

AMENDED IN ASSEMBLY APRIL 18, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1469**

**Introduced by Assembly Member Leslie**

February 23, 2001

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An act to ~~add Section 21080.27 to the Public Resources Code,~~ relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1469, as amended, Leslie. Energy: ~~environmental protection~~ *El Dorado Irrigation District: Project 184.*

*Existing law governs certain activities of the El Dorado Irrigation District.*

The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would exempt from the requirements of CEQA any activity or approval necessary for or incidental to the repair, rehabilitation, design, construction, operation, or maintenance of the facilities and water rights of Federal Energy Regulatory Commission Project 184, as defined, for hydroelectric power or consumptive uses.

This bill would appropriate \$7,982,937 from the General Fund to the ~~Controller~~ *Department of Water Resources* for allocation as a loan to the El Dorado Irrigation District for expenditure for Federal Energy

Regulatory Commission Project 184 in order to accelerate power generation from that project. *The bill would require the loan to be repaid with interest in the form of electricity delivered to or on behalf of the State of California.*

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

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

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

1 SECTION 1. (a) The Legislature finds and declares that a  
2 special law is necessary and that a general law cannot be made  
3 applicable within the meaning of Section 16 of Article IV of the  
4 California Constitution because of the unique circumstances faced  
5 by the El Dorado Irrigation District. These unique circumstances  
6 include all of the following:

7 (1) The district’s acquisition of Federal Energy Regulatory  
8 Commission Project 184 (Project 184) from Pacific Gas & Electric  
9 Company.

10 (2) The severe damage to the facilities of Project 184 caused by  
11 the storms and floods of 1997.

12 (3) Potential water shortages faced by district customers as a  
13 result of the damage to Project 184 facilities and other factors,  
14 including low rainfall and drought.

15 (4) The loss of hydroelectric power generation as a result of the  
16 damage to Project 184.

17 (5) The location of Project 184 in a disaster-stricken area of a  
18 county for which the Governor proclaimed a state of emergency  
19 as a result of the storms and floods of 1997.

20 (6) The enactment by the Legislature of Section 21080.12 of  
21 the Public Resources Code, a statute that exempted repairs of  
22 certain facilities damaged by the storms and floods of 1997 from  
23 the California Environmental Quality Act.

24 ~~(7) The decision in County of Amador v. El Dorado County~~  
25 ~~Water Agency (1999) 76 Cal.App.4th 931, overturning an~~  
26 ~~environmental impact report related to Project 184.~~

27 ~~(8)~~



1 (7) The filing of litigation challenging the district's attempt to  
2 comply with that decision and the threat of delays occasioned by  
3 continuing litigation.

4 ~~(9)~~

5 (8) The replacement of the diversion dam in-stream component  
6 of Project 184 under an expedited approval of the Federal Energy  
7 Regulatory Commission.

8 ~~(10)~~

9 (9) The inability to use Project 184 facilities to their full  
10 operational capacity absent additional repairs and reconstruction.

11 ~~(11)~~

12 (10) The existing regulation of the facilities and water rights of  
13 Project 184 by the Federal Energy Regulatory Commission, the  
14 State Water Resources Control Board, the Regional Water Quality  
15 Control Board, and other agencies.

16 ~~(12)~~

17 (11) The severe energy crisis California faces, which has  
18 resulted in rolling blackouts throughout northern California, the  
19 Governor's declaration of a state of emergency, and a special  
20 session of the Legislature.

21 ~~(13)~~

22 (12) The completion of repairs and reconstruction will enable  
23 Project 184 to generate 21 megawatts of electric power that is  
24 currently unavailable to the people of the State of California.

25 (b) The Legislature finds and declares that the combination of  
26 these unique circumstances has delayed repairs to Project 184 and  
27 operation of the facilities of Project 184 to their full capacity. This  
28 inability has resulted in an unacceptable delay in repairing the  
29 damage caused by the storms of 1997, thwarted the policy of this  
30 state expressed in Section 100 of the Water Code that the water  
31 resources of the state be put to beneficial use to the fullest extent  
32 of which they are capable, and exacerbated the unprecedented and  
33 grave energy crisis felt most keenly in northern California, where  
34 Project 184 is located. This situation has caused and will cause  
35 serious economic hardship, and threatens the health and safety of  
36 the people of the state. Therefore, the Legislature finds and  
37 declares that this act is necessary to avoid serious hardship.

38 ~~SEC. 2. Section 21080.27 is added to the Public Resources~~  
39 ~~Code, to read:~~



1 21080.27. ~~(a) This division does not apply to any activity or~~  
2 ~~approval necessary for or incidental to the repair, rehabilitation,~~  
3 ~~design, construction, operation, or maintenance of the facilities~~  
4 ~~and water rights of Federal Energy Regulatory Commission~~  
5 ~~Project 184 for hydroelectric power or consumptive uses.~~

6 ~~(b) For purposes of this section, “Federal Energy Regulatory~~  
7 ~~Commission Project 184” means the project owned by the El~~  
8 ~~Dorado Irrigation District that consists of the following: four~~  
9 ~~storage reservoirs on the South and Silver Forks of the American~~  
10 ~~River, including Aloha, Echo, Silver, and Caples Lakes; a~~  
11 ~~diversion dam located near Kyburz on the South Fork of the~~  
12 ~~American River; a canal approximately 22 miles in length on the~~  
13 ~~south side of the American River consisting of flumes, pipelines,~~  
14 ~~and tunnels; a forebay reservoir in the vicinity of Pollock Pines;~~  
15 ~~a penstock; and a powerhouse.~~

16 ~~SEC. 3.~~

17 *SEC. 2.* The sum of seven million nine hundred eighty-two  
18 thousand nine hundred thirty-seven dollars (\$7,982,937) is hereby  
19 appropriated from the General Fund to the ~~Controller~~ *Department*  
20 *of Water Resources*, for allocation *as a loan* to the El Dorado  
21 Irrigation District for expenditure for Federal Energy Regulatory  
22 Commission Project 184 in order to accelerate power generation  
23 from that project.

24 ~~SEC. 4.—~~

25 *SEC. 3.* *The loan authorized pursuant to Section 2 of the act*  
26 *enacting this section shall be repayable, with interest, in the form*  
27 *of electricity, to be delivered to, or on behalf of, the State of*  
28 *California, as directed by the Department of Water Resources.*  
29 *Interest on the loan shall be calculated at the rate earned by the*  
30 *Pooled Money Investment Account at the time of the allocation.*  
31 *The term of the loan and the reasonable value of the electricity to*  
32 *be delivered shall be determined by an agreement between the*  
33 *Department of Water Resources and the El Dorado Irrigation*  
34 *District.*

35 *SEC. 4.* This act is an urgency statute necessary for the  
36 immediate preservation of the public peace, health, or safety  
37 within the meaning of Article IV of the California Constitution and



1 shall go into immediate effect. The facts constituting the necessity  
2 are those set forth in Section 1 of this act.

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