

AMENDED IN SENATE JULY 6, 2012  
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~~ *on* 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, *if requested by the agency*. 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:

3  
4 Article 2.5. Additional Financing Authority  
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6 81436. For the purposes of this article, the following definitions  
7 shall apply:

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

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

15 81436.5. The agency may prepay all or a portion of any unpaid  
16 principal balance relating to the existing capital assets as of June  
17 30, 2009, on behalf of BAWSCA members, as provided in the July  
18 2009 Water Supply Agreement.

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

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

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

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

1 (3) The agency may distribute any amounts received pursuant  
2 to this subdivision not needed for the purposes of this subdivision  
3 to BAWSCA members. The agency may condition any distribution  
4 pursuant to this paragraph upon BAWSCA members' agreement  
5 to waive any right of prepayment respecting any amounts  
6 purchased that the member may have under the July 2009 Water  
7 Supply Agreement.

8 81437.5. In addition to the uses authorized in Section 81434,  
9 the agency may use proceeds of bonds issued pursuant to this  
10 division as follows:

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

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

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

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

22 81438. (a) In addition to the authority granted in Section  
23 81435, the agency may do all of the following:

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

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

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

37 (b) ~~The~~ *If requested by the agency, the City and County of San*  
38 *Francisco shall collect any rates, fees, and charges imposed by the*  
39 *agency pursuant to this section as a surcharge under the July 2009*  
40 *Water Supply Agreement. These amounts shall be collected in a*

1 *manner, and with remedies for nonpayment, specified in an*  
2 *agreement between the agency and the City and County of San*  
3 *Francisco.*

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