

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN ASSEMBLY MAY 4, 2011

AMENDED IN ASSEMBLY APRIL 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1292

**Introduced by Assembly Member Roger Hernández
(Coauthors: Assembly Members Perea, V. Manuel Pérez and
Solorio)**

February 18, 2011

An act to amend Section 63024 of, *to add Section 63024.5 to*, and to add Article 6.3 (commencing with Section 63048.55) to Chapter 2 of Division 1 of Title 6.7 of, the Government Code, and to amend ~~Section~~ *Sections 116760.30 and 116760.40* of the Health and Safety Code, relating to drinking water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1292, as amended, Roger Hernández. Safe Drinking Water State Revolving Fund: revenue bonds.

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the California Infrastructure and Economic Development Bank for the purpose of funding specified types of infrastructure development projects, including public development facilities, that are defined to include sewage collection and treatment facilities and water treatment and distribution facilities. The act authorizes the *executive director of the bank to contract with specified agencies to enable the*

bank to properly perform its duties and authorizes the bank to issue revenue bonds for prescribed purposes.

This bill would specify that the executive director may contract with those agencies for technical services, and would provide that, where a state agency is authorized under state law to request that the bank issue bonds on its behalf, the agency may request, and the bank may issue, the bonds for the purpose authorized by state law and to fund any necessary reserves, capitalized interest, and costs of issuance associated with the bonds.

Existing law, the Safe Drinking Water State Revolving Fund Law, establishes the Safe Drinking Water State Revolving Fund and continuously appropriates money in the fund to the State Department of Public Health to finance the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards.

This bill would authorize the bank to issue taxable or tax-exempt revenue bonds for deposit into the Safe Drinking Water State Revolving Fund in accordance with prescribed provisions. By providing for the deposit of additional funds into a continuously appropriated fund, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 63024 of the Government Code is
2 amended to read:

3 63024. The executive director may contract *for technical*
4 *services* with the Department of Finance, the State Department of
5 Health Care Services, the State Department of Public Health, the
6 Department of Transportation, the Department of Water Resources,
7 the Department of Resources Recycling and Recovery, the State
8 Water Resources Control Board, the Governor’s Office of Planning
9 and Research, and any other necessary agencies, persons, or firms
10 to enable the ~~agency~~ *bank* to properly perform the duties imposed
11 by this division.

12 SEC. 2. Section 63024.5 is added to the Government Code, to
13 read:

14 63024.5. *Where a state agency is authorized under state law*
15 *to request that the bank issue bonds on its behalf, the agency may*

1 *request, and the bank may issue, the bonds for the purpose*
2 *authorized by state law and to fund any necessary reserves,*
3 *capitalized interest, and costs of issuance associated with the*
4 *bonds.*

5 ~~SEC. 2.~~

6 SEC. 3. Article 6.3 (commencing with Section 63048.55) is
7 added to Chapter 2 of Division 1 of Title 6.7 of the Government
8 Code, to read:

9

10 Article 6.3. Safe Drinking Water State Revolving Fund

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12 63048.55. For the purposes of this article, the following terms
13 have the following meanings:

14 (a) "Department" means the State Department of Public Health.

15 (b) "Revolving fund" means the Safe Drinking Water State
16 Revolving Fund established pursuant to Section 116760.30 of the
17 Health and Safety Code.

18 63048.56. Notwithstanding any other law, Article 3
19 (commencing with Section 63040), Article 4 (commencing with
20 Section 63042), and Article 5 (commencing with Section 63043)
21 shall not apply to any financing provided by the bank to, or at the
22 request of, the department in connection with the revolving fund.

23 63048.57. (a) The bank may issue taxable or tax-exempt
24 revenue bonds pursuant to Chapter 5 (commencing with Section
25 63070) and deposit the proceeds from the bonds into the revolving
26 fund or use the proceeds to refund bonds previously issued under
27 this article. Bond proceeds may also be used to fund necessary
28 reserves, capitalized interest, or costs of issuance.

29 (b) Except as may be provided in the governing documents with
30 respect to bond anticipation notes, each of the bonds issued under
31 this article shall, to the extent provided in the governing documents,
32 be payable from, and secured by, all or a portion of the revenues
33 in the revolving fund and the assets of the revolving fund, to the
34 extent the revenues and assets are pledged by the department for
35 those purposes.

36 (c) Bonds issued under this article shall not be deemed to
37 constitute a debt or liability of the state or of any political
38 subdivision of the state, other than the bank, but shall be payable
39 solely from the revolving fund and the assets of the revolving fund,
40 and the security provided by the revolving fund. All bonds issued

1 under this article shall contain on the face of the bonds a statement
2 to that effect.

3 *SEC. 4. Section 116760.30 of the Health and Safety Code is*
4 *amended to read:*

5 116760.30. (a) There is hereby created in the State Treasury
6 the Safe Drinking Water State Revolving Fund for the purpose of
7 implementing this chapter, and, notwithstanding Section 13340 of
8 the Government Code, the fund is hereby continuously
9 appropriated, without regard to fiscal years, to the department to
10 provide, from moneys available for this purpose, grants or
11 revolving fund loans for the design and construction of projects
12 for public water systems that will enable suppliers to meet safe
13 drinking water standards. The department shall be responsible for
14 administering the fund.

15 (b) ~~The~~ *Notwithstanding Section 10231.5 of the Government*
16 *Code, the* department shall report at least once every two years to
17 the policy and budget committees of the Legislature on the
18 implementation of this chapter and expenditures from the fund.
19 The report shall describe the numbers and types of projects funded,
20 the reduction in risks to public health from contaminants in
21 drinking water provided through the funding of the projects, and
22 the criteria used by the department to determine funding priorities.
23 *Commencing with reports submitted on or after January 1, 2013,*
24 *the report shall include the results of the United States*
25 *Environmental Protection Agency’s most recent survey of the*
26 *infrastructure needs of California’s public water systems, the*
27 *amount of money available through the fund to finance those needs,*
28 *the total dollar amount of all funding agreements executed*
29 *pursuant to this chapter since the date of the previous report, the*
30 *fund utilization rate, the amount of unliquidated obligations, and*
31 *the total dollar amount paid to funding recipients since the previous*
32 *report.*

33 (c) Notwithstanding any other law, the Controller may use the
34 moneys in the Safe Drinking Water State Revolving Fund for loans
35 to the General Fund as provided in Sections 16310 and 16381 of
36 the Government Code. However, interest shall be paid on all
37 moneys loaned to the General Fund from the Safe Drinking Water
38 State Revolving Fund. Interest payable shall be computed at a rate
39 determined by the Pooled Money Investment Board to be the
40 current earning rate of the fund from which loaned. This

1 subdivision does not authorize any transfer that will interfere with
2 the carrying out of the object for which the Safe Drinking Water
3 State Revolving Fund was created.

4 ~~SEC. 3.~~

5 *SEC. 5.* Section 116760.40 of the Health and Safety Code is
6 amended to read:

7 116760.40. The department may undertake any of the following
8 actions to implement the Safe Drinking Water State Revolving
9 Fund:

10 (a) Enter into agreements with the federal government for federal
11 contributions to the fund.

12 (b) Accept federal contributions to the fund.

13 (c) Use moneys in the fund for the purposes permitted by the
14 federal act.

15 (d) Provide for the deposit of matching funds and other available
16 and necessary moneys into the fund.

17 (e) Make requests, on behalf of the state, for deposit into the
18 fund of available federal moneys under the federal act.

19 (f) Determine, on behalf of the state, that public water systems
20 that receive financial assistance from the fund will meet the
21 requirements of, and otherwise be treated as required by, the federal
22 act.

23 (g) Provide for appropriate audit, accounting, and fiscal
24 management services, plans, and reports relative to the fund.

25 (h) Take additional incidental action as may be appropriate for
26 adequate administration and operation of the fund.

27 (i) Enter into an agreement with, and accept matching funds
28 from, a public water system. A public water system that seeks to
29 enter into an agreement with the department and provide matching
30 funds pursuant to this subdivision shall provide to the department
31 evidence of the availability of those funds in the form of a written
32 resolution, or equivalent document, from the public water system
33 before it requests a preliminary loan commitment.

34 (j) Charge public water systems that elect to provide matching
35 funds a fee to cover the actual cost of obtaining the federal funds
36 pursuant to Section 1452(e) of the federal act (42 U.S.C. Sec.
37 300j-12) and to process the loan application. The fee shall be
38 waived by the department if sufficient funds to cover those costs
39 are available from other sources.

- 1 (k) Use money returned to the fund under Section 116761.85
 2 and any other source of matching funds, if not prohibited by statute,
 3 as matching funds for the federal administrative allowance under
 4 Section 1452(g) of the federal act (42 U.S.C. Sec. 300j-12).
- 5 (l) Establish separate accounts or subaccounts as required or
 6 allowed in the federal act and related guidance, for funds to be
 7 used for administration of the fund and other purposes. Within the
 8 fund the department shall establish the following accounts,
 9 including, but not limited to:
- 10 (1) A fund administration account for state expenses related to
 11 administration of the fund pursuant to Section 1452(g)(2) of the
 12 federal act.
- 13 (2) A water system reliability account for department expenses
 14 pursuant to Section 1452(g)(2)(A), (B), (C), or (D) of the federal
 15 act.
- 16 (3) A source protection account for state expenses pursuant to
 17 Section 1452(k) of the federal act.
- 18 (4) A small system technical assistance account for department
 19 expenses pursuant to Section 1452(g)(2) of the federal act.
- 20 (5) A state revolving loan account pursuant to Section 1452(a)(2)
 21 of the federal act.
- 22 (6) A wellhead protection account established pursuant to
 23 Section 1452(a)(2) of the federal act.
- 24 (m) Deposit federal funds for administration and other purposes
 25 into separate accounts or subaccounts as allowed by the federal
 26 act.
- 27 (n) Determine, on behalf of the state, whether sufficient progress
 28 is being made toward compliance with the enforceable deadlines,
 29 goals, and requirements of the federal act and the California Safe
 30 Drinking Water Act, Chapter 4 (commencing with Section 116270).
- 31 (o) To the extent permitted under federal law, including, but
 32 not limited to, Section 1452(a)(2) and (f)(4) of the federal Safe
 33 Drinking Water Act (42 U.S.C. Sec. 300j-12(a)(2) and (f)(4)), use
 34 any and all amounts deposited in the fund, including, but not
 35 limited to, loan repayments and interest earned on the loans, as a
 36 source of reserve and security for the payment of principal and
 37 interest on revenue bonds, the proceeds of which are deposited in
 38 the fund.
- 39 (p) *Request the Infrastructure and Economic Development Bank*
 40 *(I-Bank), established under Chapter 2 (commencing with Section*

1 63021) of Division 1 of Title 6.7 of the Government Code, to issue
2 revenue bonds, enter into agreements with the I-Bank, and take
3 all other actions necessary or convenient for the issuance and sale
4 of revenue bonds pursuant to Article 6.3 (commencing with Section
5 63048.55) of Chapter 2 of Division 1 of Title 6.7 of the Government
6 Code. The purpose of the bonds is to augment the fund.

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