

AMENDED IN SENATE JUNE 18, 2012

AMENDED IN SENATE JUNE 6, 2012

AMENDED IN ASSEMBLY APRIL 23, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2167**

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**Introduced by Assembly Member Hill**

February 23, 2012

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An act to add Article 2.5 (commencing with Section 81436) to Chapter 4 of Division 31 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2167, as amended, Hill. Bay Area Water Supply and Conservation Agency: financial matters.

Under existing law, the City and County of San Francisco operates the Hetch Hetchy Project as a regional water delivery system, supplying water to persons and entities in San Francisco and the Counties of Alameda, San Mateo, and Santa Clara. Existing law, the Bay Area Water Supply and Conservation Agency Act, governs the formation and operation of the Bay Area Water Supply and Conservation Agency (BAWSCA) by 24 public entities that purchase water from San Francisco. The act authorizes the agency to borrow money, incur indebtedness, and issue notes and bonds, including revenue bonds, as specified. The act authorizes the agency to make proceeds of bonds authorized by the act available to other local public agencies on mutually satisfactory terms and conditions to assist in the construction, reconstruction, or improvement of works designed and intended in

whole or in part to furnish water to the members of the agency, whether those works are carried out jointly by the agency and other local public agencies, or solely by those other public agencies. The act further authorizes the agency to impose reasonable rates, fees, and charges on specified entities that are sufficient to generate revenue to pay the principal and interest on any bonds issued by the agency.

This bill would authorize the agency to prepay the unpaid principal balance relating to existing capital assets as of June 30, 2009, on behalf of BAWSCA members, as defined, as provided in a prescribed water supply agreement. This bill would authorize the agency to acquire from the City and County of San Francisco the right to receive all or a portion of the amounts payable by BAWSCA members under that water supply agreement and authorize the City and County of San Francisco to sell to the agency its right to receive these amounts. This bill would authorize the agency to request that the City and County of San Francisco continue to collect amounts in accordance with the water supply agreement and to transfer these amounts to the agency on a periodic basis. This bill would require the agency to use these amounts to pay debt service on prescribed bonds issued by the agency for specified uses authorized by this bill and to satisfy all other obligations of the agency related to those bonds. This bill would also authorize the agency to impose rates, fees, and charges as prescribed to pay debt service or bonds issued for the specified uses authorized by this bill and to satisfy all other obligations of the agency related to those bonds. This bill would also authorize the agency to impose rates, fees, and charges as prescribed to pay debt service or bonds issued for the specified uses authorized by this bill and to satisfy all other obligations of the agency related to those bonds and would require that the City and County of San Francisco collect any of those rates, fees, and charges, as specified. This bill would also permit the agency to distribute any of these amounts not needed for the purposes of those bonds to BAWSCA members, as prescribed.

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

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

- 1 SECTION 1. Article 2.5 (commencing with Section 81436) is
- 2 added to Chapter 4 of Division 31 of the Water Code, to read:

1 Article 2.5. Additional Financing Authority

2  
3 81436. For the purposes of this article, the following definitions  
4 shall apply:

5 (a) “BAWSCA members” means Stanford University, the  
6 California Water Service Company, and eligible public entities as  
7 defined by Section 81305.

8 (b) “July 2009 Water Supply Agreement” means the water  
9 supply agreement by and between the City and County of San  
10 Francisco and the BAWSCA members, as amended or  
11 supplemented.

12 81436.5. The agency may prepay all or a portion of any unpaid  
13 principal balance relating to the existing capital assets as of June  
14 30, 2009, on behalf of BAWSCA members, as provided in the July  
15 2009 Water Supply Agreement.

16 81437. (a) (1) The agency may acquire from the City and  
17 County of San Francisco the right to receive all or a portion of the  
18 amounts payable ~~to~~ by BAWSCA members under the July 2009  
19 Water Supply Agreement.

20 (2) The City and County of San Francisco may sell to the agency  
21 its right to receive amounts payable by BAWSCA members under  
22 the July 2009 Water Supply Agreement.

23 (b) (1) If the agency acquires, and the City and County of San  
24 Francisco sells, the right to receive amounts payable pursuant to  
25 subdivision (a), if requested by the agency, the City and County  
26 of San Francisco shall continue to collect amounts payable by  
27 BAWSCA members under the July 2009 Water Supply Agreement  
28 in accordance with the terms of that agreement and the City and  
29 County of San Francisco shall transfer amounts so collected to the  
30 agency on a monthly basis or on a periodic basis agreed to by the  
31 agency and the City and County of San Francisco.

32 (2) The agency shall apply amounts received pursuant to this  
33 subdivision to pay debt service on any bonds issued by the agency  
34 for a use authorized by Section 81437.5 and to satisfy all other  
35 obligations of the agency related to these bonds.

36 (3) The agency may distribute any amounts received pursuant  
37 to this subdivision not needed for the purposes of this subdivision  
38 to BAWSCA members. The agency may condition any distribution  
39 pursuant to this paragraph upon BAWSCA members’ agreement  
40 to waive any right of prepayment respecting any amounts

1 purchased that the member may have under the July 2009 Water  
2 Supply Agreement.

3 81437.5. In addition to the uses authorized in Section 81434,  
4 the agency may use proceeds of bonds issued pursuant to this  
5 division as follows:

6 (a) For the construction, reconstruction, or improvement of any  
7 works carried out by the agency on behalf of a BAWSCA member.

8 (b) For the purpose of assisting in the repayment of any existing  
9 capital assets, if those assets were designed and intended in whole  
10 or in part to furnish water to BAWSCA members, whether those  
11 assets were carried out jointly by the agency and other local public  
12 agencies, or solely by those other public agencies.

13 (c) To make a prepayment, as described in Section 81436.5, or  
14 an acquisition, as described in Section 81437.

15 (d) To pay the costs of issuance of the bonds and to fund reserve  
16 funds securing the bonds.

17 81438. (a) In addition to the authority granted in Section  
18 81435, the agency may do all of the following:

19 (1) Impose reasonable rates, fees, and charges on BAWSCA  
20 members for any program or service provided or work performed  
21 by the agency.

22 (2) Impose rates, fees, and charges on BAWSCA members and  
23 any entity that subsequently serves a BAWSCA member’s service  
24 area in an amount as shall be necessary, together with other  
25 available sources of funds, to pay debt service on any bonds issued  
26 by the agency for a use authorized by Section 81437.5 and to  
27 satisfy all other obligations of the agency related to these bonds,  
28 including, but not limited to, funding and maintaining reserve  
29 funds and complying with financial covenants.

30 (3) Distribute any amounts collected that are not needed for the  
31 purposes of this article to BAWSCA members.

32 (b) The City and County of San Francisco shall collect any rates,  
33 fees, and charges imposed by the agency pursuant to this section  
34 as a surcharge under the July 2009 Water Supply Agreement.