

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
JUNE 17, 2014**

ITEM 4

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION THAT DELEGATES AUTHORITY TO THE DEPUTY DIRECTOR OF THE DIVISION OF FINANCIAL ASSISTANCE (DFA), OR DESIGNEE, OF THE STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD) TO EXECUTE CERTAIN FINANCIAL ASSISTANCE AGREEMENTS, AMENDMENTS, AND RELATED SECURITY INSTRUMENTS AND DELEGATES AUTHORITY TO THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, TO RESOLVE CERTAIN DISPUTES

DISCUSSION

From time to time, the State Water Board delegates certain routine and non-controversial duties to the Executive Director, Deputy Directors, and designees. Under current authority, the Deputy Director for the Division of Financial Assistance (DFA), or a designee, is authorized to execute certain financial assistance agreements and amendments for financial assistance programs implemented pursuant to bond laws approved by voter 1970, 1974, 1978, 1984, 1986, 1988, 1996, 2000, 2002, and 2006 (collectively referred to as the General Obligation Bond Programs); Section 319(h) of the Clean Water Act (the 319 Grant Program); and the Clean Water State Revolving Fund (CWSRF).

The State Water Board is aware of the Governor's intention to transfer the Drinking Water Program from the California Department of Public Health (Department) to the State Water Board through budget trailer language. A transfer of the Drinking Water Program would include the transfer of several financing programs comparable to the State Water Board's existing financing programs. It is anticipated that, as with many of the financing approvals for the State Water Board's financing programs, many of the financing approvals for the transferred Drinking Water financial assistance programs will be routine and non-controversial.

For the orderly and efficient management of all programs transferred from the Department's to the State Water Board's authority, it would be appropriate and desirable to delegate to the Deputy Director of DFA, or a designee, the authority to approve all routine financial assistance agreements, amendments, and related security instruments that are consistent with internal policies and any applicable agreements with federal agencies, that do not exceed the funds available, and that do not raise significant issues requiring consideration at a Board meeting.

For the orderly and efficient administration of these transferred financial assistance agreements and programs, it is also desirable to designate appropriate staff to make a final agency determination concerning any dispute arising out of such agreements or relating to their performance. The Executive Director, or the Executive Director's designee, would be an appropriate authorized representative of the State Water Board for this purpose.

The additional authority contemplated in the resolution will only be necessary if a budget trailer bill transferring the Drinking Water Program from the Department to the State Water Board is chaptered. Therefore, the resolution is conditioned on the Legislature and the Governor approving the transfer. If the transfer is not approved, then the existing delegations regarding the approval of financial assistance agreements will remain effective.

POLICY ISSUE

Should the State Water Board approve the Resolution delegating authority to execute certain financial assistance agreements, amendments, and related security instruments to the Deputy Director of DFA or a designee, and designate the Executive Director, or the Executive Director’s designee, as the authorized representative of the State Water Board for the purpose of making a final determination of any dispute arising under or relating to the performance of any financial assistance agreement to which the State Water Board is a party?

FISCAL IMPACT

No fiscal impact.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Staff recommends adopting the proposed Resolution delegating, to the Deputy Director of DFA, or a designee, authority to execute certain financial assistance agreements, amendments, and related security instruments, and designate the Executive Director, or the Executive Director’s designee, as the authorized representative of the State Water Board for the purpose of making a final determination of any dispute arising under or relating to the performance of any financial assistance agreement to which the State Water Board is a party.

<p>State Water Board action on this item will assist the Water Boards in fulfilling the goals of the Strategic Plan Update: 2008-2012. In particular, approval of this item will help fulfill Goal 4 – Comprehensively address water quality protection and restoration, and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change, throughout California’s water planning processes, and Goal 6 - Enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures.</p>

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2014-

DELEGATES AUTHORITY TO THE DEPUTY DIRECTOR OF THE DIVISION OF FINANCIAL ASSISTANCE (DFA), OR DESIGNEE, OF THE STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD) TO EXECUTE CERTAIN FINANCIAL ASSISTANCE AGREEMENTS, AMENDMENTS, AND RELATED SECURITY INSTRUMENTS AND DELEGATES AUTHORITY TO THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, TO RESOLVE CERTAIN DISPUTES

WHEREAS:

1. The State Water Board is aware of the Governor's intention to transfer the Drinking Water Program from the California Department of Public Health through budget trailer language;
2. The contemplated budget trailer language would transfer several financial assistance programs, including the Drinking Water State Revolving Fund (DWSRF) and programs implementing relevant portions of the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Prop. 50) and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Prop. 84), (collectively, the Transferred Drinking Water Financial Assistance Programs);
3. The State Water Board has previously delegated authority to execute financial assistance agreements and amendments for financial assistance programs implemented pursuant to the bond laws approved in 1970, 1974, 1978, 1984, 1978, 1986, 1988, 1996, 2000, 2002, and 2006 (collectively referred to as the Bond Act Programs); Section 319(h) of the Clean Water Act (the 319 Grant Program); and the Clean Water State Revolving Fund (CWSRF);
4. It is anticipated that, as with many financial assistance approvals for the Bond Act Programs, the 319 Grant Program, and the CWSRF, many of the Transferred Drinking Water Financial Assistance Programs' financial assistance agreements will be routine and non-controversial. For the orderly and efficient management of the State Water Board's financial assistance programs, it is appropriate and desirable to delegate to appropriate staff the authority to approve all routine financial assistance agreements, amendments, and related security instruments that are consistent with internal policies and any applicable agreements with federal agencies, that do not exceed the funds available, and that do not raise significant issues requiring consideration at a Board meeting; and
5. For the orderly and efficient administration of the State Water Board's financial assistance agreements, it is desirable to designate appropriate staff to make a final agency determination concerning any dispute arising out of such agreements or relating to the performance thereof.

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THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Authorizes the Deputy Director of DFA, or designee, to enter into financing agreements and amendments thereof for loans, grants, installment sales agreements, and other such financial assistance for routine, non-controversial projects that are consistent with those policies and agreements that the State Water Board has adopted or will adopt governing the internal management of the Bond Act Programs, the 319 Grant Program, the CWSRF, and the Transferred Drinking Water Financial Assistance Programs;
2. The Deputy Director of DFA may delegate his or her responsibilities herein to an Assistant Division Deputy Director authorized to act as a designee in the Division Deputy Director's absence or as otherwise set forth in an adopted policy handbook or guidelines;
3. The Deputy Director of DFA, or designee, is directed in exercising this vested authority, without restricting the authority specified, to bring to the attention of the Board members at Board meetings, or by other appropriate communication, any matters that are of a unique, controversial, or unusual nature, or that appear to depart from the policies of the State Water Board;
4. Except as otherwise specifically provided by the State Water Board, the Executive Director, or designee, shall be the duly authorized representative of the State Water Board for the purpose of making a final determination of any dispute arising under or relating to the performance of any financing agreements to which the State Water Board is a party;
5. This authorization shall not be construed to eliminate the necessity of required approval or concurrence of any other state agency;
6. This resolution shall become operative and supersede Board [Resolution No. 2007-004](#) upon the effective date of budget trailer bill language transferring the Drinking Water Program from the California Department of Public Health to the State Water Resources Control Board. To the extent this resolution is inconsistent with [Resolution 2002-0105](#), this resolution supersedes Resolution 2002-0105 upon its effective date.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 17, 2014.

Jeanine Townsend
Clerk to the Board