

Date of Hearing: January 12, 2026

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 35 (Alvarez) – As Amended January 5, 2026

SUBJECT: Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024: Administrative Procedure Act: exemption: program guidelines and selection criteria

SUMMARY: Exempts the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024, approved by the voters as Proposition 4, from the Administrative Procedures Act (APA).

EXISTING LAW:

- 1) Pursuant to the APA (Government Code 11340 *et seq.*)
 - a) Establishes the Office of Administrative Law (OAL), charged with the orderly review of adopted regulations.
 - b) Prohibits any state agency from issuing, utilizing, enforcing, or attempting to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to the APA.
 - c) Authorizes any interested person to petition a state agency requesting the adoption, amendment, or repeal of a regulation, as provided.
 - d) Requires OAL to review all regulations adopted, amended, or repealed and submitted to it for publication in the California Code of Regulations Supplement, transmittal to the Secretary of State, and to make determinations using specified standards. Establishes timeframes by which OAL must approve or disapprove a regulation after it has been submitted to OAL for review.
- 2) Pursuant to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84), exempts the development and adoption of program guidelines and selection criteria adopted pursuant to the bond from the APA. (Public Resources Code (PRC) 75076)
- 3) Pursuant to the Natural Resources Bond or the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018 (Proposition 68), exempts the development and adoption of program guidelines and selection criteria adopted pursuant to the bond from the APA. (PRC 80010 (e))
- 4) Pursuant to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1), exempts from the APA the development or implementation of programs or projects authorized or funded under the bond, other than Chapter 8. (Water Code 79705)
- 5) Pursuant to Proposition 4:

- a) Authorizes a regulation for the purpose of developing and adopting program guidelines and selection criteria needed to effectuate or implement the programs included in Chapters 2 through Chapter 9 to be adopted as an emergency regulation and requires an emergency regulation adopted pursuant to this bond to be filed with, but not be repealed by, OAL, and remain in effect until repealed or amended by the adopting state agency. (PRC 90135 (e))
- b) Authorizes the Legislature to enact legislation necessary to implement programs funded by the bond. (PRC 90115)

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's statement:

Proposition 4 reflects a clear mandate from California voters to accelerate investments in climate resilience, water quality, natural resources, and community protection. Voters approved these funds with the expectation that they would be deployed efficiently to address urgent environmental and public health challenges, including drinking water safety, flood protection, ecosystem restoration, and climate adaptation.

However, without an exemption from the APA, implementation of Proposition 4 funding faces unnecessary delays. Many administering agencies already operate established, transparent, and well-vetted guidelines, such as Intended Use Plans, competitive grant criteria, and public oversight processes that are routinely used to deploy similar bond funds. Requiring a duplicative APA rulemaking process would force agencies to create entirely new programs, divert staff resources, and delay funding for projects that are ready to move forward.

The Legislature has a long-standing precedent of authorizing APA exemptions for voter-approved bond measures, such as for all three recent climate bonds, and for complex infrastructure programs when timely deployment is essential. These exemptions do not eliminate accountability or public input; instead, they rely on existing statutory safeguards, board oversight, and reporting requirements to ensure transparency and responsible use of public funds.

AB 35 simply ensures Proposition 4 implementation as voters intended: swiftly, responsibly, and based on sound science and established practices. This APA exemption will allow state agencies to deliver critical investments to communities without delay, maximize the impact of bond funds, and respond effectively to California's pressing wildfire, climate infrastructure and clean water challenges.

2) Proposition 4. Proposition 4 was approved by the voters on the November 5, 2024, statewide general election, authorizing \$10 billion in general obligation bonds to finance projects for safe drinking water, drought, flood, and water resilience, wildfire and forest resilience, coastal resilience, extreme heat mitigation, biodiversity and nature-based climate solutions, climate-smart, sustainable, and resilient farms, ranches, and working lands, park creation and outdoor access, and clean air programs.

- 3) **Administrative Procedures Act.** The APA establishes rulemaking procedures and standards for state agencies in California. The requirements set forth in the APA are designed to provide the public with a meaningful opportunity to participate in the adoption of state regulations and to ensure that regulations are clear, necessary, and legally valid.

The average timeline for APA rulemaking varies, but generally require about 12-18 months to complete a rulemaking, depending on complexity, public input, and OAL efficiency. OAL, according to its 2024-2027 Strategic Plan, has 26 employees responsible for reviewing administrative regulations proposed by more than 200 state agencies for compliance with the standards in the APA, transmitting these regulations to the Secretary of State, and publishing regulations in the California Code of Regulations.

The APA has specified timelines for review that includes a minimum 45-day public comment period after notice of publication, agency review/response to comments (which can take weeks to months), and a mandatory 30-day working day review by OAL before filing.

AB 149 (Committee on Budget), Chapter 106, Statutes of 2025, adopted language allowing regulations adopted under Proposition 4 to be adopted as emergency regulations, and allows those emergency regulations to remain in effect until repealed or amended by the adopting state agency. This APA exemption is limited in scope compared to prior natural resource bonds, including Propositions 84, 68, and 1, which provided broader exemptions from the APA for the development and adoption of program guidelines and selection criteria.

- 4) **Amending voter-approved bonds.** California's general obligation bond law and state constitution provide specific guidance on whether the Legislature can amend general obligation bonds after they're approved by voters.

California Constitution (Article XVI, § 1 and 2) generally states that once voters approve bond authorization, that law cannot be repealed or materially altered while debt remains outstanding. The General Obligation Bond Law reaffirms the constitutional provisions.

A modification, such as an APA exemption, is permissible as it is not a material change to the bond language approved by the voters, as evidenced by AB 149.

- 5) **Challenges with the APA process.** Multiple state agencies implementing Proposition 4 funding are currently dealing with issues relating to the emergency regulatory authority and the APA process.

For example, the Wildlife Conservation Board (WCB) planned to have regulations considered by OAL on December 4, but withdrew their proposal after OAL provided indications they were going to reject them.

The regulatory process requires program guidelines to be written in a strict, formulaic way. For many programs, such as WCB's, describing these programs that span millions of acres, dozens of ecosystems, and countless project types, in formulaic regulatory language has proven difficult and inefficient. WCB staff is now planning to re-do the regulations and bring it back to the WCB in February. If WCB approves them, they will go back to OAL for review.

Granting Proposition 4 funds to fund environmental projects as expeditiously as possible is especially time-sensitive. It is estimated that under the Trump Administration federal funding cuts and rescinded funding for environmental and clean energy programs in California is significant and irreplaceable – upwards of \$7.7 billion in environmental and clean energy funds tied to California projects have been rolled back. Further, the Legislative Analyst's Office estimates California faces an approximately \$18 billion budget deficit for the 2026-27 fiscal year, which is larger than previously expected, with structural deficits projected to grow to \$35 billion annually by 2027-28.

- 6) **Expanding the APA exemption.** AB 35 adds an APA exemption to Proposition 4 to mirror the APA exemption provided in the past natural resource general obligation bonds for the development and adoption of program guidelines and selection criteria needed to effectuate or implement the programs included in the bond.
- 7) **Keeping sunshine on this climate bond.** There are 21 provisions in Proposition 4 that make \$1.82 billion available for entirely novel programs. Absent the APA process, the state could develop guidelines and regulations for these programs without any stakeholder input or transparency into the decision making. While the need to expedite this funding is real, new programs should not be developed behind closed doors. To ensure light is shed on the development processes of these new programs, the bill could be amended to require draft and final regulations to be posted on the respective state entity's website and allow opportunities for public engagement.
- 8) **Committee amendments.** The *committee may wish to consider* amending the bill to maintain PRC 90135 (e)(1)-(2) to maintain the Legislature's adoption of emergency regulatory authority pursuant to AB 149, and requiring specified transparency and public participation requirements are met if the full APA exemption is exercised.

REGISTERED SUPPORT / OPPOSITION:

Support

Agricultural Institute of Marin
American Canyon Community & Parks Foundation
Association of California Water Agencies
Audobon California
Bay Area Council
Bay Area Ridge Trail Council
Bay Planning Coalition
Big Sur Land Trust
Bolsa Chica Land Trust
CalDesal
California Association of Local Conservation Corps
California Association of Resource Conservation Districts
California Association of Sanitation Agencies

California Climate and Agriculture Network
California Council of Land Trusts
California Fire Chiefs Association
California Habitat Conservation Planning Coalition
California Invasive Plant Council
California Local Conservation Corps Foundation
California Municipal Utilities Association
California State Association of Counties
California State Parks Foundation
California Stormwater Quality Association
California Tahoe Alliance
Calleguas Municipal Water District
Carbon Cycle Institute
Central California Environmental Justice Network

Cesar Chavez Environmental Corps
City of Sacramento
Civicorps
Clean Water Action
Climate Resolve
Coachella Valley Conservation Commission
Coastal Corridor Alliance
Collaborate Action Program
Community Water Center
Conservation Corps North Bay
Conservation Corps of Long Beach
County of San Diego
County of Sonoma
East Bay Regional Park District
East Contra Costa County Habitat Conservancy
Eastern Municipal Water District
El Dorado Water Agency
Endangered Habitats League
Fire District Association of California
Fresno Eoc Local Conservation Corps
Friends of Harbors, Beaches and Parks
Greater Valley Conservation Corps
Hi-desert Water District
Irvine Ranch Water District
Land Trust of Santa Cruz County
League of California Cities
Los Angeles Conservation Corps
Los Angeles Neighborhood Land Trust
Midpeninsula Regional Open Space District
Mission Springs Water District
Monterey One Water
Napa County Regional Park and Open Space District
National Audubon Society
Orange County Conservation Corps
Outdoor Outreach
Outward Bound Adventures
Peninsula Open Space Trust
Placer County Water Agency
Rails to Trails Conservancy
Resource Conservation District of Greater San Diego County

Rural County Representatives of California
Sacramento Area Sewer District
Sacramento Regional Conservation Corps
San Diego County Water Authority
San Diego Natural History Museum
San Diego Zoo Wildlife Alliance
San Diego; County of
San Gorgonio PASS Water Agency
San Joaquin Valley Water Collaborative Action Program
San Jose Conservation Corps
San Luis Delta-Mendota Water Authority
Santa Clara Valley Open Space Authority
Santa Clara Valley Water District
Santa Margarita Water District
Save Mount Diablo
Save the Redwoods League
Sempervirens Fund
Sequoia Community Corps
Sierra Consortium
Sloughhouse Resource Conservation District
Sonoma County Agriculture and Open Space
Sonoma Land Trust
Southern California Mountains Foundation
Southern California Water Coalition
Sustainable Conservation
Sweetwater Authority
Temecula-Elsinore-Anza-Murrieta Resource Conservation District
The Conservation Fund
The Freshwater Trust
The Nature Conservancy
The Wilderness Society
The Wildlands Conservancy
Upper San Luis Rey Resource Conservation District
Urban Corps of San Diego County
Valley Water
Water Blueprint for the San Joaquin Valley Advocacy Fund
Watereuse California
Wildfire Solutions Coalition

Opposition

None on file

Analysis Prepared by: Paige Brokaw/ NAT. RES. /