



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

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

Notice of Time Change

**LEGISLATIVE/HUMAN RESOURCES
COMMITTEE MEETING**

**10:00 a.m.
Tuesday, June 9, 2015**

Notice is hereby given that on Tuesday, June 9, 2015 the Legislative/Human Resources Committee Meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 10:00 a.m. The meeting will be held in the Training Resource Center of the Administration Building, 375 - 11th Street, Oakland, California.

Dated: June 4, 2015

A handwritten signature in cursive script, reading 'Lynelle M. Lewis', is written over a horizontal line.

Lynelle M. Lewis
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, June 9, 2015
10:00 a.m.
Training Resource Center

(Committee Members: Directors Coleman {Chair}, McIntosh and Patterson)

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 Report: (Dumaine)
 - Receive Legislative Report No. 06-15 and consider positions on the following bills: AB 291 (Medina) California Environmental Quality Act: Local Agencies: Notice of Determination: Water; SB 471 (Pavley) Water, Energy, and Reduction of Greenhouse Gas Emissions: Planning; Draft Budget Trailer Bill 807 (Author TBD) Water Board Drinking Water Program Fee Regulations; Draft Budget Trailer Bill 825 (Author TBD) Drought Water System Consolidation; Draft Budget Trailer Bill 826 (Author TBD) Drought Submetering; and Federal Clean Water Rule (Information Only)
 - Update on Legislative Issues of Interest to EBMUD
2. Contract Equity Program Enhancements (Hong)
3. Group Benefits Brokerage and Consulting Services (Turner)

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.

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: June 4, 2015

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Legislative Report No. 06-15

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.

RECOMMENDED ACTION

Receive update on the federal Clean Water Rule and approve positions on the following bills: 1) Support AB 291 (Medina) California Environmental Quality Act: Local Agencies: Notice of Determination: Water; 2) Support and Amend SB 471 (Pavley) Water, Energy, and Reduction of Greenhouse Gas Emissions: Planning; and 3) Support if Amended Draft Trailer Bill 826 (Author To Be Decided) Drought Submetering.

STATE LEGISLATION

RECOMMENDED POSITION

**AB 291
(Medina)**

**CALIFORNIA ENVIRONMENTAL
QUALITY ACT: LOCAL AGENCIES:
NOTICE OF DETERMINATION: WATER**

SUPPORT

The California Environmental Quality Act (CEQA) requires a lead agency to prepare an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. When a project is approved or carried out by a local agency, the local agency is required to file the notice of approval or determination within five working days after the approval or determination becomes final with the county clerk of each county in which the project will be located and requires the county clerk to make the notice available for public inspection. When a project is carried out by a state agency, the state agency must file the notice of approval or determination with the Office of Planning and Research (OPR).

AB 291 (Medina), as amended on April 23, 2015, would establish an alternative procedure for the filing of CEQA notices of approval or determination for multi-county water projects, such as water transfers. Specifically, within five days of the approval or determination of a project, AB 291 would allow a local agency to meet CEQA notice requirements by doing all of the following: 1) filing the notice with the clerk of the county in which the agency's office is located, 2) filing the notice with OPR, and 3) mailing notices to the clerks of all the affected counties. In

addition, AB 291 specifies that the start of the statute of limitations to challenge a project begins on the date the notice is filed with OPR. AB 291 does not create any new exemptions or otherwise change how local agencies analyze the environmental impacts of water projects under CEQA. AB 291 is co-sponsored by the Association of California Water Agencies and the McGeorge Law School Legislative and Public Policy Clinic.

AB 291 is intended to increase transparency and clarify when the statute of limitations to challenge a CEQA decision related to multi-county water projects begins. Currently, a local agency is required to post CEQA notices of approval or determination in each county in which a project will be located. While this is a straightforward requirement for land use projects, for a water project, notices must be posted on the same day in all counties through which the project's water flows. Each county clerk then must make these notices available to the public through bulletin board postings or other physical, paper-based means at the county clerk's office based on that particular clerk's practices. Local agencies face a myriad of different submission requirements from each county, posing substantial logistical burdens and must rely on each county clerk to promptly post notices and maintain proper posting for a minimum of 30 days. If a technical error or delay in a county clerk's posting process occurs, even in only one county, the timeframe to challenge the decision may be extended from the usually required 30-35 days to 180 days, potentially delaying a project through no fault of the local agency.

Multi-county water projects, such as water transfers, can be a way to promote regional cooperation and increase regional reliability. Some water transfers involve water flowing through five or more counties, which can require hand delivery of notices to each county clerk's office on the same day to meet filing requirements and reliance on each of the counties for the timely posting of the notices. Due to the geographic separation between the various county clerks' offices and the varying filing requirements and posting practices, this can add uncertainty to the transfer process and delay transfers, including those that are needed for drought supplies.

AB 291 would increase transparency and clarify what triggers the start of the statute of limitations to challenge a CEQA decision for a multi-county water project by providing an alternative CEQA notice filing procedure for multi-county water projects, such as those that may be undertaken by EBMUD in the future, while simplifying the posting requirements.

It is staff's understanding that the opposition would like to see the statute of limitations to challenge a project start on the date the final county receives their copy of a notice rather than the date the notice is filed with OPR. However, this is contrary to the intent of the bill and would not provide any additional certainty on the statute of limitations timeframe.

EBMUD has previously supported legislation to support transparency in CEQA noticing requirements. In 2011, EBMUD supported AB 209 (Ammiano) which required CEQA notices to include information on how the documents can be obtained electronically. AB 209 was signed into law (Chapter 171). In 2010, EBMUD supported AB 2565 (Ammiano) to authorize public

agencies to provide CEQA documents, such as notices, responses, and documents, in an electronic format. AB 2565 was signed into law (Chapter 210).

The current list of support and opposition to AB 291 is shown below.

Support

Association of California Water Agencies
Association of Environmental Professionals
California Municipal Utilities Association
California Special Districts Association
Eastern Municipal Water District
McGeorge Law School Legislative and Public Policy Clinic
Metropolitan Water District of Southern California
Mountain Counties Water Resources Association
San Diego County Water Authority
Valley Ag Water Coalition
Three individuals

Opposition

Sierra Club California

SB 471 (Pavley)	WATER, ENERGY, AND REDUCTION OF GREENHOUSE GAS EMISSIONS: PLANNING	SUPPORT AND AMEND
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Existing law designates the California Air Resources Board (CARB) as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases and is authorized to include the use of market-based compliance mechanisms (e.g. cap and trade). Money collected by CARB from the auction or sale of allowances as part of the cap and trade program is to be deposited into the Greenhouse Gas Reduction Fund and be available upon appropriation by the legislature for projects that reduce greenhouse gas emissions.

SB 471 (Pavley), as amended on May 5, 2015, would require CARB, in cooperation with other state agencies, to develop an inventory of greenhouse gas emissions from the water system in the state and clarify that water projects, including, but not limited to, water use, water supply, and water treatment projects, that reduce greenhouse gas emissions are eligible for cap and trade funding. The measure also states that it is the intent of the legislature that this water-energy nexus information be used to inform the next AB 32 scoping plan update. However, the measure does not specify what methodology will be used for developing the greenhouse gas emissions inventory, whether water agencies would be required to provide data to CARB for inclusion in the inventory, or how project eligibility will be determined and whether a water agency would need to document that a water supply or treatment project reduces greenhouse gas emissions in general or as compared to other options.

There is a clear nexus between water and energy use, with the California Energy Commission and Department of Water Resources estimating that 12 percent of the state's total energy is used for the transportation, treatment, distribution and end uses of water. However, according to the author's office, "accurate local data remains sparse given the current state of water metering and the lack of [greenhouse gas] emissions information related to the water-energy use." The author's office also notes that "while some water-energy related climate pollution is already covered in the state's cap-and-trade program by the electricity generation sector, water suppliers, treaters [sic], distributors and end users currently lack the information and opportunity to do their part in advancing our climate and water conservation goals. As a result, a variety of projects that might reduce climate pollution from the water system do not currently qualify for project funding" from cap and trade revenues.

EBMUD's energy policy (Policy 7.07) was updated in 2013 to establish a goal to be carbon free for indirect greenhouse gas emissions and reduce direct emissions by 50 percent compared to 2000 levels by 2040. To measure progress towards its 2040 goals, EBMUD conducts an annual inventory of greenhouse gas emissions using the Climate Registry's General Reporting Protocol. Though EBMUD's diverse water supply portfolio includes projects, such as the Freeport Regional Water Facility and water recycling projects, that are more energy intensive and have higher greenhouse gas emissions than the use of EBMUD's Mokelumne River supply, EBMUD uses significantly less energy than the average California utility to deliver water and continues to find ways to use less energy and reduce its carbon footprint.

According to the author's office, SB 471 is intended to quantify "the Water-Energy-Climate Nexus – the connection between the greenhouse gas emissions generated from the energy required by our water system, to simultaneously advance solutions to climate change and drought" and allow water projects that reduce greenhouse gas emissions, such as those that EBMUD may undertake in the future, to be eligible for funding from cap and trade revenue. The measure is consistent with EBMUD's sustainability program and efforts to reduce greenhouse gas emissions and would potentially provide future opportunities for grant funding of EBMUD projects that reduce greenhouse gas emissions. However, the measure would be strengthened with the inclusion of language to clarify what methodology or greenhouse gas emissions protocol will be used to develop the water system inventory.

EBMUD has previously supported efforts to reduce greenhouse gas emissions and advance water and wastewater eligibility for cap and trade revenue. In 2014, EBMUD was supportive of AB 1970 (Gordon), which would have provided direct investments to local governments to assist them in implementing greenhouse gas emissions reducing projects. AB 1970 failed to advance out of the legislature. In 2013, the Board voted to "support" the concept of providing cap and trade revenue eligibility for water and wastewater agencies.

The current list of support and opposition to SB 471 is shown below.

Support

California Association of Sanitation Agencies
California League of Conservation Voters
City of Pasadena Water and Power Department
Clean Water Action
Coastal Environment Rights Foundation
Environmental Entrepreneurs
LA River Revitalization Corporation
Las Virgenes Municipal Utility District
Mono Lake Committee
Nexus eWater
Sonoma County Water Agency
The Climate Registry
The Energy Coalition
The River Project
TreePeople
Union of Concerned Scientists
US Green Buildings Council

Opposition

None listed

**Draft Trailer Bill 807
(Author TBD)**

**WATER BOARD DRINKING
WATER PROGRAM FEE
REGULATIONS**

**OPPOSE UNLESS
AMENDED**

Existing law imposes various responsibilities and duties on the State Water Resources Control Board (SWRCB) with regard to regulating drinking water and establishes a fee program by which public water systems pay the SWRCB for their activities related to drinking water regulation.

Draft Trailer Bill 807 (TB 807) is one of 11 drought budget trailer bills for which draft language has been posted on the California Department of Finance's website. Though none of the bills have been formally introduced, the language is under active consideration by the legislature as part of the budget process which is scheduled to conclude June 15th.

TB 807 would substantially change the current funding structure for the state's drinking water program by repealing most of the existing fee program and authorizing the adoption of a new fee schedule by emergency regulation.

California's drinking water program is administered by the SWRCB and currently funded in large part through "operating fees" paid by public water systems. Currently, fees for large water systems, those with 1,000 or more service connections, must be based on the actual costs incurred in relation to the public water system in question (i.e. fee for service model) and there is a cap on the total fees that must be paid as well as a cap on annual increases. However, concerns have arisen that the current fee schedule is not generating sufficient revenues to support the drinking water program.

Under TB 807, the SWRCB would be required to "set the amount of total revenue collected each year through the fee schedule at an amount equal to the amount appropriated by the Legislature in the annual budget act" for the drinking water program and to review and revise the fee schedule annually. In addition, the SWRCB would be authorized to adopt new fees by emergency regulation. The amount of fees charged to each large system, such as EBMUD, would not have to be based on the actual costs for that particular system, there would be no overall cap on the total amount of fees each system would have to pay, and there would not be a cap on annual fee increases.

While the drinking water program is an important program that needs to be adequately funded, TB 807 would result in fee increases for large water systems, which would not necessarily be related to the costs of regulating those systems, without the same due process and public participation that is currently required.

According to the Association of California Water Agencies (ACWA), there are "significant concerns related to the current language. Not only does the proposed emergency regulatory authority circumvent the public process in raising fees on drinking water systems throughout the state, but many questions remain unanswered related to the Program's financial structure that is being used as context" for language in TB 807. ACWA has been working with the SWRCB and the administration to solve the drinking water program's budget shortfall and has offered an alternative that would raise fees to fully fund the drinking water program for the 2015-2016 budget year and provide assurances of sufficient funding in future years, but would maintain the existing cap on future annual increases and retain a transparent and public rulemaking process for the fees. ACWA has also suggested that the current structure remain in place for one year while the stakeholders continue to work with the SWRCB on this issue. However, if a bill is to move forward this year, at a minimum it should include the elements of ACWA's alternative proposal discussed above.

**Draft Trailer Bill 825
(Author TBD)**

**DROUGHT WATER SYSTEM
CONSOLIDATION**

OPPOSE

Existing law prohibits a person from operating a public water system unless the person first submits an application to the State Water Resources Control Board (SWRCB) and receives a

permit issued by the SWRCB and requires the SWRCB to implement and administer various water quality control programs to protect public health and preserve sources of water in the state.

Drought Budget Trailer Bill 825 (TB 825) is one of 11 drought budget trailer bills for which draft language has been posted on the California Department of Finance's website. Though none of the bills have been formally introduced, the language is under active consideration by the legislature as part of the budget process which is scheduled to conclude June 15th.

TB 825 would allow the SWRCB to force consolidations of public water systems "if a public water system fails to reliably provide an adequate supply of safe, potable water." No definitions or other language is provided to clarify the conditions under which a consolidation could be mandated. The phrase "if a public water system fails to reliably provide an adequate supply of safe, potable water" is sufficiently broad that it could apply to any agency in the state with limited water supplies during a drought.

Additional language is being discussed in the legislature that would further broaden the scope of the bill in two major ways: (1) to allow the SWRCB to require a public water system to extend service to domestic well users; and (2) allow the SWRCB to require a public water system to provide "technical, managerial, or financial management assistance" to another public water system.

The draft bill and language under discussion are overly broad and fail to adequately and reasonably define those circumstances under which a consolidation could be mandated by the SWRCB. This proposed authority to require consolidation or extension of services would not be limited based on need or any other clearly defined factor and thus would expose any water agency in the state to a mandated consolidation as the consolidator or as a subsumed system. In addition, it would provide developers with a "free pass" for inadequate and underperforming water systems.

The measure bypasses existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Cortese-Knox-Hertzberg), that, among other things, provides a clear framework for consolidations and the extension of services and provides protections for local agencies. As an indication of the complexity of consolidations, in at least one instance additional legislation, SB 1130 (Roth – 2014) was needed to provide the consolidating agency with adequate liability protections prior to subsuming a small water system that was failing to provide safe drinking water.

TB 825 raises numerous significant questions and issues that include but are not limited to:

- 1) The proposed bill expands the authority to require consolidation well beyond existing law, and gives that authority to a state agency.

Under current law the SWRCB may “*encourage* consolidation of *small community water systems* that serve *disadvantaged communities*.” Additionally, community water systems also may be encouraged to consolidate where at least one of them is a small community water system that serves a disadvantaged community. The proposed bill allows the SWRCB to *require* consolidation, extension of service, provision of technical, managerial, or financial management assistance to another public water system. Thus, as proposed, the SWRCB would have far-ranging powers beyond “encouragement through funding” and instead have the authority to consolidate public water systems with no guidance, except “consultation”, as to what conditions should be met before consolidation is required.

This power to require consolidation completely shifts control over such decisions away from local legislative bodies and citizens and gives it to an administrative agency that is part of the executive branch. Under current law, local agencies and/or citizens have the right to form water districts and define the areas to be served. Local Area Formation Commissions (LAFCOs) and provisions under Cortese-Knox-Hertzberg that allow annexations or consolidations are subordinate to the local water agency’s determination, based on substantial evidence, that annexation or consolidation would create financial or service related concerns.

- 2) The proposed bill expands the intent of existing law, which is designed to assist disadvantaged communities.

Under current law the focus of the SWRCB’s power to “encourage consolidation” is to provide assistance to disadvantaged communities. This concept is lost in the current proposal which is designed to assist water users that do not have an adequate supply of safe potable water, even if the lack of a safe supply is the result of mismanagement of the public water system. Thus, conceivably, advantaged communities that mismanage their water supplies are provided relief through the SWRCB’s powers to order consolidation with a properly managed and financed water system.

- 3) The proposed bill puts the financial burden on state taxpayers and the customers of the properly managed receiving water system.

Under the proposed bill the SWRCB must make funds available to the receiving water system to pay for capacity charges and other loss of assets. Funding for payment of these charges/compensation does not come from the parties that benefit from the expanded water system. Instead, they will ostensibly come from the state’s taxpayers. Given the fact that the proposed bill is not limited to disadvantaged communities, the possibility exists for an advantaged community that mismanages its water supply to be consolidated with a receiving water system with the state taxpayers footing the bill.

- 4) The proposed bill does not take into account the water right limitations or the water supply conditions of the receiving water system.

The proposed bill is silent as to how water rights would be affected, including limitations on place of use and purpose of use. Additionally, no consideration is given to the receiving water system's ability to provide additional water, particularly where surplus supplies do not exist.

- 5) The proposed bill does not address additional financial burdens, beyond the payment of capacity charges, placed on the receiving water system.

Adding communities to service areas requires extension of infrastructure, more operations and maintenance costs, as well administrative costs. These costs are not addressed in the proposed bill. Given the fact that the bill takes away local control from legislative bodies and citizens, authority to require that such costs be paid from local revenue, not from state funds raises issues regarding unfunded state mandates.

In addition to these issues there are major constitutional considerations under Proposition 218 and the prohibition on the gift of ratepayer funds. All of these issues, as well as others that are not identified here, will require the input of many stakeholders including, but not limited to, other water agencies, special districts, LAFCOs, cities and counties.

Consolidations are a complicated policy area that does not lend itself to the budget trailer bill process, which is a fast track process that bypasses legislative policy committees. Sufficient time must be afforded for stakeholders, including EBMUD, to work together to find an acceptable approach. Staff stands ready to work with the administration, the legislature, and other stakeholders, including ACWA and the California Special District's Association, on this issue, however significantly more time is needed than the expedited budget trailer bill process provides.

Draft Trailer Bill 826
(Author TBD)

DROUGHT SUBMETERING

**SUPPORT IF
AMENDED**

The Water Measurement Law requires every water purveyor to require, as a condition of new water service on and after January 1, 1992, the installation of a water meter to measure water service. That law also requires urban water suppliers to install water meters on specified service connections, and to charge water users based on the actual volume of deliveries as measured by those water meters in accordance with a certain timetable.

Draft Trailer Bill 826 (TB 826) is a proposed budget trailer bill that, if introduced and enacted, would require every water purveyor that provides water service to a newly constructed multi-unit residential structure or newly constructed mixed-use residential and commercial structure that submits an application for a water connection after January 1, 2017, to require the installation of

meters or submeters on each individual rental unit as a condition of new water service to that property. TB 826 would require the landlord to charge tenants based on the actual volume of water delivered as measured by the submeter, and to charge tenants at the same rate charged by the water purveyor. Under TB 826, a landlord could also charge tenants a portion of any recurring fixed charge billed to the property, if the tenant's portion of the recurring charge is proportional to the amount of water the tenant uses. TB 826 would also authorize, but not require, the adoption of building standards to require submeters in multiunit residential buildings.

Submetering is a third-party billing mechanism used by building owners and operators to resell water that is delivered to the master meter to individual units based on the actual amount of water delivered to the unit as measured by the submeter. For a submetering program to be both effective and fair, protections must be in place to ensure water is not resold to tenants at a profit and administrative billing standards must be included so that tenants are provided with the necessary information to determine what they are being billed for. A properly crafted submetering program will promote conservation by providing tenants the information they need to conserve water and enabling tenants to benefit from their water conservation efforts because they are only charged for the water they actually use.

TB 826 would promote increased water conservation and contains appropriately rigorous administrative billing standards that would protect tenants from being charged inflated rates for the water they use, and would require detailed bills so charges would be clear to tenants. Consistent with EBMUD's existing metering/submetering program, TB 826 would provide water purveyors with the discretion to determine whether to require the installation of meters or submeters for a particular property. TB 826 also makes it clear that water purveyors would bear no responsibility for the installation, cost, or maintenance of submeters. These three issues have been critical for EBMUD in its consideration of prior submetering measures.

The measure also includes language to preserve existing local submetering programs, such as EBMUD's and enable local agencies to impose stricter requirements than those imposed by the bill. However, under TB 826 it is not clear whether building code standards adopted pursuant to the bill language would or would not preempt a local water agency's ability to impose more stringent submetering requirements. While cities and counties may adopt changes to building code standards if necessitated by local conditions, water agencies, including EBMUD, do not have that authority. It is critical that water conservation efforts are not hampered by future building standards that may impose a lesser conservation standard than those imposed by local water agencies. Accordingly, amendments are needed to clarify that the protections for local agency programs such as EBMUD's also apply once building standards are adopted.

EBMUD has consistently supported legislative efforts to increase water conservation through the use of submeters, as long as adequate tenant and local water agency program protections are included. In 2013, EBMUD supported SB 750 (Wolk) and worked with the author's office to ensure the bill protected existing submetering programs and ensured local agencies could continue to impose more stringent requirements. SB 750 failed to advance out of the legislature.

In 2011, EBMUD supported AB 19 (Fong) which was substantially similar to SB 750. AB 19 failed to advance out of the legislature. In 2010, EBMUD adopted a “support if amended” position on AB 1975 (Fong) in order to work with the author to address the tenant protection issues. AB 1975 failed to advance out of the legislature.

FEDERAL CLEAN WATER RULE UPDATE

INFORMATION

On May 27, 2015, the U.S. Environmental Protection Agency (U.S. EPA) and the U.S. Army Corps of Engineers (Corps) finalized the Clean Water Rule, formerly known as the Waters of the U.S. Rule, to protect the headwaters streams that supply drinking water and establish standards to determine when waters are subject to regulation under the Clean Water Act. According to U.S. EPA and the Corps, the rule will ensure that waters protected under the Clean Water Act are “more precisely defined and predictably determined” and the rule “maintains all previous exemptions and exclusions.”

EBMUD supported the rulemaking process and submitted comments during the public comment period. The finalized rule adequately addresses the issues of interest to EBMUD, specifically, the rule:

- Maintains the existing exemptions for wastewater treatment facilities as they are already subject to National Pollutant Discharge Elimination System permits,
- Excludes groundwater and recognizes that groundwater continues to be regulated by the states, and
- Exempts water delivery and conveyance facilities as well as water recycling facilities.

The rule will go into effect 60 days after it is published in the federal register. To date, the publication in the federal register is still pending.

ARC:MD:JF

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 291

Introduced by Assembly Member Medina

February 11, 2015

An act to amend Section 21152 of, and to add Section 21152.2 to, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as amended, Medina. California Environmental Quality Act: local agencies: notice of determination: water.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion ~~of~~, of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA requires a local agency that approves or determines to carry out a project subject to CEQA to file a notice of the approval or determination with the county clerk of each county in which the project will be located and requires the county clerk to make the notice available for public inspection.

This bill would authorize a local agency, for certain water projects, to file the notice with the county clerk of the county in which the local agency's principal office is located~~in~~ and with the Office of Planning and Research, and to mail a copy of the notice to the county clerks of the counties in which the water project is located, as specified. The bill would require the notices to be available for public inspection or posted, as provided.

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 21152 of the Public Resources Code is
2 amended to read:

3 21152. (a) Except as provided in Section 21152.2, if a local
4 agency approves or determines to carry out a project that is subject
5 to this division, the local agency shall file notice of the approval
6 or the determination within five working days after the approval
7 or determination becomes final, with the county clerk of each
8 county in which the project will be located. The notice shall
9 identify the person or persons in subdivision (b) or (c) of Section
10 21065, as reflected in the agency's record of proceedings, and
11 indicate the determination of the local agency whether the project
12 will, or will not, have a significant effect on the environment and
13 shall indicate whether an environmental impact report has been
14 prepared pursuant to this division. The notice shall also include
15 certification that the final environmental impact report, if one was
16 prepared, together with comments and responses, is available to
17 the general public.

18 (b) If a local agency determines that a project is not subject to
19 this division pursuant to subdivision (b) of Section 21080 and the
20 local agency approves or determines to carry out the project, the
21 local agency or the person specified in subdivision (b) or (c) of
22 Section 21065 may file a notice of the determination with the
23 county clerk of each county in which the project will be located.
24 A notice filed pursuant to this subdivision shall identify the person
25 or persons in subdivision (b) or (c) of Section 21065, as reflected
26 in the agency's record of proceedings. A notice filed pursuant to
27 this subdivision by a person specified in subdivision (b) or (c) of
28 Section 21065 shall have a certificate of determination attached

1 to it issued by the local agency responsible for making the
2 determination that the project is not subject to this division pursuant
3 to subdivision (b) of Section 21080. The certificate of
4 determination may be in the form of a certified copy of an existing
5 document or record of the local agency.

6 (c) A notice filed pursuant to this section shall be available for
7 public inspection, and shall be posted within 24 hours of receipt
8 in the office of the county clerk. A notice shall remain posted for
9 a period of 30 days. Thereafter, the clerk shall return the notice to
10 the local agency with a notation of the period it was posted. The
11 local agency shall retain the notice for not less than 12 months.

12 SEC. 2. Section 21152.2 is added to the Public Resources Code,
13 to read:

14 21152.2. (a) For purposes of this section, "water project"
15 means an activity undertaken pursuant to Sections 1011, 1011.5,
16 and 1211 of, Chapter 2 (commencing with Section 1250), Chapter
17 6.6 (commencing with Section 1435), Chapter 10 (commencing
18 with Section 1700), and Chapter 10.5 (commencing with Section
19 1725) of Part 2 of Division 2 of, the Water Code.

20 (b) Within five working days after a local agency has approved
21 or made a determination to carry out a water project, a local agency,
22 in lieu of the notice filing requirements of subdivision (a) of
23 Section 21152 for that water project, may take all of the following
24 actions:

25 (1) File the notice in the form required by subdivision (a) of
26 Section 21152 with the county clerk of the county in which the
27 local agency's principal office is located.

28 (2) File the notice with the Office of Planning and Research.

29 (3) Mail ~~copies~~ *a copy* of the notice through the United States
30 mail, first-class postage prepaid with return receipt requested, to
31 the county clerk of ~~all the counties~~ *each county* in which the water
32 project will be located.

33 (c) (1) The county clerk receiving a notice pursuant to paragraph
34 (1) of subdivision (b) shall comply with subdivision (c) of Section
35 21152.

36 (2) All notices filed pursuant to paragraph (2) of subdivision
37 (b) shall be available for public inspection, and a list of those
38 notices shall be posted on a weekly basis in the Office of Planning
39 and Research. Each list shall remain posted for a period of 30 days.

1 (3) As promptly as possible, a county clerk that receives a copy
2 of a notice pursuant to paragraph (3) of subdivision (b) shall post
3 that copy and shall not require an original of that notice or any
4 additional information from the local agency.

5 (d) The filing date of the notice specified in subdivisions (b) to
6 (e), inclusive, of Section 21167, Section 21167.10, and Section
7 21177 shall be the date on which the notice is filed with the Office
8 of Planning and Research pursuant to paragraph (2) of subdivision
9 (b).

10 (e) Nothing in this section affects the application of Section
11 21092.2.

AMENDED IN SENATE MAY 5, 2015
AMENDED IN SENATE APRIL 13, 2015
AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 471

Introduced by Senator Pavley

February 26, 2015

An act to *amend Section 39712 of, and to add Chapter 10* (commencing with Section 39950) to Part 2 of Division 26 ~~of of~~, the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 471, as amended, Pavley. Water, energy, and reduction of greenhouse gas emissions: planning.

Existing law designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions, commonly known as cap and trade revenues, to be deposited in the Greenhouse Gas Reduction Fund, and to be used, upon appropriation by the Legislature, for specified purposes, *including the reduction of greenhouse gas emissions associated with water use and supply*.

This bill would require the state board, in cooperation with various other agencies, to develop an emissions inventory of greenhouse gas emissions from the water system in the state, using best available data. The bill would ~~provide water recycling, wastewater treatment, water end-use efficiency, water technology improvements, best management~~

~~practices, and other projects that reduce water system greenhouse gas emissions shall be~~ *include reduction of greenhouse gas emissions associated with water treatment among the investments that are eligible* for funding from the Greenhouse Gas Reduction Fund. The bill would also make legislative findings and declarations, and a statement of legislative intent, with regard to the nexus between water and energy and water and reduction of greenhouse gas emissions.

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. (a) The Legislature finds and declares all of the
2 following:

3 (1) Water and energy resources are inextricably connected. This
4 relationship is known as the water-energy nexus.

5 (A) The energy used to drive California's water system,
6 including, but not limited to, the fuels used to power groundwater
7 pumps, transportation, treatment and disposal systems for water
8 and wastewater, heating and cooling of water in buildings and
9 other facilities, and the delivery of water to end users, accounts
10 for nearly 20 percent of the total electricity usage, 30 percent of
11 nonpower-related natural gas consumed, and an unknown quantity
12 of greenhouse gas emissions associated with that energy
13 production.

14 (B) The water used to drive California's energy system,
15 including, but not limited to, the water used to turn turbines for
16 hydropower, to produce steam and cooling systems for
17 thermoelectric power, and to extract and refine oil and gas,
18 represents a substantial portion of our state water demand.

19 (C) Consequently, saving water saves energy, and vice versa.

20 (D) Because the production of energy often results in the
21 emission of greenhouse gases, there is substantial potential for
22 emission reductions in the water system.

23 (2) Planning for water use is often conducted without
24 consideration of energy use or greenhouse gas emissions. Similarly,
25 planning for energy and reduction of greenhouse gas emissions is
26 often conducted without consideration of water resources. As a
27 result, local and state agencies may not be identifying projects that

1 best serve water and energy investments to maximize greenhouse
2 gas emissions reductions.

3 (b) It is the intent of the Legislature, in enacting this act, to:

4 (1) Provide the best available data on the water-energy nexus
5 so that it may be included in the scoping plan update prepared
6 pursuant to the California Global Warming Solutions Act of 2006
7 (Division 25.5 (commencing with Section 38500) of the Health
8 and Safety Code).

9 (2) More closely integrate the planning for water, energy, and
10 greenhouse gas emissions.

11 (3) Enable opportunities for innovative projects and programs
12 that reduce the greenhouse gas intensity of our water system in
13 order to access eligible funds.

14 *SEC. 2. Section 39712 of the Health and Safety Code is*
15 *amended to read:*

16 39712. (a) (1) It is the intent of the Legislature that moneys
17 shall be appropriated from the fund only in a manner consistent
18 with the requirements of this chapter and Article 9.7 (commencing
19 with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title
20 2 of the Government Code.

21 (2) The state shall not approve allocations for a measure or
22 program using moneys appropriated from the fund except after
23 determining, based on the available evidence, that the use of those
24 moneys furthers the regulatory purposes of Division 25.5
25 (commencing with Section 38500) and is consistent with law. If
26 any expenditure of moneys from the fund for any measure or
27 project is determined by a court to be inconsistent with law, the
28 allocations for the remaining measures or projects shall be
29 severable and shall not be affected.

30 (b) Moneys shall be used to facilitate the achievement of
31 reductions of greenhouse gas emissions in this state consistent
32 with Division 25.5 (commencing with Section 38500) and, where
33 applicable and to the extent feasible:

34 (1) Maximize economic, environmental, and public health
35 benefits to the state.

36 (2) Foster job creation by promoting in-state greenhouse gas
37 emissions reduction projects carried out by California workers and
38 businesses.

39 (3) Complement efforts to improve air quality.

1 (4) Direct investment toward the most disadvantaged
2 communities and households in the state.

3 (5) Provide opportunities for businesses, public agencies,
4 nonprofits, and other community institutions to participate in and
5 benefit from statewide efforts to reduce greenhouse gas emissions.

6 (6) Lessen the impacts and effects of climate change on the
7 state's communities, economy, and environment.

8 (c) Moneys appropriated from the fund may be allocated,
9 consistent with subdivision (a), for the purpose of reducing
10 greenhouse gas emissions in this state through investments that
11 may include, but are not limited to, any of the following:

12 (1) Funding to reduce greenhouse gas emissions through energy
13 efficiency, clean and renewable energy generation, distributed
14 renewable energy generation, transmission and storage, and other
15 related actions, including, but not limited to, at public universities,
16 state and local public buildings, and industrial and manufacturing
17 facilities.

18 (2) Funding to reduce greenhouse gas emissions through the
19 development of state-of-the-art systems to move goods and freight,
20 advanced technology vehicles and vehicle infrastructure, advanced
21 biofuels, and low-carbon and efficient public transportation.

22 (3) Funding to reduce greenhouse gas emissions associated with
23 ~~water use and supply~~, land and natural resource conservation and
24 management, forestry, ~~and sustainable agriculture, and the water~~
25 *sector, including, but not limited to, water use, supply, and*
26 *treatment.*

27 (4) Funding to reduce greenhouse gas emissions through
28 strategic planning and development of sustainable infrastructure
29 projects, including, but not limited to, transportation and housing.

30 (5) Funding to reduce greenhouse gas emissions through
31 increased in-state diversion of municipal solid waste from disposal
32 through waste reduction, diversion, and reuse.

33 (6) Funding to reduce greenhouse gas emissions through
34 investments in programs implemented by local and regional
35 agencies, local and regional collaboratives, and nonprofit
36 organizations coordinating with local governments.

37 (7) Funding research, development, and deployment of
38 innovative technologies, measures, and practices related to
39 programs and projects funded pursuant to this chapter.

1 ~~SEC. 2.~~

2 SEC. 3. Chapter 10 (commencing with Section 39950) is added
3 to Part 2 of Division 26 of the Health and Safety Code, to read:

4
5 CHAPTER 10. EMISSIONS FROM THE WATER SYSTEM
6

7 39950. (a) The state board, in cooperation with the State
8 Energy Resources Conservation and Development Commission,
9 the Public Utilities Commission, the State Water Resources Control
10 Board, and the Department of Water Resources, shall develop an
11 emissions inventory of greenhouse gas emissions from the water
12 system in the state, using best available data.

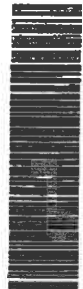
13 (b) ~~Water recycling, wastewater treatment, water end-use~~
14 ~~efficiency, water technology improvements, best management~~
15 ~~practices, and other programs that reduce water system greenhouse~~
16 ~~gas emissions shall be eligible for funding from the Greenhouse~~
17 ~~Gas Reduction Fund.~~

~~EXHIBIT 0007~~

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An act to amend Section 6103.4 of the Government Code, and to amend Sections 116275, 116577, 116585, 116590, and 116595 of, to repeal Sections 116570 and 116580 of, and to repeal and add Section 116565 of, the Health and Safety Code, relating to the State Water Resources Control Board.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6103.4 of the Government Code is amended to read:

6103.4. Section 6103 does not apply to any fee or charge for official services required by ~~Section 100860 of any of the following:~~

(a) The Environmental Laboratory Accreditation Act (Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 of the Health and Safety Code).

(b) Article 3 (commencing with Section 106875) of Chapter 4 of Part 1 of Division 104 of the Health and Safety Code.

(c) The California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code).

(d) The Safe Drinking Water State Revolving Fund Law of 1997 (Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104 of the Health and Safety Code).

(e) Article 2 (commencing with Section 116800) and Article 3 (commencing with Section 116825) of Chapter 5 of Part 12 of Division 104 of the Health and Safety Code, or Part Code.

(f) Part 5 (commencing with Section 4999) of Division 2, or 2 and Division 7 (commencing with Section 13000), of the Water Code.

SEC. 2. Section 116275 of the Health and Safety Code is amended to read:

116275. As used in this chapter:

(a) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.



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(b) "Department" means ~~the State Department of Public Health~~ state board.

(c) "Primary drinking water standards" means:

(1) Maximum levels of contaminants ~~that, in the judgment of the department~~ state board, may have an adverse effect on the health of persons.

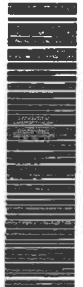
(2) Specific treatment techniques adopted by the ~~department~~ state board in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.

(3) The monitoring and reporting requirements as specified in regulations adopted by the ~~department~~ state board that pertain to maximum contaminant levels.

(d) "Secondary drinking water standards" means standards that specify maximum contaminant levels ~~that, in the judgment of the department~~ state board, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or that may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the water when the standards are necessary to ensure a supply of pure, wholesome, and potable water.

(e) "Human consumption" means the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes.

(f) "Maximum contaminant level" means the maximum permissible level of a contaminant in water.



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(g) "Person" means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.

(h) "Public water system" means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system.

(2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.

(3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(i) "Community water system" means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.

(j) "Noncommunity water system" means a public water system that is not a community water system.

(k) "Nontransient noncommunity water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.

(l) "Local health officer" means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.



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(m) "Significant rise in the bacterial count of water" means a rise in the bacterial count of water that the ~~department~~ state board determines, by regulation, represents an immediate danger to the health of water users.

(n) "State small water system" means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.

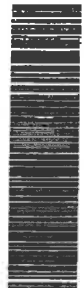
(o) "Transient noncommunity water system" means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.

(p) "User" means a person using water for domestic purposes. User does not include a person processing, selling, or serving water or operating a public water system.

(q) "Waterworks standards" means regulations adopted by the ~~department~~ state board that take cognizance of the latest available "Standards of Minimum Requirements for Safe Practice in the Production and Delivery of Water for Domestic Use" adopted by the California section of the American Water Works Association.

(r) "Local primacy agency" means a local health officer that has applied for and received primacy delegation ~~from the department~~ pursuant to Section 116330.

(s) "Service connection" means the point of connection between the customer's piping or constructed conveyance, and the water system's meter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:



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(1) The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking or other similar uses.

(2) ~~The department~~ state board determines that alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.

(3) ~~The department~~ state board determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.

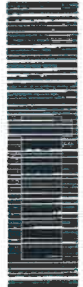
(t) "Resident" means a person who physically occupies, whether by ownership, rental, lease, or other means, the same dwelling for at least 60 days of the year.

(u) "Water treatment operator" means a person who has met the requirements for a specific water treatment operator grade pursuant to Section 106875.

(v) "Water treatment operator-in-training" means a person who has applied for and passed the written examination given by the ~~department~~ state board but does not yet meet the experience requirements for a specific water treatment operator grade pursuant to Section 106875.

(w) "Water distribution operator" means a person who has met the requirements for a specific water distribution operator grade pursuant to Section 106875.

(x) "Water treatment plant" means a group or assemblage of structures, equipment, and processes that treats, blends, or conditions the water supply of a public water system for the purpose of meeting primary drinking water standards.



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(y) "Water distribution system" means any combination of pipes, tanks, pumps, and other physical features that deliver water from the source or water treatment plant to the consumer.

(z) "Public health goal" means a goal established by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c) of Section 116365.

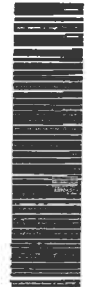
(aa) "Small community water system" means a community water system that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons.

(ab) "Disadvantaged community" means the entire service area of a community water system, or a community therein, in which the median household income is less than 80 percent of the statewide average.

(ac) "State board" means the State Water Resources Control Board.

SEC. 3. Section 116565 of the Health and Safety Code is repealed.

~~116565. (a) Each public water system serving 1,000 or more service connections, and any public water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption, shall reimburse the department for the actual cost incurred by the department for conducting those activities mandated by this chapter relating to the issuance of domestic water supply permits, inspections, monitoring, surveillance, and water quality evaluation that relate to that specific public water system. The amount of reimbursement shall be sufficient to pay, but in no event shall exceed, the department's actual cost in conducting these activities.~~



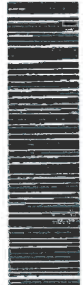
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~~(b) Each public water system serving fewer than 1,000 service connections shall pay an annual drinking water operating fee to the department as set forth in this subdivision for costs incurred by the department for conducting those activities mandated by this chapter relating to inspections, monitoring, surveillance, and water quality evaluation relating to public water systems. The total amount of fees shall be sufficient to pay, but in no event shall exceed, the department's actual cost in conducting these activities. Notwithstanding adjustment of actual fees collected pursuant to Section 100425 as authorized pursuant to subdivision (d) of Section 116590, the amount that shall be paid annually by a public water system pursuant to this section shall be as follows:~~

~~(1) Community water systems, six dollars (\$6) per service connection, but not less than two hundred fifty dollars (\$250) per water system, which may be increased by the department, as provided for in subdivision (f), to ten dollars (\$10) per service connection, but not less than two hundred fifty dollars (\$250) per water system.~~

~~(2) Nontransient nonecommunity water systems pursuant to subdivision (k) of Section 116275, two dollars (\$2) per person served, but not less than four hundred fifty-six dollars (\$456) per water system, which may be increased by the department, as provided for in subdivision (f), to three dollars (\$3) per person served, but not less than four hundred fifty-six dollars (\$456) per water system.~~

~~(3) Transient nonecommunity water systems pursuant to subdivision (o) of Section 116275, eight hundred dollars (\$800) per water system, which may be increased by the department, as provided for in subdivision (f), to one thousand three hundred thirty-five dollars (\$1,335) per water system.~~



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~~(4) Noncommunity water systems in possession of a current exemption pursuant to former Section 116282 on January 1, 2012, one hundred two dollars (\$102) per water system.~~

~~(c) For purposes of determining the fees provided for in subdivision (a), the department shall maintain a record of its actual costs for pursuing the activities specified in subdivision (a) relative to each system required to pay the fees. The fee charged each system shall reflect the department's actual cost, or in the case of a local primacy agency the local primacy agency's actual cost, of conducting the specified activities.~~

~~(d) The department shall submit an invoice for cost reimbursement for the activities specified in subdivision (a) to the public water systems no more than twice a year.~~

~~(1) The department shall submit one estimated cost invoice to public water systems serving 1,000 or more service connections and any public water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption. This invoice shall include the actual hours expended during the first six months of the fiscal year. The hourly cost rate used to determine the amount of the estimated cost invoice shall be the rate for the previous fiscal year.~~

~~(2) The department shall submit a final invoice to the public water system before October 1 following the fiscal year that the costs were incurred. The invoice shall indicate the total hours expended during the fiscal year, the reasons for the expenditure, the hourly cost rate of the department for the fiscal year, the estimated cost invoice, and payments received. The amount of the final invoice shall be determined using the total hours expended during the fiscal year and the actual hourly cost rate of the~~



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department for the fiscal year. The payment of the estimated invoice, exclusive of late penalty, if any, shall be credited toward the final invoice amount.

(3) Payment of the invoice issued pursuant to paragraphs (1) and (2) shall be made within 90 days of the date of the invoice. Failure to pay the amount of the invoice within 90 days shall result in a 10-percent late penalty that shall be paid in addition to the invoiced amount.

(c) Any public water system under the jurisdiction of a local primary agency shall pay the fees specified in this section to the local primary agency in lieu of the department. This section shall not preclude a local health officer from imposing additional fees pursuant to Section 101325.

(f) The department may increase the fees established in subdivision (b) as follows:

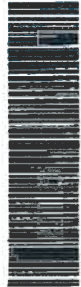
(1) By February 1 of the fiscal year prior to the fiscal year for which fees are proposed to be increased, the department shall publish a list of fees for the following fiscal year and a report showing the calculation of the amount of the fees:

(2) The department shall make the report and the list of fees available to the public by submitting them to the Legislature and posting them on the department's Internet Web site.

(3) The department shall establish the amount of fee increases subject to the approval and appropriation by the Legislature.

SEC. 4. Section 116565 is added to the Health and Safety Code, to read:

116565. (a) Each public water system shall submit an annual fee according to a fee schedule established by the state board pursuant to subdivision (c) for the purpose of reimbursing the state board for the costs incurred by the state board for conducting



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activities mandated by this chapter. The amount of reimbursement shall be sufficient to pay, but in no event shall exceed, the state board's costs in conducting these activities, including a prudent reserve in the Safe Drinking Water Account.

(b) Payment of the annual fee shall be due 90 calendar days following the due date established in the schedule. Failure to pay the annual fee within 90 calendar days shall result in a 10-percent late penalty that shall be paid in addition to the fee.

(c) The state board shall adopt, by emergency regulation, a schedule of fees, as authorized by this section. The emergency regulations may include provisions concerning the administration and collection of the fees.

(d) The state board shall set the amount of total revenue collected each year through the fee schedule at an amount equal to the amount appropriated by the Legislature in the annual Budget Act from the Safe Drinking Water Account for expenditure for the administration of this chapter, taking into account the reserves in the Safe Drinking Water Account. The state board shall review and revise the fees each fiscal year as necessary to conform with the amounts appropriated by the Legislature. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the amounts appropriated by the Legislature, the state board may further adjust the fees to compensate for the over or under collection of revenue.

(e) (1) Except as provided in paragraph (2), the emergency regulations adopted pursuant to this section, any amendment thereto, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by



the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(2) Notwithstanding Section 116377, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(f) A public water system under the jurisdiction of a local primacy agency shall pay the fees specified in this section to the local primacy agency in lieu of the state board. This section does not preclude a local health officer from imposing additional fees pursuant to Section 101325.

SEC. 5. Section 116570 of the Health and Safety Code is repealed.

~~116570. (a) Each public water system serving less than 1,000 service connections applying for a domestic water supply permit pursuant to Section 116525 or 116550 shall pay a permit application processing fee to the department. Payment of the fee shall accompany the application for the permit or permit amendment.~~

~~(b) The amount of the permit application fee required under subdivision (a) shall be as follows:~~

~~(1) A new community water system for which no domestic water supply permits have been previously issued by the department shall pay an application fee of five hundred dollars (\$500).~~

~~(2) A new noncommunity water system for which no domestic water supply permits have been previously issued by the department shall pay an application fee of three hundred dollars (\$300).~~



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~~(3) An existing public water system applying for an amendment to a domestic water supply permit due to a change in ownership shall pay an application fee of one hundred fifty dollars (\$150).~~

~~(4) An existing public water system applying for an amendment to a domestic water supply permit due to an addition or modification of the source of supply, or an addition or change in the method of treatment of the water supply shall pay an application fee of two hundred fifty dollars (\$250).~~

~~(c) Any public water system under the jurisdiction of a local primacy agency shall pay the permit application fees specified in this section to the local primacy agency in lieu of the department.~~

SEC. 6. Section 116577 of the Health and Safety Code is amended to read:

116577. (a) Each public water system shall reimburse the department state board for actual costs incurred by the department state board for any of the following enforcement activities related to that water system:

- (1) Preparing, issuing, and monitoring compliance with, an order or a citation.
- (2) Preparing and issuing public notification.
- (3) Conducting a hearing pursuant to Section 116625.

(b) The department state board shall submit an invoice for these enforcement costs to the public water system that requires payment ~~prior to~~ before September 1 of the fiscal year following the fiscal year in which the costs were incurred. The invoice shall indicate the total hours expended, the reasons for the expenditure, and the hourly cost rate of the department state board. The costs set forth in the invoice shall not



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exceed the total actual costs to the ~~department~~ state board of enforcement activities specified in this section.

(c) Notwithstanding the reimbursement of enforcement costs of the local primacy agency pursuant to subdivision (a) of Section 116595 by a public water systems system under the jurisdiction of the local primacy agency, a public water systems system shall also reimburse enforcement costs, if any, incurred by the ~~department~~ state board pursuant to this section.

(d) ~~"Enforcement costs"~~ costs, as used in this ~~section~~ section, does not include "litigation costs" pursuant to Section 116585.

(e) The ~~department~~ state board shall not be entitled to enforcement costs pursuant to this section if ~~either a court or the department~~ determines that enforcement activities were in error.

~~(f) The maximum reimbursement, pursuant to this section, by a public water system serving less than 1,000 service connections during any fiscal year shall not exceed one thousand dollars (\$1,000) or twice the maximum for that public water system as set forth in subdivision (e) of Section 116565, whichever is greater.~~

(f) Payment of the invoice shall be made within 90 days of the date of the invoice. Failure to pay the invoice within 90 days shall result in a 10-percent late penalty that shall be paid in addition to the invoiced amount.

(g) The state board may, at its sole discretion, waive payment by a public water system of all or any part of the invoice or penalty.

SEC. 7. Section 116580 of the Health and Safety Code is repealed.



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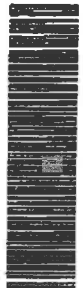
~~116580. (a) Each public water system that requests an exemption, plan review, variance, or waiver of any applicable requirement of this chapter or any regulation adopted pursuant to this chapter, shall reimburse the department for actual costs incurred by the department in processing the request.~~

~~(b) The department shall submit an invoice to the water system prior to October 1 of the fiscal year following the fiscal year in which the department's decision was rendered with respect to the request for a plan review, exemption, variance, or waiver. The invoice shall indicate the number of hours expended by the department and the department's hourly cost rate. Payment of the fee shall be made within 120 days of the date of the invoice. The department may revoke any approval of a request for an exemption, variance, or waiver for failure to pay the required fees.~~

~~(c) Notwithstanding subdivisions (a) and (b), requests for, and reimbursement of actual costs for, an exemption, variance, or waiver for public water systems under the jurisdiction of the local primacy agency shall, instead, be submitted to the local primacy agency pursuant to subdivision (c) of Section 116595.~~

SEC. 8. Section 116585 of the Health and Safety Code is amended to read:

116585. In ~~any~~ a civil court action brought to enforce this chapter, the prevailing party or parties shall be awarded litigation costs, including, but not limited to, salaries, benefits, travel expenses, operating equipment, administrative, overhead, other litigation costs, and attorney's fees, as determined by the court. Litigation costs awarded to the ~~department state board~~ by the court shall be deposited into the Safe Drinking Water Account. Litigation costs awarded to a local primacy agency by the court shall be used by that local primacy agency to offset the local primacy agency's litigation costs.



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SEC. 9. Section 116590 of the Health and Safety Code is amended to read:

116590. (a) ~~All funds~~ Funds received by the department state board pursuant to this chapter, including, but not limited to, all civil penalties collected by the department pursuant to Article 9 (commencing with Section 116650) and Article 11 (commencing with Section 116725), ~~chapter~~ shall be deposited into the Safe Drinking Water Account ~~that Account, which is hereby established~~ established, and shall be available for use by the state board, upon appropriation by the Legislature, for the purpose of providing funds necessary to administer this chapter. Funds in the Safe Drinking Water Account ~~may~~ shall not be expended for any purpose other than as set forth in this chapter. ~~All moneys collected by the department pursuant to Sections 116565 to 116600, inclusive, shall be deposited into the Safe Drinking Water Account for use by the department, upon appropriation by the Legislature, for the purpose of providing funds necessary to administer this chapter.~~

(b) ~~The department's hourly cost rate used to determine the reimbursement for actual costs pursuant to Sections 116565, 116577, and 116580 shall be based upon the department's salaries, benefits, travel expense, operating, equipment, administrative support, and overhead costs.~~

(c) ~~Notwithstanding Section 6103 of the Government Code, each public water system operating under a permit issued pursuant to this chapter shall pay the fees set forth in this chapter.~~

(b) ~~A public water system shall be permitted to~~ may collect a fee from its customers to recover the fees paid by the public water system pursuant to this chapter.



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~~(d) The fees collected pursuant to subdivision (b) of Section 116565 and subdivision (b) of Section 116570 shall be adjusted annually pursuant to Section 100425, and the adjusted fee amounts shall be rounded off to the nearest whole dollar.~~

~~(e) Fees assessed pursuant to this chapter shall not exceed actual costs to either the department or the local primacy agency, as the case may be, related to the public water systems assessed the fees.~~

~~(f) In no event shall the total amount of funds received pursuant to subdivision (a) of Section 116565, and subdivision (a) of Section 116577 from public water systems serving 1,000 or more service connections exceed the following:~~

~~(1) For the 2001-02 fiscal year, seven million dollars (\$7,000,000).~~

~~(2) For the 2002-03 fiscal year and subsequent fiscal years, the total amount of funds shall not increase by more than 5 percent of the amount collected for the previous fiscal year.~~

~~(g) The department shall develop a time accounting standard designed to do all of the following:~~

~~(1) Provide accurate time accounting.~~

~~(2) Provide accurate invoicing based upon hourly rates comparable to private sector professional classifications and comparable rates charged by other states for comparable services. These rates shall be applied against the time spent by the actual individuals who perform the work.~~

~~(3) Establish work standards that address work tasks, timing, completeness, limits on redirection of effort, and limits on the time spent in the aggregate for each activity.~~



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~~(4) Establish overhead charge-back limitations, including, but not limited to, charge-back limitations on charges relating to reimbursement of services provided to the department by other departments and agencies of the state, that reasonably relate to the performance of the function.~~

~~(5) Provide appropriate invoice controls.~~

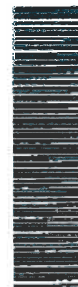
SEC. 10. Section 116595 of the Health and Safety Code is amended to read:

116595. (a) ~~Any~~ A public water system under the jurisdiction of a local primacy agency shall reimburse the local primacy agency for any enforcement cost incurred by the local primacy agency related to any of the following relating to that water system:

- (1) Preparing, issuing, and monitoring compliance with, an order or a citation.
- (2) Preparing and issuing public notification.
- (3) Conducting a hearing pursuant to Section 116625.

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(b) The local primacy agency shall submit an invoice to the public water system that requires payment, ~~prior to~~ before September 1 of the fiscal year following the fiscal year in which the costs were incurred. The invoice shall indicate the total hours expended, the reasons for the expenditure, and the hourly cost rate of the local primacy agency. The invoice shall not exceed the total costs to the local primacy agency of enforcement activities specified in this subdivision. Notwithstanding the reimbursement to the ~~department~~ state board of enforcement costs, if any, pursuant to Section 116577, any public water system under the jurisdiction of the local primacy agency shall also reimburse the local primacy agency for enforcement costs incurred by the local primacy agency pursuant to this section. The local primacy agency shall not be entitled to



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enforcement costs pursuant to this subdivision if either a court or the local primacy agency determines that enforcement activities were in error. "Enforcement costs" as used in this subdivision does not include "litigation costs" as used in subdivision (d). The maximum reimbursement, pursuant to this subdivision, by a public water system serving less than 1,000 service connections during any fiscal year shall not exceed twice the maximum for that public water system as set forth in subdivision (e) of Section 116565. Section 116585.

(b) ~~The local primacy agency may adopt a fee schedule for the processing of applications for a domestic water supply permit, submitted pursuant to subdivision (e) of Section 116570 by a public water system under the jurisdiction of the local primacy agency, in lieu of the fee schedule set forth in subdivision (b) of Section 116570, to recover its cost of processing the permit applications as specified in the primacy agreement. The fee shall not exceed the total costs to the local primacy agency of processing the permit application.~~

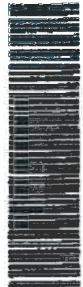
(c) ~~Any public water system under the jurisdiction of a local primacy agency that requests an exemption, variance, or waiver of any applicable requirement of this chapter, or any regulation of the department adopted pursuant to this chapter, shall submit the request to the local primacy agency and shall reimburse the local primacy agency for any costs incurred by the local primacy agency in processing the request.~~

(c) Payment of the invoice shall be made within 90 days of the date of the invoice. Failure to pay the invoice within 90 days shall result in a 10-percent late penalty that shall be paid in addition to the invoiced amount.



(d) The local primacy agency may, in its sole discretion, waive payment by a public water system of all or any part of the invoice or the penalty.

SEC. 11. The repeal of Sections 116565, 116570, and 116580 of the Health and Safety Code pursuant to Sections 3, 5, and 7, respectively, does not terminate any obligations or authorities with respect to the collection of unpaid fees or reimbursements imposed pursuant to those sections, as those sections read before the date of their repeal, including any interest or penalties that occur before, on, or after that date, associated with those unpaid fees or reimbursements.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: State Water Resources Control Board: California Safe Drinking Water Act.

(1) Existing law generally prohibits the state, or a county, city, district, or other political subdivision, or any public officer or body acting in its official capacity on behalf of any of those entities, from being required to pay any fee for the performance of an official service. Existing law exempts from this provision any fee or charge for official services required pursuant to specified provisions of law relating to water use or water quality, including the fees charged to public water systems under the California Safe Drinking Water Act.

This bill would specifically exempt other provisions relating to water use and water quality, including the Safe Drinking Water State Revolving Fund Law of 1997 and provisions relating to cross-connections of water users, water treatment devices, and operator certification of water treatment plants and water distribution systems.



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(2) The California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board various duties and responsibilities for the regulation and control of drinking water in the State of California. The act requires a public water system serving 1,000 or more service connections, and any public water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption, to reimburse the state board for the state board's actual costs of conducting specified mandated activities that relate to that specific public water system. The act requires the state board to submit an invoice to the public water system according to specified provisions. The act requires a public water system serving fewer than 1,000 service connections to pay an annual drinking water operating fee to the state board, as specified, for the state board's costs of conducting specified mandated activities relating to public water systems. The act authorizes the state board to increase this annual drinking water operating fee according to specified procedures. The act also requires a public water system serving less than 1,000 service connections applying for a domestic water supply permit to pay a permit application processing fee to the state board. The act requires a public water system under the jurisdiction of a local primacy agency to pay the above-described fees to the local primacy agency in lieu of the state board.

This bill would repeal the above-described reimbursement and fee provisions and instead require the state board to adopt, by emergency regulation, a fee schedule, to be paid annually by each public water system for the purpose of reimbursing the state board for specified activities. The bill would prohibit the reimbursement from



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exceeding the state board's cost of conducting the activities, as specified. The bill would require the state board to set the total amount of revenue collected through the fee schedule to be equal to the amount appropriated by the Legislature in the annual Budget Act from the Safe Drinking Water Account for expenditure for the administration of the act. The bill would require the state board to review and revise the fee schedule each fiscal year, as necessary, and, if the state board determines that the amount of revenue collected during the preceding year was greater than, or less than, the amounts appropriated by the Legislature, the bill would authorize the state board to further adjust the fees.

The bill would allow the emergency regulations to include provisions relating to the administration and collection of fees and would require that any emergency regulations adopted by the state board, or adjustments to the annual fees, not be subject to review by the Office of Administrative Law and remain in effect until revised by the state board. The bill would require a public water system under the jurisdiction of a local primacy agency to pay these fees to the local primacy agency in lieu of the state board.

The act also generally requires each public water system to reimburse the state board for actual costs incurred by the state board for specified enforcement activities related to that water system and, for a public water system serving less than 1,000 service connections, restricts the maximum reimbursement to specified amounts. Under the act, the state board is not entitled to these enforcement costs if either a court or the state board determines that the enforcement activities were in error. The act imposes



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similar provisions upon a public water system under the jurisdiction of a local primacy agency.

This bill would delete the maximum reimbursement limitation for public water systems serving less than 1,000 service connections and would not entitle the state board, or local primacy agency, if applicable, to enforcement costs if a court, not the state board or local primacy agency, determines that the enforcement activities were in error. The bill would require that payment of the invoice for reimbursement costs be made within 90 days of the date of the invoice, with a 10% late penalty, and would authorize the state board or local primacy agency to waive payment of all or any part of the invoice or penalty.

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



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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Public water systems: consolidation.

Existing law prohibits a person from operating a public water system unless the person first submits an application to the State Water Resources Control Board and receives a permit issued by the state board, as specified. Existing law requires the state board to implement and administer various water quality control programs to protect public health and preserve sources of water in the state.

This bill would authorize the state board, if a public water system fails to reliably provide an adequate supply of safe, potable water, to require consolidation of that water system with another public water system, if certain requirements are met. The bill would require the state board, if it requires the consolidation of public water systems, to provide financial assistance to the public water system that is incorporating the other public water system, upon appropriation for this purpose, as necessary to complete the consolidation. The bill would require the state board, if it requires a privately owned



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public water system to be taken over in a consolidation, to compensate the owner or owners of the privately owned public water system for the fair market value of that public water system.

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



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An act to add Section 116557 to the Health and Safety Code, relating to drinking water.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 116557 is added to the Health and Safety Code, to read:

116557. (a) Notwithstanding Section 56133 of the Government Code, if a public water system fails to reliably provide an adequate supply of safe, potable water, the state board may require the consolidation of that public water system with another public water system, if the state board does all of the following:

(1) Consults with the relevant local agency formation commission regarding all of the following:

(A) How the consolidation of the public water systems may affect water service in the affected area.

(B) Recommendations for improving water service in the affected area.

(C) Any other information relevant to the consolidation of the public water systems.

(2) Conducts a public hearing, in accordance with the requirements of Section 116545.

(3) Finds both of the following:

(A) Consolidation of the public water systems is feasible.

(B) Consolidation of the public water systems is the best means to provide an adequate supply of safe, potable water to the customers of those public water systems.

(b) If the state board requires the consolidation of public water systems pursuant to this section, the state board shall provide financial assistance to the public water system that is incorporating the other public water system, upon appropriation for this purpose, as necessary to complete the consolidation of the public water systems. In



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implementing this section, the state board shall act consistent with the state board's existing financial assistance guidelines and policies.

(c) If the state board requires the consolidation of public water systems pursuant to this section and the public water system that is to be taken over is privately owned, the state board shall compensate the owner or owners of the privately owned public water system for the fair market value of that public water system, evaluated with consideration for the inadequacies of the system.



Draft Budget Trailer Bill 826

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An act to add Chapter 2.5 (commencing with Section 1954.201) to Title 5 of Part 4 of Division 3 of the Civil Code, to add Section 17922.14 to the Health and Safety Code, and to add Section 517 to, and to add Article 5 (commencing with Section 537) to Chapter 8 of Division 1 of, the Water Code, relating to housing.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 2.5 (commencing with Section 1954.201) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 2.5. WATER SERVICE

1954.201. It is the intent of the Legislature in enacting this chapter to do both of the following:

- (a) To encourage the conservation of water in multifamily residential rental buildings through means either within the landlord's or the tenant's control.
- (b) To ensure that the practices involving the submetering of dwelling units for water service are just and reasonable, and include appropriate safeguards for both tenants and landlords.

1954.202. As used in this chapter:

- (a) "Billing agent" means a person or entity who contracts to provide submetering services to a landlord, including billing.
- (b) "Landlord" means an owner of residential rental property. "Landlord" does not include a tenant who rents all or a portion of a dwelling unit to subtenants. "Landlord" does not include a common interest development, as defined in Section 4100 of the Civil Code.
- (c) "Property" means real property containing two or more dwelling units that is served by a single meter.
- (d) "Rental agreement" includes a fixed-term lease.



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(e) "Renting" includes leasing, whether on a periodic or fixed-term basis.

(f) "Submeter" means a device that measures water consumption of an individual rental unit within a multiunit residential structure or mixed-use residential and commercial structure, and that is owned and operated by the owner of the structure or the owner's agent.

(g) "Water service" includes any charges, whether presented for payment on local purveyor bills, tax bills, or bills from other entities, related to water treatment, distribution, or usage, including, but not limited to, water, sewer, stormwater, flood control, and water treatment charges.

(h) "Water purveyor" means a water purveyor as defined in Section 512 of the Water Code.

1954.203. (a) A landlord subject to this chapter shall install and operate submeters as follows:

(1) The submeter is inspected, tested, and verified for commercial purposes pursuant to law, including, but not limited to, Section 12500.5 of the Business and Professions Code.

(2) The installation conforms to all laws, including, but not limited to, regulations established pursuant to Section 12107 of the Business and Professions Code.

(3) The submeter for a dwelling unit measures only water that is supplied for the exclusive use of the particular dwelling unit and only to an area within the exclusive possession and control of the tenant of the dwelling unit. However, the installation need not comply with a requirement that an outside faucet be under the exclusive use of the tenant, if the tenant is notified upon commencement of the tenancy that water



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dispensed from the faucet shall be charged to the tenant. The landlord shall establish reasonable rules to prohibit the use of the faucet by any person other than the tenant.

(4) The submeter is capable of being accessed and read by the tenant of the dwelling unit, and read by the landlord without entering the dwelling unit. A submeter installed before January 1, 2017, may be read by the landlord after entry into the unit, in accordance with this chapter and Section 1954.

(5) Each submeter is reinspected and recalibrated within the time limits specified in law or regulation.

(6) All plumbing fixtures and fittings within each dwelling unit conform to all laws regarding water conservation.

(b) This section does not require a water purveyor to assume responsibility for ensuring compliance with any law or regulation governing installation, certification, maintenance, and testing of submeters and associated onsite plumbing.

1954.204. Prior to executing a rental agreement, a landlord that intends to charge a tenant separately from rent for water service in a property with submeters shall clearly disclose the following information to the tenant, in writing, in at least 10-point type, which may be incorporated into the rental agreement:

- (a) That the tenant will be billed for water service separately from the rent.
- (b) An estimate of the monthly bill for water service, determined by either of the following:

- (1) The average or median bill for water service for comparative units at the property over any three of the past six months.



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(2) The amount of the bill based upon average indoor water use of a family of four of approximately 200 gallons per day, and including all other monthly charges that will be assessed. Estimates for other gallons per day may also be included. The estimate shall include a statement that the average family of four uses about 200 gallons of water each day.

(c) The due dates and payment procedures for bills for water service.

(d) If a billing agent is used, the agent's name, address, email address, a toll-free telephone number or a local number for the tenant to call the agent, and the days and hours the agent is available by telephone at either number for the tenant to contact the agent regarding billing questions.

(e) That the monthly bill for water service may only include the following charges:

(1) Payment due for the amount of usage as measured by the submeter, charged at the exact same rate or rates for commodity usage as the water purveyor.

(2) Payment of a portion of the fixed fee charged by the water purveyor for water service divided equally among all the units in the property.

(3) A fee for the landlord's or billing agent's costs in accordance with paragraph (3) of subdivision (a) of Section 1954.205.

(4) A late fee, with the amounts and times assessed, in compliance with Section 1954.213.

(f) A statement that the tenant shall notify the landlord in writing of any leaks, drips, or other problems with the water system, including problems with water saving



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devices, and that the landlord is required to investigate, and if necessary, repair these problems.

(g) A statement that the landlord shall provide any of the following information if asked by the tenant:

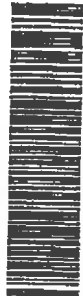
- (1) The location of the submeter.
- (2) The calculations used to determine a monthly bill.
- (3) The date the submeter was last certified for use, and the date it is next scheduled for certification.

(h) A statement that if the tenant believes that the submeter reading is inaccurate or the submeter is malfunctioning, the tenant shall notify the landlord in writing, and may contact the local county sealer and request that the submeter be tested. Contact information for the county sealer shall be included in the disclosure to the tenant.

(i) A statement that this disclosure is only a general overview of the laws regarding submeters and that the laws can be found at Chapter 2.5 (commencing with Section 1954.201) of Title 5 of Part 4 of Division 3 of the Civil Code, available online or at most libraries.

1954.205. (a) As part of the regular bill for water service, the tenant shall only be charged for the following:

- (1) Volumetric usage of water service pursuant to subdivision (b).
- (2) Any recurring fixed charge for water service billed to the property by the water purveyor that, at the landlord's discretion, shall be calculated by either of the following:



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(A) The proportion of the tenant's volumetric water use, as shown on the submeter, in relation to the water use of the entire property, as shown on the property's water meter.

(B) Dividing the total fixed charge equally among the total number of residential units and nonresidential units served by a single meter operated by a water purveyor.

(3) A billing, administrative, or other fee for the landlord's and billing agent's costs, not to exceed four dollars and seventy-five cents (\$4.75) as adjusted pursuant to this section or 25 percent of the amount billed under paragraph (1), whichever is less. Beginning January 1, 2018, the maximum fee authorized by this paragraph may be adjusted each calendar year by the landlord, no higher than a commensurate increase in the California Fiscal Year Average for the previous fiscal year, for All Urban Consumers, as determined by the Department of Finance.

(4) A late charge as assessed pursuant to Section 1954.213.

(b) The monthly water charges for water service may only include the following charges:

(1) (A) Except as provided in subparagraph (B), payment due for the amount of usage as measured by the submeter, charged at the exact same rate or rates for commodity usage as the water purveyor.

(B) When a bill for water service or any of its components is presented to a property in a form that contains more than one rate and is based on usage by the property in its entirety without regard to the number of dwelling units, the volume of the initial block of usage shall be divided evenly among the number of dwelling units, and the rate applicable to the initial block of usage for the property shall be applied to the



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consumption recorded for each dwelling unit up to its apportioned share of the initial block of usage. If consumption of all dwelling units in the aggregate is less than the volume assigned to the initial rate block, the rate applicable to the initial block of usage shall be applied to the consumption recorded for each dwelling unit. If consumption of all dwelling units in the aggregate exceeds the volume assigned to the initial rate block, the preceding process shall be repeated in each successive block of usage and its associated rate.

(2) Payment of a portion of the fixed fee charged by the water purveyor for water service divided equally among all the units in the property.

(c) If the rate or rates established by the water purveyor change, the bill shall be prorated to reflect the time each rate was in effect. The landlord may assess charges for the entire billing period based on the lower rate.

(d) If a submeter reading for the beginning or end of a billing period is, in good faith, not available, the landlord shall bill the tenant according to Section 1954.212.

(e) This section does not prohibit a landlord or the landlord's billing agent from including any other lawful charges on the same bill.

1954.206. (a) Submeters shall be read within three days of the same point in each billing cycle.

(b) Payments shall be due at the same point in each billing cycle. A tenant may agree in writing to receive a bill electronically. A tenant may rescind authorization for electronic delivery of bills at any time. A tenant shall not be required to pay bills electronically.

(c) Bills shall include and separately set forth the following information:



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(1) The submeter readings for the beginning date and ending date of the billing cycle, the dates read, and the indicated consumption as determined by subtracting the amount of the beginning date submeter reading from the amount of the ending date submeter reading. If the unit of measure is in something other than gallons, the indicated consumption shall be expressed in gallons.

(2) The amounts charged pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Section 1954.205.

(3) The rate or rates charged for the volumetric charge per unit of measure.

(4) The amount, if any, still owing from the previous month's bill.

(5) The amount, if any, still owing from bills prior to the previous month's bill.

(6) The late fee, if any, imposed on amounts specified in paragraph (4) or (5).

(7) The total amount due for the billing period.

(8) The due date for the payment.

(9) If a late fee is charged by the landlord, a statement of when the late fees would apply.

(10) The procedure to contact the landlord or billing agent with questions or concerns regarding the bill. The landlord or billing agent shall respond in writing to any questions or disputes from the tenant. If a billing agent is used the name of the billing agent shall be disclosed and the billing agent's mailing address, email address, telephone number, which shall be either a toll free or a local number, and the billing agent's regular telephone hours.



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(11) A statement that the landlord or billing agent is not the water purveyor that includes the name of the local water purveyor providing the water service to the master meter.

(d) Notwithstanding paragraphs (4) and (5) of subdivision (c), a separate bill may be provided for past due amounts if past due amounts are not included on the current month's bill.

1954.207. (a) At the beginning of a tenancy, a submeter shall be read after the tenant takes possession. If the regular reading occurs less than five days prior to the tenant taking possession, that reading may be substituted to establish usage. If the submeter is manually read, the first bill may be estimated based on the rate established in subdivision (b) of Section 1954.212.

(b) For a water-service bill at the end of a tenancy, the submeter shall be read within five days, if possible. If the submeter cannot be read within five days at the end of a tenancy, the bill amount for the final month shall be based on the bill amount for the previous month.

(c) The landlord may deduct an unpaid water service bill from the security deposit upon the ending of a tenancy, if the last water service bill showing the amount due is attached to the documentation required by Section 1950.5.

1954.208. Unless it can be documented that a penalty is solely the result of tenant's failure to comply with state or local water use regulations or restrictions, or both, regarding wasting of water, a landlord shall not charge or recover, or allow to be charged or recovered, fees incurred by the landlord from the water purveyor, billing



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agent, or any other person for any deposit, disconnection, reconnection, late payment, or any other penalty.

1954.209. The landlord shall maintain and make available in writing, at the tenant's written or electronic request, within seven days after the request, the following:

(a) The date the submeter was last inspected, tested, and verified, and the date by which it must be reinspected, tested, and verified under law, if available. If this information is not available, the landlord shall disclose that the information is not available.

(b) The data used to calculate the tenant's bill, as follows:

(1) The most recent water bill for the property's master water meter showing the recurring fixed charge for water service billed to the property by the water purveyor, and the usage charges for the property, including any tiered amounts.

(2) Any other bills for water service, as defined in subdivision (g) of Section 1954.202, for the property.

(3) The number of units in the property.

(4) If not shown on the bill for the property, the per unit charges for volumetric water usage, including any tiered amounts.

(5) The formula used to calculate the charge for the tenant's volumetric water usage.

(c) The location of the submeter.

1954.210. (a) If a tenant notifies the landlord in writing, or the landlord otherwise becomes aware of, a leak, a drip, a running toilet, or other problem, or a



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submeter reading indicates constant or abnormal water usage, the landlord shall have the condition investigated, and if warranted, rectify the condition.

(b) A tenant shall not remove any water fixtures or water conservation devices that have been installed by the landlord.

(c) If the condition is rectified more than 14 days after the tenant notifies the landlord in writing pursuant to subdivision (a), the tenant's volumetric usage for any month or months that include the period between 14 days after the initial investigation and the repair shall be deemed to be fifteen dollars (\$15) or actual usage, whichever is less. At the landlord's option, if submeter readings are available to determine the usage at a point prior to investigation and a point following repair, usage shall be deemed to be fifty cents (\$0.50) per day for those days between the two submeter readings or actual usage, whichever is less.

(d) If the condition remains unrectified for six months after investigation, no further volumetric usage charges may be imposed until the condition is repaired.

1954.211. In addition to the grounds for entry specified in subdivision (a) of Section 1954, the landlord may enter a unit as follows:

(a) For the purpose of installing, repairing, testing, and maintaining a submeter or for the purpose of repairing or testing any water fixture suspected by the landlord or reported by the tenant to be in need of repair, if the requirements of Section 1954 are met.

(b) To read a submeter, if the requirements of this chapter and Section 1954 are met. Notwithstanding paragraph (3) of subdivision (d) of Section 1954, notice shall be given only in writing.



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1954.212. (a) If a monthly submeter reading necessary to measure volumetric usage is unavailable, the tenant may be charged 75 percent of the average amount billed for volumetric usage for the last three months for which complete billing information is available. The adjustment shall be disclosed on the bill.

(b) If no complete billing information is available for the prior three months, the volumetric usage charge shall be deemed to be fifty cents (\$0.50) per day that the data is not available.

(c) If monthly submeter readings remain unavailable for more than six months, the volumetric usage charge shall be deemed to be zero for any subsequent month that the data is not available.

1954.213. (a) A tenant may be charged a late fee for any water service bill not paid 25 days after mailing or other transmittal of the bill. If the 25th day falls on a Saturday, Sunday, or holiday, the late fee shall not be imposed until the day after the first business day following the 25th day.

(b) A late fee of up to seven dollars (\$7) may be imposed if any amount of a bill remains unpaid after the time described in subdivision (a). A late fee of up to ten dollars (\$10) may be imposed in each subsequent bill if any amount remains unpaid. If any partial payments are made, they shall be credited against the bill that has been outstanding the longest.

(c) In addition to the purposes specified in subdivision (b) of Section 1950.5, the landlord may, if a water service bill remains unpaid after the time described in subdivision (a) expires, also claim the amount of the unpaid bill from the security deposit.



(d) If a water service bill remains unpaid for 30 days after the time described in subdivision (a) expires, the nonpayment shall constitute a curable material breach of the lease. The landlord shall have the right to terminate the tenancy in accordance with paragraph (3) of Section 1161 of the Code of Civil Procedure with the service of a three day notice to cure covenant or quit upon the tenant.

(e) Water service charges under this chapter shall not constitute rent.

(f) The water service to a dwelling unit shall not be shut off or otherwise interfered with by the landlord for any reason, including nonpayment of a bill.

1954.214. This chapter does not preclude or preempt an ordinance adopted prior to January 1, 2013, that regulates the approval of submeter types or the installation, maintenance, reading, billing, or testing of submeters and associated onsite plumbing.

1954.215. The rights or obligations established under this chapter shall not be waived. Any purported waiver is void.

1954.216. (a) This chapter applies to the following:

(1) All dwelling units offered for rent or rented in a building where submeters were required to be installed pursuant to Article 5 (commencing with Section 537) of Chapter 8 of Division 1 of the Water Code or a building standard adopted in accordance with Section 17922.14 of the Health and Safety Code.

(2) All dwelling units where submeters are used to charge a tenant separately for water service.

(b) Nothing in this chapter shall be construed as follows:

(1) To apply to any dwelling units other than those described in subdivision (a).



(2) To enlarge or diminish the rights or obligations with respect to charges or allocation methods to determine water service costs to tenants in a building without submeters installed and in use.

1954.217. A submetering system that measures only a portion of a dwelling unit's water usage, including, but not limited to, a system that measures only hot water usage, shall not be subject to this chapter, if the system is first put in service before January 1, 2017.

1954.218. This chapter shall become operative on January 1, 2017.

SEC. 2. Section 17922.14 is added to the Health and Safety Code, to read:

17922.14. (a) During the next regularly scheduled triennial code cycle that commences on or after January 1, 2016, or during a subsequent code adoption cycle, the department may develop and propose for adoption by the California Building Standards Commission, pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, building standards requiring the installation of water submeters in multiunit residential buildings as prescribed in Sections 537 and 538 of the Water Code.

(b) The department shall determine whether and under what circumstances the installation of water submeters are infeasible and include in the building standards proposed in subdivision (a) the appropriate provision for exemption from this requirement. The department may consider whether there are any issues specific to high-rise multifamily buildings that would require an exemption from the requirement for the installation of water submeters.

(c) Moneys in the Building Standards Administration Special Revolving Fund established pursuant to Section 18931.7 shall be available, upon appropriation by the



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Legislature, for the department's administrative costs associated with the development of building standards in accordance with this section.

SEC. 3. Section 517 is added to the Water Code, to read:

517. "Submeter" means a device that measures water consumption of an individual rental unit within a multiunit residential structure or mixed-use residential and commercial structure, and that is owned and operated by the owner of the structure or the owner's agent.

SEC. 4. Article 5 (commencing with Section 537) is added to Chapter 8 of Division 1 of the Water Code, to read:

Article 5. Multiunit Structures

537. (a) Structures in all of the following categories shall be exempt from this article:

- (1) Student dormitories.
- (2) Long-term health care facilities, as defined in Section 1418 of the Health and Safety Code.
- (3) Time-share property, as defined in subdivision (aa) of Section 11212 of the Business and Professions Code.
- (4) Residential care facilities, as defined in Section 1569.2 of the Health and Safety Code.
- (b) A submeter used to measure water supplied to an individual residential unit that is required pursuant to this chapter shall be of a type approved pursuant to Section



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12500.5 of the Business and Professions Code and shall be installed and operated in compliance with regulations established pursuant to Section 12107 of the Business and Professions Code.

538. (a) Each water purveyor that sells, leases, rents, furnishes, or delivers water service to a newly constructed multiunit residential structure or newly constructed mixed-use residential and commercial structure for which an application for a water connection, or more than one connection, is submitted after January 1, 2017, shall require a measurement of the quantity of water supplied to each individual dwelling unit as a condition of new water service. The measurement may be by individual water meters or submeters.

(b) (1) The owner of the structure shall ensure that each submeter installed complies with all laws and regulations governing the approval of submeter types or the installation, maintenance, reading, billing, and testing of submeters, including, but not limited to, the California Plumbing Code.

(2) This subdivision does not require a water purveyor to fund or assume responsibility for ensuring compliance with any law or regulation governing the approval of submeter types or the installation, maintenance, reading, billing, and testing of submeters and associated onsite plumbing.

(c) A water purveyor shall not impose an additional capacity or connection fee or charge for a submeter that is installed by the owner, or his or her agent.

(d) This section shall remain operative until the date on which the California Building Standards Commission includes standards in the California Building Standards Code that conform to this section.



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538.5. (a) This article does not preclude or preempt an ordinance or regulation that regulates the approval of submeter types or the installation, maintenance, reading, billing, or testing of submeters and associated onsite plumbing if the ordinance or regulation was adopted prior to January 1, 2015.

(b) This article does not restrict the authority of a water purveyor, city, county, city and county, or other local agency to adopt and implement a program to promote water conservation that includes the installation of water meters and submeters, as required pursuant to subdivision (a) of Section 538 if the program is at least as stringent as the requirements of this article.

539. It is the intent of the Legislature that this article should not be construed to impose costs on any local government agency, except to the extent that the local government agency is a water purveyor.

539.5. This article shall become operative on January 1, 2017.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Housing: water meters: multiunit structures.

(1) Existing law generally regulates the hiring of dwelling units and, among other things, imposes certain requirements on landlords and tenants. Among these requirements, existing law requires landlords to provide tenants with certain notices or disclosures pertaining to, among other things, pest control and gas meters.

This bill would, if the installation of a meter or submeter was required by specified law, or a submeter is used to charge a tenant separately for water service, impose requirements on landlords relating to submetered water service to individual dwelling units. The bill would require a landlord to install and operate submeters in prescribed dwelling units, as specified. The bill would require a landlord to make certain disclosures to the tenant prior to the execution of the rental agreement, if the landlord intends to charge a tenant separately from rent for water service in a property with submeters. The bill would specify that as part of the monthly bill for water service



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a landlord may only bill a tenant for volumetric water usage, as specified, a portion of any recurring fixed charge billed to the property by the water purveyor, as specified, a billing, administrative, or other fee, as prescribed, and a late charge. The bill would specify that payments are required to be due at the same point in each billing cycle, as prescribed, and that each bill must include and separately set forth certain information. The bill would prohibit a landlord from charging certain additional fees. The bill would require a landlord to maintain and make available in writing to a tenant, as specified, the date the submeter was last inspected, tested, and verified, the data used to calculate the tenant's bill, and the location of the submeter. The bill would require a landlord to investigate and, if warranted, rectify certain problems or a submeter reading that indicates constant or abnormal water usage. The bill would permit a landlord to enter a unit for specified purposes relating to a submeter or water fixture if certain requirements are met. The bill would permit a tenant to be charged late fees, as specified. The bill would provide that these provisions shall become operative on January 1, 2017.

(2) The California Building Standards Law provides for the adoption of building standards by state agencies by requiring all state agencies that adopt or propose adoption of any building standard to submit the building standard to the California Building Standards Commission for approval and adoption. Existing law creates the Building Standards Administration Special Revolving Fund and requires that funds deposited into the fund be expended, upon appropriation by the Legislature, to carry out specified provisions of law that relate to building standards, with emphasis placed on certain activities relating to green building standards.



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This bill would authorize the Department of Housing and Community Development to develop and propose for adoption by the commission building standards that require the installation of water submeters in multiunit residential buildings, as specified. This bill would provide that moneys in the fund are available to the department, upon appropriation, for administrative costs associated with the development of building standards that require the installation of water submeters in multiunit residential buildings.

(3) The Water Measurement Law requires every water purveyor to require, as a condition of new water service on and after January 1, 1992, the installation of a water meter to measure water service. That law also requires urban water suppliers to install water meters on specified service connections, and to charge water users based on the actual volume of deliveries as measured by those water meters in accordance with a certain timetable.

This bill would add to the Water Measurement Law the requirement that a water purveyor that provides water service to a newly constructed multiunit residential structure or newly constructed mixed-use residential and commercial structure that submits an application for a water connection after January 1, 2017, measure the quantity of water supplied to each individual dwelling unit as a condition of new water service and permit the measurement to be by individual water meters or submeters, as defined. The bill would require the owner of the structure to ensure that a submeter installed for these purposes complies with laws and regulations governing the approval of submeter types or the installation, maintenance, reading, billing, and testing of submeters, including, but not limited to, the California Plumbing Code. The bill would



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exempt certain structures from these requirements. The bill would prohibit a water purveyor from imposing an additional capacity or connection fee or charge for a submeter that is installed by the owner, or his or her agent. The bill would provide that these provisions shall become operative on January 1, 2017.

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



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EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: June 4, 2015

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Sherri A. Hong, Manager of Customer & Community Services *S. Hong*

SUBJECT: Contract Equity Program Enhancements

SUMMARY

The District's Contract Equity Program (CEP) has been in effect since 1984 to promote fairness and equity in contracting opportunities, contract bidding, and the execution of contracts to business sectors historically underutilized including minority, women, and small businesses. To further enhance the CEP, staff is recommending to pilot a local hire goal component for businesses located within the District's business communities and expanding the small business definition to include disabled veterans. Staff will provide a presentation for discussion to the Legislative/Human Resources Committee on June 9, 2015 and present the final program for the Board's consideration on July 14, 2015.

DISCUSSION

Local Hire

The District and community organizations have expressed interest in a local hire program. Local hiring benefits the citizens and businesses within the communities because more funds stay local. Local hiring initiatives also promote local access to jobs that pay prevailing wages, may improve the workforce diversity and may benefit employment in communities being impacted by local construction projects. Local hire was highlighted in previous community meetings and recently during the Chabot Dam Seismic Improvement Project – Pilot Project Labor Agreement presentation to the Legislative/Human Resources Committee on May 12, 2015.

In contrast to charter cities and other government agencies, there are several challenges associated with the District considering any "local" initiative for contract awards or the employment practices of contractors. The District, as a municipal utility governed under the Municipal Utility District (MUD) Act of California and Public Contract Code, is limited in its ability to enforce mandatory provisions for local hire. Staff research of other agency local hire provisions are provided in the attachment.

Based on the potential benefits and the District's authority limits, staff recommends the District pilot a local hire component in its CEP on four selected projects including the Chabot Dam Seismic Improvement Project. In order to comply with the limitations in accordance to the MUD

Act and Public Contract Code, the District can include a local hire provision as a good faith goal. Outlined below are the proposed criteria for the pilot.

Proposed NEW Program Enhancement 1	Proposed Criteria/Schedule
<p>LOCAL HIRE</p> <p>Pilot for four targeted construction projects with goals of 50% for local residents with 30% being from the county(ies) directly impacted by project</p>	<ul style="list-style-type: none"> • Finalize proposed definition of local resident: <ul style="list-style-type: none"> ○ the individual employee must reside in <i>Alameda, Contra Costa, San Joaquin, Calaveras, or Amador County</i> or in any county(ies) directly impacted by the EBMUD project • Confirm recommended overall good faith goals for local hiring as <i>50% of the total work hours for the project</i> with 30% being from the county(ies) directly impacted by the EBMUD project • Identify appropriate Good Faith Efforts for contractors to demonstrate their positive steps to comply with goals including referral assistance options such as West Oakland Resource Center, EASTBAY Works, Cypress Mandela Training Center, and Tradeswomen, Inc. • Include the good faith efforts language in any applicable Project Labor/Stabilization Agreement(s) • Investigate resource needs and computer software options for monitoring and reporting • Investigate possible legislative actions to support local hire provisions • Submit recommendation to the Legislative/Human Resources Committee on July 14, 2015 • Implement on targeted construction projects advertising after October 1, 2015

Disabled Veteran Business Enterprise

Staff is also recommending the District expand its small business definition to include disabled veterans. At several community meetings, there have been recommendations that the District should include Disabled Veteran Business Enterprises (DVBE) in a manner similar to other agencies, such as PG&E and the State of California with a separate goal and bid preference.

Currently since most DVBE are small businesses (SBEs), they are able to take advantage of the District's SBE incentives which include the five percent bid discount. However, DVBE's are not specifically called out as a targeted group. The proposed enhancement to expand the small business definition would elevate the District's support of the DVBE community.

In the District's 1997 disparity study, consideration was given to including DVBE's in the CE Program in response to public comments received. However DVBEs were not included in staff's final recommendations to the Board at that time because of the limited number of applicable DVBEs certified by the State.¹ Over time this has changed and there are currently 200 certified DVBEs with the State of California.

The table below outlines the proposed program criteria and schedule.

Proposed NEW Program Enhancement 2	Proposed Criteria/Schedule
Disabled Veteran Business Enterprises	<ul style="list-style-type: none">• Expand definition of Small Business to include Disabled Veterans• Update business ownership categories to include DVBE for monitoring and tracking

NEXT STEPS

Staff will update the program components to incorporate and address Committee comments and present a final recommendation to the Board on July 14, 2015.

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¹ Referenced from June 9, 1998 Special Board Report – Minority & Women Business Enterprise Program Recommended Modifications

ATTACHMENT Local Hiring Survey

Staff obtained information on other agencies' local hiring initiatives. No agency covered by the Municipal Utility District (MUD) Act has a local hiring initiative or program.

Local Hiring Survey Results As of May 2015					
Agency Type/Listing	Project Labor/ Stabilization Agreement	Local Hiring Program			Legal Authority/Comments
		Yes w/Goals	No	Pending	
MUD Agencies					Provisions of the MUD Act and Public Contract Code provide narrow authority over contracting practices.
EBMUD	Pilot Project Pending		✓		Currently in negotiations with the Alameda-Contra Costa Building Trades Council for pilot
SMUD	No		✓		
Southern San Joaquin	No		✓		
Lassen	No		✓		
South Placer	No		✓		
Charter Cities					California Constitution provisions ("home-rule") give charter cities authority over "municipal affairs" that can trump state law such as the Public Contract Code.
Oakland	No except for development agreements	✓ 50%			
Richmond	Y Project Specific	✓ 25%			
San Francisco	Y Project Specific	✓ 50%			
Counties					
Alameda	Y	✓ 40%			Charter County: Provisions of the California Constitution give charter counties similar "home-rule" authority as noted for charter cities.
Contra Costa	Y		✓		General Law County: Provisions of the California Constitution requires adherence to State law.
Unified School Districts					Provisions of the California Education Code allow unified school districts located within the boundaries of a charter city to be governed by their board of education.
Oakland	Y	✓ 50%			
San Diego	Y	✓ 100% with 70% within the District			
Transportation					Provisions of the U.S. Department of Transportation Contracting Initiative 1- Year Pilot Program allow geographic-based hiring preference.
AC Transit	Y Project Specific			✓	Anticipates pilot being final by end of June 2015
BART	Y Project Specific			✓	Anticipates pilot being final by the end of 2015

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: June 4, 2015

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Delores Turner, Manager of Human Resources *DTurner*

SUBJECT: Group Benefits Brokerage and Consulting Services

SUMMARY

This memo is to inform you that staff will submit a contract for the District's group benefits brokerage and consulting services for the Board's consideration at its June 9, 2015 meeting. The current benefits brokerage and consulting services contract with Keenan, Inc. expires on June 30, 2015. Staff completed the Request for Proposal (RFP) process and the new vendor selected is Alliant Insurance Services, Inc. (Alliant). Staff will provide a presentation to the Legislative/Human Resources Committee on June 9, 2015.

BACKGROUND

The District has historically retained a group benefits consulting firm to provide expert services in the employee and retiree group benefits area. Specific services to be provided include assisting with negotiating group plan renewals, providing legislative updates, assisting with required regulation compliance, and conducting market searches for new group benefits providers for both current and new benefits offerings. The District's prior contract for benefits consulting services has been renewed through an RFP process every five years. Last year, staff extended the contract for the current broker, Keenan Associates, for a sixth year (due to expire on June 30, 2015), and initiated the RFP process for a successor service provider.

Vendor Selection Process

The RFP for group benefits broker and consulting services was sent to eight companies, and four companies responded: Keenan Associates, Wells Fargo Insurance Services USA, Inc., ABD Insurance & Financial Services and Alliant Insurance Services, Inc. Response packets were reviewed and ranked by a staff selection committee. Each company participated in an interview process, which was ranked at the conclusion of the interviews. Alliant was chosen as the firm who could best partner with the District to address the healthcare related challenges that face the District today.

Recommendation

Education of and communication to District employees and unions about the health insurance market place trends, plan design, and Bay Area healthcare challenges will be very important

issues. Alliant is recommended based on their long history working with public sector employers, their creative approach to plan design, education style and approach, and overall ability to help address the District's most pressing health benefits challenges at this time.

NEXT STEPS

The contract with Alliant to provide benefits brokerage and consulting services is for a period of three-years, from June 9, 2015 through June 8, 2018, with an option to extend for two additional one-year periods, through June 8, 2020. The annual contract amount is \$108,000 per year, for a maximum contract amount of \$540,000. Approximately 60 percent of the contract fees will be paid directly by the District, while the remaining 40 percent of the contract fees will be earned through commissions from insurance carriers.

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