

Memorandum

To : Division Chiefs and Above

Date October 19, 1983

From : **STATE WATER RESOURCES CONTROL BOARD**

Subject : LEGISLATIVE SUMMARY FOR THE FIRST HALF OF 1983-84 SESSION

The first half of the 1983-84 legislative session is closed and the Legislature is at recess until January.

The attached summary identifies legislation enacted so far this session, as well as bills which are still going through the process. The legislation is presented under five categories:

- o enacted legislation of importance;
- o enacted legislation of interest;
- o vetoed legislation;
- o pending legislation of importance; and
- o pending legislation of interest.

Urgency statutes are effective upon signature of the Governor. These statutes have been indicated on the attached summary. All other statutes take effect on January 1, 1984.

Copies of statutes amending or adding to the Water Code are included as an attachment so that the language may be incorporated into your personal copies of the Water Code.

As the second half of this legislative session begins in January, we will update you on the bills introduced during that time, and also the status of pending legislation from the first half.

The legislation listed in this summary, although very significant, represents only a small portion of the bills being followed by the Board. If you need further information, or copies of any of the statutes or bills, please let me know.

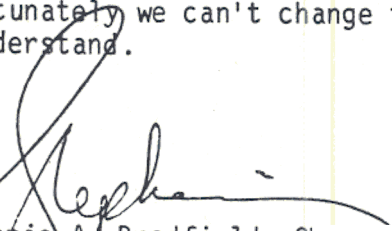
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ENACTED LEGISLATION OF IMPORTANCE TO WATER BOARD

Water Code

AB 112(Kelley). Public resources. (Stats. of 1983, Chapter 40)

Requires that the State Water Resources Control Board, to the extent possible, be composed of members from different regions of the state. Deletes obsolete provisions concerning confirmation of appointments, making them subject to confirmation by the Senate in accordance with specified provisions of the Government Code.

The statute also designates the Department of Water Resources lead agency for an interim flood water management effort at Lake Elsinore and directs the Santa Ana Regional Water Quality Control Board to expeditiously consider any application for NPDES permit.

The law also changes the fees charged for revising or updating dairy waste discharge permits. In 1980 the Legislature increased the maximum fee from \$1,000 to \$10,000. This new fee schedule took effect in 1982. This statute rolls back the fees for existing dairies to the 1981 level. Fees collected in 1982 from existing dairies under the new schedule must be refunded. (Urgency)

AB 797(Klehs). Water: management planning. (Stats. of 1983, Chapter 1009)

Requires public or private water suppliers with more than 3,000 customers or which serve more than 3,000 acre feet annually, prepare and adopt a water management plan by December 31, 1985. The plan must include estimates of past, present and projected water use; currently practiced conservation measures; alternative conservation measures and an assessment of their cost and significant impacts; a schedule for implementation for any proposed actions; and an evaluation of water supply alternatives, if there is a need for additional supplies. The adoption of the plan must satisfy any requirement of state law, including those of the State Water Board, for the preparation of water conservation or management plans. If the Board requires additional information concerning water conservation to implement its existing authority, nothing in the bill shall be deemed to limit the Board from doing so.

AB 929(N. Waters). Water rights: nonreserved federal rights. (Stats. of 1983, Chapter 670)

Provides a legal basis for approximately 2,000 small federal water uses in the federal forests which lost water right status as a result of a U.S. Supreme Court decision. This bill would require a federal agency file a statement with the State Water Board for every water use needing a water right. The statement would provide interested parties notice of the federal government's assertion of a water right. The bill also gives California water right holders and future development of the state's water project priority over any possible competing federal water uses.

AB 1446(Filante). Dam safety regulation. (Stats. of 1983, Chapter 1326)

Excludes from the state's dam safety regulations any wastewater treatment and storage pond constructed as a part of a regional wastewater control facility within Sonoma County, having a specified height and storage capacity, subject to adoption by the proper governing body.

AB 2013(Cortese). Water quality: hazardous substances: storage facilities. (Stats. of 1983, Chapter 1045)

Requires operators of underground storage tanks, containing hazardous substances, to submit information concerning their tanks to the State Water Resources Control Board no later than July 1, 1984. Civil penalties of \$500-\$5,000 per day for failure to submit the information will not take effect until January 1, 1985. Operators of tanks must identify the kind, age, location and condition of the tank, as well as the substances being stored. These provisions do not apply to underground tanks on farms from January 1, to July 1, 1984. During that period, the Board is to work cooperatively with fuel distributors, county extension offices, county ag commissioners, tax assessors, and other governmental agencies to obtain the needed information. The Board may then require farm owners with tanks to submit the necessary statements. The costs of implementing this statute will be funded by a \$10 fee per tank, except for tanks on motor vehicle fuel retail outlets shall be charged \$5 per tank.

Health and Safety Code

AB 138(Hauser). Radioactive waste: ocean disposal. (Stats. of 1983, Chapter 640)

Requires the California Coastal Commission, in cooperation with other state departments and the Joint Committee on Fisheries and Aquaculture, to use any means available to prevent dumping of radioactive wastes in the Pacific Ocean by any public or private entity.

AB 860(Konnyu). Hazardous Substance Account. (Stats. of 1983, Chapter 1044)

Expedites the cleanup of hazardous wastes by permitting the Director of Health Services to order immediate removal or remedial actions by any responsible party whenever there is imminent danger to public health. Violation of these orders would result in significant punitive damages. The measure also permits greater access to disposal sites and to information in the Department of Health Services concerning hazardous substances. (Urgency)

AB 1362(Sher). Hazardous substances: underground storage. (Stats. of 1983, Chapter 1046)

Establishes regulatory provisions for the storage of hazardous substances in underground tanks for the purpose of preventing ground water contamination. Sets basic state policy requiring secondary containment for underground tanks storing hazardous materials. Requires the State Board adopt regulations implementing sections of the law dealing with secondary containment, monitoring and testing, and closure of tanks. Requires local jurisdictions implement the program according to Board regulations. Allows permit holders or applicants to apply to either the appropriate Regional Water Quality Control Board or the State Water Board for a variance from the state regulations on secondary containment and tank monitoring for a specific tank or a categorical exemption for a number of tanks. Allows local jurisdictions to ask the State Board to approve local regulations which are more stringent than the statewide standards, if they are needed for protection of the soil or beneficial uses of state waters. Requires the State Board compile a data base of all permitted tanks and leaks.

AB 1803(Connelly). Public drinking water. (Stats. of 1983, Chapter 881)
Requires each public water system to sample and analyze its water supply for organic chemical contaminants in accordance with a plan submitted and approved by the Department of Health Services. Among other conditions in this bill, DOHS will coordinate with the State and Regional Water Boards a review of past and present waste disposal practices that may potentially affect the respective well water supply.

AB 1806(Tanner). Hazardous Substance Account: tax. (Stats. of 1983, Chapter 1155) Allows the Director of Health Services to request the Board of Equalization recalculate the tax rate for California Superfund and reassess the tax for refunds or overpayments. (Urgency)

SB 444(Keene). Radioactive waste: ocean disposal. (Stats. of 1983, Chapter 1182)
Requires the Department of Health Services, in cooperation with specified entities, to cooperate with any federal agency monitoring marine life or ocean water to determine the effects of radioactive waste dumping off the California coast, and to purchase and test, at least once every six month, samples of seafood taken in the vicinity of the Farallon Islands Radioactive Waste Dump Site. An advisory committee would also be established to design the testing procedures, subject to approval by DOHS.

Miscellaneous

AJR 21(Bergeson). Santa Margarita Project. (Stats. of 1983, Chapter 78)
Memorializes the President and the Congress to expeditiously authorize the construction of the Santa Margarita Project in Northern San Diego County and to provide the initial funding for the project.

AJR 58(Peace). Sewage treatment plants. (Stats. of 1983, Chapter 131)
This measure would state the support of the Legislature for the federal government to fund the construction of a sewage treatment plant in Tijuana, Mexico, or San Diego County to treat sewage from Tijuana, Mexico.

AJR 65(Isenberg). Water rights: areas of origin. (Stats. of 1983, Chapter R-101)
The federal government, through the Department of the Interior, sued the state seeking to repudiate any obligation of the federal government to comply with the state's County of Origin Law, Watershed Protection Act, Delta Protection Act, and area of origin protections included in water right decisions issued by the state to the federal Central Valley Project.

This measure requests the Department of Interior drop its litigation against the State of California.

SB 878(Ayala). Dairy farms and feedlots: construction. (Stats. of 1983, Chapter 972)
Provides that state agencies may not require an environmental impact report for any activity of a dairy farm under specified circumstances.

SCR 16(Keene). Anadromous fish. (Stats. of 1983, Chapter R-119)

This measure declares it the policy of the state to restore anadromous fish runs in the San Francisco Bay, San Pablo Bay, and Sacramento-San Joaquin Delta to historic levels without adversely affecting existing commercial and recreational fisheries and water right permits and licenses.

ENACTED LEGISLATION OF INTEREST TO THE BOARD

Water Code

SB 343(Presley). Water. (Stats. of 1983, Chapter 564)

Changes the membership of the Colorado River Board of California from 9 members appointed by the Governor and the directors of the Departments of Water Resources and Fish and Game to 7 members and the 2 directors. Six of the members and an alternate for each are appointed from a list of 3 nominees submitted by 6 specified southern California water agencies, and 1 additional public member is appointed by the Governor.

SB 1171(Johnson). Water: appropriation: community services districts. (Stats. of 1983, Chapter 481)

Preserves the state's priority rights to appropriations of water from future state water project facilities by eliminating the January 1, 1984 expiration date, which has exempted the Department of Water Resources from pursuing an application for water with "due diligence."

Government Code

AB 227(Young). State administrative regulations: economic impact reports. (Stats. of 1983, Chapter 1080)

Requires a state agency prepare an economic impact statement for a proposed regulation if the regulation is based upon a statute enacted ten or more years ago and would result in direct costs of more than one million dollars to persons or business entities.

AB 1718(Leonard). Administrative regulations. (Stats. of 1983, Chapter 874)

Requires state agencies, in the development of regulations, evaluate performance standards before mandating specific requirements.

AB 1747(Hill). Administrative regulations. (Stats. of 1983, Chapter 797)

Makes readoption of originally adopted emergency regulations subject to prior approval of the Office of Administrative Law.

AB 1820(Condit). Office of Administrative Law: review of decisions. (Stats. of 1983, Chapter 724)

Provides a specific procedure for initiating a review of a decision of the Office of Administrative Law and authorizes the Governor to overrule a determination of OAL to repeal a regulation pursuant to specified provisions.

SB 616,(Nielsen). State administrative regulations: economic impact consideration. (Stats. of 1983, Chapter 1212)

Same as AB 227.

Health and Safety Code

AB 110(Katz). Hazardous substance Account: tax. (Stats. of 1983, Chapter 5)
Requires those persons submitting for disposal, or disposing of, hazardous waste to report to the Board of Equalization the total amount of hazardous waste disposed of into an injection well or landfarm, and would also make conforming changes. (Urgency)

SB 342(Alquist). Low-level radioactive waste. (Stats. of 1983, Chapter 1177)
Requires the Governor direct the appropriate state agency or agencies to complete a study identifying those regions within the state which would meet certain land disposal siting criteria within six months after the effective date of the bill. (Urgency)

SB 1176(Johnson). Sanitarians. (Stats. of 1983, Chapter 1271)
Repeals existing provisions of law relating to sanitarians and adds new provisions providing for the registration, certification, and regulation of sanitarians.

Public Resources Code

AB 1462(Kelley). Environmental quality: negative declarations. (Stats. of 1983, Chapter 771)
Specifically requires a negative declaration be prepared if there is no substantial evidence before the agency that a project may have a significant effect on the environment or a revision in the project plans would avoid or mitigate those effects.

AB 1703(Elder). Environmental quality: environmental impact reports. (Stats. of 1983, Chapter 1025)
Requires the state clearinghouse located in the Office of Planning and Research provide a copy of a notice of completion of a draft environmental impact report to legislators, upon request, for projects located in their districts.

AB 1829(La Follette). Environmental quality: environmental impact reports. (Stats. of 1983, Chapter 967)
Allows lead agencies to do "tiered" environmental impact reports and requires lead agencies to hire consultants to prepare these reports under specified conditions.

SB 224(Ayala). Environmental quality: environmental impact reports: duties of responsible agencies. (Stats. of 1983, Chapter 688)
Reduces from 45 to 30 days the response period for responsible agencies to comments on notices of preparation of environmental impact reports.

Miscellaneous

AB 2187(Papan). Salaries: public officers. (Stats. of 1983, Chapter 803)
Revises the annual salary of each Member of the Legislature, the Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Superintendent of Public Instruction, Attorney General, Chair of the State Water Board, members of the State Water Board, and other state officials.

ACR 15(Farr). Ocean resources. (Stats. of 1983, Chapter R-19)

Directs the Joint Committee on Fisheries and Aquaculture to evaluate and hold hearings in the Fall of 1983 on marine resource management and submit an action plan to the Legislature by January 1, 1984.

AJR 15(Hayden). Hazardous waste. (Stats. of 83, Chapter R-15)

Memorializes the President of the United States to direct the new Administrator of the Environmental Protection Agency to quickly and effectively implement all the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, to speedily distribute the moneys in the Hazardous Substance Response Trust Fund for the cleanup of all hazardous waste sites which pose an imminent and substantial danger to the public health or welfare, and to modify the current enforcement policies, as prescribed.

AJR 23(Jones). Salinity Control. (Stats. of 83, Chapter R-88)

Expresses the intent of the Legislature to protect valuable agricultural land, water, and wildlife resources and requests the state Resources Agency to provide the necessary assistance to support efforts to develop a plan to solve soil and water related problems of salinity, and to make the correction of salinity a high priority by providing specified additional assistance and coordination.

SB 129(Boatwright). State procurement of materials, supplies, equipment, and services. (Stats. of 83, Chapter 1231)

Under existing law, local governments which employ contractors for public work types of projects are required to withhold payment of a portion of the contract funds to ensure performance under the contract. Additionally, contractors are allowed to place securities in an escrow account in lieu of the withholding of funds by the locality under the contract. Allowing substitution of securities conflicts with federal regulations of the Farmers Home Administration, which helps finance some sewage treatment facilities being constructed as part of the Clean Water Grants program. (Urgency)

One provision of Chapter 1231 suspends until July 1, 1984, the provisions concerning substitution of securities in contracts in which the Farmers Home Administration is participating.

VETOED LEGISLATION

AB 2045(Bronzan). Water: application fees.

Would have authorized the Water Resources Control Board to make loan arrangements for fees due from applicants for water rights for hydroelectric projects, and reduced fees for developers of projects of less than 100 kilowatts.

AB 2050(Isenberg). Water: appropriation fees.

Would, with specified exceptions, require every person making an application for a permit to appropriate water pay the State Water Board an application fee based on a fee schedule adopted by the Board covering the reasonable costs of evaluating and processing the application.

AB 918(Bates). Creek revitalization.

Would have required the Director of Water Resources establish a program of creek revitalization, specifically responding to requests from local agencies and organizations for planning and design assistance.

SB 660(Carpenter). Hazardous wastes: empty containers and recyclable and reusable wastes.

Would have required the Department of Health Services issue a recycling permit, instead of a hazardous waste facilities permit, within 90 days after receiving a completed application, if the facility meets specified requirements.

PENDING LEGISLATION OF IMPORTANCE TO WATER BOARD

Board Opposes

AB 205(Goggin). Resources Agency: administrative services.

Would require centralization of various administrative services of the departments, boards, and commissions within the Resources Agency.

AB 1325(Bradley). Water resources development.

Would prohibit the expenditure of state funds for the repair of any levee in the Delta until the facilities for the transfer of State Water Project and Central Valley Project water across the Delta have been authorized for construction by the Legislature.

SB 15(Ayala). Water facilities.

Would require State Water Project facilities comply with the water quality standards set by the State Water Resources Control Board or established by contract. Would indirectly repeal provisions of existing law which require the State Water Project to meet water quality standards set by the Board.

SB 267(Maddy). Environmental quality: exemptions.

Would exempt projects undertaken, carried out, or approved with respect to the Harvey O. Banks Delta pumping plant of the State Water Project, from the provisions of the California Environmental Quality Act (CEQA).

SB 398(B. Greene). Environmental quality: exemptions: forest practices.

Would exempt activities conducted pursuant to the Forest Practices Act of 1973 from the California Environmental Quality Act.

Board Supports or Supports With Amendments

AB 178(N. Waters). Water rights.

Would require the Water Board give preference to applications to appropriate water for uses within, or immediately adjacent to, a watershed, over competing applications for uses outside the watershed. Additionally, water users within a watershed would be given the opportunity to share in the ownership of new water facilities constructed for uses outside the watershed. Water projects which export water from, through, or around the Sacramento/San Joaquin Delta would not be able to pump Sacramento Valley groundwater for export unless certain specified conditions are met.

AB 1732(Costa). Clean Water Bond Law of 1984.

Would authorize the sale of \$430,000,000 in general obligation bonds to be used as follows:

- \$300,000,000 for grants and loan to municipalities for construction of projects funded under Title II of the federal Clean Water Act. Any portion of these funds can be transferred to the State Water Quality Control Fund.
- \$100,000,000 - for grants and loans for water reclamation projects which provide water for beneficial uses.
- \$ 30,000,000 - for supplemental grants to small communities for construction of projects eligible under Title II of the federal Clean Water Act.

SB 866(Hart). Oil dischargers.

Would establish a standard of strict liability for recovery of all quantifiable losses, including natural resource harm, caused by oil spills; increases civil liability and criminal penalties for unquantifiable losses caused by oil spills, also based on standard of strict liability; and authorizes various state agencies to administer a civil citation system to enforce the liability provisions of the bill.

SCA 16(Johnson). Water resources development.

Would provide that no statute changing or deleting the provisions relating to the protection of areas of origin (the "county of origin" and "watershed protection" statutes) of the Water Code shall become effective unless passed by a 2/3 vote in each house.

PENDING LEGISLATION OF INTEREST TO THE WATER BOARD

AB 175(Seastrand). Hydroelectric projects: Arroyo Seco River.

Would prohibit state agencies from approving small hydroelectric development within specified sensitive areas, including federal wilderness areas except for projects on the Arroyo Seco River in Monterey County, provided that the hydroelectric generating plant is not located within the wilderness area.

AB 324(Goggin). State Water Resources Control Board.

Would amend provisions of the Water Code to make them consistent with provisions of the Government Code governing appointments to the Water Board by the Governor.

AB 484(Isenberg). Sacramento-San Joaquin Delta levees.

Would update the Water Code by referencing the Department of Water Resources' Bulletin No. 192, dated December 1982 as the official plan guiding Sacramento/San Joaquin Delta levee maintenance.

AB 603(Bradley). Environmental quality: exemptions.

Would exempt from the provisions of the California Environmental Quality Act (1) any annexation and the Municipal Organization Act of 1977; (2) any district reorganization; (3) any action or approval of a sanitary waste discharge required under Porter Colcogne Water Quality Act; and (4) any vacation of a street or highway by the California Transportation Commission or a county board of supervisors or legislative body of a city pursuant to the Public Streets, Highways, and Service Easements Vacation Law.

AB 758(Costa). Water resources development.

Would authorize the Department of Water Resources to construct the New Hope Cross Channel (as described in DWR Bulletin 76) in the Delta as part of the State Water Project.

AB 1012(Campbell). Groundwater resources.

Would make various findings and declarations of state policy regarding the management of groundwater resources within critical groundwater overdraft areas

AB 1300(Isenberg). Delta water contracts.

Would require exporters of water from the Delta to offer to enter into binding contracts with public agencies located in the Delta which supply water for uses in the Delta.

AB 1936(Katz). Local voluntary groundwater management districts.

Would enact the local Groundwater Management District Act which would authorize the Boards of Supervisors of counties overlying specified critical groundwater overdraft areas identified in the Department of Water Resources Bulletin 118-80 to create, by county ordinance or, in the case of an area located in more than one county, by a joint exercise of powers agreement, a district for the purposes of groundwater management within the area.

AB 2040(Connelly). The Pure Drinking Water Act of 1983.

Would create the Pure Drinking Water Act of 1983, and would require the Department of Health Services at specified future dates to establish various lists, reviews, and standards with respect to pesticides and their metabolites in drinking water.

AB 2125(Baker). Contra Costa Canal intake.

Would include as part of the State Water Resources Development System project the relocation of the Contra Costa Canal intake to provide for diversion from state facilities, subject to the terms and conditions of a contract between the Department of Water Resources and the beneficiaries.

AB 2126(Costa). Groundwater management districts.

Would enact the Groundwater Management District Act without substantive provisions.

ACA 29(Isenberg). Delta water rights.

Would specify that exporters of water from the Delta shall not deprive water users in the Delta with superior water rights of water quantity and usable water quality which would have been available in the absence of the export projects.

AJR 66(Hayden). California coastline: oil drilling.

Would request the Bureau of Reclamation drop litigation seeking to invalidate California statutes providing that counties and watersheds from which water is exported shall have water as necessary for development.

SB 10(Ayala). Water resources development.

Would specify that the State Water Project facilities include the Peripheral Canal.

SB 512(Hart). Fish and wildlife habitat enhancement: bond issue.

Would enact the Fish and Wildlife Habitate Enhancement Act of 1984, which, if adopted, would authorize the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$85,000,000 to be available to the Wildlife Conservation Board and the State Coastal Conservancy for specified purposes.

SB 912(Doolittle). Water: reasonable use.

Would provide that the sale, lease, exchange, or transfer of water or water rights, in itself, shall not constitute evidence of waste or unreasonable use unreasonable method of use, or unreasonable method of diversion and shall not affect any determination of forfeiture applicable to water appropriated pursuant to the Water Commission Act (Chapter 586 of the statutes of 1913) or this code or water appropriated prior to December 19, 1914.