



General Assembly

Amendment

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LCO No. 4279

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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4 statutes are repealed and the following is substituted in lieu thereof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] in accordance with the following:

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

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

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

68 (3) For the sale of land for an educational use, as defined in section
69 16-43b, as amended by this act, the department shall allocate the
70 economic benefits of any such sale in accordance with past practices
71 for nonopen space transactions pursuant to section 16-43.

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

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

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

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

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

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

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

111 (a) For purposes of this section, "donation of open space land"

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

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

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

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

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

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

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

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

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

167 (f) When more than one person gives notice of a desire to acquire a
168 water company source or land, the right to acquire such land shall be
169 in the following order: (1) A water company, as defined in section 25-
170 32a, for water supply purposes; (2) a municipality in which the land is
171 located for water supply, open space, [or] recreational purposes; (3) the
172 state for open space or recreational purposes; (4) a private, nonprofit
173 land-holding organization for open space or recreational purposes; (5)
174 a municipality for any public purpose, including, but not limited to, an
175 educational use; and (6) the state for any public purpose. Any land

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

199 Sec. 6. (*Effective from passage*) (a) Notwithstanding the provisions of
200 section 25-32 of the general statutes, a water company, as defined in
201 section 16-1, as amended, may sell class I or class II land, as described
202 in section 25-37c of the general statutes, to a municipality with a
203 population between eleven thousand six hundred and eleven
204 thousand nine hundred, as enumerated by the 2000 federal decennial
205 census, for use for the construction of a school or related facilities. The
206 parties to a sale pursuant to this section may modify any conservation
207 easement on such land in order to allow for such use.

208 Sec. 7. Subsection (b) of section 25-32 of the general statutes is
209 repealed and the following is substituted in lieu thereof (*Effective from*

210 passage):

211 (b) No water company shall sell, lease, assign or otherwise dispose
 212 of or change the use of any watershed lands, except as provided in
 213 section 25-43c, without a written permit from the Commissioner of
 214 Public Health. The commissioner shall not grant a permit for the sale,
 215 lease or assignment of class I land, except as provided in subsection (d)
 216 of this section, and shall not grant a permit for a change in use of class
 217 I land unless the applicant demonstrates that such change will not
 218 have a significant adverse impact upon the present and future purity
 219 and adequacy of the public drinking water supply and is consistent
 220 with any water supply plan filed and approved pursuant to section 25-
 221 32d, as amended. The commissioner may reclassify class I land only
 222 upon determination that such land no longer meets the criteria
 223 established by subsection (a) of section 25-37c because of abandonment
 224 of a water supply source or a physical change in the watershed
 225 boundary. Not more than fifteen days before filing an application for a
 226 permit under this section, the applicant shall provide notice of such
 227 intent, by certified mail, return receipt requested, to the chief executive
 228 officer and the chief elected official of each municipality in which the
 229 land is situated. The provisions of this subsection shall not apply to the
 230 sale of class I or class II land for an educational use, as defined in
 231 section 16-43b, as defined in this act."

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>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>