

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

July 10, 2001 Board Meeting

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**9-8**

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**Subject**

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Recommend Support and Amend, Assembly Constitutional Amendment 8 (Keeley, D-Boulder Creek), California Water and Land Protection Trust Fund

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**Description**

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Assembly Constitutional Amendment 8 ([Attachment 1](#)) would create a California Water and Land Protection Trust Fund (Fund) within the California Constitution. The Fund would be established in the State Treasury as a depository for funds contributed from any source, including funds appropriated by the Legislature and contributions of money from public and private entities or individuals. Once deposited, the principal would remain in the Fund permanently and could not be appropriated or expended for any purpose. The income generated from the Fund would be available, upon appropriation by the Legislature, for acquisition, management and restoration of land for parks and recreation; agricultural land preservation; fish, wildlife and natural communities' habitat; and scenic open space. The land could be acquired in fee title or through other arrangements such as conservation easements. Preference criteria are established for the acquisition of land, including whether the acquisition would protect wetlands, streams and other water bodies or water quality; whether the land has been designated by a state agency as being of statewide significance or is designated for protection in a local land use ordinance or plan; and whether acquisition would help implement a habitat conservation plan, natural community conservation plan or other plan for protection and restoration of species listed under the state or federal Endangered Species Act.

The proposed Fund could be very beneficial as a permanent funding source for preservation and enhancement of fish, wildlife and riparian habitat and other environmental values. It would be a source of funding to support actions to improve fish and wildlife habitat and water quality in the Bay-Delta Watershed in addition to funding provided by Propositions 13 and 204, and serve as a potential source of non-federal funds for implementation of appropriate CALFED actions. The bill is supported by a broad range of conservation organizations, business organizations and local agencies.

As described above, the Fund would be a source of funding for acquisition and management of interests in land only. The environmental, especially fish and wildlife, benefits would be enhanced if the Fund also was available for acquisition of water for environmental purposes. Staff recommends that it be authorized to pursue amendments to include this purpose.

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**Policy**

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None

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**CEQA**

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Options #1 and #2

The proposed action is not defined as a project under the California Environmental Quality Act (CEQA) because the proposed action involves continuing administrative activities such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination for both Options #1 and #2 is: Determine that the proposed action is not subject to the provisions of CEQA per Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

**Board Options/Fiscal Impacts**

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**Option #1**

Adopt the CEQA determination and authorize Metropolitan to support Assembly Constitutional Amendment 8 and seek amendments to include the acquisition of water for environmental uses as one of the purposes of the Fund.

**Fiscal Impact: None**

**Option #2**

Adopt the CEQA determination and authorize Metropolitan to support Assembly Constitutional Amendment 8 without amendment.

**Fiscal Impact: None**

**Option #3**


Do not authorize support of Assembly Constitutional Amendment 8

**Fiscal Impact: None**

**Staff Recommendation**

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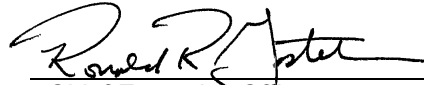
Option #1



Adán Ortega, Jr.  
Vice President & Group Manager,  
External Affairs

7/2/2001

Date



Ronald R. Foster  
Chief Executive Officer

7/2/2001

Date

**Attachment 1 – Assembly Constitutional Amendment 8**

BLA #1218

AMENDED IN ASSEMBLY JUNE 18, 2001

AMENDED IN ASSEMBLY MAY 16, 2001

AMENDED IN ASSEMBLY MAY 8, 2001

AMENDED IN ASSEMBLY MAY 1, 2001

CALIFORNIA LEGISLATURE—2001-02 REGULAR SESSION

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**Assembly Constitutional Amendment**

**No. 8**

**Introduced by Assembly Member Keeley**

February 23, 2001

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Assembly Constitutional Amendment No. 8—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Article X C thereto, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

ACA 8, as amended, Keeley. California Water and Land Protection Trust Fund.

Existing law contains various provisions relating to the protection of natural resources.

This measure would create the California Water and Land Protection Trust Fund in the State Treasury. The measure would prohibit any of the principal in the trust fund from being appropriated or expended. The measure would authorize the income generated by the trust fund to be used, pursuant to an appropriation by the Legislature, for the acquisition, operation, maintenance, restoration, and enhancement of land for habitat for native fish and wildlife and natural communities, agricultural land, scenic open space, and parks and recreation areas.

## ACA 8

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

1 WHEREAS, A permanent source of funding for water and land  
2 protection and conservation, using only the interest from the  
3 endowment in a trust fund, is urgently needed; and

4 WHEREAS, Among other benefits, having a permanent,  
5 dependable funding source will make it easier to formulate  
6 long-term plans for protecting California's water and land quality;  
7 now, therefore, be it

8 *Resolved by the Assembly, the Senate concurring,* That the  
9 Legislature of the State of California at its 2001-02 Regular  
10 Session commencing on the fourth day of December 2000,  
11 two-thirds of the membership of each house concurring, hereby  
12 proposes to the people of the State of California that the  
13 Constitution of the State be amended by adding Article X C  
14 thereof, to read:

15

16

## ARTICLE X C

17

18 CALIFORNIA WATER AND LAND PROTECTION TRUST  
19 FUND

20

21 SECTION 1. (a) The California Water and Land Protection  
22 Trust Fund is hereby created in the State Treasury.

23 (b) Money from any source may be deposited in the trust fund,  
24 and thereby becomes part of the principal. These sources include  
25 funds appropriated by the Legislature and contributions of money  
26 from natural persons, private entities, and public agencies.

27 ~~(c) Income generated by the trust fund may be expended only~~  
28 ~~pursuant to an appropriation by the Legislature for the purposes~~  
29 ~~authorized by this article. An appropriation or expenditure of~~  
30 ~~income generated by the trust fund for any purpose that is not~~  
31 ~~authorized by this article is void.~~

32 ~~(d) Money in the trust fund may not be appropriated or~~  
33 ~~expended to repay the principal of any bond, pay the interest on~~  
34 ~~any bond, or refund any bond.~~

35 ~~(e) Money in the trust fund may not be lent or pledged for any~~  
36 ~~purpose.~~



1 ~~(f) Principal in the trust fund may not be appropriated or~~  
2 ~~expended for any purpose.~~

3 SEC. 2. (a) Income generated by the trust fund ~~is available~~  
4 ~~for appropriation~~ *may be appropriated* for the acquisition of land  
5 for any of the following purposes:

6 (1) Parks and recreation areas.

7 (2) Agricultural land.

8 (3) Habitat for native fish and wildlife and natural  
9 communities.

10 (4) Scenic open space.

11 (b) Income generated by the trust fund ~~is available for~~  
12 ~~appropriation~~ *may be appropriated* for the operation,  
13 maintenance, restoration, and enhancement of state land as  
14 described in paragraphs (1) to (4), inclusive, of subdivision (a).

15 (c) As used in this article, “acquisition” means acquiring the  
16 fee title to, or obtaining a permanent *conservation* easement over,  
17 land.

18 SEC. 3. (a) In the acquisition of parks and recreation areas,  
19 preference shall be given to land that meets one or more of the  
20 following criteria:

21 (1) The land is located in an area that is underserved by parks  
22 and recreation areas *as measured by objective standards,*  
23 *including, but not limited to, the total acreage of parks in relation*  
24 *to population.*

25 (2) The land is identified as having high park and recreational  
26 values in the land use ordinances of the relevant local public  
27 agency or has been determined by a state agency to be of statewide  
28 significance.

29 (3) The land would be an addition to an existing park or  
30 recreation area that is too small for the population it serves.

31 (4) The acquisition would reduce or eliminate constraints on  
32 recreational opportunities and park operations or improve public  
33 access to a park or recreation area.

34 (5) Acquisition of the land would protect wetlands, streams,  
35 natural occurring bodies of water, or the quality of adjacent water.

36 (b) In the acquisition of agricultural land, preference shall be  
37 given to currently producing agricultural land that is intended to  
38 remain in production.



## ACA 8

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1 (c) In the acquisition of habitat for native fish and wildlife and  
2 natural communities, preference shall be given to land that meets  
3 one or more of the following criteria:

4 (1) The land is identified as a priority for protection in the land  
5 use ordinances or plans of the local public agency in whose  
6 jurisdiction the land is situated, or has been determined by a state  
7 agency to be of statewide significance.

8 (2) Acquisition of the land would be consistent with a land  
9 conservation program of a state agency or a conservancy created  
10 by statute for the protection and restoration of habitat and other  
11 natural areas, or the acquisition would implement a habitat  
12 conservation plan, natural community conservation plan, or other  
13 plan for the protection and restoration of habitat for a wildlife  
14 species that has been listed as endangered or threatened pursuant  
15 to the California Endangered Species Act (Chapter 1.5  
16 (commencing with Section 2050) of Division 3 of the Fish and  
17 Game Code) or the federal Endangered Species Act of 1973 (16  
18 U.S.C. Sec. 1531 et seq.).

19 (3) The land would serve as a corridor that will link otherwise  
20 separate habitat to prevent habitat fragmentation or is adjacent to  
21 other habitat lands.

22 (4) Acquisition of the land would protect wetlands, streams,  
23 naturally occurring bodies of water, or the quality of adjacent  
24 water.

25 (5) Funding adequate for long-term stewardship has been  
26 identified.

27 (d) In the acquisition of scenic open space, preference shall be  
28 given to land that meets one or more of the following criteria:

29 (1) The land is adjacent to existing protected land.

30 (2) The land is identified as having high scenic or open-space  
31 values in the land use ordinances or plans of the local public  
32 agency in whose jurisdiction the land is situated, or has been  
33 determined by a state agency to be of statewide significance.

34 (3) Acquisition of the land would reinforce policies intended to  
35 manage growth.

36 (4) The land has important natural resource values.

37 (5) Acquisition of the land would protect wetlands, streams,  
38 naturally occurring bodies of water, or the quality of adjacent  
39 water.



1 (6) The land adjoins a river, stream, river parkway, lake, or the  
2 ocean.

3 (7) The land would accommodate recreational opportunities or  
4 public access.

5 (8) The land is located in a scenic area of the coastal zone.

6 SEC. 4. In the acquisition of any land pursuant to this article,  
7 preference shall be given to acquisition projects for which  
8 matching funds will be provided by a private or public source, for  
9 which a substantial portion of the value of the land to be acquired  
10 will be donated, or that involve the participation of public or  
11 private partner entities that contribute to, or otherwise  
12 significantly facilitate, the acquisition.

13 SEC. 5. The income generated by the trust fund may be  
14 appropriated each fiscal year for one or more of the following  
15 purposes:

16 (a) Operating and maintaining lands acquired pursuant to this  
17 article that have the greatest need for funding for that purpose, as  
18 measured by limitations on existing funding; the particular  
19 restoration, rehabilitation, and stewardship needs of the land; the  
20 degree of risk of damage or degradation of the land; and threats  
21 from incompatible land uses in nearby areas.

22 (b) Constructing compatible facilities on lands acquired  
23 pursuant to this article.

24 SEC. 6. If authorized by statute, a state agency may make  
25 grants to local public agencies and nonprofit public benefit  
26 corporations from funds appropriated to the state agency pursuant  
27 to this article for acquisition projects that achieve one or more  
28 purposes of this article. As used in this section, “nonprofit public  
29 benefit corporation” means any charitable organization described  
30 in paragraph (3) of subsection (c) of Section 501 of the United  
31 States Internal Revenue Code that has among its primary purposes  
32 the conservation and preservation of natural, scenic, historical,  
33 agricultural, forested, or open-space lands.

34 SEC. 7. In any fiscal year, not more than 15 percent of the total  
35 amount of income generated by the trust fund during that year may  
36 be appropriated or expended for a single acquisition pursuant to  
37 this article.

38 SEC. 8. (a) The principal of the trust fund shall be invested  
39 in the Pooled Money Investment Account.



## ACA 8

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1 (b) Income generated by the trust fund shall be retained in the  
2 trust fund, and invested together with the principal of the trust  
3 fund, until appropriated for the purposes of this article.

4 (c) *Income generated by the trust fund may be expended only*  
5 *pursuant to an appropriation by the Legislature for one or more*  
6 *purposes authorized by this article. An appropriation or*  
7 *expenditure of income generated by the trust fund for any purpose*  
8 *not authorized by this article is void.*

9 (d) *Principal in the trust fund may not be appropriated or*  
10 *expended for any purpose.*

11 (e) *Neither income generated by the trust fund nor principal in*  
12 *the trust fund may be lent or pledged for any purpose.*

13 SEC. 9. Income generated by the trust fund may not be used  
14 to acquire land to fulfill the obligation of any state, federal, or local  
15 public agency to mitigate an impact to the environment or to  
16 wildlife and their habitat caused by a project.

17 ~~SEC. 10. Income generated by the trust fund may not be used~~  
18 ~~to pay for the cleanup of any toxic materials or hazardous~~  
19 ~~substances.~~

20 ~~SEC. 11.—~~

21 SEC. 10. Land may be acquired pursuant to this article only  
22 from a willing seller.

23 ~~SEC. 12.—~~

24 SEC. 11. (a) Land acquired pursuant to this article shall be  
25 managed to minimize impacts on neighboring agricultural or  
26 silvicultural lands.

27 (b) A public agency or nonprofit public benefit corporation that  
28 acquires fee title to land pursuant to this article may allow  
29 agriculture or silviculture activity on the land to continue if it  
30 determines that the activity is compatible with the purposes for  
31 which the land was acquired.

32 (c) Easement covenants on agricultural lands that are to  
33 continue in production shall not unduly restrict changes in  
34 agricultural operations due to changes in economic conditions,  
35 subject to the purposes for which the easement was obtained.

36 ~~SEC. 13.—~~

37 SEC. 12. The Governor shall provide for an annual  
38 independent financial and compliance audit and report on all  
39 expenditures of funds appropriated pursuant to this article. The





1 costs of the audits shall be paid from an appropriation from the  
2 income generated by the trust fund.

3 ~~SEC. 14.—~~

4 *SEC. 13.* (a) Land acquired *in fee title* pursuant to this article  
5 may be transferred only to a state, federal, or local public agency  
6 or public nonprofit benefit corporation that is able to operate and  
7 maintain the land in perpetuity. The deed and other documentation  
8 accomplishing the transfer shall ~~restrict the transferee's use of the~~  
9 ~~land to the purpose for which the land was acquired pursuant to this~~  
10 ~~article. Any attempt to make a transfer in violation of this section~~  
11 ~~is void. Land acquired pursuant to this article may not be~~  
12 ~~encumbered in any way that could impair or frustrate the purpose~~  
13 ~~for which it was acquired. contain appropriate covenants to~~  
14 *protect the purposes for which the property was acquired.*

15 (b) Any ~~agricultural~~ conservation easement acquired pursuant  
16 to this article shall be permanent and may not be terminated. A  
17 *conservation easement acquired pursuant to this article may be*  
18 *transferred only to a state, federal, or local public agency, or*  
19 *public nonprofit benefit corporation that is able to monitor the*  
20 *land pursuant to the terms of the easement in perpetuity. The deed*  
21 *and other documentation accomplishing the transfer of a*  
22 *conservation easement shall contain appropriate covenants to*  
23 *protect the purposes for which the property was acquired.*

24 (c) Priority shall be given to acquiring an easement, over  
25 acquisition of fee title, where (1) public access is not intended or  
26 public access would be compatible with an easement, and (2) the  
27 landowner agrees to the easement.

28 ~~SEC. 15.—~~

29 (d) *Any transfer of land or of a conservation easement in*  
30 *violation of this section is void. Land acquired pursuant to this*  
31 *article may not be encumbered in any way that could impair or*  
32 *frustrate the purposes for which the land was acquired.*

33 *SEC. 14.* An appropriation or expenditure of funds pursuant  
34 to this article is not a transfer of funds for the purposes of Chapter  
35 9 (commencing with Section 2780) of Division 3 of the Fish and  
36 Game Code.

37 ~~SEC. 16.—~~

38 *SEC. 15.* Any reference in this article to a statute is deemed to  
39 mean the statute as it existed on the effective date of this article and  
40 as it may subsequently be amended, or a successor to that statute.



**ACA 8**

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- 1 ~~SEC. 17.~~—
- 2 *SEC. 16.* Any natural person, private entity, or public agency
- 3 has standing to enforce any provision of this article.

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