



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

May 12, 2009 Board Meeting

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8-3

## Subject

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Express support and seek amendments to AB 234 (Huffman, D-San Rafael) – Energy: water use and energy efficiency projects: federal stimulus funds

## Description

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### Existing Law

Various state and federal laws establish programs to provide financial assistance to public and private entities to improve energy efficiency. The California Energy Commission (CEC), California Public Utilities Commission and California Urban Water Conservation Council are exploring projects that evaluate and test energy efficiency and water conservation projects in order to measure the results and to fund studies necessary to understand more accurately the relationship between water savings and the reduction of energy use.

AB 234 by Assembly Member Jared Huffman, Chair of the Assembly Water, Parks and Wildlife Committee, as amended April 23, 2009 ([Attachment 1](#)), seeks to accomplish the following:

1. Require the CEC to coordinate with the State Water Resources Control Board (State Board) and local water suppliers on the planning and implementation of energy efficiency actions that can also result in water use savings when using funding received under the federal American Recovery and Reinvestment Act of 2009 (ARRA) pursuant to the federal State Energy Program and the federal Energy Efficiency and Conservation Block Grant Program.
2. Require the CEC, in consultation with the State Board, to establish criteria and priorities for partnering with the State Board on programs and projects that have both water and energy efficiency benefits.
3. Require that water and energy conservation programs and projects proceed only to the extent they do not impair the CEC's ability to meet the federal deadlines for expenditure of federal stimulus funds provided by ARRA under the two specified federal programs.

Staff is recommending that Metropolitan support AB 234 and seek a clarifying amendment as follows:

- Funds, as described in Section 25461(d) of the bill, that are specifically derived from ARRA federal funds and allocated to the State Board should not be commingled with state grants or loan proceeds.

### Background

Since approximately 2005, the CEC and the Public Utilities Commission have been investigating water-related energy use in California. Several studies have been done that document the energy savings associated with water conservation actions. In the report titled "California's Water-Energy Relationship" prepared by the CEC as part of its 2005 Integrated Energy Policy Report proceeding, the CEC concluded that water-related energy use (water delivery, treatment and use) consumes 19 percent of the state's electricity, 30 percent of the state's natural gas and 88 billion gallons of diesel fuel each year. It is clear that there are energy savings that can be realized through water use efficiency programs.

The ARRA, signed into law on February 17, 2009, was intended to stimulate the U.S. economy in the wake of the economic downturn. The various provisions of the Act provide \$787 billion. Over \$61 billion in funding is

available nationally for a number of energy-related programs, with at least \$295 million specified for California. The following are some of the programs already receiving direct appropriations from ARRA to fund water or energy-efficiency related programs:

Energy-related programs:

- CEC - Energy Efficiency and Conservation Block Grant Program. The CEC will receive \$56 million for the block grant program to assist small cities and counties in implementing projects and programs to reduce total energy use, reduce fossil fuel emissions and improve energy efficiency in building and other appropriate sectors. This is a new program for the CEC.
- CEC - State Energy Program (SEP). The CEC will receive \$239 million for the SEP to focus on energy efficiency and renewable energy programs. Monies will be directed to small cities and counties for energy efficiency retrofits of buildings and industrial facilities and to support renewable energy projects. This is a major increase in funding for the program which usually receives \$1 million to \$3 million per year from the federal Department of Energy.
- IRS - Tax Credit Bonds for Renewable Energy and Energy Conservation. Provides \$1.6 billion in bonds nationally to finance facilities that generate electricity from the following resources: wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, marine renewable and trash combustion facilities.
- DOE - Energy Efficiency and Conservation Competitive Block Grant Program. On a federal level, the United States Department of Energy provides funding to local governments to reduce energy use and reduce emissions through strategic planning, consultant services, energy audits, implementing building codes and inspection services, energy efficiency retrofits and installing onsite renewable energy technologies. Specific funding information is not yet available.

Water-related programs:

- California Department of Public Health – Drinking Water State Revolving Fund. The Drinking Water State Revolving Fund (DWSRF) has received about \$160 million in ARRA funding for drinking water infrastructure projects. A portion of the funding will be targeted toward “green” or environmentally innovative projects.
- State Water Resources Control Board – Clean Water State Revolving Fund. The board will receive approximately \$283 million for the Clean Water State Revolving Fund (CWSRF) program. This is an existing program that provides local assistance for wastewater projects and innovative water quality and supply projects. The State Board is required to provide a percentage of these funds for “green projects” that could include water conservation projects.
- Army Corps of Engineers. While there are no direct appropriations to the state, the Corps will receive \$4.6 billion nationally and is a partner with the state on federally authorized flood control projects for which costs are shared among federal, state and local governments. These include projects in the State Plan of Flood Control, modifications to Folsom Dam and other projects in Central and Southern California.
- NOAA – Coastal and Marine Habitat Restoration Projects. Approximately \$230 million have been allocated nationally for habitat restoration, navigation projects, vessel maintenance and other activities.
- DOI – Water Marketing and Efficiency Grants. In addition to funding for existing Bureau of Reclamation projects and \$50 million for Bay-Delta restoration, the United States Department of the Interior has \$40 million for matching grants to fund a variety of projects that will improve the efficient use of existing water supplies through water conservation, efficiency and water market projects. The focus is on projects that can be completed within 24 months that will help sustain water supplies in the western United States.

Of the programs listed above, only the CEC - Energy Efficiency and Conservation Block Grant Program and SEP are affected by AB 234.

Staff recommends that AB 234 be amended to clarify that ARRA federal funds, as described in Section 25461(d) of the bill, should not be commingled with other state funds, grants, or loan proceeds administered through the CEC to ensure expedient funding as Congress intended. The amendment to AB 234 is necessary to ensure that the commingling of state and federal ARRA funds does not trigger administrative rules that were specifically removed for federal ARRA funds for the DWRSRF and CWSRF pursuant to SBXXX 27 in March of this year. Without this amendment, the language of AB 234 could inadvertently be interpreted to preclude water agencies from taking full advantage of these stimulus funds, contrary to its intent.

### **Impact to Metropolitan**

AB 234 would increase federal economic stimulus funding available for water projects throughout the state that focus on energy efficiency through water savings and water conservation. Available funds would benefit Metropolitan and its member agencies through implementation of effective water use efficiency programs, further development of local water supplies, reduced demand for imported water and improved regional water supply reliability.

### **Policy**

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By Minute Item 44813, dated March 12, 2002, the Board adopted a policy principle on global climate change and water resources planning.

By Minute Item 45208, dated February 11, 2003, the Board adopted a set of policy principles on water conservation.

### **California Environmental Quality Act (CEQA)**

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CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it 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 is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

### **Board Options**

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#### **Option #1**

Adopt the CEQA determination and authorize the General Manager to express Metropolitan's support and seek amendments to AB 234.

**Fiscal Impact:** None

**Business Analysis:** The bill would make available further opportunities for funding energy efficient local water projects, would maximize the benefits of the federal stimulus funds and provide for water savings along with energy savings and new jobs. Regionally this is consistent with Metropolitan's conservation message and supports local water projects as part of a comprehensive water supply strategy to improve supply reliability. The proposed amendment would clarify that the funds are specifically derived from ARRA.

#### **Option #2**

Take no position on AB 234.

**Fiscal Impact:** None

**Business Analysis:** If the bill does not pass, opportunities for water savings in ARRA-funded energy projects may be diminished. Should the bill pass without the proposed amendments, commingling of funds could

trigger administrative rules that would preclude water agencies from taking full advantage of these ARRA funds.

**Staff Recommendation**

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Option #1

  
Linda D. Waade  
Deputy General Manager, External Affairs

5/6/2009  
Date

  
Jeffrey Kightlinger  
General Manager

5/6/2009  
Date

**Attachment 1 – AB 234**

BLA #6724

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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**ASSEMBLY BILL****No. 234**

**Introduced by Assembly Member Huffman**

February 5, 2009

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An act to add Chapter 5.6 (commencing with Section 25460) to Division 15 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 234, as amended, Huffman. Energy: water use and energy efficiency projects: federal stimulus funds.

Existing law establishes various programs to provide financial assistance to public and private entities to improve their energy efficiency.

This bill would require the State Energy Resources Conservation and Development Commission, as a part of the implementation of funding received ~~pursuant to~~ *under* the federal American Recovery and Reinvestment Act of 2009 *pursuant the federal State Energy Program and the federal Energy Efficiency and Conservation Block Grant Program*, to coordinate with the State Water Resources Control Board and local water suppliers on the planning and implementation of energy efficiency actions that can also result in water use savings. The bill would require that water and energy conservation programs and projects proceed only to the extent they do ~~not~~ *not* impair the commission's ability to meet the federal deadlines for expenditure of federal stimulus funds provided by the act *pursuant to the 2 specified federal programs*.

AB 234

— 2 —

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. Chapter 5.6 (commencing with Section 25460)  
2 is added to Division 15 of the Public Resources Code, to read:

3  
4 CHAPTER 5.6. WATER USE AND ENERGY EFFICIENCY  
5 ASSISTANCE  
6

7 25460. The Legislature finds and declares all of the following:

8 (a) The commission is expected to receive hundreds of millions  
9 of dollars from the federal American Recovery and Reinvestment  
10 Act of 2009 (Public Law 111-5) for energy related activities  
11 including energy efficiency programs and projects.

12 (b) Water use requires significant amounts of energy.  
13 Approximately one-fifth of the electricity and one-third of the  
14 nonpower plant natural gas consumed in the state are associated  
15 with water delivery, treatment, and use.

16 (c) Greenhouse gas emissions can be reduced if we move, treat,  
17 and use water more efficiently.

18 (d) The Public Utilities Commission and the commission have  
19 researched the energy saving potential associated with water use  
20 efficiency programs and with water management changes. Those  
21 studies can inform the administration and the Legislature on how  
22 state agencies can partner and cost share, and how local water  
23 ~~suppliers~~ *suppliers*' funding can be leveraged to maximize water  
24 and energy efficiency.

25 25460.5. For the purposes of this chapter, the following terms  
26 have the following meaning:

27 (a) "Board" means the State Water Resources Control Board.

28 (b) "Federal act" means the federal American Recovery and  
29 Reinvestment Act of 2009 (Public Law 111-5).

30 (c) "Water supplier" means a local public agency or private  
31 company supplying or storing water, or a mutual water company.

32 25461. (a) As part of the implementation of the funding  
33 received by the commission under the federal act *pursuant to the*  
34 *federal State Energy Program and the federal Energy Efficiency*  
35 *and Conservation Block Grant Program*, the commission shall

1 coordinate with the board and local water suppliers on the planning  
 2 and implementation of energy efficiency actions that can also result  
 3 in water use savings. Coordination ~~can~~ *may* include, but is not  
 4 limited to, sharing information on areas to target, prioritizing  
 5 actions, and coordinating implementation and cost sharing.

6 (b) As a part of the guidelines otherwise developed by the  
 7 commission for administering energy and water efficiency actions  
 8 funded under the federal act *pursuant to the federal State Energy*  
 9 *Program and the federal Energy Efficiency and Conservation*  
 10 *Block Grant Program*, the commission, in consultation with the  
 11 board, shall establish criteria and priorities for partnering on  
 12 programs and projects that have both water and energy efficiency  
 13 benefits.

14 (c) Water use efficiency programs and projects that provide  
 15 sufficient energy savings to justify being funded under the federal  
 16 act *pursuant to the federal State Energy Program and the federal*  
 17 *Energy Efficiency and Conservation Block Grant Program* from  
 18 moneys allocated to the commission shall be eligible to receive  
 19 that funding.

20 (d) Water use efficiency programs and projects may also be  
 21 funded under the federal act *pursuant to the federal State Energy*  
 22 *Program and the federal Energy Efficiency and Conservation*  
 23 *Block Grant Program* from moneys allocated to the board, and  
 24 moneys from local water agencies.

25 (e) Water and energy conservation programs and projects shall  
 26 proceed only to the extent they do not impair the commission's  
 27 ability to meet the federal deadlines for expenditure of stimulus  
 28 funds from the federal act *pursuant to the federal State Energy*  
 29 *Program and the federal Energy Efficiency and Conservation*  
 30 *Block Grant Program*.

31 (f) *This section applies only to stimulus funds received under*  
 32 *the federal act pursuant to the federal State Energy Program and*  
 33 *the federal Energy Efficiency and Conservation Block Grant*  
 34 *Program*.

35 25462. *This chapter does not imply that spending energy*  
 36 *efficiency funds on water efficiency programs should be done with*  
 37 *nonstimulus, ratepayer funds*.