

Workshop with Water Commission on Aug. 15, 2012: Quantification of Public Benefits Items for Follow-up Discussion Topics of Discussion for Guidelines

SB X7-2 Chapter 8 (the Act), codified as Water Code §79740 et seq., requires that “projects shall be selected by the commission through a competitive public process that ranks potential projects. . .” The following issues regarding the competitive public process have been identified by staff and others before and during the Commission’s discussion of the Act, held at its August 15 and September 19 meetings. This memorandum re-frames the issues with more explicit references to the related language from the Act.

This memorandum deals with issues that should be resolved to ensure an efficient and fair competitive process. It is anticipated that this process will be explained in Guidelines that will be provided to potential applicants before project applications are solicited. A separate memorandum deals with the Commission’s responsibility to develop a regulation that details methods for quantification and management of public benefits. It is the intent of the Commission that these discussions will spur collaboration with and inform this and other efforts to address public benefits and water financing.

1. Evaluation Process

The Act states

§79740(c) Projects shall be selected by the commission through a competitive public process that ranks potential projects based on the expected return for public investment as measured by the magnitude of the public benefits provided, pursuant to criteria established under this chapter.

Related issues that have been identified are

1. How should funding be apportioned over time or among categories of projects? For example, should funding be awarded based on a single proposal solicitation; should two or more solicitation rounds be used; could the State funding be allocated among the four types of storage projects, or split between big vs. small projects, in advance?
2. How will the Commission consider non-monetized benefits in its assessment of “expected return for public investment”)?
3. How will the Commission consider “priorities and relative environmental values” relative to “expected return for public investment”)?
4. What should be the role of federal funding in the ranking of applications? How should the application process encourage project plans that promise a substantial federal contribution?¹
5. How should the overall ranking, scoring, and decision process be structured? For example, should there be an overall scoring system that would combine into a single score: monetized benefits, non-monetized benefits, environmental priorities and relative values, and overall return for public investment?

¹ The potential federal role in management and funding of eligible projects is discussed in the other memorandum.

6. Staff has proposed that an expert proposal review panel be used to evaluate the technical quality of applications. Should the guidelines specify detail on the structure, functioning, and protocols for the proposal review panel?
7. Should the guidelines and applications require that applicants explicitly demonstrate the following conditions required by §79742 and §79740(b) of the Act?

§79742. A project shall not be funded pursuant to this chapter unless it provides measurable improvements to the Delta ecosystem or to the tributaries to the Delta.

§79740(b) Notwithstanding Section 13340 of the Government Code, the sum of three billion dollars (\$3,000,000,000) is hereby continuously appropriated from the fund, without regard to fiscal years, to the commission for public benefits associated with water storage projects that improve the operation of the state water system, are cost effective, and provide a net improvement in ecosystem and water quality conditions, in accordance with this chapter.

- a. Should applicants be required to provide at least one physical benefit measure for ecosystem improvement for the Delta or its tributaries?
- b. Should applicants demonstrate that proposed projects "improve the operation of the state water system?" If so, how? If not, what related information in applications may be required?
- c. Does the "cost-effective" language in §79740(b) mean that applicants should identify the least-cost, feasible alternative that provides the same package of public benefits as the proposed project?

(Note: The current draft of the regulation only says that, for each individual benefit, applicant must identify any feasible alternative but the current draft of the guidelines asks applicants to identify feasible alternative for the package of public benefits as well.)
- d. Should applicants be required to demonstrate that the project will provide a net improvement in ecosystem and water quality conditions? If not, how will this condition be assured?

2. Other Process

How will the commission evaluate a request to fund the completion of environmental documentation and permitting (per §79745(c))?

§79745(c) Notwithstanding subdivision (a), funds may be made available under this chapter for the completion of environmental documentation and permitting of a project.

Given that draft environmental documentation is required for the application to be eligible for funding (§79747(a)(1)), can funding be provided only for finalizing the document? Could funding be provided to reimburse costs for a draft document or an already-completed document?

Does the Commission need further clarification or discussion about DFG ecosystem and Board water quality "priorities and relative environmental values"?

Does the Commission need further clarification regarding cost allocation procedures and the nature of their results?