



General Assembly

February Session, 2000

**Amendment**

LCO No. 4820

Offered by:  
SEN. UPSON, 15<sup>th</sup> Dist.

To: Subst. Senate Bill No. 504      File No. 291      Cal. No. 236

***"An Act Establishing A Water Planning Council."***

1      After line 44, add the following, and renumber the remaining  
2      sections accordingly:

3      "Sec. 2. Section 22a-500 of the general statutes is repealed and the  
4      following is substituted in lieu thereof:

5      (a) As used in sections 22a-500 to 22a-519, inclusive, as amended by  
6      this act, the following words and terms shall have the following  
7      meanings unless the context clearly indicates another meaning or  
8      intent:

9      (1) "Authority" means a municipal or regional water pollution  
10     authority created under the provisions of this section or any entity  
11     which is a successor of an authority;

12     (2) "Bonds" mean any bonds, notes and other obligations issued by  
13     an authority pursuant to the provisions of section 22a-507 and any  
14     bonds issued to refund such bonds;

15 (3) "Cost" or "costs" as applied to any system means the cost of  
16 acquisition or construction, the cost of any subsequent additions or  
17 expansion of a wastewater system, the cost of the acquisition of all  
18 land and interests in land including rights-of-way, easements and  
19 other property rights acquired by the authority for such construction,  
20 addition or expansion, the cost of demolition or removal of any  
21 building or structure on land so acquired, including the cost of  
22 acquiring any lands to which such building or structures may be  
23 moved, the cost of dredging and filling underwater areas, all  
24 equipment, financing, insurance, interest, administrative and  
25 operating costs incurred prior to and during such construction of any  
26 addition or expansion, and, if deemed advisable by the authority, for a  
27 period not exceeding one year after completion of such construction,  
28 addition or expansion, any survey, engineering, architectural, legal,  
29 administrative, operating, research, development, operating capital  
30 and other such costs or expenses of the authority as may be necessary  
31 or incidental to the construction of the wastewater system and any  
32 component of any wastewater system, and of such subsequent  
33 addition or expansion, and the cost of financing such construction,  
34 addition or expansion and placing the project and such additions or  
35 expansion in operation;

36 (4) "Constituent municipality" means [one of two or more  
37 municipalities which have] a municipality that has adopted the  
38 provisions of this section and sections 22a-501 to 22a-519, inclusive, as  
39 amended by this act, and [which have] that has created, individually  
40 or jointly with one or more other constituent municipalities, an  
41 authority by ordinance of its legislative body or, if such authority is  
42 comprised of two or more constituent municipalities, by concurrent  
43 ordinances of their legislative bodies;

44 (5) "Municipality" means any town, city, borough, consolidated  
45 town and city or consolidated town and borough;

46 (6) "Sewage" shall be as defined in section 22a-423; and

47 (7) "Wastewater system" means any device, equipment,  
48 appurtenance, plant facility and method for receiving, collecting,  
49 transporting, reducing, treating, reclaiming, disposing, separating or  
50 discharging sewage, or the residue from the treatment of sewage,  
51 including any component of any of the foregoing, which the authority  
52 is authorized to acquire, plan, design, construct, manage, operate,  
53 maintain and finance under the provisions of this section and sections  
54 22a-501 to 22a-519, inclusive, as amended by this act, and which the  
55 authority may establish as its wastewater system pursuant to the  
56 provisions of this section and sections 22a-501 to 22a-519, inclusive, as  
57 amended by this act, including any interest in real estate and  
58 improvements thereto and the extension or provision of utilities and  
59 other appurtenant facilities and projects deemed necessary or desirable  
60 by the authority for the purpose of establishing and operating  
61 wastewater management and water pollution control services.

62 (b) Notwithstanding the provisions of any special act or municipal  
63 charter, any municipality may, by ordinance of its legislative body, or  
64 any two or more municipalities may, by concurrent ordinances of their  
65 legislative bodies, adopt and exercise the powers granted to a  
66 municipality by the provisions of this section and sections 22a-501 to  
67 22a-519, inclusive, as amended by this act, and designate any existing  
68 board, commission or agency, or create a new board, commission,  
69 agency or municipal or regional authority to be designated, as its  
70 municipal or regional authority and thereupon be a constituent  
71 municipality of such authority. Such ordinance shall contain a brief  
72 statement of the purpose of the authority and shall set forth the article  
73 [or] of incorporation of the authority as follows: (1) The name of the  
74 authority and address of its principal office; (2) a statement that the  
75 authority is created an authority under this section; and (3) the names,  
76 addresses and terms of office of the first directors of the authority.

77 (c) The constituent municipality or municipalities of any authority  
78 shall, by ordinance or concurrent ordinances, as appropriate,  
79 determine the number of directors thereof, the number of votes to be  
80 cast by each director, the method of determining the directors'

81 compensation, if any, the method of their appointment and removal  
82 and their terms of office, which shall be so arranged that not more than  
83 one-half of such terms shall expire within any one year. The  
84 constituent municipality or municipalities shall prepare and submit a  
85 preliminary plan of operation for [an] the proposed authority [which  
86 they propose to form] to the Commissioner of Environmental  
87 Protection and the State Treasurer for their review and approval in  
88 accordance with this section. Each plan of operation shall include the  
89 procedure by which bonds of such authority shall be approved. The  
90 Commissioner of Environmental Protection shall review and may  
91 approve any preliminary plan of operation, after consultation with the  
92 Secretary of the Office of Policy and Management, if he finds that such  
93 plan of operations is in furtherance of the environmental protection  
94 laws of the state. The State Treasurer shall review and may approve  
95 any preliminary plan of operation if he finds a wastewater system  
96 undertaken by an authority operating under such plan of operation is  
97 eligible to apply for financing under sections 22a-477 to 22a-483,  
98 inclusive. Upon the adoption of such ordinance or ordinances by the  
99 legislative bodies of each constituent municipality designating or  
100 creating an authority under this section, and the approval of a  
101 preliminary plan of operation for such authority by the Commissioner  
102 of Environmental Protection and the State Treasurer, the authority  
103 created thereby shall constitute a public body politic and corporate of  
104 the state, and a political subdivision of the state established and  
105 created for the performance of an essential public and governmental  
106 function. Any rejection of a preliminary plan of operation shall not  
107 preclude the submission of a revised plan. The approval of the  
108 preliminary plan of operation by the Commissioner of Environmental  
109 Protection and the Treasurer in accordance with this section shall  
110 constitute conclusive evidence of the state's approval of the creation of  
111 an authority under this section. An authority shall not change the  
112 procedure for approving the issuance of its bonds as prescribed by its  
113 plan of operations without the approval of [each] all constituent  
114 [municipality] municipalities which created the authority, the  
115 Commissioner of Environmental Protection and the State Treasurer.

116 (d) By ordinance of its legislative body, or by such other body as  
117 permitted by section 7-157, any municipality may become a member of  
118 an authority upon such terms and conditions as the authority may  
119 determine and thereupon be a constituent municipality of such  
120 authority.

121 (e) Any constituent municipality may elect to terminate the  
122 existence of a municipal authority or withdraw from [such] an  
123 authority by the adoption of an ordinance by its legislative body or  
124 such other authority as permitted by section 7-157. Such termination or  
125 withdrawal shall be effective only after compliance with the terms and  
126 conditions contained in any contracts between such constituent  
127 municipality and the authority or the holders of any bonds of the  
128 authority. No such termination or withdrawal shall relieve such  
129 constituent municipality of any liability, responsibility or obligation  
130 incurred by it as a member of the authority or as a user of any of its  
131 wastewater system.

132 (f) Any authority and its corporate existence shall continue until  
133 terminated by law or [the withdrawal of one of the last two constituent  
134 municipalities of such authority] by ordinance of its constituent  
135 municipality, or, if such authority is comprised of two or more  
136 constituent authorities, by ordinances of each of its constituent  
137 municipalities provided no such law or ordinance shall take effect so  
138 long as the authority shall have bonds, notes or other obligations  
139 outstanding unless adequate provision has been made for the payment  
140 or satisfaction of such obligations. Upon termination of the existence of  
141 the authority, all of the rights and properties of the authority then  
142 remaining shall pass to and vest in the constituent municipality in  
143 which it is located unless otherwise provided in an agreement of the  
144 authority and except as otherwise may be specified in such law.

145 Sec. 3. Subsection (a) of section 22a-501 of the general statutes is  
146 repealed and the following is substituted in lieu thereof:

147 (a) An authority created pursuant to section 22a-500, as amended by

148 this act, may:

149 (1) Make and revise bylaws and rules governing the administration  
150 of its property and the conduct of its affairs and may revise its plan of  
151 operation to better fulfill the purposes of sections 22a-500 to 22a-519,  
152 inclusive, as amended by this act. A copy of all bylaws, and  
153 amendments thereto, duly certified, shall be filed in the offices of the  
154 clerks of [the] each constituent [municipalities] municipality and with  
155 the Secretary of the State. Any revision of the bylaws of an authority  
156 shall be initiated by the adoption of a resolution by a two-thirds vote  
157 of the entire board of directors of such authority and such resolution  
158 shall contain the complete draft of such revision;

159 (2) Establish offices where necessary in any constituent municipality  
160 or the region;

161 (3) Employ a staff and fix their duties, compensation and benefits;

162 (4) Have a seal;

163 (5) Contract and be contracted with, sue and be sued and institute,  
164 prosecute, maintain and defend any action or proceeding in any court  
165 or before any agency or tribunal of competent jurisdiction;

166 (6) Retain by contract or employ legal counsel, accountants,  
167 engineers, private consultants and other professional advisers;

168 (7) Conduct such hearings, examinations and investigations as may  
169 be necessary or convenient to the conduct of its operations and the  
170 fulfillment of its responsibilities;

171 (8) Obtain access to public records and apply for the process of  
172 subpoena if necessary to produce books, papers, records and other  
173 data;

174 (9) Establish and impose fees, rates, charges and penalties and levy  
175 assessments on property benefited by the wastewater system of such  
176 authority, including municipal users and property owned by any

177 municipality, including without limitation a constituent municipality,  
178 in accordance with sections 22a-500 to 22a-519, inclusive, as amended  
179 by this act, for the services it performs and waive, suspend, reduce or  
180 otherwise modify such fees, rates, charges, penalties or assessments  
181 provided each such fee, rate, charge, penalty or assessment shall apply  
182 uniformly to all users and benefited properties within the constituent  
183 municipalities with respect to a given type or category of waste water,  
184 in accordance with criteria established by the authority, and further  
185 provided no change may be made in user fees without at least sixty  
186 days prior notice to the users affected thereby;

187 (10) Purchase, lease or otherwise acquire the right to use such real  
188 and personal property and any interest in such property as it may  
189 deem necessary or convenient;

190 (11) Appoint such advisory councils as it may deem advisable to  
191 benefit the people of a constituent municipality within the region of  
192 the authority or the region generally;

193 (12) Own, manage and use real property or any interest therein;

194 (13) Determine the location and character of any wastewater system  
195 to be developed under the provisions of sections 22a-500 to 22a-519,  
196 inclusive, as amended by this act, subject to applicable statutes and  
197 regulations, and establish a wastewater treatment and disposal system;

198 (14) Purchase, receive by gift or otherwise, lease, exchange or  
199 otherwise acquire and construct, reconstruct, improve, maintain, equip  
200 and furnish any wastewater system as required by the Commissioner  
201 of Environmental Protection or this chapter;

202 (15) Sell or lease to any person all or any portion of a wastewater  
203 system of the authority whenever, in the opinion of the authority, such  
204 action is deemed to be in furtherance of the purposes of sections 22a-  
205 500 to 22a-519, inclusive, as amended by this act;

206 (16) Mortgage or otherwise encumber all or any portion of the

207 authority or assume all or any portion of any obligations incurred by a  
208 constituent municipality in connection with the acquisition,  
209 construction or operation of any wastewater or sewage system  
210 transferred to or operated by the authority whenever, in the opinion of  
211 the authority, such action is deemed to be in furtherance of the  
212 purposes of sections 22a-500 to 22a-519, inclusive, as amended by this  
213 act;

214 (17) Grant options to purchase, or to renew a lease for, any  
215 wastewater system of the authority on such terms as the authority may  
216 determine to be reasonable;

217 (18) Acquire, by purchase, gift, transfer or by condemnation for  
218 public purposes, and manage and operate, hold and dispose of real  
219 property and, subject to agreements with lessors or lessees, develop or  
220 alter such property by making improvements and betterments with the  
221 purpose of enhancing the value and usefulness of such property;

222 (19) Make plans, surveys, studies and investigations necessary or  
223 desirable in conformity with the state plan and the plan of operation of  
224 such authority;

225 (20) Design or provide for the design of any wastewater system of  
226 the authority, including design for the alteration, reconstruction,  
227 improvement, enlargement or extension of any existing wastewater  
228 system acquired by such authority;

229 (21) Construct, erect, build, acquire, alter, reconstruct, improve,  
230 enlarge or extend any wastewater system of the authority including  
231 provision for the inspection and supervision thereof and the  
232 engineering, architectural, legal, fiscal and economic investigations  
233 and studies, surveys, designs, plans, working drawings, specifications,  
234 procedures and any other actions incidental thereto;

235 (22) Open the ground in any public street or way or public grounds  
236 for the purpose of laying, installing, maintaining or replacing pipes  
237 and conduits provided the grounds shall be restored to their previous

238 conditions upon the completion of such work;

239 (23) Own, operate and maintain the wastewater systems of the  
240 authority and make provision for their management;

241 (24) Enter upon lands and waters, as may be necessary, to make  
242 surveys, soundings, borings and examinations in order to accomplish  
243 the purposes of sections 22a-500 to 22a-519, inclusive, as amended by  
244 this act;

245 (25) Contract with municipalities, municipal, state and regional  
246 authorities, and state and federal agencies to provide waste  
247 management and water pollution control services in accordance with  
248 the provisions of sections 22a-500 to 22a-519, inclusive, as amended by  
249 this act, and to plan, design, construct, manage, operate and maintain  
250 facilities on their behalf;

251 (26) Design and construct improvements or alterations on properties  
252 which it owns or which it operates by contract on behalf of other  
253 municipal or regional authority, state agency or municipality,  
254 including without limitation any constituent municipality, and restore  
255 sewers to beneficial public or private use;

256 (27) Contract for architectural, engineering and design, and  
257 construction supervision, wastewater system management and facility  
258 management services, and for such other professional or technical  
259 services as may require either the prequalification of a contractor or the  
260 submission by any individual, firm or consortium or association of  
261 individuals or firms of a proposal in response to an official request for  
262 proposal or similar written communication of such authority, deemed  
263 necessary, desirable or convenient in carrying out the purposes of such  
264 authority;

265 (28) Contract for the construction, operation or management of  
266 wastewater systems of the authority with private persons or firms, or  
267 consortia of such persons or firms, pursuant to applicable provisions of  
268 sections 22a-500 to 22a-519, inclusive, as amended by this act, the

269 requirements of applicable regulations and the state plan and in  
270 accordance with such specifications, terms and conditions as the  
271 authority may deem necessary or advisable;

272 (29) Accept gifts, grants or loans of funds, property or service from  
273 any source, public or private, and comply, subject to the provisions of  
274 sections 22a-500 to 22a-519, inclusive, as amended by this act, with the  
275 terms and conditions thereof;

276 (30) Receive funds from the sale of the authority's bonds and of its  
277 real and personal properties;

278 (31) Contract for and receive revenues in the form of rents, fees and  
279 charges paid by units or agencies of any municipality, including  
280 without limitation any constituent municipality, by the state and by  
281 any private person or entity, to compensate the authority for the use of  
282 its facilities or the performance of its services;

283 (32) Accept from the state and any federal agency any loan or grant  
284 for use in carrying out its purposes and enter into agreements with  
285 such agency respecting any such loan or grant;

286 (33) Make a loan of the proceeds of its bonds, notes or other funds to  
287 any private person or entity, any municipality, including without  
288 limitation any constituent municipality, any municipal authority, any  
289 state agency or authority or any regional authority for the planning,  
290 design, acquisition, construction, reconstruction, improvement,  
291 equipping and furnishing of a wastewater system of the authority,  
292 which loans may be secured by loan agreements, contracts or any  
293 other instruments or agreements containing such terms and conditions  
294 as the authority shall determine necessary or desirable, including  
295 provisions for the establishment and maintenance of reserve funds,  
296 and for the construction, use, operation and maintenance and the  
297 payment of operating and other costs of a wastewater system. In  
298 connection with the making of any such loan, an authority may  
299 purchase, acquire and take assignments of any note or bond of any  
300 municipality, including without limitation any constituent

301 municipality, any municipal, state or regional authority and any  
302 private entity or person and may receive other forms of security and  
303 evidence of indebtedness, and in furtherance of the purposes of  
304 sections 22a-500 to 22a-519, inclusive, as amended by this act, and in  
305 order to assure the payment of the principal of and interest on such  
306 loans, and in order to assure the payment of the principal of and  
307 interest on bonds of the authority issued to provide funding for such  
308 loans, may attach, seize, purchase, acquire, accept or take title to any  
309 wastewater system, and may sell, lease or rent any wastewater system  
310 for a use specified in sections 22a-500 to 22a-519, inclusive, as amended  
311 by this act;

312 (34) Indemnify and hold harmless any person in connection with  
313 the financing of a wastewater system;

314 (35) In connection with the sale, purchase, receipt, lease, exchange,  
315 other disposition, acquisition, improvement or expansion of a  
316 wastewater system of the authority or of real property, indemnify and  
317 hold harmless any person or entity including, without limitation,  
318 indemnification against taxation by the federal and state governments  
319 respecting any state or local property taxes and any realization of tax  
320 benefits or incentives associated with ownership of a wastewater  
321 system or of real property; and

322 (36) Otherwise do all things necessary for the performance of its  
323 duties, the fulfillment of its obligations, the conduct of its operations  
324 and the maintenance of its working relationships with the state, other  
325 municipalities, regions and persons.

326 Sec. 4. Subsection (a) of section 22a-514 of the general statutes is  
327 repealed and the following is substituted in lieu thereof:

328 (a) The exercise of the powers granted by sections 22a-500 to 22a-  
329 519, inclusive, as amended by this act, shall constitute the performance  
330 of an essential governmental function and the authority shall not be  
331 required to pay any taxes or assessments upon or in respect of a  
332 wastewater system, or any property or moneys of the authority, levied

333 by any municipality or political subdivision or special district having  
334 taxing powers of the state, nor shall the authority be required to pay  
335 state taxes of any kind, and the authority, its wastewater system,  
336 property and money and any bonds issued under the provisions of  
337 sections 22a-500 to 22a-519, inclusive, as amended by this act, their  
338 transfer and the income therefrom, including revenues derived from  
339 the sale thereof, shall at all times be free from taxation, except for estate  
340 and gift taxes imposed by the state or any political subdivision thereof  
341 but the interest on such bonds shall be included in the computation of  
342 any excise or franchise tax. Nothing in this section shall prevent [the] a  
343 regional authority from entering into agreements to make payments in  
344 lieu of taxes with respect to property acquired by it. [or] Nothing in  
345 this section shall prevent the authority from entering into agreements  
346 to make payments in lieu of taxes with respect to property acquired by  
347 any person leasing a wastewater system from the authority or  
348 operating or managing a wastewater system on behalf of the authority.  
349 [and neither] Neither the authority nor its wastewater systems,  
350 properties, money or bonds shall be obligated, liable or subject to lien  
351 of any kind for the enforcement, collection or payment [thereof] of any  
352 payments in lieu of taxes. Nothing in this section shall prevent the  
353 authority from entering into agreements to make payments to a  
354 municipality for the value of property, goods and services provided, as  
355 well as fees, costs and expenses incurred, for the benefit of the  
356 authority, its wastewater system or its other property. If and to the  
357 extent the proceedings under which the bonds authorized to be issued  
358 under the provisions of sections 22a-500 to 22a-519, inclusive, as  
359 amended by this act, so provide, the authority may agree to cooperate  
360 with the lessee or operator of a wastewater system in connection with  
361 any administrative or judicial proceedings for determining the validity  
362 or amount of such payment and may agree to appoint or designate and  
363 reserve the right in and for such lessee or operators to take all action  
364 which the authority may lawfully take in respect of such payments and  
365 all matters related thereto, providing such lessee or operator shall bear  
366 and pay all costs and expenses of the authority thereby incurred at the  
367 request of such lessee or operator or by reason of any such action taken

368 by such lessee or operator on behalf of the authority. Notwithstanding  
369 any other provision of law, any lessee or operator of a wastewater  
370 system for which a payment in lieu of taxes has been made under this  
371 section shall not be required to pay any taxes in which a payment in  
372 lieu thereof has been made to the state or to any such municipality or  
373 other political subdivision or special district having taxing powers.

374 Sec. 5. Sec. 22a-517 of the general statutes is repealed and the  
375 following is substituted in lieu thereof:

376 (a) An authority created under sections 22a-500 to 22a-519,  
377 inclusive, as amended by this act, shall be a public authority having  
378 power to make charges for its authorized function and shall be  
379 considered a municipality as defined in section 22a-475.

380 (b) The initial project undertaken by a new regional authority shall  
381 receive (1) a grant of twenty-five per cent of the cost of the project,  
382 unless such project is a combined sewer project, in which case a new  
383 authority shall receive a grant of fifty-five per cent of the cost of the  
384 project. In either case such cost shall be the cost the United States  
385 Environmental Protection Agency uses in making grants pursuant to  
386 Part 35 of the federal Construction Grant Regulations Act and Titles II  
387 and VI of the federal Water Pollution Control Act, as amended; and (2)  
388 a loan for the remainder of the costs of the project, not exceeding one  
389 hundred per cent of the eligible water quality project costs. Grants and  
390 loan apportionment for municipal authorities shall be the same as is  
391 made to municipalities. On or after fiscal year 2007, all projects eligible  
392 for funding shall receive a loan of one hundred per cent of the eligible  
393 costs and shall not receive a project grant. All loans made in  
394 accordance with the provisions of this section shall bear an interest rate  
395 of two per cent per annum. The Commissioner of Environmental  
396 Protection may allow any project fund obligation to be repaid by a  
397 borrowing authority prior to maturity without penalty.

398 Sec. 6. Section 8 of public act 99-283 is repealed and the following is  
399 substituted in lieu thereof:

400 Any regional or municipal water authority established under an act  
401 of the General Assembly, may assign, for consideration, any and all  
402 liens filed by such regional water authority to secure unpaid water  
403 assessments or connection or use charges of the authority. The  
404 consideration received by the authority shall be negotiated between  
405 the authority and the assignee. The assignee or assignees of such liens  
406 shall have and possess the same powers and rights at law or in equity  
407 as such authority would have had if the lien had not been assigned  
408 with regard to the precedence and priority of such lien, the accrual of  
409 interest and the fees and expenses of collection. The assignee shall  
410 have the same rights to enforce such liens as any private party holding  
411 a lien on real property, including, but not limited to, foreclosure and a  
412 suit on the debt. Costs and reasonable attorneys' fees incurred by the  
413 assignee as a result of any foreclosure action or other legal proceeding  
414 brought pursuant to this section and directly related to the proceeding  
415 shall be taxed in any such proceeding against each person having title  
416 to any property subject to the proceedings. Such costs and fees may be  
417 collected by the assignee at any time after demand for payment has  
418 been made by the assignee."