

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

August 26, 1993

To: Board of Directors (Finance and Insurance Committee--Information)  
From: General Manager  
Subject: Water Quality Bond Authorization

Report

The General Manager has been requested to provide information relating to procedures for financing Metropolitan's water treatment facilities by way of a general obligation bond issue.

Attached are a timeline showing steps necessary to place this issue on the ballot for the June 1994 statewide election and a report reflecting relevant comments on the proposal.

Board Committee Assignment

This letter is referred for information to the Finance and Insurance Committee because of its authority to study, advise and make recommendations with regard to the sale of bonds, pursuant to Administrative Code Section 2441(b).

Recommendation

For information only.



John R. Wodraska

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Attachments



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

August 26, 1993

To: Board of Directors  
From: General Counsel  
Subject: Legal Issues Related to a New General Obligation Bond Authorization

Report

The Metropolitan Water District Act (Act), Sections 200 through 216, provides for the authorization of general obligation bonds through a vote of the people within the District and specifies the election procedure. An amendment to article XIII A of the state Constitution approved in 1986 permits property tax support for general obligation bonds for the acquisition or improvement of real property approved on or after July 1, 1978 by two-thirds of the votes cast by the voters voting on the proposition. Thus, a bond proposition for the purpose of improving water quality through the acquisition or improvement of real property approved by the requisite two-thirds majority would provide the District with authority to incur additional general obligation debt.

Election Requirements

Section 200 of the Act enables the Board to call a special election for the purpose of submitting a bond proposition to the electorate. To do so the Board must adopt by majority vote an ordinance that

"determines that the interests of the district and the public interest or necessity demand the acquisition, construction or completion of any public improvement or works of the district, or the payment of the funds for any part of the capital costs of any public improvements or works of this state from which service is to be provided to the district, or the incurring of any preliminary expenses, or any combination of such purposes, necessary or convenient to carry out the objects or purposes of the district, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the district . . . ."

Pursuant to Section 201 of the Act, at the time the Board calls the election, it will be necessary for the Board to approve an estimate outlining in broad and general terms the objects and purposes for which the bond proceeds are intended to be used, the amounts estimated to be needed for such purposes, the principal amount of the authorization, and the maximum interest rate payable on the bonds, which shall not exceed seven percent unless the Board determines by a two-thirds vote that a higher rate is required in order to obtain the needed funds. These elements should be furnished to the Board by the General Manager. This information, which must be recited in the ordinance, is necessary in order to advise the voters of the purposes for which the bond proceeds may be utilized and the debt service that may be incurred.

The ordinance must be published at least 10 days before the election, pursuant to Section 212 of the Act.

It also is necessary to adopt a resolution requesting the Boards of Supervisors of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties to order the consolidation of Metropolitan's special bond election with the statewide general election to be held June 7, 1994. It would probably also be desirable in that resolution to designate a specific letter such as W or Q for the ballot proposition identification and uniformity throughout the six counties.

The request for a consolidated election must be filed 88 days prior to the election and, therefore, not later than March 11, 1994.

Section 214 of the Act provides that the Board may designate individuals to file with the Secretary of the Board an argument in favor of the proposition and that any member of the Board or other voter or voters of the District may file an argument against the proposition with the Secretary. The Secretary is required to select the arguments for and against the proposition considered to best express the respective views of the proponents and opponents. These arguments will be included with each sample ballot.

Ballot arguments must be filed pursuant to the Act at least 55 days prior to the election. If the Board elects to proceed with this matter, we will verify with the county registrars of the six counties whether this deadline would be timely with their county.

Voter Approval Requirements

As discussed above, authorization of general obligation bonds presently requires the approval of two-thirds of the voters voting on the ballot measure. Several proposed constitutional amendments which would lower the voter approval requirement for various types of general obligation bonds to three-fifths (60%) or a simple majority are pending before the Legislature. Another such amendment (ACA 6) was approved by the Legislature in 1992 and will be before the voters on the November 1993 ballot.

ACA 6 provides for approval of general obligation bonds for financing of school facilities by a simple majority of the voters. It will become law if approved by a majority of the voters voting on the constitutional amendment in November. Proposals for similar constitutional amendments which could lower the voter approval requirement with respect to the District's bonds are largely on hold while their authors wait and see what the voters decide with respect to ACA 6.

These constitutional amendments are proposed because, in the current economic climate, the State and its local government agencies are badly in need of financing for facilities for a variety of purposes. General obligation bonds provide a means of financing those facilities through a voter-approved increase in property taxes for the specific purpose identified in the bond proposition, subject to the difficulty of obtaining voter approval. Any decrease in the percentage required for voter approval increases the possibility of a bond measure's success.

Any general obligation bond proposition from the District is likely to be one of many bond proposals on the ballot. Competition with other state and local bond issues for voter attention and approval could impact the District's ability to obtain the necessary percentage of positive votes. Unlike other local agencies, the District will be required to submit its bond measure to the voters in a number of communities across its six-county service area. Whether or not a constitutional amendment results in lowering the necessary percentage, no assurance can be given that voter approval of a general obligation bond proposition will be obtained.

CEQA Compliance

The submittal of proposals to a vote of the people is not a "project" under CEQA. Placing the bond measure on the ballot will not, in and of itself, commit the District to undertake particular projects having physical environmental effects and compliance with CEQA will not be required.

Use of District Funds

Public funds may not be expended to influence the public in voting on a ballot measure. However, the District is statutorily authorized to expend funds to inform the public regarding its activities and to disseminate information concerning its rights and properties. A public information program to provide information to the public in an even-handed manner respecting a ballot measure and respond to anticipated questions on the ballot measure is anticipated to cost approximately \$250,000.

An organization formed by parties interested in the passage of a bond issue but not directly or indirectly supported by District funds could actively campaign in favor of the proposition. The cost of a campaign mounted by such an organization for ninety days is estimated at about \$3 million, not including approximately \$500,000 for outside polling services.

When the District initiates the dissemination of information, the District and its representatives must present the facts concerning the measure fully and fairly. A fair presentation of the facts includes information on all consequences of the measure. The District may not give a selective presentation which focuses only on the facts it deems favorable to its position.

Information can be distributed to the general public in any form, including, for example, pamphlets, news releases, letters, films or through personal appearances of District representatives. It is also proper for the District to publicize that these materials and speakers are available for various topics, including the topics covered by a ballot measure.

The District is less restricted with regard to the presentation of information where it responds to an inquiry about a ballot measure than when it initiates informational activities. In responding to requests, the District is not obligated to provide a complete presentation of all the

consequences of the measure, but can simply provide the requested information. The District may state its position and all the reasons it believes that position is sound. However, the District cannot urge others to adopt the District's position on the ballot measure or tell people how they should vote.

The previously discussed limitations relate only to activities involving the direct or indirect expenditure of District funds. Where no District funds are involved, neither directors nor staff members are restricted in their activities relating to a ballot measure. Thus, if directors or other District representatives are invited to discuss a ballot measure solely in their personal capacities and at their own expense, they are not limited by the above rules. But if the District is financially sponsoring an activity of an employee or director, that person will be deemed to be acting as a representative of the District and is subject to the limitations discussed above.

In addition to District liability for the improper expenditure of District funds, public officials with authority to direct the expenditure of public funds can be held personally liable for amounts found to be illegally spent if they fail to exercise due care in permitting the expenditure.

#### Board Committee Assignment

This letter is referred for information to the Finance and Insurance Committee because of its authority to study, advise and make recommendations with regard to the sale of bonds, pursuant to Administrative Code Section 2441(b).

#### Recommendation

For information only.



N. Gregory Taylor

# Schedule for June 1994 Water Quality General Obligation Bond Election

January	February	March	April	May	June	July
<p>▲ Introduce Election Ordinance at Board Meeting <b>January 11</b></p>	<p>▲ Approve Election Ordinance at Board Meeting <b>February 8</b></p>	<p>▲ Election Consolidation Ordinance to all County Supervisors By <b>March 11</b></p>	<p>▲ Deadline to File Ballot Arguments <b>April 13</b></p>	<p>▲ Publication of Election Ordinance By <b>May 27</b></p>	<p>▲ Statewide Election <b>June 7</b></p>	
<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>