

AMENDED IN SENATE JUNE 30, 2008

AMENDED IN SENATE JUNE 17, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2882**

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**Introduced by Assembly Member Wolk**

February 22, 2008

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An act to add Chapter 3.4 (commencing with Section 370) to Division 1 of the Water Code, relating to water rates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2882, as amended, Wolk. Allocation-based conservation water pricing.

Existing law relative to water conservation programs 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 adopt and enforce, by ordinance or resolution, a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity.

This bill would authorize a public entity to adopt allocation-based conservation water pricing meeting certain requirements. The bill would require that revenues derived from allocation-based conservation water pricing not exceed the reasonable cost of water service, including basic costs and incremental costs, as defined.

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

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

1 SECTION 1. Chapter 3.4 (commencing with Section 370) is  
2 added to Division 1 of the Water Code, to read:

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4 CHAPTER 3.4. ALLOCATION-BASED CONSERVATION WATER  
5 PRICING  
6

7 370. The Legislature hereby finds and declares all of the  
8 following:

9 (a) The use of allocation-based conservation water pricing by  
10 public entities that sell and distribute water is one effective means  
11 by which waste or unreasonable use of water can be prevented and  
12 water can be saved in the interest of the people and for the public  
13 welfare, within the contemplation of Section 2 of Article X of the  
14 California Constitution.

15 (b) It is in the best interest of the people of California to  
16 encourage public entities to voluntarily use allocation-based  
17 conservation water pricing, tailored to local needs and conditions,  
18 on a regular and ongoing basis as a means of reducing *inefficient*  
19 *water uses, increasing efficient uses of water, and further*  
20 *discouraging* wasteful or unreasonable use of water under both  
21 normal and dry-year hydrologic conditions.

22 (c) The Legislature intends that allocation-based conservation  
23 water pricing is an additional option that can be used by public  
24 entities to encourage water users to conserve ~~and eliminate water,~~  
25 *eliminate inefficient water uses, increase efficient uses of water,*  
26 *and further discourage* waste of water and the Legislature does  
27 not intend to limit the discretion of public entities to evaluate and  
28 select among different methods for conserving water or to create  
29 a presumption that the election to not use a particular method is a  
30 waste or unreasonable use of water by the public entity.

31 (d) Nothing in this chapter is intended to limit, or dictate, the  
32 design of rate structures that public entities may use to promote  
33 conservation by water users.

34 (e) Nothing in this chapter directs, or otherwise compels, a  
35 public entity to use allocation-based conservation water pricing.

36 371. For purposes of this chapter, the following terms have the  
37 following meanings:

1 (a) “Allocation-based conservation water pricing” means a retail  
2 water rate structure that meets all of the criteria in Section 372.

3 (b) “Basic charge” means a volumetric unit charge for the cost  
4 of water service other than any fixed costs that are recovered  
5 through meter charges or other fixed charges and any incremental  
6 costs that are recovered through conservation charges. A basic  
7 charge may include the cost of generally applicable conservation  
8 measures assumed in establishing basic use allocations.

9 (c) “Conservation charge” means a volumetric unit charge for  
10 incremental costs.

11 (d) “Incremental costs” means the costs of water service,  
12 including capital costs, that the public entity incurs directly, or by  
13 contract, as a result of the ~~wasteful or unreasonable use of water~~  
14 *use of water in excess of the basic use allocation* or to implement  
15 water conservation or demand management measures employed  
16 ~~to reduce~~ *eliminate inefficient water uses, increase efficient uses*  
17 *of water, and further discourage* the wasteful or unreasonable use  
18 of water, and may include any of the following:

19 (1) Conservation best management practices, conservation  
20 education, irrigation controls and other conservation devices, and  
21 other demand management measures.

22 (2) Water system retrofitting, dual plumbing and facilities for  
23 production, distribution, and all uses of recycled water and other  
24 alternative water supplies.

25 (3) Projects and programs for prevention, control, or treatment  
26 of the runoff of water from irrigation and other outdoor water uses.

27 (4) Securing dry-year water supply arrangements.

28 (5) Procuring water supplies to satisfy increments of water use  
29 in excess of the basic use allocations for the customers of the public  
30 entity, including supply or capacity contracts for water supply  
31 rights or entitlements and related energy costs for water delivery.

32 (e) “Public entity” means a city, whether general law or  
33 chartered, county, city and county, special district, agency,  
34 authority, any other municipal public corporation or district, or  
35 any other political subdivision of the state that provides retail water  
36 service and that is an urban water supplier, as defined in Section  
37 10617.

38 372. (a) A public entity may employ allocation-based  
39 conservation water pricing that meets all of the following criteria:

40 (1) Billing is based on metered water use.

1 (2) A basic use allocation is established for each customer  
2 account that provides a reasonable amount of water for the  
3 customer's needs and property characteristics. Factors used to  
4 determine the basic use allocation may include, but are not limited  
5 to, the number of occupants, the type or classification of use, the  
6 size of lot or irrigated area, and the local climate data for the billing  
7 period. Nothing in this chapter prohibits a customer of the public  
8 entity from challenging whether the basic use allocation established  
9 for that customer's account is reasonable under the circumstances.

10 (3) A basic charge ~~per volumetric unit~~ is imposed for all water  
11 used within the customer's basic use allocation, except that at the  
12 option of the public entity, a lower rate may be applied to any  
13 portion of the basic use allocation that the public entity has  
14 determined to represent superior or more than reasonable  
15 conservation efforts.

16 (4) A conservation charge is imposed for increments of water  
17 use in excess of the basic use allocation. The conservation charge  
18 ~~for the increments shall, in the aggregate, each increment shall~~  
19 ~~provide revenue not to exceed incremental costs~~ *the incremental*  
20 *cost of that increment of water service.* The increments may be  
21 fixed or may be determined on a percentage or any other basis,  
22 without limitation on the number of increments, or any requirement  
23 that the increments or conservation charges be sized, or ascend  
24 uniformly, or in a specified relationship, ~~as long as the volumetric~~  
25 ~~price for the highest-priced increment is at least three times the~~  
26 ~~basic charge..~~

27 (b) (1) Except as specified in subdivision(a), the design of an  
28 allocation-based conservation pricing rate structure shall be  
29 determined in the discretion of the public entity.

30 (2) The public entity may impose meter charges or other fixed  
31 charges to recover fixed costs of water service in addition to the  
32 allocation-based conservation pricing rate structure.

33 (c) A public entity may use one or more allocation-based  
34 conservation water pricing structures for any class of municipal  
35 or other service that the public entity provides.

36 373. (a) Revenues derived from allocation-based conservation  
37 water pricing shall not exceed the reasonable cost of water service  
38 including basic costs and incremental costs. This chapter does not  
39 limit the sources of funding for incremental costs to charges for  
40 water use.

1 (b) Revenues derived from allocation-based conservation water  
2 pricing shall not exceed the proportional cost of service attributable  
3 to the customer's parcel, as determined by giving consideration to  
4 all of the following:

5 (1) Customer classes established in consideration of service  
6 characteristics, demand patterns, and other factors.

7 (2) Basic use allocations.

8 (3) Meter size.

9 (4) Metered volume of water consumed.

10 (c) Revenues derived from increments of water use subject to  
11 conservation charges shall not exceed the proportional cost of  
12 service attributable to the increments of water use subject to  
13 conservation charges. ~~Under an allocation-based conservation  
14 water pricing structure, the public entity may establish  
15 proportionality between the cost of service and increments of water  
16 usage subject to conservation charges either on an aggregate basis,  
17 by the total metered volume of water consumed within all  
18 increments subject to conservation charges, or separately within  
19 each increment.~~

20 374. (a) Allocation-based conservation water pricing under  
21 this chapter may be used on an ongoing basis and shall not require  
22 any finding of emergency or other water shortage conditions.

23 (b) The authority granted in this chapter is in addition to any  
24 other authority that a public entity has to use rate structure design  
25 to foster the conservation of water.

26 (c) The imposition and revision of rates and charges by a public  
27 entity under this chapter shall be subject to the procedures  
28 otherwise required by law for the public entity's water rates.