
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Josh Becker, Chair

2025 - 2026 Regular

Bill No: AB 35 **Hearing Date:** June 9, 2026
Author: Alvarez
Version: January 14, 2026 Amended
Urgency: Yes **Fiscal:** Yes
Consultant: Katharine Moore

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

BACKGROUND AND EXISTING LAW

Proposition 4 (2024)

In the November 2024 statewide election, the state's voters approved Proposition 4 – the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 – by a vote of approximately 60% to 40% (9,055,116 to 6,086,414). Proposition 4 authorizes the sale of \$10 billion in general obligation bonds to finance various natural resources-related and energy programs and projects, and was placed on the ballot by the Legislature (SB 867 (Allen et al., Chapter 83, Statutes of 2024)(Public Resources Code (PRC) §§90000 *et seq.*).

Proposition 4 requires state agencies disburse certain funds through competitive grants, and generally requires that projects funded should be consistent with the policies and guidelines of various existing programs, as applicable.¹ Additionally, Proposition 4 explicitly authorizes the Legislature to enact legislation to implement programs funded by Proposition 4 (PRC §90115).

The Fiscal Year (FY) 2025 – 2026 budget appropriated \$3.29 billion from Proposition 4 across all eight chapters of the bond. The Governor's proposed FY 2026 – 2027 budget appropriates an additional \$2.104 billion leaving \$4.606 billion of the bond for later years.²

The Administrative Procedures Act (APA)

The APA (Government Code §§11340 *et seq.*) establishes rulemaking procedures and standards for state agencies in California and is implemented by the Office of Administrative Law (OAL). APA requirements are designed to provide the public with a meaningful opportunity to participate in the adoption of state regulations and to ensure

¹ See, for example, PRC §93060 which states "Projects funded pursuant to this chapter shall be consistent with the policies and guidelines established by the Wildlife Conservation Board, the Pathways to 30x30 strategy, the Natural and Working Lands Climate Smart Strategy, California's 2022 Scoping Plan for Achieving Carbon Neutrality, and the California Climate Adaptation Strategy, if applicable."

² Final legislative action on the FY 2026 – 2027 Proposition 4 appropriation has not occurred as of June 1, 2026.

that regulations are clear, necessary, and legally valid. Once a proposed notice of rulemaking is posted, an agency has one year to complete the rulemaking process. State agencies may also choose to engage in pre-rulemaking efforts generating “discussion drafts” of regulations prior to submittal to OAL for controversial and complicated potential rulemakings in order to meet the one year timeline once the formal rulemaking process has started. The APA has certain specified time periods for proposal review that includes a minimum 45-day public comment period after notice of publication, and a mandatory 30 working day review by the OAL before filing. State agency response to comments received during the process can take multiple months. Regulations, once approved, are valid indefinitely.

In addition to the regular rulemaking process, there is an emergency one as well. The emergency rulemaking process has shorter time periods for public comment (5 days after posting), OAL review (10 days), and, once issued, emergency regulations remain in effect for 180 days with the possibility of two subsequent re-adoptions of 90 days each.

In numerous instances, existing law waives or modifies the provisions of the APA, including for the development of certain state agency competitive grant project solicitation and selection criteria guidelines.

Implementation of grant programs funded through natural resources bonds

The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (Proposition 40) (2002) does not require adherence to the APA for grant-making, but delegates the authority in some instances to the director of the relevant stage agency to develop criteria (see, for example, PRC §5096.624). The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002³ (Proposition 50) (2002) also provides in relevant chapters that the Legislature could subsequently enact implementing legislation (see, for example, Water Code §79531).

Later legislative natural resources-related bonds, such as the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) (2014) and the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018 (Proposition 68) (2018), include language specifying how state agencies develop competitive grant program guidelines. In Proposition 68, for example, state agencies are directed to develop project solicitation and evaluation guidelines through a public process. This public process includes posting draft guidelines online, holding public meetings to consider public comments to draft guidelines at least 30 days after posting, requiring the Natural Resources Agency to verify compliance of the guidelines with requirements, and transmitting the guidelines to applicable legislative committees after finalization. Importantly, state agencies with existing project solicitation and evaluation guidelines are allowed to continue to use them, and the APA process is waived for those who did not.⁴

³ Proposition 50 was a voter initiative.

⁴ PRC §80010 (Proposition 68), and Proposition 1 contains an earlier version of this language (PRC §§ 79705, 79706).

Implementation of grant programs funded through Proposition 4

Proposition 4, as passed by the voters, did not include explicit direction on how state agency competitive grant programs were to develop guidelines for disbursement of funds. Last year, one of the public resources budget trailer bills, AB 149 (Committee on Budget, Chapter 106, Statutes of 2025), addressed this issue. AB 149 modified Proposition 4 to authorize the adoption of emergency regulations for the purpose of developing and adopting program guidelines and selection criteria by a state entity in order to implement or effectuate Proposition 4 programs, and provided that any emergency regulations would remain in effect until repealed or amended by the adopting agency.

Eight state agencies, including the Department of Forestry and Fire Protection's Forest Resilience Grant Program, have received OAL approval of emergency regulations to implement their Proposition 4 grant programs.⁵ However, six state agencies have withdrawn their proposed Proposition 4 emergency regulations. At least some of those agencies, such as the Wildlife Conservation Board and the State Coastal Conservancy, were unable to obtain emergency regulations for long-standing and well-regarded grant programs due to differences between their implementation and the APA's strict requirements. This failure posed a risk to timely grant-making, and put the implementation of certain projects at risk.

To alleviate this potential bottleneck, in February 2026 the Legislature passed, and the Governor signed into law, AB 107 (Gabriel, Chapter 5, Statutes of 2026) which provides an APA exemption for the development and adoption of program guidelines and selection criteria needed to effectuate or implement any Proposition 4 funding in the Budget Act of 2025.

Existing law:

- 1) Establishes Proposition 4, which authorizes the sale of \$10 billion in general obligation bonds, if approved by voters, for various purposes including safe drinking water, drought, flood, and water resilience programs, among others. (PRC §§90000 *et seq.*)
- 2) Authorizes the Legislature to enact legislation necessary to implement programs funded by Proposition 4. (PRC §90115)
- 3) Authorizes an emergency regulation for purposes of developing and adopting program guidelines and criteria to effectuate or implement Proposition 4 programs, and requires the emergency regulation to remain in effect until repealed or amended by the adopting state agency. (PRC § 90135(e))
- 4) Pursuant to the APA (Government Code 11340 *et seq.*)
 - a) Establishes OAL, and charges them 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

⁵ As of June 1, 2026.

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.
- 5) Pursuant to Proposition 68, exempts the development and adoption of program guidelines and selection criteria adopted pursuant to Proposition 68 from the APA, and provides a non-APA public process for the adoption of program guidelines and selection criteria, as specified. (PRC §80010)

PROPOSED LAW

This bill would:

- 1) Authorize the adoption of a regulation for the purpose of developing and adopting program guidelines and selection criteria needed to effectuate or implement Proposition 4 programs, as provided.
- 2) Exempt the development and adoption of program guidelines and selection criteria needed to effectuate or implement Proposition 4 programs from the APA, as provided.
 - a) Require a state entity using the APA exemption before disbursing Proposition 4 grants to do the following:
 - i) Develop draft project solicitation and evaluation guidelines.
 - ii) Publish the draft solicitation and evaluation guidelines on its internet website for a public comment period of at least 30 days. Require all written public comments to be posted on its internet website, as provided. Require the state entity to respond to each public comment.
 - iii) Offer opportunity for tribal consultation to impacted tribes.
 - iv) Require the state entity to finalize project solicitation and evaluation guidelines after completing i), ii) and iii) above.
 - v) Require the state entity, with the exception of the State Water Resources Control Board, to submit the final guidelines to the Secretary of the Natural Resources Agency. Require the Secretary to verify that the guidelines are consistent with applicable statutes and the purposes of Proposition 4. Require the Secretary to post an electronic form of the guidelines and subsequent verification on the Natural Resources Agency's internet website.

- 3) Provide that the use of existing project solicitation and evaluation guidelines that comply with the requirements of 1) and 2) above and that were developed and adopted prior to the effective date of this act comply with this act.
- 4) State this bill is an urgency statute necessary for the immediate preservation of the public peace, health, or safety for specified reasons.
- 5) Make minor and technical changes to statute.

ARGUMENTS IN SUPPORT

According to the author, “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 Administrative Procedure Act (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.”

ARGUMENTS IN OPPOSITION

None received

COMMENTS

Addresses delays/potential delays in Proposition 4 grant-making. By providing a non-APA pathway for guideline development for Proposition 4-funded competitive grant programs, this bill will help to facilitate state grants to fund much-needed natural resources-related projects. As noted above, some highly regarded long-established grant programs that fund a broad spectrum of projects statewide do not readily conform to the APA process. Forcing the state agencies that operate those grant programs to narrow them or create new narrow programs tailored to conform to the APA process is both potentially time-consuming and inconsistent with voter-approved language in

Proposition 4 requiring consistency with existing programs. Authorizing a non-APA process is also consistent with previous natural resources bonds.

Further, this bill leaves in place existing provisions for a state agency that has successfully obtained emergency regulations for a Proposition 4-funded program to continue to use them.

Since this bill was transmitted to the Senate in January, the Legislature passed AB 107 authorizing an APA exemption applicable to competitive grant programs with Proposition 4 appropriations in the Budget Act of 2025. Additionally, this bill does not include in the proposed non-APA process the public meeting or transmittal of the guidelines to the Legislature requirements found in Proposition 68, among other bonds.

In view of this, the Committee may wish to amend the bill to:

- Address the passage of AB 107 earlier this year [Amendment #1]
- Add to the non-APA process, a public meeting requirement and transmittal of the draft and final guidelines to the relevant legislative committees [Amendment #2]
- Make two minor technical changes [Amendment #3]

No need to return to the voters. According to the Assembly Natural Resources Committee, California's general obligation bond law and the state constitution provide specific guidance on whether the Legislature can amend general obligation bonds after they have been approved by voters.

The 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. Additionally, Proposition 4's language approved by the voters specifically authorized the Legislature to enact legislation necessary to implement the bond.

Recent related legislation

AB 107 (Gabriel, Chapter 5, Statutes of 2026) amended the Budget Acts of 2023, 2024, and 2025, and provided that the APA does not apply to the development and adoption of program guidelines and selection criteria to effectuate or implement any program funded by any Proposition 4 appropriation in the Budget Act of 2025, as provided.

AB 149 (Committee on Budget, Chapter 106, Statutes of 2025) is a public resources budget trailer bill that provides that a regulation for the purpose of developing and adopting program guidelines and selection criteria for appropriated Proposition 4 monies be required for all programs, authorizes the adoption of the guidelines and criteria via emergency regulation, and requires that any emergency regulation stays in effect until repealed or amended by the adopting state agency.

SB 867 (Allen et al., Chapter 83, Statutes of 2024), subject to voter approval, establishes Proposition 4 which authorizes \$10 billion in general obligation bonds to finance state and local parks, environmental protection projects, water infrastructure projects, energy projects, and flood protection projects. (*Proposition 4 was approved by*

the state's voters in the November 2024 statewide election by a vote of approximately 60% to 40%.

SB 5 (de León et al., Chapter 852, Statutes of 2017), subject to voter approval, establishes Proposition 68 which authorizes \$4 billion in general obligation bonds to finance drought, water, parks, climate, coastal protection, and outdoor access for all projects, as provided. *(Proposition 68 was approved by the state's voters in the June 2018 statewide election by a vote of approximately 58% to 42%.)*

AB 1471 (Rendon et al., Chapter 188, Statutes of 2014), subject to voter approval, establishes Proposition 1, which, among other provisions, authorizes \$7.12 billion in general obligation bonds to finance water supply infrastructure projects, as provided. *(Proposition 1 was approved by the state's voters in the November 2014 statewide election by a vote of approximately 67% to 33%.)*

AB 140 (Nunez and Perata, Chapter 33, Statutes of 2006), subject to voter approval, establishes the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Proposition 1E) which authorizes \$4.09 billion in general obligation bonds to finance flood control structures and water supply systems, as provided. *(Proposition 1E was approved by the state's voters in the November 2006 statewide election by a vote of approximately 64% to 36%.)*

AB 1602 (Keeley et al., Chapter 875, Statutes of 2001), subject to voter approval, establishes Proposition 40 which authorizes \$2.6 billion to finance the acquisition and development of state parks, the acquisition and development of neighborhood, community, and regional parks and recreation areas, for land, air, and water conservation programs, and the acquisition, restoration, preservation and interpretation of California's historical and cultural resources, as provided. *(Proposition 40 was approved by the state's voters in the March 2002 statewide election by a vote of approximately 57% to 43%.)*

AB 18 (Villaraigosa et al., Chapter 461, Statutes of 1999) and SB 1147 (Leslie, Chapter 638, Statutes of 1999), subject to voter approval, establishes the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 (Proposition 12) which authorizes \$2.1 billion in general obligation bonds to finance clean water, recreational projects and to preserve open space and farmland, as provided. *(Proposition 12 was approved by the state's voters in the March 2000 statewide election by a vote of approximately 63% to 37%.)*

SUGGESTED AMENDMENTS

AMENDMENT 1

On page 5, between lines 38 and 39: add "(5) The requirements contained in this subdivision do not apply to the development and adoption of program guidelines and selection criteria needed to effectuate or implement any program that is funded by any appropriation made in the Budget Act of 2025, or in any bill identified in Section 39.00 of the Budget Act of 2025, from the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Fund established pursuant to Section 90500."

AMENDMENT 2

On page 5, line 11: after “30 days” insert “, and hold a noticed public hearing on the draft solicitation and evaluation guidelines”

On page 5, line 10: after “(B)”, delete “Publish” and insert “Transmit copies of the draft guidelines to the fiscal committees and the appropriate policy committees of the Legislature and publish.”

On page 5, between lines 30 and 31: insert: “(F) Upon adoption, transmit copies of the guidelines to the fiscal committees and the appropriate policy committees of the Legislature.”

AMENDMENT 2

On page 5, line 7: insert “paragraph (2) of” between “to” and “this”

On page 5, line 15: insert “in writing” between “respond” and “to”

SUPPORT

Agricultural Institute of Marin
Alliance of Regional Collaboratives for Climate Adaptation
American Canyon Community & Parks Foundation
Associated General Contractors of California
Association of California Water Agencies
Audubon California
Bay Area Climate Adaptation Network
Bay Area Council
Bay Area Ridge Trail Council
Bay Planning Coalition
Bellflower Somerset Mutual Water Company
Big Sur Land Trust
Blue Forest
Bolsa Chica Land Trust
CalDesal
California Local Conservation Corps Foundation
California Association of Local Conservation Corps
California Association of Recreation and Parks Districts
California Association of Resource Conservation Districts
California Association of Sanitation Agencies
California Central Valley Flood Control Association
California Climate and Agriculture Network
California Council of Land Trusts
California Fire Chiefs Association
California Fire Safe Councils
California Forestry Association
California Groundwater Coalition
California Habitat Conservation Planning Coalition
California Invasive Plant Council
California Mountain Biking Coalition

California Municipal Utilities Association
California Outdoor Recreation Partnership
California State Association of Counties
California State Parks Foundation
California Stormwater Quality Association
California Tahoe Alliance
California Water Association
California Water Efficiency Partnership
Calleguas Municipal Water District
Carbon Cycle Institute
Central Basin Water Association
Central California Environmental Justice Network
Central Coast Climate Collaborative
Cesar Chavez Environmental Corps
City of Carlsbad
City of Los Angeles
City of Moorpark
City of Rancho Cucamonga
City of Redwood City
City of Roseville
City of Sacramento
City of San Diego
City of South Lake Tahoe
City of Thousand Oaks
Civicorps
Clean Water Action
Climate Resolve
Coachella Valley Association of Governments
Coachella Valley Conservation Commission
Coastal Corridor Alliance
Collaborate Action Program
Community Nature Connection
Community Water Center
Conservation Corps North Bay
Conservation Corps of Long Beach
County of El Dorado
County of Marin
County of Monterey
County of Nevada
County of Orange
County of Placer
County of Riverside
County of San Bernardino
County of San Diego
County of Sonoma
County of Ventura
Crescenta Valley Water District
Cucamonga Valley Water District
Desert Water Agency
Ducks Unlimited

East Bay Regional Park District
East Contra Costa County Habitat Conservancy
Eastern Municipal Water District
Eastern Sierra Land Trust
El Dorado Irrigation District
El Dorado Water Agency
Elsinore Valley Municipal Water District
Endangered Habitats League
Feather River Land Trust
Fire District Association of California
Fresno EOC Local Conservation Corps
Friends of Harbors, Beaches and Parks
Greater Valley Conservation Corps
Hi-Desert Water District
Inland Empire Community Foundation
Inland Empire Utilities Agency
Irvine Ranch Conservancy
Irvine Ranch Water District
Jurupa Community Services District
Kern County Water Agency
Kings River Conservation District
Kings River Water Association
Land Trust of Santa Cruz County
Lake Tahoe Community College
Latino Outdoors
League of California Cities
League to Save Lake Tahoe
Living Classroom
Los Angeles Conservation Corps
Los Angeles Neighborhood Land Trust
Los Angeles Regional Collaborative for Climate Action & Sustainability
Marin Community Foundation
Megafire Action
Mesa Water District
Metropolitan Water District of Southern California
Midpeninsula Regional Open Space District
Mission Springs Water District
Mojave Water Agency
Monterey One Water
Monterey Regional Stormwater Management Program
Mountain Counties Water Resources Association
Napa County Regional Park and Open Space District
North Tahoe Public Utility District
Northern California Water Association
Northern Sierra Partnership
Olivenhain Municipal Water District
Orange County Conservation Corps
Otay Water District
Outdoor Outreach
Outward Bound Adventures

Pacific Forest Trust
Padre Dam Municipal Water District
Palmdale Water District
Pathways for Wildlife
Peninsula Open Space Trust
Petaluma River Park
Pico Water District
Placer County Water Agency
Placer Land Trust
Port of San Diego
Puente Basin Water Agency
Rails to Trails Conservancy
Rancho California Water District
RCD of Greater San Diego County
Regenerative Forest Solutions
Rowland Water District
Rural County Representatives of California
Sacramento Area Sewer District
Sacramento Regional Conservation Corps
Salted Roots
San Diego County Air Pollution Control District
San Diego County Water Authority
San Diego Regional Chamber of Commerce
San Diego Regional Climate Collaborative
San Diego Zoo Wildlife Alliance
San Gabriel Basin Water Quality Authority
San Geronimo Pass Water Agency
San Joaquin Valley Water Collaborative Action Program
San Jose Conservation Corps
San Juan Water District
San Luis and Delta Mendota Water Authority
SanDiego350
Santa Clara County FireSafe Council
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
Shafter-Wasco Irrigation District
Sierra Business Council
Sierra Climate Adaptation and Mitigation Partnership
Sierra Club California
Sierra Commons
Sierra County Land Trust
Sierra Foothill Conservancy
Sierra Nevada Alliance
Sierra Service Project
Sloughhouse Resource Conservation District

Solano Beach Eco Rotary Club
Sonoma County Ag + Open Space
Sonoma Land Trust
Sonoma Water
Soquel Creek Water District
South Lake Tahoe Public Utility District
Southern California Mountains Foundation
Southern California Water Coalition
Stockton East Water District
Surfrider Foundation
Surfrider Foundation, San Diego County Chapter
Sustainable Conservation
Sweetwater Authority
Tahoe City Public Utility District
Tahoe Fund
Tahoe Regional Planning Agency
Tahoe Resource Conservation District
Tahoe Transportation District
TEAMRCD
The Conservation Fund
The Freshwater Trust
The Nature Conservancy
The San Diego Natural History Museum
The Wilderness Society
The Wildlands Conservancy
Tijuana River Coalition
TOGETHER Bay Area
Town of Windsor
TreePeople
Truckee Donner Land Trust
Un Mar de Colores
United Water Conservation District
Upper San Gabriel Valley Municipal Water District
Upper San Luis Rey Resource Conservation District
Urban Corps of San Diego County
Urban Counties of California
Valley Ag Water Coalition
Walnut Valley Water District
Washoe Tribe of California and Nevada
Water Blueprint for the San Joaquin Valley Advocacy Fund
Water Replenishment District
WaterReuse California
West Valley Water District
Western Municipal Water District
WILDCOAST
Wildlife Conservation Network
YMCA of San Diego County
Yosemite Rivers Alliance

One individual

OPPOSITION
None received

-- END --