AMENDED IN ASSEMBLY MAY 19, 2011

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

AMENDED IN ASSEMBLY MARCH 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 54

Introduced by Assembly Member Solorio

December 6, 2010

An act to amend Section 14300 of, and to add Sections *14300.5,* 14301.1, 14301.2, and 14301.3 to, the Corporations Code, to amend Sections 56375 and 56430 of the Government Code, and to amend Section 116725 of, to add Section 116760.65 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 54, as amended, Solorio. Drinking water.

(1) Existing law authorizes any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for irrigation purposes, and requires any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for domestic use, to provide in its articles or ~~by laws~~ *bylaws* that water shall be sold, distributed, supplied, or delivered only to owners of its shares and that those shares are appurtenant to certain lands, as specified.

This bill would specify that any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water

for irrigation purposes, and any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for domestic use *that provides in its articles or bylaws that the water shall be sold, distributed, supplied, or delivered only to owners of its shares and that those shares are appurtenant to certain lands* shall be known as a mutual water company.

The bill would also require each mutual water company ~~operating as a public water system to~~ *that operates a public water system to*, by December 31, 2012, submit a map depicting the *approximate* boundaries of the property that the municipal water company serves to ~~the Secretary of State and~~ the local agency commission within the county in which the mutual water company operates. The bill would prohibit a mutual water company from expanding its boundaries without approval from the appropriate local agency formation commission. The bill would require a mutual water company to supply certain information to a local agency formation commission ~~or a county department~~ upon request, as specified. *This bill would require a mutual water company that operates a public water system to maintain a financial reserve fund to be used for certain types of activities.*

The bill would also require each board member of a mutual water company that ~~is operated as~~ *operates* a public water system to, within 6 months of taking office, complete a ~~4 hour~~ *2*-hour course offered by a ~~public water agency~~ *qualified trainer*, as specified. ~~The bill would also specify that fines imposed pursuant to the Safe Drinking Water Act may be imposed on directors of a mutual water company if the mutual water company receives a notice of violation, more than one year has elapsed, and the mutual water company has not taken action to resolve the violation.~~

(2) Existing law, 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 establishes the Safe Drinking Water State Revolving Fund, continuously appropriated to the department for the provision of grants and revolving fund loans to provide for the design and construction of projects for public water systems that will enable

suppliers to meet safe drinking water standards. Existing law requires the department to establish criteria to be met for projects to be eligible for consideration for this funding.

This bill would allow the department to issue a letter of no prejudice, as defined, to a public water system that is a lead applicant for a project that may be funded by the Safe Drinking Water Revolving Fund and would make expenditures related to the project reimbursable in specified circumstances.

(3) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, sets forth the powers and duties of a local agency formation commission, including, among others, the powers to review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

This bill would additionally authorize the commission to approve or disapprove the annexation of territory served by a mutual water company into the jurisdiction of a city, a public utility, or a special district that operates a public water system, with the consent of the respective public agency or public utility and mutual water company.

(4) Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, each local agency formation commission is required to develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere of influence. In order to prepare and update spheres of influence, the commission is required to conduct a service review, including the review of growth and population projections for the affected area, present and planned capacity of public facilities and adequacy of public services, financial ability of agencies to provide services, the status of, and opportunities for, shared facilities, accountability for community service needs, and any other matter related to effective or efficient service delivery, as required by commission policy.

This bill would authorize the commission to include in the service review, a review of whether the agencies under review comply with safe drinking water standards. *This bill would provide that a public water system may comply with that review by submitting certain documents.*

(5) Existing law provides for the imposition of civil fines in amounts up to $5,000 or $25,000 for specified violations of the California Safe Drinking Water Act.

This bill would authorize the department, in lieu of assessing all or a portion of the civil penalties for those violations against a publicly owned water system serving a small community, as specified, to require the public water system to spend an equivalent dollar amount toward the completion of a compliance project proposed by the public water system, in specified circumstances.

This bill would provide that a mutual water company is liable for any fines, penalties, costs, expenses, or other amounts that may be imposed under the California Safe Drinking Water Act. This bill would authorize a mutual water company to levy an assessment to pay those fines. This bill would provide that if the amount of those fines exceeds 5% of the annual budget of a mutual water company, then the mutual water company would be required to levy an assessment to pay those fines.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Californians rely on a broad diversity of public and private organizations to deliver clean and safe drinking water to their home water taps. Regardless of the form of the organization that operates a public water system, these organizations provide a public service that remains one of the core duties of the people's government.

(b) While the state's goal is to ensure clean and safe drinking water, California's drinking water quality has deteriorated and some public water systems continue to suffer poor water quality that are inconsistent with safe drinking water standards.

(c) The state provides funding to public water systems to improve drinking water quality through the Safe Drinking Water Revolving Fund, but demand far exceeds the available funding. The United States Environmental Protection Agency's Drinking Water Infrastructure Needs Survey and Assessment, which was performed in 2007, State Department of Public Health estimates that the 20-year drinking water infrastructure need for California

is $39 billion. Funding for such projects, however, for 1997–2008 totaled only 1.2 billion.

SEC. 2. Section 14300 of the Corporations Code is amended to read:

14300. (a) Any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for irrigation purposes may provide, and any corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for domestic use shall provide, in its articles or bylaws that water shall be sold, distributed, supplied, or delivered only to owners of its shares and that the shares shall be appurtenant to certain lands when the same are described in the certificate issued therefor; and when the certificate is so issued and a certified copy of the articles or bylaws recorded in the office of the county recorder in the county where the lands are situated the shares of stock shall become appurtenant to the lands and shall only be transferred therewith, except after sale or forfeiture for delinquent assessments thereon as provided in Section 14303. Notwithstanding this provision in its articles or bylaws, any such corporation may sell water to the state, or any department or agency thereof, or to any school district, or to any public agency, or, to any other mutual water company or, during any emergency resulting from fire or other disaster involving danger to public health or safety, to any person at the same rates as to holders of shares of the corporations; and provided further, that any corporation may enter into a contract with a county fire protection district to furnish water to fire hydrants and for fire suppression or fire prevention purposes at a flat rate per hydrant or other connection. In the event lands to which any stock is appurtenant are owned or purchased by the state, or any department or agency thereof, or any school district, or public agency, the stock shall be canceled by the secretary, but shall be reissued to any person later acquiring title to the land from the state department, agency, or school district, or public agency.

(b) A corporation described in subdivision (a) shall be known as a mutual water company.

SEC. 3. Section 14300.5 is added to the Corporations Code, to read:

14300.5. For purposes of this chapter, "public water system" shall have the same meaning as provided in Section 116275 of the Health and Safety Code.

~~SEC. 3.~~

SEC. 4. Section 14301.1 is added to the Corporations Code, to read:

14301.1. (a) No later than December 31, 2012, each mutual ~~water company operating as a public water system shall submit to the Secretary of State and the local agency formation commission a map depicting the boundaries of the property that the corporation serves.~~

~~(b) If the local agency formation commission or a county department requests information from a mutual water company, the corporation shall, within 45 days of the request, provide all reasonably available information and explain, in writing, why any requested information is not reasonably available. Nothing in this subdivision shall be interpreted to require a mutual water company to undertake any study or investigation.~~

~~(c) All Governmental Accounting Standards Board (GASB) standards apply to mutual water companies.~~ *water company that operates a public water system shall submit to the local agency formation commission for its county a map depicting the approximate boundaries of the property that the mutual water company serves.*

(b) A mutual water company shall respond to a request from a local agency formation commission, located within a county that the mutual water company operates in, for information in connection with the preparation of municipal service reviews or spheres of influence pursuant to Section 56430 of the Government Code within 45 days of the request. The mutual water company shall provide all reasonably available information relating to the operation of the public water system, including the financial, managerial, and technical capability of the mutual water company to ensure delivery of pure, wholesome, and potable drinking water, within the meaning of Section 116540 of the Health and Safety Code. The mutual water company shall explain, in writing, why any requested information is not reasonably available. The mutual water company shall not be required to disclose any information pertaining to the names, addresses, or water usage of any specific shareholder. This subdivision shall not be interpreted to require

a mutual water company to undertake any study or investigation. A mutual water company may comply with this section by submitting to the local agency formation commission the same information that the mutual water company submitted to the State Department of Public Health.

(c) A mutual water company shall be subject to the requirements of, and has the powers granted by, subdivision (b) of Section 116755 of the Health and Safety Code.

~~SEC. 4. Section 14301.2 is added to the Corporations Code, to read:~~

~~14301.2. (a) Each board member of a mutual water company operated as a public water system shall, within six months of taking office, complete a four-hour course offered by a public water agency or a public utility that operates a public water system regarding the duties of board members of public water systems and the duties of public water systems to provide clean drinking water that complies with the federal and state Safe Drinking Water Acts. If no public water agency in the county where the mutual water company operates offers a course, the director shall certify to the State Department of Public Health, within nine months of taking office, that no such training was available.~~

~~(b) Fines pursuant to the Safe Drinking Water Act may be imposed on directors of a mutual water company if the mutual water company has received notice of a violation of the Safe Drinking Water Act more than one year previously and has not taken action to resolve the violation.~~

SEC. 5. Section 14301.2 is added to the Corporations Code, to read:

14301.2. Each board member of a mutual water company shall comply with the training requirements set out in subdivision (a) of Section 116755 of the Health and Safety Code.

~~SEC. 5.~~

SEC. 6. Section 14301.3 is added to the Corporations Code, to read:

14301.3. (a) All construction on public water systems operated by a mutual water company shall be designed and constructed to comply with the applicable California Waterworks standards, as provided in Chapter 16 of Title 22 of the California Code of Regulations.

~~(b) Pursuant to Chapter 1 (commencing with Section 1720) of Part 7 of the Labor Code, all construction projects related to a public water system shall comply with prevailing wage standards.~~

(b) A mutual water company that operates a public water system shall maintain a financial reserve fund for repairs and replacements to its water production, transmission, and distribution facilities equal to the reserve fund for these purposes required for a public water system of equal size and function owned and operated by a public agency.

~~SEC. 6.~~

SEC. 7. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals by resolution of application for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially

developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and prezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the prezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the prezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(*l*) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

(r) To approve or disapprove pursuant to this section the annexation of territory served by a mutual water company formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code into the jurisdiction of a city,

a public utility, or a special district that operates a public water system. *Any annexation approved in accordance with this subdivision shall be subject to the state and federal constitutional prohibitions against the taking of private property without the payment of just compensation. This subdivision shall not impair the authority of a public agency or public utility to exercise eminent domain authority, or the authority of the Public Utilities Commission to determine service area boundaries of regulated public utilities.*

~~SEC. 7.~~

SEC. 8. Section 56430 of the Government Code is amended to read:

56430. (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

(1) Growth and population projections for the affected area.

(2) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

(3) Financial ability of agencies to provide services.

(4) Status of, and opportunities for, shared facilities.

(5) Accountability for community service needs, including governmental structure and operational efficiencies.

(6) Any other matter related to effective or efficient service delivery, as required by commission policy.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) In conducting a service review, the commission may include a review of whether the agencies under review, including any public water system as defined in Section 116275, are in compliance with the Safe Drinking Water Act. *A public water system may satisfy any request for information as to compliance*

with the Safe Drinking Water Act by submission of the consumer confidence or water quality report prepared by the public water system as provided by Section 116470 of the Health and Safety Code.

(d) The commission may request information, as part of a service review under this section, from identified public or private entities that provide wholesale or retail supply of drinking water, including mutual water companies formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code, and private utilities, as defined in Section 1502 of the Public Utilities Code.

(e) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or ~~Section~~ 56426.5 or to update a sphere of influence pursuant to Section 56425.

~~SEC. 8. Section 116760.65 is added to the Health and Safety Code, to read:~~

~~116760.65. (a) A public water system, as defined in Section 116275, that is a lead applicant for a project that may be funded pursuant to this chapter may apply to the department for a letter of no prejudice for the project or a component of the project. The department may approve the letter of no prejudice for one or more projects or project components that the department has determined to be eligible for federal or state funding pursuant to established funding priorities and has issued an invitation to apply for funding from the Safe Drinking Water Revolving Fund. The letter of no prejudice shall reference the project or component thereof and the maximum amount of bond funding that may be allocated for that project or project component.~~

~~(b) Expenditures for the costs, up to the amount set forth in the letter of no prejudice, of a project or project component for which a letter of no prejudice has been issued shall be eligible for reimbursement from the Safe Drinking Water Revolving Fund if all of the following apply:~~

~~(1) The project or project component for which the letter of no prejudice was requested has commenced and expenditures on the project or project component have been incurred by the local agency.~~

~~(2) The expenditures made by the local agency are eligible for reimbursement in accordance with state and federal laws and procedures, and are permitted expenditures under the applicable provisions of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.) or the California Safe Drinking Water Act. If expenditures made are determined to be ineligible, then the state has no obligation to reimburse for those expenditures.~~

~~(3) The public water system complies with all legal requirements for the project, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(4) The expenditures were incurred after the project or project component was determined to be eligible for funding by the department.~~

~~(5) There is in the Safe Drinking Water Revolving Fund an amount sufficient to make the reimbursement payment. Nothing in this section requires the fund to be funded at a particular time or in a particular amount.~~

~~(c) The department and the public water system may enter into an agreement or agreements governing reimbursement as described in this section.~~

~~(d) Without limiting the foregoing, nothing in this section or in a letter of no prejudice shall eliminate or modify any condition or requirement for granting, allocating, or reallocating funds or any other provision relating to loans, grants, allocations, or reallocations in the California Safe Drinking Water Act or related statutes.~~

~~(e) For purposes of this section, "letter of no prejudice" means an agreement between a public water system and the department that makes eligible for future reimbursement from the Safe Drinking Water Revolving Fund the expenditure of funds under the control of the public water system, subject to availability of bond funds, as provided in this section. The timing and final amount of reimbursement is dependent on the terms of the agreement and the availability of funds. The final amount of reimbursement may be less than the amount stated in the letter of no prejudice.~~

SEC. 9. Section 116725 of the Health and Safety Code is amended to read:

116725. (a) Any person who knowingly makes any false statement or representation in any application, record, report, or

other document submitted, maintained, or used for purposes of compliance with this chapter, may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b) Any person who violates a citation schedule of compliance for a primary drinking water standard or any order regarding a primary drinking water standard or the requirement that a reliable and adequate supply of pure, wholesome, healthful, and potable water be provided may be liable, as determined by the court, for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation or, for continuing violations, for each day that violation continues.

(c) Any person who violates any order, other than one specified in subdivision (b), issued pursuant to this chapter may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(d) Any person who operates a public water system without a permit issued by the department pursuant to this chapter may be liable, as determined by the court, for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation or, for continuing violations, for each day that violation continues.

(e) Each civil penalty imposed for any separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

(f) (1) In lieu of assessing all or a portion of the civil penalties pursuant to this section against a publicly owned water system serving a small community, the department may elect to require the public water system to spend an equivalent dollar amount towards the completion of a compliance project proposed by the public water system, if the department finds all of the following:

(A) The compliance project is designed to correct the violations within five years.

(B) The compliance project is in accordance with the enforcement policy of the department, excluding any provision in the policy that is inconsistent with this section.

(C) The public water system has prepared a financing plan to complete the compliance project.

(2) For the purposes of this subdivision, "a publicly owned water system serving a small community" means a public water system operated by a city, county, *mutual water company,* or special district serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the department after considering factors including median income of the residents, rate of unemployment, and low population density in the service area of the public water system.

SEC. 10. Article 12 (commencing with Section 116755) of Chapter 4 of Part 12 of Division 104 is added to the Health and Safety Code, to read:

Article 12. Board Member Training

~~116755. (a) Each board member of a mutual water company operating a public water system shall, within six months of taking office, complete a four-hour course offered by a public water agency or public utility regarding the duties of board members of public water systems and the duties of public water systems to provide clean drinking water that complies with federal and state Safe Drinking Water Acts. If no public water agency in the county where the mutual water company operates offers a course, the director shall certify to the State Department of Public Health, within nine months of taking office, that no such training was available.~~

~~(b) Fines pursuant to the Safe Drinking Water Act may be imposed on directors of a mutual water company if the mutual water company has received notice of a violation of the Safe Drinking Water Act, more than one year has elapsed since the mutual water company received the notice, and the mutual water company has not taken action to resolve the violation.~~

116755. (a) Each board member of a mutual water company that operates a public water system, as defined in Section 116275, shall, within six months of taking office, or by December 31, 2012, if that member was serving on the board on December 31, 2011, complete a two-hour course offered by a qualified trainer regarding the duties of board members of mutual water companies, including, but not limited to, the duty of a corporate director to avoid contractual conflicts of interest and fiduciary duties, the duties of public water systems to provide clean drinking water that

complies with the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.) and this chapter, and long-term management of a public water system. For the purposes of this subdivision, a trainer may be qualified in any of the following ways:

(1) Membership in the California State Bar.

(2) Accreditation by the International Association of Continuing Education and Training (IACET) ANSI/IACET 1-2007.

(3) Sponsorship by either the Rural Community Assistance Corporation or the California Rural Water Association.

(b) A mutual water company formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code shall be liable for the payment of any fines, penalties, costs, expenses, and other amounts that may be imposed pursuant to this chapter. The mutual water company may levy an assessment, pursuant to Section 14303 of the Corporations Code, to pay these fines, penalties, costs, expenses, and other amounts so imposed. If the amount of outstanding fines, penalties, costs, expenses and other amounts imposed pursuant to this chapter exceed 5 percent of the annual budget of the mutual water company, then the mutual water company shall levy an assessment, pursuant to Section 14303 of the Corporations Code, to pay those fines, penalties, costs, expenses, and other amounts so imposed.

SEC. 11. Section 116760.65 is added to the Health and Safety Code, to read:

116760.65. (a) A public water system, as defined in Section 116275, that is a lead applicant for a project that may be funded pursuant to this chapter may apply to the department for a letter of no prejudice for the project or a component of the project. The department may approve the letter of no prejudice for one or more projects or project components that the department has determined to be eligible for federal or state funding pursuant to established funding priorities and has issued an invitation to apply for funding from the Safe Drinking Water Revolving Fund. The letter of no prejudice shall reference the project or component thereof and the maximum amount of bond funding that may be allocated for that project or project component.

(b) Expenditures for the costs, up to the amount set forth in the letter of no prejudice, of a project or project component for which a letter of no prejudice has been issued shall be eligible for

reimbursement from the Safe Drinking Water Revolving Fund if all of the following apply:

(1) The project or project component for which the letter of no prejudice was requested has commenced and expenditures on the project or project component have been incurred by the local agency.

(2) The expenditures made by the local agency are eligible for reimbursement in accordance with state and federal laws and procedures, and are permitted expenditures under the applicable provisions of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.) or the California Safe Drinking Water Act. If the expenditures made are determined to be ineligible, the state shall not be obligated to provide any reimbursement for those expenditures.

(3) The public water system complies with all legal requirements for the project, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) The expenditures were incurred after the project or project component was determined to be eligible for funding by the department.

(5) There is in the Safe Drinking Water Revolving Fund an amount sufficient to make the reimbursement payment. This section shall not require the fund to be funded at a particular time or in a particular amount.

(c) The department and the public water system may enter into an agreement or agreements governing reimbursement as described in this section.

(d) Without limiting the foregoing, this section or a letter of no prejudice shall not eliminate or modify any condition or requirement for granting, allocating, or reallocating funds or any other provision relating to loans, grants, allocations, or reallocations in the California Safe Drinking Water Act or related statutes.

(e) For purposes of this section, "letter of no prejudice" means an agreement between a public water system and the department that makes eligible for future reimbursement from the Safe Drinking Water Revolving Fund the expenditure of funds under the control of the public water system, subject to availability of bond funds, as provided in this section. The timing and final

amount of reimbursement are dependent on the terms of the agreement and the availability of funds. The final amount of reimbursement may be less than the amount stated in the letter of no prejudice.

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