

1980

CALIFORNIA SAFE DRINKING WATER BOND LAW OF 1976.

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Official Title and Summary Prepared by the Attorney General

CALIFORNIA SAFE DRINKING WATER BOND LAW OF 1976. LEGISLATIVE STATUTORY AMENDMENT. Amends California Safe Drinking Water Bond Law of 1976 by authorizing Legislature to increase from \$15,000,000 to \$30,000,000 the amount of previously authorized bond proceeds that may be used for grants to political subdivisions, owning or operating domestic water systems, upon determination that such subdivisions are otherwise unable to meet minimum safe drinking water standards. Provides that up to \$15,000,000 of the \$30,000,000 may be used for grants for construction, improvement, or rehabilitation of domestic water systems which have become contaminated by organic or inorganic compounds, or radiation. Fiscal impact on state or local governments: Revenue loss to State General Fund of \$36 million (in principal plus interest) over a 30-year period.

FINAL VOTE CAST BY THE LEGISLATURE ON AB 2404 (PROPOSITION 9)

Assembly—Ayes, 70	Senate—Ayes, 28
Noes, 0	Noes, 3

Analysis by the Legislative Analyst

Background:

For the last 20 years, the state has constructed or helped finance construction of local water supply systems and wastewater treatment facilities by selling general obligation bonds. In 1976 the state's involvement in financing local water systems was extended when the California Safe Drinking Water Bond Law authorized the state to make loans and grants to improve domestic water supplies. This law authorized the state to sell \$175 million in general obligation bonds to help finance the construction, improvement or rehabilitation of public or private water systems in order to provide clean water to meet health and cleanliness standards established by the State Department of Health. The safe drinking water program is administered by the Department of Water Resources in cooperation with the Department of Health.

At least \$160 million of the \$175 million in general obligation bonds authorized by the Safe Drinking Water Bond Law must be used for *loans* to water suppliers. Up to \$15 million may be used for *grants* to public water suppliers which lack resources to repay a loan. No supplier may receive a grant of more than \$400,000, and all grants must be approved by the Legislature. As of June 30, 1980, the Department of Water Resources had committed approximately \$46 million for loans and \$6 million for grants, leaving \$114 million from the 1976 law available for loans and up to \$9 million available for grants.

Proposal:

This proposal would increase the amount of proceeds from the sale of bonds under the Safe Drinking Water

Bond Law that could be used for grants to public water suppliers. The amount would be increased from \$15 million to \$30 million. The minimum amount authorized for loans would decrease from \$160 million to \$145 million.

The additional \$15 million available for grants would have to be allocated under the same rules and for the same purpose as funds under the existing program, except that the money could also be used for grants for projects to construct, improve or rehabilitate domestic water systems which have been contaminated by organic or inorganic compounds (such as nitrates, DBCP, TCE, and arsenic) or by radiation. Any portion of the \$30 million that would be authorized for grants if this measure is approved and which has not been encumbered by November 4, 1982, may thereafter be used only for loans.

Fiscal Effect:

Because the measure would allow an additional \$15 million in Safe Drinking Water Bond Law proceeds to be used for grants (which are not repayable) rather than loans, it would reduce revenues to the State General Fund by an amount equal to the principal and interest on \$15 million of bond proceeds.

Assuming that the bonds are sold at an average interest rate of 7 percent with the principal to be repaid over a 30-year period, the interest on \$15 million would be approximately \$21 million. The revenue loss to the General Fund resulting from this measure would therefore be \$36 million (\$15 million in principal plus \$21 million in interest).

Text of Proposed Law

This law proposed by Assembly Bill 2404 (Statutes of 1980, Ch. 252) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law amends a section of the Water Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Section 13861 of the Water Code is amended to read:

13861. (a) The moneys in the fund are hereby continuously appropriated and shall be used for the purposes set forth in this section.

(b) The department is authorized to enter into contracts with suppliers having authority to construct, operate, and maintain domestic water systems, for loans to such suppliers to aid in the construction of projects which will enable the supplier to meet, at a minimum, safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

(c) Any contract pursuant to this section may include such provisions as may be agreed upon by the parties thereto, and any such contract shall include, in substance, the following provisions:

(1) An estimate of the reasonable cost of the project.

(2) An agreement by the department to loan to the supplier, during the progress of construction or following completion of construction as may be agreed upon by the parties, an amount which equals the portion of construction costs found by the department to be eligible for a state loan.

(3) An agreement by the supplier to repay the state, (i) over a period not to exceed 50 years, (ii) the amount of the loan, (iii) the administrative fee as described in Section 13862, and (iv) interest on the principal, which is the amount of the loan plus the administrative fee.

(4) An agreement by the supplier, (i) to proceed

expeditiously with, and complete, the project, (ii) to commence operation of the project upon completion thereof, and to properly operate and maintain the project in accordance with the applicable provisions of law, (iii) to apply for and make reasonable efforts to secure federal assistance for the project, (iv) to secure approval of the department and of the State Department of Health Services before applying for federal assistance in order to maximize and best utilize the amounts of such assistance available, and (v) to provide for payment of the supplier's share of the cost of the project, if any.

(d) By statute, the Legislature may authorize bond proceeds to be used for a grant program, with grants provided to suppliers that are political subdivisions of the state, if it is determined that such suppliers are otherwise unable to meet minimum safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code. The total amount of grants shall not exceed ~~fifteen million dollars (\$15,000,000)~~ *thirty million dollars (\$30,000,000)*, of which up to ~~fifteen million dollars (\$15,000,000)~~ *thirty million dollars (\$30,000,000)* may be used for grants for projects for the construction, improvement, or rehabilitation of domestic water systems which have become contaminated by organic or inorganic compounds (such as nitrates, DBCP (dibromochloropropane), TCE (trichloroethylene), and arsenic), or radiation, in such amounts as to render the water unfit or hazardous for human consumption, and no one supplier may receive more than four hundred thousand dollars (\$400,000) in total. *Any of the moneys made available pursuant to this subdivision, for grants for projects, which have not been encumbered within two years after the effective date of amendments to this subdivision made by Assembly Bill No. 2404 of the 1979-80 Regular Session shall be available only for loans pursuant to this section.*

The Legislative Analyst shall review the grant programs and report to the Legislature not later than February 1, 1981.

You must reregister whenever you move

Argument in Favor of Proposition 9

Proposition 9 will reallocate funds that were approved by the voters in 1976 under the Safe Drinking Water Bond Law to provide additional grants to clean up drinking water polluted by groundwater contamination. The measure would transfer \$15,000,000 of the \$160,000,000 earmarked for loans into the grant program fund to be utilized specifically for abating the effects of ground water contaminated by DBCP, TCE, arsenic, nitrates, and other contaminants.

Proposition 9 is necessary in light of the recent discoveries of widespread contamination of DBCP in the San Joaquin Valley, TCE in major metropolitan areas, and localized pockets of various types of contamination throughout the state. Because the state's water policy declares that all of its citizens are to be provided clean safe drinking water, it is essential to reallocate these funds to ensure that policy is executed.

The 1976 Bond Law originally provided \$15,000,000 for grants to construct or rehabilitate domestic water systems. These funds will soon be exhausted. If this measure fails now, it will be two years before voters have another opportunity to amend the act. Without the increase in funds available through the grant program provided for by Proposition 9, it will be financially impossible for some municipal suppliers of water and school districts to adequately protect the public's health and safety.

The reallocation of funds proposed by Proposition 9 would not result in an unchecked bureaucratic expenditure of funds on spurious or ill-founded projects. Each individual grant must be processed according to very strict guidelines embodied in present law. The applicant must first apply for a loan and be turned down before a grant application is ever considered. Once a grant is recommended by the Department of Water Resources, the Legislature must then approve the grant, which cannot by law exceed \$400,000.

This ballot proposal is somewhat unique in that it contains a "sunset provision." This requires that any funds which are not approved for grants by the Legislature within the next two years shall revert to the loan program. This will ensure that the funds approved by the voters will be utilized in the most expeditious manner.

A yes vote on Proposition 9 is a vote which protects the general public's health and safety.

RICHARD LEHMAN

Member of the Assembly, 31st District

ROSE ANN VUICH

State Senator, 15th District

RONALD B. ROBIE

Director, California Department of Water Resources

Rebuttal to Argument in Favor of Proposition 9

More clean drinking water is a desirable goal. We just do not believe that this ballot measure is the proper way to approach that goal.

Proposition 9 grants tax funds to water districts who failed to qualify for other means of financing. Under this proposition a governmental entity which is poorly managed or experiencing financial problems, and therefore not eligible for a loan, is given preferential treatment over districts who have their finances in proper order.

Proponents argue that "each individual grant must be processed according to very strict guidelines embodied in present law." The truth is the law which creates these guidelines, Assembly Bill 2047 (Tanner), does not establish standards until July 1981, a full eight months after the election. Voters cannot cast an intelligent choice until they know what the standards will be.

Proponents also argue that Proposition 9 is necessary

"in light of recent discoveries" of water pollution.

In reality, Proposition 9 is a monetary sledgehammer to kill the proverbial fly. If the taxpayer responds with more money each time the bureaucrats set new standards, there will be no end to the increased tightness of the standards which the bureaucrats draw. It is our belief that the standards will increase directly proportionate to the amount of money available.

Proponents also make mention of the "sunset provision" and they argue that "funds approved by the voters will be utilized in the most expeditious manner."

Voters will surely believe that the tax money will be spent *expeditiously*. But before you vote for Proposition 9 ask yourself if these funds will also be spent *wisely*.

We urge your NO vote.

JOHN G. SCHMITZ

State Senator, 36th District

Argument Against Proposition 9

We question whether this measure would accomplish what the proponents claim, but rather feel that it would grant unaccountable money to certain individuals with no guarantee that these funds will be used for improving water quality.

Of the total \$175 million called for by this bond issue, \$30 million is allocated as a grant rather than as a loan. Under current law, agencies accepting loans are obligated to repay the full amount of the principal and interest costs. This means the state will lose the \$30 million and a compounded interest which could total as much as \$60 million or more.

Perhaps most significant is that this issue does not address the question as to what guidelines will be used to determine a polluted water supply. Every glass of water in the world could by some "scientific" standard be declared polluted.

A further question arises as to who would determine which water districts receive these free moneys and which ones do not. This measure would not insure that your city's water district would receive any of this money.

We also question what percentage of this money would be spent on administrative, bookkeeping, research, and planning which do nothing directly to improve water quality.

Isn't water a local property-related issue, and as such shouldn't it be handled at the local level? Would a state-wide law pertaining to these funds be an invitation to the federal government to regulate this project?

In summary, we oppose this measure because:

- (1) It should be handled at the local level.
- (2) We do not want or need any more controls that always accompany federal government "aid."
- (3) It provides no standard to determine pollution.
- (4) It does not outline which water districts will receive the money.
- (5) It does not guarantee that funds go directly to improving water quality.

We believe this measure is another tax-eating boondoggle and urge your "no" vote.

JOHN G. SCHMITZ
State Senator, 36th District

Rebuttal to Argument Against Proposition 9

The opponent of Proposition 9 clearly did not read the present law or the proposition. If he had, his ballot argument against the proposal would not be riddled with inaccuracies as it is now.

First, this is not a new bond issue. Rather, it is a reallocation of existing funds which were approved by the voters in 1976. The 1976 law set aside \$15,000,000 for grants and \$160,000,000 for loans. This proposition would merely shift \$15,000,000 from loans to grants.

Next, his comments regarding the determination of what constitutes a polluted supply of water are ludicrous. The State Department of Health has clearly set parameters by which to gauge pollution, and the Legislature has ultimate oversight over the grants and must approve each one before it is expended. This provides an adequate check on any bureaucratic errors.

This also ensures the Legislature will be able to equitably distribute grants to all agencies which have

ground water contamination problems.

By approving this measure, one is not approving funds for any other purpose than grants to improve water quality. The administrative costs are part of the total funds of the Safe Drinking Water Bond Law of 1976.

Finally, we would agree that issues should be handled at the local level, if possible. However, many local agencies are just not able to bear the brunt of an enormous financial burden alone. It is in these cases that the state must recognize clearly defined state policy and respond with a program as proposed by this proposition.

RICHARD LEHMAN
Member of the Assembly, 31st District

ROSE ANN VUICH
State Senator, 15th District

RONALD B. ROBIE
Director, California Department of Water Resources