ASSEMBLY COMMITTEE ON WATER, PARKS AND WILDLIFE

Friday, March 14, 2014, 1:00 PM
Monterey Park City Hall Council Chambers
320 W. Newmark Ave., Monterey Park, CA

INFORMATIONAL HEARING SERIES:

THE NEED FOR A 2014 WATER BOND: LOCAL & REGIONAL PERSPECTIVES SAN GABRIEL VALLEY & SOUTHERN CALIFORNIA

BACKGROUND

The purpose of this hearing series is to explore the need for a general obligation bond in 2014 to help fund water-related projects and programs and to hear local perspectives on the potential public benefits to communities throughout the state from such a water bond. As the Governor's declaration of a drought state of emergency this year demonstrates, urgent investments are needed to better enable Californians to prepare for future water scarcity.

Today's hearing will concentrate on the water investment needs of the San Gabriel Valley and the Los Angeles County Basin, and how a water bond, in the form of AB 1331 (Rendon), may fulfill some of those needs. These investments relate to a wide range of water issues, from groundwater cleanup to restoration of the Los Angeles River. The needs include both physical infrastructure and watershed restoration that contribute to addressing the water supply and water quality concerns of Southern Californians.

A statewide general obligation water bond can contribute only one part of the investments in water that Southern Californians will need in the decades ahead. The needs far exceed what can be provided by a reasonable water bond that voters statewide will approve. With climate change, limited water supply, groundwater contamination, and growing demands, Southern Californians will see growing need for their further investment in their own water systems and watersheds. Today's hearing will examine investment needs and the potential contribution that a water bond may offer California voters.

Short History of the 2009 Water Bond

In 2009, former Governor Schwarzenegger convened the Legislature in extraordinary session to take up issues related to protecting and restoring the Delta ecosystem and improving water reliability and management, including addressing water conveyance, storage, conservation and

groundwater, and considering a general obligation bond. Subsequently, a historic five-bill package of water legislation was passed and signed, including SB 2 (Cogdill), Chapter 3, Statutes of the 2009-10 Seventh Extraordinary Session (SBX7 2).

SBX7 2 called for a bond to be placed on the November 2010 ballot that, if approved by the voters, would authorize the issuance of $11.14 billion in general obligation bonds for a wide range of water projects and programs including water conservation and efficiency, groundwater protection and cleanup, integrated regional water management, ecosystem and watershed protection and restoration, water recycling, and water storage (Water Bond).

Delay and Anomaly

However, in 2010 and again in 2012, supporters of the Water Bond recognized that a sluggish economy coupled with the state's need to focus on its dire budget shortfall meant that delaying the bond vote could increase its chances of success. AB 1265 (Caballero) moved the Water Bond to the 2012 general election and deleted a provision allowing for-profit entities to be members of joint powers authorities for bond-funded surface water storage projects. AB 1422 (Perea) moved the Water Bond to the November 4, 2014 statewide general election but otherwise left the text unchanged. While changing the text of an initiative measure requires a 2/3rds vote of each house, changing the date of an election can be done with only a majority vote. As a result, the Water Bond currently on the ballot is still titled the "Safe, Clean, and Reliable Drinking Water Supply Act of 2012."

Efforts to Reduce and Refocus the Bond

Both houses of the Legislature have engaged in substantial efforts to reanalyze and right-size a bond so that voters can be confident that it addresses California's most pressing water infrastructure and program needs and is accountable.

In the Assembly, Speaker John A. Pérez convened a Water Bond Working Group comprised of members with diverse regional and statewide perspectives and chaired by Assemblymember Anthony Rendon. With a historic level of new members in the Assembly and a high degree of interest in the bond, the Working Group members conducted an extensive series of workshops and meetings among themselves and with their Assembly peers covering the background and composition of the current Water Bond, shifts in priorities that have occurred since it was passed in 2009, and the need to reduce its size and increase its accountability.

The 2013 Assembly Water Bond Working Group process included:

- 5 public hearings (3 in the Assembly; 2 in the Senate)
- 9 regional hearings and 1 town hall to receive public comment and local expert opinions
- 6 legislator briefings on water policy and funding

- Establishment of *Principles* that set priorities and emphasized accountability to the voters

- 3 rounds of public comments, and

- Publishing the *Water Bond Framework* & posting summaries of public comments on the Water, Parks & Wildlife Committee website at http://awpw.assembly.ca.gov/waterbond

Those efforts resulted in a public hearing in July of 2013 to present and receive comment on a set of Water Bond "principles" and another public hearing in August of 2013 to present and receive comment on a more specific "framework" for a revised water bond language. The Framework was then incorporated into AB 1331 (Rendon). Beginning in October 2013 Assemblymember Rendon, Chair of the Water, Parks & Wildlife Committee, started this series of Water Bond Informational Hearings to gain local perspectives from different areas of the State on the need for a water bond in 2014 and the best way to make such a bond effective and accountable.

AB 1331, the *Clean and Safe Drinking Water Act of 2014*, as currently proposed to be amended, repeals the existing bond and places an $8 billion measure on the November 4, 2014 ballot that is better tailored to current water management challenges.[1] Specifically, AB 1331 includes:

- $1 Billion for maintaining and improving Drinking Water Quality

- $1.5 Billion for protecting Rivers & Watersheds

- $2 Billion to fund integrated regional water management that will improve water delivery and help regions reduce the impact of climate change on water supply

- $1 Billion for protecting the California Delta that is a key ecological resource and also critical to the state water supply system

- $2.5 Billion for Water Storage projects (surface and groundwater) that will also reduce the impact of climate change on clean, reliable and affordable water supply[2]

Meanwhile, the Senate has also actively sought to educate members of the Legislature and the public on a need to refocus and reduce the Water Bond by holding a series of four informational hearings during 2013. Currently, the primary Senate Water Bond vehicle is SB 848, the Safe *Drinking Water, Water Quality, and Flood Protection Act of 2014*. SB 848 repeals the exiting bond and placed an entirely new $6.925 billion measure on the November 2014 ballot.

In addition to AB 1331 and SB 848, five other substantive water bond proposals and three water bond "intent" bills have been introduced. AB 1445 (Logue) is a $5.8 billion proposal that dedicates $4.8 billion to water storage projects and $1 billion to water quality. AB 2043

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[1] Specific bills, including AB 1331 and SB 848, may be reviewed and tracked through the California Legislative Information web site maintained by the Office of Legislative Counsel at: http://leginfo.legislature.ca.gov/.

[2] Information on the Assembly water bond process, including links to comment letters on the Assembly Working Group Framework, can be found at: http://awpw.assembly.ca.gov/waterbond .

(Bigelow) is a $7.953 billion proposal modeled on the 2009 bond that funds water storage at $3 billion, eliminates $1.785 billion for conservation and watershed protection, and reduces the various other chapters of the 2009 bond by anywhere from 15-33%. AB 2686 (Perea) is modeled on AB 1331 but increases the Delta sustainability and water storage chapters of the bond to the same levels as found in the 2009 Water Bond (i.e. $2.25 billion and $3 billion, respectively). SB 927 (Canella) reduces the 2009 Water Bond to $9.217 by also eliminating the entire $1.785 billion chapter for conservation and watershed protection and deleting several other specific allocations in other chapters. SB 1370 (Galgiani) is a $5.1 billion general obligation bond for the exclusive purpose of funding three surface storage projects: Sites Reservoir in the Sacramento Valley; Temperance Flat Reservoir in the San Joaquin Valley; and, an expansion of Los Vaqueros Reservoir, which serves part of the San Francisco Bay Region.

Los Angeles County Region Water Supplies

From its official founding in 1781, water has been a critical resource for Los Angeles. The Spanish settlers who arrived in the area established "El Pueblo de Nuestra Señora de los Angeles de Porciuncula" on a hill near the Los Angeles River. Los Angeles County developed in the 19th Century by relying largely on groundwater and the limited surface water resources that originated in the mountains surrounding Los Angeles.

Imported Water. Today, Los Angeles County enjoys great diversity in its water supplies, both local and imported from distant watersheds. The region began its quest for water from outside the basin early in the 20th Century. The City of Los Angeles started with the ambitious project to acquire water rights in the Owens Valley, on the eastside of the Sierra Nevada, and convey the water across the mountains and downhill to Los Angeles. In the process, the City expanded, to the north, south and west, as a condition to those areas receiving water from the Owens Valley.

As the Los Angeles region beyond the city limits recognized the limits of their water supply, 13 cities joined together, in 1928, to create the Metropolitan Water District of Southern California (MWD) and build a canal from the Colorado River. As part of the 1922 interstate Colorado River Compact, MWD gained water rights to bring water across the mountains and desert to Southern California. Thirty years later, MWD signed a contract, in 1960, for more than half of the water from the State Water Project (SWP), which draws water from Oroville Dam on the Feather River (north of Sacramento), through the Sacramento-San Joaquin River Delta, down the Central Valley, and across the Tehachapi Mountains, to Southern California. MWD, however, did not take a significant portion of its SWP water, allowing Kern County to take more than its entitlement, at least until 1986.

Sacramento-San Joaquin Delta. The Sacramento-San Joaquin is the heart of the statewide water system. It takes fresh, clean water from the Sacramento River Valley (where 2/3 of California water flows) and moves that water south to export pumps on the south side, where it gets pumped south to communities in Silicon Valley, farms in the Central Valley, and communities in Southern California. At the same time, the Delta is the heart of the most valuable estuary ecosystem on the West Coast of North or South America, where salmon swim

from their upstream spawning grounds out to the ocean and then return years later to spawn the next generation of salmon. The Delta therefore serves California in many ways.

Southern California's reliance on SWP water exported from the Delta makes the health of the Delta an important consideration for its water supply needs. The region depends on a healthy ecosystem and water quality in the Delta, to support its imported SWP water supply. When native Delta fish are suffering – as they have for the last decade – the SWP has to reduce water exports to its service area, from the San Francisco Bay Area to Southern California. Investments in the Delta are therefore critical to the future of Southern California water supply.

Local Groundwater. While imported water has been critical to Southern California's growth since World War II, much of the region continues to rely on its groundwater resources in the many adjudicated basins across the coastal plain. Industrial development led to contamination of many of the region's groundwater aquifers, so groundwater cleanup efforts extend across the Los Angeles region. In the San Gabriel Valley, settlement of groundwater cleanup and broad community efforts led to the creation of the San Gabriel Valley Water Quality Authority, to implement groundwater treatment programs in the San Gabriel Basin. In other basins, groundwater cleanup programs are led by the City of Los Angeles or the Water Replenishment District of Southern California. Cleaning up these groundwater aquifers offer Southern California the opportunity to capture and store more water that comes in wet years, from either imported water or local storms.

Stormwater Management. After the 1990 Clean Water Act Amendments, cities across the basin focused attention on how to reduce pollution in the stormwater that runs off city streets into storm drains and into the rivers that flow to the ocean and beaches. After many storms, beaches close due to dangers posed by contamination from stormwater. For many years, local officials considered stormwater only as a water quality problem, with programs focused on reducing pollution by regulating what could flow off property or treating contaminated runoff.

In recent years, however, federal, state and local water officials have recognized the potential opportunity to capture the water that arrives in Southern California for water supply purposes. Efforts to capturing rainwater off roofs or capture stormwater in ponds that put the water into the underground aquifer have grown. Offers of free rain barrels received overwhelming response from homeowners, in the City of Los Angeles and elsewhere. Cities have begun creating green spaces that can capture stormwater and go into the aquifer, before it gets to the river.

Water Conservation. Southern California has improved its water supply reliability by increasing its conservation of water resources. In the last 30 years, Southern California has grown by almost a third, but its total use of water has remained flat. The region's average per capita water use is less than other parts of the state. The statewide average is approximately 180 gallons per person per day, but Southern California is only 150 gallons per day, with some communities approaching only 100 gallons a day. In contrast, the Sacramento Valley averages as much as 280 gallons per person per day. Water conservation can be the most cost-effective investment in water supply. Water conservation therefore has become a critical part of Southern California's water supply portfolio.

River Restoration. The transition to stormwater capture also contributed to the reimagining of how the Los Angeles River fits into the water system. Since storms and floods in the 1930's, the U.S. Army Corps of Engineers has installed concrete in much of the L.A. River channel, to move water without sediment downstream to the ocean as quickly as possible during storms. When imported water was relatively cheap and available, treating Los Angeles' own water supplies as waste may have been acceptable. With increased cost and decreased availability of imported water, Southern Californians have recognized the value of their own water supplies. Capturing that stormwater would require restoring the river to allow some diversion to settling ponds that would allow the water to go into the groundwater aquifers. Restoration also provides other benefits to the Southern California community – a potential ribbon of green space, restoration of the connection between neighborhoods and their river, and a recreational resource.

Assembly Bill 1331 (Rendon) – 2014 Water Bond

AB 1331 reflects almost a year of work by the Assembly, including the series of hearings culminating in today's hearing in Monterey Park, which is the Assembly's last informational hearing on the water bond before the Senate Natural Resources & Water Committee hears and votes on AB 1331 on March 25. This section summarizes key issues that AB 1331 has addressed, based on the work of the Assembly Water Bond Working Group and the Committee on Water, Parks & Wildlife.

AB 1331 authorizes funding for five areas of water investment needs – 1) safe and clean drinking water ($1 billion); 2) protection of rivers and the coast ($1.5 billion); 3) regional water investments ($2 billion); 4) Sacramento-San Joaquin Delta ($1 billion); and 5) water storage ($2.5 billion). The bill authorizes funding for programs and categories of investments, but *without earmarks* to specific projects or agencies. It generally accepts existing law as the baseline for programs and minimizes establishing new state policy, except as such policy may relate to how the authorized funding gets spent.

I. Chapter 4: General Provisions

Chapter 4 – General Provisions – sets the guidelines and policy for how the Legislature may appropriate the funding and how state agencies may expend or distribute the funding through grants and loans. This chapter includes several policies that distinguish AB 1331 from other bond proposals now before the Legislature.

- *Intent of the People.* Sets the general framework for how the voters who approve the bond expect State Government to use the funding. While these provisions are not mandatory, they give direction to the Legislature and the Executive Branch. It includes such policies as beneficiaries should pay for their private benefits, and continuing project operation and maintenance should be paid with sustainable funding from sources other than the water bond.
- *Area of Origin Protections.* Retains all area-of-origin protections that were developed in the 2009 bond based on respect for existing laws that protect the water rights of areas where water originates.
- *Limitations on Appropriations.* In order to prevent appropriations to pet projects of individual legislators, AB 1331 prohibits appropriations to specific projects and requires

appropriations go only to state agencies with the necessary legal authority to accomplish the purposes that voters approve in the bond.

- *Competitive Grants/Loans.* The overall structure of this bond provides for funding to go out to public agencies and public utilities, after appropriation to a State agency. It avoids earmarking bond funding to specific projects by providing for competitive selection, which can foster implementation of the most urgent projects where local agencies share in the costs.
- *Existing Law.* Provides clear direction to courts that this bond does not change existing laws on water. Specifies certain laws as protected from any unintentional suggestion that the bond changes those laws.
- *Accountability.* Requires audits of programs and projects funded by the bond. Allows the Legislature to establish an agency to oversee spending and hold state agencies accountable for the proper spending of bond funding that voters authorize.
- *Effective Groundwater Management.* Where funding may be available for groundwater projects, AB 1331 requires that the applicant demonstrate that a public agency has adequate authority to manage the groundwater basin.

Assurance of Legislative Oversight. The Water Bond Working Group established a policy new to water bonds that ensures the Legislature may oversee and hold agencies accountable for their spending of water bond funds. This policy allows any public agency to receive an appropriation from the water bond, provided it has the necessary legal authority to accomplish the bond's purposes that voters have approved. Instead of shifting all oversight to unelected bureaucracies by guaranteeing funding to a specific agency, the Legislature retains its authority to oversee an agency's implementation of the voter-approved funding. If an agency fails to perform and spend the voter-approved funds responsibly, then the Legislature may re-organize the program and assign responsibility to an agency with a good track record. This policy distinguishes AB 1331 from past water bonds, which parceled out the funding to agencies, leaving little authority for the Legislature to exercise its oversight responsibility.

II. Chapter 5: Safe and Clean Drinking Water ($1 B)

Since 2007, the Assembly has worked on overcoming the challenges for communities with unsafe drinking water. Surprisingly, several, mostly smaller, communities suffer from water coming out of their taps that they cannot drink. The source of water, often from underground aquifers, has become polluted by any of a number of contaminants.

In the last two years, the State Water Resources Control Board, with the help of UC Davis, has begun taking action to address groundwater contamination, especially in the Central Valley and the Salinas Valley. In 2013, Assembly members authored and passed – and the Governor signed – a package of bills to address these problems. The Assembly Water Bond Working Group concluded that fixing these drinking water quality problems – especially in disadvantaged communities that do not have the economic base to fix their problem – was a top priority for state water bond funding.

Disadvantaged Communities. Chapter 5 focuses funding for safe and clean drinking water on the needs of disadvantaged communities. It allocates:

- $400 million for safe drinking water infrastructure

- $400 million for small community wastewater treatment
- $100 million for emergency response when a community's water becomes unsafe
- Up to $100 million for cleanup of groundwater that provides drinking water

Because disadvantaged communities do not generally have the resources to develop their own plans for treatment projects, AB 1331 requires state agencies to provide technical assistance to these communities.

III. Chapter 6: Protecting Rivers and the Coast ($1.5 B)

Ensuring long-term water supply reliability requires that California invest in protecting its rivers and watersheds that produce its water supply. Rivers and watersheds are some of the most important environmental resources that California has to offer. Conflicts over how to manage those rivers often arise. Chapter 6 therefore provides for investments to fulfill the State's obligations in settlements of conflicts over water management, to support the State conservancies that have implemented programs to protect watersheds, and to protect the rivers and the Coast.

Regional Allocations. Chapter 6 proposes allocation of $750 million to the regions of California, with "consideration" of population. In recent weeks, the author's office has convened public meetings to discuss what other factors should be considered in making these regional allocations. The amendments that will set these allocations and give further direction as to spending these funds are expected in the coming week.

This regional allocation process reflects an effort to assure voters in regions across California that the needs of their region's rivers, watersheds and coastal resources will be addressed by this part of the water bond. Past bonds have guaranteed funding to certain state conservancies, which do not represent the entire state. Guaranteed allocations to state conservancies also prevent other state agencies, which operate good river-protection programs, from getting access to this funding. Consistent with AB 1331's policy on legislative oversight, as described above, these regional allocations ensure that the Legislature can fund the most urgent programs to protect California's water-producing watersheds.

Chapter 6 proposes a separate $250 million fund for the conservancies statewide. The Natural Resources Secretary would have responsibility for overseeing expenditure of this funding, consistent with the conservancies' strategic plans for protection of their watershed resources.

Fulfilling State Obligations. Conflict over river management has often consumed the resources of the watershed communities where the conflict rages. In order to promote resolution of these conflicts, the State Government often has participated in settlement negotiations and committed to participate in the resolution of the conflict. Chapter 6 authorizes $500 million to fulfill the State's obligations to contribute to water settlements or programs, including obligations on:

- Klamath River
- Lake Tahoe
- San Joaquin River
- Colorado River/Salton Sea
- Federal-State wetland programs

The precise amount of the State's obligation may not yet be set, so this fund allows for the funding to support the varying obligations, but only to the extent of $500 million.

IV. Chapter 7: Regional Water Security ($2 B)

While California enjoys the most sophisticated water storage and conveyance system that connects the whole state, much of the critical investments in the water future come at the regional level. The state water system is healthiest when each region's water system is healthy. While the statewide system will continue to be important to California's water future, the greatest advances in improving water supply reliability may come at the regional level, as region's improve their regional self-reliance for water. In Los Angeles, this strategy may focus on a portfolio of regional water investments – from recycling and reuse to water conservation and stormwater capture.

For more than a decade, California has pursued development of "integrated regional water management" (IRWM), where several agencies collaborate to develop a regional plan for managing and investing in the different water resources available to their region. The State has invested successfully in the development of these IRWM plans and projects through past water bonds. IRWM has engaged a range of agencies, but often remains focused on the water supply agencies. Other local agencies that may affect water management – by measures such as land-use and stormwater management – may not have a role in water supply and get excluded from the development of IRWM plans and projects.

Chapter 7 authorizes a total of $2 billion for regional water security investments, divided among four categories that serve different needs and agencies:

- IRWM: $1 billion, allocated to each region based mostly on population
- Water Conservation: $250 million, separate from IRWM funding
- Stormwater: $250 million, focused on stormwater for water supply
- Recycled Water: $500 million for regional recycled water projects

These separate categories allow for a diversity of agencies to apply for funding under these programs. But all categories share a common requirement – connection to a regional strategy or program.

V. Chapter 8: Sacramento-San Joaquin Delta Sustainability ($1 B)

The Delta remains the critical nexus for California's statewide water supply system, as well as the most valuable estuary ecosystem on the West Coast. In the last decade, the Delta has suffered from deterioration of both the aquatic ecosystem and water supply reliability – with a close connection between those issues. California's water future depends on improving conditions in the Delta.

Chapter 8 authorizes $1 billion for Delta sustainability, including both improvements to the region's levees that support water conveyance and ecosystem restoration. At this point, the fund is not divided between those two purposes, although some Delta parties have suggested a division of the $1 billion between those two purposes. Unlike the water bond currently on the ballot, AB 1331 makes no mention of a controversial topic in the Delta – the Bay-Delta Conservation Plan (BDCP), commonly referred to as "the Governor's tunnels." This bond funding has no connection to BDCP.

Consistent with the policy on legislative oversight, Chapter 8 does not guarantee funding to any agency. The Delta Counties have urged that the Delta Conservancy receive all Delta ecosystem restoration funding, and oppose any allocation to the Department of Water Resources. AB 1331 will continue to remain neutral in that debate over agency selection. It does not and will not allocate funding to a specific agency for any Delta purpose. The levee funding is eligible to go to the existing Delta levee programs.

VI. Chapter 9: Water Storage ($2.5 B)

The need for water storage – above ground and below ground, north and south of the Delta – is widely acknowledged. Storage can improve water supply reliability, as well as allow greater operational flexibility in the Delta, with water exported and stored in wet times and exports reduced in dry times. Delta water could go into existing (and expanded) surface water storage or cleaned-up groundwater aquifers. Contaminated groundwater aquifers cannot be used to store water until they are cleaned up. AB 1331 enjoys a level playing field between surface water storage and groundwater cleanup/storage.

Chapter 9 authorizes $2.5 billion for storage projects to be selected by the California Water Commission based on factors identified in AB 1331. The funding would be appropriated by voters on Election Day, with annual installments of $500 million appropriated for each of the five State fiscal years following Election Day. The money would go to the Commission with no further action by the Legislature. The appropriations would give the Commission 3 years to act – standard for capital project appropriations. Three years after the appropriation, the funding would return to the fund for further appropriation by the Legislature for the storage purposes that voters approved.