

AMENDED IN ASSEMBLY JULY 1, 2014
AMENDED IN ASSEMBLY JUNE 11, 2014
AMENDED IN SENATE MAY 6, 2014
AMENDED IN SENATE APRIL 21, 2014
AMENDED IN SENATE APRIL 8, 2014
AMENDED IN SENATE MARCH 10, 2014

SENATE BILL

No. 936

Introduced by Senator Monning
(Principal coauthor: Senator Cannella)
(Principal coauthors: Assembly Members Alejo and Stone)

February 3, 2014

An act to amend Sections 955.1 and 3440.1 of the Civil Code, to amend Section 9109 of the Commercial Code, to add Section 6537 to the Government Code, to amend Section 1731 of, to add Section 1770 to, and to add Article 5.7 (commencing with Section 849) to Chapter 4 of Part 1 of Division 1 of, the Public Utilities Code, and to add Article 8 (commencing with Section 685) to Chapter 3 of Part 5 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 936, as amended, Monning. Monterey Peninsula Water Management District: financing orders and water rate relief bonds.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including water corporations. Existing law authorizes the commission to fix just and reasonable rates

and charges. The existing Monterey Peninsula Water Management District Law establishes the Monterey Peninsula Water Management District and provides for its powers and purposes.

This bill would authorize the commission to issue financing orders to facilitate the recovery, financing, or refinancing of water supply costs, defined to mean reasonable and necessary costs incurred or expected to be incurred by a qualifying water utility, as defined, undertaking water supply activities, as specified. The bill would authorize the Monterey Peninsula Water Management District to issue water rate relief bonds if the commission finds that the bonds will provide savings to water customers on the Monterey Peninsula, as specified.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Monterey Peninsula, the California American Water, and the Monterey Peninsula Water Management District.

(3) Existing law requires the Public Utilities Commission to issue a decision and order or rehearing regarding the implementation of certain provisions of law related to the Department of Water Resources within 20 days after the filing of an application. This bill would allow the commission 210 days to issue the decision and order.

(4) Existing law makes any public utility, as defined, and any corporation other than a public utility that violates the Public Utilities Act guilty of a crime.

Because a violation of certain provisions of the bill would be a violation of the act, this bill would impose a state-mandated local program by creating a new crime.

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.

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

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

1 SECTION 1. The Legislature finds and declares all of the
 2 following:

1 (a) Under existing law, the Public Utilities Commission has
2 regulatory authority over public utilities, including water utilities.
3 Existing law authorizes the commission to fix just and reasonable
4 rates and charges.

5 (b) To address the unique needs for integrated water
6 management on the Monterey Peninsula, the Legislature adopted
7 special legislation creating the Monterey Peninsula Water
8 Management District (Monterey Peninsula Water Management
9 District Law, as added by Section 118 of Chapter 527 of the
10 Statutes of 1977, as amended).

11 (c) California American Water (CAW) is the water utility that
12 provides water to most of the residents and businesses within the
13 Monterey Peninsula.

14 (d) CAW provides water to its customers from the surface water
15 in the Carmel River and its tributaries, water in the Carmel Valley
16 Alluvial Aquifer that underlies the Carmel River, and water in the
17 Seaside Groundwater Basin that includes the Northern and
18 Southern Coastal Subunits and the Northern and Southern Inland
19 Subareas.

20 (e) CAW's lawful right to obtain water supplies from the Carmel
21 Valley Alluvial Aquifer was determined by the State Water
22 Resources Control Board (SWRCB) in SWRCB Order No. WR
23 95-10, dated July 6, 1995. The SWRCB found that CAW does not
24 possess the legal right to divert from the Carmel River system the
25 amount of water historically, and presently, being diverted, and
26 required CAW to diligently pursue a substitute water supply.
27 SWRCB Order No. WR 95-10 limited CAW production from the
28 Carmel River system to 10,308 acre-feet annually (Water Year
29 2012), and ordered CAW to terminate its unpermitted diversions
30 from the Carmel River, and in the interim, to maximize its
31 production from the Seaside Groundwater Basin.

32 (f) Subsequently, the SWRCB issued a cease and desist order
33 (CDO) against CAW in October 2009 as Order No. WR 2009-0060.
34 The CDO prescribed a series of significant cutbacks to CAW's
35 production from the Carmel River system from January 2010 to
36 December 2016, inclusive. Pursuant to the CDO, CAW's customers
37 are subject to a moratorium on water permits for new construction
38 and remodels, and may be subject to water rationing, fines, or both
39 if CAW production limits are exceeded.

1 (g) CAW’s ability to produce water from the Seaside
2 Groundwater Basin has also been limited by the adjudication of
3 the Monterey County Superior Court. CAW’s right to groundwater
4 from Coastal Subareas and the Laguna Seca Subarea of the Seaside
5 Groundwater Basin, without causing adverse effects such as
6 seawater intrusion, declining water levels, or land subsidence,
7 characterized as a “safe yield,” was determined in California
8 American Water v. City of Seaside (2010) (183 Cal.App.4th 471).
9 The 2006 final judgment imposes a series of pumping reductions
10 designed to limit production of natural basin water to its safe yield,
11 initially set at 3,000 acre-feet per year. CAW’s share of the safe
12 yield is reduced proportionately at each stage.

13 (h) The need for infrastructure to expand CAW sources of water
14 has been heightened by the lack of legal water supplies resulting
15 from the CDO, SWRCB Order No. WR 95-10, the listing of the
16 California red-legged frog and the steelhead trout as threatened
17 species under the federal Endangered Species Act of 1973 (16
18 U.S.C. Sec. 1531 et seq.) and the limitations on water from the
19 Seaside Groundwater Basin adjudication.

20 (i) These circumstances create a special and unique need to
21 augment potable water supplies on the Monterey Peninsula.
22 Potential infrastructure projects necessary to develop new sources
23 of supply to resolve the critical water supply shortage within
24 CAW’s Monterey County District include desalination, aquifer
25 storage and recovery projects, and the production and use of
26 recycled water.

27 (j) It may benefit the customers of CAW to finance the capital
28 costs associated with the construction and installation of water
29 infrastructure, plants, and facilities necessary to resolve the critical
30 water supply shortage through an alternative financing mechanism.

31 (k) Alternative financing mechanisms exist that can result in
32 lower costs to customers of CAW as compared to traditional utility
33 financing mechanisms. To use alternative financing mechanisms,
34 the Public Utilities Commission must be empowered to issue
35 financing orders to allow the issuance of bonds secured by water
36 supply property.

37 (l) CAW customers may take advantage of additional costs
38 savings if a public agency assists in the financing of water project
39 capital costs on a tax-exempt basis. It is necessary for California

1 to provide express authority for a public agency to issue bonds or
2 other evidences of indebtedness on this basis.

3 (m) In confirming the Public Utilities Commission’s authority
4 to approve water supply property, including a dedicated customer
5 surcharge to support the issuance of water rate relief bonds, the
6 Legislature is not ratifying or endorsing any particular outcome
7 for proceeding A.12-04-019, but rather is authorizing a means by
8 which the commission may reduce the cost impact on Monterey
9 Peninsula customers if a water supply project is approved by the
10 commission in proceeding A.12-04-019.

11 SEC. 2. Section 955.1 of the Civil Code is amended to read:

12 955.1. (a) Except as provided in Sections 954.5 and 955 and
13 subject to subdivisions (b) and (c), a transfer other than one
14 intended to create a security interest pursuant to paragraph (1) or
15 (3) of subdivision (a) of Section 9109 of the Commercial Code,
16 of any payment intangible, as defined in Section 9102 of the
17 Commercial Code, and any transfer of accounts, chattel paper,
18 payment intangibles, or promissory notes excluded from the
19 coverage of Division 9 of the Commercial Code by paragraph (4)
20 of subdivision (d) of Section 9109 of the Commercial Code shall
21 be deemed perfected as against third persons upon there being
22 executed and delivered to the transferee an assignment thereof in
23 writing.

24 (b) As between bona fide assignees of the same right for value
25 without notice, the assignee first giving notice of the right to the
26 obligor in writing has priority.

27 (c) The assignment is not, of itself, notice to the obligor so as
28 to invalidate any payments made by the obligor to the transferor.

29 (d) This section does not apply to transfers or assignments of
30 transition property, as defined in Section 840 of the Public Utilities
31 Code, transfers or assignments of recovery property, as defined in
32 Section 848 of the Public Utilities Code, or transfers or assignments
33 of water supply property, as defined in Section 849 of the Public
34 Utilities Code.

35 SEC. 3. Section 3440.1 of the Civil Code is amended to read:

36 3440.1. This chapter does not apply to any of the following:

37 (a) Things in action.

38 (b) Ships or cargoes if either are at sea or in a foreign port.

1 (c) The sale of accounts, chattel paper, payment intangibles, or
2 promissory notes governed by the Uniform Commercial Code,
3 security interests, and contracts of bottomry or respondentia.

4 (d) Wines or brandies in the wineries, distilleries, or wine cellars
5 of the makers or owners of the wines or brandies, or other persons
6 having possession, care, and control of the wines or brandies, and
7 the pipes, casks, and tanks in which the wines or brandies are
8 contained, if the transfers are made in writing and executed and
9 acknowledged, and if the transfers are recorded in the book of
10 official records in the office of the county recorder of the county
11 in which the wines, brandies, pipes, casks, and tanks are situated.

12 (e) A transfer or assignment made for the benefit of creditors
13 generally or by an assignee acting under an assignment for the
14 benefit of creditors generally.

15 (f) Property exempt from enforcement of a money judgment.

16 (g) Standing timber.

17 (h) Subject to the limitations in Section 3440.3, a transfer of
18 personal property if all of the following conditions are satisfied:

19 (1) Before the date of the intended transfer, the transferor or the
20 transferee files a financing statement, with respect to the property
21 transferred, authorized in an authenticated record by the transferor.
22 The financing statement shall be filed in the office of the Secretary
23 of State in accordance with Chapter 5 (commencing with Section
24 9501) of Division 9 of the Commercial Code, but may use the
25 terms “transferor” in lieu of “debtor” and “transferee” in lieu of
26 “secured party.” The provisions of Chapter 5 (commencing with
27 Section 9501) of Division 9 of the Commercial Code shall apply
28 as appropriate to the financing statement.

29 (2) The transferor or the transferee publishes a notice of the
30 intended transfer one time in a newspaper of general circulation
31 published in the judicial district in which the personal property is
32 located, if there is one, and if there is none in the judicial district,
33 then in a newspaper of general circulation in the county embracing
34 the judicial district. The publication shall be completed not less
35 than 10 days before the date the transfer occurs. The notice shall
36 contain the name and address of the transferor and transferee and
37 a general statement of the character of the personal property
38 intended to be transferred, and shall indicate the place where the
39 personal property is located and a date on or after which the transfer
40 is to be made.

1 (i) Personal property not located within this state at the time of
2 the transfer or attachment of the lien if the provisions of this
3 subdivision are not used for the purpose of evading this chapter.

4 (j) A transfer of property that (1) is subject to a statute or treaty
5 of the United States or a statute of this state that provides for the
6 registration of transfers of title or issuance of certificates of title
7 and (2) is so far perfected under that statute or treaty that a bona
8 fide purchaser cannot acquire an interest in the property transferred
9 that is superior to the interest of the transferee.

10 (k) A transfer of personal property in connection with a
11 transaction in which the property is immediately thereafter leased
12 by the transferor from the transferee provided the transferee
13 purchased the property for value and in good faith pursuant to
14 subdivision (c) of Section 10308 of the Commercial Code.

15 (l) Transition property, as defined in Section 840 of the Public
16 Utilities Code, recovery property, as defined in Section 848 of the
17 Public Utilities Code, or water supply property, as defined in
18 Section 849 of the Public Utilities Code.

19 (m) A transfer of property by any governmental entity.

20 SEC. 4. Section 9109 of the Commercial Code is amended to
21 read:

22 9109. (a) Except as otherwise provided in subdivisions (c) and
23 (d), this division applies to each of the following:

24 (1) A transaction, regardless of its form, that creates a security
25 interest in personal property or fixtures by contract.

26 (2) An agricultural lien.

27 (3) A sale of accounts, chattel paper, payment intangibles, or
28 promissory notes.

29 (4) A consignment.

30 (5) A security interest arising under Section 2401 or 2505,
31 subdivision (3) of Section 2711, or subdivision (e) of Section
32 10508, as provided in Section 9110.

33 (6) A security interest arising under Section 4210 or 5118.

34 (b) The application of this division to a security interest in a
35 secured obligation is not affected by the fact that the obligation is
36 itself secured by a transaction or interest to which this division
37 does not apply.

38 (c) This division does not apply to the extent that either of the
39 following conditions is satisfied:

- 1 (1) A statute, regulation, or treaty of the United States preempts
- 2 this division.
- 3 (2) The rights of a transferee beneficiary or nominated person
- 4 under a letter of credit are independent and superior under Section
- 5 5114.
- 6 (d) This division does not apply to any of the following:
- 7 (1) A landlord’s lien, other than an agricultural lien.
- 8 (2) A lien, other than an agricultural lien, given by statute or
- 9 other rule of law for services or materials, however Section 9333
- 10 applies with respect to priority of the lien.
- 11 (3) An assignment of a claim for wages, salary, or other
- 12 compensation of an employee.
- 13 (4) A sale of accounts, chattel paper, payment intangibles, or
- 14 promissory notes as part of a sale of the business out of which they
- 15 arose.
- 16 (5) An assignment of accounts, chattel paper, payment
- 17 intangibles, or promissory notes which is for the purpose of
- 18 collection only.
- 19 (6) An assignment of a right to payment under a contract to an
- 20 assignee that is also obligated to perform under the contract.
- 21 (7) An assignment of a single account, payment intangible, or
- 22 promissory note to an assignee in full or partial satisfaction of a
- 23 preexisting indebtedness.
- 24 (8) A loan made by an insurance company pursuant to the
- 25 provisions of a policy or contract issued by it and upon the sole
- 26 security of the policy or contract.
- 27 (9) An assignment of a right represented by a judgment, other
- 28 than a judgment taken on a right to payment that was collateral.
- 29 (10) A right of recoupment or setoff, provided that both of the
- 30 following sections apply:
- 31 (A) Section 9340 applies with respect to the effectiveness of
- 32 rights of recoupment or setoff against deposit accounts.
- 33 (B) Section 9404 applies with respect to defenses or claims of
- 34 an account debtor.
- 35 (11) The creation or transfer of an interest in or lien on real
- 36 property, including a lease or rents thereunder, except to the extent
- 37 that provision is made for each of the following:
- 38 (A) Liens on real property pursuant to Sections 9203 and 9308.
- 39 (B) Fixtures pursuant to Section 9334.

1 (C) Fixture filings pursuant to Sections 9501, 9502, 9512, 9516,
2 and 9519.

3 (D) Security agreements covering personal and real property
4 pursuant to Section 9604.

5 (12) An assignment of a claim arising in tort, other than a
6 commercial tort claim, however Sections 9315 and 9322 apply
7 with respect to proceeds and priorities in proceeds.

8 (13) An assignment of a deposit account in a consumer
9 transaction, however Sections 9315 and 9322 apply with respect
10 to proceeds and priorities in proceeds.

11 (14) A security interest created by the assignment of the benefits
12 of a public construction contract under the Improvement Act of
13 1911 (Division 7 (commencing with Section 5000) of the Streets
14 and Highways Code).

15 (15) Transition property, as defined in Section 840 of the Public
16 Utilities Code, except to the extent that the provisions of this
17 division are referred to in Article 5.5 (commencing with Section
18 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities
19 Code, recovery property, as defined in Section 848 of the Public
20 Utilities Code, except to the extent that the provisions of this
21 division are referred to in Article 5.6 (commencing with Section
22 848) of Chapter 4 of Part 1 of Division 1 of the Public Utilities
23 Code, and water supply property, as defined in Section 849 of the
24 Public Utilities Code, except to the extent that the provisions of
25 this division are referred to in Article 5.7 (commencing with
26 Section 849) of Chapter 4 of Part 1 of Division 1 of the Public
27 Utilities Code.

28 (16) A claim or right of an employee or employee's dependents
29 to receive workers' compensation under Division 1 (commencing
30 with Section 50) or Division 4 (commencing with Section 3200)
31 of the Labor Code.

32 (17) A transfer by a government or governmental unit.

33 SEC. 5. Section 6537 is added to the Government Code, to
34 read:

35 6537. (a) The Legislature finds that it is in the best interest of
36 the communities on the Monterey Peninsula that any joint exercise
37 of powers authority formed under this article to which the Monterey
38 Peninsula Water Management District and one or more other public
39 agencies are members is authorized to issue water rate relief bonds,
40 hereafter "agency bonds," the proceeds of which will be used to

1 purchase water rate relief bonds that are authorized to be issued
 2 by an affiliate of a qualifying water utility in a financing order
 3 issued pursuant to Article 5.7 (commencing with Section 849) of
 4 Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to
 5 fund any necessary reserves and to pay the costs of issuance of the
 6 agency bonds. The agency bonds may be issued only if the
 7 commission finds in a financing order that the issuance, due to the
 8 availability of a federal or state income tax exemption, will provide
 9 savings to water customers on the Monterey Peninsula.

10 (b) Notwithstanding any other provision of law, the joint powers
 11 agency may issue bonds pursuant to Article 2 (commencing with
 12 Section 6540) or Article 4 (commencing with Section 6584). If
 13 the agency issues bonds under this section, the agency,
 14 notwithstanding Article 5 (commencing with Section 53760) of
 15 Chapter 4 of Part 1 of Division 2 of Title 5, shall not be eligible
 16 to file for bankruptcy pursuant to Chapter 9 (commencing with
 17 Section 901) of Title 11 of the United States Code as long as the
 18 bonds and any related financing costs are outstanding and unpaid
 19 and shall remain ineligible for a period of one year and one day
 20 after repayment of the bonds and any related financing costs.

21 SEC. 6. Article 5.7 (commencing with Section 849) is added
 22 to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code,
 23 to read:

24
 25 Article 5.7. Monterey Peninsula Water Supply Securitization
 26 Act
 27

28 849. For purposes of this article, the following definitions shall
 29 apply:

30 (a) “Ancillary agreement” means a bond insurance policy, letter
 31 of credit, reserve account, surety bond, swap arrangement, hedging
 32 arrangement, liquidity or credit support arrangement, or other
 33 similar agreement or arrangement entered into in connection with
 34 the issuance of water rate relief bonds that is designed to promote
 35 the credit quality and marketability of the bonds or to mitigate the
 36 risk of an increase in interest rates.

37 (b) “Customer” means an individual, governmental body, trust,
 38 business entity, or nonprofit organization that is a customer of the
 39 qualifying water utility, has responsibility for a service address

1 provided water service by the utility, or consumes water that has
2 been transmitted or distributed by means of distribution facilities.

3 (c) “District” means the Monterey Peninsula Water Management
4 District, or its successor or assignee.

5 (d) “Financing costs” means the costs to issue, service, repay,
6 or refinance water rate relief bonds, whether incurred or paid upon
7 issuance of the bonds or over the life of the bonds, and approved
8 for recovery by the commission in a financing order. “Financing
9 costs” may include any of the following:

10 (1) Principal, interest, and redemption premiums that are payable
11 on water rate relief bonds.

12 (2) A payment required under an ancillary agreement and an
13 amount required to fund or replenish a reserve account or other
14 account established under an indenture, ancillary agreement, or
15 other financing document relating to the water rate relief bonds.

16 (3) Costs of retiring or funding an existing debt and equity
17 security of a qualifying water utility in connection with the issuance
18 of water rate relief bonds to the extent the securities were issued
19 for the purpose of financing water supply costs.

20 (4) Costs incurred by, on behalf of, or allocated to, a qualifying
21 water utility to obtain modifications of, or amendments to, an
22 indenture, financing agreement, security agreement, or similar
23 agreement or instrument relating to an existing secured or
24 unsecured obligation of a qualifying water utility or an affiliate of
25 a qualifying water utility, or any costs incurred by or allocated to
26 a qualifying water utility to obtain the consent, release, waiver, or
27 approval from the holder of the obligation, that are necessary to
28 be incurred to permit a qualifying water utility to issue or cause
29 the issuance of water rate relief bonds.

30 (5) Taxes, franchise fees, or license fees imposed on water
31 supply charges.

32 (6) Costs related to issuing and servicing water rate relief bonds
33 or the application for a financing order, including, without
34 limitation, servicing fees and expenses, trustee fees and expenses,
35 legal fees and expenses, accounting fees, administrative fees,
36 underwriting and placement fees, financial advisory fees,
37 capitalized interest, rating agency fees, and any other related costs
38 that are approved for recovery in the financing order, including
39 costs incurred by a public financing entity.

40 (7) Other costs as specifically authorized by a financing order.

- 1 (e) “Financing entity” means either or both of the following:
- 2 (1) The qualifying water utility, or its subsidiary or affiliate,
- 3 that is authorized by the commission to issue water rate relief
- 4 bonds, or acquire water supply property, or both, pursuant to a
- 5 financing order.
- 6 (2) A public financing entity authorized to issue water rate relief
- 7 bonds pursuant to a financing order.
- 8 (f) “Financing order” means an order of the commission adopted
- 9 in accordance with this article, which shall include a procedure
- 10 for periodic true-up adjustments to water supply charges.
- 11 (g) “Qualifying water utility” means California American Water,
- 12 or any successor public utility described in Section 2701 of the
- 13 Public Utilities Code that is engaged in the delivery of water to
- 14 customers on the Monterey Peninsula.
- 15 (h) “Public financing entity” means any of the following:
- 16 (1) The district.
- 17 (2) A joint exercise of powers authority in which the district is
- 18 a member.
- 19 (3) A public agency that is authorized to issue water rate relief
- 20 bonds, or acquire water supply property, or both.
- 21 (i) “Service territory” means the geographical area within or
- 22 surrounding the Monterey Peninsula that the qualifying water
- 23 utility provides water service to in accordance with its certificate
- 24 of public convenience and necessity and within which water supply
- 25 charges may be imposed and collected as further described in the
- 26 financing order.
- 27 (j) “True-up adjustment” means a formula-based adjustment to
- 28 the water supply charges as they appear on customer bills that are
- 29 necessary to correct for any overcollection or undercollection of
- 30 the water supply charges authorized by a financing order and to
- 31 otherwise ensure the timely and complete payment and recovery
- 32 of water supply costs and financing costs over the authorized
- 33 repayment term.
- 34 (k) “Water rate relief bonds” means bonds, notes, certificates
- 35 of participation or beneficial interest, or other evidences of
- 36 indebtedness or ownership, issued pursuant to an executed
- 37 indenture or other agreement of a financing entity, the proceeds
- 38 of which are used, directly or indirectly, to provide, recover,
- 39 finance, or refinance water supply costs and financing costs, and
- 40 that are directly or indirectly secured by, or payable from, water

1 supply property. Water rate relief bonds may be issued
2 simultaneously by two financing entities, but water rate relief
3 bonds shall not be issued after the seventh anniversary of a
4 financing order issued in connection with commission proceeding
5 A.12-04-019. Water rate relief bonds may be issued for a term not
6 to exceed 30 years.

7 (l) “Water supply activity” means an activity or activities by or
8 on behalf of a qualifying water utility in connection with the
9 acquisition and construction of ~~infrastructure, plants, including,~~
10 ~~desalination facilities, pipelines, and other facilities, to develop new~~
11 ~~sources of supply~~ *infrastructure directly related to a desalination*
12 *facility and necessary equipment solely for that facility, including*
13 *the pipes necessary for conveyance and tanks necessary for water*
14 *storage, as authorized by the commission in proceeding*
15 *A.12-04-019.*

16 (m) “Water supply charges” means those nonbypassable charges
17 that are authorized by the commission in a financing order to
18 recover water supply costs and all financing costs specified in a
19 financing order.

20 (n) “Water supply costs” means any reasonable and necessary
21 costs, including capitalized interest costs relating to regulatory
22 assets and capitalized costs associated with permitting, design, and
23 engineering work, approved in a financing order, incurred or
24 expected to be incurred by a qualifying water utility in undertaking
25 water supply activities. Water supply costs include preliminary
26 expenses and investments associated with water supply activities
27 that are incurred before the issuance of a financing order and that
28 are to be reimbursed from the proceeds of water rate relief bonds.

29 (o) (1) “Water supply property” means the property right created
30 pursuant to this article, including, without limitation, the right,
31 title, and interest of the qualifying water utility or its transferee in
32 all of the following:

33 (A) In and to the water supply charges established pursuant to
34 a financing order, including all rights to obtain adjustments to the
35 water supply charges in accordance with Section 849.1 and the
36 financing order.

37 (B) To be paid the amount that is determined in a financing
38 order to be the amount that the qualifying water utility or its
39 transferee is lawfully entitled to receive pursuant to the provisions
40 of this article and the proceeds thereof, and in and to all revenues,

1 collections, claims, payments, money, or proceeds of or arising
2 from the water supply charges that are the subject of a financing
3 order.

4 (2) “Water supply property” shall constitute a current property
5 right notwithstanding the fact that the value of the property right
6 will depend on customers using water or, in those instances where
7 customers are customers of the qualifying water utility, the
8 qualifying water utility performing certain services.

9 849.1. (a) (1) The commission may issue financing orders in
10 accordance with this article to facilitate the recovery, financing,
11 or refinancing of water supply costs. A financing order may be
12 adopted only upon the application of the qualifying water utility
13 and shall become effective in accordance with its terms.

14 (2) Commencing January 1, 2015, the qualifying water utility
15 may apply to the commission for a determination that no more
16 than 50 percent of the qualifying water utility’s water supply costs
17 may be recovered through water supply charges, which would be
18 water supply property under this article.

19 (3) A public financing entity that proposes to issue water rate
20 relief bonds pursuant to Article 8 of Chapter 3 of Part 5 of the
21 Monterey Peninsula Water Management District Law, as added
22 by Chapter 527 of the Statutes of 1977, or Section 6537 of the
23 Government Code, shall provide information as requested by the
24 commission in connection with the application and proceeding.

25 (4) In its application the qualifying water utility shall specify
26 how customers may benefit from reduced rates on a present value
27 basis through the issuance of water rate relief bonds as compared
28 to the use of traditional utility financing mechanisms. If a public
29 financing entity proposes to issue water rate relief bonds, it shall
30 provide evidence to the commission that the issuance of water rate
31 relief bonds by the public financing entity, due to the availability
32 of a federal or state income tax exemption, will provide savings
33 to water customers on the Monterey Peninsula.

34 (5) The commission shall establish procedures for the
35 expeditious processing of financing order applications, including
36 the approval or disapproval of the qualifying water utility’s
37 application, within 180 days of the application submission.

38 (b) The commission shall authorize the imposition and collection
39 of water supply charges in one or more financing orders if the
40 commission determines, as part of its findings in connection with

1 the financing order, that each imposition and collection of the
2 water supply charges, and the issuance of water rate relief bonds
3 payable from those charges, would reduce the rates on a present
4 value basis that customers within the qualifying water utility's
5 service territory would pay as compared to the use of traditional
6 utility financing mechanisms, which shall be calculated using the
7 qualifying water utility's corporate debt and equity in the ratio
8 approved by the commission at the time of the issuance of the
9 financing order. The commission's determination shall consider
10 all customer payments including rates, surcharges, taxes, water
11 supply charges, and any other payments made by customers for
12 water supply activities.

13 (c) (1) The commission shall establish in a financing order an
14 effective mechanism that ensures recovery of water supply costs
15 and financing costs through nonbypassable water supply charges.
16 Water supply charges shall be imposed only on existing and future
17 customers of the qualifying water utility's service territory, and
18 those customers shall be required to pay those charges until the
19 water rate relief bonds and all financing costs are paid in full by
20 the financing entity, at which time those charges shall be
21 terminated. Water supply charges shall be irrevocable,
22 notwithstanding any true-up adjustment pursuant to subdivision
23 (g).

24 (2) *The commission shall not approve an increase in a financing*
25 *order that exceeds a total amount of 5 percent.*

26 (d) A financing order may specify how amounts collected from
27 a customer shall be allocated between water supply charges and
28 other charges of the qualifying water utility, consistent with Section
29 779.2.

30 (e) (1) Notwithstanding Section 455.5 or 1708, or any other
31 provision of law, and except as otherwise provided in subdivision
32 (g), water supply property that has been made the basis for the
33 issuance of water rate relief bonds, the financing order, and the
34 water supply charges shall be irrevocable. The commission shall
35 not, either by rescinding, altering, or amending the financing order
36 or otherwise, revalue or revise for ratemaking purposes the water
37 supply costs or the financing costs, determine that the water supply
38 charges are unjust or unreasonable, or in any way reduce or impair
39 the value of water supply property either directly or indirectly by
40 taking water supply charges into account when setting other rates

1 for the qualifying water utility. The amount of revenues arising
2 shall not be subject to reduction, impairment, postponement, or
3 termination.

4 (2) The State of California does hereby pledge and agree with
5 the qualifying water utility, owners of water supply property, the
6 financing entities, and owners of water rate relief bonds that the
7 state shall neither limit nor alter, except as otherwise provided
8 with respect to true-up adjustment of water supply charges pursuant
9 to subdivision (g), the water supply charges, water supply property,
10 financing orders, or any rights under a financing order until the
11 water rate relief bonds, together with the interest on the bonds,
12 and all related financing costs are fully paid and discharged, or,
13 in the alternative, have been refinanced through an additional issue
14 of water rate relief bonds, provided nothing contained in this
15 section shall preclude the limitation or alteration if and when
16 adequate provision shall be made by law for the protection of the
17 qualifying water utility, financing entities, and owners. The
18 financing entity is authorized to include this pledge and undertaking
19 for the state in the water rate relief bonds.

20 (f) (1) Neither financing orders nor water rate relief bonds
21 issued under this article shall constitute a debt or liability of the
22 state or of any political subdivision of the state except a public
23 financing entity, nor shall they constitute a pledge of the full faith
24 and credit of the state or any of its political subdivisions, but are
25 payable solely from the funds provided therefor under this article
26 and shall be consistent with Sections 1 and 18 of Article XVI of
27 the California Constitution. This subdivision shall not preclude
28 bond guarantees or enhancements pursuant to this article or
29 pursuant to Article 8 of Chapter 3 of Part 5 of the Monterey
30 Peninsula Water Management District Law, as added by Chapter
31 527 of the Statutes of 1977, or Section 6537 of the Government
32 Code. A water rate relief bond shall contain on the face of the bond
33 a statement to the following effect: “Neither the full faith and credit
34 nor the taxing power of the State of California is pledged to the
35 payment of the principal of, or interest on, this bond.”

36 (2) The issuance of water rate relief bonds under this article
37 shall not directly, indirectly, or contingently obligate the state or
38 any political subdivision of the state to levy or to pledge any form
39 of taxation therefor or to make any appropriation for their payment.
40 Nothing in this paragraph shall prevent or be construed to prevent

1 a public financing entity from pledging water supply property, or
2 payments made on water rate relief bonds, together with any
3 reserves or overcollateralization amounts approved in a financing
4 order, to the payment of the water rate relief bonds.

5 (g) Any water supply charge authorized by a financing order
6 shall appear on customer bills as a stand-alone, line-item surcharge.
7 The commission shall, in any financing order, provide for a
8 periodic true-up adjustment to water supply charges, which shall
9 be made at least annually and may be made more frequently. The
10 qualifying water utility shall file an advice letter with the
11 commission to implement any true-up adjustment.

12 (h) Water supply charges are water supply property when, and
13 to the extent that, a financing order authorizing the water supply
14 charges has become effective in accordance with this article, and
15 the water supply property shall thereafter continuously exist as
16 property for all purposes with all of the rights and privileges of
17 this article for the period and to the extent provided in the financing
18 order, but in any event until the water rate relief bonds, including
19 all principal, premium, if any, and interest with respect to the bonds
20 and all other financing costs are paid in full. A financing order
21 may provide that the creation of water supply property shall be
22 simultaneous with the sale of the water supply property to a
23 transferee or assignee as provided in the application and the pledge
24 of the water supply property to secure water rate relief bonds.

25 (i) Any surplus water supply charges in excess of the necessary
26 amounts to pay the principal premium, if any, and interest on the
27 water rate relief bonds and all other financing costs shall be credited
28 to customers through the adjustment mechanism described in
29 subdivision (g) or used to prepay or defease water rate relief bonds,
30 so long as this would not result in a recharacterization of the tax,
31 accounting, and other intended characteristics of the financing,
32 including, but not limited to, the following:

33 (1) Avoiding the recognition of debt on the qualifying water
34 utility's balance sheet for financial accounting and regulatory
35 purposes.

36 (2) Treating the water rate relief bonds as debt of the qualifying
37 water utility or its affiliates for federal income tax purposes.

38 (3) Treating the transfer of the water supply property by the
39 qualifying water utility as a true sale for bankruptcy purposes.

1 (4) Avoiding any adverse impact of the financing on the
2 qualifying water utility's credit rating.

3 (j) (1) *The commission may, pursuant to its authority in Section*
4 *739.8, implement a program to allow the qualifying water utility*
5 *to exclude low-income water ratepayers from the payment of any*
6 *water supply charge imposed pursuant to this section, if it*
7 *determines that the exclusion from the charge will have no*
8 *significant impact on the ability of the financing entity to finance*
9 *the water supply activity. The commission may also allow the*
10 *adjustment of the amount of the charge, as necessary, to cover any*
11 *costs associated with implementation of the exclusion.*

12 (2) *For purposes of this subdivision, "low-income" means a*
13 *household with income that is equal to or no greater than 200*
14 *percent of the federal poverty guideline level. For one-person*
15 *households, "low-income" shall be based on the two-person*
16 *household guidelines.*

17 849.2. (a) A qualifying water utility for which a financing
18 order has been issued shall cause the proceeds of any water rate
19 relief bonds issued pursuant to a financing order to be placed in a
20 separate account. A qualifying water utility may use the proceeds
21 of the issuance of water rate relief bonds for paying water supply
22 costs and financing costs and for no other purpose.

23 (b) A financing order may require the qualifying utility to file
24 with the commission a periodic report showing the receipt and
25 disbursement of proceeds of water rate relief bonds. A financing
26 order may authorize the staff of the commission to review and
27 audit the books and records of the qualifying water utility relating
28 to the receipt and disbursement of proceeds of water rate relief
29 bonds. The provisions of this subdivision shall not be construed
30 to limit the authority of the commission to investigate the practices
31 of the qualifying utility or to audit the books and records of the
32 qualifying water utility.

33 (c) A qualifying water utility for which a financing order has
34 been issued shall annually provide to its customers a concise
35 explanation of the water supply charges approved in a financing
36 order, as modified by subsequent issuances of water rate relief
37 bonds authorized under a financing order, if any, and by application
38 of the true-up adjustment mechanism as provided in the financing
39 order. These explanations shall be made after the annual true-up
40 adjustment pursuant to subdivision (g) of Section 849.1 and prior

1 to, or simultaneous with, the effective date of the adjustment, and
2 may be made by bill inserts, Internet Web site information, or other
3 appropriate means. If water rate relief bonds are issued by a public
4 financing entity, the public financing entity, or its trustee or
5 representative, shall provide the information to the qualifying water
6 utility as reasonably requested in order to comply with its
7 obligations under this section.

8 (d) The failure of a qualifying water utility to apply the proceeds
9 of water rate relief bonds in a reasonable, prudent, and appropriate
10 manner or otherwise comply with any provision of this section
11 shall not invalidate, impair, or affect any financing order, water
12 supply property, water supply charges, or water rate relief bonds.

13 849.3. (a) Financing entities may issue water rate relief bonds
14 upon approval by the commission in the financing order. Water
15 rate relief bonds shall be nonrecourse to the credit or any assets
16 of the qualifying water utility, other than the water supply property
17 as specified in the financing order.

18 (b) A qualifying water utility may sell and assign all or portions
19 of its interest in water supply property to an affiliate. A qualifying
20 water utility or its affiliates may sell or assign their interests to one
21 or more financing entities authorized under this article that make
22 that property the basis for issuance of water rate relief bonds to
23 the extent approved in the financing order. A qualifying water
24 utility, its affiliates, or financing entities may pledge and assign
25 water supply property as collateral, directly or indirectly, to the
26 extent approved in the financing order providing for a security
27 interest in the water supply property, in the manner set forth in
28 Section 849.4. In addition, water supply property may be sold or
29 assigned by either of the following:

30 (1) The financing entity or a trustee for the holders of water rate
31 relief bonds or the holder of an ancillary agreement in connection
32 with the exercise of remedies upon a default.

33 (2) A person acquiring the water supply property after a sale or
34 assignment made pursuant to this article.

35 (c) To the extent that any interest in water supply property is
36 sold, assigned, or pledged as collateral, the commission shall
37 authorize the qualifying water utility to contract with the financing
38 entity or entities that it will continue to operate its system to
39 provide service to its customers, will collect water supply charges
40 for the benefit and account of the financing entities and their

1 pledgees, and will account for and remit these amounts to or for
2 the account of the financing entities and their pledgees. Contracting
3 with a financing entity in accordance with that authorization shall
4 not impair or negate the characterization of the sale, assignment,
5 or pledge as an absolute transfer, a true sale, or security interest,
6 as applicable.

7 (d) Water supply property that is specified in a financing order
8 shall constitute an existing, present property right, notwithstanding
9 the fact that the imposition and collection of water supply charges
10 depend on the qualifying water utility continuing to provide water
11 service or continuing to perform its servicing functions relating to
12 the collection of water supply charges or on the level of future
13 water consumption. Water supply property shall exist whether or
14 not the water supply charges have been billed, have accrued, or
15 have been collected and notwithstanding the fact that the value for
16 a security interest in the water supply property, or amount of the
17 water supply property, is dependent on the future provision of
18 service to customers by the qualifying water utility. All water
19 supply property specified in a financing order shall continue to
20 exist until the water supply bonds issued pursuant to a financing
21 order and all other financing costs are paid in full.

22 (e) If a qualifying water utility defaults on any required payment
23 of water supply charge revenues, a court, upon application by an
24 interested party and without limiting any other remedies available
25 to the applying party, shall order the sequestration and payment
26 of the water supply charges, and the proceeds of the water supply
27 charges, for the benefit of bondholders, any assignee and financing
28 entities or their pledgees, and the counterparties to any ancillary
29 agreement. The order shall remain in full force and effect
30 notwithstanding bankruptcy, reorganization, or other insolvency
31 proceedings with respect to the qualifying water utility or any
32 affiliate of the qualifying water utility.

33 (f) Water supply property, water supply charges, and the
34 interests of an assignee, bondholder or financing entity, or any
35 pledgee in water supply property and water supply charges are not
36 subject to setoff, counterclaim, surcharge, or defense by the
37 qualifying utility or any other person or in connection with the
38 bankruptcy, reorganization, or other insolvency proceeding of the
39 qualifying water utility, any affiliate of the qualifying water utility,
40 or any other entity.

1 (g) Notwithstanding Section 1708 or any other provision of law,
2 any requirement under this article, or a financing order, that the
3 commission take action with respect to the subject matter of a
4 financing order, shall be binding upon the commission, as it may
5 be constituted from time to time, and any successor agency exerting
6 functions similar to the commission. The commission shall not
7 have authority to rescind, alter, or amend that requirement in a
8 financing order. The approval by the commission in a financing
9 order of the issuance by the qualifying water utility or a financing
10 entity of water rate relief bonds shall include the approvals, if any,
11 required by Article 5 (commencing with Section 816) and Section
12 701.5. Section 701.5 shall not be construed to prohibit the issuance
13 of water rate relief bonds upon the terms and conditions approved
14 by the commission in a financing order. Section 851 is not
15 applicable to the transfer or pledge of water supply property, the
16 issuance of water rate relief bonds, or related transactions approved
17 in a financing order.

18 (h) A financing entity issuing water rate relief bonds shall
19 include in its preliminary notice and final report for the water rate
20 relief bonds submitted to the California Debt and Investment
21 Advisory Commission pursuant to Section 8855 of the Government
22 Code, a statement that the water rate relief bonds are being issued
23 pursuant to this section. A financing entity issuing water rate relief
24 bonds shall include in its final report for the water rate relief bonds
25 submitted to the California Debt and Investment Advisory
26 Commission pursuant to Section 8855 of the Government Code,
27 the savings realized by issuing the water rate relief bonds rather
28 than using traditional utility financing mechanisms.

29 849.4. (a) A security interest in water supply property is valid,
30 is enforceable against the pledgor and third parties, is subject to
31 the rights of any third party holding a security interest in the water
32 supply property perfected in the manner described in this section,
33 and attaches when all of the following occur:

34 (1) The commission has issued the financing order authorizing
35 the water supply charges included in the water supply property.

36 (2) Value has been given by the pledgees of the water supply
37 property.

38 (3) The pledgor has signed a security agreement that includes
39 an indenture or financing agreement relating to the issuance of the
40 water rater relief bonds covering the water supply property.

1 (b) A valid and enforceable security interest in water supply
2 property is perfected when it has attached and when a financing
3 statement has been filed in accordance with Chapter 5
4 (commencing with Section 9501) of Division 9 of the Commercial
5 Code, naming the pledgor of the water supply property as “debtor”
6 and identifying the water supply property. Any description of the
7 water supply property shall be sufficient if it refers to the financing
8 order creating the water supply property. A copy of the financing
9 statement shall be filed with the commission by the qualifying
10 water utility that is the pledgor or transferor of the water supply
11 property, and the commission may require the qualifying water
12 utility to make other filings with respect to the security interest in
13 accordance with procedures it may establish, provided that the
14 filings do not affect the perfection of the security interest.

15 (c) A perfected security interest in water supply property is a
16 continuously perfected security interest in all revenues and
17 proceeds arising with respect to the water supply property, whether
18 or not the revenues or proceeds have accrued. Conflicting security
19 interests shall rank according to priority in time of perfection.
20 Water supply property shall constitute property for all purposes,
21 including for contracts securing water rate relief bonds, whether
22 or not the revenues and proceeds arising with respect to the water
23 supply property have accrued.

24 (d) Subject to the terms of the security agreement covering the
25 water supply property and the rights of any third party holding a
26 security interest in the water supply property perfected in the
27 manner described in this section, the validity and relative priority
28 of a security interest created under this section is not defeated or
29 adversely affected by the commingling of revenues arising with
30 respect to the water supply property with other funds of the
31 qualifying water utility that is the pledgor or transferor of the water
32 supply property, or by any security interest in a deposit account
33 of that qualifying water utility perfected under Division 9
34 (commencing with Section 9101) of the Commercial Code into
35 which the revenues are deposited. Subject to the terms of the
36 security agreement, upon compliance with the requirements of
37 subdivision (b) of Section 9312 of the Commercial Code, the
38 pledgees of the water supply property shall have a perfected
39 security interest in all cash and deposit accounts of the qualifying
40 water utility in which revenues arising with respect to the water

1 supply property have been commingled with other funds, but the
2 perfected security interest shall be limited to an amount not greater
3 than the amount of the revenues with respect to the water supply
4 property received by the qualifying water utility within 12 months
5 before either of the following:

6 (1) A default under the security agreement.

7 (2) The institution of insolvency proceedings by or against the
8 qualifying water utility, less payments from the revenues to the
9 pledgees during that 12-month period.

10 (e) If a default occurs under the security agreement covering
11 the water supply property, the pledgees of the water supply
12 property, subject to the terms of the security agreement, shall have
13 all rights and remedies of a secured party upon default under
14 Division 9 (commencing with Section 9101) of the Commercial
15 Code, and shall be entitled to foreclose or otherwise enforce their
16 security interest in the water supply property, subject to the rights
17 of any third party holding a prior security interest in the water
18 supply property perfected in the manner provided in this section.
19 In addition, the commission may require, in the financing order
20 creating the water supply property, that in the event of default by
21 the qualifying water utility in payment of revenues arising with
22 respect to the water supply property, the commission and any
23 successor to the commission, upon the application by the pledgees
24 or transferees, including transferees under Section 849.5, of the
25 water supply property, and without limiting any other remedies
26 available to the pledgees or transferees by reason of the default,
27 shall order the sequestration and payment to the pledgees or
28 transferees of revenues arising with respect to the water supply
29 property. Any order shall remain in full force and effect
30 notwithstanding bankruptcy, reorganization, or other insolvency
31 proceedings with respect to the debtor, pledgor, or transferor of
32 the water supply property. Any surplus in excess of amounts
33 necessary to pay principal, premium, if any, interest on the water
34 rate relief bonds, and other financing costs arising under the
35 security agreement, shall be remitted to the debtor or to the pledgor
36 or transferor.

37 (f) Sections 9204 and 9205 of the Commercial Code shall apply
38 to a pledge of water supply property by a qualifying water utility,
39 an affiliate of a qualifying water utility, or a financing entity, other
40 than a public financing entity.

1 (g) (1) This section sets forth the terms by which a consensual
2 security interest shall be created and perfected in the water supply
3 property. Unless otherwise ordered by the commission with respect
4 to any series of water rate relief bonds on or before the issuance
5 of the series, there shall exist a statutory lien as provided in this
6 subdivision.

7 (2) Upon the effective date of the financing order, there shall
8 exist a first priority lien on all water supply property then existing
9 or thereafter arising pursuant to the terms of the financing order.
10 This lien shall automatically arise pursuant to this section without
11 any action on the part of the qualifying water utility, any affiliate
12 of the qualifying water utility, the issuing entity, or any other
13 person. This lien shall secure all obligations, then existing and
14 subsequently arising, to the holders of the water rate relief bonds
15 issued pursuant to the financing order, the trustee or representative
16 for the holders, and any other entity specified in the financing
17 order. The persons for whose benefit this lien is established shall,
18 upon occurrence of any defaults specified in the financing order,
19 have all rights and remedies of a secured party upon default under
20 Chapter 1 (commencing with Section 9101) of Division 9 of the
21 Commercial Code, and shall be entitled to foreclose or otherwise
22 enforce this statutory lien in the water supply property. This lien
23 shall attach to the water supply property regardless of who shall
24 own, or shall subsequently be determined to own, the water supply
25 property, including any qualifying water utility, affiliate of the
26 qualifying water utility, financing entity, or any other person. This
27 lien shall be valid, perfected, and enforceable against the owner
28 of the water supply property and all third parties upon the
29 effectiveness of the financing order without any further public
30 notice, provided, however, that any person may, but shall not be
31 required to, file a financing statement in accordance with
32 subdivision (b). These financing statements may be protective
33 filings and shall not be evidence of the ownership of the water
34 supply property.

35 (h) Notwithstanding any other provision of law, Section 5451
36 of the Government Code shall apply to any pledge by the public
37 financing entity of water supply property or other security for any
38 water rate relief bonds issued by a public financing entity.

39 849.5. (a) A sale, assignment, or transfer of water supply
40 property by a qualifying water utility to an affiliate or to a financing

1 entity, or by an affiliate of a qualifying water utility or a financing
2 entity to another financing entity, which the parties, in the
3 governing documentation, have expressly stated to be a sale or
4 other absolute transfer, in a transaction approved in a financing
5 order, shall be treated as an absolute transfer of all of the
6 transferor's right, title, and interest, as in a true sale, and not as a
7 pledge or other financing order of the water supply property, other
8 than for federal and state income and franchise tax purposes.

9 (b) The characterization of the sale, assignment, or transfer as
10 an absolute transfer and true sale and the corresponding
11 characterization of the property interest of the purchaser shall not
12 be affected or impaired by, among other things, the occurrence of
13 any of the following:

14 (1) Commingling of water supply charge revenues with other
15 amounts.

16 (2) The retention by the seller of either of the following:

17 (A) A partial or residual interest, including an equity interest,
18 in the water supply property, whether direct or indirect, subordinate
19 or otherwise.

20 (B) The right to recover costs associated with taxes, franchise
21 fees, or license fees imposed on the collection of water supply
22 charge revenues.

23 (3) Any recourse that the purchaser may have against the seller.

24 (4) Any indemnification rights, obligations, or repurchase rights
25 made or provided by the seller.

26 (5) The obligation of the seller to collect water supply charge
27 revenues on behalf of an assignee.

28 (6) The treatment of the sale, assignment, or transfer for tax,
29 financial reporting, or other purposes.

30 (7) Any true-up adjustment of the water supply charges as
31 provided in the financing order.

32 (c) A sale, assignment, or transfer of water supply property shall
33 be deemed perfected against third persons when both of the
34 following occur:

35 (1) The commission issues the financing order authorizing the
36 water supply charges included in the water supply property.

37 (2) An assignment of the water supply property in writing has
38 been executed and delivered to the transferee.

39 (d) As between bona fide assignees of the same right for value
40 without notice, the assignee first filing a financing statement in

1 accordance with Chapter 5 (commencing with Section 9501) of
2 Division 9 of the Commercial Code naming the assignor of the
3 water supply property as debtor and identifying the water supply
4 property has priority. Any description of the water supply property
5 shall be sufficient if it refers to the financing order creating the
6 water supply property. A copy of the financing statement shall be
7 filed by the assignee with the commission, and the commission
8 may require the assignor or the assignee to make other filings with
9 respect to the transfer in accordance with procedures it may
10 establish, but these filings shall not affect the perfection of the
11 transfer.

12 849.6. A successor to the qualified water utility, whether
13 pursuant to bankruptcy, reorganization, or other insolvency
14 proceeding, or pursuant to merger, sale, or transfer, by operation
15 of law, or otherwise, shall perform and satisfy all obligations of
16 the qualifying water utility pursuant to this article in the same
17 manner and to the same extent as the qualified water utility,
18 including, but not limited to, collecting and paying to the holders
19 of water rate relief bonds or any financing entities or their pledgees
20 revenues arising with respect to the water supply property sold to
21 the applicable financing entity or pledged to secure water rate relief
22 bonds.

23 SEC. 7. Section 1731 of the Public Utilities Code is amended
24 to read:

25 1731. (a) The commission shall set an effective date when
26 issuing an order or decision. The commission may set the effective
27 date of an order or decision before the date of issuance of the order
28 or decision.

29 (b) (1) After an order or decision has been made by the
30 commission, a party to the action or proceeding, or a stockholder,
31 bondholder, or other party pecuniarily interested in the public
32 utility affected may apply for a rehearing in respect to matters
33 determined in the action or proceeding and specified in the
34 application for rehearing. The commission may grant and hold a
35 rehearing on those matters, if in its judgment sufficient reason is
36 made to appear. A cause of action arising out of any order or
37 decision of the commission shall not accrue in any court to any
38 corporation or person unless the corporation or person has filed
39 an application to the commission for a rehearing within 30 days
40 after the date of issuance or within 10 days after the date of

1 issuance in the case of an order issued pursuant to either Article
2 5 (commencing with Section 816) or Article 6 (commencing with
3 Section 851) of Chapter 4 relating to security transactions and the
4 transfer or encumbrance of utility property.

5 (2) The commission shall notify the parties of the issuance of
6 an order or decision by either mail or electronic transmission.
7 Notification of the parties may be accomplished by one of the
8 following methods:

9 (A) Mailing the order or decision to the parties to the action or
10 proceeding.

11 (B) If a party to an action or proceeding consents in advance to
12 receive notice of any order or decision related to the action or
13 proceeding by electronic mail address, notification of the party
14 may be accomplished by transmitting an electronic copy of the
15 official version of the order or decision to the party if the party
16 has provided an electronic mail address to the commission.

17 (C) If a party to an action or proceeding consents in advance to
18 receive notice of any order or decision related to the action or
19 proceeding by electronic mail address, notification of the party
20 may be accomplished by transmitting a link to an Internet Web
21 site where the official version of the order or decision is readily
22 available to the party if the party has provided an electronic mail
23 address to the commission.

24 (3) For the purposes of this article, “date of issuance” means
25 the mailing or electronic transmission date that is stamped on the
26 official version of the order or decision.

27 (c) A cause of action arising out of an order or decision of the
28 commission construing, applying, or implementing the provisions
29 of Chapter 4 of the Statutes of the 2001–02 First Extraordinary
30 Session that (1) relates to the determination or implementation of
31 the department’s revenue requirements, or the establishment or
32 implementation of bond or power charges necessary to recover
33 those revenue requirements, or (2) in the sole determination of the
34 Department of Water Resources, the expedited review of order or
35 decision of the commission is necessary or desirable, for the
36 maintenance of any credit ratings on any bonds or notes of the
37 department issued pursuant to Division 27 (commencing with
38 Section 80000) of the Water Code or for the department to meet
39 its obligations with respect to any bonds or notes pursuant to that
40 division, shall not accrue in any court to any corporation or person

1 unless the corporation or person has filed an application with the
2 commission for a rehearing within 10 days after the date of
3 issuance of the order or decision. The Department of Water
4 Resources shall notify the commission of any determination
5 pursuant to paragraph (2) of this subdivision before the issuance
6 by the commission of any order or decision construing, applying,
7 or implementing the provisions of Chapter 4 of the Statutes of the
8 2001–02 First Extraordinary Session. The commission shall issue
9 its decision and order on rehearing within 210 days after the filing
10 of the application.

11 (d) A cause of action arising out of an order or decision of the
12 commission construing, applying, or implementing the provisions
13 of Article 5.7 (commencing with Section 849) of Chapter 4 shall
14 not accrue in any court to any entity or person unless the entity or
15 person has filed an application to the commission for a rehearing
16 within 10 days after the date of issuance of the order or decision.
17 The commission shall issue its decision and order on rehearing
18 within 210 days after the filing of that application.

19 SEC. 8. Section 1770 is added to the Public Utilities Code, to
20 read:

21 1770. The following procedures shall apply to the judicial
22 review of an order or decision of the commission in interpreting,
23 implementing, or applying the provisions of Article 5.7
24 (commencing with Section 849) of Chapter 4 of Part 1 of Division
25 1:

26 (a) Within 30 days after the commission issues its order or
27 decision denying the application for a rehearing or, if the
28 application is granted, within 30 days after the commission issues
29 its decision on rehearing, an aggrieved party may petition for a
30 writ of review in the California Supreme Court for the purpose of
31 determining the lawfulness of the original order or decision or of
32 the order or decision on the rehearing. If the writ is issued, it shall
33 be made returnable at a time and place specified by court order
34 and shall direct the commission to certify its record in the case to
35 the court within the time specified. No order of the commission
36 interpreting, implementing, or applying the provisions of Article
37 5.7 (commencing with Section 849) of Chapter 4 of Part 1 of
38 Division 1 shall be subject to review in a court of appeals.

1 (b) The petition for review shall be served upon the executive
2 director of the commission either personally or by service at the
3 office of the commission.

4 (c) For purposes of this section, the issuance of a decision or
5 the granting of an application shall be construed to have occurred
6 on the date when the commission mails the decision or grant to
7 the parties of the action or proceeding.

8 (d) To the extent that the provisions do not conflict, provisions
9 in this article shall apply to actions under this section.

10 SEC. 9. Article 8 (commencing with Section 685) is added to
11 Chapter 3 of Part 5 of the Monterey Peninsula Water Management
12 District Law (Chapter 527 of the Statutes of 1977), to read:

13
14 Article 8. Tax Exempt Water Relief Reduction Bonds
15

16 685. (a) The district may issue water rate relief bonds for the
17 purpose of purchasing water rate relief bonds issued by another
18 financing entity pursuant to a financing order authorized pursuant
19 to Article 5.7 (commencing with Section 849) of Chapter 4 of Part
20 1 of Division 1 of the Public Utilities Code, to fund any necessary
21 reserves and to pay the costs of issuance of the water rate relief
22 bonds. These bonds may be issued only if the commission finds
23 in the financing order that the issuance, due to the availability of
24 a federal or state income tax exemption, will provide savings to
25 water customers on the Monterey Peninsula. These bonds issued
26 by the district, or “district bonds,” shall be denominated “Monterey
27 Peninsula Water Management District Water Rate Relief Bonds.”
28 These bonds shall have designations, details, and terms, be payable
29 at times and places, and be sold in a manner as determined by the
30 board. The resolution shall authorize the district to enter into a
31 trust agreement or similar security agreement to secure payment
32 of the district bonds.

33 (b) The district bonds shall be special limited obligations of the
34 district, and shall be payable solely from payments made on the
35 water rate relief bonds purchased with the proceeds of the district
36 bonds and any reserve funded from the proceeds of the district
37 bonds. The bonds shall not be payable from any other funds or
38 assets of the district, and neither the full faith and credit nor taxing
39 power of the district shall be pledged to or exercised for the
40 payment of the bonds.

1 686. If the district authorizes the issuance of bonds under
2 Section 685, the district, notwithstanding Article 5 (commencing
3 with Section 53760) of Chapter 4 of Part 1 of Division 2 of Title
4 5 of the Government Code, shall not be eligible to file for
5 bankruptcy pursuant to Chapter 9 (commencing with Section 901)
6 of Title 11 of the United States Code as long as the district bonds
7 and related financing costs are outstanding and unpaid and shall
8 remain ineligible for a period of one year and one day following
9 the full payment of the bonds and costs.

10 SEC. 10. The provisions of this act are severable. If any
11 provision of this act or its application is held invalid, that invalidity
12 shall not affect other provisions or applications that can be given
13 effect without the invalid provision or application.

14 SEC. 11. The Legislature finds and declares that a special law
15 is necessary and that a general law cannot be made applicable
16 within the meaning of Section 16 of Article IV of the California
17 Constitution because of the unique circumstances applicable only
18 to the Monterey Peninsula, Californian American Water, and the
19 Monterey Peninsula Water Management District. Therefore, this
20 special statute is necessary.

21 SEC. 12. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.