



- Board of Directors
Legislation Committee

5/10/2011 Board Meeting

8-13

Subject

Express opposition to SB 34 (Simitian, D – Palo Alto) - California Water Resources Investment Act of 2011 and SB 571 (Wolk, D - Davis) – California Water Commission: California Water Plan: water resources investment

Description

SB 34 and SB 571 are two related bills dealing with water resources planning and the allocation and funding of statewide and regional water infrastructure priorities.

SB 34 is intended to serve as a legislative vehicle for establishing a sustainable revenue source to fund the “public benefits” of water-related projects and programs. SB 34 by Senator Joe Simitian would impose a yet-to-be-determined water-related assessment on urban and agricultural water users, with no assurance that any of the revenue raised will be invested in projects that benefit the communities that paid the charges. SB 34 would direct the State Board of Equalization to collect new charges from urban and agricultural retail water suppliers to provide revenues for a new California Water Resources Investment Fund. The assessments would be collected on an acre-foot basis from urban water retailers and on an acreage basis for agricultural retailers. The funds collected by the Board of Equalization would be deposited on a 50-50 basis between a State Investment Account and Regional Investment Accounts, to be administered as follows:

State Investment Account: Funds disbursed from this account would be under the jurisdiction of the California Water Commission. Direct expenditures and grant disbursements would be handled on an annual basis in consultation with various state agencies. Qualifying disbursements include:

- Operating expenses of the Delta Stewardship Council;
- Grants and expenditures to implement the Delta Stewardship Council’s Delta Plan;
- Projects of “statewide and interregional significance;”
- Projects that reduce the impacts of mercury contamination in the Delta watershed;
- Scientific studies and assessments; and
- Debt service on general obligation bonds for projects and programs that provide statewide and interregional significance.

Regional Investment Accounts: Funds disbursed from these accounts would be under the jurisdiction of the California Department of Water Resources (DWR). Funds would be divided among an unspecified number of regions. Within each region, requested funding for a project or program would have to be consistent with an integrated regional water management plan, storm water management plan, groundwater management plan or water quality control plan. If such plans are lacking in any given region, DWR would attempt to allocate funds in a manner consistent with the overall intent of the legislation. The legislation fails to itemize qualifying disbursements like it does for the State Investment Account.

SB 571 would transfer from DWR to the California Water Commission (CWC) the responsibility of drafting the California Water Plan (Water Plan). First drafted in 1957, DWR has updated the Water Plan every five years as a master plan that guides the orderly and coordinated control, protection, conservation, development, management, and efficient utilization of the water resources of the state. The CWC would be separated from DWR as an

independent agency of state government. In addition to its new duties to draft the California Water Plan, the CWC would also develop a California Water Investment Plan. SB 571 envisions this plan to be similar to the existing state transportation improvement plan. It calls for the CWC to establish a process to allocate any available funds for specific projects and programs and to establish a process to identify specific statewide and regional water investment priorities.

The bill also would establish regional water planning agencies to make recommendations for and implement regional investment plans. Details of this process have not yet been included in the bill, but the intent is that these regional planning agencies would perform a function similar to regional transportation planning agencies. The regional agencies' recommendations would be submitted to the CWC for inclusion in the California Water Plan updates. CWC would have authority to revise the regional agencies' recommendations as it deems necessary.

Analysis of SB 34 and SB 571

The prior version of SB 34 proposed a \$110 per-acre-foot charge on urban water retailers. This is not a charge that would be assessed by Metropolitan in its rate structure but collected at the local retail level by the Board of Equalization and would be the equivalent of a 20 percent increase on Metropolitan's current full service untreated water rate. While the current version of the bill is silent on the precise fee, the earlier proposal reflects the author's initial thinking on the level of fee that may be necessary to underwrite the desired activities of the State Investment Account and Regional Investment Account.

Under SB 34, the charge for agricultural use (\$20 per acre in the prior version of the bill) would be reduced if DWR determines that the agricultural water user is employing best management practices; no similar discount is available for nonagricultural purposes. Using the numbers in the prior version of SB 34 and translating the per acre agricultural use charge to a per acre-foot number, agricultural users would have been charged \$2 to \$7/acre-foot, depending on how much water the crops used and whether best management practices were being utilized.

SB 34 proposes to obtain the revenue to fund the broader public benefits only from water users, and in particular, would impose an unfairly large burden on urban water users. The overall funding approach identified in SB 34 is contrary to historic water infrastructure financing methods utilized by Metropolitan. Through rates and property tax assessments, Metropolitan has built and maintained its distribution and treatment systems. The same holds true for our member agencies. The alternative approach outlined in SB 34 calls for water retailers throughout the Metropolitan service area to provide potentially billions of dollars in ratepayer funds to the Board of Equalization in the coming decades and then seek return of these very same dollars for projects to the region with no real assurance that local projects will be funded. This is an inefficient and ineffective method of water infrastructure financing that can be better administered within the Metropolitan service area. While matching funds from bonds and other sources have proven to be a helpful tool in advancing certain projects and programs, the financial construct of SB 34 is an unworkable substitute.

Metropolitan has supported past legislation to finance strategies for some ongoing unmet needs, such as financing for the Delta Stewardship Council and its Delta Plan. However, SB 34 lacks any limitation or guidance on appropriate funding levels and programs for the Delta Stewardship Council or Delta Plan. The open-ended nature of the fee support could lead to inefficient use of ratepayer dollars.

Moreover, no water resources assessment is proposed in SB 34 for the discharge of pollutants, recreational or commercial fishing that results in take of listed species, dredging activities, or a range of other activities that impact fish, wildlife, and the aquatic environment. The burden of mitigating those impacts would be passed from the people and entities responsible for the impacts to Metropolitan and other urban water users.

With respect to SB 571, it is premature to deliberate proposals to separate the CWC from DWR for the purpose of disbursing funds that largely do not exist and to shift authority for the California Water Plan that has been with DWR for over 50 years. The process of identifying regional water priorities is best left to the regions themselves, such as through Metropolitan's Integrated Resources Plan and the integrated regional water management planning processes that exist within the service area. The creation of a new tier of state-mandated regional investment planning entities could result in duplicative and inconsistent bureaucracy, especially given the CWC's broad discretion to change the recommendations made at the regional level. Whether transferring authority over the

California Water Plan from DWR (with its more than 50 years' experience) to the CWC (with no current staff or experience preparing the Plan) will benefit the water resources planning process also is open to question.

Metropolitan has long supported a beneficiaries-pay approach to financing of water infrastructure and ecosystem restoration under existing board policies and regional initiatives in water resource planning. Staff would continue to advance these approaches with ongoing legislative discussions relating to water and ecosystem financing and future planning processes.

Policy

This board action is consistent with the Board's adopted policy principles memorialized in the following prior policy adoption:

By Minute Item 46637, dated April 11, 2006, the Board adopted policy principles on long-term sustainability in the Delta which included guidance on finance and cost-sharing.

California Environmental Quality Act (CEQA)

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

Option #1

Adopt the CEQA determination and authorize the General Manager to express Metropolitan's opposition to SB 34 and SB 571.

Fiscal Impact: Unknown, but potentially significant costs to Metropolitan and its member agencies, depending on the structure of the fee imposed.

Business Analysis: Protects Metropolitan and its member agencies from potentially burdensome and costly new water fees for undetermined statewide or regional purposes.

Option #2

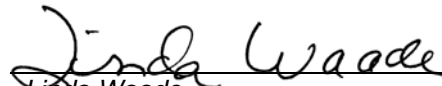
Take no position on SB 34 and SB 571.

Fiscal Impact: Unknown, but potentially significant costs to Metropolitan and its member agencies, depending on the structure of the fee imposed.

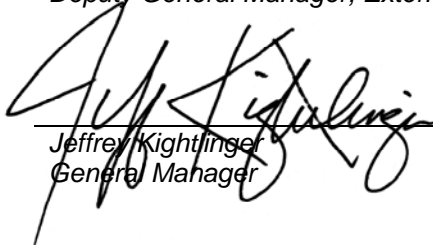
Business Analysis: Leaves Metropolitan and its member agencies vulnerable to potentially burdensome and costly new water fees for undetermined statewide or regional purposes.

Staff Recommendation

Option #1


Linda Waade
Deputy General Manager, External Affairs

5/4/2011
Date


Jeffrey Kightlinger
General Manager

5/4/2011
Date

Attachment 1 – Senate Bill 34 (as amended 4/13/11)

Attachment 2 – Senate Bill 571 (as amended 4/13/11)

Ref# ea12612126

AMENDED IN SENATE APRIL 13, 2011

AMENDED IN SENATE MARCH 23, 2011

SENATE BILL**No. 34****Introduced by Senator Simitian**

December 6, 2010

An act to add Division 36 (commencing with Section 87000) to the Water Code, relating to water, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 34, as amended, Simitian. California Water Resources Investment Act of 2011.

(1) Under existing law, various measures provide funding for water resources projects, facilities, and programs.

This bill would enact the California Water Resources Investment Act of 2011 to finance a water resources investment program. To finance the program, the bill would impose on each retail water supplier in the state an annual charge based on the volume of water provided in its service area that is provided for nonagricultural uses and an annual charge based on each acre of land within its service area that is irrigated for agricultural ~~uses~~ *purposes*. The bill would require the State Board of Equalization to collect the charges from retail water suppliers in accordance with the Fee Collection Procedures Law, and would authorize the State Board of Equalization and the Department of Water Resources to adopt and enforce regulations for the administration and enforcement of the charges and related requirements as emergency regulations.

The bill would require the revenues of the charges collected for purposes of the water resources investment program to be deposited in the California Water Resources Investment Fund, which would be

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established by the bill. The bill would establish a State Investment Account and ~~an unspecified number of regional investment accounts~~ within the fund, and would require 50% of the moneys deposited in the fund to be ~~continuously appropriated to the Controller for transfer~~ *transferred* to the State Investment Account and 50% of the moneys deposited in the fund to be ~~continuously appropriated to the Controller for transfer~~ *transferred* to the regional investment accounts based on the amount of charges collected within each *unspecified* funding region established by the bill.

~~The bill would continuously appropriate the moneys in each of the regional investment accounts to the Department of Water Resources for purposes of providing financing for regional projects related to water storage, water conservation, water conveyance, desalination, wastewater recycling, levee improvements, safe drinking water, flood plain management, and the restoration of fish and wildlife, consistent with a specified integrated regional water management plan that meets prescribed requirements. The bill would require the Department of Water Resources to adopt regulations for the preparation of integrated regional water management plans for these purposes.~~

The bill would require the moneys in each of the regional investment accounts to be available, upon appropriation by the Legislature, for purposes of providing funding for public benefits of water-related projects and programs, consistent with prescribed requirements.

The bill would require the moneys in the State Investment Account to be expended, upon appropriation by the Legislature, for administration of the water resources investment program and to fund ~~specified programs proposed by the California Water Commission~~ *public benefits of specified water-related projects and programs*, including statewide water resources projects, ~~financing~~ the operating expenses of the Delta Stewardship Council and the Delta Plan adopted by the council, projects that reduce the impacts of mercury contamination in the Sacramento-San Joaquin Delta, ~~and~~ *specified scientific studies and assessments, debt service on general obligation bonds for projects and programs that provide statewide and interregional public benefits, and other unspecified purposes.*

~~The bill would require the State Auditor to conduct a programmatic review and audit of expenditures from the above-described funds and annually report the findings of the review and audit to the Governor and the Legislature. The bill would also require the California Water Commission to annually review expenditures authorized pursuant to~~

~~the bill and to hold specified hearings relative to the water resources investment program.~~

(2) By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and this would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

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

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

1 SECTION 1. Division 36 (commencing with Section 87000) is
2 added to the Water Code, to read:

3

4 DIVISION 36. CALIFORNIA WATER RESOURCES
5 INVESTMENT ACT

6

7 CHAPTER 1. GENERAL PROVISIONS

8

9 87000. This division shall be known and may be cited as the
10 California Water Resources Investment Act of 2011.

11 87010. The Legislature finds and declares all of the following:

12 (a) It is necessary to establish a sustainable revenue source to
13 fund the public benefits of water-related projects and programs.

14 (b) (1) Public benefits are the advantages or outcomes from
15 an undertaking that accrue to the general public. Public benefits
16 are such that no one person or group of people can be effectively
17 excluded from receiving the benefits. While some public benefits
18 of water-related projects and programs may accrue to all
19 Californians, others accrue on a more limited regional basis, such
20 as within a specific watershed or hydrologic region.

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- 1 (2) *Public benefits of water-related projects and programs may*
2 *include any of the following:*
- 3 (A) *Enhancement of public trust resources beyond the regulatory*
4 *baseline.*
- 5 (B) *Protection of public health and safety.*
- 6 (C) *Efficient administration of water-related institutions or*
7 *information.*
- 8 (D) *Research and development of new technologies.*
- 9 (E) ____.
- 10 (c) *Funding of public benefits should be guided by the*
11 *beneficiary pays principle and the polluter pays principle.*
- 12 (1) *Under the beneficiary pays principle, beneficiaries of a*
13 *program or project pay for the benefits they receive in approximate*
14 *proportion to the benefits received. Beneficiaries may include*
15 *individual water users, water agencies, nonprofit organizations,*
16 *local or regional governments, and the general public.*
17 *Beneficiaries are not expected to pay for actions that fall under*
18 *the polluter pays principle.*
- 19 (2) *Under the polluter pays principle, those who cause or may*
20 *cause harm to the environment pay the costs to remediate, mitigate,*
21 *or avoid causing that harm. The polluter pays principle is designed*
22 *to ensure that a project or program bears the full cost of the*
23 *environmental effects of that project or program.*
- 24 (d) (1) *Decisions regarding funding of public benefits of*
25 *water-related projects and programs should be made by the public*
26 *receiving those benefits.*
- 27 (2) *Decisions regarding funding of public benefits that accrue*
28 *statewide should be made by the state.*
- 29 (3) *Decisions regarding funding of public benefits that accrue*
30 *a specific region should be made by that region.*
- 31 (e) *Under the principles set forth in subdivisions (a) to (d),*
32 *inclusive, responsibility for funding water-related programs should*
33 *be as follows:*
- 34 (1) *The state should generally be responsible for funding the*
35 *public benefits of certain types of water-related programs.*
36 *Depending on the specific circumstance, these may include:*
- 37 (A) *Projects or programs that provide public benefits statewide*
38 *or to more than one region.*
- 39 (B) *Protection and enhancement of public trust resources beyond*
40 *that required of any person or entity as a condition of a permit,*

1 regulation, state or federal statute, or other legally enforceable
2 requirement.

3 (C) Protection of public health or safety where local agencies
4 are unable to perform this task adequately.

5 (D) Resolving interregional legacy problems, such as mercury
6 pollution, where the person or entity that caused the pollution
7 cannot be found or no longer exists and there is no other practical
8 recourse to cause remediation of the problem.

9 (E) Efficient administration of state water institutions or
10 information.

11 (F) Research and development of new technologies.

12 (G) Debt service on general obligation bonds for projects and
13 programs that provide statewide and interregional public benefits.

14 (H) _____.

15 (2) Specific regions of the state should generally be responsible
16 for funding the public benefits of certain types of water-related
17 programs. Depending on the specific circumstance, these might
18 include:

19 (A) Projects or programs that provide public benefits to that
20 specific region.

21 (B) Protection and enhancement of public trust resources beyond
22 that required of any person or entity as a condition of a permit,
23 regulation, state or federal statute, or other legally enforceable
24 requirement, where the protection or enhancement leads to other
25 regional public benefits.

26 (C) Protection of public health or safety.

27 (D) Resolving regional legacy problems, such as groundwater
28 pollution, where the person or entity that caused the pollution
29 cannot be found or no longer exists and there is no other practical
30 recourse to cause remediation of the problem

31 (E) Efficient administration of regional water institutions or
32 information, such as groundwater monitoring entities.

33 (F) Attaining regional water quality objectives for nonpoint
34 source pollutants.

35 (G) Debt service on general obligation bonds for projects and
36 programs that provide regional or local public benefits.

37 (H) _____.

38 (f) Pursuant to the principles set forth in subdivisions (a) to (d),
39 inclusive, neither the state nor specific regions of the state should

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1 *have any responsibility to fund certain types of water-related*
2 *activities. These include, but are not limited to, all of the following:*
3 *(1) A project or program that provides no public benefits.*
4 *(2) An improvement required as a means of meeting mitigation*
5 *requirements associated with a project.*
6 *(3) An enhancement or improvement where a specific individual*
7 *or group of individuals can be identified as the sole beneficiaries.*
8 *(4) ____.*
9 *87020. The Legislature further finds and declares all of the*
10 *following:*
11 *(a) A water resources assessment imposed for purposes of*
12 *financing the public benefits of water-related projects and*
13 *programs should have all of the following characteristics:*
14 *(1) The assessment should be equitable, and should have equal*
15 *application to similar water users and differential application to*
16 *dissimilar water users in approximate proportion to their*
17 *differences.*
18 *(2) The assessment should be comprehensive, and should apply*
19 *to the greatest number of water users possible. There should be*
20 *few, if any, free riders.*
21 *(3) The assessment should be unavoidable. Those who are*
22 *subject to the assessment should not be able to avoid paying the*
23 *assessment through loopholes, exceptions, or similar mechanisms.*
24 *(4) The assessment should be affordable, and should not place*
25 *an undue burden upon those required to pay the assessment.*
26 *(5) The assessment should be understandable. The assessment*
27 *should be easy to explain and comprehend.*
28 *(6) The assessment should be easy to administer. The method*
29 *of collecting the assessment should minimize the costs of*
30 *administering and complying with the law.*
31 *(7) The assessment should be stable. The assessment should*
32 *provide a reasonably stable and predictable revenue stream.*
33 *(8) ____.*
34 *(b) Consistent with subdivision (a), and as a result of the*
35 *differences in the uses of water, sources of water, and methods of*
36 *distributing water among the end users, it is appropriate for a*
37 *water resources assessment to apply differently to agricultural*
38 *and nonagricultural water uses, and to have all of the following*
39 *characteristics:*

1 (1) *The assessment should be imposed on all retail water*
2 *suppliers.*

3 (2) *The assessment should be imposed on nonagricultural water*
4 *uses based on the number of acre-feet of water used.*

5 (3) *The assessment should be imposed on agricultural water*
6 *users based on the number of acres of irrigated land.*

7 (4) *The assessment should be imposed without regard to whether*
8 *the water used by the end water user was purchased from the retail*
9 *water supplier or was self-supplied through a private well or other*
10 *private legal water right.*

11 (5) *The assessment should result in a different effective rate for*
12 *agricultural and nonagricultural uses.*

13 (6) *The assessment should encourage high levels of agricultural*
14 *water use efficiency.*

15 (7) ____.

16 (c) *The proceeds of a water resources assessment should be*
17 *shared between the state and regions of the state.*

18 (1) *Half of the proceeds should be allocated to the state to fund*
19 *statewide and interregional public benefits associated with*
20 *water-related projects and programs.*

21 (2) *Half of the proceeds should be allocated among the regions*
22 *of the state to fund regional and local public benefits associated*
23 *with water-related projects and programs. The allocation among*
24 *the regions should be in proportion to the proceeds raised in each*
25 *region.*

26 87030. *The purpose of this division is to establish a sustainable*
27 *funding source to fund the public benefits of water-related projects*
28 *and programs consistent with the policies set forth in this chapter.*

29

30 *CHAPTER 2. DEFINITIONS*

31

32 87040. *Unless the context otherwise requires, the following*
33 *definitions govern the construction of this division:*

34 (a) *“Applicant” means an entity that submits a regional*
35 *proposal for funding in accordance with this division.*

36 (b) *“Funding region” means one of the following regions in*
37 *the state:*

38 (1) ____.

39 (c) *“Integrated regional water management plan” has the same*
40 *meaning as defined in Section 10534.*

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1 (d) “Investment fund” means the California Water Resources
2 Investment Fund established pursuant to Section 87070.

3 (e) “Person” means any individual, estate, business or common
4 law trust, firm, joint stock company, joint venture, business
5 concern, corporation, including, but not necessarily limited to, a
6 government corporation, partnership, limited partnership, limited
7 liability partnership, limited liability company, and any other
8 business entity, and any social club, cooperative organization,
9 fraternal organization, or any other organization or association.
10 “Person” also includes any city, county, city and county, district,
11 commission, the state or any department, agency, or political
12 subdivision thereof, any interstate body, and the United States and
13 its agencies and instrumentalities to the extent permitted by law.

14 (f) “Public agency” means a state agency or department, a
15 district, a joint powers authority, a city, county, a city and county,
16 and any other political subdivision of the state.

17 (g) “Regional investment account” means any of the _____
18 accounts established in the investment fund pursuant to Section
19 87070 and corresponding to a funding region identified pursuant
20 to subdivision (b).

21 (h) “Retail water service” means water service that is purchased
22 by municipal, industrial, or agricultural water customers without
23 further sale of water to other water customers.

24 (i) “Retail water supplier” means any local entity, including a
25 public agency, city, county, investor-owned utility, municipal water
26 company, or private water company or person that provides retail
27 water service to municipal, industrial, or agricultural water
28 customers.

29

30 *CHAPTER 3. INVESTMENT IN CALIFORNIA WATER RESOURCES*

31

32 *Article 1. General Provisions*

33

34 87050. (a) The department and the State Board of Equalization
35 may each adopt emergency regulations to implement and enforce
36 this chapter.

37 (b) The emergency regulations adopted pursuant to subdivision
38 (a) shall be adopted in accordance with Chapter 3.5 (commencing
39 with Section 11340) of Part 1 of Division 3 of Title 2 of the
40 Government Code, and for the purposes of that chapter, including

1 *Section 11349.6 of the Government Code, the adoption of these*
 2 *regulations is an emergency, and shall be considered by the Office*
 3 *of Administrative Law as necessary for the immediate preservation*
 4 *of the public peace, health, safety, and general welfare.*
 5 *Notwithstanding Chapter 3.5 (commencing with Section 11340)*
 6 *of Part 1 of Division 3 of Title 2 of the Government Code, any*
 7 *emergency regulations adopted by the department or the State*
 8 *Board of Equalization pursuant to this section shall be filed with,*
 9 *but not be repealed by, the Office of Administrative Law, and shall*
 10 *remain in effect for a period of two years or until revised by the*
 11 *department or the State Board of Equalization, whichever occurs*
 12 *first.*

13
 14 *Article 2. Water Resources Assessment*
 15

16 *87060. (a) Commencing July 1, 2012, an annual water*
 17 *resources assessment shall be imposed on every retail water*
 18 *supplier in this state for each calendar year, in accordance with*
 19 *the following requirements:*

20 *(1) A charge of ____ dollars (\$____) per acre foot of water that*
 21 *is sold for nonagricultural uses.*

22 *(2) (A) Except as provided in subparagraph (B) and subdivision*
 23 *(b), a charge of ____ dollars (\$____) per acre of land that is*
 24 *irrigated for agricultural purposes within the service area of the*
 25 *retail water supplier. This charge shall apply to all land irrigated*
 26 *for agricultural purposes, regardless of whether the source of the*
 27 *irrigation water is surface or groundwater.*

28 *(B) For each acre of land that the department determines to be*
 29 *utilizing best management practices for the crop and soil type*
 30 *irrigated on that acre, as determined pursuant to subdivision (b),*
 31 *the water resources assessment shall be ____ dollars (\$____).*

32 *(b) On or before July 1, 2013, the department shall adopt*
 33 *regulations establishing a program to determine best management*
 34 *practices for irrigated agriculture, based on crop and soil type.*

35 *87062. The imposition of the water resources assessment in*
 36 *accordance with this article is a matter of statewide interest and*
 37 *concern, and is applicable uniformly throughout the state.*

1 Article 3. Collection of Water Resources Assessment

2
3 87065. (a) The State Board of Equalization shall collect and
4 administer the water resources assessment imposed pursuant to
5 Section 87060 in accordance with the Fee Collection Procedures
6 Law (Part 30 (commencing with Section 55001) of Division 2 of
7 the Revenue and Taxation Code). For purposes of this section,
8 “feepayer,” within the meaning of the Fee Collection Procedures
9 Law, shall include a retail water supplier.

10 (b) For each calendar year, the water resources assessment
11 imposed pursuant to Section 87060 shall be due and payable to
12 the State Board of Equalization by July 1 of the immediately
13 following calendar year. Payments shall be accompanied by a
14 return in the form prescribed by the State Board of Equalization,
15 and may include, but are not necessarily limited to, electronic
16 media.

17 (c) Notwithstanding subdivision (b), if the State Board of
18 Equalization deems it necessary in order to ensure payment or to
19 facilitate collection of the water resources assessment, the State
20 Board of Equalization may require annual returns and payment
21 of the water resources assessment for a different period from that
22 set forth in subdivision (b), as determined by the State Board of
23 Equalization.

24 (d) The State Board of Equalization may prescribe, adopt, and
25 enforce regulations for the administration and enforcement of the
26 water resources assessment pursuant to this article.

27 87066. A retail water supplier may collect the costs of the water
28 resources assessment from its customers by using the amounts set
29 forth in subdivision (a) of Section 87060 or by using an alternate
30 collection method consistent with the supplier’s practices.

31 87067. (a) On or before March 1, 2012, each retail water
32 supplier in the state shall submit to the department a written
33 statement describing whether it is publicly or privately owned, its
34 official mailing address, a map of its service area, the connection
35 categories used in billing its water customers and the number of
36 connections in each category, the volume of water provided to its
37 nonagricultural customers in the immediately preceding calendar
38 year, the number of acres irrigated for agricultural use within its
39 service area, and any other relevant information as may be
40 determined by the department.

1 ***(b) On or before July 1, 2012, the department shall provide the***
 2 ***State Board of Equalization with a list of each retail water supplier***
 3 ***in the state, including the information for each retail water supplier***
 4 ***collected pursuant to subdivision (a).***

5

6 ***Article 4. California Water Resources Investment Fund***

7

8 ***87070. (a) The California Water Resources Investment Fund***
 9 ***is established in the State Treasury.***

10 ***(b) The investment fund consists of ____ accounts, which are***
 11 ***hereby established as follows:***

12 ***(1) The General Account for receipt of deposits from the State***
 13 ***Board of Equalization and for general expenditures.***

14 ***(2) The State Investment Account.***

15 ***(3) ____ regional investment accounts, corresponding to the***
 16 ***funding regions specified in subdivision (b) of Section 87040.***

17 ***(c) Water resources assessments and any penalties imposed on***
 18 ***retail water suppliers in connection with the collection of the***
 19 ***assessments by the State Board of Equalization, shall be remitted***
 20 ***by the State Board of Equalization, in accordance with Article 2***
 21 ***(commencing with Section 87060), and shall be deposited in the***
 22 ***investment fund. Notwithstanding Section 16305.7 of the***
 23 ***Government Code, all interest earned on moneys deposited in the***
 24 ***investment fund shall be maintained in the investment fund.***

25 ***(d) Moneys deposited in the investment fund shall not be***
 26 ***appropriated for any purpose other than the purposes authorized***
 27 ***by this division.***

28 ***87072. (a) All moneys collected pursuant to this chapter shall***
 29 ***be deposited by the State Board of Equalization into the General***
 30 ***Account in the investment fund.***

31 ***(b) The Controller shall transfer the moneys deposited in the***
 32 ***General Account to the State Investment Account and the regional***
 33 ***investment accounts, as follows:***

34 ***(1) Fifty percent shall be transferred to the State Investment***
 35 ***Account.***

36 ***(2) Fifty percent shall be transferred to the ____ regional***
 37 ***investment accounts on a pro rata basis that reflects the percentage***
 38 ***of the moneys collected from within each respective funding region.***

39 ***(c) For purposes of calculating the amounts transferred pursuant***
 40 ***to paragraph (2) of subdivision (b), the State Board of Equalization***

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1 *shall provide a statement of the percentage of the moneys collected*
2 *pursuant to this chapter that is attributable to each of the funding*
3 *regions to the Controller on a quarterly basis.*

4 *87074. (a) Notwithstanding any other law, the State Investment*
5 *Account and each of the regional investment accounts shall*
6 *accumulate the revenues deposited in the respective accounts in*
7 *any year in which those revenues are not expended.*

8 *(b) Notwithstanding Section 16305.7 of the Government Code,*
9 *any interest earned on moneys deposited in the State Investment*
10 *Account or any of the regional investment accounts shall be*
11 *retained in the respective account and may be expended for the*
12 *authorized purposes of the respective account.*

13

14 *Article 5. Regional Investment Accounts*

15

16 *87080. The moneys in each regional investment account shall*
17 *be available, upon appropriation by the Legislature, to fund public*
18 *benefits of water-related projects and programs in accordance*
19 *with this article.*

20 *87082. In order to be eligible for financial assistance from a*
21 *regional investment account, a project or program shall be*
22 *consistent with one or more of the following:*

23 *(a) An adopted integrated regional water management plan*
24 *consistent with Part 2.2 (commencing with Section 10530) of*
25 *Division 6.*

26 *(b) An adopted stormwater resource plan consistent with Part*
27 *2.3 (commencing with Section 10560) of Division 6.*

28 *(c) An adopted groundwater management plan that complies*
29 *with the requirements of Section 10753.7.*

30 *(d) A water quality control plan developed pursuant to Section*
31 *13240.*

32 *(e) ____.*

33 *87084. In order to be eligible for financial assistance from a*
34 *regional investment account, an applicant submitting a proposal*
35 *for funding shall meet all of the following requirements, as*
36 *applicable:*

37 *(a) If the applicant is an urban water supplier, the applicant*
38 *shall prepare, adopt, and submit to the department an urban water*
39 *management plan in accordance with the Urban Water*

1 *Management Planning Act (Part 2.6 (commencing with Section*
2 *10610) of Division 6).*

3 *(b) If the applicant is an agricultural water supplier, the*
4 *applicant shall prepare, adopt, and submit to the department an*
5 *agricultural water management plan in accordance with Part 2.8*
6 *(commencing with Section 10800) of Division 6.*

7 *(c) If the applicant requests funding for a groundwater*
8 *management, storage, or recharge project, or a project with*
9 *potential groundwater impacts, the applicant shall demonstrate*
10 *that one or more of the following conditions have been met, as*
11 *applicable:*

12 *(1) A groundwater management plan for the affected*
13 *groundwater basin has been prepared and implemented in*
14 *accordance with Part 2.75 (commencing with Section 10750) of*
15 *Division 6.*

16 *(2) The applicant participates in, or agrees to be subject to, a*
17 *groundwater management plan, basinwide management plan, or*
18 *other program or plan that meets the requirements of Section*
19 *10753.7.*

20 *(3) The applicant complies with the requirements of an*
21 *adjudication of water rights in an affected groundwater basin. For*
22 *purposes of this paragraph, an “adjudication” includes an*
23 *adjudication under Section 2101, an administrative adjudication,*
24 *and an adjudication in state or federal court.*

25

26 *Article 6. State Investment Account*

27

28 *87090. The moneys in the State Investment Account shall be*
29 *expended, upon appropriation by the Legislature, for all of the*
30 *following purposes:*

31 *(a) For allocation to the State Board of Equalization for payment*
32 *of refunds of the water resources assessment, interest, and*
33 *penalties, as authorized pursuant to Chapter 5 (commencing with*
34 *Section 55221) of Part 30 of Division 2 of the Revenue and*
35 *Taxation Code, including refunds due on account of judgments*
36 *for the return of charges that are unlawfully collected.*

37 *(b) For allocation to the State Board of Equalization and the*
38 *department to ensure sufficient revenues for those agencies to*
39 *carry out the duties imposed upon each of them by this division.*

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1 (c) For a reserve, not to exceed ____ dollars (\$____), which
2 shall be maintained in the State Investment Account.

3 87092. The balance of the moneys in the State Investment
4 Account, after allocation for expenditure for all of the purposes
5 set forth in Section 87090, shall be available, upon appropriation
6 by the Legislature, to fund the public benefits of the following
7 water-related projects and programs:

8 (a) Projects of statewide and interregional significance.

9 (b) Operating expenses of the Delta Stewardship Council and
10 the Delta Plan adopted by the Delta Stewardship Council, and
11 grants and direct expenditures to implement the Delta Plan.

12 (c) Projects that reduce the impacts of mercury contamination
13 of the Sacramento-San Joaquin Delta and its watersheds, and
14 remediation and elimination of continuing sources of mercury
15 contamination.

16 (d) Scientific studies and assessments that support projects
17 authorized under this section.

18 (e) Debt service on general obligation bonds for projects and
19 programs that provide statewide and interregional public benefits.

20 (f) ____.

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, March 23, 2011. (JR11)**

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 571

Introduced by Senator Wolk
(Coauthor: Assembly Member Huber)

February 17, 2011

An act to amend Section 10546 of, and to add Sections 167 and 168 to, the Water Code, relating to the California Water Commission. An act to amend Sections 150, 160, 163, 10004.5, 10005.1, and 10005.2 of, to amend, renumber, and add Section 10004 of, to add Sections 163.6, 163.7, 167, 10004.2, 10004.3, and 10004.4 to, to add Division 8 (commencing with Section 16500) to, to repeal Sections 162 and 10004.6 of, and to repeal and add Section 163.5 of, the Water Code, relating to water resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 571, as amended, Wolk. California Water Commission: ~~master plan for financing and developing water resources: state-funded projects and programs~~ *California Water Plan: water resources investment.*

(1) Existing law establishes the California Water Commission in the Department of Water Resources and requires the commission to conduct an annual review of the progress and operation of the State Water Project and to carry out various other related functions. *Existing law requires the members of the commission to select a chairperson, and authorizes the commission to employ an executive officer and other staff from the staff of the department. The commission is also authorized to employ clerical assistants. Existing law requires the department to furnish the commission with assistance, including technical, legal, and clerical services.*

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This bill would provide for the organization of the commission as a separate agency in state government, instead of as an agency within the Department of Water Resources. The bill would recast and revise provisions relating to the commission's selection of a chairperson and executive officer employment of staff, and delegation of its functions.

The bill would also enact the Water Resources Investment Planning Act, and would declare legislative intent relating to the establishment of regional water planning agencies and the development of the California Water Investment Plan. The bill would require the commission to administer the development and implementation of the California Water Investment Plan.

(2) Existing law requires the department to update every 5 years the plan for the orderly and coordinated control, protection, conservation, development, and use of the water resources of the state, which is known as the California Water Plan. Existing law prescribes various requirements for the contents of updates to the plan, and requires the department, or the commission at the department's request, to conduct hearings relative to the plan.

This bill would instead require the commission to update the plan by an unspecified date, and every 5 years thereafter. The bill would require the plan to include reports developed by the department and regional water planning agencies established pursuant to the Water Resources Investment Planning Act. The bill would require the department and the regional agencies to submit those reports to the commission by an unspecified date, would prescribe the contents of the reports, and would require the department and regional agencies to collaborate and consult with specified agencies and entities for purposes of developing the reports. The bill would recast, and make conforming changes to, requirements for the contents of updates to the plan. The bill would also require the commission, instead of the department, to conduct hearings relative to the plan.

~~This bill would require the commission on or before January 1, 2013, to develop a master plan for financing and developing water resources in the state, including specified assessments and recommendations. The bill would require the commission to update the master plan every 5 years. The bill would require the commission to annually review and audit the award of state funds for water resources projects and programs; to develop, consistent with the master plan, a prioritized list of projects and programs relating to water supply, water quality, water conservation, water use efficiency, ecosystem and watershed restoration, and~~

~~integrated regional water management planning and implementation, for purposes of awarding state financial assistance for those projects and programs; and to establish guidelines for the award of state financial assistance allocated for integrated regional water management plans, as specified. The bill would also declare legislative intent that the commission be given authority to allocate specified state funds for water resources projects and programs.~~

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. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Numerous state agencies have a role in developing and*
- 4 *implementing plans to improve one or more aspects of the state’s*
- 5 *water resources. These agencies develop and implement plans*
- 6 *focused solely on their respective legal mandate. There is often*
- 7 *little coordination among agencies, resulting in significant gaps*
- 8 *in addressing the state’s pressing water resources needs.*
- 9 (b) *Under Section 10005 of the Water Code, it the policy of the*
- 10 *state that the California Water Plan, with any necessary*
- 11 *amendments, supplements, and additions to the plan, is accepted*
- 12 *as the master plan that guides the orderly and coordinated control,*
- 13 *protection, conservation, development, management, and efficient*
- 14 *utilization of the water resources of the state.*
- 15 (c) *The original California Water Plan, also known as Bulletin*
- 16 *3, contained detailed tables describing specific projects that the*
- 17 *plan recommended for consideration. These tables described the*
- 18 *location, potential yield, purpose, and estimated cost of each*
- 19 *proposal. However, recent updates of the California Water Plan*
- 20 *have provided little insight as to specific types of investments*
- 21 *necessary to address California’s water needs. The plan is*
- 22 *especially quiet on addressing drinking water quality, water quality*
- 23 *for other beneficial uses, flood management, ecosystem restoration,*
- 24 *and other water resources related problems. Moreover, there is*
- 25 *virtually no discussion of the amount of funding necessary to*
- 26 *implement the recommendations of the plan.*
- 27 (d) *Current reliance on general obligation bonds, coupled with*
- 28 *continued and growing budget gaps, requires the Legislature to*

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1 *weigh the need for water infrastructure against the need to provide*
2 *vital public services during a period of greatly reduced revenues.*
3 *(e) There is a need for a new water resource financing*
4 *governance strategy that includes greater transparency, a broader*
5 *use of available funding mechanisms, and a stronger focus on*
6 *prioritization and strategic investments.*

7 *SEC. 2. The Legislature further finds and declares all of the*
8 *following:*

9 *(a) In comparison to water funding decisionmaking,*
10 *transportation funding decisions are made in a reasonably*
11 *predictable and transparent process. The Department of*
12 *Transportation and the various regional transportation planning*
13 *agencies all have well-defined roles for identifying projects to*
14 *resolve regional and interregional transportation issues. The*
15 *California Transportation Commission acts as the independent*
16 *overseer of the transportation financing process, adopting a*
17 *funding estimate, establishing the guidelines for updating the state*
18 *transportation improvement plan, and resolving the occasional*
19 *conflict of perspectives between the Department of Transportation*
20 *and the regional transportation planning agencies.*

21 *(b) Much of the success of the transportation financing process*
22 *is the result of clearly delineated and independent roles and*
23 *responsibilities, established in statute, for the California*
24 *Transportation Commission, the Department of Transportation,*
25 *and the regional transportation planning agencies.*

26 *SEC. 3. It is the intent of the Legislature, in enacting this*
27 *measure, to do all of the following:*

28 *(a) Revise the requirements of the California Water Plan to*
29 *make it more comprehensive, clearly assessing the costs of*
30 *potential action.*

31 *(b) Establish the California Water Commission as an*
32 *independent agency in state government.*

33 *(c) Establish a process for the California Water Commission*
34 *to develop and adopt the California Water Investment Plan, which*
35 *would be similar to the state transportation improvement plan.*

36 *(d) Establish a process for the California Water Commission*
37 *to make funding allocations for specific projects and programs,*
38 *including bond proceeds and other funds that may be made*
39 *available to the state from state and federal sources.*

1 (e) Establish a process to develop state and regional water
2 investment priorities, establish regional water resources planning
3 agencies, and establish a water resources planning and funding
4 process that is similar to that used in transportation planning and
5 funding.

6 SEC. 4. Section 150 of the Water Code is amended to read:

7 150. ~~There is in the Department of Water Resources the The~~
8 California Water Commission is established as an agency in state
9 government.

10 SEC. 5. Section 160 of the Water Code is amended to read:

11 160. The members of the California Water Commission shall
12 select one of the members to serve as ~~chairman, who shall hold~~
13 ~~office as chairman at the pleasure of the commission~~ chairperson,
14 who shall serve ____.

15 SEC. 6. Section 162 of the Water Code is repealed.

16 162. ~~It is the intention of the Legislature that in the making of~~
17 ~~all major departmental determinations, policies and procedures,~~
18 ~~such as departmental recommendations to the Legislature, the~~
19 ~~director and the California Water Commission shall be in~~
20 ~~agreement whenever possible; but for the purpose of fixing~~
21 ~~responsibility to the Governor and to the Legislature, in the event~~
22 ~~of disagreement between the director and the commission upon~~
23 ~~such matters, the views of the director shall prevail. In the event~~
24 ~~of disagreement pursuant to this section, a written report upon such~~
25 ~~disagreement shall be made immediately to the Governor and to~~
26 ~~the President pro Tempore of the Senate and the Speaker of the~~
27 ~~Assembly by the commission and by the director.~~

28 SEC. 7. Section 163 of the Water Code is amended to read:

29 163. ~~The commission may employ~~ shall appoint an executive
30 ~~officer, director, who shall be exempt from civil service; under~~
31 subdivision (e) of Section 4 of Article XXIV of the Constitution;
32 ~~and a staff engineer from the staff of the department who shall be~~
33 ~~responsible to the commission. The commission may also employ~~
34 ~~such clerical assistants as may be necessary for the proper discharge~~
35 ~~of its duties and may purchase or rent necessary supplies,~~
36 ~~instruments, tools, equipment and conveniences and shall serve~~
37 ~~at the pleasure of the commission. The executive director shall~~
38 ~~administer the affairs of the commission as directed by the~~
39 ~~commission and shall direct the staff of the commission.~~

40 SEC. 8. Section 163.5 of the Water Code is repealed.

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1 ~~163.5. The department shall furnish to the California Water~~
2 ~~Commission, at its request, such assistance, including technical,~~
3 ~~legal, and clerical services, as is required to the extent funds are~~
4 ~~made available therefor.~~

5 *SEC. 9. Section 163.5 is added to the Water Code, to read:*

6 *163.5. (a) The executive director, with the approval of the*
7 *commission, may appoint such staff as is necessary to implement*
8 *this article.*

9 *(b) (1) The commission may request the department to, and the*
10 *department may, perform such work as the commission deems*
11 *necessary to carry out the commission's duties and responsibilities.*
12 *The commission shall consider the expertise and resources*
13 *available in the department for purposes of carrying out its duties*
14 *and responsibilities.*

15 *(2) Nothing in this subdivision shall be construed to prohibit*
16 *the commission from utilizing the services of any other public or*
17 *private agency.*

18 *(c) The commission may employ its own legal staff, may contract*
19 *with other state agencies for legal services, or both.*

20 *SEC. 10. Section 163.6 is added to the Water Code, to read:*

21 *163.6. The commission may sue or be sued.*

22 *SEC. 11. Section 163.7 is added to the Water Code, to read:*

23 *163.7. Except where a statute expressly provides that the*
24 *commission itself shall hold a public hearing, the commission may*
25 *delegate functions such as hearing arguments, taking evidence,*
26 *and finding facts to committees or staff members of the commission.*
27 *The committee or staff shall have the authority to recommend a*
28 *decision to the commission.*

29 *SEC. 12. Section 167 is added to the Water Code, to read:*

30 *167. The commission shall administer the development and*
31 *implementation of the California Water Investment Plan pursuant*
32 *to Division 8 (commencing with Section 16500).*

33 *SEC. 13. Section 10004 of the Water Code is amended and*
34 *renumbered to read:*

35 ~~10004.~~

36 *10004.1. (a) The plan for the orderly and coordinated control,*
37 *protection, conservation, development, and utilization of the water*
38 *resources of the state, which is set forth and described in Bulletin*
39 *No. 1 of the State Water Resources Board entitled "Water*
40 *Resources of California," Bulletin No. 2 of the State Water*

1 Resources Board entitled, “Water Utilization and Requirements
2 of California,” and Bulletin No. 3 of the department entitled, “The
3 California Water Plan,” with any necessary amendments,
4 supplements, and additions to the plan, shall be known as “The
5 California Water Plan.”

6 ~~(b) (1) The department shall update The California Water Plan~~
7 ~~on or before December 31, 2003, and every five years thereafter.~~
8 ~~The department shall report the amendments, supplements, and~~
9 ~~additions included in the updates of The California Water Plan,~~
10 ~~together with a summary of the department’s conclusions and~~
11 ~~recommendations, to the Legislature in the session in which the~~
12 ~~updated plan is issued.~~

13 ~~(2) The department shall establish an advisory committee,~~
14 ~~comprised of representatives of agricultural and urban water~~
15 ~~suppliers, local government, business, production agriculture, and~~
16 ~~environmental interests, and other interested parties, to assist the~~
17 ~~department in the updating of The California Water Plan. The~~
18 ~~department shall consult with the advisory committee in carrying~~
19 ~~out this section. The department shall provide written notice of~~
20 ~~meetings of the advisory committee to any interested person or~~
21 ~~entity that request the notice. The meetings shall be open to the~~
22 ~~public.~~

23 ~~(3) The department shall release a preliminary draft of The~~
24 ~~California Water Plan, as updated, upon request, to interested~~
25 ~~persons and entities throughout the state for their review and~~
26 ~~comments. The department shall provide these persons and entities~~
27 ~~an opportunity to present written or oral comments on the~~
28 ~~preliminary draft. The department shall consider these comments~~
29 ~~in the preparation of the final publication of The California Water~~
30 ~~Plan, as updated.~~

31 *(b) (1) The commission shall update the California Water Plan*
32 *on or before December 31, ____, and every five years thereafter,*
33 *in accordance with this chapter.*

34 *(2) Each update shall consist of both of the following:*

35 *(A) The report submitted by the department pursuant to Section*
36 *10004.2.*

37 *(B) The report developed pursuant Section 10004.3, including*
38 *any changes made by the commission to resolve conflicts between*
39 *that report and one or more of the regional draft reports developed*
40 *pursuant to Section 10004.4.*

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1 (C) The reports developed pursuant to Section 10004.4,
2 including any changes made by the commission to resolve conflicts
3 between any of those reports and the report developed pursuant
4 to Section 10004.3.

5 SEC. 14. Section 10004 is added to the Water Code, to read:
6 10004. Unless the context otherwise requires, the following
7 definitions govern the construction of this chapter:

8 (a) "Commission" means the California Water Commission.

9 (b) "Regional water planning agency" means a regional water
10 planning agency established pursuant to Part 4 (commencing with
11 Section 16650) of Division 8.

12 SEC. 15. Section 10004.2 is added to the Water Code, to read:
13 10004.2. (a) On or before _____, the department, in
14 collaboration with the agencies listed in paragraph (1) of
15 subdivision (c), and in consultation with the agencies listed in
16 paragraph (2) of subdivision (c), shall conduct a study to evaluate
17 the current and future condition of the state's water resources and
18 the impact those conditions have or may have on natural resources
19 and on persons or entities that rely on those resources. The
20 department shall provide a report to the commission documenting
21 the results of the study.

22 (b) The study shall assess, at a minimum, all of the following:

- 23 (1) Water supply reliability.
- 24 (2) Water quality for beneficial uses.
- 25 (3) Drinking water quality.
- 26 (4) Flood management.
- 27 (5) Ecosystem functions.

28 (c) (1) For purposes of subdivision (a), the department shall
29 collaborate with all of the following:

- 30 (A) The State Water Resources Control Board.
- 31 (B) The State Department of Public Health.
- 32 (C) The Department of Fish and Game.
- 33 (D) The Delta Stewardship Council.
- 34 (E) The Central Valley Flood Protection Board.
- 35 (F) The United States Geological Survey.

36 (2) For purposes of subdivision (a), the department shall consult
37 with all of the following:

- 38 (A) Regional water planning agencies.
- 39 (B) Representatives of business interests.
- 40 (C) Representatives of agricultural interests.

- 1 (D) Representatives of environmental interests.
2 (E) Representatives of natural resources-dependent industries.
3 (F) Representatives of disadvantaged communities, as defined
4 in Section 79505.5.

5 (d) The department shall collect from each collaborating agency
6 identified in paragraph (1) of subdivision (c), and shall make
7 available, all pertinent data and analyses upon which the study
8 will be based, to interested persons and entities throughout the
9 state for their review and comments. The department shall provide
10 these persons and entities an opportunity to present written or
11 oral comments on the data and analyses. The department shall
12 consider these documents when adopting the final data and
13 analyses for the study. For the purpose of carrying out this
14 subdivision, the department shall release, at a minimum, data and
15 analyses relating to all of the following:

16 (1) Basin hydrology, including annual rainfall, estimated
17 unimpaired streamflow, depletions, and consumptive uses.

18 (2) Groundwater supplies, including estimates of sustainable
19 yield, supplies necessary to recover overdraft basins, and supplies
20 lost due to pollution and other groundwater contaminants.

21 (3) Current and projected land use patterns, including the mix
22 of residential, commercial, industrial, agricultural, and
23 undeveloped lands.

24 (4) Environmental water needs, including regulatory instream
25 flow requirements, nonregulated instream uses, and water needs
26 by wetlands, preserves, refuges, and other managed and
27 unmanaged natural resource lands.

28 (5) Current and projected population.

29 (6) Current and projected water use for all of the following:

30 (A) Interior uses in a single-family dwelling.

31 (B) Exterior uses in a single-family dwelling.

32 (C) All uses in a multifamily dwelling.

33 (D) Commercial uses.

34 (E) Industrial uses.

35 (F) Parks and open spaces.

36 (G) Agricultural water diversion and use.

37 (7) Evapotranspiration rates for major crop types, including
38 estimates of evaporative losses by irrigation practice and the extent
39 to which evaporation reduces transpiration.

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1 (8) *Current and projected adoption of urban and agricultural*
2 *conservation practices.*

3 (9) *Current and projected supplies of water provided by water*
4 *recycling and reuse.*

5 *SEC. 16. Section 10004.3 is added to the Water Code, to read:*

6 *10004.3. (a) On or before _____, the department, in*
7 *collaboration with the agencies listed in paragraph (1) of*
8 *subdivision (b), and in consultation with the agencies listed in*
9 *paragraph (2) of subdivision (b), shall provide a draft report to*
10 *the commission recommending programs, policies, and facilities*
11 *to address impacts of statewide and interregional concern*
12 *identified in the report developed pursuant to subdivision (a).*

13 *(b) (1) The department shall collaborate with all of the*
14 *following:*

15 *(A) The State Water Resources Control Board.*

16 *(B) The State Department of Public Health.*

17 *(C) The Department of Fish and Game.*

18 *(D) The Delta Stewardship Council.*

19 *(E) The Central Valley Flood Protection Board.*

20 *(F) The United States Geological Survey.*

21 *(2) The department shall consult with all of the following:*

22 *(A) Regional water planning agencies.*

23 *(B) Representatives of business interests.*

24 *(C) Representatives of agricultural interests.*

25 *(D) Representatives of environmental interests.*

26 *(E) Representatives of natural resources-dependent industries.*

27 *(F) Representatives of disadvantaged communities, as defined*

28 *in Section 79505.5.*

29 *(c) The draft report shall reflect recommendations and planned*
30 *actions included in all of the following:*

31 *(1) The Delta Plan adopted by the Delta Stewardship Council*
32 *pursuant to Section 85300.*

33 *(2) The Central Valley Flood Protection Plan adopted by the*
34 *Central Valley Flood Protection Board pursuant to Section 9612.*

35 *SEC. 17. Section 10004.4 is added to the Water Code, to read:*

36 *10004.4. (a) On or before _____, each regional water planning*
37 *agency shall provide a report to the commission identifying, and*
38 *recommending, programs, policies, and facilities to address,*
39 *impacts of regional and local concern.*

- 1 (1) For purposes of this subdivision, each regional water
2 planning agency shall consult with all of the following:
- 3 (A) The Department of Water Resources.
 - 4 (B) The State Water Resources Control Board.
 - 5 (C) The State Department of Public Health.
 - 6 (D) The Department of Fish and Game.
 - 7 (E) The Delta Stewardship Council.
 - 8 (F) The Central Valley Flood Protection Board.
 - 9 (G) The United States Geological Survey.
- 10 (2) Each regional water planning agency's report shall reflect
11 recommendations and planned actions included in all of the
12 following plans that are within the geographic area served by the
13 regional water planning agency:
- 14 (A) Integrated regional water management plans adopted
15 pursuant to Part 2.2 (commencing with Section 10530) of Division
16 6.
 - 17 (B) Urban water management plans adopted pursuant to Part
18 2.6 (commencing with Section 10610) of Division 6.
 - 19 (C) Agricultural water management plans adopted pursuant to
20 Part 2.8 (commencing with Section 10800) of Division 6.
 - 21 (D) Stormwater resource plans adopted pursuant to Part 2.3
22 (commencing with Section 10560) of Division 6.
- 23 (b) The California Water Commission shall resolve any conflicts
24 between the draft report submitted pursuant to Section 10004.3
25 and the draft reports submitted pursuant to this section, and may
26 make changes to the draft report submitted pursuant to Section
27 10004.3 and any reports submitted pursuant to this section, as
28 may be deemed necessary by the commission.
- 29 SEC. 18. Section 10004.5 of the Water Code is amended to
30 read:
- 31 10004.5. As part of the requirement of the department to update
32 ~~The~~ to submit reports for purposes of updating the California Water
33 Plan pursuant to subdivision (b) of Section 10004 this chapter, the
34 department and each regional water planning agency shall include
35 in the plan in their respective reports pursuant to Sections 10004.3
36 and 10004.4, a discussion of various strategies, including, but not
37 limited to, those relating to the development of new water storage
38 facilities, water conservation, water recycling, desalination,
39 conjunctive use, and water transfers that may be pursued in order
40 to meet the future water needs of the state or the respective region.

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1 The department *and each regional water planning agency* shall
2 also include a discussion of the potential for alternative water
3 pricing policies to change current and projected uses. The
4 department *and each regional water planning agency* shall include
5 ~~in the plan~~ a discussion of the potential advantages and
6 disadvantages of each strategy, *an estimate of the anticipated cost*
7 *of implementing each strategy*, and an identification of all federal
8 and state permits, approvals, or entitlements that are anticipated
9 to be required in order to implement the various components of
10 the strategy.

11 *SEC. 19. Section 10004.6 of the Water Code is repealed.*

12 ~~10004.6.—(a) As part of updating The California Water Plan~~
13 ~~every five years pursuant to subdivision (b) of Section 10004, the~~
14 ~~department shall conduct a study to determine the amount of water~~
15 ~~needed to meet the state's future needs and to recommend~~
16 ~~programs, policies, and facilities to meet those needs.~~

17 ~~(b) The department shall consult with the advisory committee~~
18 ~~established pursuant to subdivision (b) of Section 10004 in carrying~~
19 ~~out this section.~~

20 ~~(c) On or before January 1, 2002, and one year prior to issuing~~
21 ~~each successive update to The California Water Plan, the~~
22 ~~department shall release a preliminary draft of the assumptions~~
23 ~~and other estimates upon which the study will be based, to~~
24 ~~interested persons and entities throughout the state for their review~~
25 ~~and comments. The department shall provide these persons and~~
26 ~~entities an opportunity to present written or oral comments on the~~
27 ~~preliminary draft. The department shall consider these documents~~
28 ~~when adopting the final assumptions and estimates for the study.~~
29 ~~For the purpose of carrying out this subdivision, the department~~
30 ~~shall release, at a minimum, assumptions and other estimates~~
31 ~~relating to all of the following:~~

32 ~~(1) Basin hydrology, including annual rainfall, estimated~~
33 ~~unimpaired streamflow, depletions, and consumptive uses.~~

34 ~~(2) Groundwater supplies, including estimates of sustainable~~
35 ~~yield, supplies necessary to recover overdraft basins, and supplies~~
36 ~~lost due to pollution and other groundwater contaminants.~~

37 ~~(3) Current and projected land use patterns, including the mix~~
38 ~~of residential, commercial, industrial, agricultural, and undeveloped~~
39 ~~lands.~~

1 ~~(4) Environmental water needs, including regulatory instream~~
2 ~~flow requirements, nonregulated instream uses, and water needs~~
3 ~~by wetlands, preserves, refuges, and other managed and unmanaged~~
4 ~~natural resource lands.~~

5 ~~(5) Current and projected population.~~

6 ~~(6) Current and projected water use for all of the following:~~

7 ~~(A) Interior uses in a single-family dwelling.~~

8 ~~(B) Exterior uses in a single-family dwelling.~~

9 ~~(C) All uses in a multifamily dwelling.~~

10 ~~(D) Commercial uses.~~

11 ~~(E) Industrial uses.~~

12 ~~(F) Parks and open spaces.~~

13 ~~(G) Agricultural water diversion and use.~~

14 ~~(7) Evapotranspiration rates for major crop types, including~~
15 ~~estimates of evaporative losses by irrigation practice and the extent~~
16 ~~to which evaporation reduces transpiration.~~

17 ~~(8) Current and projected adoption of urban and agricultural~~
18 ~~conservation practices.~~

19 ~~(9) Current and projected supplies of water provided by water~~
20 ~~recycling and reuse.~~

21 ~~(d) The department shall include a discussion of the potential~~
22 ~~for alternative water pricing policies to change current and~~
23 ~~projected water uses identified pursuant to paragraph (6) of~~
24 ~~subdivision (c).~~

25 ~~(e) Nothing in this section requires or prohibits the department~~
26 ~~from updating any data necessary to update The California Water~~
27 ~~Plan pursuant to subdivision (b) of Section 10004.~~

28 *SEC. 20. Section 10005.1 of the Water Code is amended to*
29 *read:*

30 10005.1. ~~The department or, at the department's request, the~~
31 ~~California Water Commission, commission~~ shall conduct a series
32 of hearings with interested persons, organizations, local, state, and
33 federal agencies, and representatives of the diverse geographical
34 areas and interests of the state.

35 *SEC. 21. Section 10005.2 of the Water Code is amended to*
36 *read:*

37 10005.2. Prior to holding a hearing pursuant to Section 10005.1,
38 ~~the department~~ *commission* shall give notice by mail of the hearing
39 to persons and entities which have requested notice and have
40 provided their name and address to the ~~department~~ *commission*.

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1 *SEC. 22. Division 8 (commencing with Section 16500) is added*
2 *to the Water Code, to read:*

3

4 *DIVISION 8. WATER RESOURCES INVESTMENT PLANNING*

5

6 *PART 1. GENERAL PROVISIONS*

7

8 *16500. This division shall be known, and may be cited, as the*
9 *Water Resources Investment Planning Act.*

10 *16505. For purposes of this division, "commission" means the*
11 *California Water Commission.*

12 *16510. It is the intent of the Legislature, in enacting this*
13 *division, to create a process to develop state and regional water*
14 *investment priorities, establish regional water resources planning*
15 *agencies, and establish a water resources planning and funding*
16 *process that is similar to the process used for purposes of*
17 *transportation planning and funding.*

18

19 *PART 2. CALIFORNIA WATER INVESTMENT PLAN*

20

21 *16550. It is the intent of the Legislature, in enacting this*
22 *division, to do all of the following:*

23 *(a) Establish a process for the commission to develop and adopt*
24 *the California Water Investment Plan, which should be similar to*
25 *the state transportation improvement plan adopted pursuant to*
26 *Section 14529 of the Government Code. This process should*
27 *include all of the following:*

28 *(1) Development and adoption, by the commission, of a five-year*
29 *estimate of all funds reasonably expected to be available for*
30 *programs and projects related to water resources. The process*
31 *should be similar to the process described in Article 4.3*
32 *(commencing with Section 163) of Chapter 1 of Division 1 of the*
33 *Streets and Highways Code.*

34 *(2) Development and implementation, by state agencies, of a*
35 *state water investment plan pursuant to Part 3 (commencing with*
36 *Section 16600).*

37 *(3) Development and implementation, by regional water*
38 *planning agencies, of regional water investment plans pursuant*
39 *to Part 4 (commencing with Section 16650).*

- 1 (4) *Mediation, by the commission, of any disagreements between*
2 *or among the state agencies and regional water planning agencies.*
3 (b) *Establish the process for the commission to make funding*
4 *allocations for specific projects and programs, including bond*
5 *proceeds and other funds that may be made available to the state*
6 *from state and federal sources.*

7
8 **PART 3. STATE WATER INVESTMENT PLANNING**
9

10 16600. *It is the intent of the Legislature, in enacting this*
11 *division, to establish the process for state agencies to develop and*
12 *implement a state water investment plan.*

13 (a) *At a minimum, the following state agencies should be*
14 *involved in developing and implementing the state water investment*
15 *plan:*

16 (1) *The Department of Water Resources.*

17 (2) *The State Water Resources Control Board.*

18 (3) *The Department of Public Health.*

19 (4) *The Department of Fish and Game.*

20 (5) *The Delta Stewardship Council.*

21 (b) *The state water investment plan should be consistent with*
22 *the most recently adopted update to the California Water Plan.*

23
24 **PART 4. REGIONAL WATER RESOURCES INVESTMENT**
25 **PLANNING**
26

27 16650. *It is the intent of the Legislature, in enacting this*
28 *division, to do all of the following:*

29 (a) *Establish regional water planning agencies that would*
30 *perform a function similar to regional transportation planning*
31 *agencies.*

32 (1) *Regional water planning agencies should be organized into*
33 *_____ regions.*

34 (2) *Regional water planning agencies should include*
35 *representatives of, at a minimum, all of the following:*

36 (A) *Retail water agencies that principally serve agricultural*
37 *water users.*

38 (B) *Retail water agencies that principally serve nonagricultural*
39 *water users.*

40 (C) *Wholesale water agencies.*

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1 (D) Wastewater management agencies.

2 (E) Stormwater management agencies.

3 (F) Cities.

4 (G) Counties.

5 (b) Establish the process for regional water planning agencies
6 to develop and implement regional water investment plans.

7 SECTION 1. ~~The Legislature finds and declares all of the~~
8 following:

9 (a) ~~Numerous agency reports from the office of the Treasurer,~~
10 ~~the Little Hoover Commission, the State Auditor, and the~~
11 ~~Legislative Analyst's Office have expressed concern with the level~~
12 ~~of reliance on bond funds for water and resource related state~~
13 ~~expenditures, and the lack of oversight and prioritization of funding~~
14 ~~allocations associated with the current method of managing~~
15 ~~resource related bond funds. These reports call for a new water~~
16 ~~and resource financing governance strategy, one that includes~~
17 ~~greater transparency, a broader use of available funding~~
18 ~~mechanisms, and a stronger focus on prioritization and strategic~~
19 ~~investments.~~

20 (b) ~~The Treasurer has warned that continued reliance on general~~
21 ~~obligation bonds to finance the state's infrastructure, including~~
22 ~~water, will consume 10 percent or more of the state's General Fund~~
23 ~~by the middle of the next decade, unless the budget improves. The~~
24 ~~Treasurer estimated that debt service costs will be at historically~~
25 ~~high levels through the coming decade and beyond.~~

26 (c) ~~The Treasurer has further found that bond spending freezes~~
27 ~~in 2008 and 2009, in response to the budget crisis, halted 5,000~~
28 ~~infrastructure jobs, affected thousands of jobs for workers, billions~~
29 ~~of dollars in revenue for private businesses, and imperiled many~~
30 ~~community based and nonprofit organizations.~~

31 (d) ~~The office of the Treasurer has also noted that the state has~~
32 ~~virtually eliminated pay-as-you-go capital allocations and used~~
33 ~~the savings to finance operating expenses. This practice can lead~~
34 ~~to underinvestment or disinvestment in infrastructure. To avoid~~
35 ~~this practice, the Treasurer recommended that the Legislature and~~
36 ~~the Governor actively, consistently, and prudently make capital~~
37 ~~finance decisions an ongoing part of the budget process.~~

38 (e) ~~Current reliance on general obligation bonds, coupled with~~
39 ~~continued and growing budget gaps, requires the Legislature to~~

1 weigh the need for water infrastructure against the need to provide
2 vital public services during a period of greatly reduced revenues.

3 (f) The Little Hoover Commission recently reported that general
4 obligation bond debt accounted for 52 percent of the budget in the
5 Governor’s proposed General Fund Expenditures for all Resources
6 and Environmental Protection in the 2010–11 fiscal year.

7 (g) In its report, “Managing for Change,” the Little Hoover
8 Commission expressed concern about the state’s use of bond
9 borrowing to fund ongoing operational expenses related to water
10 management. The commission further stated that the state’s role
11 of managing and planning for California’s future water use is not
12 a one-time investment, but part of the ongoing business of
13 government and, as such, requires a sustainable funding source,
14 either through fee revenue, General Fund support, or special fund
15 support.

16 (h) The Little Hoover Commission further recommended that
17 the Legislature be more assertive in oversight of bond expenditures
18 and be more strategic in how it prioritizes and finances
19 infrastructure investments.

20 (i) Addressing these concerns will better enable California to
21 meet its water supply, water quality, and water management needs
22 during difficult financial times.

23 SEC. 2. Section 167 is added to the Water Code, to read:

24 167. On or before January 1, 2013, the California Water
25 Commission shall develop, and shall update by January 1 every
26 five years thereafter, a master plan for financing and developing
27 water resources in the state. The master plan shall include all of
28 the following:

29 (a) An assessment of the state’s capital outlay and ongoing
30 maintenance needs for water resources through 2050. In making
31 this assessment, the commission may use the most recent update
32 of the California Water Plan, if the commission determines that it
33 is sufficient to meet the requirements of this subdivision.

34 (b) Recommended guidelines for the Legislature and the
35 Governor to set and maintain investment priorities. The guidelines
36 should allow policymakers to adapt priorities to changing
37 circumstances, when necessary, without abandoning overall
38 planning objectives.

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1 ~~(e) A determination of state, federal, and local public funds~~
2 ~~likely to be available through 2050, and the size of any funding~~
3 ~~shortfall that may remain.~~

4 ~~(d) Recommendations to the Legislature regarding a financing~~
5 ~~framework that, on an ongoing basis, fully integrates water~~
6 ~~resources needs, including capital investments, and ongoing~~
7 ~~operational expenses with the state budget process. The financing~~
8 ~~framework should include a recommended mix of state funding~~
9 ~~sources to pay for water infrastructure financing and ongoing~~
10 ~~operational needs, including General Fund, revenue bonds, and~~
11 ~~user fees.~~

12 ~~(e) An evaluation of the feasibility and applicability of~~
13 ~~alternative financing sources to meet the state's water resources~~
14 ~~needs and reduce reliance on General Fund expenditures.~~
15 ~~Alternatives to be evaluated shall include, but shall not be limited~~
16 ~~to, all of the following:~~

17 ~~(1) Private financing.~~

18 ~~(2) User fees.~~

19 ~~(3) Revenue bonds.~~

20 ~~(4) Fee-backed general obligation bonds.~~

21 ~~(5) Revolving loan programs.~~

22 ~~(f) An evaluation of the feasibility of meeting water resources~~
23 ~~needs through alternatives to capital outlay. Examples of these~~
24 ~~alternatives may include, but are not limited to, savings through~~
25 ~~life cycle financing and reducing the need for new infrastructure~~
26 ~~through greater efficiency.~~

27 ~~(g) Establishment of a means to measure the rate of return on~~
28 ~~water resources projects and mechanisms to finance the most~~
29 ~~cost-effective projects and the highest priority projects.~~

30 ~~(h) A timetable for capital outlay and ongoing expenditures.~~

31 ~~SEC. 3. Section 168 is added to the Water Code, to read:~~

32 ~~168. (a) It is the intent of the Legislature that the California~~
33 ~~Water Commission should be given authority to allocate state~~
34 ~~general obligation bond revenues and other state funds for water~~
35 ~~resources projects and programs consistent with the master plan~~
36 ~~developed pursuant to Section 167 and the prioritized list developed~~
37 ~~pursuant to subdivision (e).~~

38 ~~(b) The California Water Commission shall annually review~~
39 ~~and audit the expenditure of revenues from resource-related general~~
40 ~~obligation bonds that are appropriated for financing and developing~~

1 water resources projects and programs in the state, to ensure that
2 the intent and purposes of the applicable bond acts are met by the
3 agencies responsible for the allocation of state general obligation
4 bond revenues.

5 (e) Consistent with the master plan developed pursuant to
6 Section 167, the California Water Commission shall develop a
7 prioritized list of projects and programs that improve water supply,
8 water quality, water conservation, water use efficiency, ecosystem
9 and watershed restoration, and integrated regional water
10 management planning and implementation. The commission shall
11 award any state funds that are appropriated to the commission for
12 state financial assistance for any of those purposes, including funds
13 allocated pursuant to a general obligation bond act or any other
14 law, based on that prioritized list.

15 (d) To the extent consistent with any applicable general
16 obligation bond act or any other law appropriating state funds, for
17 the purposes described in this section, the commission shall ensure
18 that projects and programs funded by state general obligation bond
19 revenues and other state funds have developed strategic plans for
20 spending those state funds, that the projects and programs are
21 ranked by priority, and that performance measures and publicly
22 available progress reports are provided for the projects and
23 programs.

24 SEC. 4. Section 10546 of the Water Code is amended to read:

25 10546. (a) An integrated regional water management plan
26 prepared pursuant to this part shall be eligible for funding pursuant
27 to Section 75026 of the Public Resources Code, and for any funding
28 authorized on or after January 1, 2009, that is allocated specifically
29 for implementation of integrated regional water management.

30 (b) The California Water Commission shall establish guidelines,
31 including minimum qualifications and competitive criteria, for the
32 award of state financial assistance for integrated regional water
33 management plans prepared pursuant to this part.