

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2507

Introduced by Assembly Member Audra Strickland

February 19, 2010

An act to amend Section 116275 of, ~~and~~ to add Section 116331 to, *and to add Article 12 (commencing with Section 116755) to Chapter 4 of Part 12 of Division 104 of*, the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2507, as amended, Audra Strickland. ~~Local small water systems: local health officer: enforcement.~~ *Drinking water.*

Existing law, known as the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies. Existing law authorizes the department to enter into ~~delegate~~ primacy delegation agreements with local health officers for enforcement of these provisions.

Existing law authorizes the department to establish less stringent requirements applicable to state small water systems, as defined, and requires local health officers to enforce those standards.

This bill would, notwithstanding provisions of law to the contrary, require the local public health officer to establish standards for, and be

the primary enforcement agency over, local small water systems, as defined. By imposing these new requirements on local agencies, this bill would impose a state-mandated local program.

This bill would also allow specified properties, after applying to the county and having the county make specified findings, to use hauled water when no other water source is available for a single-family dwelling. The bill would require the applicant for the use of hauled water to meet various requirements, including filing a covenant and agreement containing specified conditions, to be filed with the county against the property. The bill would exempt properties approved to use hauled water from the California Environmental Quality Act (CEQA). By imposing new requirements on local agencies, this bill would impose a state-mandated local program.

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 shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

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 116275 of the Health and Safety Code
- 2 is amended to read:
- 3 116275. As used in this chapter:
- 4 (a) "Contaminant" means any physical, chemical, biological,
- 5 or radiological substance or matter in water.
- 6 (b) "Department" means the State Department of Public Health.
- 7 (c) "Primary drinking water standards" means all of the
- 8 following:
- 9 (1) Maximum levels of contaminants that, in the judgment of
- 10 the department, may have an adverse effect on the health of
- 11 persons.
- 12 (2) Specific treatment techniques adopted by the department in
- 13 lieu of maximum contaminant levels pursuant to subdivision (j)
- 14 of Section 116365.

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

4 (d) “Secondary drinking water standards” means standards that
5 specify maximum contaminant levels that, in the judgment of the
6 department, are necessary to protect the public welfare. Secondary
7 drinking water standards may apply to any contaminant in drinking
8 water that may adversely affect the odor or appearance of the water
9 and may cause a substantial number of persons served by the public
10 water system to discontinue its use, or that may otherwise adversely
11 affect the public welfare. Regulations establishing secondary
12 drinking water standards may vary according to geographic and
13 other circumstances and may apply to any contaminant in drinking
14 water that adversely affects the taste, odor, or appearance of the
15 water when the standards are necessary to ensure a supply of pure,
16 wholesome, and potable water.

17 (e) “Human consumption” means the use of water for drinking,
18 bathing or showering, hand washing, or oral hygiene.

19 (f) “Maximum contaminant level” means the maximum
20 permissible level of a contaminant in water.

21 (g) “Person” means an individual, corporation, company,
22 association, partnership, limited liability company, municipality,
23 public utility, or other public body or institution.

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

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

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

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

38 (i) “Community water system” means a public water system
39 that serves at least 15 service connections used by yearlong

1 residents or regularly serves at least 25 yearlong residents of the
2 area served by the system.

3 (j) “Noncommunity water system” means a public water system
4 that is not a community water system.

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

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

13 (m) “Significant rise in the bacterial count of water” means a
14 rise in the bacterial count of water that the department determines,
15 by regulation, represents an immediate danger to the health of
16 water users.

17 (n) (1) “State small water system” means a system for the
18 provision of piped water to the public for human consumption that
19 serves at least five, but not more than 14, service connections and
20 does not regularly serve drinking water to more than an average
21 of 25 individuals daily for more than 60 days out of the year.

22 (2) “Local small water system” means a privately owned system
23 for the provision of piped water to the public for human
24 consumption that serves less than five service connections and
25 does not regularly serve drinking water to more than an average
26 of 25 individuals daily for more than 60 days out of the year.

27 (o) “Transient noncommunity water system” means a
28 noncommunity water system that does not regularly serve at least
29 25 of the same persons over six months per year.

30 (p) “User” means any person using water for domestic purposes.
31 User does not include any person processing, selling, or serving
32 water or operating a public water system.

33 (q) “Waterworks standards” means regulations adopted by the
34 department that take cognizance of the latest available “Standards
35 of Minimum Requirements for Safe Practice in the Production and
36 Delivery of Water for Domestic Use” adopted by the California
37 section of the American Water Works Association.

38 (r) “Local primacy agency” means any local health officer that
39 has applied for and received primacy delegation from the
40 department pursuant to Section 116330.

- 1 (s) “Service connection” means the point of connection between
2 the customer’s piping or constructed conveyance, and the water
3 system’s meter, service pipe, or constructed conveyance. A
4 connection to a system that delivers water by a constructed
5 conveyance other than a pipe shall not be considered a connection
6 in determining if the system is a public water system if any of the
7 following apply:
- 8 (1) The water is used exclusively for purposes other than
9 residential uses, consisting of drinking, bathing, and cooking or
10 other similar uses.
- 11 (2) The department determines that alternative water to achieve
12 the equivalent level of public health protection provided by the
13 applicable primary drinking water regulation is provided for
14 residential or similar uses for drinking and cooking.
- 15 (3) The department determines that the water provided for
16 residential or similar uses for drinking, cooking, and bathing is
17 centrally treated or treated at the point of entry by the provider, a
18 passthrough entity, or the user to achieve the equivalent level of
19 protection provided by the applicable primary drinking water
20 regulations.
- 21 (t) “Resident” means a person who physically occupies, whether
22 by ownership, rental, lease or other means, the same dwelling for
23 at least 60 days of the year.
- 24 (u) “Water treatment operator” means a person who has met
25 the requirements for a specific water treatment operator grade
26 pursuant to Section 106875.
- 27 (v) “Water treatment operator-in-training” means a person who
28 has applied for and passed the written examination given by the
29 department but does not yet meet the experience requirements for
30 a specific water treatment operator grade pursuant to Section
31 106875.
- 32 (w) “Water distribution operator” means a person who has met
33 the requirements for a specific water distribution operator grade
34 pursuant to Section 106875.
- 35 (x) “Water treatment plant” means a group or assemblage of
36 structures, equipment, and processes that treats, blends, or
37 conditions the water supply of a public water system for the
38 purpose of meeting primary drinking water standards.

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

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

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

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

14 SEC. 2. Section 116331 is added to the Health and Safety Code,
 15 to read:

16 116331. Notwithstanding provisions of law to the contrary,
 17 the local public health officer shall establish the standards
 18 applicable to, and shall be the primacy enforcement agency over,
 19 local small water systems.

20 SEC. 3. Article 12 (commencing with Section 116755) is added
 21 to Chapter 4 of Part 12 of Division 104 of the Health and Safety
 22 Code, to read:

23
 24 *Article 12. Hauled Water*

25
 26 116755. (a) A project may be eligible to use hauled water if
 27 the project meets all of the following requirements:

28 (1) The properties must be located in the County of Los Angeles,
 29 excluding those properties that have been predesigned to require
 30 fire sprinklers within the Very High Fire Hazard Severity Zone.

31 (2) There must be satisfactory evidence that the subject property
 32 is not located within an area served by a water supply purveyor
 33 or that property is within the boundaries but adequate service
 34 connections are not in close proximity to the subject property.

35 (3) The applicant has obtained a certification from the County
 36 Environmental Health Division stating that he or she has
 37 demonstrated that groundwater or well water is not available or
 38 that he or she has made a good faith effort to secure well water
 39 on the subject property.

- 1 (4) *The property owner must be proposing to locate a*
2 *single-family dwelling on the parcel.*
- 3 (5) *The property must be a legal lot as of January 1, 2011.*
- 4 (b) *A project is not eligible to use hauled water if any of the*
5 *following conditions are met:*
- 6 (1) *The application is for a nonresidential development.*
- 7 (2) *The application includes a multifamily residential*
8 *development, secondary suites attached to the primary residence,*
9 *second units, or caretaker units.*
- 10 (3) *The property is subject to a pending subdivision application,*
11 *either tract map or parcel map, or a future subdivision application*
12 *within the County of Los Angeles.*
- 13 (4) *The property is not a legal lot.*
- 14 (5) *The property is in an existing water service area and can*
15 *obtain a will-serve letter from the water service agency.*
- 16 (c) *For purposes of this section, “good faith effort” means one*
17 *of the following:*
- 18 (1) *Reports from two independent hydrologists indicating that*
19 *the subject property and adjacent properties do not have water*
20 *available.*
- 21 (2) *Diligent efforts to drill at least three separate test wells at*
22 *a depth determined by an independent hydrologist based on*
23 *groundwater data.*
- 24 116756. *All single-family residences proposing to utilize hauled*
25 *water and that meet the requirements of Section 116755 shall do*
26 *all of the following:*
- 27 (a) *Install and maintain a county-approved filtration and*
28 *disinfection system between the water storage tank and the*
29 *connection to the house.*
- 30 (b) *Pay all costs associated with the purchase and installation*
31 *of a county-approved filtration and disinfection system.*
- 32 (c) *Demonstrate that the subject property is of a sufficient size*
33 *to accommodate the proposed dwelling and a water tank and*
34 *appurtenant equipment, including, but not limited to, the filtration*
35 *and disinfection system.*
- 36 (d) *Demonstrate compliance with all relevant general plan and*
37 *zoning requirements and standards.*
- 38 (e) *Install an approved storage tank, which has sufficient storage*
39 *capacity to meet all necessary domestic, irrigation, and fire*
40 *department water supply demands.*

1 (f) Agree to obtain hauled water only from a water hauler
2 certified pursuant to Section 111120.

3 (g) Execute a covenant and agreement, to be recorded with the
4 county against the property, containing all of the following
5 disclosures, terms, and conditions:

6 (1) The property is not within the boundaries of a water supply
7 purveyor or served by an onsite well.

8 (2) The owner agrees to install a county-approved filtration
9 and disinfection system, at a location approved by the county health
10 department, that is accessible by inspectors and county personnel.

11 (3) Acknowledgment that the proper operation and maintenance
12 of the filtration and disinfection system is essential to the continued
13 potability of the hauled water and that the owner shall operate
14 and maintain the filtration and disinfection system in accordance
15 with the manufacturer’s specifications at all times for so long as
16 hauled water is used as a source of water for the property.

17 (4) The owner relinquishes any rights to future subdivision of
18 the subject property for so long as hauled water is the source of
19 water for the property.

20 (5) Acknowledgment that it is the owner’s responsibility, and
21 not the responsibility of the county, to obtain hauled water from
22 a water hauler licensed pursuant to Section 111120.

23 (6) Agreement by the owner that the county makes no assurances
24 that hauled water will be available indefinitely.

25 (7) Agreement by the owner to connect to a municipal water
26 system when a connection to that system becomes available.

27 (8) The owner assumes all risks arising from or connected with
28 the use of hauled water on the property and that the owner shall
29 hold the county harmless for any claims for damages arising from
30 or connected with the use of hauled water at the property.

31 116757. In order to approve a request to develop property
32 using hauled water, the county shall make all of the following
33 findings:

34 (a) The application for the proposed development is for a
35 single-family dwelling on a single legal lot.

36 (b) The subject property is not located within the boundaries
37 of a water supply purveyor that will provide a will-serve letter for
38 the property.

39 (c) The subject property is of a sufficient size to accommodate
40 the proposed dwelling, a water tank, and any appurtenant

1 *equipment, including, but not limited to, a filtration and disinfection*
2 *system.*

3 *(d) The applicant has made a good faith effort, as defined in*
4 *subdivision (c) of Section 116755, to secure well water on the*
5 *subject property and that sufficient well water is not available to*
6 *accommodate the proposed development.*

7 *(e) The proposed development complies with all relevant general*
8 *plan and zoning requirements and standards. This shall include,*
9 *but not be limited to, vehicular access to the property and water*
10 *tank to the satisfaction of the fire department.*

11 *(f) The approval of the application is necessary to prevent the*
12 *imposition of a hardship upon the applicant.*

13 *116758. A property that meets the requirements in subdivision*
14 *(a) of Section 116755 is exempt from the provisions of the*
15 *California Environmental Quality Act (CEQA).*

16 ~~SEC. 3.~~

17 *SEC. 4.* No reimbursement shall be made pursuant to Part 7
18 (commencing with Section 17500) of Division 4 of Title 2 of the
19 Government Code for costs mandated by the state pursuant to this
20 act. It is recognized, however, that a local agency or school district
21 may pursue any remedies to obtain reimbursement available to it
22 under Part 7 (commencing with Section 17500) and any other
23 provisions of law.