

AMENDED IN SENATE MARCH 23, 2011

SENATE BILL

No. 34

Introduced by Senator Simitian

December 6, 2010

An act to add Part 10 (commencing with Section 12996) to Division 6 of the Water Code, relating to water. An act to add Division 36 (commencing with Section 87000) to the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 34, as amended, Simitian. ~~Water infrastructure projects: fees. California Water Resources Investment Act of 2011.~~

(1) Under existing law, various measures provide funding for water resources projects, facilities, and programs.

This bill would enact the California Water Resources Investment Act of 2011 to finance a water resources investment program. To finance the program, the bill would impose on each retail water supplier in the state an annual charge based on the volume of water provided in its service area that is provided for nonagricultural uses and an annual charge based on each acre of land within its service area that is irrigated for agricultural uses. The bill would require the State Board of Equalization to collect the charges from retail water suppliers in accordance with the Fee Collection Procedures Law, and would authorize the State Board of Equalization and the Department of Water Resources to adopt and enforce regulations for the administration and enforcement of the charges and related requirements as emergency regulations.

The bill would require the revenues of the charges collected for purposes of the water resources investment program to be deposited in

the California Water Resources Investment Fund, which would be established by the bill. The bill would establish a State Investment Account and 11 regional investment accounts within the fund, and would require 50% of the moneys deposited in the fund to be continuously appropriated to the Controller for transfer to the State Investment Account and 50% of the moneys deposited in the fund to be continuously appropriated to the Controller for transfer to the regional investment accounts based on the amount of charges collected within each funding region established by the bill.

The bill would continuously appropriate the moneys in each of the regional investment accounts to the Department of Water Resources for purposes of providing financing for regional projects related to water storage, water conservation, water conveyance, desalination, wastewater recycling, levee improvements, safe drinking water, flood plain management, and the restoration of fish and wildlife, consistent with a specified integrated regional water management plan that meets prescribed requirements. The bill would require the Department of Water Resources to adopt regulations for the preparation of integrated regional water management plans for these purposes.

The bill would require the moneys in the State Investment Account to be expended, upon appropriation by the Legislature, for administration of the water resources investment program and to fund specified programs proposed by the California Water Commission, including statewide water resources projects, financing the operating expenses of the Delta Stewardship Council and the Delta Plan adopted by the council, projects that reduce the impacts of mercury contamination in the Sacramento-San Joaquin Delta, and specified scientific studies and assessments.

The bill would require the State Auditor to conduct a programmatic review and audit of expenditures from the above-described funds and annually report the findings of the review and audit to the Governor and the Legislature. The bill would also require the California Water Commission to annually review expenditures authorized pursuant to the bill and to hold specified hearings relative to the water resources investment program.

(2) By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and this would require for passage the approval of ²/₃ of the membership of each house of the Legislature.

~~Under existing law, various water infrastructure projects are undertaken by federal, state, and local public agencies in the Sacramento-San Joaquin Delta and in other parts of the state.~~

This bill would declare the intent of the Legislature to enact legislation to develop a fee-based system to pay for costs associated with updating and modernizing water infrastructure projects in the state. The bill would express legislative intent with respect to the imposition of the fees and use of the fee revenues.

Vote: ~~majority~~²/₃. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Division 36 (commencing with Section 87000) is
2 added to the Water Code, to read:

3
4 DIVISION 36. CALIFORNIA WATER RESOURCES
5 INVESTMENT ACT

6
7 CHAPTER 1. GENERAL PROVISIONS

8
9 87000. This division shall be known and may be cited as the
10 California Water Resources Investment Act of 2011.

11 87010. The Legislature finds and declares all of the following:

12 (a) Safeguarding supplies of clean, safe drinking water to
13 California's homes, businesses, and farms is an essential
14 responsibility of government, and critical to protecting the quality
15 of life for Californians.

16 (b) Encouraging water conservation and recycling are
17 commonsense methods to make more efficient use of existing water
18 supplies.

1 (c) *Protecting lakes, rivers, and streams from pollution, cleaning*
2 *up polluted groundwater supplies, and protecting water sources*
3 *that supply the entire state are crucial to providing a reliable*
4 *supply of drinking water and protecting the state's natural*
5 *resources.*

6 (d) *Existing revenue streams have proven insufficient to invest*
7 *in all of the following:*

8 (1) *Long-term planning and efficient management of the*
9 *statewide water system.*

10 (2) *Expanding access to necessary water services for*
11 *underserved and low-income communities.*

12 (3) *Ecosystem improvements.*

13 (4) *Management of water-related risks and major public*
14 *emergencies.*

15 (5) *Water system changes to improve recreation opportunities.*

16 87020. *The Legislature further finds and declares all of the*
17 *following:*

18 (a) *As the state's population continues to grow, it becomes more*
19 *important for California to have a stable funding source to meet*
20 *future water demand, improve water quality, and sustain the*
21 *environment.*

22 (b) *A close link between the generation of revenue and the*
23 *increased water supply reliability gained from the investment of*
24 *this revenue provides for measurable improvements in water*
25 *management.*

26 (c) *The state's water resources management system has changed*
27 *significantly over the last 30 years in order to ensure that there is*
28 *a balance among economic, environmental, and ecosystem needs,*
29 *while also providing the water resources needed to meet local*
30 *objectives.*

31 (d) *The state's water resources should be managed to meet the*
32 *coequal goals of providing a more reliable water supply for*
33 *California and protecting, restoring, and enhancing riverine*
34 *ecosystems.*

35 (e) *Managing water at the regional level is critical to meeting*
36 *local water resource objectives. These local objectives have*
37 *recently been promoted through regional water planning, including*
38 *the use of integrated regional water management plans.*

39 (f) *Integrated regional water management planning helps each*
40 *region of the state to become more self-sufficient with its water*

1 *supplies by planning, investing, building partnerships, and*
2 *diversifying water portfolios while considering all resources within*
3 *the regional planning area.*

4 *(g) Integrated regional water management provides an improved*
5 *method of managing and improving efficiency of water resources*
6 *in the state by integrating solutions to water supply, flood*
7 *management, water quality, and habitat concerns, while*
8 *encouraging regional entities to coordinate their activities.*

9 *(h) Significant funding is needed to ensure that state and local*
10 *water resources can continue to meet the demands of a growing*
11 *population and support endangered ecosystems.*

12 *(i) Over the past 10 years, voter-approved bonds have made*
13 *significant contributions to address state and local water resource*
14 *needs, and provided considerable incentives for local investment*
15 *on behalf of those needs.*

16 *(j) Although the issuance of voter-approved bonds has provided*
17 *for important improvements in the state's water management*
18 *system, the levels of available funding have fluctuated throughout*
19 *the life of each bond, while the types of projects and programs*
20 *eligible for funding have varied for each bond. This lack of stability*
21 *in incentive funding has inhibited local, regional, and state*
22 *agencies from developing and implementing long-term plans and*
23 *investment strategies.*

24 *(k) A new stable source of funding that can work in conjunction*
25 *with, or independently of, voter-approved bonds can provide the*
26 *financial foundation for resource planning and management,*
27 *construction of new facilities, managing the demand for water,*
28 *and maintenance of the water management system.*

29 *(l) The purpose of this division is to establish a fund that will*
30 *provide a stable source of revenue for integrated regional water*
31 *management to achieve clean, reliable, and sustainable water*
32 *supplies, in conjunction with local expenditures and other state*
33 *and federal funds.*

34 *87030. It is the intent of the Legislature that moneys collected*
35 *pursuant to this division should be used solely and exclusively for*
36 *the purposes provided in this division, to provide for all of the*
37 *following purposes and policies:*

38 *(a) The public share of planning and efficient management of*
39 *the statewide water system.*

1 (b) *Expanding access to necessary water services. The state*
 2 *should fund programs to ensure that communities that would not*
 3 *otherwise do so receive access to safe, clean drinking water, which*
 4 *includes providing financial assistance to disadvantaged*
 5 *communities in upgrading water quality infrastructure to meet*
 6 *state and federal clean water standards and cleaning up*
 7 *contaminated groundwater supplies in cases in which these costs*
 8 *cannot be recovered from polluters.*

9 (c) *Ecosystem improvements. State activities for ecosystem*
 10 *improvement can serve a public purpose by protecting and*
 11 *rehabilitating ecosystems affected by other uses of the state’s water*
 12 *resources.*

13 (d) *Management of water-related risks and major public*
 14 *emergencies. The state undertakes a wide range of activities that*
 15 *are intended to protect public safety and resources, and to respond*
 16 *to water-related emergency situations. These activities include*
 17 *prevention and response to damage from floods, droughts, climate*
 18 *change, and failures of water infrastructure such as levees.*

19 (e) *Water system changes that improve recreation opportunities.*
 20 *State activities for this purpose are intended to serve a public*
 21 *purpose by providing recreational opportunities to make California*
 22 *a better place to live, do business, and visit.*

23

24 *CHAPTER 2. DEFINITIONS*

25

26 87040. *Unless the context otherwise requires, the following*
 27 *definitions govern the construction of this division:*

28 (a) *“Applicant” means an entity that submits a regional*
 29 *proposal for funding in accordance with this division on behalf of*
 30 *a region defined in an integrated regional water management plan,*
 31 *enters into a funding agreement with the department, and is any*
 32 *of the following:*

33 (1) *A public entity involved in water management, including a*
 34 *city, county, city and county, district, joint powers authority, or*
 35 *other political subdivision of the state.*

36 (2) *An accredited public or private university or college.*

37 (3) *A nonprofit organization.*

38 (4) *An Indian tribe.*

39 (5) *An incorporated mutual water company.*

- 1 (6) *An investor-owned utility regulated by the Public Utilities*
2 *Commission.*
- 3 (7) *A state agency.*
- 4 (b) *“Beneficial uses” include, but are not necessarily limited*
5 *to, domestic, municipal, agricultural, and industrial supply power*
6 *generation, recreation, aesthetic enjoyment, navigation, and*
7 *preservation and enhancement of fish, wildlife, and other aquatic*
8 *resources or preserves.*
- 9 (c) *“Commission” means the California Water Commission.*
- 10 (d) *“Delta” means the Sacramento-San Joaquin Delta, as*
11 *defined in Section 12220, and the Suisun Marsh, as defined in*
12 *Section 29101 of the Public Resources Code.*
- 13 (e) *“Delta conveyance facilities” means facilities that convey*
14 *water directly from the Sacramento River to the State Water Project*
15 *or the federal Central Valley Project pumping facilities in the*
16 *south Delta.*
- 17 (f) *“Delta counties” means the Counties of Contra Costa,*
18 *Sacramento, San Joaquin, Solano, and Yolo.*
- 19 (g) *“Delta Plan” has the same meaning as set forth in Section*
20 *85059.*
- 21 (h) *“Department” means the Department of Water Resources.*
- 22 (i) *“Director” means the Director of Water Resources.*
- 23 (j) *“Disadvantaged community” means a community located*
24 *in one of the funding regions identified pursuant to subdivision*
25 *(n) that has a median household income that is less than 80 percent*
26 *of the median household income for the funding region as a whole.*
- 27 (k) *“Economically distressed area” means a municipality with*
28 *a population of 20,000 persons or less, a rural county, or a*
29 *reasonably isolated and divisible segment of a larger municipality*
30 *and the segment of the population is 20,000 persons or less, with*
31 *an annual median household income that is less than 80 percent*
32 *of the statewide median household income, and with one or more*
33 *of the following conditions as determined by the department:*
- 34 (1) *Financial hardship.*
- 35 (2) *Unemployment rate at least 2 percent higher than the*
36 *statewide average.*
- 37 (3) *Low population density.*
- 38 (l) (1) *“Funding region” means one of the following hydrologic*
39 *regions:*
- 40 (A) *North Coast Hydrologic Region.*

- 1 (B) *San Francisco Bay Hydrologic Region.*
2 (C) *Central Coast Hydrologic Region.*
3 (D) *South Coast Hydrologic Region: San Diego and southern*
4 *Orange County watersheds.*
5 (E) *South Coast Hydrologic Region: Santa Ana River watershed.*
6 (F) *South Coast Hydrologic Region: Los Angeles-Ventura*
7 *County watersheds.*
8 (G) *Sacramento River Hydrologic Region.*
9 (H) *San Joaquin River Hydrologic Region.*
10 (I) *Tulare Lake Hydrologic Region.*
11 (J) *Lahontan Hydrologic Region.*
12 (K) *Colorado River Hydrologic Region.*
13 (2) *For purposes of this division, the hydrologic regions shall*
14 *be delineated as set forth in Bulletin 160-05 of the Department of*
15 *Water Resources, with the following exceptions:*
16 (A) *The department shall divide South Coast Hydrologic Region*
17 *into three separate regions that reflect (i) the San Diego County*
18 *and the southern Orange County watersheds, (ii) the Santa Ana*
19 *River watershed, and (iii) the Los Angeles Ventura County*
20 *watersheds, respectively.*
21 (B) *The department shall combine the North Lahontan and*
22 *South Lahontan Hydrologic Regions, to be known as the Lahontan*
23 *Hydrologic Region.*
24 (m) *“Integrated regional water management plan” has the same*
25 *meaning as defined in Section 10534.*
26 (n) *“Investment fund” means the California Water Resources*
27 *Investment Fund established pursuant to Section 87070.*
28 (o) *“Nonprofit organization” means an organization qualified*
29 *to do business in California and exempt from taxation under*
30 *Section 501(c)(3) of Title 26 of the United States Code.*
31 (p) *“Participant” means an entity that is the sponsor or*
32 *proponent of a project or program included in a regional proposal*
33 *for funding submitted for the purposes of this chapter by an*
34 *applicant, and is one of the following:*
35 (1) *A public entity involved in water management, including a*
36 *city, county, city and county, district, joint powers authority, or*
37 *other political subdivision of the state.*
38 (2) *An accredited public or private university or college.*
39 (3) *A nonprofit organization.*
40 (4) *An Indian tribe.*

- 1 (5) *An incorporated mutual water company.*
2 (6) *An investor-owned utility regulated by the Public Utilities*
3 *Commission.*
4 (7) *A state agency.*
5 (q) *“Person” means any individual, estate, business or common*
6 *law trust, firm, joint stock company, joint venture, business*
7 *concern, corporation, including, but not necessarily limited to, a*
8 *government corporation, partnership, limited partnership, limited*
9 *liability partnership, limited liability company, and any other*
10 *business entity, and any social club, cooperative organization,*
11 *fraternal organization, or any other organization or association.*
12 *“Person” also includes any city, county, city and county, district,*
13 *commission, the state or any department, agency, or political*
14 *subdivision thereof, any interstate body, and the United States and*
15 *its agencies and instrumentalities to the extent permitted by law.*
16 (r) *“Public agency” means a state agency or department, a*
17 *district, a joint powers authority, a city, county, a city and county,*
18 *and any other political subdivision of the state.*
19 (s) *“Regional investment account” means any of the 11 accounts*
20 *established in the investment fund pursuant to Section 87070 and*
21 *corresponding to a region identified pursuant to subdivision (n).*
22 (t) *“Retail water service” means water service that is purchased*
23 *by municipal, industrial, or agricultural water customers without*
24 *further sale of water to other water customers.*
25 (u) *“Retail water supplier” means any local entity, including*
26 *a public agency, city, county, investor-owned utility, municipal*
27 *water company, or private water company or person that provides*
28 *retail water service to municipal, industrial, or agricultural water*
29 *customers.*
30 (v) *“Secretary” means the Secretary of the Natural Resources*
31 *Agency.*
32 (w) *“Water customer” means a person using water in this state*
33 *that is furnished by a retail water supplier.*

1 *CHAPTER 3. INVESTMENT IN CALIFORNIA WATER RESOURCES*

2
3 *Article 1. General Provisions*

4
5 87050. *It is the intent of the Legislature that the investment of*
6 *public funds pursuant to this division shall not be used for strictly*
7 *private purposes or obligations.*

8 87051. *Funds provided by this chapter shall not be expended*
9 *to support or pay for the costs of environmental mitigation*
10 *measures or compliance obligations of any person, except as part*
11 *of the environmental mitigation costs of projects financed by this*
12 *chapter.*

13 87053. *Eligible applicants under this chapter are public*
14 *agencies, nonprofit organizations, public utilities, and mutual*
15 *water companies. To be eligible for funding under this chapter, a*
16 *project proposed by a public utility that is regulated by the Public*
17 *Utilities Commission or a mutual water company shall have a*
18 *clear and definite public purpose and shall benefit the customers*
19 *of the water system.*

20 87054. *An amount that is equal to not more than 3 percent of*
21 *the funds allocated for any financial assistance program pursuant*
22 *to this chapter may be used to pay the administrative costs of that*
23 *program.*

24 87055. *Funds provided by this chapter shall not be expended*
25 *to pay the costs of the design, construction, operation, or*
26 *maintenance of Delta conveyance facilities.*

27 87057. *This chapter does not diminish, impair, or otherwise*
28 *affect in any manner whatsoever any area of origin, watershed of*
29 *origin, county of origin, or any other water rights protections,*
30 *including, but not limited to, rights to water appropriated prior*
31 *to December 19, 1914, provided under the law. This division does*
32 *not limit or otherwise affect the application of Article 1.7*
33 *(commencing with Section 1215) of Chapter 1 of Part 2 of Division*
34 *2, Sections 10505, 10505.5, 11128, 11460, 11461, 11462, and*
35 *11463, and Sections 12200 to 12220, inclusive.*

36 87059. (a) *The State Auditor shall annually conduct a*
37 *programmatic review and an audit of expenditures from the*
38 *accounts established by this chapter.*

39 (b) *Notwithstanding Section 10231.5 of the Government Code,*
40 *on or before March 1 of each year, the State Auditor shall report*

1 *the findings of the annual review and audit to the Governor and*
2 *the Legislature, and shall make the findings available to the public.*

3 *(c) A report required to be submitted to the Legislature pursuant*
4 *to subdivision (b) shall be submitted in accordance with Section*
5 *9795 of the Government Code.*

6

7

Article 2. Water Resources Assessment

8

9 *87060. (a) Commencing July 1, 2012, an annual water*
10 *resources assessment shall be imposed on every retail water*
11 *supplier in this state for each calendar year, in accordance with*
12 *the following requirements:*

13 *(1) A charge of one hundred ten dollars (\$110) per acre foot in*
14 *the form of a nonagricultural public good charge, for each acre*
15 *foot of water that is sold for nonagricultural uses.*

16 *(2) (A) Except as provided in subparagraph (B) and subdivision*
17 *(b), a charge of twenty dollars (\$20) per acre of land that is*
18 *irrigated for agricultural purposes within the service area of the*
19 *retail water supplier. This charge shall apply to all land irrigated*
20 *for agricultural purposes, regardless of whether the source of the*
21 *irrigation water is surface or groundwater.*

22 *(B) For each acre of land that the department determines to be*
23 *utilizing best management practices for the crop and soil type*
24 *irrigated on that acre, as determined pursuant to subdivision (b),*
25 *the public good charge shall be ten dollars (\$10).*

26 *(b) On or before July 1, 2013, the department shall adopt*
27 *regulations establishing a program to determine best management*
28 *practices for irrigated agriculture, based on crop and soil type.*
29 *The applicable public good charge pursuant to paragraph (2) of*
30 *subdivision (a) shall be ten dollars (\$10), until such time as the*
31 *regulations establishing the best management practices are*
32 *adopted.*

33 *87062. The imposition of the water resources assessment in*
34 *accordance with this article is a matter of statewide interest and*
35 *concern, and is applicable uniformly throughout the state.*

36 *87064. (a) The State Board of Equalization shall collect and*
37 *administer the water resources assessment imposed pursuant to*
38 *Section 87060 in accordance with the Fee Collection Procedures*
39 *Law (Part 30 (commencing with Section 55001) of Division 2 of*
40 *the Revenue and Taxation Code). For purposes of this section,*

1 “feepayer,” within the meaning of the Fee Collection Procedures
2 Law, shall include a retail water supplier.

3 (b) For each calendar year, the water resources assessment
4 imposed pursuant to Section 87060 shall be due and payable to
5 the State Board of Equalization by July 1 of the immediately
6 following calendar year. Payments shall be accompanied by a
7 return in the form prescribed by the State Board of Equalization,
8 and may include, but are not necessarily not limited to, electronic
9 media.

10 (c) Notwithstanding subdivision (b), if the State Board of
11 Equalization deems it necessary in order to ensure payment or to
12 facilitate collection of the water resources assessment, the State
13 Board of Equalization may require annual returns and payment
14 of the water resources assessment for a different period from that
15 set forth in subdivision (b), as determined by the State Board of
16 Equalization.

17 (d) The State Board of Equalization may prescribe, adopt, and
18 enforce regulations for the administration and enforcement of the
19 water resources assessment pursuant to this article.

20 87065. A retail water supplier may collect the costs of the water
21 resources assessment from its customers by using the amounts set
22 forth in subdivision (a) of Section 87060 or by using an alternate
23 collection method consistent with the supplier’s practices.

24 87066. (a) On or before March 1, 2012, each retail water
25 supplier in the state shall submit to the department a written
26 statement describing whether it is publicly or privately owned, its
27 official mailing address, a map of its service area, the connection
28 categories used in billing its water customers and the number of
29 connections in each category, the volume of water provided to its
30 nonagricultural customers in the immediately preceding calendar
31 year, and the number of acres irrigated for agricultural use within
32 its service area.

33 (b) On or before July 1, 2012, the department shall provide the
34 State Board of Equalization with a list of each retail water supplier
35 in the state, including the information for each retail water supplier
36 collected pursuant to subdivision (a).

37 87068. (a) The department and the State Board of Equalization
38 may each adopt emergency regulations to implement and enforce
39 this article.

1 (b) *The emergency regulations adopted pursuant to subdivision*
2 *(a) shall be adopted in accordance with Chapter 3.5 (commencing*
3 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
4 *Government Code, and for the purposes of that chapter, including*
5 *Section 11349.6 of the Government Code, the adoption of these*
6 *regulations is an emergency, and shall be considered by the Office*
7 *of Administrative Law as necessary for the immediate preservation*
8 *of the public peace, health, safety, and general welfare.*
9 *Notwithstanding Chapter 3.5 (commencing with Section 11340)*
10 *of Part 1 of Division 3 of Title 2 of the Government Code, any*
11 *emergency regulations adopted by the department or the State*
12 *Board of Equalization pursuant to this section shall be filed with,*
13 *but not be repealed by, the Office of Administrative Law, and shall*
14 *remain in effect for a period of two years or until revised by the*
15 *department or the State Board of Equalization, whichever occurs*
16 *first.*

17
18 *Article 3. California Water Resources Investment Fund*

19
20 *87070. (a) The California Water Resources Investment Fund*
21 *is established in the State Treasury.*

22 *(b) The investment fund consists of 13 accounts, which are*
23 *hereby established as follows:*

24 *(1) The General Account for receipt of deposits from the State*
25 *Board of Equalization and for general expenditures.*

26 *(2) The State Investment Account.*

27 *(3) Eleven regional investment accounts, corresponding to the*
28 *funding regions specified in subdivision (l) of Section 87040.*

29 *(c) Water resources assessments and any penalties imposed on*
30 *retail water suppliers in connection with the collection of the*
31 *assessments by the State Board of Equalization, shall be remitted*
32 *by the State Board of Equalization, in accordance with Article 2*
33 *(commencing with Section 87060), and shall be deposited in the*
34 *investment fund. Notwithstanding Section 16305.7 of the*
35 *Government Code, all interest earned on moneys deposited in the*
36 *investment fund shall be maintained in the investment fund.*

37 *(d) Moneys deposited in the investment fund shall not be*
38 *appropriated for any purpose other than the purposes authorized*
39 *by this division.*

1 87072. (a) All moneys collected pursuant to this chapter shall
2 be deposited by the State Board of Equalization into the General
3 Account in the investment fund.

4 (b) Notwithstanding Section 13340 of the Government Code,
5 the moneys deposited in the General Account are continuously
6 appropriated without regard to fiscal year to the Controller for
7 transfer to the State Investment Account and the regional
8 investment accounts, as follows:

9 (1) Fifty percent shall be transferred to the State Investment
10 Account.

11 (2) Fifty percent shall be transferred to the 11 regional
12 investment accounts on a pro rata basis that reflects the percentage
13 of the moneys collected from within each respective funding region.

14 (c) For purposes of calculating the amounts transferred pursuant
15 to paragraph (2) of subdivision (b), the State Board of Equalization
16 shall provide a statement of the percentage of the moneys collected
17 pursuant to this chapter that is attributable to each of the funding
18 regions to the Controller on a quarterly basis.

19 87074. (a) Notwithstanding any other law, the State Investment
20 Account and each of the regional investment accounts shall
21 accumulate the revenues deposited in the respective accounts in
22 any year in which those revenues are not expended.

23 (b) Notwithstanding Section 16305.7 of the Government Code,
24 any interest earned on moneys deposited in the State Investment
25 Account or any of the regional investment accounts shall be
26 retained in the respective account and may be expended for the
27 authorized purposes of the respective account.

28 87076. Expenditures from the investment fund shall not be used
29 for private, nonpublic purposes. It is the intent of the Legislature
30 that all expenditures pursuant to this chapter shall be guided by
31 the concepts of beneficiary pays and polluter pays.

32 87078. The department shall adopt, and the commission shall
33 review and approve, regulations relating to the administration of
34 the investment fund.

35

36 Article 4. Regional Investment Accounts

37

38 87080. (a) Notwithstanding Section 13340 of the Government
39 Code, the moneys in each regional investment account are

1 *continuously appropriated to the department, without regard to*
2 *fiscal year, for expenditure in accordance with this article.*

3 *(b) The moneys in each regional investment account may be*
4 *expended by the department, in accordance with this article, to*
5 *provide financial assistance for projects within the applicable*
6 *funding region that accomplish any of the following purposes:*

7 *(1) Water storage.*

8 *(2) Water conservation.*

9 *(3) Water conveyance.*

10 *(4) Water desalination.*

11 *(5) Wastewater recycling.*

12 *(6) Levee improvements.*

13 *(7) Safe drinking water.*

14 *(8) Flood plain management.*

15 *(9) Restoration of populations of fish and wildlife, the listing*
16 *of which under the federal Endangered Species Act (16 U.S.C.*
17 *Sec. 1531 et seq.) or the California Endangered Species Act*
18 *(Chapter 1.5 (commencing with Section 2050) of Division 3 of the*
19 *Fish and Game Code) restricts the operation of local, state, or*
20 *federal water supply projects.*

21 *87082. In order to be eligible for financial assistance from a*
22 *regional investment account, a project shall be consistent with an*
23 *integrated regional water management plan that complies with*
24 *requirements adopted pursuant to Section 87085, and shall include*
25 *one or more of the following project elements:*

26 *(a) The project shall reduce water demand through agricultural*
27 *and urban water use efficiency.*

28 *(b) The project shall increase water supplies and may include,*
29 *but shall not be limited to, groundwater storage and conjunctive*
30 *water use, desalination, water recycling, or regional and local*
31 *surface storage.*

32 *(c) The project shall improve operational efficiency, including*
33 *conveyance facilities, system reoperation, and water transfers.*

34 *(d) The project shall improve water quality and may include,*
35 *but shall not be limited to, drinking water treatment and*
36 *distribution, groundwater and aquifer remediation, water pollution*
37 *prevention, or management of urban and agricultural runoff.*

38 *87084. In order to be eligible for financial assistance from a*
39 *regional investment account, an applicant submitting a proposal*

1 for funding to the department shall meet all of the following
2 requirements:

3 (a) If the applicant is an urban water supplier, the applicant
4 shall prepare, adopt, and submit to the department an urban water
5 management plan in accordance with the Urban Water
6 Management Planning Act (Part 2.6 (commencing with Section
7 10610) of Division 6).

8 (b) If the applicant is an agricultural water supplier, the
9 applicant shall prepare, adopt, and submit to the department an
10 agricultural water management plan in accordance with Part 2.8
11 (commencing with Section 10800) of Division 6.

12 (c) If the applicant requests funding for a groundwater
13 management, storage, or recharge project, or a project with
14 potential groundwater impacts, the applicant shall demonstrate
15 that one or more of the following conditions have been met, as
16 applicable:

17 (1) A groundwater management plan for the affected
18 groundwater basin has been prepared and implemented in
19 accordance with Part 2.75 (commencing with Section 10750) of
20 Division 6.

21 (2) The applicant participates in, or agrees to be subject to, a
22 groundwater management plan, basinwide management plan, or
23 other program or plan that meets the requirements of Section
24 10753.7.

25 (3) The applicant complies with the requirements of an
26 adjudication of water rights in affected groundwater basin. For
27 purposes of this paragraph, an “adjudication” includes an
28 adjudication under Section 2101, an administrative adjudication,
29 and an adjudication in state or federal court.

30 87085. (a) For purposes of this article, the department shall
31 adopt regulations for the preparation, amendment, and revision
32 of integrated regional water management plans pursuant to Part
33 2.2 (commencing with Section 10530) of Division 6, consistent
34 with this article.

35 (b) At a minimum, the regulations adopted by the department
36 shall require that integrated regional water management plans
37 include all of the following:

38 (1) Consideration of all of the resource management strategies
39 identified in the California Water Plan, as adopted or revised

1 *pursuant to Part 1.5 (commencing with Section 10004) of Division*
2 *6.*

3 *(2) An integrated, multibenefit approach to selection and design*
4 *of projects that are eligible for funding pursuant to this article.*

5 *(3) Performance measures and monitoring to demonstrate*
6 *progress toward meeting regional objectives.*

7 *(4) Standards for developing priorities for regional projects*
8 *that are eligible for funding pursuant to this article.*

9 *(c) The department shall consult with the California Water*
10 *Commission, the State Water Resources Control Board, the*
11 *California regional water quality control boards, the State*
12 *Department of Public Health, the Department of Fish and Game,*
13 *the Delta Stewardship Council, and other state agencies with water*
14 *management responsibility, for purposes of adopting the*
15 *regulations pursuant to this section and reviewing integrated*
16 *regional water management plans pursuant to this article.*

17 *(d) The department shall verify that integrated regional water*
18 *management plans comply with the regulations adopted pursuant*
19 *to this section.*

20 *87086. (a) If in any funding region there is no integrated*
21 *regional water management plan that meets the requirements set*
22 *forth in regulations adopted pursuant to Section 87085, at the*
23 *discretion of the department, either (1) the moneys in the*
24 *corresponding regional investment account may remain in that*
25 *account until there is an applicable integrated regional water*
26 *management plan meeting the regulations adopted pursuant to*
27 *Section 87085 or (2) the department may allocate the moneys to*
28 *benefit projects and activities within the region in a manner that*
29 *is consistent with this chapter regardless of the existence of an*
30 *applicable integrated regional water management plan.*

31 *(b) The department's administrative costs incurred in connection*
32 *with expenditures under this section shall be paid from the*
33 *appropriate regional investment account.*

34 *87088. (a) The department shall establish and implement a*
35 *plan to monitor, track, and report on integrated regional water*
36 *management plan implementation and performance to demonstrate*
37 *achievements associated with expenditures from the regional*
38 *investment accounts. The department shall prepare an annual*
39 *report, which shall include an itemization of moneys expended on*

1 *projects and programs and a description with regard to the*
 2 *performance of those projects and programs.*

3 *(b) Notwithstanding Section 10231.5 of the Government Code,*
 4 *the department shall submit the report to the Legislature annually*
 5 *on or before January 15.*

6 *(c) The report required to be submitted to the Legislature*
 7 *pursuant to subdivision (b) shall be submitted in accordance with*
 8 *Section 9795 of the Government Code.*

9

10 *Article 5. State Investment Account*

11

12 *87090. The moneys in the State Investment Account, upon*
 13 *appropriation by the Legislature, shall be expended for all of the*
 14 *following purposes:*

15 *(a) For allocation to the State Board of Equalization for payment*
 16 *of refunds of the water resources assessment, interest, and*
 17 *penalties, as authorized pursuant to Chapter 5 (commencing with*
 18 *Section 55221) of Part 30 of Division 2 of the Revenue and*
 19 *Taxation Code, including refunds due on account of judgments*
 20 *for the return of charges that are unlawfully collected.*

21 *(b) For allocation to the State Board of Equalization, the*
 22 *commission, and the department to ensure sufficient revenues for*
 23 *those agencies to carry out the duties imposed upon each of them*
 24 *by this division.*

25 *(c) For a reserve, not to exceed ____ dollars (\$____), which*
 26 *shall be maintained in the State Investment Account.*

27 *(d) The balance of the moneys in the State Investment Account,*
 28 *after allocation for expenditure for all of the purposes set forth in*
 29 *subdivisions (a) to (c), inclusive, shall be expended as provided*
 30 *in Section 87092.*

31 *87092. The commission, in consultation with the Department*
 32 *of Fish and Game, State Department of Public Health, Delta*
 33 *Stewardship Council, and the State Water Resources Control*
 34 *Board, as part of its annual budget request, shall annually develop*
 35 *a proposal for the expenditure of the moneys in the State Investment*
 36 *Account according to the following funding priorities:*

37 *(a) To fund projects of statewide and interregional significance.*

38 *(b) To fund operating expenses of the Delta Stewardship Council*
 39 *and the Delta Plan adopted by the Delta Stewardship Council,*

1 *and for grants and direct expenditures to implement the Delta*
2 *Plan.*

3 *(c) To fund projects that reduce the impacts of mercury*
4 *contamination of the Delta and its watersheds, and for remediation*
5 *and elimination of continuing sources of mercury contamination.*

6 *(d) To fund scientific studies and assessments that support*
7 *projects authorized under this section.*

8 87095. *Upon appropriation by the Legislature, ____ percent*
9 *of the moneys described in subdivision (d) of Section 87090 shall*
10 *be made available for grants to disadvantaged communities for*
11 *purposes of providing safe drinking water supplies, until such time*
12 *as the State Water Resources Control Board makes a finding that*
13 *all communities in California have drinking water that meets public*
14 *health standards.*

15 87097. *Upon appropriation by the Legislature, moneys*
16 *allocated for interregional expenditures pursuant to subdivision*
17 *(a) of Section 87092, may be expended, by the department for*
18 *direct expenditures or grants to address multiregional needs or*
19 *state priorities, including, but not limited to, any of the following:*

20 *(a) Investing in new water technology development and*
21 *deployment.*

22 *(b) Meeting state water recycling and water conservation goals.*

23 *(c) Other water supply projects and activities designed to meet*
24 *the needs of disadvantaged communities or economically distressed*
25 *areas, including technical and grant writing assistance.*

26 87099. *Each state agency that receives funding under this*
27 *article shall track and document the manner in which the funds*
28 *are used to advance integrated regional water management within*
29 *the state, and submit that information to the department on at least*
30 *an annual basis.*

31

32 *Article 6. Additional Duties of the California Water Commission*

33

34 87100. *(a) The commission shall review funding expenditures,*
35 *and prepare an annual summary of the actions that the department*
36 *has taken during each fiscal year to implement this division. On*
37 *or before December 31 of each year, the commission shall submit*
38 *the summary for the preceding fiscal year to the Secretary of the*
39 *Natural Resources Agency.*

1 (b) *The commission may request the Department of Finance to*
 2 *conduct audits with regard to the manner in which the funds in*
 3 *the regional investment accounts and the State Investment Account*
 4 *are expended.*

5 87102. *At least quarterly, the commission shall hold publicly*
 6 *noticed meetings regarding its duties under this division.*

7 SEC. 2. *No reimbursement is required by this act pursuant to*
 8 *Section 6 of Article XIII B of the California Constitution because*
 9 *the only costs that may be incurred by a local agency or school*
 10 *district will be incurred because this act creates a new crime or*
 11 *infraction, eliminates a crime or infraction, or changes the penalty*
 12 *for a crime or infraction, within the meaning of Section 17556 of*
 13 *the Government Code, or changes the definition of a crime within*
 14 *the meaning of Section 6 of Article XIII B of the California*
 15 *Constitution.*

16 SECTION 1. ~~Part 10 (commencing with Section 12996) is~~
 17 ~~added to Division 6 of the Water Code, to read:~~

18

19 PART 10. ~~WATER INFRASTRUCTURE PROJECT FEES~~

20

21 ~~12996. It is the intent of the Legislature to enact legislation to~~
 22 ~~develop a fee-based system to pay for costs associated with~~
 23 ~~updating and modernizing water infrastructure projects in the state.~~
 24 ~~It is the intent of the Legislature that the fees should pay for~~
 25 ~~nonecapital costs that are necessary to meet the coequal goals of~~
 26 ~~providing a more reliable water supply for the state and protecting,~~
 27 ~~restoring, and enhancing riverine-based ecosystems.~~

28 ~~12997. It is the intent of the Legislature that a fee-based system~~
 29 ~~developed pursuant to Section 12996 be developed in accordance~~
 30 ~~with the following policies:~~

31 ~~(a) The fees should cover the costs of public benefits of water~~
 32 ~~infrastructure projects, including the public share of surface and~~
 33 ~~subsurface water projects, habitat and water necessary for restoring~~
 34 ~~native flora and fauna that are at risk as a result of existing and~~
 35 ~~future water infrastructure projects, and water conservation~~
 36 ~~programs for agricultural, municipal, and industrial users.~~

37 ~~(b) The fees should not cover the costs of projects that public~~
 38 ~~or private entities are required to fund under existing law,~~
 39 ~~including, but not limited to, any isolated water facility that~~

1 ~~conveys water through or around the Sacramento-San Joaquin~~
2 ~~Delta.~~
3 ~~(e) The fees should not be imposed in a manner that would~~
4 ~~constitute a tax subject to Section 3 of Article XIII A of the~~
5 ~~California Constitution.~~

O