



## **FOR IMMEDIATE RELEASE**

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## **Legislative Analyst & Department of Finance Meet With Proponents to Discuss Water Storage Measure**

**Sacramento, California** - This past week legal counsel for ballot measure proponents and representatives of measure sponsor California Water Alliance met with Legislative Analyst's Office [LAO] to review and discuss the potential fiscal impact of "The Water Priorities Public Interest and Public Trust Constitutional Amendment and New Surface Water And Groundwater Storage Facilities Bond Act of 2016," ["The Water Priorities Initiative"].

The meeting is part of the initiative qualification process leading to circulation and qualification efforts for the measure before the November 2016 election.

Representing the state were members of the Department of Finance and Legislative Analyst's Office with expertise in the State Water Board, Natural Resources, Water Bonds, Policy and Transportation.

### **Summary of Questions Discussed:**

- Creation of new "State Water Storage and Groundwater Storage Facilities Authority"
  - Funding: The New Authority, as a part of the Department of Water Resources (DWR), will be funded by continuous appropriation as part of DWR's budget. The Authority has the responsibility of completing tasks already being performed by multiple departments within DWR, so there will be minimal to no new administrative costs. The measure provides that direct water project costs (staffing, contracts) will be paid out of bond proceeds.
  - Termination: The Authority would terminate upon completion of expenditure of all of the funds provided and appropriated in the initiative.

- Structure: Structure of the Authority was reviewed as outlined in initiative Sec. 79804. A brief discussion confirmed the manner of nomination and election of the nine Authority members how they represent of the people and geographic diversity of the state.
- Constitutional Amendment
  - Fiscal Effects: None anticipated.
  - Meaning of Terms: the terms “domestic use” and “irrigation” as used in Sec. 2.5, Article X, California Constitution are the meanings established by precedent of the originating initiative passed by the state’s voters in 1928 that added Sec. 106, California Water Code, and court precedents from 1928 to 1993 interpreting its meaning.
  - Business and Industrial Use: All waters of the state intended for domestic use is currently delivered to water agencies with a mix of domestic, business, and industrial users, so the provision of “domestic use” includes all current water deliveries to those business and industrial users.
  - New Water: An estimate of new water created by delineated projects and potential additional projects was discussed. Proponents asked the LAO to review existing reports on each project delineated within the initiative, including those prepared by the U.S. Bureau of Reclamation with respect to North of the Delta Storage Projects and its studies of Temperance Flat Dam, Sites Reservoir, Shasta Dam, and San Luis Reservoir.
  - Excess Funds: Excess funds can be reallocated between projects within the stipulations of the “Surface and Groundwater Storage” provisions.
  - Priority of Projects Constructed: the constitutional amendment has no implications for the priority of projects constructed as a result of the initiative.
  - Prop 1 Water Commission Regulations: The initiative itself eliminates requirements specified in the storage component of the 2014 Water Bond and the stipulated role of the California Water Commission. It designates funds for construction of new water projects are made without the qualification requirements contained in Proposition 1, and it streamlines the process of constructing new water supply statewide.
  - Effect on Environment: While a policy question, representatives of the state asked whether or not the constitutional amendment would negatively affect the environment. The answer was no and/or not necessarily, as the initiative provides for increasing the amount of environmental water along with domestic and irrigation water, and it provides protection for all existing environmental water requirements. However, until new water is made available in certain regions, a lag may exist between supply and demand if the drought continues. Examples were requested for how the amendment allows for public/domestic benefit as first priority and still meets environmental requirements.
    - 2014 water-for-fish releases on the Stanislaus and Tuolumne Rivers were not permitted to generate hydropower when water was required to be

released from the reservoirs. Under this initiative, the water would first be permitted to generate electricity as a non-consumptive use en route to meet fish flow requirements.

- The purpose of as much as 35% of water provided for environmental use for such uses as salinity control, temperature control, water quality, etc. is not measured or quantified by DWR, U.S. Bureau of Reclamation, or the State Water Project; the amendment would ensure such an accounting of use takes place to demonstrate that the priority of use provision was met.
- Provision of new facilities would buffer and rebalance deliveries south of the Delta and permit environmental deliveries that were cut off during the drought due to insufficient supplies, for example to wildlife refuges.
- The cutting off of water supplies to urban communities, such as that which occurred with respect to Mountain House in 2015, would not be possible under the Constitutional amendment, as domestic use would be a top use priority over other use priorities.
- Less Water for Environment. No. Each beneficial use would get its same proportion of the total water supply, and the initiative would increase the amount of water in the total water supply, providing more water to all user groups.
- Water Rights. The Constitutional amendment is neutral and maintains all existing riparian and appropriative water rights without change.
- Federal Environmental Law Impact. None. No amendment to the California Constitution is binding on any federal sovereign directive made by Congress.
- Project Funding
  - Process: Participation by other parties or local governmental bodies is voluntary. No change is made to the process by which project funding is required or applied for, thus no costs can be estimated to local or regional governments, etc. State funds shall not exceed 50% of total project cost, with the remainder to come from federal or local funds, or from user fees. There is no environmental public-trust benefit test provided in the proposed initiative, as was the case for Proposition 1.
- High-Speed Rail
  - Does the Initiative “Kill HSR”: No. The initiative does not terminate HSR, but leaves its continued funding to the discretion of the legislature through options of future continuous appropriations or new bond measures.
  - General Funds: The term “general funds” as a source of new HSR funding was discussed, and a technical amendment may be made to reflect that appropriation may come from any state funds, not specifically the general fund.
  - Cost to the State: There is no new cost to the state as a result of the initiative. While it does not “kill HSR”, neither does it mandate that the state find “replacement” funds to continue or maintain HSR. Connectivity funds provided in Proposition 1A were not redirected. The initiative does not require the state to replace HSR’s \$8 billion dollars in bond funding.

- Cost to Keep HSR: Cost of the state to keep funding HSR is unknown and unknowable.
- Maximum of \$8B: The maximum amount this initiative will redirect from HSR Prop 1A is \$8B, even if there are more than \$8B in unissued bonds or unencumbered funds. Though real numbers regarding HSR funds are hard to confirm, the maximum estimate of funds for bonds and other projects is \$9.95B; however, it is estimated that \$1B was previously issued or committed from the bond funding and \$950,000,000 is in a separate extension/connections fund, that this initiative does not affect.
- Interim Effects
  - Water Shortages During Interim: The LAO noted that, for a period following passage, before completion of construction of new water and groundwater storage facilities occurs, another drought period might require water presently delivered for other beneficial use, including environmental and recreational uses, to be delivered to people for domestic use and food production. Yes. Such reallocations might occur during the interim planning and construction period; however, the situation would be identical to that which prevailed from 1928 to 1993 and would represent a return to prior policies previously directed by a vote of the people.
  - Local Funding: The LAO asked whether the measure would impose local burden. No, with potential offsets and benefits. The choice to propose or proceed on a project with costs to a local jurisdiction is unchanged from current policy. Local jurisdictions already are subject unfunded mandates to capture, treat, and recycle storm water, with costs to be borne by ratepayers and local governments; to the extent the state pays shares of those project costs as provided the initiative, local entities and ratepayers would pay less and thus benefit.
  - Impact on Disadvantaged Communities. The initiative contains no provision changing state policy or applicability of laws or regulations regarding economically or otherwise disadvantaged communities.

The meeting lasted 90 minutes. A small number of items require follow up reporting by the initiatives' proponents and sponsor. The sponsor will submit any amendments to the Constitutional amendment initiative's language to the Attorney General no later than December 18, 2015.

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### **About the California Water Alliance**

The California Water Alliance is a statewide not-for-profit organization dedicated to raising awareness about the nature of water and promoting long-term, sustainable solutions that meet the health and security needs of families, cities, businesses, farmers and the environment. To learn more visit our [website](#).

### **About the California Water Alliance Initiative Fund Committee**

The California Water Alliance Initiative Fund Committee (FPPC ID#1381113), sponsored by the California Water Alliance, a non-profit IRC §510(c)(4) organization, is a state primarily formed ballot measure recipient committee organized to qualify two or more state ballot measures for the November 2016 ballot. It is permitted to accept unlimited, non-tax-deductible donations from individuals, corporations, partnerships, nonprofit organizations, and any other lawfully permissible sources. For more information and restrictions, please visit <http://cawater4all.com/>