SOLANO COUNTY
Legislative Committee Meeting

Committee
Supervisor Erin Hannigan (Chair)
Supervisor Linda J. Seifert

Staff
Michelle Heppner

September 15, 2014
1:30 p.m. to 3:30 p.m.

Solano County Administration Center
Sixth Floor Conference Center, Room 6003
675 Texas Street
Fairfield, CA 94533

AGENDA

I. Public Comment (Items not on the agenda)

II. Update from Solano County Legislative Delegation (Legislative representatives)

a. Updates to include legislation pending Governor's signature, dead bills that may get reintroduced on 2015, and any new legislation for 2015.

III. Development of the 2015 State and Federal Legislative Platform *(Page 2)*

IV. Federal Legislative Update (Waterman & Associates)

Action Items:

a. Waters of the United States Regulatory Overreach Act of 2014, H.R. 5078 *(Page 3)*

b. Reform Endangered Species Act *(Page 23)*

i. Private Landowner Protection Act, S. 2729 *(Page 24)*

ii. Common Sense in Species Protection Act of 2014, H.R. 4319 *(Page 28)*

c. Resolution designating Berryessa Snow Mountain Region as a National Conservation Area / National Monument. *(Page 32)*

V. State Legislative Update and consider making a recommendation for a position on legislation (Paul Yoder)

Action Items:

Ballot Initiatives Summary *(Page 33)*

a. Proposition 1 – Water Quality, Supply, and Infrastructure Improvement Act of 2014. *(Page 34)*

b. Proposition 2 – State Budget. Budget Stabilization Account. *(Page 90)*

c. Proposition 45 – Healthcare Insurance. Rate Changes. *(Page 98)*

d. Proposition 46 – Drug and Alcohol Testing of Doctors. Medical Negligence Lawsuits. *(Page 104)*

e. Proposition 47 – Criminal Sentences. Misdemeanor Penalties. *(Page 112)*

General

a. End-of-Session Legislative Update (Matrix of bills tracked) *(Page 118)*

VI. Next Meeting – October 6, 2014

VII. Adjourn

Proposed Timeline for Development of the 2015 State and Federal Legislative Platform

Email notification to Departments	September 11, 2014
Consideration by Legislative Committee	September 15, 2014
Meetings with Departments and Legislative Advocates	September 22, 2014
Revisions due to CAO's Office	October 17, 2014
Final Review by Legislative Committee	November 3, 2014
Review by the Board of Supervisors	November 25, 2014
Additional Review by the Board of Supervisors (if needed)	December 2, 2014

Action Needed!

Urge Your U.S. House Members to Vote "YES" TODAY

On the Waters of the United States Regulatory Overreach Act of 2014, H.R. 5078

The U.S. House of Representatives will vote this afternoon on the Waters of the United States Regulatory Overreach Protection Act of 2014, H.R. 5078. Please urge your House Member to vote "yes" on the measure.

H.R. 5078 would prevent the Administration's proposed "Waters of the U.S." rule from moving forward. Additionally, it would require the agencies to consult and collaborate with state and local governments on the "Waters of the U.S." rule development process. The agencies would be required to document the interactions, including those areas where consensus was reached and not reached, and submit the final report to Congress.

NACo asks counties to urge your member to vote "yes" on H.R. 5078.

Background Information and Why This Issue Matters to Counties

The proposed rule that prompted the introduction of H.R. 5078—Definition of Waters of the U.S. Under the Clean Water Act— was released by the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) on April 21. The proposed rule amends the definition of "Waters of the U.S." within the Clean Water Act (CWA) and expands the range of waters (and their conveyances) that would fall under federal regulatory authority.

The proposed rule would impact county-owned and maintained roads and roadside ditches, flood control channels, drainage conveyances, stormwater systems, green infrastructure construction and maintenance. The public comment period for "Waters of the U.S." is open until October 20, 2014.

NACo Policy

NACo's policy calls on the federal government to clarify that local streets, gutters, and human-made ditches are excluded from the definition of "Waters of the U.S."

Additionally, NACo believes counties must be involved as a significant partner in the formative stages of developing standards, policies, and guidance and have the ability to develop specific standards, where appropriate.

Resources

- NACo's letter in support of H.R. 5078
- NACo's analysis of the proposed rule and a comparison chart
- NACo's information hub for counties on "Waters of the U.S."
- Current Co-Sponsor list H.R. 5078
- H.R. 5078

County Action Needed

New "Waters of the United States" Definition Released

Counties are strongly encouraged to submit written comments on potential impacts of the proposed regulation to the Federal Register

On April 21, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) jointly released a new proposed rule – *Definition of Waters of the U.S. Under the Clean Water Act* – that would amend the definition of "waters of the U.S." and expand the range of waters that fall under federal jurisdiction. The proposed rule, published in the Federal Register, is open for public comment for 181 days, until October 20, 2014.

The proposed rule uses U.S. Environmental Protection Agency's (EPA) draft report on *Connectivity of Stream and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence*, which is currently undergoing review by EPA's Science Advisory Board, as a scientific basis for the new definition. The report focuses on over 1,000 scientific reports that demonstrate the interconnectedness of tributaries, wetlands, and other waters to downstream waters and the impact these connections have on the biological, chemical and physical relationship to downstream waters.

Why "Waters of the U.S." Regulation Matters to Counties

The proposed "waters of the U.S." regulation from EPA and the Corps could have a significant impact on counties across the country, in the following ways:

- **Seeks to define waters under federal jurisdiction:** The proposed rule would modify existing regulations, which have been in place for over 25 years, regarding which waters fall under federal jurisdiction through the Clean Water Act (CWA). The proposed modification aims to clarify issues raised in recent Supreme Court decisions that have created uncertainty over the scope of CWA jurisdiction and focuses on the interconnectivity of waters when determining which waters fall under federal jurisdiction. **Because the proposed rule could expand the scope of CWA jurisdiction, counties could feel a major impact as more waters become federally protected and subject to new rules or standards.**

- **Potentially increases the number of county-owned ditches under federal jurisdiction:** The proposed rule would define some ditches as "waters of the U.S." if they meet certain conditions. This means that more county-owned ditches would likely fall under federal oversight. In recent years, Section 404 permits have been required for ditch maintenance activities such as cleaning out vegetation and debris. **Once a ditch is under federal jurisdiction, the Section 404 permit process can be extremely cumbersome, time-consuming and expensive, leaving counties vulnerable to citizen suits if the federal permit process is not streamlined.**

- **Applies to all Clean Water Act programs, not just Section 404 program:** The proposed rule would apply not just to Section 404 permits, but also to other Clean Water Act programs. Among these programs—which would become subject to increasingly complex and costly federal regulatory requirements under the proposed rule—are the following:

    - **Section 402 National Pollution Discharge Elimination System (NPDES) program,** which includes municipal separate storm sewer systems (MS4s) and pesticide applications permits (EPA Program)

    - **Section 303 Water Quality Standards (WQS) program**, which is overseen by states and based on EPA's "waters of the U.S." designations

    - Other programs including **stormwater, green infrastructure, pesticide permits** and **total maxiumum daily load (TMDL) standards**

Background Information

The Clean Water Act (CWA) was enacted in 1972 to restore and maintain the chemical, physical and biological integrity of our nation's waters and is used to oversee federal water quality programs for areas that have a "water of the U.S." The term navigable "waters of the U.S." was derived from the Rivers and Harbors Act of 1899 to identify waters that were involved in interstate commerce and were designated as federally protected waters. Since then, a number of court cases have further defined navigable "waters of the U.S." to include waters that are not traditionally navigable.

More recently, in 2001 and 2006, Supreme Court cases have raised questions about which waters fall under federal jurisdiction, creating uncertainty both within the regulating agencies and the regulated community over the definition of "waters of the U.S." In 2001, in *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers* (531 U.S.159, 2001), the Corps had used the "Migratory Bird Rule"—wherever a migratory bird could land—to claim federal jurisdiction over an isolated wetland. The Court ruled that the Corps exceeded their authority and infringed on states' water and land rights.

In 2006, in *Rapanos v. United States*, (547 U.S. 715, 2006), the Corps were challenged over their intent to regulate isolated wetlands under the CWA Section 404 permit program. In a 4-1-4 split decision, the Court ruled that the Corps exceeded their authority to regulate these isolated wetlands. The plurality opinion states that only waters with a relatively permanent flow should be federally regulated. The concurrent opinion stated that waters should be jurisdictional if the water has a "significant nexus" with a navigable water, either alone or with other similarly situated sites. Since neither opinion was a majority opinion, it is unclear which opinion should be used in the field to assert jurisdiction, leading to further confusion over what waters are federally regulated under CWA.

The newly proposed rule attempts to resolve this confusion by broadening the geographic scope of CWA jurisdiction. The proposal states that "waters of the U.S" under federal jurisdiction include navigable waters, interstate waters, territorial waters, tributaries (ditches), wetlands, and "other waters." It also redefines or includes new definitions for key terms—adjacency, riparian area, and flood plain—that could be used by EPA and the Corps to claim additional waters as jurisdictional.

States and local governments play an important role in CWA implementation. As the range of waters that are considered "waters of the U.S." increase, states are required to expand their current water quality designations to protect those waters. This increases reporting and attainment standards at the state level. Counties, in the role of regulator, have their own watershed/stormwater management plans that would have to be modified based on the federal and state changes. Changes at the state level would impact comprehensive land use plans, floodplain regulations, building and/or special codes, watershed and stormwater plans.

Examples of Potential Impact on Counties

County-Owned Public Infrastructure Ditches

The proposed rule would broaden the number of county maintained ditches—roadside, flood channels and potentially others—that would require CWA Section 404 federal permits. Counties use public infrastructure ditches to funnel water away from low-lying roads, properties and businesses to prevent accidents and flooding incidences.

- The proposed rule states that man-made conveyances, including ditches, are considered jurisdictional tributaries if they have a bed, bank and ordinary high water mark (OHWM) and flow directly or indirectly into a "water of the U.S.," regardless of perennial, intermittent or ephemeral flow.

- The proposed rule excludes certain types of upland ditches with less than perennial flow or those ditches that do not contribute flow to a "water of the U.S." However, under the proposed rule, key terms like 'uplands' and 'contribute flow' are undefined. It is unclear how currently exempt ditches will be distinguished from jurisdictional ditches, especially if they are near a "water of the U.S."

Ultimately, a county is liable for maintaining the integrity of their ditches, even if federal permits are not approved by the federal agencies in a timely manner. For example, in 2002, in *Arreola v Monterey* (99 Cal. App. 4th 722), the Fourth District Court of Appeals held the County of Monterey (Calif.) liable for not maintaining a levee that failed due to overgrowth of vegetation, even though the County argued that the Corps permit process did not allow for timely approvals.

The National Association of Counties' policy calls on the federal government to clarify that local streets, gutters, and human-made ditches are excluded from the definition of "waters of the U.S."

Stormwater and Green Infrastructure

Since stormwater activities are not explicitly exempt under the proposed rule, concerns have been raised that Municipal Separate Storm Sewer System (MS4) ditches could now be classified as a "water of the U.S." Some counties and cities own MS4 infrastructure including ditches, channels, pipes and gutters that flow into a "water of the U.S." and are therefore regulated under the CWA Section 402 stormwater permit program.

This is a significant potential threat for counties that own MS4 infrastructure because they would be subject to additional water quality standards (including total maximum daily loads) if their stormwater ditches are considered a "water of the U.S." Not only would the discharge leaving the system be regulated, but all flows entering the MS4 would be regulated as well. Even if the agencies do not initially plan to regulate an MS4 as a

"water of the U.S.," they may be forced to do so through CWA citizen suits, unless MS4s are explicitly exempted from the requirements.

In addition, green infrastructure is not explicitly exempt under the proposed rule. A number of local governments are using green infrastructure as a stormwater management tool to lessen flooding and protect water quality by using vegetation, soils and natural processes. The proposed rule could inadvertently impact a number of these county maintained sites by requiring Section 404 permits for non-MS4 and MS4 green infrastructure construction projects. Additionally, it is unclear under the proposed rule whether a Section 404 permit will be required for maintenance activities on green infrastructure areas once the area is established. In stakeholder meetings, EPA has suggested local governments need to include in their comments whether an exemption is needed, and if so, under what circumstances, along with the reasoning behind the request.

Potential Impact on Other CWA Programs

It is unclear how the proposed definitional changes may impact the pesticide general permit program, which is used to control weeds and vegetation around ditches, water transfer, reuse and reclamation efforts and drinking and other water delivery systems. According to a joint document released by EPA and the Corps, *Economic Analysis of Proposed Revised Definition of Waters of the United States* (March 2014), the agencies have performed cost-benefit analysis across CWA programs, but acknowledge that "readers should be cautious is examining these results in light of the many data and methodological limitations, as well as the inherent assumptions in each component of the analysis."

Submitting Written Comments

NACo has prepared draft comments for counties. Go to NACo's "Waters of the U.S." hub for more information, www.naco.org/wous.

Written comments to EPA and Corps are due no later than October 20, 2014. *If you submit comments, please share a copy with NACo's Julie Ufner at jufner@naco.org or 202.942.4269.*

Submit your comments, identified by ***Docket ID No. EPA–HQ– OW–2011–0880*** by one of the following methods:

- Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments
- E-mail: ow-docket@epa.gov. Include EPA–HQ–OW–2011–0880 in the subject line of the message
- Mail: Send the original and three copies of your comments to: Water Docket, Environmental Protection Agency, Mail Code 2822T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Attention: Docket ID No. EPA–HQ–OW–2011–0880.

For further information, contact: Julie Ufner at 202.942.4269 or jufner@naco.org

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Waters of the U.S."[1] Definition	40 CFR 230.3(s) The term "Waters of the United States" means: (1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, all waters which are subject to the ebb and flow of the tide;	Define "Waters of the United States" for all sections (including sections 301, 311, 401, 402, 404) of the CWA to mean: (1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;	**No change from current rules** These waters are referred to as traditionally navigable waters of the U.S. For the purposes of CWA jurisdiction, waters are considered traditional navigable waters if: • They are subject to section 9 or 10 of the 1899 Rivers and Harbors Appropriations Act • A federal court has determined the water body is navigable-in-fact under law • Waters currently used (or historically used) for commercial navigation, including commercial waterborne recreation (boat rentals, guided fishing trips, etc.)
	(2) All interstate waters[2], including interstate "wetlands";	(2) All interstate waters, including interstate wetlands;	**No change from current rules** Under the proposed rule, waters (lakes, streams, tributaries, etc.) would be considered "interstate waters" if they flow across state boundaries, even if they

[1] There is only one Clean Water Act definition of "waters of the U.S." This definition is used for all CWA programs (including sections 301, 311, 401, 402, and 404)
[2] All interstate waters are "waters of the U.S.", even if they are non-navigable (under the current "waters of the U.S." definition)

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Waters of the U.S." Definition (continued)			are not considered "navigable" and do not connect to a "water of the U.S."
	(3) All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:	(7) And on a case-specific basis, other waters, including wetlands, provided that those waters alone, or in combination with other similarly situated waters, including wetlands[3], located in the same region, have a significant nexus to a traditional navigable water, interstate water or the territorial sea	Under the proposed rule, "other waters" would not automatically be considered jurisdictional, instead, they would be assessed on a case-by-case basis, either alone or with other waters in the region to assess the biological, physical, chemical impacts to the closest jurisdictional waters Under the proposed rule, "other waters," such as isolated wetlands, must meet the significant nexus test to be considered jurisdictional. ***This is a major change over current practice.***
	(i) Which are or could be used by interstate or foreign travelers for recreation or other purposes; (ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or	(i) through (iii) eliminated	The agencies consider (i) through (iii) duplicative language

[3] The term wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typical of wet soil conditions The term generally includes swamps, marshes, bogs and other similar areas

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Waters of the U.S." Definition (continued)	(iii) Which are used or could be used for industrial purposes by industries in interstate commerce;		
	(4) All impoundments of waters otherwise defined as waters of the U.S. under this definition;	(4) All impoundments of a traditional navigable water, interstate water, the territorial seas or a tributary;	**No change from current rules – County owned dams and reservoirs are under federal jurisdiction**
	(5) Tributaries of waters identified in paragraphs (a) through (d) of this definition;	(5) All tributaries of a traditional navigable water, interstate water, the territorial seas or impoundment;	**Proposed rule more broadly defines the definition of tributary to include manmade and natural ditches** **Proposed rule would potentially increase the number of county-owned ditches under federal jurisdiction** All manmade and natural ditches that meet the definition of a tributary would be considered a "water of the U.S." regardless of perennial, intermittent or ephemeral flow – *Refer to "Tributary" definition for further explanation*
	(6) The territorial seas; and	(3) The territorial seas;	**No change from current rules** Territorial seas are defined as *"the belt of the seas measured from the line of the ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and*

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Waters of the U.S." Definition (continued)			*extending seaward a distance of three miles"* **Proposed rule would broaden what types of waters next to a "waters of the U.S." are considered jurisdictional** Under the proposed regulation, wetlands, lakes, ponds, etc. that are adjacent to "waters of the U.S." would be jurisdictional if they can meet the significant nexus test – meaning the adjacent waters must show a significant connect to a "water of the U.S." **The proposed rule change would be relevant for non-jurisdictional county-owned ditches near a "water of the U.S." that have a significant connection (hydrologic water connection is not necessary) to a "water of the U.S."**
	(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.	(6) All waters, including wetlands, adjacent to a traditional navigable water, interstate water, the territorial seas, impoundment or tributary;	
	(8): Waters of the United States do no not included prior converted cropland or waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling points as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the U.S.	Waters excluded from the definition of "waters of the U.S." include:	**The proposed rule excludes certain types of waters from being classified as a "water of the U.S."** The proposed rule codifies 1986 and 1988 guidance preamble language – meaning the proposed rule makes official a number of exemptions that have been in place since the 1980's

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Waters of the U.S." Definition (continued)		• Waste treatment systems, including treatment points or lagoons, **designed to meet CWA requirements** • Prior converted cropland • Ditches that are excavated wholly in uplands, drain only in uplands, and have less than perennial flow • Ditches that do not contribute to flow, either directly or indirectly to a "water of the U.S.	**Over the years, some exemptions, such as for waste treatment systems, have been challenged in the courts. The exemptions may be interpreted very narrowly** Under the proposed rule, only those waste treatment systems, designed to meet CWA requirements, would be exempt. For waste treatment systems that were built to address non-CWA compliance issues, it is uncertain whether the system would also be exempt **The proposed rule exempts a certain type of uplands ditch – there is little consensus on how this language would (or would not) impact roadside ditches. EPA and Corps need to answer whether ditches will be considered in parts or in whole** Under the new rule, other ditches, not strictly in uplands, would be regulated or potentially those ditches adjacent to a "water of the U.S." **The proposed rule would exempt ditches that show they do not contribute to the flow of a "water of the U.S."**

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Waters of the U.S." Definition (continued)		Additionally, the following features are exempted (from the "waters of the U.S." definition): 1. Would exclude artificial areas that revert to uplands if application of irrigation water ceases; 2. Artificial lakes and ponds used solely for stock watering, irrigation, settling basins, rice growing; 3. Artificial reflecting pools or swimming pools created by excavating and/or diking in dry land 4. Small ornamental waters created by excavating and/or diking dry land for primarily aesthetic reasons; 5. Water-filled depressions created incidental to construction activity; 6. Groundwater, including groundwater drained through subsurface drainage systems; and 7. Gullies and rills and non-wetland swales[4]	**Question: Are there county maintained ditches that do not contribute to flow of a "water of the U.S."?** **However, ditches can be a point source and regulated under the CWA Section 402 permit program** **Under the proposed rule, ditches that do contribute to the flow of a "water of the U.S." regardless of perennial, intermittent or ephemeral flows, would be jurisdictional**

[4] While non-jurisdictional geographic features such as non-wetland swales, ephemeral upland ditches may not be jurisdictional under the CWA section 404 permit program, the "point source" water discharges from these features may be regulated through other CWA programs, such as section 402

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Waters of the U.S." Definition (continued)			**Under the proposed rule, stormwater and green infrastructure are not explicitly exempt. Clarification is needed to ensure this type of infrastructure is not classified as a "water of the U.S." through regional staff determinations or CWA citizen lawsuits** If more waters are designated "waters of the U.S.," those waters would then have to meet water quality standards (WQS), which are set by the state based on federally designated "waters of the U.S." State standards for these waters must include a highest beneficial use based on scientific analysis—fishable, swimmable, water supply—these standards are often challenged in the courts. Under CWA statute, states must treat all "waters of the U.S." equally, regardless of size or flow, when determining WQS In parts of California, stormwater channels are considered "waters of the U.S." However, the designation is not currently enforced

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
Ditches (aka "Tributaries")	Tributaries are considered a "waters of the U.S." under existing regulation.[5] Agencies have stated they *generally* would not assert jurisdiction over ditches (including roadside ditches) excavated wholly in and draining only in uplands and do not carry a relatively permanent flow of water.	Tributaries include, natural and manmade waters, including wetlands, rivers, streams, lakes, ponds, impoundments, canals and ditches if they: • Have a bed, bank, and ordinary high water mark (OHWM)[6] • Contribute to flow, either directly or indirectly, to a "water of the U.S."[7] Would excludes ditches that are excavated wholly in uplands, drain only in uplands, and have less than perennial flow[8]	Proposed rule includes *for the first time* a regulatory definition of a tributary, which specifically defines **ditches** as jurisdictional tributaries unless exempted The proposed rule states that manmade and natural ditches are considered jurisdiction if they have a bed, bank and evidence of, and contribute to, flow, directly or indirectly, to a "water of the U.S." **Proposed rule would potentially increase the number of county-owned ditches under federal jurisdiction** All manmade and natural ditches that meet the definition of a tributary would be considered a "water of the U.S." regardless of perennial, intermittent or ephemeral flow Under the proposed rule, ditches are "exempt" if they are strictly uplands ditches with a less than a relatively permanent flow. There is uncertainty

[5] The term "tributary" is not defined under current regulations

[6] Bed, bank and OHWM are features generally associated with flow. OHWM usually defines the lateral limits of the ditch by showing evidence of flow. The bed is the part of the ditch, below the OHWM, and the banks may be above the OHWM

[7] The flow in the tributary may be ephemeral, intermittent or perennial, and the tributary must drain, or be a part of a network of tributaries that drain, into a "water of the U.S."

[8] Perennial flow means that water is present in a tributary year round when rainfall is normal or above normal

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
Ditches (aka "Tributaries") (continued)			whether this designation would protect all roadside ditches in uplands since many ditches run through both uplands and wetlands through the length of the ditch
		Would exclude ditches that do not contribute flow, either directly or through another water, to a traditional navigable water, interstate water, the territorial seas or an impoundment of a jurisdictional water	Under the proposed rule, ditches that do not contribute to flow of a "waters of the U.S." would be exempt. Since the majority of public infrastructure ditches are ultimately connected to a "water of the U.S." it is uncertain how this would be documented
		Jurisdictional ditches include, but are not limited to, natural streams that have been altered (i.e. channelized, straightened, relocated); ditches that have been excavated in "waters of the U.S." including jurisdictional wetlands; ditches that have perennial flow; and ditches that connect two or more "waters of the U.S."	EPA officials indicate the intent of the rule to regulate ditches that remain "wet" most of the year and have a mostly permanent flow –pooled or standing water is not jurisdictional. Question: if all perennial, intermittent and ephemeral ditches are jurisdictional, how can they be differentiated from exempt ditches?
		Tributaries that have been channelized in concrete or otherwise human altered, may also be jurisdictional if they meet the definitional conditions	
		All tributaries in a watershed will be considered in combination to assess whether they have a significant nexus to a "water of the U.S."	

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
Ditches (aka "Tributaries") (continued)		A water, that is considered a jurisdictional tributary, does not lose its status if there are manmade breaks – bridges, culverts, pipes, or dams – or natural breaks – wetlands, debris piles, boulder fields, streams underground –as long as there is a bed, bank, and OHWM identified upstream of the break. This is relevant for arid and semi-arid areas where banks of the tributary may disappear at times.	The proposed rule notes that manmade and natural breaks in ditches – pipes, bridges, culverts, wetlands, streams underground, dams, etc. – are not jurisdictional. However, the ditch considered a "water of the U.S." above the break is also a jurisdictional water after the break The term uplands is not defined under the current or the proposed regulation. Question: how can the term uplands be defined to lessen impact on county operations? The proposed rule states that tributary connection may be traced by using direct observation or U.S. Geological Survey maps, aerial photography or other reliable remote sensing information, and other appropriated information in order to claim federal jurisdiction over the ditch Question: how can the agencies delineate how seasonal ditches will be regulated under the proposal?

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Other Waters"	All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that would impact interstate or foreign commerce	"Other waters" are jurisdictional if, "either alone or in combination with similarly situated "other waters" in the region[9], they have a "significant nexus" to a traditional navigable water, interstate water, or the territorial seas." "Other waters" would be evaluated either individually, or as a group of waters, where they are determined to be similarly situations in the region Waters would be considered "similarly situated" when they perform similar functions and are located sufficiently close together or when they are sufficiently close to a jurisdictional water	**Under the proposed rule, "other waters" are not automatically considered jurisdictional, instead, they must be assessed on a case-by-case basis, either alone or with other waters in the region to assess the biological, physical, chemical impacts to the closest jurisdictional waters** Under the proposed rule, "other waters" will be under federal jurisdiction if they have a significant connection to "waters of the U.S." Question: In the proposed rule, how can agencies clearly distinguish between landscape features that are not waters or wetlands and those that are jurisdictional Question: The agencies request, in the proposed rule, comments on alternative methods to determine "other waters." For example, should determinations be made on ecological or hydrologic landscape regions? If so, why and how? How would the various definitions impact counties?

[9] "In the region," means the watershed that drains to the nearest traditional navigable water, interstate water, or the territorial seas through a single point of entry

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Adjacent Waters"	Under existing regulation for "adjacent wetlands," only wetlands adjacent to a "water of the U.S." are considered jurisdictional Adjacent means bordering, ordering, contiguous or neighboring	Adjacent waters are defined as wetlands, ponds, lakes and similar water bodies that provide similar functions which have a significant nexus to "waters of the U.S." Waters, including wetlands, separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, etc. are "adjacent waters" are jurisdictional	**The proposed rule replaces the term "adjacent wetlands" with "adjacent waters"** – this definition would include adjacent wetlands and ponds **Under the proposed rule, adjacent waters to a "water of the U.S." are those waters (and tributaries) that are highly dependent on each other, which must be shown through the significant nexus test** The proposed rule uses other key terms in definition–riparian area and flood plains–to claim jurisdiction over adjacent waters
"Significant Nexus"	n/a	The term "significant nexus" means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region (i.e. the watershed that drains to the nearest "water of the U.S.") and significant affect the chemical, physical or biological integrity of the water to which they drain For an effect to be significant, it must be more than speculative or insubstantial Other waters, including wetlands, are similarly situated when they perform similar functions and are located sufficiently close together or sufficiently close to a "water of the U.S." so they can be evaluated as a single landscape unit regarding their chemical, physical, or biological impact on a "water of the U.S."[10]	**Newly defined term** – The proposed rule definition is based on Supreme Court Justice Kennedy's "similarly situated waters" test. A significant nexus test can be based on a specific water or on a combination of nearby waters The proposed rule states waters would be considered jurisdictional, the waters either alone or in conjunction, with another water must perform similar functions such as sediment trapping, storing and cleansing of water, movement of organisms, or hydrologic connections.

[10] Note: The term "single landscape unit is not defined in the proposed regulation.

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Riparian Area"	n/a	The term riparian area means an area bordering a water where the surface or subsurface hydrology directly influence the ecological processes and plant and animal community structure in that area. Riparian areas are transition areas between aquatic and terrestrial ecosystems that influence the exchange of energy and materials between those ecosystems[11] No uplands located in "riparian areas" can ever be "waters of the United States."	**Newly defined term** **The proposed rule broadly defines "riparian area" to include aquatic, plant or animal life that depend on above or below ground waters to exist** Under the proposed rule, a riparian area would not be jurisdiction in itself, however, it could be used as a mechanism to claim federal jurisdiction Under the proposed rule, there is no limiting scope to the size of a riparian area or a definition of the types of animal, plant and aquatic life that may trigger this definition The proposed rule states that no uplands in a riparian area can ever be "waters of the U.S."

[11] Note: Under the new term "riparian area," terms used in the definition – area, ecological processes, plant and animal community structure, exchange of energy and materials are not defined.

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Flood Plain"	n/a	Flood plain, under this definition, means an area bordering inland or coastal waters that was formed by sediment preposition from such water under present climatic conditions and is inundated during periods of moderate to high water flows **Absolutely no uplands located in riparian areas and flood plains can ever be "waters of the U.S."** There may be circumstances where a water located outside a flood plain or riparian area is considered adjacent if there is a confined surface or shallow subsurface hydrology connection Determination of jurisdiction using the terms "riparian area," "flood plain," and "hydrologic connection" will be based on best profession judgment and experience applied to the definitions proposed in this rule	**Newly defined term** The proposed rule uses the term "flood plain" to identify waters and wetlands that would be near (adjacent) to a "waters of the U.S." in order to establish federal jurisdiction The proposed rule definition relies heavily on "moderate to high water flows" rather than the Federal Emergency Management Agency's (FEMA) flood plain definitional terms such as 100 year or 500 year floodplains **The proposed rule states waters near to a "water of the U.S." could be jurisdiction *without a significant nexus* if they are in a flood plain or riparian area**

Key Terms	Current EPA/Corps Regulations	Proposed Regulatory Language	Analysis of Potential County Impact
"Neighboring"	n/a	Neighboring is defined as: • Including waters located within the riparian area or floodplain of a "water of the U.S." or waters with a confined surface or shallow subsurface hydrological connection [12] to a jurisdictional water; • Water must be geographically proximate to the adjacent water; • Waters outside the floodplain or riparian zone are jurisdictional if they are reasonably proximate	Under the proposed rule, neighboring is defined for the first time

[12] While shallow subsurface flows are not considered a "water of the U.S." under the proposal, they may provide the connection establishing jurisdiction

NACo National Association of Counties

Action Needed!

Bipartisan Legislation to Improve ESA Introduced

Co-Sponsors Urgently Needed

Counties would benefit from recently introduced bipartisan legislation in the Senate that would reduce the regulatory and financial burden imposed by the Endangered Species Act (ESA). On July 31, right before Congress left for the August recess, Senators Mark Pryor (D-Ark.) and John Boozman (R-Ark.) introduced S. 2729, the **"Private Landowner Protection Act,"** which closely matches H.R. 4319, the **"Common Sense in Species Protection Act of 2014,"** introduced by Rep. Rick Crawford (R-Ark.) in the House earlier this year.

NACo fully supports both bills, which would require the federal agencies responsible for enforcing the ESA—the Fish and Wildlife Service and the National Marine Fisheries Service (the Services)—to take into account the full economic impact of proposed "critical habitat" designations. When a species is proposed for listing as endangered or threatened under ESA, large swaths of land may be deemed as essential to the species' conservation. Such lands require special management and conservation, which can have enormous economic impacts on county governments and private landowners.

Both pieces of legislation would require the Services to perform cumulative and quantitative economic analysis prior to the critical habitat designation that would measure the potential effects on all affected stakeholders, not just on federal agencies—as is currently the standard. The analysis would include the costs to agriculture producers, businesses, county and city governments and other local entities. S. 2729 and H.R. 4319 would also require the Department of Interior to publish the economic analysis for public comment.

The House Natural Resources Committee has scheduled a **hearing on H.R. 4319** and related bills on **September 9, 2014 at 10:00 a.m. EDT**. For more information, click here.

ACTION NEEDED!

Additional co-sponsors are necessary in order for the legislation to successfully advance in the remaining weeks of this session of Congress. Contact your Senators as soon as possible to urge them to co-sponsor S. 2729, and your House member to urge them to co-sponsor H.R. 4319.

NACo Policy

To view NACo's platform language and policy resolution on the ESA, click here.

If you have questions or need assistance, contact Paul Beddoe at pbeddoe@naco.org or 202.942.4234

Stay up-to-date on current NACo issues and legislative priorities, visit www.naco.org and be a part of our social media network.

113TH CONGRESS
2D SESSION

S. 2729

To amend the Endangered Species Act of 1973 to require the Secretary of the Interior to publish and make available for public comment a draft economic analysis at the time a proposed rule to designate critical habitat is published.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2014

Mr. PRYOR (for himself and Mr. BOOZMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To amend the Endangered Species Act of 1973 to require the Secretary of the Interior to publish and make available for public comment a draft economic analysis at the time a proposed rule to designate critical habitat is published.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Private Landowner Protection Act of 2014''.

SEC. 2. DRAFT ECONOMIC ANALYSIS FOR CRITICAL HABITAT DESIGNATION.

Section 4(b)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(2)) is amended—

(1) in the first sentence, by striking ''(2) The Secretary shall'' and inserting the following:

''(2) CRITICAL HABITAT DESIGNATION.—

''(A) IN GENERAL.—The Secretary shall'';

(2) in the second sentence, by striking ''The Secretary may'' and inserting the following:

''(B) EXCLUSIONS.—The Secretary shall''; and

(3) by adding at the end the following:

''(C) DRAFT ECONOMIC IMPACT ANALYSIS.—

''(i) IN GENERAL.—At the time a proposed rule to designate critical habitat for a species is published, the Secretary shall publish and make available for public comment an analysis that—

''(I) examines the public and private economic effects of all actions that are related to a critical habitat designation or the protection of the species, including, at a minimum, any effects on—

"(aa) land use;

"(bb) property values;

"(cc) the provision of water, power, and other public services;

"(dd) employment;

"(ee) revenues available for State and local governments, including a political subdivision of a State that directly or indirectly provides public services, school districts, and any other instrumentality of a State; and

"(ff) authorizations or approvals necessitating a consultation under section 7;

"(II) is quantitative and qualitative; and

"(III) examines—

"(aa) the incremental effects of the critical habitat designation; and

"(bb) the cumulative economic effects of both the critical habitat designation and the list-

ing determination made under subsection (a)(1).

"(ii) DETERMINATION FACTORS NOT AFFECTED.—Nothing in clause (i)—

"(I) shall affect the determination to list a species under subsection (a)(1); or

"(II) adds to or subtracts from, or otherwise modifies, the bases described in paragraph (1) or the factors described in subsection (a)(1).

"(iii) EFFECTIVE DATE.—

"(I) IN GENERAL.—Clause (i) shall apply to any critical habitat designation proposed or promulgated on or after October 30, 2013.

"(II) REOPENING OF FINALIZED DESIGNATIONS.—Not later than 30 days after the date of enactment of this clause, any critical habitat designation finalized on or after October 30, 2013, shall be reopened to provide adequate time for compliance with clause (i).".

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AUTHENTICATED
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113TH CONGRESS
2D SESSION

H. R. 4319

To amend the Endangered Species Act of 1973 to require the Secretary of the Interior to publish and make available for public comment a draft economic analysis at the time a proposed rule to designate critical habitat is published.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2014

Mr. CRAWFORD (for himself, Mr. COTTON, Mr. GRIFFIN of Arkansas, and Mr. WOMACK) introduced the following bill; which was referred to the Committee on Natural Resources

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A BILL

To amend the Endangered Species Act of 1973 to require the Secretary of the Interior to publish and make available for public comment a draft economic analysis at the time a proposed rule to designate critical habitat is published.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Common Sense in Species Protection Act of 2014".

SEC. 2. DRAFT ECONOMIC ANALYSIS FOR CRITICAL HABITAT DESIGNATION.

Section 4(b)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(2)) is amended—

(1) in the first sentence, by striking "(2) The Secretary shall" and inserting the following:

"(2) CRITICAL HABITAT DESIGNATION.—

"(A) IN GENERAL.—The Secretary shall";

(2) in the second sentence, by striking "The Secretary may" and inserting the following:

"(B) EXCLUSIONS.—The Secretary shall"; and

(3) by adding at the end the following:

"(C) DRAFT ECONOMIC ANALYSIS.—

"(i) REQUIREMENT.—At the time a proposed rule to designate critical habitat is published, the Secretary shall publish and make available for public comment a draft analysis that—

"(I) examines the incremental and cumulative economic effects of all actions to protect the species and its habitat (including the effects of the proposed designation) upon each State and locality that is the subject of, or affected by, the proposed designation;

"(II) includes consideration of public and private economic effects on—

"(aa) possible uses of land and property values;

"(bb) the provision of water, power, or other public services;

"(cc) employment; and

"(dd) revenues available for State and local governments, including a political subdivision of a State that directly or indirectly provides public services, school districts, and any other instrumentality of a State;

"(III) complies with the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act of 2001 (114 Stat. 2763A–153); and

"(IV) assesses such effects on a quantitative and qualitative basis.

"(ii) DETERMINATION FACTORS NOT AFFECTED.—Nothing in clause (i) shall be construed as adding to, subtracting from,

or otherwise modifying the factors set forth in subsection (a)(1) or the bases set forth in paragraph (1) of this subsection".

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Resolution Draft

RESOLUTION OF SOLANO COUNTY SUPPORTING PERMANENT PROTECTION
OF THE BERRYESSA SNOW MOINTAIN REGION AS A
NATIONAL CONSERVATION AREA OR A NATIONAL MONUMENT

WHEREAS, Tuleyome and supportive business owners, anglers, elected officials, private landowners, and other community members seek to permanently protect the Berryessa Snow Mountain federal public lands as a National Conservation Area or a National Monument and increase economic opportunities for surrounding communities, and

WHEREAS, Representatives Mike Thompson, John Garamendi and Jared Huffman have introduced the Berryessa Snow Mountain National Conservation Area Act (HR 1025) and Senator Barbara Boxer have introduced companion legislation (S.483) to permanently protect the federal public lands of the Berryessa Snow Mountain region.

WHEREAS, congress has not acted and a presidential declaration for a Berryessa Snow Mountain National Monument under the Antiquities Act of 1906 can accomplish the goals that the supporters of the Berryessa Snow Mountain region seek to achieve, and

WHEREAS, it is in the interest of Solano County to permanently preserve these nearby public lands, which are used by many of their residents as a place to visit and enjoy the regions vast recreational activities including hiking, swimming, hunting, fishing, horseback riding, photography, motor boating, camping, orienteering, wildlife viewing, scientific research, mountain bicycling, motorized recreation on authorized routes, and nature study, and

WHEREAS, National Conservation Area and National Monument designations have been shown to help local communities diversify their economies and increase tourism, as well as helping attract businesses, thereby generating economic benefits for nearby communities through local employment and tax revenue, and

WHEREAS, National Conservation Area or National Monument designation would permanently protect some of the most biologically diverse public land in the nation, from the oak woodlands around Lake Berryessa in the south, stretching 100 miles north to the 7,000 foot peak of Snow Mountain Wilderness in the Mendocino National Forest with Shasta red fir forests, and

NOW, THEREFORE, BE IT RESOLVED that Solano County hereby endorses the permanent protection of the Berryessa Snow Mountain region as a National Conservation Area Act or a National Monument to permanently protect the federal public lands of the Berryessa Snow Mountain region.

Summary of Initiatives on the November 4th State Ballot

Measure	A YES vote on this measure means:	A NO vote on this measure means:	Positions
Proposition 1 – Water Quality, Supply, and Infrastructure Improvement Act of 2014	The state could sell $7.1 billion in general obligation bonds – as well as redirect $425 million in unsold general obligation bonds that were previously approved by voters for resource related uses – to fund various water related programs.	The state could not sell $7.1 billion in general obligation bonds to fund various water related programs. IN addition, $425 million in unsold general obligation bonds would continue to be available for resource related uses as previously approved by voters.	CSAC - Support
Proposition 2 – State Budget. Budget Stabilization Account. (Legislative Constitutional Amendment)	Amends the State Constitution to end the existing rules for a state budget reserve—the Budget Stabilization Account (BSA)—and replace them with new rules. The new rules would change how the state pays down debt and saves money in reserves. In addition, a new state law would go into effect that sets the maximum budget reserves school districts can keep at the local level in some future years. Implements a requirement for the Governor's budget staff to estimate future state General Fund revenues and spending.	No changes will be made to the existing state budget reserve.	CSAC - Support
Proposition 45 – Healthcare Insurance. Rate Changes.	Rates for individual and small group health insurance would need to be approved by the Insurance Commissioner before taking effect.	State regulators would continue to have the authority to review, but not approve, rates for individual and small group health insurance.	CSAC – No Position
Proposition 46 – Drug and Alcohol Testing of Doctors. Medical Negligence Lawsuits.	The cap on medical malpractice damages for such things as pain and suffering would be increased from $250,000 to $1.1 million and adjusted annually for future inflation. Health care providers would be required to check a statewide prescription drug database before prescribing or dispensing certain drugs to a patient for the first time. Hospitals would be required to test certain physicians for alcohol and drugs.	The cap on medical malpractice damages for such things as pain and suffering would remain at $250,000 and not be subject to annual inflation adjustments. Health care providers would not be required to check a statewide prescription database before prescribing or dispensing drugs. Hospitals would not be required to test physicians for alcohol and drugs.	CSAC - Oppose
Proposition 47 – Criminal Sentences. Misdemeanor Penalties.	Criminal offenders who commit certain nonserious and nonviolent drug and property crimes would be sentenced to reduced penalties (such as shorter terms in jail). State savings resulting from the measure would be used to support school truancy and dropout prevention, victim services, mental health and drug abuse treatment, and other programs designed to keep offenders out of prison and jail.	Penalties for offenders who commit certain nonserious and nonviolent drug and property crimes would not be reduced.	CSAC - Oppose

Amended in Senate AUG 13 2014

AMENDED IN SENATE AUGUST 11, 2014

AMENDED IN SENATE JUNE 12, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 1471

Introduced by ~~Committee on Budget (Skinner (Chair), Bloom, Campos, Chesbro, Dababneh, Daly, Dickinson, Gordon, Jones-Sawyer, Mullin, Muratsuchi, Nazarian, Rodriguez, Stone, Ting, and Weber)~~ *Assembly Members* ~~*Rendon and Atkins*~~

Rendon, Atkins, Gatto, Perea, Salas, and Gomez

(Principal coauthors: Senators Pavley, Steinberg, and Wolk)

(Coauthors: Assembly Members Achadjian, Allen, Bigelow, Chavez, Conway, Gorell, Gray, Hagman, Harkey, Linder, Logue, Maienschein, Nazarian, Olsen, Wagner, Wilk, and Nestande) V. Manuel Pérez

(Coauthors: Senators Beall, Berryhill, Block, Cannella, Corbett, Correa, De León, DeSaulnier, Fuller, Gaines, Galgiani, Hernandez, Hill, Hueso, Huff, Jackson, Knight, Lara, Liu, Mitchell, Monning, Nielsen, Padilla, [redacted] Roth, [redacted] Torres, Vidak, [redacted] and Wyland)

January 9, 2014

~~An act to amend Sections 12722 and 12728 of, and to add Section 12559 to, the Health and Safety Code, relating to fireworks, and declaring the urgency thereof, to take effect immediately.~~ *An act to add* ~~*Section*~~ Sections 5096.968 and *75089 to the Public Resources Code, to add* ~~*Section 79591*~~ Sections 13467, 78691.5, 79222, and 79591 *to, and to repeal and add Division 26.7 (commencing with Section 79700) of, the Water Code, and to repeal Section 2 of Chapter 3 of the Seventh Extraordinary Session of the Statutes of 2009, relating to a water quality, supply, and infrastructure improvement program, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1471, as amended, Rendon. Water Quality, Supply, and Infrastructure Improvement Act of 2014.

(1) Existing law, the Safe, Clean, and Reliable Drinking Water Supply Act of 2012, if approved by the voters, would authorize the issuance of bonds in the amount of $11,140,000,000 pursuant to the State General Obligation Bond Law to finance a safe drinking water and water supply reliability program. Existing law provides for the submission of the bond act to the voters at the November 4, 2014, statewide general election.

This bill would repeal these provisions.

(2) Under existing law, various measures have been approved by the voters to provide funds for water supply and protection facilities and programs. Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative measure approved by the voters as Proposition 84 at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of $5,388,000,000 for the purposes of financing safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. Existing law, the Disaster Preparedness and Flood Prevention Bond Act of 2006, approved by the voters as Proposition 1E at the November 7, 2006, general statewide election, authorizes the issuance of bonds in the amount of $4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. Existing law, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, an initiative measure approved by the voters as Proposition 50 at the November 5, 2002, statewide general election, authorizes, for the purposes of financing a safe drinking water, water quality, and water reliability program, the issuance of bonds in the amount of $3,440,000,000. Existing law, the Costa-Machado Water Act of 2000, approved by the voters as Proposition 13 at the March 7, 2000, statewide primary election, authorizes the issuance of general obligation bonds in the amount of $1,970,000,000 for the purposes of financing a safe drinking water, clean water, watershed protection, and flood protection program. Existing law, the Safe, Clean, Reliable Water Supply Act, approved by the voters as Proposition 204 at the November 5, 1996, statewide general election, authorizes the issuance of general obligation bonds in the amount of $995,000,000 for the purposes of financing a safe, clean, reliable water supply program. Existing law, the Water Conservation and Water Quality Bond Law of 1986, approved by the voters as Proposition 44 at the June 3, 1986, statewide

RN1421664

primary election, authorizes the issuance of general obligation bonds in the amount of $150,000,000 for the purposes of financing a water conservation and water quality program.

This bill would enact the Water Quality, Supply, and Infrastructure Improvement Act of 2014, which, if approved by the voters, would authorize the issuance of bonds in the amount of ~~$6,995,000,000~~ $7,120,000,000 pursuant to the State General Obligation Bond Law to finance a water quality, supply, and infrastructure improvement program. This bill, upon voter approval, would reallocate ~~$105,000,000 of specified funds authorized for the purposes of Proposition 84 and $95,000,000 of specified funds~~ $425,000,000 of the unissued bonds authorized for the purposes of ~~Proposition 50 for~~ Propositions 1E, 13, 44, 50, 84, and 204 to finance the purposes of a water quality, supply, and infrastructure improvement program.

This bill would provide for the submission of these provisions to the voters at the November 4, 2014, statewide general election.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

RN1421664

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

SECTION 1. Section 5096.968 is added to the Public Resources Code, to read:

5096.968. Notwithstanding any other law, one hundred million dollars ($100,000,000) of the unissued bonds authorized for the purposes of this chapter are reallocated to finance the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700) of the Water Code. The funds available for reallocation shall be made on a pro-rata basis from each bond allocation of this chapter.

~~*SECTION 1.*~~ *Section 75089 is added to thePublic Resources Code, to read:*

75089. Notwithstanding any other law, one hundred five million dollars ($105,000,000) of the ~~*funds*~~ *authorized for the purposes of this division* ~~*and set aside for the administration and bond issuance costs*~~ *are reallocated for the purposes of*

, and shall be authorized, issued, and appropriated in accordance with, *Division 26.7 (commencing with Section 79700) of the Water Code.*

The funds available for reallocation shall be made on a pro-rata basis from each bond allocation of this division.

SEC. 3. Section 13467 is added to the Water Code, to read:

13467. Notwithstanding any other law, thirteen million five hundred thousand dollars ($13,500,000) of the unissued bonds authorized for the purposes of subdivision (a) of Section 13459 are reallocated to finance the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700).

SEC. 4. Section 78691.5 is added to the Water Code, to read:

78691.5. Notwithstanding any other law, nine million nine hundred thousand dollars ($9,900,000) of the unissued bonds authorized for the purposes of Sections 78550 to 78551, inclusive, three million two hundred thousand dollars ($3,200,000) of the unissued bonds authorized for the purposes of Section 78671, three million five hundred thousand dollars ($3,500,000) of the unissued bonds authorized for the purposes of paragraph (3) of subdivision (a) of Section 78680, and eight million one hundred thousand dollars ($8,100,000) of the unissued bonds authorized for the purposes of Section 78681.2, and eight hundred thousand dollars ($800,000) of the unissued bonds authorized for the purposes of Section 78530.5 are reallocated to finance the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700).

SEC. 5. Section 79222 is added to the Water Code, to read:

79222. Notwithstanding any other law, thirty-four million dollars ($34,000,000) of the unissued bonds authorized for the purposes of Section 79157, and fifty-two million dollars ($52,000,000) of the unissued bonds authorized for the purposes of Section 79195 are reallocated to finance the purposes of, and shall be authorized, issued, and appropriated in accordance with, Division 26.7 (commencing with Section 79700).

~~SEC. 2.~~ *Section 79591 is added to the Water Code, to read:* → SEC. 6.

79591. Notwithstanding any other law, ninety-five million dollars ($95,000,000) of the ~~*funds*~~ *authorized for the purposes of this division* ~~*and set aside for the administration and bond issuance costs*~~ *are reallocated for the purposes of* unissued bonds

, and shall be authorized, issued, and appropriated in accordance with, *Division 26.7 (commencing with Section 79700).*

The funds available for reallocation shall be made on a pro-rata basis from each bond allocation of this division.

~~SEC. 3.~~ *Division 26.7 (commencing with Section 79700) of the Water Code, as added by Section 1 of Chapter 3 of the Seventh Extraordinary Session of the Statutes of 2009, is repealed.* → SEC. 7.

~~SEC. 4.~~ *Division 26.7 (commencing with Section 79700) is added to the Water Code, to read:* → SEC. 8.

DIVISION 26.7. WATER QUALITY, SUPPLY, AND INFRASTRUCTURE IMPROVEMENT ACT OF 2014

CHAPTER 1. SHORT TITLE

79700. This division shall be known, and may be cited, as the Water Quality, Supply, and Infrastructure Improvement Act of 2014.

CHAPTER 2. FINDINGS

79701. The people of California find and declare all of the following:

(a) Safeguarding California's supply of clean and safe water for homes, businesses, and farms is an essential responsibility of government, and critical to protecting the quality of life for all Californians.

(b) Every Californian should have access to clean, safe, and reliable drinking water.

(c) California has been experiencing more frequent and severe droughts and is currently enduring the worst drought in 200 years. These droughts are magnifying the shortcomings of our current water infrastructure.

(d) California's water infrastructure continues to age and deteriorate. More than 50 years ago, Californians approved the construction of the State Water Project. In recent decades, however, that infrastructure has proven inadequate to meet California's growing needs.

(e) This measure provides funding to implement the three objectives of the California Water Action Plan which are more reliable water supplies, the restoration of important species and habitat, and a more resilient and sustainably managed water infrastructure.

(f) Developing and guarding our water resources is critical for California to maintain vibrant communities, globally competitive agriculture, and healthy ecosystems.

(g) Encouraging water conservation and recycling are commonsense methods to make more efficient use of existing water supplies.

(h) Sustainable water management in California depends upon reducing and reversing overdraft and water quality impairment of groundwater basins. Investments to expand groundwater storage and reduce and reverse overdraft and water quality impairment of groundwater basins provide extraordinary public benefit and are in the public interest.

(i) Protecting lakes, rivers, and streams, cleaning up polluted groundwater supplies, and preserving water sources that supply the entire state are crucial to providing a reliable supply of water and protecting the state's natural resources.

(j) The Water Quality, Supply, and Infrastructure Improvement Act of 2014 provides a comprehensive and fiscally responsible approach for addressing the varied challenges facing California's water resources.

CHAPTER 3. DEFINITIONS

79702. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this division, as follows:

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(a) "Acquisition" means obtaining a fee interest or any other interest in real property, including, easements, leases, water, water rights, or interest in water obtained for the purposes of instream flows and development rights.

(b) "CALFED Bay-Delta Program" means the program described in the Record of Decision dated August 28, 2000.

(c) "Commission" means the California Water Commission.

(d) "Committee" means the Water Quality, Supply, and Infrastructure Improvement Finance Committee created by Section 79787.

(e) "Delta" means the Sacramento-San Joaquin Delta, as defined in Section 85058.

(f) "Delta conveyance facilities" means facilities that convey water directly from the Sacramento River to the State Water Project or the federal Central Valley Project pumping facilities in the south Delta.

(g) "Delta counties" means the Counties of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo.

(h) "Delta plan" has the meaning set forth in Section 85059.

(i) "Director" means the Director of Water Resources.

(j) "Disadvantaged community" has the meaning set forth in subdivision (a) of Section ~~79505.5.~~

79505.5, as it may be amended.

(k) "Economically distressed area" means a municipality with a population of 20,000 persons or less, a rural county, or a reasonably isolated and divisible segment of a larger municipality where the segment of the population is 20,000 persons or less, with an annual median household income that is less than 85 percent of the statewide median household income, and with one or more of the following conditions as determined by the department:

(1) Financial hardship.

(2) Unemployment rate at least 2 percent higher than the statewide average.

(3) Low population density.

(l) "Fund" means the Water Quality, Supply, and Infrastructure Improvement Fund of 2014 created by Section 79715.

(m) "Instream flows" means a specific streamflow, measured in cubic feet per second, at a particular location for a defined time, and typically follows seasonal variations.

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(n) "Integrated regional water management plan" has the meaning set forth in Part 2.2 (commencing with Section 10530) of Division 6, as that part may be amended.

(o) "Long-term" means for a period of not less than 20 years.

(p) "Nonprofit organization" means an organization qualified to do business in California and qualified under Section 501(c)(3) of Title 26 of the United States Code.

(q) "Proposition 1E" means the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code).

(r) "Proposition 84" means the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code).

(s) "Public agency" means a state agency or department, district, joint powers authority, city, county, city and county, or other political subdivision of the state.

Special

(t) "Rainwater" has the meaning set forth in subdivision (c) of Section 10573.

(u) "Secretary" means the Secretary of the Natural Resources Agency.

(v) "Severely disadvantaged community" has the meaning set forth in subdivision (a) of Section 116760.20 of the Health and Safety Code.

(w) "Small community water system" means a community water system that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons.

(x) "State board" means the State Water Resources Control Board.

(y) "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).

(z) "State small water system" has the meaning set forth in subdivision (n) of Section 116275 of the Health and Safety Code.

(aa) "Stormwater" has the meaning set forth in subdivision (e) of Section 10573.

(ab) "Water right" means a legal entitlement authorizing water to be diverted from a specified source and put to a beneficial, nonwasteful use.

CHAPTER 4. GENERAL PROVISIONS

79703. An amount that equals not more than 5 percent of the funds allocated for a grant program pursuant to this division may be used to pay the administrative costs of that program.

79704. Unless otherwise specified, up to 10 percent of funds allocated for each program funded by this division may be expended for planning and monitoring necessary for the successful design, selection, and implementation of the projects authorized under that program. This section shall not otherwise restrict funds ordinarily used by an agency for "preliminary plans," "working drawings," and "construction" as defined in the annual Budget Act for a capital outlay project or grant project. 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. 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.

79705. 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 other than Chapter 8 (commencing with Section 79750).

79706. (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 competitive 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 grants or loans to be awarded. If the state agency has previously developed and adopted project solicitation and evaluation guidelines that

comply with the requirements of this subdivision, it may use those guidelines.

(b) Prior to disbursing grants or loans, the state agency shall conduct three public meetings to consider public comments prior to finalizing the guidelines. The state agency shall publish the draft solicitation and evaluation guidelines on its Internet Web site 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. Upon adoption, the state agency shall transmit copies of the guidelines to the fiscal committees and the appropriate policy committees of the Legislature.

79707. It is the intent of the people that:

(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.

(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.

(c) A funded project advances the purposes of the chapter from which the project received funding.

(d) In making decisions regarding water resources, state and local water agencies will use the best available science to inform those decisions.

(e) Special consideration will be given to projects that employ new or innovative technology or practices, including decision support tools that support the integration of multiple jurisdictions, including, but not limited to, water supply, flood control, land use, and sanitation.

(f) Evaluation of projects considered for funding pursuant to this division will include review by professionals in the fields relevant to the proposed project.

(g) 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 Quality, Supply, and Infrastructure Improvement Act of 2014.

(h) Projects funded with proceeds from this division will be consistent with Division 7 (commencing with Section 13000) of this code and Section 13100 of the Government Code.

(i) Projects funded with proceeds from this division will 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, to the extent feasible.

(j) California's working agricultural and forested landscapes will be preserved wherever possible. To the extent feasible, watershed objectives included in this division should be achieved through use of conservation easements and voluntary landowner participation, including, but not limited to, the use of easements pursuant to Division 10.2 (commencing with Section 10200) and Division 10.4 (commencing with Section 10330) of the Public Resources Code and voluntary habitat credit exchange mechanisms.

79708. (a) The Department of Finance shall provide for an independent audit of expenditures pursuant to this division. The secretary shall publish a list of all program and project expenditures pursuant to this division not less than annually, in written form, and shall post an electronic form of the list on the Natural Resources Agency's Internet Web site.

(b) If an audit, required by statute, of any entity that receives funding authorized by this division is conducted pursuant to state law and reveals any ~~malfeasance,~~ the California State Auditor or the Controller may conduct a full audit of any or all of the activities of that entity. → impropriety,

(c) The state agency issuing any grant or loan with funding authorized by this division shall require adequate reporting of the expenditures of the funding from the grant or loan.

(d) Prior to soliciting projects pursuant to this division, state agencies shall submit guidelines to the secretary. The secretary shall verify that the guidelines are consistent with applicable statutes and for all the purposes enumerated in this division. The secretary shall post an electronic form of the guidelines submitted by state agencies and the subsequent verifications on the Natural Resources Agency's Internet Web site.

79709. (a) Funds expended pursuant to this division for the acquisition of a permanent dedication of water shall be in accordance with Section 1707 where the state board specifies that the water is in addition to water that is required for regulatory requirements as provided in subdivision (c) of Section 1707. The expenditure of funds provided by this division may include the initiation of the dedication as a short term or temporary urgency change, that is approved in accordance with Section 1707 and either Chapter 6.6 (commencing with Section 1435) of, or Chapter 10.5 (commencing with Section 1725) of, Part 2 of Division 2, during the period required to prepare any environmental documentation and for approval of permanent dedication.

(b) Funds expended pursuant to this division for the acquisition of long-term transfers of water shall be transfers in accordance with Sections 1735, 1736, and 1737 if the state board, after providing notice and opportunity for a hearing, approves such a petition. Funds expended pursuant to this division shall prioritize permanent transfers ~~and long-term transfers of water.~~ Long-term transfers shall be for a period of not less than 20 years, except for any water transfers for the benefit of subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575).

(c) Funds expended ~~as described in this section~~

pursuant to this division for any acquisition of water shall only be done pursuant to this section and

shall only be used for projects that will provide fisheries or ecosystem benefits or improvements that are greater than required applicable environmental mitigation measures or compliance obligations in effect at the time the funds from this division are made available for the project and funds shall not be credited to any ~~such~~ measures or obligations, except for any water transfers for the benefit of subsection (d) of Section ~~3405 of Title 34~~ of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575). → 3406

79710. (a) Funds provided by this division shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta 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.

(b) To the extent feasible, in implementing subdivision (k) of Section 79731, the Sacramento-San Joaquin Delta Conservancy shall seek to achieve wildlife conservation objectives through

projects on public lands or voluntary projects on private lands. Funds available to the Sacramento-San Joaquin Delta Conservancy pursuant to subdivision (k) of Section 79731 may be used, in consultation with the Department of Fish and Wildlife, for payments to landowners for the creation of measurable habitat improvements or other improvements to the condition of endangered or threatened species. The Sacramento-San Joaquin Delta Conservancy may develop and implement a competitive program for habitat enhancements that maximizes voluntary landowner participation in projects that provide measurable and long-lasting habitat or species improvements in the Delta. These funds shall not be used to subsidize or decrease the mitigation obligations of any party.

(c) In implementing subdivision (k) of Section 79731, the Sacramento-San Joaquin Delta Conservancy shall ~~coordinate, cooperate,~~ and consult with the city or county in which a grant is proposed to be expended or an interest in real property is proposed to be acquired and with the Delta Protection Commission. Acquisitions by the Sacramento-San Joaquin Delta Conservancy pursuant to subdivision (k) of Section 79731 shall be from willing sellers only.

Coordinate

79711. (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, 2014.

(c) Nothing in this division supersedes, limits, or otherwise modifies the applicability of Chapter 10 (commencing with Section

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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. Sec. 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) Funds provided by this division shall not be used to acquire land via eminent domain.

(h) Notwithstanding any other law, any agency acquiring land pursuant to this division may use the Natural Heritage Preservation Tax Credit Act of 2000 (Division 28 (commencing with Section 37000) of the Public Resources Code).

79712. (a) Eligible applicants under this division are public agencies, nonprofit organizations, public utilities, federally recognized Indian tribes, state Indian tribes listed on the Native American Heritage Commission's California Tribal Consultation List, and mutual water companies.

(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 shall benefit the customers of the water system and not the investors.

(2) To be eligible for funding under this division, an urban water supplier shall adopt and submit 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 adopt and submit 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 funding under this division unless it complies with the requirements of Part 2.55 (commencing with Section 10608) of Division 6.

79713. The Legislature may enact legislation necessary to implement programs funded by this division, except as otherwise provided in Section 79760.

79714. (a) Unless otherwise specified, any state agency that has the statutory authority to implement one or more of the purposes specified in this bond may be eligible for appropriations from the funding made available by this division.

(b) Funding made available by this division shall not be appropriated by the Legislature to a specific project.

(c) 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.

79715. The proceeds of bonds issued and sold pursuant to this division shall be deposited in the Water Quality, Supply, and Infrastructure Improvement Fund of 2014, which is hereby created in the State Treasury.

79716. 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, as provided by statute.

CHAPTER 5. CLEAN, SAFE AND RELIABLE DRINKING WATER

79720. The sum of five hundred million dollars ~~($500,000,000)~~ twenty ($520,000,000) *shall be available, upon appropriation by the Legislature from the fund, for expenditures, grants, and loans for projects that improve water quality or help provide clean, safe, and reliable drinking water to all Californians.*

79721. 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 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) Reduce contaminants in discharges to, and improve the quality of, waters of the state.

(f) Prevent further contamination of drinking water supplies.

(g) 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.

(h) Ensure access to clean, safe, reliable, and affordable drinking water for California's communities.

(i) Meet primary and secondary safe drinking water standards or remove contaminants identified by the state or federal government for development of a primary or secondary drinking water standard.

79722. The contaminants that may be addressed with funding pursuant to this chapter may include, but shall not be limited to, 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, and uranium.

79723. Of the funds authorized by Section 79720, 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 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.

79724. (a) (1) Of the funds authorized by Section 79720, two hundred ~~fifty~~ million dollars ~~($250,000,000)~~ 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. The state board may make grants for the purpose of financing feasibility studies and to meet the eligibility requirements for a construction grant. 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, at least one of which shall be a small disadvantaged community. Not more than 25 percent of a grant may be awarded in advance of actual expenditures.

Sixty / ($260,000,000

Sixty / ($260,000,000)

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(2) 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, 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 two years.

(b) The administering entity may expend up to twenty-five million dollars ($25,000,000) of the funds allocated in subdivision (a) for technical assistance to eligible communities.

(c) The state board shall deposit up to two million five hundred thousand dollars ($2,500,000) of the funds available pursuant to this section into the Drinking Water Capital Reserve Fund, which is hereby created in the State Treasury. Moneys in the Drinking Water Capital Reserve Fund shall be available, upon appropriation by the Legislature, and shall be administered by the state board for the purpose of serving as matching funds for disadvantaged communities. The state board shall develop criteria to implement this subdivision.

79725. (a) For the purposes of awarding funding under this chapter, a local cost share of not less than 50 percent 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 of the funds available pursuant to this chapter shall be allocated for projects serving severely disadvantaged communities.

(c) Up to ~~20~~ percent of the funds available pursuant to this chapter may be allocated for technical assistance to disadvantaged communities. The agency administering this funding shall operate a multidisciplinary technical assistance program for small and disadvantaged communities. 15

(d) Funding for planning activities, including technical assistance, to benefit disadvantaged communities may exceed ~~20~~ percent of the funds allocated, subject to the determination of the need for additional planning funding by the state agency administering the funding. 15

CHAPTER 6. PROTECTING RIVERS, LAKES, STREAMS, COASTAL WATERS, AND WATERSHEDS

79730. The sum of one billion four hundred ~~seventy~~ million dollars ~~($1,470,000,000)~~ shall be available, upon appropriation by the Legislature from the fund, in accordance with this chapter, for competitive grants for multibenefit ecosystem and watershed protection and restoration projects in accordance with statewide priorities.

ninety-five ($1,495,000,000)

79731. Of the funds authorized by Section 79730, the sum of three hundred ~~two~~ million five hundred thousand dollars ~~($302,500,000)~~ shall be allocated for multibenefit water quality, water supply, and watershed protection and restoration projects for the watersheds of the state in accordance with the following schedule:

twenty-seven ($327,500,000)

(a) Baldwin Hills Conservancy, ten million dollars ($10,000,000).

(b) California Tahoe Conservancy, fifteen million dollars ($15,000,000).

(c) Coachella Valley Mountains Conservancy, ten million dollars ($10,000,000).

(d) Ocean Protection Council, thirty million dollars ($30,000,000).

(e) San Diego River Conservancy, seventeen million dollars ($17,000,000).

(f) San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, ~~twenty-five~~ million dollars ~~($25,000,000).~~

thirty ($30,000,000).

(g) San Joaquin River Conservancy, ten million dollars ($10,000,000).

(h) Santa Monica Mountains Conservancy, thirty million dollars ($30,000,000).

(i) Sierra Nevada Conservancy, twenty-five million dollars ($25,000,000).

(j) State Coastal Conservancy, ~~eighty~~ million five hundred thousand dollars ~~($80,500,000).~~

one hundred ($100,500,000). Eligible watersheds for the funds allocated pursuant to this subdivision include, but are not limited to, those that are in the San Francisco Bay Conservancy region, the Santa Ana River watershed, the Tijuana River watershed, the Otay River watershed, Catalina Island, and the central coast region.

(k) Sacramento-San Joaquin Delta Conservancy, fifty million dollars ($50,000,000).

79732. (a) In protecting and restoring California rivers, lakes, streams, and watersheds, the purposes of this chapter are to:

(1) Protect and increase the economic benefits arising from healthy watersheds, fishery resources, and instream flow.

(2) Implement watershed adaptation projects in order to reduce the impacts of climate change on California's communities and ecosystems.

(3) Restore river parkways throughout the state, including, but not limited to, 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), in the Urban Streams Restoration Program established pursuant to Section 7048, and urban river greenways.

(4) Protect and restore aquatic, wetland, and migratory bird ecosystems, including fish and wildlife corridors and the acquisition of water rights for instream flow.

(5) Fulfill the obligations of the State of California in complying with the terms of multiparty settlement agreements related to water resources.

(6) Remove barriers to fish passage.

(7) Collaborate with federal agencies in the protection of fish native to California and wetlands in the central valley of California.

(8) Implement fuel treatment projects to reduce wildfire risks, protect watersheds tributary to water storage facilities, and promote watershed health.

(9) Protect and restore rural and urban watershed health to improve watershed storage capacity, forest health, protection of life and property, stormwater resource management, and greenhouse gas reduction.

(10) Protect and restore coastal watersheds, including, but not limited to, bays, marine estuaries, and nearshore ecosystems.

(11) Reduce pollution or contamination of rivers, lakes, streams, or coastal waters, prevent and remediate mercury contamination from legacy mines, and protect or restore natural system functions that contribute to water supply, water quality, or flood management.

(12) Assist in the recovery of endangered, threatened, or migratory species by improving watershed health, instream flows, fish passage, coastal or inland wetland restoration, or other means, such as natural community conservation plan and habitat conservation plan implementation.

(13) Assist in water-related agricultural sustainability projects.

(b) Funds provided by this chapter shall only be used for projects that will provide fisheries or ecosystem benefits or improvements that are greater than required applicable environmental mitigation measures or compliance obligations.

79733. Of the funds made available by Section 79730, the sum of two hundred million dollars ($200,000,000) shall be administered by the Wildlife Conservation Board for projects that result in enhanced stream flows.

79734. For restoration and ecosystem protection projects under this chapter, the services of the California Conservation Corps or a local conservation corps certified by the California Conservation Corps shall be used whenever feasible.

79735. (a) Of the funds authorized by Section 79730, one hundred million dollars ($100,000,000) shall be ~~*available*~~ available, upon appropriation by the Legislature, *for projects to protect and enhance an urban creek, as defined in subdivision (e) of Section 7048, and its tributaries, pursuant to* ~~*Chapter 3.8 (commencing with Section 5750) of Division 5 of,*~~ *Division 22.8 (commencing with Section 32600) of, and Division 23 (commencing with Section 33000) of, the Public Resources Code and Section 79508.*

(b) (1) Of the funds authorized by Section 79730, twenty million dollars ($20,000,000) shall be made available to the secretary for a competitive program to fund multibenefit watershed and urban rivers enhancement projects in urban watersheds that increase regional and local water self-sufficiency and that meet at least two of the following objectives:

(A) Promote groundwater recharge and water reuse.

(B) Reduce energy consumption.

(C) Use soils, plants, and natural processes to treat runoff.

(D) Create or restore native habitat.

(E) Increase regional and local resiliency and adaptability to climate change.

(2) The program under this subdivision shall be implemented by state conservancies, the Wildlife Conservation Board, the state board, or other entities whose jurisdiction includes urban watersheds, as designated by the secretary. Projects funded under the program shall be a part of a plan developed jointly by the conservancies, the Wildlife Conservation Board, the state board, or other designated entities in consultation with the secretary.

(c) At least 25 percent of the funds available pursuant to this section shall be allocated for projects that benefit disadvantaged communities.

(d) Up to 10 percent of the funds available pursuant to this section may be allocated for project planning.

79736. Of the funds authorized by Section 79730, four hundred seventy-five million dollars ($475,000,000) shall be available to the Natural Resources Agency to support projects that fulfill the obligations of the State of California in complying with the terms of the following:

(a) The February 18, 2010, Klamath Hydroelectric Settlement Agreement or the Klamath Basin Restoration Agreement.

(b) Chapters 611, 612, and 613 of the Statutes of 2003, which were enacted to facilitate the execution and implementation of the Quantification Settlement Agreement, including restoration of the Salton Sea.

(c) The San Joaquin River Restoration Settlement Act (Part 1 of Subtitle A of Title 10 of Public Law 111-11).

(d) Tahoe Regional Planning Compact (Title 7.4 (commencing with Section 66800) of the Government Code).

(e) Subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575), including the construction, retrofitting, and maintenance of water supply infrastructure and the acquisition and conveyance of water supply from willing sellers, with a preference for water transfers of 20 years or longer, purchases of water rights, or other agreements that result in long-term enhancement of habitat conditions.

any of

(a) Subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575).

(b) Interstate compacts set forth in Section 66801 of the Government Code pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.

(c) Intrastate or multiparty water quantification settlement agreement provisions, including ecosystem restoration projects, as set forth in Chapters 611, 612, 613, and 614 of the Statutes of 2003.

(d) The settlement agreement referenced in Section 2080.2 of the Fish and Game Code.

(e) Any intrastate or multiparty settlement agreement related to water acted upon or before December 31, 2013. Priority shall be given to projects that meet one or more of the following criteria:

(1) The project is of statewide significance.

(2) The project restores natural aquatic or riparian functions, or wetlands habitat for birds and aquatic species.

(3) The project protects or promotes the restoration of endangered or threatened species.

(4) The project enhances the reliability of water supplies on a regional or interregional basis.

(5) The project provides significant regional or statewide economic benefits.

79737. (a) Of the funds authorized by Section 79730, two hundred eighty-five million dollars ($285,000,000) shall be available to the Department of Fish and Wildlife for watershed restoration projects statewide in accordance with this chapter.

(b) For the purposes of this section, watershed restoration includes activities to fund coastal wetland habitat, improve forest health, restore mountain meadows, modernize stream crossings, culverts, and bridges, reconnect historical flood plains, install or improve fish screens, provide fish passages, restore river channels, restore or enhance riparian, aquatic, and terrestrial habitat, improve ecological functions, acquire from willing sellers conservation easements for riparian buffer strips, and remove sediment or trash. improve local watershed management,

(c) For any funds available pursuant to this section that are used to provide grants under the Fisheries Restoration Grant Program, a priority shall be given to coastal waters.

(d) In allocating funds for projects pursuant to this section, the Department of Fish and Wildlife shall only make funds available for water quality, river, and watershed protection and restoration projects of statewide importance outside of the Delta.

(e) Funds provided by this section shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities.

(f) Funds provided by this section shall only be used for projects that will provide fisheries or ecosystem benefits or improvements that are greater than required applicable environmental mitigation measures or compliance obligations, except for any water transfers for the benefit of subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575).

79738. (a) Of the funds authorized by Section 79730, eighty-seven million five hundred thousand dollars ($87,500,000) shall be available to the Department of Fish and Wildlife for water quality, ecosystem restoration, and fish protection facilities that benefit the Delta, including, but not limited to, the following:

(1) Projects to improve water quality or that contribute to the improvement of water quality in the Delta, including projects in Delta counties that provide multiple public benefits and improve drinking and agricultural water quality or water supplies.

(2) Habitat restoration, conservation, and enhancement projects to improve the condition of special status, at risk, endangered, or threatened species in the Delta and the Delta counties, including projects to eradicate invasive species, and projects that support the beneficial reuse of dredged material for habitat restoration and levee improvements.

(3) Scientific studies and assessments that support the Delta Science Program, as described in Section 85280, or projects under this section.

(b) ~~(1)~~ In implementing this section, the department shall coordinate and consult with the Delta city or Delta county in which a grant is proposed to be expended or an interest in real property is proposed to be acquired.

~~*(2) To the extent feasible, the department shall use local partners.*~~

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(c) Acquisitions pursuant to this section shall be from willing sellers only.

(d) In implementing this section state agencies shall prioritize wildlife conservation objectives through projects on public lands or voluntary projects on private lands, to the extent feasible.

(e) Funds available pursuant to this section shall not be used to acquire land via eminent domain.

(f) Funds available pursuant to this section shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities.

CHAPTER 7. REGIONAL WATER SECURITY, CLIMATE, AND DROUGHT PREPAREDNESS

79740. The sum of ~~seven~~ hundred ~~eighty~~ million dollars ~~($780,000,000)~~ shall be available, upon appropriation by the Legislature from the fund, for expenditures on, and competitive grants and loans to, projects that are included in and implemented in an adopted integrated regional water management plan consistent with Part 2.2 (commencing with Section 10530) of Division 6 and respond to climate change and contribute to regional water security as provided in this chapter.

eight / ten

($810,000,000)

79741. In order to improve regional water self-reliance security and adapt to the effects on water supply arising out of climate change, the purposes of this chapter are to:

(a) Help water infrastructure systems adapt to climate change, including, but not limited to, sea level rise.

(b) Provide incentives for water agencies throughout each watershed to collaborate in managing the region's water resources and setting regional priorities for water infrastructure.

(c) Improve regional water self-reliance consistent with Section 85021.

79742. (a) In selecting among proposed projects in a watershed, the scope of the adopted integrated regional water management plan may be considered by the administering state agency, with priority going to projects in plans that cover a greater portion of the watershed. If a plan covers substantially all of the watershed, the plan's project priorities shall be given deference if the project and plan otherwise meet the requirements of this

division and the Integrated Regional Water Management Planning Act (Part 2.2 (commencing with Section 10530) of Division 6).

(b) A local agency that does not prepare, adopt, and submit its groundwater plan in accordance with groundwater planning requirements established under Division 6 (commencing with Section 10000) is ineligible to apply for funds made available pursuant to this chapter until the plan is prepared and submitted in accordance with the requirements of that part. The groundwater management plan requirement shall not apply to a water replenishment district formed pursuant to Division 18 (commencing with Section 60000) or to a local agency that serves or has authority to manage an adjudicated groundwater basin.

(c) For the purposes of awarding funding under this chapter, a cost share from nonstate sources of not less than 50 percent 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.

(d) Not less than 10 percent of the funds authorized by this chapter shall be allocated to projects that directly benefit disadvantaged communities.

(e) For the purposes of awarding funding under this chapter, the applicant shall demonstrate that the integrated regional water management plan the applicant's project implements contributes to addressing the risks in the region to water supply and water infrastructure arising from climate change.

(f) Projects that achieve multiple benefits shall receive special consideration.

79743. Subject to the determination of regional priorities in the regional water management group, eligible projects may include, but are not limited to, projects that promote any of the following:

(a) Water reuse and recycling for nonpotable reuse and direct and indirect potable reuse.

(b) Water-use efficiency and water conservation.

(c) Local and regional surface and underground water storage, including groundwater aquifer cleanup or recharge projects.

(d) Regional water conveyance facilities that improve integration of separate water systems.

(e) Watershed protection, restoration, and management projects, including projects that reduce the risk of wildfire or improve water supply reliability.

(f) Stormwater resource management, including, but not limited to, the following:

(1) Projects to reduce, manage, treat, or capture rainwater or stormwater.

(2) Projects that provide multiple benefits such as water quality, water supply, flood control, or open space.

(3) Decision support tools that evaluate the benefits and costs of multibenefit stormwater projects.

(4) Projects to implement a stormwater resource plan developed in accordance with Part 2.3 (commencing with Section 10560) of Division 6.

(g) Conjunctive use of surface and groundwater storage facilities.

(h) Water desalination projects.

(i) Decision support tools to model regional water management strategies to account for climate change and other changes in regional demand and supply projections.

(j) Improvement of water quality, including drinking water treatment and distribution, groundwater and aquifer remediation, matching water quality to water use, wastewater treatment, water pollution prevention, and management of urban and agricultural runoff.

79744. (a) Of the funds authorized by Section 79740, ~~four~~ five hundred ~~eighty~~ million dollars ~~($480,000,000)~~ ($510,000,000) shall be allocated to the hydrologic regions as identified in the California Water Plan in accordance with this section. For the South Coast hydrologic region, the department shall establish three funding areas that reflect the watersheds of San Diego County (designated as the San Diego subregion), the Santa Ana River watershed ~~and southern Orange County~~ and southern Orange County (designated as the Santa Ana subregion), and the Los Angeles and Ventura County watersheds (designated as the Los Angeles subregion), and shall allocate funds to those areas in accordance with this subdivision. The North and South Lahontan hydrologic regions shall be treated as one area for the purpose of allocating funds. For purposes of this subdivision, the Sacramento River hydrologic region does not include the Delta. For purposes of this subdivision, the Mountain Counties Overlay

is not eligible for funds from the Sacramento River hydrologic region or the San Joaquin River hydrologic region. Multiple integrated regional water management plans may be recognized in each of the areas allocated funding.

(b) Funds made available by this chapter shall be allocated as follows:

(1) ~~Twenty-one~~ million five hundred thousand dollars ~~($21,500,000)~~ for the North Coast hydrologic region. Twenty-six ($26,500,000)

(2) Sixty-five million dollars ($65,000,000) for the San Francisco Bay hydrologic region.

(3) ~~Twenty-eight~~ million dollars ~~($28,000,000)~~ for the Central Coast hydrologic region. Forty-three ($43,000,000

(4) Ninety-eight million dollars ($98,000,000) for the Los Angeles subregion.

(5) Sixty-three million dollars ($63,000,000) for the Santa Ana subregion.

(6) ~~Forty-two~~ million five hundred thousand dollars ~~($42,500,000)~~ for the San Diego subregion. Fifty-two ($52,500,000)

(7) Thirty-seven million dollars ($37,000,000) for the Sacramento River hydrologic region.

(8) Thirty-one million dollars ($31,000,000) for the San Joaquin River hydrologic region.

(9) Thirty-four million dollars ($34,000,000) for the Tulare/Kern hydrologic region.

(10) Twenty-four million five hundred thousand dollars ($24,500,000) for the North/South Lahontan hydrologic region.

(11) Twenty-two million five hundred thousand dollars ($22,500,000) for the Colorado River Basin hydrologic region.

(12) Thirteen million dollars ($13,000,000) for the Mountain Counties Overlay.

79745. The Department of Water Resources shall expend, either directly or for noncompetitive grants, no less than 10 percent of the funds from the regional allocations specified in Section 79744 for the purposes of ensuring involvement of disadvantaged communities, economically distressed areas, or underrepresented communities within regions.

79746. (a) Of the funds authorized by Section 79740, the sum of one hundred million dollars ($100,000,000) may be used for direct expenditures, and for grants and loans, for the following

water conservation and water-use efficiency plans, projects, and programs:

(1) Urban water conservation plans, projects, and programs, including regional projects and programs, implemented to achieve urban water use targets developed pursuant to Section 10608.20. Priority for funding shall be given to programs that do any of the following:

(A) Assist water suppliers and regions to implement conservation programs and measures that are not locally cost effective.

(B) Support water supplier and regional efforts to implement programs targeted to enhance water-use efficiency for commercial, industrial, and institutional water users.

(C) Assist water suppliers and regions with programs and measures targeted toward realizing the conservation benefits of implementation of the provisions of the state landscape model ordinance.

(2) Agricultural water management plans or agricultural water use efficiency projects and programs developed pursuant to Part 2.8 (commencing with Section 10800) of Division 6.

(b) Section 1011 applies to all conservation measures that an agricultural water supplier or an urban water supplier implements with funding under this chapter. This subdivision does not limit the application of Section 1011 to any other measures or projects implemented by a water supplier. Notwithstanding Section 79748, the projects funded pursuant to this section are not required to be in an adopted integrated regional water management plan or to comply with that program.

79747. (a) Of the funds authorized by Section 79740, two hundred million dollars ($200,000,000) shall be available for grants for multibenefit stormwater management projects.

(b) Eligible projects may include, but shall not be limited to, green infrastructure, rainwater and stormwater capture projects, and stormwater treatment facilities.

(c) Development of plans for stormwater projects shall address the entire watershed and incorporate the perspectives of communities adjacent to the affected waterways, especially disadvantaged communities.

79748. In order to receive funding authorized by this chapter to address groundwater quality or supply in an aquifer, the applicant shall demonstrate that a public agency has authority to

manage the water resources in that aquifer. A groundwater management plan adopted and submitted in accordance with groundwater management planning requirements established under Division 6 (commencing with Section 10000) shall be deemed sufficient to satisfy the requirements of this section.

CHAPTER 8. STATEWIDE WATER SYSTEM OPERATIONAL IMPROVEMENT AND DROUGHT PREPAREDNESS

79750. (a) Notwithstanding Section 162, the commission may make the determinations, findings, and recommendations required of it by this chapter independent of the views of the director. All final actions by the commission in implementing this chapter shall be taken by a majority of the members of the commission at a public meeting noticed and held pursuant to the ~~Bailey-Keene~~ Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(b) Notwithstanding Section 13340 of the Government Code, the sum of two billion ~~five~~ Seven hundred million dollars ~~($2,500,000,000)~~ ($2,700,000,000) *is hereby continuously appropriated from the fund, without regard to fiscal years, to the commission for public benefits associated with water storage projects that improve the operation of the state water system, are cost effective, and provide a net improvement in ecosystem and water quality conditions, in accordance with this chapter. Funds authorized for, or made available to, the commission pursuant to this chapter shall be available and expended only for the purposes provided in this chapter, and shall not be subject to appropriation or transfer by the Legislature or the Governor for any other purpose.*

(c) Projects shall be selected by the commission through a competitive public process that ranks potential projects based on the expected return for public investment as measured by the magnitude of the public benefits provided, pursuant to criteria established under this chapter.

(d) Any project constructed with funds provided by this chapter shall be subject to Section 11590.

79751. Projects for which the public benefits are eligible for funding under this chapter consist of only the following:

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(a) Surface storage projects identified in the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, except for projects prohibited by Chapter 1.4 (commencing with Section 5093.50) of Division 5 of the Public Resources Code.

(b) Groundwater storage projects and groundwater contamination prevention or remediation projects that provide water storage benefits.

(c) Conjunctive use and reservoir reoperation projects.

(d) Local and regional surface storage projects that improve the operation of water systems in the state and provide public benefits.

79752. A project shall not be funded pursuant to this chapter unless it provides measurable improvements to the Delta ecosystem or to the tributaries to the Delta.

79753. (a) Funds allocated pursuant to this chapter may be expended solely for the following public benefits associated with water storage projects:

(1) Ecosystem improvements, including changing the timing of water diversions, improvement in flow conditions, temperature, or other benefits that contribute to restoration of aquatic ecosystems and native fish and wildlife, including those ecosystems and fish and wildlife in the Delta.

(2) Water quality improvements in the Delta, or in other river systems, that provide significant public trust resources, or that clean up and restore groundwater resources.

(3) Flood control benefits, including, but not limited to, increases in flood reservation space in existing reservoirs by exchange for existing or increased water storage capacity in response to the effects of changing hydrology and decreasing snow pack on California's water and flood management system.

(4) Emergency response, including, but not limited to, securing emergency water supplies and flows for dilution and salinity repulsion following a natural disaster or act of terrorism.

(5) Recreational purposes, including, but not limited to, those recreational pursuits generally associated with the outdoors.

(b) Funds shall not be expended pursuant to this chapter for the costs of environmental mitigation measures or compliance obligations except for those associated with providing the public benefits as described in this section.

79754. In consultation with the Department of Fish and Wildlife, the state board, and the Department of Water Resources, the commission shall develop and adopt, by regulation, methods for quantification and management of public benefits described in Section 79753 by December 15, 2016. The regulations shall include the priorities and relative environmental value of ecosystem benefits as provided by the Department of Fish and Wildlife and the priorities and relative environmental value of water quality benefits as provided by the state board.

79755. (a) Except as provided in subdivision (c), no funds allocated pursuant to this chapter may be allocated for a project before December 15, 2016, and until the commission approves the project based on the commission's determination that all of the following have occurred:

(1) The commission has adopted the regulations specified in Section 79754 and specifically quantified and made public the cost of the public benefits associated with the project.

(2) The project applicant has entered into a contract with each party that will derive benefits, other than public benefits, as defined in Section 79753, from the project that ensures the party will pay its share of the total costs of the project. The benefits available to a party shall be consistent with that party's share of total project costs.

(3) The project applicant has entered into a contract with each public agency identified in Section 79754 that administers the public benefits, after that agency makes a finding that the public benefits of the project for which that agency is responsible meet all the requirements of this chapter, to ensure that the public contribution of funds pursuant to this chapter achieves the public benefits identified for the project.

(4) The commission has held a public hearing for the purposes of providing an opportunity for the public to review and comment on the information required to be prepared pursuant to this subdivision.

(5) All of the following additional conditions are met:

(A) Feasibility studies have been completed.

(B) The commission has found and determined that the project is feasible, is consistent with all applicable laws and regulations, and will advance the long-term objectives of restoring ecological

health and improving water management for beneficial uses of the Delta.

(C) All environmental documentation associated with the project has been completed, and all other federal, state, and local approvals, certifications, and agreements required to be completed have been obtained.

(b) The commission shall submit to the Legislature its findings for each of the criteria identified in subdivision (a) for a project funded pursuant to this chapter.

(c) Notwithstanding subdivision (a), funds may be made available under this chapter for the completion of environmental documentation and permitting of a project.

79756. (a) The public benefit cost share of a project funded pursuant to this chapter, other than a project described in subdivision (c) of Section 79751, shall not exceed 50 percent of the total costs of any project funded under this chapter.

(b) No project may be funded unless it provides ecosystem improvements as described in paragraph (1) of subdivision (a) of Section 79753 that are at least 50 percent of total public benefits of the project funded under this chapter.

79757. (a) A project is not eligible for funding under this chapter unless, by January 1, 2022, all of the following conditions are met:

(1) All feasibility studies are complete and draft environmental documentation is available for public review.

(2) The commission makes a finding that the project is feasible, and will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta.

(3) The director receives commitments for not less than 75 percent of the nonpublic benefit cost share of the project.

(b) If compliance with subdivision (a) is delayed by litigation or failure to promulgate regulations, the date in subdivision (a) shall be extended by the commission for a time period that is equal to the time period of the delay, and funding under this chapter that has been dedicated to the project shall be encumbered until the time at which the litigation is completed or the regulations have been promulgated.

79758. Surface storage projects funded pursuant to this chapter and described in subdivision (a) of Section 79751 may be made a

unit of the Central Valley Project as provided in Section 11290 and may be financed, acquired, constructed, operated, and maintained pursuant to Part 3 (commencing with Section 11100) of Division 6.

79759. (a) The funds allocated for the design, acquisition, and construction of surface storage projects identified in the CALFED Bay-Delta Record of Decision, dated August 28, 2000, pursuant to this chapter may be provided for those purposes to local joint powers authorities formed by irrigation districts and other local water districts and local governments within the applicable hydrologic region to design, acquire, and construct those projects.

(b) The joint powers authorities described in subdivision (a) may include in their membership governmental partners that are not located within their respective hydrologic regions in financing the surface storage projects, including, as appropriate, cost share participation or equity participation. Notwithstanding Section 6525 of the Government Code, the joint powers agencies described in subdivision (a) shall not include in their membership any for-profit corporation or any mutual water company whose shareholders and members include a for-profit corporation or any other private entity. The department shall be an ex officio member of each joint powers authority subject to this section, but the department shall not control the governance, management, or operation of the surface water storage projects.

(c) A joint powers authority subject to this section shall own, govern, manage, and operate a surface water storage project, subject to the requirement that the ownership, governance, management, and operation of the surface water storage project shall advance the purposes set forth in this chapter.

79760. (a) In approving the Water Quality, Supply, and Infrastructure Improvement Act of 2014, the people were informed and hereby declare that the provisions of this chapter are necessary, integral, and essential to meeting the single object or work of the Water Quality, Supply, and Infrastructure Improvement Act of 2014. As such, any amendment of the provisions of this chapter by the Legislature without voter approval would frustrate the scheme and design that induced voter approval of this act. The people therefore find and declare that any amendment of the provisions of this chapter by the Legislature shall require an

affirmative vote of two-thirds of the membership in each house of the Legislature and voter approval.

(b) This section shall not govern or be used as authority for determining whether the amendment of any other provision of this act not contained in this chapter would constitute a substantial change in the scheme and design of this act requiring voter approval.

CHAPTER 9. WATER RECYCLING

79765. The sum of seven hundred twenty-five *million dollars* ~~(12 ($700,000,000)~~ ($725,000,000) *shall be available, upon appropriation by the Legislature from the fund, for grants or loans for water recycling and advanced treatment technology projects, including all of the following:*

(a) Water recycling projects, including, but not limited to, treatment, storage, conveyance, and distribution facilities for potable and nonpotable recycling projects.

(b) Contaminant and salt removal projects, including, but not limited to, groundwater and seawater desalination and associated treatment, storage, conveyance, and distribution facilities.

(c) Dedicated distribution infrastructure to serve residential, commercial, agricultural, and industrial end-user retrofit projects to allow use of recycled water.

(d) Pilot projects for new potable reuse and other salt and contaminant removal technology.

~~*(e) Groundwater recharge infrastructure pursuant to this chapter and Chapter 10 (commencing with Section 79770).*~~

(e) Multibenefit recycled water projects that improve water quality.

(f) Technical assistance and grant writing assistance for disadvantaged communities.

~~*(g) Water supply reliability improvement for critical urban water supplies in designated superfund areas with groundwater contamination listed on the National Priorities List established pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9605(a)(8)(B)).*~~

79766. At least a 50-percent local cost share shall be required for projects funded pursuant to this chapter. That cost share may be suspended or reduced for disadvantaged communities and economically distressed areas.

79767. Projects funded pursuant to this chapter shall be selected on a competitive basis, considering all of the following criteria:

(a) Water supply reliability improvement.

(b) Water quality and ecosystem benefits related to decreased reliance on diversions from the Delta or instream flows.

(c) Public health benefits from improved drinking water quality or supply.

(d) Cost-effectiveness.

(e) Energy efficiency and greenhouse gas emission impacts.

(f) Reasonable geographic allocation to eligible projects throughout the state, including both northern and southern California and coastal and inland regions.

79768. For purposes of this chapter, competitive programs shall be implemented consistent with water recycling programs administered pursuant to Sections 79140 and 79141 or consistent with desalination programs administered pursuant to Sections 79545 and 79547.2.

CHAPTER 10. GROUNDWATER SUSTAINABILITY

79770. Prevention and cleanup of groundwater contamination are critical components of successful groundwater management. Groundwater quality becomes especially important as water providers do the following:

(a) Evaluate investments in groundwater recharge with surface water, stormwater, recycled water, and other conjunctive use projects that augment local groundwater supplies to improve regional water self-reliance.

(b) Adapt to changing hydrologic conditions brought on by climate change.

(c) Consider developing groundwater basins to provide much needed local storage options to accommodate hydrologic and regulatory variability in the state's water delivery system.

(d) Evaluate investments in groundwater recovery projects.

79771. (a) The sum of ~~eight hundred fifty~~ million dollars ~~($850,000,000)~~ shall be available, upon appropriation by the Legislature from the fund, for expenditures on, and competitive grants, and loans for, projects to prevent or clean up the contamination of groundwater that serves or has served as a source

nine hundred ($900,000,000)

of drinking water. Funds appropriated pursuant to this section shall be available to the state board for projects necessary to protect public health by preventing or reducing the contamination of groundwater that serves or has served as a major source of drinking water for a community.

(b) Projects shall be prioritized based upon the following criteria:

(1) The threat posed by groundwater contamination to the affected community's overall drinking water supplies, including an urgent need for treatment of alternative supplies or increased water imports if groundwater is not available due to contamination.

(2) The potential for groundwater contamination to spread and impair drinking water supply and water storage for nearby population areas.

(3) The potential of the project, if fully implemented, to enhance local water supply reliability.

(4) The potential of the project to maximize opportunities to recharge vulnerable, high-use groundwater basins and optimize groundwater supplies.

(5) The project addresses contamination at a site for which the courts or the appropriate regulatory authority has not yet identified responsible parties, or where the identified responsible parties are unwilling or unable to pay for the total cost of ~~cleanup.~~

cleanup, including water supply reliability improvement for critical urban water supplies in designated superfund areas with groundwater contamination listed on the National Priorities List established pursuant to Section 105(a)(8)(B) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9605(a)(8)(B)).

~~*(c) The Legislature, by statute, shall establish both of the following:*~~

~~*(1) A requirement that the grantee repay grant funds in the event of cost recovery from the parties responsible for the groundwater contamination.*~~

~~*(2) A requirement that the grantee make reasonable efforts to attempt to recover the costs of cleanup from the parties responsible for the contamination, except that a grantee shall not be required to seek cost recovery related to the costs of response actions apportioned to responsible parties who are insolvent or cannot be identified or located or when a requirement to seek cost recovery would impose a financial hardship on the grantee.*~~

(c) Funding authorized by this chapter shall not be used to pay any share of the costs of remediation recovered from parties responsible for the contamination of a groundwater storage aquifer, but may be used to pay costs that cannot be recovered from responsible parties. Parties that receive funding for remediating groundwater storage aquifers shall exercise reasonable efforts to recover the costs of groundwater cleanup from the parties responsible for the contamination. Funds recovered from responsible parties may only be used to fund treatment and remediation activities.

79772. Of the funds authorized by Section 79771, ~~seventy-five~~ eighty million dollars ~~($75,000,000)~~ ($80,000,000) shall be available for grants for treatment and remediation activities that prevent or reduce the contamination of groundwater that serves as a source of drinking

water. ~~Nothing in this section precludes the funding of projects pursuant to Section 79771.~~

79773. The contaminants that may be addressed with funding pursuant to this chapter may include, but shall not be limited to, 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, and uranium.

79774. (a) A project that receives funding pursuant to this chapter shall be selected by a competitive grant or loan process with added consideration for those projects that leverage private, federal, or local funding.

(b) For the purposes of awarding funding under this chapter, a local cost share of not less than 50 percent 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.

(c) An agency administering grants or loans for the purposes of this chapter shall assess the capacity of a community to pay for the operation and maintenance of the facility to be funded.

(d) At least 10 percent of the funds available pursuant to this chapter shall be allocated for projects serving severely disadvantaged communities.

(e) Funding authorized by this chapter shall include funding for technical assistance to disadvantaged communities. The agency administering this funding shall operate a multidisciplinary technical assistance program for small and disadvantaged communities.

79775. Of the funds authorized by Section 79771, one hundred million dollars ($100,000,000) shall be made available for competitive grants for projects that develop and implement groundwater plans and projects in accordance with groundwater planning requirements established under Division 6 (commencing with Section 10000).

CHAPTER 11. FLOOD MANAGEMENT

79780. The sum of three hundred ninety-five million dollars ($395,000,000) shall be available, upon appropriation by the Legislature from the fund, to the Department of Water Resources and the Central Valley Flood Protection Board for the purpose of statewide flood management projects and activities. ~~Priority shall be given~~ to multibenefit projects that achieve public safety and include fish and wildlife enhancement ~~and recreation~~. The Department of Water Resources shall make its best effort to ~~first utilize prior bond~~ proceeds from Propositions 84 and 1E.

Funds shall be allocated habitat

79781. Of the funds authorized by Section 79780, two hundred ninety-five million dollars ($295,000,000) shall be available to reduce the risk of levee failure and flood in the Delta for any of the following:

coordinate this funding with

(a) Local assistance under the Delta levee maintenance subventions program pursuant to Part 9 (commencing with Section 12980) of Division 6, as that part may be amended.

(b) Special flood protection projects pursuant to Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6, as that chapter may be amended.

(c) Levee improvement projects that increase the resiliency of levees within the Delta to withstand earthquake, flooding, or sea level rise.

(d) Emergency response and repair projects.

CHAPTER 12. FISCAL PROVISIONS

79785. (a) Bonds in the total amount of ~~six billion nine hundred ninety-five million dollars ($6,995,000,000),~~ seven billion one hundred twenty million dollars ($7,120,000,000), and any additional bonds authorized, issued, and appropriated in accordance with this division pursuant to other provisions of law, *or so much thereof as is necessary, not including the amount of any refunding bonds issued in accordance with Section 79797 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.*

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(b) The Treasurer shall sell the bonds authorized by the committee pursuant to this section. The bonds shall be sold upon the terms and conditions specified in a resolution to be adopted by the committee pursuant to Section 16731 of the Government Code.

79786. The bonds authorized by this division shall be prepared, executed, issued, sold, paid, and redeemed as provided in 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), and all of the provisions of that ~~law 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 Section 16727 of the Government Code shall not apply to the extent that it is inconsistent~~

law, as that law may be amended, apply to the bonds and to this division, except subdivisions (a) and (b) of Section 16727 of the Government Code to the extent that those subdivisions conflict

with any other provision of this division.

79787. (a) Solely for the purpose of authorizing the issuance and sale pursuant to 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) of the bonds authorized by this division, the Water Quality, Supply, and Infrastructure Improvement Finance Committee is hereby created. For purposes of this division, the Water Quality, Supply, and Infrastructure Improvement Finance Committee is the "committee" as that term is used in the State General Obligation Bond Law.

(b) The 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 committee.

(d) A majority of the committee may act for the committee.

79788. The 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.

79789. For purposes of the State General Obligation Bond Law, "board," as defined in Section 16722 of the Government Code, means the secretary.

79790. 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.

79791. 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 79794, appropriated without regard to fiscal years.

79792. 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 79794. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold 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.

79793. 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.

79794. 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 for the purpose of carrying out this division less any amount borrowed pursuant to Section 79792. 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.

79795. 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.

79796. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds, including premium, 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.

79797. 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.

79798. The proceeds from the sale of bonds authorized by this division are not "proceeds of taxes" as that term is used in Article XIIIB of the California Constitution, and the disbursement of these proceeds is not subject to the limitations imposed by that article.

~~SEC. 5.~~ *Section 2 of Chapter 3 of the Seventh Extraordinary Session of the Statutes of 2009, as amended by Section 1 of Chapter 74 of the Statutes of 2012, is repealed.* SEC. 9.

~~SEC. 6.~~ *(a) Notwithstanding the requirements of Sections 9040, 9043, 9044, 9061, and 9082 of the Elections Code, or any other law, the Secretary of State shall submit Sections ~~1, 2, and 4~~ of this act to the voters at the November 4, 2014, statewide general election.* SEC. 10. 1 to 6, inclusive, and Section 8

(b) The Secretary of State shall include in the ballot pamphlets mailed pursuant to Section 9094 of the Elections Code the information specified in Section 9084 of the Elections Code regarding the bond act contained in Sections ~~1, 2, and 4~~ of this act. If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding this act to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall be mailed separately. 1 to 6, inclusive, and Section 8

(c) Notwithstanding Section 9054 of the Elections Code or any other law, the translations of the ballot title and the condensed statement of the ballot title required pursuant to Section 9054 may be made available for public examination at a later date than the start of the public examination period for the ballot pamphlet, provided that the translations of the ballot title and the condensed statement of the ballot title must remain available for public examination for eight days.

(d) Notwithstanding Section 13282 of the Elections Code or any other law, the public shall be permitted to examine the condensed statement of the ballot title for not more than eight days. Any voter may seek a writ of mandate for the purpose of requiring the condensed statement of the ballot title, or portion thereof, to be amended or deleted only within that eight-day period.

~~SEC. 7.~~ *Notwithstanding Sections 13115 and 13117 of the Elections Code, Sections ~~1, 2, and 4~~ of this act shall be placed as the first ballot measure on the November 4, 2014, general election ballot and shall be designated as Proposition 1.* SEC. 11. 1 to 6, inclusive, and Section 8

~~SEC. 8.~~ *Sections ~~1, 2, and 4~~ of this act shall take effect upon approval by the voters of the Water Quality, Supply, and Infrastructure Improvement Act of 2014, as set forth in Section ~~4~~ of this act, including changes to* SEC. 12. 1 to 6, inclusive, and Section 8

the Disaster Preparedness and Flood Prevention Bond Act of 2006, as set forth in Section 1 of this act,

the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, as set forth in Section ~~1~~ of this act, 2

the Water Conservation and Water Quality Bond Law of 1986, as set forth in Section 3 of this act, the Safe, Clean, Reliable Water Supply Act, as set forth in Section 4 of this act, the Costa-Machado Water Act of 2000, as set forth in Section 5 of this act,

and the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, as set forth in Section ~~2~~ of this act.

~~*SEC. 9.*~~ *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

In order to fund a water quality, supply, and infrastructure improvement program at the earliest possible date, it is necessary that this act take effect immediately.

~~SECTION 1. Section 12559 is added to the Health and Safety Code, to read:~~

~~12559. (a) Commencing January 1, 2015, a distributor shall pay a tax upon his or her distribution of safe and sane fireworks~~

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SEC. 13.

~~at the rate of ten cents ($0.10) per pound of the total weight of the fireworks, including any packaging, unless adjusted by the State Fire Marshal pursuant to subdivision (c).~~

~~(b) (1) Funds received by the State Fire Marshal or its designee pursuant to this section shall be deposited into the State Fire Marshal Fireworks Enforcement and Disposal Fund established pursuant to Section 12728.~~

~~(2) Funds received pursuant to this section shall only be used, upon appropriation by the Legislature, for the purposes listed in Section 12728.~~

~~(c) The State Fire Marshal may adjust the rate specified in subdivision (a), not to exceed twenty cents ($0.20) per pound, at a public meeting to be held in January of each year in order to provide sufficient revenues to pay for the estimated expenses described in Section 12728.~~

~~(d) The State Fire Marshal may contract with another public agency to administer this section.~~

~~(e) The State Fire Marshal is authorized to adopt emergency regulations necessary to implement this section during the 2014–15 fiscal year in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.~~

~~(f) The State Fire Marshal may, by regulation, establish the period for reporting of information, returns, billings, and payment of taxes due pursuant to this section.~~

~~(g) A violation of this section, or any regulation adopted pursuant to this section, does not constitute a crime for purposes of Section 12700.~~

~~(h) For purposes of this section, the following terms have the following meanings:~~

~~(1) (A) "Distribution" means either or both of the following:~~

~~(i) The sale of previously untaxed safe and sane fireworks in this state.~~

~~(ii) The use or consumption of previously untaxed safe and sane fireworks in this state. For purposes of this clause, "use or consumption" includes the exercise of a right or power over safe and sane fireworks incident to the ownership of those fireworks,~~

~~other than the sale of the safe and sane fireworks or the keeping or retention of those fireworks by a licensee pursuant to Section 12571, 12572, or 12573.~~

~~(B) For purposes of this paragraph, "previously untaxed safe and sane fireworks" means fireworks that have not yet been distributed in a manner as to result in a tax liability under this section.~~

~~(2) "Distributor" means either of the following:~~

~~(A) A person who holds a license issued by the State Fire Marshal pursuant to Section 12571, 12572, or 12573.~~

~~(B) A person who does not hold a license described in subparagraph (A) and who, after the effective date of this section, distributes, as that term is described in paragraph (1), safe and sane fireworks in this state.~~

~~SEC. 2. Section 12722 of the Health and Safety Code is amended to read:~~

~~12722. The following fireworks may be seized pursuant to Section 12721:~~

~~(a) Those fireworks that are sold, offered for sale, possessed, stored, used, or transported within this state prior to having been examined, classified, and registered by the State Fire Marshal, except those specific items designated as samples pending examination, classification, and registration by the State Fire Marshal where the licensee provides documentary evidence that such action by the State Fire Marshal is pending.~~

~~(b) All imported fireworks possessed without benefit of the filing of notices as required by this part.~~

~~(c) Safe and sane fireworks stored in violation of the conditions required by the permit as provided in this part.~~

~~(d) Safe and sane fireworks sold or offered for sale at retail that do not bear the State Fire Marshal label of registration and firing instructions.~~

~~(e) Safe and sane fireworks sold or offered for sale at retail that are in unsealed packages or containers that do not bear the State Fire Marshal label of registration and firing instructions.~~

~~(f) Safe and sane fireworks sold or offered for sale at retail before 12 noon on the 28th day of June or after 12 noon on the sixth day of July of each year.~~

~~(g) Each safe and sane fireworks item sold or offered for sale at retail that does not have its fuse or other igniting device protected~~

~~by a cap approved by the State Fire Marshal, or groups of fireworks with exposed fuses that are not enclosed in sealed packages that bear the State Fire Marshal label of registration. The State Fire Marshal shall approve the caps as he or she determines provide reasonable protection from unintentional ignition of the fireworks.~~

~~(h) Dangerous fireworks, including fireworks kits, used, possessed, stored, manufactured, or transported by a person who does not possess a valid permit authorizing an activity listed in this part.~~

~~(i) Fireworks stored or sold in a public garage or public oil station, or on a premises where gasoline or other class 1 flammable liquids are stored or dispensed.~~

~~(j) Fireworks still possessed by a person who has just thrown ignited fireworks at a person or group of persons.~~

~~(k) Model rocket engines or model rockets with engines possessed by a person who does not hold a valid permit.~~

~~(*l*) An emergency signaling device sold, offered for sale, or used that does not bear the State Fire Marshal label of registration as required by this part.~~

~~(m) Fireworks or pyrotechnic device offered for sale by a person violating this part.~~

~~(n) Safe and sane fireworks distributed in this state by an unlicensed distributor and for which the tax required pursuant to Section 12559 has not been paid.~~

~~SEC. 3. Section 12728 of the Health and Safety Code is amended to read:~~

~~12728. (a) The State Fire Marshal Fireworks Enforcement and Disposal Fund is hereby established in the State Treasury.~~

~~(b) All of the moneys collected pursuant to Section 12706 shall be deposited in the fund and shall be available, upon appropriation by the Legislature, to the State Fire Marshal for the exclusive use in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks, and for the training of public safety agencies in the proper handling and management of dangerous fireworks.~~

~~(c) All of the moneys collected pursuant to Section 12727 shall be deposited in the fund and shall be available, upon appropriation by the Legislature, to the State Fire Marshal for the exclusive use in statewide programs for all of the following:~~

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~~(1) To further assist in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks.~~

~~(2) The training of public safety agencies in the proper handling and management of dangerous fireworks as well as safety issues involving all fireworks and explosives.~~

~~(3) Assist the State Fire Marshal in identifying and evaluating methods to capture more detailed data relating to fires, damages, and injuries caused by both dangerous and safe and sane fireworks, and to assist with funding the eventual development and implementation of those methods.~~

~~(4) To further assist in public safety efforts within the general public as well as public safety agencies on the proper and responsible use, seizure, and storage of safe and sane fireworks.~~

~~(5) Disposal of any seized fireworks and any infrastructure requirements necessary for the disposal of fireworks.~~

~~(6) Administration of the fund by the Office of the State Fire Marshal or its contracted designee.~~

~~SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order for regulatory changes to be adopted to address the public safety and environmental damage caused by illegal fireworks in the state at the earliest possible time, it is necessary that this act take effect immediately.~~

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YES ON PROPOSITION 1 ENSURES A RELIABLE WATER SUPPLY FOR FARMS AND BUSINESSES DURING SEVERE DROUGHT -- PROTECTING BOTH THE ECONOMY AND THE ENVIRONMENT

California is in a severe, multi-year drought and has an aging water infrastructure. That is why Republicans and Democrats and leaders from all over California came together in nearly unanimous fashion to place this fiscally responsible measure on the ballot.

YES ON 1 SUPPORTS A COMPREHENSIVE STATE WATER PLAN

- Provides safe drinking water for all communities
- Expands water storage capacity
- Ensures that our farms and businesses get the water they need during dry years
- Manages and prepares for droughts
- Invests in water conservation, recycling and improved local water supplies
- Increases flood protection
- Funds groundwater cleanup
- Cleans up polluted rivers and streams
- Restores the environment for fish and wildlife

YES ON 1 IS FISCALLY RESPONSIBLE

Proposition 1 will not raise taxes. It is a no-frills investment in critical projects that doesn't break the bank – it even reallocates money from unused bonds to make better use of the money.

YES ON 1 GROWS CALIFORNIA'S ECONOMY

California's economy depends on a reliable water supply. Proposition 1 secures our water future, keeps our family farms and businesses productive, and puts Californians to work building the new facilities we need to store, deliver and treat water.

YES ON 1 SAFEGUARDS OUR EXISTING WATER SUPPLIES

Proposition 1 will clean up our contaminated groundwater which serves as a critical buffer against drought by providing additional water in years when there is not enough rainfall or snow.

Proposition 1 expands water recycling and efficiency improvements making the best use of our existing supplies.

Proposition 1 provides funding for clean drinking water in communities where water is contaminated.

SUBJECT TO COURT ORDERED CHANGES

YES ON 1 STORES WATER WHEN WE HAVE IT

Proposition 1 invests in new water storage increasing the amount of water that can be stored during wet years for the dry years that will continue to challenge California.

YES ON 1 PROTECTS THE ENVIRONMENT

Proposition 1 protects California's rivers, lakes and streams from pollution and contamination and provides for the restoration of our fish and wildlife resources.

PROPOSITON 1 CONTAINS STRICT ACOUNTABILITY REQUIREMENTS INCLUDING ANNUAL AUDITS, OVERSIGHT AND PUBLIC DISCLOSURE TO ENSURE THE MONEY IS PROPERLY SPENT.

YES ON 1 – Supported by REPUBLICANS, DEMOCRATS, FARMERS, LOCAL WATER SUPPLIERS, CONSERVATION GROUPS, BUSINESS AND COMMUNITY LEADERS INCLUDING:

- United States Senator Dianne Feinstein
- United States Senator Barbara Boxer
- Audubon California
- California Chamber of Commerce
- Delta Counties Coalition
- Los Angeles Area Chamber of Commerce
- Ducks Unlimited
- American Rivers
- Silicon Valley Leadership Group
- Friant Water Authority
- San Diego Water Authority
- Metropolitan Water District of Southern California
- Natural Resources Defense Council
- Northern California Water Association
- State Building and Construction Trades Council of California
- Association of California Water Agencies
- Fresno Irrigation District
- Western Growers

Governor Edmund G. Brown Jr.

Paul Wenger, President, California Farm Bureau Federation

Mike Sweeney, California Director, The Nature Conservancy

SUBJECT TO COURT
ORDERED CHANGES

While there are many good things in Proposition 1: Water conservation, efficiency reuse and recycling as well as restoration of our watersheds, the serious flaws outweigh the benefits to the people of California.

The water bond passed by the Legislature and signed by the Governor has many attractive elements, but at the end of the day this bond measure is bad news for the people of California.

Proposition 1 wrongly focuses on building more dams. More than a third of the $7.5 billion total is earmarked for surface storage, which almost certainly will mean new dams – increasing pressure to over pump and divert more water from Northern California Rivers including the Trinity, the Klamath and Sacramento Rivers. This places them at great risk at a time when a severe and prolonged drought has significantly reduced existing snow packs.

Furthermore, the $2.7 billion dollars for speculative new dams will not produce new water. All the most productive and cost-effective dam sites in California have already been developed. Proposition 1's new dam projects increase California's total water supply by as little as 1%, while costing nearly $9 billion to build. These dams would not even be useable for decades.

In a major historic departure for water storage projects, the costs of these new dams and reservoirs will be paid from the state general fund and California taxpayers will share the burden of paying off bonds that will drain $500 million a year from the general fund.

It's an issue of fairness. The 1960 bond act that financed the State Water Project directed that beneficiaries pay those costs through their water rates. If private water users won't fund these projects on their own, taxpayers should not be required to underwrite their construction, and then purchase the water later at higher prices. Private water users who are the beneficiaries, not taxpayers, should pay for the cost of these projects.

As the drought deepens, the impact to Californians and fisheries along the California Coast will increase. Our northern rivers are some of the last remaining refuge for endangered salmon species that are on the brink of extinction. Additionally, our rivers provide important spawning habitat for fish that are important to the entire state, up and down the West Coast. This water bond short-changes both the North Coast and California.

Under Proposition 1, water Storage money would not be available for Central and North Coast regions. It restricts storage spending to benefit a limited

SUBJECT TO COURT
ORDERED CHANGES

geography in the state, mainly the San Joaquin and Sacramento Valleys and Southern California.

Proposition 1 is the wrong investment: it does little for drought relief in the near-term, doesn't adequately promote needed regional water self-sufficiency, or reduce dependency on an already water-deprived Delta ecosystem. As evidenced by shrinking reservoirs and collapsing aquifers, no amount of water storage will produce more rain and snow.

Please join us in voting no on Proposition 1.

Assemblymember Wesley Chesbro, Chair Natural Resources Committee

Conner Everts Executive Director, Southern California Watershed Alliance

Barbara Barrigan-Parilla Executive Director, Restore the Delta

SUBJECT TO COURT ORDERED CHANGES

REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 1

Please vote NO on Proposition 1

Instead of focusing on making California's water use more efficient, fixing our aging and leaking water system and cleaning up our groundwater, Proposition 1 instead focuses on building more dams, at a cost of 2.7 billion dollars plus interest. These dams will only increase California's water supply by 1% and won't be usable for decades.

We need more water NOW, not in the distant future. The way to make this happen is to do the quickest and least expensive thing - - make better use of our existing water supply and create immediate long-term jobs.

Proposition 1 is unfair to taxpayers. If those who benefit and use the water won't pay for dams, why should taxpayers be stuck with paying the debt for these dams?

Proposition 1 does little for drought relief, fails to promote regional water self-sufficiency, or reduce dependency on the already water deprived Delta ecosystem.

Expensive new dams will increase pressure to divert new water from the Trinity, Klamath and Sacramento rivers at a time of prolonged drought and reduced flows. These rivers are critical habitat for endangered salmon that are important to all of California and the entire west coast.

SUBJECT TO COURT ORDERED CHANGES

REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 1

Proposition 1 is:

- **Bad for the environment, our rivers and our salmon;**
- **Does not produce new needed water NOW when we need it in the middle of a prolonged drought;**
- **Unfair to tax payers; and**
- **A bad deal for California.**

Join us in voting NO on Proposition 1

Assemblymember Wesley Chesbro
Chair, Natural Resources Committee

Adam Scow
California Director, Food & Water Watch

Zeke Grader
Executive Director, Pacific Coast Federation of Fishermen's Associations

SUBJECT TO COURT ORDERED CHANGES

REBUTTAL TO ARGUMENT AGAINST

PROPOSITION 1

YES ON PROPOSITION 1 REBUTTAL

VOTE YES ON PROPOSITION 1

The opponents distort the facts and completely ignore the devastating drought that makes this Water Bond absolutely necessary.

For decades, politicians argued about water while things got worse. But now, a real solution is at hand: Proposition 1–which is supported by Republicans, Democrats, businesses, farmers, environmentalists, labor and newspapers from every part of the state. It received overwhelming support from both parties, including a unanimous vote in the Senate. This has never happened before.

Our population has more than doubled since the California Water Project was launched, and we are facing one of the worst droughts in our history. No one doubts that California's water system is broken. It must be fixed!

Levees are failing, communities can't get safe drinking water, rivers are drying up and the farmers are hurting.

Proposition 1 is fiscally prudent. It doesn't raise taxes or fund pork projects. It pays for public benefits such as water quality, flood control and natural habitat.

Proposition 1 invests in the right things based on a balanced plan crafted by scientists, not politicians.

Water storage is key and we haven't added any new storage in 30 years. Proposition 1 carefully invests only in the most cost-effective storage projects.

Newspapers throughout the state support PROPOSITION 1:

It "successfully balances investments in water infrastructure and treatment that benefit all parts of the state ..." – San Francisco Chronicle.

"A bond proposal that will truly help solve the problems." – Modesto Bee.

Yes on PROPOSITION 1!

GOVERNOR EDMUND G. BROWN JR.

SUBJECT TO COURT ORDERED CHANGES

Proposition
2
State Budget. Budget Stabilization Account. Legislative Constitutional Amendment.

Official Title and Summary **Prepared by the Attorney General**

State Budget. Budget Stabilization Account. Legislative Constitutional Amendment.

2

- Requires annual transfer of 1.5% of general fund revenues to state budget stabilization account.
- Requires additional transfer of personal capital gains tax revenues exceeding 8% of general fund revenues to budget stabilization account and, under certain conditions, a dedicated K–14 school reserve fund.
- Requires that half the budget stabilization account revenues be used to repay state debts and unfunded liabilities.
- Allows limited use of funds in case of emergency or if there is a state budget deficit.
- Caps budget stabilization account at 10% of general fund revenues, directs remainder to infrastructure.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Some existing state debts would be paid down faster, resulting in long-term savings for the state.
- Changes in the level of state budget reserves, which would depend on the economy and future decisions by the Governor and the Legislature.
- Reserves kept by some school districts would be smaller.

Final Votes Cast by the Legislature on ACAx2 1 (Proposition 2)
(Res. Ch. 1, Stats. of 2013–14, 2nd Ex. Sess.)

Senate:	Ayes 36	Noes 0
Assembly:	Ayes 78	Noes 0

Analysis by the Legislative Analyst

Overview

Proposition 2 amends the State Constitution to end the existing rules for a state budget reserve—the Budget Stabilization Account (BSA)—and replace them with new rules. The new rules would change how the state pays down debt and saves money in reserves. In addition, if Proposition 2 passes, a new state law would go into effect that sets the maximum budget reserves school districts can keep at the local level in some future years. Finally, the proposition places in the Constitution an existing requirement for the Governor's budget staff to estimate future state General Fund revenues and spending. Figure 1 summarizes key changes that would occur if voters approve Proposition 2.

Background

State Budget and Reserves

State Budget. This year, the state plans to spend almost $110 billion from its main account, the General Fund. About half of this spending is for education—principally for schools and community colleges but also for public universities. Most of the rest is for health, social services, and criminal justice programs.

Economy Affects State Budget. Figure 2 shows state revenues from the personal income tax—the state's biggest revenue source. As shown in the figure, when the economy is bad, these tax revenues go down. When the economy improves, these tax revenues go up. Because tax revenues and reserves determine how much the state can spend, the Legislature often must take actions in bad economic years to balance the budget. These actions include spending cuts and tax increases.

"Rainy-Day" Reserves. Governments use budget reserves to save money when the economy is doing well. This means that money is saved instead of being spent on public programs during these periods of time. When the economy gets worse and their revenues decline, governments use money that they saved to reduce the amount of spending cuts, tax increases, and other actions

Analysis by the Legislative Analyst **Continued**

needed to balance their budgets. In other words, if a government saves more in reserves when the economy is doing well, it spends less during that time and has more money to spend when the economy is doing poorly.

Proposition 58 of 2004. The state has had budget reserve accounts for many years. In 2004, voters passed Proposition 58 to create a new reserve, the BSA. Currently, Proposition 58 requires the Governor each year to decide whether to let 3 percent of General Fund revenues go into the BSA reserve. Right now, 3 percent of General Fund revenues equals a little over $3 billion. Under Proposition 58, this 3 percent is the "basic" amount to be put in the BSA each year. In any year, the Governor can choose to reduce the basic amount and put less or nothing at all into the BSA. Under Proposition 58, these amounts continue to go into the BSA each year until the balance reaches a target maximum, which currently equals $8 billion. (Therefore,

Figure 1

Summary of Key Changes That Would Occur If Proposition 2 Passes

State Debts

- Requires state to spend minimum amount each year to pay down specified debts.[a]

State Reserves

- Changes amount that goes into a state budget reserve account (known as the Budget Stabilization Account, or BSA).[a]
- Increases maximum size of the BSA.
- Changes rules for when state can put less money into the BSA.
- Changes rules for taking money out of the BSA.

School Reserves

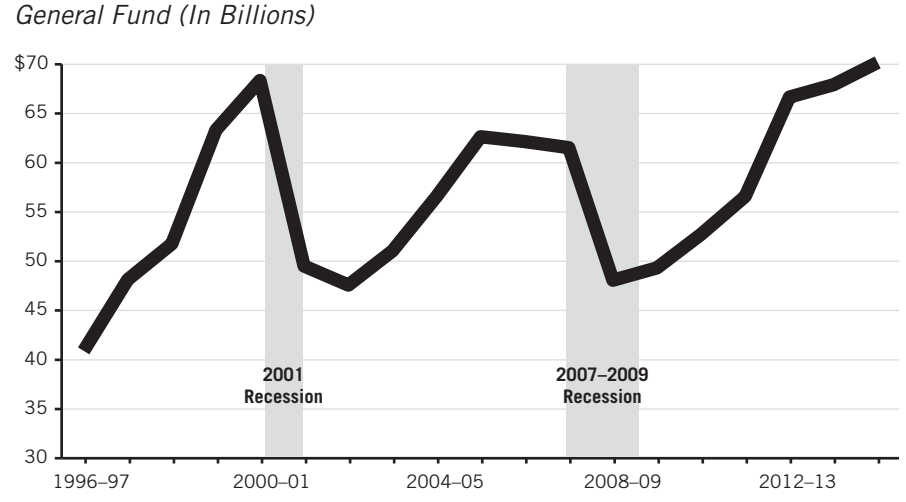
- Creates state reserve for schools and community colleges.
- Sets maximum reserves that school districts can keep at the local level in some future years.[b]

[a] After 15 years, debt spending under Proposition 2 becomes optional. Amounts that otherwise would have been spent on specified debts would instead be put into the BSA.

[b] This change would result from a related state law that takes effect if Proposition 2 passes.

Figure 2

Personal Income Tax Revenues Dip When Economy Is Bad



Note: Adjusted for inflation. Reflects estimates in state's 2014–15 budget plan.

For the full text of Proposition 2, see page 64.

it would take three years of the basic amount going into the account for the BSA to reach its maximum level.)

The state can take money out of the BSA with a majority vote of the Legislature. Right now, there is no limit on how much the state can take out of the BSA in a single year.

Effects of Recession on State Budget Reserves. The worst economic downturn since the 1930s began in 2007, resulting in a severe recession. For several years, the state had large budget problems and took many actions to balance the budget. Because of these budget problems, California's governors decided not to put money into the BSA. California had no state budget reserves at all for several years. This year, for the first time since the recession, the Governor decided to put money into the BSA.

Capital Gains Taxes. As part of its personal income tax, the state taxes "capital gains." Capital gains are profits earned when people sell stocks and other types of property. Figure 3 shows personal income tax revenues that the state has collected on capital gains. Because stock prices and property values can change a lot from year to year, these capital gains tax revenues vary significantly.

School Reserves

State Spending on Schools and Community Colleges. Earlier propositions passed by voters generally require the state to provide a minimum annual amount for schools and community colleges. This amount tends to grow with the economy and the number of students. In most cases, the money that schools and community colleges get from the state makes up a large share of their overall revenues. This means that decisions made by the state can have a big effect on them. The state does not have a reserve specifically for schools and community colleges.

Local School District Reserves. State law requires school districts to keep minimum reserves, though many districts keep reserves that are much bigger than these minimum levels. For most school districts, the minimum reserve ranges from 1 percent to 5 percent of their annual budget, depending on their size. School districts save money in reserves for several reasons, such as paying for large occasional expenses (like replacing textbooks) and addressing the uncertainty in future state funding.

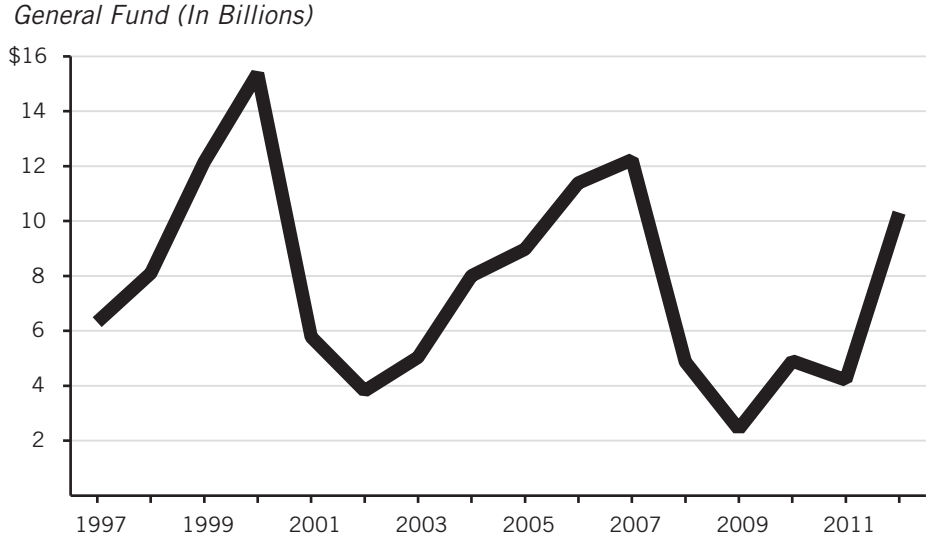
State Debts

The state's debts total around $300 billion. This amount includes debt for infrastructure—such as highways, school buildings, and flood and water supply projects. It also includes the following debts:

- ***Pension and Retiree Health Benefits.*** Based on official estimates, the state owes around $150 billion for pension and retiree health care benefits already earned by public employees. The

Figure 3

Capital Gains Tax Revenues Change a Lot From Year to Year



state already spends several billion dollars per year to pay these costs, which have to be paid off in full over the next several decades. The costs to pay for these benefits generally will get bigger the longer the state waits to make the payments.

- ***Debts to Local Governments and Other State Accounts.*** The state also owes several billion dollars to local governments (such as school districts, counties, and cities) and other state accounts.

Proposal

Proposition 2 amends the State Constitution to change state debt and reserve practices. Figure 4 compares today's laws with the key changes that would be made if Proposition 2 passes.

State Debts

Requires Spending to Pay Down Existing State Debts. Proposition 2 requires the state to spend a minimum amount each year to pay down (1) debts for pension and retiree health benefits and (2) specified debts to local governments and other state accounts. (The funds spent on pension and retiree health costs must be in addition to payments already required under law.) Specifically, for the next 15 years, the proposition would require the state to spend at least 0.75 percent of General Fund revenues each year to pay down these debts. Right now, 0.75 percent of revenues is equal to about $800 million—an amount that would grow over time.

In addition, when state tax revenues from capital gains are higher than average, Proposition 2 would require the state to spend some of these higher-than-average revenues on these state debts. Between 2001–02 and 2013–14, capital gains tax revenues were above this average roughly half of the time. The total amount that the state would spend on debts in any year could vary significantly. For instance, in years with weaker capital gains tax revenues, the state would spend $800 million to pay down debts under this proposition. In years with stronger capital gains tax revenues, the total amount could be up to $2 billion or more.

These debt payments would become optional after 15 years. If the Legislature chooses not to spend these amounts on debts after 15 years, Proposition 2 requires that they instead go into the state's BSA, as described below.

State Reserves

Changes Basic Amount That Goes Into the BSA. Each year for the next 15 years, the basic amount going into the BSA would be the same as the amount the state must spend to pay down debt, as described above. Specifically, the basic amount would range from about $800 million (in today's dollars) when revenues from capital gains tax revenues are weaker and up to $2 billion or more when revenues from capital gains tax revenues are stronger. (It can take a couple of years after the state passes its annual budget to get good information about that budget's actual level of capital gains tax revenues. Under Proposition 2, the state would have to make sure that BSA deposits reflect the most updated information on capital gains.)

Basic Amount Could Be Reduced in Some Situations. Proposition 2 changes the rules that allow the state to put less than the basic amount into the BSA. Specifically, the state could put less than the basic amount into the BSA only if the Governor calls a "budget emergency." The Legislature would have to agree to put less money into the BSA. The Governor could call a budget emergency only if:

- A natural disaster occurs, such as a flood or an earthquake.
- There is not enough money available to keep General Fund spending at the highest level of the past three years (adjusted for changes in the state population and the cost of living).

Changes Rules for Taking Money Out of the BSA. The state still could take money out of the BSA with a majority vote of the Legislature, but this could happen only when the Governor calls a budget emergency as described above. Proposition 2 also limits how much the state could take out of the BSA. Specifically, the state could take out only the amount needed for the natural disaster or to keep spending at the highest level of the past three years—adjusted for population and cost of living. In addition, if there was no budget emergency the year before, the state could take out no more than half of the money in the BSA. All of the money could be taken out of the BSA in the second straight year of a budget emergency.

Increases Maximum Size of BSA. The state would put money into the BSA until the total reaches a maximum amount of about 10 percent of General Fund revenues—which now equals about $11 billion. Once the money in the BSA reaches the maximum amount, money that

For the full text of Proposition 2, see page 64.

Figure 4

Comparison of Today's Laws and Key Changes if Proposition 2 Passes

	Today's Laws	Changes Made if Proposition 2 Passes
State Debts		
Required extra spending on existing state debts each year[a]	None.[b]	A minimum of $800 million. Up to $2 billion or more when capital gains tax revenues are strong.[c]
State Reserves		
Basic amount that goes into the Budget Stabilization Account (BSA) each year	A little over $3 billion.	A minimum of $800 million. Up to $2 billion or more when capital gains tax revenues are strong.[c]
When can state put less than the basic amount into the BSA?	Any time the Governor chooses.	Only when the Governor calls a "budget emergency" and the Legislature agrees.[d]
How much can state take out of the BSA?	Any amount available.	Up to the amount needed for the budget emergency. Cannot be more than half of the money in the BSA if there was no budget emergency in the prior year.
Maximum size of the BSA	$8 billion or 5 percent of General Fund revenues, whichever is greater (currently $8 billion).	About 10 percent of General Fund revenues (currently about $11 billion).
School Reserves		
State reserve for schools and community colleges	None.	Money would go into a new state reserve for schools and community colleges in some years when capital gains revenues are strong.
Limit on maximum size of school district reserves	None.	Sets maximum reserves that school districts can keep at the local level in some years.

[a] The term "state debts" includes debts for pension and retiree health benefits and specified debts owed to local governments and other state accounts.

[b] Proposition 58 (2004) requires that half of the money put into the BSA be used to pay down certain state bonds faster. This year's budget is expected to pay off the rest of those bonds, meaning this requirement will no longer apply beginning with next year's budget.

[c] After 15 years, debt spending under Proposition 2 becomes optional. Amounts that would otherwise be spent on debts after 15 years instead would be put into the BSA.

[d] Governor could call a budget emergency for a natural disaster or to keep spending at the highest level of the past three years—adjusted for population and cost of living.

Note: Dollar amounts listed are in today's dollars.

otherwise would go into the BSA would instead be used to build and maintain infrastructure.

School Reserves

Creates State Reserve for Schools. When state tax revenues from capital gains are higher than average and certain other conditions are met, some capital gains revenues would go into a new state reserve for schools created by Proposition 2. Before money would go into this reserve, the state would have to make sure that the amount spent on schools and community colleges grows along with the number of students and the cost of living. The state could spend money out of this reserve to lessen the impact of difficult budgetary situations on schools and community colleges. Though Proposition 2 changes *when* the state would spend money on schools and community colleges, it does not directly change the *total*

Analysis by the Legislative Analyst **Continued**

amount of state spending for schools and community colleges over the long run.

New Law Sets Maximum for School District Reserves. If this proposition passes, a new state law would go into effect that sets a maximum amount of reserves that school districts could keep at the local level. (This would not affect community colleges.) For most school districts, the maximum amount of local reserves under this new law would be between 3 percent and 10 percent of their annual budget, depending on their size. This new law would apply only in a year after money is put into the state reserve for schools described above. (The minimum school district reserve requirements that exist under today's law would still apply. Therefore, district reserves would have to be between the minimum and the maximum in these years.) County education officials could exempt school districts from these limits in special situations, including when districts face "extraordinary fiscal circumstances." Unlike the constitutional changes that would go into effect if Proposition 2 passes, this new law on local school district reserves could be changed in the future by the Legislature (without a vote of the people).

Fiscal Effects

Proposition 2's fiscal effects would depend on several factors. These include choices that the Legislature, Governor, school districts, and county education officials would make in implementing the proposition. Many of the fiscal effects of the measure would also depend on what the economy and capital gains are like in the future.

State Debts

Faster Pay Down of Existing State Debts Likely. Under Proposition 2, the state likely would make extra payments to pay down existing debts somewhat faster. This means that there would be less money for other things in the state budget—including money for public programs, infrastructure, and lowering taxes—during at least the next 15 years. Paying down existing debts faster would lower the total cost of these debts over the long term. This means that the state could spend less on its debts in future decades, freeing up money for other things in the state budget over the long term.

State Reserves

Effect of New BSA Rules on State Budget. Whether Proposition 2 would cause state budget reserves to be higher or lower over the long run would depend on (1) the economy and capital gains tax revenues and (2) decisions made by the Legislature and the Governor in implementing the measure. In some situations, for example, Proposition 2 could make it harder to take money out of the state's reserves, and this could lead to the reserves being larger over time. In other situations, this proposition could allow the state to put less in the BSA than the 3 percent basic amount specified in today's law. If Proposition 2 results in more money being put in the BSA in the future, it could lessen some of the "ups and downs" of state spending that occurred in the past.

School Reserves

Effects of State Reserve for Schools. As described earlier, certain conditions would have to be met before money would go into the state reserve for schools. Because of these conditions, money would be unlikely to go into the state reserve for schools in the next few years. In the future, money would go into this reserve only occasionally—likely in years when the economy is very good. State spending on schools and community colleges would be lower in the years when money goes into the state school reserve and higher in later years when money is taken out of this reserve.

Effects on School District Reserves and Spending. As discussed above, money likely would not go into the state reserve for schools in the next few years. Once money does go into this reserve, a new state law then would set a maximum amount of reserves that school districts could keep at the local level. In the past, most school districts have kept reserve levels much higher than these maximum levels.

If Proposition 2 passes, school districts would respond to this new law in different ways. Some districts likely would spend more on teacher pay, books, and other costs in the few years after the proposition passes in order to bring their reserves closer to the future maximum levels. Other districts might wait until after money goes into the state reserve for schools and then either (1) spend large amounts all at once to bring their reserves down to the maximum levels or (2) seek exemptions from county education officials to keep their reserves above the maximum levels.

As a result of the new state law, some districts likely would have smaller reserves the next time the economy is bad. Those districts might have to make more difficult decisions to balance their budgets at that time. If money is available in the state reserve for schools, it could help districts avoid some of these difficult decisions.

Visit *http://cal-access.sos.ca.gov* for details about money contributed in this contest.

For the full text of Proposition 2, see page 64.

★ Argument in Favor of Proposition 2 ★

VOTE YES ON PROPOSITION 2 TO CREATE A RAINY DAY FUND THAT PROTECTS TAXPAYERS AND SCHOOLS.

Proposition 2 establishes a STRONG RAINY DAY FUND in the State Constitution that will force the Legislature and the Governor to save money when times are good, PAY DOWN DEBTS and PROTECT SCHOOLS from devastating cuts. Both Democrats and Republicans support Proposition 2.

By forcing the state to save money, Proposition 2 WILL REQUIRE POLITICIANS TO LIVE WITHIN THEIR MEANS AND PROTECT AGAINST UNNECESSARY TAX INCREASES. In good times, money will be placed in a constitutionally-protected reserve and used to pay down debt. In bad times, the Rainy Day Fund can be used to protect schools, public safety and other vital services.

California needs Proposition 2 because it prevents the state from spending more than it can afford. Only three years ago, California faced a $26 billion budget deficit that required the Legislature to make painful cuts and voters to approve temporary tax increases. PROPOSITION 2 WILL MAKE SURE THAT WE DON'T REPEAT THIS CYCLE OF BOOM AND BUST BUDGETING.

VOTING YES ON PROPOSITION 2 WILL:

- Stabilize the state's budget by ensuring temporary revenues are set aside and not committed to ongoing spending we can't afford.
- Accelerate the state's debt payments.
- Create an education reserve to avoid future cuts to schools.

CREDIT RATING AGENCIES AND NEWSPAPERS SUPPORT A STRONG RAINY DAY FUND.

SAN FRANCISCO CHRONICLE: The Rainy Day Fund is the "prudent course."

STANDARD AND POOR'S: The Rainy Day Fund marks "another step in California's ongoing journey toward a more sustainable fiscal structure."

LOS ANGELES TIMES: The Rainy Day Fund "does more to promote a culture of savings in Sacramento."

MOODY'S: The Rainy Day Fund helps the state "cushion its finances from economic downturns."

FRESNO BEE: The Rainy Day Fund will "protect taxpayers against catastrophic budget deficits."

SACRAMENTO BEE: The Rainy Day Fund is "an important step toward fiscal discipline."

VOTE YES ON PROPOSITION 2 AND PROTECT CALIFORNIA'S BALANCED BUDGET!

www.CaliforniaRainyDayFund.com

John A. Pérez, Assembly Speaker Emeritus
Edmund G. Brown Jr., Governor
Allan Zaremberg, President
California Chamber of Commerce

★ Rebuttal to Argument in Favor of Proposition 2 ★

SAVE OUR SCHOOLS!

Vote NO on 2 to PROTECT SCHOOLS AND TAXPAYERS. Democrats and Republicans oppose Proposition 2. Parents, grandparents and students oppose Proposition 2.

Why? A DANGEROUS financial time bomb that hurts schools was inserted into last-minute budget negotiations. What does it do? After even a penny goes into Prop. 2's "school rainy day fund," local school districts will only be allowed to save for—at most—a few weeks of expenses.

Why does it matter if Sacramento determines what districts can save? For the last seven years, Sacramento has delayed billions in payments to schools until after the end of each school year—funds needed to pay teachers, staff, and suppliers. Without locally-controlled reserves, districts would have faced higher borrowing costs and deeper cuts. Depending on Sacramento is a losing proposition for schools.

Get the facts from parents, not politicians, at *www.2BadForKids.org*.

Standard and Poor's reacted with "neutral to negative credit implications" for California schools if this passes (7/7/2014). Everyone supports a genuine rainy day fund—but ask newspapers and credit agencies if they support the SHELL GAME that Proposition 2 has become.

Sacramento does not have a track record of prioritizing public education, despite the rhetoric.

California is ranked 50th in the U.S. in per pupil spending (*Education Week,* January 2014).

Local communities, NOT Sacramento, know what is best for our children. Be heard. A NO vote on 2 is a vote FOR kids, schools and common sense.

VOTE NO ON 2!

Cushon Bell, Secretary
Educate Our State
Cinnamon O'Neill, Chapter Director
Educate Our State
Kilty Belt-Vahle, Parent Volunteer
Educate Our State

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★ Argument Against Proposition 2 ★

Why does a so-called Rainy Day Fund get to soak California schoolchildren?

Parents and taxpayers often ask why California is one of the bottom ten states in school funding year after year—yet our tax rates are among the highest in the nation. Proposition 2 is a perfect example of how we keep "protecting" schoolchildren by putting them last.

Californians enacted Proposition 98 twenty-five years ago as a MINIMUM school-funding guarantee. This "guarantee" was an excuse in 2004 for state politicians to begin grabbing $5+ billion a year of stable, reliable, local school-allocated property taxes to fund their own deficits and poor financial decisions. The State took the funds, promising that Proposition 98 would pay them back.

Unsurprisingly, this constitutional guarantee to California schoolchildren has not been steadfastly met. In recent bad years, California schools have had to suffer up to $10 billion in deferred payments of their basic funding—forcing them to borrow, dip into their own local reserves, and cut programs.

And now, under Proposition 2, California schools are supposed to wait in good years as well? What does the "Local Control Funding Formula" mean if we don't trust local school boards with even their minimum constitutionally guaranteed revenues?

Meanwhile, the small print allows the State Controller to utilize these withheld educational funds to help manage General Fund daily cash flow needs and allows the Legislature, by declaring a budget emergency, to move this money into the General Fund.

But wait, there's more!

In the waning hours of this year's budget negotiations, a requirement was added to force school districts to reduce their local reserves whenever *anything* is paid into Proposition 2's "Public School System Stabilization Account." In the following year, school districts are allowed only twice the bare minimum of reserves. For most districts, this means forcing them to hold just 6% of annual operating expenses in reserve—just three weeks spending!

For districts across California, local reserves have been all that's protected children from State-inflicted borrowing costs or program cuts. (The State hasn't paid schools on time in the past *seven* years! Up to 20% of the money it owed schools was paid after the end of the school year in June 2012.) Built up over decades, these reserves would have to be dumped just because one good capital-gains year moved educational funds away from funding schools and into the State-controlled stabilization account.

Please join us—a bipartisan statewide grassroots volunteer non-profit parent-led organization uniting tens of thousands of Californians committed to improving public education—and say NO to politicians who keep pushing kids to the back of the bus. Visit *www.2BadForKids.org* and vote NO on 2!

Katherine Welch, Director
Educate Our State
Hope Salzer, Chapter Director
Educate Our State
Jennifer Bestor, Research Director
Educate Our State

★ Rebuttal to Argument Against Proposition 2 ★

Proposition 2 opponents have it wrong; it's precisely that kind of thinking that led to a $26 billion budget deficit and devastating cuts to our schools.

The current state budget is the best in years for schools—providing more than $10 billion in new funding. Proposition 2 PROTECTS SCHOOLS by stabilizing the state budget and preventing future cuts to our classrooms. Without a strong Rainy Day Fund and continued fiscal restraint, the state will face future deficits and could be forced to cut funding for schools, public safety and other critical services. That is why every Democrat and Republican in the Legislature voted to support Proposition 2.

Proposition 2 makes no changes to the funding level required by Proposition 98. In fact, this year's budget funds schools under Proposition 98 at the highest level ever, $60.9 billion. That is $1,954 more for each student than just three years ago when California faced huge budget deficits. By putting some money away during good times, California can STOP FUTURE CUTS TO SCHOOL FUNDING AND STOP UNNECESSARY TAX INCREASES.

VOTE YES ON PROPOSITION 2 AND PROTECT SCHOOLS AND CALIFORNIA'S BALANCED BUDGET!

Dr. Michael Kirst, President
California State Board of Education

Official Title and Summary — Prepared by the Attorney General

Healthcare Insurance. Rate Changes. Initiative Statute.

- Requires changes to health insurance rates, or anything else affecting the charges associated with health insurance, to be approved by Insurance Commissioner before taking effect.
- Provides for public notice, disclosure, and hearing on health insurance rate changes, and subsequent judicial review.
- Requires sworn statement by health insurer as to accuracy of information submitted to Insurance Commissioner to justify rate changes.
- Does not apply to employer large group health plans.
- Prohibits health, auto, and homeowners insurers from determining policy eligibility or rates based on lack of prior coverage or credit history.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased state administrative costs to regulate health insurance, likely not exceeding the low millions of dollars annually in most years, funded from fees paid by health insurance companies.

Analysis by the Legislative Analyst

Background

This measure requires the Insurance Commissioner (the Commissioner) to approve rates for certain types of health insurance. The rate approval process would be similar to a process that is currently used for other types of insurance, such as automobile and homeowner's insurance. Below, we provide background information on health insurance in California and automobile and homeowner's insurance rate regulation.

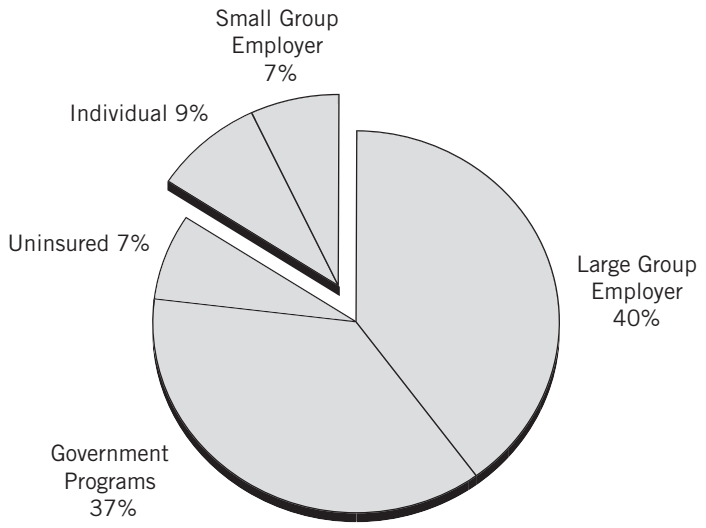
Health Insurance in California

Sources of Health Insurance. As shown in Figure 1, Californians obtain health insurance in many different ways. Some individuals and families obtain it from government programs, such as Medicare or Medicaid (known as Medi-Cal in California). Other individuals and families obtain job-based health insurance from their employers. Job-based coverage provided by companies with more than 50 employees is known as large group coverage. Coverage provided by companies with 50 or fewer employees is known as small group coverage. Still other individuals and families purchase health insurance directly from a health insurance company (also known as individual health insurance). This measure mainly applies to individual and small group health insurance—which covers roughly 6 million Californians, or 16 percent of the population.

Two State Departments Oversee Health Insurance in California. Most health insurance products sold in California must be approved by state regulators to ensure they meet state requirements. For example, health insurance companies must provide basic benefits to enrollees—such as physician visits, hospitalizations, and prescription drugs—and have an adequate number of physicians available to provide care in a timely manner. These requirements are generally enforced by either the Department of Managed Health Care (DMHC) or the California Department of Insurance (CDI). The DMHC is run by a Governor-appointed director and it regulates some types of health insurance. The CDI is run by the elected Commissioner, and it regulates other types of health insurance. Most insured Californians have health insurance that is regulated by DMHC. The regulation of California's individual or small group

Figure 1

Where Do Californians Get Health Insurance?



health insurance is somewhat more evenly split between DMHC and CDI. The costs of each department's activities are generally funded through fees on the regulated insurance companies. Some other types of health insurance, such as the federal Medicare program, are generally not subject to state requirements and therefore not regulated by either department.

Review, but Not Approval, of Health Insurance Rates. As of 2011, health insurance companies must file information on proposed rates for all individual and small group health insurance with either DMHC or CDI before those rates can go into effect. (Insurance companies are not required to file large group rate information.) Both DMHC and CDI review the rate information and say whether the rate increases are reasonable or not. When evaluating the reasonableness of health insurance rates, DMHC and CDI may consider a variety of factors, such as: (1) which medical benefits are covered, (2) what portion of the costs enrollees pay through copayments and deductibles, and (3) whether a company's administrative costs are reasonable. The departments are also required to make certain information from these reviews available to the public on their websites. However, DMHC and CDI currently have no authority to reject or approve the rates before they take effect.

Federal Health Care Reform Creates Health Benefit Exchanges. The federal Patient Protection and Affordable Care Act enacted in 2010, also referred to as federal health care reform, created marketplaces called health benefit exchanges. Insurance companies may sell health insurance products to individuals and small businesses on these exchanges. Certain low- to moderate-income individuals and families may receive federal subsidies to make their health insurance more affordable. These federal subsidies are not available for insurance purchased outside the exchange. California's exchange—operational since October 2013—is known as Covered California, and it is governed by a five-member board (the Board) composed of individuals appointed by the Governor and the Legislature. Covered California

For the full text of Proposition 45, see page 67.

is currently funded by federal funds and fees assessed on participating health insurance companies.

Covered California Board Negotiates With Health Insurers. Under state law, the Board has the authority to approve which health insurance products are sold through Covered California, subject to state and federal requirements. Thus, the Board negotiates certain plan characteristics—such as rates—with health insurance companies seeking to sell products through Covered California.

Individual Market Health Insurance Sold During "Open Enrollment." Generally, persons may enroll in individual market health insurance only during certain months, or open enrollment periods. Open enrollment generally begins in the fall and lasts a few months.

Automobile and Homeowner's Insurance Rate Regulation

Automobile and Homeowner's Insurance Rates Subject to Rate Approval Process. In 1988, California voters approved Proposition 103, which requires that rates for certain types of insurance—including automobile and homeowner's insurance—not be excessive, inadequate, or unfairly discriminatory. (Health insurance is not currently subject to Proposition 103 requirements.) Proposition 103 requires the Commissioner to review and approve proposed rates before such rates take effect. The Commissioner may hold a public hearing on any proposed rate. In addition, a consumer or a consumer representative can challenge a proposed rate and request a public hearing. The Commissioner is required to grant a request for a public hearing when proposed rate changes exceed certain percentages. The Commissioner has the final authority to approve or reject proposed rates. The Commissioner's rate decision can be appealed to the courts by consumers, consumer representatives, or insurance companies.

Proposal

Individual and Small Group Health Insurance Rates Must Be Approved by the Commissioner. The measure makes current and future individual and small group health insurance rates—including rates for health insurance that is regulated by CDI or DMHC—subject to the rate approval process established under Proposition 103. The measure also states that rates proposed after November 6, 2012 must be approved by the Commissioner, and payments based on rates in effect on November 6, 2012 are subject to refund. There is some legal uncertainty about whether the Commissioner could require health insurance companies to issue refunds for health insurance no longer in effect.

The measure also broadly defines "rates" in a way that includes other factors beyond premiums, such as benefits, copayments, and deductibles. While there is some uncertainty regarding how this provision would be interpreted, it likely would not give the Commissioner any new authority to approve characteristics of health insurance products beyond premiums, such as the types of benefits covered.

Existing DMHC Regulatory Authority Would Remain in Place. Under the measure, DMHC would continue to regulate certain types of health insurance and have the authority to *review* certain health insurance rates. However, the Commissioner would have the sole authority to *approve* the rates.

Insurance Filing Fees Collected to Pay for State Administrative Costs. Any additional administrative costs to CDI resulting from the measure would be financed by increased fees paid by health insurance companies.

Prohibition on Consideration of Credit History and Prior Insurance Coverage. The measure also prohibits the use of an individual's credit history or the absence of prior insurance coverage for determining rates or eligibility for health, automobile, or homeowner's insurance.

Analysis by the Legislative Analyst

Continued

Current law already generally prohibits the use of such factors when determining rates or eligibility for health insurance. Current law allows some use of credit history or prior insurance coverage when determining rates or eligibility for automobile and homeowner's insurance. However, in practice, insurance companies generally have not used such factors.

Fiscal Effects

The most significant fiscal effects of this measure on state and local governments, described in detail below, are on state administrative costs. The net additional state administrative costs from this measure would likely **not exceed the low millions of dollars annually, but could be higher in some years**. These costs would be funded from additional fee revenues collected from health insurance companies.

Increased State Administrative Costs for CDI. This measure would result in additional costs for CDI, including costs to review and approve health insurance rates and conduct public hearings on proposed rates. These ongoing costs would likely not exceed the low millions of dollars annually. The amount of additional costs would depend on several factors, including how often CDI or consumer representatives challenge proposed rates. The costs could be somewhat higher in the initial years after the measure takes effect. For example, there would be additional one-time costs if CDI reassessed rates that are currently in effect.

Unclear Effects on DMHC's Administrative Costs. The measure does not directly impose new duties on DMHC, but it could affect DMHC's administrative costs. The direction and extent of this potential effect is unclear. For example, over time, the degree to which DMHC would continue to review health insurance rates in light of the rate approval authority given to CDI under the measure is unclear. If DMHC reduced or eliminated its rate review activities, this would result in administrative savings of up to several hundred thousand dollars annually. On the other hand, some of DMHC's administrative costs could increase under the measure if actions taken by the Commissioner resulted in additional regulatory workload for DMHC.

Potential Administrative Costs for Covered California. The measure does not impose new duties on Covered California, but it could result in additional administrative costs. The new rate approval process conducted by CDI would likely result in a longer approval process for some individual and small group health insurance products. To the extent there is a long delay in approval for a product, it could result in that product not being offered during an open enrollment period. This could, in turn, have fiscal effects on Covered California. For example, there could be additional costs to provide consumer assistance to individuals who switch to a different health insurance company. It is unclear whether long delays in rate approvals would occur under the measure or, if they do occur, how often they would occur.

Visit *http://cal-access.sos.ca.gov* for details about money contributed in this contest.

For the full text of Proposition 45, see page 67.

★ Argument in Favor of Proposition 45 ★

Proposition 45 Will Stop Excessive Health Insurance Rate Hikes

Health insurance premiums have risen 185% since 2002, five times the rate of inflation.

Even when premium increases are found to be unreasonable, no one in California has the power to stop them!

That's why Californians recently faced $250 million in rate hikes that state regulators found to be "unreasonable" but could not stop.

Proposition 45 requires health insurance companies to open their books and publicly justify rate hikes, under penalty of perjury, *before* they can raise premiums for 5.8 million individual consumers and small business owners.

Proposition 45 will:

- Require disclosure by making public the documents filed by insurers to justify rate increases.
- Promote transparency by allowing public hearings and the right to challenge unjustified premium increases.
- Create accountability by giving the insurance commissioner authority to reject excessive rate increases and order refunds.

Proposition 45 protects patients from health insurance company profiteering. Unaffordable insurance leads to unpaid medical bills, the leading cause of personal bankruptcy. Nearly 40% of Americans skip doctor visits or recommended care due to the cost.

Proposition 45 will stop health insurance company price gouging and lower health insurance premiums.

How do we know?

Proposition 45 Extends The Protections Of Another Voter Approved Initiative That Has Saved Consumers Billions

California auto and home insurance companies have been required to justify rate hikes and get permission to raise premiums since 1988.

Since voters enacted these insurance protections (Proposition 103), California is the only state in the nation where auto insurance rates went down over two decades! The Consumer Federation of America reported in November 2013 that California's auto insurance rate regulations have saved California consumers $102 billion by preventing excessive rate increases. Proposition 45 applies these rules to health insurers.

A nationally recognized actuary, who has reviewed health insurance rates in other states, and Consumer Watchdog estimate that Proposition 45 could save Californians $200 million or more per year.

Proposition 45 Is Needed Even More Now That Everyone Is Required To Have Health Insurance

The federal healthcare law does not give regulators the power to stop excessive rate hikes.

As the *Los Angeles Times* editorial board said, "As of 2014, the healthcare reform law will require all adult Americans to obtain health coverage. Regulators ought to have the power to stop insurers from gouging that captive market."

The *San Jose Mercury News* editorialized: "California should join the majority of states across the nation, 36 of 50, that have authority to control health insurance rate hikes."

California's big health insurance companies have already contributed $25.4 million to stop Proposition 45. They blocked legislation for greater transparency and accountability like Proposition 45 for a decade. They want to continue charging you as much as they want. Don't be misled.

Proposition 45 will lower healthcare costs by preventing health insurance companies from jacking up rates and passing on unreasonable costs to consumers.

Join us in support of Proposition 45 to save money on health insurance. Learn more: *www.yeson45.org.*

Thank you.

Deborah Burger, President
California Nurses Association
Jamie Court, President
Consumer Watchdog
Dolores Huerta, Civil Rights Leader

★ Rebuttal to Argument in Favor of Proposition 45 ★

Prop. 45 isn't about controlling health insurance rates—because California just launched a new independent commission this year responsible for controlling health insurance rates and expanding coverage.

Instead, Prop. 45 is really about who has power over health care: the independent commission, or one politician who can take campaign contributions from special interests like insurance companies and trial lawyers.

Prop. 45—Undermines California's New Independent Commission

The independent commission is working to control costs, providing what the *Los Angeles Times* described as "Good News About Health Costs."

But the special interests backing Prop. 45 have a different agenda: GIVE ENORMOUS POWER over health insurance benefits and rates to a single Sacramento politician.

This power grab would sabotage the independent commission with bureaucratic conflicts, lengthy delays and higher costs for consumers—and give powerful special interests more influence over health care.

Prop. 45—Another flawed, costly, deceptive initiative

- Under Prop. 45, ONE POLITICIAN COULD CONTROL THE BENEFITS AND TREATMENT OPTIONS our insurance covers. We shouldn't expose treatment decisions to some politician's political agenda.
- Increases State Administrative COSTS TENS OF MILLIONS EVERY YEAR to fund costly, duplicative bureaucracy and resolve legal questions caused by sponsor's failure to qualify initiative for 2012, as intended.
- HIDDEN AGENDA—COSTLY NEW LAWSUITS. The sponsors made $11 million off legal fees under their last sponsored Proposition; now they're back to make millions more off the costly new health care lawsuits Prop. 45 allows.
- Exempts big corporations.

Join doctors, nurses, patients, clinics and small businesses: VOTE NO on 45.

Gail Nickerson, President
California Association of Rural Health Clinics
Robert A. Moss, MD, President
Medical Oncology Association of Southern California
Kim Stone, President
Civil Justice Association of California

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★ Argument Against Proposition 45 ★

We all want to improve our health care system, but Prop. 45 isn't the reform we need.

Instead, Prop. 45 is a flawed, costly and deceptive initiative drafted to benefit its sponsors and special interest backers—while patients, consumers and taxpayers face higher rates, more costly bureaucracy and new barriers to health care.

Prop. 45 makes things *worse,* not better. That's why California doctors, nurses, patients, clinics, hospitals, taxpayers and small businesses all oppose Prop. 45.

GIVES ONE POLITICIAN TOO MUCH POWER—Proposed Section 1861.17(g)(2)

Prop. 45 gives sweeping control over health care coverage to one elected politician—the insurance commissioner—who can take campaign contributions from trial lawyers, insurance companies and other powerful special interests.

Under Prop. 45, this single politician could CONTROL WHAT BENEFITS AND TREATMENT OPTIONS YOUR INSURANCE COVERS—with virtually no checks and balances to ensure decisions are made to benefit patients and consumers instead of special interests in Sacramento.

"Prop. 45 gives one politician too much power over health care. Treatment decisions should be made by doctors and patients, not someone with a political agenda."—Dr. Jeanne Conry, MD, OB/GYN—Immediate Past President, American College of Obstetrics and Gynecology, District IX

CREATES MORE DUPLICATIVE, COSTLY BUREAUCRACY—Proposed Section 1861.17(e)

Prop. 45 creates even more expensive state bureaucracy, duplicating two other bureaucracies that oversee health insurance rates, causing costly confusion with other regulations and adding more red tape to the health care system.

The non-partisan Legislative Analyst's Office projects the measure could INCREASE STATE ADMINISTRATIVE COSTS TENS OF MILLIONS OF DOLLARS PER YEAR—costs ultimately paid by consumers.

We shouldn't create a costly new, duplicative state bureaucracy when we can't adequately fund our schools, children's health care programs, or other priorities.

CALIFORNIA ALREADY HAS A NEW INDEPENDENT HEALTH CARE COMMISSION

California just established a new independent commission responsible for negotiating health plan rates on behalf of consumers and rejecting health plans if they're too expensive.

This independent commission is working successfully to control costs and expand coverage. We shouldn't allow a politician who can take campaign contributions from special interests to interfere with the commission's work.

EXEMPTS BIG CORPORATIONS—Proposed Section 1861.17(g)(3)

Prop. 45 exempts large corporations, even as it burdens small businesses with costly new regulations and bureaucracy. If we're going to reform health care, it should apply to everyone, not just small businesses and individuals.

FINE PRINT HIDES FRIVOLOUS LAWSUITS—Proposed Section 1861.17(a)

Prop. 45's sponsors are lawyers who made millions profiteering off legal challenges allowed by the last proposition they sponsored, according to the *San Diego Union-Tribune*. They've hidden the same provision in Prop. 45, allowing them to charge up to $675/hour and make millions more off costly health care lawsuits.

The sponsors will get rich—consumers will pay.

Our health care system is too complex to make major changes through a proposition pushed by one special interest. If we're going to make changes, patients, doctors and hospitals should all be part of the solution.

Vote NO on Prop. 45.

www.StopHigherCosts.org

Monica Weisbrich, R.N., President
American Nurses Association of California
Dr. José Arévalo, M.D., Chair
Latino Physicians of California
Allan Zaremberg, President
California Chamber of Commerce

★ Rebuttal to Argument Against Proposition 45 ★

Californians are being overcharged by the health insurance industry. Proposition 45 will protect consumers and help stop the insurance industry's price gouging. It applies California's existing auto insurance protections, which have saved consumers billions, to health insurance.

Five health insurance companies that control 88% of California's insurance market have raised $25,300,000 against Prop. 45: Blue Cross and parent company Wellpoint, Kaiser, Blue Shield, Health Net and United Healthcare. They want to keep charging you as much as possible without accountability, transparency or disclosure.

When did health insurance companies ever spend $25 million to save you money on your health insurance or to make your healthcare better?

Here are the facts:

- Prop. 45 will not limit your benefits or treatment options, only how much you pay for health insurance. That's why the California Nurses Association, representing 85,000 Registered Nurses, supports Prop. 45.
- There is no "commission" in California, or federally, that has the power to stop unreasonable health insurance rates. That's why Prop. 45 authorizes our elected insurance commissioner to reject excessive rate hikes. No insurance commissioner has accepted campaign contributions from insurance companies since 2000. No wonder health insurers are worried!
- Prop. 45 won't create a new bureaucracy. It requires health insurance companies to pay for its implementation and obey the same rules, from voter-approved Prop. 103, that apply to other insurance companies. The insurance companies fear these rules and the consumer challenges to excessive rates that have cancelled billions in overcharges by auto, home and business insurers. *www.yeson45.org*

Dr. Paul Song, Co-Chair
Campaign For A Healthy California
Henry L. "Hank" Lacayo, State President
Congress of California Seniors
Harvey Rosenfield, Author of 1988 insurance reform Proposition 103

Drug and Alcohol Testing of Doctors. Medical Negligence Lawsuits. Initiative Statute.

Official Title and Summary — Prepared by the Attorney General

Drug and Alcohol Testing of Doctors. Medical Negligence Lawsuits. Initiative Statute.

- Requires drug and alcohol testing of doctors and reporting of positive test to the California Medical Board.
- Requires Board to suspend doctor pending investigation of positive test and take disciplinary action if doctor was impaired while on duty.
- Requires doctors to report any other doctor suspected of drug or alcohol impairment or medical negligence.
- Requires health care practitioners to consult state prescription drug history database before prescribing certain controlled substances.
- Increases $250,000 cap on pain and suffering damages in medical negligence lawsuits to account for inflation.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased state and local government health care costs from raising the cap on medical malpractice damages, likely ranging from the tens of millions of dollars to several hundred million dollars annually.
- Uncertain, but potentially significant, state and local government savings from new requirements on health care providers, such as provisions related to prescription drug monitoring and alcohol and drug testing of physicians. These savings would offset to some extent the health care costs noted above.

Analysis by the Legislative Analyst

Background

This measure has several provisions that relate to health care provider conduct and patient safety. Specifically, the measure's primary provisions relate to medical malpractice, prescription drug monitoring, and alcohol and drug testing for physicians. Below, we provide background information on some of these topics and describe the major role state and local governments have in paying for health care services in California.

State and Local Governments Pay for a Substantial Amount of Health Care

The state and local governments in California spend tens of billions of dollars annually on health care services. These costs include purchasing services directly from health care providers (such as physicians and pharmacies), operating health care facilities (such as hospitals and clinics), and paying premiums to health insurance companies. The major types of public health care spending are:

- ***Health Coverage for Government Employees and Retirees.*** The state, public universities, cities, counties, school districts, and other local governments in California pay for a significant portion of health costs for their employees and their families and for some retirees. Together, state and local governments pay about $20 billion annually for employee and retiree health benefits.
- ***Medi-Cal***. In California, the federal-state Medicaid program is known as Medi-Cal. Medi-Cal pays about $17 billion annually from the state General Fund to provide health care to over 10 million low-income persons.

- ***State-Operated Mental Hospitals and Prisons.*** The state operates facilities, such as mental hospitals and prisons, that provide direct health care services.
- ***Local Government Health Programs.*** Local governments—primarily counties—pay for many health care services, mainly for low-income individuals. Some counties operate hospitals and clinics that provide health care services.

Medical Malpractice

Persons Injured While Receiving Health Care May Sue for Medical Malpractice. Persons injured while receiving health care may sue health care providers—typically physicians—for medical malpractice. In a medical malpractice case, the person suing must prove that he or she was injured as a result of the health care provider's negligence—a failure to follow an appropriate standard of care. The person must also prove some harm resulted from the provider's negligence. Damages awarded in medical malpractice cases include:

- ***Economic Damages***—payments to a person for the financial costs of an injury, such as medical bills or loss of income.
- ***Noneconomic Damages***—payments to a person for items other than financial losses, such as pain and suffering.

Attorneys working malpractice cases are typically paid a fee that is based on the damages received by the injured person—also known as a contingency fee. Most medical malpractice claims—as with lawsuits in general—are settled outside of court.

How Health Care Providers Cover Malpractice Costs. Health care providers usually pay the costs of medical malpractice claims—including damages and legal costs—in one of two ways:

- ***Purchasing Medical Malpractice Insurance.*** The provider pays a monthly premium to an insurance company and, in turn, the company pays the costs of malpractice claims.
- ***Self-Insurance.*** Sometimes the organization a provider works for or with—such as a hospital or physician group—directly pays the costs of malpractice claims. This is often referred to as self-insurance.

These malpractice costs are roughly 2 percent of total annual health care spending in California.

Medical Injury Compensation Reform Act (MICRA). In 1975, the Legislature enacted MICRA in response to a concern that high medical malpractice costs would limit the number of doctors practicing medicine in California. The act made several changes intended to limit malpractice liability, including limiting the size of medical malpractice claims. For example, it established a $250,000 cap on noneconomic damages that may be awarded to an injured person. (There is no cap on economic damages.)

The act also established a cap on fees going to attorneys representing injured persons in malpractice cases. The percentage that can go to these attorneys depends on the amount of damages awarded, with the percentage declining as the amount of the award grows. For example, attorneys cannot receive more than 40 percent of the first $50,000 recovered or more than 15 percent of the amount recovered greater than $600,000.

Prescription Drug Abuse and Monitoring

Prescription Drug Monitoring Programs. Use of prescription drugs for nonmedical purposes (such as for recreational use) is often referred to as prescription drug abuse. Largely in response to a growing concern about prescription drug abuse, almost all states—including California—have a prescription drug monitoring program. Such a program typically involves an electronic database that gathers information about the prescribing and dispensing of certain drugs. This information is used to reduce prescription drug abuse, among

For the full text of Proposition 46, see page 68.

other things. For example, it is used to identify potential "doctor shoppers"—persons obtaining prescriptions from many different physicians over a short period of time with the intent to abuse or resell the drugs for profit.

California's Prescription Drug Monitoring Program. The state Department of Justice (DOJ) administers California's prescription drug monitoring program, which is known as the Controlled Substance Utilization Review and Evaluation System (CURES). For certain types of prescription drugs, a pharmacy is required to provide specified information to DOJ on the patient—including name, address, and date of birth. The types of prescription drugs that are subject to reporting are generally those that have potential for abuse.

Health Care Providers Required to Register for, but Not Check, CURES Beginning in 2016. Certain health care providers—such as physicians and pharmacists—are allowed to review a patient's prescription drug history in CURES. (Some other persons—such as certain law enforcement officials—also have access to CURES.) In some cases, checking the system prior to prescribing or dispensing drugs can prevent prescription drug abuse or improve clinical care.

In order to review a patient's drug history in CURES, a user must first register to use the system. Providers, however, are not currently required to register. (About 12 percent of all eligible providers are now registered.) Beginning January 1, 2016, providers will be required to register. Even then, as currently, providers will not be required to check the database prior to prescribing or dispensing drugs.

CURES Upgrades Scheduled to Be Complete in Summer 2015. Currently, CURES does not have sufficient capacity to handle the higher level of use that is expected to occur when providers are required to register beginning in 2016. The state is currently in the process of upgrading CURES. These upgrades are scheduled to be complete in the summer of 2015.

The Medical Board of California Regulates Physician Conduct

The Medical Board of California (Board) licenses and regulates physicians, surgeons, and certain other health care professionals. The Board is also responsible for investigating complaints and disciplining physicians and certain other health professionals who violate the laws that apply to the practice of medicine. Such violations include failure to follow an appropriate standard of care, illegally prescribing drugs, and drug abuse.

Proposal

Raises Cap on Noneconomic Damages for Medical Malpractice. Beginning January 1, 2015, this measure adjusts the current $250,000 cap on noneconomic damages in medical malpractice cases to reflect the increase in inflation since the cap was established—effectively raising the cap to $1.1 million. The cap on the amount of damages would be adjusted annually thereafter to reflect any increase in inflation.

Requires Health Care Providers to Check CURES. This measure requires health care providers, including physicians and pharmacists, to check CURES prior to prescribing or dispensing certain drugs to a patient for the first time. Providers would be required to check the database for drugs that have a higher potential for abuse, including such drugs as OxyContin, Vicodin, and Adderall. If the check of CURES finds that the patient already has an existing prescription for one of these drugs, the health care provider must determine if there is a legitimate need for another one.

Requires Hospitals to Conduct Alcohol and Drug Testing on Physicians. This measure requires hospitals to conduct testing for drugs and alcohol on physicians who are affiliated with the hospital. There are currently no requirements for

hospitals to test physicians for alcohol and drugs. The measure requires that testing be done randomly and in two specific instances:

- When a physician was responsible for the care and treatment of a patient within 24 hours prior to an adverse event. (Adverse events include such things as mistakes made during surgery, injuries associated with medication errors, or any event that causes the death or serious disability of a patient.)
- When a physician is the subject of a report of possible drug or alcohol use while on duty or failure to follow the appropriate standard of care (discussed below).

The hospital would be required to bill the physician for the cost of the test. The hospital would also be required to report any positive test results, or the willful failure or refusal of a physician to submit to the test, to the Board.

Requires Medical Board to Discipline Physicians Found to Be Impaired. If the Board finds that a physician was impaired by drugs or alcohol while on duty or during an adverse event, or that a physician refused or failed to comply with drug and alcohol testing, the Board must take specified disciplinary action against the physician. This action may include suspension of the physician's license. The measure requires the Board to assess an annual fee on physicians to pay the costs of administering the measure and taking enforcement actions.

Requires Reporting of Suspected Physician Misconduct to the Medical Board. The measure requires physicians to report to the Board any information known to them that appears to show another physician was impaired by drugs or alcohol while on duty, or that a physician who treated a patient during an adverse event failed to follow the appropriate standard of care. In most cases, individual physicians are not currently required to report this information.

Fiscal Effects

This measure would likely have a wide variety of fiscal effects on state and local governments—many of which are subject to substantial uncertainty. We describe the major potential fiscal effects below.

Effects of Raising Cap on Noneconomic Damages in Medical Malpractice Cases

Raising the cap on noneconomic damages would likely increase overall health care spending in California (both governmental and nongovernmental) by: (1) increasing direct medical malpractice costs and (2) changing the amount and types of health care services provided.

Higher Direct Medical Malpractice Costs. Raising the cap on noneconomic damages would likely affect direct medical malpractice costs in the following ways:

- ***Higher Damages.*** A higher cap would increase the amount of damages in many malpractice claims.
- ***Change in the Number of Malpractice Claims.*** Raising the cap would also change the total number of malpractice claims, although it is unclear whether the total number of claims would increase or decrease. For example, raising the cap would likely encourage health care providers to practice medicine in a way that decreases the number of medical malpractice claims. (We discuss this change in behavior further below.) On the other hand, raising the cap would increase the amount of damages—thereby increasing the amount that could potentially go to an attorney representing an injured party on a contingency-fee basis. This, in turn, makes it more likely that an attorney would be willing to represent an injured party, thereby increasing the number of claims.

For the full text of Proposition 46, see page 68.

On net, these changes would likely result in higher medical malpractice costs, and thus higher total health care spending, in California. Based on studies looking at other states' experience, we estimate that the increase in medical malpractice costs could range from 5 percent to 25 percent. Since medical malpractice costs are currently about 2 percent of total health care spending, raising the cap would likely increase total health care spending by 0.1 percent to 0.5 percent.

Costs Due to Changes in Health Care Services Provided. Raising the cap would also affect the amount and types of health care services provided in California. As discussed earlier, raising the cap on noneconomic damages would likely encourage health care providers to change how they practice medicine in an effort to avoid medical malpractice claims. Such changes in behavior would increase health care costs in some instances and decrease health care costs in other instances. For example, a physician may order a test or procedure for a patient that he or she would not have otherwise ordered. This could affect health care costs in different ways:

- The additional test or procedure could reduce future health care costs by preventing a future illness.
- The additional test or procedure could simply increase the total costs of health care services, with little or no future offsetting savings.

Based on studies looking at other states' experience, we estimate that this would result in a net increase in total health care spending. We estimate this spending would increase by 0.1 percent to 1 percent.

Annual Government Costs Likely Ranging From Tens of Millions to Several Hundred Million Dollars. As noted earlier, state and local governments pay for tens of billions of dollars of health care services annually. Our analysis assumes additional costs for health care providers—such as higher direct medical malpractice costs—are generally passed along to purchasers of health care services, such as governments. In addition, we assume state and local governments will have net costs associated with changes in the amount and types of health care services.

There would likely be a very small percentage increase in health care costs in the economy overall as a result of raising the cap. However, even a small percentage change in health care costs could have a significant effect on government health care spending. For example, a 0.5 percent increase in state and local government health care costs in California as a result of raising the cap (which is within the range of potential cost increases discussed above) would increase government costs by roughly a couple hundred million dollars annually. Given the range of potential effects on health care spending, we estimate that state and local government health care costs associated with raising the cap would likely range from **the tens of millions of dollars to several hundred million dollars annually**. The state portion of these costs would be less than 0.5 percent of the state's annual General Fund budget.

Effects of Requirement to Check CURES and Physician Alcohol and Drug Testing

The other provisions of the measure that could have significant fiscal effects on state and local governments are: (1) the requirement that certain health care providers check CURES and (2) the requirement that hospitals conduct physician alcohol and drug testing.

Effects of Requirement to Check CURES. Many providers will not be able to check CURES until at least the summer of 2015, when the system upgrades are scheduled to be complete. Once the CURES upgrades are complete, this measure would result in health care providers checking CURES more often because of the measure's requirement that they do so. Checking CURES more often could have many fiscal effects, including:

Analysis by the Legislative Analyst **Continued**

- ***Lower Prescription Drug Costs.*** Providers checking CURES would be more likely to identify potential doctor shoppers and, in turn, reduce the number of prescription drugs dispensed. Fewer prescriptions being dispensed would result in lower prescription drug costs.
- ***Lower Costs Related to Prescription Drug Abuse.*** Fewer prescriptions being dispensed would likely reduce the amount of prescription drug abuse. This, in turn, would result in lower governmental costs associated with prescription drug abuse, such as law enforcement, social services, and other health care costs. These savings could be lessened due to other behavioral changes as a result of the measure. For example, drug abusers may find other ways to obtain prescription drugs.
- ***Additional Costs Related to Checking CURES.*** Certain health care providers would be required to take additional time to check CURES. As a result, they would have less time for other patient care activities. This could result in additional costs for hospitals or pharmacies needing to hire additional staff to provide care to the same number of patients. Some of these cost increases would eventually be passed on to government purchasers of health care services in the form of higher prices.

Effects of Physician Alcohol and Drug Testing. The requirement to test physicians for alcohol and drugs could have several different fiscal effects, including:

- ***Savings From Fewer Medical Errors.*** Physician testing would likely prevent some medical errors. For example, alcohol and drug testing would deter some physicians from using alcohol or drugs while on duty and, in turn, result in fewer medical errors. Fewer medical errors would decrease overall health care spending.
- ***Costs of Performing Tests.*** The measure requires hospitals to bill physicians for the cost of alcohol or drug testing. This would increase costs for providers and some of these costs would be passed along to state and local governments in the form of higher prices for health care services provided by physicians.
- ***State Administrative Costs.*** The measure's alcohol and drug test requirements would create state administrative costs, including costs for the Board to enforce the measure. These administrative costs would likely be less than a million dollars annually, to be paid for by a fee assessed on physicians.

Uncertain, but Potentially Significant, Net Savings to State and Local Governments. On net, the requirements to check CURES and test physicians for alcohol and drugs would likely result in annual savings to state and local governments. The amount of annual savings is highly uncertain, but potentially significant. These savings would offset to some extent the increased governmental costs from raising the cap on noneconomic damages (discussed above).

Visit *http://cal-access.sos.ca.gov* for details about money contributed in this contest.

For the full text of Proposition 46, see page 68.

★ Argument in Favor of Proposition 46 ★

PROPOSITION 46 WILL SAVE LIVES.

Preventable medical errors kill up to 440,000 people each year, making medical negligence the third leading cause of death in this country behind only heart disease and cancer.

Bob Pack is sponsoring Proposition 46 because a drugged driver killed Bob's children after multiple doctors recklessly prescribed narcotics to her. Bob wants to prevent such a tragedy from happening to other families. Proposition 46 will save lives in three ways:

1. PROPOSITION 46 WILL DETER NEGLIGENCE BY HOLDING DOCTORS ACCOUNTABLE FOR MEDICAL ERRORS.

- It holds doctors accountable when they commit negligence, including while impaired by drugs or alcohol, by adjusting for inflation the current cap of $250,000 on pain and suffering damages for victims of medical negligence like Troy and Alana Pack.
- The Legislature set the cap in 1975 and has never adjusted it for inflation. While the cost of everything else has increased significantly since then, the value of a life has not increased one penny in 39 years.
- Proposition 46 retains the current limit on attorneys' fees in medical negligence cases.

2. PROPOSITION 46 WILL SAVE LIVES BY CRACKING DOWN ON PRESCRIPTION DRUG ABUSE.

- A recent *LA Times* investigation showed that drugs prescribed by doctors caused or contributed to nearly half of the accidental prescription overdose deaths in four Southern California counties.
- Proposition 46 requires doctors to check the existing statewide database before prescribing addictive painkillers and other narcotics to a first time patient.

3. PROPOSITION 46 WILL SAVE LIVES BY PROTECTING PATIENTS FROM IMPAIRED DOCTORS.

- The California Medical Board reported that experts estimate nearly one in five health professionals suffers from substance abuse during their lifetimes.
- Doctors under the influence of drugs and alcohol cause medical errors, but most substance abuse goes undetected because doctors are not tested.

PROPOSITION 46 REQUIRES:

- Random drug and alcohol testing of doctors using the same proven federal testing program that works with pilots.
- Suspension of a doctor who tests positive and disciplinary action if the doctor was impaired on duty.

THE FACTS:

- Millions of Californians are drug tested at work yet California doesn't require doctors to be tested.
- Drug testing is required for pilots, bus drivers, and other safety workers—but not doctors.
- Drug testing can save lives. That's why random drug testing of doctors is supported by leading medical safety experts, consumer advocates, the Inspector General of the federal agency responsible for overseeing health care, and by doctors who themselves have abused drugs.
- Dr. Stephen Loyd, an internist who practiced medicine while abusing drugs and who is now recovering, said: "I worked impaired every day; looking back, it scares me to death, what I could have done. My patients and my colleagues never knew I was using."

Join Bob Pack, consumer groups, health care professionals and victims of medical negligence in voting YES on Proposition 46 (*www.yeson46.org*) so we can improve patient safety, hold doctors accountable, and save lives by making sure no one has an intoxicated doctor treating them or a loved one.

Bob Pack, Father of victims of preventable medical error, Troy and Alana Pack
Carmen Balber, Executive Director
Consumer Watchdog
Henry L. "Hank" Lacayo, State President
Congress of California Seniors

★ Rebuttal to Argument in Favor of Proposition 46 ★

Prop. 46 is before you for one reason—to make it easier for trial lawyers to sue doctors and profit from these lawsuits. It's simple. When you increase the cap, you automatically increase trial lawyer profits.

46's sponsors claim this is about drug testing doctors . . . but the lawyers who wrote and funded this measure have NEVER gone to the State Legislature to propose drug testing of doctors.

They have, however, sponsored 3 different proposals to get the State Legislature to raise the cap on lawsuits and make it easier to sue our family doctors. All 3 times the Legislature rejected them. And no less than 10 times, trial lawyers have asked the courts to strike down the cap. Each time, the courts, including the California Supreme Court, found the cap serves its purpose by keeping costs contained, which preserves your access to affordable healthcare.

Lawyers paid to put this on the ballot, making the bold claim it will "save lives." They cite false statistics to defend this political rhetoric. Much as we wish a ballot initiative could actually save lives, this one will not.

But doctors and nurses DO save lives. They take a solemn oath to care for their patients. They believe 46 would force many California doctors, specialists and healthcare professionals to close their practices. How can that benefit anyone?

Please go to *www.NoOn46.com* to see why over 500 different community based groups throughout the state, concerned about access to healthcare for everyone, say VOTE NO on 46.

Tricia Hunter, RN, Executive Director
American Nurses Association, California
Tom Scott
California Citizens Against Lawsuit Abuse
Betty Jo Toccoli, President
California Small Business Association

Arguments printed on this page are the opinion of the authors, and have not been checked for accuracy by any official agency.

★ Argument Against Proposition 46 ★

California special interests have a history of qualifying ballot propositions that appear to be about one thing but are really about another. Here's another one.

Proposition 46 uses alcohol and drug testing of doctors to disguise the real intent—to increase a limit on the amount of medical malpractice lawsuit awards.

This measure does three things:

- Quadruples the limit on medical malpractice awards in California, which will cost taxpayers hundreds of millions of dollars every year, and cause many doctors and other medical care professionals to quit their practice or move to places with lower medical malpractice insurance premiums.
- Threatens your privacy by requiring a massive expansion of the use of a personal prescription drug database.
- Requires alcohol and drug testing of doctors, which was only added to this initiative to distract from the main purpose.

Vote No on Prop. 46

This measure is not on the ballot because someone thinks we need to drug test doctors. Prop. 46 was written and paid for exclusively by trial lawyers who will profit from its passage. If they get their way, malpractice lawsuits and trial attorney awards will skyrocket. And we will pay the costs.

Raising the Limit on Medical Malpractice Awards

Lawyers want to quadruple the limit of awards that the state allows for medical malpractice lawsuits. Here are the consequences:

- *Increased Health Insurance Costs:* If medical malpractice awards go up, health insurance companies will raise their rates to cover their increased costs. When health care insurance companies raise their rates, we all pay more in health care premiums.
- *Increased Taxes and Fees:* State and county hospitals pay their own medical malpractice insurance premiums. When health insurance companies raise their rates, state and county governments will have to find a way to cover the new costs. They will either cut services or raise taxes and fees. In fact, the independent Legislative Analyst estimates the increased state and local costs to be "hundreds of millions of dollars . . .." We will pay either way.
- *Access to Health Care Reduced:* If California raises their cap, many doctors and other health care professionals will move to states with lower malpractice insurance rates. Some will give up their practice. This could cause you to lose your doctor. Which is why the California Association of Rural Health Clinics opposes Prop. 46.

Prescription Drug Database

Prop. 46 mandates that doctors consult an online database of Californians' personal prescription drug history. This database is controlled by the state government in an age when it's already too easy for government to violate our privacy.

Government websites, including the DMV and the Pentagon, have a history of being hacked. Vote No to prevent reliance on another computer database that no one can assure will be secure.

In Summary

The consequences of Prop. 46 far outweigh any benefits: higher costs of health care, higher taxes, lost access to doctors, loss of privacy, and risking that our personal prescription drug history will be compromised and made available for anyone to see.

Please vote no.

Donna Emanuele, RN, President
California Association of Nurse Practitioners
Ann-Louise Kuhns, President
California Children's Hospital Association
Stuart Cohen, MD, Chair
American Academy of Pediatrics, California

★ Rebuttal to Argument Against Proposition 46 ★

As mothers who lost children to medical negligence, we want to prevent our tragedies from happening to others, but insurance companies are spending millions against Proposition 46's reforms.

Please consider the facts:

Requiring random drug and alcohol testing of doctors will address a serious problem reported by *USA Today*: 103,000 U.S. medical professionals annually abuse illicit drugs.

That's why Mothers Against Drunk Driving Founder Candace Lightner supports Proposition 46.

The U.S. Health and Human Services Department's Inspector General has called for testing doctors.

Pilots, hospital workers, and millions of Californians are tested, but California doesn't require doctors to be tested.

Requiring doctors to check California's drug database before prescribing new patients narcotics will:

Protect privacy: The existing Department of Justice database is secure. That's why Consumer Watchdog supports 46.

Save money: The U.S. Health and Human Services Department's former insurance oversight director estimates it can save California hundreds of millions annually.

Adjusting the $250,000 cap on compensation for human suffering in medical negligence cases for 39 years of inflation will fairly value lives and hold doctors accountable.

Barbara Boxer, Nancy Pelosi and Erin Brockovich support 46 because the cap disproportionately harms women and children.

Proposition 46 *won't limit access to health care:* statistics show that people in most states *without* caps have better access to doctors than Californians do.

California's Insurance Commissioner *holds down doctors' insurance costs* by regulating rates.

Up to 440,000 people die annually from preventable medical errors. *Help us save lives—VOTE YES.*

Sarah Hitchcock-Glover, R.N., Mother of victim of preventable medical error, Adam Glover
Alejandra Gonzalez, Mother of victim of preventable medical error, Mia Chavez
Jennifer Westhoff, Mother of victim of preventable medical error, Morgan Westhoff

Official Title and Summary — Prepared by the Attorney General

Criminal Sentences. Misdemeanor Penalties. Initiative Statute.

- Requires misdemeanor sentence instead of felony for certain drug possession offenses.
- Requires misdemeanor sentence instead of felony for the following crimes when amount involved is $950 or less: petty theft, receiving stolen property, and forging/writing bad checks.
- Allows felony sentence for these offenses if person has previous conviction for crimes such as rape, murder, or child molestation or is registered sex offender.
- Requires resentencing for persons serving felony sentences for these offenses unless court finds unreasonable public safety risk.
- Applies savings to mental health and drug treatment programs, K–12 schools, and crime victims.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Net state criminal justice system savings that could reach the low hundreds of millions of dollars annually. These savings would be spent on school truancy and dropout prevention, mental health and substance abuse treatment, and victim services.
- Net county criminal justice system savings that could reach several hundred million dollars annually.

Analysis by the Legislative Analyst

Background

There are three types of crimes: felonies, misdemeanors, and infractions. A felony is the most serious type of crime. Existing law classifies some felonies as "violent" or "serious," or both. Examples of felonies currently defined as both violent and serious include murder, robbery, and rape. Felonies that are not classified as violent or serious include grand theft (not involving a gun) and possession of illegal drugs. A misdemeanor is a less serious crime. Misdemeanors include crimes such as assault and public drunkenness. An infraction is the least serious crime and is usually punished with a fine. For example, possession of less than one ounce of marijuana for personal use is an infraction.

Felony Sentencing. In recent years, there has been an average of about 220,000 annual felony convictions in California. Offenders convicted of felonies can be sentenced as follows:

- ***State Prison.*** Felony offenders who have current or prior convictions for serious, violent, or sex crimes can be sentenced to state prison. Offenders who are released from prison after serving a sentence for a serious or violent crime are supervised in the community by state parole agents. Offenders who are released from prison after serving a sentence for a crime that is not a serious or violent crime are usually supervised in the community by county probation officers. Offenders who break the rules that they are required to follow while supervised in the community can be sent to county jail or state prison, depending on their criminal history and the seriousness of the violation.
- ***County Jail and Community Supervision.*** Felony offenders who have no current or prior convictions for serious, violent, or sex offenses are typically sentenced to county jail or the supervision of a county probation officer in the community, or both. In addition, depending on the discretion of the judge and what crime was committed, some offenders who have current or prior convictions for serious, violent, or sex offenses can receive similar sentences. Offenders who break the rules that they are required to follow while supervised in the community can be sent to county jail or state prison, depending on their criminal history and the seriousness of the violation.

Misdemeanor Sentencing. Under current law, offenders convicted of misdemeanors may be sentenced to county jail, county community

Analysis by the Legislative Analyst

Continued

supervision, a fine, or some combination of the three. Offenders on county community supervision for a misdemeanor crime may be placed in jail if they break the rules that they are required to follow while supervised in the community.

In general, offenders convicted of misdemeanor crimes are punished less severely than felony offenders. For example, misdemeanor crimes carry a maximum sentence of up to one year in jail while felony offenders can spend much longer periods in prison or jail. In addition, offenders who are convicted of a misdemeanor are usually supervised in the community for fewer years and may not be supervised as closely by probation officers.

Wobbler Sentencing. Under current law, some crimes—such as check forgery and being found in possession of stolen property—can be charged as either a felony or a misdemeanor. These crimes are known as "wobblers." Courts decide how to charge wobbler crimes based on the details of the crime and the criminal history of the offender.

Proposal

This measure reduces penalties for certain offenders convicted of nonserious and nonviolent property and drug crimes. The measure also allows certain offenders who have been previously convicted of such crimes to apply for reduced sentences. In addition, the measure requires any state savings that result from the measure be spent to support truancy (unexcused absences) prevention, mental health and substance abuse treatment, and victim services. These changes are described in more detail below.

Reduction of Existing Penalties

This measure reduces certain nonserious and nonviolent property and drug offenses from wobblers or felonies to misdemeanors. The measure limits these reduced penalties to offenders who have not committed certain severe crimes listed in the measure—including murder and certain sex and gun crimes. Specifically, the measure reduces the penalties for the following crimes:

- ***Grand Theft.*** Under current law, theft of property worth $950 or less is often charged as petty theft, which is a misdemeanor or an infraction. However, such crimes can sometimes be charged as grand theft, which is generally a wobbler. For example, a wobbler charge can occur if the crime involves the theft of certain property (such as cars) or if the offender has previously committed certain theft-related crimes. This measure would limit when theft of property of $950 or less can be charged as grand theft. Specifically, such crimes would no longer be charged as grand theft solely because of the type of property involved or because the defendant had previously committed certain theft-related crimes.
- ***Shoplifting.*** Under current law, shoplifting property worth $950 or less (a type of petty theft) is often a misdemeanor. However, such crimes can also be charged as burglary, which is a wobbler. Under this measure, shoplifting property worth $950 or less would always be a misdemeanor and could not be charged as burglary.
- ***Receiving Stolen Property.*** Under current law, individuals found with stolen property may be charged with receiving stolen property, which is a wobbler crime. Under this measure, receiving stolen property worth $950 or less would always be a misdemeanor.
- ***Writing Bad Checks.*** Under current law, writing a bad check is generally a misdemeanor. However, if the check is worth more than $450, or if the offender has previously committed a crime related to forgery, it is a wobbler crime. Under this measure, it would be a misdemeanor to write a bad check unless the check is worth more than $950 or the offender had previously committed three forgery related crimes, in which case it would remain a wobbler crime.
- ***Check Forgery.*** Under current law, it is a wobbler crime to forge a check of any amount. Under this measure, forging a check worth $950 or less would always be a misdemeanor, except that it would remain a wobbler crime if the offender commits identity theft in connection with forging a check.
- ***Drug Possession.*** Under current law, possession for personal use of most illegal drugs (such as cocaine or heroin) is a misdemeanor, a wobbler, or a felony—depending on the amount and type of drug. Under this measure, such crimes would always be misdemeanors. The measure would not change the penalty for possession of

For the full text of Proposition 47, see page 70.

marijuana, which is currently either an infraction or a misdemeanor.

We estimate that about 40,000 offenders annually are convicted of the above crimes and would be affected by the measure. However, this estimate is based on the limited available data and the actual number could be thousands of offenders higher or lower.

Change in Penalties for These Offenders. As the above crimes are nonserious and nonviolent, most offenders are currently being handled at the county level. Under this measure, that would continue to be the case. However, the length of sentences—jail time and/or community supervision—would be less. A relatively small portion—about one-tenth—of offenders of the above crimes are currently sent to state prison (generally, because they had a prior serious or violent conviction). Under this measure, none of these offenders would be sent to state prison. Instead, they would serve lesser sentences at the county level.

Resentencing of Previously Convicted Offenders

This measure allows offenders currently serving felony sentences for the above crimes to apply to have their felony sentences reduced to misdemeanor sentences. In addition, certain offenders who have already completed a sentence for a felony that the measure changes could apply to the court to have their felony conviction changed to a misdemeanor. However, no offender who has committed a specified severe crime could be resentenced or have their conviction changed. In addition, the measure states that a court is not required to resentence an offender currently serving a felony sentence if the court finds it likely that the offender will commit a specified severe crime. Offenders who are resentenced would be required to be on state parole for one year, unless the judge chooses to remove that requirement.

Funding for Truancy Prevention, Treatment, and Victim Services

The measure requires that the annual savings to the state from the measure, as estimated by the Governor's administration, be annually transferred from the General Fund into a new state fund, the Safe Neighborhoods and Schools Fund. Under the measure, monies in the fund would be divided as follows:

- 25 percent for grants aimed at reducing truancy and drop-outs among K–12 students in public schools.
- 10 percent for victim services grants.
- 65 percent to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail.

Fiscal Effects

This measure would have a number of fiscal effects on the state and local governments. The size of these effects would depend on several key factors. In particular, it would depend on the way individuals are currently being sentenced for the felony crimes changed by this measure. Currently, there is limited data available on this, particularly at the county level. The fiscal effects would also depend on how certain provisions in the measure are implemented, including how offenders would be sentenced for crimes changed by the measure. For example, it is uncertain whether such offenders would be sentenced to jail or community supervision and for how long. In addition, the fiscal effects would depend heavily on the number of crimes affected by the measure that are committed in the future. Thus, the fiscal effects of the measure described below are subject to significant uncertainty.

State Effects of Reduced Penalties

The proposed reduction in penalties would affect state prison, parole, and court costs.

State Prison and Parole. This measure makes two changes that would reduce the state prison population and associated costs. First, changing future crimes from felonies and wobblers to misdemeanors would make fewer offenders eligible for state prison sentences. We estimate that this could result in an ongoing reduction to the state prison population of several thousand inmates within a few years. Second, the resentencing of inmates currently in state prison could result in the release of several thousand inmates, temporarily reducing the state prison population for a few years after the measure becomes law.

In addition, the resentencing of individuals currently serving sentences for felonies that are changed to misdemeanors would temporarily increase the state parole population by a couple thousand parolees over a three-year period. The costs associated with this

Analysis by the Legislative Analyst

Continued

increase in the parole population would temporarily offset a portion of the above prison savings.

State Courts. Under the measure, the courts would experience a one-time increase in costs resulting from the resentencing of offenders and from changing the sentences of those who have already completed their sentences. However, the above costs to the courts would be partly offset by savings in other areas. First, because misdemeanors generally take less court time to process than felonies, the proposed reduction in penalties would reduce the amount of resources needed for such cases. Second, the measure would reduce the amount of time offenders spend on county community supervision, resulting in fewer offenders being supervised at any given time. This would likely reduce the number of court hearings for offenders who break the rules that they are required to follow while supervised in the community. Overall, we estimate that the measure could result in a net increase in court costs for a few years with net annual savings thereafter.

Summary of State Fiscal Effects. In total, we estimate that the effects described above could eventually result in net state criminal justice system savings in the low hundreds of millions of dollars annually, primarily from an ongoing reduction in the prison population of several thousand inmates. As noted earlier, any state savings would be deposited in the Safe Neighborhoods and Schools Fund to support various purposes.

County Effects of Reduced Penalties

The proposed reduction in penalties would also affect county jail and community supervision operations, as well as those of various other county agencies (such as public defenders and district attorneys' offices).

County Jail and Community Supervision. The proposed reduction in penalties would have various effects on the number of individuals in county jails. Most significantly, the measure would reduce the jail population as most offenders whose sentence currently includes a jail term would stay in jail for a shorter time period. In addition, some offenders currently serving sentences in jail for certain felonies could be eligible for release. These reductions would be slightly offset by an increase in the jail population as offenders who would otherwise have been sentenced to state prison would now be placed in jail. On balance, we estimate that the total number of statewide county jail beds freed up by these changes could reach into the low tens of thousands annually within a few years. We note, however, that this would not necessarily result in a reduction in the county jail population of a similar size. This is because many county jails are currently overcrowded and, therefore, release inmates early. Such jails could use the available jail space created by the measure to reduce such early releases.

We also estimate that county community supervision populations would decline. This is because offenders would likely spend less time under such supervision if they were sentenced for a misdemeanor instead of a felony. Thus, county probation departments could experience a reduction in their caseloads of tens of thousands of offenders within a few years after the measure becomes law.

Other County Criminal Justice System Effects. As discussed above, the reduction in penalties would increase workload associated with resentencing in the short run. However, the changes would reduce workload associated with both felony filings and other court hearings (such as for offenders who break the rules of their community supervision) in the long run. As a result, while county district attorneys' and public defenders' offices (who participate in these hearings) and county sheriffs (who provide court security) could experience an increase in workload in the first few years, their workload would be reduced on an ongoing basis in the long run.

Summary of County Fiscal Effects. We estimate that the effects described above could result in net criminal justice system savings to the counties of several hundred million dollars annually, primarily from freeing jail capacity.

Effects of Increased Services Funded by the Measure

Under the measure, the above savings would be used to provide additional funding for truancy prevention, mental health and drug abuse treatment, and other programs designed to keep offenders out of prison and jail. If such funding increased participation in these programs and made participants less likely to commit future crimes, the measure could result in future additional savings to the state and counties.

Visit *http://cal-access.sos.ca.gov* for details about money contributed in this contest.

For the full text of Proposition 47, see page 70.

★ Argument in Favor of Proposition 47 ★

PROPOSITION 47 IS SUPPORTED BY LAW ENFORCEMENT, CRIME VICTIMS AND TEACHERS.

We in the law enforcement community have come together in support of Proposition 47 because it will:

- Improve public safety.
- Reduce prison spending and government waste.
- Dedicate hundreds of millions of dollars to K–12 schools, crime victim assistance, mental health treatment and drug treatment.

Proposition 47 is sensible. It focuses law enforcement dollars on violent and serious crime while providing new funding for education and crime prevention programs that will make us all safer.

Here's how Proposition 47 works:

- *Prioritizes Serious and Violent Crime:* Stops wasting prison space on petty crimes and focuses law enforcement resources on violent and serious crime by changing low-level nonviolent crimes such as simple drug possession and petty theft from felonies to misdemeanors.
- *Keeps Dangerous Criminals Locked Up:* Authorizes felonies for registered sex offenders and anyone with a prior conviction for rape, murder or child molestation.
- *Saves Hundreds of Millions of Dollars:* Stops wasting money on warehousing people in prisons for nonviolent petty crimes, saving hundreds of millions of taxpayer funds every year.
- *Funds Schools and Crime Prevention:* Dedicates the massive savings to crime prevention strategies in K–12 schools, assistance for victims of crime, and mental health treatment and drug treatment to stop the cycle of crime.

For too long, California's overcrowded prisons have been disproportionately draining taxpayer dollars and law enforcement resources, and incarcerating too many people convicted of low-level, nonviolent offenses.

The objective, nonpartisan Legislative Analyst's Office carefully studied Proposition 47 and concluded that it could save "hundreds of millions of dollars annually, which would be spent on truancy prevention, mental health and substance abuse treatment, and victim services."

The state spends more than $9,000,000,000 per year on the prison system. In the last 30 years California has built 22 new prisons but only one university.

Proposition 47 invests in solutions supported by the best criminal justice science, which will increase safety and make better use of taxpayer dollars.

We are:

- The District Attorney of San Francisco, former Assistant Police Chief for the Los Angeles Police Department, and former Chief of Police for San Francisco.
- The former Chief of Police for the cities of San Diego, San Jose, and Richmond.
- A crime survivor, crime victims' advocate, and widow of a San Leandro police officer killed in the line of duty.

We support Proposition 47 because it means safer schools and neighborhoods.

Joining us in our support of Proposition 47 are other law enforcement leaders and crime victims, teachers, rehabilitation experts, business leaders, civil rights organizations, faith leaders, conservatives and liberals, Democrats, Republicans and independents.

Please join us, and VOTE YES ON PROPOSITION 47.

For more information or to ask questions about Proposition 47 we invite you to visit *VoteYes47.com*.

George Gascon, District Attorney
City and County of San Francisco
William Lansdowne, Former Chief of Police
San Diego, San Jose, Richmond
Dionne Wilson, Victims' Advocate
Crime Survivors for Safety & Justice

★ Rebuttal to Argument in Favor of Proposition 47 ★

This isn't just a poorly written initiative. It is an invitation for disaster. Prosecutors and those concerned about protecting the innocent from violent sexual abuse, identity theft and other serious crimes overwhelmingly oppose Prop. 47. Some opponents include:

- California Coalition Against Sexual Assault
- California District Attorneys Association
- California Fraternal Order of Police
- California Peace Officers Association
- California Police Chiefs Association
- California Retailers Association
- California State Sheriffs' Association
- Crime Victim Action Alliance
- Crime Victims United of California

Regardless of what Prop. 47 supporters intend or say, these respected law enforcement and victims' rights groups want you to know these hard, cold facts:

1. Prop. 47 supporters admit that 10,000 inmates will be eligible for early release. They wrote this measure so that judges will not be able to block the early release of these prison inmates, many of whom have prior convictions for serious crimes, such as assault, robbery and home burglary.
2. It's so poorly drafted that illegal possession of "date-rape" drugs will be reduced to a "slap on the wrist."
3. Stealing any handgun valued at less than $950 will no longer be a felony.
4. California Retailers Association President Bill Dombrowski says "reducing penalties for theft, receiving stolen property and forgery could cost retailers and consumers millions of dollars."
5. There are no "petty" criminals in our prisons any more. First-time, low-level drug offenders are already sent to diversion programs, not prison.

Protect our communities. Vote NO on Prop. 47.

Sandra Henriquez, Executive Director
California Coalition Against Sexual Assault
Adam Christianson, President
California State Sheriffs' Association
Roger Mayberry, President
California Fraternal Order of Police

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ Argument Against Proposition 47 ★

California law enforcement, business leaders, and crime-victim advocates all urge you to vote NO on Proposition 47.

Proposition 47 is a dangerous and radical package of ill-conceived policies wrapped in a poorly drafted initiative, which will endanger Californians.

The proponents of this dangerous measure have already admitted that Proposition 47 will make 10,000 felons eligible for early release. *According to independent analysis, many of those 10,000 felons have violent criminal histories.*

Here is what Prop. 47's backers aren't telling you:

- *Prop. 47 will require the release of thousands of dangerous inmates.* Felons with prior convictions for armed robbery, kidnapping, carjacking, child abuse, residential burglary, arson, assault with a deadly weapon, and many other serious crimes will be eligible for early release under Prop. 47. These early releases will be virtually mandated by Proposition 47. While Prop. 47's backers say judges will be able to keep dangerous offenders from being released early, this is simply not true. Prop. 47 prevents judges from blocking the early release of prisoners except in very rare cases. For example, even if the judge finds that the inmate poses a risk of committing crimes like kidnapping, robbery, assault, spousal abuse, torture of small animals, carjacking or felonies committed on behalf of a criminal street gang, Proposition 47 requires their release.
- *Prop. 47 would eliminate automatic felony prosecution for stealing a gun.* Under current law, stealing a gun is a felony, period. Prop. 47 would redefine grand theft in such a way that theft of a firearm could only be considered a felony if the value of the gun is greater than $950. Almost all handguns (which are the most stolen kind of firearm) retail for well below $950. People don't steal guns just so they can add to their gun collection. They steal guns to commit another crime. People stealing guns are protected under Proposition 47.
- *Prop. 47 undermines laws against sex-crimes.* Proposition 47 will reduce the penalty for possession of drugs used to facilitate date-rape to a simple misdemeanor. *No matter how many times the suspected sexual predator has been charged with possession of date-rape drugs, it will only be a misdemeanor, and the judge will be forced to sentence them as if it were their very first time in court.*
- *Prop. 47 will burden our criminal justice system.* This measure will overcrowd jails with dangerous felons who should be in state prison and jam California's courts with hearings to provide "Get Out of Prison Free" cards.

California has plenty of laws and programs that allow judges and prosecutors to keep first-time, low-level offenders out of jail if it is appropriate. Prop. 47 would strip judges and prosecutors of that discretion. When a career criminal steals a firearm, or a suspected sexual predator possesses date rape drugs, or a carjacker steals yet another vehicle, there needs to be an option besides a misdemeanor slap on the wrist.

Proposition 47 is bad for public safety. Please vote NO.

Christopher W. Boyd, President
California Police Chiefs Association
Harriet Salarno, President
Crime Victims United
Gilbert G. Otero, President
California District Attorneys Association

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★ Rebuttal to Argument Against Proposition 47 ★

Don't be fooled by the opposition's deceptive scare tactics:

Proposition 47 does not require automatic release of anyone. There is no automatic release. It includes strict protections to protect public safety and make sure rapists, murderers, molesters and the most dangerous criminals cannot benefit.

Proposition 47 maintains penalties for gun crimes. Under Prop. 47, possessing a stolen concealed gun remains a felony. Additional felony penalties to prevent felons and gang members from obtaining guns also apply.

Proposition 47 does not reduce penalties for any sex crime. Under Prop. 47, using or attempting to use any kind of drug to commit date rape or other felony crimes remains a felony.

We have been on the frontlines fighting crime, as police chiefs of major cities, a top prosecutor, and a victims' advocate working with thousands of victims across California. We support Proposition 47 because it will:

- Improve public safety.
- Reduce prison spending and government waste.
- Dedicate hundreds of millions of dollars to K–12 schools, victims and mental health treatment.

Don't believe the scare tactics. Proposition 47:

- *Keeps Dangerous Criminals Locked Up.* Authorizes felonies for sex offenders and anyone with a prior conviction for rape, murder or child molestation.
- *Prioritizes Serious and Violent Crime.* Stops wasting prison space on petty crimes and focuses resources on violent and serious crime.
- *Provides new funding for education and crime prevention.*

Proposition 47 is sensible. That is why it is supported by law enforcement, crime victims, teachers, rehabilitation experts, business leaders, and faith leaders.

George Gascon, District Attorney
City and County of San Francisco
William Lansdowne, Former Chief of Police
San Diego, San Jose, Richmond
Dionne Wilson, Victims' Advocate
Crime Survivors for Safety & Justice

Solano County 2012 Bill List ALL BILLS

Thursday, September 11, 2014

BILL ID/Topic	Location	Summary	Position	CSAC Position	LCC Position
AB 52 Gatto D Native Americans: California Environmental Quality Act.	9/10/2014-A. ENROLLED 9/10/2014-Enrolled and presented to the Governor at 4 p.m.	Would specify that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource, as defined, is a project that may have a significant effect on the environment. The bill would require a lead agency to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation, prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project. Last Amended on 8/22/2014		Oppose	Concerns
AB 194 Campos D Open meetings: public criticism and comment.	9/8/2014-A. ENROLLED 9/8/2014-Enrolled and presented to the Governor at 3:30 p.m. Heard	Would, under the Ralph M. Brown Act, would instead require the agenda for a regular and special meeting to provide an opportunity for the public to directly address the legislative body on any item of interest to the public before and during the legislative body's consideration of the item, except as specified. This bill would expand the existing prohibition against a legislative body limiting public criticism to include criticism of the officers and employees of the legislative body, and specify other designated prohibited activities related to limiting public comment. Last Amended on 8/20/2014	Oppose	Oppose	Oppose
AB 767 Levine D Vehicles: additional registration fees: vehicle-theft crimes.	9/6/2013-A. CHAPTERED 9/6/2013-Chaptered by Secretary of State - Chapter 241, Statutes of 2013.	Would authorize every county to increase its motor vehicle fee from $1 to $2, and its commercial vehicle service fee from $2 to $4, upon adoption of a resolution by its board of supervisors, and submission of the resolution to the Department of Motor Vehicles, as described above. The bill would also authorize a county to adopt a fee of $2 on all major vehicles if that county has not adopted a resolution to impose a $1 fee, and by adopting that fee, imposing a $4 fee on all commercial vehicle services. The bill would make other technical and conforming changes. This bill contains other related provisions. Last Amended on 6/12/2013			
AB 935 Frazier D Driver's licenses: veteran designation.	9/5/2014-A. ENROLLED 9/5/2014-Enrolled and presented to the Governor at 3:30 p.m. Heard	Would, commencing November 11, 2015, allow an in-person applicant for a driver's license or identification card to request the driver's license or identification card be printed with the word "VETERAN." The applicant would be required to present verification of veteran status to the Department of Motor Vehicles, on a form developed by the Department of Veterans Affairs in consultation with the California Association of County Veterans Service Officers and the Department of Motor Vehicles. Last Amended on 8/21/2014	Support		Watch

BILL ID/Topic	Location	Summary	Position	CSAC Position	LCC Position
AB 1739 Dickinson D Groundwater management.	9/10/2014-A. ENROLLED 9/10/2014-Enrolled and presented to the Governor at 4 p.m.	Would provide specific authority to a groundwater sustainability agency, as defined in SB 1168 of the 2013-14 Regular Session, to impose certain fees. The bill would authorize the Department of Water Resources or a groundwater sustainability agency to provide technical assistance to entities that extract or use groundwater to promote water conservation and protect groundwater resources. This bill would require the department, by January 1, 2017, to publish on its Internet Web site best management practices for the sustainable management of groundwater. Last Amended on 8/22/2014		Removed Opposition	Watch
AB 1951 Gomez D Vital records: birth certificates.	9/3/2014-A. ENROLLED 9/3/2014-Enrolled and presented to the Governor at 4 p.m.	Under current law, a certificate of live birth is required to contain, among other things, the full name, birthplace, and date of birth of both the father and mother of a child, except as provided. This bill would, commencing January 1, 2016, instead require the State Registrar, with regard to identification of the parents, to modify the certificate of live birth to contain 2 lines that both read "Name of Parent" and contain, next to each parent's name, 3 checkboxes with the options of mother, father, and parent to describe the parent's relationship to the child. Last Amended on 8/12/2014			Watch
AB 2126 Bonta D Meyers-Milias-Brown Act: mediation.	9/10/2014-A. ENROLLED 9/10/2014-Enrolled and presented to the Governor at 4 p.m.	Under the Meyers-Milias-Brown Act, if representatives of the public employee agency and the recognized employee organization fail to reach agreement, the parties may agree together upon the appointment of a mutually agreeable mediator. This bill would permit either party to request mediation and would require the parties to agree upon a mediator, if either party has provided the other with a written notice of declaration of impasse. If the parties cannot agree upon a mediator, the bill would authorize either party to request the board to appoint a mediator. Last Amended on 5/23/2014	Oppose	Oppose	Oppose
AB 2280 Alejo D Community Revitalization and Investment Authorities.	9/8/2014-A. ENROLLED 9/8/2014-Enrolled and presented to the Governor at 3:30 p.m.	Would authorize certain local agencies, to form a community revitalization authority (authority) within a community revitalization and investment area, as defined to carry out provisions of the Community Redevelopment Law in that area for purposes related to, among other things, infrastructure, affordable housing, and economic revitalization. This bill contains other existing laws. Last Amended on 8/18/2014		Watch	Support
AB 2393 Levine D Vehicle registration fees.	8/25/2014-A. CHAPTERED 8/25/2014-Chaptered by Secretary of State - Chapter 292, Statutes of 2014.	Current law authorizes a county, upon the adoption of a resolution by its board of supervisors, to impose a fee of $1 on all motor vehicles, except as provided, in addition to other fees imposed for the registration of a vehicle. Existing law requires registered owners of a commercial vehicle in a county that has so imposed that $1 fee to pay an additional $2 fee. This bill would authorize a county, that has adopted the resolution to impose the $1 fee, to increase that fee to $2 in the same manner that it imposed the initial $1 fee. The bill would alternatively authorize a county that has not adopted a $1 fee to impose an initial $2 fee in the same manner that it is authorized to impose a $1 fee. Last Amended on 7/3/2014		Support	Watch

BILL ID/Topic	Location	Summary	Position	CSAC Position	LCC Position
HR 29 Gomez D Relative to outsourcing public services.	4/3/2014-A. ADOPTED 4/3/2014-Read. Amended. Adopted. (Ayes 44. Noes 22. Page 4332.)	The Assembly opposes outsourcing of public services and assets, which harms transparency, accountability, shared prosperity, and competition, and supports processes that give public service workers the opportunity to develop their own plan on how to deliver cost-effective, high-quality services. The Assembly urges local officials to become familiar with the provisions of the Taxpayer Empowerment Agenda. The Assembly intends to introduce and advocate for responsible outsourcing legislation. Last Amended on 4/3/2014			
SB 270 Padilla D Solid waste: single-use carryout bags.	9/8/2014-S. ENROLLED 9/8/2014-Enrolled and presented to the Governor at 3 p.m.	Would, as of July 1, 2015, prohibit stores that have a specified amount of sales in dollars or retail floor space from providing a single-use carryout bag to a customer, with specified exceptions. The bill would also prohibit those stores from selling or distributing a recycled paper bag at the point of sale unless the store makes that bag available for purchase for not less than $0.10. The bill would also allow those stores, on or after July 1, 2015, to distribute compostable bags at the point of sale only in jurisdictions that meet specified requirements and at a cost of not less than $0.10. Last Amended on 8/21/2014			Watch
SB 355 Beall D Income taxes: credit: conservation.	9/2/2014-S. ENROLLED 9/2/2014-Enrolled and presented to the Governor at 11 a.m.	The Natural Heritage Preservation Tax Credit Act of 2000 requires the Wildlife Conservation Board to implement a program under which property, as defined, may be contributed to the state, any local government, as defined, or to any nonprofit organization designated by a local government, based on specified criteria, in order to provide for the protection of wildlife habitat, open space, and agricultural lands. This bill would extend the period for when a qualified contribution is made for which a tax credit would be allowed to June 30, 2020. Last Amended on 8/18/2014		Watch	Watch
SB 388 Lieu D Public safety officers and firefighters: investigations and interrogations.	8/28/2014-S. ENROLLED 8/28/2014-Enrolled and presented to the Governor at 4:30 p.m.	Would provide, under the Public Safety Officers Procedural Bill of Rights Act and the Firefighters Procedural Bill of Rights Act, that if an interrogation focuses on matters that may result in punitive action against a public safety officer or firefighter who is not formally under investigation, but is interviewed regarding the investigation of another public safety officer or firefighter, the public safety officer or firefighter being interviewed is entitled to representation, as specified. This bill contains other related provisions and other existing laws. Last Amended on 1/17/2014		Oppose	Oppose
SB 785 Wolk D Design-build.	9/4/2014-S. ENROLLED 9/4/2014-Enrolled and presented to the Governor at 11 a.m. Heard	Current law authorizes the Department of General Services, the Department of Corrections and Rehabilitation, and various local agencies to use the design-build procurement process for specified public works under different laws. This bill would repeal those authorizations, and enact provisions that would authorize , until January 1, 2025, the Department of General Services, the Department of Corrections and Rehabilitation, and those local agencies, as defined, to use the design-build procurement process for specified public works. This bill contains other related provisions and other existing laws. Last Amended on 8/22/2014	Watch	Support	Watch

BILL ID/Topic	Location	Summary	Position	CSAC Position	LCC Position
SB 792 Padilla D Administrative regulations: corrosion prevention and mitigation projects.	9/9/2014-S. ENROLLED 9/9/2014-Enrolled and presented to the Governor at 11 a.m.	Would require a public entity that awards a contract for construction, alteration, demolition, installation, repair, or maintenance work after January 1, 2017, that is paid for in whole or in part with state funds, to require contractors and subcontractors performing corrosion prevention and mitigation work to comply with specified standards to be adopted by the Director of the Department of Industrial Relations in consultation with the Department of Toxic Substances Control. Last Amended on 8/30/2014		No_Interest	Watch
SB 1129 Steinberg D Redevelopment: successor agencies to redevelopment agencies.	9/8/2014-S. ENROLLED 9/8/2014-Enrolled and presented to the Governor at 4 p.m.	Current law prohibits a successor agency from entering into contracts with, incurring obligations or making commitments to, any entity, as specified; or from amending or modifying existing agreements, obligations, or commitments with any entity, for any purpose. This bill would authorize a successor agency, if the successor agency has received a finding of completion, to enter into, or amend existing, contracts and agreements, or otherwise administer projects in connection with enforceable obligations, if the contract, agreement, or project will not commit new property tax funds or otherwise adversely affect the flow of specified tax revenues or payments to the taxing agencies, as specified. Last Amended on 8/22/2014		Oppose	Support
SB 1168 Pavley D Groundwater management.	9/8/2014-S. ENROLLED 9/8/2014-Enrolled and presented to the Governor at 4 p.m.	Would state the policy of the state that groundwater resources be managed sustainably for long-term reliability and multiple economic, social, and environmental benefits for current and future beneficial uses. This bill would state that sustainable groundwater management is best achieved locally through the development, implementation, and updating of plans and programs based on the best available science. This bill contains other related provisions and other existing laws. Last Amended on 8/29/2014		Removed Opposition	Watch
SB 1319 Pavley D Groundwater.	9/8/2014-S. ENROLLED 9/8/2014-Enrolled and presented to the Governor at 4 p.m.	Would authorize the state board to designate certain high- and medium-priority basins as a probationary basin if, after January 31, 2025, prescribed criteria are met, including that the state board determines that the basin is in a condition where groundwater extractions result in significant depletions of interconnected surface waters. This bill would add to the prescribed determinations that would prevent the state board from designating the basin as a probationary basin for a specified time period. Last Amended on 8/29/2014		Neutral	Support
SB 1368 Wolk D State highways: relinquishment.	9/9/2014-S. CHAPTERED 9/9/2014-Chaptered by Secretary of State - Chapter 315, Statutes of 2014.	Current law authorizes the California Transportation Commission to relinquish to a county transportation commission or regional transportation planning agency a park-and-ride lot within their respective jurisdictions, if the Department of Transportation enters into an agreement with the county transportation commission or regional transportation planning agency providing for that relinquishment and other conditions are satisfied. This bill would also authorize the commission to relinquish a park-and-ride lot to a transit district or a joint powers authority formed for purposes of providing transportation services, in the manner described above. Last Amended on 6/16/2014		Watch	Watch

Total Measures: 19