

SENATE ENVIRONMENTAL QUALITY AND NATURAL RESOURCES & WATER COMMITTEES

Setting the Stage for a 2014 Water Bond: Where Are We and Where Do We Need To Go?

Committee Background

In November 2009, the legislature passed and the governor signed SBX7 2 (Cogdill). Also known as the Safe, Clean, and Reliable Drinking Water Supply Act of 2010, that law placed on the November 2010 ballot an \$11.14 B general obligation bond before the voters to fund various water resources programs and projects.

The legislature has amended the bond proposal three times, including twice delaying the placement of the bond before the voters. After initially being delayed to the November 2012 ballot, the bond was subsequently delayed to the November 2014 ballot, where it remains now.

Over the course of the last year or so, there has been much discussion on whether the public would support the current November 2014 bond proposal. Moreover, if the voters would not support that bond proposal, what, if anything, should take its place on the ballot?

To help answer those questions, in February the Senate Governance and Finance and Natural Resources and Water Committees held a joint hearing titled “Overview of California’s Debt Condition: Priming the Pump for a Water Bond.” That hearing explored California’s overall debt condition, the fund balances for various bond funded programs, and the implications for the November 2014 water bond.

This was followed two weeks later by a second hearing which asked the question “What’s Changed Since the Legislature Passed the Safe, Clean, and Reliable Drinking Water Supply Act of 2010?” That hearing highlighted some of the unanticipated developments that occurred since the drafting of the bond, and posed the policy question “What changes, if any, should be made to the bond in light of recent developments?”*

* Agendas, background briefs, and other materials for both these hearing can be found on the Senate Natural Resources & Water Committee’s website: <http://sntr.senate.ca.gov/informationaloversighthearings>

The Assembly has also been looking at the 2014 water bond. The Chair of the Assembly Water, Parks, and Wildlife Committee (AWPW) has formed a working group to develop first bond principles and then bond language. AWPW has also held informational hearings specifically to craft a water bond that could replace the existing 2014 bond.*

There are currently three bills in the Legislature that would affect the current 2014 water bond. SB 40 (Pavley) simply changes the name of the 2014 water bond to reflect the fact that it is no longer on the 2012 ballot. The other two bills, SB 42 (Wolk) and AB 1331 (Rendon), would each replace the current 2014 water bond with an entirely new bond.

This hearing is intended to take stock of where the legislative bond discussions stand, identify issues that may need additional attention, and, where appropriate, suggest alternative approaches for consideration of the members. To provide a context for this hearing, this paper:

- Summarizes the general provisions of the current 2014 water bond, SB 42, and AB 1331;
- Describes how each proposal addresses funding for each category of funding; and
- Identifies key issues for further discussion.

Overview Of The Proposals

Currently on the November 2014 ballot is the Safe, Clean, and Reliable Drinking Water Supply Act of 2012. That measure would authorize \$11.14 B in general obligation bonds to fund a variety of water related programs and projects. SB 42 (Wolk) would replace the current 2014 bond with the \$6.475 B the Safe Drinking Water, Water Quality, and Flood Protection Act of 2014. Likewise, AB 1331 (Rendon) would replace the current 2014 bond with the \$6.5 B Climate Change Response for Clean and Safe Drinking Water Act of 2014.

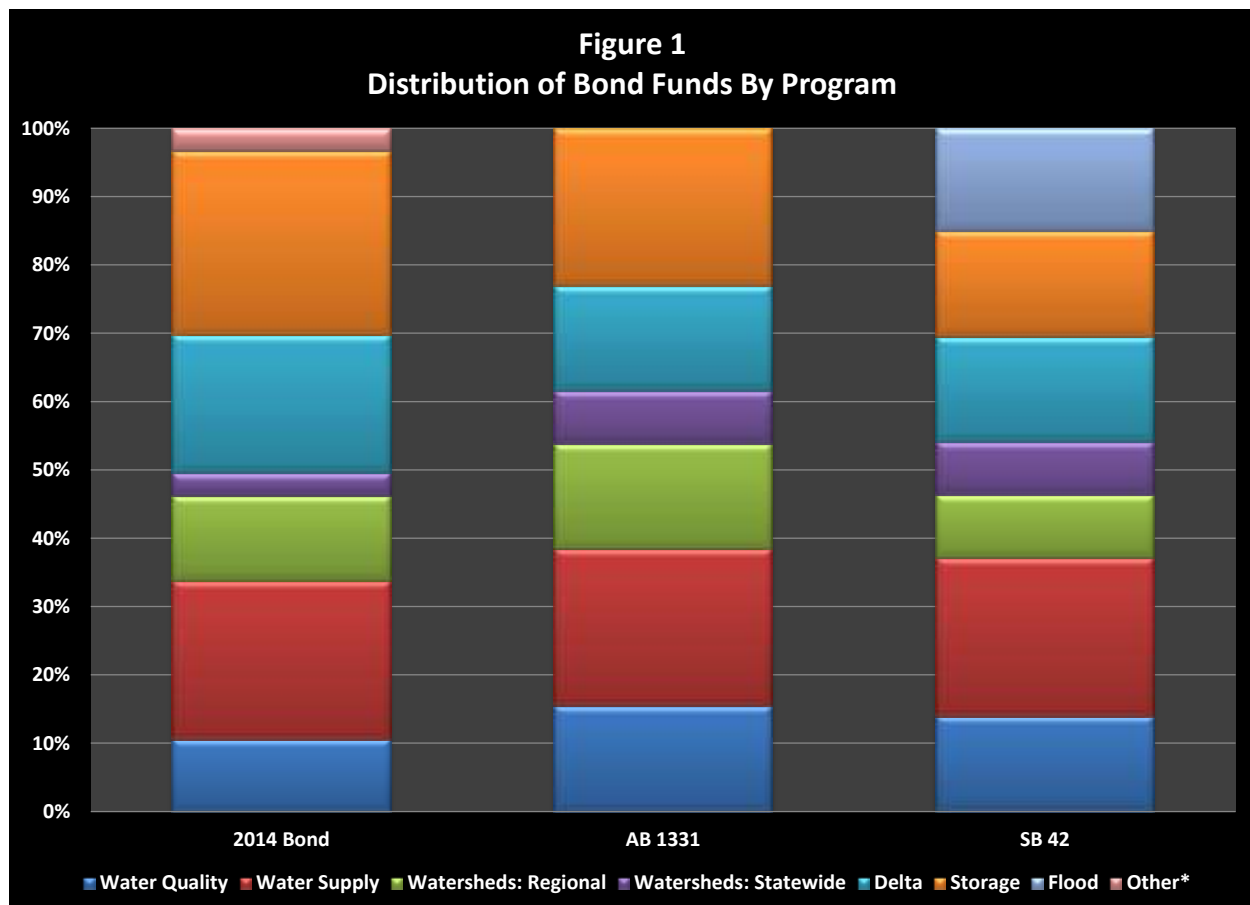
Table 1 shows the proposed funding for each proposal by funding category. It should be noted that each bond proposal names and classifies the various programs and projects differently. The data shown in this background brief are staff's attempt to classify the bond funded activities on a consistent basis. The categories are generally self-explanatory. Two categories that require a bit of explanation are Watersheds: Regional Concern and Watersheds: Statewide Concern.

Watersheds: Statewide Concern are those watersheds where the State of California has some legal responsibility to fund or otherwise participate in the restoration of a significant part of the watershed; namely, the Klamath River, San Joaquin River, and the Salton Sea. Watersheds: Regional Concern are all other watershed restoration activities, whether by a specific conservancy or some other state funded program.

* <http://awpw.assembly.ca.gov/waterbond>

Table 1 Proposed Water Bonds: Funding By Category			
Funding Category	2014 Bond	AB 1331	SB 42
Water Quality	\$1,175 M	\$1,000 M	\$900 M
Water Supply	2,580 M	1,500 M	1,500 M
Watersheds: Regional Concern	1,390 M	1,000 M	600 M
Watersheds: Statewide Concern	375 M	500 M	500 M
Delta	2,250 M	1,000 M	1,000 M
Storage	3,000 M	1,500 M	1,000 M
Flood	-	-	975 M
Other*	370 M	-	-
Total	\$11,140 M	\$6,500 M	\$6,475 M
*Conveyance & economic development			

Table 1 shows that unlike the current 2014 bond and AB 1331, SB 42 proposes funding for flood protection programs and projects. Also, the current 2014 bond proposes funding for two activities not funded by either AB 1331 or SB 52; namely local and regional conveyance projects and economic development in Siskiyou County.

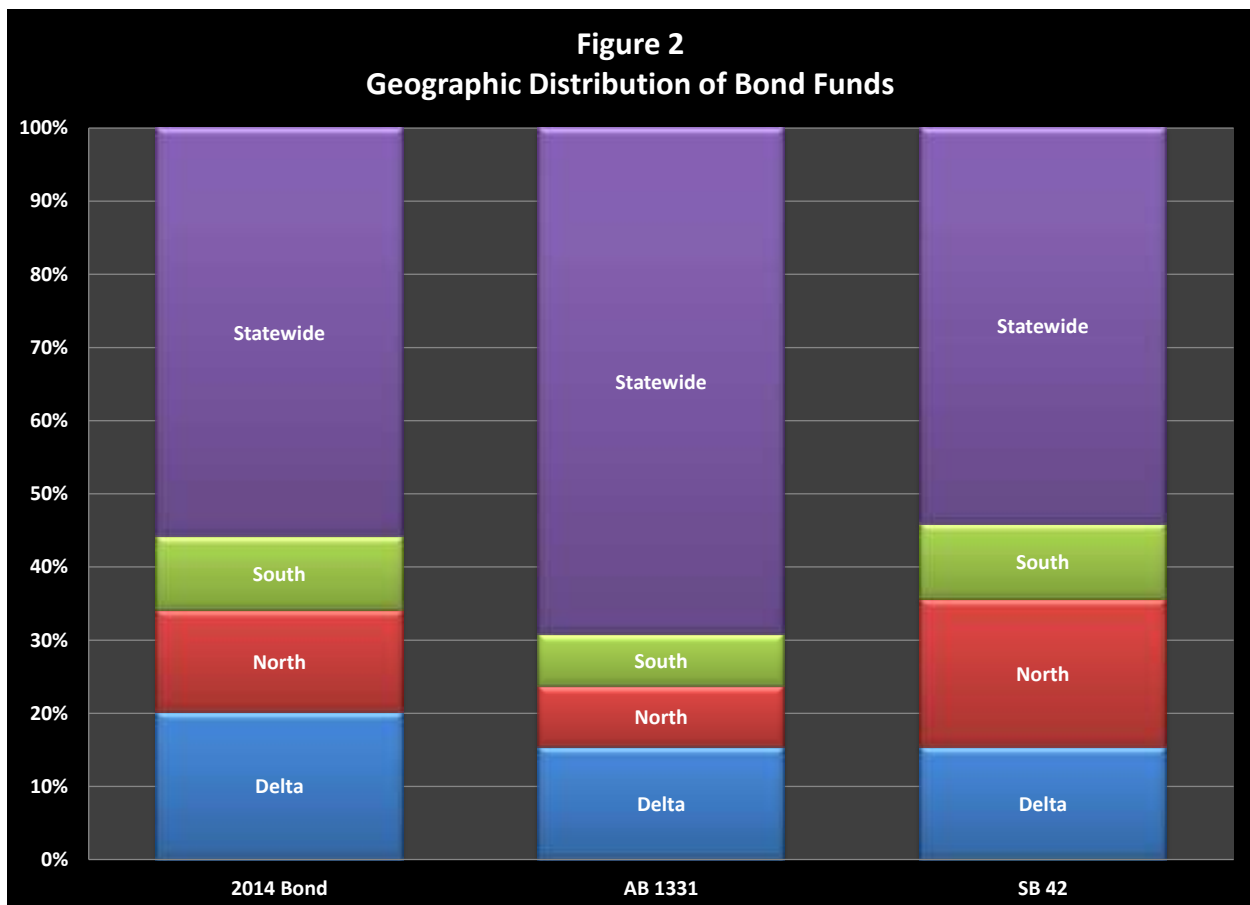


The current 2014 bond proposes about \$1 B more in funding for water supply projects than SB 42 and AB 1331. It also proposes significantly more funding for regional watershed projects, but less for watersheds of statewide concern than the \$500 M proposed in both SB 42 and AB 1331. Another significant difference is the amount of funding for storage projects; the current 2014 bond proposes \$3 B in funding while AB 1331 proposes half that and SB 42 offers only a third as much.

Because the current 2014 bond is significantly larger than that proposed by SB 42 and AB 1331, it is difficult to compare the different priorities within each bond. Figure 1 shows the relative distribution of funds within each bond proposal.

Interestingly, all three bond proposals dedicate just over 23 percent of the funds for water supply projects and programs. The major differences are in the relative funding for storage and regional watersheds. Also the current 2014 bond dedicates about 5 percent more of its fund for supporting the Delta than AB 1331 or SB 42.

Another way of comparing the different proposals is to look at the geographic distribution of the proposed funding. Figure 2 shows the geographic distribution of funds for each proposal.



Geographically, the biggest difference between the three proposals is that AB 1331 distributes nearly 70 percent of its funds on a statewide basis, while the current 2014 bond and SB 42 both distribute about 55 percent of their funds statewide.

Issues for Members' Consideration:

- *Marketing.* To become enacted, a bond proposal must appeal to both 2/3 of each house of the Legislature *and* a majority of the electorate. AB 1331 makes frequent reference to climate change, both in the title of the bond and in many of the chapter titles.

Does the frequent reference to climate change help or hinder getting both legislative approval and voter ratification?

- *Size of Bond.* The general sense is that the current 2014 bond, at \$11.14 B, is simply too large for the voters to accept. Both SB 42 and AB 1331 suggest that \$6.5 B is the right level for voter acceptance.

What is the maximum level of additional debt to fund water resources projects and programs that the voters will find acceptable?

- *Geographic Distribution.* Each of the bond proposals distributes some of the funds to specific regions and some funds are made available statewide. AB 1331 provides more of its funds on a statewide basis than the current 2014 bond and SB 42. SB 42 designates significantly more of its funds to areas north of the Tehachapis than to Southern California. And, the current 2014 bond provides relatively more funds to the Delta than the other two bond proposals.

What are the advantages of distributing funds to specific regions versus making funds available statewide?

Should funds distributed to specific regions reflect the distribution of the state's population, the geographic size of the region, or some other metric?

- *Eligible Programs/Projects.* At the February 26, 2013 hearing on California's debt condition, the Legislative Analyst's Office recommended that state bond funds be used to finance activities that provide state-level benefits.

Should bonds funds be limited to those activities that provide state-level benefits? If so, how well do the different bond proposals meet that criterion?

- *Identifying Agencies.* Previous resources bonds have, for most of the programs authorized by those bonds, designated which specific state agency would be responsible for disbursing the funds for each program. This practice has been continued in both the current 2014 bond and for SB 42. In contrast, AB 1331 has generally *not* designated which specific state agency would be responsible for disbursing funds for each program. This would mean such decisions would need to be resolved through the annual budget process.

Is it advantageous to identify implementing agencies in the bond acts or rather is it preferable to defer such decisions to future legislatures to decide through the annual budget process?

- *Eligible Parties.* All three bond proposals limit eligibility to receive of bond funds to public agencies, nonprofit organizations, public utilities, and mutual water companies. The last legislative water bond, 2000's Proposition 13, also made federally recognized Indian tribes that own or operate a public water system eligible for bond funds.

Should the bond proposals make federally recognized tribes eligible to receive water bond funds?

- *Compliance.* All three bond proposals make compliance with various statutory requirements and policies, such as the Urban Water Management Planning Act, prerequisite for receiving bond funds. However, the proposals are not consistent regarding which statutes are prerequisite. For example, SB 42 requires that integrated regional water management plans be consistent with the policy of reducing dependence on the Delta.

Is it desirable to explicitly require compliance with specific statutes as a prerequisite for bond funding and if so, which ones?

Water Quality

All three bond proposals identify and prioritize funding for water quality similarly to Proposition 50 (2002) and Proposition 84 (2006). Water quality is broadly categorized as treatment and remediation of drinking water supply, contamination removal and prevention in source water supply, storm water management and conservation and efficiency projects. The current bond proposal allocates \$1 B for groundwater protection and water quality projects primarily protection, remediation and treatment of groundwater used for drinking water. SB 42 allocates \$2 B for safe drinking water. There is additional water quality funding available in a \$2.1 B allocation for the purpose of assisting the state in meeting Federal Water Pollution Control Act requirements. AB 1331 allocates \$1 B for water quality projects aimed at reducing and preventing contamination in drinking water, specifically prioritizing small, disadvantaged or rural communities. Each of the proposals adopts the definition of “disadvantaged community”

and “severely disadvantaged community” as was used by propositions 50 and 84 and designates specific allocations of project funding in those communities.

Issues for Members’ Consideration:

- *Priorities.* All three bond proposals identify and define water quality priorities, in varying levels of specificity, similarly to the prior bonds. Does this make sense for California’s future water quality needs or should there be an evaluation of how we look at water quality? For instance, the Legislature has introduced a myriad bills to change the implementing statute of Proposition 84 in an attempt to address the most urgent water quality needs. This suggests that the current approach is simply not getting money to the desired population. In developing the statutory language associated with a new bond, it may be prudent for the legislature to develop a current view of California’s water quality needs, develop definitions that fit that view and learn from the changes that have been made in implementing the previous bonds.

Do the priorities, definitions and allocations from prior bonds still apply?

- *Definitions.* Each of the proposals adopts the same definition of “disadvantaged community” and “severely disadvantaged community” as was used by propositions 50 and 84 and designates specific allocations of project funding in those communities. However, the 2010 federal census did not collect the household economic data necessary for making this determination about communities. As such the state would have to use data from 2000 which would not provide an accurate identification of the communities the bond was intending to reach.

Should there be a new measure of “need?” If so, what should it be?

- *Bang for the Buck.* Recently, the United States Environmental Protection Agency estimated California’s 20 year drinking water infrastructure need at over \$40 billion. Knowing that a bond can only supplement a small portion of that need, how should the language of the bond be drafted to maximize federal, local and private matching investments? Should there be an emphasis on addressing immediate urgent need or developing long term solutions? Prior bonds prioritized communities with larger populations. Given the severity of water quality problems for California’s small rural communities, how does the Legislature want to prioritize that need in a new bond?

How do we maximize the state’s investment?

- *What's the Plan?* The allocation of funds for water quality projects from Propositions 50 and 84 look at individual projects. Over the last several years much attention has been brought to the need to evaluate and develop better solutions for regional and statewide water quality project planning. The Legislature may wish to consider providing bond funding for the State Water Resources Control Board to develop an evaluation of the state's water quality needs for both surface and groundwater, identify present and emerging contaminants and develop a plan for addressing those needs.

Should bond funds be provided to develop a comprehensive water quality plan?

Water Supply

Each of the three bond proposals provide the bulk of the funding for water supply and related projects through an integrated regional water management program (IRWMP), though the specifics are different. Each bond proposal also distributes that funding by region, though again the regions and basis for distributing the funds differ. The current 2014 bond and AB 1331 also provide separate funding for recycled water projects, while SB 42 simply makes recycled water projects an eligible use of IRWMP funds. Additionally, the current 2014 bond provides some funds for drought relief projects.

Issues for Members' Consideration:

- *Funding Regions.* SB 42 uses the same funding regions as was used in the most recent water bond, Proposition 84. Those regions are based on hydrologic regions, with the south coast hydrologic region divided into Los Angeles/Ventura, Santa Ana, and San Diego subregions. The current 2014 bond and AB 1331 generally use the same regions as Proposition 84 and SB 42, except that the current water bond and AB 1331 also include what is called the mountain counties overlay. This region is carved from the Sacramento and San Joaquin hydrologic regions and includes the sierra foothills up to the crest of the mountains.

What should be the regions used for IRWMP?

- *Funding Formulae.* All three bond proposals distribute IRWMP funds across the regions as follows: Each region received a fixed amount of funds, and the balance was distributed based on population. However, SB 42 used a different base amount than the current 2014 bond and AB 1331. This is not the only way funds could be distributed. For example, the August 15, 2013 version of SB 42 distributed the funds 75 percent based on population, 25 percent based on geographic area.

What should be the basis for distributing IRWMP funds to the regions?

- *Matching Rates.* All three proposals require a 50 cost share for IRWMP grants. The current 2014 bond and AB 1331 allow the matching rate to be reduced or waived for projects that directly benefit a disadvantaged community or economically distressed area. SB 42 allows the rate to be reduced or waived for projects serving disadvantaged communities or result in a direct reduction in water exported from the Delta.

Should matching requirements be waived for projects that benefit certain communities or aid in achieving certain policy objectives? If so, what are those communities or policy objectives?

- *Eligible Programs.* Since its creation in Proposition 50, IRWMP has been viewed principally as a water supply management program. However, as regions explore different paths towards regional self-sufficiency, other programs such as storm water management programs are showing promise for not just supply management, but water quality and flood management purposes as well. AB 1331 explicitly includes stormwater management as one of the eligible uses of IRWMP funds; SB 42 funds stormwater management projects, but as a separate flood management program; the current 2014 bond does not address stormwater management.

Should stormwater management be integrated into the IRWMP program?

- *Recycled Water.* Both the current 2014 bond and AB 1331 treat recycled water as a separate funding category, SB 42 includes recycled water projects as an eligible use of IRWMP funds.

Should recycled water be a separate program or included within IRWMP?

Watersheds: Statewide Concern

In addition to the challenges facing the Delta (discussed below), California has significant funding responsibilities in three other water resources areas: The Salton Sea, San Joaquin River restoration, and Klamath River restoration.

Issues for Members' Consideration:

- *Specific Programs?* The current 2014 bond specifically identifies and funds each of the three project areas. SB 42 and AB 1331 each provide funding for those activities, but provide a common program to fund them.

Should the Salton Sea, San Joaquin River restoration, and Klamath River restoration each receive specific funding?

Watersheds: Regions

California has numerous conservancies and programs to fund watershed projects.

Issues for Members' Consideration:

- *Funds Distribution.* The current 2014 bond specifically identifies and provides funds to the different conservancies and watershed programs. AB 1331 provides the funds to the Natural Resources Agency to distribute to the various conservancies. SB 42 goes a step further and requires the Natural Resources Agency to develop a statewide natural resources protection plan to identify priorities for funding. However, those are not the only potential funding processes. The August 15, 2013 version of SB 42 distributed the funds 50 percent based on population, 50 percent based on geographic area.

How should funds be distributed to the various conservancies and watershed programs?

Delta

All three proposals provide significant funding for Delta restoration activities and all three state that none of the funds provided in the bond may be used to fund Delta conveyance facilities. The current 2014 bond explicitly provides funds in support of the non-conveyance features of the Bay Delta Conservation Plan (BDCP); the other two proposals are silent on whether or not funds may be used for BDCP's non-conveyance purposes.

Issues for Members' Consideration:

- *Priorities.* SB 42 provides the Delta funds to the Delta Conservancy, who would then make specific funding decisions. The current 2014 bond and AB 1331 do not designate a funding entity; such decisions would presumably be made through the annual budget process.

Should all Delta funds be funneled through the Delta Conservancy?

Storage

The current 2014 bond provides \$3 B continuously appropriated to the California Water Commission (CWC) to fund the public benefits of water storage projects. Projects are to be selected by the CWC through a competitive process, ranked based on the expected return for public investment as measured by the magnitude of the public benefits. Eligible projects include:

- Surface storage projects identified in the CalFed Record of Decision, excluding raising Shasta Dam.
- Groundwater storage projects and groundwater contamination prevention or remediation projects that provide water storage benefits.
- Conjunctive use and reservoir reoperation projects.
- Local and regional surface storage projects that improve the operation of water systems in the state and provide public benefits.

Public benefits are defined as:

- Ecosystem improvements.
- Water quality improvements that provide significant public trust resources or that clean up and restore groundwater resources.
- Flood control benefits.
- Emergency response, including, securing emergency water supplies and flows for dilution and salinity repulsion following a natural disaster or act of terrorism.
- Recreational purposes.

AB 1331 provides \$1.5 B continuously appropriated to the CWC to fund the public benefits associated with projects to:

- Construct new surface water storage projects.
- Restore and expand groundwater aquifer storage capacity.
- Restore water storage capacity of existing surface water storage reservoirs.

Eligible projects under AB 1331 are the same as under the current 2014 bond plus:

- Projects that remove sediment, improve dam stability in seismic events, or otherwise restore water storage capacity in existing water storage reservoirs.

AB 1331 defines public benefits the same as the current 2014 bond.

SB 42 provides \$1 B to the CWC upon appropriation by the Legislature. Eligible projects include projects eligible under the current 2014 bond and AB 1331 plus:

- Projects that result in a permanent reduction of water exported from the Delta.
- Recycled water storage facilities.

SB 42 does not include emergency response or recreation as fundable public benefits or benefits to be considered in ranking projects.

Issues for Members' Consideration:

- *Continuous Appropriation.* On March 1, 2006, the Senate Committee on Natural Resources and Water, in its Report to the Conference Committee on Infrastructure Bonds: Recommendations For The Proposed Infrastructure Bonds, described a set of bond financing principles to guide its recommendation to the Conference Committee. This included:

“The Legislative Branch’s Power To Allocate Funds. One of the fundamental checks on the executive branch is the budget process. In that process, the role of the Governor is to develop and propose a budget; the role of the Legislature is to review the proposed budget, amend where necessary, and to appropriate the funds to implement the budget. Bond funded programs that are funded by continuous appropriations bypass the formal budget process with its inherent checks and balances system. Consequently, continuously appropriated bond programs should be avoided.”

Should bond funds for storage be continuously appropriated; i.e., not subject to legislative appropriation?

- *Public Benefits.* All three bond proposals would fund the public benefits of water storage projects in priority of the relative magnitude of those public benefits. The current 2014 bond and AB 1331, however, would include two sets of benefits not included in SB 42; namely, emergency response and recreational benefits. Emergency response benefits would accrue most to on-stream surface storage projects. Recreational benefits would accrue most to surface storage projects that could support water sports such as boating and fishing. Both these benefits would put groundwater storage projects at a competitive disadvantage.

Should funds for storage projects include emergency response and recreational benefits as consideration for project selection and funding?

- *Studies?* None of the proposals include funding for studying the feasibility of additional surface storage projects. The most recent evaluation of potential surface storage projects was conducted by CalFed in 2000. That investigation screened out consideration of projects below 200,000 acre-feet capacity and deferred investigating a number of other larger projects because they did not meet CalFed’s goals and objectives.

Should funds be provided for additional surface storage investigations?

Flood

SB 42 provides funding to implement the Central Valley Flood Protection Plan and for stormwater management projects. The current 2014 bond and AB 1331 do not.

Issues for Members' Consideration:

- *In or out?* Previous bonds have provided funding for flood management projects and programs. The most recent bond was Proposition 1 E in 2006.

Should flood management projects and programs be included in the bond?