Date of Hearing: June 20, 2023

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE
Rebecca Bauer-Kahan, Chair
SB 867 (Allen) – As Amended May 18, 2023

SENATE VOTE: 33-5

SUBJECT: Drought, Flood, and Water Resilience, Wildfire and Forest Resilience, Coastal Resilience, Extreme Heat Mitigation, Biodiversity and Nature-Based Climate Solutions, Climate Smart Agriculture, Park Creation and Outdoor Access, and Clean Energy Bond Act of 2024

SUMMARY: Authorizes a $15.5 billion climate resilience bond to be placed before voters at an unspecified election. Specifically, **this bill**:

1) Authorizes $5.2 billion, upon appropriation by the Legislature, for drought, flood, and water resilience programs as follows:

    a) $400 million to the State Water Resources Control Board (State Water Board) for projects that improve water quality or help provide clean, safe, and reliable drinking water;

    b) $400 million to the Department of Water Resources (DWR) for groundwater projects that improve water resilience, including recharge, storage, banking, and conjunctive use;

    c) $300 million to Department of Conservation's (DOC) Multibenefit Land Repurposing Program;

    d) $300 million to the State Water Board for water reuse and recycling grants;

    e) $100 million to DWR for contaminant and salt removal projects;

    f) $300 million to the California Water Commission for projects under the Water Storage Investment Program (established by Proposition 1);

    g) $100 million to DWR for projects that increase water conservation;

    h) $100 million to DWR and the State Water Board for water data management, reactivation of existing stream gages, and deployment of new stream gages;

    i) $150 million to the California Natural Resources Agency (CNRA) and DWR for competitive grants for regional conveyance projects or repairs to existing conveyances;

    j) $100 million to CNRA for implementation of San Joaquin River settlement agreement, as specified;

    k) $1 billion to CNRA and its departments, boards, and conservancies for flood management projects. At least 40% of these funds shall benefit disadvantaged communities (DAC) or vulnerable populations;

l) $400 million to DWR for competitive grants that enhance dam safety and reservoir operations;

m) $250 million to the State Water Board for storm water management projects;

n) $300 million to DWR for integrated regional water management;

o) $600 million for projects that protect and restore rivers, streams, lakes, and watersheds. At least 40% of these funds shall benefit DACs or vulnerable populations;

p) $100 million to implement the Salton Sea Management Program 10-year Plan; and

q) $300 million to the Wildlife Conservation Board (WCB) for the Stream Flow Enhancement Program.

2) Authorizes $3 billion, upon appropriation by the Legislature, for wildfire and forest resilience programs as follows:

a) $275 million to the Office of Emergency Services (OES) for a prehazard mitigation grant program;

b) $300 million to DOC for the Regional Forest and Fire Capacity Program;

c) $500 million for forest collaboratives or regional entities through block grants and direct appropriations by the Legislature;

d) $300 million to the Department of Forestry and Fire Protection (CalFire) for long-term forest health projects;

e) $500 million to CalFire for local fire prevention grants;

f) $25 million to CalFire for the creation of a prescribed fire training center;

g) $500 million to CNRA for watershed improvement projects in forests and other habitats;

h) $100 million to improve forest health and fire resilience on state-owned lands;

i) $75 million to the Sierra Nevada Conservancy for watershed improvement, forest health, biomass utilization, and forest restoration workforce development;

j) $50 million to the California Tahoe Conservancy for watershed improvement, forest health, biomass utilization, and forest restoration workforce development;

k) $75 million to the Santa Monica Mountains Conservancy for watershed improvement, forest health, biomass utilization, and forest restoration workforce development;

l) $75 million to the State Coastal Conservancy for watershed improvement, forest health, biomass utilization, and forest restoration workforce development;

m) $150 million to the Air Resources Board to incentivize long-term capital infrastructure to convert forest and other vegetative waste removed for wildfire mitigation to other uses that have climate benefits; and

n) $75 million to CalFire for enhancing fire prevention, fuel management, and fire response.

3) Authorizes $2 billion, upon appropriation by the Legislature, for coastal resilience programs as follows:

a) $500 million to the State Coastal Conservancy for coastal resilience projects and programs identified by its 2023—2027 Strategic Plan;

b) $500 million to the State Coastal Conservancy for coastal and combined flood management projects;

c) $325 million to Ocean Protection Council to increase resilience from the impacts of climate change;

d) $250 million to implement the Sea Level Rise Mitigation and Adaptation Act of 2021;

e) $250 million to the Department of Parks and Recreation (State Parks) for implementation of the Sea Level Rise Adaptation Strategy to address impacts of sea level rise in coastal state parks;

f) $25 million for projects identified by CNRA and the Invasive Species Council of California to protect and restore island ecosystems;

g) $25 million to the Department of Fish and Wildlife (DFW) for the advancement of climate-ready fisheries management;

h) $25 million to DFW for the restoration and management of kelp ecosystems; and

i) $100 million to the State Coastal Conservancy to remove or upgrade outdated or obsolete dams and water infrastructure.

4) Authorizes $500 million, upon appropriation by the Legislature, for extreme heat mitigation programs as follows:

a) $100 million to the Office of Planning and Research's (OPR) Extreme Heat and Community Resilience Program for projects that reduce urban heat island effect and other extreme heat impacts;

b) $150 million to CNRA for implementation of the extreme heat action plan to mitigate impacts of extreme heat;

c) $50 million to OPR for regional climate resilience planning and demonstration projects;

d) $50 million to the Strategic Growth Council for its Community Resilience Centers Program to construct or retrofit facilities to serve as community resilience centers;

e) $100 million to CNRA for competitive grants for urban greening; and

f) $50 million to CalFire for urban forestry.

5) Authorizes $2 billion, upon appropriation by the Legislature, for biodiversity protection and nature-based climate solution programs as follows:

a) $1 billion to WCB for the protection and enhancement of fish and wildlife habitat and achievement of the state's biodiversity and conservation goals;

b) $500 million to state conservancies to reduce the risks of climate change impacts upon communities, fish and wildlife, and natural resources in accordance with the following:

i) $50 million to the Baldwin Hills Conservancy;

ii) $50 million to the California Tahoe Conservancy;

iii) $25 million to the Coachella Valley Mountains Conservancy;

iv) $50 million to the Sacramento-San Joaquin Delta Conservancy;

v) $75 million to the San Diego River Conservancy;

vi) $75 million to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy;

vii) $25 million to the San Joaquin River Conservancy;

viii) $75 million to the Santa Monica Mountains Conservancy; and

ix) $75 million to the Sierra Nevada Conservancy.

c) $200 million to CNRA and its departments, boards, and conservancies to protect and restore biodiversity, expand access to nature, and mitigate climate change using nature-based solutions;

d) $200 million to CNRA and its departments, boards, and conservancies for projects to improve habitat connectivity;

e) $50 million to DFW for nature-based solutions to improve resilience of fish and wildlife; and

f) $50 million to DFW for accredited California zoos and aquariums to advance biodiversity conservation and recovery of California's endangered and declining species.

6) Authorizes $300 million, upon appropriation by the Legislature, for climate smart agriculture programs as follows:

a) $50 million to the Department of Food and Agriculture (CDFA) for the healthy soils program;

b) $25 million to CDFA for the State Water Efficiency and Enhancement Program;

c) $25 million to CDFA for the pollinator habitat program;

d) $50 million to CDFA for the Environmental Farming Incentive Program;

e) $25 million for invasive species projects recommended by the Invasive Species Council of California; and

f) $125 million to DOC for the protection and restoration of farmland and rangeland.

7) Authorizes $500 million, upon appropriation by the Legislature, for park creation and outdoor access programs as follows:

a) $400 million to CNRA and its departments, boards, and conservancies for the reduction of climate impacts on DACs and vulnerable populations and the creation, protection, and expansion of outdoor recreation opportunities; and

b) $100 million to State Parks for the protection, enhancement, and restoration of natural resource values in the state park system and to expand public access for DACs.

8) Authorizes $2 billion, upon appropriation by the Legislature, for clean energy programs as follows:

a) $500 million to support the planning and development of high-voltage electrical transmission lines to meet the state's clean energy goals;

b) $500 million to the State Energy Resources Conservation and Development Commission (Energy Commission) to assist in obtaining federal funds related to regional hubs in the Infrastructure Investment and Jobs Act and the Inflation Reduction Act of 2022;

c) $500 million to the Energy Commission for zero-emission vehicle charging infrastructure; and

d) $500 million to the Energy Commission for grants to support the Long-Duration Energy Storage Program.

9) Defines various terms for the purposes of this bill, including:

a) DAC as a community with a median household income of less than 80% of the area average;

b) "Severely disadvantaged community" (SDAC) as a community with a median household income of less than 60% of the area average; and

c) "Vulnerable population" as a subgroup within a region or community that faces a disproportionately heightened risk or increased sensitivity to impacts of climate change and that lacks resources to cope with those impacts.

10) Provides that bonds authorized pursuant to the Act shall be prepared, executed, issued, sold, paid, and redeemed consistent with the General Obligation Bond Law except provisions that require bond funds to only be used to fund or provide grants or loans for capital outlay projects.

11) Double-joins this bill to SB 638 (Eggman) so that it only takes effect if SB 638 does as well.

EXISTING LAW:

1) Provides that the Legislature cannot authorize the sale of general obligation bonds in excess of $300,000 without a two-third's vote of the Legislature and the approval of a majority of the voters at primary or general election (California Constitution, Article XVI, § 1).

2) Specifies the procedure to authorize, issue, prepare, and sell general obligation bonds and places limits on the use of bond funds under the General Obligation Bond Law (Government Code, § 16720 *et seq.*).

3) Defines DAC as a community with an annual median household income that is less than 80% of the statewide annual median average [Water Code § 79505.5 and Public Resources Code §§ 80002(e), 75005(g)].

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

1) **Purpose of this bill**. According to the author:

> [This bill] will provide the necessary investment to help our state become more resilient to climate change. If passed by the voters, this bond will provide funding for concrete on-the-ground measures that will help reduce the severity, frequency, and impacts of climate-related natural disasters including fires, drought, flood, extreme heat, and mudslides. According to California's 4th Climate Assessment, the cost of climate change for California alone could be more than $113 billion annually by 2050. The wildfire season is becoming longer and more intense each year due to hotter temperatures and wide scale tree death resulting from prolonged drought. This phenomenon has led to the worst fires on record. Over the 13 months starting in October of 2017 the state endured four massive fires that caused 118 deaths, burned 700,000 acres, and destroyed 27,000 properties. In 2020 and 2021, California saw the highest and second-highest number of acres burned (a record-breaking 4.3 million acres in 2020 and 2.5 million in 2021). In California, frequent coastal flooding exacerbated by sea-level rise is expected to threaten nearly half a million people, $100 billion in property, and 3500 miles of roads within the next 80 years. The number of hazardous sites, like wastewater plants, which are susceptible to 100-year flood events is expected to increase by nearly 2.5 times over a similar period, drastically increasing the risk of pollutant disasters if adaptation measures are not taken. Droughts are an expected feature of California's arid climate, but the three-year period between 2020 and fall 2022 was the driest since record keeping began in 1895. This winter's rain and snow will provide a brief respite but is not expected to be enough to pull the entire state out of our multi-year drought, which has been exacerbated by exceptionally high temperatures. In fact, the last seven years have been hottest years on record. [This bill] proposes a general obligation bond to inject much needed revenue to address these impacts.

2) **Background**. California is increasingly experiencing the impacts of climate change. These impacts include sea level rise, increased severity and frequency of wildfires, changes in precipitation that increase the risk of both drought and flooding, and increases in

temperatures that can affect air quality, public health, and habitat. California's experience with its wildfire season over the past decade is one jarring example of this phenomenon. The 2020 wildfire season was the largest on record with nearly 10,000 fires that burned more than 4.2 million acres or over 4% of California's land mass. This is after California had recently broken wildfire records in 2018 with 1.8 million acres burned and in 2017 with 1.3 million acres burned.

Likewise, California experienced its worst drought on record from 2012 through 2016 and just ended a three-year drought (2020–22) this winter that was nearly as severe as the previous drought. Research published in 2020 suggests that both of these droughts are part of a larger "megadrought" that began in 2000 and that is the second worst the Southwestern United States has experienced in the last 1200 years. This research estimates that 46% of this megadrought's severity is due to climate change, making what would have been a moderate drought a severe one.

Fourth Climate Change Assessment (Assessment). Led by state agencies and completed in 2018, the Assessment includes over 44 peer-reviewed technical reports that examine specific aspects of climate change in California. Among the Assessment's findings is that California is one of the most "climate-challenged" regions of North America and must actively plan and implement strategies to prepare for and adapt to extreme events and shifts from previously "normal" averages. The report stated that climate change impacts are here, including the following impacts: 1) temperatures are warming, heat waves are more frequent, and precipitation has become increasingly variable; 2) glaciers in the Sierra Nevada have lost an average of 70% of their area since the start of the 20th century; and 3) the sea level along the central and southern California coast has risen more than 5.9 inches over the 20th century. The Assessment projects that climate change impacts could result in direct economic costs exceeding $100 billion annually by 2050. Human mortality due to high temperatures is the single largest projected cost at approximately $50 billion annually. A "megaflood" in the Central Valley would not be an annual cost, but climate change will increase the likelihood of such an event and it could cost up to $750 billion in damages. Similarly, sealevel rise could lead to as much as $18 billion in damages. The increased likelihood and severity of a 100-year storm hitting the coast combined with sea level rise could result in costs of $30 billion.

Investment need? The Assessment indicates that costs of climate change impacts to California will be exorbitant; however, while it offers some ideas about adaptation strategies, it does not discuss the investment needed to implement these strategies and make California more climate resilient. The *Safe Guarding California Plan, 2018 Update* goes into greater detail about strategies for climate resilience by sector and level of government; nevertheless, it also provides little insight into the investment needed to achieve climate resiliency. The *Pathways to 30x30 California* report shows that roughly 24% of California is already protected and identifies a need to protect an additional six million acres of land and 500,000 acres of coastal waters in order to achieve the 30% protected goal, but the report does not estimate the cost of this effort.

Other reports, not specifically looking at climate change impacts, do identify investment need. The *Central Valley Flood Protection Plan, 2022 Update* identifies an investment need of $25 billion to $30 billion over the next 30 years; this includes an annual need of $315 million to $390 million for routine activities. For drinking water, the State Water Board

completed an update to its *Drinking Water Needs Assessment* in 2022. The "Drought Infrastructure Cost Assessment" identifies a statewide need of between $1.2 billion and $4.8 billion to make small water systems more resilient to drought. This is on top of a $2.3 billion to $9.1 billion capital investment need identified by the 2021 *Drinking Water Needs Assessment* to ensure that small and at risk public water systems are providing safe and reliable drinking water to their customers.

General obligation bonds. General obligation bonds are debt that is secured by the General Fund; the debt service on bonds issued by the state must be paid on an annual basis. Fully paying off a bond issue can take decades (sometimes 30+ years). Bonds issued by the State of California are able to obtain favorable financing because interest on these bonds is tax exempt (i.e., investors are willing to offer lower financing rates because they do not pay income tax on gains from their investment).

Per the California Constitution, voters must approve general obligation bonds in excess of $300,000. There are two pathways to the ballot for general obligation bonds that exceed this $300,000 threshold: 1) through an act of the Legislature; and, 2) via the citizens' initiative process.

What can bonds be used for? Typically, general obligation bonds are used to pay for the public benefits derived from planning, constructing, and renovating infrastructure including dams, bridges, prisons, parks, schools, and buildings. The General Obligation Bond Law provides that bonds can only be used to pay for or provide grants or loans for the construction or acquisition of "capital assets" and defines "capital assets" as "tangible physical property with an expected useful life of 15 years or more," major maintenance necessary between 5 to 15 years to extend the useful life of a "capital asset," or equipment with an expected useful life greater than 2 years [Government Code, Section 16727(a) and (b)]. Because of these restrictions on the use of bond funds, and others in federal law governing tax exempt bonds, the state typically uses bonds to pay for projects that provide benefits over many years as opposed to paying for ongoing operations and maintenance costs. While this bill exempts itself from Government Code, Section 16727(a) and (b) of the General Obligation Bond Law (as have previous water and natural resource bonds), in practice, bond funds are only used for purposes that have long-term, public benefits.

Previous natural resource and water bonds. Since the mid-1990's, California voters have authorized the state to take on more than $30 billion in general obligation bond debt to fund various water, natural resource, and flood protection programs:

Year	#	Ballot Title	Amount	Election Result	Type
2018	3	Authorizes Bonds to Fund Projects for Water Supply and Quality, Watershed, Fish, Wildlife, Water Conveyances, and Groundwater Sustainability and Storage.	$8.9 billion	Fail	citizen's initiative

2018	68	Authorizes Bonds Funding Parks, Natural Resources Protection, Climate Adaptation, Water Quality and Supply, and Flood Protection.	$4 billion	Pass	legislative
2014	1	Water Bond. Funding For Water Quality, Supply, Treatment, And Storage Projects.	$7.1 billion	Pass	legislative
2006	1E	Disaster Preparedness and Flood Prevention Bond Act of 2006.	$4.1 billion	Pass	legislative
2006	84	Water Quality, Safety and Supply, Flood Control, Natural Resource Protection, Park Improvements.	$5.4 billion	Pass	citizen's initiative
2002	40	The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002.	$2.6 billion	Pass	legislative
2002	50	Water Quality, Supply and Safe Drinking Water Projects. Coastal Wetlands Purchase and Protection.	$3.4 billion	Pass	citizen's initiative
2000	12	Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000.	$2.1 billion	Pass	legislative
2000	13	Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Act.	$2 billion	Pass	legislative
1996	204	Safe, Clean, Reliable Water Supply Act	$1 billion	Pass	legislative

How much is left? According to CNRA's bond accountability web site (www.bondaccountability.resources.ca.gov), approximately $40 million from Proposition 1 and $145.4 million of Proposition 68 remain uncommitted. This does not necessarily mean all of the other bond funds have been expended as the majority of grant programs operate on a reimbursement basis so that a grant recipient does not receive the public funding until it has completed the work in the grant agreement, but it is important that the vast majority of the funds allocated by the previous two resources and water bonds are committed to projects at this point. The Treasurer's Office reports monthly on bond balances and this gives some more insight into how much of the bond allocation has actually been spent; according to the May 2023 "Authorized and Outstanding General Obligation Bonds" document, $4.75 billion from Proposition 1 and $3 billion from Proposition 68 remain "unissued."

Definitions of DAC and SDAC. There has been debate about the appropriate definition of a DAC for many years. The state uses two definitions to help target resources and services to those areas most in need. One definition is based on CalEnviroScreen (Health and Safety Code § 39711) that uses environmental, health, and socioeconomic information to produce a score for every census tract in the state; under CalEnviroScreen the 20% most-impacted census tracts based on this scoring are deemed DACs. The other definition of DAC is strictly income-based and can be found in Water Code § 79505.5 and Public Resources Code §§ 80002(e) and 75005(g). Under these code sections, a DAC is a community with a median household income less than 80% of the statewide average and an SDAC is a community with a median household income less than 60% of the statewide average. This latter definition applies to more areas of the state and is the definition used in most previous water/natural resource bonds. This bill modifies this definition of DAC and SDAC to be a community with a median household income that is 80% or 60%, respectively, of the area (rather than "statewide") average.

3) **Proposed committee amendments**. The Committee may wish to request that the author take the following amendments to give policy direction to prioritize funding for projects that benefit "socially disadvantaged groups," ensure funding can go to water desalination projects, specify which election this bill will go before voters, and address technical issues:

Amendment 1 – Public Resources Code, Section 90602 as follows:

90602. To the extent practicable, a project that receives moneys pursuant to this division shall provide workforce education and training, contractor, and job opportunities for vulnerable populations or socially disadvantaged groups.

Amendment 2 – Add definition of "socially disadvantaged group" to Public Resources Code, Section 90000 as follows:

(e) "Socially disadvantaged group" means a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups include all of the following:

(1) African Americans.
(2) Native Americans.
(3) Alaskan Natives.
(4) Hispanics.
(5) Asian Americans.
(6) Native Hawaiians and Pacific Islanders.
(7) Women.

Amendment 3 – Amend Public Resources Code, Section 91015 as follows:

91015. *(a)* Of the funds made available by Section 91010, one hundred million dollars ($100,000,000) shall be available, upon appropriation by the Legislature, to the Department of Water Resources for ~~*competitive grants for projects related to contaminant and salt removal projects, including, but not limited to, groundwater and associated treatment, storage, conveyance, and distribution facilities.*~~ *capital investments in brackish desalination, seawater desalination, contaminant and salt removal, and salinity management projects to improve California water and drought resilience. Priority shall be given to projects that use*

renewable energy and reduce greenhouse gas emissions associated with their construction and operation.
(b) For ocean desalination projects, priority shall be given to projects that do the following:
(1) Incorporate measures to minimize the intake of all forms of marine, brackish, and freshwater life in their construction and operation.
(2) Incorporate measures to minimize the adverse impacts of outfalls on marine, brackish, and freshwater life in their construction and operation.

Amendment 4 – Amend Public Resources Code, Section 95002 (b) as follows:

(b) The committee consists of the *Director of Finance*, *the Treasurer*, *the Controller*, *and the Secretary of the Natural Resources Agency*~~——~~. Notwithstanding any other law, any member may designate a representative to act as that member in that member's place for all purposes, as though the member were personally present.

Amendment 5 – Amend Public Resources Code, Section 95002 (c) as follows:

(c) The ~~——~~*Treasurer* shall serve as chairperson of the committee.

Amendment 5 – Amend Section 4 of this bill as follows:

(a) Section 2 of this act shall be submitted by the Secretary of State to the voters at the *March 5, 2024*~~——~~, statewide *primary* ~~——~~election.

4) **Dual-referral**. This bill is also referred to the Assembly Natural Resources Committee.

5) **Related legislation**. SB 638 (Eggman) of the current legislative session places a $6 billion flood protection general obligation bond before voters on the November 5, 2024 General Election ballot. SB 638 is pending in this Committee.

AB 1567 (Garcia) of the current legislative session places a $15,995,000,000 climate resilience general obligation bond before voters on the March 5, 2024 Primary Election ballot. AB 1567 is pending in the Senate Natural Resources and Water Committee.

AB 305 (Villapudua) of the current legislative session places a $4.5 billion flood protection and dam safety improvement general obligation bond before the voters on the November 5, 2024 General Election. AB 305 is pending in the Senate Natural Resources and Water Committee.

AB 2387 (E. Garcia) of 2022 would have placed a $7.4 billion climate resilience bond on the November 8, 2022 General Election ballot. AB 2387 died in the Assembly Natural Resources Committee.

AB 897 (Mullin) of 2021 would have established requirements for the formation of regional climate networks and delineate a process for setting standards for regional adaptation actions plans developed by regional climate networks. AB 897 died in the Senate Appropriations Committee.

AB 1500 (E. Garcia) of 2021 would have placed a $7.1 billion climate resilience bond on the June 7, 2022 Primary Election ballot. AB 1500 died in the Assembly Rules Committee.

SB 45 (Portantino) of 2021 would have placed a $5.6 billion climate resilience bond on the November 8, 2022, General Election ballot. SB 45 was amended to address a different issue in 2022 and enacted into law as Chapter 445, Statutes of 2022.

AB 3256 (E. Garcia) of 2020 would have placed a $6.98 billion climate resilience bond on the November 3, 2020, General Election ballot. AB 3256 died in the Assembly Rules Committee.

AB 1298 (Mullin) of 2019 would have placed a climate resilience bond on the November 3, 2020 General Election ballot. A total amount was not specified. AB 1298 died in this committee.

SB 45 (Allen) of 2019 would have placed a $5.5 billion climate resilience bond on the November 3, 2020 General Election ballot. SB 45 died in the Assembly.

REGISTERED SUPPORT / OPPOSITION:

Support

California Institute for Biodiversity
California Invasive Plant Council
California Trout
City of Agoura Hills
Outward Bound Adventures
Pacific Forest Trust
The Conservation Fund
The Nature Conservancy
The Wildlands Conservancy
Trout Unlimited
Westchester/Playa Democratic Club

Opposition

None on file

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