



<b>Water Storage Investment Program: Early Funding Regulation Change (Action Item)</b>
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### **Agenda Item at a Glance**

- The [Water Storage Investment Program](#), called “WSIP,” funds the public benefits of water storage projects. The public benefits are funded by Proposition 1, passed by voters in 2014, and Proposition 4, passed by voters in 2024. “Public benefits” are the ways in which water storage projects provide benefits to Californians broadly, such as cleaner water, new recreational opportunities, and improvements to the land and water fish and wildlife need to survive. For WSIP, public benefits are defined by Proposition 1.
- Water storage projects include reservoirs and underground water storage. Six projects are part of WSIP. Background information about the projects that are part of the WSIP is available [at this link](#), on the right side of the webpage.
- The California Water Commission, called “Commission,” runs WSIP by making sure that the funding is spent as the voters intended it to be. For this agenda item, Commissioners will decide whether or not to change how much WSIP funding can be given to projects as early funding. Early funding is the amount of WSIP money that a project can spend before it gets a final funding award from the Commission.
- No early funding decisions will be made at this meeting.
- This is an action item, important to anyone interested in the funding received by WSIP projects.
- At this meeting, the Commission will receive information from Commission legal counsel. Tribes and the public will have an opportunity to make a comment to the Commission before the Commission discusses this agenda item. The Commission will then vote on whether to adopt the regulation.

### **Introduction**

The California Water Commission (Commission) administers the Water Storage Investment Program (WSIP) to fund the public benefits associated with water storage projects. To implement WSIP, the Commission adopted program regulations, pursuant to California Water Code section 79755, on December 14, 2016. The regulations allow the Commission to award early funding to projects. Early funding is a portion of the total amount a project may receive once statutory requirements are met (called a Maximum Conditional Eligibility Determination

amount, or MCED) that can be spent on environmental documentation and permits, which are required for a project to receive its full MCED.

At this meeting, Commission legal counsel will present a proposed regulation change that would remove the dollar amount cap for early funding. The Commission will then vote on whether to adopt the regulation.

As currently written, WSIP regulations specify an early funding cap of five percent of a project's MCED, or \$135 million across all projects, whichever comes first. The proposed regulation change will remove the dollar amount cap for early funding for the WSIP (23 CCR § 6010 (b)(5) and (e)(1)). The proposed regulation change does not result in a re-examination of the merits of a WSIP project, nor do they change the total amount of funding a project may receive from the WSIP if the project meets all the statutory requirements of Water Code section 79755. The proposed change only removes the dollar amount cap. It does not change or remove the five percent of MCED early funding limit (23 CCR § 6010(b)(4)).

### **Background**

The Commission administers WSIP to fund the public benefits associated with water storage projects using funds from Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1), codified at Water Code section 79750 et seq, and supplemented by funds from Proposition 4, the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clear Air Bond Act of 2024 (Proposition 4). The language in Water Code section 79755(a) prevents the Commission from making final funding awards until the applicant has finalized environmental documentation, completed permits, obtained 100 percent of the non-public cost share, and has executed contracts with applicable State agencies for the administration of public benefits. However, while section 79755(a) prevents a final award until the project is construction-ready, section 79755(c) allows for early funding of projects to assist with work related to completion of environmental documentation and permits.

Program regulations implemented the early funding provision by requiring applicants to request early funding in their initial applications. In July 2018, the Commission made maximum conditional eligibility determinations (MCEDs) for projects, which set the amount of Proposition 1 funding potentially available to each project. The Commission also made three early funding awards. Early funding is a portion of a project's MCED that applicants may spend prior to the final funding award. 23 CCR sections 6010 (b)(5) and (e)(1) limit the amount of early funding the Commission can award to WSIP projects to \$135 million, which is five percent of the \$2.7 billion that was allocated to the program. Per WSIP regulations, projects are capped at receiving five percent of their MCED as early funding (23 CCR § 6010(b)(4)).

The proposed change will remove sections (b)(5) and (e)(1) of 23 CCR § 6010. Due to the dissolution of the Los Vaqueros Joint Powers Authority and withdrawal of the Los Vaqueros Expansion (LVE) project from the WSIP, the Commission may decide to allot the funds from

LVE's MCED to other projects. Prior to withdrawing from the WSIP, LVE spent its early funding award, and the \$135 million early funding cap includes those funds. If the Commission decides to redistribute LVE's MCED to other WSIP projects, those projects may not have the opportunity to receive up to five percent of their updated MCEDs as early funding due to the \$135 million cap. The proposed change would address the potential conflict between the \$135 million and five percent cap on early funding of project MCEDs.

Commission staff drafted a proposed regulation change, and posted it on the Commission website on June 30, 2025. Commission staff included the Notice of Proposed Rulemaking and draft regulation as attachments to an announcement to the Commission's listserv sent on June 30, 2025. The Notice of Proposed Rulemaking was published in the California Regulatory Notice Register on July 4, 2025. The public comment period for this regulatory action is from July 4, 2025, to August 18, 2025.

If the Commission votes to adopt the regulation, Commission staff will finalize and submit the rulemaking action package to the Office of Administrative Law (OAL). Once submitted, OAL has 30 working days to conduct a review of the rulemaking record. OAL will then either approve the rulemaking action and file the proposed regulation with the Secretary of State or disapprove the rulemaking action. Commission Staff will request that the regulations become effective upon filing with the Secretary of State. If the Commission adopts the regulation at this meeting, Commission staff anticipate the regulation to become effective in mid-to-late October.

### **Commission Decision**

The Commission may vote to adopt the regulation, after which staff will complete the rulemaking requirements for a regulation change and submit the package to the Office of Administrative Law (OAL) for approval.

The Commission may request that staff make changes or provide more information and return at a later meeting for Commission consideration. This would delay rule-making and could prevent projects from receiving five percent of their MCEDs as early funding.

The Commission may opt not to approve the regulation, limiting early funding to \$135 million total. This could prevent projects from receiving five percent of their MCEDs as early funding.

Staff recommends that the Commission vote to adopt the regulation.

### **Meeting Overview**

At the August 20, 2025, meeting, Commission legal counsel will provide an overview of the proposed regulation change, including the background as to why staff is recommending the regulation change, and provide a summary of comments received during the public comment period. Following Tribal and public comment and Commission discussion, the Commission will vote on whether to adopt the regulation.

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This is an action item.

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