

Senate Bill No. 936

CHAPTER 482

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 utilities.

[Approved by Governor September 19, 2014. Filed with
Secretary of State September 19, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 936, Monning. Utilities.

(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 requires that certain transfers be deemed perfected against 3rd persons upon the execution and delivery to the transferee an assignment of the transfer in writing, excluding transfers or assignments of transition property or recovery property. Existing law provides generally

that a transfer of personal property not accompanied by delivery and change of possession of the property is void against the transferor's creditors, except for certain specified transfers or types of property, including transition property or recovery property.

This bill would remove the exceptions for transition property from these provisions. The bill would remove the exception for recovery property described in the latter provision above.

(5) 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.

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

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

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

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

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

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

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

and in the interim, to maximize its production from the Seaside Groundwater Basin.

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

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

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

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

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

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

(l) CAW customers may take advantage of additional costs savings if a public agency assists in the financing of water project capital costs on a tax-exempt basis. It is necessary for California to provide express authority for a public agency to issue bonds or other evidences of indebtedness on this basis.

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

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

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

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

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

(d) This section does not apply to transfers or assignments of water supply property, as defined in Section 849 of the Public Utilities Code.

(e) This section does not apply to transfers or assignments of recovery property, as defined in Section 848 of the Public Utilities Code.

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

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

(a) Things in action.

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

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

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

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

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

(g) Standing timber.

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

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

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

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

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

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

(l) Water supply property, as defined in Section 849 of the Public Utilities Code.

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

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

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

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

(2) An agricultural lien.

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

(4) A consignment.

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

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

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

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

(1) A statute, regulation, or treaty of the United States preempts this division.

(2) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under Section 5114.

(d) This division does not apply to any of the following:

(1) A landlord's lien, other than an agricultural lien.

(2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, however Section 9333 applies with respect to priority of the lien.

(3) An assignment of a claim for wages, salary, or other compensation of an employee.

(4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose.

(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only.

(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract.

(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness.

(8) A loan made by an insurance company pursuant to the provisions of a policy or contract issued by it and upon the sole security of the policy or contract.

(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral.

(10) A right of recoupment or setoff, provided that both of the following sections apply:

(A) Section 9340 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts.

(B) Section 9404 applies with respect to defenses or claims of an account debtor.

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for each of the following:

(A) Liens on real property pursuant to Sections 9203 and 9308.

(B) Fixtures pursuant to Section 9334.

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

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

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

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

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

(15) Transition property, as defined in Section 840 of the Public Utilities Code, except to the extent that the provisions of this division are referred to in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, recovery property, as defined in Section 848 of the Public Utilities Code, except to the extent that the provisions of this division are referred to in Article 5.6 (commencing with Section 848) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, and water supply property, as defined in Section 849 of the Public Utilities Code, except to the extent that the provisions of this division are referred to in Article 5.7 (commencing with Section 849) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

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

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

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

6537. (a) The Legislature finds that it is in the best interest of the communities on the Monterey Peninsula that any joint exercise of powers authority formed under this article to which the Monterey Peninsula Water Management District and one or more other public agencies are members is authorized to issue water rate relief bonds, hereafter "agency bonds," the proceeds of which will be used to purchase water rate relief bonds that are authorized to be issued by an affiliate of a qualifying water utility in a financing order issued pursuant to Article 5.7 (commencing with Section 849) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to fund any necessary reserves and to pay the costs of issuance of the agency bonds. The agency bonds may be issued only if the commission finds in a financing order that the issuance, due to the availability of a federal or state income tax exemption, will provide savings to water customers on the Monterey Peninsula.

(b) Notwithstanding any other provision of law, the joint powers agency may issue bonds pursuant to Article 2 (commencing with Section 6540) or Article 4 (commencing with Section 6584). If the agency issues bonds under this section, the agency, notwithstanding Article 5 (commencing with Section 53760) of Chapter 4 of Part 1 of Division 2 of Title 5, shall not be eligible to file for bankruptcy pursuant to Chapter 9 (commencing with Section 901)

of Title 11 of the United States Code as long as the bonds and any related financing costs are outstanding and unpaid and shall remain ineligible for a period of one year and one day after repayment of the bonds and any related financing costs.

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

Article 5.7. Monterey Peninsula Water Supply Securitization Act

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

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

(b) "Customer" means an individual, governmental body, trust, business entity, or nonprofit organization that is a customer of the qualifying water utility, has responsibility for a service address provided water service by the utility, or consumes water that has been transmitted or distributed by means of distribution facilities.

(c) "District" means the Monterey Peninsula Water Management District, or its successor or assignee.

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

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

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

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

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

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

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

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

(e) “Financing entity” means either or both of the following:

(1) The qualifying water utility, or its subsidiary or affiliate, that is authorized by the commission to issue water rate relief bonds, or acquire water supply property, or both, pursuant to a financing order.

(2) A public financing entity authorized to issue water rate relief bonds pursuant to a financing order.

(f) “Financing order” means an order of the commission adopted in accordance with this article, which shall include a procedure for periodic true-up adjustments to water supply charges.

(g) “Qualifying water utility” means California American Water, or any successor public utility described in Section 2701 of the Public Utilities Code that is engaged in the delivery of water to customers on the Monterey Peninsula.

(h) “Public financing entity” means any of the following:

(1) The district.

(2) A joint exercise of powers authority in which the district is a member.

(3) A public agency that is authorized to issue water rate relief bonds, or acquire water supply property, or both.

(i) “Service territory” means the geographical area within or surrounding the Monterey Peninsula that the qualifying water utility provides water service to in accordance with its certificate of public convenience and necessity and within which water supply charges may be imposed and collected as further described in the financing order.

(j) “True-up adjustment” means a formula-based adjustment to the water supply charges as they appear on customer bills that are necessary to correct for any overcollection or undercollection of the water supply charges authorized by a financing order and to otherwise ensure the timely and complete payment and recovery of water supply costs and financing costs over the authorized repayment term.

(k) “Water rate relief bonds” means bonds, notes, certificates of participation or beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed indenture or other agreement of a financing entity, the proceeds of which are used, directly or indirectly, to provide, recover, finance, or refinance water supply costs and financing costs, and that are directly or indirectly secured by, or payable from, water supply property. Water rate relief bonds may be issued simultaneously by two financing entities, but water rate relief bonds shall not be issued after the seventh anniversary of a financing order issued in connection with

commission proceeding A.12-04-019. Water rate relief bonds may be issued for a term not to exceed 30 years.

(l) “Water supply activity” means an activity or activities by or on behalf of a qualifying water utility in connection with the acquisition and construction of infrastructure directly related to a desalination facility and necessary equipment solely for that facility, including the pipes necessary for conveyance and tanks necessary for water storage, as authorized by the commission in proceeding A.12-04-019.

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

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

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

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

(B) To be paid the amount that is determined in a financing order to be the amount that the qualifying water utility or its transferee is lawfully entitled to receive pursuant to the provisions of this article and the proceeds thereof, and in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the water supply charges that are the subject of a financing order.

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

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

(2) Commencing January 1, 2015, the qualifying water utility may apply to the commission for a determination that no more than 50 percent of the qualifying water utility’s water supply costs may be recovered through water supply charges, which would be water supply property under this article. The commission shall not approve an increase in a financing order that exceeds a total amount of 5 percent of the water supply costs.

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

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

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

(b) The commission shall authorize the imposition and collection of water supply charges in one or more financing orders if the commission determines, as part of its findings in connection with the financing order, that each imposition and collection of the water supply charges, and the issuance of water rate relief bonds payable from those charges, would reduce the rates on a present value basis that customers within the qualifying water utility's service territory would pay as compared to the use of traditional utility financing mechanisms, which shall be calculated using the qualifying water utility's corporate debt and equity in the ratio approved by the commission at the time of the issuance of the financing order. The commission's determination shall consider all customer payments including rates, surcharges, taxes, water supply charges, and any other payments made by customers for water supply activities.

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

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

(e) (1) Notwithstanding Section 455.5 or 1708, or any other provision of law, and except as otherwise provided in subdivision (g), water supply property that has been made the basis for the issuance of water rate relief bonds, the financing order, and the water supply charges shall be irrevocable.

The commission shall not, either by rescinding, altering, or amending the financing order or otherwise, revalue or revise for ratemaking purposes the water supply costs or the financing costs, determine that the water supply charges are unjust or unreasonable, or in any way reduce or impair the value of water supply property either directly or indirectly by taking water supply charges into account when setting other rates for the qualifying water utility. The amount of revenues arising shall not be subject to reduction, impairment, postponement, or termination.

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

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

(2) The issuance of water rate relief bonds under this article shall not directly, indirectly, or contingently obligate the state or any political subdivision of the state to levy or to pledge any form of taxation therefor or to make any appropriation for their payment. Nothing in this paragraph shall prevent or be construed to prevent a public financing entity from pledging water supply property, or payments made on water rate relief bonds, together with any reserves or overcollateralization amounts approved in a financing order, to the payment of the water rate relief bonds.

(g) Any water supply charge authorized by a financing order shall appear on customer bills as a stand-alone, line-item surcharge. The commission shall, in any financing order, provide for a periodic true-up adjustment to

water supply charges, which shall be made at least annually and may be made more frequently. The qualifying water utility shall file an advice letter with the commission to implement any true-up adjustment.

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

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

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

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

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

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

(j) The commission shall, pursuant to its authority in Section 739.8, implement a program to exclude low-income water ratepayers participating in commission-approved, low-income rate assistance programs from the payment of any water supply charge imposed pursuant to this section, if it determines that the exclusion from the charge will have no significant impact on the ability of the financing entity to finance the water supply activity. The commission may also allow the adjustment of the amount of the charge, as necessary, to cover any costs associated with implementation of the exclusion.

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

(b) A financing order may require the qualifying utility to file with the commission a periodic report showing the receipt and disbursement of proceeds of water rate relief bonds. A financing order may authorize the

staff of the commission to review and audit the books and records of the qualifying water utility relating to the receipt and disbursement of proceeds of water rate relief bonds. The provisions of this subdivision shall not be construed to limit the authority of the commission to investigate the practices of the qualifying utility or to audit the books and records of the qualifying water utility.

(c) A qualifying water utility for which a financing order has been issued shall annually provide to its customers a concise explanation of the water supply charges approved in a financing order, as modified by subsequent issuances of water rate relief bonds authorized under a financing order, if any, and by application of the true-up adjustment mechanism as provided in the financing order. These explanations shall be made after the annual true-up adjustment pursuant to subdivision (g) of Section 849.1 and prior to, or simultaneous with, the effective date of the adjustment, and may be made by bill inserts, Internet Web site information, or other appropriate means. If water rate relief bonds are issued by a public financing entity, the public financing entity, or its trustee or representative, shall provide the information to the qualifying water utility as reasonably requested in order to comply with its obligations under this section.

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

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

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

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

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

(c) To the extent that any interest in water supply property is sold, assigned, or pledged as collateral, the commission shall authorize the qualifying water utility to contract with the financing entity or entities that

it will continue to operate its system to provide service to its customers, will collect water supply charges for the benefit and account of the financing entities and their pledgees, and will account for and remit these amounts to or for the account of the financing entities and their pledgees. Contracting with a financing entity in accordance with that authorization shall not impair or negate the characterization of the sale, assignment, or pledge as an absolute transfer, a true sale, or security interest, as applicable.

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

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

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

(g) Notwithstanding Section 1708 or any other provision of law, any requirement under this article, or a financing order, that the commission take action with respect to the subject matter of a financing order, shall be binding upon the commission, as it may be constituted from time to time, and any successor agency exerting functions similar to the commission. The commission shall not have authority to rescind, alter, or amend that requirement in a financing order. The approval by the commission in a financing order of the issuance by the qualifying water utility or a financing entity of water rate relief bonds shall include the approvals, if any, required by Article 5 (commencing with Section 816) and Section 701.5. Section

701.5 shall not be construed to prohibit the issuance of water rate relief bonds upon the terms and conditions approved by the commission in a financing order. Section 851 is not applicable to the transfer or pledge of water supply property, the issuance of water rate relief bonds, or related transactions approved in a financing order.

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

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

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

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

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

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

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

(d) Subject to the terms of the security agreement covering the water supply property and the rights of any third party holding a security interest in the water supply property perfected in the manner described in this section, the validity and relative priority of a security interest created under this section is not defeated or adversely affected by the commingling of revenues arising with respect to the water supply property with other funds of the qualifying water utility that is the pledgor or transferor of the water supply property, or by any security interest in a deposit account of that qualifying water utility perfected under Division 9 (commencing with Section 9101) of the Commercial Code into which the revenues are deposited. Subject to the terms of the security agreement, upon compliance with the requirements of subdivision (b) of Section 9312 of the Commercial Code, the pledgees of the water supply property shall have a perfected security interest in all cash and deposit accounts of the qualifying water utility in which revenues arising with respect to the water supply property have been commingled with other funds, but the perfected security interest shall be limited to an amount not greater than the amount of the revenues with respect to the water supply property received by the qualifying water utility within 12 months before either of the following:

- (1) A default under the security agreement.
- (2) The institution of insolvency proceedings by or against the qualifying water utility, less payments from the revenues to the pledgees during that 12-month period.

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

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

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

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

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

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

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

- (1) Commingling of water supply charge revenues with other amounts.
- (2) The retention by the seller of either of the following:
 - (A) A partial or residual interest, including an equity interest, in the water supply property, whether direct or indirect, subordinate or otherwise.
 - (B) The right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of water supply charge revenues.
- (3) Any recourse that the purchaser may have against the seller.
- (4) Any indemnification rights, obligations, or repurchase rights made or provided by the seller.
- (5) The obligation of the seller to collect water supply charge revenues on behalf of an assignee.
- (6) The treatment of the sale, assignment, or transfer for tax, financial reporting, or other purposes.
- (7) Any true-up adjustment of the water supply charges as provided in the financing order.

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

- (1) The commission issues the financing order authorizing the water supply charges included in the water supply property.
- (2) An assignment of the water supply property in writing has been executed and delivered to the transferee.

(d) As between bona fide assignees of the same right for value without notice, the assignee first filing a financing statement in accordance with Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code naming the assignor of the water supply property as debtor and identifying the water supply property has priority. Any description of the water supply property shall be sufficient if it refers to the financing order creating the water supply property. A copy of the financing statement shall be filed by the assignee with the commission, and the commission may require the assignor or the assignee to make other filings with respect to the transfer in accordance with procedures it may establish, but these filings shall not affect the perfection of the transfer.

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

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

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

(b) (1) After an order or decision has been made by the commission, a party to the action or proceeding, or a stockholder, bondholder, or other party pecuniarily interested in the public utility affected may apply for a rehearing in respect to matters determined in the action or proceeding and specified in the application for rehearing. The commission may grant and hold a rehearing on those matters, if in its judgment sufficient reason is made to appear. A cause of action arising out of any order or decision of the commission shall not accrue in any court to any corporation or person unless the corporation or person has filed an application to the commission for a rehearing within 30 days after the date of issuance or within 10 days after the date of issuance in the case of an order issued pursuant to either Article 5 (commencing with Section 816) or Article 6 (commencing with Section 851) of Chapter 4 relating to security transactions and the transfer or encumbrance of utility property.

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

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

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

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

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

(c) A cause of action arising out of an order or decision of the commission construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session that (1) relates to the determination or implementation of the department’s revenue requirements, or the establishment or implementation of bond or power charges necessary to recover those revenue requirements, or (2) in the sole determination of the Department of Water Resources, the expedited review of order or decision of the commission is necessary or desirable, for the maintenance of any credit ratings on any bonds or notes of the department issued pursuant to Division 27 (commencing with Section 80000) of the Water Code or for the department to meet its obligations with respect to any bonds or notes

pursuant to that division, shall not accrue in any court to any corporation or person unless the corporation or person has filed an application with the commission for a rehearing within 10 days after the date of issuance of the order or decision. The Department of Water Resources shall notify the commission of any determination pursuant to paragraph (2) of this subdivision before the issuance by the commission of any order or decision construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session. The commission shall issue its decision and order on rehearing within 210 days after the filing of the application.

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

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

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

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

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

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

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

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

Article 8. Tax Exempt Water Relief Reduction Bonds

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

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

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

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

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

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of

Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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