which, in addition to other punishment, would result in forfeiture of office or employment.
9. A new Section 92 would remove from the scope of Section 90 conflicts of interests in any contracting corporation of 5 percent or less of the total amount of stock or bonds.
10. Section 133 would be amended to require any increase in a water rate exceeding 15 percent within 24 months to require approval of the Public Utilities Commission.
11. A new Section 133.5 would be added to the Act to require the board to establish a Division of Ratepayer and Environmental Advocates under an assistant general manager for public advocacy. This division would review all district actions to assess their effect on rates and the environment, and would advise the board with regard thereto.
12. Section 134 would be amended to delete the existing requirement that the district's rates shall be uniform for like classes of service.
13. Section 134.5 would be amended to limit the district's ability to impose a service charge on its member agencies to only those agencies which, by majority vote, approve the charge and its allocation. The reference to the standby authority under Section 31031 of the Water Code would be deleted; and a provision would be added to permit imposition of a standby charge on individual parcel only upon approval by a majority vote of the governing body of the member agency serving the parcel. A final change would be the requirement that notice of any standby or availability of service charge would be required to be given not only to the member agencies, but also to the public at least 45 days before its adoption.

CALIFORNIA LEGISLATURE—1991-92 REGULAR SESSION

ASSEMBLY BILL**No. 3522****Introduced by Assembly Member Polanco****February 21, 1992**

An act to amend Sections 51, 52, 133, 134, and 134.5 of, to amend and repeal Sections 53, 54, and 56 of, and to add Sections 54, 56, 90, 91, 92, and 133.5 to, the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), relating to the metropolitan water districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 3522, as introduced, Polanco. Metropolitan water districts.

(1) The Metropolitan Water District act provides for the selection of representatives of member public agencies to serve on the board of directors of a metropolitan water district.

This bill would, beginning in 1994, require representatives to be elected to the board in accordance with prescribed requirements, thereby imposing a state-mandated local program by imposing requirements on local entities.

(2) The act authorizes a member public agency to provide, by ordinance, for each representative to serve for a term of 4 years in accordance with prescribed provisions.

This bill would repeal those provisions on November 8, 1994. The bill would, on and after that date, require the governing body of a member public agency to appoint a representative to fill the unexpired part of a term of office of an incumbent representative who leaves office for any reason during his or her term, thereby imposing a state-mandated local program.

(3) The act prohibits an incumbent representative from being deprived of his or her office due to an increase in the

amount of assessed valuation required to authorize the designation and appointment of additional representatives.

This bill would repeal these provisions on November 8, 1994.

(4) The act authorizes any member of a governing body of a member public agency to be appointed by the agency to the board of a district to serve as the agency's representative, except as specified; prohibits a member of a governing body from appointing himself or herself or from voting for his or her own appointment; and prohibits any director holding dual offices from voting on any contract between a district and the member public agency on which he or she serves.

This bill would repeal these provisions on November 8, 1994, and would, on and after that date, authorize any member of the governing body of a member public agency to represent that agency on the board only if he or she has been elected to the board. The bill would prohibit that member from voting on any contract between the district and the member public agency on which he or she serves.

The bill would prohibit any director or other officer or employee, of a district, with certain exceptions, from being interested, directly or indirectly, in any contract of the district or in the profits derived from the contract. The bill would make any officer or employee who violates that prohibition guilty of a misdemeanor and, upon conviction, would require that person to forfeit the office or employment. The bill would impose a state-mandated local program by creating a new crime.

(5) The act authorizes a district to impose a water standby or availability service charge within a district and to collect the service charge from its member public agencies.

This bill would authorize a district to impose the standby or availability service charge in accordance with prescribed provisions. The bill would authorize a district to impose the service charge only on its member public agencies whose governing bodies, by majority vote, agree to the imposition and collection of the service charge in a prescribed manner. The bill would authorize a district to impose a standby charge on an individual parcel only with the approval, by majority vote, of the governing body of the member public agency

serving that parcel. The bill would impose a state-mandated local program by imposing requirements on local entities. The bill would revise certain notice provisions relating to the imposition of a standby or availability charge.

(6) The act requires the board of a district to fix water rates.

This bill would require the approval of the Public Utilities Commission for any increase in a water rate in excess of 15% within a 24-month period.

(7) The act requires the water rates of a district to be uniform for like classes of service throughout the district.

This bill would delete that requirement. The bill would require the board to establish the Division of Ratepayer and Environmental Advocates, as prescribed, thereby imposing a state-mandated local program.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that for certain costs no reimbursement is required by this act for specified reasons.

However, the bill would provide that if the Commission on State Mandates determines that this bill contains other costs mandated by the state, reimbursement for those other costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51 of the Metropolitan Water
2 District Act (Chapter 209 of the Statutes of 1969) is
3 amended to read:

4 Sec. 51. (a) The board shall consist of at least one
5 representative from of each member public agency. The
6 representatives Representatives shall serve without
7 compensation from the district. They shall, at the option
8 of the agency, either be designated and appointed by the
9 chief executive officer of the member public agency with
10 the consent and approval of the governing body of the
11 agency or be selected by a majority vote of the governing
12 body of the agency.

13 (b) The selection of representatives of member public
14 agencies shall be in accordance with the following:

15 (1) At the option of the agency, representatives shall
16 either be appointed by the chief executive officer of the
17 member public agency with the approval, by a majority
18 vote, of the governing body, or be selected, by a majority
19 vote, of the governing body of the agency. This
20 paragraph shall remain in effect only until November 8,
21 1994, and as of that date is repealed before November 8,
22 1994, deletes or extends that date.

23 (2) Beginning in 1994, representatives shall be elected
24 to the board pursuant to an election held on the first
25 Tuesday after the first Monday in November in
26 even-numbered years. Representatives shall be elected
27 to a term of two years by a majority vote of the voters
28 voting in an election on the issue of representation.

29 (3) For purposes of district elections, voters and
30 representatives shall reside within the service area of the
31 member public agency and, if applicable, within the
32 appropriate electoral district established pursuant to
33 subdivision (b) of Section 52.

34 SEC. 2. Section 52 of the Metropolitan Water District
35 Act (Chapter 209 of the Statutes of 1969) is amended to
36 read:

37 Sec. 52. (a) In addition to one representative, any
38 each member public agency may designate and appoint

1 several representatives not exceeding appoint one
2 additional representative to the board for each full 3
3 percent of the assessed valuation of property taxable for
4 district purposes within the entire district that is within
5 such the member public agency ; in which event all such
6 representatives present at a meeting of the board of
7 directors when a vote is taken All members of the board
8 shall cast, or may abstain from casting, an equal share of
9 the total vote to which such the member public agency
10 is entitled. This subdivision shall remain in effect only
11 until November 8, 1994, and as of that date is repealed
12 unless a later enacted statute which is enacted before
13 November 8, 1994, deletes or extends that date.

14 (b) For purposes of electing representatives in
15 accordance with paragraph (2) of subdivision (b) of
16 Section 51, the board shall establish electoral districts
17 within the boundaries of each member public agency
18 entitled to more than one representative, using
19 population figures determined by each decennial census.

20 SEC. 3. Section 53 of the Metropolitan Water District
21 Act (Chapter 209 of the Statutes of 1969) is amended and
22 repealed to read:

23 Sec. 53. (a) No incumbent representative shall be
24 deprived of his or her office by reason of an increase in
25 the amount of the assessed valuation required to
26 authorize the designation and appointment of additional
27 representatives, nor by reason of any decrease in the
28 assessed valuation of the member public agency which he
29 or she represents occurring after his or her assumption
30 of office.

31 (b) This section shall remain in effect only until
32 November 8, 1994, and as of that date is repealed unless
33 a later enacted statute which is enacted before
34 November 8, 1994, deletes or extends that date.

35 SEC. 4. Section 54 of the Metropolitan Water District
36 Act (Chapter 209 of the Statutes of 1969) is amended and
37 repealed to read:

38 Sec. 54. (a) In lieu of the appointment of members
39 to the board pursuant to Sections Section 51 or 52 for an
40 indefinite term at the pleasure of the appointing power,

FEB 26 '92 10:36 NMD SAC

P.47

1 a member public agency may by ordinance provide that
 2 each representative of that member public agency shall
 3 serve for a term of four years commencing on the first day
 4 of January of an odd-numbered year, and thereafter (1)
 5 until the expiration of his or her term, or (2) until his or
 6 her successor has been appointed and qualified, in
 7 accordance with the following provisions:

8 ~~(a)~~
 9 (1) The term of office of an incumbent representative
 10 of a member public agency with only one representative
 11 on the board on the effective date of ~~such~~ the ordinance
 12 shall expire on the next succeeding 31st day of December
 13 of an even-numbered year following such effective date,
 14 or thereafter when his or her successor has been
 15 appointed and qualified.

16 ~~(b)~~
 17 (2) The appointing power of a member public agency
 18 which has more than one representative on the board
 19 shall designate the term of each ~~such~~ representative so
 20 that, to the extent possible, the term of an equal number
 21 of directors will expire on the next succeeding 31st day of
 22 December of an even-numbered year following the
 23 effective date of ~~such~~ the ordinance and on the 31st day
 24 of December of the next succeeding even-numbered
 25 year, or thereafter when their successors have been
 26 appointed and qualified.

27 ~~(c)~~
 28 (3) A person appointed to fill a vacancy shall hold
 29 office for the unexpired term of his or her predecessor.

30 ~~(d)~~
 31 (4) Any director ~~so~~ appointed for a specified term
 32 may be removed by the appointing power for cause.

33 ~~(e)~~
 34 (5) The repeal of ~~such~~ the ordinance shall not affect
 35 the term of an incumbent representative appointed
 36 pursuant to ~~such~~ the ordinance.

37 (b) *This section shall remain in effect only until*
 38 *November 8, 1994, and as of that date is repealed unless*
 39 *a later enacted statute which is enacted before*
 40 *November 8, 1994, deletes or extends that date.*

1 SEC. 5. Section 54 is added to the Metropolitan Water
 2 District Act (Chapter 209 of the Statutes of 1969), to read:

3 Sec. 54. (a) The governing body of a member public
 4 agency shall appoint a representative to fill the unexpired
 5 part of a term of office of an incumbent representative
 6 who leaves office for any reason during his or her term.
 7 A director appointed pursuant to this section may:

8 (1) Be removed by the appointing entity for cause.
 9 (2) Seek election in accordance with paragraph (2) of
 10 subdivision (b) of Section 51.

11 (b) This section shall be operative on November 8,
 12 1994.

13 SEC. 6. Section 56 of the Metropolitan Water District
 14 Act (Chapter 209 of the Statutes of 1969) is amended and
 15 repealed to read:

16 Sec. 56. (a) Any member of a governing body of a
 17 member public agency may be appointed by the agency
 18 to the board of a district to serve as the agency's
 19 representative, except that in the case of agencies with
 20 several ~~such~~ representatives a majority of the members of
 21 the governing body of ~~such~~ the agency may not be ~~so~~
 22 appointed by ~~such~~ the agency to serve as representatives
 23 on the board of the district. No member of ~~such~~ a
 24 governing body shall appoint himself or herself or vote
 25 for his or her own appointment. Any director holding
 26 ~~such~~ dual offices shall not vote ~~upon~~ on any contract
 27 between a metropolitan water district and the member
 28 public agency he or she represents on the district's
 29 board.

30 (b) *This section shall remain in effect only until*
 31 *November 8, 1994, and as of that date is repealed unless*
 32 *a later enacted statute which is enacted before*
 33 *November 8, 1994, deletes or extends that date.*

34 SEC. 7. Section 56 is added to the Metropolitan Water
 35 District Act (Chapter 209 of the Statutes of 1969), to read:

36 Sec. 56. A member of the governing body of a
 37 member public agency may represent the member
 38 public agency on the board only if he or she has been
 39 elected to the board. No member of the governing body
 40 of a member public agency representing the member

1 public agency on the board shall vote on any contract
2 between the district and the member public agency on
3 which he or she serves.

4 (b) This section shall be operative on November 8,
5 1994.

6 SEC. 8. Section 90 is added to the Metropolitan Water
7 District Act (Chapter 209 of the Statutes of 1969), to read:

8 Sec. 90. No director, or other officer or employee, of
9 the district shall in any manner be interested, directly or
10 indirectly, in any contract of the district awarded or to be
11 awarded by the board, or made or to be made by the
12 officer or employee, or in the profits to be derived from
13 the contract.

14 SEC. 9. Section 91 is added to the Metropolitan Water
15 District Act (Chapter 209 of the Statutes of 1969), to read:

16 Sec. 91. For any violation of Section 90, a director or
17 other officer or employee of the district shall be guilty of
18 a misdemeanor, and upon conviction, in addition to other
19 prescribed punishment, shall forfeit his or her office or
20 employment.

21 SEC. 10. Section 92 is added to the Metropolitan
22 Water District Act (Chapter 209 of the Statutes of 1969),
23 to read:

24 Sec. 92. Notwithstanding Section 90, any director or
25 other officer or employee of the district may be a
26 stockholder or bondholder or employee of a corporation
27 contracting with the district, if the contracts made with
28 the corporation are for the district's general benefit
29 unless the director or officer or employee of the district
30 owns or controls, directly or indirectly, stock or bonds in
31 an amount exceeding 5 percent of the total amount of
32 stock or bonds, respectively, of the contracting
33 corporation issued and outstanding.

34 SEC. 11. Section 133 of the Metropolitan Water
35 District Act (Chapter 209 of the Statutes of 1969) is
36 amended to read:

37 Sec. 133. (a) The board shall fix the rate or rates at
38 which water shall be sold. ~~Such~~ The rates, in the
39 discretion of the board, may differ with reference to
40 different sources from which water shall be is obtained

1 by the district. The board, under conditions and on terms
2 ~~found and~~ determined by the board to be equitable, may
3 fix rates for the sale and delivery to member public
4 agencies of water obtained by the district from one
5 source of supply in substitution for water obtained by the
6 district from another and different source of supply, and
7 may charge for ~~such~~ the substitute water at the rate fixed
8 for the water for which it is ~~so~~ substituted.

9 (b) Any increase in a water rate in excess of 15 percent
10 within a 24-month period shall require the approval of
11 the Public Utilities Commission.

12 SEC. 12. Section 133.5 is added to the Metropolitan
13 Water District Act (Chapter 209 of the Statutes of 1969),
14 to read:

15 Sec. 133.5. The board shall establish the Division of
16 Ratepayer and Environmental Advocates under the
17 supervision of an assistant general manager for public
18 advocacy. The division staff shall be responsible for
19 reviewing all district expenditures and all district projects
20 affecting water rates and the natural environment, and
21 for advising the board so as to effectuate the long-term
22 interests of ratepayers and ecosystems impacted by the
23 district.

24 SEC. 13. Section 134 of the Metropolitan Water
25 District Act (Chapter 209 of the Statutes of 1969) is
26 amended to read:

27 Sec. 134. The board, so far as practicable, shall fix ~~such~~
28 rate or rates for water as will result in revenue which,
29 together with revenue from any water standby or
30 availability service charge or assessment, will pay the
31 operating expenses of the district, provide for repairs and
32 maintenance, provide for payment of the purchase price
33 or other charges for property or services or other rights
34 acquired by the district, and provide for the payment of
35 the interest and principal of the bonded debt subject to
36 the applicable provisions of this act authorizing the
37 issuance and retirement of the bonds. These rates,
38 subject to the provisions of this chapter, shall be uniform
39 for like classes of service throughout the district.

40 SEC. 14. Section 134.5 of the Metropolitan Water

1 District Act (Chapter 209 of the Statutes of 1969) is
2 amended to read:

3 Sec. 134.5. (a) The board may, from time to time,
4 impose a water standby or availability service charge
5 within a district pursuant to this section. The amount of
6 revenue to be raised by the service charge shall be as
7 determined by the board.

8 (b) Allocation of the service charge among member
9 public agencies shall be in accordance with a method
10 established by ordinance or resolution of the board
11 prescribed by the board. Factors that may be considered
12 include, but are not limited to, historical water deliveries
13 by a district; projected water service demands by
14 member public agencies of a district; contracted water
15 service demands by member public agencies of a district;
16 service connection capacity; acreage; property parcels;
17 population, and assessed valuation, or a combination
18 thereof.

19 (c) The service charge may be collected from the A
20 district may impose a service charge only on its member
21 public agencies of a district whose governing bodies, by
22 a majority vote, agree to the imposition and allocation of
23 the service charge in accordance with subdivisions (a)
24 and (b). As an alternative, a district may impose a service
25 charge as a standby charge against on individual parcels
26 within the district. In implementing this alternative, a
27 district may exercise the powers of a county water district
28 under Section 31031 of the Water Code, except that,
29 notwithstanding Section 31031 of the Water Code, a
30 district may (1) raise the standby charge rate above ten
31 dollars (\$10) per year by a majority vote of the board, and
32 (2) after taking into account the factors specified in
33 subdivision (b), fix different standby charge rates for
34 parcels situated within different member public
35 agencies. A district may impose a standby charge on an
36 individual parcel only with the approval, by majority
37 vote, of the governing body of the member public agency
38 serving that parcel.

39 (d) Before imposing or changing any water standby or
40 availability service charge pursuant to this section, a

1 district shall give notice to the public, and written notice
2 to each member public agency, not less than 45 days
3 prior to final adoption of the imposition or change.

4 (e) As an alternative to the two methods set forth in
5 subdivision (c), a district, at the option of its board, may
6 convert the charge to a benefit assessment to be levied
7 pursuant to Sections 134.6 to 134.9, inclusive.

8 SEC. 15. No reimbursement is required by this act
9 pursuant to Section 6 of Article XIII B of the California
10 Constitution for those costs which may be incurred
11 because the local agency or school district has the
12 authority to levy service charges, fees, or assessments
13 sufficient to pay for the program or level of service
14 mandated by this act, or because the costs which may be
15 incurred by a local agency or school district will be
16 incurred because this act creates a new crime or
17 infraction, changes the definition of a crime or infraction,
18 or eliminates a crime or infraction.

19 However, notwithstanding Section 17610 of the
20 Government Code, if the Commission on State Mandates
21 determines that this act contains other costs mandated by
22 the state, reimbursement to local agencies and school
23 districts for these costs shall be made pursuant to Part 7
24 (commencing with Section 17500) of Division 4 of Title
25 2 of the Government Code. If the statewide cost of the
26 claim for reimbursement does not exceed one million
27 dollars (\$1,000,000) reimbursement shall be made from
28 the State Mandates Claims Fund.

29 Notwithstanding Section 17580 of the Government
30 Code, unless otherwise specified in this act, the provisions
31 of this act shall become operative on the same date that
32 the act takes effect pursuant to the California
33 Constitution.

CALIFORNIA LEGISLATURE—1991-92 REGULAR SESSION

ASSEMBLY BILL

No. 3784

Introduced by Assembly Member Becerra

February 21, 1992

An act to amend Sections 6028 and 6101 of the Water Code, and to amend Section 51 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 3784, as introduced, Becerra. Water: dams.

(1) Under existing law, no civil action may be brought against the state or the Department of Water Resources or its agents or employees for the recovery of damages caused by the partial or total failure of any dam or reservoir or through the operation of any dam or reservoir upon the ground that the defendant is liable by virtue of, among other acts, the approval of the dam or reservoir.

This bill would delete the approval of the dam or reservoir from those acts that would otherwise be immune from liability.

(2) Existing law authorizes the department to require owners of dams or reservoirs to keep specified records and to report on the same.

This bill would require the department to require the above-described activities.

(3) Existing law requires the Metropolitan Water District Board to consist of one representative from each member public agency selected by either designation and appointed by the chief executive officer of the member public agency with the consent and approval of the governing body of the agency or selected by a majority vote of the governing body of the agency.

This bill would require that the alternative means of

selecting a member be accomplished by a 2/3 vote of the governing board of the member public agency rather than a majority vote.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6028 of the Water Code is
2 amended to read:

3 6028. No action shall be brought against the state or
4 the department or its agents or employees for the
5 recovery of damages caused by the partial or total failure
6 of any dam or reservoir or through the operation of any
7 dam or reservoir upon the ground that ~~such the~~
8 defendant is liable by virtue of any of the following:

- 9 (a) ~~The approval of the dam or reservoir.~~
- 10 ~~(b) The issuance or enforcement of orders relative to~~
11 ~~maintenance or operation of the dam or reservoir.~~
- 12 ~~(c)~~
- 13 (b) Control and regulation of the dam or reservoir.
- 14 ~~(d)~~
- 15 (c) Measures taken to protect against failure during
16 an emergency.

17 SEC. 2. Section 6101 of the Water Code is amended to
18 read:

19 6101. The department ~~may shall~~ require owners to
20 keep records of, and to report on, maintenance,
21 operation, staffing, and engineering and geologic
22 investigations and shall issue ~~such those~~ rules and
23 regulations and orders as necessary to secure
24 maintenance and operation and to require staffing and
25 engineering and geologic investigations which will
26 safeguard life and property. In addition, the owner of a
27 dam or reservoir or his or her agent shall fully and
28 promptly advise the department of any sudden or
29 unprecedented flood or unusual or alarming
30 circumstance or occurrence affecting the dam or
31 reservoir.

32 SEC. 3. Section 51 of the Metropolitan Water District

1 Act (Chapter 209 of the Statutes of 1969) is amended to
2 read:

3 Sec. 51. The board shall consist of at least one
4 representative from each member public agency. The
5 representatives shall serve without compensation from
6 the district. They shall, at the option of the agency, either
7 be designated and appointed by the chief executive
8 officer of the member public agency with the consent
9 and approval of the governing body of the agency or be
10 selected by a majority two-thirds vote of the governing
11 body of the agency.