

WATER CODE - WAT

DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE WATER RESOURCES [10000 - 12999]

(Heading of Division 6 amended by Stats. 1957, Ch. 1932.)

PART 6. WATER DEVELOPMENT PROJECTS [12570 - 12949.6]

(Part 6 added by Stats. 1953, Ch. 196.)

CHAPTER 4.7. Water Conservation Bond Law of 1988 [12879 - 12879.17]

(Chapter 4.7 added by Stats. 1988, Ch. 46, Sec. 1.)

ARTICLE 1. General Provisions [12879 - 12879.2]

(Article 1 added by Stats. 1988, Ch. 46, Sec. 1.)

12879.

This chapter shall be known and may be cited as the Water Conservation Bond Law of 1988.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.1.

The Legislature finds and declares as follows:

- (a) There is a lack of local water projects in certain areas of the state where the demands of a growing population could exceed water supplies which could threaten the public health and impede economic and social growth.
- (b) It is in the interest of the state to provide financial assistance to local agencies for the development of local water resources necessary to meet requirements for domestic, agricultural, and other uses.
- (c) The participation of the state and the State Water Resources Development System in the construction and operation of local water projects in those areas is desirable to further the development, control, and conservation of the water resources of the state.
- (d) Voluntary, cost-effective capital outlay water conservation programs can help meet growing demand for clean and abundant water supplies.
- (e) Recharging groundwater basins is an effective way to maximize the availability of scarce water supplies throughout the state through the efficient management of recharge and extraction activities in groundwater basins, and by reversing the effects of historical overdraft.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.2.

As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the Water Conservation Finance Committee created pursuant to Section 12879.9.

(b) "Department" means the Department of Water Resources.

(c) "Fund" means the 1988 Water Conservation Fund created pursuant to Section 12879.3.

(d) "Local agency" means any city, county, city and county, district, joint powers authority, or other political subdivision of the state involved in water management.

(e) "Eligible project" means any dam, reservoir, or other construction or improvement by a local agency for the diversion, storage, or primary distribution of water, or facilities for groundwater extraction, primarily for domestic, municipal, agricultural, industrial, recreation, fish and wildlife enhancement, flood control, or power production purposes. "Eligible project" also means any reservoir, pipeline, or other construction or improvement by a local agency for the storage or distribution of reclaimed water for reuse.

(f) (1) "Groundwater recharge facilities" means land and facilities for artificial groundwater recharge through methods that include, but are not limited to, either percolation using basins, pits, ditches, and furrows, modified streambed, flooding, and well injection, or in-lieu recharge. "Groundwater recharge facilities" also means capital outlay expenditures to expand, renovate, or restructure land and facilities already in use for the purpose of groundwater recharge.

(2) Groundwater recharge facilities may include either of the following:

(A) Instream facilities for regulation of water levels, but not regulation of streamflow by storage to accomplish diversion from the waterway.

(B) Conveyance facilities to the recharge site, including devices for flow regulation and measurement of recharge waters.

(3) Any part or all of the project facilities, including land under the facilities, may consist of separable features, or an appropriate share of multipurpose features of a larger system, or both.

(g) "In-lieu recharge" means accomplishing increased storage of groundwater by providing surface water to a user who relies on groundwater as a primary supply, in order to accomplish groundwater storage through the direct use of that surface water in lieu of pumping groundwater. In-lieu recharge shall be used rather than continuing pumping while artificially recharging with surface waters. However, bond proceeds shall not be used to purchase surface waters for use in lieu of pumping groundwater.

(h) "Voluntary cost-effective capital outlay water conservation programs" means those feasible capital outlay measures to improve the efficiency of water use through benefits that exceed their costs. The programs include, but are not

limited to, lining or piping of ditches; improvements in water distribution system controls such as automated canal control, construction of small reservoirs within distribution systems that conserve water that already has been captured for reuse, and related physical improvements; tailwater pumpback recovery systems to reduce leakage; and capital changes in on-farm irrigation systems that improve irrigation efficiency, such as sprinkler or subsurface drip systems. In each case, the department shall determine that there is a net savings of water as a result of each proposed project and that the project is cost-effective.

(Amended by Stats. 2006, Ch. 538, Sec. 673. Effective January 1, 2007.)

ARTICLE 2. Water Conservation Program [12879.3 - 12879.6]

(Article 2 added by Stats. 1988, Ch. 46, Sec. 1.)

12879.3.

(a) The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the 1988 Water Conservation Fund, which is hereby created. A Local Water Projects Assistance Account shall be established in the fund for the purpose of implementing Section 12879.5, and a Water Conservation and Groundwater Recharge Account shall be established in the fund for the purposes of implementing Section 12879.6.

(b) From time to time, the department may modify existing accounts in the fund, or may establish other accounts in the fund, and in all other bond funds administered by the department, which the department determines are appropriate or necessary for proper administration.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.4.

(a) The department may make loans to local agencies, upon approval of the Legislature by statute, to aid in the construction of eligible projects and to aid in the funding of voluntary, cost-effective capital outlay water conservation programs and groundwater recharge facilities, and may adopt rules and regulations necessary to carry out this chapter.

Notwithstanding any provision of law, existing rules and regulations adopted by the department pursuant to Chapter 5 (commencing with Section 12880) and Chapter 6.1 (commencing with Section 13450) that are in effect on the effective date of this chapter may be utilized to carry out this chapter. The department may subsequently revise those rules and regulations pursuant to Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code as necessary to carry out this chapter.

(b) For the purpose of administering this chapter, the total expenditures of the department through the making of any loans may not exceed 5 percent of the total amount of the bonds authorized to be issued under this chapter. The department shall establish a reasonable schedule of administrative fees for loans, which fees shall be paid by the local agency pursuant to subdivision (c) of Section 12879.4 to reimburse the state for the costs of state administration of this chapter.

Charges incurred by the Attorney General in protecting the interests of the state in the use and repayment of funds under this chapter shall be paid from the proceeds of bonds authorized to be issued under this chapter. These charges shall not be paid from funds allocated for administrative purposes, but shall be treated as a program expense, not to exceed 1.5 percent of the total amount of the bonds authorized to be issued under this chapter.

(c) Any contract entered into pursuant to this section may include such provisions as may be determined by the department, provided that any contract concerning an eligible project shall include, in substance, all of the following provisions:

(1) A finding by the department that the local agency has the ability to repay the loan, that the eligible project is economically justified, and that the eligible project is feasible from an engineering and geologic standpoint.

(2) An estimate of the reasonable cost and benefit of the eligible project, program, or facility.

(3) An agreement by the local agency to proceed expeditiously with, and complete, the eligible project.

(4) A provision that there shall be no moratorium or deferment on payments of principal or interest.

(5) Local agencies seeking a loan shall demonstrate, to the satisfaction of the department, that an adequate opportunity for public participation regarding the loan has been provided.

(6) Any election held with respect to the loan shall include the entire local agency except where the agency proposes to accept the loan on behalf of a specified portion, or portions, of the agency, in which case the election shall be held in that portion or portions of the agency only.

(7) Annual principal and interest payments shall commence not later than one year after completion of any project and all loans shall be fully amortized not later than 50 years after project completion.

(8) The recipient of a loan shall establish a dedicated source of revenue for repayment of the loan.

(9) Any loans made pursuant to this chapter may be for a period of up to 20 years. The interest rate for the loans made for projects to be funded pursuant to

Section 12879.5 shall be set at a rate equal to the interest rate paid by the state on the most recent sale of state general obligation bonds, with that rate to be computed according to the true interest cost method. The interest rate for loans made for projects to be funded pursuant to Section 12879.6 shall be set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, with that rate to be computed according to the true interest cost method. When the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent. The interest rate set for each contract shall be applied throughout the repayment period of the contract. There shall be a level annual repayment of principal and interest on the loans. The amount of the principal shall include the administrative fee described in subdivision (b).

(d) All loans made pursuant to this chapter shall be subject to the approval of the Legislature by statute.

(e) Applications for loans or financial participation by the state under this chapter shall be made to the department in the form and with the supporting material as may be prescribed by the department.

(f) All money repaid to the state pursuant to any contract executed under this chapter, or under Section 13999.11, shall be deposited in the General Fund as reimbursement for payment of principal and interest on bonds authorized to be issued under this chapter or Chapter 15 (commencing with Section 13999) that have been paid from the General Fund.

(g) As approved annually by the Legislature in the Budget Act, the department, notwithstanding subdivision (b), may expend money repaid to the state pursuant to any contract executed pursuant to this chapter as necessary for the administration of contracts entered into by the department pursuant to this chapter. However, the expenditures may not in any year exceed 1.5 percent of the amount repaid to the state in that year. Charges incurred by the Attorney General in protecting the state's interests in the use and repayment of funds pursuant to this chapter may be paid by the department from these funds. However, the charges may not exceed 0.5 percent of the amount repaid to the state in that year. Any of the foregoing sums approved by the Legislature in the Budget Act but unencumbered at the end of any year shall automatically revert to the General Fund.

(Amended (as proposed to be added by Stats. 1988, Ch. 46) by Stats. 1988, Ch. 297, Sec. 2. Addition of this section, as amended, approved November 8, 1988, by adoption of Proposition 82.)

12879.5.

(a) The sum of twenty million dollars (\$20,000,000) of the money in the fund shall be deposited in the Local Water Projects Assistance Account and shall be available for loans to local agencies to aid in the construction of eligible projects.

(b) No eligible project may receive more than five million dollars (\$5,000,000) in loans from the department.

(c) In the administration of this section, the department and the California Water Commission shall give preference to projects involving the development of new basic water supplies which may include the enlargement of existing dams and reservoirs, and for projects that will remedy existing water supply problems. The department and the California Water Commission shall set priority for loans pursuant to this section on the basis of the cost-effectiveness of the proposed project, with the most cost-effective projects receiving highest priority.

(d) If the water supply function of a dam and reservoir facility is operationally limited or eliminated for dam safety purposes, pursuant to Part 1 (commencing with Section 6000) of Division 3, the department and the California Water Commission may give consideration to projects which would rehabilitate the dam and reservoir for water supply purposes. The rehabilitation of facilities may include comparable replacement facilities.

(e) The department shall not make loans pursuant to this section for otherwise eligible projects whose benefits are more than 50 percent derived from hydroelectric generation, as determined by the department.

(f) The department may make loans to local agencies, at the interest rates authorized pursuant to this chapter and pursuant to any terms and conditions as may be determined necessary by the department, for the purposes of financing feasibility studies of projects potentially eligible for funding pursuant to this section. No single potential project shall be eligible to receive more than five hundred thousand dollars (\$500,000), and not more than 10 percent of the total amount of bonds authorized to be expended for purposes of this section may be expended for those purposes.

(Amended by Stats. 2001, Ch. 745, Sec. 230.9. Effective October 12, 2001.)

12879.6.

(a) The sum of forty million dollars (\$40,000,000) of the money in the fund shall be deposited in the Water Conservation and Groundwater Recharge Account and shall be available for appropriation by the Legislature for loans to local agencies to aid in the acquisition and construction of voluntary, cost-effective capital outlay water conservation programs and groundwater recharge facilities.

(b) No eligible project may receive more than five million dollars (\$5,000,000) in loans from the department.

(c) The department shall set priority for loans under this section for voluntary, cost-effective capital outlay water conservation programs on the basis of the cost effectiveness of the proposed project, with the most cost-effective projects receiving the highest priority.

(d) The department shall set priority for loans under this section for groundwater recharge facilities for projects in overdrafted groundwater basins and those projects in critical need, for projects whose feasibility studies show the greatest economic justification and the greatest engineering and hydrogeologic feasibility, as determined by the department, and for projects located in areas which have existing water management programs.

(e) The department may make loans to local agencies, at the interest rates authorized pursuant to this chapter and under any terms and conditions as may be determined necessary by the department, for the purposes of financing feasibility studies of projects potentially eligible for funding pursuant to this section. No single potential project shall be eligible to receive more than one hundred thousand dollars (\$100,000), and not more than 3 percent of the total amount of bonds authorized to be expended for the purposes of this section may be expended for these purposes.

(Amended (as proposed to be added by Stats. 1988, Ch. 46) by Stats. 1988, Ch. 297, Sec. 4. Addition of this section, as amended, approved November 8, 1988, by adoption of Proposition 82.)

ARTICLE 3. Fiscal Provisions [12879.7 - 12879.17]

(Article 3 added by Stats. 1988, Ch. 46, Sec. 1.)

12879.7.

Bonds in the total amount of sixty million dollars (\$60,000,000), exclusive of refunding bonds issued pursuant to Section 12879.15, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. All bonds herein authorized, which have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.8.

The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in 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), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.9.

(a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Water Conservation Finance Committee is hereby created. For purposes of this chapter, the Water Conservation Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Governor, the Controller, the Treasurer, the Director of Finance, the Director of Water Resources, and the Chairperson of the California Water Commission, or their designated representatives. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Department of Water Resources is designated the "board."

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.10.

The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Sections 12879.5 and 12879.6, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.11.

There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the

bonds maturing each year, and all officers required by law to perform any duty in regard to the collection of state revenues shall collect that additional sum.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.12.

Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

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

(b) The sum which is necessary to carry out the provisions of Section 12879.13, appropriated without regard to fiscal years.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.13.

For the purposes of carrying out this chapter, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of an amount or 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 chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any money made available under this section to the board from money received from the sale of bonds for the purpose of carrying out this chapter shall be returned to the General Fund plus the interest that the amount would have earned in the Pooled Money Investment Account.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.135.

Notwithstanding any other provision of this bond act, or of 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), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and

may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

(Added by Stats. 1991, Ch. 652, Sec. 28.)

12879.14.

All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.15.

Any bonds issued and sold pursuant to this chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of these bonds shall include the approval of any bonds issued to refund any bonds originally issued or previously issued refunding bonds.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.16.

The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute such documents as are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)

12879.17.

The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(Added by Stats. 1988, Ch. 46, Sec. 1. Approved November 8, 1988, by adoption of Proposition 82.)