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Item 3860-001-6083—Department of Water Resources

Item 3940-101-6083—State Water Resources Control Board

Drought Conference Issues

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Governor’s May Revision Proposition 1 Drought Proposals				
<i>(In Millions)</i>				
Department	Purpose	Governor	Senate	Assembly
SWRCB	Groundwater contamination	\$784	\$784	\$783
SWRCB	Water recycling	475	475	474
SWRCB	Safe drinking water	180	180	180
SWRCB	Wastewater treatment projects	160	160	160
SWRCB	Stormwater projects	100	100	100
DWR	Urban water conservation	45	45	45
DWR	Desalination grants	44	44	44
DWR	Groundwater sustainability grants	39	39	39
DWR	Agricultural water conservation	30	30	30
Totals		\$1,857	\$1,857	\$1,855

SWRCB = State Water Resources Control Board and DWR = Department of Water Resources.

- The Governor’s May Revision includes about \$1.9 billion funding package from Proposition 1 for various water-related programs. Departments would have three years to commit funds and two or three additional years to spend them.
- The Senate approved the funding package.
- The Assembly reduced the allocations for groundwater contamination and water recycling by \$1 million each to continue conversation in conference committee.

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- Governor’s Trailer Bill Proposals.*** The Governor proposed several trailer bills intended to accelerate projects and improve state and local agencies’ ability to respond to the drought, including bills addressing enforcement, monitoring, reporting, and California Environmental Quality Act (CEQA) exemptions. The major provisions of the Governor’s proposals are described below.
- **Drought—Expanded Local Enforcement Authority.** Allows local water agencies to issue penalties for violations of local and state water conservation requirements, including penalties of up to \$10,000 for the first violation (increasing for continuing violations).
 - **Drought Penalties.** Requires the State Water Board to separately account for penalties assessed for violations of emergency conservation regulations and deposited into the Water Rights Fund. These funds would then be available for appropriation by the Legislature to support water conservation activities and programs.
 - **Drought Monitoring and Reporting.** Requires that diversions in excess of ten acre feet per year, with some exceptions, must have a measuring device. Authorizes the State Water Board to adopt emergency regulations not subject to CEQA to implement the measuring device requirement. Increases frequency of water diversion reporting to be at least annually.
 - **Drought Water System Consolidation.** Authorizes the State Water Board to require consolidation of water systems under certain circumstances.
 - **Drought Submetering.** Requires the measurement of water consumption by individual dwelling unit in all newly constructed multiunit residences through submetering. Allows for an update to plumbing and building codes related to installation of submeters at multiunit residences.



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- **Groundwater Well Permits—CEQA Exemption for Local Ordinances for Groundwater Protection.** Provides CEQA exemption for adopting a local groundwater protection ordinance. The exemption would expire in two years or upon cessation of current Drought State of Emergency, whichever is later.
- **Drought Stormwater Plans.** Exempts the State Water Board's development of guidelines for stormwater resource plans from Office of Administrative Law review process, and instead requires three public meetings prior to finalizing the guidelines and posting of the draft guidelines on the department website 30 days prior to those meetings.
- **CEQA Exemption for Drought Mitigation.** Exempts certain specified types of drought-related projects that are approved during a declared state of emergency from CEQA. Types of projects include water recycling, stormwater expansions, and other projects to implement directives included in a Governor's state of emergency declaration.
- **CEQA Exemption for Building Code Provisions Regarding Plumbing for Recycled Water.** Exempts development of new building codes related dual plumbing from CEQA.



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Senate Language. The Senate did not take action on the Governor’s trailer bill proposals. The Senate proposed other placeholder trailer bill language (TBL) and budget bill language (BBL) changes, as described below.

- **Statewide Obligations Reporting.** BBL requires the California Natural Resources Agency to report on its plans to expend the statewide obligations funding pot in Proposition 1 (\$475 million).
- **Revolving Loan Funds.** TBL allows State Water Board revolving loan funds to be used as match for Proposition 1 grants.
- **Fish Screens.** TBL prioritizes Proposition 1 funding for the Department of Fish and Wildlife (DFW) proposals for fish screen projects on the Sacramento River.
- **Pacific Flyway.** TBL allows \$10 million of Proposition 1 funds to be used for high priority projects providing refuge water related to the Pacific Flyway.
- **Conservancies Acquisition and Technical Assistance.** TBL allows conservancies utilizing Proposition 1 funds to (1) directly acquire land or any interests therein for purposes of the bond and directly restore publicly owned land through competitive processes, and (2) provide technical assistance to potential grantees in rural or underserved communities to improve the quality and cost-effectiveness of their proposals.
- **Fish and Wildlife Fund Shift.** Rejects administration’s proposed BBL that would allow Proposition 1 restoration funding allocated to DFW to be shifted among local assistance and capital outlay purposes.



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- Assembly Language.** The Assembly approved placeholder TBL to provide the necessary tools to assist state and local water entities with the ongoing management of the drought. The Assembly proposed other placeholder TBL and BBL changes, as described below.
 - **Accountability.** TBL requires departments receiving Proposition 1 funding to (1) evaluate the outcomes of projects and programs, (2) report outcomes on the bond accountability website, and (3) hold state departments and grantees accountable for completing projects on-time and within scope. Also requires the Natural Resource Agency to include information on changes to project timelines and spending on the bond accountability website.
 - **Housing Relocation During Drought.** BBL directs the Department of Housing and Community Development to include an assessment of alternatives to relocation that may be available for families under the Governor's proposed drought-related relocation program proposal, and allows proposed relocation assistance funds to be used for such alternatives.



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LAO Comments

- **Increased Funding Reflects State Priorities.** Additional \$1.9 billion proposed and largely approved by the Legislature reflects level of concern over ongoing drought conditions in California. Many of the projects, once implemented, could help to reduce the impacts of the current drought—if those conditions are still in effect—or help build resiliency for future droughts.
- **Administration’s Language Could Be Useful, but Presents Many Policy Trade-Offs.** The administration’s TBL proposals could be helpful in addressing the impacts of the drought by, for example, accelerating the development of granting guidelines and implementation of projects, as well as encouraging greater water conservation. These proposals, however, are complicated, and their potential benefits should be weighed against the potential concerns about costs, unintended consequences, and equity issues. The Legislature has not had an opportunity to fully vet these trade-offs and explore viable alternatives.
- **Legislative Language Could Improve Oversight.** Senate and Assembly proposals designed to improve oversight of the expenditure of Proposition 1 funds have merit, specifically those proposals related to statewide obligations and accountability.
- **Fish and Wildlife BBL Seems Reasonable as Proposed.** The Governor’s proposal to allow shifting of funds appears reasonable as proposed as it would allow funding of state or local projects. Otherwise, it is difficult to know how to appropriate funds between local assistance and state capital outlay because projects have not been selected yet.



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- **Other Legislative Language Clarifies Intent, but Must Be Consistent with Bond Requirements.** The remaining legislative language proposals—those related to revolving funds, fish screens, Pacific Flyway, conservancies, and housing relocation—reflect different legislative priorities. It will be important in the final drafting of the language, if adopted, to ensure that they are consistent with provisions of Proposition 1, including provisions that require competitive selection of projects and prohibit the Legislature from appropriating funds for specific projects.