

AMENDED IN SENATE JULY 22, 1998

AMENDED IN SENATE JULY 9, 1998

AMENDED IN SENATE JUNE 22, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1182**

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**Introduced by Assembly Member Keeley**

February 28, 1997

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An act to add Part 7 (commencing with Section 1000) to the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), relating to the Monterey Peninsula Water Management District.

LEGISLATIVE COUNSEL'S DIGEST

AB 1182, as amended, Keeley. Monterey Peninsula Water Management District.

(1) Existing law establishes the Monterey Peninsula Water Management District Law, and provides specified authority to the district to do any and every lawful act necessary in order that sufficient water may be made available for any present or future beneficial use or uses of the lands or inhabitants within the district, as specified.

This bill would establish the policies and procedures for the Public Utilities Commission to develop a water resource plan that would be presented, along with the project in a specified application, to the voters of the district, as specified. The bill would require the district to conduct an election as prescribed, to permit the voters in the district to vote for one

of the 2 proposals, and would require the proposal that receives the most votes, to be implemented as specified, thus imposing a state-mandated local program. The bill would make other related changes.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

(3) This bill would make legislative findings and declarations as to the necessity for a special statute.

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. Part 7 (commencing with Section 1000)  
2 is added to the Monterey Peninsula Water Management  
3 District Law (Chapter 527 of the Statutes of 1977), to  
4 read:

5  
6 PART 7. SPECIAL PROJECT

7  
8 CHAPTER 1. POLICY

9  
10 1000. The Legislature finds and declares all of the  
11 following:

12 (a) As a result of State Board Order No. WR 95-10 by  
13 the State Water Resources Control Board, the  
14 California-American Water Company must cease and  
15 desist diligently from diverting approximately 10,730  
16 acre-feet of water annually from the Carmel River or its  
17 underflow.

18 (b) The California-American Water Company has  
19 filed an application with the Public Utilities Commission  
20 for a certificate that the present and future public  
21 convenience and necessity require the company to  
22 construct and operate a 24,000 acre-foot Carmel River  
23 Dam and Reservoir in its Monterey Division and to



1 recover all present and future costs in connection  
2 therewith in rates.

3 (c) The Public Utilities Commission, after the public  
4 participation hearing and prehearing conference held in  
5 Monterey, in its June 23, 1997, Joint Ruling, determined  
6 that the issues regarding the application of the  
7 California-American Water Company fall into three  
8 broad interrelated, categories: environmental, financial,  
9 and alternative water strategies. The commission also  
10 found that the necessity to secure the Monterey  
11 Peninsula's water supply greatly predates the current  
12 crises, and that the company's dam proposal is the latest  
13 of several projects that have received serious  
14 consideration. Further, the commission noted that "[t]he  
15 challenge for the community is to achieve closure: some  
16 project or combination of projects must be chosen and  
17 completed, or long-term water rationing is likely to be  
18 unavoidable for this community."

19 1001. Because of both the long-term difficulties in  
20 ~~resolving Monterey County's water needs~~ *the water*  
21 *needs of the Monterey Peninsula*, and the present  
22 urgency to resolve those water needs, the Legislature  
23 intends that an environmentally sound water source for  
24 the water be secured as quickly as possible in a  
25 responsible manner. It is also the policy of the Legislature  
26 that in order to achieve closure in the Monterey  
27 community it is necessary that the residents served by the  
28 Monterey Peninsula Water Management District be  
29 provided two choices, (a) the dam proposed by the  
30 California-American Water Company and (b) an  
31 alternative water resource plan that will meet the criteria  
32 established by the Legislature in this part. Further, it is  
33 the policy of the Legislature that when the residents have  
34 made a decision through the election process provided  
35 for in this part, whichever proposal is chosen shall be  
36 completed as quickly as possible.

37  
38  
39

CHAPTER 2. DEFINITIONS

1 1010. For purposes of this part, the following terms  
2 have the following meanings:

3 (a) "AFA" is acre-feet annually of water.

4 (b) "Application" is Cal-Am's application number  
5 97-03-052 submitted to the Public Utilities Commission  
6 and any successor to that application pertaining to  
7 substantially the same project in that application.

8 (c) "Cal-Am" is the California American Water  
9 Company.

10 (d) "Commission" is the Public Utilities Commission.

11 (e) "CEQA" is the California Environmental Quality  
12 Act in Division 13 (commencing with Section 21000) of  
13 the Public Resources Code and the State CEQA  
14 Guidelines in Title 14, California Code of Regulations,  
15 Chapter 3 (commencing with Section 15000) of Division  
16 6.

17 (f) "EIR" is an environmental impact report in  
18 compliance with CEQA.

19 (g) "This law" is the Monterey Peninsula Water  
20 Management District Law (Chapter 527 of the Statutes  
21 of 1977), including all amendments thereto.

22  
23 CHAPTER 3. WATER RESOURCE PLAN  
24

25 1020. The commission, as a parallel proceeding with  
26 the application, shall develop a water resource plan that  
27 will not require a new dam on the Carmel River. *The*  
28 *water resource plan may include either projects or*  
29 *programs, or both, that if funded could be implemented.*  
30 *The commission shall complete the water resource plan*  
31 *on or before \_\_\_\_.*

32 1021. Notwithstanding any other provision of law, the  
33 commission may contract without competitive bidding  
34 for any expertise needed by the commission in  
35 developing the water resource plan required by this  
36 chapter.

37 1022. The water resource plan developed by the  
38 commission shall meet all of the following criteria:

39 (a) Yield an amount of water that is equal to 17,641  
40 AFA less the sum of both the AFA of Cal-Am's share of



1 water from the Seaside aquifer and 3,370 AFA that  
2 Cal-Am possesses legal rights to divert from the Carmel  
3 River. ~~If the commission in its order on the application,  
4 or any successor to that application pertaining to  
5 substantially the same project in the application,  
6 increases or decreases by some increment the amount of  
7 water that the project in the application would be  
8 required to provide, the amount of water that the water  
9 resource plan is required to yield shall be increased or  
10 decreased by that same increment.~~

11 ~~(b) (1) Comply with the reduction in pumping of  
12 water from wells operated by Cal-Am ordered by the  
13 State Water Resources Control Board in State Board  
14 Order No. WR 95-10.~~

15 ~~(2) Mitigate any environmental impact on the Carmel  
16 River, and any other environmental impacts, of the water  
17 resource plan in accordance with CEQA.~~

18 ~~(e) Meet the drought protection goals formulated by  
19 the district as expressed in the August 16, 1993, minutes  
20 of the district's board.~~

21 *(b) In order to achieve comparability between the  
22 application and the water resources plan, the commission  
23 shall provide for remodels, development of legal lots of  
24 record, and drought protection pursuant to this  
25 paragraph. If the commission allows for remodels and  
26 development of legal lots of record when approving the  
27 application, that allowance shall be used by the  
28 commission in its process for determining an appropriate  
29 level of drought protection for the water resource plan.  
30 The commission, in determining a level of drought  
31 protection that allows for remodels and development of  
32 legal lots of records, shall not exceed for remodels,  
33 development of legal lots of record, and drought  
34 protection, the yield calculated pursuant to subdivision  
35 (a).*

36 1023. The commission shall include in the water  
37 resource plan adaptive elements that may be needed to  
38 mitigate any environmental impact that may be  
39 determined in any EIR needed to implement the water  
40 resource plan.



1 1024. The commission shall compare the financial  
2 costs of the project in the application and of the water  
3 resource plan, using comparable methodologies.

4 1025. The commission shall include with the water  
5 resource plan a recommendation of the best method of  
6 financing the water resource plan, and an estimate of the  
7 time needed to complete the plan. *The commission shall*  
8 *include in any order approving the application an*  
9 *estimate of the time needed to complete the dam. Any*  
10 *estimate required by this section shall include both an*  
11 *implementation time line and the estimated final time of*  
12 *completion.*

13 1026. The commission shall serve as the lead agency  
14 for any EIR of the water resource plan.

15 1027. The commission, as it deems appropriate, in its  
16 preparation of the water resource plan shall hold public  
17 hearings within the jurisdiction of the district and consult  
18 with the district, Cal-Am, the State Water Resources  
19 Control Board, and any other public agency from which  
20 the commission needs information to complete the water  
21 resource plan.

22 1028. If the commission issues an order approving the  
23 application, the order shall not become operative unless  
24 the project in the application is approved by the voters  
25 pursuant to Chapter 4 (commencing with Section 1040)  
26 of this part.

27  
28 CHAPTER 4. ELECTION  
29

30 1040. If the commission issues an order approving the  
31 application pursuant to Section 1028, the commission  
32 shall transmit to the district a copy of the water resource  
33 plan prepared pursuant to Chapter 3 (commencing with  
34 Section 1020) of this part, and the district,  
35 notwithstanding any other provision of law, shall by  
36 resolution call for an election to be held in the district for  
37 the purpose of a vote on the project in the application and  
38 the water resource plan prepared by the commission.  
39 Notwithstanding any other provision of law, the voters  
40 shall have a choice of voting affirmatively for the project



1 in the application or the water resource plan, and the  
2 ballot shall not require that the measure be voted on by  
3 the words “yes” and “no.” The proposal that receives the  
4 most votes shall be implemented.

5 1041. Notwithstanding any other provision of law, the  
6 district shall conduct the election as follows:

7 (a) If the commission issues an order approving the  
8 application pursuant to Section 1028, 150 days or more  
9 before the date of a statewide election, or if the  
10 commission issues that order after the deadline for  
11 submitting the measure to the voters at that election, the  
12 district, regardless of the number of registered voters  
13 eligible to participate, shall hold a mail ballot election in  
14 accordance with Division 4 (commencing with Section  
15 4000) of the Elections Code. The date for the mail ballot  
16 election shall be specified in the resolution adopted  
17 pursuant to Section 1040 for calling the election, and shall  
18 not be on an established election date.

19 (b) If the commission issues an order approving the  
20 application pursuant to Section 1028 less than 150 days  
21 before the date of a statewide election, and before the  
22 deadline for submitting the measure to the voters at that  
23 election, the district shall consolidate the election with  
24 that statewide election, and notice shall be as provided in  
25 the Elections Code.

26  
27 CHAPTER 5. CONSTRUCTION

28  
29 1050. If the project in the application is selected by  
30 the voters, Cal-Am shall construct the project and the  
31 district shall transfer to, or work with Cal-Am to have  
32 transferred to, Cal-Am the permits pertaining to that  
33 project held by the district.

34 1051. If the water resource plan prepared by the  
35 commission is selected by the voters, the district shall be  
36 the sponsoring agency and shall implement the plan. The  
37 district shall be a wholesale water supplier to Cal-Am for  
38 all water produced as a result of implementing the plan  
39 unless the district at some point in time acquires Cal-Am  
40 pursuant to Section 328 and in accordance with the

1 provisions of Chapter 8.5 (commencing with Section  
2 1501) of Part 1 of Division 1 of the Public Utilities Code.

3 1052. If the water resource plan is selected by the  
4 voters, the commission shall serve as the lead agency for  
5 any EIR needed to implement the water resource plan.

6 1053. The provisions of Part 4 (commencing with  
7 Section 301) of this law apply to the implementation of  
8 the water resource plan except for the following  
9 provisions:

10 (a) Chapter 7 (commencing with Section 431).

11 (b) Article 1 (commencing with Section 451) of  
12 Chapter 8.

13 (c) Article 2 (commencing with Section 471) of  
14 Chapter 8.

15

16 CHAPTER 6. FINANCING THE WATER RESOURCE PLAN

17

18 1060. In addition to the authority of the district to  
19 borrow money, incur indebtedness and issue bonds and  
20 other evidence of that indebtedness pursuant to this law,  
21 the district may issue revenue bonds, notes or other  
22 evidences of indebtedness pursuant to this chapter in  
23 financing the implementation of the water resource plan.

24 1061. “Bondholder” or “holder of bonds” or any  
25 similar term, as used in this chapter, means any person  
26 who shall be the bearer of any outstanding revenue bond  
27 or the owner of bonds which shall at the time be  
28 registered to other than the bearer.

29 1062. “Indenture” as used in this chapter means the  
30 instrument providing the terms and conditions for the  
31 issuance of the revenue bonds, and may be a resolution,  
32 order, agreement or other instrument.

33 1063. (a) Proceeds from the sale of any bonds or  
34 other instruments of indebtedness pursuant to this  
35 chapter shall be used only for the purpose of  
36 implementing the water resource plan, and shall only be  
37 used for construction or acquisition of capital assets.

38 (b) “Capital assets” includes land, facilities for the  
39 production, storage, transmission, or treatment of water,  
40 storm water, or wastewater, buildings, roads, and any



1 tangible physical property with an expected useful life of  
2 15 years or more.

3 (c) Costs allowed under this section include costs  
4 incidentally but directly related to construction or  
5 acquisition, including, but not limited to, planning,  
6 engineering, construction management, architectural,  
7 and other design work, environmental impact reports  
8 and assessments, required mitigation expenses,  
9 appraisals, legal expenses, site acquisitions, and necessary  
10 easements, acquisition of water rights and permits.

11 (d) The authority to issue revenue bonds for facilities  
12 for the production, storage, transmission, or treatment of  
13 water, storm water, or wastewater, includes the authority  
14 to issue revenue bonds for facilities to remove hazardous  
15 substances, pollutants, or contaminants from that water.

16 1064. (a) The power to issue revenue bonds pursuant  
17 to this chapter shall be exercised by an ordinance adopted  
18 by a majority vote of the board. These notes may be issued  
19 at public or private sale, and may be renewed from time  
20 to time, and the principal and interest with respect  
21 thereto shall be made payable from the revenues of the  
22 district from the sale of water produced as a result of  
23 implementing the water resource plan and any other  
24 source of funds identified in the indenture adopted  
25 pursuant to Section 1069.

26 (b) The ordinance shall describe in general terms the  
27 project, or projects, to be funded by the revenue bonds,  
28 the maximum amount of the bonds proposed to be issued,  
29 and the anticipated sources of revenue to redeem the  
30 bonds. However, the statement of the estimated  
31 maximum amount of the bonds or notes shall not be  
32 deemed to prevent the authorization by the ordinance of  
33 the issuance of bonds or notes by the district in amounts  
34 which may exceed the estimate without further  
35 authorization under the ordinance if and to the extent the  
36 additional bonds or notes shall be required to complete  
37 the financing of the water resource plan.

38 (c) A single authorization shall be sufficient for bonds  
39 which may be issued in installments from time to time to  
40 implement the water resource plan.



1 1065. The district may also incur other forms of  
2 indebtedness pursuant to this section. The indebtedness  
3 may be evidenced by one or more bonds of any  
4 denomination issued pursuant to this chapter, or may  
5 consist of a note, warrant or other evidence of  
6 indebtedness which may be secured by a pledge, with the  
7 power of sale, of all or any part of bonds theretofore  
8 authorized or issued under this chapter. The bond or  
9 bonds, or notes, warrants, or other evidences of  
10 indebtedness may be issued in negotiable form, in which  
11 case they shall be negotiable. The resolution authorizing  
12 the incurring of an indebtedness pursuant to this section  
13 may make any of the covenants and provide any of the  
14 terms or conditions authorized to be made or provided  
15 for in the case of bonds issued under this chapter, may  
16 provide for the sale or other disposition of any pledged  
17 bonds, and may contain any other covenant, term or  
18 condition which the district deems necessary or desirable  
19 to facilitate the incurring of said indebtedness or for the  
20 protection of the lender. Any such indebtedness shall be  
21 payable only from such sources as are authorized under  
22 this article for the payment of principal and interest on  
23 bonds or from the proceeds of refunding bonds issued  
24 pursuant to this chapter.

25 1066. In the event that an ordinance enacted  
26 pursuant to Section 1064 authorizing the district to issue  
27 revenue bonds is subjected to a successful referendum  
28 election, the district shall not enact an ordinance to issue  
29 revenue bonds for the same purpose for a period of one  
30 year from the date of such referendum.

31 1067. No member of the governing body of the  
32 district shall be personally liable on the bonds or be  
33 subject to any personal liability or accountability by  
34 reason of the issuance of bonds pursuant to this chapter.

35 1068. The proceeds of the bonds shall be used only for  
36 the project provided for in the indenture pursuant to  
37 which the revenue bonds are issued.

38 1069. An indenture providing the terms and  
39 conditions for the issuance of the bonds and the covenants  
40 relating thereto shall be adopted in or approved by



1 resolution of the governing board of the district. The  
2 indenture shall describe or state the revenues and funds  
3 from which the bonds shall be payable. The funds or  
4 revenues shall include the revenues derived from the  
5 operation of the project or projects for which the bond  
6 proceeds are used or expended and any other revenues  
7 derived therefrom, and may also include revenue,  
8 including existing funds, of the district derived from any  
9 other sources other than taxes or a levy on real property.

10 1070. The principal and interest of the bonds shall be  
11 payable:

12 (a) First, out of the revenue derived from the  
13 operation of the project or projects for which the bond  
14 proceeds were or are to be used or expended, or any other  
15 revenues derived from that project or projects.

16 (b) Second, from the other source of revenues,  
17 including existing funds, of the district as are described or  
18 stated as security for the bonds in the indenture in  
19 accordance with Section 1069.

20 SEC. 2. The Legislature finds and declares with  
21 respect to Section 1 of this act that a special law is  
22 necessary and that a general law cannot be made  
23 applicable within the meaning of Section 16 of Article IV  
24 of the California Constitution as a result of the unique  
25 problems in Monterey County in developing necessary  
26 water sources to avoid rationing.

27 SEC. 3. No reimbursement is required by this act  
28 pursuant to Section 6 of Article XIII B of the California  
29 Constitution because a local agency or school district has  
30 the authority to levy service charges, fees, or assessments  
31 sufficient to pay for the program or level of service  
32 mandated by this act, within the meaning of Section 17556  
33 of the Government Code.

34 Notwithstanding Section 17580 of the Government  
35 Code, unless otherwise specified, the provisions of this act  
36 shall become operative on the same date that the act  
37 takes effect pursuant to the California Constitution.

