

LEGISLATIVE DEVELOPMENTS

VOTE ON CALIFORNIA'S SAFE, CLEAN AND RELIABLE DRINKING WATER SUPPLY ACT OF 2010 POSTPONED UNTIL NOVEMBER 6, 2012

California's water supply has long been a source of debate and controversy over water rights, water quality and management. Many now advocate that comprehensive changes in water policy and management are necessary. The Department of Water Resources (DWR) noted in the 2009 California Water Plan Update:

California's water resources are finite and now require managing for sustainability—management that may be different than what has been practiced during the first 150 years of the state's history.

(California Water Plan Update 2009 Highlights, p. 13).

Many factions with disparate points of view worked together to create a plan to implement major projects to deal with California's water supply issues, which culminated in late 2009 in the passage of the Safe, Clean and Reliable Drinking Water Act of 2010 (SCRDWA). The proposition to approve or reject an \$11.14 billion bond proposed to fund the SCR DWA was scheduled for the general election in November 2010. In August 2010, AB 1265 was passed to delay the vote on the bond proposition until November 2012.

Background

Over the years, there have been many attempts to create statewide consensus on how to address California's water supply issues. California's water problems have been exacerbated in recent years by below-average rainfall, decreasing snowpack, aging infrastructure, increasing water demand due to population growth, deterioration of the Sacramento-San Joaquin River Delta (Delta) ecosystem, judicial mandates to reduce water deliveries from the State Water Project and the Central Valley Project to protect aquatic species, declining water quality, groundwater basin overdrafts and other factors. In 2009, California

legislators, the state executive branch and many stakeholders reached agreement on a comprehensive plan comprising four policy bills and an \$11.14 billion bond designed to implement major steps towards providing a safe reliable water supply for California.

Projects to be Funded by the Bond

The policy bills were passed as part of the Seventh Extraordinary Session of California's Statutes of 2009. The four bills address (a) Delta governance and restoration of the Delta ecosystem; (b) mandatory monitoring of groundwater levels in the state; (c) development of agricultural water management plans and reduction of urban per capita water consumption; and (d) stronger reporting requirements for surface water diversions.

The "water bond" (if passed) will authorize long-term investments in more reliable water supplies, cleanup of drinking water sources, environmental protection and restoration, increasing local water supplies, Delta restoration and water conservation. Project funding amount by category is (1) \$3.0 billion for Statewide Water System Operation Improvement; (2) \$2.25 billion for Delta Sustainability; (3) \$1.785 billion for Conservation and Watershed Protection; (4) \$1.4 billion for Water Supply Reliability; (5) \$1.25 billion for Water Recycling and Water Conservation; (6) \$1 billion for Groundwater Protection and Water Quality; and (7) \$455 million for Drought Relief. For an in-depth summary of the policy bills and bond, see 2009 Comprehensive Water Package Special Session Policy Bills and Bond Summary, November 2009, California Department of Water Resources (<http://gov.ca.gov/issue/water-supply>).

Water bond supporters formed the Alliance for Clean Water and Jobs to support and advocate its passage. Supporters include approximately 60 water agencies, districts and associations; over 40 business associations; many agricultural, labor and Latino organizations; environmental, conservation and parks organizations; regional and local governments; and

federal and state government officials. (See, www.waterforca.com/supporters.) Supporters believe that failure to act will gravely harm the state's agricultural and business economies; continue the risk of levee failures in the Delta and in other critical parts of the state's water system; increase water rates and lead to moratoria on new development; and allow water quality to continue to decline, threatening public health and leaving environmental needs unmet. Many of the supporters conducted outreach meetings throughout the state during early 2010 to familiarize the public with the issues and the priority that water supply should be given. (www.waterforca.com.)

Various opponents of the water bond have varying concerns: some argue that it would create a large general obligation debt that would cause cutbacks in other areas of the budget, such as education and health care; some oppose the development of surface storage facilities in general; some opposed it because, as passed in 2009, the SCRDA allowed private entities to partner with public entities to construct, own and operate surface storage projects; while others fear that projects financed by the bond will facilitate transfers of water from northern California to southern California.

Timing of the Bond Vote

In June 2010, Governor Schwarzenegger and legislative leaders publicly expressed concern that the water bond might not pass due to voter concerns about the economy and failure of state government to timely approve the state budget. Although many supporters of the bond expressed disappointment, most supported the decision to delay.

"Timing is everything, and given the current economic climate, we reluctantly agree with legislative leaders and Governor Arnold Schwarzenegger that moving the bond to the November 2012 ballot is a prudent choice that will maximize our chances for success on this issue." (See, ACWA press release "ACWA Supports Water Bond Move to November 2012," <http://www.acwa.com/news/2010-water-bond/acwa-supports-water>.) "The water bond is a part of a truly historic achievement of the Legislature and represents a comprehensive solution to fix the problems in the Delta, increase conservation and recycling and expand the availability and quality of water supplies in the state. It also has unprecedented support from business, labor, environmentalists, farm-

ers, water agencies and many others. But, given the poor economy and the fiscal problems facing our state budget, now is not a good time to put it before voters. Delay until 2012 is the prudent course of action." (<http://www.waterforca.com/news/press-releases/117/-water-bond-advocates-support-move-to-2012>)

Assembly Member Anna Caballero sponsored AB 1265 to delay the vote on the water bond. AB 1265 also deleted the authorization in the SCRDA to allow private entities to participate in surface storage projects. There was extensive debate in the legislature. Opponents of the delay, led by Assembly Member Jared Huffman (D-San Rafael), suggested California would be better served by putting the measure before voters for an up-or-down vote this fall. "If it can't pass as structured, maybe we need to roll up our sleeves and work on a bond with more chance of success," Huffman said, noting there are "some parts of the bond that are urgently needed." (See, <http://www.acwa.com/news/state-legislation/governor-signs-bill>.)

On August 9, 2010, the legislature voted to remove the bond measure from the November 2010 ballot and place it on the November 2012 ballot. The governor signed the legislation the next day.

Conclusion and Implications

Water bond supporters will continue efforts to build public awareness of and support for the water bond. Opponents of the Safe, Clean and Reliable Drinking Water Act have seized the opportunity to continue to oppose the water bond and advocate for their preferred water policies or projects. For example, the Pacific Institute issued a new report in September 2010 that opines that an additional one million acre feet of water can be provided by an upfront investment of \$1.9 billion (to be made by a combination of federal, state and local agencies and individuals) in further conservation measures. The report estimates that 30 percent of the conservation could come from the urban sector and 70 percent from the agricultural sector.

Meanwhile, the four policy bills passed in 2009 remain in effect and must be implemented by the agencies and stakeholders named in them. (1) SBX 1: the Delta Stewardship Council has already been created and begun its work. (2) SBX 6: Groundwater Monitoring. Local agencies must set up groundwater monitoring programs and DWR must establish a schedule for review and work with the agencies

to comply. (3) SBX7: Statewide Water Conservation. Agricultural water suppliers must develop water management plans by December 31, 2012 and urban water agencies must reduce statewide per capita water consumption 20 percent by 2020. Urban agencies may measure their reductions by one of several methods. DWR must develop an alternative method by December 31, 2010 and is responsible for overseeing these statewide requirements. DWR is tasked with working with commercial, industrial and institutional water users to determine how they are to meet the conservation goals. (4) SBX 8: Water Diversion and Use/Funding. This bill assesses civil liability and

penalties for failure to report water diversions to the State Water Resources Control Board (SWRCB) and removed the exemption for reporting water use by in-Delta water users. The bill appropriated money from prior water bonds to fund increases in SWRCB staff to enforce reporting of water use. Each of these four bills will affect numerous stakeholders statewide.

The November elections will of course give California a new governor and could change the composition of the legislature. The state of the economy during the next two years and many other factors will influence the outcome of the vote on the water bond in 2012. (J. Driscoll, D. Osias)