

Assembly Bill No. 1292

Passed the Assembly September 6, 2011

Chief Clerk of the Assembly

Passed the Senate August 31, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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 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, 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.

Appropriation: yes.

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

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

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

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

63024.5. 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.

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

Article 6.3. Safe Drinking Water State Revolving Fund

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

(a) “Department” means the State Department of Public Health.

(b) “Revolving fund” means the Safe Drinking Water State Revolving Fund established pursuant to Section 116760.30 of the Health and Safety Code.

63048.56. Notwithstanding any other law, Article 3 (commencing with Section 63040), Article 4 (commencing with Section 63042), and Article 5 (commencing with Section 63043)

shall not apply to any financing provided by the bank to, or at the request of, the department in connection with the revolving fund.

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

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

(c) Bonds issued under this article shall not be deemed to constitute a debt or liability of the state or of any political subdivision of the state, other than the bank, but shall be payable solely from the revolving fund and the assets of the revolving fund, and the security provided by the revolving fund. All bonds issued under this article shall contain on the face of the bonds a statement to that effect.

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

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

(b) Notwithstanding Section 10231.5 of the Government Code, the department shall report at least once every two years to the policy and budget committees of the Legislature on the implementation of this chapter and expenditures from the fund. The report shall describe the numbers and types of projects funded, the reduction in risks to public health from contaminants in

drinking water provided through the funding of the projects, and the criteria used by the department to determine funding priorities. Commencing with reports submitted on or after January 1, 2013, the report shall include the results of the United States Environmental Protection Agency's most recent survey of the infrastructure needs of California's public water systems, the amount of money available through the fund to finance those needs, the total dollar amount of all funding agreements executed pursuant to this chapter since the date of the previous report, the fund utilization rate, the amount of unliquidated obligations, and the total dollar amount paid to funding recipients since the previous report.

(c) Notwithstanding any other law, the Controller may use the moneys in the Safe Drinking Water State Revolving Fund for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. However, interest shall be paid on all moneys loaned to the General Fund from the Safe Drinking Water State Revolving Fund. Interest payable shall be computed at a rate determined by the Pooled Money Investment Board to be the current earning rate of the fund from which loaned. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the Safe Drinking Water State Revolving Fund was created.

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

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

- (a) Enter into agreements with the federal government for federal contributions to the fund.
- (b) Accept federal contributions to the fund.
- (c) Use moneys in the fund for the purposes permitted by the federal act.
- (d) Provide for the deposit of matching funds and other available and necessary moneys into the fund.
- (e) Make requests, on behalf of the state, for deposit into the fund of available federal moneys under the federal act.
- (f) Determine, on behalf of the state, that public water systems that receive financial assistance from the fund will meet the

requirements of, and otherwise be treated as required by, the federal act.

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

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

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

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

(k) Use money returned to the fund under Section 116761.85 and any other source of matching funds, if not prohibited by statute, as matching funds for the federal administrative allowance under Section 1452(g) of the federal act (42 U.S.C. Sec. 300j-12).

(l) Establish separate accounts or subaccounts as required or allowed in the federal act and related guidance, for funds to be used for administration of the fund and other purposes. Within the fund the department shall establish the following accounts, including, but not limited to:

(1) A fund administration account for state expenses related to administration of the fund pursuant to Section 1452(g)(2) of the federal act.

(2) A water system reliability account for department expenses pursuant to Section 1452(g)(2)(A), (B), (C), or (D) of the federal act.

(3) A source protection account for state expenses pursuant to Section 1452(k) of the federal act.

(4) A small system technical assistance account for department expenses pursuant to Section 1452(g)(2) of the federal act.

(5) A state revolving loan account pursuant to Section 1452(a)(2) of the federal act.

(6) A wellhead protection account established pursuant to Section 1452(a)(2) of the federal act.

(m) Deposit federal funds for administration and other purposes into separate accounts or subaccounts as allowed by the federal act.

(n) Determine, on behalf of the state, whether sufficient progress is being made toward compliance with the enforceable deadlines, goals, and requirements of the federal act and the California Safe Drinking Water Act, Chapter 4 (commencing with Section 116270).

(o) To the extent permitted under federal law, including, but not limited to, Section 1452(a)(2) and (f)(4) of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300j-12(a)(2) and (f)(4)), use any and all amounts deposited in the fund, including, but not limited to, loan repayments and interest earned on the loans, as a source of reserve and security for the payment of principal and interest on revenue bonds, the proceeds of which are deposited in the fund.

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

Approved _____, 2011

Governor