



General Assembly

February Session, 2004

Amendment

LCO No. 4414

SB0037104414SD0

Offered by:

SEN. PETERS, 20th Dist.
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To: Senate Bill No. 371

File No. 73

Cal. No. 90

"AN ACT CONCERNING WATER COMPANY LANDS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsections (d) and (e) of section 16-43 of the general
4 statutes are repealed and the following is substituted in lieu thereof
5 (*Effective from passage*):

6 (d) Any water company selling land that at any time has been in the
7 water company's rate base shall use the net proceeds from the sale of
8 such land for capital projects which improve or protect the water
9 supply system or for the acquisition of a water supply source or land
10 to protect a water supply source. In the case of a water company
11 required to file a water supply plan pursuant to section 25-32d, as
12 amended, the capital projects or acquisition shall be consistent with
13 such plan.

14 (e) For the purposes of rate making, the department shall use an
15 accounting method for allocating the economic benefits of sales of land
16 by a water company, as defined in section 16-1, as amended, that at
17 any time has been in the water company's rate base that equitably
18 allocates all of the economic benefits of any such sale between the
19 ratepayers and the shareholders of the company based on the facts of
20 each application for sale, except as follows:

21 (1) For any sale of land where the property is not more than ten
22 acres and has not been taxed under the provisions of sections 12-107c
23 to 12-107e, inclusive, during the previous ten years, the department
24 shall equitably allocate all of the economic benefits of any such sale
25 between the ratepayers and the shareholders of the company. Any
26 such allocation shall be based on the facts of each application for sale
27 and the department may [, except as otherwise provided in this
28 subsection,] allocate all of the economic benefits of any such sale to
29 either the ratepayers or the shareholders. [The department shall
30 allocate the economic benefits of any such sale of water company land
31 which promotes a perpetual public interest in the use of land for open
32 space or recreational purposes, as defined in section 16-43b,
33 substantially in favor of a water company's shareholders if not less
34 than twenty-five per cent of the area of such land in the sale is to be
35 used for open space or recreational purposes and shall allocate up to
36 one hundred per cent of the benefits to the shareholders if one
37 hundred per cent of the land in the sale is to be used for open space or
38 recreational purposes. The department shall determine how much
39 more than a majority of such benefits shall be allocated to the
40 shareholders based on the extent to which part of the land is for open
41 space or recreational purposes. Any such land designated for open
42 space or recreation shall not be required to be part of or contiguous to
43 the class III land which is subject to the sale in order to be considered
44 in the determination of the allocation of benefits provided such
45 noncontiguous land is (1) consistent with the state or local plan for
46 open space and recreation in the municipality in which it is located, or
47 (2) is adjacent to existing protected open space, or (3) creates a linkage

48 between two or more parcels of protected open space and further
49 provided only half of the acreage within such noncontiguous land
50 designated for open space or recreational purposes shall be counted
51 toward the percentage used in determining whether the twenty-five
52 per cent minimum requirement in this section is met. Substitution of
53 noncontiguous land to meet this requirement shall not be permitted if
54 such land to be sold together with any contiguous class III land from
55 which the water company has divided or subdivided it for sale is more
56 than one hundred fifty acres and is contiguous to land protected as
57 open space, forest land or farmland designated under sections 12-107c
58 to 12-107e, inclusive, or classified as water company land, any of
59 which, in combination with the land to be sold, is more than five
60 hundred acres. The deed for any noncontiguous land used in any such
61 determination shall clearly indicate that the land is held for the public
62 interest in perpetuity.]

63 (2) For a sale of class I or class II land to another water company for
64 water supply purposes or to the state, a municipality, or a land
65 conservation organization, which land has a permanent conservation
66 easement in accordance with section 25-32, as amended, the
67 department shall equitably allocate, in a contested case proceeding, all
68 of the economic benefits of any such sale between the ratepayers and
69 the shareholders of the company.

70 (3) For the sale of land for an educational use, as defined in section
71 16-43b, as amended by this act, the department shall allocate the
72 economic benefits of any such sale in accordance with past practices
73 for nonopen space transactions pursuant to subsection (a) of this
74 section.

75 (4) For the sale of class III land where the property is more than ten
76 acres and promotes a perpetual public interest in the use of land for
77 open space or recreation purposes, as defined in section 16-43b, the
78 department shall allocate the benefits in accordance with the
79 following:

80 (A) If twenty-five per cent of the land or less is to be used for open
81 space or recreational purposes, the department shall allocate one
82 hundred per cent of the benefits to the ratepayers;

83 (B) If more than twenty-five per cent but less than eighty per cent of
84 the land is to be used for open space or recreational purposes, the
85 department shall calculate the benefit allocated to a water company's
86 shareholder by multiplying by a factor of eighty per cent of the portion
87 of class III land in the transaction that is reserved for open space;

88 (C) If eighty per cent or more but less than ninety per cent of the
89 area of such land is to be used for open space or recreational purposes,
90 the department shall allocate the benefits of such sale in favor of a
91 water company's shareholders in an amount that is proportionate to
92 the percentage of class III land in such sale that is to be used for open
93 space or recreational purposes;

94 (D) If not less than ninety per cent of the area of such land is to be
95 used for open space or recreational purposes, the department shall
96 allocate one hundred per cent of the benefits to the shareholders.

97 (f) For the sale of class III land by a water company that at any time
98 has been in the water company's rate base and that is to be used for
99 open space or recreational purposes, the water company shall file with
100 the department a certified copy of a conservation easement that is
101 recorded on the land records for the portion of class III land preserved
102 as open space. Such conservation easement shall state that the land
103 subject to such easement shall be permanently dedicated for land uses
104 such as public parks or forests or natural areas, including, but not
105 limited to, reservoirs and water company land. Such land shall be
106 preserved predominantly in its natural scenic and open space
107 condition that may allow for camping, hiking, forestry, fishing,
108 wildlife or natural resource conservation, which easement shall
109 prohibit all other building or development except as may be required
110 for source protection and to meet water quality standards, if used as a
111 public water supply.

112 Sec. 2. Section 12-217dd of the general statutes is repealed and the
113 following is substituted in lieu thereof (*Effective from passage*):

114 (a) For purposes of this section, "donation of open space land"
115 means the value of any land or interest in land conveyed without
116 financial consideration, or the value of any discount of the sale price in
117 any sale of land or interest in land, to the state, a political subdivision
118 of the state, a water company, as defined in section 25-32a, or to any
119 nonprofit land conservation organization where such land is to be
120 permanently preserved as protected open space or used as a public
121 water supply source.

122 (b) There shall be allowed a credit for all taxpayers against the tax
123 imposed under section 12-217, in an amount equal to fifty per cent of
124 any donation of open space land or as a public water supply source.
125 For purposes of calculating the credit under this section, the amount of
126 donation shall be based on the use value of the donated open space
127 land and the amount received for such land. For purposes of this
128 subsection, "use value" means the fair market value of land at its
129 highest and best use, as determined by a certified real estate appraiser.

130 (c) A credit that is allowed under this section, with respect to any
131 taxable year commencing on or after January 1, 2000, but is not used by
132 a taxpayer may be carried forward to each of the successive income
133 years until such credit is fully taken. In no case shall a credit that is not
134 used be carried forward for a period of more than [ten] fifteen years.

135 Sec. 3. Section 16-43b of the general statutes is repealed and the
136 following is substituted in lieu thereof (*Effective from passage*):

137 For purposes of subsection (e) of section 16-43, as amended by this
138 act, "open space or recreational purposes" means public parks or
139 forests or natural areas, including, but not limited to, reservoirs and
140 water company land, which are preserved predominantly in their
141 natural scenic and open condition which may allow for camping,
142 hiking, forestry, fishing, wildlife or natural resource conservation and
143 "educational use" means the use by any town, city or borough, whether

144 consolidated or unconsolidated, and any school district or regional
145 school district for the purposes of schools and related facilities.

146 Sec. 4. (NEW) (*Effective from passage*) (a) For purposes of this section,
147 "donation of land for educational use" means the value of any land or
148 interest in land conveyed without financial consideration, or the value
149 of any discount of the sale price in any sale of land or interest in land,
150 to any municipality or political subdivision of the state for educational
151 use, as defined in section 16-43b of the general statutes, as amended by
152 this act.

153 (b) There shall be allowed a credit for all taxpayers against the tax
154 imposed under section 12-217 of the general statutes, in an amount
155 equal to fifty per cent of any donation of land for educational use. For
156 purposes of calculating the credit under this section the amount of
157 donation shall be based on the difference between the use value of the
158 donated land and the amount received for such land. For the purposes
159 of this subsection, "use value" means a fair market value of land at its
160 highest and best use, as determined by a certified real estate appraiser.

161 (c) A credit that is allowed under this section, with respect to any
162 taxable year commencing on or after January 1, 2004, but is not used by
163 a taxpayer may be carried forward to each of the successive income
164 years until such credit is fully taken. In no case shall a credit that is not
165 used be carried forward for a period of more than fifteen years.

166 Sec. 5. Subsection (f) of section 16-50d of the general statutes is
167 repealed and the following is substituted in lieu thereof (*Effective from*
168 *passage*):

169 (f) When more than one person gives notice of a desire to acquire a
170 water company source or land, the right to acquire such land shall be
171 in the following order: (1) A water company, as defined in section 25-
172 32a, for water supply purposes; (2) a municipality in which the land is
173 located for water supply, open space, [or] recreational purposes; (3) the
174 state for open space or recreational purposes; (4) a private, nonprofit
175 land-holding organization for open space or recreational purposes; (5)

176 a municipality for any public purpose, including, but not limited to, an
 177 educational use; and (6) the state for any public purpose. Any land
 178 acquired for open space or recreational purposes shall have such
 179 restriction placed in the instrument intended as a conveyance recorded
 180 in the land records in the town where the land is situated. No land
 181 acquired pursuant to this section for open space or recreational
 182 purposes may be used for any other purpose unless the land has been
 183 reoffered for open space or recreational purposes pursuant to the
 184 provisions of this section and no notice of a desire to acquire such land
 185 has been given. The department shall approve any such reoffering
 186 provided there is compliance with this section. In any decision
 187 pursuant to this subsection, the department shall act in concurrence
 188 with the Commissioner of Environmental Protection. Notwithstanding
 189 the provisions of subdivision (5) of this subsection, not more than
 190 fifteen per cent of the land acquired pursuant to this section may be
 191 used by a municipality for a use other than open space or recreational
 192 purposes without a reoffering. Any such other use shall be subject to
 193 the provisions of section 7-131n. As used in this subsection, "open
 194 space or recreational purposes" means use of lands for agriculture,
 195 parks, natural areas, forests, camping, fishing, wetlands preservation,
 196 wildlife habitat, reservoirs, hunting, golfing, boating, swimming and
 197 hiking and "educational use" means the use by any town, city or
 198 borough, whether consolidated or unconsolidated, and any school
 199 district or regional school district, for the purposes of schools and
 200 related facilities."

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>