

● **Board of Directors**
Communications, Outreach and Legislation Committee

March 13, 2001 Board Meeting

9-11

Subject

Request support for pending legislation to reimburse State Water Project funds for state power purchases

Description

The California Department of Water Resources (DWR) was requested by the California Independent System Operator (ISO) to purchase energy for the ISO in early December 2000 and again in January 2001 when energy supplies were extremely tight and the credit worthiness of California's investor-owned utilities (IOUs) and the ISO was in doubt. In each case, DWR was told that the purchases were necessary to avert the ISO's imposition of then-imminent rolling blackouts in California.

DWR agreed to enter into such emergency energy purchase transactions using a total of \$42.9 million from monies in its Water Resource Development Fund, which is the primary fund for the State Water Project (SWP). According to DWR's Controller, Ms. Perla Netto-Brown, the funds in this account accrued from lower than anticipated energy costs and greater than anticipated power revenues from year 2000 SWP operations. If these funds had not been used to pay for such emergency energy purchases, they would have been returned to the SWP contractors this fiscal year or used to help pay the increasing power costs being experienced by the SWP.

To date, DWR has not been reimbursed for these power purchases, which were for the IOUs, not the SWP. Senator Bruce McPherson (R-Santa Cruz) and Assemblyman Dean Florez (D-Shafter) have introduced identical bills, SB 405, AB 1535 ([Attachment 1](#)) and ABx1 107, respectively, that will reimburse DWR for these purchases should the ISO not be able to pay DWR. At this time, the ISO's ability to reimburse DWR is in question, since the IOUs continue to experience severe financial difficulties. As Metropolitan's share of the State Water Project power costs average 60%, approximately \$26 million in State Water Project funds that would otherwise benefit Metropolitan is at stake.

Policy

None

Board Options/Fiscal Impacts

Option #1

Authorize Metropolitan's support of ABx1 107, AB 1535, and SB 405

Fiscal Impact: Approximately \$26 million

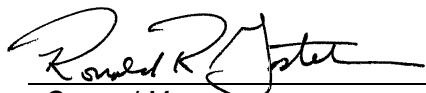
Option #2

Do not authorize Metropolitan's support of ABx1 107, AB 1535, and SB 405

Fiscal Impact: Approximately \$26 million

Staff Recommendation

Option #1



General Manager

3/8/2001

Date

Attachment 1 – AB 1535

BLA #955

ASSEMBLY BILL

No. 1535

Introduced by Assembly Member Florez

February 23, 2001

An act to amend Sections 80004, 80134, and 80200 of the Water Code, relating to electric power, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1535, as introduced, Florez. Department of Water Resources: electric power.

Existing law authorizes the Department of Water Resources to enter into contracts for the purchase and sale of electric power in accordance with specified requirements and establishes the Department of Water Resources Electric Power Fund for the purpose of carrying out that authority. Existing law provides that the fund and the money in the fund are separate and distinct from any other fund and money administered by the department. Existing law requires the department to revise revenue requirements sufficient to provide, among other things, repayment to the General Fund of appropriations made to the fund and continuously appropriates the money in the fund for, among other purposes, that repayment.

This bill would provide that no payments or claims for payment arising from the department activities relating to the purchase and sale of electric powers pursuant to these provisions shall be obligations of or paid from any State Water Project funds. The bill would require the department to revise revenue requirements to provide, in addition, repayment to the California Water Resources Development Bond Fund for all power purchased after December 1, 2000, for the Independent System Operator using the fund in the event the operator fails to make



timely payments and would continuously appropriate the money in the fund for that additional repayment purpose.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 80004 of the Water Code is amended to
2 read:

3 80004. (a) The powers and responsibilities of the department
4 established under this division are within the scope of the primary
5 duties of the department, but are not governed by the provisions
6 relating to the State Water Resources Development System.

7 (b) The Department of Water Resources Electric Purchases
8 Power Fund, established by Section 80200, and the money in that
9 fund are separate and distinct from any other fund and money
10 administered by the department.

11 (c) *The contracts, obligations, and arrangements made
12 pursuant to this division are separate and apart from the State
13 Water Resources Development System, and the obligations
14 incurred and funding of the contracts and arrangements pursuant
15 to this division shall be maintained by the department, separate
16 and distinct from the funds, moneys, and obligations of the State
17 Water Resources Development System. No payments or claims for
18 payment arising from the department's activities pursuant to this
19 division shall be obligations of or paid from any State Water
20 Resources Development System funds or moneys.*

21 SEC. 2. Section 80134 of the Water Code is amended to read:

22 80134. (a) The department shall, and in any obligation
23 entered into pursuant to this division may covenant to, at least
24 annually, and more frequently as required, establish and revise
25 revenue requirements sufficient, together with any moneys on
26 deposit in the fund, to provide all of the following:

27 (1) The amounts necessary to pay the principal of and
28 premium, if any, and interest on all bonds as and when the same
29 shall become due.

30 (2) The amounts necessary to pay for power purchased by it and
31 to deliver it to purchasers, including the cost of electric power and
32 transmission, scheduling, and other related expenses incurred by
33 the department, or to make payments under any other contracts,

1 agreements, or obligations entered into by it pursuant hereto, in the
2 amounts and at the times the same shall become due.

3 (3) Reserves in such amount as may be determined by the
4 department from time to time to be necessary or desirable.

5 (4) The pooled money investment rate on funds advanced for
6 electric power purchases prior to the receipt of payment for those
7 purchases by the purchasing entity.

8 (5) Repayment to the General Fund of appropriations made to
9 the fund pursuant hereto or hereafter for purposes of this division,
10 appropriations made to the Department of Water Resources
11 Electric Power Fund, and General Fund moneys expended by the
12 department pursuant to the Governor's Emergency Proclamation
13 dated January 17, 2001.

14 (6) *Repayment to the California Water Resources Development
Bond Fund for all power purchased after December 1, 2000, for
the Independent System Operator using the fund in the event the
Independent System Operator fails to make timely payments in
accordance with its normal billing and repayment procedures.*

19 (7) The administrative costs of the department incurred in
20 administering this division.

21 (b) The department shall notify the commission of its revenue
22 requirement pursuant to Section 80110.

23 SEC. 3. Section 80200 of the Water Code is amended to read:

24 80200. (a) There is hereby established in the State Treasury
25 the Department of Water Resources Electric Power Fund.
26 Notwithstanding Section 13340 of the Government Code, all
27 moneys in the fund are continuously appropriated, without regard
28 to fiscal year, to the department, and shall be available for the
29 purposes of this division. It is the intent of the Legislature that this
30 fund be a continuation of the fund created in Chapter 3 of the
31 Statutes of 2001 (SB 7 of the First 2001–02 Extraordinary
32 Session).

33 (b) All revenues payable to the department under this division
34 shall be deposited in the fund. Notwithstanding any other
35 provision of law, interest accruing on money in the fund shall
36 remain in the fund and shall be used for the purposes of this
37 division. Payments from the fund may be made only for the
38 purposes authorized by this division, including, but not limited to,
39 payments for any of the following:

1 (1) The cost of electric power and transmission, scheduling,
2 and other related expenses incurred by the department.

3 (2) The pooled money investment rate on funds advanced for
4 electric power purchases prior to the receipt of payment for those
5 purchases by the purchasing entity.

6 (3) Payment of any bonds or other contractual obligations
7 authorized by this division.

8 (4) Repayment to the General Fund of appropriations made to
9 the fund pursuant hereto or hereafter for purposes of this division,
10 appropriations made to the Department of Water Resources
11 Electric Power Fund, and General Fund moneys expended by the
12 department pursuant to the Governor's Emergency Proclamation
13 dated January 17, 2001. It is the intent of the Legislature that such
14 repayment be made as soon as practicable.

15 *(5) Repayment to the California Water Resources Development
16 Bond Fund for all power purchased after December 1, 2000, for
17 the Independent System Operator using the fund in the event the
18 Independent System Operator fails to make timely payments in
19 accordance with its normal billing and repayment procedures.*

20 (c) Except as provided in subdivision (b) of Section 5 of the
21 statute adding this section, the administrative costs of the
22 department incurred in administering this division shall be
23 provided in the annual Budget Act.

24 (d) Obligations authorized by this division shall be payable
25 solely from the fund. Neither the full faith and credit nor the taxing
26 power of the state are or may be pledged for any payment under
27 any obligation authorized by this division.

28 (e) While any obligations of the department incurred under this
29 division remain outstanding and not fully performed or
30 discharged, the rights, powers, duties, and existence of the
31 department and the commission shall not be diminished or
32 impaired in any manner that will affect adversely the interests and
33 rights of the holders of or parties to such obligations. The
34 department may include this pledge and undertaking of the state
35 in the department's obligations.