

# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 RESOURCES AND TRANSPORTATION

ASSEMBLYMEMBER RICHARD BLOOM, CHAIR

WEDNESDAY, FEBRUARY 26, 2014  
9:00 A.M. - STATE CAPITOL ROOM 447

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ITEMS TO BE HEARD		
ITEM	DESCRIPTION	
ISSUE 1	URGENCY DROUGHT RELIEF PACKAGE	

## ITEMS TO BE HEARD

### Urgency Drought Relief Package

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<b>BACKGROUND</b>
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California is experiencing its worst drought in modern history. The purpose of this urgency drought relief package is to expedite state actions and get dollars out the door immediately to help communities deal with the devastating dry conditions affecting the state and provide funding to increase local water supplies.

The bill package accelerates many proposals in the Governor's Budget that begin implementing the Administration's Water Action Plan (WAP) aimed at improving the state's water supply and storage through infrastructure investments, improving the management of groundwater, and addressing water quality issues, particularly in disadvantaged communities. This package also includes emergency funding for drinking water supplies for disadvantaged communities, food assistance, job training, conservation education and outreach activities, urgent fish and stream needs related to the drought, and enhanced enforcement actions and penalties for those caught diverting water. The package is composed of two bills, SB 103/AB 79 which amends the 2013-14 Budget Act (referred to as a Budget Bill Jr.) and SB 104/AB 80, which is a budget Trailer Bill. The drought package has eight main components:

*1. Infrastructure Investments to Improve Water Supply.* The bill accelerates the appropriation of \$77 million to DWR for Central Valley flood protection projects, through the FloodSAFE Program, that provide additional public benefits, including water supply and water quality improvements. The FloodSAFE Program is a long-term strategic initiative developed to reduce flood risk in California. Additionally, the funds will be used to improve flood emergency response throughout California, including response and recovery time from a catastrophic levee failure event in the Delta, and support statewide flood management planning. The Budget also proposes to continue various existing flood control projects and feasibility studies, including the Folsom Dam Modifications Project.

*2. Emergency Drinking Water, Water Supply and Water Quality.* The bill also accelerates funding for clean drinking water for poor and disadvantaged communities. There are state and federal clean drinking water funds available to spend to provide clean drinking water for hard hit communities like farmworker communities in the central valley. This bill appropriates those funds and consolidates their deployment under the SWRCB.

*3. Water and Energy Efficiency for Urban and Agricultural Communities.* The bill appropriates \$30 million from cap-and-trade auction revenue to DWR for programs that provide a reduction of GHG emissions and also deliver state and local water use efficiency. Of this amount, \$20 million is directed to local assistance for water/energy efficiency upgrades in residential, commercial, and institutional sectors. Projects could include installation of water saving devices, low-flow toilets and showerheads, and water capture and water recycling/reuse systems. The remaining \$10 million will be used for efficiency upgrades at two State Water Project (SWP) facilities at the Hyatt and Thermalito power generation sites near Oroville.

The bill also allocates \$10 million from cap-and-trade auction revenue to CDFA for agricultural water efficiency projects that reduce greenhouse gas emissions. This new program will be based on the Air Resources Board's successful Carl Moyer Program and invest in water irrigation treatment and distribution systems that reduce water and energy use, augment supply, and increase water and energy efficiency in agricultural applications. Incentives will be ranked and distributed based on financial need, immediacy of water supply, increased and efficiency gained to address water shortages, and reduction in water pumping or treatment that uses energy causing greenhouse gas emissions.

Of the \$40 million in cap-and-trade revenue proposed, \$20 million is an acceleration of the Governor's Budget. The other \$20 million is in addition to the \$850 million proposed in the Governor's AB 32 Expenditure Plan.

The bill requires that funding for GHG emission reduction programs be subject to a 30-Day Joint Legislative Budget Committee (JLBC) notification prior to expenditure. Specifically, the notification must include a description of proposed expenditures, how it will further the regulatory purposes of AB 32, the Global Warming Solutions Act of 2006, how it will achieve specified GHG emission reductions, and how the agency will document expenditure results.

*4. Sustainable Groundwater Management.* Groundwater basins are the state's largest reservoir, ten times the size of all its surface reservoirs combined. In an average year, groundwater provides 30 percent of California's water supply and much more in dry periods. Eighty percent of Californians rely, at least in part, on groundwater for their drinking water, and some cities and rural areas rely entirely on groundwater. When managed sustainably, groundwater can provide a crucial buffer against drought. In some areas of the state, regional and local agencies manage groundwater well. In other areas, groundwater overdraft is causing subsidence, permanent reductions in underground storage capacity, seawater intrusion and other water quality problems, and environmental damage. This legislation requires better monitoring and management of groundwater resources by providing funding to support the continued implementation of the Statewide Groundwater Elevation Monitoring Program, to protect the sustainability of groundwater resources in critically overdrafted basins and improving monitoring and reporting efforts.

*5. Infrastructure Investments to Improve Water Supply.* This legislation speeds up appropriation of funds for shovel ready water supply projects. The Governor's Water Action Plan in the 2014-2015 budget calls for new appropriations of funds for projects that increase water supply reliability and address the current drought. Specifically, the bill accelerates IRWM, Local Assistance funds, to support a third and final round of the IRWM Implementation Grant Program and directs at least \$200 million of these funds be used for drought preparedness/response projects.

The California Water Plan identified IRWM as one of the key initiatives needed to address long-term water supply reliability for the State. The IRWM program provides incentives to regionally integrate and leverage local financial investment for water conservation efforts, habitat protection for local species, water recycling, storm water capture, and desalination projects.

*7. Housing Assistance.* The bill authorizes HCD to administer rental vouchers to persons rendered homeless, or at risk of becoming homeless, due to unemployment or other economic hardship resulting from the drought. Further, the bill stipulates that HCD adopt guidelines establishing criteria for the program, including income limits, and subsidy amounts.

*8. Enhanced State Water Resources Control Board Drought Response Authority.* Under existing law, the SWRCB has authority to develop emergency drought regulations in a critically

dry year following two dry years. Because of how narrowly the existing statute was crafted, this authority is not available to the SWRCB during this year, even though reservoir and drought conditions are the worst on record. The new authorities provided by the legislation would be more flexible and allow the SWRCB to invoke them in a critically dry year that follows two below normal, dry, or critically dry years, or if the Governor declares a drought emergency. The same drought definition is used in the streamlined water right enforcement and enhanced water right drought penalties contained elsewhere in the legislation.

The bill expands current emergency drought rulemaking authority for the SWRCB. Currently, the Board can adopt emergency regulations to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion or to promote conservation or water recycling. The legislation includes explicit authority for the SWRCB to issue emergency regulations requiring curtailment of water diversions when water is unavailable to satisfy a diverter's priority of water right and requiring reporting to the SWRCB.

Any curtailment regulations would follow established California water right laws concerning priority. Those laws generally mean that senior water rights must be satisfied before junior water rights can divert anything. The legislation also allows the SWRCB to enforce its emergency drought regulations through cease and desist orders, and also authorizes local enforcement of the regulations as an infraction, subject to a fine of up to \$500 per day of violation.

The legislation establishes higher penalties for certain water rights violations in times of drought. Penalties for illegally diverting water during a drought would rise from the current amount of up to \$500 per day. During a drought, the amounts would be up to \$1,000 per day and up to \$2,500 per acre-foot of water illegally diverted or used. Separately, if the SWRCB has issued a cease and desist order to a person and the person violates the cease and desist order, the person may be subject to penalties of up to \$1,000 per day. During a drought, the authorized penalty amount for violation a cease and desist order would rise up to \$10,000 per day.

**SB 103/AB 79 BUDGET BILL JR.**

SB 103 includes the following key changes:

- 1) Accelerates the appropriation of \$77 million (Proposition 84, 1E funds and reimbursements) to the Department of Water Resources (DWR) for Central Valley, multi-benefit flood projects, including water supply, water storage, water quality improvements and ecosystem benefits.
- 2) Appropriates \$15 million (General Fund) to the Department of Public Health (DPH) for emergency drinking water assistance for drought-impacted areas. Eligible projects include, alternate water supplies, improvements to existing water systems to prevent contamination or provide other sources of safe drinking water, and establishing connections to an adjacent water system. These funds are to be used after all eligible federal funds made available for the drought are utilized.
- 3) Provides expenditure authority of \$25.3 million (General Fund) to the Department of Social Services (DSS) for food assistance programs for persons affected by the drought. Specifies that these funds be structured to maximize the potential federal drought assistance.
- 4) Allocates \$11 million (federal funds) to the Department of Housing and Community Development (HCD) for rental assistance related to the drought.
- 5) Appropriates \$4 million (State Water Pollution Cleanup and Abatement Account) to the State Water Resources Control Board (SWRCB) to secure emergency drinking water supplies for disadvantaged communities with contaminated drinking water supplies, including needs exacerbated by drought. Specifies that these funds be available for expenditure until June 30, 2017.
- 6) Accelerates the appropriation of \$7 million (State Water Pollution Control Revolving Fund Small Community Grant Fund) to SWRCB for grants to small and severely disadvantaged communities to comply with water quality regulations, protect surface and groundwater quality, and reduce threats to public health and safety. Specifies that these funds be available for expenditure until June 30, 2015.
- 7) Appropriates \$2.5 million (General Fund) to SWRCB for extra costs associated with and caused by the drought in the Water Rights program such as extra surveillance and monitoring of water diversions, predictive modeling to identify priority locations, and potentially implementing water curtailments and taking enforcement actions.
- 8) Allocates \$2 million (General Fund) to the Employment Training Panel in the Employment Development Department for job training related to drought related job losses.
- 9) Directs \$1.8 million (General Fund) to the Office of Emergency Services (OES) for disaster recovery assistance to communities.
- 10) Appropriates \$30 million, Greenhouse Gas Reduction Fund (GGRF), to DWR for local water use efficiency programs which reduce GHG emissions. Of this amount, \$20 million is for local assistance and \$10 million is to be used for state water efficiency projects. Specifies that funding for greenhouse gas emission reduction programs will be subject to legislative notification prior to expenditure.

- 11) Allocates \$10 million (GGRF) to the California Department of Food and Agriculture (CDFA) for agricultural water efficiency projects that reduce greenhouse gas emissions. Specifies that funding will be subject to legislative notification prior to expenditure.
- 12) Accelerates the appropriation of \$1.2 million (Waste Discharge Permit Fund) to SWRCB for groundwater quality monitoring (Groundwater Ambient Monitoring and Assessment Program).
- 13) Appropriates \$800,000 (General Fund) to SWRCB to accelerate implementation of a proposal to protect and ensure the sustainability of groundwater resources in critically overdrafted basins.
- 14) Appropriates \$1 million (General Fund) to DWR for groundwater monitoring and reporting efforts, including a new well-completion report submission system.
- 15) Allows an existing \$1million (General Fund) appropriation to DWR for flood emergency response to be used for the Save Our Water Campaign to expand drought-related education and outreach.
- 16) Directs \$2.3 million (General Fund) to the Department of Fish and Wildlife for urgent fish, stream, and conservation activities related to the extreme drought conditions.
- 17) Appropriates \$13 million (General Fund) to the California Conservation Corp (CCC) for water conservation and drought response projects, water efficiency education and outreach activities, and local assistance grants to certified community conservation corps. Specifies that, to the extent feasible, the CCC and the local conservation corps shall employ veterans and unemployed young adults in the corps member teams to construct and implement these projects.

**SB 104/AB 80 TRAILER BILL .**

SB 104/AB 80 includes the following key changes:

- 1) Accelerates the appropriation of \$472.5 million (Proposition 84) to the Department of Water Resources (DWR) for the remaining Integrated Regional Water Management (IRWM) grants. Specifies that \$200 million of these funds be used for drought preparedness/response projects. Allows \$21.8 million of appropriated funds to be used for projects submitted prior to the enactment of this legislation.
- 2) Directs the Department of Public Health (DPH), by June 30, 2014, to adopt revised, emergency groundwater replenishment regulations using recycled water.
- 3) Authorizes the use of \$10 million (Housing Rehabilitation Loan Fund) by the Department of Housing and Community Development (HCD) for housing or utility subsidies for people who become un- or underemployed due to drought conditions.
- 4) Provides HCD flexibility to maximize migrant housing units for greater use, including extending the period of occupancy beyond the standard 180-day period and redefining persons and families eligible to occupy centers.

- 5) Enhances the State Water Resources Control Board (SWRCB) drought response authority by streamlining authority to enforce water rights laws and increasing penalty amounts for illegally diverting water during drought conditions.

<b>STAFF COMMENTS</b>
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This drought package is an important first step in addressing urgent needs brought on by the extreme drought. The funding to expedite the allocation of IRWMP dollars already in the Governor's budget for projects will improve water supply, water recycling, water quality, and water conservation. The proposal also contains important funding for emergency drinking water to disadvantaged communities in immediate need of water supplies.

Further, conditioning the cap-and-trade appropriations on a 30-Day notice to the Legislature has merit. It would allow the Subcommittee to more fully vet these proposals along with other cap-and-trade proposals to ensure a consistent approach.

The package also includes prudent changes to the Water Code designed to enhance SWRCB's ability to respond to drought. A key aspect of drought response is ensuring the existing water rights laws are followed. To facilitate compliance, the legislation includes streamlined authority to enforce water rights laws and heightened penalty amounts for illegally diverting water during drought conditions.

In addition, the drought response requires the ability to effectively establish and enforce emergency drought regulations. The legislation builds on existing authority of the SWRCB to adopt emergency drought regulations to promote conservation and prevent waste and unreasonable use of water during times of drought.

Because of the urgent nature of the drought, the Subcommittee is being asked to hear this package and make a recommendation on its adoption. It is anticipated that this proposal will be before the Assembly as early as Thursday, February 27<sup>th</sup>.

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**Staff Recommendation: Approve the Urgency Drought Package**

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