

Senate Bill No. 543

CHAPTER 566

An act to amend Sections 11454, 13459.5, 74224, and 78645 of, and to add Section 36560 to, the Water Code, to amend Section 4 of Chapter 1428 of the Statutes of 1985, and to add Section 32.5 to the Water Conservation Act of 1927 (Chapter 91 of the Statutes of 1927), relating to water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1997. Filed
with Secretary of State September 29, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 543, Committee on Agriculture and Water Resources. Water resources.

(1) The Water Conservation District Law of 1931 requires the board of a water conservation district to hold regular meetings in its office at prescribed times.

This bill would allow the board to change, by resolution, the location for holding regular meetings in accordance with a specified notification procedure.

(2) Existing law authorizes the Department of Water Resources to enter into contracts and agreements to carry out its responsibilities relating to the State Water Project.

This bill would allow those contracts and agreements to include prescribed indemnification provisions.

(3) The Water Conservation Act of 1927 imposes duties on the county treasurer and the county auditor in connection with the operation of districts subject to that act.

This bill would authorize the board of a district to assume responsibilities over the deposit and disbursement of funds of a district, as prescribed.

(4) Under the Clean Water Bond Law of 1984, the Water Conservation and Water Quality Bond Law of 1986, and the Water Conservation Bond Law of 1988, the department may make loans to local agencies, upon approval of the Legislature by statute, for prescribed purposes.

This bill would make an appropriation by authorizing loans from the Water Conservation Account in the 1984 State Clean Water Bond Fund, the Water Conservation and Groundwater Recharge Account in the 1986 Water Conservation and Water Quality Bond Fund, and the 1988 Water Conservation Fund to specified entities for specified projects in accordance with those bond laws.

(5) Existing law authorizes any jurisdiction to levy an ad valorem property tax rate in excess of the rate permitted pursuant to Section 1 of Article XIII A of the California Constitution for bonded indebtedness for the acquisition or improvement of real property that is approved by $\frac{2}{3}$ of its voters after June 4, 1986. Article XIII C and Article XIII D of the California Constitution establish various approval and other procedural requirements with respect to the imposition of local taxes and with respect to the imposition of local assessments, and fees and charges, as defined. The California Water District Law authorizes California water districts to impose prescribed assessments on property owners within those districts.

This bill would declare that those assessments are ad valorem taxes that are imposed in accordance with Article XIII A of the California Constitution and are not subject to the requirements of Article XIII D of the California Constitution.

(6) Existing law requires the Department of Toxic Substances Control to establish specified funding for site operations and maintenance for remedial measures affecting a specified San Gabriel Valley Superfund site, and to deposit sufficient funds to cover the costs of operation and maintenance of carbon absorption treatment systems at the Richwood, Hemlock, and Rurban Homes Mutual Water Companies for 20 years.

This bill would require the department to determine whether it is more economical to provide Richwood residents with a substitute source of water supply than to maintain, operate, or repair a treatment system. If the department determines that a substitute source of water supply is more economical, the bill would allow the expenditure of specified funds to provide Richwood residents with a substitute source of water supply, subject to approval, as prescribed.

(7) The Safe, Clean, Reliable Water Supply Act requires the unallocated funds remaining in the Agricultural Drainage Water Account in the 1986 Water Conservation and Water Quality Bond Fund on November 6, 1996, to be transferred to the Drainage Management Subaccount of the Clean Water and Water Recycling Account in the Safe, Clean, Reliable Water Supply Fund.

This bill would, additionally, require any unallocated money, as defined, deposited into the Agricultural Drainage Water Account from the sale of any bonds that are sold after November 6, 1996, to be transferred to the Drainage Management Subaccount.

(8) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 11454 of the Water Code is amended to read:



11454. Under such regulations and upon such terms, limitations, and conditions as it prescribes, the department may do any of the following:

(a) Fix and establish the prices, rates, and charges at which the resources and facilities made available by the project shall be sold and disposed of.

(b) (1) Enter into contracts and agreements and do any and all things which in its judgment are necessary, convenient, or expedient for the accomplishment of the purposes and objects of this part.

(2) The contracts and agreements may include provisions for the indemnification of parties with whom the department contracts as necessary to accomplish the purposes and objects of this part, except that the contracts and agreements may not include provisions for the indemnification, including indemnification for any costs of defense, of any party to those contracts or agreements for that party's acts or omissions involving negligence, gross negligence, recklessness, or willful misconduct or for acts or omissions involving negligence, gross negligence, recklessness, or willful misconduct on the part of that party's employees, agents, or contractors.

(3) The Legislature finds and declares that the amendments made to this subdivision during the 1997 portion of the 1997–98 Regular Session are declaratory of existing law.

SEC. 2. Section 13459.5 of the Water Code is amended to read:

13459.5. Unallocated money remaining in the Agricultural Drainage Water Account in the 1986 Water Conservation and Water Quality Bond Fund on November 6, 1996, and any unallocated money deposited into that account from the sale of any bonds that are sold after November 6, 1996, shall be transferred to the Drainage Management Subaccount, created by Section 78641, of the Clean Water and Water Recycling Account in the Safe, Clean, Reliable Water Supply Fund for the purposes of subdivision (b) of Section 78645. For the purpose of this section, "unallocated money" means money not committed or appropriated as of November 6, 1996, which is not less than six million one hundred seventy-seven thousand dollars (\$6,177,000).

SEC. 3. Section 36560 is added to the Water Code, to read:

36560. Assessments that are imposed pursuant to this part and Part 7.5 (commencing with Section 37200) to pay the principal of, and interest on, general obligation bonds of a district or which are issued by a district for an improvement district are ad valorem taxes that are imposed in accordance with subdivision (b) of Section 1 of Article XIII A of the California Constitution and are not, therefore, subject to the procedures and approval process of Article XIII D of the California Constitution. This section shall not be construed as declaring that any other type of assessment is either exempt from, or subject to, the procedures and approval process of Article XIII D of the California Constitution.



SEC. 4. Section 74224 of the Water Code is amended to read:

74224. Notwithstanding Section 74223, the board may, by resolution, change the day and location for holding regular meetings. Notice of any change shall be published once a week for at least two consecutive weeks before the date for a regular meeting in a newspaper of general circulation circulated in the district.

SEC. 5. Section 78645 of the Water Code is amended to read:

78645. (a) Any unallocated money remaining in the Agricultural Drainage Water Account in the 1986 Water Conservation and Water Quality Bond Fund on November 6, 1996, and any unallocated money deposited into that account from the sale of any bonds that are sold after November 6, 1996, shall be transferred to the subaccount. For the purpose of this section "unallocated money" means money not committed or appropriated as of November 6, 1996, which is not less than six million one hundred seventy-seven thousand dollars (\$6,177,000).

(b) Notwithstanding Section 13340 of the Government Code, any funds that are transferred pursuant to subdivision (a) to the subaccount are hereby continuously appropriated, without regard to fiscal years, to the Department of Food and Agriculture for programs to develop methods of using drainage water and reducing toxic materials in drainage water through reuse of the water and the use of the remaining salts. Priority shall be given to source reduction projects and programs.

SEC. 6. Section 32.5 is added to the Water Conservation Act of 1927 (Chapter 91 of the Statutes of 1927), to read:

Sec. 32.5. As an alternative to the functions of the county treasurer and the county auditor provided in this act, the board may elect to disburse funds of the district. The election shall be made by resolution of the board and the filing of a certified copy thereof with the county treasurer. The county treasurer shall thereupon deliver to the district all funds of the district. The funds shall be deposited by the board in a bank or banks approved for deposit of public funds and shall be withdrawn only by written order of the board, signed by the president and secretary. The order shall specify the name of the payee and the fund from which it is to be paid and shall state generally the purpose for which payment is to be made. The order shall be entered in the minutes of the board. The board shall appoint a treasurer who shall be responsible for the deposit and withdrawal of the funds of the district. The treasurer shall deposit with the district, prior to October 1 of each year, a surety bond in an amount annually fixed by the board. The deposit and withdrawal of funds of the district shall thereafter be subject to the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. Any district electing to disburse funds pursuant to this section shall file with the board of supervisors



an annual audit of those disbursements that meets the approval of the board of supervisors.

SEC. 7. Section 4 of Chapter 1428 of the Statutes of 1985 is amended to read:

Sec. 4. (a) Upon installation of the carbon adsorption water treatment systems funded in subdivision (b) of Section 3 of this act, the Department of Toxic Substances Control shall establish, pursuant to Section 25330.5 of the Health and Safety Code, a subaccount for site operation and maintenance for remedial measures affecting the San Gabriel Valley Superfund site, and shall deposit in the subaccount sufficient funds to cover the costs of operation and maintenance of the carbon adsorption water treatment systems at the Richwood, Hemlock, and Rurban Homes Mutual Water Companies for 20 years. The Department of Toxic Substances Control may expend funds from the subaccount established pursuant to this section only to the extent that federal funds for operation and maintenance are not available pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.). The funds shall be allocated from the Hazardous Substance Account or the Hazardous Substance Cleanup Fund.

(b) The Department of Toxic Substances Control shall determine whether it is more economical to provide Richwood residents with a substitute source of water supply than to maintain, operate, or repair a treatment system. Notwithstanding any other provision of this act, if the department determines that a substitute source of water supply is more economical, funds appropriated pursuant to subdivision (b) of Section 3 of this act, less the amount, if any, that the department determines it is required to reimburse the Environmental Protection Agency for the cost of the installation of the water treatment system, may be expended to provide Richwood residents with a substitute source of water supply. The substitute source of water supply shall only be provided by a public water system whose service to the customers of the Richwood Mutual Water Company has been expressly approved by the district engineer of the State Department of Health Services, Drinking Water Field Operations Branch, for the district in which the Richwood Mutual Water Company and the prospective supplier are located. If the Department of Toxic Substances Control expends funds on a substitute source of water supply, no additional funds for the operation and maintenance of the water treatment system at the Richwood Mutual Water Company shall be deposited into the subaccount pursuant to subdivision (a). This subdivision shall not be construed to require the Department of Toxic Substances Control to actually reimburse the Environmental Protection Agency for its share of the cost of the design, purchase, and installation of the water treatment system prior to expending funds to provide Richwood residents with a substitute source of water supply.



SEC. 8. (a) Pursuant to subdivision (a) of Section 12879.4, and Sections 13458 and 13999.11, of the Water Code, the Department of Water Resources may make loans from the 1988 Water Conservation Fund, the Water Conservation and Groundwater Recharge Account in the 1986 Water Conservation and Water Quality Bond Fund, and the Water Conservation Account in the 1984 State Clean Water Bond Fund, in accordance with the Water Conservation Bond Law of 1988 (Chapter 4.7 (commencing with Section 12879) of Part 6 of Division 6 of the Water Code), the Water Conservation and Water Quality Bond Law of 1986 (Chapter 6.1 (commencing with Section 13450) of Division 7 of the Water Code), and the Clean Water Bond Law of 1984 (Chapter 15 (commencing with Section 13999) of Division 7 of the Water Code) to the following agencies for the following purposes:

(1) Water conservation projects:

(A) Lake Hemet Municipal Water District pipeline and tank replacement project in Riverside County.

(B) Eastern Municipal Water District water pipeline replacement project in Riverside County.

(C) Eastern Municipal Water District water tank and supply pipeline replacement project in Riverside County.

(D) City of Jackson pipeline project in Amador County.

(E) Stinson Beach County Water District water tank replacement project in Marin County.

(2) Groundwater recharge projects:

(A) Water Replenishment District of Southern California groundwater recharge project in the Los Angeles Forebay in Los Angeles County.

(B) Water Replenishment District of Southern California groundwater recharge project in the Montebello Forebay in Los Angeles County.

(3) Feasibility study:

(A) Water Replenishment District of Southern California groundwater recharge feasibility study in southern Los Angeles County.

(b) The Department of Water Resources shall determine eligibility for, and the amount of, any loan authorized by subdivision (a) in accordance with the Water Conservation Bond Law of 1988 (Chapter 4.7 (commencing with Section 12879) of Part 6 of Division 6 of the Water Code), the Water Conservation and Water Quality Bond Law of 1986 (Chapter 6.1 (commencing with Section 13450) of Division 7 of the Water Code), and the Clean Water Bond Law of 1984 (Chapter 15 (commencing with Section 13999) of Division 7 of the Water Code), and may make those loans in accordance with those bond laws.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning



of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to remedy critical water quality and supply problems, thereby protecting the public health and safety, and, as soon as possible, to allow water conservation districts to hold regular meetings at various locations to eliminate uncertainty as to the applicability of Article XIII D of the California Constitution to assessments that are levied by California water districts to pay debt service on general obligation bonds, to eliminate grave threats to public health and safety faced by residents of the San Gabriel Basin due to a contaminated water supply and inadequate water distribution systems, to grant certain authority to the boards of districts that are subject to the Water Conservation Act of 1927, to make a change in a provision relating to the transfer of bond proceeds from the Agricultural Drainage Water Account in the 1986 Water Conservation and Water Quality Bond Fund to the Drainage Management Subaccount of the Clean Water and Water Recycling Account in the Safe, Clean, Reliable Water Supply Fund, and to authorize the Department of Water Resources to include prescribed indemnification provisions in contracts and agreements relating to the State Water Project, it is necessary that this act take effect immediately.

