



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

375 – 11<sup>th</sup> Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

## **AGENDA**

### **Legislative/Human Resources Committee**

**Tuesday, April 12, 2016**

**10:15 a.m.**

**Training Resource Center**

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

#### **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. Update on District Values Project and Employee Recognition Programs (Brunson)
2. Legislative Update: (Dumaine)
  - Receive Legislative Report No. 05-16 and consider positions on the following bills: AB 2543 (Gordon) State Buildings: Efficiency; SB 163 (Hertzberg) Wastewater Treatment: Recycled Water; SB 1207 (Hueso) Energy: Conservation: Financial Assistance; SB 1398 (Leyva) Public Water Systems: Lead Pipes; and receive information on SB 814 (Hill) Drought: Excessive Water Use: Urban Retail Water Suppliers
  - Update on Legislative Issues of Interest to EBMUD

#### **ADJOURNMENT:**

##### **Disability Notice**

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

##### **Document Availability**

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



## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: April 7, 2016

MEMO TO: Board of Directors

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

FROM: Laura Brunson, Manager of Human Resources *Laura*

SUBJECT: Update on District Values Project and Employee Recognition Programs

### SUMMARY

Staff will provide an update on the progress of the District's Values and Organizational Improvement Project at the April 12, 2016 Legislative/Human Resources Committee meeting. The update will summarize the project's progress, key strategic initiatives and next step actions. The presentation will also include proposed changes to the District's Employee Recognition Programs.

### BACKGROUND

When the Board adopted the FY14-15 budget in June 2013, the District ended its hiring freeze and began to fill a number of positions that had been held vacant and new vacancies created by retirements. Since 2013, there have been 390 employees hired in permanent positions and 676 employees are projected to be eligible to retire in the next 5 years.

In the context of this significant turn-over in employees, the District initiated a values and organizational improvement process. The process is intended to facilitate the assimilation of new talent to carry out the District's mission and to provide a new approach to engage employees from throughout the organization to make beneficial changes.

### DISCUSSION

In October 2013, the District initiated a process to gather employee feedback through focus groups. Results from the employee focus groups identified twelve strengths and twelve key challenges. In response to this data, staff engaged forty-six employee volunteers to participate in two cross-functional teams. Over the course of nine months, the employee teams conducted internal and external research and gathered input from a variety of employee groups. In October 2015, the employee teams made a series of recommendations, including a new set of District values (*Stewardship, Integrity, Respect and Teamwork*) with related behaviors and a series of organizational improvement initiatives to address the twelve key challenges noted in the focus group data.

## **NEXT STEPS**

The next phase of the work related to the project is the formation of implementation teams that are tasked with developing plans for educating the workforce on the values, embedding the values into our daily work processes and implementing the strategies for organizational improvement. Staff expects this project phase to last between eighteen to twenty-four months.

The key strategies for organizational improvement during this phase are:

1. Embed the District's new values into the fabric of the organization
2. Create clear strategic direction and shared goals
3. Actively promote teamwork
4. Strengthen communication in all directions
5. Generate and implement new ideas
6. Manage poor performance at all levels
7. Seek methods to retain essential knowledge

To guide the implementation of the identified strategies, staff has formed four cross-functional implementation teams, each emphasizing one or more of the key strategies:

- Communications Team
- Employee Recognition Team
- Performance Improvement Team
- Values Implementation Team

In addition to these four teams, a fifth team is being formed to explore and pilot various models of teamwork and collaboration through three operational projects:

- ReBuild (Pipeline Renewal)
- Replacement of the Financial Information System
- Wastewater Odor Control Project

These projects will pilot concepts and prototypes of teamwork and collaboration with an emphasis on promoting successful models that can be employed by all District staff.

## **EMPLOYEE EXCELLENCE AWARDS**

The Employee Recognition Team began meeting in October 2015 and is currently working on enhancements to the District's recognition programs based on feedback gathered from employees. Programs that may undergo change include the Employee Excellence Awards and the Employee Service (longevity) awards. In light of the pending changes, staff made the decision to cancel the 2016 awards program. The team is striving to complete their efforts in 2016 so new programs can be implemented in 2017.

ARC:LB:DM:rdw

## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: April 7, 2016

MEMO TO: Board of Directors

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

SUBJECT: Legislative Report No. 05-16

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**

Approve positions on the following bills: 1) Support AB 2543 (Gordon) State Buildings: Efficiency; 2) Oppose Unless Amended SB 163 (Hertzberg) Wastewater Treatment: Recycled Water; 3) Support SB 1207 (Hueso) Energy: Conservation: Financial Assistance; 4) Support SB 1398 (Leyva) Public Water Systems: Lead Pipes; and receive information on SB 814 (Hill) Drought: Excessive Water Use: Urban Retail Water Suppliers.

### **STATE LEGISLATION**

### **RECOMMENDED POSITION**

<b>AB 2543 (Gordon)</b>	<b>STATE BUILDINGS: EFFICIENCY</b>	<b>SUPPORT</b>
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Existing law requires all new and renovated state buildings to be models of energy efficiency and requires the Department of General Services (DGS), in consultation with the California Energy Commission (CEC), to develop a multi-year plan for achieving all practicable and cost-effective energy efficiency measures in state facilities. Existing law also requires DGS to update the plan every two years, coordinate implementation efforts and make recommendations to the Governor and Legislature to achieve energy goals for state facilities.

AB 2543 (Gordon), as introduced on February 19, 2016, is substantially similar to AB 850 (Gordon) from 2011 which EBMUD supported and which failed to advance out of the Legislature, and is intended to facilitate energy efficiency and water conservation in state facilities. Specifically, AB 2543 would revise the existing energy efficiency planning requirements for state facilities to give the CEC lead responsibility, instead of DGS, for developing a plan to achieve energy efficiency measures in state facilities, require the plan to address water conservation as well as energy efficiency, and require DGS to consult with the CEC in making recommendations to the Governor and the Legislature to achieve energy efficiency and water conservation goals for state facilities. AB 2543 would also prohibit the plan

from prohibiting, limiting or superseding more stringent green building requirements for state facilities.

According to the Assembly Natural Resources Committee, “since at least 1991, state law has required new and renovated state buildings to meet prevailing energy efficiency standards and to consider additional measures when cost-effective and feasible. Over the same period, DGS has been required to continually update an energy efficiency plan for state facilities.” However, while DGS has oversight over state facilities, the CEC has broader expertise and experience with energy and water efficiency measures.

In addition, there is a clear nexus between water and energy use, with Department of Water Resources estimating that about 12 percent of the total energy used in the state is related to water. While improved energy savings can be achieved through water conservation, water conservation is not currently directly required to be considered in the plan to achieve energy efficiency measures in state facilities.

AB 2543 would promote energy efficiency and water conservation in state facilities by designating the CEC as the lead agency in developing the state’s plan for achieving energy efficiency in state facilities and requiring the plan to include water conservation. AB 2543 is consistent with EBMUD’s energy policy (Policy 7.07), which encourages and promotes energy management and energy efficient practices within EBMUD’s water and wastewater system operations and its sustainability policy (Policy 7.05), as well as its energy efficiency and water conservation efforts.

EBMUD has previously supported measures to promote energy and water efficiency in state facilities. As mentioned above, in 2011, EBMUD supported AB 850 (Gordon) to require the CEC to lead the development of the plan to achieve energy efficiency measures in state buildings and to require the consideration of water conservation in the plan. AB 850 failed to advance out of the Legislature. In 2010, EBMUD supported AB 2679 (Eng) to require all state public buildings to reduce energy and water consumption and require all newly constructed state buildings to have net zero energy consumption on and after January 1, 2030. AB 2679 failed to advance out of the Legislature.

The current list of support and opposition to AB 2543 is shown below.

Support

California Municipal Utilities Association

Opposition

None Listed

**SB 163  
(Hertzberg)**

**WASTEWATER TREATMENT:  
RECYCLED WATER**

**OPPOSE UNLESS  
AMENDED**

The California Constitution requires the reasonable and beneficial use of water. Existing law declares that the use of potable domestic water for certain nonpotable uses is a waste or an unreasonable use of water if the State Water Resources Control Board (SWRCB) determines recycled water meeting specified conditions is available. In addition, under existing law, the SWRCB and the California regional water quality control boards are responsible for regulating wastewater discharges to surface waters in accordance with the federal National Pollutant Discharge Elimination System (NPDES) permit program established by the federal Clean Water Act and the State's Porter-Cologne Water Quality Control Act.

SB 163 (Hertzberg), as amended on September 3, 2015, is intended to increase the amount of wastewater that is recycled by eliminating wastewater discharges to the ocean and requiring that the wastewater that would otherwise be discharged to the ocean be recycled. To accomplish this, SB 163 would do seven things, as described below:

- 1) SB 163 would declare that the discharge of treated wastewater to the ocean constitutes waste and unreasonable use of water.
- 2) SB 163 would require wastewater treatment facilities that discharge to the ocean to recycle at least 50 percent of the wastewater by 2026 and to achieve 100 percent recycling by 2036.
- 3) The bill would prohibit wastewater treatment facilities from discharging wastewater to the ocean as of 2036, except for backup discharges in limited circumstances.
- 4) SB 163 would require wastewater treatment facilities with NPDES permits authorizing the discharge of wastewater to the ocean to submit a plan for meeting the bill's requirements to the SWRCB by July 1, 2020, and to provide an updated plan to the SWRCB by January 1, 2024.
- 5) SB 163 would require wastewater treatment facilities with NPDES permits authorizing the discharge of wastewater to the ocean to submit to the SWRCB, on or before January 1, 2017, and every five years thereafter, a report summarizing the actions that have been taken and remain to be taken in order to meet the bill's requirements.
- 6) The bill would allow a wastewater treatment facility with an NPDES permit to request a partial exemption if specific criteria are met. The partial exemption would be good for a period of no more than five years at which time the permitholder could reapply for a partial exemption. Entities granted a partial exemption would not be eligible for state grants or loans unless the grant or loan is for purposes of complying with the bill.
- 7) SB 163 would require the SWRCB to report to the Governor and the Legislature by July 1, 2021, and every five years thereafter, on the state's progress in implementing SB 163 and any obstacles to continued progress, including instances of substantial noncompliance.

The author has indicated the intent to amend SB 163 to also apply to wastewater treatment facilities that discharge into bays, such as EBMUD which discharges treated wastewater into the San Francisco Bay.

EBMUD is a strong proponent of recycled water and has a long track record of recycling its wastewater. EBMUD began using recycled water for various industrial purposes and to irrigate landscaping at its own facilities in the 1970s and has been distributing recycled water to customers since the 1980s. Recycled water is an important part of the water supply portfolio and, in accordance with EBMUD's non-potable water policy (Policy 9.05), customers may be required to use recycled water for non-potable uses if feasible. In addition, EBMUD has developed several landmark projects where the use of recycled water for landscape irrigation, toilet flushing, and industrial purposes has reduced the demand on high-quality drinking water and can reduce the amount of treated wastewater that is discharged into the San Francisco Bay. These projects include the Richmond Advanced Recycled Expansion Water Project, the East Bayshore Recycled Water Project, and the San Ramon Valley Recycled Water Program.

In fiscal year 2015, EBMUD customers used about 8.4 million gallons a day (mgd) of recycled water, and EBMUD has a goal of increasing recycled water use in its service area to 20 mgd by 2040. Most of EBMUD's recycled water is produced at projects located throughout the EBMUD service area, not at EBMUD's Main Wastewater Treatment Plant, which discharges into the San Francisco Bay.

SB 163 is intended to facilitate the development of recycled water projects and increase the use of recycled water. However, a statewide mandate to eliminate wastewater discharges into the ocean and bays is premature. Such a mandate is currently not feasible to implement, cost-prohibitive, and raises significant policy issues, as discussed below.

#### Regulatory framework is not complete

Achieving the mandate in SB 163 on a statewide level would require the use of both indirect potable reuse projects, such as using recycled water for groundwater recharge and surface water augmentation, and direct potable reuse projects, both of which would necessitate new and expanded recycled water facilities and infrastructure, funding, and comprehensive regulatory frameworks.

In 2010, the Legislature passed and the Governor signed SB 918 (Pavley), which EBMUD supported, that required the Department of Public Health (DPH) to adopt water recycling criteria (regulations) for indirect potable use for groundwater recharge by December 31, 2013, to adopt regulations for surface water augmentation by December 31, 2016, and to investigate and report to the Legislature on the *feasibility* of developing regulations for direct potable reuse by December 31, 2016. In 2013, the Legislature passed and the Governor signed SB 322 (Hueso), which EBMUD supported, to facilitate the development of water recycling regulations by enabling DPH to access assistance from other entities and requiring DPH to convene an expert panel to advise it on matters relating to the development of water recycling regulations.



Subsequent to the passage of these bills, the division of DPH responsible for the duties outlined above was moved to the SWRCB.

Currently, California's recycled water framework is neither comprehensive nor complete and is insufficient to accommodate SB 163's ambitious mandate. The current regulatory framework limits recycled water use to only non-potable uses, such as irrigation and industrial use, and limited indirect potable reuse through groundwater recharge. These uses would account for only a fraction of the recycled water that is currently discharged and are limited by seasonal demand, industrial need, and the access to recharge areas.

Regulations for indirect potable reuse through surface water augmentation, though being developed, are not complete. Access to direct potable reuse is not certain in the near future. While the SWRCB is currently working on a report to the Legislature on the *feasibility* of developing statewide regulations, it is not clear when, or if, the SWRCB will adopt statewide regulations to allow broad access for direct potable reuse. In addition, potable reuse regulations by necessity would need to include ways to dispose of the brine stream that is inherent to water recycling if SB 163 is enacted. Currently, disposal is managed through blending with treated wastewater discharge.

A regulatory framework that allows all potential uses for recycled water and addresses the issue of brine disposal must be in place before SB 163's mandate can be reasonably contemplated. It is not clear when California will have a comprehensive regulatory framework for recycled water in place.

#### Nowhere to put the recycled water

The recycled water projects allowed today could not handle the volume of recycled water that would result if SB 163 is enacted.

In order for EBMUD to use all the recycled water it would produce under SB 163's mandate, EBMUD must have access to additional uses for recycled water, including indirect potable reuse through surface water augmentation and direct potable use, neither of which is allowed at this time. EBMUD's Main Wastewater Treatment Plant (MWWTP) treats, on average, about 63 million gallons of wastewater every day, or about 70,500 acre feet per year. With regard to the uses that are allowed today, there is an insufficient market for non-potable recycled water and the physical constraints of the groundwater basin in EBMUD's service area severely constrains the capacity of any small groundwater recharge project that may be possible. EBMUD would need access to uses that are not allowed today in order to meet SB 163's mandate – this includes surface water augmentation and direct potable use. However, there are significant uncertainties associated with both of these potential future uses.

Surface water augmentation, if allowed, would involve moving the recycled water from the MWWTP to one of EBMUD's reservoirs located within the service area where it would be mixed with non-recycled water. All of these reservoirs have other purposes that include

capturing local runoff and storing water from other sources, such as those accessed through the Freeport Regional Water Facility. It is not known how much reservoir capacity would be needed to accommodate the additional recycled water that would be produced under SB 163 because the SWRCB has not finalized surface water augmentation regulations. It is unclear what criteria surface water augmentation projects will be required to meet, such as the length of time the recycled water must remain in the reservoir and level of dilution (or ratio of recycled water to other water is allowed), and whether EBMUD's reservoirs would meet the criteria. With regard to direct potable reuse, there is no clear path forward. The SWRCB is currently working on a report to the Legislature, due in December 2016, on the *feasibility* of developing statewide regulations for direct potable reuse and it is unknown when or if regulations for direct potable reuse would be put in place. In short, EBMUD would have nowhere to put all its recycled water if EBMUD had to comply with SB 163.

#### Excessive cost

Even if all potential uses of recycled water were allowed, SB 163's mandate would require significant new infrastructure for treatment and distribution of recycled water including, but not limited to, treatment facilities, pumping stations, and distribution systems. It is unclear where the money would come from, particularly at this time when state and local water agencies are grappling with the high costs associated with addressing aging infrastructure and meeting the needs of disadvantaged communities, among other things. An investment of many billions of dollars will be needed by the state to implement SB 163's mandate.

To put the cost associated with SB 163's mandate into perspective, staff estimates that for EBMUD to implement a single future option that is not allowed today, surface water augmentation, using *one* reservoir, including additional treatment, pipeline, a pump station, and disposal of the brine, the capital cost would likely be over \$3 billion with additional annual operations and maintenance costs estimated at about \$120 million. The rate impact would be about a 500 percent increase in rates, raising the average service charge from about \$38 every two months to approximately \$230 every two months. Imposing a cost burden of this magnitude on ratepayers will impact low-income ratepayers the hardest and make water unaffordable for many. These costs reflect the use of a single reservoir, costs for using multiple reservoirs for using surface water augmentation and direct potable reuse projects would likely be much higher.

#### Harm to existing infrastructure

SB 163's mandates would likely require water and wastewater agencies to reduce or halt spending on other infrastructure altogether in order to comply with SB 163. This will only serve to hamper the ability of agencies to provide high quality services to customers and to proactively replace and repair aging infrastructure before it fails. For EBMUD, which has a robust capital improvement program that focuses on infrastructure rehabilitation, repair and replacement, the costs associated with complying with SB 163 could require significantly reducing investments in current infrastructure programs and projects, such as the annual infrastructure replacement, aqueduct improvements, the Regional EBMUD Seismic Component Upgrade, and the expansion of the Resource Recovery Program.

### Public acceptance

Public acceptance of expanding the use of recycled water through indirect potable reuse and direct potable reuse is not guaranteed. The success of recycled water projects to date has been the result of extensive, ongoing public outreach that has been necessary to overcome what is sometimes called the “yuck factor.” A statewide mandate imposed on communities will require a significant and concerted state effort to assist local agencies to secure public acceptance of such a mandate.

### Conclusion

Though SB 163’s objective, to increase the use of recycled water, is consistent with EBMUD’s efforts to increase recycled water use in its service area, there are significant hurdles that clearly indicate the proposed mandate is entirely premature and would interfere with a local agency’s ability to set its own infrastructure priorities. While the bill seeks to provide local agencies with an “off-ramp” via a mechanism to seek a partial exemption from the wastewater discharge prohibition and recycling mandate, such a process puts local agencies in the risky position of expending resources to request an exemption from an unreasonable mandate that is not certain to be granted while penalizing ratepayers by denying the local agency access to state grants or loans if an exemption is granted. This is inappropriate given the lack of a robust regulatory framework, funding to implement SB 163, or clear pathway to public acceptance.

Significant amendments are needed to address the concerns raised above. To achieve the broad goal of increasing the use of recycled water, the mandate should be eliminated and the bill should focus on identifying barriers to increasing recycled water production and creating a plan for achieving the goal contemplated by SB 163. WateReuse California and the California Association of Sanitation Agencies (CASA) have been working with the author’s office and have offered an alternative that would convene a task force that would, among other things, consider the barriers to increased recycled water production and use and provide recommendations for overcoming those barriers and meeting statewide water recycling goals.

SB 163 should be amended to be consistent with the approach suggested by WateReuse California and CASA. This approach would recognize the importance of increasing the production and use of recycled water while providing a mechanism to begin addressing the significant barriers that render a mandate infeasible at this time.

EBMUD has taken positions on prior legislation to facilitate the voluntary production and use of recycled water. In 2013, EBMUD supported SB 322 (Hueso) to facilitate the development of water recycling regulations. SB 322 was signed into law, Chapter 637 of 2013. In 2010, EBMUD supported SB 918 (Pavley) which required the adoption of water recycling regulations for groundwater recharge and surface water augmentation and investigation of the feasibility of developing regulations for direct potable reuse. In 2009, the Board took a “support if amended” position on SB 565 (Pavley) to identify impediments to increased recycling and direct potable reuse and set a statewide recycling goal of 50 percent of the wastewater discharged into the ocean. EBMUD sought amendments to remove the 50 percent goal until barriers had been

identified and a plan to remove them was developed. SB 565 was subsequently amended to a different subject matter.

There are currently no entities listed in support or opposition to SB 163.

**SB 1207  
(Hueso)**

**ENERGY: CONSERVATION: FINANCIAL  
ASSISTANCE**

**SUPPORT**

Existing law establishes the State Energy Conservation Assistance Account (ECAA), administered by the California Energy Commission (CEC) to provide grants and loans to local governments and other public institutions, such as schools, hospitals and public care institutions, to maximize energy use savings. Under existing law, the ECAA program expires as of January 1, 2018.

SB 1207 (Hueso), as introduced on February 18, 2016, is intended to promote energy efficiency and would provide for the continued operation of the ECAA program by extending the current sunset date to January 1, 2028.

According to the author's office, the ECAA program, which was established more than 30 years ago and is one of the oldest programs in California designed to reduce statewide energy consumption through energy efficiency measures, "makes low-interest loans to local governments and public institutions to cover up to 100 percent" of energy efficiency projects. According to the CEC, projects with proven energy and/or demand cost savings are eligible for funding including, lighting system upgrades, water and wastewater treatment equipment, energy management systems and equipment controls, and heating, ventilation, and air conditioning equipment.

SB 1207 would encourage and promote the conservation and efficient use of energy in buildings and facilities belonging to local governments and public institutions by facilitating funding to assist local governments, such as EBMUD, and public institutions to pay for energy efficiency projects. SB 1207 is consistent with EBMUD's energy policy (Policy 7.07), which encourages and promotes energy management and energy efficient practices within EBMUD's water and wastewater system operation, as well as EBMUD's energy efficiency efforts and could provide a potential source of financing for EBMUD projects in the future.

EBMUD has previously supported legislation to facilitate financing for energy efficiency purposes. In 2014, EBMUD supported AB 2045 (Rendon) to facilitate a private financing mechanism to assist nonresidential building owners in paying for energy and water efficiency improvements. AB 2045 failed to advance out of the legislature. In 2013, EBMUD supported AB 122 (Rendon), which was substantially similar to AB 2045. AB 122 failed to advance out of the legislature.

There are currently no entities listed in support or opposition to SB 1207.

<b>SB 1398</b>	<b>PUBLIC WATER SYSTEMS: LEAD PIPES</b>	<b>SUPPORT</b>
<b>(Leyva)</b>		

Existing law requires public water systems to take specified actions to test for and remediate certain contaminants in drinking water, including lead and copper. Existing law generally prohibits the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead-free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption.

SB 1398 (Leyva), as amended on March 28, 2016, is a response to the drinking water crisis in Flint, Michigan and is intended to help avoid similar situations from occurring in California. To accomplish this, SB 1398 would do three things: 1) require each public water system, by July 1, 2018, to compile an inventory of lead pipes in use; 2) require each public water system to provide a timeline for replacement of lead pipes in its system to the State Water Resources Control Board (SWRCB), and 3) require the SWRCB to establish best practices to ensure that chemicals introduced into public water systems do not create corrosion or contamination within the system.

According to the U.S. Environmental Protection Agency (U.S. EPA) there is “no known safe level of lead in a child’s blood.” Exposure to lead can result in delays in physical or mental development in infants and children. For adults, it can result in kidney problems or high blood pressure. The U.S. EPA estimates that 10 to 20 percent of human exposure from lead may come from lead in drinking water. Infants can receive 40 to 60 percent of their exposure to lead from drinking water.

In the 1990’s regulations required public water systems to complete an inventory of their known lead services and develop an optimized corrosion control program. EBMUD complied with these requirements and has been monitoring lead levels at customer home fixtures since 1992. In addition, EBMUD has been a leader in efforts to promote the protection of public health by reducing lead exposure in drinking water. In 2006, EBMUD sponsored California’s landmark “Get The Lead Out” legislation, AB 1953 (Chan), that was signed into law and which reduced the allowable lead content in pipes and plumbing fixtures to a level that virtually eliminates lead contamination in faucets and drinking water, and prohibited the sale of plumbing components after 2010 not meeting the lower lead content standard. EBMUD was also a strong proponent of subsequent federal legislation, S. 3874 (Boxer) in 2010, that was signed into law and essentially adopted AB 1953’s “lead-free” standard for pipes and plumbing fixtures nationwide.

SB 1398 builds on existing law and helps protect public health by facilitating the identification and replacement of lead pipes used in water systems as well as the implementation of best practices to assist in preventing corrosion and contamination in water systems. SB 1398 would

likely have a minimal impact on EBMUD as the known lead service lines in EBMUD's service area have generally already been replaced and SB 1398's objective is consistent with EBMUD's efforts to reduce lead exposure in drinking water, including EBMUD's sponsorship of prior legislation.

EBMUD has historically supported measures to protect the public health by reducing exposure to lead in drinking water. As mentioned above, in 2006, EBMUD sponsored AB 1953 (Chan) to reduce the allowable lead content in pipes and plumbing fixtures and prohibit the sale of pipes and plumbing fixtures that contained higher amounts of lead. AB 1953 was signed into law (Chapter 853 of 2006). In 2009, EBMUD sponsored follow-up legislation, SB 1395 (Corbett), to require random testing of faucets through the Department of Toxic Substances Control to help ensure that faucets and fittings sold in California complied with the lower lead standard set by AB 1953. With regard to federal legislation, EBMUD was a strong proponent of S. 3874 (Boxer) in 2010, as mentioned above, that was signed into law and essentially adopted AB 1953's "lead-free" standard for pipes and plumbing fixtures nationwide.

There are currently no entities listed in support or opposition to SB 1398.

<b>SB 814</b>	<b>DROUGHT: EXCESSIVE WATER USE:</b>	<b>INFORMATION</b>
<b>(Hill)</b>	<b>URBAN RETAIL WATER SUPPLIERS</b>	

At the January 26<sup>th</sup> meeting, EBMUD's Board discussed SB 814 (Hill), as introduced, which would require water agencies to implement an excessive use ordinance during a Governor-declared statewide drought emergency. At that time, five main policy concerns were identified relative to water rights, water rates, penalty amount, public disclosure of customer information, and when the mandates would apply. Staff has continued to work with the author in an effort to address concerns and the bill has been amended twice, most recently on March 30<sup>th</sup>. A discussion of the amendments and outstanding concerns follows below.

Water rights

The initial version of SB 814 included language that referenced Section 2 of Article X of the California Constitution, which raised concerns regarding potential implications for water rights. This language was stricken from the bill and is not included in the current version of the bill.

Water rates

The initial version of the bill would have required local agencies to set an excessive use limit using a water budget-based approach. This represented significant state intervention in the rate-making authority of local agencies and raised concerns as to how this requirement would comply with the requirements of Proposition 218, including the cost of service requirements. This language has been amended to allow, rather than require, a water budget-based approach.

Penalty amount

The initial version of SB 814 would have required a penalty of at least \$500 per hundred cubic feet (ccf) over the excessive use limit, as established by the local water agency. This translated to penalty amounts that would have ranged from \$500 to over \$575,000 with total penalties over \$125 million for EBMUD's existing program. This raised serious questions of fairness and affordability and potential for the incorrect public perception that all conservation and fiscal needs could be met via SB 814's highly punitive excessive use penalties.

The penalty language has revised from "at least \$500" to "up to \$500" so that the \$500 per unit amount is the penalty ceiling rather than the floor. This would give agencies the discretion to use any amount it chooses up to \$500 per unit.

Public disclosure of customer information

The initial version of SB 814 would have amended existing statute to explicitly state that current disclosure requirements under Government Code section 6254.16 would apply to SB 814's excessive use ordinance. This statute requires, upon request, the release of information about customers who have violated local usage policies. This information includes the customer's name, usage data, and home address. The release of home addresses raises safety concerns. All of the disclosure language has been stricken from the bill, thus this concern is no longer applicable to SB 814.

When the mandates would apply

In the initial and current version of the bill, SB 814's mandates would apply when the Governor has declared a state of emergency due to drought conditions, and do not take local conditions into consideration. The Governor may issue an emergency drought declaration when some parts of the state are not in a water shortage. Using a mandate trigger that ignores local water supply conditions raises concerns regarding the erosion of ratepayer confidence and, when local water shortages do exist, would hamper the ability of water agencies to effectively encourage and secure needed water use reductions. This issue remains outstanding. Amendments are still needed to include consideration of local conditions as part of the mandate trigger.

Though the current version of SB 814 represents significant progress in mitigating many of the concerns identified during the January 26<sup>th</sup> Board meeting, additional work is needed before the bill, if enacted, would not hinder EBMUD's ability to implement and refine its own excessive use program. Staff is continuing the work with the author and other stakeholders and will bring the bill back to the Board for additional consideration in the coming weeks.

ARC:MD:JW





**ASSEMBLY BILL**

**No. 2543**

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**Introduced by Assembly Member Gordon**

February 19, 2016

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An act to amend Sections 15814.22 and 15814.28 of the Government Code, relating to state buildings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2543, as introduced, Gordon. State buildings: efficiency.

Existing law requires the Department of General Services, in consultation with other state entities that include the State Energy Resources Conservation and Development Commission, to develop a plan to exploit cost-effective energy efficiency measures in state facilities. Existing law requires the department to update the plan biennially, coordinate implementation efforts, and make recommendations to the Governor and the Legislature to achieve energy goals for state facilities. Existing law requires the department to make these recommendations no later than March 1, 2009, and biennially thereafter. Existing law also requires the department to report on projects under its jurisdiction, as specified.

This bill would instead require the State Energy Resources Conservation and Development Commission, in consultation with the department, to develop a plan to exploit cost-effective energy efficiency and water conservation measures in state facilities. This bill would require the department, in consultation with the commission, to submit recommendations on energy efficiency and water conservation goals to the Governor and the Legislature. This bill would require the department, in consultation with the commission, to make these recommendations no later than January 1, 2018.

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) In enacting this act, the Legislature recognizes  
2 the following:

3 (1) The significant energy savings and greenhouse gas emission  
4 reductions inherent in the state's existing state-owned building  
5 stock.

6 (2) It is the policy of the state to promote conservation and  
7 efficient use of water.

8 (3) The need to establish a comprehensive energy efficiency  
9 program to capture these reductions.

10 (b) The Legislature further recognizes that state government  
11 should lead by example and demonstrate to the public the cost and  
12 environmental benefits of implementing energy efficient  
13 technology into daily life.

14 SEC. 2. Section 15814.22 of the Government Code is amended  
15 to read:

16 15814.22. (a) ~~The Department of General Services, State~~  
17 ~~Energy Resources Conservation and Development Commission,~~  
18 ~~in consultation with the State Energy Resources Conservation and~~  
19 ~~Development Commission~~ *Department of General Services* and  
20 other state agencies and departments, shall develop a multiyear  
21 plan, to be updated biennially, with the goal of exploiting all  
22 practicable and cost-effective energy efficiency *and water*  
23 *conservation* measures in state facilities. *The commission shall*  
24 *solicit input from both public and private entities.* The department  
25 shall coordinate plan implementation efforts, and make  
26 recommendations to the Governor and the Legislature to achieve  
27 energy efficiency *and water conservation* goals for state facilities.

28 (b) *The plan shall not prohibit, limit, or supersede more*  
29 *stringent green building requirements for state facilities.*

30 (c) *For the purposes of this section, "state facility" means any*  
31 *public building, as defined in Section 15802, but does not include*  
32 *any building leased by the state, unless that building is financed*  
33 *through the issuance of lease-revenue bonds.*

34 SEC. 3. Section 15814.28 of the Government Code is amended  
35 to read:

1     15814.28. ~~The department~~ *Department of General Services,*  
2 *in consultation with the State Energy Resources Conservation and*  
3 *Development Commission,* shall, no later than ~~March~~ *January 1,*  
4 ~~2009, 2018,~~ and biennially thereafter, make the recommendations  
5 required in Section 15814.22, and report on all of the following  
6 for projects under its jurisdiction:

7     (a) The progress made toward implementing energy efficiency  
8 measures in state facilities.

9     (b) The most common energy efficiency measures being  
10 implemented.

11     (c) The obstacles preventing further implementation of energy  
12 efficiency measures.

13     (d) How current efforts and ideas can be incorporated into the  
14 Governor's five-year infrastructure plan described in Section  
15 13102.



AMENDED IN ASSEMBLY SEPTEMBER 3, 2015

AMENDED IN SENATE JUNE 2, 2015

**SENATE BILL**

**No. 163**

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**Introduced by Senator Hertzberg**

February 4, 2015

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~~An act to add Section 3000.5 to the Elections Code, relating to elections. An act to add Section 13557.5 to the Water Code, relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 163, as amended, Hertzberg. ~~Elections: vote by mail ballot.~~  
~~Wastewater treatment: recycled water.~~

*The California Constitution requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that the waste or unreasonable use or unreasonable method of use of water be prevented. Existing law declares that the use of potable domestic water for certain nonpotable uses is a waste or an unreasonable use of water if recycled water is available, as determined by the State Water Resources Control Board, and other requirements are met.*

*Under existing law, the state board and the 9 California regional water quality control boards prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act.*

*This bill would declare that the discharge of treated wastewater from ocean outfalls, except in compliance with the bill's provisions, is a waste and unreasonable use of water in light of the cost-effective opportunities to recycle this water for further beneficial use. This bill,*

*on or before January 1, 2026, would require a wastewater treatment facility discharging through an ocean outfall to achieve at least 50% reuse of the facility's actual annual flow, as defined, for beneficial purposes. This bill, on and after January 1, 2036, would prohibit the discharge of treated wastewater through ocean outfalls, except as backup discharge, as defined, and would require a wastewater treatment facility to achieve 100% reuse of the facility's actual annual flow for beneficial purposes. This bill, on and after January 1, 2022, would authorize a NPDES permit holder subject to these requirements to petition the state board for a partial exemption to the above-described requirements. This bill would require the state board to determine, after notice and opportunity for comment, whether the petition demonstrates that the NPDES permit holder cannot comply with these reuse requirements and would provide that an exemption from these reuse requirements is valid for a period of no more than 5 years, at which point the NPDES permit holder is required to reapply for an exemption or comply with these reuse requirements. This bill would prohibit a NPDES permit holder subject to these provisions from being eligible for state grants or loans if they receive a partial exemption to these reuse requirements, unless the state grant or loan is solely for the purpose of achieving compliance with these reuse requirements.*

*This bill would require a holder of a NPDES permit authorizing the discharge of wastewater through an ocean outfall as of January 1, 2016, to submit, on or before July 1, 2020, a prescribed plan to meet these provisions, directly or by contract, to the executive director of the state board and would require the plan to be updated on or before January 1, 2024. This bill, on or before January 1, 2017, and by January 1 every 5 years thereafter, would require the holder of a NPDES permit authorizing the discharge of wastewater through an ocean outfall to submit a report to the executive director of the state board summarizing the actions accomplished to date and the actions remaining and proposed to meet the requirements of these provisions. This bill would require the state board to submit a report to the Governor and the Legislature on the implementation of these provisions on or before July 1, 2021, and by July 1 every 5 years thereafter.*

~~Existing law requires the vote by mail ballot to be available to any registered voter and requires an application for a vote by mail voter's ballot to be made in writing to the elections official having jurisdiction over the election between certain days before the election.~~

~~This bill would establish, until January 1, 2019, a vote by mail pilot program in the County of Los Angeles for statewide elections. The bill would require, as part of the pilot program, that the county elections official issue a vote by mail ballot to each registered voter for a qualifying election. The bill would also require the elections official, among other things, to engage in voter education efforts to increase voter awareness of the pilot program and to report on the voter turnout for qualifying elections to the Secretary of State and the Legislature on or before December 31, 2018.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

- 1     SECTION 1. *The Legislature finds and declares all of the*
- 2     *following:*
- 3     (a) *Severe drought conditions have persisted for the last three*
- 4     *years in California, and 2013 was the state's driest calendar year*
- 5     *on record.*
- 6     (b) *California's water supplies have dipped to alarmingly low*
- 7     *levels indicated by the very limited snowpack in the Sierra Nevada*
- 8     *Mountains, declining water levels in the state's largest water*
- 9     *reservoirs, reduced surface water flows in major river systems,*
- 10    *and historically low groundwater levels. These water supplies*
- 11    *continue to be severely depleted despite a limited amount of winter*
- 12    *precipitation in 2014.*
- 13    (c) *The duration of the drought is unknown, but based on the*
- 14    *projected impact of climate change on California's snowpack,*
- 15    *extremely dry conditions will likely continue beyond this year and*
- 16    *occur more regularly in the future.*
- 17    (d) *Continuous severe drought conditions present urgent*
- 18    *challenges across the state, including, but not limited to, water*
- 19    *shortages in communities and for agricultural production,*

1 *increased risk of wildfires, degraded habitat for fish and wildlife,*  
2 *and threat of saltwater contamination in large fresh water supplies.*

3 *(e) Water reuse is one of the most efficient and cost-effective*  
4 *ways to improve the drought resilience of California communities.*

5 *(f) The State Water Resources Control Board has established*  
6 *goals of recycling 1,500,000 acre-feet of wastewater by 2020 and*  
7 *2,500,000 acre-feet of wastewater by 2030. However, California*  
8 *is not on track to meet the board's goals.*

9 *(g) The discharge of treated wastewater from ocean outfalls*  
10 *constitutes waste and unreasonable use of water within the*  
11 *meaning of Section 2 of Article X of the California Constitution,*  
12 *in light of the opportunities to recycle this water for further*  
13 *beneficial use.*

14 *(h) By prohibiting ocean discharges from wastewater treatment*  
15 *plants, California could dramatically accelerate the adoption of*  
16 *water recycling and thus increase water supply available for*  
17 *beneficial use.*

18 *(i) Water recycling can reduce California's dependence on*  
19 *diversions from surface rivers and streams that are subject to*  
20 *variable climate and regulatory conditions.*

21 *(j) In addition to water supply benefits, requiring water recycling*  
22 *for further beneficial use eliminates ocean wastewater discharges,*  
23 *decreasing pollutant loadings to ocean waters and improving*  
24 *coastal water quality, thereby benefitting the aquatic environment*  
25 *and local economies that depend on those coastal resources.*

26 *SEC. 2. Section 13557.5 is added to the Water Code, to read:*

27 *13557.5. (a) The Legislature hereby finds and declares that*  
28 *the discharge of treated wastewater from ocean outfalls, except*  
29 *in compliance with the provisions of this section, is a waste and*  
30 *unreasonable use of water within the meaning of Section 2 of*  
31 *Article X of the California Constitution in light of the cost-effective*  
32 *opportunities to recycle this water for further beneficial use,*  
33 *including both potable and nonpotable uses.*

34 *(b) On or before January 1, 2026, each wastewater treatment*  
35 *facility that discharges through an ocean outfall shall achieve at*  
36 *least 50 percent reuse of the facility's actual annual flow for*  
37 *beneficial purposes.*

38 *(c) On and after January 1, 2036:*

39 *(1) A wastewater treatment facility shall not discharge treated*  
40 *wastewater through ocean outfalls, except as a backup discharge.*



1 *A backup discharge may occur only during periods of reduced*  
2 *demand for reclaimed water in the reuse system, such as a period*  
3 *of wet weather.*

4 *(2) Each wastewater treatment facility shall achieve 100 percent*  
5 *reuse of the facility's actual annual flow for further beneficial use.*

6 *(d) (1) A holder of a NPDES permit authorizing the discharge*  
7 *of wastewater through an ocean outfall as of January 1, 2016,*  
8 *shall submit, on or before July 1, 2020, a plan to meet the*  
9 *requirements of this section, directly or by contract, to the executive*  
10 *director of the state board that contains all of the following:*

11 *(A) An identification of all land acquisition and facilities*  
12 *necessary to provide for treatment, transport, and reuse of treated*  
13 *wastewater.*

14 *(B) An analysis of the costs to meet the requirements of this*  
15 *section.*

16 *(C) A financing plan for meeting the requirements of this section,*  
17 *including identifying any actions necessary to implement the*  
18 *financing plan, such as bond issuance or other borrowing,*  
19 *assessments, rate increases, fees, charges, or other financing*  
20 *mechanisms.*

21 *(D) A detailed schedule for the completion of all necessary*  
22 *actions.*

23 *(E) Supporting data and other documentation accompanying*  
24 *the plan.*

25 *(2) On or before January 1, 2024, the plan described in*  
26 *paragraph (1) shall be updated and submitted to the executive*  
27 *director of the state board by the permit holder to include any*  
28 *refinements or changes in the costs, actions, or financing necessary*  
29 *to achieve full recycling of all wastewater and thereby eliminate*  
30 *the ocean outfall discharge in accordance with this section or a*  
31 *written statement that the plan is current and accurate.*

32 *(e) On or before January 1, 2017, and by January 1 every five*  
33 *years thereafter, the holder of a NPDES permit authorizing the*  
34 *discharge of wastewater through an ocean outfall shall submit to*  
35 *the executive director of the state board a report summarizing the*  
36 *actions accomplished to date and the actions remaining and*  
37 *proposed to meet the requirements of this section. The report shall*  
38 *include progress toward meeting the deadlines set forth in*  
39 *subdivisions (b) to (d), inclusive, and specifically include the*  
40 *detailed schedule for, and status of, the following:*

- 1     (1) *Evaluation of reuse and disposal options.*
- 2     (2) *Preparation of preliminary design reports.*
- 3     (3) *Preparation and submission of permit applications.*
- 4     (4) *Construction initiation.*
- 5     (5) *Construction progress milestones.*
- 6     (6) *Construction completion.*
- 7     (7) *Initiation of operation.*
- 8     (8) *Continuing operation and maintenance.*
- 9     (f) (1) *On or before July 1, 2021, and by July 1 every five years*  
10 *thereafter, the state board shall submit a report to the Governor*  
11 *and the Legislature on the implementation of this section. The*  
12 *report shall summarize the progress up to date, including the*  
13 *increased amount of reclaimed water provided and potable water*  
14 *offsets achieved, and shall identify any obstacles to continued*  
15 *progress, including all instances of substantial noncompliance.*  
16     (2) *A report to be submitted pursuant to paragraph (1) shall be*  
17 *submitted in compliance with Section 9795 of the Government*  
18 *Code.*
- 19     (g) (1) *On and after January 1, 2022, a NPDES permitholder*  
20 *subject to the requirements of this section, may petition the state*  
21 *board for a partial exemption to the requirements of this section.*  
22 *The petition shall include the information required in subdivisions*  
23 *(d) and (e), and shall demonstrate that the NPDES permitholder*  
24 *cannot comply with the requirements of this section for one of the*  
25 *following reasons:*  
26     (A) *The state board has failed to adopt regulations that approve*  
27 *the indirect potable reuse of wastewater.*  
28     (B) *Upgrading the wastewater treatment plant to achieve*  
29 *recycled water standards produces recycled water that costs more*  
30 *than twice the cost per-acre foot as compared with other new*  
31 *surface and groundwater supplies.*  
32     (C) *The wastewater treatment plant has achieved water quality*  
33 *standards for recycled water, but there is not sufficient demand*  
34 *for this water within the region.*  
35     (2) *The state board shall determine, after notice and opportunity*  
36 *for comment, whether the petition demonstrates that the NPDES*  
37 *permitholder cannot comply with the requirements of this section*  
38 *pursuant to paragraph (1). If the state board approves the partial*  
39 *exemption to the requirements of this section, that exemption shall*  
40 *be valid for a period of no more than five years, at which point*

1 *the NPDES permit holder shall reapply for an exemption or comply*  
2 *with the requirements of this section.*

3 *(3) A NPDES permit holder subject to the requirements of this*  
4 *section shall not be eligible for state grants or loans if they receive*  
5 *a partial exemption to the requirements of this section pursuant*  
6 *to this subdivision, unless the state grant or loan is solely for the*  
7 *purpose of achieving compliance with the requirements of this*  
8 *section.*

9 *(h) As used in this section:*

10 *(1) "Actual annual flow" means the annual average flow of*  
11 *treated wastewater discharging through a facility's ocean outfall*  
12 *as determined by the state board using monitoring data available*  
13 *for calendar years 2009 to 2014, inclusive.*

14 *(2) "Backup discharge" means a surface water discharge that*  
15 *occurs as part of a functioning reuse system that has been*  
16 *permitted in accordance with the rules of the state board and that*  
17 *provides reclaimed water for irrigation or public access areas,*  
18 *residential properties, edible food crops, sea water barrier*  
19 *injection to protect groundwater resources, groundwater*  
20 *replenishment, industrial cooling, or other acceptable reuse*  
21 *purposes. "Backup discharge" may also include releases to the*  
22 *ocean on an emergency basis, as approved by a regional board,*  
23 *for a duration not to exceed 90 days and only in the quantities as*  
24 *are necessary in the event of a storm or other cause that impedes*  
25 *groundwater replenishment.*

26 ~~SECTION 1. Section 3000.5 is added to the Elections Code,~~  
27 ~~to read:~~

28 ~~3000.5. (a) A vote by mail pilot program shall be established~~  
29 ~~in the County of Los Angeles for any statewide election held~~  
30 ~~between January 1, 2017, and December 31, 2018, inclusive.~~

31 ~~(b) Notwithstanding Section 3001, the elections official for the~~  
32 ~~County of Los Angeles, in conjunction with the Secretary of State,~~  
33 ~~shall issue a vote by mail ballot to each registered voter in that~~  
34 ~~county for any statewide election held during the period specified~~  
35 ~~in subdivision (a).~~

36 ~~(c) Notwithstanding any other law, each of the following shall~~  
37 ~~apply to the vote by mail pilot program with respect to a statewide~~  
38 ~~election held during the period specified in subdivision (a):~~

1     ~~(1) The elections official is authorized to mail the vote by mail~~  
2     ~~ballots together with other election materials issued by the county~~  
3     ~~to reduce overall mailing expenses.~~

4     ~~(2) The elections official shall consider reducing or consolidating~~  
5     ~~precincts in anticipation of a reduction in the number of voters~~  
6     ~~who vote at precinct polling places, subject to the requirements of~~  
7     ~~Sections 12223 and 12241.~~

8     ~~(3) The elections official is deemed to comply with the~~  
9     ~~requirements of Section 14102 if the number of official ballots~~  
10    ~~provided to each precinct is not less than 50 percent of registered~~  
11    ~~voters in the precinct.~~

12    ~~(4) The elections official shall engage in voter education efforts~~  
13    ~~to increase voter awareness of the vote by mail pilot program. As~~  
14    ~~part of the voter education efforts, voters shall be encouraged, if~~  
15    ~~they intend to vote at a polling place, to bring their vote by mail~~  
16    ~~ballot to the polling place to streamline their voting process.~~

17    ~~(5) In addition to any other reporting requirements required by~~  
18    ~~law, the elections official shall report on the voter turnout for the~~  
19    ~~County of Los Angeles for any qualifying statewide election~~  
20    ~~described in subdivision (a) to the Secretary of State and to the~~  
21    ~~Legislature, in the manner provided by Section 9795 of the~~  
22    ~~Government Code, on or before December 31, 2018.~~

23    ~~(d) This section shall remain in effect only until January 1, 2019;~~  
24    ~~and as of that date is repealed, unless a later enacted statute, that~~  
25    ~~is enacted before January 1, 2019, deletes or extends that date.~~

26    ~~SEC. 2. If the Commission on State Mandates determines that~~  
27    ~~this act contains costs mandated by the state, reimbursement to~~  
28    ~~local agencies and school districts for those costs shall be made~~  
29    ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
30    ~~4 of Title 2 of the Government Code.~~

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Introduced by Senator Hueso

February 18, 2016

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An act to amend Section 25421 of the Public Resources Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1207, as introduced, Hueso. Energy: conservation: financial assistance.

Existing law requires the State Energy Resources Conservation and Development Commission to administer the State Energy Conservation Assistance Account, a continuously appropriated account in the General Fund, to provide grants and loans, until January 1, 2018, to schools, hospitals, public care institutions, and local governments to maximize energy use savings.

This bill would extend the operation of those provisions to January 1, 2028, and would thereby make an appropriation by extending the time during which the funds deposited in a continuously appropriated account are made available for expenditure.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 25421 of the Public Resources Code is
- 2 amended to read:
- 3 25421. (a) Except as provided in subdivision (b), this chapter
- 4 shall remain in effect only until January 1, ~~2018~~, 2028, and as of
- 5 that date is repealed, unless a later enacted statute, which is enacted
- 6 before January 1, ~~2018~~, 2028, deletes or extends that date.

1 (b) Except as specified in subdivisions (c) and (d), all loans  
2 outstanding as of January 1, ~~2018~~, 2028, shall continue to be repaid  
3 on a semiannual basis, as specified in Section 25415, until paid in  
4 full. All unexpended funds in the State Energy Conservation  
5 Assistance Account on January 1, ~~2018~~, 2028, and ~~thereafter~~ *after*  
6 *that date*, shall revert to the General Fund.

7 (c) To the extent required under applicable bond obligations,  
8 unexpended funds from the proceeds of bonds sold pursuant to  
9 Section 25417.5 that remain in the State Energy Conservation  
10 Assistance Account on January 1, ~~2018~~, 2028, shall remain in the  
11 account. These funds shall be expended pursuant to the applicable  
12 requirements for bond proceeds. Once all applicable bond  
13 obligations have been satisfied, unexpended funds shall revert to  
14 the General Fund.

15 (d) Unexpended funds from the federal American Recovery and  
16 Reinvestment Act of 2009 (Public Law 111-5) remaining in the  
17 State Energy Conservation Assistance Account on January 1, ~~2018~~,  
18 2028, shall revert to the Federal Trust Fund.

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1398

Introduced by Senator Leyva

February 19, 2016

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An act to ~~amend Section 39713 of~~ add Section 116885 to the Health and Safety Code, relating to ~~greenhouse gases~~: drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1398, as amended, Leyva. ~~Greenhouse gases: investment plan. Public water systems: lead pipes.~~

*Existing law requires public water systems to take specified actions to test for and remediate certain contaminants in drinking water, including lead and copper. Existing law prohibits the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except as specified.*

*This bill would require a public water system to compile an inventory of lead pipes in use by July 1, 2018, and, after completing the inventory, to provide a timeline for replacement of lead pipes in the system to the board. This bill would require the board to establish best practices to ensure that chemicals introduced into public water systems do not create corrosion or contamination within the system.*

~~The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act requires the board to adopt greenhouse gas emission limits and emission reduction measures by regulation, and authorizes the state board to include the use of market-based compliance mechanisms to comply with the regulations. Existing law requires all moneys, except~~

~~for fines and penalties, collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law requires the Department of Finance, in consultation with the state board and any other relevant state agency, to develop, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund. Existing law requires the investment plan to allocate a minimum of 25% of the available moneys in the fund to projects that provide benefits to disadvantaged communities and a minimum of 10% to projects located in disadvantaged communities. Existing law provides that the allocation of 10% for projects located in disadvantaged communities may be used for projects included in the minimum allocation of 25% for projects that provide benefits to disadvantaged communities.~~

~~This bill would make nonsubstantive changes to the latter provisions.~~

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

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

- 1     SECTION 1. Section 116885 is added to the Health and Safety
- 2     Code, to read:
- 3     116885. (a) By July 1, 2018, a public water system shall
- 4     compile an inventory of lead pipes in use.
- 5     (b) After completing the inventory required pursuant to
- 6     subdivision (a), a public water system shall provide a timeline for
- 7     replacement of lead pipes in the system to the State Water
- 8     Resources Control Board.
- 9     (c) The State Water Resources Control Board shall establish
- 10    best practices to ensure that chemicals introduced into public
- 11    water systems do not create corrosion or contamination within
- 12    the system.
- 13    (d) For the purposes of this section, "public water system" has
- 14    the meaning provided in Section 116275.
- 15    SECTION 1. ~~Section 39713 of the Health and Safety Code is~~
- 16    ~~amended to read:~~
- 17    39713. (a) ~~The investment plan developed and submitted to~~
- 18    ~~the Legislature, pursuant to Section 39716, shall allocate at least~~
- 19    ~~25 percent of the available moneys in the fund to projects that~~
- 20    ~~provide benefits to communities described in Section 39711.~~



- 1     ~~(b) The investment plan shall allocate at least 10 percent of the~~  
2     ~~available moneys in the fund to projects located within~~  
3     ~~communities described in Section 39711.~~  
4     ~~(c) The allocation pursuant to subdivision (b) may be, but need~~  
5     ~~not be, for projects included, in whole or in part, in the set of~~  
6     ~~projects supported by the allocation described in subdivision (a).~~



AMENDED IN SENATE MARCH 30, 2016

AMENDED IN SENATE MARCH 17, 2016

**SENATE BILL**

**No. 814**

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**Introduced by Senator Hill**

January 4, 2016

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An act to ~~amend Section 6254.16 of the Government Code, and to add Chapter 3.3 (commencing with Section 365) to Division 1 of the Water Code, relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 814, as amended, Hill. Drought: excessive water use: urban retail water suppliers.

The California Constitution declares the policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use of the waters in the interest of the people and for the public welfare. Existing law requires the Department of Water Resources and the State Water Resources Control Board to take all appropriate proceedings or actions to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this state. Existing law authorizes any public entity, as defined, that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity to, by ordinance or resolution, adopt and enforce a water conservation program to reduce the quantity of water used for the purpose of conserving the water supplies of the public entity. Existing law provides that a violation of a requirement of a water conservation program is a misdemeanor punishable by imprisonment

in a county jail for not more than 30 days, or by a fine not exceeding \$1,000, or both.

This bill would declare that excessive water use during a state of emergency based on drought conditions by a residential customer, as specified, is prohibited. This bill would require each urban retail water supplier to establish a method to identify and restrict excessive water use. This bill would authorize as a method to identify and restrict excessive water use the establishment of a rate structure that includes block tiers, water budgets, penalties for prohibited uses, or rate surcharges over and above base rates for excessive water use by residential customers. This bill would authorize as a method to identify and restrict excessive water use the establishment of an excessive water use ordinance, rule, or tariff condition that includes a definition of excessive water use, as prescribed, and would make a violation of this excessive water use ordinance, rule, or tariff condition an infraction punishable by a fine of at least \$500 per 100 cubic feet of water or per 748 gallons used above the excessive water use threshold established by the urban retail water supplier in a billing cycle. By creating a new infraction, this bill would impose a state-mandated local program.

This bill would provide that these provisions apply only during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions.

~~The California Public Records Act requires that public records, as defined, be open to inspection at all times during the hours of a state or local agency and that every person has a right to inspect any public record, with specified exceptions. Existing law prohibits the act from being construed to require the disclosure of certain information concerning utility customers of local agencies, except that disclosure of the name, utility usage data, and the home address of the utility customer who is the subject of the request and who the local agency has determined has used utility services in a manner inconsistent with applicable local utility usage policies is required to be made available.~~

~~This bill would revise this exception to require, upon request, the disclosure of the name and utility usage data of a utility customer who a local agency determines has used utility services in a manner inconsistent with applicable local utility usage policies, with the home address of the customer being disclosed only with the customer's consent. By increasing the duties of local officials, the bill would impose a state-mandated local program.~~

~~The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings if that enactment contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.~~

~~This bill would make legislative findings to that effect.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1     ~~SECTION 1. Section 6254.16 of the Government Code is~~  
2     ~~amended to read:~~

3     ~~6254.16. Nothing in this chapter shall be construed to require~~  
4     ~~the disclosure of the name, credit history, utility usage data, home~~  
5     ~~address, or telephone number of utility customers of local agencies,~~  
6     ~~except that disclosure of name, utility usage data, and the home~~  
7     ~~address of utility customers of local agencies shall be made~~  
8     ~~available upon request as follows:~~

9     ~~(a) To an agent or authorized family member of the person to~~  
10    ~~whom the information pertains.~~

11    ~~(b) To an officer or employee of another governmental agency~~  
12    ~~when necessary for the performance of its official duties.~~

13    ~~(c) Upon court order or the request of a law enforcement agency~~  
14    ~~relative to an ongoing investigation.~~

15    ~~(d) Upon determination by the local agency that a utility~~  
16    ~~customer has used utility services in a manner inconsistent with~~

1 applicable local utility usage policies, if the home address of the  
2 customer is not disclosed without the customer's consent.

3 ~~(e) Upon determination by the local agency that the utility~~  
4 ~~customer who is the subject of the request is an elected or appointed~~  
5 ~~official with authority to determine the utility usage policies of the~~  
6 ~~local agency, provided that the home address of an appointed~~  
7 ~~official shall not be disclosed without his or her consent.~~

8 ~~(f) Upon determination by the local agency that the public~~  
9 ~~interest in disclosure of the information clearly outweighs the~~  
10 ~~public interest in nondisclosure.~~

11 ~~SEC. 2.~~

12 *SECTION 1.* Chapter 3.3 (commencing with Section 365) is  
13 added to Division 1 of the Water Code, to read:

14  
15 CHAPTER 3.3. EXCESSIVE RESIDENTIAL WATER USE DURING  
16 DROUGHT  
17

18 365. (a) The Legislature finds and declares that this chapter  
19 furthers important state policies of encouraging water conservation  
20 and protecting water resources in the interest of the people and for  
21 the public welfare.

22 (b) For the purposes of this chapter, "urban retail water supplier"  
23 has the same meaning as provided in Section 10608.12.

24 366. (a) Excessive water use during a state of emergency based  
25 on drought conditions by a residential customer in a single-family  
26 residence or by a customer in a multiunit housing complex in which  
27 each unit is individually metered or submetered by the water  
28 supplier is prohibited.

29 (b) Each urban retail water supplier shall establish a method to  
30 identify and restrict excessive water use, through one of the  
31 following options:

32 (1) Establishing a rate structure that includes block tiers, water  
33 budgets, penalties for prohibited uses, or rate surcharges over and  
34 above base rates for excessive water use by a residential water  
35 customer.

36 (2) (A) Establishing an excessive water use ordinance, rule, or  
37 tariff condition, or amending an existing ordinance, rule, or tariff  
38 condition, that includes a definition of excessive water use by  
39 single-family residential customers and customers in multiunit  
40 housing complexes in which each unit is individually metered or

1 submetered and may include a process to issue written warnings  
2 to a customer and perform a site audit of customer water usage  
3 prior to deeming the customer in violation. Excessive water use  
4 shall be measured in terms of either gallons or hundreds of cubic  
5 feet of water used during the urban retail water supplier's regular  
6 billing cycle. In establishing the definition of excessive use, the  
7 water supplier may consider factors that include, but are not limited  
8 to, all of the following:

9 (i) Average daily use.

10 (ii) Full-time occupancy of households.

11 (iii) Amount of landscaped land on a property.

12 (iv) Rate of evapotranspiration.

13 (v) Seasonal weather changes.

14 (B) A violation of an excessive use ordinance, rule, or tariff  
15 condition established pursuant to subparagraph (A) is an infraction  
16 punishable by a fine of up to five hundred dollars (\$500) per  
17 hundred cubic feet of water, or per 748 gallons, used above the  
18 excessive water use threshold established by the urban retail water  
19 supplier in a billing cycle. Any fine imposed pursuant to this  
20 subparagraph shall be added to the customer's water bill and is  
21 due and payable with that water bill. Each urban retail water  
22 supplier shall have a process for nonpayment of the fine, which  
23 shall be consistent with the water supplier's existing process for  
24 nonpayment of a water bill.

25 (C) A violation of an excessive water use ordinance, rule, or  
26 tariff condition where a demonstrable water leak at the residence  
27 occurred and a repair to eliminate that leak is underway shall be  
28 considered as a basis for granting an appeal and shall be considered  
29 for waiver of the charges consistent with the urban retail water  
30 supplier's excessive water use ordinance and existing policies for  
31 leak adjustments. Other reasonable justifications for excessive  
32 water use shall be considered by the urban retail water supplier  
33 consistent with clause (i) of subparagraph (D).

34 (D) (i) An urban retail water supplier shall establish a process  
35 for the appeal of a fine imposed pursuant to subparagraph (B)  
36 whereby the customer may contest the imposition of the fine for  
37 excessive water use.

38 (ii) As part of the appeal process, the customer shall be provided  
39 with an opportunity to provide evidence of a bona fide reason for  
40 the excessive water use, including evidence of a water leak in

1 accordance with subparagraph (C), a medical reason, or any other  
2 reasonable justification for the water use, as determined by the  
3 urban retail water supplier.

4 367. This chapter applies only during a period for which the  
5 Governor has issued a proclamation of a state of emergency under  
6 the California Emergency Services Act (Chapter 7 (commencing  
7 with Section 8550) of Division 1 of Title 2 of the Government  
8 Code) based on drought conditions.

9 ~~SEC. 3. The Legislature finds and declares that Section 1 of~~  
10 ~~this act, which amends Section 6254.16 of the Government Code,~~  
11 ~~further, within the meaning of paragraph (7) of subdivision (b)~~  
12 ~~of Section 3 of Article I of the California Constitution, the purposes~~  
13 ~~of that constitutional section as it relates to the right of public~~  
14 ~~access to the meetings of local public bodies or the writings of~~  
15 ~~local public officials and local agencies. Pursuant to paragraph (7)~~  
16 ~~of subdivision (b) of Section 3 of Article I of the California~~  
17 ~~Constitution, the Legislature makes the following findings:~~

18 ~~The Legislature finds that it is in the public's interest to be made~~  
19 ~~aware of excessive water use during a drought in order to help~~  
20 ~~promote water conservation and to protect water resources in the~~  
21 ~~interest of the people and for the public welfare.~~

22 ~~SEC. 4. No reimbursement is required by this act pursuant to~~  
23 ~~Section 6 of Article XIII B of the California Constitution because~~  
24 ~~the costs that may be incurred by a local agency or school district~~  
25 ~~under this act would result from a legislative mandate that is within~~  
26 ~~the scope of paragraph (7) of subdivision (b) of Section 3 of Article~~  
27 ~~I of the California Constitution or because the costs that may be~~  
28 ~~incurred by a local agency or school district will be incurred~~  
29 ~~because this act creates a new crime or infraction, eliminates a~~  
30 ~~crime or infraction, or changes the penalty for a crime or infraction,~~  
31 ~~within the meaning of Section 17556 of the Government Code, or~~  
32 ~~changes the definition of a crime within the meaning of Section 6~~  
33 ~~of Article XIII B of the California Constitution.~~

34 *SEC. 2. No reimbursement is required by this act pursuant to*  
35 *Section 6 of Article XIII B of the California Constitution because*  
36 *the only costs that may be incurred by a local agency or school*  
37 *district will be incurred because this act creates a new crime or*  
38 *infraction, eliminates a crime or infraction, or changes the penalty*  
39 *for a crime or infraction, within the meaning of Section 17556 of*  
40 *the Government Code, or changes the definition of a crime within*



- 1 *the meaning of Section 6 of Article XIII B of the California*
- 2 *Constitution.*

O

