



- Board of Directors
Communications and Legislation Committee

3/11/2014 Board Meeting

8-9

Subject

Express support for SB 104 (Senate Committee on Budget and Fiscal Review) – Drought Relief

Executive Summary

SB 104 by the Senate Committee on Budget and Fiscal Review, was most recently amended on February 26, 2014, to address the drought by expediting state actions and funding to provide relief to communities facing historic dry conditions and to increase local water supplies ([Attachment 1](#)). Both the Senate and Assembly passed SB 104 and SB 103 (Board Letter 8-8) on February 27, 2014. SB 104 appropriates \$472.5 million in bond funding from Proposition 84 for integrated regional water management (IRWM). SB 104 is also intended to protect legal diversions and uses of water as well as the environment by enhancing the State Water Resources Control Board's (SWRCB) ability to enforce existing proscriptions against illegal diversions and uses of water in California during times of drought. SB 104 would also streamline the SWRCB's ability to adopt emergency regulations to promote conservation and prevent waste and unreasonable use of water during times of drought. The bill also directs the Department of Public Health, by June 30, 2014, to adopt revised, emergency groundwater replenishment regulations for recycled water.

A similar bill was introduced in the Assembly, AB 80 by the Committee on Budget 2014, however, SB 104 was the bill considered and adopted by the Senate and Assembly on February 27. As stated in the companion board letter, Board Letter 8-8, SB 104 would only become operative if SB 103 is also enacted.

Details

SB 104 is intended to expedite funding to increase local water supplies to mitigate impacts of drought and to enhance the SWRCB's authority to regulate water diversions and impose civil penalties for unlawful diversions and use when the governor proclaims a drought emergency or in a critically dry year immediately preceded by two or more below normal, dry, or critically dry years.

Funding for infrastructure to improve water supplies

SB 104 provides \$472.5 million from Proposition 84 to the Department of Water Resources (DWR) for Integrated Regional Water Management Program (IRWMP) grants. Two hundred million dollars of the funds would be directed to IRWMP projects that provide immediate regional drought preparedness, increase local water supply reliability and the delivery of safe drinking water, assist water suppliers and regions to implement conservation programs and measures that are not locally cost effective or that reduce water quality or ecosystem conflicts created by the drought. For an overview of all the funding provisions in both drought-relief bills, see [Attachment 2](#).

Increased penalties for unauthorized diversions during droughts

Currently, the SWRCB may seek civil penalties of up to \$500/day for unauthorized diversion or use of water. SB 104 increases penalties up to \$1,000/day and \$2,500/acre foot for unauthorized diversion or use during a proclaimed drought emergency or in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years. In non-drought emergencies and years other than critically dry years

immediately preceded by two consecutive below normal or worse water years, the maximum civil liability would remain \$500/day. Another provision would enable the SWRCB to seek up to \$500/day for a violation of any permit term or condition, any emergency regulation addressing drought, or any other order issued to address drought conditions. While the maximum liability is lower under this provision, it would apply to more violations than just unauthorized diversion and use.

In addition, under current law the SWRCB may issue a cease and desist order to stop unlawful diversion and use, in which case a violator may be subject to penalties of up to \$1,000 per day. Under SB 104, in a declared drought or a critically dry year immediately preceded by two consecutive below normal or worse water years, the SWRCB could seek up to \$10,000/day for violations of cease and desist orders.

Expanded SWRCB authority to adopt and enforce emergency regulations to address drought conditions

First, SB 104 lowers the threshold for when the SWRCB may promulgate emergency regulations. Under current law, the SWRCB may adopt emergency regulations in a critically dry year immediately preceded by two or more consecutive dry or critically dry years. Absent SB 104, the SWRCB could not adopt emergency regulations this year because the current water year was preceded by below normal and dry years, yet 2014 is forecast to be the driest year in modern state history, and the governor has proclaimed a state of drought emergency. The amendment would expand the emergency powers to critically dry years preceded by two or more below normal, dry, or critically dry years or during a period of proclaimed drought emergency. It also allows the SWRCB to renew an emergency regulation for an additional 270 days if drought conditions or a drought emergency persist.

Second, SB 104 expands the SWRCB's emergency regulatory authority. It authorizes the SWRCB to adopt regulations to curtail diversions when water is not available under a diverter's priority of right. In addition, the SWRCB could require reporting of diversion or use or the preparation of monitoring reports in furtherance of any of the above objectives. Any curtailment regulations would follow established California water right laws concerning priority, which generally require that senior water rights must be satisfied before junior water rights holders can divert.

SB 104 also allows the SWRCB to enforce its emergency drought regulations through cease and desist orders or civil penalties, and also authorizes local enforcement of the regulations as an infraction, subject to a fine of up to \$500 per day of violation.

Groundwater replenishment regulations

SB 104 directs the Department of Public Health by June 30, 2014, to adopt revised emergency groundwater replenishment regulations for recycled water. The bill amends the emergency regulations for water recycling to include critically dry and drought years as eligible criteria.

Impacts on Metropolitan

Accelerating funding of IRWMP projects is likely to result in more rapid development of local supplies. This can assist local water suppliers within Metropolitan's service area to provide adequate supplies to residences in times when imported water supplies may be reduced, and helps achieve the statewide policy of reducing reliance on water from the Delta watershed to meet California's future water supply needs. Providing the SWRCB the authority to seek greater civil penalties, and to adopt and enforce emergency regulations that require monitoring and reporting during proclaimed drought emergencies and critically dry years immediately preceded by two or more below normal or drier years, would enable the SWRCB to protect lawful diversions during droughts like the current one, while mitigating water supply and environmental impacts of drought conditions.

Policy

Minute Item 44813, dated March 12, 2002, adopting a policy principle on global climate change and water resources planning

Minute Item 45390, dated June 2003, adopting a policy principle on statewide water infrastructure financing

Minute Item 45208, dated February 11, 2003, adopting a policy principle on water conservation

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because the proposed action involves proposals for legislation to be enacted by the state legislature (Section 15378(b)(1) 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 the provisions of CEQA pursuant to Sections 15378(b)(1) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination that the proposed action is not subject to CEQA and authorize the General Manager to support SB 104.

Fiscal Impact: Unknown

Business Analysis: If passed, SB 104 could potentially provide short-term benefits to SWP operations during the current drought, enhance water efficiency in the service area and promote local projects to reduce future reliance on the Delta.

Option #2



Take no position on SB 104.

Fiscal Impact: Unknown

Business Analysis: If Metropolitan takes no position, it would be precluded from engaging on negotiations to shape the proposal or advocate for its enactment.

Staff Recommendation

Option #1

	3/5/2014
Dee Zinke Deputy General Manager, External Affairs	Date
	3/5/2014
Jeffrey Kightlinger General Manager	Date

Attachment 1 – SB 104, as amended February 26, 2014

Attachment 2 – Emergency Drought-Relief Funding Under Drought-Relief Bill Package (SB 103 and SB 104)

Senate Bill No. 104

Passed the Senate February 27, 2014

Secretary of the Senate

Passed the Assembly February 27, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 8683 of the Government Code, to amend Section 50661 of, to add Section 50716 to, and to add Chapter 3 (commencing with Section 34085) to Part 1.6 of Division 24 of, the Health and Safety Code, to amend Sections 10201.5, 10214.5, and 10214.6 of the Unemployment Insurance Code, and to amend Sections 1052, 1058.5, 1551, 1831, and 1845 of, and to add Sections 1846 and 13562.5 to, the Water Code, relating to drought relief, making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 104, Committee on Budget and Fiscal Review. Drought relief.

(1) The California Constitution requires the reasonable and beneficial use of water. Under the public trust doctrine, the State Water Resources Control Board, among other state agencies, is required to take the public trust into account in the planning and allocation of water resources and to protect the public trust whenever feasible. Existing law establishes the Water Rights Fund, which consists of various fees and penalties. The moneys in the Water Rights Fund are available, upon appropriation by the Legislature, for the administration of the board's water rights program.

This bill would provide that a person or entity in violation of a term or condition of a permit, license, certificate, or registration issued or an order adopted by the board or an emergency regulation described in paragraph (6), is liable in an amount not to exceed \$500 for each day in which the violation occurs. These funds would be deposited in the Water Rights Fund.

(2) Existing law, the California Emergency Services Act sets forth the emergency powers of the Governor under its provisions.

This bill would provide that the provisions of this bill described in (1) apply only in a critically dry year immediately preceded by 2 or more consecutive below normal, dry, or critically dry years, or during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions.

(3) Under existing law, the Disaster Assistance Fund is continuously appropriated, without regard to fiscal years, for purposes of the California Disaster Assistance Act. Existing law requires the Director of the Office of Emergency Services, whenever funds are available for purpose of the act, to make allocations in the amounts that the director determines to be necessary to state agencies for making the investigations, estimates, and reports required by the act.

This bill would authorize the director, when a proclamation of a state of emergency has been issued, to make allocations of funds available for the purposes of the act in the amounts that the director determines necessary to state agencies for expenditures incurred performing extraordinary emergency measures. This bill would prohibit these allocations from being made to reimburse employee costs related to emergency work activities or any permanent repairs to the agency's own facilities.

(4) Existing law declares that the diversion or use of water other than as authorized by specified provisions of law is a trespass. Existing law authorizes the imposition of civil liability for a trespass in an amount not to exceed \$500 for each day in which the trespass occurs.

This bill would authorize the imposition of civil liability by the board or superior court in an amount not to exceed the sum of \$1,000 for each day in which the trespass occurs and \$2,500 for each acre-foot of water diverted or used in excess of that diverter's water rights during a critically dry year immediately preceded by 2 or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions.

(5) Under existing law, a person who violates a cease and desist order may be liable in an amount not to exceed \$1,000 for each day in which the violation occurs. Revenue generated from these penalties is deposited in the Water Rights Fund.

This bill, for a violation occurring in a critically dry year immediately preceded by 2 or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions, would authorize a person violating a cease and desist order to be liable in an amount not to exceed \$10,000 for each day in which the violation occurs.

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(6) Under existing law, emergency regulations of the board are not subject to review by the Office of Administrative Law if the board adopts findings that the emergency regulation is adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water to promote wastewater reclamation, or to promote water conservation, and that the emergency regulation is adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by 2 or more consecutive dry or critically dry years.

This bill also would allow the adoption of emergency regulations by the board if the board finds the emergency regulation is adopted to require curtailment of diversions when water is not available under the diverter's priority of right. This bill instead would require the emergency regulation to be adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by 2 or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions. This bill would make a violation of a regulation adopted by the board under these provisions an infraction punishable by a fine of up to \$500 for each day in which the violation occurs. By creating a new crime, this bill would impose a state-mandated local program.

Existing law provides that these emergency regulations are authorized to remain in effect for up to 270 days, as prescribed.

This bill would permit an emergency regulation adopted under these provisions to be renewed if the board determines that the above-described conditions are still in effect.

(7) Existing law authorizes the board to issue a cease and desist order against a person who is violating, or threatening to violate, certain requirements, including requirements set forth in a decision or order relating to the unauthorized use of water.

This bill would authorize the board to issue a cease and desist order in response to a violation or threatened violation of an emergency regulation adopted pursuant to the provisions described in paragraph (6).

(8) Existing law requires the State Department of Public Health to adopt uniform water recycling criteria for indirect potable water reuse for groundwater recharge, as defined, by December 31, 2013.

This bill would require the State Department of Public Health, no later than June 30, 2014, to adopt by emergency regulations requirements for groundwater replenishment using recycled water.

(9) Existing law creates the Housing Rehabilitation Loan Fund and continuously appropriates moneys in the fund for, among other purposes, making specified deferred payment housing rehabilitation loans.

This bill, to the extent no other funding sources are available, would make available \$10,000,000 in the fund to the department for the purpose of providing housing rental-related subsidies to persons rendered homeless, or at risk of becoming homeless, due to unemployment, underemployment, or other economic hardship resulting from the state of emergency proclaimed by the Governor based on drought conditions. This bill would authorize the department to administer the housing rental-related subsidies or contract with qualified local government agencies or nonprofit organizations to administer the program.

(10) Existing law authorizes the Department of Housing and Community Development to contract with local public and private nonprofit agencies to provide housing services, including shelter, education, sanitation, and day care services, for migrant agricultural workers, through the development, construction, reconstruction, rehabilitation, or operation of a migrant farm labor center.

This bill would require the department to make the Office of Migrant Services centers available for rent by persons or families experiencing economic hardships as a result of the drought.

(11) Existing law authorizes the Employment Development Department to collect and administer an employment training tax. Existing law establishes the Employment Training Panel (ETP) in the Employment Development Department, and prescribes the functions and duties of the ETP with respect to the development, implementation, and administration of various employment training programs in the state. Existing law requires the ETP to establish the Partnership for Workforce Recovery Training for the purpose of supporting and implementing the workforce development goals set forth in the federal American Recovery and Reinvestment Act of 2009.

This bill would eliminate the requirement that the ETP establish the Partnership for Workforce Recovery Training, and would instead require the ETP to develop and publish guidelines for the

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purpose of supporting and implementing one or more alternative fund programs to reimburse the cost of training using funds from a source other than the employment training tax.

This bill would require the ETP, as needed in response to a proclamation of a state of emergency issued by the Governor under the California Emergency Services Act, to identify industries and occupations that shall be priorities for training funds for the purpose of funding special employment training projects that improve the skills and employment security of frontline workers and to waive specified wage and employment retention provisions.

Existing law, with respect to funds appropriated in the annual Budget Act to the department for allocation by the ETP for the training of workers in regions suffering from high unemployment and low job creation, authorizes the ETP to waive the minimum wage requirements for participation in the program in certain circumstances.

This bill would provide that the ETP may waive the minimum wage requirements with respect to funds appropriated to the department for allocation by the ETP in the annual Budget Act for training of workers in regions identified in a proclamation of a state of emergency issued by the Governor under the California Emergency Services Act.

(12) Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act, authorizes the issuance of bonds in the amount of \$5,388,000,000 for the purposes of financing a safe drinking water, water quality and supply, flood control, and resource protection program.

This bill would appropriate \$472,500,000 from these bond funds for the purposes of integrated regional water management grants.

(13) The bill would require, to the extent feasible and appropriate, water conservation and drought response projects funded pursuant to these provisions and the provisions of the bill described in paragraph (15) to use the services of the California Conservation Corps or certified community conservation corps.

(14) 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.

(15) This bill would become operative only if AB 79 or SB 103 is enacted, amending the Budget Act of 2013.

(16) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. The Legislature finds and declares that California is experiencing an unprecedented dry period and shortage of water for its citizens, local governments, agriculture, environment, and other uses. The purpose of this act is to enact urgent legislation to appropriate funds and expedite administrative actions to increase water supply reliability consistent with the state's economic, health and safety, and resource protection laws.

SEC. 2. Section 8683 of the Government Code is amended to read:

8683. (a) Whenever funds are available for purposes of this chapter, the director shall make allocations from the funds available in the amounts that he or she determines to be necessary to state agencies for expenditure for making the investigations, estimates, and reports required by this chapter. Those allocations may also be made to provide for preliminary investigations, estimates, reports, training of state agency personnel, or to reimburse the state agencies for expenditures made in anticipation of actual applications by local agencies. Allocations may also be made for the purpose of making any investigations, estimates, and reports that may be necessary to enable local agencies to obtain federal aid for disaster relief purposes, regardless of whether or not that aid is available for projects that are eligible for state allocations pursuant to this chapter. The director may make allocations to any state agency or office from those funds, or other funds available therefor, in the amounts that are necessary to administer this chapter.

(b) When a proclamation of a state of emergency has been issued by the Governor under the California Emergency Services Act (Chapter 7 (commencing with Section 8550)) and funds are available for purposes of this chapter, the director may make

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allocations from the funds available in the amounts that the director determines necessary to state agencies for expenditures incurred performing extraordinary emergency measures. An allocation pursuant to this subdivision is at the discretion of the director, but an allocation shall not reimburse either of the following:

- (1) Employee costs related to emergency work activities.
- (2) Any permanent repairs to the agency's own facilities.

SEC. 3. Chapter 3 (commencing with Section 34085) is added to Part 1.6 of Division 24 of the Health and Safety Code, to read:

CHAPTER 3. DROUGHT HOUSING RENTAL SUBSIDIES

34085. (a) The department shall provide housing rental-related subsidies for the purposes of disaster relief to persons rendered homeless or at risk of becoming homeless due to unemployment, underemployment, or other economic hardship resulting from the state of emergency proclaimed by the Governor on January 17, 2014. The housing rental-related subsidies shall provide rental assistance to individuals who are unemployed or underemployed because agricultural or other businesses are affected by the drought conditions and to other persons that have suffered economic losses due to the drought conditions.

(b) The department may administer the housing rental-related subsidies or contract with qualified local government agencies or nonprofit organizations to administer the subsidies.

(c) The department shall adopt guidelines establishing criteria for the subsidies, including, but not limited to, eligibility, income limits, and subsidy amounts.

34086. Any rule, policy, or standard of general application employed by the department in implementing the provisions of this chapter shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 4. Section 50661 of the Health and Safety Code is amended to read:

50661. (a) There is hereby created in the State Treasury the Housing Rehabilitation Loan Fund. All interest or other increments resulting from the investment of moneys in the Housing Rehabilitation Loan Fund shall be deposited in the fund,

notwithstanding Section 16305.7 of the Government Code. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for the following purposes:

(1) For making deferred-payment rehabilitation loans for financing all or a portion of the cost of rehabilitating existing housing to meet rehabilitation standards as provided in this chapter.

(2) For making deferred payment loans as provided in Sections 50668.5, 50669, and 50670.

(3) For making deferred payment loans pursuant to Sections 50662.5 and 50671.

(4) Subject to the restrictions of Section 53131, if applicable, for administrative expenses of the department made pursuant to this chapter, Article 3 (commencing with Section 50693) of Chapter 7.5, and Chapter 10 (commencing with Section 50775).

(5) For related administrative costs of nonprofit corporations and local public entities contracting with the department pursuant to Section 50663 in an amount, if any, as determined by the department, to enable the entities and corporations to implement a program pursuant to this chapter. The department shall ensure that not less than 20 percent of the funds loaned pursuant to this chapter shall be allocated to rural areas. For purposes of this chapter “rural area” shall have the same meaning as in Section 50199.21.

(6) To the extent no other funding sources are available, ten million dollars (\$10,000,000) shall be available for the purposes of Section 34085.

(b) There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys that the department receives in repayment of loans made from the fund, including any interest thereon.

(3) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(4) Moneys transferred or deposited to the fund pursuant to Sections 50661.5 and 50778.

(c) Notwithstanding any other provision of law, any interest or other increment earned by the investment or deposit of moneys appropriated by subdivision (b) of Section 3 of Chapter 2 of the Statutes of the 1987–88 First Extraordinary Session, or Section 7

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of Chapter 4 of the Statutes of the 1987–88 First Extraordinary Session, shall be deposited in a special account in the Housing Rehabilitation Loan Fund and shall be used exclusively for purposes of Sections 50662.5 and 50671.

(d) Notwithstanding any other provision of law, effective with the date of the act adding this subdivision, appropriations authorized by the Budget Act of 1996 for support of the Department of Housing and Community Development from the California Disaster Housing Repair Fund and the California Homeownership Assistance Fund shall instead be authorized for expenditure from the Housing Rehabilitation Loan Fund.

SEC. 5. Section 50716 is added to the Health and Safety Code, to read:

50716. (a) Notwithstanding any other law, to respond to the state of emergency proclaimed by the Governor on January 17, 2014, the department shall, directly or through contracts, make the Office of Migrant Services centers available for rent by persons or families experiencing economic hardships as a result of the drought. This may include, but is not limited to, extending the period of occupancy prior to or beyond the standard 180-day period and redefining persons and families eligible to occupy the centers. To the extent feasible, the department shall give preference to persons and families that meet existing program criteria.

(b) The department may adopt program guidelines to implement this section. Any rule, policy, or standard of general application employed by the department in implementing the provisions of this section shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 6. Section 10201.5 of the Unemployment Insurance Code is amended to read:

10201.5. With respect to funding appropriated in the annual Budget Act to the Employment Development Department for allocation by the Employment Training Panel and identified for training of workers in regions suffering from high unemployment and low job creation or regions identified in a proclamation of a state of emergency issued by the Governor under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), the panel,

notwithstanding subdivision (f) of Section 10201, may waive the minimum wage requirements included in that subdivision provided that the post-retention wage of each trainee who has completed training and the required training period exceeds his or her wage before and during training. This determination shall be made on a case-by-case basis to ensure that post-training improvements in earnings are sufficient to warrant the investment of public funds.

SEC. 7. Section 10214.5 of the Unemployment Insurance Code is amended to read:

10214.5. (a) The panel may allocate up to 15 percent of the annually available training funds for the purpose of funding special employment training projects that improve the skills and employment security of frontline workers, as defined in subdivision (a) of Section 10200. Notwithstanding any other provision of this chapter, participants in these projects are not required to meet the eligibility criteria set forth in paragraph (1) of subdivision (a) of Section 10200 or subdivision (c) of Section 10201.

(b) The panel shall, on an annual basis or as needed in response to a proclamation of a state of emergency issued by the Governor under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), identify industries and occupations that shall be priorities for funding under this section. Training shall be targeted, but not limited, to frontline workers who earn at least the state average hourly wage.

(c) The panel may waive the minimum wage provisions pursuant to subdivision (f) of Section 10201 for projects in regions of the state where the unemployment rate is significantly higher than the state average or regions identified in a proclamation of a state of emergency issued by the Governor under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), and also may waive the employment retentions provisions specified in subdivision (f) of Section 10209 and instead require that the trainee has been retained in employment for a minimum of 90 days out of 120 consecutive days after the end of training with no more than three employers.

(d) (1) The panel may allocate funds pursuant to subdivision (a) to increase the productivity and extended employment retention of workers in the state's major seasonal industries.

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(2) In funding special employment training projects for this purpose, the panel may do all of the following:

(A) When the amount of the postretention wages of each trainee who has completed training exceeds the amount of wages that the trainee earned before and during training, waive the minimum wage requirements set forth in subdivision (f) of Section 10201.

(B) Waive the employment retention requirements set forth in subdivision (f) of Section 10209 and instead require that the trainee be retained in employment for not less than 500 hours within the 12-month period following the completion of the training.

(C) When the panel finds that the training is necessary to achieve the objectives of vocational training, waive the limitation on job-related basic and literacy skills training set forth in subdivision (a) of Section 10209.

(3) For purposes of this section, “major seasonal industries” means eligible employers who satisfy all of the following requirements:

(A) Have a workforce comprised of at least 50 percent of workers whose employment period is necessarily cyclical, including, but not limited to, businesses directly involved in the harvesting, packing, or processing of goods or products.

(B) Have retained at least 50 percent of the same seasonal employees for at least one season of not less than 500 hours for the preceding 12-month period.

(C) Pay wages and provide benefits that exceed industry averages.

(e) The panel shall adopt minimum standards for consideration of proposals to be funded pursuant to this section.

(f) The panel may select contracts funded under this section based on competitive bidding.

(g) It is the intent of the Legislature in providing the authority for these projects that the panel allocate these funds in a manner consistent with the objectives of this chapter as provided in Section 10200.

SEC. 8. Section 10214.6 of the Unemployment Insurance Code is amended to read:

10214.6. (a) The panel shall develop and publish guidelines for the purpose of supporting and implementing one or more alternative fund programs to reimburse the cost of training consistent with the purposes of this part, using funds from a source

other than the employment training tax. The alternative funds may be from any federal, state, or local governmental entity, as appropriated in statute or other means. The guidelines shall include adequate fiscal and accounting controls, as prescribed in subdivision (f) of Section 10205.

(b) The panel may adopt any regulations necessary to implement this section, but any regulations so adopted are exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The panel may solicit proposals and enter into contracts or other agreements to secure funding for the purposes of this section, but those proposals, contracts, and agreements shall be exempt from any competitive bidding requirements otherwise prescribed in statute.

SEC. 9. Section 1052 of the Water Code is amended to read:

1052. (a) The diversion or use of water subject to this division other than as authorized in this division is a trespass.

(b) The Attorney General, upon request of the board, shall institute in the superior court in and for any county where the diversion or use is threatened, is occurring, or has occurred an action for the issuance of injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, or permanent injunction.

(c) Any person or entity committing a trespass as defined in this section may be liable in an amount not to exceed the following:

(1) If the unauthorized diversion or use occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions, the sum of the following:

(A) One thousand dollars (\$1,000) for each day in which the trespass occurs.

(B) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in excess of that diverter's water rights.

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(2) If the unauthorized diversion or use is not described by paragraph (1), five hundred dollars (\$500) for each day in which the unauthorized diversion or use occurs.

(d) Civil liability for a violation of this section may be imposed by the superior court or the board as follows:

(1) The superior court may impose civil liability in an action brought by the Attorney General, upon request of the board, to impose, assess, and recover any sums pursuant to subdivision (c). In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(2) The board may impose civil liability in accordance with Section 1055.

(e) All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

(f) The remedies prescribed in this section are cumulative and not alternative.

SEC. 10. Section 1058.5 of the Water Code is amended to read:

1058.5. (a) This section applies to any emergency regulation adopted by the board for which the board makes both of the following findings:

(1) The emergency regulation is adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.

(2) The emergency regulation is adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions.

(b) Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, any findings of emergency adopted by the board, in connection with the adoption of an emergency regulation under this section, are not subject to review by the Office of Administrative Law.

(c) An emergency regulation adopted by the board under this section may remain in effect for up to 270 days, as determined by the board, and is deemed repealed immediately upon a finding by the board that due to changed conditions it is no longer necessary for the regulation to remain in effect. An emergency regulation adopted by the board under this section may be renewed if the board determines that the conditions specified in paragraph (2) of subdivision (a) are still in effect.

(d) In addition to any other applicable civil or criminal penalties, any person or entity who violates a regulation adopted by the board pursuant to this section is guilty of an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

SEC. 11. Section 1551 of the Water Code is amended to read:

1551. All of the following shall be deposited in the Water Rights Fund:

(a) All fees, expenses, and penalties collected by the board or the State Board of Equalization under this chapter and Part 3 (commencing with Section 2000).

(b) All funds collected under Section 1052, Article 4 (commencing with Section 1845) of Chapter 12, or Section 5107.

(c) All fees collected under Section 13160.1 in connection with certificates for activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

SEC. 12. Section 1831 of the Water Code is amended to read:

1831. (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.

(b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.

(c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

(d) The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:

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(1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

(2) Any term or condition of a permit, license, certification, or registration issued under this division.

(3) Any decision or order of the board issued under this part, Section 275, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

(4) A regulation adopted under Section 1058.5.

(e) This article shall not authorize the board to regulate in any manner, the diversion or use of water not otherwise subject to regulation of the board under this part.

SEC. 13. Section 1845 of the Water Code is amended to read:

1845. (a) Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

(b) (1) A person or entity who violates a cease and desist order issued pursuant to this chapter may be liable in an amount not to exceed the following:

(A) If the violation occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions, ten thousand dollars (\$10,000) for each day in which the violation occurs.

(B) If the violation is not described by subparagraph (A), one thousand dollars (\$1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(3) Civil liability may be imposed administratively by the board pursuant to Section 1055.

(c) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(d) All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

SEC. 14. Section 1846 is added to the Water Code, to read:

1846. (a) A person or entity may be liable for a violation of any of the following in an amount not to exceed five hundred dollars (\$500) for each day in which the violation occurs:

(1) A term or condition of a permit, license, certificate, or registration issued under this division.

(2) A regulation adopted by the board under Section 1058.5 or an order adopted by the board.

(b) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(c) Civil liability may be imposed administratively by the board pursuant to Section 1055.

(d) In determining the appropriate amount of civil liability, the court, pursuant to subdivision (b), or the board, pursuant to subdivision (c), may take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(e) No liability shall be recoverable under this section for any violation for which liability is recovered under Section 1052.

(f) All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

(g) This section applies only in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions.

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SEC. 15. Section 13562.5 is added to the Water Code, to read:

13562.5. Notwithstanding any other law, no later than June 30, 2014, the department shall adopt, by emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, requirements for groundwater replenishment using recycled water. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department pursuant to this section shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the department.

SEC. 16. Water conservation and drought response projects funded by the provisions of this act, or the act described in Section 19, shall, to the extent feasible and appropriate, use the services of the California Conservation Corps or certified community conservation corps, as defined in Section 14507.5 of the Public Resources Code.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 18. Of the funds made available pursuant to Division 43 (commencing with Section 75001) of the Public Resources Code, the sum of four hundred seventy-two million five hundred thousand dollars (\$472,500,000) is hereby appropriated pursuant to Section 75026 of the Public Resources Code as follows:

(a) Two hundred million dollars (\$200,000,000) shall be available to the Department of Water Resources for integrated regional water management grants through an expedited solicitation round for projects that provide immediate regional drought preparedness, increase local water supply reliability and the

delivery of safe drinking water, assist water suppliers and regions to implement conservation programs and measures that are not locally cost-effective, or reduce water quality conflicts or ecosystem conflicts created by the drought. The Department of Water Resources shall consult with the State Department of Public Health on what emergency drinking water projects may be further expedited through these funds.

(b) Two hundred seventy-two million five hundred thousand dollars (\$272,500,000), shall be available to the Department of Water Resources for integrated regional water management grants. Notwithstanding Section 75100 of the Public Resources Code, the Department of Water Resources may expend up to twenty-one million eight hundred thousand dollars (\$21,800,000) of the funds appropriated pursuant to this paragraph for projects submitted prior to the enactment of this section.

SEC. 19. This act shall become operative only if Assembly Bill 79 or Senate Bill 103 of the 2013–14 Regular Session is enacted as amending the Budget Act of 2013.

SEC. 20. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Approved _____, 2014

Governor

Attachment 2

Emergency Drought-Relief Funding Under Drought-Relief Bill Package (SB 103 and SB 104)

Infrastructure investments to improve water supply

- \$472.5 million (Proposition 84/2006 Water Bond) to Department of Water Resources (DWR) for Integrated Regional Water Management Program grants.¹ \$200 million of these funds would be expedited for drought preparedness/response projects.
- \$77 million (Proposition 1E) to DWR for Central Valley flood protection projects that provide additional public benefits, including water supply and water quality improvements.

Emergency Drinking Water, Water Supply and Water Quality

- \$15 million (General Fund) to the Department of Public Health (DPH) for alternative water supplies and public water system improvements
- \$4 million (special funds) to the State Water Resources Control Board (Board) to secure emergency drinking water supplies for disadvantaged communities.
- \$7 million (special funds) to the Board for grants to small and severely disadvantaged communities for wastewater treatment projects that protect water quality in rivers and groundwater basins.
- \$2.5 million (General Fund) to the Board for drought-related water rights and conservation actions.

Housing, Employment and Emergency Services for Drought-stricken Communities

- \$10 million (special funds) to the Department of Housing and Community Development for housing or utility subsidies for people who become un- or underemployed due to drought conditions
- \$2 million (General Fund) to the Employment Training Panel for job training related to drought related job losses
- \$1.8 million (General Fund) to the Office of Emergency Services for disaster recovery assistance to communities

Water and Energy Efficiency for Urban and Agricultural Communities

- \$20 million (AB 32 cap-and-trade auction revenues) to DWR to improve water use efficiency, save energy and reduce greenhouse gas emissions from local water management.
- \$10 million (AB 32 cap-and-trade auction revenues) to DWR for water/energy efficiency upgrades at two State Water Project facilities (Hyatt and Thermalito power generation sites near Oroville).

¹ This is the only appropriation relating specifically to drought relief in SB 104. The remainder of the drought-relief funding is authorized under SB 103.

- \$10 million (AB 32 auction revenues) to California Department of Food and Agriculture (CDFA) for incentives to reduce water and energy use, augment supply, and increase water and energy efficiency in the agricultural sector.

Sustainable Groundwater Management

- \$1.2 million (special funds) to the Board for groundwater quality monitoring (Groundwater Ambient Monitoring and Assessment Program).
- \$800,000 (General Fund) to the Board to protect and ensure the sustainability of groundwater resources in critically overdrafted basins.
- \$1 million (General Fund) to DWR to improve groundwater monitoring and reporting efforts.

Water Education, Fish and Wildlife, Fire Fuel Reduction and other actions

- \$1 million (General Fund) to DWR for the Save Our Water campaign: drought-related education and outreach.
- \$2.3 million (General Fund) to Department of Fish and Wildlife for urgent fish, stream and conservation activities.
- \$13 million (General Fund) to California Conservation Corps and Local Conservation Corps for water use efficiency and fire fuel reduction programs.