



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

Notice of Time and Location Change

**LEGISLATIVE/HUMAN RESOURCES
COMMITTEE MEETING**

Tuesday, July 13, 2021

10:30 a.m.

*****Virtual*****

Notice is hereby given that the Tuesday, July 13, 2021 Legislative/Human Resources Committee Meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 10:30 a.m.

In accordance with the Governor's Executive Order N-08-21 which suspends portions of the Brown Act, **this meeting will be conducted by webinar and teleconference only.** A physical location will not be provided for this meeting.

Dated: July 8, 2021



Rischa S. Cole
Secretary of the District

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**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 – 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

AGENDA
Legislative/Human Resources Committee
Tuesday, July 13, 2021
10:30 a.m.
*****Virtual*****

Location

In accordance with the Governor's Executive Order N-08-21 which suspends portions of the Brown Act, **this meeting will be conducted by webinar and teleconference only.** A physical location will not be provided for this meeting.

Committee Members: Directors John Coleman {Chair}, Lesa McIntosh and William Patterson

***** Please see appendix for public participation instructions*****

ROLL CALL:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification or referring a matter to staff when responding to items that are not listed on the agenda.

DETERMINATION AND DISCUSSION:

1. Legislative Update: (Dumaine)
 - Receive Legislative Report No. 07-21 and consider positions on the following bills: AB 1066 (Bloom) Priority Inland Water-Contact Recreation Sites: Water Quality Monitoring; SB 222 (Dodd) Water Rate Assistance Program; and Budget Trailer Bill (TBD) SupplyBank: Oakport Street Project: Clarifying Language: Transportation; and receive information on State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19)
 - Update on Legislative Issues of Interest to EBMUD

ADJOURNMENT:

Disability Notice

If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.

Document Availability

Materials related to an item on this agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours, and can be viewed on our website at www.ebmud.com.

Legislative/Human Resources Committee Meeting
Tuesday, July 13, 2021
10:30 a.m.

EBMUD public Board meetings will be conducted via Zoom.
Board committee meetings are recorded, and live-streamed on the District's website.

Please visit this page beforehand to familiarize yourself with Zoom.
<https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

Online

<https://ebmud.zoom.us/j/98022213415?pwd=Q0JkaXptbSt3eW5XRElvRUNIZHRpUT09>

Webinar ID: 980 2221 3415

Passcode: 352334

By Phone

Telephone: 1 669 900 6833

Webinar ID: 980 2221 3415

Passcode: 352334

International numbers available: <https://ebmud.zoom.us/u/aAI2mmQjh>

Providing public comment

The EBMUD Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

If you wish to provide public comment please:


- Use the raise hand feature in Zoom to indicate you wish to make a public comment
<https://support.zoom.us/hc/en-us/articles/205566129-Raising-your-hand-in-a-webinar>
 - If you participate by phone, press *9 to raise your hand
- When prompted by the Secretary, please state your name, affiliation if applicable, and topic
- The Secretary will call each speaker in the order received
- Comments on **non-agenda items** will be heard at the beginning of the meeting
- Comments on **agenda items** will be heard when the item is up for consideration
- Each speaker is allotted 3 minutes to speak; the Committee Chair has the discretion to amend this time based on the number of speakers
- The Secretary will keep track of time and inform each speaker when his/her allotted time has concluded


To observe the Legislative/Human Resources Committee Meeting,
please visit: <https://www.ebmud.com/about-us/board-directors/board-meetings/>

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: July 8, 2021

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Marlaigne Dumaine, Manager of Legislative Affairs 

SUBJECT: Legislative Report No. 07-21

The following issues are being referred to the Legislative/Human Resources Committee for review and recommendation to the Board of Directors for action, as appropriate, on July 13, 2021.

RECOMMENDED ACTION

Approve positions on the following bills: 1) Support AB 1066 (Bloom) Priority inland water-contact recreation sites: water quality monitoring; 2) Support if Amended SB 222 (Dodd) Water Rate Assistance Program; 3) Support Budget Trailer Bill (TBD) SupplyBank: Oakport Street Project: Clarifying Language: Transportation; and receive information on State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

STATE LEGISLATION

RECOMMENDED POSITION

AB 1066 (Bloom)	PRIORITY INLAND WATER-CONTACT RECREATION SITES: WATER QUALITY MONITORING	SUPPORT
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Existing law requires the California Department of Public Health (CDPH), by regulation and in consultation with the State Water Resources Control Board (SWRCB), local health officers, and the public, to establish, maintain, and amend, as necessary, minimum standards for the sanitation of public beaches. As defined in law, public beaches include beaches in the coastal zone, not inland beaches. Existing law also establishes the California Water Quality Monitoring Council (Council), administered by the SWRCB, and requires the Council to undertake various actions relating to water quality data collection and to review existing water quality monitoring, assessment, and reporting efforts and recommend specific actions and funding needs to coordinate and enhance those efforts.

AB 1066, as amended on June 24, 2021, is intended to protect public health by providing a path to establish an inland water recreation site water quality monitoring program. To do this, AB

1066 would primarily require, on or before, December 31, 2023, the Council, in consultation with the CDPH, local health officers, and the public, to propose to the SWRCB a definition of priority water-contact recreation site, as well as recommendations and requirements for establishing of a priority water-contact recreation site monitoring program.

The bill specifies that various characteristics of water body must be considered in developing a definition of a priority water-contact recreation site including, but not limited to, whether a water body is used for recreational events with water contact, if the water body is accessed through a required fee area and used for water contact recreation, if the water body is used by a high number of persons for water contact recreation, and whether the water body has been identified as having the potential for significant water quality hazards.

Under the bill, the Council's proposed recommendations and requirements for the monitoring program shall include but are not limited to the following: 1) the number of monitoring samples necessary per priority water-contact recreation site; 2) the frequency of monitoring; 3) the annual or seasonal duration of monitoring; and 4) the microbiological standards, methods, and data sharing protocols to be used to support an effective monitoring program.

According to the author, "California's rivers, lakes, and streams are not monitored for recreational water quality in the same manner as ocean beaches. Visitors to freshwater recreation sites may be exposed to contaminated water with no knowledge of its contamination." The author notes that the CDPH "started guidance for Fresh Water Beaches in May 2006...but this guidance was not formally adopted." AB 1066 "will address a key public health challenge that many Californians face in outdoor recreation – ensuring there are science and health based bacterial standards, ongoing water quality monitoring, and public notification for freshwater recreation where needed."

EBMUD manages and operates recreational swimming areas at Camanche Reservoir, and voluntarily conducts routine water quality monitoring for total coliform, fecal coliform, and E. coli every two weeks during the summer (from Memorial Day to Labor Day). If bacteria levels exceed state guidance levels, EBMUD would close the affected areas, post notices indicating the closure, and conduct weekly monitoring until the water quality has improved and swimming is again allowed.

AB 1066 is intended to protect public health by providing a basis for the state to establish a comprehensive and coordinated monitoring program for inland recreational water bodies that allow bodily contact, have a high number of users, and have the potential for significant water quality hazards. AB 1066 is consistent with EBMUD's mission to manage the natural resources it is entrusted with and provide high-quality drinking water to its customers.

Additional costs could accrue if EBMUD recreation sites are identified as priority water-contact recreation sites and additional or increased water quality monitoring is required. However, as the bill provides for establishing a monitoring program with the details of the program to be worked out through a regulatory process it is unclear at this time whether any EBMUD recreation sites

would be designated as priority water-contact recreation sites and whether additional or increased water quality monitoring would be required. Statewide benefits are expected to accrue in terms of enhanced public health protections.

EBMUD has previously supported legislation to support protection of water quality and public health. In 2019, EBMUD supported AB 834 (Quirk) that was intended to help address water quality issues related to harmful algal blooms and required the SWRCB to establish a Freshwater and Estuarine Harmful Algal Bloom Program. AB 834 was signed into law (Chapter 354 of 2019). In 2018, EBMUD supported AB 2053 (Quirk), which was substantially similar to AB 834. AB 2053 failed to advance out of the legislature.

The official list of support and opposition to AB 1066 is shown below.

Support

California Association of Environmental Health Administrators (CAEHA)
California Coastkeeper Alliance
Coachella Valley Waterkeeper
Heal the Bay
Inland Empire Waterkeeper
Los Angeles Waterkeeper
Monterey Coastkeeper
Russian Riverkeeper
San Diego Coastkeeper
Santa Barbara Channelkeeper
Yuba River Waterkeeper

Opposition

None listed

SB 222 (Dodd)	WATER RATE ASSISTANCE PROGRAM	SUPPORT IF AMENDED
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Existing law, pursuant to AB 401 (Dodd), Chapter 662, Statutes of 2015, required the State Water Resources Control Board (SWRCB) to develop a plan for the funding and implementation of a low-income water rate assistance program, and report back to the legislature on its findings regarding the feasibility, financial stability, and desired structure of the program, including any recommendations for legislative action. The resulting Low-Income Water Rate Assistance Final Report (referred to as the “AB 401 Report”), was released in February 2020, and focuses on components for developing a successful program to help low-income households afford their drinking water by identifying potential program recipients, different mechanisms for delivering assistance to low-income households, and possible funding sources to implement such a program.

The AB 401 Report envisions a statewide program with benefits distributed through three different components to help low-income households (defined as at or below 200% of Federal Poverty Level (FPL)), including: 1) direct water bill assistance; 2) a renter's water credit for residents who pay for water indirectly through rent; and 3) crisis assistance for water ratepayers. The statewide nature of the program, according to the AB 401 Report, is "due to the impracticality of a comprehensive low-income rate assistance program at the system level." To fund the program, the AB 401 Report recommends the use of progressive revenues sources for most of the program cost "to avoid burdening the very state residents the program seeks to serve" and includes, among other things, a mix of taxes on personal and business income and taxes on bottled water.

SB 222, as amended on July 5, 2021, would establish the Water Rate Assistance Program (Program) to provide water affordability assistance for both drinking water and wastewater services to low-income ratepayers and is generally intended to implement recommendations in the AB 401 Report. SB 222's provisions are contingent upon an appropriation in the annual Budget Act or another statute, with no funding source yet identified, meaning that the requirements of the Program would not take effect until funding is allocated. At this time, there is no Program funding provided in the current state budget.

SB 222 would assign oversight and implementation of the Program to the California Department of Community Services and Development (CSD), with the SWRCB in a consultation role, and would place certain requirements on the Public Utilities Commission (PUC). The bill's language is ambiguous with regard to any potential obligations that may be placed on public water systems.

Specifically, SB 222 would require CSD to do all of the following things:

- Develop and administer the Program to provide direct water bill assistance, credits to renters or households that pay other fees related to water or wastewater services, and water crisis assistance.
- Track and manage Fund revenue, including developing and implementing a process for disbursing program funds to public water systems, sewer systems, or third-party providers and verifying the eligibility of individuals. SB 222 would permit but not require CSD to contract with a third-party fund administrator for various Program duties, including, but not limited to, eligibility determination, call center services, internet-based enrollments, and document intake and processing.
- Identify household eligibility using enrollee information from CalWORKS, CalFresh, general assistance, Medi-Cal, Supplemental Security Income (SSI) or State Supplementary Payment Program (SSP), or California Special Supplemental Nutrition Program for Women, Infants and Children (WIC), and whether utility customers are

enrolled in the California Alternate Rates for Energy (CARE) program and the Family Electric Rate Assistance (FERA) program.

- As part of the eligibility determination, SB 222 contains provisions to facilitate the sharing of CARE, FERA, and customer assistance program data with CSD by investor-owned and public electric and gas utilities. SB 222 would also authorize CSD to provide data to local water agencies for the sole purpose of assisting with the administration of the Program.
- Consult with the SWRCB to develop program implementation guidelines, including the establishment of an advisory group comprised of representatives from public water systems, sewer systems, technical assistance providers, local agencies, non-governmental organizations, and the public.
- In consultation with the SWRCB and the advisory group, adopt an annual fund expenditure plan that includes information on prior year spending, number of and households served, planned expenditures, and the estimated number of households eligible for assistance. The report would also be required to provide information on water and wastewater affordability challenges, proposed solutions for reducing water debt, methods to ensure public participation, and an estimate of funding available for the next fiscal year.
- In consultation with the SWRCB and upon appropriation by the legislature, provide water crisis assistance to low-income households, if moneys are deposited into the Fund before the adoption of the annual fund expenditure plan. SB 222 does not define the term “crisis assistance,” however, according to the AB 401 report, crisis assistance would be for those directly billed customers in danger of having drinking water service shut off due to inability to pay their bill on time.
- With regard to investor-owned water utilities (IOUs), SB 222 would require CSD to coordinate with the PUC to cease the state-mandated existing rate assistance programs for IOUs and transition those customers to the Program through a process established by the PUC, once the annual funding expenditure plan is adopted and funding for the Program is available.
- With regard to public water systems or sewer systems not regulated by the PUC, SB 222 would require CSD to consult with the SWRCB on options to provide oversight of the public water system’s implementation of the program and require CSD to identify alternative entities to distribute and track benefits if a public water system is unwilling or incapable of administering the Program.
- Finally, it would require CSD, in consultation with the SWRCB and the PUC, to develop and publish performance metrics for the Program, including but not limited to, enrollment levels, total water shutoffs for inability to pay and on-time payment levels.

According to the AB 401 Report, “only about half of California’s population is served by a community water system (CWS) offering some form of rate assistance program, and most of these existing programs have low levels of enrollment and limited financial resources...as a result, less than 20% of the state’s low-income population served by CWSs currently receives benefits from a low-income rate assistance program.” The creation of a permanent statewide water and wastewater low-income ratepayer assistance program would provide a safety net for water and wastewater utility service that is similar to other assistance programs in the energy sector.

EBMUD established its generous Customer Assistance Program (CAP) in 1986 to help with water and sewer bills for eligible customers up to 300% of FPL, which is beyond the anticipated benefit level specified in SB 222. CAP is funded through non-rate revenue sources due to constitutional prohibitions from imposing water rates on non-eligible customers that exceed the cost of serving those customers. CAP provides assistance to customers who receive a direct water bill and does not extend to those who pay for water and wastewater services as part of rent.

SB 222’s provisions do not explicitly require local water system implementation of the Program, but the bill does contain language that suggests some degree of local implementation and associated obligations. Similar to the concerns identified in the AB 401 report, this raises questions as to the efficiency of such an approach that would include new implementation duties on approximately 2,900 individual water systems and result in high administration costs that could potentially divert needed funds away from those who need it. Another ambiguity is how the Program would work with those water systems that already provide customer assistance through a local program. This raises questions as to whether the state could require certain enrollment levels or that performance metrics be met or dictate how non-rate revenue is used by a local water system. Similar to the inefficiencies inherent to implementing a comprehensive statewide program through all local agencies, a hybrid approach that attempts to implement some assistance through local programs and other by the state would result in high administration costs that could potentially divert needed funds away from those who need it.

Overall, SB 222 is consistent with EBMUD’s own priority of assisting customers who are in need. However, amendments are needed to clarify ambiguities in the bill discussed above. A “Support if Amended” position reflects the balance needed to move forward in implementing this landmark Program while amendments are necessary to clarify that the obligation to implement and fully fund the Program rests with the state. This will result in a more efficient Program that will help maximize the amount of the assistance that reaches those in need and will help protect public water and/or wastewater system non-rate revenues from being diverted for Program implementation. This will enable public water systems like EBMUD to continue to provide “above and beyond” assistance to its ratepayers, regardless of whether the state program is funded.

EBMUD has previously supported measures intended to address water affordability at the federal level. In 2018, EBMUD supported both S. 3015, the Water Affordability Act, and S. 3564, the

Low-Income Water Customer Assistance Programs Act of 2018, intended to help low-income households pay for drinking water and wastewater utility bills. Neither bill advanced out of Congress. In 2020, EBMUD directly advocated for the inclusion of low-income ratepayer assistance in any federal COVID-19 relief package, specifically for public utilities that provided critical services like water and wastewater.

The official list of support and opposition to SB 222 is shown below.

Support

Avocado Green Brands
Burton Snowboard
California Apartment Association
California Catholic Conference
California Water Association
California Water Service
Dignity Health
Dolores Huerta Foundation
Drug Policy Alliance
Ecos
Gap, INC.
Impossible Foods
League of Women Voters of California
National Association of Social Workers, California Chapter
Numi Organic Tea
Sierra Nevada Brewing Company

Oppose Unless Amended

Amador Water Agency
Association of California Water Agencies (ACWA)
Brooktrails Township Community Services District
California Special Districts Association
City of Oceanside
City of Roseville
City of Shasta Lake
Cucamonga Valley Water District
Desert Water Agency
East Valley Water District
El Dorado Irrigation District
Elsinore Valley Municipal Water District
Hidden Valley Lake Community Services District
Irvine Ranch Water District
Mesa Water District

Mid-peninsula Water District
North Coast County Water District
Padre Dam Municipal Water District
Palmdale Water District
Panoche Water District
Rancho California Water District
Regional Water Authority
Rio Alto Water District
San Juan Water District
Santa Margarita Water District
Scotts Valley Water District
Tahoe City Public Utility District
Tuolumne Utilities District
Valley Center Municipal Water District
Vista Irrigation District
Walnut Valley Water District

**BUDGET
TRAILER BILL
(TBD)**

**SUPPLYBANK: OAKPORT STREET
PROJECT: CLARIFYING LANGUAGE:
TRANSPORTATION**

SUPPORT

The Oakport Street project, located on the District's Oakport Street Property in the City of Oakland (City), is led by the non-profit SupplyBank.Org to develop a distribution center for emergency supplies, a non-profit office space hub, and land improvements and shared warehouse space for EBMUD. This project and the associated partnership between the District and SupplyBank.Org were discussed at the November 26, 2019 Long-Term Infrastructure Workshop and the June 8, 2021 Planning Committee. SupplyBank.Org is seeking statutory clarification that the transportation analysis required under the California Environmental Quality Act (CEQA) is complete.

Since 2018, SupplyBank.Org has been working on meeting CEQA requirements and obtaining the necessary construction permits from the City. The project site falls within the Coliseum Area Specific Plan for which the City adopted a certified Environmental Impact Report (EIR) in 2015. The EIR evaluated transportation impacts using Level of Service (LOS) methodology. However, CEQA guidelines recently changed to require transportation impacts to be evaluated using Vehicle Miles Traveled (VMT). While VMT was considered in the EIR, it wasn't the basis of the transportation analysis because it was not required by the state at the time.

SupplyBank.Org is working with the City and legislature to obtain a statutory clarification that the transportation analysis for this property is complete. This clarification is being sought through the legislature's budget trailer bill process and a formal expression of support signed by all of the Directors on EBMUD's governing board has been requested due to several unique aspects of this year's state budget process. A copy of the language that has been requested for inclusion in a budget trailer bill and the legislator's initial request for the language are attached.

The Oakport Street project is expected to provide significant local and regional community benefits that include direct benefits to EBMUD and its customers. When completed, this project will provide aid to under-served communities in the Bay Area and beyond and will provide EBMUD the needed facilities to support its Pipeline Rebuild efforts and streamline its operational and maintenance activities.

**STATE AND FEDERAL GOVERNMENT ACTIONS
RELATED TO THE CORONAVIRUS DISEASE 2019
(COVID-19)**

INFORMATION

An overview of key state and federal actions taken in response to the COVID-19 pandemic since the June 3, 2021 Legislative Report No. 06-21 is provided below.

State Government Actions

On June 28, 2021, Governor Newsom signed the first of two main budget bills, AB 128 (Ting) and the legislature passed the second of the two main budget bills, SB 129 (Skinner). SB 129 has not yet been signed into law. Together, these two bills represent the budget framework that has generally been agreed to by the governor and the leadership of the Assembly and Senate.

The budget framework includes approximately \$1 billion for the Coronavirus Fiscal Recovery Fund of 2021 for water arrearage debt relief. A final agreement between the legislature and the governor on the details of the program and implementation has not yet been reached. EBMUD has been advocating at the state and federal level for funding to address COVID-19 related water and wastewater arrearages since mid-2020. Staff is continuing to advocate for an implementation approach that would provide relief to those EBMUD ratepayers with COVID-19 related arrearages.

In addition, subsequent to the writing of Legislative Report No. 06-21, three executive orders relative to COVID-19 were issued. Information on the provisions of those executive orders of direct interest to EBMUD is provided below.

June 11, 2021; Executive Order N-7-21; Rescind Stay-at-Home Order

This order rescinded Executive Order N-33-20, issued on March 19, 2020, that set forth California's Stay-at-Home order and Executive Order N-60-20, issued on May 4, 2020, that set forth the framework for reopening the economy, including the Blueprint for a Safer Economy. The practical effect of this order was to lift the state's stay-at-home order and end the county tier system. The order does continue to allow local public health officers to establish and implement public health measures that are more restrictive than the state.

June 11, 2021; Executive Order N-8-21; Omnibus

This order phases out much of what was in earlier executive orders over time, with some provisions being phased out at the end of June, end of July, and then the end of September. The two main provisions of interest to EBMUD are the following:

- Water shutoff moratorium is scheduled to end September 30; and
- Provisions of prior executive orders relative to the Brown Act that allowed flexibility to conduct open meetings remotely will end on September 30.

Other provisions included in the order of interest to EBMUD relate to labor issues, Cal-OSHA, workers' compensation, and CEQA. Staff is evaluating these provisions in context of EBMUD operations.

June 17, 2021; Executive Order N-09-21; Workplace Safety Requirements, Face Coverings

This order allowed Cal-OSHA adopted revisions regarding face coverings and the elimination of physical distancing requirements to go into effect immediately without a normal 10-day review period. Staff has evaluated these provisions in context of EBMUD operations.

Federal Government Actions

Discussions continue at the federal level on the implementation of the Low-Income Household Water Assistance Program (LIHWAP) funding contained in H.R. 133 and H.R. 1319, as well as on creation of a long-term ratepayer assistance program. No decisions have been made. Staff continues to track these efforts.

Next Steps

Staff is continuing to pursue funding eligibility for EBMUD under federal COVID-19 relief packages, including the state implementation of the funding allocations, and is engaged in discussions regarding future federal stimulus efforts. Staff will continue to monitor state and federal government actions in response to COVID-19 and engage as warranted. Staff will continue to provide updates to the Board, as appropriate.

CCC:MD:DM/JW

Attachments

AMENDED IN SENATE JUNE 24, 2021

AMENDED IN ASSEMBLY MAY 24, 2021

AMENDED IN ASSEMBLY APRIL 14, 2021

AMENDED IN ASSEMBLY MARCH 29, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1066

Introduced by Assembly Member Bloom
(Coauthor: Senator Allen)

February 18, 2021

An act to add Article 2.1 (commencing with Section 115917) to Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1066, as amended, Bloom. ~~High-use freshwater recreation sites:~~
Priority inland water-contact recreation sites: water quality monitoring.

Existing law authorizes recreational activities in which there is bodily contact with the water by any participant in certain reservoirs only in accordance with prescribed requirements. Existing law requires the State Department of Public Health, by regulation and in consultation with the State Water Resources Control Board, local health officers, and the public, to establish, maintain, and amend, as necessary, minimum standards for the sanitation of public beaches. Existing law provides for the establishment of the California Water Quality Monitoring Council, which is administered by the state board, and requires the council to undertake various actions relating to water quality data collection and to review existing water quality monitoring,

assessment, and reporting efforts and recommend specific actions and funding needs necessary to coordinate and enhance those efforts.

This bill would require, on or before July 1, 2022, the council to direct a new or existing working group to study water recreation hazards at priority water-contact recreation sites, as specified. The bill would require, on or before July 1, 2023, the working group to submit a report to the council that the council would be required to post on its internet website that includes specified information.

This bill would require, on or before December 31, ~~2022~~, 2023, the council, in consultation with the department, local health officers, and the public, to propose to the state board for ~~adoption by regulation or resolution~~ consideration a definition of a ~~high-use freshwater~~ priority water-contact recreation site, and recommendations and requirements for the establishment of a ~~high-use freshwater~~ priority water-contact recreation site monitoring program that includes specified components. The bill would require the council, in developing a proposed definition of a ~~high-use freshwater~~ priority water-contact recreation site, to consider ~~freshwater bodies that are~~ various characteristics of a water body, including whether the body is used for organized recreational events with water contact or for commercial purposes with water contact, among others.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 2.1 (commencing with Section 115917)
2 is added to Chapter 5 of Part 10 of Division 104 of the Health and
3 Safety Code, to read:

4
5 Article 2.1. ~~Monitoring of High-Use Freshwater Recreation~~
6 ~~Sites~~ Priority Inland Water-Contact Recreation Sites
7

8 115917. (a) (1) *On or before July 1, 2022, the council shall*
9 *direct a new or existing working group to study water recreation*
10 *hazards at priority water-contact recreation sites.*

11 (2) *The working group shall be co-chaired by representatives*
12 *from the state board and the department.*

13 (3) *The working group shall include representation from other*
14 *state agencies as deemed appropriate by the council.*

1 (b) On or before July 1, 2023, the working group shall submit
2 a report to the council that the council shall post on its internet
3 website that shall include all of the following:

4 (1) A summary of existing, readily-available data that identifies
5 water-contact recreation sites.

6 (2) A summary of existing, readily-available data for specific
7 water-contact recreation sites that indicates the timing and types
8 of uses that involve limited body or full body contact with the water
9 and any demographic information about the users.

10 (3) Potential criteria for identifying priority water-contact
11 recreation sites, with an emphasis on establishing equity-based
12 criteria, including, but not limited to, the use by one or more
13 overburdened communities.

14 (4) A discussion of potential water quality hazards at priority
15 water-contact recreation sites.

16 (5) General recommendations for reducing water quality risks
17 at priority water-contact recreation sites. The recommendations
18 may include, but are not limited to, any of the following:

19 (A) A risk-based water quality monitoring program.

20 (B) A public water quality safety education campaign.

21 (C) Posting and notification of water quality hazards at
22 identified water bodies.

23 (D) Standards or criteria needed to better protect the public
24 from water quality hazards.

25 (c) On or before December 31, ~~2022~~, 2023, the council, in
26 consultation with the department, local health officers, and the
27 public, shall propose to the state board for ~~adoption by regulation~~
28 ~~or by resolution~~, consideration, based on the working group report
29 described in subdivision (b), both of the following:

30 (1) A definition of a ~~high-use freshwater~~ priority water-contact
31 recreation site.

32 (2) Recommendations and requirements for the establishment
33 of a ~~high-use freshwater~~ priority water-contact recreation site
34 monitoring program that shall include, but is not limited to, all of
35 the following components:

36 (A) The number of monitoring samples necessary per ~~high-use~~
37 ~~freshwater~~ priority water-contact recreation site to be representative
38 of the water quality conditions where water contact occurs. site.

39 (B) The frequency of monitoring.

40 (C) The annual or seasonal duration of monitoring.

1 (D) ~~The freshwater bacteria standards and microbiological~~
2 ~~standards, methods, and data sharing protocols to be used for~~
3 ~~monitoring to support an effective monitoring program.~~

4 (E) ~~Methods for reporting and providing public access to~~
5 ~~monitoring data collected from high-use freshwater recreation~~
6 ~~sites.~~

7 ~~(b)~~

8 (d) In developing a proposed definition of a ~~high-use freshwater~~
9 ~~priority water-contact recreation site~~, the council shall consider a
10 ~~freshwater various characteristics of a water body that is,~~
11 ~~including, but is not limited to, any whether the water body is all~~
12 of the following:

13 (1) *A fresh or estuarine surface water, including water bodies*
14 ~~with seasonal or tidal fluctuations.~~

15 ~~(1)~~

16 (2) Used for organized recreational events with water contact.

17 ~~(2)~~

18 (3) Used for commercial purposes with water contact.

19 ~~(3)~~

20 (4) Accessed through a required fee area and used for water
21 contact.

22 ~~(4)~~

23 (5) Used by a high number of persons ~~per month~~ for water
24 contact recreation.

25 ~~(5)~~

26 (6) Designated by the state board or a regional board for water
27 contact recreation (REC-1) beneficial use.

28 (7) *Used by overburdened communities.*

29 (8) *Identified as having the potential for significant water quality*
30 ~~hazards.~~

31 ~~(e)~~

32 (e) For purposes of this section, the following definitions apply:

33 (1) "Council" means the California Water Quality Monitoring
34 Council established pursuant to Section 13181 of the Water Code.

35 (2) "Department" means the State Department of Public Health.

36 (3) *"Inland water" means all fresh and estuarine surface waters*
37 ~~of the state.~~

38 (4) *"Overburdened community" means a minority, low-income,*
39 ~~tribal, or indigenous population or geographic location that~~
40 ~~potentially experiences disproportionate environmental harms and~~

1 risks. The disproportionality can be as a result of greater
2 vulnerability to environmental hazards, lack of opportunity for
3 public participation, or other factors. Increased vulnerability may
4 be attributable to an accumulation of negative or lack of positive
5 environmental, health, economic, or social conditions within these
6 populations or places. “Overburdened community” includes
7 situations where multiple factors, including both environmental
8 and socio-economic stressors, may act cumulatively to affect health
9 and the environment and contribute to persistent environmental
10 health disparities.

11 ~~(3)~~

12 (5) “Regional board” means a California regional water quality
13 control board.

14 ~~(4)~~

15 (6) “State board” means the State Water Resources Control
16 Board.

17 (7) “Water-contact recreation site” means any inland water
18 that is used, or is suitable for being used, recreationally in a
19 manner that involves limited body or full body contact with the
20 water.

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AMENDED IN ASSEMBLY JULY 5, 2021

AMENDED IN ASSEMBLY JUNE 17, 2021

AMENDED IN SENATE MAY 20, 2021

AMENDED IN SENATE MAY 3, 2021

AMENDED IN SENATE APRIL 20, 2021

AMENDED IN SENATE APRIL 5, 2021

SENATE BILL

No. 222

Introduced by Senator Dodd

(Coauthors: Senators Gonzalez, Hurtado, and Wiener)

(Coauthors: Assembly Members Bloom, Lorena Gonzalez, Mathis, and
Robert Rivas)

January 14, 2021

An act to add Section 12087.8 to the Government Code, and to add Chapter 6.5 (commencing with Section 116930) to Part 12 of Division 104 of the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 222, as amended, Dodd. Water Rate Assistance Program.

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

Existing law requires the state board, by January 1, 2018, to develop a plan for the funding and implementation of the Low-Income Water

Rate Assistance Program, as prescribed. Existing law requires the state board, by February 1, 2018, to report to the Legislature on its findings regarding the feasibility, financial stability, and desired structure of the program, including any recommendations for legislative action that may need to be taken.

This bill would establish the Water Rate Assistance Fund in the State Treasury to help provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. The bill would require the Department of Community Services and Development to develop and administer the Water Rate Assistance Program established by the bill. The bill would make moneys in the fund available upon appropriation by the Legislature to the department to provide, in consultation with the state board, direct water bill assistance, water bill credits, and water crisis assistance. The bill would authorize the department to identify and contract with a third-party fund administrator. The bill would impose requirements on the department, in consultation with the state board, in connection with the program, including, among others, developing guidelines and fund oversight procedures for implementation of the program by January 1, 2023, consulting with an advisory group, and adopting an annual fund expenditure plan.

The bill would require, by July 1, 2022, the Public Utilities Commission to establish a mechanism for electrical corporations and gas corporations to, and would authorize the department to enter into agreements with local publicly owned electric utilities and local publicly owned gas utilities to, regularly share specified customer data with the department, subject to certain ~~confidentiality~~ confidentiality protections.

The bill would make the operation of these provisions contingent on an appropriation in the annual Budget Act or another statute for these purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12087.8 is added to the Government
- 2 Code, to read:
- 3 12087.8. Subject to Section 116931.3 of the Health and Safety
- 4 Code, the department shall develop and administer the Water Rate
- 5 Assistance Program established pursuant to Chapter 6.5

1 (commencing with Section 116930) of Part 12 of Division 104 of
2 the Health and Safety Code and expend moneys appropriated by
3 the Legislature for the purposes of the program.

4 SEC. 2. Chapter 6.5 (commencing with Section 116930) is
5 added to Part 12 of Division 104 of the Health and Safety Code,
6 to read:

7
8 CHAPTER 6.5. WATER RATE ASSISTANCE PROGRAM

9
10 Article 1. Water Rate Assistance Fund

11
12 116930. (a) The Water Rate Assistance Fund is hereby
13 established in the State Treasury to provide water affordability
14 assistance, for both drinking water and wastewater services, to
15 low-income ratepayers and ratepayers experiencing economic
16 hardship in California. Moneys in the fund shall be available upon
17 appropriation by the Legislature to the department to provide, in
18 consultation with the state board, all of the following:

19 (1) Direct water bill assistance.

20 (2) Water bill credits to renters and individuals or households
21 that pay other amounts, fees, or charges related to residential water
22 or wastewater service.

23 (3) Water crisis assistance.

24 (b) The department may, upon appropriation by the Legislature,
25 expend moneys from the fund for reasonable costs associated with
26 the administration of this chapter, not to exceed 10 percent of the
27 annual deposits into the fund. "Reasonable costs associated with
28 the administration of this chapter" includes state board
29 administrative costs associated with this chapter.

30 116930.1. The department shall do all of the following in
31 administering the fund:

32 (a) Track and manage revenue in the fund separately from all
33 other revenue.

34 (b) Develop and implement a process for disbursing program
35 funds to public water systems, sewer systems, or third-party
36 providers for direct payments to community water systems or
37 sewer systems, including controls to prevent fraud, waste, and
38 abuse.

(c) Manage and maintain fund balances in conjunction with the Controller, the Treasurer, the California State Auditor's Office, and the Department of Finance, as appropriate.

(d) (1) Expend, upon appropriation by the Legislature, moneys in the fund for grants, contracts, direct monetary assistance, or services to assist eligible recipients.

(2) Services may include technical assistance to public water systems, or sewer systems, serving fewer than 3,300 connections to administer program components, including initial startup costs.

(3) The department may identify and contract with a third-party fund administrator. The scope of work for the fund administrator may include, but is not limited to, eligibility determination, call center services, internet-based enrollments, and document intake and processing.

(e) (1) Verify the eligibility of each recipient, based upon eligibility pursuant to Section 116931.1.

(2) Establish a process to regularly confirm the eligibility of recipients, based upon eligibility pursuant to Section 116931.1.

(3) The verification requirements in paragraphs (1) and (2) may be carried out by the third-party fund administrator described in paragraph (3) of subdivision (d).

Article 2. Program Implementation

116931. (a) The department, in consultation with the state board, shall, by January 1, 2023, develop guidelines and fund oversight procedures for implementation of the program.

(b) In developing the guidelines, the department shall consult with an advisory group that includes representatives of all of the following:

(1) Public water systems.

(2) Sewer systems.

(3) Technical assistance providers, including organizations that support the federal Low-Income Home Energy Assistance Program.

(4) Local agencies, including agencies that manage multifamily housing serving low-income residents.

(5) Nongovernmental organizations that work with residents of disadvantaged communities.

(6) Representatives from the public, including, but not limited to, low-income residents, low-income residents who live in multifamily housing, and residents served by tribal water systems.

116931.1. (a) The department shall, in consultation with the state board and advisory group described in subdivision (b) of Section 116931 and after a public hearing, adopt an annual fund expenditure plan.

(b) The annual fund expenditure plan shall contain all of the following:

(1) Identification of key terms, criteria, and metrics, and their definitions related to implementation of this section.

(2) A description of how proposed remedies related to this section will be identified, evaluated, prioritized, and included in the annual fund expenditure plan.

(3) A report of expenditures from the fund for the prior fiscal year, including how many households were served, and planned expenditures for the current fiscal year.

(4) (A) An estimate of the number of households eligible for assistance, including those that do not receive a direct bill for water or wastewater.

(B) In identifying household eligibility, the department shall consider both of the following:

(i) If any member of the customer's household is a current enrollee in, or recipient of, CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income or State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children.

(ii) Utility customers enrolled in the California Alternate Rates for Energy (CARE) program established pursuant to Section 739.1 of the Public Utilities Code and the Family Electric Rate Assistance program established pursuant to Section 739.12 of the Public Utilities Code.

(5) A section that discusses water and wastewater affordability challenges and proposed solutions for reducing water debt for eligible Californians served by public water systems, sewer systems, state small water systems, local small water systems, and domestic wells. An evaluation of solutions shall include, but not be limited to, all of the following:

(A) Amortization of an unpaid balance.

(B) Participation in an alternative payment schedule.

1 (C) Partial or full reduction of the unpaid balance financed
2 without additional charges to other ratepayers.

3 (D) Temporary deferral of payment.

4 (E) An arrearage management plan.

5 (F) Percentage of income payment plan.

6 (6) Methods to ensure timely and meaningful public participation
7 and encourage enrollment in the program.

8 (7) An estimate of the funding available for the next fiscal year
9 based on the amount available in the fund, anticipated funding
10 needs, other existing funding sources, and other relevant data and
11 information.

12 (c) The annual fund expenditure plan shall identify the funding
13 need of disadvantaged communities and low-income households
14 whose water and wastewater bill charges pose affordability
15 challenges based on metrics developed by the department in
16 consultation with the state board and Public Utilities Commission.

17 (d) The annual fund expenditure plan shall include analysis with
18 metrics to evaluate how expenditures from prior fiscal years
19 improved affordability.

20 (e) Within one year of an appropriation in the annual Budget
21 Act or another statute for purposes of this chapter, and every March
22 1 thereafter, the department shall provide to the Joint Legislative
23 Budget Committee and the chairpersons of the fiscal committees
24 in each house of the Legislature the most recently adopted fund
25 expenditure plan. The department may submit the fund expenditure
26 plan as required by this subdivision either in the Governor's Budget
27 or as a separate report.

28 116931.2. (a) By July 1, 2022, the Public Utilities Commission
29 shall establish a mechanism for electrical corporations and gas
30 corporations to regularly share data with the department regarding
31 the utility customers enrolled in, or eligible to be enrolled in, the
32 California Alternate Rates for Energy (CARE) program established
33 pursuant to Section 739.1 of the Public Utilities Code and the
34 Family Electric Rate Assistance program established pursuant to
35 Section 739.12 of the Public Utilities Code. Electrical corporations
36 and gas corporations shall regularly share that data with the
37 department through the mechanism.

38 (b) (1) The department may enter into agreements with local
39 publicly owned electric utilities and local publicly owned gas
40 utilities, including, but not limited to, municipal utility districts

1 and irrigation districts, for the purpose of regularly sharing data
2 with the department regarding utility customers enrolled in, or
3 eligible to be enrolled in, affordability programs benefiting
4 low-income customers.

5 (2) The agreements may authorize the department to provide
6 data pursuant to this subdivision to local water agencies for the
7 sole purpose of assisting with the administration of the program.

8 (c) Data shared pursuant to subdivision (a) or (b) is subject to
9 ~~the confidentiality protections of Section 6254.16 of the~~
10 ~~Government Code and the department shall ensure that the~~
11 ~~confidentiality of the contact information is protected under~~
12 ~~reasonable security procedures. Information Practices Act of 1977~~
13 ~~(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4~~
14 ~~of Division 3 of the Civil Code).~~

15 ~~(d) Notwithstanding any other law, a local publicly owned~~
16 ~~electric utility or local publicly owned gas utility is not subject to~~
17 ~~civil or criminal liability for the accuracy of, or any use, nonuse,~~
18 ~~or improper release of, the contact information it provides pursuant~~
19 ~~to this section, including, without limitation, for any deficiencies~~
20 ~~or inaccuracies of the contact information provided.~~

21 116931.3. The operation of this chapter is contingent on an
22 appropriation in the annual Budget Act or another statute for
23 purposes of this chapter.
24

25 Article 3. Fund Expenditures

26
27 116932. (a) If moneys are deposited into the fund before the
28 adoption of an annual fund expenditure plan, the department, in
29 consultation with the state board, shall, upon appropriation by the
30 Legislature, expend those moneys from the fund to provide water
31 crisis assistance to low-income households through direct
32 assistance to the low-income households, forgiveness of
33 delinquency by the public water system and reimbursement by the
34 department or state board, or some other disbursement mechanism.
35 The department may use up to 10 percent of those moneys for
36 administrative purposes. "Administrative purposes" includes state
37 board administrative costs associated with this chapter.

38 (b) The department may adopt emergency regulations pursuant
39 to the Administrative Procedure Act (Chapter 3.5 (commencing

1 with Section 11340) of Part 1 of Division 3 of Title 2 of the
2 Government Code) to implement this section.

3
4 Article 4. Program Administration
5

6 116933. The department shall do all of the following in
7 administering the program:

8 (a) Coordinate with the Public Utilities Commission regarding
9 existing rate assistance programs for investor-owned water utilities.
10 Once an annual funding expenditure plan is adopted and includes
11 funding for a low-income rate assistance program, the existing
12 rate assistance programs for investor-owned water utilities shall
13 cease and customers shall be transitioned to the new program
14 through a process established by the Public Utilities Commission.

15 (b) For a public water system or sewer system that is not
16 regulated by the Public Utilities Commission, consult with the
17 state board on options to provide oversight of the public water
18 system's implementation of the program to ensure effectiveness
19 and prevent fraud, waste, and abuse.

20 (c) In consultation with the state board and the Public Utilities
21 Commission, develop and publish performance metrics for the
22 program, including, but not limited to, enrollment levels, total
23 water shutoffs for inability to pay, and on-time payment levels.

24 (d) Coordinate with other state agencies and resolve disputes
25 as necessary.

26 (e) Identify alternative entities to distribute and track benefits
27 if a public water system is unwilling to do so or if the department,
28 in consultation with the state board, has determined a public water
29 system is incapable of administering the program.
30

31 Article 5. Definitions
32

33 116934. For purposes of this chapter, the following definitions
34 apply:

35 (a) "Department" means the Department of Community Services
36 and Development.

37 (b) "Fund" means the Water Rate Assistance Fund created
38 pursuant to Section 116930.

1 (c) “Low income” means a household income, or a community
2 annual median household income, that is equal to or no greater
3 than 200 percent of the federal poverty guideline level.

4 (d) “Program” means the Water Rate Assistance Program
5 established pursuant to this chapter.

6 (e) “Public water system” has the same meaning as defined in
7 Section 116275.

8 (f) “Sewer system” means a city, county, special district, or
9 investor owned utility that provides sanitary sewer service,
10 including the collection or treatment of sewage.

11 (g) “State board” means the State Water Resources Control
12 Board.

13 (h) “State small water system” has the same meaning as defined
14 in Section 116275.

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Oakport Street Project Proposed Language
May 13, 2021

Public Resources Code Section 21083.3.1. The transportation impact analysis shall be deemed complete for a project that is consistent with the Coliseum Area Specific Plan and the environmental impact report the City of Oakland certified on February 20, 2015 that evaluated the Coliseum Area Specific Plan, and a lead or responsible agency shall not conduct any further transportation impact analysis pursuant to Section 21099 or guidelines adopted pursuant thereto or local agency guidelines, provided such project meets the following conditions:

- (a) The project is for the primary purpose of developing a regional supply bank for the distribution of essential goods and services to children and families in need and office space to provide a hub for non-profit organizations and public agencies;
- (b) Existing public agency uses of the parcels on which the project is located will continue following project approval and public agency uses may be included as part of the project;
- (c) The project includes transit-oriented measures, including, but not limited to bicycle share, car share, and free transportation to a San Francisco Bay area regional transit station; and
- (d) The project will comply with all applicable transportation related mitigation measures adopted in connection with the Coliseum Area Specific Plan.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances existing in the City of Oakland.