



Agriculture, Environment and Natural Resources Policy  
Committee

CSAC Legislative Conference  
Thursday, May 17, 2018 — 10:30 a.m. – 12:20 a.m.  
Sacramento Convention Center, Room 307  
Sacramento County, California

AGENDA

Supervisor Bruce Gibson, San Luis Obispo County, Chair  
Supervisor Sherri Brennan, Tuolumne County, Vice Chair

- 10:30 - 10:35 a.m. I. **Welcome and Introductions**  
*Supervisor Bruce Gibson, San Luis Obispo County, Chair*  
*Supervisor Sherri Brennan, Tuolumne County, Vice Chair*
- 10:35 - 10:45 a.m. II. **Update from the California Cannabis Authority (CCA)**  
*CCA President, Humboldt County Supervisor Estelle Fennell*
- 10:45 – 11:00 a.m. III. **2018 Legislation and Budget Update**  
*Cara Martinson, Senior Legislative Representative*  
*Nick Cronenwett, Legislative Analyst*
- 11:00 – 11:25 a.m. IV. **ACTION ITEM: SB 623: Safe and Affordable Drinking Water Fund**  
*Senator Bill Monning, 17<sup>th</sup> CA Senate District*
- 11:25 – 12:00 p.m. V. **Wildfire Insurance: A Discussion of Liability & Coverage**
  - o *Liability – Jennifer Henning, Executive Director, County Counsels Association*
  - o *Coverage – Lisbeth Landsman-Smith, Senior Staff Attorney, California Department of Insurance*
- 12:00 – 12:20 p.m. VI. **ACTION ITEM: AENR Position on 2018 Water Supply and Water Quality Bond Act (Meral Bond)**  
*Moderator: Supervisor Gibson*  
*Proponent: Matteo Crow, Campaign Coordinator, Meral Bond Campaign*
- 12:20 p.m. VII. **Closing Comments and Adjournment**  
*Supervisor Bruce Gibson, San Luis Obispo County, Chair*  
*Supervisor Sherri Brennan, Tuolumne County, Vice Chair*

## ATTACHMENTS

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### **Update from the California Cannabis Authority (CCA)**

Attachment One ..... California Cannabis Authority FAQs

### **2018 Legislation and Budget Update**

Attachment Two ..... 2018 AENR Priorities Memo

Attachment Three.....AENR Positions on 2018 Legislation Bill Report

### **ACTION ITEM: SB 623: Safe and Affordable Drinking Water Fund**

Attachment Four ..... SB 623 (Monning) Water quality: Safe and Affordable Drinking Water Memo

Attachment Five ..... Text of SB 623 (Monning)

### **Wildfire Insurance: A Discussion of Liability & Coverage**

Attachment Six..... CSAC Letter to Legislative Leadership Re: Utilities Wildfire Liability (April 30th, 2018)

Attachment Seven..... California Department of Insurance White Paper: *The Availability and Affordability of Coverage for Wildfire Loss in the Wildland-Urban Interface and Other High-Risk Areas of California: CDI Summary and Proposed Solutions*

### **ACTION ITEM: AENR Position on 2018 Water Supply and Water Quality Bond Act**

Attachment Eight.....2018 Water Supply & Water Quality Bond Act Memo

Attachment Nine.....Text of the 2018 Water Supply & Water Quality Bond Act

Attachment Ten.....Campaign Materials from the Meral Bond Campaign

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Update from the California Cannabis Authority (CCA)  
Attachment One  
California Cannabis Authority FAQs



## Frequently Asked Questions (FAQs)

### ***What is the purpose of the California Cannabis Authority?***

The California Cannabis Authority is a Joint Powers Authority established to develop and manage a statewide data platform. The platform will assist counties that are regulating commercial cannabis activity by consolidating data from different channels into one resource to help local governments ensure maximum regulatory and tax compliance. In addition, the platform will help to facilitate banking services to the cannabis industry by providing necessary information to financial institutions to help them fulfill necessary compliance requirements.

### ***What is a Joint Powers Authority? Why create a JPA?***

Joint Powers Authorities (JPAs) are legally created public entities that allow two or more public agencies to jointly exercise common powers. Forming a JPA provides a creative approach to the delivery of public services, and also permits public agencies with the means to provide services more efficiently and in a cost-effective manner. The California Cannabis Authority (CCA) is a Joint Powers Authority (JPA) created by contract between counties with cannabis regulatory and taxing authority. California's medical and adult-use cannabis laws allow local governments to determine how best to regulate cannabis within their jurisdictions. Not all counties will choose to regulate commercial cannabis activity, and some counties may choose to ban this type of activity within their jurisdictions. For counties that are actively regulating and/or taxing commercial cannabis activity, a separate public entity will help efficiently and cost-effectively deliver additional information services to help fulfill their specific needs.

### ***Who will govern CCA?***

CCA's Board of Directors will be made up of one representative from each county that joins the organization. In addition, the day-to-day business of CCA will be directed by an Executive Committee consisting of five members from the Board of Directors. Cities and other public entities will be allowed to participate in the JPA and access data, but will not be part of the authority's governance structure. Financial institutions will have access to CCA data by contract.

### ***Who can access the data and how?***

While counties make up the governing structure of CCA, other public entities including cities and state agencies can participate and access data through a separate agreement. The database will be a cloud-based system. Member counties and participants will be able to access the database on the internet with a secure log-in connection through the CCA website.

### ***How will financial institutions access data?***

CCA will work with interested financial institutions and their prospective cannabis clients to provide accurate and cost-effective licensing and compliance information that ensures that the revenue generated from the client's commercial cannabis activity is from fully licensed and compliant activities. Consent from prospective cannabis clients must be obtained before information is shared with financial institutions that might wish to bank them.

***What type of privacy requirements does the CCA follow? Is CCA subject to public records requests?*** CCA will operate under a Memorandum of Understanding (MOU) with the state licensing agencies to ensure that all information that is confidential and not subject to the Public Records Act under Proposition 64

remains so. The data platform also adheres to all federal security standards, including the Federal Risk and Authorization Management Program (FRAMP) process to conduct security assessments, authorizations and continuous monitoring of cloud services.

***What are the requirements of joining CCA?***

Member counties will be required to adopt the Joint Powers Agreement via their Board of Supervisors, and appoint one member and an alternate to CCA’s Board of Directors. In addition, member counties and participating cities must require their cannabis licensees to provide CCA with point-of-sales information. This information will be collected directly by CCA.

***How will data be collected?***

CCA’s data platform will connect directly to other data systems, and also connect to licensees’ payment/point-of-sales systems. The preferred method is an Application Programming Interface (API), but there are other methods that the system can employ as well. Through an API connection, a “key” is provided by the licensee and is input into the CCA system. Once the connection is established and verified (all done by the platform), no further human interaction is necessary. Data will be pulled on a real-time 24-hour basis and input into the CCA data platform.

***How will CCA be funded?***

The Board of Directors of CCA adopted a financing structure that includes a fee to be paid by each member county and participating entity that is based upon total sales within the jurisdiction. The fee is 0.35%, or 35 basis points of total sales within the jurisdiction. This amount will be commensurate with the amount of data generated, and therefore equitable to each member or participant’s costs to the JPA. It is the decision of the member county or participating entity to determine what resource source the fee will come from.

***How will CCA interface with the state’s track and trace program? Is this a duplicative system?***

The data platform will be designed to start where the state’s Track and Trace (TaT) systems stop. TaT systems are built to track anything entered by an end user. TaT methodology requires user input and relies on the end user’s ability to enter, or scan data correctly into the TaT system. This is where the CCA platform adds significant value. The CCA platform isn’t constrained to just data from one source, and it isn’t built to “track”, but is built to analyze and evaluate. The platform looks for anomalies with individual data sources and also looks at how those sources interact with one another, giving a more complete picture and a higher degree of confidence that what is being reported and what is occurring are truly one in the same. When they are not the same, the platform creates an alert. The speed at which the alert is delivered is key for investigation and enforcement actions to correct bad behaviors and catch bad actors quickly and more efficiently.

***Which counties have joined CCA?***

San Luis Obispo, Monterey, Humboldt and Mendocino County are members of CCA. The President of the organization is Supervisor Estelle Fennell from Humboldt County. The Secretary is Mary Zeeb, Monterey County Treasurer Tax Collector, and Jim Erb, San Luis Obispo Treasurer Tax Collector/Auditor Controller is the Treasurer of CCA.

***Who do I contact for more information?***

To learn more about the CCA, please contact Cara Martinson, CCA Executive Director at 916-267-5536 or [californiacannabisauthority@gmail.com](mailto:californiacannabisauthority@gmail.com), or Alan Fernandes, CSAC Finance Corporation CEO, at [alan@csacfc.org](mailto:alan@csacfc.org), or 916-955-1791.

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2018 Legislation and Budget Update  
Attachment Two  
2018 AENR Priorities Memo



May 3, 2018

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To: CSAC Agriculture, Environment & Natural Resources (AENR) Policy Committee  
From: Cara Martinson, Senior Legislative Representative & Federal Affairs Manager  
Nick Cronenwett, Legislative Analyst

Re: UPDATE ON 2018 AENR LEGISLATIVE PRIORITIES

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The following is an update on the 2018 AENR Legislative Priorities. A bill report is attached to this memo and provides more detailed information on bills that CSAC is actively engaged on in the AENR policy area.

***Disaster Relief, Emergency Management and Resiliency***

The 2017 wildfire season and its aftermath and recovery have been a focus of the AENR team this year. A number of legislative proposals are moving through the process, including several bills that CSAC is actively working on and negotiating. In particular, CSAC is working on a number of bills that would: alter the emergency alert systems across California and provide access to information for those alert systems; create resiliency plans for infrastructure; help consumers manage insurance companies and the claims process after disasters; and, update and enhance forestry practices, amongst other issues.

CSAC has also convened several disaster summits to facilitate direct communication between key state and federal administrators and county supervisors and staff. These forums have consisted of leading officials from CalFIRE, Federal Emergency Management Agency (FEMA), California Office of Emergency Services (CAL OES), the California Public Utilities Commission, and several other key state agencies and task forces. The summits have created useful dialogue and helped county leaders in disaster- impacted counties to connect directly with key administration officials. In addition, CSAC has created a Resiliency Advisory Committee to help counties lead in the effort to make California more resilient. This group of appointed supervisors and staff will help guide CSAC's engagement and advocacy efforts on state and federal resiliency and sustainability policy and funding priorities and provide leadership to California's state resiliency efforts through a county led network of disaster preparedness and hazard mitigation stakeholders.

Finally, CSAC is working with a group of stakeholders to protect against any efforts to preemptively, and potentially retroactively, deny the rights of those who sustained losses from the fires before a full assessment of cause and determination can be made. CSAC is strongly opposed to immunity, retroactive or otherwise, for Utilities regarding legal liability resulting from utility-caused fires.

***Cannabis***

Cannabis policy and the implementation of our medical and adult use laws continue to be a focus of the AENR team. The state began the process of licensing commercial medical and adult use cannabis businesses in January and a number of counties are still working through the process of developing ordinances and tax measures to regulate medical and/or adult use commercial activity within their jurisdiction. CSAC continues to work closely with counties to ensure that they have the information they need to develop local regulations, should they choose to allow cannabis businesses in their jurisdictions.

In addition, staff is engaging on a number of bills that would make changes to our cannabis laws, including opposing a measure, SB 1302 (Lara) that would limit local government's ability to impose a ban on the delivery of cannabis within their jurisdiction. CSAC is also working closely with our local government partners to support a number of measures that would clarify and enhance our ability to regulate and enforce our ordinances at the local level, including AB 2717 (Lackey) which would clarify the ability of a city and county to contract with one another for the purposes of providing services to cannabis licensees.

Staff continues to work with CSAC Finance Corporation on the development of a Joint Powers Authority, the California Cannabis Authority (CCA), for the purpose of developing and managing a statewide data platform that will gather, collect, and analyze information from a myriad of data sources into one resource to help local governments ensure cannabis regulatory compliance and also provide necessary information to financial institutions that wish to work with the cannabis industry. Four counties have joined CCA, including Humboldt, Mendocino, Monterey and San Luis Obispo. Staff is continuing to conduct outreach to interested jurisdictions and to work with state to facilitate access to information for JPA members.

#### ***Healthy Forests & Working Lands.***

CSAC continues to be an active member of the state's interagency Tree Mortality Task Force, working with the Administration and counties to address the tree mortality crisis in California. In addition, staff is working with the Administration to provide representation and input on the state's new Forest Resiliency Task Force and provide input into new proposals related to the effective management of our forested lands. CSAC is also working on several legislative proposals including SB 1260 (Jackson) that would create a more robust framework around the use of prescribed burns as a fire abatement tool. CSAC continues to consistently express our support for ongoing Payment In Lieu of Taxes funding, which is included in the Governor's FY 18-19 budget, and support for restoration of Williamson Act subventions.

#### ***Climate Change***

CSAC is working with several coalitions to advocate for additional resources from the state Greenhouse Gas Reduction Fund (GGRF) to provide additional resources to the local level for a number of programs, including the Transformational Climate Communities (TCC) program. TCC provides funding for multiple emission-reducing strategies in a coordinated way that can transform neighborhoods into models of economic and environmental sustainability. CSAC is also advocating for \$200 million for waste diversion and infrastructure development to help manage the organics portion of the waste stream. New regulations will require additional diversion of materials out of our landfills, and local governments and our industry partners are working together to secure additional resources to develop new and expanded infrastructure.

#### ***Water Resources & Regulatory Issues.***

CSAC has engaged in a number of legislative measures that would seek to improve access to clean drinking water in California. Staff was successful in negotiating amendments to SB 988 (Dodd) that removed a portion of the bill that would have required county Environmental Health Directors to make certain determinations as to whether or not water service cut-off would pose a significant risk to health and safety. CSAC is also supporting measures related to the consolidation of water districts to provide powers to absorb, improve, and operate noncompliant public water systems.



Staff continues to focus on the implementation of several key water issues, including the Sustainable Groundwater Management Act (SGMA), the passage of SB 231 (Hertzberg) and the development of additional stormwater funding tools, and ongoing negotiations about water quality funding and conservation issues. As it pertains to waste management, Cal Recycle has recently released draft regulations to implement SB 1383 (Lara, 2016). This measure requires a 50 percent reduction of organic waste by 2020 and a 75 percent reduction by 2025. CSAC will continue to work with the Administration and the County Engineers Association to provide input into this process and ensure that local governments are given the tools and the timelines necessary to help develop the infrastructure required to manage this portion of the waste stream.

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2018 Legislation and Budget Update  
Attachment Three  
AENR Positions on 2018 Legislation Bill Report

## All AENR with Active Positions 5/4/2018

**[AB 626](#) ([Garcia, Eduardo](#) D) California Retail Food Code: microenterprise home kitchen operations.**

**Introduced:** 2/14/2017

**Last Amended:** 4/2/2018

**Status:** 4/2/2018-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HEALTH.

**Location:** 3/15/2018-S. HEALTH

**Summary:**

The California Retail Food Code establishes uniform health and sanitation standards for retail food facilities for regulation by the State Department of Public Health, and requires local enforcement agencies to enforce these provisions. This bill would, among other things, include a microenterprise home kitchen operation within the definition of a food facility, and would define a microenterprise home kitchen operation to mean a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for , and may be served to, consumers, and that meets specified requirements, including, among others, that the operation has no more than one full-time equivalent food employee and has no more than \$50,000 in verifiable gross annual sales.

**Organization:** Cara Martinson

**CSAC Position:** Oppose

**Subject:** Agriculture and Natural Resources

**Notes 1:** AB 626 joint coalition oppose letter to Assembly Health Committee 4/18/17. CSAC Bulletin 4/27/17. AB 626 joint coalition oppose letter to Assembly Appropriations 5/17/17. AB 626 joint coalition oppose Assembly Floor Alert 1/22/18.

**[AB 813](#) ([Holden](#) D) Multistate regional transmission system organization: membership.**

**Introduced:** 2/15/2017

**Last Amended:** 3/8/2018

**Status:** 3/8/2018-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on RLS.

**Location:** 8/31/2017-S. RLS.

**Summary:**

Would prohibit a California electrical transmission facility owner, a retail seller of electricity, or a local publicly owned electric utility from participating in a multistate regional transmission system organization, as defined, unless the bylaws or other organizational documents that govern the organization, and the organization's operations, meet Federal Energy Regulatory Commission requirements and other specified requirements. The bill would require a California transmission owner, retail seller, or local publicly owned electric utility, before joining a multistate regional transmission system organization, to submit the bylaws and other organizational documents that govern the multistate regional transmission system organization to the State Energy Resources Conservation and Development Commission for review.

**Organization:** Cara Martinson  
**CSAC Position:** Oppose  
**Subject:** Agriculture and Natural Resources  
**Notes 1:** AB 813 oppose letter to Senate Rules committee 9/7/17.

**[AB 1933](#) ([Maienschein](#) R) Greenhouse Gas Reduction Fund: recycling infrastructure projects.**

**Introduced:** 1/24/2018  
**Last Amended:** 4/17/2018  
**Status:** 5/2/2018-In committee: Set, first hearing. Referred to APPR. suspense file.  
**Location:** 5/2/2018-A. APPR. SUSPENSE FILE  
**Summary:**  
Would explicitly authorize up to \$200,000,000 to be appropriated in the annual Budget Act, without regard to fiscal year, from the fund to the Department of Resources Recycling and Recovery for organic waste recycling infrastructure projects that reduce greenhouse gas emissions and solid waste recycling infrastructure projects that reduce greenhouse gas emissions. This bill contains other related provisions and other existing laws.

**Organization:** Cara Martinson  
**CSAC Position:** Support  
**Subject:** Agriculture and Natural Resources  
**Notes 1:** AB 1933 (Maienschein) support Assembly Natural Resources 032718. CSAC Bulletin 3/29/18. AB 1933 (Mainschein) Support to Asm Appropriations 042318.

**[AB 1975](#) ([Chu](#) D) Nuisance: odors.**

**Introduced:** 1/31/2018  
**Last Amended:** 5/1/2018  
**Status:** 5/2/2018-Re-referred to Com. on APPR.  
**Location:** 4/16/2018-A. APPR.  
**Calendar:**  
5/9/2018 9 a.m. - State Capitol, Room  
4202 ASSEMBLY APPROPRIATIONS, GONZALEZ FLETCHER, Chair  
**Summary:**  
Would require the Department of Resources Recycling and Recovery, no later than July 1, 2019, to establish the South Bay Interagency Odor Taskforce, with a specified membership, to identify sources of odor emissions and nuisance complaints based on odor emissions received by the Bay Area Air Quality Management District and the City of Milpitas, the City of Fremont, the City of Santa Clara, and the City of San Jose. The bill would require the taskforce, no later than January 1, 2020, to take specified actions, including, among others, identifying sources of odor emissions in the region represented by the taskforce representatives, and providing updates on inspections and enforcement actions conducted by each enforcement agency represented on the taskforce.

**Organization:** Cara Martinson  
**CSAC Position:** Oppose

**Subject:** Agriculture and Natural Resources

**Notes 1:** AB 1975 (Chu) joint coalition county waste association oppose letter to Assembly Natural Resources 3/30/18.

**AB 2020 (Quirk D) Cannabis: local jurisdiction licensees: temporary event license.**

**Introduced:** 2/5/2018

**Last Amended:** 4/19/2018

**Status:** 4/23/2018-Re-referred to Com. on APPR.

**Location:** 4/19/2018-A. APPR.

**Calendar:**

5/9/2018 9 a.m. - State Capitol, Room

4202 ASSEMBLY APPROPRIATIONS, GONZALEZ FLETCHER, Chair

**Summary:**

MAUCRSA authorizes a state licensing authority to issue a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that certain other requirements are met. Under current administrative law, the Bureau of Cannabis Control has adopted regulations that govern the issuance of a state temporary cannabis event license. This bill would authorize a state temporary event license to be issued to a licensee for an event to be held at any other venue expressly approved by a local jurisdiction for events, as described.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** CSAC Bulletin 2/15/18. AB 2020 CSAC RCRC UCC joint support letter to the author 3/23/18.

**AB 2050 (Caballero D) Small System Water Authority Act of 2018.**

**Introduced:** 2/6/2018

**Last Amended:** 4/17/2018

**Status:** 4/26/2018-From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 1.) (April 25). Re-referred to Com. on APPR.

**Location:** 4/26/2018-A. APPR.

**Summary:**

Would create the Small System Water Authority Act of 2018 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2019, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance with one or more state or federal primary drinking water standard maximum contaminant levels as of December 31, 2018, and for 4 consecutive quarters, as specified.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources, CEAC

**Notes 1:** CSAC Bulletin 3/23/18. AB 2050 (Caballero) author & Assembly Environmental Safety support if amended 040918. AB 2050 (Caballero) Assembly

Local Govt Support 4/18/18. AB 2050 (Caballero) Assembly Appropriations Support 5/1/18.

**[AB 2278](#) (Berman D) Local Government Renewable Energy Self-Generation Program.**

**Introduced:** 2/13/2018

**Last Amended:** 4/25/2018

**Status:** 4/26/2018-Re-referred to Com. on APPR.

**Location:** 4/18/2018-A. APPR.

**Calendar:**

5/9/2018 9 a.m. - State Capitol, Room

4202 ASSEMBLY APPROPRIATIONS, GONZALEZ FLETCHER, Chair

**Summary:**

Current law authorizes a local government to receive a bill credit, as specified, to be applied to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to approve a rate tariff for the benefiting account. Current law provides specific rules for the calculation of these bill credits. Under existing law, an electrical corporation is obligated to provide a bill credit to a benefiting account designated by a local government only until the combined statewide cumulative rated generating capacity of all eligible renewable generating facilities within the service territories of the state's 3 largest electrical corporations reaches 250 megawatts. This bill would revise how the bill credit is calculated, as specified, and, for these purposes, would require the electrical corporation, until January 1, 2044, to use the time-of-use periods and seasonal definitions that were in effect on January 1, 2017.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** AB 2278 (Berman) support letter author cc: Assembly Utilities & Energy 4/19/18. AB 2278 (Berman) Support Letter to Appropriations 4/24/18.

**[AB 2447](#) (Reyes D) California Environmental Quality Act: land use: environmental justice.**

**Introduced:** 2/14/2018

**Last Amended:** 4/26/2018

**Status:** 4/30/2018-Re-referred to Com. on APPR.

**Location:** 4/26/2018-A. APPR.

**Summary:**

CEQA requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA prohibits a lead agency from approving or carrying out a project for which a certified EIR identifies one or more significant effects on the environmental unless the lead agency makes certain findings. This bill would require the Office of Environmental Health Hazard Assessment, by June 30, 2019, to publish a list of subject land uses, as specified, and a map that identifies disadvantaged communities and areas within a 1/2 mile radius of the disadvantaged communities.

**Organization:** Cara Martinson

**CSAC Position:** Oppose

**Subject:** Agriculture and Natural Resources

**Notes 1:** AB 2447 (Reyes) oppose joint coalition letter to author 4/11/18.

**[AB 2717](#) ([Lackey R](#)) **Cannabis: local control: city responsibility for county regulatory function.****

**Introduced:** 2/15/2018

**Status:** 4/17/2018-From committee: Do pass and re-refer to Com. on APPR. (Ayes 16. Noes 0.) (April 17). Re-referred to Com. on APPR.

**Location:** 4/17/2018-A. APPR.

**Calendar:**

5/9/2018 9 a.m. - State Capitol, Room

4202 ASSEMBLY APPROPRIATIONS, GONZALEZ FLETCHER, Chair

**Summary:**

Would require a city to assume from the county complete responsibility for any regulatory function relating to licensees located within the jurisdictional boundaries of the city, regardless of whether the state delegates to the city full power and authority to enforce MAUCRSA and promulgated regulations. By imposing additional duties on cities, this bill would create a state-mandated local program. The bill would authorize a city to contract in writing with the county in which it is located to arrange for the county to fulfill any of the city's regulatory functions relating to licensees located within the jurisdictional boundaries of the city. This bill contains other related provisions and other existing laws.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** AB 2717 (Lackey) joint coalition support letter to author 032318.

**[AB 2908](#) ([Berman D](#)) **Tire recycling: California tire regulatory fee and waste tire program.****

**Introduced:** 2/16/2018

**Last Amended:** 4/17/2018

**Status:** 5/2/2018-In committee: Hearing postponed by committee.

**Location:** 4/17/2018-A. APPR.

**Calendar:**

5/9/2018 9 a.m. - State Capitol, Room

4202 ASSEMBLY APPROPRIATIONS, GONZALEZ FLETCHER, Chair

**Summary:**

Would require, until January 1, 2024, upon a specified finding by the Department of Resources Recycling and Recovery, a waste tire generator that is a retail seller of new tires to end user purchasers to pay a California tire regulatory fee and to remit that fee to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund. The bill would require the department to track revenue from the California tire regulatory fee separately and would prohibit those funds from being used for activities other than those specified.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources, CEAC

**Notes 1:** AB 2908 (Berman) support letter to Assembly Natural Resources 4/2/18. AB 2908 (Berman) Support Letter to Asm Appropriations 4/24/18.

**[AB 2966](#) ([Aguilar-Curry D](#)) **Disaster relief.****

**Introduced:** 2/16/2018

**Status:** 4/18/2018-In committee: Set, first hearing. Referred to APPR. suspense file.

**Location:** 4/18/2018-A. APPR. SUSPENSE FILE

**Summary:**

The California Disaster Assistance Act provides that the state share for disaster project allocations to local agencies is no more than 75% of total state eligible costs, except for specified events for which the state share is up to 100% of state eligible costs. This bill would provide that the state share for the removal of dead and dying trees in connection with the Governor's proclamation of a state of emergency issued on October 30, 2015, is no more than 90% of total state eligible costs.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** AB 2966 support letter to Assembly Governmental Organization Committee 3/23/18. CSAC Bulletin 3/29/18. AB 2966 (Aguiar Curry) Support Assembly Appropriations 4/18/18.

**[AB 3178](#) (Rubio D) Integrated waste management plans: source reduction and recycling element: diversion requirements.**

**Introduced:** 2/16/2018

**Last Amended:** 4/30/2018

**Status:** 5/1/2018-Re-referred to Com. on APPR.

**Location:** 4/30/2018-A. APPR.

**Summary:**

The California Integrated Waste Management Act of 1989 requires the source reduction and recycling element to divert from disposal 50% of all solid waste subject to the element through source reduction, recycling, and composting activities, with specified exceptions. This bill would make findings, including, among others, that the storage of recyclable materials in amounts that exceed the design capacity or permitted capacity of a solid waste facility can pose a threat to public health and safety. This bill would make findings, including, among others, that under China's National Sword import policy, many recyclable materials are now banned and may no longer be imported into that country, which has had a profound impact on California efforts to meet state recycling objectives.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources, CEAC

**Notes 1:** AB 3178 (Rubio) author and Assembly Natural Resources support 4/9/18. AB 3178 (Rubio) support Assembly Appropriations 4/25/18.

**[AJR 27](#) (Low D) Cannabis.**

**Introduced:** 1/9/2018

**Status:** 4/24/2018-In committee: Hearing postponed by committee.

**Location:** 3/22/2018-A. PUB. S.

**Calendar:**

5/8/2018 9 a.m. - State Capitol, Room 126 ASSEMBLY PUBLIC SAFETY, JONES-SAWYER, Chair

**Summary:**

This measure would urge United States Department of Justice not to direct its



enforcement priorities towards California's lawfully and closely regulated cannabis industry, among other things.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** AJR 27 support letter to the author 3/23/18. CSAC Bulletin 3/29/18.

**AJR 28** (**Jones-Sawyer D**) **Financial institutions: cannabis.**

**Introduced:** 1/11/2018

**Last Amended:** 4/16/2018

**Status:** 5/3/2018-Coauthors revised. Adopted and to Senate.

**Location:** 5/3/2018-S. DESK

**Summary:**

This measure would urge the Congress and the President to pass legislation that would allow financial institutions to provide services to the cannabis industry.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** AJR 28 (Jones Sawyer) support to the author 3/26/18. AJR 28 (Jones Sawyer) Support Assembly Floor Alert 5/3/18.

**SB 819** (**Hill D**) **Electrical and gas corporations: rates.**

**Introduced:** 1/3/2018

**Last Amended:** 4/9/2018

**Status:** 4/25/2018-From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (April 24). Re-referred to Com. on APPR. April 24 set for first hearing. Reconsideration of favorable vote granted. From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 24). Re-referred to Com. on APPR.

**Location:** 4/25/2018-S. APPR.

**Calendar:**

5/14/2018 10 a.m. - John L. Burton Hearing Room  
(4203) SENATE APPROPRIATIONS, LARA, Chair

**Summary:**

The Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. Current law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature. Current law authorizes the commission to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. Current law prohibits a gas corporation from recovering any fine or penalty in any rate approved by the commission. This bill would prohibit an electrical corporation from recovering a fine or penalty through a rate approved by the commission and would make related nonsubstantive changes.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** SB 819 support letter to the author and Senate Energy Utilities & Communications 3/26/18. CSAC Bulletin 3/29/18. SB 819 (Hill) Support Letter to Appropriations 5/2/18.

**SB 821 (Jackson D) Emergency notification: county jurisdictions.**

**Introduced:** 1/3/2018

**Last Amended:** 3/12/2018

**Status:** 5/3/2018-Referred to Com. on G.O.

**Location:** 5/3/2018-A. G.O.

**Summary:**

Would authorize each county, including a city and county, to develop a mechanism to access the contact information of resident accountholders through the records of a public utility or other agency responsible for water service, waste and recycling services, or other property-related services for the sole purpose of enrolling county residents in a county-operated public emergency warning system. The bill would specify that any county that develops such a mechanism would be required to include procedures to enable any resident to opt out of the warning system and not to use the information gathered for any purpose other than for emergency notification.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** SB 821 (Jackson) Support Sen Gov Organization 4/9/18.

**SB 824 (Lara D) Insurers: declared disaster: homeowners' insurance policies.**

**Introduced:** 1/3/2018

**Last Amended:** 5/2/2018

**Status:** 5/2/2018-Read second time and amended. Re-referred to Com. on APPR.

**Location:** 5/2/2018-S. APPR.

**Summary:**

Would prohibit an insurer from canceling or refusing to renew a policy of residential property insurance for one year after the declaration of a state of emergency based solely on the fact that the insured structure is located in a county in which one or more catastrophic events have occurred for which a state of emergency has been declared, as specified and subject to exceptions if the insurer's solvency is threatened.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** CSAC Bulletin 3/1/18. SB 824 (Lara) support letter to the author & Senate Insurance 4/2/18.

**SB 833 (McGuire D) Emergency alerts: evacuation orders: operators.**

**Introduced:** 1/4/2018

**Status:** 4/23/2018-April 23 hearing: Placed on APPR. suspense file.

**Location:** 4/23/2018-S. APPR. SUSPENSE FILE

**Summary:**

Would provide for a red alert system designed to issue and coordinate alerts following an evacuation order, as specified. The bill would require the red alert system to incorporate a variety of notification resources and developing technologies that may be tailored to the circumstances and geography of the underlying evacuation, as appropriate. The bill would require a local government agency or state agency that uses the federal Wireless Emergency Alert (WEA)

system to alert a specified area of an evacuation order to use the term "red alert" in the alert and notify OES of the alert.

**Organization:** Cara Martinson

**CSAC Position:** Support\_If\_Amended

**Subject:** Agriculture and Natural Resources

**Notes 1:** CSAC Bulletin 3/1/2018. SB 833 (McGuire) support if amended letter to Senate GO 4/3/18. SB 833 (McGuire) support if amended letter to author 4/3/18. SB 833 (McGuire) support if amended to Sen Appropriations 4/18/18.

**SB 897** **(McGuire D) Residential property insurance: wildfires.**

**Introduced:** 1/12/2018

**Last Amended:** 5/1/2018

**Status:** 5/1/2018-Read second time and amended. Ordered to third reading.

**Location:** 5/1/2018-S. THIRD READING

**Calendar:**

5/7/2018 #32 SENATE SEN THIRD READING FILE - SEN BILLS

**Summary:**

Current law requires an insurer, in the event of a loss under a residential insurance policy for which the insured has made a claim for additional living expenses, to provide the insured with a list of items that the insurer believes may be covered under the policy as additional living expenses. Additionally, current law provides that, in the case of a loss related to a declared state of emergency, an insurer provide coverage for living expenses for a period of 24 months, subject to the limitations of the policy. This bill would specify that additional living expense coverage shall include all reasonable expenses incurred by the insured in order to maintain a comparable standard of living and would provide a list of expenses that shall be covered.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** SB 897 Support Letter Dodd & Senate Insurance 4/2/18. SB 897 Support Letter McGuire & Senate Insurance 4/2/18.

**SB 998** **(Dodd D) Discontinuation of residential water service: urban and community water systems.**

**Introduced:** 2/5/2018

**Last Amended:** 4/30/2018

**Status:** 4/30/2018-Read second time and amended. Re-referred to Com. on APPR.

**Location:** 4/30/2018-S. APPR.

**Calendar:**

5/14/2018 10 a.m. - John L. Burton Hearing Room  
(4203) SENATE APPROPRIATIONS, LARA, Chair

**Summary:**

Would require an urban and community water system, defined as a public water system that supplies water to more than 200 service connections, to have a written policy on discontinuation of water service to certain types of residences for nonpayment available in prescribed languages. The bill would require the policy to include certain components, be available on the system's Internet Web site, and be provided to customers in writing, upon request. The bill would provide for enforcement of these provisions, including making a violation of these provisions

punishable by a civil penalty issued by the board in an amount not to exceed \$1,000 for each day in which the violation occurs.

**Organization:** Cara Martinson

**CSAC Position:** Support\_If\_Amended

**Subject:** Agriculture and Natural Resources

**Notes 1:** CSAC Bulletin 3/22/18. SB 998 (Dodd) CSAC/ RCRC concern letter to the author 3/27/18. SB 998 (Dodd) CSAC/ RCRC support if amended letter to the author 4/11/18.

**SB 1035 (Jackson D) General plans.**

**Introduced:** 2/8/2018

**Last Amended:** 4/12/2018

**Status:** 5/3/2018-Read third time. Passed. (Ayes 30. Noes 6.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.

**Location:** 5/3/2018-A. DESK

**Summary:**

Current law requires, after the initial revision of a safety element in a general plan of a city or county, to identify flood hazards and address the risk of fire in certain lands upon each revision of the housing element, the planning agency to review and, if necessary, revise the safety element to identify new information relating to flood and fire hazards that was not previously available during the previous revision of the safety element. This bill would require the safety element to be reviewed and revised as necessary to address climate adaptation and resiliency strategies and would require, after these revisions, the planning agency to review and, if necessary, revise the safety element upon each revision of the housing element or local hazard mitigation plan, but not less than once every 8 years, to identify new information relating to flood and fire hazards and climate adaptation and resiliency strategies applicable to the city or county that was not available during the previous revision of the safety element.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** SB 1035 (Jackson) SIA to Senate Governance & Finance committee 3/27/18. CSAC Bulletin 3/29/18. SB 1035 (Jackson) support Sen Appropriations 4/20/18. SB 1035 (Jackson) support Senate Floor Alert 5/2/18.

**SB 1088 (Dodd D) Safety, reliability, and resiliency planning.**

**Introduced:** 2/12/2018

**Last Amended:** 5/2/2018

**Status:** 5/2/2018-From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR. May 7 set for first hearing canceled at the request of author.

**Location:** 4/24/2018-S. APPR.

**Calendar:**

5/14/2018 10 a.m. - John L. Burton Hearing Room  
(4203) SENATE APPROPRIATIONS, LARA, Chair

**Summary:**

The California Emergency Services Act, among other things, establishes the Office of Emergency Services for the purpose of mitigating the effects of natural, manmade, or war-caused emergencies and makes findings and declarations relating to ensuring that preparation within the state will be adequate to deal with

those emergencies. This bill would require the office, in consultation with specified public entities, by September 30, 2019, to adopt standards for reducing risks from a major event, as defined.

**Organization:** Cara Martinson  
**CSAC Position:** Support\_If\_Amended  
**Subject:** Agriculture and Natural Resources  
**Notes 1:** CSAC Bulletin 3/22/18. SB 1088 (Dodd) support Senate Energy 4/9/18. SB 1088 (Dodd) support if amended Senate Energy 4/16/18.

**SB 1260 (Jackson D) Fire prevention and protection: prescribed burns.**

**Introduced:** 2/15/2018

**Last Amended:** 4/9/2018

**Status:** 4/27/2018-Set for hearing May 7.

**Location:** 4/25/2018-S. APPR.

**Calendar:**

5/7/2018 10:30 a.m. - John L. Burton Hearing Room  
(4203) SENATE APPROPRIATIONS, LARA, Chair

**Summary:**

Current law requires a local agency to designate, by ordinance, very high fire hazard severity zones in its jurisdiction, as provided in connection with a state program for fire prevention. This bill would require the local agency to transmit a copy of the adopted ordinance to the State Board of Forestry and Fire Protection within 30 days of adoption. By imposing a new duty on a local agency, the bill would impose a state-mandated local program.

**Organization:** Cara Martinson  
**CSAC Position:** Support\_If\_Amended  
**Subject:** Agriculture and Natural Resources  
**Notes 1:** SB 1260 (Jackson) Sen Natural Resources support if amended 4/9/18. SB 1260 (Jackson) Sen Environmental Quality support if amended 4/9/18.

**SB 1302 (Lara D) Cannabis: local jurisdiction: prohibitions on delivery.**

**Introduced:** 2/16/2018

**Last Amended:** 4/26/2018

**Status:** 5/3/2018-Read second time. Ordered to third reading.

**Location:** 5/3/2018-S. THIRD READING

**Calendar:**

5/7/2018 #44 SENATE SEN THIRD READING FILE - SEN BILLS

**Summary:**

MAUCRSA prohibits a local jurisdiction from preventing the delivery of cannabis or cannabis products on public roads by a licensee who is acting in compliance with MAUCRSA as well as any local law adopted pursuant to MAUCRSA. MAUCRSA generally authorizes a local jurisdiction to adopt and enforce local ordinances to regulate licensed businesses located within the local jurisdiction. This bill would prohibit a local government from adopting or enforcing any ordinance that would prohibit a licensee from delivering cannabis within or outside of the jurisdictional boundaries of the local jurisdiction.

**Organization:** Cara Martinson  
**CSAC Position:** Oppose  
**Subject:** Agriculture and Natural Resources

**Notes 1:** SB 1302 oppose joint letter to author 3/20/18. CSAC Bulletin 3/29/18.

**SB 1399 (Wiener D) Renewable energy: shared renewable energy tariffs.**

**Introduced:** 2/16/2018

**Last Amended:** 5/1/2018

**Status:** 5/1/2018-Read second time and amended. Re-referred to Com. on APPR.

**Location:** 5/1/2018-S. APPR.

**Calendar:**

5/14/2018 10 a.m. - John L. Burton Hearing Room

(4203) SENATE APPROPRIATIONS, LARA, Chair

**Summary:**

Would require the Public Utilities Commission to require each large electrical corporation to establish a tariff or tariffs that provide for bill credits for electricity generated by eligible renewable generating facilities and exported to the electrical grid to be credited to electrical accounts of nonresidential customers of the corporations. The bill would require the commission to ensure that the credits reflect the full value of the electricity from the eligible renewable generating facilities and the credits are established using the same methodology that is used to determine credits under the standard contract or tariff for eligible customer-generators.

**Organization:** Cara Martinson

**CSAC Position:** Support

**Subject:** Agriculture and Natural Resources

**Notes 1:** SB 1399 (Wiener) support letter to Senate Energy Utilities and Communications 4/4/18. SB 1399 (Wiener) Support to Senate Appropriations 5/2/18.

Total Measures: 28

Total Tracking Forms: 28

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ACTION ITEM: SB 623: Safe and Affordable Drinking Water Fund  
Attachment Four  
SB 623 (Monning) Water quality: Safe and Affordable Drinking Water  
Memo



May 17<sup>th</sup>, 2018

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To: CSAC Agriculture, Environment and Natural Resources (AENR) Policy Committee  
From: Cara Martinson, Senior Legislative Representative, Federal Affairs Manager  
Nick Cronenwett, Legislative Analyst

Re: SB 623 (Monning) Water quality: Safe and Affordable Drinking Water

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Summary. SB 623, by Senator Bill Monning, would create new charges on drinking water customers and certain agricultural entities to generate revenue to implement a new financial assistance program to address unsafe drinking water, with a focus on disadvantaged communities. The measure proposes to establish a new program—the Safe and Affordable Drinking Water Fund (SADWF)—to be administered by the State Water Resources Control Board (SWRCB) and designed to increase access to safe drinking water. Specifically, the program would provide certain local water agencies—particularly ones in disadvantaged communities—with grants, loans, contracts, or services to help support their operations and maintenance costs. Currently, this measure is also included as part of the Governor’s proposed FY 18-19 State Budget. This proposal is strongly supported by a unique coalition of agriculture and environmental justice advocates and is opposed by the Association of California Water Agencies.

CSAC Staff Recommendation. While CSAC does not have specific policy on a statewide water tax, the CSAC AENR platform does recognize the statewide funding challenges and needs that involve stormwater, flood control, drinking water and groundwater management requirements and compliance with water conservation requirements. In addition, CSAC, in conjunction with our County Environmental Health Directors, has been working with the Administration over the years to discuss pragmatic and practical approaches to addressing this critical public health and equity issue – access to safe and affordable water. CSAC staff recommends that the AENR Committee take a support position on this measure as it strikes a balance between the “polluter pays” principle, and recognizing that lack of access to safe and affordable drinking water is an issue of statewide significance. Furthermore, without adequate funding to address these failing systems, it could ultimately fall upon counties to provide the necessary resources to address this issue.

Background. According to a 2017 Assembly Appropriations Committee analysis of SB 623, over 300 drinking water systems, serving 200,000 Californians, are failing to provide safe drinking water. Many of these systems are found in the Central Valley, where water supplies have been contaminated by pesticides, arsenic and other toxins that have seeped into the water table. In addition to pollution issues, many of these small communities lack the rate payer base to provide adequate revenue for the ongoing maintenance and operations costs of water treatment plants. This can lead to drastically increased water rates. Bonds, grants, and other funding sources are available to help finance the construction of infrastructure, but often once these plants are built there are not enough users to pay for ongoing maintenance and operations. This can lead to sharp increases in water rates for small communities. For example the Alpaugh Community Services District, located in Tulare County, has proposed raising water rates 26% over the next several years in order to pay for the operation of a new water treatment facility which was paid for by a state grant.



County Responsibilities. Counties also regulate these systems. At the local level, 30 of the 58 county environmental health departments in California, also known as Local Primacy Agencies (LPAs), have been delegated the State Water Board’s authority to regulate all Public Water Systems within their jurisdiction that have less than 200 service connections. These 30 LPAs regulate small water systems to ensure that these systems deliver adequate and safe drinking water. The LPA primacy counties are as follows: Alpine, Amador, Butte, Calaveras, Contra Costa, El Dorado, Imperial, Inyo, Kings, Los Angeles, Madera, Mono, Monterey, Napa, Nevada, Placer, Plumas, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Stanislaus, Tehama, Yolo, and Yuba.

The bill also requires the State Water Board to work in conjunction with local public health officers to make available a map of aquifers that are at high risk of containing contaminants that are used or likely to be used as a source of drinking water for certain smaller water systems and domestic wells. This would include identification of water systems potentially in need of assistance to address water contamination issues. The County Environmental Health Officers Association is seeking technical amendments to this section that would lessen the burden of data collection by requiring that certain data be collected and/or provided upon request of SWRCB rather than mandated.

Fees. If adopted, the proposal is expected to generate roughly \$100 million per year by imposing a tax of \$0.95 a month on individuals that purchase water from a public water system (any retail customer with a water meter). The fee paid by users would be determined by a sliding schedule based the size of a user’s water connection; businesses with a connection greater than four inches could pay up to \$10 a month for larger connections. The proposal includes an exemption for households whose income is less than 200 percent of the federal poverty level.

In addition, the proposal includes several fees on industry, including: a mill fee of six “mills” (equal to six-tenths of a cent) per dollar on the sale of all fertilizer; a charge on milk producers beginning January 2021; and, a charge on confined animal facilities—excluding dairies—such as egg-production facilities. The charges are capped at \$1,000 per facility per year. Furthermore, the proposal includes immunity from enforcement action against agricultural operations for exceeding nitrate groundwater objectives or other groundwater pollution standards if the agricultural operation demonstrates implementation of best practicable treatment control, and pays the charges required by this proposal.

In total, the fees are expected to generate roughly \$100 million from water users, \$17 million from fertilizer producers, and \$5.3 million from dairy producers in the first years of implementation, totaling \$122.3 million. The revenue generated from these fees would be placed into a fund and administered by the State Water Resources Control Board’s Office of Sustainable Water Solutions. Funds would be prioritized to assist disadvantaged communities and low-income households served by a water system with less than 14 connections. Funding would be prioritized to support operations and maintenance costs, as well as capital costs associated with water system consolidation and service extensions. Allowable uses would include providing replacement water on a short-term basis, as well as the development, implementation, maintenance, and operation of more permanent solutions (such as treatment systems).

Support and Opposition. The coalition of agriculture, dairy and environmental advocates supporting this measure came together late in the Legislative session last year. Agriculture and dairy interests are supportive of the fees imposed on their industries through this proposal in exchange for

some relief from enforcement. Environmental justice advocates support the measure because it provides certainty and generates a more consistent source of funding for these systems. The Rural County Representatives of California have also expressed their support for SB 623.

The third major group involved in negotiations of this proposal is the public water agencies whose users would pay a bulk of the fee. This measure is opposed by the Association of California Water Agencies (ACWA). ACWA supports the intent of the bill, but believes that general fund dollars, in addition to other funding sources should be used to address the issue. ACWA also opposes language that would require testing of private wells and small water systems (which have less than 15 connections) for water contamination.

Staff Contact. For additional information, please contact Cara Martinson, CSAC Senior Legislative Representative at 916-327-7500, ext. 504, or [cmartinson@counties.org](mailto:cmartinson@counties.org), or Nick Cronenwett, CSAC Legislative Analyst at 916-327-7500, ext. 531, or [ncronenwett@counties.org](mailto:ncronenwett@counties.org).

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ACTION ITEM: SB 623: Safe and Affordable Drinking Water Fund  
Attachment Five  
Text of SB 623 (Monning)

AMENDED IN ASSEMBLY AUGUST 21, 2017

AMENDED IN ASSEMBLY JULY 3, 2017

AMENDED IN ASSEMBLY JUNE 26, 2017

AMENDED IN SENATE APRIL 26, 2017

AMENDED IN SENATE MARCH 30, 2017

**SENATE BILL**

**No. 623**

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**Introduced by Senator Monning**  
**(Principal coauthors: Senators De León and Hertzberg)**  
**(~~Coauthors: Senators Stone and Hernandez~~)**  
**(Coauthors: Senators Dodd, Hernandez, Stone, and Vidak)**  
*(Coauthor: Assembly Member Bloom)*

February 17, 2017

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An act to ~~amend Section 116395 of, and add Article 6.5 (commencing with Section 14615) to Chapter 5 of Division 7 of, to add Article 14.5 (commencing with Section 62215) to Chapter 2 of Part 3 of Division 21 of, and to repeal Sections 14616 and 62216 of, the Food and Agricultural Code, to add Chapter 4.6 (commencing with Section 116765) to Part 12 of Division 104-~~of,~~ of the Health and Safety Code, and to amend Section 13050 of, and to add Article 4.5 (commencing with Section 13278)-~~of to~~ Chapter 4 of Division 7 of, the Water Code, relating to water, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 623, as amended, Monning. Water quality: Safe and Affordable Drinking Water Fund.

(1) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions

relating to the regulation of drinking water to protect public health. Existing law establishes the Office of Sustainable Water Solutions within the State Water Resources Control Board with the purpose of promoting permanent and sustainable drinking water and wastewater treatment solutions to ensure the effective and efficient provision of safe, clean, affordable, and reliable drinking water and wastewater treatment services. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

This bill would establish the Safe and Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the ~~office~~. *state board*. The bill would require the board to administer the fund to ~~assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards, as specified.~~ *secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure.* The bill would authorize the *state board* to provide for the deposit *into the fund* of federal ~~contributions and~~ *contributions*, voluntary contributions, gifts, grants, ~~or bequests.~~ *bequests, and settlements from parties responsible for contamination of drinking water supplies.* The bill would require the *state board* to expend moneys in the fund for grants, loans, contracts, or services to assist ~~those communities and individual domestic well owners that rely on contaminated drinking water to have access to~~ *eligible applicants with projects relating to the provision of safe and affordable drinking water consistent with a fund implementation plan adopted annually by the state board, as prescribed.* The bill would require the *state board* annually to prepare and make available a report of expenditures of the fund and to adopt annually, after a public hearing, an ~~assessment of funding needed to ensure all Californians have access to safe drinking water.~~ *assessment of funding need that estimates the anticipated funding needed for the next fiscal year to achieve the purposes of the fund.* The bill would require, by January 1, 2019, the *state board*, in consultation with local health officers and other relevant stakeholders, to make available a map of aquifers that are used or likely to be used as a source of drinking water that are at high risk of containing contaminants. For purposes of the map, the bill would require local health officers and other relevant local agencies to provide all results of, and data associated with, water

*quality testing performed by certified laboratories to the board, as specified. By imposing additional duties on local health officers and local agencies, the bill would impose a state-mandated local program. By creating a new continuously appropriated fund, this bill would make an appropriation.*

~~The bill would state the intent of the Legislature to subsequently amend the bill to seek specific funding from agricultural operations to assist in providing emergency, interim, and long-term assistance to community water systems and individual domestic well users whose wells are located in agricultural areas.~~

~~(2) The act provides for the operation of public water systems and imposes on the state board various duties and responsibilities for the regulation and control of drinking water in the state. The act generally does not apply to state small water systems, except that the act requires the board to adopt regulations specifying minimum requirements for operation of a state small water system, which are authorized to be less stringent than the requirements for public water systems, requires the enforcement of these requirements, and authorizes the reasonable costs of the local health officer to be recovered. The act, within 3 years after September 19, 1985, required the State Department of Public Health to, among other things, conduct training workshops to assist health officers in evaluation of small public water systems, as defined, for organic chemical contamination, and in sampling and testing procedures and required the local health officer, in consultation with the department, to conduct an evaluation of all small public water systems under their jurisdictions to determine the potential for contamination of groundwater sources by organic chemicals and to develop a sampling plan for each system within their jurisdiction. The act provided that these provisions were operative during any fiscal year only if the Legislature appropriated sufficient funds to pay for all state-mandated costs to be incurred by local agencies during that year due to these provisions.~~

~~This bill would require the state board, by January 1, 2019, to promulgate regulations to require state small water systems and individual domestic wells to test their water supply wells for contamination. The bill would require testing to be prioritized based on local water quality conditions and would require the state board to review these regulations at least every 5 years. The bill would exempt these provisions from the above-described inoperative provision.~~

*(2) Existing law, the Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.*

*This bill would impose, until July 1, 2020, a safe and affordable drinking water fee in specified amounts on each customer of a public water system, to be administered by the state board, in consultation with the California Department of Tax and Fee Administration, in accordance with the Fee Collection Procedures Law. The bill would exempt from the fee a customer that self-certifies under penalty of perjury the customer's satisfaction of specified criteria relating to income. By expanding the crime of perjury, the bill would impose a state-mandated local program. The bill would require, beginning July 1, 2020, the state board to annually determine the amounts of the safe and affordable drinking water fee not to exceed the amounts imposed until July 1, 2020, and not to exceed the anticipated funding need in the most recent assessment of funding need adopted by the state board pursuant to the Safe and Affordable Drinking Water Fund provisions, as prescribed. The bill would require the state board, by July 1, 2020, to adopt regulations, in consultation with the Public Utilities Commission, relating to an exemption from the fee for low-income households, as specified. The bill would require a public water system to collect the fee and to remit these moneys to the state board to be deposited into the Safe and Affordable Drinking Water Fund. The bill would authorize a public water system to apply to the state board to use an alternative method to calculate the fee. By expanding the application of the Fee Collection Procedures Law that imposes criminal penalties for various acts, this bill would impose a state-mandated local program.*

*(3) Existing law requires every person who manufactures or distributes fertilizing materials to be licensed by the Secretary of Food and Agriculture and to pay a license fee that does not exceed \$300. Existing law requires every lot, parcel, or package of fertilizing material to have a label attached to it, as required by the secretary. Existing law requires a licensee who sells or distributes bulk fertilizing materials to pay to the secretary an assessment not to exceed \$0.002 per dollar of sales for all sales of fertilizing materials, as prescribed, for the purposes of the administration and enforcement of provisions relating to fertilizing materials. In addition to that assessment, existing law authorizes the secretary to impose an assessment in an amount not to exceed \$0.001 per dollar of sales for all sales of fertilizing materials for the purpose*

*of providing funding for research and education regarding the use of fertilizing materials. Existing law specifies that a violation of the fertilizing material laws or the regulations adopted pursuant to those laws is a misdemeanor.*

*This bill, until January 1, 2033, would require a licensee to pay to the secretary a fertilizer safe drinking water fee of \$0.005 per dollar of sale for all sales of fertilizing materials. The bill, on and after January 1, 2033, would reduce the fee to \$0.002 per dollar of sale and would authorize the secretary to reduce the fee as necessary to not exceed the anticipated funding need in the most recent assessment of funding need adopted by the board pursuant to the Safe and Affordable Drinking Water Fund provisions. The bill would require these moneys to be deposited into the Safe and Affordable Drinking Water Fund. The bill would authorize the secretary to adopt regulations relating to the administration and enforcement of these provisions. Because a violation of these provisions or regulations adopted pursuant to these provisions would be a crime, the bill would impose a state-mandated local program.*

*(4) Existing law regulates the production, handling, and marketing of milk and dairy products and requires every milk handler subject to that regulatory scheme to pay specified assessments and fees to the Secretary of Food and Agriculture to cover the costs of regulating milk. Existing law governing milk defines “handler” as any person who, either directly or indirectly, receives, purchases, or otherwise acquires ownership, possession, or control of market milk from a producer, a producer-handler, or another handler for the purpose of manufacture, processing, sale, or other handling. Existing law defines “market milk” as milk conforming to specified standards and “manufacturing milk” as milk that does not conform to the requirements of market milk. Existing law provides that a violation of that regulatory scheme or a regulation adopted pursuant to that regulatory scheme is a misdemeanor.*

*This bill would require, beginning January 1, 2020, until January 1, 2035, each handler subject to that regulatory scheme to deduct from payments made to producers for market and manufacturing milk the sum of \$0.01355 per hundredweight of milk as a dairy safe drinking water fee. On and after January 1, 2035, the bill would reduce the fee to \$0.00678 per hundredweight of milk and would authorize the secretary to reduce the fee as necessary to not exceed the anticipated funding need in the most recent assessment of funding need adopted by*



*the board pursuant to the Safe and Affordable Drinking Water Fund provisions. The bill would require these moneys to be deposited into the Safe and Affordable Drinking Water Fund. The bill would authorize the secretary to take specified enforcement actions and would require the secretary to adopt regulations for the administration and enforcement of these provisions. Because a violation of these provisions or regulations adopted pursuant to these provisions would be a crime, the bill would impose a state-mandated local program.*

(3)

(5) Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality. The act requires the state board to formulate and adopt state policies for water quality control and requires the regional boards to adopt regional water quality control plans in compliance with the state policies. Under the act, the state board and the regional boards prescribe waste discharge requirements for the discharge of waste that could affect the quality of the waters of the state. The act requires, upon the order of a regional board, a person who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, to clean up the waste or abate the effects of the waste, or in the case of threatened pollution or nuisance, to take other remedial action.

This bill would prohibit the state board or a regional board, until January 1, 2028, from subjecting an agricultural operation, as defined, to specified enforcement for causing or contributing to an exceedance of a water quality objective for nitrate in groundwater or for causing or contributing to a condition of pollution or nuisance for nitrates in groundwater if that agricultural operation demonstrates that it has satisfied certain mitigation requirements, including, among other requirements, the timely payment of ~~any applicable fee, assessment, or charge~~ *the fertilizer safe drinking water fee or the dairy safe drinking water fee, as applicable*, into the fund. The bill would prohibit the state board or a regional board, beginning January 1, 2028, until January 1, 2033, from subjecting an agricultural operation to specified enforcement for creating or threatening to create a condition of pollution or nuisance for nitrate in groundwater if that agricultural operation demonstrates that it has satisfied the prescribed mitigation requirements. The bill

would require the state board, by January 1, 2027, to conduct a public review of regulatory and basin plan amendment implementation programs to evaluate progress toward achieving water quality objectives with respect to nitrates in groundwater and assess compliance with adopted timelines, monitoring requirements, and implementation of best practicable treatment or control.

*(6) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~no~~<sup>yes</sup>.

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

1     ~~SECTION 1. Section 116395 of the Health and Safety Code~~  
 2     ~~is amended to read:~~  
 3     ~~116395. (a) The Legislature finds and declares all of the~~  
 4     ~~following:~~  
 5     ~~(1) The large water system testing program has discovered~~  
 6     ~~chemical contamination of the state's drinking water with~~  
 7     ~~increasing frequency.~~  
 8     ~~(2) A significant number of California residents rely on the~~  
 9     ~~state's small water systems and individual domestic wells to~~  
 10    ~~provide their water.~~  
 11    ~~(3) The small systems and individual domestic wells, because~~  
 12    ~~they tend to be located in outlying rural areas where pesticide use~~  
 13    ~~is prevalent, and because they draw their water from shallow~~  
 14    ~~aquifers, face a serious threat of contamination.~~  
 15    ~~(4) Unchecked water sources that may be contaminated pose a~~  
 16    ~~potentially serious threat to the health of the citizens of California,~~  
 17    ~~particularly those living in outlying rural areas.~~

1     ~~(5) It is in the interest of all Californians that a testing program~~  
2 ~~for small public water systems and individual domestic wells be~~  
3 ~~implemented and carried out as expeditiously as possible.~~

4     ~~(6) Section 106.3 of the Water Code declares that every~~  
5 ~~Californian has the right to sufficient clean, safe, affordable, and~~  
6 ~~accessible water adequate for human consumption, cooking, and~~  
7 ~~sanitary purposes.~~

8     ~~(7) To ensure that the right of every Californian to sufficient~~  
9 ~~clean, safe, affordable, and accessible water adequate for human~~  
10 ~~consumption, cooking, and sanitary purposes is met, it is in the~~  
11 ~~interest of the State of California to identify water quality threats~~  
12 ~~in the state's drinking water supply, to the extent feasible, whether~~  
13 ~~those supplies serve a public water system, state small water~~  
14 ~~system, or an individual domestic well.~~

15     ~~(b) (1) For purposes of this section, "small public water system"~~  
16 ~~means a system with 200 connections or less, and is one of the~~  
17 ~~following:~~

18     ~~(A) A community water system that serves at least 15 service~~  
19 ~~connections used by yearlong residents or regularly serves at least~~  
20 ~~25 yearlong residents.~~

21     ~~(B) A state small water system.~~

22     ~~(C) A noncommunity water system such as a school, labor camp,~~  
23 ~~institution, or place of employment, as designated by the state~~  
24 ~~board.~~

25     ~~(2) For the purposes of this section, "individual domestic well"~~  
26 ~~means a groundwater well used to supply water for the domestic~~  
27 ~~needs of an individual residence or systems of four or less service~~  
28 ~~connections.~~

29     ~~(e) The state board shall conduct training workshops to assist~~  
30 ~~health officers in evaluation of small public water systems for~~  
31 ~~organic chemical contamination, and in sampling and testing~~  
32 ~~procedures. The state board shall, at a minimum, provide health~~  
33 ~~officers with guidelines for evaluating systems and instructions~~  
34 ~~for sampling.~~

35     ~~(d) The state board shall develop a schedule for conduct of the~~  
36 ~~programs by the local health officers. The schedule shall establish~~  
37 ~~a program to address first those systems with the most serious~~  
38 ~~potential for contamination. The state board shall enter into~~  
39 ~~agreements with the local health agencies to conduct the necessary~~  
40 ~~work to be performed pursuant to the schedule. The department~~

1 shall begin the program no later than three months after September  
2 19, 1985. All local health officers shall complete the evaluation,  
3 sampling, testing, review of sampling results, and notification to  
4 the public water systems within their jurisdiction in accordance  
5 with the agreements entered into with the state board and within  
6 the schedule established by the state board. All work required by  
7 this subdivision shall be completed within three years after  
8 September 19, 1985.

9 (e) By January 1, 2019, the state board shall promulgate  
10 regulations to require state small water systems and individual  
11 domestic wells to test their water supply wells for contamination.  
12 The state board shall prioritize testing based on local water quality  
13 conditions. The state board shall review these regulations at least  
14 every five years.

15 (f) (1) Except as provided in paragraph (2), this section shall  
16 be operative during any fiscal year only if the Legislature  
17 appropriates sufficient funds to pay for all state-mandated costs  
18 to be incurred by local agencies pursuant to this section during  
19 that year.

20 (2) Subdivisions (a), (b), (c), and (f) shall not become  
21 inoperative.

22 SECTION 1. Article 6.5 (commencing with Section 14615) is  
23 added to Chapter 5 of Division 7 of the Food and Agricultural  
24 Code, to read:

25  
26 Article 6.5. Fertilizer Safe Drinking Water Fee

27  
28 14615. (a) It is the intent of the Legislature to require licensees  
29 of bulk fertilizing materials, and to authorize licensees of packaged  
30 fertilizing materials, to pass the fertilizer safe drinking water fee  
31 on to the end user of the fertilizer.

32 (b) For purposes of this article, the following definitions apply:

33 (1) "Bulk fertilizing material" has the same meaning as applies  
34 to "bulk material" in Section 14517.

35 (2) "Fertilizing material" has the same meaning as defined in  
36 Section 14533.

37 (3) "Fund" means the Safe and Affordable Drinking Water  
38 Fund established by Section 116767 of the Health and Safety Code.

39 (4) "Packaged" has the same meaning as defined in Section  
40 14551.

1 14616. (a) *In addition to the assessments provided in Section*  
 2 *14611, a licensee whose name appears on the label of bulk or*  
 3 *packaged fertilizing materials shall pay to the secretary a fertilizer*  
 4 *safe drinking water fee of five mills (\$0.005) per dollar of sales*  
 5 *for all sales of fertilizing materials to be deposited into the fund.*

6 (b) *This section shall remain in effect only until January 1, 2033,*  
 7 *and as of that date is repealed, unless a later enacted statute that*  
 8 *is enacted before January 1, 2033, deletes or extends that date.*

9 14616. (a) *In addition to the assessments provided in Section*  
 10 *14611, a licensee whose name appears on the label of bulk or*  
 11 *packaged fertilizing materials shall pay to the secretary a fertilizer*  
 12 *safe drinking water fee of two mills (\$0.002) per dollar of sales*  
 13 *for all sales of fertilizing materials to be deposited into the fund.*

14 (b) *The secretary may reduce the fertilizer safe drinking water*  
 15 *fee as necessary to not exceed the anticipated funding need in the*  
 16 *most recent assessment of funding need adopted by the State Water*  
 17 *Resources Control Board pursuant to subdivision (b) of Section*  
 18 *116769 of the Health and Safety Code. By October 1 of each year,*  
 19 *the secretary shall notify all licensees of the amount of the fertilizer*  
 20 *safe drinking water fee to be assessed in the following calendar*  
 21 *year.*

22 (c) *This section shall become operative on January 1, 2033.*

23 14617. (a) (1) *A licensee whose name appears on the label*  
 24 *who sells or distributes bulk fertilizing materials shall charge an*  
 25 *unlicensed purchaser the fertilizer safe drinking water fee as a*  
 26 *charge that is separate from, and not included in, any other fee,*  
 27 *charge, or other amount paid by the purchaser. This fee shall be*  
 28 *included on the bill of sale as a separate line item.*

29 (2) *A licensee whose name appears on the label of packaged*  
 30 *fertilizing materials may include the fertilizer safe drinking water*  
 31 *fee as a charge that is separate from, and not included in, any*  
 32 *other fee, charge, or other amount paid by the purchaser.*

33 (b) *The secretary may prescribe, adopt, and enforce regulations*  
 34 *relating to the administration and enforcement of this article.*

35 (c) *The secretary may retain up to 2 percent of the moneys*  
 36 *collected pursuant to this article for reasonable costs associated*  
 37 *with the implementation and enforcement of this article.*

38 SEC. 2. *Article 14.5 (commencing with Section 62215) is added*  
 39 *to Chapter 2 of Part 3 of Division 21 of the Food and Agricultural*  
 40 *Code, to read:*

1  
2           Article 14.5. Dairy Safe Drinking Water Fee  
3

4       62215. (a) *It is the intent of the Legislature that the dairy safe*  
5 *drinking water fee be paid for all milk purchased in the state,*  
6 *regardless of grade.*

7       (b) *For purposes of this article, the following definitions apply:*

8       (1) *“Fee” means the dairy safe drinking water fee.*

9       (2) *“Manufacturing milk” has the same meaning as defined in*  
10 *Section 32509.*

11       (3) *“Market milk” has the same meaning as defined in Section*  
12 *32510.*

13       (4) *“Milk” includes market milk and manufacturing milk.*

14       62216. (a) *Beginning January 1, 2020, each handler, including*  
15 *a producer-handler, subject to the provisions of a stabilization*  
16 *and marketing plan shall deduct the sum of \$0.01355 per*  
17 *hundredweight of milk from payments made to producers for milk,*  
18 *including the handler’s own production, as a dairy safe drinking*  
19 *water fee.*

20       (b) *The secretary shall adopt regulations necessary for the*  
21 *proper administration and enforcement of this section by January*  
22 *1, 2020.*

23       (c) *This section shall remain in effect only until January 1, 2035,*  
24 *and as of that date is repealed, unless a later enacted statute that*  
25 *is enacted before January 1, 2035, deletes or extends that date.*

26       62216. (a) *Each handler, including a producer-handler,*  
27 *subject to the provisions of a stabilization and marketing plan*  
28 *shall deduct the sum of \$0.00678 per hundredweight of milk from*  
29 *payments made to producers for milk, including the handler’s own*  
30 *production, as a dairy safe drinking water fee.*

31       (b) *The secretary may reduce the fee, and may adjust the fee*  
32 *reduction from time to time, as necessary to not exceed the*  
33 *anticipated funding need in the most recent assessment of funding*  
34 *need adopted by the State Water Resources Control Board pursuant*  
35 *to subdivision (b) of Section 116769 of the Health and Safety Code.*

36       (c) *The secretary shall adopt regulations necessary for the*  
37 *proper administration and enforcement of this section.*

38       (d) *This section shall become operative on January 1, 2035.*

1 62217. (a) A handler shall pay the dairy safe drinking water  
 2 fee to the secretary on or before the 45th day following the last  
 3 day of the month in which the milk was received.

4 (b) The secretary shall remit the moneys paid to him or her  
 5 pursuant to this article to the State Water Resources Control Board  
 6 for deposit into the Safe and Affordable Drinking Water Fund  
 7 established by Section 116767 of the Health and Safety Code. The  
 8 secretary may retain up to 2 percent of the total amount that is  
 9 paid to the secretary for the purposes of covering administrative  
 10 costs borne by the secretary for implementing this section.

11 (c) The secretary may require handlers, including cooperative  
 12 associations acting as handlers, to make reports at any intervals  
 13 and in any detail that he or she finds necessary for the accurate  
 14 collection of the fee.

15 (d) For the purposes of enforcing this article, the secretary,  
 16 through his or her duly authorized representatives and agents,  
 17 shall have access to the records of every producer and handler.  
 18 The secretary shall have at all times free and unimpeded access  
 19 to any building, yard, warehouse, store, manufacturing facility,  
 20 or transportation facility in which any milk or milk product is  
 21 produced, bought, sold, stored, bottled, handled, or manufactured.

22 (e) Any books, papers, records, documents, or reports made to,  
 23 acquired by, prepared by, or maintained by the secretary pursuant  
 24 to this article that would disclose any information about finances,  
 25 financial status, financial worth, composition, market share, or  
 26 business operations of any producer or handler, excluding  
 27 information that solely reflects transfers of production base and  
 28 pool quota among producers, is confidential and shall not be  
 29 disclosed to any person other than the person from whom the  
 30 information was received, except pursuant to the final order of a  
 31 court with jurisdiction, or as necessary for the proper  
 32 determination of any proceeding before the secretary.

33 ~~SEC. 2.~~

34 SEC. 3. Chapter 4.6 (commencing with Section 116765) is  
 35 added to Part 12 of Division 104 of the Health and Safety Code,  
 36 to read:

## 1 CHAPTER 4.6. SAFE AND AFFORDABLE DRINKING WATER

2  
3 *Article 1. Legislative Findings and Declarations*4  
5 116765. *The Legislature finds and declares all of the following:*6 (a) *Section 106.3 of the Water Code declares that it is the policy*  
7 *of the state that every human being has the right to safe, clean,*  
8 *affordable, and accessible water adequate for human consumption,*  
9 *cooking, and sanitary purposes.*10 (b) *For all public water systems, the operation and maintenance*  
11 *costs to supply, treat, and distribute potable water that complies*  
12 *with federal and state drinking water standards on a routine and*  
13 *consistent basis may be significant.*14 (c) *All public water systems are currently required to set,*  
15 *establish, and charge a schedule of rates and fees that are sufficient*  
16 *to recover the operation and maintenance costs required to supply,*  
17 *treat, and distribute potable water that complies with federal and*  
18 *state drinking water standards on a routine and consistent basis.*19 (d) *Hundreds of public water systems in the state cannot charge*  
20 *rates and fees that are affordable and sufficient to recover the full*  
21 *operation and maintenance costs required to supply, treat, and*  
22 *distribute potable water that complies with federal and state*  
23 *drinking water standards on a routine and consistent basis due to*  
24 *a combination of low income levels of customers, high treatment*  
25 *costs for contaminated water sources, and a lack of economies of*  
26 *scale that result in high unit costs for water service. Many schools*  
27 *that serve as their own regulated public water systems and have*  
28 *contaminated water sources cannot afford the full operation and*  
29 *maintenance costs required to provide water that meets federal*  
30 *and state drinking water standards.*31 (e) *Nearly all state or federal drinking water project funding*  
32 *sources prohibit the use of that funding for operation and*  
33 *maintenance costs, and as a result, those systems that cannot afford*  
34 *required operation and maintenance costs are unable to access*  
35 *funding for capital projects to meet federal and state drinking*  
36 *water standards.*37 (f) *As a result, hundreds of thousands of Californians,*  
38 *particularly those living in small disadvantaged communities, may*  
39 *be exposed to unsafe drinking water in their homes and schools,*



1 *which impacts human health, household costs, and community*  
 2 *economic development.*

3 *(g) A significant number of California residents rely on state*  
 4 *small water systems and domestic wells to provide their drinking*  
 5 *water.*

6 *(h) State small water systems and domestic wells are not*  
 7 *currently subject to any comprehensive federal or state*  
 8 *requirements for chemical water quality monitoring. Many local*  
 9 *agencies do not require any monitoring beyond what is required*  
 10 *by state law, and there are wide discrepancies among local*  
 11 *jurisdictions in well monitoring programs.*

12 *(i) The state small water systems and individual domestic wells*  
 13 *face a serious threat of contamination because they often draw*  
 14 *their water from shallow groundwater sources and have fewer or*  
 15 *no chemical monitoring requirements.*

16 *(j) To ensure that the right of every Californian to safe, clean,*  
 17 *affordable, and accessible water adequate for human consumption,*  
 18 *cooking, and sanitary purposes is protected, it is in the interest of*  
 19 *the State of California to identify where Californians are at high*  
 20 *risk of lacking reliable access to safe drinking water or are known*  
 21 *to lack reliable access to safe drinking water, whether they rely*  
 22 *on a public water system, state small water system, or domestic*  
 23 *well for their potable water supply.*

24 *(k) Long-term sustainability of drinking water infrastructure*  
 25 *and service provision is necessary to secure safe drinking water*  
 26 *for all Californians and therefore it is in the interest of the state*  
 27 *to discourage the proliferation of new, unsustainable public water*  
 28 *systems and state small water systems, to prevent waste, and to*  
 29 *encourage consolidation and service extension when feasible.*

30 *(l) It is in the interest of all Californians to establish a fund with*  
 31 *a stable source of revenue to provide financial support, particularly*  
 32 *for operation and maintenance, necessary to secure access to safe*  
 33 *drinking water for all Californians, while also ensuring the long*  
 34 *term sustainability of drinking water service and infrastructure.*

35

36 *Article 2. Definitions*

37

38 ~~116765.~~

39 116766. For the purposes of this chapter:

- 1     ~~(a) “Agricultural operations” has the same meaning as defined~~  
2     ~~in Section 13050 of the Water Code.~~
- 3     (a) “Administrator” *has the same meaning as defined in Section*  
4     116686.
- 5     (b) “Board” means the State Water Resources Control Board.
- 6     (c) “Community water system” has the same meaning as defined  
7     in Section 116275.
- 8     (d) “Customer” *has the same meaning as defined in Section*  
9     10612 *of the Water Code.*
- 10    ~~(d)~~
- 11    (e) “Disadvantaged community” has the same meaning as  
12    defined in Section 116275.
- 13    (f) “Domestic well” *means a groundwater well used to supply*  
14    *water for the domestic needs of an individual residence or water*  
15    *systems with no more than four service connections.*
- 16    ~~(e)~~
- 17    (g) “Fund” means the Safe and Affordable Drinking Water Fund  
18    established pursuant to Section ~~116766~~. 116767.
- 19    (h) “Fund implementation plan” *means the fund implementation*  
20    *plan adopted pursuant to Section 116769.*
- 21    ~~(f)~~
- 22    (i) “Nontransient noncommunity water system” has the same  
23    meaning as defined in Section 116275.
- 24    ~~(g)~~
- 25    (j) “Public water system” has the same meaning as defined in  
26    Section 116275.
- 27    ~~(h)~~
- 28    (k) “Replacement water” includes, but is not limited to, bottled  
29    water, point-of-use, or point-of-entry treatment units.
- 30    ~~(i) “Safe Drinking Water Plan” means the plan prepared pursuant~~  
31    ~~to Section 116355.~~
- 32    (l) “Safe drinking water” *has the same meaning as defined in*  
33    *Section 116681.*
- 34    (m) “Service connection” *has the same meaning as defined in*  
35    *Section 116275.*
- 36    (n) “Small community water system” *has the same meaning as*  
37    *defined in Section 116275.*
- 38    (o) “State small water system” has the same meaning as defined  
39    in Section 116275.

1           Article 3. *Safe and Affordable Drinking Water Fund*

2  
3     ~~116766.~~

4     116767. The Safe and Affordable Drinking Water Fund is  
5 hereby established in the State Treasury. Notwithstanding Section  
6 13340 of the Government Code, all moneys in the fund are  
7 continuously appropriated to ~~the Office of Sustainable Water~~  
8 ~~Solutions within~~ the board without regard to fiscal years, in  
9 accordance with this chapter. Moneys in the fund at the close of  
10 the fiscal year shall remain in the fund and shall not revert to the  
11 General Fund.

12     ~~116767.~~

13     116768. (a) The board shall administer the fund for the  
14 purposes of this chapter to provide a stable source of funding to  
15 ~~assist communities and individual domestic well users to address~~  
16 ~~contaminants in drinking water that exceed~~ *secure access to safe*  
17 *drinking water standards, the treatment of which would otherwise*  
18 ~~make the cost of water service unaffordable for all Californians,~~  
19 *while also ensuring the long-term sustainability of drinking water*  
20 *service and infrastructure.* The board shall prioritize the use of  
21 this funding to assist ~~low-income disadvantaged~~ communities and  
22 low-income individual domestic well users. ~~In addition, order to~~  
23 *maximize the use of other funding sources for capital construction*  
24 *projects when available,* the board shall prioritize ~~the use of this~~  
25 funding for costs other than those related to capital construction  
26 ~~costs. An costs, except for capital construction costs associated~~  
27 *with consolidation and service extension to reduce the ongoing*  
28 *unit cost of service and to increase sustainability of drinking water*  
29 *infrastructure and service delivery. Beginning January 1, 2019,*  
30 *an expenditure from the fund shall be consistent with the annual*  
31 *fund implementation plan developed pursuant to Section 116769.*  
32 ~~On and after January 1, 2020, the total unencumbered amount in~~  
33 ~~the fund shall not exceed the board's total estimated need for~~  
34 ~~moneys in the fund over a two-year period.~~ *plan.*

35     (b) In accordance with subdivision (a), the board shall expend  
36 moneys in the fund for grants, loans, contracts, or services to assist  
37 ~~those communities and individual domestic well owners that rely~~  
38 ~~on contaminated drinking water to have access to safe and~~  
39 ~~affordable drinking water~~ *eligible applicants* with any of the  
40 following:

1 (1) The provision of replacement water, as needed, to ensure  
2 immediate protection of health and safety as a short-term solution.

3 (2) The development, implementation, and sustainability of  
4 long-term solutions, including, but not limited to, *technical*  
5 *assistance*, planning, construction, and operation and maintenance  
6 costs associated with replacing, blending, or treating contaminated  
7 ~~wells and drinking water sources~~, consolidating water systems  
8 ~~systems, or extending drinking water services to other public water~~  
9 ~~systems, domestic wells, or state small water systems. Technical~~  
10 ~~assistance and planning costs may include, but are not limited to,~~  
11 ~~analyses to identify, and efforts to further, opportunities to reduce~~  
12 ~~the unit cost of providing drinking water through organizational~~  
13 ~~and operational efficiency improvements, system consolidation~~  
14 ~~and service extension, implementation of new technology, and~~  
15 ~~other options and approaches to reduce costs.~~

16 (3) ~~Identifying and providing outreach to Californians without~~  
17 ~~access to safe drinking water who are eligible to receive assistance~~  
18 ~~from the fund and providing outreach to them. fund.~~

19 (4) Testing the drinking water quality of ~~individual~~ domestic  
20 wells serving ~~low-income households~~: *households with an income*  
21 *equal to or less than 200 percent of the federal poverty level in*  
22 *high risk areas identified pursuant to Article 4 (commencing with*  
23 *Section 116770).*

24 (c) Eligible applicants for funding include *public water systems;*  
25 *public agencies, including, but not limited to, local educational*  
26 *agencies; nonprofit organizations, public utilities, organizations;*  
27 *federally recognized Indian tribes, tribes; state Indian tribes listed*  
28 *on the Native American Heritage Commission's California tribal*  
29 *consultation list, Tribal Consultation List; administrators; and*  
30 *groundwater sustainability agencies, and mutual water companies.*  
31 *agencies.*

32 (d) *The board may expend moneys from the fund for reasonable*  
33 *costs associated with administration of the fund. Beginning July*  
34 *1, 2020, the board may expend up to no more than 5 percent of*  
35 *the annual expenditures from the fund for reasonable costs*  
36 *associated with administration of the fund.*

37 (e) The board may undertake any of the following actions to  
38 implement the fund:

39 (1) Provide for the deposit of any of the following available and  
40 necessary moneys into the fund:

1 (A) Federal contributions.

2 (B) Voluntary contributions, gifts, grants, or bequests.

3 (C) *Settlements from parties responsible for contamination of*  
4 *drinking water supplies.*

5 (2) Enter into agreements for contributions to the fund from the  
6 federal government, local or state agencies, and private  
7 corporations or nonprofit organizations.

8 (3) Provide for appropriate audit, accounting, and fiscal  
9 management services, plans, and reports relative to the fund.

10 (4) *Direct portions of the fund to a subset of eligible applicants*  
11 *as required or appropriate based on funding source and consistent*  
12 *with the annual fund implementation plan.*

13 ~~(4)~~

14 (5) Take additional incidental action as may be appropriate for  
15 adequate administration and operation of the fund.

16 (f) *In administering the fund, the board shall make reasonable*  
17 *efforts to ensure all of the following:*

18 (1) *That parties responsible for contamination of drinking water*  
19 *supplies affecting an eligible applicant can be directly or easily*  
20 *identified by the board to pay or reimburse costs associated with*  
21 *contamination.*

22 (2) *That funds are used to secure the long-term sustainability*  
23 *of drinking water service and infrastructure, including, but not*  
24 *limited to, requiring adequate technical, managerial, and financial*  
25 *capacity of eligible applicants as part of funding agreement*  
26 *outcomes. Funding shall be prioritized to implement consolidations*  
27 *and service extensions when feasible, and administrative and*  
28 *managerial contracts entered into pursuant to Section 116686*  
29 *where applicable. Funds shall not be used to delay, prevent, or*  
30 *avoid the consolidation or extension of service to public water*  
31 *systems where it is feasible and the least-cost alternative. The*  
32 *board may set appropriate requirements as a condition of funding,*  
33 *including, but not limited to, a system technical, managerial, or*  
34 *financial capacity audit, improvements to reduce costs and increase*  
35 *efficiencies, an evaluation of alternative treatment technologies,*  
36 *and a consolidation or service extension feasibility study. As a*  
37 *condition of funding, the board may require a domestic well with*  
38 *nitrate contamination where ongoing septic system failure may be*  
39 *causing or contributing to contamination of a drinking water*  
40 *source to conduct an investigation and project to address the septic*

1 system failure if adequate funding sources are identified and  
2 accessible.

3 (3) That funds are not used to subsidize large-scale nonpotable  
4 use, to the extent feasible.

5 (g) At least once every 10 years, the board shall conduct a public  
6 review and assessment of the Safe and Affordable Drinking Water  
7 Fund, including, but not limited to, the effectiveness of the fund,  
8 the appropriateness of fees deposited into the fund, and any actions  
9 needed to carry out the purposes of this chapter. The board shall  
10 post the information it gathers on its Internet Web site and shall  
11 submit the information to the Legislature in compliance with  
12 Section 9795 of the Government Code.

13 ~~116768. It is the intent of the Legislature to subsequently amend~~  
14 ~~this section to seek specific funding from agricultural operations~~  
15 ~~to assist in providing emergency, interim, and long-term assistance~~  
16 ~~to community water systems and individual domestic well users~~  
17 ~~whose wells have been impacted by nitrate contamination and~~  
18 ~~whose wells are located in agricultural areas.~~

19 ~~116769.~~

20 ~~116769. Annually, By July 1 of each year, the board shall do~~  
21 ~~all of the following:~~

22 (a) Prepare and make available a report of expenditures from  
23 the fund.

24 (b) Adopt, after a public hearing, an assessment of funding  
25 needed to ensure all Californians have access to safe drinking  
26 water. This annual assessment shall incorporate information  
27 contained in the Safe Drinking Water Plan and include a list of  
28 community water systems and nontransient noncommunity water  
29 systems without access to safe drinking water, as well as  
30 identification of small communities and rural populations not  
31 served by public water systems that do not have access to safe  
32 drinking water. need, based on available data, that includes all of  
33 the following:

34 (1) Identification of systems and populations potentially in need  
35 of assistance, including all of the following:

36 (A) A list of systems that consistently fail to provide an adequate  
37 supply of safe drinking water. The list shall include, but is not  
38 limited to, all of the following:

39 (i) Any public water system that consistently fails to provide an  
40 adequate supply of safe drinking water.

1 (ii) Any community water system that serves a disadvantaged  
2 community that must charge fees that exceed the affordability  
3 threshold established in the Clean Water State Revolving Fund  
4 Intended Use Plan in order to supply, treat, and distribute potable  
5 water that complies with federal and state drinking water  
6 standards.

7 (iii) Any state small water system that consistently fails to  
8 provide an adequate supply of safe drinking water.

9 (B) A list of programs that assist, or that will assist, households  
10 supplied by a domestic well that consistently fails to provide an  
11 adequate supply of safe drinking water. This list shall include the  
12 number and approximate location of households served by each  
13 program without identifying exact addresses or other personal  
14 information.

15 (C) A list of public water systems and state small water systems  
16 that may be at risk of failing to provide an adequate supply of safe  
17 drinking water.

18 (D) An estimate of the number of households that are served by  
19 domestic wells or state small water systems in high risk areas  
20 identified pursuant to Article 4 (commencing with Section 116770).  
21 The estimate shall identify approximate locations of households,  
22 without identifying exact addresses or other personal information,  
23 in order to identify potential target areas for outreach and  
24 assistance programs.

25 (2) An analysis of anticipated funding needed for known  
26 projects, services, or programs by eligible applicants, consistent  
27 with the fund implementation plan, including any funding needed  
28 for existing long-term funding commitments from the fund. The  
29 board shall identify and consider other existing funding sources  
30 able to support any projects, services, or programs identified,  
31 including, but not limited to, local funding capacity, state or federal  
32 funding sources for capital projects, funding from responsible  
33 parties, and specialized funding sources contributing to the fund.

34 (3) An estimate of the funding needed for the next fiscal year  
35 based on the amount available in the fund, anticipated funding  
36 needs, other existing funding sources, and other relevant data and  
37 information.

38 (c) (1) Adopt, after a public hearing, a fund implementation  
39 plan with priorities and guidelines for expenditures of the fund.  
40 The

1 (2) *The board shall work with a multistakeholder advisory group*  
 2 *that shall be open to participation by representatives of entities*  
 3 *paying into the fund, public water systems, technical assistance*  
 4 *providers, local agencies, ~~affected persons,~~ nongovernmental*  
 5 *organizations, residents served by community water systems in*  
 6 *disadvantaged communities, state small water systems, domestic*  
 7 *wells, and the public, to establish priorities for the plan.*

8 ~~(2) The fund implementation plan shall prioritize eligibility for~~  
 9 ~~expenditures of the fund based on the following:~~

10 ~~(A) A water system's current or projected water rates needed~~  
 11 ~~to ensure safe drinking water exceed or will exceed 1.5 percent of~~  
 12 ~~the median household income for that water system and the water~~  
 13 ~~system qualifies as a disadvantaged community.~~

14 ~~(B) The costs for providing potable water for an individual~~  
 15 ~~domestic well exceed or will exceed 1.5 percent of the household's~~  
 16 ~~income and the household's income is less than 80 percent of the~~  
 17 ~~statewide household median income.~~

18  
 19 *Article 4. Information on High Risk Areas*

20  
 21 *116770. (a) (1) By January 1, 2019, the board, in consultation*  
 22 *with local health officers and other relevant stakeholders, shall*  
 23 *use available data to make available a map of aquifers that are at*  
 24 *high risk of containing contaminants and that exceed primary*  
 25 *federal and state drinking water standards that are used or likely*  
 26 *to be used as a source of drinking water for a state small water*  
 27 *system or a domestic well. The board shall update the map at least*  
 28 *annually based on any newly available data.*

29 *(2) The board shall make the map of high risk areas, as well as*  
 30 *the data used to make the map, publicly accessible on its Internet*  
 31 *Web site in a manner that does not identify exact addresses or*  
 32 *other personal information and that complies with the Information*  
 33 *Practices Act of 1977 (Chapter 1 (commencing with Section 1798)*  
 34 *of Title 1.8 of Part 4 of Division 3 of the Civil Code). The board*  
 35 *shall notify local health officers and county planning agencies of*  
 36 *high risk areas within their jurisdictions.*

37 *(b) (1) A local health officer or other relevant local agency*  
 38 *shall provide all results of, and data associated with, water quality*  
 39 *testing performed by certified laboratories for a state small water*  
 40 *system or domestic well that is in the possession of the local health*



1 officer or other relevant local agency in an electronic format to  
2 the board by January 1, 2019.

3 (2) On and after January 1, 2019, a local health officer or other  
4 relevant local agency shall require all results of, and data  
5 associated with, water quality testing performed by a certified  
6 laboratory for a state small water system or domestic well that is  
7 submitted to the local health officer or other relevant local agency  
8 to also be submitted directly to the board in electronic format.

9

10 Article 5. Safe and Affordable Drinking Water Fee

11

12 116771. (a) (1) Until July 1, 2020, there is hereby imposed  
13 a safe and affordable drinking water fee on each person or entity  
14 that purchases water from a public water system, as follows:

15 (A) For a customer with a water meter that is less than or equal  
16 to one inch in size, the fee shall be ninety-five cents (\$0.95) per  
17 month.

18 (B) For a customer with a water meter that is greater than one  
19 inch and less than or equal to two inches in size, the fee shall be  
20 four dollars (\$4) per month.

21 (C) For a customer with a water meter that is greater than two  
22 inches and less than or equal to four inches in size, the fee shall  
23 be six dollars (\$6) per month.

24 (D) For a customer with a water meter that is greater than four  
25 inches in size, the fee shall be ten dollars (\$10) per month.

26 (E) For a customer without a water meter, the fee shall be  
27 ninety-five cents (\$0.95) per month.

28 (2) A customer that self-certifies under penalty of perjury to the  
29 public water system collecting the fee that he or she meets either  
30 of the following criteria shall be exempt from the payment of the  
31 fee:

32 (i) The customer's household income is equal to or less than  
33 200 percent of the federal poverty level.

34 (ii) The customer operates a deed-restricted multifamily housing  
35 development that is required to provide housing exclusively to  
36 tenants with household incomes equal to or less than 200 percent  
37 of the federal poverty level.

38 (3) (A) A customer that is already enrolled in a program offered  
39 by a public water system that is designed specifically to reduce  
40 the cost of water service incurred by customers who meet

1 established income guidelines is exempt from the payment of the  
2 fee.

3 (B) A connection or meter that is used exclusively for fire flow  
4 or uses nonpotable water, including, but not limited to, recycled  
5 water, is exempt from the fee.

6 (4) A customer that has multiple connections or meters serving  
7 a single address shall only pay a single monthly fee based on the  
8 customer's largest metered connection.

9 (b) (1) (A) Beginning July 1, 2020, each person or entity that  
10 purchases water from a public water system shall be assessed a  
11 fee according to a fee schedule established by the board for the  
12 purposes of the Safe and Affordable Drinking Water Fund.

13 (B) The fee schedule shall not exceed the amounts established  
14 in paragraph (1) of subdivision (a).

15 (C) The board shall review and revise the fee schedule each  
16 fiscal year as necessary to not exceed the anticipated funding need  
17 in the most recent assessment of funding need.

18 (D) The fee schedule shall establish that a customer that has  
19 multiple connections or meters serving a single address shall only  
20 pay a single monthly fee pursuant to this section, based on its  
21 largest metered connection.

22 (E) (i) The fee schedule shall exempt any connection or meter  
23 that is used exclusively for fire flow or utilizes nonpotable water,  
24 including, but not limited to, recycled water.

25 (ii) By July 1, 2020, the board, in consultation with the Public  
26 Utilities Commission, shall adopt regulations to exempt households  
27 with incomes equal to or less than 200 percent of the federal  
28 poverty level from the fee established in the fee schedule pursuant  
29 to this subdivision. The Public Utilities Commission shall provide  
30 consultation, as well as relevant data, from the California Alternate  
31 Rates for Energy or CARE program established pursuant to Section  
32 739.1 of the Public Utilities Code and from the water utility  
33 low-income rate payer assistance programs developed pursuant  
34 to Section 739.8 of the Public Utilities Code to the board to aid  
35 in development and implementation of the regulations for  
36 exemption pursuant to this clause.

37 (2) (A) Beginning July 1, 2022, the fee schedule shall be set at  
38 an amount that does not result in the total uncommitted amount  
39 in the fund exceeding two times the anticipated funding need in  
40 the most recent assessment of funding need.

1 (B) For purposes of this paragraph, “total uncommitted amount  
2 in the fund” does not include moneys in the fund from the fertilizer  
3 safe drinking water fee established by Article 6.5 (commencing  
4 with Section 14615) of Chapter 5 of Division 7 of the Food and  
5 Agricultural Code until January 1, 2033, and does not include  
6 moneys in the fund from the dairy safe drinking water fee  
7 established by Article 14.5 (commencing with Section 62215) of  
8 Chapter 2 of Part 3 of Division 21 of the Food and Agricultural  
9 Code until January 1, 2035.

10 (c) A public water system shall collect the fee from each of its  
11 customers and may retain an amount, as approved by the board,  
12 as reimbursement for the reasonable costs incurred by the public  
13 water system associated with the collection of the fee. For small  
14 community water systems, reasonable public water system  
15 administrative cost reimbursement shall not exceed five hundred  
16 dollars (\$500) or 2 percent of the total revenue collected,  
17 whichever is greater. For all other public water systems,  
18 reasonable public water system administrative cost reimbursement  
19 shall not exceed 1 percent of the total revenue from the fees  
20 collected. The public water system shall remit the remainder to  
21 the board on an annual schedule.

22 (d) The board may approve an exemption for a community water  
23 system and its customers from the requirements of this section if  
24 the board finds that the amount that would be required to be  
25 remitted to the board pursuant to this section would be de minimis.

26 (e) Notwithstanding any other provision of this article, a fee  
27 shall not be imposed pursuant to this article on a person or entity  
28 that is itself a public water system if that public water system is  
29 only purchasing water from a public water system to supply its  
30 own customers that are themselves being assessed the fee.

31 (f) All moneys remitted to the board under this article shall be  
32 deposited in the Safe and Affordable Drinking Water Fund. The  
33 moneys remitted to the board under this article shall not be  
34 available for appropriation or borrowed for use for any purpose  
35 not established in this chapter unless that use of the moneys  
36 receives an affirmative vote of two-thirds of the membership in  
37 each house of the Legislature.

38 116772. (a) A public water system may apply to the board to  
39 authorize the public water system to use an alternative method to  
40 calculate the amount owed by each customer for the charge

1 *imposed by Section 116771 by submitting an application, in a form*  
2 *prescribed by the board, that demonstrates both of the following:*

3 *(1) That the method required by statute, regulation, or fee*  
4 *schedule adopted by the board would be impractical for the public*  
5 *water system to collect.*

6 *(2) That the method proposed by the public water system would*  
7 *provide an approximately equivalent level of total revenue and is*  
8 *consistent with the fee restrictions in this article, including, but*  
9 *not limited to, amount maximums and exemptions.*

10 *(b) The board shall review any application submitted pursuant*  
11 *to subdivision (a) to determine whether the justifications*  
12 *demonstrated pursuant to paragraphs (1) and (2) of subparagraph*  
13 *(a) are valid. If the board denies the application, that denial shall*  
14 *be in writing and shall not be reviewable. If the board approves*  
15 *the application, the public water system may use the alternative*  
16 *method for an amount of time prescribed by the board, not to*  
17 *exceed five years.*

18 *(c) There is not a limit on the number of applications the board*  
19 *is authorized to approve pursuant to this section to establish or*  
20 *renew an alternative method of fee calculation.*

21 *116773. (a) The board, in consultation with the California*  
22 *Department of Tax and Fee Administration, shall administer and*  
23 *collect the fees imposed by this article in accordance with the Fee*  
24 *Collection Procedures Law (Part 30 (commencing with Section*  
25 *55001) of Division 2 of the Revenue and Taxation Code).*

26 *(b) For purposes of administration of the fee imposed by this*  
27 *article, the following references in the Fee Collection Procedures*  
28 *Law shall have the following meanings:*

29 *(1) "Board" or "State Board of Equalization" means the State*  
30 *Water Resources Control Board.*

31 *(2) "Fee" means the safe and affordable drinking water fee*  
32 *imposed pursuant to this article.*

33 *(3) "Feepayer" means a customer liable to pay the fee.*

34 *(c) The board, in consultation with the California Department*  
35 *of Tax and Fee Administration, may prescribe, adopt, and enforce*  
36 *regulations relating to the administration and enforcement of this*  
37 *article, including, but not limited to, collections, reporting, refunds,*  
38 *and appeals.*

39 *(d) The initial regulations adopted by the board to implement*  
40 *this article shall be adopted in accordance with Chapter 3.5*

1 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
 2 *2 of the Government Code, and shall not rely on the statutory*  
 3 *declaration of emergency in subdivision (e).*

4 *(e) Except as provided in subdivision (d), the regulations*  
 5 *adopted pursuant to this section, any amendment to those*  
 6 *regulations, or subsequent adjustments to the annual fees or*  
 7 *adoption of fee schedule, shall be adopted by the board as*  
 8 *emergency regulations in accordance with Chapter 3.5*  
 9 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
 10 *2 of the Government Code. The adoption of these regulations is*  
 11 *an emergency and shall be considered by the Office of*  
 12 *Administrative Law as necessary for the immediate preservation*  
 13 *of the public peace, health, safety, and general welfare. Any*  
 14 *emergency regulations adopted by the board, or adjustments to*  
 15 *the annual fees made by the board pursuant to this section, shall*  
 16 *remain in effect until revised by the board.*

17 ~~SEC. 3.~~

18 SEC. 4. Section 13050 of the Water Code is amended to read:  
 19 13050. As used in this division:

20 (a) "State board" means the State Water Resources Control  
 21 Board.

22 (b) "Regional board" means any California regional water  
 23 quality control board for a region as specified in Section 13200.

24 (c) "Person" includes any city, county, district, the state, and  
 25 the United States, to the extent authorized by federal law.

26 (d) "Waste" includes sewage and any and all other waste  
 27 substances, liquid, solid, gaseous, or radioactive, associated with  
 28 human habitation, or of human or animal origin, or from any  
 29 producing, manufacturing, or processing operation, including waste  
 30 placed within containers of whatever nature prior to, and for  
 31 purposes of, disposal.

32 (e) "Waters of the state" means any surface water or  
 33 groundwater, including saline waters, within the boundaries of the  
 34 state.

35 (f) "Beneficial uses" of the waters of the state that may be  
 36 protected against quality degradation include, but are not limited  
 37 to, domestic, municipal, ~~agricultural~~ *agricultural*, and industrial  
 38 supply; power generation; recreation; aesthetic enjoyment;  
 39 navigation; and preservation and enhancement of fish, wildlife,  
 40 and other aquatic resources or preserves.

1 (g) "Quality of the water" refers to chemical, physical,  
2 biological, bacteriological, radiological, and other properties and  
3 characteristics of water which affect its use.

4 (h) "Water quality objectives" means the limits or levels of  
5 water quality constituents or characteristics which are established  
6 for the reasonable protection of beneficial uses of water or the  
7 prevention of nuisance within a specific area.

8 (i) "Water quality control" means the regulation of any activity  
9 or factor which may affect the quality of the waters of the state  
10 and includes the prevention and correction of water pollution and  
11 nuisance.

12 (j) "Water quality control plan" consists of a designation or  
13 establishment for the waters within a specified area of all of the  
14 following:

15 (1) Beneficial uses to be protected.

16 (2) Water quality objectives.

17 (3) A program of implementation needed for achieving water  
18 quality objectives.

19 (k) "Contamination" means an impairment of the quality of the  
20 waters of the state by waste to a degree which creates a hazard to  
21 the public health through poisoning or through the spread of  
22 disease. "Contamination" includes any equivalent effect resulting  
23 from the disposal of waste, whether or not waters of the state are  
24 affected.

25 (l) (1) "Pollution" means an alteration of the quality of the  
26 waters of the state by waste to a degree which unreasonably affects  
27 either of the following:

28 (A) The waters for beneficial uses.

29 (B) Facilities which serve these beneficial uses.

30 (2) "Pollution" may include "contamination."

31 (m) "Nuisance" means anything which meets all of the following  
32 requirements:

33 (1) Is injurious to health, or is indecent or offensive to the senses,  
34 or an obstruction to the free use of property, so as to interfere with  
35 the comfortable enjoyment of life or property.

36 (2) Affects at the same time an entire community or  
37 neighborhood, or any considerable number of persons, although  
38 the extent of the annoyance or damage inflicted upon individuals  
39 may be unequal.

1 (3) Occurs during, or as a result of, the treatment or disposal of  
2 wastes.

3 (n) "Recycled water" means water which, as a result of treatment  
4 of waste, is suitable for a direct beneficial use or a controlled use  
5 that would not otherwise occur and is therefor considered a  
6 valuable resource.

7 (o) "Citizen or domiciliary" of the state includes a foreign  
8 corporation having substantial business contacts in the state or  
9 which is subject to service of process in this state.

10 (p) (1) "Hazardous substance" means either of the following:

11 (A) For discharge to surface waters, any substance determined  
12 to be a hazardous substance pursuant to Section 311(b)(2) of the  
13 Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

14 (B) For discharge to groundwater, any substance listed as a  
15 hazardous waste or hazardous material pursuant to Section 25140  
16 of the Health and Safety Code, without regard to whether the  
17 substance is intended to be used, reused, or discarded, except that  
18 "hazardous substance" does not include any substance excluded  
19 from Section 311(b)(2) of the Federal Water Pollution Control Act  
20 because it is within the scope of Section 311(a)(1) of that act.

21 (2) "Hazardous substance" does not include any of the  
22 following:

23 (A) Nontoxic, nonflammable, and noncorrosive stormwater  
24 runoff drained from underground vaults, chambers, or manholes  
25 into gutters or storm sewers.

26 (B) Any pesticide which is applied for agricultural purposes or  
27 is applied in accordance with a cooperative agreement authorized  
28 by Section 116180 of the Health and Safety Code, and is not  
29 discharged accidentally or for purposes of disposal, the application  
30 of which is in compliance with all applicable state and federal laws  
31 and regulations.

32 (C) Any discharge to surface water of a quantity less than a  
33 reportable quantity as determined by regulations issued pursuant  
34 to Section 311(b)(4) of the Federal Water Pollution Control Act.

35 (D) Any discharge to land which results, or probably will result,  
36 in a discharge to groundwater if the amount of the discharge to  
37 land is less than a reportable quantity, as determined by regulations  
38 adopted pursuant to Section 13271, for substances listed as  
39 hazardous pursuant to Section 25140 of the Health and Safety  
40 Code. No discharge shall be deemed a discharge of a reportable

1 quantity until regulations set a reportable quantity for the substance  
2 discharged.

3 (q) (1) "Mining waste" means all solid, semisolid, and liquid  
4 waste materials from the extraction, beneficiation, and processing  
5 of ores and minerals. Mining waste includes, but is not limited to,  
6 soil, waste rock, and overburden, as defined in Section 2732 of  
7 the Public Resources Code, and tailings, slag, and other processed  
8 waste materials, including cementitious materials that are managed  
9 at the cement manufacturing facility where the materials were  
10 generated.

11 (2) For the purposes of this subdivision, "cementitious material"  
12 means cement, cement kiln dust, clinker, and clinker dust.

13 (r) "Master recycling permit" means a permit issued to a supplier  
14 or a distributor, or both, of recycled water, that includes waste  
15 discharge requirements prescribed pursuant to Section 13263 and  
16 water recycling requirements prescribed pursuant to Section  
17 13523.1.

18 (s) (1) "Agricultural operation" means either of the following:

19 (A) A discharger that satisfies both of the following conditions:

20 (i) The discharger is an owner, operator, or both, of land that is  
21 irrigated to produce crops or pasture for commercial purposes or  
22 a nursery.

23 (ii) The discharger is enrolled or named in an irrigated lands  
24 regulatory program order adopted by the state board or a regional  
25 board pursuant to Section 13263 or 13269.

26 (B) A discharger that satisfies both of the following conditions:

27 (i) The discharger is an owner, operator, or both of a facility  
28 that is used for the raising or harvesting of livestock.

29 (ii) The discharger is enrolled or named in an order adopted by  
30 the state board or a regional board pursuant to Section 13263 or  
31 13269 that regulates the discharges of waste from a facility  
32 identified in clause (i) to protect ground and surface water.

33 (2) "Agricultural operation" does not include any of the  
34 following:

35 (A) An off-farm facility that processes crops or livestock.

36 (B) An off-farm facility that manufactures, synthesizes, stores,  
37 or processes fertilizer.

38 (C) Any portions of land or activities occurring on those portions  
39 of land that are not covered by an order adopted by the state board



1 or a regional board identified in clause (ii) of subparagraph (A) or  
 2 clause (ii) of subparagraph (B) of paragraph (1).

3 ~~SEC. 4.~~

4 *SEC. 5.* Article 4.5 (commencing with Section 13278) is added  
 5 to Chapter 4 of Division 7 of the Water Code, to read:

6

7 Article 4.5. Discharges of Nitrate to Groundwater from  
 8 Agricultural Operations

9

10 13278. (a) For the purposes of this article, the Legislature finds  
 11 all of the following:

12 (1) Implementation of currently known best management  
 13 practices for some crops can reduce but not always completely  
 14 prevent nitrogen in organic and synthetic fertilizers that transform  
 15 to nitrates from reaching groundwater at concentrations above the  
 16 water quality objectives established pursuant to this division.

17 (2) It is acknowledged that discharges of nitrate from agricultural  
 18 operations could reach groundwater and could cause or contribute  
 19 to exceedances of drinking water standards for ~~nitrate~~, and *nitrate*,  
 20 and could cause conditions of pollution of or nuisance in those  
 21 waters as defined and applied in accordance with this division, or  
 22 both.

23 (3) Nitrate contamination of groundwater impacts drinking water  
 24 sources for hundreds of thousands of Californians and it is  
 25 necessary to protect current and future drinking water users from  
 26 the impacts of nitrate contamination.

27 (4) Despite progress in controlling discharges of nitrogen that  
 28 lead to nitrate formation, some groundwater sources of drinking  
 29 water will continue to be adversely impacted by nitrates and it is  
 30 important to have in place a program for mitigating these impacts.

31 (5) The regional boards will continue to regulate discharges to  
 32 reduce nitrogen loading and protect beneficial uses of water and  
 33 groundwater basins; the state board, regional boards, and courts  
 34 will ensure compliance with those orders; and dischargers will pay  
 35 for mitigation of pollution by funding replacement water for  
 36 affected communities.

37 (b) The Legislature declares its intent in establishing this article  
 38 ~~to do both of the following:~~

39 ~~(1) To subsequently amend this article to establish an~~  
 40 ~~agricultural assessment to be paid by agricultural operations for a~~

1 period of 15 years to provide funding, as a portion of the Safe and  
 2 Affordable Drinking Water Fund, to make available alternative  
 3 supplies of safe drinking water to persons affected by discharges  
 4 of nitrogen from agricultural operations that may occur in amounts  
 5 that may cause or contribute to an exceedance of a water quality  
 6 objective or cause conditions of pollution or nuisance.

7 ~~(2) To limit~~ *to limit* enforcement actions that a regional board  
 8 or the state board could otherwise initiate during that 15-year period  
 9 against an agricultural operation paying the agricultural assessment,  
 10 while maintaining the overall framework of this division to protect  
 11 beneficial uses, implement water quality objectives in waters of  
 12 the state, and regulate activities and factors that affect water quality  
 13 to attain the highest water quality that is reasonable.

14 13278.1. (a) An agricultural operation shall not be subject to  
 15 enforcement undertaken or initiated by the state board or a regional  
 16 board under Chapter 5 (commencing with Section 13330) for  
 17 causing or contributing to an exceedance of a water quality  
 18 objective for nitrate in groundwater or for causing or contributing  
 19 to a condition of pollution or nuisance for nitrates in groundwater  
 20 if an agricultural operation that discharges or threatens to discharge,  
 21 or has discharged or previously threatened to discharge, nitrate to  
 22 groundwater demonstrates that it has satisfied all of the following  
 23 mitigation requirements:

24 (1) The agricultural operation has timely paid any applicable  
 25 fee, ~~assessment, or charge~~ *fertilizer safe drinking water fee*  
 26 *established by Article 6.5 (commencing with Section 14615) of*  
 27 *Chapter 5 of Division 7 of the Food and Agricultural Code or*  
 28 *dairy safe drinking water fee established by Article 14.5*  
 29 *(commencing with Section 62215) of Chapter 2 of Part 3 of*  
 30 *Division 21 of the Food and Agricultural Code* into the Safe and  
 31 Affordable Drinking Water Fund ~~or an applicable agricultural~~  
 32 ~~assessment is providing funding into the Safe and Affordable~~  
 33 ~~Drinking Water Fund.~~ *established by Section 116767 of the Health*  
 34 *and Safety Code.* For the purposes of this paragraph, “timely paid”  
 35 means that an agricultural operation has paid all applicable fees,  
 36 assessments, or charges, no later than 90 days after their respective  
 37 due dates, since the application of the fee, assessment, or charge  
 38 to the agricultural operation.

39 (2) Except as provided in subdivision (b), the agricultural  
 40 operation is in compliance with all applicable provisions prescribed

1 by a regional board or the state board in an order adopted pursuant  
2 to Section 13263 or 13269, including, but not limited to, the  
3 following:

4 (A) Requirements to implement best practicable treatment or  
5 control.

6 (B) Best efforts, monitoring, and reporting requirements.

7 (C) Timelines.

8 (3) The agricultural operation is in compliance with an  
9 applicable program of implementation for achieving groundwater  
10 quality objectives for nitrate that is part of an applicable water  
11 quality control plan adopted by the state board or a regional board  
12 pursuant to Article 3 (commencing with Section 13240).

13 (b) (1) The mitigation requirement contained in paragraph (2)  
14 of subdivision (a) does not include any generalized prohibition  
15 contained in an order adopted under Section 13263 or 13269 on  
16 causing or contributing, or threatening to cause or contribute, to  
17 an exceedance of a water quality objective for nitrate in  
18 groundwater or a condition of pollution or nuisance for nitrate in  
19 groundwater.

20 (2) (A) An agricultural operation is not in compliance with the  
21 mitigation requirement in paragraph (2) of subdivision (a) if the  
22 agricultural operation has been subject to an enforcement action  
23 under Chapter 5 (commencing with Section 13330) within the  
24 preceding 12 months for any violation of an order adopted under  
25 Section 13263 or 13269 authorizing discharges from agricultural  
26 operations.

27 (B) Subparagraph (A) does not apply to an enforcement action  
28 commenced after January 1, 2016, and before January 1, 2018,  
29 inclusive, alleging that a discharge from an agricultural operation  
30 caused or contributed, or threatened to cause or contribute, to an  
31 exceedance of a water quality objective for nitrate in groundwater,  
32 conditions of pollution or nuisance for nitrate in groundwater, or  
33 both.

34 (3) An agricultural operation does not qualify for the  
35 enforcement exemption set forth in this subdivision if the operation  
36 fails to continue to make applicable payments into the Safe and  
37 Affordable Drinking Water Fund to the extent that the agricultural  
38 operation maintains a continuance of farming operation.

1 (c) Both of the following apply to a discharge of nitrogen by an  
2 agricultural operation that occurs when the discharger is in full  
3 compliance with the mitigation requirements:

4 (1) The discharge shall not be admissible in a future enforcement  
5 action against the agricultural operation by the state board or a  
6 regional board pursuant to Chapter 5 (commencing with Section  
7 13300) to support a claim that the agricultural operation is causing  
8 or contributing, or threatening to cause or contribute, to an  
9 exceedance of a water quality objective for nitrate in groundwater  
10 or a condition of pollution or nuisance for nitrate in groundwater.

11 (2) The discharge shall not be considered by the state board or  
12 a regional board to apportion responsibility and shall not be used  
13 by any person to diminish responsibility in any enforcement action  
14 initiated pursuant to Chapter 5 (commencing with Section 13300)  
15 with respect to discharges of nitrogen, regardless of source, that  
16 did not occur in compliance with the mitigation requirements.

17 (d) Nothing in this section alters the state board's or a regional  
18 board's authority to require or conduct investigations, to require  
19 reports on or to establish other requirements for best practicable  
20 treatment or control, or to require monitoring and reporting  
21 requirements to protect water quality.

22 (e) This section shall not be deemed to change or alter a water  
23 quality objective that is part of a water quality control plan adopted  
24 by the state board or a regional board pursuant to Article 3  
25 (commencing with Section 13240).

26 (f) This section shall remain in effect only until January 1, 2028,  
27 and as of that date is repealed.

28 13278.2. (a) An agricultural operation shall not be subject to  
29 enforcement undertaken or initiated by the state board or a regional  
30 board under Section 13304 for creating or threatening to create a  
31 condition of pollution or nuisance for nitrates in groundwater if  
32 an agricultural operation that discharges or threatens to discharge,  
33 or has discharged or previously threatened to discharge, nitrate to  
34 groundwater demonstrates that it has satisfied all of the following  
35 mitigation requirements:

36 (1) The agricultural operation has timely paid any applicable  
37 ~~fee, assessment, or charge~~ *fertilizer safe drinking water fee*  
38 *established by Article 6.5 (commencing with Section 14615) of*  
39 *Chapter 5 of Division 7 of the Food and Agricultural Code or*  
40 *dairy safe drinking water fee established by Article 14.5*

1 (*commencing with Section 62215*) of Chapter 2 of Part 3 of  
2 *Division 21 of the Food and Agricultural Code* into the Safe and  
3 Affordable Drinking Water Fund ~~or an applicable agricultural~~  
4 ~~assessment is providing funding into the Safe and Affordable~~  
5 ~~Drinking Water Fund.~~ *established by Section 116767 of the Health*  
6 *and Safety Code.* For the purposes of this paragraph, “timely paid”  
7 means that an agricultural operation has paid all applicable fees,  
8 assessments, or charges, no later than 90 days after their respective  
9 due dates, since the application of the fee, assessment, or charge  
10 to the agricultural operation.

11 (2) Except as provided in subdivision (b), the agricultural  
12 operation is in compliance with all applicable provisions prescribed  
13 by a regional board or the state board in an order adopted pursuant  
14 to Section 13263 or 13269, including, but not limited to, the  
15 following:

16 (A) Requirements to implement best practicable treatment or  
17 control.

18 (B) Best efforts, monitoring, and reporting requirements.

19 (C) Timelines.

20 (3) The agricultural operation is in compliance with an  
21 applicable program of implementation for achieving groundwater  
22 quality objectives for nitrate that is part of an applicable water  
23 quality control plan adopted by the state board or a regional board  
24 pursuant to Article 3 (*commencing with Section 13240*).

25 (b) (1) The mitigation requirement contained in paragraph (2)  
26 of subdivision (a) does not include any generalized prohibition  
27 contained in an order adopted under Section 13263 or 13269 on  
28 causing or contributing, or threatening to cause or contribute, to  
29 an exceedance of a water quality objective for nitrate in  
30 groundwater or a condition of pollution or nuisance for nitrate in  
31 groundwater.

32 (2) An agricultural operation is not in compliance with the  
33 mitigation requirement in paragraph (2) of subdivision (a) if the  
34 agricultural operation has been subject to an enforcement action  
35 under Chapter 5 (*commencing with Section 13330*) within the  
36 preceding 12 months for any violation of an order adopted under  
37 Section 13263 or 13269 authorizing discharges from agricultural  
38 operations.

39 (3) An agricultural operation does not qualify for the  
40 enforcement exemption set forth in this subdivision if the operation

1 fails to continue to make applicable payments into the Safe and  
2 Affordable Drinking Water Fund to the extent that the agricultural  
3 operation maintains a continuance of farming operation.

4 (c) Both of the following apply to a discharge of nitrogen by an  
5 agricultural operation that occurs when the discharger is in full  
6 compliance with the mitigation requirements:

7 (1) The discharge shall not be admissible in a future enforcement  
8 action against the agricultural operation by the state board or a  
9 regional board pursuant to Chapter 5 (commencing with Section  
10 13300) to support a claim that the agricultural operation is causing  
11 or contributing, or threatening to cause or contribute, to an  
12 exceedance of a water quality objective for nitrate in groundwater  
13 or a condition of pollution or nuisance for nitrate in groundwater.

14 (2) The discharge shall not be considered by the state board or  
15 a regional board to apportion responsibility and shall not be used  
16 by any person to diminish responsibility in any enforcement action  
17 initiated pursuant to Chapter 5 (commencing with Section 13300)  
18 with respect to discharges of nitrogen, regardless of source, that  
19 did not occur in compliance with the mitigation requirements.

20 (d) Nothing in this section alters the state board's or a regional  
21 board's authority to require or conduct investigations, to require  
22 reports on or to establish other requirements for best practicable  
23 treatment or control, or to require monitoring and reporting  
24 requirements to protect water quality.

25 (e) This section shall not be deemed to change or alter a water  
26 quality objective that is part of a water quality control plan adopted  
27 by the state board or a regional board pursuant to Article 3  
28 (commencing with Section 13240).

29 (f) (1) This section shall become operative on January 1, 2028.

30 (2) This section shall remain in effect only until January 1, 2033,  
31 and as of that date is repealed, unless a later enacted statute that  
32 is enacted before January 1, 2033, deletes or extends that date.

33 13278.3. By January 1, 2027, the state board shall conduct a  
34 public review of regulatory and basin plan amendment  
35 implementation programs to evaluate progress toward achieving  
36 water quality objectives with respect to nitrates in groundwater  
37 and assess compliance with adopted timelines, monitoring  
38 requirements, and implementation of best practicable treatment or  
39 control.

1 13278.4. Nothing in this article limits the liability of a  
2 discharger under any other law, including, but not limited to, Part  
3 3 (commencing with Section 3479) of Division 4 of the Civil Code.

4 *SEC. 6. No reimbursement is required by this act pursuant to*  
5 *Section 6 of Article XIII B of the California Constitution for certain*  
6 *costs that may be incurred by a local agency or school district*  
7 *because, in that regard, this act creates a new crime or infraction,*  
8 *eliminates a crime or infraction, or changes the penalty for a crime*  
9 *or infraction, within the meaning of Section 17556 of the*  
10 *Government Code, or changes the definition of a crime within the*  
11 *meaning of Section 6 of Article XIII B of the California*  
12 *Constitution.*

13 *However, if the Commission on State Mandates determines that*  
14 *this act contains other costs mandated by the state, reimbursement*  
15 *to local agencies and school districts for those costs shall be made*  
16 *pursuant to Part 7 (commencing with Section 17500) of Division*  
17 *4 of Title 2 of the Government Code.*

---

Wildfire Insurance: A Discussion of Liability & Coverage  
Attachment Six  
CSAC Letter to Legislative Leadership Re: Utilities Wildfire Liability (April  
30<sup>th</sup>, 2018)





April 30, 2018

1100 K Street  
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California  
95814

Telephone  
916.327.7500

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916.441.5507

The Honorable Anthony Rendon, Assembly Speaker  
California State Assembly  
Sacramento, CA 95814

The Honorable Toni Atkins, Senate President Pro Tempore  
California State Senate  
Sacramento, CA 95814

**RE: Liability for 2017 California Wildfires**

Dear Assembly Speaker Rendon and Senate President Pro Tem Atkins:

The California State Association of Counties (CSAC) writes to express our opposition to any potential undue transfer of the liability that resulted from California's historic 2017 wildfire season. It has come to our attention that there is an advocacy effort underway to limit and/or comprehensively restrict negligent liability on the part of the Investor Owned Utilities (IOUs) as a result of the 2017 wildfires in Northern and Southern California. This effort comes even prior to the final report from the Department of Forestry and Fire Prevention that seeks to identify the source of the fires and any liability associated.

As you know, the 2017 fire season was among the worst in the history of California. On Oct. 8, 2017, a series of wildfires erupted in Northern California and engulfed 100 square miles. Encouraged by the same hot and windy conditions, other major wildfires soon broke out across the state, devastating more than 245,000 acres of land and destroying over 8,900 structures. Containment took nearly two weeks, and tragically 44 lives were lost. On Dec. 4, 2017, another series of wildfires erupted in Southern California, resulting in significant destruction in Ventura, Los Angeles, San Diego and Santa Barbara counties. These fires spread quickly due to strong winds and dry brush. The fires destroyed hundreds of homes and other structures, burned almost 300,000 acres, and caused widespread power outages that forced the closure of major highways and local roads. The affected communities—including 13 counties—have suffered many billions of dollars in uninsured losses.

Our concern is that there is an effort underway to preemptively, and potentially retroactively, deny the rights of those who sustained losses from the fires before a full assessment of cause and determination can be made. We understand that the safety division of the California Public Utilities Commission (CPUC) and the Department of Forestry and Fire Prevention (CAL Fire) are still in the process of reviewing whether a utility might have played a role in triggering the disaster. As this investigation will take some time to determine the full extent of cause and liability, we think it is dangerously premature to consider any legislative or budgetary proposal that would make changes to liability. Furthermore, if IOU actions ahead of the fires were reasonable and prudent, there should be no need for further action to reduce liability. However, let us be clear.

CSAC strongly opposes immunity, retroactive or otherwise, for IOUs regarding legal liability resulting from utility-caused fires.

Should you have any questions regarding our position, we welcome an open dialogue. Please feel free to contact my staff, Darby Kernan, CSAC Deputy Executive Director for Legislative Affairs, at 916-327-7500, ext. 509, or Cara Martinson, Senior Legislative Representative, at 916-327-7500, ext. 504.

Sincerely,



Graham Knaus  
Executive Director

cc: Members of the California Assembly & Senate

---

Wildfire Insurance: A Discussion of Liability & Coverage  
Attachment Seven  
CDI White Paper: Availability and Affordability of Insurance in the Wildland-  
Urban Interface. CDI Summary and Proposed Solutions



# **The Availability and Affordability of Coverage for Wildfire Loss in Residential Property Insurance in the Wildland-Urban Interface and Other High-Risk Areas of California: CDI Summary and Proposed Solutions**

California Department of Insurance



## **California Department of Insurance**

# The Availability and Affordability of Coverage for Wildfire Loss in Residential Property Insurance in the Wildland-Urban Interface and Other High-Risk Areas of California: CDI Summary and Proposed Solutions

Staff White Paper for Senate Insurance Banking and Financial Institutions and  
Assembly Insurance Committees, Governor's Tree Mortality Task Force,  
and Other Stakeholders

Prepared by:  
California Department of Insurance's Availability and Affordability of Residential  
Property Insurance Task Force

Primary authors:  
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December 2017

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## I. Executive Summary

### A. Background

Why has the availability and affordability of insurance coverage in certain regions of California become an issue in the last few years? Consider these recent events and developments that have led to this situation.

In September 2015, the Valley Fire (Lake County) and Butte Fire (Calaveras County) were (at the time) the third and seventh most damaging California wildfires in terms of the number of structures destroyed. Combined, these fires resulted in more than 3,000 destroyed structures, including more than 1,700 homes. These fires caused several fatalities and more than one billion dollars in insured damages, with additional damage to uninsured properties and public infrastructure.

Then disaster struck again as the October 2017 wildfires resulted in the most destructive fires in the history of the state in terms of the number of structures destroyed. While claims data is still being received, the latest information is that this widespread destruction resulted in damaging or destroying more than 14,700 homes and 728 businesses, causing more than nine billion dollars in insured damages so far.

Over the past two decades, many wildfires have caused significant insurance damage in the wildland-urban interface (WUI). (Appendix A.) Based on a 2010 U.S.D.A. report (*The Wildland-Urban Interface of the Conterminous United States*), there are an estimated 3.6 million California homes in the WUI. (Appendix B.) Also, based on the primary wildfire-risk models and CALFIRE data, more than one million homes in the WUI are in a high or very high risk-of-fire area. (Appendix C.) As a result, wildfire risk mitigation and insurance related issues in the WUI have a significant impact on the overall economy, government resources and infrastructure, and the safety and financial security of individual homeowners located in the WUI.

Since the Valley and Butte wildfires, the California Department of Insurance (CDI) has received increased complaints, evidence, and feedback from consumers, consumer groups, public officials, and other stakeholders that homeowners' insurance coverage in the WUI is increasingly difficult to obtain and, if available, is unaffordable to many that need it. Complaints for both renewal issues and premium increases rose significantly from 2010 to 2016, both statewide and in the USPS ZIP Codes designated by CALFIRE as having the greatest risk of wildfire. However, complaints received from the CALFIRE designated ZIP Codes made up more than 60% of these complaints, even though the population in these ZIP Codes is only 38% of the overall state population. (Appendix D.)

Based upon a survey of all residential property insurers over a two-year period, there has been a significant increase in insurer-initiated non-renewals in the California counties with the highest proportion of homes located in high-risk-for-wildfire areas. (Appendix E.)



As part of CDI's participation in the Governor's Tree Mortality Task Force (TMTF) Insurance Subgroup, stakeholders have expressed concern that wildfire-risk models (used by insurers to underwrite and rate residential properties) are not accurate and do not take into account mitigation done by the homeowner or the community. The TMTF has been meeting now for more than two years. During this time, several problems have been identified and some solutions have been proposed. Implementation remains a challenge, however, and insurance problems persist in the WUI. Now, with the recent 2017 wildfires that have caused many fatalities and destruction of thousands more structures, we can expect that the insurance issues will only worsen.

Many of the currently proposed solutions are based on the expectation that the insurance industry will voluntarily agree to change some of its current business practices and how it uses certain decision-making tools. The major insurance trade groups, responding on behalf of their members in a September 25, 2017 letter to the TMTF, cited various reasons why there isn't much likelihood of insurers changing the current course of market contraction. (Appendix F.) The groups noted that some changes are needed, which will be addressed below in the Recommendation section (section I.C.). Relying on voluntary industry changes (while a worthwhile goal) is unlikely to lead to long-term solutions that the affected stakeholders seek.

This paper provides a summary of the major issues and offers CDI's recommendations to the Legislature and other stakeholders as to how these problems can be addressed through a cooperative effort from all levels of government, the insurance industry, consumers groups, and other stakeholders.

## **B. Summary of Findings**

To identify the issues and proposed solutions, CDI extensively reviewed consumer complaints and feedback from stakeholders, including the TMTF, and conducted an in-depth analysis of the two major wildfire-risk models. Our findings include the following:

1. Several major insurers have been pulling back from writing new business and, in many cases, renewals in certain parts of the WUI. While some of these risks are being picked up by other admitted insurers, many of these consumers are being forced to purchase coverage through the FAIR Plan and/or the surplus-lines market.
2. Premiums and wildfire surcharges have increased significantly in the WUI.
3. Most insurers do not take into consideration wildfire mitigation conducted by homeowners or the community, either for underwriting or for offering a premium credit for mitigation efforts.
4. Third-party wildfire-risk models are not specifically regulated by CDI or any other entity. While actuarial standards are in place to guide actuaries in the

general use of models from third-party vendors, there are no specific statutory standards in place to ensure the models' accuracy or reliability in rating and underwriting of homeowners' insurance. There is no mechanism in place for consumers to appeal a wildfire-risk model score.

5. CDI does not have the necessary authority to regulate how insurers underwrite residential property insurance.
6. Since any single insurer does not have sufficient loss experience in the WUI to validate the rates and premiums charged for each wildfire-risk-model score, there is a need to create a credible database for wildfire loss experience in the WUI in order for insurers to use rating plans that impact rates in the WUI.

### **C. Recommendation**

The Legislature should create a framework within which insurers will, under certain conditions: (1) offer homeowners' insurance in the WUI if the insured conducts specific wildfire mitigation, but also permit the insurer to avoid the requirement of offering homeowners' insurance in the WUI if the insurer instead offers a "difference in conditions" policy or a "premises liability" policy; (2) offer a mitigation premium credit for those property owners that conduct proper mitigation; (3) obtain approval for wildfire-risk models used in rating or underwriting; (4) allow for an appeal process before an adverse decision is finalized; and (5) stabilize the rating structure in order to ensure that homeowners' insurance rates and premiums are adequate, but not excessive, for the true wildfire risk.

While there are still areas of disagreement with insurers on the degree of the problem and how to solve it, based upon our interaction with them, there appears to be some areas where insurers, consumers, and stakeholders agree. For instance, in the insurance industry trade group letter to the TMTF, insurers agreed that: (1) mitigation/risk-reduction activities should be factored into wildfire risk models, and (2) a tiered-risk analysis/assessment would also be appropriate, and (3) a legislative-based mitigation insurance framework would also be appropriate. (Appendix F.)

## **II. Discussion**

### **A. Previous Actions Taken by CDI to Address Availability and Affordability Problem of Wildfire Insurance Coverage**

CDI does not possess the necessary statutory authority from the Legislature to fully address many of the problems identified in this area. Notwithstanding, CDI is doing all it can to make those improvements that are within our existing authority. Some of the recent changes CDI has implemented include:

- Improvements to the FAIR Plan: The Insurance Commissioner, using his authority over the FAIR Plan, enhanced the coverages offered, including adding

optional replacement cost coverage for contents and debris removal, adding free replacement cost coverage to all eligible FAIR Plan policies, removing the 3-Declination Rule so that the applicant does not have to receive three declinations from admitted insurers in order to apply for FAIR Plan coverage, and requiring the FAIR Plan to create a searchable database of registered brokers authorized to sell FAIR Plan policies. (Appendix G.) Also, in 2016, Commissioner Jones sponsored SB 1302 (McGuire), which broadened requirements on insurers to notify cancelled and non-renewed policyholders of the FAIR Plan, including information on the toll-free telephone number and the FAIR Plan's website. The law, which became effective in 2017, also mandated all qualified brokers to provide greater assistance to applicants in applying for the FAIR Plan. Since FAIR Plan is the insurer of last resort established by the legislature, it is important that it be readily available to those who need it.

- Outreach to Insurance Companies: CDI has encouraged homeowners' insurance companies to continue to offer homeowners' insurance in high-risk fire areas and to also offer difference-in-conditions (DIC) coverage, which consists of all coverage other than fire (and other perils covered by the FAIR Plan) that can supplement a FAIR Plan fire policy, and posted a list of those insurers that offer DIC coverage on the CDI's website to aid consumers.
- Outreach to Agents and Brokers: CDI issued a notice to all agents and brokers licensed to transact homeowners' insurance to increase awareness about surplus lines and the FAIR Plan, and to urge them to assist consumers with finding and applying for homeowners' insurance through the FAIR Plan. CDI also added FAIR Plan registration information to all agent and broker-license renewals, and requested all agents and brokers to register with the FAIR Plan. These actions increased the number of brokers registered to assist consumers in obtaining FAIR Plan coverage.
- Outreach to Public Officials: Immediately after the 2015 Valley and Butte wildfires and continuing to the present, CDI sent information about homeowners' insurance (including the FAIR Plan and surplus-lines insurers) to state legislators, county supervisors, city councils, sheriffs, mayors, and local-government executives. This information included a draft web page that could be placed on public websites linked to CDI's vast consumer information on homeowners' insurance, with lists of all insurance companies admitted to sell homeowners' insurance and DIC coverage, coverage-comparison tools, premium surveys, and other information to assist consumers shop around for the best coverage to meet their needs.
- Proposed Legislation in 2017: CDI suggested legislation requiring insurers to offer quotes to homeowners who meet defensible space guidelines. This suggestion, which was intended to commence a stakeholder conversation on this issue, was not introduced.

- Authorizing New Insurers to Enter the Market: CDI is open to approving innovative products and allowing new insurers to enter the market in an effort to increase availability in the WUI. For example, CDI recently approved a new program for Spinnaker Insurance Company that would allow this company to underwrite more properties in the WUI.

While these actions have created greater awareness of the FAIR Plan and provided consumers with more options in shopping for insurance, they did not solve the overarching problem of the lack of available and affordable coverage in the traditional homeowners' insurance market in the WUI. CDI continues to receive complaints from consumers and public officials that the homeowners' insurance market in the WUI is constricting while premiums are increasing due to the real and perceived higher risk of wildfire. While CDI has resolved some of these individual complaints, many of the issues raised by them fall outside our regulatory authority to resolve. Only voluntary action by insurers or changes in the law by the Legislature can begin to solve these persistent problems.

The lack of available and affordable coverage in the WUI is a unique and significant problem in insurance. Over the past several decades, climate change, forest-management issues, lack of development controls in wildfire-prone areas, and bark-beetle infestation have all contributed to an increased risk of wildfire in the WUI. Having property insurance is vital in order to protect a homeowner's most important asset.

CDI has been meeting with, advising, and assisting the TMTF Insurance Subgroup members with developing possible solutions that involve homeowners' insurance companies voluntarily agreeing to take on more risk under certain conditions. Some of these voluntary solutions include:

- Creation of an Aggregator Tool: Yapacopia is an online service that would connect homeowners who need insurance with insurers and insurance agents and brokers. The brokers and agents who sign up are required to donate a share of their commissions to charities that are chosen by the insureds. Each county may have its own web page. A website is already operating for Placer County as a pilot project.
- Aligning CALFIRE and IBHS Risk-Mitigation Standards: The TMTF received a recent presentation put together by CALFIRE and the Insurance Institute for Building & Home Safety (IBHS). This proposal is to create a program similar to that used for hurricane and high-wind event disasters currently being used in other parts of the country. A program known as "Fortified Home," which uses a three-tiered approach, provides recognized standards of construction that can improve a structure's survivability during a hurricane and high-wind events. Using this same methodology, CALFIRE and IBHS are developing a three-tiered system related to wildfire mitigation. Each tier represents a certain level of

mitigation performed on any given structure in the WUI environment, allowing insurance providers to consider underwriting according to their risk tolerance and to potentially provide discounts for mitigation.

- **Implementing a Wildfire Partners (Boulder) Model in California:** This model is a partnership between insurers, non-profits, and communities where, if the homeowner obtains a certificate that they completed certain mitigation standards, the participating insurers would agree to write the coverage. This program is partially funded by FEMA and the State of Colorado. Each homeowner pays \$100 for an assessment. Allstate, State Farm (for existing customers), and USAA have agreed to accept the Wildfire Partners Certificate for underwriting purposes. In addition to being underwritten by an insurer, the homeowner benefits from going through the program because a well-mitigated home gives firefighters the opportunity to do their job more safely. Firefighters will not risk their lives to defend an unmitigated home. Even if firefighters are unable to directly protect the home during a wildfire, there is still an increased chance of the home's survival as a result of having implemented effective wildfire mitigation. For more information, visit <http://www.wildfirepartners.org/>.

While CDI and the TMTF will continue to work with the insurance industry to pursue these voluntary solutions, it is unclear whether these actions will persuade insurance companies to take on more risk or otherwise improve availability.

In light of this, CDI has been asked to clarify what authority it has or might require in order to address this insurance problem. In order to achieve measurable, long-term improvement in this area, the Legislature would need to enact new laws.

## **B. Highlights of Proposed Legislative Framework**

The section provides a summary of the major insurance issues identified by CDI and the legislative concepts we believe are necessary to achieve long-term success in addressing these problems. While CDI is not recommending that every part of this proposal be implemented, some of the proposed solutions will work effectively only if other parts of the proposal are also included. CDI is not sponsoring the proposed legislation, but is offering to provide technical and policy support to the Legislature and to work collaboratively with all stakeholders.

### **1. Offering, Issuing, and Renewing Homeowners' Insurance Coverage**

**The Problem:** Homeowners have filed a significant number of complaints alleging that their insurer has non-renewed their policy or refused to insure them due to the real or perceived wildfire risk. Many of these homeowners have conducted extensive and costly defensible space and other mitigation efforts, but these actions have not resulted in any significant change. Some of these homeowners are employees of CALFIRE or

other fire-protection organizations and believe they have conducted reasonable mitigation that warrants reconsideration by their insurer.

Legislative Proposal: An insurer admitted to transact fire insurance would agree to offer, issue, or renew a “policy of residential property insurance” for reasons relating to the risk of fire loss on property located within “state responsibility areas,” as defined in Public Resources Code section 4102, or a “very high fire severity zone,” as defined in Government Code section 51177, if the property meets specific mitigation and defensible-space criteria and any other underwriting guidelines relating to the peril of fire that have a substantial relationship to the risk of fire loss, which guidelines would be approved by the Insurance Commissioner.

An applicant or insured can provide a certification that the property complies with the provisions of Public Resources Code section 4291. The certification may be issued by either: (1) a not-for-profit wildfire-mitigation program designated to inspect properties and issue certifications by the Insurance Commissioner and the CALFIRE Director or (2) a local or state fire official. The certification would be required to be updated every three years.

Exception: An insurer admitted to transact fire insurance may refuse to offer, issue, or renew a “policy of residential property insurance” for reasons relating to the risk of fire loss on property located within “state responsibility areas,” as defined in Public Resources Code section 4102, or a “very high fire severity zone,” as defined in Government Code section 51177, if the insurer instead offers the applicant or insured a “difference in conditions” insurance policy and/or a “premises liability” insurance policy. As explained above, a DIC policy is a policy of residential property insurance covering all risks currently offered by the insurer except for the coverages and perils offered by a basic property insurance policy issued by the California FAIR Plan Association pursuant to Insurance Code sections 10090-10100.2. A “premises liability” policy is one that covers bodily injury and property damage suffered by others in connection with the property, including personal liability coverage and medical-payment coverage. The premises-liability policy offered by the insurer must be at least as broad as the liability portion of coverage offered by that insurer under its homeowners’ insurance coverage.

This proposal would resolve the availability problem, as a homeowner would have access to purchase either a homeowners’ insurance policy or two complementary policies (DIC and FAIR Plan), which, together, would cover what a current homeowners’ policy covers. Also, for those homeowners who wish to purchase less coverage, the option of purchasing a FAIR Plan policy along with a premises-liability policy would be a reasonable alternative.

This proposal does not, however, address the affordability problem. Given the inherent risk of wildfires and related claims exposure for insurers in certain areas, the cost of the homeowners’ insurance policy or the combination (FAIR Plan/DIC) policy may still be unaffordable for some.

## **2. Premium Credit for Wildfire Risk Mitigation**

The Problem: Similar to the availability issue above, homeowners have filed a significant number of complaints alleging that their insurer has increased their premiums due to the real or perceived wildfire risk. CDI has seen cases where homeowners were paying an annual premium of \$800-\$1,000 but, upon renewal, saw increases to as high as \$2,500-\$5,000. Some of these homeowners have conducted extensive and costly defensible-space and other mitigation, but these actions did not lower premiums. While the inherent risk of wildfires in certain areas increases the cost of a homeowners' insurance policy, CDI believes there are legislative changes that can be enacted to lessen the severity of these high-premium increases.

Legislative Proposal: A property insured under a policy of residential property insurance is eligible for a premium credit, as compared to other similarly situated properties, if the property meets specific mitigation and defensible-space criteria, as described above, for offering, issuing, and renewing homeowners' insurance coverage.

Note: The TMTF recently received a presentation put together by CALFIRE and the IBHS setting forth a proposal to create a program similar to that used for hurricane and high-wind event disasters currently being used in other parts of the country. The program is known as "Fortified Home," which, as explained above, uses a three-tiered approach to improve a structure's survivability for wind events. Using this same methodology, a three-tiered system could also be developed related to wildfire damage prevention levels of structures in the WUI environment, allowing insurance providers a higher level of confidence in risk management. If such a program is developed, then mitigation-premium credits could be pegged to these criteria.

## **3. Wildfire-Risk Models**

The Problem: Based upon complaints received from homeowners and members of the Legislature, the majority of non-renewals, refusals to insure, and increased premiums in these rural areas were the result of insurers' greater use and emphasis on wildfire-risk models, which are used to underwrite and rate residential properties. Legislators, other public officials, and their constituents have expressed concern that wildfire-risk models are not accurate, do not provide satellite imagery that is granular enough to objectively identify fuel sources and other physical characteristics, and do not take into account mitigation done by the homeowner or the community. Since the wildfire-risk tools that insurers use have a measure of objectivity and a relationship to the risk of loss, CDI lacks the statutory authority under current law to prohibit an insurer from using these tools to determine whether it will issue or renew a homeowners' insurance policy. While CDI has authority over how an insurer uses a wildfire-risk tool to classify and rate individual properties in a homeowners' insurance program, we have no authority over the development and construction of the models.

Over the past year, CDI has reviewed a number of prevalent wildfire-risk models used by insurers, which has raised questions on certain aspects of these models.

The models provide a scoring mechanism that attempts to recognize the likelihood of a property being at risk of damage or destruction due to wildfire. These models incorporate factors that are related to the risk of wildfire and the propensity of a property to burn. These factors include fuel, surface composition, slope, aspect, distance to high risk areas, and access.

- **Fuel** is used to identify the various types and location of vegetation (e.g., chaparral, grass, trees, dense brush). Different fuels burn at different rates and intensities, resulting in different levels of wildfire risk.
- **Surface composition** recognizes vegetation patterns that have been linked to cyclical historic fires.
- Steeper **slopes** tend to increase the speed and intensity of the wildfire.
- **Aspect** reflects the direction of the slope face upon which the property resides. In California, south-facing slopes are typically drier and have a greater propensity to burn than north-facing slopes.
- When the property is not in a higher risk area, the **distance to the nearest higher risk area** can increase or decrease a property's exposure to wildfire. This factor reflects the potential for wind-borne embers to migrate to and ignite fires in lower-risk areas.
- **Access** reflects the ease or difficulty with which firefighting personnel and equipment can reach properties at risk of wildfire.

While the above factors appropriately relate to the risk of wildfire, there are issues with the models reviewed.

- Individual homeowners' efforts to include **defensible space** (brush clearance) and other **home fortification and construction measures** are not considered in the current models.
- **Community mitigation efforts** are not considered in the models. The adherence to more stringent building codes in wildfire-prone areas, the use of firebreaks, and fire-watch efforts are all factors that can reduce individual exposure to wildfire loss.
- Certain issues with regard to **access** are not considered in the models. No consideration is given to road width, shoulders, and availability of multiple access routes.

Still other problems with the use of models by insurers include:



- The use of the risk score to support the level of granularity used by insurers remains in question, since the propensity to burn does not increase with each individual change in score.
- Individual insurers lack sufficient claims data to support the rating differentials being filed in support of their rate segmentation.

CDI Action on Wildfire-Risk Models: CDI is addressing the concerns identified from our review of these models directly with insurers that have submitted rate filings that use them. However, because these tools only generally describe segments of the homeowners' risk pool that have a higher risk of wildfire, CDI is unable to greatly impact whether and how insurers use the tools to underwrite and rate homeowners' insurance in the state. Progress in this regard can be achieved with direct and broader authority over wildfire-risk models granted by the Legislature.

Legislative Proposal: Insurers will be permitted to use a "wildfire-risk model" (to determine eligibility for, or the premium of, a policy of residential property insurance) only if it has been filed with and approved by the Insurance Commissioner. Under this proposal, a "wildfire-risk model" is defined as any computer-based, map-based, or other measurement or simulation tool used by an insurer to rate, underwrite, or otherwise assess or evaluate the risk of wildfire and/or consequence of wildfire to residential structures. The Insurance Commissioner shall not approve a wildfire-risk model used by an insurer to determine eligibility for, or the premium of, a policy of residential property insurance unless the model takes into account the amount and density of fuel surrounding the structure, slope and slope aspect (direction) of the property, accessibility to the property by emergency responders, and any community-level or property-level mitigation efforts, if that data is provided by state or local fire officials or is otherwise available to the insurer by way of an inspection of the property. The Insurance Commissioner may promulgate regulations setting forth standards for wildfire-risk models used by an insurer to determine eligibility for, or the premium of, a policy of residential property insurance, as well as what level of support insurers must provide to validate the underwriting decisions or rate filings that use wildfire-risk models.

#### **4. Right of Homeowner to Appeal a Score or Factor Determined by a Wildfire-Risk Model**

The Problem: CDI has received a significant number of complaints from homeowners alleging that after an insurer has non-renewed, refused to insure, or increased premiums due to a change in score or new use of a wildfire-risk model, there is no mechanism in place to appeal the score determined by the model.

Legislative Proposal: An insured or applicant for a policy of residential property insurance who disagrees with the score or other factors determined by a wildfire-risk model used by an insurer shall be permitted to appeal such score or other determined factor directly with the insurer. The insurer shall respond to any appeal within 30 calendar days. If the person appealing the score or other determined factor is insured

with the insurer with whom the appeal is made, the insurer shall make no “adverse underwriting decision,” as defined in Insurance Code section 791.02, during the pendency of the appeal, including, but not limited to, cancellation, non-renewal, or charging a premium increase on the policy.

If the appeal results in an adverse-underwriting decision, the insurer shall provide notice to the insured or applicant giving the specific reasons, including for each reason the factual and legal basis known at that time by the insurer for the adverse-underwriting decision. The notice shall also advise the insured or applicant that they may seek review by CDI of the adverse-underwriting decision and the notice shall include the address, internet website address, and telephone number of the unit within CDI that performs this review function. The Insurance Commissioner shall issue a bulletin to insurers advising them of the current unit in CDI that performs this function.

## **5. California Wildfire Exposure Manual**

The Problem: On an individual basis, insurers within California’s admitted market do not write large numbers of risks situated in California’s WUI areas. Each individual insurer’s premium and loss-experience data within WUI areas is minimal and lacks rate credibility. As a result, many insurers opt to use external vendor wildfire risk models that are not specifically designed for rating purposes in their rate-development process. These models, when used for rating, deliver crude pricing estimations that can lead to overpricing or underpricing of risks. Further, many insurers opt to either significantly restrict or simply forego writing risks in WUI areas given the lack of a credible data source to use in pricing risk.

Legislative Proposal: CDI will be granted authority to obtain data from insurers in order to examine the aggregated California premium-and-loss data by wildfire risk (e.g., the data used by CALFIRE’s model) to create a wildfire-exposure-risk manual similar in concept to the frequency and severity bands manual used by auto insurers in developing private passenger auto rates. Insurers could rely on the aggregated wildfire-exposure-risk data to develop credible wildfire-risk rates that would allow them to more accurately price the few risks currently being written as well as loosen their current underwriting restrictions and write more risks that are currently being turned down for coverage.

### **III. Other Considerations**

#### **A. Similar Legislative Proposal from United Policyholders**

CDI has been made aware of other legislative approaches to the issue of availability and affordability of insurance in the WUI. For example, CDI was recently advised of an approach offered by United Policyholders, a non-profit consumer advocacy group based in California and also a member of the Governor’s TMTF Insurance Subgroup. (Appendix H.) While CDI is still evaluating this recent information, the concepts

expressed by United Policyholders generally align with or complement the proposals recommended by CDI.

## **B. Including Reinsurance Costs in Rating Residential Property Insurance**

Insurers have publicly stated to the Legislature, the media, and other stakeholders that that rates for residential property insurance are inadequate because they are not permitted to factor reinsurance expenses into the rates. Insurers assert that if they were permitted to factor reinsurance expenses into the rates, they would write more properties in the WUI and other high-risk areas. After careful consideration, CDI sees no evidentiary support for this assertion.

Currently, the prior-approval ratemaking-formula regulations for property-casualty coverages do not include a reinsurance expense loading for residential property insurance coverages. CDI does not dispute that there are benefits to the insurer from the purchase of reinsurance. In fact, CDI is not aware of any residential property insurer that does not already have some kind of reinsurance or pooling structure in place. However, there are several reasons that the cost of reinsurance is not included in the regulations as an allowable-expense loading for residential property insurance.

First, reinsurance rates are not regulated through the prior-approval process. As has been proven through the enforcement of Proposition 103, unregulated rates are frequently much higher than those evaluated through an objective regulatory process. Often, insurers purchase their reinsurance coverage from non-admitted carriers and from their own affiliates for what may or may not be market pricing. To allow insurers to load unregulated reinsurance costs into the consumer's premium rate potentially undermines the entire prior-approval process and would increase costs for all insurance consumers.

Second, there is no guarantee that an insurer would adopt a more liberal underwriting approach even if there was a direct loading in the rates for reinsurance costs. In states where insurers are not subject to prior approval, there is no evidence that insurers are writing a higher proportion of homes in high-risk areas than in California. In those states, insurers still adopt strict underwriting and eligibility guidelines that are designed to sort out risks deemed acceptable by the insurer from those that are declined because they pose a greater risk than that which the insurer is willing to write.

Third, there is the obvious complexity of establishing a baseline for the reasonableness of reinsurance coverage levels. Reinsurance can be purchased for separate perils (such as fire or wind) for multiple states in a single reinsurance contract, at different attachment points, such as, for example, "all losses exceeding \$100,000" or "all losses exceeding \$1,000,000 from a single event." There are also "quota-share" or "surplus-share" contract arrangements that are even more complex.

Current regulations actually allow for development of a catastrophe loading that is applied to the rates for lines that have a catastrophe exposure, such as residential

property insurance. This loading is based on the individual insurer's loss experience over at least a 20-year period to allow the insurer additional income every year in order to pay for those years where there are higher losses due to catastrophes. Residential property insurance rates are also loaded for fire-following-earthquake exposure.

Finally, and importantly, the prior-approval formula includes all losses in the calculation, not just those that are net of reinsurance, and, further, does not offset the commissions the insurer receives from the reinsurer. This is referred to as "pricing on a direct basis." The benefits of reinsurance (claim payments from the reinsurer to the insurer) are not removed or adjusted for in the regulatory formula. Therefore, while the formula does not compensate for reinsurance costs, it also does not reduce approved rates to reflect the payments and claim reimbursements the insurers obtain from reinsurance.

#### **IV. Conclusion**

It is clear that legislative action is necessary to address this issue that is so important to many Californians. With an estimated 3.6 million California homes in the WUI, and more than one million of those homes in a high or very high risk-of-fire area, the time to act is now. Maintaining the status quo will only aggravate the problem and its impact. More and more homeowners who cannot afford insurance may decide to go uninsured, risking their life savings and ultimately seeking relief from the state and federal governments. While the proposals in this paper may not completely resolve all WUI-related insurance issues, they will go a long way in creating a more engaged homeowner who will be more likely to complete defensible-space and other mitigation efforts. While CDI and all the TMTF partners will continue to work towards solutions, these common sense and reasonable legislative approaches are the best hope for more immediate action and long-term resolution of these perennial insurance problems.

As noted, CDI does not possess the requisite legislative authority over the issues raised in this paper. CDI is ready, willing, and able to assist the Legislature is providing us with this authority on any and all of the issues described above, as well as discuss other possible solutions. We recommend that any members of the Legislature interested in learning more about this proposal please contact Robert Herrell, CDI's Deputy Commissioner for Legislative Affairs, at (916) 492-3573.

Other interested parties should contact Lisbeth Landsman-Smith, Senior Staff Attorney, at (916) 492-3561 or [Lisbeth.Landsman@insurance.ca.gov](mailto:Lisbeth.Landsman@insurance.ca.gov).

The Availability and Affordability of Coverage for Wildfire Loss  
in Residential Property Insurance in the Wildland-Urban Interface  
and Other High-Risk Areas of California:  
CDI Summary and Proposed Solutions

## **Appendix A**

## Top 20 Most Destructive California Wildfires

	<b>FIRE NAME (CAUSE)</b>	<b>DATE</b>	<b>COUNTY</b>	<b>ACRES</b>	<b>STRUCTURES</b>	<b>DEATHS</b>
1	<b>TUBBS</b> ( <i>Under Investigation</i> )	October 2017	Sonoma	36,807	<b>5,643</b>	21
2	<b>TUNNEL - Oakland Hills</b> ( <i>Rekindle</i> )	October 1991	Alameda	1,600	<b>2,900</b>	25
3	<b>CEDAR</b> ( <i>Human Related</i> )	October 2003	San Diego	273,246	<b>2,820</b>	15
4	<b>VALLEY</b> ( <i>Electrical</i> )	September 2015	Lake, Napa & Sonoma	76,067	<b>1,955</b>	4
5	<b>WITCH</b> ( <i>Powerlines</i> )	October 2007	San Diego	197,990	<b>1,650</b>	2
6	<b>NUNS</b> ( <i>Under Investigation</i> )	October 2017	Sonoma	54,382	<b>1,355</b>	2
7	<b>OLD</b> ( <i>Human Related</i> )	October 2003	San Bernardino	91,281	<b>1,003</b>	6
8	<b>JONES</b> ( <i>Undetermined</i> )	October 1999	Shasta	26,200	<b>954</b>	1
9	<b>BUTTE</b> ( <i>Powerlines</i> )	September 2015	Amador & Calaveras	70,868	<b>921</b>	2
10	<b>ATLAS</b> ( <i>Under Investigation</i> )	October 2017	Napa & Solano	51,624	<b>781</b>	6
11	<b>PAINT</b> ( <i>Arson</i> )	June 1990	Santa Barbara	4,900	<b>641</b>	1
12	<b>FOUNTAIN</b> ( <i>Arson</i> )	August 1992	Shasta	63,960	<b>636</b>	0
13	<b>SAYRE</b> ( <i>Misc.</i> )	November 2008	Los Angeles	11,262	<b>604</b>	0
14	<b>CITY OF BERKELEY</b> ( <i>Powerlines</i> )	September 1923	Alameda	130	<b>584</b>	0
15	<b>HARRIS</b> ( <i>Under Investigation</i> )	October 2007	San Diego	90,440	<b>548</b>	8
16	<b>REDWOOD VALLEY</b> ( <i>Under Investigation</i> )	October 2017	Mendocino	36,523	<b>544</b>	9
17	<b>BEL AIR</b> ( <i>Undetermined</i> )	November 1961	Los Angeles	6,090	<b>484</b>	0
18	<b>LAGUNA</b> ( <i>Arson</i> )	October 1993	Orange	14,437	<b>441</b>	0
19	<b>ERSKINE</b> ( <i>Under Investigation</i> )	June 2016	Kern	46,684	<b>386</b>	2
20	<b>LAGUNA</b> ( <i>Powerlines</i> )	September 1970	San Diego	175,425	<b>382</b>	0



\*\*\*"Structures" include homes, outbuildings (barns, garages, sheds, etc) and commercial properties destroyed.

\*\*\*This list does not include fire jurisdiction. These are the Top 20 regardless of whether they were state, federal, or local responsibility.

11/1/2017

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## **Appendix B**

# The 2010 Wildland-Urban Interface of the Conterminous United States

**Sebastián Martinuzzi, Susan I. Stewart, David P. Helmers, Miranda H. Mockrin, Roger B. Hammer, and Volker C. Radeloff**

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Waldo Canyon Fire, Colorado Springs, CO, July, 2012. Aerial photograph of the wildland-urban interface. Note the fire scars (brown/gray color) reaching the limits of the neighborhood, and the roads and water storage tank potentially threatened by wildfire. Photo by Kari Greer, used with permission.

## The Wildland-Urban Interface Defined

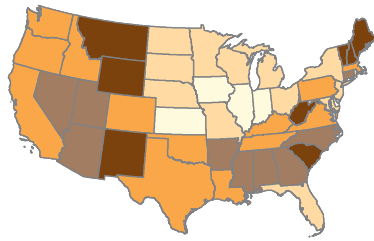
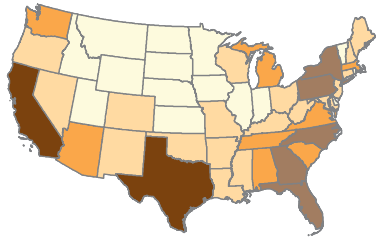
Although the idea of a wildland-urban interface is easily understood and the term widely used, a specific definition is needed to determine where it occurs and map its location. The definition we use here, as in earlier map projects, is designed to inform fire policy and management. It is based on a report prepared for the Council of Western State Foresters on WUI fire risk (Teie and Weatherford 2000) and was later published in the Federal Register.<sup>1</sup>

The WUI is composed of both *interface* and *intermix* communities. The distinction between these is based on the characteristics and distribution of houses and wildland vegetation across the landscape. Intermix WUI refers to areas where housing and wildland vegetation intermingle, while interface WUI refers to areas where housing is in the vicinity of a large area of dense wildland vegetation. For more detail, see Box 1.

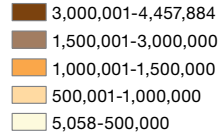
**Box 1.**—Definition of WUI and non-WUI land-use classes.

<b>WUI</b> Definition	
Intermix	Areas with $\geq 6.18$ houses per $\text{km}^2$ and $\geq 50$ percent cover of wildland vegetation
Interface	Areas with $\geq 6.18$ houses per $\text{km}^2$ and $< 50$ percent cover of vegetation located $< 2.4$ km of an area $\geq 5$ $\text{km}^2$ in size that is $\geq 75$ percent vegetated
<b>Non-WUI, Vegetated</b>	
No housing	Areas with $\geq 50$ percent cover of wildland vegetation and no houses (e.g., protected areas, steep slopes, mountain tops)
Very low housing density	Areas with $\geq 50$ percent cover of wildland vegetation and $< 6.18$ houses per $\text{km}^2$ (e.g., dispersed rural housing outside neighborhoods)
<b>Non-Vegetated or Agriculture</b>	
Low and very low housing density	Areas with $< 50$ percent cover of wildland vegetation and $< 49.42$ houses per $\text{km}^2$ (e.g., agricultural lands and pasturelands)
Medium and high housing density	Areas with $< 50$ percent cover of wildland vegetation and $\geq 49.42$ houses per $\text{km}^2$ (e.g., urban and suburban areas, which may have vegetation, but not dense vegetation)

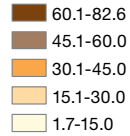
<sup>1</sup> "Urban wildland interface communities within the vicinity of federal lands that are at high risk from wildfire. Notice." 66. Federal Register 3(2001 January 4): 751-777.



**Number of Houses in the WUI by State**



**Number of Houses in the WUI Relative to the Total Houses in the State (%)**



**Figure 3.**—Houses in the WUI by State.

**Table 3.**—Houses in the WUI by State and by Forest Service Region. A map with the Forest Service Regions used in this study can be found on page 23.

Region/ State	All houses		Houses in the WUI		In the Interface		In the Intermix	
	Number	%	Number	%	Number	%	Number	%
<i>Northern Region</i>								
ID	667,796		280,217	42.0	200,815	30.1	79,402	11.9
MT	482,825		309,447	64.1	220,985	45.8	88,462	18.3
ND	317,498		59,153	18.6	44,949	14.2	14,204	4.5
<b>Total</b>	<b>1,468,119</b>		<b>648,817</b>	<b>44.2</b>	<b>466,749</b>	<b>31.8</b>	<b>182,068</b>	<b>12.4</b>
<i>Rocky Mountain Region</i>								
CO	2,212,898		937,460	42.4	666,448	30.1	271,012	12.2
KS	1,233,215		184,206	14.9	129,124	10.5	55,082	4.5
NE	796,793		121,419	15.2	85,959	10.8	35,460	4.5
SD	363,438		99,195	27.3	68,176	18.8	31,019	8.5
WY	261,868		215,317	82.2	168,691	64.4	46,626	17.8
<b>Total</b>	<b>4,868,212</b>		<b>1,557,597</b>	<b>32.0</b>	<b>1,118,398</b>	<b>23.0</b>	<b>439,199</b>	<b>9.0</b>
<i>Southwestern Region</i>								
AZ	2,844,526		1,365,916	48.0	970,076	34.1	395,840	13.9
NM	901,388		628,055	69.7	386,018	42.8	242,037	26.9
<b>Total</b>	<b>3,745,914</b>		<b>1,993,971</b>	<b>53.2</b>	<b>1,356,094</b>	<b>36.2</b>	<b>637,877</b>	<b>17.0</b>
<i>Intermountain Region</i>								
NV	1,173,814		539,837	46.0	448,552	38.2	91,285	7.8
UT	979,709		469,375	47.9	387,437	39.5	81,938	8.4
<b>Total</b>	<b>2,153,523</b>		<b>1,009,212</b>	<b>46.9</b>	<b>835,989</b>	<b>38.8</b>	<b>173,223</b>	<b>8.0</b>

Region/ State	All houses		Houses in the WUI		In the Interface		In the Intermix	
	Number	%	Number	%	Number	%	Number	%
<i>Pacific Southwest Region</i>								
<b>CA</b>	<b>13,680,081</b>		<b>4,457,884</b>	<b>32.6</b>	<b>3,669,459</b>	<b>26.8</b>	<b>788,425</b>	<b>5.8</b>
<i>Pacific Northwest Region</i>								
OR	1,675,562		603,293	36.0	418,204	25.0	185,089	11.0
WA	2,885,677		1,047,438	36.3	652,015	22.6	395,423	13.7
<b>Total</b>	<b>4,561,239</b>		<b>1,650,731</b>	<b>36.2</b>	<b>1,070,219</b>	<b>23.5</b>	<b>580,512</b>	<b>12.7</b>
<i>Southern Region</i>								
AL	2,171,853		1,277,511	58.8	679,688	31.3	597,823	27.5
AR	1,316,299		601,983	45.7	303,769	23.1	298,214	22.7
FL	8,989,580		2,568,569	28.6	1,763,014	19.6	805,555	9.0
GA	4,088,801		1,948,644	47.7	828,783	20.3	1,119,861	27.4
KY	1,927,164		669,646	34.7	292,025	15.2	377,621	19.6
LA	1,964,981		858,067	43.7	550,578	28.0	307,489	15.6
MS	1,274,719		736,785	57.8	355,795	27.9	380,990	29.9
NC	4,327,528		2,247,317	51.9	968,824	22.4	1,278,493	29.5
OK	1,664,378		647,082	38.9	386,372	23.2	260,710	15.7
SC	2,137,683		1,359,610	63.6	664,534	31.1	695,076	32.5
TN	2,812,133		1,065,410	37.9	505,532	18.0	559,878	19.9
TX	9,977,436		3,224,465	32.3	2,047,277	20.5	1,177,188	11.8
VA	3,364,939		1,417,596	42.1	714,551	21.2	703,045	20.9
<b>Total</b>	<b>46,017,494</b>		<b>18,622,686</b>	<b>40.5</b>	<b>10,060,743</b>	<b>21.9</b>	<b>8,561,943</b>	<b>18.6</b>

Region/ State	All houses		Houses in the WUI		In the Interface		In the Intermix	
	Number	%	Number	%	Number	%	Number	%
<i>Eastern Region</i>								
CT	1,487,891		800,475	53.8	441,695	29.7	358,780	24.1
DC	296,719		5,058	1.7	0	0.0	5,058	1.7
DE	405,885		44,125	10.9	12,688	3.1	31,437	7.7
IA	1,336,417		96,659	7.2	56,727	4.2	39,932	3.0
IL	5,296,715		382,650	7.2	282,969	5.3	99,681	1.9
IN	2,795,541		363,192	13.0	169,621	6.1	193,571	6.9
MA	2,808,254		1,190,126	42.4	714,525	25.4	475,601	16.9
MD	2,378,814		710,556	29.9	422,309	17.8	288,247	12.1
ME	721,830		581,853	80.6	205,971	28.5	375,882	52.1
MI	4,532,233		1,047,800	23.1	433,291	9.6	614,509	13.6
MN	2,347,201		436,622	18.6	178,291	7.6	258,331	11.0
MO	2,712,729		575,766	21.2	251,066	9.3	324,700	12.0
NH	614,754		507,781	82.6	223,508	36.4	284,273	46.2
NJ	3,553,562		894,580	25.2	578,543	16.3	316,037	8.9
NY	8,108,103		1,809,098	22.3	951,803	11.7	857,295	10.6
OH	5,127,508		831,269	16.2	432,405	8.4	398,864	7.8
PA	5,567,315		2,054,697	36.9	1,213,689	21.8	841,008	15.1
RI	463,388		130,058	28.1	69,611	15.0	60,447	13.0
VT	322,539		228,490	70.8	95,213	29.5	133,277	41.3
WI	2,624,358		511,330	19.5	205,704	7.8	305,626	11.6
WV	881,917		688,921	78.1	394,300	44.7	294,621	33.4
<b>Total</b>	<b>54,383,673</b>		<b>13,891,109</b>	<b>25.5</b>	<b>7,333,932</b>	<b>13.5</b>	<b>6,557,177</b>	<b>12.1</b>
<b>Grand Total</b>	<b>130,878,255</b>		<b>43,832,007</b>	<b>33.5</b>	<b>25,911,583</b>	<b>19.8</b>	<b>17,920,424</b>	<b>13.7</b>

# California

Pacific Southwest Region



### Wildland-Urban Interface (WUI)

- Interface
- Intermix

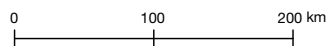
### Non-WUI Vegetated

- No housing
- Very low housing density

### Non-vegetated or Agriculture

- Low and very low housing density
- Medium and high housing density
- Water

- County border
- Highway



For more information on the maps and data presented here, please refer to page 20.

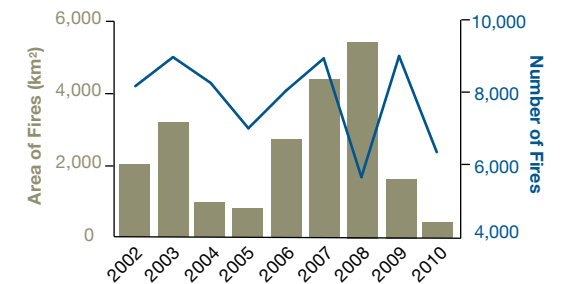
### Population and Geography Overview

Census Data	Number	%
Population	37,253,956	
Housing units	13,680,081	
Seasonal use	302,815	2

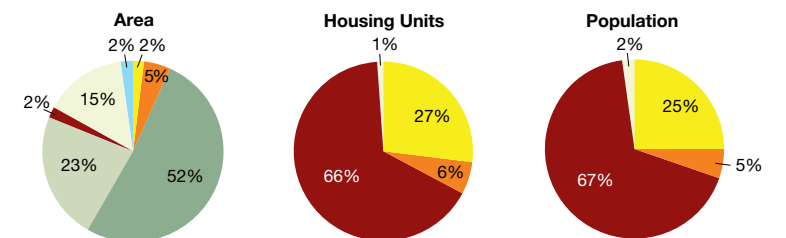
Land Ownership	Area (km <sup>2</sup> )	%
Public-Federal	198,970	48
Public-State	10,147	2
Public-Local	5,803	1
Private	195,902	48

Land Cover	Area (km <sup>2</sup> )	%
Forest	96,349	23
Shrubland/herbaceous	216,461	53
Planted/cultivated	40,782	10
Developed	27,325	7
Water/wetland	9,580	2
Others	20,324	5
Total area	410,821	

### Wildfire History



### WUI in Numbers (see legend)



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## **Appendix C**

County Name	Weighted Average Risk Score		
	Dwelling Units <sup>1</sup>	High / Very High	% in High Very High <sup>2</sup>
Tuolumne	29,978	24,607	82.1%
Trinity	8,481	6,270	73.9%
Nevada	50,271	35,282	70.2%
Mariposa	10,117	6,766	66.9%
Plumas	15,082	9,948	66.0%
Alpine	1,143	711	62.2%
Calaveras	27,907	17,059	61.1%
Sierra	2,264	1,384	61.1%
Amador	17,473	10,358	59.3%
El Dorado	83,563	47,715	57.1%
Mono	9,457	4,893	51.7%
Lake	34,110	17,116	50.2%
Mendocino	37,998	18,438	48.5%
Siskiyou	22,267	10,227	45.9%
Butte	87,242	36,644	42.0%
Lassen	11,999	4,805	40.0%
Shasta	71,352	24,645	34.5%
Tehama	25,616	8,602	33.6%
Santa Cruz	92,392	28,889	31.3%
Humboldt	56,727	16,786	29.6%
Napa	48,677	14,210	29.2%
Del Norte	10,465	2,767	26.4%
Modoc	5,088	1,290	25.4%
Placer	140,309	34,571	24.6%
Monterey	114,945	24,872	21.6%
Marin	90,040	18,943	21.0%
San Luis Obispo	107,552	22,368	20.8%
Ventura	241,918	49,865	20.6%
Madera	47,138	9,200	19.5%
Yuba	25,597	4,913	19.2%

County Name	Weighted Average Risk Score		
	Dwelling Units <sup>1</sup>	High / Very High	% in High Very High <sup>2</sup>
Santa Barbara	124,442	22,643	18.2%
Sonoma	181,094	29,825	16.5%
San Diego	849,189	137,786	16.2%
San Benito	17,112	2,461	14.4%
San Bernardino	618,761	84,096	13.6%
San Mateo	201,602	22,293	11.1%
Los Angeles	2,295,246	232,886	10.1%
Colusa	7,591	704	9.3%
Alameda	432,155	38,647	8.9%
Riverside	728,856	60,079	8.2%
Kern	267,772	21,988	8.2%
Contra Costa	339,443	24,022	7.1%
Glenn	10,295	722	7.0%
Inyo	9,021	617	6.8%
Santa Clara	478,939	29,440	6.1%
Orange	796,844	45,389	5.7%
Tulare	136,797	6,394	4.7%
Fresno	274,781	11,348	4.1%
Solano	133,925	2,374	1.8%
San Francisco	207,028	3,324	1.6%
Stanislaus	163,080	1,734	1.1%
Sacramento	457,240	2,750	0.6%
Yolo	59,668	306	0.5%
Merced	76,884	311	0.4%
Sutter	29,554	61	0.2%
Imperial	49,604	95	0.2%
Kings	40,626	63	0.2%
San Joaquin	208,741	214	0.1%
<b>California</b>	<b>10,723,458</b>	<b>1,296,716</b>	<b>12.1%</b>

Footnote 1: Dwelling Units is provided by the Department of Finance's Demographic Research Unit. Dwelling units include single family dwellings, condominium units, residential dwelling complexes of 2 to 4, and mobile homes. Data is as of January 1, 2015. Dwelling units exclude residential dwelling complexes of 5 or more units that are normally written under a commercial policy.

Footnote 2: The % in High / Very High is a weighted average of the modelers' risk scores.

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## **Appendix D**

**Appendix D: Consumer Complaints Filed with the California Department of Insurance (CDI) in the USPS Zip Codes Designated by CALFIRE as Having the Greatest Risk of Wildfire 2010 - 2016 on the Issues of Renewals and Premium Increases for Homeowners' Insurance Policies:**

<b>Type of Consumer Complaint</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Increase From 2010 – 2016 (%)</b>
Renewal Complaints From Designated Zip Codes	41	99	122	116	138	133	143	249% Increase
Percentage Of Statewide Renewal Complaints From Designated Zip Codes	59%	56%	55%	52%	55%	61%	60%	
Premium Increase Complaints From Designated Zip Codes	54	120	62	117	137	116	171	217% Increase
Percentage Of Statewide Premium Increase Complaints From Designated Zip Codes	64%	62%	48%	69%	65%	57%	61%	

**Notes:**

(1) Complaints for both Renewal Issues and Premium Increases in the designated Zip Codes increased significantly over the 6-year period (both statewide and in the designated Zip Codes). Complaints received from the USPS Zip Codes designated by CALFIRE as having the greatest risk of wildfire now make up more than 60% of the statewide complaints, even though the population in these Zip Codes is only 38% of the overall state population.

(2) Most Renewal issues identified in complaints to the CDI involve the insurance company's decision to non-renew the policy due to the insurer's determination that the property is in a high wildfire risk area.

(3) Most Premium Increase issues identified in complaints to the CDI involve a rate change related to an insurance company's high loss ratios, a change in the modeled risk score for the property, or a change in the fire protection class rating for the community.

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## **Appendix E**



County	Year	New	Renewed	Non-renewed (Insured-Initiated)	Non-renewed (Insurer-Initiated)
<b>Subtotal</b>	<b>2015</b>	<b>73,065</b>	<b>644,654</b>	<b>36,349</b>	<b>8,796</b>
	<b>2016</b>	<b>75,171</b>	<b>639,376</b>	<b>36,591</b>	<b>10,151</b>
Tuolumne	2015	1,592	21,131	1,169	288
	2016	2,039	19,935	1,123	402
Trinity	2015	361	4,489	315	55
	2016	374	4,393	312	86
Nevada	2015	3,786	39,308	2,077	556
	2016	3,972	38,407	1,936	646
Mariposa	2015	433	5,312	267	87
	2016	511	5,150	289	133
Plumas	2015	744	8,203	453	110
	2016	775	8,030	458	178
Alpine	2015	52	600	27	18
	2016	39	591	29	13
Calaveras	2015	1,996	21,263	1,276	393
	2016	2,065	20,609	1,275	375
Sierra	2015	93	1,309	54	23
	2016	122	1,268	56	38
Amador	2015	1,184	13,007	687	217
	2016	1,206	12,732	685	354
El Dorado	2015	7,081	64,246	3,358	1,010
	2016	7,593	63,386	3,345	1,093
Mono	2015	344	4,333	235	41
	2016	401	4,234	235	57
Lake	2015	2,942	22,134	1,481	313
	2016	3,021	21,652	1,657	428
Mendocino	2015	2,560	23,570	1,334	283
	2016	2,494	23,484	1,347	388
Siskiyou	2015	1,561	14,500	882	205
	2016	1,592	14,399	962	252
Butte	2015	7,022	58,724	3,359	683
	2016	7,442	58,356	3,388	823
Lassen	2015	1,093	10,042	565	120
	2016	1,166	9,942	585	147
Shasta	2015	6,769	54,650	2,970	780
	2016	7,179	54,414	3,046	887
Tehama	2015	1,710	13,692	929	170
	2016	1,774	13,539	879	272
Santa Cruz	2015	6,987	68,915	3,415	815
	2016	6,576	68,912	3,242	920
Humboldt	2015	3,649	37,057	1,983	421
	2016	3,601	36,947	2,036	483
Napa	2015	3,896	35,739	1,852	514
	2016	3,843	35,605	2,009	556
Del Norte	2015	826	6,521	448	118
	2016	863	6,457	416	82
Modoc	2015	231	2,364	212	40
	2016	226	2,365	187	23
Placer	2015	16,153	113,545	7,001	1,536
	2016	16,297	114,569	7,094	1,515

It includes aggregated counts on the following: homeowners coverage forms similar to HO-2, HO-3, HO-5 & HO-8, etc., dwelling fire forms (excluding dwelling fire contents only coverage), landlord business owner policies (residential policies of 4 units or less), and mobile homes, representing 99% of the market. It excludes HO-4 and HO-6 data.

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## **Appendix F**



September 25, 2017

John McEldowney  
Program Manager, Placer County Office of Emergency Services  
175 Fulweiler Ave #205  
Auburn, CA 95603

RE: Response to TMTF 10 County Request for Input on Risk Mitigation Efforts

Dear Mr. McEldowney:

We continue to appreciate the opportunity to participate in the TMTF Insurance Subgroup. As the subgroup delves more into complex insurance issues, we hope to be a continued resource to you.

We write to respond to your request for feedback on certain mitigation efforts. Anti-trust law and proprietary information concerns prevent us from discussing company specific underwriting practices, but we can provide insight into the mitigation factors you listed in your July letter.

#### The Bigger Picture

Insurers support individual home and community environmental mitigation efforts. For individuals, homeowners' insurers regularly recognize the impact of mitigation. Further community mitigation efforts, which insurers oftentimes fund, may have a beneficial long-term impact on individual premiums because of lower loss experience over time.

Individuals and communities understandably desire lower insurance rates following mitigation efforts and more ways to control whether an insurer will offer a renewal contract. However, we urge the Insurance Subgroup to place individual and community mitigation efforts in the proper context: decades of over-suppression of forest fires and years of drought have conspired to increase beetle infestation and tree mortality, increase the density of trees and other fuel on the forest floor, and so in turn increase the number, size, and movement of explosive fire events. The last few years have seen more explosive fire events which go higher into the tree canopy, burn hotter and faster, and travel faster and farther. These fires have the potential to destroy everything in their path, regardless of an individual property's defensible space. This all makes it more difficult for stronger trees to thrive and the forests to be more resilient. While mitigation matters, we cannot lose sight of this much bigger, and influential, picture.

Insurers have different practices and risk appetites due to their current business strategies, exposure, and financial capacities. Companies that are over-saturated in WUI areas will likely have tighter underwriting rules and concerns than those that do not. Furthermore, because of State of California rate approval limitations, such as ignoring the cost of catastrophe reinsurance, many companies cannot obtain adequate rates to responsibly write (or increase their writing) in high risk areas.

Insurers do take different types of mitigation into account. But, how they weigh factors and how they consider or determine them will, again, depend on the individual insurer.

Below is some insight into the mitigation topics for which you asked for feedback:

#### Defensible Space:

While insurers do consider, and encourage, defensible space, it is appropriate to place such efforts in the proper context of the larger (and harder to control) dynamics of a wildfire-prone environment. Insurers must weigh defensible space efforts while considering other factors which also impact the risk level of any particular property, such as the density of the wildland surrounding the defensible space, the accessibility to the property (road access), and whether a home is isolated.

- **Properly completed defensible space work by homeowners/passed PRC 4291 inspections:**  
We are supportive of the PRC 4291 inspection process, while recognizing its limitations. Because it primarily addresses vegetation management, it does not address issues with the built environment and potential structural deficiencies that may allow embers to enter the structure. The challenge with relying on vegetation management inspections is that the vegetation is constantly changing and management must be maintained. Further, such efforts can be negated by a neighbor's actions (or inaction).

Enforcement and resources also impact the weight an insurer will give PRC 4291 inspections. There is currently little, if any, enforcement in place. As we learned from CalFire at a past Insurance Subgroup meeting, they are not currently citing homeowners for issues identified during their inspections. Also, CalFire inspects a limited number of homes per year and has a goal of reaching all homes once every three years.

- **Compliance with standardized defensible space guidelines as established by IBHS and/or Cal Fire:**  
As discussed above with respect to the PRC 4291, due to ongoing vegetation growth over short time periods, and the lack of enforcement mechanisms, many insurers can, and do, give credit for defensible space efforts but, because defensible space is no guard against wind-blown embers from large fires, this credit may not be as much as a homeowner would hope for.

#### Fire Stations:

Insurers consider fire stations in their risk assessment. Almost all insurers rely on the expertise of the Insurance Services Office (ISO) and its public protection classifications (PPCs). All other factors being equal, communities with better PPC scores tend to have access to better rates. Communities can work with ISO to appropriately update PPC scores when mitigation projects are successfully completed.

Several factors go into determining these PPCs, including the staffing and training for a fire station, distance of properties to a station, accessibility, and water supply.

- **Seasonal fire stations open and staffed during fire seasons:**

With respect to seasonal fire stations, insurers have a difficult time assessing their impact on risk, as seasonal fire stations do not guarantee the availability of resources at the time a fire starts. Fire seasons are growing in length and, under mutual aid agreements, crews may already be diverted to fight other large fires.

Another challenge is that seasonal fire stations are often staffed with volunteers who may not have the same training as permanent stations.

- **Boundary drop/auto or mutual aid agreements on fire stations:**

Mutual aid agreements on fire stations are not a guarantee of protection; in fact, due to these agreements, a local station may already be diverted to another fire. Further, ISO has questioned whether such agreements have a significant impact on their PPCs.

We are not clear on what is meant by “boundary drops” and would appreciate clarification so we can provide you a response.

#### Large Scale Mitigation Projects

- **Large scale mitigation project such as shaded/non-shaded fuel breaks**

Many insurers use satellite imagery tools that already take into account large scale mitigation projects. Such projects, however, cannot be given undue weight. Communities routinely succumb to wind carried embers. As we learned at the Sagehen tour, this is becoming more prevalent because fires now burn hotter due to the mismanagement of our forests.

- **Following the USAA Firewise Communities Model**

It is our understanding that the designation as a Firewise Community is not used to guarantee availability. With respect to discounts, although some companies have determined that Firewise communities merit discounts for their business purposes, many companies already struggle with rate adequacy – this is a real issue for companies already over-exposed in WUI areas. Insurers cannot provide discounts on top of already inadequate rates. Insurers have a responsibility to all of their policyholders, statewide, to remain financially stable so they can pay claims. Each company must make its own determination of what it can offer based on its current mix of business and access to adequate rates.

- **Using high resolution (1 meter) satellite imagery that shows defensible space efforts:**

Most commercially available wildfire data is at 30-meter resolution. Moving to 1 meter resolution would increase the data processing and storage costs substantially because the data set would be 900 times larger than today. (A 30-meter by 30-meter area requires 900 images at 30-meters resolution. Covering the same area at 1-meter resolution requires 810,000 images.)

The additional data costs and infrastructure needs to handle such data would be reflected in rates, which homeowners already think are too high, but that many insurers believe are insufficient. The Insurance Subgroup may not be aware that the state's largest insurer, State Farm, is in litigation with the California Department of Insurance because the CDI ordered a homeowners' insurance decrease in response to a request from State Farm to increase its rates. While the public may cheer when the State suppresses prices, it becomes difficult to embrace further calls for insurers to increase their costs of doing business, expand offerings in even more hazardous areas, not be allowed to pass along the actual cost of catastrophic reinsurance, and then lower rates for mitigation efforts which are important but do not fundamentally alter today's wildfire environment.

Aside from the inherent costs, the benefits of increasing resolution of satellite imagery used for assessing wildfire risk would be marginal at best. This is because the risk being measured goes beyond the micro-characteristics of an individual property to the macro-characteristics of the surrounding area. One-meter resolution will not materially improve the ability to see what 30-meter resolution amply demonstrates for this purpose.

- **Request mitigation/risk reduction activities be factored into modeling companies to design models that meet on the grounds needs:**

Insurance companies strongly agree that our modeling tools should be "state of the art." We will continue to press the various vendors to continue improving their products and look forward to collaborating with the Insurance Subgroup on this issue.

#### Pilot Projects:

- **Develop a county wide pilot project to develop a tiered risk analysis/assessment**

Insurers would be interested to see the results of a pilot. We have begun searching for experts who could help in this matter, including discussions with leading academics in the field. We are open to the Insurance Subgroup's further thoughts about this matter.

#### Legislation:

- **Consider moving towards a legislative based mitigation insurance framework such as other states have done for natural disasters:**

The California legislature has already established the California FAIR Plan, which offers insurance at rates pre-approved by the Department of Insurance. The FAIR Plan serves as an important backstop for the public by making insurance available in all high risk areas.

The insurance industry would strongly oppose efforts to force them to "take all comers" or grant unsubstantiated price discounts. Insurers did not cause the tree mortality crisis or the other factors increasing the frequency, size, and volatility of wildfires and have attempted to continue serving wildfire-prone communities despite the risk. Meanwhile, the State places downward pressure on insurance rates, despite actual costs.

Responding to the tree mortality crisis and dangerous wildfire conditions by depriving insurers of the freedom of contract and the ability to adequately maintain their financial stability will only lead to market dysfunction. We have a case study already that illustrates the complexity of attempting to mandate particular behavior. Prior to the Northridge earthquake in 1994, the State of California required insurers to offer earthquake coverage every time they sold a homeowner's insurance policy. Following the Northridge earthquake, most insurers stopped writing new homeowners' insurance policies in the state because they could not responsibly continue to write earthquake insurance policies. As the problem wore on, the real estate industry began to experience difficulties with escrows. The California economy was affected. After creating the largest earthquake insurance facility in the world, the California Earthquake Authority, homeowners' insurance availability returned with full force. The lesson is that the State of California cannot mandate particular behavior that is not grounded in fundamentally sound public policy and economics – and which would ignore the existence of a mechanism (the FAIR Plan) that already provides guaranteed access to fire insurance.

We hope the above comments provide the Insurance Subgroup with more insight into how insurers consider mitigation. We also hope this adds to your appreciation of some of the challenges insurers face in assessing risk, controlling exposure, and obtaining adequate rates in order to write insurance in high risk areas. Unfortunately, the reality is that higher risks cost more to insure.

Furthermore, as we learned at Sagehen, the problem of the wildfire risk goes back to our treatment of the forests for over a hundred years, and our lack of understanding on how to fix the problem. Not only has the fire season increased, but as we learned from Dr. Jeff Brown at Sagehen, fires now burn hotter, and as a result, mitigation – even defensible space – will not always save a community or home.

The insurance industry will continue to support legislation to improve the health of our forests and reduce the risk in WUI areas. We will also continue to participate in the TMTF subgroup, and to provide support where we can.

cc: Richard M. Forster, Supervisor, Amador County Tree Mortality Representative  
Michael C. Oliveira, Supervisor, Calaveras County Tree Mortality Representative  
Michael Ranalli, Supervisor, El Dorado County Tree Mortality Representative  
David Pomaville, Fresno County Tree Mortality Representative  
Brent Moon, Kern County Tree Mortality Representative  
Tom Wheeler, Supervisor, Madera County Tree Mortality Representative  
Kevin Cann, Supervisor, Mariposa County Tree Mortality Representative  
John McEldowney, Program Manager, OES, Placer County Tree Mortality Representative  
Eric Coyne, Project Manager, Tulare County Tree Mortality Representative  
Randy Hanvelt, Supervisor, Tuolumne County Tree Mortality Representative  
Saul Gomez, Deputy Cabinet Secretary, Governor's Office

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## **Appendix G**



California FAIR Plan Association  
**INSURANCE POLICY COMPARISON CFP DWELLING POLICY TO ISO HO-3**

**IMPORTANT NOTICE**

This chart summarizes some of the significant differences between the coverage provided by the FAIR Plan's basic dwelling policy and the coverage provided by insurance advisory organization Insurance Service Office, Inc. (ISO) more comprehensive California homeowners (HO-3) policy form. You should consider purchasing a companion policy, commonly known as a Difference in Conditions (DIC) policy to supplement what the FAIR Plan policy provides. For a complete, specific understanding of all of the similarities and differences between the FAIR Plan dwelling policy and the insurance available in the standard market, you should consult with a licensed insurance broker. In all cases, the specific language of the policy shall constitute the terms and conditions of the coverage provided. **THIS CHART IS NOT ALL-INCLUSIVE.**

<b>PERILS INSURED AGAINST (not all-inclusive)</b>	<b>CFP POLICY</b>	<b>ISO HO-3</b>
<b>DWELLING</b>		
All physical loss unless specifically excluded (including water damage)		✓
Fire or Lightning	✓	✓
Smoke	<b>Limited</b>	✓
Internal Explosion	✓	✓
Extended Coverage (winstorm or hail, explosion, riot, aircraft, vehicles)	<b>Optional</b>	✓
Vandalism or Malicious Mischief	<b>Optional</b>	✓
<b>CONTENTS</b>		
Fire or Lightning	✓	✓
Smoke	<b>Limited</b>	✓
Internal Explosion	✓	✓
Extended Coverage (winstorm or hail, explosion, riot, aircraft, vehicles)	<b>Optional</b>	✓
Vandalism or Malicious Mischief	<b>Optional</b>	✓
Theft		✓
Falling Objects		✓
Weight of Ice, Snow or Sleet		✓
Accidental Discharge or Overflow of Water or Steam		✓
Freezing		✓
Sudden Accidental Damage from Artificially Generated Electrical Current		✓
<b>LIABILITY COVERAGES</b>		
Personal Liability		✓
Medical Payments to Others		✓
Damage to Property of Others		\$1,000 Limit

<b>OTHER COVERAGES, LIMITS AND CONDITIONS (not all inclusive)</b>		
	<b>CFP POLICY</b>	<b>ISO HO-3</b>
Replacement Cost	<b>Optional</b>	✓
Other Structures	Use up to 10% of Dwelling Limit (reduces dwelling limit), or <b>Optional</b> - you may buy additional Other Structures coverage	10% of Dwelling Limit (does not reduce Dwelling Limit, and you may buy additional Other Structures coverage)
Additional Living Expense		✓
Fair Rental Value	Use up to 10% of Dwelling Limit (reduces dwelling limit), or <b>Optional</b> - you may buy up to 20% of Dwelling Limit in additional Fair Rental Value coverage	✓
Ordinance or Law	<b>Optional</b> - you may buy up to 10% of Dwelling Limit in Ordinance or Law Coverage	10% of Dwelling Limit (does not reduce Dwelling Limit, and you may buy additional Ordinance or Law coverage)
Debris Removal	Included in Limit of Liability applying to damaged property (reduces applicable limit), or <b>Optional</b> - you may buy up to 5% of Dwelling, Other Structures and Personal Property Combined Limits in additional Debris Removal coverage	Included in Limit of Liability applying to damaged property, but adds 5% to that limit, if necessary, for debris removal

The Availability and Affordability of Coverage for Wildfire Loss  
in Residential Property Insurance in the Wildland-Urban Interface  
and Other High-Risk Areas of California:  
CDI Summary and Proposed Solutions

## **Appendix H**



### *Legislative Approaches to Prevent Insurance Market Dislocations*

In response to insurance market contraction in higher risk areas, such as the wildland urban interface zone (WUI) and rural areas with dense forests and brush in California, or in southern states, coastal areas that are susceptible to high winds and flooding from hurricanes, state legislatures have enacted various statutes that aim to prevent market dislocation. The goal of such statutes is to keep homeowners in the admitted insurance market, where they will often find better prices and coverage. In coastal states that face risk of hurricanes and flooding, states have had to confront the issue of widespread non-renewals and surcharges, leaving their constituents with limited options for insuring their home.

This memo will highlight the four main categories in which these statutes fall: (1) insurance companies may not cancel or non-renew a policy based on a weather related claims or a certain number of claims in a specified time period or following a declared disaster; (2) insurance companies may not cancel or non-renew a policy that has been in effect for a certain time period unless a strict rescission standard is met; (3) insurance companies must obtain approval from the state insurance commissioner before they can materially reduce the volume of policies in a given area; and (4) insurance companies must provide mitigation discounts and continued coverage to homeowners who make investments in hardening their home, offsetting the impact of computer-based risk models on rating and underwriting.

#### I. Insurance companies may not cancel or non-renew a policy based on a weather related claims, a certain number of claims in a specified time period, or following a declared disaster

Arkansas, South Carolina, and Texas are examples of states that prohibit an insurance company from cancelling or non-renewing an insurance policy due to weather-related events, catastrophes, “natural causes” and “Acts of God.”<sup>1</sup> Arkansas Code Ann. § 23-63-109, provides:

*(a) (1) No insurance policy or contract covering damages to property shall be cancelled nor the renewal thereof denied solely as a result of claims arising from natural causes.*

*(2) "Natural cause" is defined as an act occasioned exclusively by the violence of nature where all human agency is excluded from creating or entering into the cause of the damage or injury.*

*(b) Any insurer which violates the provisions of this section shall be subject to the procedures and penalties provided under the Trade Practices Act, 23-66-201 et seq.*

Rhode Island, New York, and Florida are examples of states that have enacted statutes that limit an insurance company’s ability to cancel or non-renew an insurance policy following a disaster.<sup>2</sup> In these states, an insurance company may not cancel or non-renew policies within 90 days of a “natural

<sup>1</sup>Ark. Code Ann. § 23-63-109; S. C. Code 1976 § 38-75-790; Texas Ins. Code § 551.107; See also: <http://www.tdi.texas.gov/bulletins/2017/b-0026-17.html>

<sup>2</sup> R.I. Gen. Laws §§ 27- 76-1 27-29-4(7), 27-29-4.1 42-14-17; N.Y. ISC. LAW § 3425: (p); Fla. Stat. Ann. § 627.4133 (d).

disaster,” as defined by each statute (differing slightly, e.g., state or federally declared disaster, Insurance Services Office [ISO]<sup>3</sup> “catastrophe” designation).

In California, Ins. Code. §675.1 (AB 2962 Ch. 605 (2004)) provides:

*In the case of a total loss to the primary insured structure under a residential policy subject to Section 675, the following provisions apply:*

*(a) If reconstruction of the primary insured structure has not been completed by the time of policy renewal, the insurer, prior to or at the time of renewal, and after consultation by the insurer or its representative with the insured as to what limits and coverages might or might not be needed, shall adjust the limits and coverages, write an additional policy, or attach an endorsement to the policy that reflects the change, if any, in the insured's exposure to loss. The insurer shall adjust the premium charged to reflect any change in coverage.*

*(b) The insurer shall not cancel coverage while the primary insured structure is being rebuilt, except for the reasons specified in subdivisions (a) to (e)...of ISC 676.<sup>4</sup> The insurer shall not use the fact that the primary insured structure is in damaged condition as a result of the total loss as the sole basis for a decision to cancel the policy pursuant to subdivision (e) of that section.*

*(c) Except for the reasons specified in subdivisions (a) to (e), inclusive, of Sec. 676, the insurer shall offer to, at least once, renew the policy in accordance with the provisions of subdivision (a) if the total loss to the primary insured structure was caused by a disaster, as defined in subd. (b) of [Civil Code] Sec. 1689.14<sup>5</sup>, and the loss was not also due to the negligence of the insured.*

Prohibiting non-renewals for homeowners who do not suffer a loss but whose property is located within a county covered by a state, local, or federal disaster declaration would be a welcome addition to this statute, ensuring continuity in the insurance marketplace following catastrophic events.

## II. Insurance companies may not cancel or non-renew a policy that has been in effect for a certain time period unless a strict rescission standard is met

<sup>3</sup> ISO is also the vendor of the much-discussed FireLine model, seen as partly responsible for California's market crisis.

<sup>4</sup> After a policy specified in Section 675 has been in effect for 60 days, or, if the policy is a renewal, effective immediately, no notice of cancellation shall be effective unless it is based on the occurrence, after the effective date of the policy, of one or more of the following: (a) Nonpayment of premium, including nonpayment of any additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property or a change in its occupancy or use. (b) Conviction of the named insured of a crime having as one of its necessary elements an act increasing any hazard insured against. (c) Discovery of fraud or material misrepresentation by either of the following: (1) The insured or his or her representative in obtaining the insurance. (2) The named insured or his or her representative in pursuing a claim under the policy. (d) Discovery of grossly negligent acts or omissions by the insured or his or her representative substantially increasing any of the hazards insured against. (e) Physical changes in the insured property which result in the property becoming uninsurable. (Amended by Stats. 1986, Ch. 1321, Sec. 2.)

<sup>5</sup> As used in this section and Section 1689.6, "disaster" means an earthquake, flood, fire, hurricane, riot, storm, tidal wave, or other similar sudden or catastrophic occurrence for which a state of emergency has been declared by the President of the United States or the Governor or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county. (A.B. 1610, July 18, 1995).

Pennsylvania sets perhaps the highest bar in the country in terms of what an insurer must allege in order to cancel or non-renew a policy. Penn. Stat, Tit. 40 P.S. Ins. § 1171.5 provides:

*Canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more **or refusing to renew any such policy** unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the commissioner pursuant to rules and regulations promulgated by the commissioner. (emphasis added).*

A potential loophole is the language that allows non-renewal if there has been a “*substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued.*”

III. Insurance companies must obtain approval from the state insurance commissioner before they can materially reduce the volume of policies in a given area

New York presents a unique regulatory regime, wherein an insurance company that desires to “materially reduce its volume of such policies written” must seek approval from the Insurance Commissioner.<sup>6</sup> New York Ins. Law 3425, provides, in relevant part:<sup>7</sup>

*(5) with respect to homeowners' insurance, in the event that an insurer intends to materially reduce the volume of policies written pursuant to paragraph two of subsection (o) of this section, any commissions payable pursuant to an agent contract shall be mandatory for an additional one year period beyond the completion of the required policy period specified in paragraph seven of subsection (a) of this section....<sup>8</sup>*

*(o) (1) An insurer that intends to materially reduce its volume of policies written, covered by this section, shall submit to the superintendent, at least thirty days in advance of implementing such actions, a plan for orderly reduction that: (i) describes the contemplated actions; (ii) sets forth the reasons...; (iii) describes the measures such insurer intends to take in order to minimize market disruption; and (iv) provides such other information as the superintendent may require.*

*(2) (A) An insurer that writes homeowners insurance policies as defined in subsection (a) of section two thousand three hundred fifty-one of this chapter,<sup>9</sup> who intends to materially reduce*

<sup>6</sup> Id. (N.Y. ISC. LAW § 3425).

<sup>7</sup> See also: <http://www.dfs.ny.gov/insurance/ogco2006/rg060416.htm>

<sup>8</sup> (7) With respect to personal lines insurance, " required policy period " means a period of three years from the date as of which a covered policy is first issued or is voluntarily renewed.

<sup>9</sup> (a) For the purposes of this section, "homeowners insurance" means a contract of insurance insuring against the contingencies described in subparagraphs (A), (B) and (C) or (B) and (C) of paragraph two of subsection (a) of section three thousand four

*its volume of such policies written, shall submit to the superintendent, at least sixty days in advance of implementing such actions, a plan for the orderly reduction of the number of policies written. Such plan shall: (i) describe the contemplated actions; (ii) set forth the reasons for such actions; (iii) describe the measures such insurer intends to take in order to minimize market disruption; and (iv) provide such other information as the superintendent may require.*

*(B) The superintendent after receiving such plan shall have thirty days in which to approve it or disapprove it. The superintendent shall approve such plan if the applicant demonstrates that such material reduction is accomplished in a manner that minimizes market disruption in areas of material reduction. In the review of each plan submitted prior to the submission of the report required by subparagraph (E) of this paragraph, the superintendent shall assess the impact of the planned withdrawal in the counties of Nassau and Suffolk; areas within one mile of a saltwater shoreline, canal or bay in the counties of Queens, Kings, Richmond, Bronx or Westchester; and areas where policies issued by the New York property insurance underwriting association have increased by an amount deemed significant by the superintendent since January first, nineteen hundred ninety-two. For plans filed subsequent to the submission of the report required by subparagraph (E) of this paragraph, the superintendent shall assess the impact of the planned withdrawal on such areas as the superintendent may identify pursuant to subparagraph (E) of this paragraph.*

If California were adopt such a statute, it may have the effect of slowing down the pace of non-renewals in high-risk areas. Cal. Code Regs. 2641.1 et seq (Proposition 103) already requires insurers to file the rates with the Department of Insurance. A possible amendment to the statute could require insurers to re-file their rates when they cancel or non-renew a certain number of policies in a given zip code.<sup>10</sup>

#### IV. Insurance companies must provide mitigation discounts and continued coverage to homeowners who make investments in hardening their home.

A significant number of states have enacted statutes that require insurance companies to offer discounts to homeowners that harden their homes. In Alabama, insurance companies must provide a premium discount to property owners who construct or retrofit their insurable properties to resist loss due to hurricane or windstorm events.<sup>11</sup> Ala. Code § 27-31D-1, provides as follows:

hundred twenty-five of this chapter and which is a "covered policy" of personal lines insurance as defined in such paragraph; provided, however, that the coverage's provided under such subparagraphs (B) and (C) shall not apply where the natural person does not have an insurable interest in the real property, or a portion thereof, or the residential unit in which such person resides. N.Y. Ins. Law § 3425(a)(2)(A), (B) and (C) includes as covered personal lines insurance policies those policies "insuring any of the following contingencies: (A) loss of or damage to real property used predominantly for residential purposes and which consists of not more than four dwelling units, other than hotels and motels; (B) loss of or damage to personal property in which natural persons have an insurable interest, except personal property used in the conduct of a business; and (C) other liabilities for loss of, damage to, or injury to persons or property, not arising from the conduct of a business, when a natural person is the named insured under the policy.

<sup>10</sup> § 2644.50. Refiling of Approved Rates. As a means to determine whether a rate previously approved remains in compliance with the statutory standard set forth in California Insurance Code Section 1861.05(a), for an insurer operating with a rate approved three years ago or longer in the homeowners multiple peril and private passenger auto liability and physical damage lines, the Commissioner may require an insurer to file a rate application.

<sup>11</sup> Ala. Code § 27-31D-1, et seq; See also: <http://www.aldoi.gov/pdf/legal/2016-07%20-%20Modification%20to%20Ala.%20Bulletins%202013-07,%202010-03%20and2009-07.pdf>.

*(a) Commencing on May 14, 2009, insurance companies shall provide a premium discount or insurance rate reduction in an amount and manner as established in subsection (d) and pursuant to Section 27-31D-3. In addition, insurance companies may also offer additional adjustments in deductible, other credit rate differentials, or a combination thereof, collectively referred to as adjustments. These adjustments shall be available under the terms specified in this section to any owner who builds or locates a new insurable property, in the State of Alabama, to resist loss due to hurricane or other catastrophic windstorm events.*

The discounts are tied the Fortified For Safer Living standards, a set of criteria promulgated by the Institute for Home and Business Safety, an insurance industry funded organization.<sup>12</sup> The International Residential Code (“IRC”) is another source of standards. As shown in the chart below, there are multiple levels that correspond to the amount of investment the homeowner makes. Generally speaking, the Bronze level requires the homeowner to ensure the roof does not leak (with or without a new roof); Silver requires gable end walls, pressure-tested garage doors and skylight openings; and Gold requires chimney retrofitting, additional pressure-testing, a continuous load path, and thicker wall sheathing.<sup>13</sup>

Mitigation Category	Existing Home with a Roof > 5 Years	Existing Home with a Roof ≤ 5 Years	New Home ≤ 5 Years
<b>Fortified for Safer Living</b>	50%	60%	60%
<b>Fortified Home: GOLD</b>	40%	50%	50%
<b>Fortified Home: SILVER</b>	35%	45%	45%
<b>Fortified Home: BRONZE</b>	20%	35%	35%
<b>2006 IRC or later</b>	10%	20%	20%

A legislative proposal in California should also take into account compliance with Pub. Res. Code sec. 4291,<sup>14</sup> local firefighting resources, community firebreaks, and other factors that mitigate risk.

<sup>12</sup> See: <https://disastersafety.org/fortified/fortified-home/>.

<sup>13</sup> Ala. Code § 27-31E: Alabama offers a \$10,000 grant to coastal homeowners who wish to mitigate their homes to the Bronze or Silver standard and maintain wind/hurricane insurance on the property.

<sup>14</sup> (1) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as provided in paragraph (2). The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion. For the purposes of this paragraph, “fuel” means any combustible material, including petroleum-based products and wildland fuels. (2) A greater distance than that required under paragraph (1) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner. (3) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under paragraph (1) if a fire expert, designated by the director, provides findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation. (4) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe. (5) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood. (6) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

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ACTION ITEM: AENR Position on 2018 Water Supply and Water Quality  
Bond Act  
Attachment Eight  
2018 Water Supply & Water Quality Bond Act Memo





May 4th, 2018

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Suite 101  
Sacramento  
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95814

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To: CSAC Agriculture, Environment & Natural Resources Policy Committee  
From: Cara Martinson, CSAC Senior Legislative Representative & Federal Affairs Manager  
Nick Cronenwett, CSAC Legislative Analyst

**RE: Water Supply and Water Quality Bond Act of 2018**

**Summary:** The Water Supply and Water Quality Bond Act of 2018 is an \$8.8 billion water bond which has qualified for the November 2018 statewide ballot.

A majority yes vote on the initiative would require the state to issue \$8.8 billion in general obligation bonds to finance a variety of water related projects, including watershed restoration, fish and waterfowl habitat improvement, safe drinking water, and repair of the Friant Kern Canal. The measure also contains language that would create continuous appropriations to the Department of Water Resources (DWR), Metropolitan Water District of Southern California, Contra Costa Water District, and San Luis and Delta Mendota Water Authority from the Greenhouse Gas Reduction Fund (GGRF). The proponent of the bond is Dr. Jerry Meral, director of the California Water Program at the Natural Heritage Institute.

**Staff Recommendation:** Staff is recommending a support position on this measure. This measure provides additional and needed funding for critical programs, including the Sustainable Groundwater Management Act (SMGA), stormwater, forest health and watershed improvements and other areas of importance to counties.

**Background.** California continues to experience ongoing drought conditions in many parts of the state, despite above average precipitation last year. To help the state plan and manage its water and infrastructure needs, the Department of Water Resources maintains California’s Water Action Plan. The plan, updated every five years, lays out a roadmap for sustainable water management in California. The broad goals of the plan include developing more reliable water supplies, the restoration of important species and habitat, and developing a more resilient, sustainably managed water resources systems. In addition, California is in the beginning stages of implementing the Sustainable Groundwater Management Act. Groundwater Sustainability Agencies are in the process of developing their plans to better manage and maximize groundwater resources throughout the state. To fund these and other water priorities, California has a long tradition of utilizing both general obligation bonds (which require voter approval) and revenue-use bonds.

**Initiative Summary:** The following is a summary of the proposed bond. The primary investment categories include: \$2.355 billion for watershed protection and restorations; \$750 million for improvements in safe drinking water; \$750 million for repairs to the Friant Kern Canal; and, \$675 million for improving groundwater sustainability and storage. In addition, the bond also includes \$400 million exclusively for counties and cities for projects to use stormwater and urban dry weather run-off in disadvantaged communities. There is an explicit prohibition on the use of any funds from the bond measure for any purposes of the Delta conveyance tunnels.

In addition, the bond includes language that would create several continuous appropriations from the state’s Greenhouse Gas Reduction Fund (GGRF) to the Department of Water Resources (DWR) and several specified water agencies, including Metropolitan Water District of Southern California, the Contra Costa Water District, and Sun Luis and Delta Mendota Water Authority. Funding dedicated to

DWR would be directed to programs in the State Water Resources Development System and consumer water conservation programs. Allocations to the three water agencies are commensurate with their current fees to GGFR, and would be dedicated to specific purposes, including water storage, treatment, conveyance, and water conservation programs. Funds allocated to the Contra Costa Water District must be spent on consumer water conservation programs while funds allocated to the San Luis Authority must be spent on water conservation, water quality improvement, water treatment, water supply.

Fund Description	Details	Allocation (Millions)
Safe Drinking Water and Wastewater Treatment for Disadvantaged Communities	Safe drinking water and wastewater treatment for disadvantaged communities, especially in the Central Valley.	<b>\$750</b>
Wastewater Recycling	Recycling wastewater mainly for landscaping and industrial uses.	<b>\$400</b>
Groundwater Desalination	Converts salty groundwater to usable water supply.	<b>\$400</b>
Urban Water Conservation	Funds for leak detection, toilet replacement, landscape conversion.	<b>\$300</b>
Agricultural Water Conservation	Improves inefficient irrigation systems, increasing river flows.	<b>\$50</b>
Central Valley Flood Management and Flood Plain Restoration	Improves flood safety in the Central Valley and makes flood plains more habitat friendly.	<b>\$200</b>
SF Bay Wetlands and Flood Improvements	Improves wetlands in San Francisco Bay to provide flood protection and mitigate sea level rise.	<b>\$200</b>
Water Data Management	Funds improvements in water data collection and management including stream flows	<b>\$60</b>
Stormwater Management	Funds projects that capture and use urban dry weather runoff and stormwater runoff in disadvantaged or severely disadvantaged communities. Includes requirement that funds go to counties with flood control responsibilities.	<b>\$400</b>
Watershed Improvements	<p>Provides \$2.355 billion to protect, restore and improve the health of watershed lands, in order to improve water supply and water quality. This section includes:</p> <ul style="list-style-type: none"> <li>• \$150 million for the LA River</li> <li>• \$100 million for the Delta Conservancy, helping to fund the Governor’s Eco-Restore program.</li> <li>• \$80 million for the removal of Matilija Dam, a silted-in dam in Ventura County</li> <li>• \$200 million for ecological restoration and dust control at the Salton Sea.</li> <li>• \$20 million to Cal Fire for grants for urban forestry projects that manage, capture or conserve stormwater, recharge local groundwater supplies or improve water supplies or water quality</li> <li>• \$250 million to the Sierra Nevada Conservancy for the purpose of awarding grants within the</li> </ul>	<b>\$2,355</b>

	<p>conservancy to various eligible public agencies, including counties, for reducing the threat of wildfires that could negatively affect watershed health and other related projects</p> <ul style="list-style-type: none"> <li>• \$50 million to CAL Fire for grants outside the jurisdiction of the Sierra Nevada Conservancy to prevent wildfires in watershed areas</li> </ul>	
Land Management for Improved Water Yield	Funds for removal of invasive weeds that use excessive amounts of surface and groundwater such as tamarisk, yellow starthistle, and Arundo.	<b>\$100</b>
Fisheries Restoration	For the restoration of Central Valley populations of native fish and fisheries habitat which will be allocated by a newly bond-created Central Valley Fisheries Advisory Committee.	<b>\$400</b>
Groundwater	Provides funds for the Sustainable Groundwater Management Act, stabilizing groundwater levels in over drafted groundwater basins, the development of groundwater sustainability plans, recharge projects, etc.	<b>\$675</b>
Water for Fisheries and Waterfowl Habitat Improvement	Funds for a variety of state agencies for the purchase of water rights and other restoration projects that improve fish and waterfowl habitat. \$50 million for projects on private lands.	<b>\$350</b>
Central Valley salmon and steelhead restoration	<p>Funds to help restore spring run Chinook Salmon. This includes:</p> <ul style="list-style-type: none"> <li>• \$100 million for fish screens to prevent juvenile fish from being diverted into irrigation systems</li> <li>• \$100 million for matching grants to improve fish passage</li> </ul>	<b>\$300</b>
Waterfowl Habitat	Helps meet waterfowl obligations under Central Valley Project Improvement Act, and other waterfowl habitat improvement programs.	<b>\$280</b>
Bay Area Regional Reliability	Improve interconnections between Bay Area water agencies to improve drought resiliency.	<b>\$250</b>
Improvement to Friant Kern Canal and other Friant Water Interconnections	Restores lost capacity to Friant Kern Canal, pays for groundwater recharge programs, water conservation and possibly new water conveyance in the Friant Area.	<b>\$750</b>
Oroville Dam Spillway Repair	Makes Oroville Dam more flood safe.	<b>\$200</b>

**Policy Considerations.** CSAC relies on our county policy platform to formulate positions on water-related initiatives and on various bonds. Our policy gives direction to support efforts that include statutory protection of counties of origin and watershed areas, support for existing water rights, the need for new and expanded water resources, and the need for local water conservation efforts. CSAC's water policy extends to improved flood protection, effective surface and local groundwater management as well as improved stormwater management.

Since 2000, CSAC has supported four of the five water bonds that were placed before the voters – Propositions 13, 1E, 84 and 1. The exception was Proposition 50 (2002). CSAC opposed this measure based on concerns expressed by the Board of Directors over insufficient funding for the development of new water supplies, excessive funding for land acquisitions and the consequential impact on local property tax revenues. In addition, it is worth noting that the expenditure of Proposition 1 (2014) is not yet complete. Specifically, the \$2.7 billion in funding for water storage, which is to be allocated by the California Water Commission, has yet to be appropriated. However, the Water Commission is evaluating proposals and the remaining funding should be appropriated by the end of 2018.

In considering this measure, CSAC members must also take into consideration Proposition 68, which will be on the June 2018 ballot. Proposition 68, placed on the ballot by the Legislature, is a \$4 billion general obligation bond that provides funding for parks, wildlife restoration and some water projects. According to proponents of the Water Supply and Water Quality Bond Act of 2018, a separate water-specific bond was pursued as a result of additional need, and after proponents' requests to include an additional \$3 billion in water focused funding in Proposition 68 was denied by the author of SB 5. Furthermore, Proposition 68 is focused on funding for parks and includes \$1.2 billion amount for park funding and a \$1.55 billion amount for water projects. The AENR Committee took up Proposition 68 at their March meeting and took no position on this measure.

While there is no direct appropriation to counties in the Water Supply and Water Quality Bond Act of 2018, counties are eligible for funding under a number of different programs, including: grants for flood protection, stormwater runoff, river parkway and urban stream restoration grants, watershed protection and wildfire prevention, and grants for projects and programs that support sustainable groundwater management.

**Support/ Opposition:** This initiative is backed by a coalition of interests such as water agencies (including the Northern California Water Association and Association of California Water Agencies), agricultural groups such as California Farm Bureau Federation, and business organizations such as the California Chamber of Commerce, environmental justice groups, and conservation nongovernmental organizations. The bond was also endorsed by the Rural County Representatives of California in January 2018.

The Sierra Club of California opposes the measure, and argues that the bond would establish bad water policy citing concerns with perceived violations to the beneficiary pays principal. In addition, the group sees the bond as having potential to open up new funding pathways for dams citing concerns about the lack of language preventing funds from being spent on storage projects. Finally, the group opposes language in the bond that would create several continuous allocations from the state's Greenhouse Gas Reduction Fund.

**Staff Contact:** Please contact Cara Martinson, CSAC Senior Legislative Representative at 916-327-7500, ext 504, or [Cmartinson@counties.org](mailto:Cmartinson@counties.org), or Nick Cronenwett, CSAC Legislative Analyst, at 916-327-7500, ext. 531 or [ncronenwett@counties.org](mailto:ncronenwett@counties.org) for questions or additional information.

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ACTION ITEM: AENR Position on 2018 Water Supply and Water Quality  
Bond Act

Attachment Nine

Text of the 2018 Water Supply & Water Quality Bond Act

**RECEIVED**

**AUG 11 2017**

**INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE**

August 11, 2017

Gerald H. Meral, Ph.D.  
PO 1103 Inverness, Ca 94937  
[jerrymeral@gmail.com](mailto:jerrymeral@gmail.com)  
415-717-8412

Attorney General Xavier Becerra

Attention: Ashley Johansson, initiative coordinator

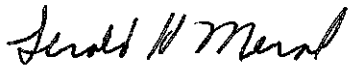
1300 I Street, 17<sup>th</sup> floor, Sacramento, Ca 95814

Dear Attorney General Becerra:

Enclosed are amendments to our water bond initiative, 17-0010. Please prepare a title and summary based on this amended initiative. A copy in underline and strikeout is provided, as well as a clean copy. Please let me know if you have any questions.

Sincerely

Gerald H. Meral



Cc: Legislative analyst

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.**

Division 38 (commencing with Section 86000) is added to the Water Code, to read:

**DIVISION 38.** State water supply infrastructure, water conveyance, ecosystem and watershed protection and restoration, and drinking water protection act of 2018.

**CHAPTER 1. Short Title.**

**86000.** This division shall be known and may be cited as the Water Supply and Water Quality Act of 2018.

**CHAPTER 2. Findings and Declarations.**

**86001.** The people find and declare the following:

(a) In our frequently very dry state, our high-tech, agricultural and urbanized economy relies on an uninterrupted and high-quality water supply. By making water use more efficient, reducing the demand for water, providing new and diverse water supplies, improving the quality of our source watersheds, and protecting key environmental uses of water, this measure will assure that the economic and environmental engines of California are not derailed by a shortage of water.

(b) California's recent historic drought raises serious questions about the long-term reliability of our current water supplies. The drought underscores the need to use our existing water supplies more efficiently, increase investments in our water infrastructure, and more effectively integrate our water system from the headwaters to the end user.

(c) California's water situation requires implementation of the Governor's Water Action Plan to provide for the water needs of people, agriculture and the environment. This division will help provide a more reliable water supply by reducing waste, increasing the amount of water available to meet our needs, and improving water quality. This division also provides additional protection for our communities from floods.

(d) This division will implement cost effective methods of water development and conservation to meet California's present and future water needs in a changing climate, including capture of urban drainage and stormwater runoff, groundwater and brackish water desalting, groundwater storage, water recycling, water conservation, and watershed management, restoration, enhancement and protection.

(e) Many of the water supply and water quality investments provided by this division will be matched by agencies and grant recipients, more than doubling the effectiveness of the funding provided.

(f) Agencies implementing this division will give high priority to cost-effective projects, and to the most durable and most environmentally beneficial projects. Funding will go to projects that contribute to implementation of the Governor's Water Action Plan, the goal of which is to increase the resiliency of the California water system and the ability of California communities to cope with drought conditions.

(g) Every Californian has a right to safe, clean, affordable, and accessible drinking water. By complying with Section 106.3, agencies providing funds for safe drinking water pursuant to this division will help achieve the intent of that Section.

(h) This division provides a fair and reasonable distribution of funds directly and indirectly benefitting every region of the state.

(i) This division provides short and long-term cost-effective actions to address the water shortages caused by the recent drought, and will help prepare local communities for future droughts. Droughts reduce water supplies for people, agriculture and the environment. This division will help meet the water needs of people, agriculture, and the environment and make California more resilient in the face of a changing climate.

(j) By improving the health and water productivity of watersheds, communities will become more self-reliant with respect to water supply, and local environmental quality will be increased.

(k) By removing invasive plants such as yellow starthistle, giant reed (*Arundo donax*) and tamarisk, water supply will be increased and habitat for fish and wildlife will be improved.

(l) Flooding can devastate communities and infrastructure. We can make better use of floodwaters by capturing waters and putting them to use in our communities, on our farms, and by recharging groundwater basins. By providing funds to intelligently manage our watersheds and floodplains, this division will also help avoid flood damage, improve fish and wildlife habitat, remove pollutants from our water supply, enhance groundwater, remediate aquifers and improve the environment. Better floodplain management may allow improved operation of upstream reservoirs for water supply purposes.

(m) Severe fire conditions can lead to significant erosion, reduced water quality and impacts on water infrastructure. This division provides funding to manage forests and watersheds to reduce fire danger, mitigate the effects of wildfires on water supply and quality, and enhance water supplies.

(n) This division funds the following programs, which respond to human and environmental water needs in California:

(1) Improvement of water supply and water quality utilizing cost effective methods, including water conservation, desalting of groundwater and other inland saline water, stormwater management, wastewater recycling, and similar water management measures.

(2) Better management of forest and rangeland watersheds, such as through the Sierra Nevada Watershed Improvement Program to improve the pattern, quantity and quality of water runoff and groundwater recharge. Improving soil health improves the ability of the ground to better contain groundwater and moderate the rate of water runoff.

(3) Better groundwater management, including faster implementation of the Sustainable Groundwater Management Act, and better recognition of the connection between surface and groundwater.

(4) Provision of water for fish and wildlife, including restoration of the Pacific Flyway and management of habitat in a dynamic way to respond to changing environmental conditions.



(5) Increased capacity to convey water resulting in greater groundwater recharge and improved conveyance and utilization of floodwaters for use in drought years.

(o) The State Water Resources Control Board, the Department of Fish and Wildlife, and many other agencies have recognized that providing funding for fish habitat enhancement is vital to restoring native California fish populations, and that relying solely on flow to restore those populations will not be sufficient. Providing funding for fish habitat enhancement is a vital complement to reasonable flows to protect fish.

(p) California has lost ninety-five percent (95%) of its historical wetlands. These wetlands provide food, water and cover for migratory and other birds, fish, mammals, reptiles, amphibians and a vast number of plant species. Many species may become endangered or threatened without wetlands and many more survive only due to wetlands available today. This division combines work to sustain and protect current wetlands with the potential to increase wetlands in California to support a thriving flora and fauna.

(q) The implementation of this division will result in cost savings to local governments immediately by substantially more than one billion dollars, and reduce local government operating costs by hundreds of millions of dollars per year. This division will provide funding that displaces local government funding, resulting in the implementation of projects in the following areas. These projects would have eventually been implemented by local government.

(1) Safe Drinking Water. State direct and matching funds will reduce the cost to local government of implementing drinking water and wastewater treatment systems, and to some extent the operation of those systems.

(2) Wastewater recycling. State funds will reduce the cost of these plants, reducing the capital cost of the projects for local governments. By reducing local government capital costs, the cost of water from these plants will also be reduced. Implementation of wastewater recycling plants will defer the need for more expensive alternative sources of water supply, thus further reducing local capital and operating costs.

(3) Groundwater desalting. State funds will reduce the cost of these plants, reducing the capital cost of the projects for local governments. By reducing local government capital costs, the cost of water from these plants will also be reduced. Implementation of groundwater desalting plants will defer the need for more expensive alternative sources of water supply, thus further reducing local capital and operating costs.

(4) Water Conservation. State funds will reduce the cost of these projects, reducing costs to local government. More importantly, reduced water demand resulting from these projects will reduce operating costs, and will temporarily or permanently defer the construction and operating costs of more expensive capital outlay projects needed to provide new water.

(5) Repairing flood control reservoirs. State funds will reduce the costs of these projects for local government.

(6) San Francisco Bay Restoration Authority funds. State investment in wetlands projects providing flood protection around San Francisco Bay will reduce flood risk associated with climate change. This will reduce the cost of other flood control measures, and more importantly will reduce flood damage which often results in tremendous costs to local government for facility repair.

(7) Stormwater funding. Regulations imposed by the State Water Resources Control Board and various regional water quality control boards will result in the construction of various capital outlay projects costing billions of dollars. Providing funds through this measure will reduce the cost of these projects to local government.

(8) Fisheries restoration. This division provides hundreds of millions of dollars for fisheries restoration. Local and regional water agencies are voluntarily undertaking many of these projects. By providing state funds, this division will reduce local costs. In addition, the resulting increase in fish populations will make it possible to improve local water supplies, avoiding local government costs to provide replacement water supplies costing hundreds of millions or even billions of dollars.

(9) Bay Area Regional Reliability. Bay Area water districts are undertaking extensive improvements in their water distribution systems to interconnect their water supplies for greater drought water supply reliability and other benefits. By providing funds for this program, this division will reduce their costs by two hundred and fifty million dollars (\$250,000,000).

(10) Friant Kern Canal Repair. Groundwater overdraft has caused subsidence of the Friant Kern Canal. State funds to repair the canal will reduce the cost of repairing the canal to local water districts. Avoiding the cost to finance this project will also save tens of millions of dollars per year in interest costs which would have to be paid by these districts.

(11) Oroville Dam Repair. Although the costs of repairing Oroville Dam should be covered by the federal government either through the Federal Emergency Management Agency or the Corps of Engineers, the federal government may not fulfill this obligation. If the State Water Resources Development System contractors, all local agencies, are forced to cover all or part of these costs, this division will reduce their costs by two hundred million dollars (\$200,000,000). Interest costs would also be reduced.

(r) Substantial funds remain to be allocated to storage projects pursuant to Division 26.7. For this reason, and so as not to interfere with the work of the California Water Commission in awarding these funds, this measure does not include funding for the construction of specific storage projects.

### **CHAPTER 3. Definitions.**

**86002.** Unless the context otherwise requires, the definitions set forth in this section govern the construction of this division, as follows:

(a) "Conservation" means rehabilitation, stabilization, restoration, reduced water use, development, and reconstruction, or any combination of those activities.

(b) "Conservation actions on private lands" means projects implemented with willing landowners that involve the adaptive and flexible management of natural resources in response to changing conditions and threats to habitat and wildlife. These investments and actions are specifically designed to create habitat conditions on private lands which, when managed dynamically over time, contribute to the long-term health and resiliency of vital ecosystems and enhance wildlife populations.

(c) "Delta" means the Sacramento-San Joaquin Delta as defined in Section 12220.

(d) "Department" means the Department of Water Resources.

- (e) "Desalination" means removing salt and other contaminants from polluted groundwater or other inland sources of water containing salts, including brackish water.
- (f) "Disadvantaged community" has the meaning set forth in subdivision (a) of Section 79505.5, as it may be amended.
- (g) "Economically distressed area" has the meaning set forth in subdivision (k) of Section 79702, as it may be amended.
- (h) "Finance committee" means the Water Supply Reliability and Drought Protection Finance Committee created by Section 86182.
- (i) "Fund" means the Water Supply Reliability and Drought Protection Fund of 2018 created by Section 86169.
- (j) "Groundwater sustainability agency" means an agency defined in subdivision (j) of Section 10721.
- (k) "Integrated Regional Water Management Plan" means a comprehensive plan for a defined geographic area that meets the requirements of Part 2.2 (commencing with Section 10530) of Division 6, as that part may be amended.
- (l) "Invasive plant" means a terrestrial or aquatic plant not native to California of no or negligible agricultural value which does any of the following: displaces native plants, threatens native plant biodiversity, harms agricultural or rangeland productivity, degrades wildlife habitat, contributes to fire hazard, or uses more water than the plants it displaces.
- (m) "Multi-benefit project" means a project that serves more than one purpose, including but not limited to flood management, water supply, water quality improvement, environmental enhancement, recreation, energy conservation, reduction of emission of climate-changing gases, and fish and wildlife improvement.
- (n) "Nonprofit organization" means an organization qualified to do business in California and exempt under Section 501(c)(3) or Section 501(c)(6) of Title 26 of the United States Code, to the extent permitted by state and federal law.
- (o) "Protection" means those actions necessary to prevent harm or damage to persons, property or natural resources or those actions necessary to allow the continued use and enjoyment of property or natural resources and includes acquisition, development, restoration, conservation, preservation and interpretation as interpretation is defined in subdivision (i) of Section 75005 of the Public Resources Code.
- (p) "Public agency" means a state agency or department, special district, joint powers authority, city, county, city and county, or other political subdivision of the state.
- (q) "Public water systems" are defined in subdivision (h) of section 116275 of the Health and Safety Code and means regional, municipal, and district urban water suppliers, including privately owned water suppliers as defined in Part 2.6, Section 10617 of the Water Code Division 6.
- (r) "Restoration" means the improvement of physical structures or facilities and, in the case of natural systems and landscape features, includes but is not limited to projects that improve physical and

ecological processes, including but not limited to erosion control; sediment management; the control and elimination of invasive species; prescribed burning; fuel hazard reduction; fencing out threats to existing or restored natural resources; meadow, wetland, riparian, and stream restoration; and other plant and wildlife habitat improvement to increase the natural system value of the property. Restoration projects shall include the planning, monitoring and reporting necessary to ensure successful implementation of the project objectives.

(s) "Severely disadvantaged community" means a community with a median household income of less than 60 percent (60%) of the statewide median household income.

(t) "Sierra Nevada Watershed Improvement Program" is a coordinated, integrated, collaborative program to restore the health of California's primary watershed by increasing the pace and scale of forest restoration in order to maintain the important benefits that the Sierra Nevada region provides.

(u) "State board" means the State Water Resources Control Board.

(v) "State General Obligation Bond Law" means the State General Obligation Bond Law, Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code.

(w) "Stormwater" and "dry weather runoff" are defined as in Section 10561.5.

(x) "Stormwater Resource Plans" are defined as in Part 2.3 (commencing with Section 10560) of Division 6.

#### **CHAPTER 4. Accountability.**

**86003.** (a) (1) The California Natural Resources Agency shall provide for an independent audit of expenditures pursuant to this division no less than every three years.

(2) On or before January 10, 2020, and every six months thereafter, the Natural Resources Agency shall publish on its website a report that contains all of the following information relating to this division for the previous six months with the information summarized by section of this division:

(A) Funding encumbrances.

(B) Summary of new projects funded.

(C) Summary of projects completed.

(D) Discussion of progress towards meeting the metrics of success established pursuant to Section 86157.

(E) Discussion of common challenges experienced by state agencies and recipients of funding in executing projects.

(F) Discussion of major accomplishments and successes experienced by state agencies and recipients of funding in executing projects.

(3) This subsection shall remain in effect only until January 1, 2028, and as of that date is repealed.

(b) The Department of Finance or the Controller, or the California State Auditor at the direction of the Legislature, may conduct an audit of the expenditures of any state agency receiving funding pursuant to

this act.

(c) The state agency issuing any grant with funding authorized by this division shall require adequate reporting of the expenditures of the funding from the grant.

## **CHAPTER 5. Improvement of Water Supply and Water Quality.**

### **CHAPTER 5.1. Safe Drinking Water.**

**86004.** The sum of seven hundred fifty million dollars (\$750,000,000) is appropriated from the Fund to the State board for expenditures, grants, and loans to improve water quality or help provide clean, safe, and reliable drinking water to all Californians.

**86005.** The projects eligible for funding pursuant to this chapter shall help improve water quality for a beneficial use. The purposes of this chapter are to:

- (a) Reduce contaminants in drinking water supplies regardless of the source of the water or the contamination.
- (b) Assess and prioritize the risk of contamination to drinking water supplies.
- (c) Address the critical and immediate needs of disadvantaged, rural, or small communities that suffer from contaminated or inadequate drinking water supplies, including, but not limited to, projects that address a public health emergency.
- (d) Leverage other private, federal, state, and local drinking water quality and wastewater treatment funds.
- (e) Provide disadvantaged communities with public drinking water infrastructure that provides clean, safe, and reliable drinking water supplies that the community can sustain over the long term.
- (f) Ensure access to clean, safe, reliable, and affordable drinking water for California's communities.
- (g) Meet primary and secondary drinking water standards or remove contaminants identified by the state or federal government to meet primary or secondary drinking water standards.

**86006.** The contaminants that may be addressed with funding pursuant to this chapter may include, but shall not be limited to, lead, nitrates, perchlorate, MTBE (methyl tertiary butyl ether), arsenic, selenium, hexavalent chromium, mercury, PCE (perchloroethylene), TCE (trichloroethylene), DCE (dichloroethene), DCA (dichloroethane), 1,2,3-TCP (trichloropropane), carbon tetrachloride, 1,4-dioxane, 1,4-dioxacyclohexane, nitrosodimethylamine, bromide, iron, manganese, total dissolved solids, electrical conductivity, and uranium.

**86007.** (a) (1) Of the funds authorized by Section 86004, five hundred million dollars (\$500,000,000) shall be available for grants and loans for public water system infrastructure improvements and related actions to meet safe drinking water standards, ensure affordable drinking water, or both. Priority shall be given to projects that provide treatment for contamination or access to an alternate drinking water source or sources for small community water systems or state small water systems in disadvantaged communities whose drinking water source is impaired by chemical and nitrate contaminants and other health hazards

identified by the State board. Eligible recipients serve disadvantaged communities and are public water systems or public agencies.

(2) Eligible expenses may include initial operation and maintenance costs for systems serving disadvantaged communities. Priority shall be given to projects that provide shared solutions for multiple communities, at least one of which is a disadvantaged community that lacks safe, affordable drinking water and is served by a small community water system, state small water system, or a private well. Construction grants shall be limited to five million dollars (\$5,000,000) per project, except that the State board may set a limit of not more than twenty million dollars (\$20,000,000) for projects that provide regional benefits or are shared among multiple entities, including consolidation of two or more drinking water systems, at least one of which shall be a small disadvantaged community. Not more than 50 percent (50%) of a grant may be awarded in advance of actual expenditures.

(3) For the purposes of this subdivision, "initial operation and maintenance costs" means those initial, eligible, and reimbursable costs under a construction funding agreement that are incurred up to, and including, but not limited to, initial startup testing of the constructed project in order to deem the project complete. Initial operation and maintenance costs are eligible to receive funding pursuant to this section for a period not to exceed three years.

(b) Of the funds authorized by this section, up to ten million dollars (\$10,000,000) shall be available for grants to provide school children with safe drinking water under the Drinking Water for Schools Grant Program pursuant to Section 116276 of the Health and Safety Code.

**86008.** Of the funds authorized by Section 86004, two hundred fifty million dollars (\$250,000,000) shall be available for deposit in the State Water Pollution Control Revolving Fund Small Community Grant Fund created pursuant to Section 13477.6 for grants and loans for wastewater treatment projects. Priority shall be given to projects that serve disadvantaged communities and severely disadvantaged communities, and to projects that address public health hazards. Projects may include, but not be limited to, projects that identify, plan, design, and implement regional mechanisms to consolidate wastewater systems or provide affordable treatment technologies.

**86009.** Of the funds authorized by Section 86004, up to sixty million dollars (\$60,000,000) shall be made available for drinking water infrastructure and/or wastewater improvements on private property, or for interim replacement drinking water supplies.

(a) Funds may be used for the following purposes:

(1) To conduct water quality testing of drinking water wells.

(2) To install and replace laterals, repair or replace private wells or onsite wastewater systems, properly close abandoned wells and septic system infrastructure, and provide infrastructure necessary to connect residences to a public water or wastewater system.

(3) To replace interior drinking water plumbing and fixtures that contain lead.

(4) To provide interim replacement drinking water supplies.

(b) The State board may establish a revolving loan fund to facilitate financing for activities allowable under this section.

(c) Priority shall be given to projects that assist low-income homeowners, including mobile home owners, and vulnerable populations.

**86010.** (a) For the purposes of awarding funding pursuant to this chapter, a local cost share of not less than 50 percent (50%) of the total costs of the project shall be required. The cost-sharing requirement may be waived or reduced for projects that directly benefit a disadvantaged community or an economically distressed area.

(b) At least 10 percent (10%) of the funds available pursuant to this chapter shall be allocated for projects serving severely disadvantaged communities.

(c) Up to 15 percent (15%) of the funds available pursuant to this chapter may be allocated for technical assistance to disadvantaged communities. The State board shall operate a multidisciplinary technical assistance program for small and disadvantaged communities which may include, but is not limited to, outreach and education, needs assessments, review of alternative approaches to provide communities with safe drinking water or wastewater services, project selection and design, board and operator training, and other technical, managerial, and financial capacity building assistance for utilities serving disadvantaged communities related to providing communities with safe drinking water or wastewater services. The agency may also contract with a nonprofit organization, resource conservation district, or other local agency to provide these services.

#### **CHAPTER 5.2. Water Recycling and Desalination.**

**86020.** The sum of four hundred million dollars (\$400,000,000) is appropriated from the Fund to the State board to award grants and loans to eligible entities as defined in subdivision (a) of Section 86166 on a competitive basis for wastewater recycling projects. Grants pursuant to this section may be made for all of the following:

(a) Water recycling projects, including, but not limited to, treatment, storage, conveyance, brine disposal, and distribution facilities for potable and nonpotable recycling projects.

(b) Dedicated distribution infrastructure to serve residential, commercial, agricultural, fish and wildlife habitat, and industrial end-user retrofit projects to allow use of recycled water.

(c) Pilot projects for new potable reuse and contaminant removal technology.

(d) Multi-benefit recycled water projects that improve water quality.

(e) Multi-benefit recycled water projects that protect, conserve and restore wetland and other wildlife habitat.

(f) Technical assistance and grant writing assistance related to specific projects for disadvantaged communities and economically distressed areas.

**86021.** The sum of four hundred million dollars (\$400,000,000) is appropriated from the Fund to the State board to award grants to eligible entities as defined in subdivision (a) of Section 86166 on a competitive basis for desalination of brackish groundwater, and other brackish water desalination projects which do

not directly negatively affect riparian habitat, estuaries, coastal bays, coastal lagoons, or ocean waters of California as defined by the State board. Grants pursuant to this section must comply with the requirements of this section, and may be made for all of the following:

- (a) Treatment, storage, conveyance, and distribution facilities. Projects may remove contaminants in addition to salts, but shall be primarily constructed and operated to remove salt.
- (b) Distribution infrastructure to serve residential, commercial, agricultural, fish and wildlife habitat, and industrial end-user retrofit projects to allow use of desalted water.
- (c) Multi-benefit salt removal projects that improve water quality.
- (d) Technical assistance and grant writing assistance related to specific projects for disadvantaged communities and economically distressed areas.
- (e) Multi-benefit salt removal projects that provide water supply for wetland and other wildlife habitat.
- (f) Technical assistance and grant writing assistance related to specific projects for disadvantaged communities and economically distressed areas.

**86022.** No grant made pursuant to this chapter shall exceed fifty percent (50%) of the cost of the project, but this requirement may be eliminated or reduced for that portion of projects that primarily serve disadvantaged communities, economically distressed areas, or wildlife habitat.

**86023.** Projects funded pursuant to this chapter shall be selected on a competitive basis with priority given to the following criteria:

- (a) Water supply reliability improvement.
- (b) Water quality and ecosystem benefits related to decreased reliance on diversions from the Delta or from local rivers and streams, and benefits related to attainment of beneficial uses and water quality objectives in local receiving waters.
- (c) Public health benefits from improved drinking water quality or supply.
- (d) Cost-effectiveness, based on the amount of water produced per dollar invested, and other cost-effectiveness criteria adopted by the State board.
- (e) Energy efficiency and greenhouse gas emission reductions.
- (f) Water supply or water quality improvements benefitting disadvantaged communities.
- (g) Protection and restoration of fish and wildlife habitat, as well as provision of a reliable water supply for fish and wildlife.

### **CHAPTER 5.3. Water Conservation.**

**86030.** The sum of three hundred million dollars (\$300,000,000) is appropriated from the Fund to the



department for the following purposes:

(a) Statewide turf removal program.

(1) The program shall provide financial incentives to public and private property owners to convert their irrigated or watered landscaping to drought tolerant plantings, including appropriate low water using plants. The department shall set a maximum amount each applicant can receive, and shall allow greater incentives to low-income homeowners who could not otherwise afford to participate in the landscape water conversion program. No less than seventy-five percent (75%) of the funds allocated to this program shall be spent on programs benefitting residential property owners. The department shall make awards to nonresidential applicants on the basis of cost-effectiveness with respect to water supply. Each grant must reduce water consumption by at least fifty percent (50%) compared to current water use.

(2) The most cost-effective projects and those projects that provide the greatest environmental benefits based on the state investment shall receive highest priority for funding. Environmental benefits shall include, but not be limited to, planting appropriate drought resistant native and other plants, reduction in consumptive water use, and increased availability of water for environmental benefits.

(3) The department shall not reject or reduce eligibility to residents residing in service areas which have previously offered turf removal rebate programs as long as the resident was not a participant in the program.

(4) The department shall cooperate with eligible entities as defined in subdivision (a) of Section 86166 and the California Public Utilities Commission to develop an on-bill repayment mechanism to pay for the consumer's share of the landscape conversion project.

(b) Leak detection.

(1) Competitive grants on a matching basis to public water systems to reduce leaks in their water distribution systems, eliminate leaks in the water systems of their customers if the water system operator determines that customer leak detection and elimination is a cost-effective way to improve the water system operator's water supply and provides a public benefit, and install instrumentation to detect leaks at residential, institutional, and commercial properties. The department shall make awards on the basis of cost-effectiveness with respect to water supply. Water system operators receiving grants pursuant to this subdivision shall give highest priority to leak detection and water waste elimination programs in disadvantaged communities and economically distressed areas.

(2) No grant award shall exceed fifty percent (50%) of the cost of the project. Cost sharing may be reduced or eliminated for a grant award that primarily benefits residential property owners in a disadvantaged community or an economically distressed area.

(c) Toilet replacement. Competitive grants on a matching basis to public water systems or eligible entities as defined in subdivision (a) of Section 86166 to replace toilets using more than three gallons per flush with new toilets that conserve water and flush 1.28 gallons per flush or less. The department shall make awards on the basis of cost-effectiveness with respect to water supply. Entities receiving grants pursuant to this subdivision shall give highest priority to toilet replacement programs in disadvantaged communities and economically distressed areas.

(d) Water meters. Installation of water meters in disadvantaged communities that are not metered.

(e) Energy saving water conservation. Competitive grants on a matching basis to public water systems to undertake water conservation projects that promote saving energy. These projects shall document the greenhouse gas emission reductions coming from water conservation programs. The department shall make awards on the basis of cost-effectiveness with respect to water supply as well as energy savings. Highest priority shall be given to programs in disadvantaged communities and economically distressed areas.

(f) In determining how to allocate the funds appropriated pursuant to this section, the department shall determine which technologies are most cost-effective, produce the greatest environmental benefits, and provide the most benefit to disadvantaged communities and economically distressed areas.

(g) Any entity receiving a grant pursuant to this section may use grant funds to establish a revolving fund from which the entity may make loans to implement water conservation programs. The interest rate shall be established by the entity, and the entity may charge a reasonable administration fee to be paid along with the interest on the loan over the lifetime of the loan. Payments made on loans made pursuant to this program shall be returned to the revolving fund to be used for additional loans to implement water conservation programs. Loans made pursuant to this section may be for up to 15 years, or for the useful life of the water conservation project, whichever is shorter.

**86031.** The sum of fifteen million dollars (\$15,000,000) is appropriated from the Fund to the California Energy Commission for the Water Energy Technology Program to accelerate the deployment of innovative water and energy saving technologies and help continue to make water conservation a California way of life.

**86032.** (a) The purpose of this section is to help make it possible to improve flows in tributaries to the Delta, and to expedite the transfer of conserved agricultural water while minimizing impacts on water rights holders.

(b) The sum of fifty million dollars (\$50,000,000) is appropriated from the Fund to the department for matching grants to local agencies to aid in the construction and implementation of agricultural water conservation projects, and for grants in accordance with Section 79158.

(c) For the purposes of approving a grant under this section, the department shall determine if there will be a net savings of water as a result of each proposed project and if the project is cost-effective and technically sound.

(d) A project under this section shall not receive more than five million dollars (\$5,000,000) in grant proceeds from the department.

(e) The department shall give preference to the most cost-effective and technically sound projects.

(f) Priority shall be given to grants that result in water savings which are used to improve the quality of fish and wildlife through increased flows in tributaries to the Delta. Grants improving internal water district efficiency for other uses and transfers are also eligible for funding.

(g) No project may cause adverse impacts to fish or wildlife without mitigating those impacts below a level of significance. The cost of mitigation may be included in grant funds.

**CHAPTER 5.4. Flood Management for Improved Water Supply.**

**86040.** (a) The sum of two hundred million dollars (\$200,000,000) is appropriated from the Fund to the Central Valley Flood Protection Board for:

(1) Enlargement and environmental enhancement of existing floodways and bypasses within the jurisdiction of the Central Valley Flood Protection Board, including providing recreation opportunities.

(2) Improvement of flood control facilities and environmental enhancement within the jurisdiction of the Central Valley Flood Protection Board.

(b) To be eligible for funding under this section, a project shall provide reduced flood risk, reduced liability, or reduced maintenance responsibility for state agencies or local flood control districts or both.

(c) The Central Valley Flood Protection Board shall give preference to:

(1) Those projects that primarily benefit disadvantaged communities or economically distressed areas.

(2) Multi-benefit projects designed to reduce flood risk and enhance fish and wildlife habitat by allowing rivers and floodplains to function more naturally. These projects create additional public benefits such as protecting farms and ranches, improving water quality, increasing groundwater recharge, and providing public recreation opportunities.

(3) Those projects that include matching funds, including but not limited to matching funds from other state agencies. Matching fund requirements may be reduced or eliminated to the extent the project directly benefits disadvantaged communities or economically distressed areas.

(d) The Central Valley Flood Protection Board may make grants to eligible entities as defined in subdivision (a) of Section 86166 to implement this section.

(e) The Central Valley Flood Protection Board may use up to one million (\$1,000,000) of these funds to develop a programmatic permit for authorization of habitat restoration and related multi-benefit floodplain restoration projects whose primary purpose is restoration and that meet the criteria described in paragraphs (a) and (b) of this section.

(f) Of the amount appropriated in paragraph (a), fifty million dollars (\$50,000,000) shall be awarded for matching grants to public agencies to construct flood control improvements to existing dams on rivers in the Sacramento Valley that provide flood protection to urbanized areas. If these funds are not awarded for this purpose by January 1, 2032, they may be used for the other purposes of this section.

**86041.** (a) The sum of one hundred million dollars (\$100,000,000) is appropriated from the Fund to the department for grants to local agencies on a fifty percent (50%) matching basis to repair or reoperate reservoirs that provide flood control either as a principal purpose or as an indirect effect of their operation. Grantees must demonstrate that the proposed repair or reoperation will increase the amount of water stored in those reservoirs that could be put to beneficial use. No funds appropriated under this section shall be used to raise the height of any dam. Spillway modification projects that do not raise the

crest height of the dam are eligible for grant funds.

(b) (1) To be eligible for funding under this section, a project must provide substantial increases in recreational opportunities, such as trails along river channels, and significant net improvements to fish and wildlife habitat in and adjacent to the river channel downstream of the reservoir, and to the extent compatible with safe reservoir operation, within the reservoir. At least ten percent (10%) of project costs shall be allocated to these recreational and habitat purposes. The funds to carry out these purposes shall be allocated by the department directly to a state conservancy if there is a conservancy with jurisdiction over the area of the project. If there is no conservancy, the Natural Resources Agency's California River Parkways Program shall contract with an eligible entity as defined in subdivision (a) of Section 86166 to carry out these purposes. The agency operating the reservoir being repaired or reoperated shall approve the recreational and habitat elements of the project and shall not charge any fees for review, plan check, permits, inspections, or any other related costs associated with the project, and shall provide permanent operation and maintenance of the entire project, including the habitat and recreational elements. Projects may include grants to eligible entities as defined in subdivision (a) of Section 86166 to implement this paragraph.

(2) All costs associated with the requirements of this subdivision may be paid for with funds provided to local agencies by this section, and do not have to be matched by the agency.

(c) Grants made pursuant to this section may be for the purpose of seismic retrofit.

(d) No grants made pursuant to this section shall be for reservoir maintenance or sediment removal from the reservoir or upstream of the reservoir, except as necessary to complete projects authorized under paragraphs (a), (b), and (c).

(e) Applicants shall certify that projects paid for by funds provided by this section will be permanently operated and maintained.

(f) First priority shall be given to projects that benefit disadvantaged communities.

(g) Projects to assist in the reoperation of eligible reservoirs shall increase water supply for beneficial uses through the purchase and installation of water measuring equipment, acquisition of information systems, and the use of technologies and data to improve reservoir management.

(h) (1) A local public agency, Indian tribe or nonprofit organization that receives funding under this chapter to create recreational facilities or wildlife habitat may use up to twenty percent (20%) of those funds to establish a trust fund that is exclusively used to help pay for the maintenance and monitoring of those recreational facilities or wildlife habitat.

(2) A local public agency, Indian tribe or nonprofit organization that acquires an interest in land, recreation facilities or wildlife habitat with money from this chapter and transfers the interest in land, recreation facilities or wildlife habitat to another public agency, Indian tribe or nonprofit organization shall also transfer the ownership of the trust fund that was established to maintain that interest in the land, recreation facilities or wildlife habitat.

(3) This subdivision does not apply to state agencies.

(4) If the local public agency, Indian tribe or nonprofit organization does not establish a trust fund

pursuant to this subdivision, the agency, tribe or organization shall certify to the state agency making the grant that it can maintain the land, recreational facilities or wildlife habitat to be acquired or developed from funds otherwise available to the agency, tribe or organization.

(5) If the interest in land, recreational facilities or wildlife habitat is condemned or if the local public agency, Indian tribe or nonprofit organization determines that the interest in land, recreational facilities or wildlife habitat is unable to fulfill the purposes for which money from this chapter was expended, the trust fund and any unexpended interest are appropriated to the agency that provided the money. The funds returned to the agency may be utilized only for projects pursuant to this section.

(i) The department shall give preference to those projects that coordinate reservoir reoperation with the provision of water for groundwater recharge through conjunctive use or other integrated surface/groundwater projects.

**86042.** The sum of two hundred million dollars (\$200,000,000) is appropriated from the Fund to the San Francisco Bay Restoration Authority to provide matching grants for flood management, wetlands restoration, and other projects consistent with Article 2 (commencing with Section 66704.5) of Chapter 5 of Title 7.25 of the Government Code. For purposes of this section, matching funds may include funds provided by local governments, regional governments, the federal government, private parties, or other funds raised by the San Francisco Bay Restoration Authority. No grant shall exceed fifty percent (50%) of the cost of the project.

**86043.** (a)(1) A local public agency, Indian tribe or nonprofit organization that receives funding under this chapter to acquire an interest in land may use up to twenty percent (20%) of those funds to establish a trust fund that is exclusively used to help pay for the maintenance and monitoring of that interest in land.

(2) A local public agency, Indian tribe or nonprofit organization that acquires an interest in land with money from this chapter and transfers the interest in land to another public agency, Indian tribe or nonprofit organization shall also transfer the ownership of the trust fund that was established to maintain that interest in land.

(3) This subdivision does not apply to state agencies.

(b) If the local public agency, Indian tribe or nonprofit organization does not establish a trust fund pursuant to subdivision (a), the agency, tribe or organization shall certify to the state agency making the grant that it can maintain the land to be acquired from funds otherwise available to the agency, tribe or organization.

(c) If the interest in land is condemned or if the local public agency, Indian tribe or nonprofit organization determines that the interest in land is unable to fulfill the purposes for which money from this chapter was expended, the trust fund and any unexpended interest are appropriated to the agency that provided the money. The funds returned to the agency may be utilized only for projects pursuant to this chapter.

#### **CHAPTER 5.5. Funding for Water Measurement and Information.**

**86048.** The sum of sixty million dollars (\$60,000,000) is appropriated from the Fund for water measurement and information systems, as follows:

(a) The sum of twenty million dollars (\$20,000,000) is appropriated to the department for development of

methods and installation of water measuring equipment to improve estimates of water balance, water budgets, diversions and water use to support water allocations, drought management, groundwater management, water quality management and water rights.

(b) The sum of ten million dollars (\$10,000,000) is appropriated to the State board for development of information systems, technologies, and data that improve the State board's ability to manage water rights. These systems will include, but not be limited to, digitizing and making available the 10 million pages of paper records on water rights within the State board and in other repositories and the creation of a digital repository for water diversion and use data.

(c) The sum of ten million dollars (\$10,000,000) is appropriated to the Water Data Administration Fund established pursuant to Section 12420, to be used by the department in consultation with the State board for the purpose of making California water information interoperable, consistent with Part 4.9 of Division 6 of the Water Code.

(d) The sum of twenty million dollars (\$20,000,000) is appropriated as follows:

(1) Five million dollars (\$5,000,000) is appropriated to the University of California for its multi-campus Water Security and Sustainability Research Initiative to develop core elements of a water resources information system, in cooperation with the department and the State board.

(2) Five million dollars (\$5,000,000) is appropriated to the California Water Institute at California State University, Fresno to undertake research leading to improvement and conservation of water supplies and improved water quality in California.

(3) Five million dollars (\$5,000,000) is appropriated to the Irrigation Training and Research Center at California Polytechnic State University San Luis Obispo to undertake research leading to improvement and conservation of water supplies and improved water quality in California.

(4) Five million dollars (\$5,000,000) is appropriated to the Office of Water Programs at California State University, Sacramento to undertake research leading to improvement and conservation of water supplies and improved water quality in California.

(5) The institutions of higher education receiving funds pursuant to this paragraph shall work together to assure that their efforts do not conflict or overlap, but are complementary to each other.

#### **CHAPTER 5.6. Capture and Use of Urban Runoff and Stormwater.**

**86050.** (a) The sum of four hundred million dollars (\$400,000,000) is appropriated from the Fund to the State board for projects to capture and use urban dry weather runoff and stormwater runoff. All grants made pursuant to this section by the State board for construction projects must be to counties or cities, a city and county, or a joint powers authority containing a city, county, or city and county with responsibility for flood control or management. The State board may spend up to fifty million dollars (\$50,000,000) for grants to eligible entities as defined in subdivision (a) of Section 86166 to develop Stormwater Resource Plans. Funds available pursuant to this section shall be allocated to projects serving and providing a direct benefit to disadvantaged and severely disadvantaged communities. The State board may use these funds to make grants for technical assistance and outreach to disadvantaged communities.

(b) The sum of thirty million dollars (\$30,000,000) is appropriated from the Fund to the California Tahoe Conservancy for projects to capture and use dry weather runoff and stormwater runoff in the Lake Tahoe Basin pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.

(c) The sum of forty million dollars (\$40,000,000) is appropriated from the Fund to the Santa Monica Mountains Conservancy for projects to capture and use dry weather runoff and stormwater runoff pursuant to Division 23 (commencing with Section 33000) of the Public Resources Code in the area defined in paragraph (2) of subdivision (d) of Section 86080.

(d) The sum of forty million dollars (\$40,000,000) is appropriated from the Fund to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy for projects to capture and use dry weather runoff and stormwater runoff pursuant to Division 22.8 (commencing with Section 32600) of the Public Resources Code.

(e) The sum of forty million dollars (\$40,000,000) is appropriated from the Fund to the State Coastal Conservancy for projects to capture and use dry weather runoff and stormwater runoff pursuant to Division 21 (commencing with Section 31000) of the Public Resources.

(f) Funds spent pursuant to this section shall be used for competitive grants for projects that develop, implement, or improve multi-benefit projects identified and prioritized in Stormwater Resource Plans consistent with Part 2.3 (commencing with Section 10560) of Division 6, as that part may be amended, and shall include as many as possible of the following benefits: capture and treatment of stormwater or dry weather runoff for beneficial uses; removal of pollutants from the captured and treated runoff; creation or restoration of habitat or parkland to capture and treat stormwater or dry weather runoff for beneficial uses by using best management practices that improve environmental quality; removal of pollutants from the captured and treated runoff; creation or restoration of habitat or parkland; storage, infiltration or use of the captured and treated runoff to augment local water supplies; creation or restoration of native habitat, trails, park land or other natural open space; reduction of urban heat islands; and provision of other public recreational opportunities. Projects that include wetlands and native habitat or project elements designed to mimic or restore natural watershed functions shall be given the highest priority.

(g) Of the amount appropriated pursuant to subdivision (a), at least forty million dollars (\$40,000,000) shall be available for projects that reduce the flow of trash and other pollutants: (1) into a National Estuarine Research Reserve, onto beaches, or into near-shore coastal waters in San Diego County, or (2) into San Diego Bay. Priority shall be given to projects that reduce the flow of trash or other pollutants into one or more units of the State Parks System.

**86051.** (a) Each state agency receiving funds pursuant to this chapter shall require at least a fifty percent (50%) cost share by recipients of grant funds, but may eliminate or reduce the matching requirements for that portion of projects primarily benefiting disadvantaged communities or economically distressed areas.

(b) Projects funded by this section must comply with water quality policies or regulations adopted by the State board or the regional water quality control board with jurisdiction over the project.

(c) Project costs may include development of decision support tools, data acquisition, and geographic information system data analysis to identify and evaluate the benefits and costs of potential stormwater capture and reuse projects.

(d) Preference shall be granted to projects that divert stormwater or dry weather runoff from storm drains or channels and put it to beneficial use.

(e) Agencies receiving funds pursuant to this section shall give high priority to projects benefitting disadvantaged communities. Each agency receiving funds pursuant to this chapter shall allocate at least thirty-five percent (35%) of the funds they receive for projects that benefit disadvantaged communities.

(f) In implementing this chapter, each agency receiving funds pursuant to this chapter shall consult with the Natural Resources Agency regarding the integration and prioritization of the habitat, park land, open space, recreational and public use components of stormwater and dry weather runoff capture and reuse projects, and shall seek assistance from the Natural Resources Agency in the review and scoring of proposed projects.

(g) Projects may prevent stormwater and dry weather runoff from entering storm drains or channels.

**86052.** Entities defined in subdivision (a) of Section 86166 are eligible to receive funds under subdivisions (b), (c), (d) and (e) of Section 86050.

**86053.** Funds allocated pursuant to this chapter may be granted to an eligible applicant for single or multiple small-scale projects that are consistent with Chapter 6.5 of Division 2 of the Fish and Game Code, regardless of whether that Chapter is still in effect.

#### **Chapter 5.7. Integrated Regional Water Management.**

**86054.** The sum of five million dollars (\$5,000,000) is allocated to the department to provide direct funding support to approved Integrated Regional Water Management (IRWM) regional water management groups for the purpose of maintaining ongoing IRWM planning and implementation efforts, thereby sustaining the significant investment made through IRWM for regional collaboration on water management.

### **CHAPTER 6. Watershed, Land, and Fisheries Improvements.**

#### **CHAPTER 6.1. Watershed Improvement for Water Supply and Water Quality Enhancement.**

**86080.** The sum of two billion three hundred fifty-five million dollars (\$2,355,000,000) is appropriated from the Fund to protect, restore and improve the health of watershed lands, including forest lands (including oaks, redwoods and sequoias), meadows, wetlands, chaparral, riparian habitat and other watershed lands, including lands owned by the United States, in order to protect and improve water supply and water quality, improve forest health, reduce fire danger consistent with the best available science, mitigate the effects of wildfires on water quality and supply, increase flood protection, remediate aquifers, or to protect or restore riparian or aquatic resources. No grants made pursuant to this section shall be for reservoir maintenance or sediment removal from a reservoir or upstream of a reservoir, except as necessary for field research required pursuant to subdivision (a). Funds shall be allocated as follows:

(a) Two hundred million dollars (\$200,000,000) to the Sierra Nevada Conservancy for the protection, restoration and improvement of Sierra Nevada watersheds, pursuant to Division 23.3 (commencing with Section 33300) of the Public Resources Code and including the purposes outlined in Section 33320 of the Public Resources Code. Funds shall also be spent for the implementation and to further the goals and



purposes of the Sierra Nevada Watershed Improvement Program. Projects eligible for funding under the Sierra Nevada Watershed Improvement Program may include research and monitoring to measure the impact of forest restoration work on water supply, climate and other benefits, including long-term air quality, water quality and quantity, greenhouse gas emissions, carbon storage, habitat, recreational uses, and community vitality. Projects funded under the Sierra Nevada watershed Improvement Program shall be based on the best available science regarding forest restoration and must be undertaken to improve water supply and quality, protect and restore ecological values and to promote forest conditions that are more resilient to wildfire, climate change, and other disturbances. The Sierra Nevada Conservancy may make grants to federal agencies if it determines such grants are the most efficient way to implement the intent of this division on federally managed lands.

(b) Sixty million dollars (\$60,000,000) to the California Tahoe Conservancy for the protection and restoration of watersheds of the Lake Tahoe Basin, pursuant to Title 7.42 (commencing with Section 66905) of the Government Code. Funds shall be spent for implementation and to further the goals and purposes of the Lake Tahoe Environmental Improvement Program, pursuant to Article 6 of Chapter 1.692 of Division 5 (commencing with Section 5096.351) of the Public Resources Code.

(c) One hundred million dollars (\$100,000,000) to the San Francisco Bay Area Conservancy Program of the Coastal Conservancy for the protection and restoration of watersheds of the San Francisco Bay Area, pursuant to Chapter 4.5 of Division 21 of the Public Resources Code (commencing with Section 31160).

(d) One hundred eighty million dollars (\$180,000,000) for the protection and restoration of watersheds of Los Angeles, Ventura, and Orange Counties as follows:

(1) Sixty million dollars (\$60,000,000) to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy for the protection and restoration of the watersheds of the San Gabriel and Lower Los Angeles Rivers pursuant to Division 22.8 (commencing with Section 32600) of the Public Resources Code.

(2) Sixty million dollars (\$60,000,000) to the Santa Monica Mountains Conservancy, for the protection and restoration of the watersheds of Santa Monica Bay, the Upper Los Angeles River and the Upper Santa Clara River pursuant to Division 23 (commencing with Section 33000) of the Public Resources Code, and the watersheds defined in subdivision (c) of Section 79570.

(3) Thirty million dollars (\$30,000,000) to the Santa Ana River Conservancy Program of the Coastal Conservancy for the protection and restoration of watersheds of the Santa Ana River pursuant to Chapter 4.6 of Division 21 of the Public Resources Code (commencing with Section 31170).

(4) Thirty million dollars (\$30,000,000) to the Baldwin Hills Conservancy for the protection and restoration of the Baldwin Hills and Ballona Creek watersheds, and for projects to capture dry weather runoff and stormwater runoff pursuant to Division 22.7 (commencing with Section 32550) of the Public Resources Code.

(e) Forty million dollars (\$40,000,000) to the San Diego River Conservancy for the protection and restoration of watersheds in San Diego County pursuant to Division of 22.9 (commencing with Section 32630) of the Public Resources Code.

(f) One hundred thirty-five million dollars (\$135,000,000) to the State Coastal Conservancy for the protection and restoration of coastal watersheds pursuant to Division 21 (commencing with Section

31000) of the Public Resources Code.

(g) One hundred fifty million dollars (\$150,000,000) for the protection and restoration of the watersheds of the Sacramento and San Joaquin Rivers as follows:

(1) One hundred million dollars (\$100,000,000) to the Sacramento-San Joaquin Delta Conservancy for protection and restoration of the Delta pursuant to Division 22.3 (commencing with Section 32300) of the Public Resources Code. Highest priority shall be given to projects that benefit the restoration of native species and that reduce the negative impacts of excessive salinity intrusion. Highest priority shall also be given to projects that restore habitat important to species listed pursuant to the federal Endangered Species Act (16 U.S.C. Chapter 35) and the California State Endangered Species Act (Fish and Game Code Sections 2050-2100). The funds may also be used for improvement of public recreational facilities in the Delta, and for grants to local agencies and nonprofit organizations to increase community access to parks and recreational opportunities for underserved urban communities in the Delta. The Conservancy may implement programs designed to reduce greenhouse gas emissions from the Delta.

(2) Twenty million dollars (\$20,000,000) to the San Joaquin River Conservancy for the implementation of the San Joaquin River Parkway pursuant to Division 22.5 (commencing with Section 32500) of the Public Resources Code.

(3) Thirty million dollars (\$30,000,000) to the Lower American River Conservancy Fund created by Section 5845.9 of the Public Resources Code. The Wildlife Conservation Board shall use these funds to implement Chapter 10.5 of Division 5 of the Public Resources Code (commencing with Section 5845).

(h) One hundred and seventy million dollars (\$170,000,000) for river parkways, as follows:

(1) Seventy million dollars (\$70,000,000) to the California Natural Resources Agency for projects pursuant to the California River Parkways Act of 2004, Chapter 3.8 (commencing with Section 5750) of Division 5 of the Public Resources Code. The Secretary of the Natural Resources Agency shall allocate at least sixty-five percent (65%) of these funds for projects that benefit disadvantaged communities. With the remaining funds, the Secretary shall seek to benefit poorer communities that do not qualify as disadvantaged communities.

(2) Ten million dollars (\$10,000,000) to the State Coastal Conservancy for grants to nonprofit organizations and local public agencies to implement river parkway projects for habitat restoration, public recreation, and water quality improvement along the Guadalupe River corridor.

(3) Ten million dollars (\$10,000,000) to the State Coastal Conservancy for grants to nonprofit organizations and local public agencies to implement river parkway projects for habitat restoration, public recreation, and water quality improvement along the Russian River corridor.

(4) Ten million dollars (\$10,000,000) to the State Coastal Conservancy for grants to nonprofit organizations and local public agencies to implement river parkway projects for habitat restoration, public recreation, and water quality improvement along the Santa Clara River corridor.

(5) Ten million dollars (\$10,000,000) to the State Coastal Conservancy for grants to nonprofit organizations and local public agencies to implement river parkway projects for habitat restoration, public recreation, and water quality improvement along the Tijuana River corridor.

(6) Ten million dollars (\$10,000,000) to the State Coastal Conservancy for grants to nonprofit organizations and local public agencies to implement river parkway projects for habitat restoration, public recreation, and water quality improvement along the Carmel River corridor.

(7) Ten million dollars (\$10,000,000) to the State Coastal Conservancy for grants to nonprofit organizations and local public agencies to implement river parkway projects for habitat restoration, public recreation, and water quality improvement along the Napa River corridor.

(8) Fifteen million dollars (\$15,000,000) to the State Coastal Conservancy for river parkway projects within the San Diego Bay watershed.

(9) Fifteen million dollars (\$15,000,000) to the State Coastal Conservancy for river parkway projects along the Santa Margarita River in San Diego County.

(10) Ten million dollars (\$10,000,000) to the California Tahoe Conservancy to implement habitat restoration, public recreation, and water quality improvements along the Upper Truckee River corridor.

(i) One hundred fifty million dollars (\$150,000,000) shall be available for projects that restore, protect and preserve the Los Angeles River and its tributaries, as follows:

(1) Seventy-five million dollars (\$75,000,000) to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy pursuant to Division 22.8 (commencing with Section 32600) of the Public Resources Code, and Section 79508 of the Water Code.

(2) Seventy-five million dollars (\$75,000,000) to the Santa Monica Mountains Conservancy pursuant to Division 23 (commencing with Section 33000) of the Public Resources Code, and Section 79508 of the Water Code.

(j) Three hundred million dollars (\$300,000,000) to the Wildlife Conservation Board for the following:

(1) For the protection and restoration of the watersheds of the Sacramento, Smith, Eel, and Klamath Rivers and other rivers of Marin, Sonoma, Mendocino, Humboldt and Del Norte Counties, and the Carrizo Plain pursuant to Chapter 4 of Division 2 (commencing with Section 1300) of the Fish and Game Code.

(2) For protection and restoration of oak woodlands and rangelands pursuant to Division 10.4 (commencing with Section 10330) of the Public Resources Code and Article 3.5 (commencing with Section 1360) of Chapter 4 of Division 2 of the Fish and Game Code.

(3) For acquisition and restoration of riparian habitat, migratory bird habitat, anadromous fisheries, wetland habitat and other watershed lands pursuant to Chapter 4 of Division 2 (commencing with Section 1300) of the Fish and Game Code.

(4) Grants may include funding to help fulfill state commitments to implement Natural Community Conservation Plans adopted pursuant to Chapter 10 of Division 3 (commencing with Section 2800) of the Fish and Game Code, and to large scale regional Habitat Conservation Plans adopted pursuant to the federal Endangered Species Act (16 U.S.C. Chapter 35).

(5) Of the amount made available pursuant to this subdivision, the sum of ten million dollars (\$10,000,000) shall be available to assist farmers in integrating agricultural activities with watershed restoration and wildlife protection. Priority shall be given to projects that include partnerships with resource conservation districts.

(6) Of the amount made available pursuant to this subdivision, the sum of fifty million dollars (\$50,000,000) is appropriated to the Oak Woodlands Conservation Fund established by Section 1363 of the Fish and Game Code, and may be expended pursuant to Article 3.5 of Chapter 4 of Division 2 of the Fish and Game Code.

(7) Of the amount made available pursuant to this subdivision, the sum of thirty million dollars (\$30,000,000) shall be available for grazing land protection pursuant to the California Rangeland, Grazing Land and Grassland Protection Act, commencing with Section 10330 of Division 10.4 of the Public Resources Code.

(8) Of the amount made available pursuant to this subdivision, not less than sixty million dollars (\$60,000,000) shall be available for projects that advance the conservation objectives of natural community conservation plans adopted pursuant to the Natural Community Conservation Planning Act, Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code. First priority shall be given to plans that include protection of aquatic ecosystems. Funding pursuant to this paragraph shall not be used to offset mitigation obligations otherwise required.

(k) Twenty-five million dollars (\$25,000,000) to the Coachella Valley Mountains Conservancy for the protection and restoration of the Coachella Valley watershed pursuant to Division 23.5 (commencing with Section 33500) of the Public Resources Code.

(l) One hundred fifty million dollars (\$150,000,000) to the Department of Parks and Recreation for protection and restoration of watershed lands within and affecting units of the State Parks System, with high priority to redwood and other forest land important to protecting river and stream flows and quality. In addition to other purposes authorized pursuant to this section, the Department of Parks and Recreation may allocate funds to improve and increase the efficiency and effectiveness of State Park water supply and wastewater treatment systems.

(m) Sixty million dollars (\$60,000,000) to the Department of Conservation for watershed restoration and conservation projects on agricultural lands, rangelands, managed wetlands, and forested lands.

(1) No less than thirteen million dollars (\$13,000,000) shall be used for grants pursuant to Section 9084 of the Public Resources Code.

(2) No less than thirty-one million dollars (\$31,000,000) shall be used for the purposes of Division 10.2 (commencing with Section 10200) of the Public Resources Code.

(3) Ten million dollars (\$10,000,000) shall be used for the Watershed Coordinator Grant Program.

(n) One hundred million dollars (\$100,000,000) to the California Ocean Protection Council for projects that: (1) reduce the amount of pollutants that flow to beaches, bays, coastal estuaries, and near-shore ecosystems; and (2) protect coastal and near-shore ocean resources from the impacts of rising sea levels, storm surges, ocean acidification and related hazards, including, but not limited to, increasing the resiliency of near-shore ocean habitats. Projects may include, but are not limited to, projects that protect

or restore beaches, coastal estuaries and watersheds, bays, and near-shore ecosystems including marine protected areas. Of this amount, the Council shall use at least five million dollars (\$5,000,000) for the Local Coastal Program sea level rise grant program that supports Local Coastal Program updates to address sea level rise, including sea-level rise modeling, vulnerability assessments, and adaptation planning and policy development.

(o) The sum of two hundred million dollars (\$200,000,000) is appropriated from the Fund to the Natural Resources Agency, for water-related projects that implement the Natural Resources Agency's Salton Sea Management Program consistent with provisions of Article 2 (commencing with Section 2940) of Chapter 13 of Division 3 of the Fish and Game Code, and in fulfillment of the obligations of the State of California to comply with the terms of Chapters 611, 612, 613, and 614 of the Statutes of 2003. These statutes were enacted to facilitate the execution and implementation of the Quantification Settlement Agreement, including restoration of the Salton Sea. The Natural Resources Agency may expend these funds on projects that provide multiple benefits of ecosystem restoration, air quality improvement, and economic recovery for severely disadvantaged communities.

(1) Of the amount appropriated pursuant to this paragraph, not less than twenty million dollars (\$20,000,000) shall be available for purposes consistent with the New River Water Quality, Public Health, and River Parkway Development Program, as described in Section 71103.6 of the Public Resources Code.

(2) Of the amount allocated pursuant to this section, the sum of one million dollars (\$1,000,000) shall be available for a Salton Sea Integrated Watershed Plan providing technical assistance for, outreach to, and engagement with severely disadvantaged communities.

(p) Five million dollars (\$5,000,000) to the Delta Stewardship Council for the Delta Science Program as described in Section 85280.

(q) Fifty million dollars (\$50,000,000) to the department for Urban Streams Restoration Program competitive grants pursuant to Section 7048. The department shall allocate at least sixty-five (65%) of these funds for projects that benefit disadvantaged communities. With the remaining funds, the department shall seek to benefit poorer communities that do not qualify as disadvantaged communities.

(r) Twenty million dollars (\$20,000,000) to the California Department of Forestry and Fire Protection for grants for urban forestry projects that manage, capture or conserve stormwater, recharge local groundwater supplies or improve water supplies or water quality through infiltration, sediment management and erosion control pursuant to the California Urban Forestry Act, Chapter 2 (commencing with Section 4799.06) of Part 2.5 of Division 4 of the Public Resources Code.

(s) Fifteen million dollars (\$15,000,000) to the Delta Protection Commission for expenditures, grants, or loans for projects that improve water quality by improving wastewater treatment in Delta legacy communities (as described in section 32301(f) of the Public Resources Code) and at recreational facilities in the Delta. Funds may be expended on wastewater improvement projects serving Delta legacy communities, or Delta legacy community households with failing septic systems which threaten the quality of groundwater or surface water supplies used for urban, agricultural or fisheries purposes. Funds may also be allocated to improve and increase the efficiency and effectiveness of Delta recreational facility wastewater treatment systems. Priority shall be given to projects that address public health hazards. Projects may identify, plan, design, and implement regional mechanisms to consolidate wastewater systems or provide affordable treatment technologies.

(t) Twenty million dollars (\$20,000,000) to the Department of Parks and Recreation for projects that provide access to rivers for non-motorized recreation, and for grants to eligible entities as defined in subdivision (a) of Section 86166 for this purpose. First priority shall be given to projects that include matching funds, and to projects that serve disadvantaged communities and economically distressed areas, whether or not they include cost sharing.

(u) (1) Twenty million dollars (\$20,000,000) to the Wildlife Conservation Board for the construction of a Pacific Flyway Center in the vicinity of the Suisun Marsh, to be operated by the California Department of Fish and Wildlife. The Department of Fish and Wildlife may contract with a nonprofit organization to operate the Center. The Center shall be used to educate the public about the importance of California's wetlands, agricultural lands (including rice) and riparian areas in benefitting waterfowl, shorebirds, native plants and animals, the value of wetlands in absorbing gases that cause climate change, and similar educational purposes. The operator of the Center shall make special efforts to bring people, and especially students, from disadvantaged communities to the Center for educational purposes. If the Wildlife Conservation Board determines that all or part of these funds is not needed to complete this project, it may allocate the unneeded part of the funds to the purposes of paragraph (j) of this section.

(2) (A) Of the amount appropriated by paragraph (1), the Wildlife Conservation Board may make a grant of up to four million dollars (\$4,000,000) to a nonprofit organization whose principal purpose is wildlife conservation to establish a trust fund, the interest from which shall be used exclusively to operate the Pacific Flyway Center and bring people from disadvantaged communities to the Center.

(B) With the approval of the Department of Fish and Wildlife, the nonprofit organization can transfer the operation of the Pacific Flyway Center to another nonprofit organization. If such a transfer takes place, the trust fund shall be transferred to the new nonprofit organization.

(3) If the funds allocated by this section are not all used to construct the Pacific Flyway Center by January 1, 2028, any remaining funds are appropriated to the Wildlife Conservation Board for the purposes of Section 86123.

(v) Eighty million dollars (\$80,000,000) to the Coastal Conservancy for the removal of Matilija Dam, and for associated levee and flood control improvements, water supply improvements, and related projects on Matilija Creek and the Ventura River, and for river parkway projects along the Ventura River. The Conservancy may grant all or part of these funds to Ventura County. Highest priority for the river parkway projects shall be those which benefit disadvantaged communities. If the Coastal Conservancy determines that all or part of these funds is not needed to complete this project, it may allocate the unneeded part of the funds to the purposes of paragraph (f) of this section.

(w) The sum of twenty-five million dollars (\$25,000,000) to the University of California for the Natural Reserve System for matching grants for land acquisition and for the construction and development of facilities that will be used for research and training to improve the management of aquatic ecosystems, natural lands and the preservation or conservation of California's wildlife resources. Priority shall be given to projects that advance research on the impacts of climate change, reduction of greenhouse gas emissions, and adaptation of natural systems to the impacts of climate change.

(x) (1) The sum of fifty million dollars (\$50,000,000) is appropriated from the Fund to the Sierra Nevada Conservancy for the purpose of awarding grants within the jurisdiction of the Conservancy to eligible entities as defined in subdivision (a) of Section 86166 for the purpose of reducing the threat of wildfires which would negatively impact watershed health. Projects may be for the purpose of hazardous fuel

reduction, postfire watershed rehabilitation, forest management practices that promote forest resilience to severe wildfire, climate change, and other disturbances, and development of local plans to reduce the risk of wildfires that could adversely affect watershed health. Preference shall be given to grants which include matching funds, but this preference may be reduced or eliminated for grants which benefit disadvantaged communities or economically distressed areas.

(2) The sum of fifty million dollars (\$50,000,000) is appropriated from the Fund to the Department of Forestry and Fire Protection for the purpose of awarding grants in areas outside the jurisdiction of the Sierra Nevada Conservancy to eligible entities as defined in subdivision (a) of Section 86166 for the purpose of reducing the threat of wildfires which would negatively impact watershed health. Projects may be for the purpose of hazardous fuel reduction, postfire watershed rehabilitation and restoration, forest management practices that promote forest resilience to severe wildfire, climate change, and other disturbances, and development of local plans to reduce the risk of wildfires that could adversely affect watershed health. Preference shall be given to grants which include matching funds, but this preference may be reduced or eliminated for grants which benefit disadvantaged communities or economically distressed areas.

**86083.** Consistent with the other requirements of this chapter, funds spent pursuant to this chapter may be used for grants to eligible entities as defined in subdivision (a) of Section 86166. Funds awarded to eligible entities may be used for projects on land owned by a state or federal agency. With the exception of funds allocated to grant programs, funds may also be used directly by the state agency receiving the funds to implement watershed improvement projects consistent with this chapter. In making grants pursuant to this chapter, agencies shall give high priority to applications that include cost sharing, and to grants that benefit disadvantaged communities and economically distressed areas whether or not they include cost sharing.

**86084.** (a) For a project to be eligible for funding pursuant to this chapter, the project shall have watershed protection and restoration, water supply or water quality benefits, or ecosystem benefits relating to rivers, streams, forests, meadows, wetlands or other water-related resources.

(b) (1) Funds appropriated pursuant to this chapter may be used for protection and restoration of forests, meadows, wetlands, riparian habitat, coastal resources, and near-shore ocean habitat; to acquire land and easements to protect these resources and avoid development that may reduce watershed health, and to take other measures that protect or improve the quality or quantity of water supplies downstream from projects funded in whole or in part by this chapter. Forest restoration projects, including but not limited to hazardous fuel reduction, post-fire watershed rehabilitation, and forest management and tree planting using appropriate native plants shall be based on the best available science regarding forest restoration and must be undertaken to protect and restore ecological values and to promote forest conditions that are more resilient to wildfire, climate change, and other disturbances.

(2) Fuel hazard reduction activities on United States Forest Service lands in the Sierra Nevada and similar forest types shall be generally consistent with objectives of the Sierra Nevada Watershed Improvement Program and the best available science, including United States Forest Service General Technical Report 220 as it may be updated.

**86085.** Any entity receiving funds pursuant to this chapter that expends funds on private lands shall secure an agreement or interest in the private lands to assure the purpose of the expenditure is maintained for such time as is commensurate with the best practices for the type of project.

**86086.** (a)(1) A local public agency, Indian tribe or nonprofit organization that receives funding for a project pursuant to this chapter may use up to twenty percent (20%) of those funds to establish a trust fund that is exclusively used to help pay for the maintenance and monitoring of that project.

(2) A local public agency, Indian tribe or nonprofit organization that acquires an interest in a project with money from this chapter and transfers the interest in the project to another public agency, Indian tribe or nonprofit organization shall also transfer the ownership of the trust fund that was established to maintain that interest in the project.

(3) This subdivision does not apply to state agencies.

(b) If the local public agency, Indian tribe or nonprofit organization does not establish a trust fund pursuant to subdivision (a), the agency, tribe or organization shall certify to the state agency making the grant that it can maintain the project to be undertaken using funds otherwise available to the agency, tribe or organization.

(c) The interest from the trust fund shall be used only to monitor the implementation of a project, and maintain a project and its water supply and water quality benefits implemented pursuant to this chapter.

(d) If an interest in a project is condemned or if the local public agency, Indian tribe or nonprofit organization determines that the interest in the project is unable to fulfill the purposes for which money from this chapter was expended, the trust fund and any unexpended interest are appropriated and shall be returned to the agency that provided the money. The funds returned to the agency may be utilized only for projects pursuant to this chapter.

**86087.** Funds allocated pursuant to this chapter may be granted to an eligible applicant for single or multiple small-scale projects that are consistent with Chapter 6.5 of Division 2 of the Fish and Game Code, regardless of whether that Chapter is still in effect.

**86088.** By April 30, 2019, the Natural Resources Agency shall recommend provisions for grant approval guidelines to each state agency that receives an appropriation pursuant to this chapter in order to ensure appropriate consistency of the guidelines. Each agency shall consider the recommendations of the Natural Resources Agency as they adopt their own guidelines.

**86089.** Agencies receiving funds pursuant to this chapter shall give high priority to projects that benefit the native wildlife, birds and fishes of California.

## **CHAPTER 6.2. Land and Water Management for Water Supply Improvement.**

**86090.** The sum of one hundred million dollars (\$100,000,000) is appropriated from the Fund to the Wildlife Conservation Board for the purpose of awarding competitive grants to eligible entities as defined in subdivision (a) of Section 86166 to improve the quality of public and private rangelands, wildlands, meadows, wetlands, riparian areas and aquatic areas for the purpose of increasing groundwater recharge and water supply from those lands, and for improving water quality consistent with protecting and restoring ecological values.

**86091.** Funds allocated pursuant to this chapter may be granted to an eligible applicant for single or multiple small-scale projects that are consistent with Chapter 6.5 of Division 2 of the Fish and Game Code,



regardless of whether that Chapter is still in effect.

**86094.** In making grants pursuant to this chapter, the Wildlife Conservation Board shall give highest priority to projects which:

(a) Are most cost-effective in producing improved water supply or water quality, and which provide the greatest fish and wildlife benefits.

(b) Include matching funds.

(c) Benefit disadvantaged communities and economically distressed areas.

(d) Are for the purpose of invasive plant control and eradication, restoration of riparian habitat, meadows and wetlands, and other projects that improve the flow of water from the lands, and reduce the use of water by invasive plant species.

**86096.** For a project to be eligible for funding pursuant to this chapter, the project shall have water supply or water quality benefits or both. A project that targets the removal of invasive plants to increase water supply shall only be funded if the applicant guarantees that the land from which plants will be removed will be maintained.

**86097.** (a)(1) A local public agency, Indian tribe or nonprofit organization that receives funding under this chapter may use up to twenty percent (20%) of those funds to establish a trust fund that is exclusively used to help pay for the maintenance and monitoring of the funded project.

(2) A local public agency, Indian tribe or nonprofit organization that undertakes a project with money from this division and can no longer maintain the project shall transfer the ownership of the trust fund to another public agency, Indian tribe or nonprofit organization that is willing and able to maintain that project.

(3) This subdivision does not apply to state agencies.

(b) If the local public agency, Indian tribe or nonprofit organization does not establish a trust fund pursuant to subdivision (a), the agency, tribe or organization shall certify to the state agency making the grant that it can maintain the project in an appropriate condition.

(c) The interest from the trust fund established from the funds available pursuant to this section shall be used only to maintain a project and its water supply and water quality benefits implemented pursuant to this chapter.

(d) If the interest in a project is condemned or if the local public agency, Indian tribe or nonprofit organization determines that the interest in the project is unable to fulfill the purposes for which money from this chapter was expended, the trust fund and any unexpended interest are appropriated and shall be returned to the Wildlife Conservation Board. The funds returned may be utilized only for projects authorized by this chapter.

**86098.** In implementing this chapter, the Wildlife Conservation Board may provide incentives to landowners for conservation actions on private lands or use of voluntary habitat credit exchange mechanisms.

**86099.** At least ten percent (10%) of the funds available pursuant to this section shall be allocated for projects that provide a direct benefit to disadvantaged communities. These benefits may include range improvement, among other benefits. These projects may include technical assistance for, outreach to, and engagement with disadvantaged communities.

### **CHAPTER 6.3. Conservation Corps.**

**86105.** The sum of forty million dollars (\$40,000,000) is appropriated from the Fund to the California Conservation Corps for projects to protect, restore, and improve the health of watershed lands, including forest lands, meadows, wetlands, chaparral, riparian habitat and other watershed lands. Projects may include, but are not limited to, regional and community fuel hazard reduction projects on public lands, invasive species removal, and stream, river, and riparian restoration projects. The California Conservation Corps shall allocate at least fifty percent (50%) of the funds pursuant to this section for grants to certified local conservation corps. Projects shall improve water quality, water supply reliability, or riparian or watershed health. Projects shall be undertaken in coordination with a nonprofit organization or public agency.

### **CHAPTER 6.4. Central Valley Fisheries Restoration.**

**86106.** (a) The people of California find and declare that the protection, restoration and enhancement of native fish populations (including anadromous salmonids) of the Central Valley is necessary for the ecological and economic health of the State of California.

(b) Fish need both suitable habitat and appropriately timed flows in rivers and their tributaries.

(c) The State Water Resources Control Board shall take note of the funding provided by this chapter and the resulting fish habitat restoration as the Board determines flows necessary to restore Central Valley native fish populations and fisheries.

(d) Many state and federal agencies, including the Department of Water Resources, Department of Fish and Wildlife, Delta Stewardship Council, Delta Conservancy, Wildlife Conservation Board, Central Valley Flood Protection Board, and federal Bureau of Reclamation, United States Fish and Wildlife Service, and National Marine Fisheries Service have prepared policies and plans to restore Central Valley native fish and fisheries habitat, but these policies and plans are not fully funded.

(e) Many state and federal laws require the restoration of Central Valley native fish populations and fisheries habitat, but funding has not been fully available to carry out the requirements of these laws.

(f) The sum of four hundred million dollars (\$400,000,000) is appropriated from the Fund to the California Natural Resources Agency for the restoration of Central Valley populations of native fish and fisheries habitat.

(1) (A) The Secretary of the Natural Resources Agency shall appoint a Central Valley Fisheries Advisory Committee made up of representatives from the Central Valley Salmon Habitat Partnership, appropriate local, state and federal fish and water management and other agencies, nonprofit organizations, commercial fishing organizations, universities, local agencies and Indian tribes with relevant scientific expertise including representation from the upper watersheds. The committee shall advise the Secretary on the annual expenditure of funds appropriated pursuant to this Chapter. The

committee may solicit projects, and direct the creation of projects pursuant to this chapter, subject to approval by the Secretary.

(B) The committee shall work closely with representatives from each river basin in the Central Valley, including local government and water agencies, Indian tribes, and nonprofit organizations, to develop projects that are most suitable for the conditions in the basin, and which meet the other requirements of this section.

(C) In proposing projects, the committee shall take into account the entire life cycle of the fish species to be benefitted, and shall consider the interaction of the effects of each project within a river basin with projects in other river basins. The committee shall also consider adverse impacts resulting from poor watershed health, including severe wildfire and extensive tree mortality.

(2) Projects funded pursuant to this section shall increase self-sustaining populations of native fish, or contribute to an existing fish population becoming self-sustaining in the future, with a minimal requirement of expenditures to continue to operate the project. No funds may be expended on fish hatcheries.

(3) The committee shall give high priority to projects that provide multiple benefits, such as improved flood management, improved water quality, improved water supply, enhanced groundwater sustainability, aquifer remediation and reduction of emission of greenhouse gases, while also improving conditions for native fish species and their habitats. The committee shall also give high priority to projects that can be integrated into an existing flow regime and provide multi-species benefits over a range of flow conditions. The committee shall also give high priority to projects that are consistent with recovery plan and resiliency strategies for native California fish species.

(4) Expenditures shall be for capital outlay projects, such as conservation easements, water measurement needed to measure the effects of the project, projects that restore or enhance fisheries habitat such as floodplain expansion, reintroductions of fish into their historical habitat, improved fish passage opportunities, creation or enhancement of spawning and rearing habitat and other projects. Acquisition of land or easements as part of a fisheries enhancement project must be from willing sellers. Project costs shall include the costs of planning, environmental review, mitigation of the impacts of the project, and permitting. High priority shall be given to projects that provide adult and juvenile fish access to or fish passage through agricultural fields or floodplain habitats that will provide enhanced juvenile rearing and food production opportunities.

(5) Of the funds authorized by this section, the Secretary of the Natural Resources Agency may allocate up to ten million dollars (\$10,000,000) for one or more grants for capital outlay and related programmatic purposes to institutions of higher education for facilities that can be used to improve scientific and technical coordination, communication and training among those institutions, the department, the Department of Fish and Wildlife, the State board and other state agencies to assure that developments in ecosystem and fisheries science and management are deployed and employed across higher education institutions and state government agencies.

(g) Based on the recommendations of the committee, the Secretary of the Natural Resources Agency may make grants to any state or local agency, Indian tribe, or nonprofit organization to carry out the purpose of this section. The Secretary shall give high priority to projects that include matching funds, projects with a local agency as the lead agency, and projects supporting proposed actions in the Sacramento Valley Salmon Resiliency Strategy (as published by the California Natural Resources Agency in June 2017, and as

it may be amended), the National Marine Fisheries Service California Central Valley Steelhead Recovery Plan and other similar strategies as they are adopted.

(h) Of the amount appropriated pursuant to this section, not less than thirty-five million dollars (\$35,000,000) shall be available for projects to restore rivers and streams in support of fisheries and wildlife, including, but not limited to, reconnection of rivers with their floodplains, riparian and side-channel habitat restoration pursuant to the California Riparian Habitat Conservation Program, Chapter 4.1 (commencing with Section 1385) of Division 2 of the Fish and Game Code, and restoration and protection of upper watershed forests and meadow systems that are important for fish and wildlife resources. Subdivision (f) of Section 79738 of the Water Code applies to this subdivision. Priority shall be given to projects supported by multi-stakeholder public or private partnerships, or both, using a science-based approach and measurable objectives to guide identification, design, and implementation of regional actions to benefit salmon and steelhead.

(i) Of the amount appropriated pursuant to this section, five million dollars (\$5,000,000) shall be available to assist in the development of the Central Valley Salmon Partnership Habitat Implementation Plan.

(j) The Secretary shall give high priority to the removal of Dennett Dam on the Tuolumne River, if additional funds are still needed to complete removal of the Dam.

(k) A local public agency, Indian tribe or nonprofit organization receiving funding under this chapter may use up to twenty percent (20%) of those funds to establish a trust fund, the proceeds of which shall be used exclusively to pay or help pay for the maintenance and monitoring of the project being funded.

(1) If the local public agency, Indian tribe or nonprofit organization is unable to continue to maintain and monitor the project, it may transfer ownership of the trust fund to another public agency, Indian tribe or nonprofit organization, with the approval of the Secretary of the Natural Resources Agency.

(2) This subdivision does not apply to state agencies.

(3) If the local public agency, Indian tribe or nonprofit organization does not establish a trust fund pursuant to paragraph (1), the agency, tribe or organization shall certify to the Secretary of the Natural Resources Agency that it can maintain the project from funds otherwise available to the agency, tribe or organization.

(4) If all or part of the project cannot be maintained or is condemned, the trust fund and any unexpended interest are appropriated to the California Natural Resources Agency. The funds returned to the Agency may be utilized only for projects pursuant to this chapter.

(l) Of the amount appropriated to the California Natural Resources agency pursuant to this section, seven million dollars (\$7,000,000) is appropriated to the Department of Fish and Wildlife for native fish restoration projects on the upper Feather River below Oroville dam for gravel restoration, streambed restoration, and salmon habitat restoration projects.

## **CHAPTER 7. Groundwater Sustainability and Storage.**

**86110.** (a) The sum of six hundred seventy-five million dollars (\$675,000,000) is appropriated from the Fund to the department for projects and programs that support sustainable groundwater management

consistent with Part 2.74 of Division 6 (commencing with Section 10720). The funds shall be used for competitive grants that advance sustainable groundwater management through implementation of groundwater sustainability plans and projects that protect, enhance, or improve groundwater supplies. At least ten percent (10%) of all grants made pursuant to this paragraph shall be made to groundwater sustainability agencies whose groundwater basins underlie disadvantaged communities.

(b) The sum of ten million dollars (\$10,000,000) is appropriated from the fund to the State board, for use by the Office of Sustainable Water Solutions to implement a multidisciplinary technical assistance program for small and disadvantaged communities, and support the involvement of disadvantaged communities and the public in groundwater sustainability agencies and in the development and implementation of groundwater sustainability plans.

**86111.** (a) Of the funds authorized by section 86110, six hundred forty million dollars (\$640,000,000) shall be available for grants to groundwater sustainability agencies implementing groundwater sustainability plans pursuant to subdivision (k) of Section 10721 for the following purposes:

(1) Groundwater recharge and storage projects including but not limited to acquisition of land and groundwater pumping allocations from willing sellers, planning of facilities such as feasibility studies and environmental compliance, distribution systems, and monitoring facilities. No grant made pursuant to this section shall exceed twenty million dollars (\$20,000,000).

(2) Projects that implement groundwater sustainability plans pursuant to Part 2.74 of Division 6 (commencing with Section 10720). Projects eligible for funding include but are not limited to feasibility studies, environmental compliance, engineering work used to develop groundwater use and sustainable yield for specific projects, well use measurement and innovative decision support tools.

(3) Projects that assess and address saltwater intrusion including future impacts related to climate change.

(4) Matching grants to groundwater sustainability agencies to develop groundwater sustainability plans pursuant to subdivision (k) of Section 10721. No grant shall exceed one million dollars (\$1,000,000), and no groundwater sustainability agency shall receive more than one grant.

(b) Of the funds authorized by this section, the sum of five million dollars (\$5,000,000) shall be available for research to guide investments made pursuant to this section. Research activities may include, but are not limited to, geophysical surveys, system-level modeling and analysis, development of novel methods and tools that can be applicable to local decision-making, cross-sector economic and policy analysis of novel recharge methods, and development of new approaches to significantly enhance groundwater recharge and fit-for-purpose water treatment and reuse.

(c) Of the funds authorized by this section, the department may allocate up to ten million dollars (\$10,000,000) for the development of publicly accessible decision support tools to assist groundwater sustainability agencies in conducting drinking water quality analysis, including the development and assessment of sustainable yield, undesirable results, measurable objectives and other required targets. The decision support tools should also support vulnerability assessments to help determine communities that may be at risk of facing water supply or contamination challenges. The tools should be available for other efforts such as drought vulnerability assessments and shall be linked to the Human Right to Water indicator housed at the State board.

(d) Of the funds authorized by this section, the department may allocate up to five million dollars (\$5,000,000) for one or more grants for capital outlay and related programmatic purposes to institutions of higher education for facilities that can be used to improve communication and coordination among these institutions, the department and the State board in order to assure that developments in groundwater science and management are efficiently deployed and employed across higher education institutions and state government agencies.

(e) A local public agency, Indian tribe or nonprofit organization receiving funding under this section may use up to twenty percent (20%) of those funds to establish a trust fund used exclusively to pay or help pay for the maintenance and monitoring of the agency's or organization's interest in land acquired pursuant to this section.

(1) If the local public agency, Indian tribe or nonprofit organization that acquired an interest in land with money from this section decides to transfer that interest to another public agency, Indian tribe or nonprofit organization, the ownership of the trust fund established to maintain that interest in land shall also be transferred.

(2) This subdivision does not apply to state agencies.

(3) If the local public agency, Indian tribe or nonprofit organization does not establish a trust fund pursuant to this subdivision the agency, tribe or organization shall certify to the state agency making the grant that it can maintain the land to be acquired from funds otherwise available to the agency, tribe or organization.

(4) If the interest in land is condemned or if the local public agency, Indian tribe or nonprofit organization determines that the interest in land is unable to fulfill the purposes for which money from this chapter was expended, the trust fund and any unexpended interest are appropriated to the agency that provided the money. The funds returned to the agency may be utilized only for projects pursuant to this chapter.

**86112.** (a) The department shall give priority for funding pursuant to this chapter to the following in equal priority:

(1) Groundwater basins designated by the department as critically overdrafted basins, groundwater basins which are in danger of becoming critically overdrafted, and groundwater basins where surface and groundwater are interconnected.

(2) Groundwater basins with documented water quality problems, land subsidence, impacts on surface streams or groundwater dependent ecosystems, or other undesirable results as defined by subdivision (x) of Section 10721.

(3) Groundwater basins that protect important state-owned resources, such as state parks and wildlife areas.

(4) Projects that support the use of floodwaters of acceptable water quality to recharge groundwater basins. This innovative multi-benefit concept brings together four important California water management objectives, including flood hazard reduction, sustainable groundwater management, ecosystem restoration, and water supply reliability.

(A) Projects may include adaptive modification of flood and conservation storage operations at reservoirs, modifications to spillway facilities at existing reservoirs, inundation of new or expanded flood bypasses or temporary flood storage land areas, application of floodwaters to agricultural lands during fallow or dormant seasons, or increased use of existing groundwater recharge facilities.

(B) Projects may include using floodwaters for recharge of groundwater projects, with both flood hazard reduction and groundwater sustainability benefits.

(C) Projects that provide benefits in flood hazard reduction and groundwater sustainability. Project feasibility can also be supported by ecosystem restoration and water supply benefits.

(b) Of the amount appropriated in section 86110, the department may use up to ten million dollars (\$10,000,000) for the following purposes:

(1) Assess statewide potential for use of floodwaters for recharge and prioritize locations based upon proximity and conveyance connections in the State with flood hazard reduction and groundwater sustainability needs.

(2) Complete a pilot study of a priority location to demonstrate potential water resources management innovations to facilitate flood hazard reduction and groundwater recharge.

(3) Identify and demonstrate use of analytical tools and innovative water management techniques to support development of available floodwaters and recharge of groundwater basins.

(4) Develop economic monetization techniques of groundwater recharge benefits.

(5) Demonstrate application of the department's climate change methodology to both water supply and flood management applications.

(6) Provide technical assistance to groundwater sustainability and local flood management agencies, as well as coordination with state and federal flood agencies.

(c) The department shall consider the following criteria when awarding grants:

(1) The potential of the project to prevent or correct undesirable results due to groundwater use.

(2) The potential of the project to maximize groundwater storage, reliability, recharge or conjunctive use.

(3) The potential of the project to support sustainable groundwater management.

(4) The annualized cost-effectiveness of the project to achieve the goals of the Sustainable Groundwater Management Act, Chapter 2.74 of Division 6 (commencing with Section 10720).

(d) Eligible entities as defined in subdivision (a) of Section 86166, including groundwater sustainability agencies, shall be eligible for grants. Priority for funding shall be given to local agencies implementing the Sustainable Groundwater Management Act.

(e) For purposes of awarding funding under this chapter, a local cost share of not less than fifty percent (50%) of the total cost of the project shall be required. The cost-sharing requirement may be waived or reduced for that portion of a project that directly benefits a disadvantaged community or economically distressed area, or for projects the majority of whose benefits are to restore ecosystems dependent on groundwater.

(f) No grant may be made unless the Department of Fish and Wildlife certifies that harm done to fish or wildlife as a result of the project will be mitigated to ensure any potential impacts are less than significant.

(g) Eligible projects may include such infrastructure improvements such as improved canal and infiltration capacity.

**86113.** (a) For purposes of this section, "District" means the Borrego Water District.

(b) Of the amount appropriated in Section 86110, thirty-five million dollars (\$35,000,000) shall be awarded as a grant to the District for the following programs:

(1) Acquisition of land and acquisition of the right to pump groundwater from willing sellers to reduce groundwater pumping in order to bring groundwater pumping within the boundaries of the Borrego Springs Subbasin of the Borrego Valley Groundwater Basin to a level that is sustainable on a long-term basis pursuant to the Sustainable Groundwater Management Act, Chapter 2.74 of Division 6 (commencing with Section 10720). Lands acquired may be transferred to the Department of Parks and Recreation, a nonprofit organization or another public agency for future management.

(2) Water end-use efficiency, including urban and agricultural water conservation, and water conservation on recreational facilities such as golf courses.

(3) Restoration of lands acquired pursuant to this section.

(4) Stormwater capture for groundwater basin recharge and re-use.

(5) Other District projects implementing the Sustainable Groundwater Management Act.

(c) (1) No cost sharing by the District is required to implement this section. This is justified because the community of Borrego Springs is a severely disadvantaged community, and because excessive groundwater pumping can impact important resources in Anza-Borrego Desert State Park whose 500,000 annual visitors contribute an estimated forty million dollars (\$40,000,000) annually to the region, as well as support 600 jobs.

(2) The District may require cost sharing by beneficiaries when making grants pursuant paragraphs (2) and (4) of subdivision (b).

(d) As a condition of this grant, the District must agree to:

(1) Implement measures which assure that lands not presently being irrigated will not come into irrigation, and that presently irrigated lands will not become more intensively irrigated; and



(2) Require new development to pay all costs of water purchases the District incurs, and all costs of water projects the District undertakes in order to accommodate that development.

(e) (1) The District or a nonprofit organization that receives funding pursuant to this chapter to acquire an interest in land may use up to twenty percent (20%) of those funds to establish a trust fund that is exclusively used to help pay for the maintenance, monitoring and restoration of that interest in land.

(2) The District or a nonprofit organization that acquires an interest in land with money from this chapter and transfers the interest in land to another public agency or nonprofit organization shall also transfer the ownership of the trust fund that was established to maintain that interest in land.

(3) This subdivision does not apply to state agencies.

(4) If the District or nonprofit organization does not establish a trust fund pursuant to this subdivision, the agency or organization shall certify to the department that it can maintain the land to be acquired from funds otherwise available to the agency or organization.

(5) If the interest in land is condemned or if the District or nonprofit organization determines that the interest in land is unable to fulfill the purposes for which money from this chapter was expended, the trust fund and any unexpended interest are appropriated to the District. The funds returned to the District may be utilized only for projects pursuant to this chapter.

(f) Any funds not needed by the District to implement the program described in this section may be granted by the District to a nonprofit organization or the California Department of Parks and Recreation to acquire lands adjacent to or in the immediate proximity of Anza-Borrego Desert State Park to prevent development or irrigation of that land which might impact groundwater resources in the Park. These lands may be inside or outside the boundaries of the District, but must be within the boundaries of the Borrego Springs Subbasin of the Borrego Valley Groundwater Basin, which is the source of all potable water for the Borrego Springs community and visitors to the Park. The lands may be used for wildlife habitat.

(g) The District may award grants to nonprofit organizations in order to carry out all or part of the programs authorized by this section.

#### **CHAPTER 8. Water for Wildlife, Pacific Flyway Restoration, and Dynamic Habitat Management.**

**86120.** The sum of three hundred million dollars (\$300,000,000) is appropriated from the Fund to the Wildlife Conservation Board (hereinafter in this section "the Board") to acquire water from willing sellers and to acquire storage and delivery rights to improve conditions for fish and wildlife in streams, rivers, wildlife refuges, wetland habitat areas and estuaries. High priority shall be given to meeting the water delivery goals of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575). The Board may arrange for acquisition, long-term lease agreements, or transfer of water rights if it determines such actions are beneficial to wildlife conservation. The Board may sell, transfer, or store water or storage rights purchased pursuant to this section, if the Board finds that the sale, transfer or storage will not cause harm to fish and wildlife. In years when the Board does not require the water for fish and wildlife purposes, the Board may temporarily sell or lease the water or delivery rights. Notwithstanding Section 13340 of the Government Code, the proceeds of any water sales pursuant to this section by the Board are appropriated directly to the Board without regard to fiscal year. The Board shall use the proceeds of the sale, lease or transfer of water or delivery rights to achieve conservation purposes authorized by this

section. The acquisition of water using funds expended pursuant to this chapter shall only be used for projects that will provide fisheries, wildlife or ecosystem benefits.

**86121.** The sum of fifty million dollars (\$50,000,000) is appropriated from the Fund to the California Department of Fish and Wildlife for the purpose of improving water supply and water quality conditions for fish and wildlife on private lands. The California Department of Fish and Wildlife may provide incentives to landowners for conservation actions on private lands or use of voluntary habitat credit exchange mechanisms. Such incentives shall be designed to be appropriately flexible and responsive to the highly variable amounts of water required by fish and wildlife.

The Department of Fish and Wildlife shall use a portion of the funds provided by this section to develop a programmatic authorization to expedite approval of habitat restoration and water quality improvement projects not covered under Chapter 6.5 of Division 2 of the Fish and Game Code, and for the implementation of that Chapter.

**86122.** The sum of three hundred million dollars (\$300,000,000) is appropriated from the Fund to the Wildlife Conservation Board for coastal and Central Valley salmon and steelhead fisheries restoration projects. The Wildlife Conservation Board shall give priority to projects that contribute to the recovery of salmon and steelhead species listed pursuant to the state or federal endangered species acts, to enhance commercial and recreational salmon fisheries and to achieve the goals of Chapter 8 of Part 1 of Division 6 (commencing with Section 6900) of the Fish and Game Code.

(a) Of the amount appropriated by this section, up to one hundred million dollars (\$100,000,000) shall be spent for matching grants to local agencies for capital outlay projects to implement programs to improve fish passage opportunities and to restore anadromous salmonid habitats, particularly juvenile rearing habitat for spring run salmon, on rivers in the Sacramento Valley that have dams blocking the main stem of the river.

(b) Of the amount appropriated by this section, at least one hundred million dollars (\$100,000,000) shall be spent to install fish screens on the Sacramento and San Joaquin Rivers and their tributaries and in the Delta to screen anadromous fish from water intakes. High priority shall go to projects identified as high priority in the Sacramento Valley Salmon Resiliency Strategy (as published by the California Natural Resources Agency in June 2017, and as it may be amended).

**86123.** (a) The sum of two hundred eighty million dollars (\$280,000,000) is appropriated from the Fund to the Wildlife Conservation Board for projects to protect migratory birds through habitat acquisition, easements, restoration, or other projects, and to provide water for wildlife refuges and wildlife habitat areas to fulfill the purposes identified in the Central Valley Joint Venture Implementation Plan, as it may be amended, including:

(1) Projects to implement this section which may include conservation actions on private lands.

(2) Protection and restoration of riparian and wetland habitat in the Sacramento River Basin.

(3) Protection and restoration of riparian and wetland habitat in the San Joaquin and Tulare Basins.

(b) Of the amount appropriated by this section, forty million dollars (\$40,000,000) shall be deposited in the California Waterfowl Habitat Preservation Account established pursuant to Section 3467 of the Fish

and Game Code, for the purposes of implementing the California Waterfowl Habitat Program pursuant to Article 7 (commencing with Section 3460) of Chapter 2 of Part 1 of Division 4 of the Fish and Game Code, the California Landowner Incentive Program of the Department of Fish and Wildlife, the Permanent Wetland Easement Program of the Wildlife Conservation Board, and the establishment or enhancement of waterfowl nesting and other wildlife habitat cover on fallowed lands including projects authorized pursuant to Section 1018.

(c) Of the amount appropriated by this section, ten million dollars (\$10,000,000) shall be deposited in the Shared Habitat Alliance for Recreational Enhancement (SHARE) Account established pursuant to Section 1572 of the Fish and Game Code and administered by the Department of Fish and Wildlife for the purposes of providing hunting and other wildlife-dependent recreational opportunities to the public through voluntary agreements with private landowners.

(d) Of the amount appropriated by this section, at least one hundred and ten million dollars (\$110,000,000) shall be expended for acquisition and delivery of water to wildlife refuges, and associated infrastructure projects, to achieve full compliance with the terms of subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575).

#### **CHAPTER 8.6. Sacramento Region Water Reliability and Habitat Protection.**

**86124.** (a) Ten million dollars (\$10,000,000) is appropriated from the Fund to the department for grants to the Regional Water Authority and to the City of Sacramento on behalf of the Sacramento Area Water Forum for projects that are consistent with the coequal objectives of the Water Forum Agreement. Eligible projects include facilities, studies and other actions to improve flow and temperature conditions and habitat in the lower American River, increase water use efficiency and conservation, or improve the integration of surface water and groundwater supplies to provide for dry year water supply reliability.

(b) The Regional Water Authority and the Water Forum shall jointly develop and approve studies, projects, or programs to be funded by the grants. Highest priority shall be given to improving water temperature conditions in the lower American River, and to projects or programs that contribute to both of the Water Forum's coequal objectives of improving water supply and protecting the environment. The Regional Water Authority will be the grantee for water supply and water efficiency projects. The City of Sacramento, on behalf of the Water Forum, will be the grantee for environmental protection, water temperature studies, and habitat restoration projects.

(c) The amount allocated in aggregate to the package of projects shall not exceed fifty percent (50%) of the projects' total cost.

(d) No funds appropriated pursuant to this section may be spent to build new surface storage or raise existing reservoirs.

#### **CHAPTER 9. Bay Area Regional Water Reliability.**

**86125.** Two hundred and fifty million dollars (\$250,000,000) is appropriated from the Fund to the department for a grant to the group of eight water agencies collectively known as the Bay Area Regional Reliability Partnership (BARR) for new facilities that extend the benefits of surface water storage for region-wide benefits in any of the following areas: drought supply reliability, drinking water quality, and emergency storage, as generally described in the Final Mitigation Project List contained in the San Francisco Bay Area Regional Reliability Drought Contingency Plan. The Contra Costa Water District may

receive the grant on behalf of the Partnership unless the BARR Partnership has a governance structure in place at the time of the grant award that makes its eligible to receive the funds directly. The participating water agencies in the San Francisco Bay Area Regional Reliability Drought Contingency Plan will determine and designate funds to one or any of the listed projects, however in no case will the amount determined for any single project be more than 50% of the project's total cost. No funds appropriated pursuant to this section may be spent to build new surface storage, or raise existing reservoirs.

#### **CHAPTER 10. Improved Water Conveyance and Water Conservation.**

**86126.** Even though the drought has eased, the effects of the drought are still being felt in many areas throughout the state, including the San Joaquin Valley. Further exacerbating the impact of drought conditions on water users were legal requirements restricting pumping from the Sacramento-San Joaquin Delta. One of the consequences of both the drought and pumping restrictions was a significant increase in groundwater pumping as a means to replace reduced surface supplies. Such increase in groundwater pumping lowers groundwater tables, which in turn causes wells to go dry and land to subside, which has particularly been the case on the east side of the San Joaquin Valley. The Friant-Kern Canal has lost 60% of its capacity to convey water for both consumptive uses and groundwater recharge. Unless conveyance capacity is restored and increased, the subsidence will continue to get worse and those local communities, including disadvantaged communities, who largely rely on groundwater to serve their citizens, will continue to suffer adverse effects. Significant public benefits will result from this state investment, including avoiding increased unemployment, stabilization of groundwater, and securing a more stable food supply for California.

**86127.** The sum of seven hundred fifty million dollars (\$750,000,000) is appropriated from the Fund to the department for a grant to the Friant Water Authority for water conveyance capital improvements, including restored and increased conveyance capacity to and in the Madera and Friant-Kern canals, resulting in greater groundwater recharge, improved conveyance and utilization of floodwaters, and for water conservation. Improvements with funds provided by this paragraph shall be completed consistent with applicable state and federal laws and contracts.

**86128.** The sum of one hundred million dollars (\$100,000,000) is appropriated from the Fund to the Natural Resources Agency for actions that support projects defined in paragraph 11 in the settlement agreement to restore the San Joaquin River referenced in Section 2080.2 of the Fish and Game Code. Before expenditure may occur, formal concurrence on specific projects to be undertaken is required by the settling parties to the agreement.

**86129.** The diversion of water from Barker Slough to the North Bay Aqueduct adversely impacts listed fish species, and also adversely impacts water quality served to a large urban area. There would be multiple public benefits to relocating the diversion to the North Bay Aqueduct to the Sacramento River.

**86130.** The sum of five million dollars (\$5,000,000) is appropriated from the fund to the department to plan for a diversion of water from the Sacramento River to the North Bay Aqueduct to reduce the adverse impact on listed fish species, and provide a higher quality of drinking water to those served by the Aqueduct.

#### **CHAPTER 11. Oroville Dam Flood Safety.**

**86131.** Oroville Dam provides flood control for the Sacramento Valley. The inclusion of flood control at Oroville Dam was not an obligation of the public water agencies that receive water from Oroville Dam. The flood control function of Oroville Dam was paid for by the federal government.

**86132.** The sum of two hundred million dollars (\$200,000,000) is appropriated from the Fund to the department for repair and reconstruction of the spillways at the Oroville Dam.

**86133.** The sum of twenty-one million dollars (\$21,000,000) is appropriated from the Fund to the department. Fifteen million dollars (\$15,000,000) shall be spent for Feather River sediment management and removal between Live Oak and Verona in coordination with the Sutter Butte Flood Control Agency. Six million dollars (\$6,000,000) of these funds shall be awarded as a grant to the Sutter Butte Flood Control Agency for floodwater attenuation projects at the Oroville Wildlife Area that provide downstream flood control relief and ecosystem restoration.

**86134.** The sum of one million dollars (\$1,000,000) is appropriated from the Fund to the department for a grant to Butte County for capital outlay projects and equipment for emergency preparedness coordination and communications consistent with the California Office of Emergency Services Standardized Emergency Management System (SEMS).

## **CHAPTER 12. General Provisions.**

**86151.** (a) In projects involving voluntary habitat restoration, water quality improvement and multi-benefit floodplain restoration each agency administering provisions of this division shall encourage interagency coordination and develop and utilize efficient project approval and permitting mechanisms, including but not limited to the provisions of Chapter 6.5 of Division 2 of the Fish and Game Code (regardless of whether that chapter is still in effect) and programmatic permits for voluntary habitat restoration, so as to avoid project delays and maximize the amount of money spent on project implementation.

(b) Projects designed to primarily protect migratory birds through acquisition, easements, restoration or other projects shall be consistent with the plans and recommendations established by the federal Migratory Bird Joint Venture partnerships that encompass parts of California.

(c) Any agency providing funds pursuant to this division to disadvantaged communities or economically distressed areas may provide funding to assist these communities in applying for that funding, including technical and grant writing assistance. These funds may be provided to nonprofit organizations and local public agencies assisting these communities.

(d) Any agency receiving funds pursuant to this division may contract for the services of resource conservation districts pursuant to Section 9003 of the Public Resources Code.

(e) Agencies may count in-kind contributions up to twenty-five percent (25%) of the total project cost as part of cost sharing. Agencies may count the value of the donated land in a bargain sale as part of cost sharing.

(f) Agencies considering proposals for acquisition of lands shall also consider the ability of the proposed final owner of the land to maintain it in a condition that will protect the values for which it is to be acquired, and to prevent any problems that might occur on neighboring lands if the land is not properly managed.

(g) Trust funds established pursuant to this act shall be managed pursuant to the requirements of the Uniform Prudent Management of Institutional Funds Act, Part 7 (commencing with Section 18501) of Division 9 of the Probate Code.

(h) Projects designed to primarily protect riparian habitat through acquisition, easements, restoration or other projects shall consider the plans and recommendations established by the California Riparian Habitat Conservation Program pursuant to Chapter 4.1 of Division 2 of the Fish and Game Code (commencing with Section 1385).

(i) The administering agency shall provide advance payment of 50% of grant awards for those projects that satisfy both of the following criteria:

(1) The project proponent is a disadvantaged community or eligible entity as defined in subdivision (a) of Section 86166, or the project benefits a disadvantaged community.

(2) The grant award for the project is less than one million dollars (\$1,000,000).

(j) Eligible grant costs shall include indirect costs as defined in federal Office of Management and Budget guidelines, as well as reasonable overhead costs.

(k) Agencies receiving funds designated for specific programs or grantees shall expedite the expenditure or transfer of those funds with the least amount of process necessary to comply with existing state laws and regulations, and the requirements of this division. It is the intent of this division that the expenditure or transfer of funds shall be efficient, cost-effective, and expeditious, and generally should occur no later than 90 days from demonstrated eligibility by the recipient for the funds requested.

**86152.** Agencies shall, to the extent practicable, quantify the amount of water generated for human and environmental use resulting from proposed expenditures they make pursuant to this division. Agencies shall, to the extent practicable, quantify the improvement in the quality of water generated for human and environmental use resulting from proposed expenditures they make pursuant to this division.

**86153.** To the extent consistent with the other provisions of this division, statewide agencies making grants pursuant to this division shall seek to allocate funds equitably to eligible projects throughout the state, including northern and southern California, coastal and inland regions, and Sierra and Cascade foothill and mountain regions.

**86154.** Applicants for grants pursuant to this division shall indicate whether the grant proposal is consistent with the local Integrated Regional Water Management Plan, if one exists. However, consistency with the Integrated Regional Water Management Plan shall not be required as a condition of any grant, and grant proposals shall not be given lower priority if they are not consistent with Integrated Regional Water Management Plans.

**86155.** (a) Notwithstanding any other provision of this division, a local public agency with a population of less than 100,000 and a median household income of less than one hundred percent (100%) of the state average household income shall be required to provide matching funds of no more than thirty-five percent (35%) for a grant for a project entirely within their jurisdiction. State agencies making grants to these local public agencies may provide funding in advance of construction of portions of the project, if the state agency determines that requiring the local public agency to wait for payment until the project is completed would make the project infeasible.

(b) Nothing in this section prohibits a state agency from making a grant to a disadvantaged community or economically distressed area that does not require cost sharing.

**86156.** Any repayment of loans made pursuant to this division, including interest payments, and interest earnings shall be deposited in the Fund and shall be available solely for the purposes of the chapter or section that authorized the loan.

**86157.** (a) Each state agency that receives an appropriation of funding made available by this division shall be responsible for establishing metrics of success and reporting the status of projects and all uses of the funding on the state's bond accountability Internet Web site.

(b) Each state agency that receives an appropriation of funding made available by this division shall do the following:

(1) Evaluate the outcomes of projects funded by this division.

(2) Include in the agency's reporting pursuant to Section 86003 the evaluation described in subdivision (a) of this section.

(3) Hold a grantee of funds accountable for completing projects funded by this division on time and within scope.

**86158.** (a) For projects carried out by state agencies pursuant to this division, up to ten percent (10%) of funds allocated for each program funded by this division may be expended for planning, monitoring and reporting necessary for the successful design, selection, and implementation of the projects and verification of benefits. An eligible entity receiving a grant for a project pursuant to this division may also receive sufficient funds for planning, monitoring and reporting necessary for the successful design, selection, and implementation of the projects. This section shall not otherwise restrict funds ordinarily used by an agency for "preliminary plans," "working drawings," and "construction" for a capital outlay project or grant project.

(b) Permit and plan check fees and reasonable administrative and indirect project fees and costs related to managing construction shall be deemed part of construction costs. Project costs allocated for project planning and design, and direct and indirect administrative costs shall be identified as separate line items in the project budget.

**86159.** Notwithstanding Section 16727 of the Government Code, funding provided pursuant to Chapters 6 and 8 may be used for grants and loans to nonprofit organizations to repay financing described in Section 22064 of the Financial Code related to projects that are consistent with the purposes of those chapters.

**86160.** Not more than a total of five percent (5%) of the funds allocated to any state agency under this division may be used to pay for its costs of administering programs and projects specified in this division.

**86161.** (a) Water quality monitoring data shall be collected and reported to the State board in a manner that is compatible and consistent with surface water monitoring data systems or groundwater monitoring data systems administered by the State board, consistent with Part 4.9 of Division 6. Watershed monitoring data shall be collected and reported to the Department of Conservation in a manner that is compatible and consistent with the statewide watershed program administered by the Department of Conservation.

(b) State agencies making grants or loans pursuant to this division may include specific expenditures for compliance with local, state and federal permitting and other requirements.

(c) Up to one percent (1%) of funds allocated for each program funded by this division may be expended for research into methods to improve water supply, water related habitat, and water quality relevant to that program, in addition to any other amounts provided for in this division.

**86162.** (a) Prior to disbursing grants or loans pursuant to this division, each state agency that receives an appropriation from the funding made available by this division to administer a grant or loan program under this division shall develop and adopt project solicitation and evaluation guidelines. The guidelines shall include monitoring and reporting requirements and may include a limitation on the dollar amount of each grant or loan to be awarded. The guidelines shall not include a prohibition on the recovery of reasonable overhead or indirect costs by local public agencies, Indian tribes or nonprofit organizations. If the state agency has previously developed and adopted project solicitation and evaluation guidelines that comply with the requirements of this division, it may use those guidelines. Overhead or indirect costs incurred by a local public agency, Indian tribe or nonprofit organization are eligible for reimbursement and shall not weigh negatively in the evaluation of funding proposals pursuant to this division.

(b) Prior to disbursing grants or loans, the state agency shall conduct three regional public meetings to consider public comments prior to finalizing the guidelines. The state agency shall publish the draft solicitation and evaluation guidelines on its website at least 30 days before the public meetings. One meeting shall be conducted at a location in northern California, one meeting shall be conducted at a location in the Central Valley of California, and one meeting shall be conducted at a location in southern California. Agencies without jurisdiction in one or more of these three regions may omit the meetings in the region or regions within which they do not have jurisdiction. Upon adoption, the state agency shall transmit copies of the guidelines to the fiscal committees and the appropriate policy committees of the Legislature.

(c) At least 45 days prior to soliciting projects pursuant to this division, a state agency administering funds pursuant to this division shall post an electronic form of the guidelines for grant applicants on its website. Project solicitation and evaluation guidelines shall only include criteria based on the applicable requirements of this division.

(d) Nothing in this division restricts agencies from enforcing and complying with existing laws.

**86163.** Each project funded from this division shall comply with the following requirements:

(a) The investment of public funds pursuant to this division will result in public benefits that address the most critical statewide needs and priorities for public funding, as determined by the agency distributing the funds.

(b) In the appropriation and expenditure of funding authorized by this division, priority will be given to projects that leverage private, federal, or local funding or produce the greatest public benefit. All state agencies receiving funds pursuant to this division shall seek to leverage the funds to the greatest extent possible, but agencies shall take into account the limited ability to cost share by small public agencies, and by agencies seeking to benefit disadvantaged communities and economically distressed areas.

(c) A funded project shall advance the purposes of the chapter from which the project received funding.



(d) In making decisions regarding water resources pursuant to this division, state and local agencies will use the best available science to inform those decisions.

(e) To the extent practicable, a project supported by funds made available by this division will include signage informing the public that the project received funds from the Water Supply and Water Quality Act of 2018.

(f) To the extent feasible, projects funded with proceeds from this division shall promote state planning priorities consistent with the provisions of Section 65041.1 of the Government Code and sustainable communities strategies consistent with the provisions of subparagraph (B) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code.

(g) To the extent feasible, watershed objectives for private lands included in this division should be achieved through use of conservation easements and voluntary landowner participation, including, but not limited to, the use of perpetual conservation easements pursuant to Division 10.2 (commencing with Section 10200) and Division 10.4 (commencing with Section 10330) of the Public Resources Code, voluntary habitat credit exchange mechanisms, and conservation actions on private lands.

**86164.** Funds provided by this division shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta water conveyance facilities. Those costs shall be the responsibility of the water agencies that benefit from the design, construction, operation, mitigation, or maintenance of those facilities.

**86165.** (a) This division does not diminish, impair, or otherwise affect in any manner whatsoever any area of origin, watershed of origin, county of origin, or any other water rights protections, including, but not limited to, rights to water appropriated prior to December 19, 1914, provided under the law. This division does not limit or affect the application of Article 1.7 (commencing with Section 1215) of Chapter 1 of Part 2 of Division 2, Sections 10505, 10505.5, 11128, 11460, 11461, 11462, and 11463, and Sections 12200 to 12220, inclusive.

(b) For the purposes of this division, an area that utilizes water that has been diverted and conveyed from the Sacramento River hydrologic region, for use outside the Sacramento River hydrologic region or the Delta, shall not be deemed to be immediately adjacent thereto or capable of being conveniently supplied with water therefrom by virtue or on account of the diversion and conveyance of that water through facilities that may be constructed for that purpose after January 1, 2018.

(c) Nothing in this division supersedes, limits, or otherwise modifies the applicability of Chapter 10 (commencing with Section 1700) of Part 2 of Division 2, including petitions related to any new conveyance constructed or operated in accordance with Chapter 2 (commencing with Section 85320) of Part 4 of Division 35.

(d) Unless otherwise expressly provided, nothing in this division supersedes, reduces, or otherwise affects existing legal protections, both procedural and substantive, relating to the State board's regulation of diversion and use of water, including, but not limited to, water right priorities, the protection provided to municipal interests by Sections 106 and 106.5, and changes in water rights. Nothing in this division expands or otherwise alters the State board's existing authority to regulate the diversion and use of water or the courts' existing concurrent jurisdiction over California water rights.

(e) Nothing in this division shall be construed to affect the California Wild and Scenic Rivers Act (Chapter

1.4 (commencing with Section 5093.50) of Division 5 of the Public Resources Code) or the federal Wild and Scenic Rivers Act (16 U.S.C. Section 1271 et seq.) and funds authorized pursuant to this division shall not be available for any project that could have an adverse effect on the values upon which a wild and scenic river or any other river is afforded protections pursuant to the California Wild and Scenic Rivers Act or the federal Wild and Scenic Rivers Act.

(f) Nothing in this division supersedes, limits, or otherwise modifies the Sacramento-San Joaquin Delta Reform Act of 2009 (Division 35 (commencing with Section 85000)) or any other applicable law, including, but not limited to, Division 22.3 (commencing with Section 32300) of the Public Resources Code.

(g) Notwithstanding any other provision of law, any agency or nonprofit organization acquiring land pursuant to this division may make use of the Natural Heritage Preservation Tax Credit Act of 2000 (Division 28 (commencing with Section 37000) of the Public Resources Code). Funds appropriate pursuant to this division that are not designated for competitive grant programs may also be used for the purposes of reimbursing the General Fund pursuant to the Natural Heritage Preservation Tax Credit Act of 2000.

(h) Funds provided pursuant to this division, and any appropriation or transfer of those funds, shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

**86166.** (a) Applicants eligible to receive grants, loans and contracts pursuant to this division are public agencies, state universities (including university-managed national laboratories), resource conservation districts, nonprofit organizations, public utilities, mutual water companies, public water systems as defined in subdivision (h) of Section 116275 of the Health and Safety Code, urban water suppliers as defined in Section 10617 of the Water Code, federally recognized Indian tribes, federal agencies owning or managing land in California, and state Indian tribes listed on the Native American Heritage Commission's California Tribal Consultation List. State agencies granting funds pursuant to this division shall give priority to eligible applicants with experience in planning, designing, and developing the types of projects receiving funding from the agencies, or which have access to consulting help in these areas.

(b)(1) To be eligible for funding under this division, a project proposed by a public utility that is regulated by the Public Utilities Commission, or a mutual water company, shall have a clear and definite public purpose and the project shall benefit the customers of the watersystem and not the investors.

(2) To be eligible for funding under this division, an urban water supplier shall have adopted and submitted an urban water management plan in accordance with the Urban Water Management Planning Act, Part 2.6 (commencing with Section 10610) of Division 6.

(3) To be eligible for funding under this division, an agricultural water supplier shall have adopted and submitted an agricultural water management plan in accordance with the Agricultural Water Management Planning Act, Part 2.8 (commencing with Section 10800) of Division 6.

(4) In accordance with Section 10608.56, an agricultural water supplier or an urban water supplier is ineligible for grant funding under this division unless it complies with the requirements of Part 2.55 (commencing with Section 10608) of Division 6.

(5) Notwithstanding any other provision of this division, agencies receiving funds pursuant to this division may reduce or eliminate cost sharing requirements when making grants of one million dollars (\$1,000,000) or less to nonprofit organizations with budgets less than one million dollars (\$1,000,000) if

the agency determines that such grants would be the most effective way to achieve the purposes of this division.

**86167.** Where feasible, projects funded pursuant to this division may use the services of the California Conservation Corps or certified community conservation corps, as defined in Section 14507.5 of the Public Resources Code. Public agencies receiving funding under this division shall give additional priority to projects that involve the services of the California Conservation Corps or a certified community conservation corps, or other nonprofit entities that provide job training and education opportunities for veterans, foster care recipients, farmworkers or local youth in conservation or restoration projects.

**86168.** Each state agency that receives an appropriation of funding made available by this division shall be responsible for establishing and reporting on the state's bond accountability website each of the following: metrics of success, metrics for benefitting disadvantaged communities and economically distressed areas, progress in meeting those metrics, status of projects funded under this division, and all uses of the funding the state agency receives under this division. The Secretary of the Natural Resources Agency shall annually report to the Legislature expenditures made pursuant to this division, and the benefits derived from those expenditures.

**86169.** The proceeds of bonds issued and sold pursuant to this division (excluding the proceeds of any refunding bonds issued in accordance with Section 86192) shall be deposited in the Water Supply Reliability and Drought Protection Fund of 2018, which is hereby created in the State Treasury.

**86169.1** Notwithstanding Section 13340 of the Government Code, moneys in the Water Supply Reliability and Drought Protection Fund of 2018 are continuously appropriated without regard to fiscal year for the purposes of this division in the manner set forth in this division. Funds authorized by, and made available pursuant to this division shall be available and expended only as provided in this division, and shall not be subject to appropriation or transfer by the Legislature or the Governor for any other purpose.

**86170.** Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development or implementation of programs or projects authorized or funded under this division.

**86171.** (a) Funds provided by this division shall not be used to support or pay for the costs of environmental mitigation, except for the costs of environmental mitigation for projects funded pursuant to this division.

(b) Funds provided by this division shall be used for environmental enhancements or other public benefits.

(c) Notwithstanding paragraphs (a) and (b) of this section, the costs of mitigation of the environmental impacts directly related and limited to expenditures under this division may be paid for by funds provided by this division.

(d) Funds available pursuant to this division shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities.

**86172.** Every entity implementing this division shall give highest priority to funding projects that combine relatively high cost-effectiveness, durability, and enhanced environmental quality.

**86174.** Acquisitions pursuant to Chapter 6 of this division shall be from willing sellers only.

**86177.** The requirement that a project be cost-effective does not require a full benefit/cost analysis.

**86178.** Agencies implementing this division shall give special consideration to projects that employ new or innovative technology or practices, including decision support tools that support the integration of multiple strategies and jurisdictions, including, but not limited to, water supply, wildfire reduction, habitat improvement, invasive weed control, flood control, land use, and sanitation.

**86179.** Any contract (including a contract to provide a grant) between a public agency, Indian tribe or nonprofit organization and the Department of Fish and Wildlife or the Wildlife Conservation Board for work funded pursuant to this division, or pursuant to Division 26.7 shall be considered a contract subject to the requirements of Section 1501.5 of the Fish and Game Code, and therefor shall not be considered a public work or a public improvement, and is not subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

**86179.1.** Priority shall be given to the expenditure of funds on activities that affect the Delta and the species that rely on it that are generally consistent with the report "A Delta Renewed: A Guide to Science-Based Ecological Restoration in the Sacramento-San Joaquin Delta" prepared in 2016 by the San Francisco Estuary Institute-Aquatic Science Center.

**86179.2.** In the awarding of grants to be made by any agency pursuant to this act or Division 26.7 after the effective date of this act, overhead or indirect costs incurred by a local public agency, Indian tribe or nonprofit organization are eligible for reimbursement and shall not weigh negatively in the evaluation of funding proposals. Eligible grant costs shall include indirect costs as defined in federal Office of Management and Budget guidelines, as well as reasonable overhead costs. For nonprofit organizations, grants shall provide for reimbursement of indirect costs by applying the organization's federally negotiated indirect cost rate, if one exists. If a negotiated rate does not exist, the organization may elect to use the default indirect cost rate of 10 percent (10%) of its modified total direct costs as defined by the Office of Management and Budget.

**86179.3.** No grants made pursuant to this division shall result in an unmitigated increase in a community's exposure to flood hazards or in a net reduction in flood conveyance capacity of any publicly owned flood protection facility.

**86179.4.** In awarding grants for land acquisition, the Wildlife Conservation Board shall give preference to organizations that voluntarily pay property taxes.

### **CHAPTER 13. Fiscal Provisions.**

**86180.** (a) Bonds in the total amount of eight billion eight hundred seventy-seven million dollars (\$8,877,000,000), or so much thereof as is necessary, not including the amount of any refunding bonds issued in accordance with Section 86192 may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this division and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) The Treasurer shall from time to time sell the bonds authorized by the committee pursuant to Section 86182. Bonds shall be sold upon the terms and conditions specified in one or more resolutions to be adopted by the committee pursuant to Section 16731 of the Government Code.

**86181.** The bonds authorized by this division shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law, and all of the provisions of that law, as that law may be amended, apply to the bonds and to this division and are hereby incorporated in this division as though set forth in full in this division, except subdivisions (a) and (b) of Section 16727 of the Government Code.

**86182.** (a) Solely for the purpose of authorizing the issuance and sale pursuant to the State General Obligation Bond Law of the bonds authorized by this division, the Water Supply Reliability and Drought Protection Finance Committee is hereby created. For purposes of this division, the Water Supply Reliability and Drought Protection Finance Committee is the "committee" as that term is used in the State General Obligation Bond Law.

(b) The finance committee consists of the Director of Finance, the Treasurer, and the Controller. Notwithstanding any other provision of law, any member may designate a representative to act as that member in his or her place for all purposes, as though the member were personally present.

(c) The Treasurer shall serve as chairperson of the finance committee.

(d) A majority of the finance committee may act for the finance committee.

**86183.** The finance committee shall determine whether or not it is necessary or desirable to issue bonds authorized by this division in order to carry out the actions specified in this division and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

**86184.** For purposes of the State General Obligation Bond Law, "board," as defined in Section 16722 of the Government Code, means the Secretary of the Natural Resources Agency.

**86185.** There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

**86186.** Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this division, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this division, as the principal and interest become due and payable.

(b) The sum that is necessary to carry out the provisions of Section 86189, appropriated without regard to fiscal years.

**86187.** The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in accordance with Section 16312 of the Government Code for the purpose of carrying out this division less any amount withdrawn pursuant to Section 86189. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold (excluding any refunding bond authorized pursuant to Section 86192) for the purpose of carrying out this division. The board shall execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the Fund to be allocated in accordance with this division.

**86188.** Notwithstanding any other provision of this division, or of the State General Obligation Bond Law, if the Treasurer sells bonds that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions or is otherwise entitled to any federal tax advantage, the Treasurer may maintain separate accounts for the bond proceeds invested and for the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

**86189.** For the purposes of carrying out this division, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold (excluding any refunding bond authorized pursuant to Section 86192) for the purpose of carrying out this division less any amount borrowed pursuant to Section 86187. Any amounts withdrawn shall be deposited in the Fund. Any moneys made available under this section shall be returned to the General Fund, with interest at the rate earned by the moneys in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this division.

**86190.** All moneys deposited in the Fund that are derived from premium and accrued interest on bonds sold pursuant to this division shall be reserved in the Fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest, except that amounts derived from premium may be reserved and used to pay the cost of bond issuance prior to any transfer to the General Fund.

**86191.** Pursuant to the State General Obligation Bond Law, the cost of bond issuance shall be paid out of the bond proceeds, including premiums, if any. To the extent the cost of bond issuance is not paid from premiums received from the sale of bonds, these costs shall be shared proportionately by each program funded through this division by the applicable bond sale.

**86192.** The bonds issued and sold pursuant to this division may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds under this division shall include approval of the issuance of any bonds issued to refund any bonds originally issued under this division or any previously issued refunding bonds. Any bond refunded with the proceeds of refunding bonds as authorized by this section may be legally defeased to the extent permitted by law in the manner and to the extent set forth in the resolution, as amended from time to time, authorizing such refunded bonds.

**86193.** The proceeds from the sale of bonds authorized by this division are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, and the disbursement of these proceeds is

not subject to the limitations imposed by that article.

**SECTION 2.** Section 1 of this act shall take effect immediately upon approval by the voters of the Water Supply and Water Quality Act of 2018, as set forth in that section at the November 6, 2018, statewide general election. In order to fund a water supply reliability and drought protection program at the earliest possible date, it is necessary that this act take effect immediately.

**SECTION 3. Conflicting Provisions.**

(a) The provisions and intent of the Water Supply and Water Quality Act of 2018 shall be given precedence over any state law, statute, regulation or policy that conflicts with this section, and the policy and intent of this act shall prevail over any such contrary law, statute, regulation or policy.

(b) If this division is approved by the voters, but superseded by any other conflicting ballot division approved by more voters at the same election, and the conflicting ballot division is later held invalid, it is the intent of the voters that this act shall be given the full force of law.

(c) If any rival or conflicting initiative regulating any matter addressed by this act receives the higher affirmative vote, then all non-conflicting parts of this act shall become operative.

**SECTION 4.** If any provision of this act or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

**SECTION 5.**

Section 2799.7 is added to the Fish and Game Code to read:

**2799.7.** Subdivision (f) of Section 2787 does not apply to Section 2795. Notwithstanding other provisions of this article and Section 13340 of the Government Code, as of July 2, 2020 funds transferred pursuant to Section 2795 shall be continuously appropriated to the Wildlife Conservation Board for purposes of Chapter 8 (commencing with Section 86120) of Division 38 of the Water Code.

**SECTION 6.**

Part 12 is added to Division 6 of the Water Code to read:

**Section 11860.** (a) Notwithstanding any other provision of law (including Section 13340 of the Government Code and Sections 39710 through 39723 of the Health and Safety Code), the fees paid, the cost of compliance instruments acquired, and the increased cost of power purchased by the Department of Water Resources, hereafter "Department," as a result of the implementation of Division 25.5 of the Health and Safety Code are continuously appropriated to the Department from the Greenhouse Gas Reduction Fund, as defined in Section 16428.8 of the Government Code, and the fees paid, the cost of compliance instruments acquired and the increased cost of power purchased by the Metropolitan Water District of Southern California (Statutes 1969, chapter 209, as amended), hereafter "District," as a result of the implementation of Division 25.5 of the Health and Safety Code are continuously appropriated to the District from the Greenhouse Gas Reduction Fund, as defined in Section 16428.8 of the Government Code.

(b) The funds appropriated to the Department pursuant to this section shall be expended within the State Water Resources Development System, and on consumer water conservation programs within the jurisdiction of the State Water Resources Development System.

(c) The funds appropriated to the District pursuant to this section shall be expended within the water storage, treatment, conveyance, and distribution system of the District and on consumer water conservation programs within the jurisdiction of the District.

(d) Of the consumer water conservation programs authorized by subdivisions (b) and (c), highest priority shall be given to those benefitting disadvantaged communities (as defined subdivision (a) of Section 79505.5, as it may be amended) and economically distressed areas (as defined in subdivision (k) of Section 79702, as it may be amended).

(e) All expenditures pursuant to this section shall meet the requirements of Chapter 4.1 of Part 2 of Division 26 of the Health and Safety Code. The Department and District will provide an annual report to the Air Resources Board on the prior-year's project implementation along with a plan for current year implementation.

(f) No funds provided by this part shall be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of new Delta water conveyance facilities. No funds provided by this section shall be expended to pay the costs of construction of new surface water storage facilities or to expand the capacity of the California Aqueduct or the Colorado River Aqueduct. Those costs shall be the responsibility of the water agencies that benefit from the design, construction, operation, mitigation, or maintenance of those facilities.

(g) All reasonable and feasible measures shall be taken to reduce, avoid, or mitigate significant negative environmental impacts from projects undertaken pursuant to this section.

**Section 11861.** (a) Notwithstanding any other provision of law (including Section 13340 of the Government Code and Sections 39710 through 39723 of the Health and Safety Code), the fees paid, the cost of compliance instruments acquired, and the increased cost of power purchased by the Contra Costa Water District, hereafter "District," as a result of the implementation of Division 25.5 of the Health and Safety Code are continuously appropriated to the District from the Greenhouse Gas Reduction Fund, as defined in Section 16428.8 of the Government Code, and the fees paid, the cost of compliance instruments acquired and the increased cost of power purchased by the San Luis and Delta Mendota Water Authority hereafter "San Luis Authority," as a result of the implementation of Division 25.5 of the Health and Safety Code are continuously appropriated to the San Luis Authority from the Greenhouse Gas Reduction Fund, as defined in Section 16428.8 of the Government Code.

(b) (1) The funds appropriated to the Contra Costa Water District pursuant to this section shall be expended within the boundaries of the District, and on consumer water conservation programs within the District.

(2) The funds appropriated to the San Luis Authority pursuant to this section shall be expended within the water storage, treatment, conveyance, and distribution system of the San Luis Authority and on water conservation, water quality improvement, water treatment, water supply and similar water programs within the jurisdiction of the Authority.

(c) Of the funds appropriated pursuant to subdivision (b), highest priority shall be given to those projects



benefitting disadvantaged communities (as defined subdivision (a) of Section 79505.5, as it may be amended) and economically distressed areas (as defined in subdivision (k) of Section 79702, as it may be amended).

(d) All expenditures pursuant to this section shall meet the requirements of Chapter 4.1 of Part 2 of Division 26 of the Health and Safety Code. The District and San Luis Authority will provide an annual report to the Air Resources Board on the prior-year's project implementation along with a plan for current year implementation.

(e) All reasonable and feasible measures shall be taken to reduce, avoid, or mitigate significant negative environmental impacts from projects undertaken pursuant to this section.

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ACTION ITEM: AENR Position on 2018 Water Supply and Water Quality  
Bond Act  
Attachment Ten  
Campaign Materials from the Meral Bond Campaign

# **Water Supply and Water Quality Act of 2018**

## **Benefits to Counties**

The \$8.877 billion bond bill provides significant benefits to counties, both rural and urban by providing funding to mitigate project costs for county and other local agencies. Funding is divided between conservancy funding for watershed restoration and public recreation, urban water programs such as water conservation and wastewater recycling, fish and wildlife, safe drinking water, infrastructure repair, and several other smaller programs. The benefits of this measure to county agencies and local groups are numerous and will provide opportunities for significant projects and improvements on a local basis, reducing costs to local governments.

State agencies will provide grants to both local government agencies and other local conservancies and environmental justice groups. This bond measure will create significant grant opportunities for county agencies, with grants funds to 31 state and regional agencies.

These programs include:

### **\$1.35 billion for water conservation, wastewater recycling, and stormwater management & treatment**

These funds can be used by county and municipal agencies on a mostly competitive basis across the state.

### **\$750 million for safe drinking water programs and wastewater recycling for disadvantaged communities**

In 2017 SWRCB safe drinking water enforcement actions occurred in 56 of 58 counties (Orange and San Francisco were the only exceptions)<sup>1</sup>. This funding would address potable water issues as well as provide treatment for wastewater recycling in disadvantaged communities.

### **\$1.075 billion for groundwater management and treatment, including \$640 million for local agencies for Sustainable Groundwater Management Act (SGMA) implementation**

Provides funding to the 293 groundwater sustainability agencies formed across the state for feasibility studies, recharge projects, reducing saltwater intrusion, acquiring groundwater rights, and the general implementation of groundwater sustainability plans which are mandated 2020/2022 under SGMA. An additional \$400 million is provided for desalination of brackish groundwater.

## **\$950 million for critical infrastructure repairs on state and federal water supplier infrastructure**

Funding to repairs on the Friant-Kern Canal caused by subsidence that occurred during the drought, a canal that serves 15,000 farms. \$200 million for repairs on the Oroville spillways.

## **\$500 million for flood control in the Bay Area, Central Valley, and throughout the state**

## **\$2.355 billion for watershed restoration, with both public recreation benefits and increased water supply benefits**

Watershed restoration funding is provided for the Coastal Conservancy, individual river watersheds along the entire coast, the Sierra Nevadas, Los Angeles River, Tahoe, Central Valley, Salton Sea, as well as significant state competitive funding for projects of this type. \$100 million is provided for fire recovery and watershed restoration.

## **\$1.38 billion for fisheries, both promoting healthy fish populations and promoting increased water supplies through state/federal water projects**

Funding for habitat acquisition for both fish and waterfowl, and fish screens on the San Joaquin River. This funding will help restore the health of our coastal and Central Valley fisheries and reduce pressure on Delta water exports to the Bay Area, Central Valley, and Southern California..

The Water Bond is endorsed by the Rural County Representatives of California, California Farm Bureau Federation, Association of California Water Agencies, California Chamber of Commerce, Association of California Water Agencies, California Special Districts Association, Southern California Water Committee, Northern California Water Agency, Community Water Center, and dozens of local government, environmental justice, conservation, business, water and other organizations.

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<sup>1</sup> [https://www.waterboards.ca.gov/drinking\\_water/programs/DWPEnforcementActions.shtml](https://www.waterboards.ca.gov/drinking_water/programs/DWPEnforcementActions.shtml)

# Official Endorsement List for the Water Supply and Water Quality Act of 2018

## Conservation Groups

- American River Conservancy
- American River Parkway Foundation
- American Woodland Conservancy
- Amigos de Bolsa Chica
- Anza-Borrego Desert Natural History Association
- Anza Borrego Foundation
- Arroyo Seco Foundation
- Arroyos and Foothills Conservancy
- Bear-Yuba Land Trust
- California Invasive Plant Council
- California Native Plant Society
- California Urban Streams Partnership
- California Waterfowl Association
- California Watershed Network
- California Wildlife Foundation/California Oaks Fund
- Carmel River Watershed Conservancy
- Carrizo Plain Conservancy
- Catalina Islands Conservancy
- Climate Resolve
- Conservation Corps of Long Beach
- Delta Waterfowl
- Dry Creek Conservancy
- Ducks Unlimited
- Eastern Sierra Land Trust
- Endangered Habitats League
- Freshwater Trust
- Friends of Orinda Creeks
- Friends of San Leandro Creek
- Friends of the Napa River
- Friends of the Santa Clara River
- Friends of Wild Cherry Canyon
- Glendora Community Conservancy
- Lake Tahoe Bicycle Coalition

- Land Conservancy of San Luis Obispo County
- Lower Putah Creek Coordinating Committee
- Marin Agricultural Land Trust
- Mattole Salmon Group
- National Wild Turkey Foundation
- Natural Heritage Institute
- Nor-Cal Guides & Sportsmens Association
- Northcoast Regional Land Trust
- Noyo Headlands Urban Design Group, Fort Bragg
- Pheasants Forever
- Planning and Conservation League
- Putah Creek Council
- Quail Forever
- Sacramento River Watershed Program
- Sacramento Urban Creeks Council
- Salmonid Restoration Federation
- San Gabriel Mountains Regional Conservancy
- Sanctuary Forest
- Santa Barbara Urban Creeks Council
- Santa Clara River Conservancy
- Save our Shores
- Save the Bay (formerly Save San Francisco Bay Association)
- Save the Waves
- Sequoia Riverlands Trust
- Sierra Foothill Conservancy
- Sierra Fund
- Sierra Nevada Alliance
- Sonoma Ecology Center
- Sustainable Conservation
- Sutter-Buttes Regional Land Trust
- Transition Habitat Conservancy
- Truckee Donner Land Trust
- Tubb Canyon Desert Conservancy
- Tuolumne River Preservation Trust
- Valley Foothill Watershed Collaborative

- Wildcat San Pablo Creeks Watershed Council
- Wildcoast
- Worth a Dam

### **Agricultural organizations**

- Agricultural Council of California
- California Agricultural Aircraft Association
- California Association of Pest Control Advisers
- California Cotton Ginners and Growers Association
- California Dairies, Inc.
- California Farm Bureau Federation
- California Fresh Fruit Association
- American Pistachio Growers
- California Rice Commission
- California Rice Industry Association
- Tulare County Farm Bureau
- Western Growers

### **Environmental Justice Organizations**

- Center for Sustainable Neighborhoods
- Community Water Center
- Grassroots Ecology
- Leadership Counsel for Justice and Accountability
- Urban Tilth
- The Watershed Project

### **Social Justice Organizations**

Community Housing Improvement Systems and Planning Association, Inc. (CHISPA)

### **Water agencies and organizations**

- Alameda County Water District
- Arvin Edison Water Storage District
- Association of California Water Agencies
- Bear Valley Basin Groundwater Sustainability Agency

- Big Bear City Community Services District
- Big Bear Municipal Water District
- Borrego Water District
- Calaveras County Water District
- CalDesal
- Calleguas Municipal Water District
- Casitas Municipal Water District
- City of Big Bear Lake, Department of Power and Water
- Colusa Groundwater Authority
- Fresno Irrigation District
- Friant Water Authority
- Imperial Irrigation District
- Kern-Tulare Water District
- Lindmore Irrigation District
- Lindsay-Strathmore Irrigation District
- Madera Irrigation District
- Monterey Peninsula Water Management District
- Northern California Water Association
- Pajaro Valley Water Management Agency
- Petaluma Valley Groundwater Sustainability Agency
- Porterville Irrigation District
- San Joaquin River Exchange Contractors Water Authority
- Santa Rosa Plain Groundwater Sustainability Agency
- Saucelito Irrigation District
- Scotts Valley Water District
- Solano County Water Agency
- Solano Irrigation District
- Sonoma Valley Groundwater Sustainability Agency
- South Valley Water Association
- Southern California Water Coalition
- Tulare Irrigation District
- Tuolumne Utilities District
- Upper Ventura River Groundwater Sustainability Agency
- Valley of the Moon Water District
- Wheeler Ridge/Maricopa Water Storage District



- Yolo County Flood Control and Water Conservation District
- Yuba County Water Agency

### **Labor**

- Contra Costa Building and Construction Trades Council

### **Individuals**

- Linda Adams, former Director, California Department of Water Resources
- Phil Angelides, former State Treasurer
- Edwin Camp
- Michael Frantz, Director, Turlock Irrigation District
- Brigadier General Gerald Galloway, United States Army (Retired)
- Ron Gastelum, Former CEO and GM of the Metropolitan Water District of Southern California
- Brian Jordan, Vice President, Tetra Tech
- Richard Morrison, former Senior Vice President and head of Environmental Policies and Programs for Bank of America. (retired.)
- Peter B Moyle, Distinguished Professor Emeritus, University of California, Davis
- Mel Nutter, former chair, California Coastal Commission
- Ann L. Riley, Ph.D.

### **Local Government**

- California Special Districts Association
- City of Dinuba
- City of Farmersville
- Contra Costa County
- Fall River Resource Conservation District
- Marin Resources Conservation District
- Mariposa County Resource Conservation District
- Northwest Kern Resource Conservation District
- Pit Resource Conservation District
- Sierra Resource Conservation District
- Suisun Resource Conservation District

- Regional Council of Rural Counties

## **Business**

- American Council of Engineering Companies- California
- Bay Area Council
- Bay Planning Coalition
- Biz Fed Los Angeles County
- California Building Industry Association
- California Business Properties Association
- California Chamber of Commerce
- DM Camp & Sons
- ESA (Environmental Science Associates)
- Fresno Chamber of Commerce
- Kern Machinery Inc
- Madera Chamber of Commerce
- Sierra Business Council
- Tahoe Mountain Sports
- Visalia Chamber of Commerce
- Western Power Products, Inc.
  
- Northern California Water Association Water Bond Support (November 2017),  
and members:
  - Anderson-Cottonwood Irrigation District
  - B&B Ranch
  - Brophy Water District
  - Browns Valley Irrigation District
  - City of Colusa
  - City of Redding
  - Crain Orchards, Inc.
  - Danna & Danna Inc.
  - Edwards Ranch
  - Feather Water District
  - Fedora Farms

G&K Farms, LLC.  
Garden Highway Mutual Water Co.  
Garner, Garner & Stoy  
Glenn Colusa Irrigation District  
Hallwood Irrigation District  
Henle Family Limited Partnership  
Hershey Land Row Crop, LLC.  
J.A. Driver  
Joint Water Districts Board  
    Biggs-West Gridley Water District  
    Butte Water District  
    Richvale Irrigation District  
    Sutter Extension Water District  
Knaggs Ranch  
Larry Pires Farms  
Lindauer River Ranch, Inc.  
Llano Seco Rancho  
M&T Ranch  
Maxwell Irrigation District  
Meridian Farms Water Co.  
Natomas Mutual Water Co.  
North Yuba County Water District  
Oji Brothers Farms, Inc.  
Pacific Farms & Orchards  
Pacific Gold Agriculture  
Paul Bertagna  
Pelger Mutual Water Company  
Pleasant Grove-Verona Mutual Water Co.  
Plumas Mutual Water Co.  
Princeton-Codora-Glenn Irrigation Dist.  
Provident Irrigation District  
R. Gorrill Ranch Enterprises  
Ramirez Water District  
Reclamation District 1004  
Reclamation District 108  
Reclamation District 2035

Richter Brothers, Inc.  
Rising Eagle Ranch  
River Garden Farms  
Riverview Land & Equipment, Inc.  
South Sutter Water District  
South Yuba Water District  
Sutter Bypass-Butte Slough WUA  
Sutter Mutual Water Company  
Sycamore Trust  
Taylor Brothers Farms  
Tehama Angus Ranch, Inc.  
Thermalito Irrigation District  
Tudor Mutual Water Co.  
Tuttle Ranches  
Western Canal Water District  
William P. Locket  
Yolo County Flood Control & WCD  
Yuba County Water Agency

**Members of Congress**

Jim Costa  
John Garamendi