

1984

## Hazardous Substance Cleanup Bond Act of 1984

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# Hazardous Substance Cleanup Bond Act

## Official Title and Summary Prepared by the Attorney General

HAZARDOUS SUBSTANCE CLEANUP BOND ACT. This act provides for a bond issue of one hundred million dollars (\$100,000,000) to provide funds for hazardous substance cleanup.

### Final Vote Cast by the Legislature on SB 1465 (Proposition 27)

Assembly: Ayes 62	Senate: Ayes 29
Noes 2	Noes 0

### Analysis by the Legislative Analyst

#### Background

The California Superfund program was created in 1981 to finance cleanups of hazardous waste sites that pose a threat to public health or the environment. The program is supported by the Hazardous Substance Account, which annually receives \$10 million in tax revenues paid by certain generators of hazardous waste. The Department of Health Services, which administers the program, determines which site cleanups will be funded each year by ranking known hazardous waste sites according to each site's degree of hazard. There are 93 sites on the state's 1984 priority list that require action in order to clean up contamination. That action may include removing, treating, or containing the wastes on the site.

Site cleanups in California are also financed by (1) grants from the *federal* Superfund program and (2) funds recovered from parties responsible for the contamination. Federal Superfund moneys are awarded on a "matching" basis, with the federal government providing \$9 for every \$1 made available by the state for cleaning up sites that qualify for the national priority list. Of the 546 sites currently on the national priority list, 19 are in California. (These sites also are on the state's site priority list.)

The cost to clean up a contaminated site can range from \$100,000 to \$40 million. The federal Environmental Protection Agency estimates that the *average* cost to clean up each site on the national priority list is approximately \$7.5 million.

As of July 1, 1984, the state Superfund program had completed cleanup at one site and had begun studies or other cleanup-related activities at 11 other sites. In the fiscal year that began on July 1, 1984, the department plans to extend its activities to 7 other sites. Cleanup is scheduled to be completed at 2 sites by the end of 1985. Approximately \$31.8 million is authorized for expenditure from the Hazardous Substance Account and federal funds for studies and various stages of cleanup action during fiscal year 1984-85. These figures do not reflect cleanups by responsible parties that are or will be underway during the current fiscal year. The department estimates that approximately one-half of the sites on the 1984 site priority list will be cleaned up by the responsible parties and will not require state assistance.

#### Proposal

This measure, the Hazardous Substance Cleanup Bond Act of 1984, would authorize the state to sell \$100 million in potentially self-liquidating general obligation bonds to finance cleanup of contaminated sites. A general obligation bond is backed by the full faith and credit of the state, meaning that, in issuing the bond, the state pledges to use its taxing power, if necessary, to assure that sufficient funds are available to pay principal and interest on the bond.

In addition, this measure:

1. Authorizes the Department of Health Services to use the bond proceeds, upon appropriation by the Legislature, for the purpose of determining the type and extent of contamination at a site and to cover the costs of cleaning up a site once a remedial action plan for that site has been developed and adopted.

2. Identifies seven potential sources for the funds needed to make principal and interest payments on the bonds. The measure specifies that funds for principal and interest payments are to be derived from these sources in the following order:

- a. Accrued interest and premiums earned on the proceeds from the bonds sold by the state.
- b. Recoveries from those responsible for the contamination at sites where bond proceeds have been used to finance cleanup actions.
- c. Federal Superfund moneys that are available to finance cleanup actions at sites where bond proceeds have been used.
- d. Moneys appropriated by the Legislature from the Hazardous Substance Account.
- e. Moneys available from the Superfund Bond Trust Fund created by the measure. This fund would receive a minimum of \$5 million annually from the Hazardous Substance Account.
- f. Moneys derived from any other source.
- g. The General Fund.

3. Appropriates from the General Fund amounts needed to pay principal and interest costs on the bonds if the funds available from the first six funding sources are inadequate for this purpose. The General Fund would be

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## Arguments in Favor of Proposition 27

For decades toxic wastes have been dumped improperly throughout California, polluting our environment and endangering the health of our people. Currently 80% of these toxic dumpsites are leaking into our groundwater, upon which we rely for 50% of our drinking water. Already vast areas of the state, such as the San Gabriel and San Fernando Valleys, have had their groundwater polluted by toxic waste. All Californians deserve the assurance that when a child turns the tap for a glass of water, he or she is not filling his or her cup with poison.

We have just begun the long and expensive job of cleaning up these sites. But the cost of this task will be enormous. Estimates range from \$300 million to \$1.5 billion. Up until now we have set aside less than \$10 million per year for this purpose. At this rate the job will not be done until the middle of the next century, and that assumes that toxic wastes will wait for us to act, rather than continue to seep into our groundwater, into our air, and into our homes.

Proposition 27 will provide \$100 million for the much-needed cleanup of toxic dumpsites. The cost will be borne completely by industry. An increased tax on those who generate hazardous waste assures us that the ultimate cost of this cleanup program will not rest with the public. The act also provides for a simplified arbitration process which will encourage voluntary cleanup programs on the part of industry. Furthermore, this arbitration process will help to prevent cleanup from being stalled by lengthy courtroom battles over who should pay.

The urgency of this measure was recognized by the Legislature when it voted to place Proposition 27 on the ballot for your approval. Your vote is needed now to clean up toxic dumpsites, to protect our water supplies, our air and our health.

**PATRICK JOHNSTON**  
*Member of the Assembly, 26th District*

**BILL LOCKYER**  
*State Senator, 10th District*

A serious threat to our environment and the public health confronts us today, and it requires immediate action: *cleaning up dangerous toxic dumpsites.*

This bond act will provide \$100 million for cleaning up these sites. It will also require that industry increase its payments to the existing state cleanup fund, called the "Superfund," by 50% over the next seven years. *This bond measure will be paid for by these industry funds. It will not cost California taxpayers a penny.*

The process of determining who is to blame for each hazardous site and who should pay the cleanup cost will require lengthy litigation in our courts. But the quality of our drinking water and the health of our children can't wait that long. The cleanup should begin now.

*Your choice is clear. Should we wait for the courts and the federal government to finally decide how to address this serious problem? Or should we begin the toxic cleanup process immediately with this responsible bond measure?*

If you believe we should begin now, then vote for a cleaner, healthier environment by voting for this bond measure.

**GEORGE DEUKMEJIAN**  
*Governor*

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No argument against Proposition 27 was filed

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Text of proposed law appears on pages 73-74

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## Proposition 27 Analysis

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reimbursed, with interest, if and when additional funds become available from one or more of these sources.

**Other Provisions Tied to Passage of the Bond Act.** If the bond act is approved by the voters, additional provisions contained in Chapter 376, Statutes of 1984, would take effect. These provisions would:

- Increase the Hazardous Substance Account tax from \$10 million to \$15 million annually, through July 1, 1991.
- Provide for the continued existence of the Hazardous Substance Account beyond July 1, 1991 (when it is scheduled to terminate under existing law), if the Director of the Department of Finance determines that either the bonds sold pursuant to the bond act have not been paid off or the General Fund has not been fully reimbursed for advances made to pay principal and interest on the bonds. After that date, the committee established to issue bonds under the bond act would annually set the level of revenue collections from certain generators of hazardous wastes at an amount not to exceed \$15 million annually, until these payments are completed.
- Exempt generators from paying certain hazardous substance taxes and hazardous waste fees assessed on wastes that originate from remedial actions at Superfund sites.
- Require the Department of Health Services or the regional water quality control boards to prepare and approve remedial action plans for all Superfund sites. In addition, the department or the State Water Resources Control Board would have to respond to requests to prepare or approve remedial action plans for specified sites.
- Require the Attorney General to recover from responsible parties any cleanup costs incurred under the bond act program.
- Create a binding arbitration panel to apportion cleanup costs among participating responsible parties who do not contest liability.
- Establish strict liability as the legal standard for recovering the cost of cleanup action.

### Fiscal Effect

#### 1. Cost of Paying Off the Bonds

Although this measure would allow bonds to be issued for a maximum term of 30 years, the Treasurer advises that the \$100 million in bonds authorized by the measure prob-

ably would be paid off over a period of up to 20 years. The principal portion of these repayments would average \$5 million per year. In addition, the state would have to pay interest on the borrowed funds. We estimate that if the bonds were sold at an interest rate of 10 percent, annual cost of these interest payments would average approximately \$5.25 million.

These payments would be supported by the state's General Fund if the other funding sources identified in the measure collectively do not yield sufficient amounts. If the General Fund is required to make these payments, it would be repaid with interest. Consequently, assuming that the state's ability to collect Hazardous Substance Account taxes is not significantly impaired in the future, we estimate that there would be no net cost to the General Fund if this measure is approved by the voters.

#### 2. Other Fiscal Effects

**Increased Borrowing Costs.** Generally, an increase in the amount borrowed by the state tends to raise the interest rate on borrowed funds. Consequently, the state and local governments could incur higher costs under other bond programs as a result of this measure. The size of any such costs cannot be estimated.

**Revenue Loss.** The interest paid by the state on these bonds would be exempt from the state personal income tax. Therefore, to the extent that the bonds are purchased by California taxpayers in lieu of taxable investments, the state would collect less income tax revenue. It is not possible to estimate what this revenue loss would be.

**Provisions of Chapter 376, Statutes of 1984.** Provisions of this measure would result in an increase in tax revenue to the Hazardous Substance Account amounting to \$5 million annually until at least 1991.

The exemption of specified wastes from fees, as provided for by the measure, would result in a loss of revenue to the Hazardous Waste Control Account, which supports the state's regulatory program. We estimate that this revenue loss would exceed \$1 million annually.

The measure also would result in increased expenditures from the Hazardous Substance Account, the Hazardous Waste Control Account, and/or the General Fund in order to pay the expenses of (a) the Attorney General in seeking recoveries from responsible parties, (b) the Department of Health Services, the State Water Resources Control Board, and the regional water quality control boards in preparing, reviewing, and approving remedial action plans for all Superfund sites on the state priority list, and (c) the arbitration panel to apportion cleanup costs. We estimate that these costs would exceed \$1 million annually.

## Proposition 36 Analysis

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stricting the charge to the estimated reasonable cost of providing the service.

### Proposal

This initiative would (1) eliminate some existing property taxes and benefit assessments by making them subject to the 1-percent tax rate limit, (2) invalidate the inflation adjustments made to assessed values for the three years following 1975-76, and require payment of tax refunds to

some taxpayers, (3) revise the procedures for reappraising new construction and property which changes ownership, and (4) limit the ability of the state and local agencies to impose new, or increase existing, taxes and fees.

In several instances the exact meaning of the language contained in this measure is unclear. Where this is the case, we have based our analysis on advice from the Legislative Counsel regarding the probable interpretation of the language by the courts.

The following is a summary of the initiative's provisions:

1. **Further Restrictions on Property Tax Rates.** This

## Proposition 27 Text of Proposed Law

This law proposed by Senate Bill 1465 (Statutes of 1984, Ch. 376) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law expressly adds sections to the Health and Safety Code; therefore, new provisions proposed to be added are printed in bold type to indicate that they are new.

### PROPOSED LAW

SEC. 18. Article 7.5 (commencing with Section 25385) is added to Chapter 6.8 of Division 20 of the Health and Safety Code, to read:

#### Article 7.5. Hazardous Substance Cleanup Bond Act of 1984

25385. This article shall be known and may be cited as the Johnston-Filante Hazardous Substance Cleanup Bond Act of 1984.

25385.1. For purposes of this article, and for purposes of Section 16722 of the Government Code as applied to this article, the following definitions apply:

- (a) "Board" means the State Department of Health Services.
- (b) "Committee" means the Hazardous Substance Cleanup Committee created pursuant to Section 25385.4.
- (c) "Director" means the State Director of Health Services.
- (d) "Fund" means the Hazardous Substance Cleanup Fund created pursuant to Section 25385.3.
- (e) "Orphan site" means a site with a release or threatened release of a hazardous substance with no reasonably identifiable responsible parties.
- (f) "Orphan share" means those costs of removal or remedial action at sites with a release or threatened release of hazardous substances, which costs are in excess of amounts included in a cleanup agreement.
- (g) "Responsible party" means a person who is, or may be, responsible or liable for carrying out, or paying for the costs of, a removal or remedial action.
- (h) "Trust fund" means the Superfund Bond Trust Fund.

25385.2. The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued pursuant to this article, and the provisions of that law are included in this article as though set out in full in this article, except that, notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of bonds shall not exceed 30 years from the date of the bonds, or from the date of each respective series. The maturity of each respective series shall be calculated from the date of the series.

25385.3. (a) The Hazardous Substance Cleanup Fund is hereby created in the State Treasury. The proceeds of bonds issued and sold pursuant to this article shall be deposited in the fund, and the money in the fund may be expended only for the purposes specified in this article and, pursuant to appropriation by the Legislature, in the manner specified in this section.

(b) Except when the Legislature appropriates money from the fund for specified removal or remedial actions in a bill other than the Budget Act, it is the intention of the Legislature that all proposed appropriations for activities conducted pursuant to this article be included in a section of the Budget Act for each fiscal year for consideration by the Legislature and that this section be captioned "Hazardous Substance Cleanup Bond Act Program." Any appropriation of money from the fund is subject to all the limitations contained in the bill making the appropriation and to all fiscal procedures specified by statute concerning the expenditure of state funds.

(c) In issuing bonds pursuant to this article, the committee shall, to the extent possible, pay the principal of, and interest on, the bonds from the sources specified in subdivisions (a) to (f), inclusive, of Section 25385.9. The General Fund shall be reimbursed from these sources for any transfers made to the Hazardous Substance Clearing Account from the General Fund to make the principal and interest payments. In determining the amount the General Fund is to be reimbursed for any transfer, the committee shall also include interest on the transfer at a rate equal to the bond rate on the transfer from the date of transfer to the date of reimbursement.

25385.4. The Hazardous Substance Cleanup Committee, which is hereby created, shall consist of the Governor, the Director of Finance, the Treasurer, the Controller, and the Secretary of the Health and Welfare Agency.

25385.5. The committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate of one hundred million dollars (\$100,000,000), in the manner provided in this article. The debt or debts, liability or liabilities, shall be created for the purpose of providing moneys, for deposit in the fund, for the purposes specified in Section 25385.6.

25385.6. (a) The moneys in the Hazardous Substance Cleanup Fund may be used, upon appropriation by the Legislature, for the purposes specified in this section.

(b) The board may expend moneys in the fund, upon the authorization of the committee, for all of the following purposes:

(1) To provide the state share of a removal or remedial action pursuant to Section 104(c) (3) of the federal act (42 U.S.C. Sec. 9604 (c) (3)) if the site is the subject of a final remedial action plan issued pursuant to Section 25356.1.

(2) To pay all costs of a removal or remedial action incurred by the state, or by any local agency with the approval of the director, in response to a release or threatened release of a hazardous substance at a site which is listed in the priority ranking of sites pursuant to Section 25356 and is the subject of a final remedial action plan issued pursuant to Section 25356.1, to the extent that the costs are not paid by responsible parties or are reimbursed by the federal act.

(3) To pay for site characterization of a release of hazardous substances, even if a remedial action plan has not been prepared, approved, adopted, or made final for that site.

25385.7. (a) All bonds authorized by this article, which are sold and delivered as provided in this article, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California are hereby pledged for the punctual payment of both principal and interest thereon.

(b) There shall be collected annually, in the same manner and at the same time as other state revenue is collected, that sum, in addition to the ordinary revenues of the state, which is required to pay the principal of, and interest on, the bonds as provided in this article, and all officers charged by law with any duty in regard to the collection of the revenue shall perform each and every act which is necessary to collect this additional sum.

25385.8. (a) The Superfund Bond Trust Fund is hereby created in the State Treasury. All interest earned on funds in the state account, and other funds transferred to the trust fund by the Legislature or the department, shall be deposited in the trust fund, which is a sinking fund to ensure the payment of principal of, and interest on, the debt incurred pursuant to Section 25385.5. The funds in the trust fund shall be invested by the Treasurer. The committee shall administer the trust fund so that there are sufficient funds in the trust fund to make the necessary principal and interest payments on bonds issued and shall transfer funds from the trust fund for this purpose to the Hazardous Substance Clearing Account.

(b) There shall be transferred annually the sum of five million dollars (\$5,000,000) from the state account to the trust fund.

(c) The unobligated balance in the state account shall be transferred by the department to the trust fund on December 31 of each year. For purposes of this section, "unobligated balance" means that amount, which shall not be less than zero, determined by the department, in the year-end financial statement submitted to the Controller, to be the total of all unencumbered funds on June 30 of that calendar year, less the total of all of the following:

- (1) Any fund in the reserve account for emergencies established by Section 25354.
- (2) Any remaining principal of the loan authorized by Section 25332.
- (3) Any interest due on any remaining principal of the loan authorized by Section 25332.
- (4) Any funds paid as taxes for the following fiscal year.
- (5) Any funds received from the federal government pursuant to the federal act.
- (6) Any funds in the state account subject to the rebate specified in Section 25347.2.
- (7) Any interest accruing from funds deposited in the subaccount for site operation and maintenance established by Section 25330.5.

(8) Any funds received from responsible parties for remedial and removal action, except to the extent those funds are necessary to reimburse the state account for funds previously expended therefrom.

(9) Any funds deposited into a sinking fund to ensure the repayment of principal on, and interest of, bonds pursuant to Section 25385.9.

25385.9. Notwithstanding any other provision of law, the board shall pay the principal of, and interest on, the bonds from the Hazardous Substance Clearing Account, using the following sources, in the following order of priority:

- (a) Money derived from the premium and the accrued interest on bonds which are sold.
- (b) Recoveries from responsible parties of costs incurred for removal or remedial actions at sites listed pursuant to Section 25356, insofar as the removal or remedial action expenditures were paid from proceeds from bonds issued pursuant to this article.
- (c) Funds received pursuant to the federal act which are designated to be used for removal or remedial actions paid for by proceeds from bonds issued pursuant to this article.
- (d) Any money transferred from the state account.
- (e) Any money transferred from the trust fund.
- (f) Any money derived from any other source, as provided by law.
- (g) The General Fund.

25386. Notwithstanding Section 25386.5, the money deposited in the fund is available for transfer to the General Fund if money was deposited in the fund pursuant to any provision of law requiring repayments to the

state for assistance financed by the proceeds of the bonds issued pursuant to this article. When transferred to the General Fund, that money shall be applied as a reimbursement to the General Fund for the principal and interest payments on the bonds which have been paid from the General Fund.

25386.1. There is hereby appropriated from the General Fund in the State Treasury, for the purpose of this article, an amount equal to the sum of all of the following:

(a) The sum, annually, which will be necessary to pay the principal of, and the interest on, the bonds issued and sold pursuant to this article, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out Section 25385.2, which sum is appropriated without regard to fiscal years, notwithstanding Section 13340 of the Government Code.

25386.2. For the purpose of carrying out this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of amounts not to exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this article. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the board in accordance with this article. Any moneys made available pursuant to this section shall be returned to the General Fund from moneys received from the

sale of bonds sold for the purpose of carrying out this article.

25386.3. Upon the request of the board, and supported by a statement of the proposed actions to be taken pursuant to Section 25385.6, the committee shall determine whether it is necessary or desirable to issue any bonds authorized pursuant to this article in order to take these actions, and if so, the amount of bonds which should be issued and sold. Successive issues of bonds may be authorized and sold to take actions progressively, and it is not necessary that all of the bonds authorized by this article to be issued are sold at any one time.

25386.4. The committee may authorize the Treasurer to sell all, or any part of, the bonds authorized under this article at the time or times as may be fixed by the Treasurer.

25386.5. Except as provided in subdivision (c) of Section 25385.3 and Section 25386, all proceeds from the sale of bonds, except those derived from premiums and accrued interest, are available for the purposes specified in Section 25385.6, but are not available for transfer to the General Fund to pay the principal of, and interest on, the bonds.

25386.6. If, before July 1, 1991, all outstanding bonds issued pursuant to this article are paid for and the General Fund has been reimbursed for any and all amounts that were expended therefrom to repay the principal of, and interest on, these bonds, this article shall become inoperative on that earlier date.

## Proposition 28 Text of Proposed Law

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with this chapter, with grants provided to suppliers that are political subdivisions of the state that 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 made pursuant to this chapter shall not exceed twenty-five million dollars (\$25,000,000). The Legislative Analyst shall review the grant program and report to the Legislature not later than June 1, 1987.

(e) Notwithstanding any other provision, the proceeds of any bonds authorized to be issued under the California Safe Drinking Water Bond Law of 1976 (Chapter 10.5 (commencing with Section 13850)), which are unissued and uncommitted on the effective date of this chapter, shall be used for loans to suppliers in accordance with the terms, conditions, and purposes of this chapter.

13820. (a) The department may make state grants to suppliers that are political subdivisions of the state, from moneys in the fund available for that purpose pursuant to subdivision (d) of Section 13819, to aid in the construction of projects which will enable the public agency 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. A grant may be made by the department only upon the specific approval of the Legislature, by an act enacted after the receipt of a report filed pursuant to Section 13822.

(b) Any contract for a grant entered into pursuant to this chapter may include provisions as agreed by the parties thereto, and the contract shall include, in substance, all of the following provisions:

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

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

(3) An agreement by the public agency, (A) to proceed expeditiously with, and complete, the project, (B) 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, (C) to apply for, and make reasonable efforts to secure, federal assistance for the project, (D) 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 that assistance available, and (E) to provide for payment of the public agency's share of the cost of the project, if any.

13821. Applications for grants under this chapter shall be made to the department in the form and with the supporting material as prescribed by the department.

13822. The department shall prepare a report on each grant application pursuant to this chapter. The report shall be filed with the Legislature, if it is in session or, if it is not in session, with the Rules Committee of the Assembly and Senate. The department shall be authorized to make the grant only upon the specific approval of the grant by the Legislature, by an act enacted after the receipt of the report from the department.

13823. (a) Loans and grants may be made only for projects for domestic water systems. The department may make reasonable allowance for future water supply needs and may provide for additional capacity when excessive costs would be incurred by later enlargement. The loans and grants may be made for all, or any part, of the cost of constructing, improving, or rehabilitating any system when, in the judgment of the State Department of Health Services, improvement or rehabilitation is

necessary to provide pure, wholesome, and potable water in adequate quantity at sufficient pressure for health, cleanliness, and other domestic purposes. No single public agency shall receive grants pursuant to this chapter totaling more than four hundred thousand dollars (\$400,000). Loans may be made to provide for the purchase of a water system or the purchase of watershed lands. No loan to an individual supplier shall exceed the sum of five million dollars (\$5,000,000), unless the Legislature by an act raises the limit specified in this section.

(b) Upon receipt of an application for a grant or loan pursuant to this chapter, the department shall propose to the applicant improvements to the applicant's water development, distribution, and utilization system which will conserve water in a cost-effective manner. These improvements may include, but need not be limited to, leak detection and repair programs, valve repair and replacement, meter calibration and replacement, physical improvements to achieve corrosion control, distribution and installation of water conservation devices and fixtures, and other capital improvements which can be demonstrated to conserve water in a cost-effective manner. The department and applicant may agree to include these capital improvements in the grant or loan. Failure of the applicant to include water conservation capital improvements grant or loan application shall not be sufficient cause for the department to refuse to make the grant or loan.

13824. An application for a grant pursuant to this chapter shall not be approved by the department, unless the department determines that the public agency is 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.

No grant shall be made by the department except upon approval by the State Department of Health Services of project plans submitted by the applicant and upon issuance to the public agency of a permit or amended permit as specified in Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

13825. First priority for grants shall be granted to public agencies having immediate health related problems, as certified by the State Department of Health Services. Additional high priority shall be granted to projects to correct immediate problems, as opposed to grants for construction of projects to meet future growth needs.

13826. First priority for loans shall be given to suppliers with the most critical public health problems. Priority for loans shall also be given to suppliers which have a lesser capability to reasonably finance system improvements.

13827. Preliminary design work, including a cost estimate for the project, shall be completed before a loan or grant is awarded. Operation and maintenance costs shall be the responsibility of the supplier and may not be considered as part of the project cost. Costs for planning and preliminary engineering studies may be reimbursed following the receipt of a loan or grant subject to approval by the department and the State Department of Health Services.

13828. No application for a grant may be made pursuant to this chapter unless the public agency has also applied for a loan pursuant to this chapter. A public agency shall be eligible for a grant only to the extent that the department finds that the agency is found unable to repay the full costs of a loan.

If the department has determined that the applicant is unable to repay the full costs of a loan, the applicant may also file for a grant. Upon receipt of a grant application, the department shall determine that portion of the full costs that the applicant is capable of repaying. Grant funds shall only be provided for that portion that the applicant is not capable of repaying.

13829. Grant funds shall be expended by the public agency within three years of the making of the grant. No grant funds may be expended by the public agency unless the public agency is able to demonstrate to