

AMENDED IN ASSEMBLY MAY 31, 2011
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 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 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 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 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 operates a public water system to, within 6 months of taking office, complete a 2-hour course offered by a qualified trainer, as specified.

(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 *adopting* 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:

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

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

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

12 (c) The state provides funding to public water systems to
13 improve drinking water quality through the Safe Drinking Water
14 Revolving Fund, but demand far exceeds the available funding.
15 The United States Environmental Protection Agency's Drinking
16 Water Infrastructure Needs Survey and Assessment, which was
17 performed in 2007, State Department of Public Health estimates
18 that the 20-year drinking water infrastructure need for California
19 is \$39 billion. Funding for such projects, however, for 1997–2008
20 totaled only 1.2 billion.

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

23 14300. (a) Any corporation organized for or engaged in the
24 business of selling, distributing, supplying, or delivering water for

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

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

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

33 14300.5. For purposes of this chapter, “public water system”
34 shall have the same meaning as provided in Section 116275 of the
35 Health and Safety Code.

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

38 14301.1. (a) No later than December 31, 2012, each mutual
39 water company that operates a public water system shall submit
40 to the local agency formation commission for its county a map

1 depicting the approximate boundaries of the property that the
2 mutual water company serves.

3 (b) A mutual water company shall respond to a request from a
4 local agency formation commission, located within a county that
5 the mutual water company operates in, for information in
6 connection with the preparation of municipal service reviews or
7 spheres of influence pursuant to Section 56430 of the Government
8 Code within 45 days of the request. The mutual water company
9 shall provide all reasonably available *nonconfidential* information
10 relating to the operation of the public water system, ~~including the~~
11 ~~financial, managerial, and technical capability of the mutual water~~
12 ~~company to ensure delivery of pure, wholesome, and potable~~
13 ~~drinking water, within the meaning of Section 116540 of the Health~~
14 ~~and Safety Code.~~ The mutual water company shall explain, in
15 writing, why any requested information is not reasonably available.
16 The mutual water company shall not be required to disclose any
17 information pertaining to the names, addresses, or water usage of
18 any specific shareholder. This subdivision shall not be interpreted
19 to require a mutual water company to undertake any study or
20 investigation. A mutual water company may comply with this
21 section by submitting to the local agency formation commission
22 the same information that the mutual water company submitted to
23 the State Department of Public Health.

24 (c) A mutual water company shall be subject to the requirements
25 of, and has the powers granted by, subdivision (b) of Section
26 116755 of the Health and Safety Code.

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

29 14301.2. Each board member of a mutual water company shall
30 comply with the training requirements set out in subdivision (a)
31 of Section 116755 of the Health and Safety Code.

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

34 14301.3. (a) All construction on public water systems operated
35 by a mutual water company shall be designed and constructed to
36 comply with the applicable California Waterworks standards, as
37 provided in Chapter 16 of Title 22 of the California Code of
38 Regulations.

39 (b) A mutual water company that operates a public water system
40 shall maintain a financial reserve fund for repairs and replacements

1 to its water production, transmission, and distribution facilities
2 equal to the reserve fund for these purposes required for a public
3 water system of equal size and function owned and operated by a
4 public agency.

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

7 56375. The commission shall have all of the following powers
8 and duties subject to any limitations upon its jurisdiction set forth
9 in this part:

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

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

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

17 (B) The dissolution of a district.

18 (C) A merger.

19 (D) The establishment of a subsidiary district.

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

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

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

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

32 (A) Surrounded or substantially surrounded by the city to which
33 the annexation is proposed or by that city and a county boundary
34 or the Pacific Ocean if the territory to be annexed is substantially
35 developed or developing, is not prime agricultural land as defined
36 in Section 56064, is designated for urban growth by the general
37 plan of the annexing city, and is not within the sphere of influence
38 of another city.

39 (B) Located within an urban service area that has been delineated
40 and adopted by a commission, which is not prime agricultural land,

1 as defined by Section 56064, and is designated for urban growth
2 by the general plan of the annexing city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (p) To authorize a city or district to provide new or extended
25 services outside its jurisdictional boundaries pursuant to Section
26 56133.

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

32 (r) To approve or disapprove pursuant to this section the
33 annexation of territory served by a mutual water company formed
34 pursuant to Part 7 (commencing with Section 14300) of Division
35 3 of Title 1 of the Corporations Code into the jurisdiction of a city,
36 a public utility, or a special district that operates a public water
37 system. Any annexation approved in accordance with this
38 subdivision shall be subject to the state and federal constitutional
39 prohibitions against the taking of private property without the
40 payment of just compensation. This subdivision shall not impair

1 the authority of a public agency or public utility to exercise eminent
2 domain authority, or the authority of the Public Utilities
3 Commission to determine service area boundaries of regulated
4 public utilities.

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

7 56430. (a) In order to prepare and to update spheres of
8 influence in accordance with Section 56425, the commission shall
9 conduct a service review of the municipal services provided in the
10 county or other appropriate area designated by the commission.
11 The commission shall include in the area designated for service
12 review the county, the region, the subregion, or any other
13 geographic area as is appropriate for an analysis of the service or
14 services to be reviewed, and shall prepare a written statement of
15 its determinations with respect to each of the following:

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

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

20 (3) Financial ability of agencies to provide services.

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

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

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

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

30 (c) In conducting a service review, the commission may include
31 a review of whether the agencies under review, including any
32 public water system as defined in Section 116275, are in
33 compliance with the Safe Drinking Water Act. A public water
34 system may satisfy any request for information as to compliance
35 with the Safe Drinking Water Act by submission of the consumer
36 confidence or water quality report prepared by the public water
37 system as provided by Section 116470 of the Health and Safety
38 Code.

39 (d) The commission may request information, as part of a service
40 review under this section, from identified public or private entities

1 that provide wholesale or retail supply of drinking water, including
2 mutual water companies formed pursuant to Part 7 (commencing
3 with Section 14300) of Division 3 of Title 1 of the Corporations
4 Code, and private utilities, as defined in Section 1502 of the Public
5 Utilities Code.

6 (e) The commission shall conduct a service review before, or
7 in conjunction with, but no later than the time it is considering an
8 action to establish a sphere of influence in accordance with Section
9 56425 or 56426.5 or to update a sphere of influence pursuant to
10 Section 56425.

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

13 116725. (a) Any person who knowingly makes any false
14 statement or representation in any application, record, report, or
15 other document submitted, maintained, or used for purposes of
16 compliance with this chapter, may be liable, as determined by the
17 court, for a civil penalty not to exceed five thousand dollars
18 (\$5,000) for each separate violation or, for continuing violations,
19 for each day that violation continues.

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

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

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

38 (e) Each civil penalty imposed for any separate violation
39 pursuant to this section shall be separate and in addition to any

1 other civil penalty imposed pursuant to this section or any other
2 provision of law.

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

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

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

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

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

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

27

28 Article 12. Board Member Training

29

30 116755. (a) Each board member of a mutual water company
31 that operates a public water system, as defined in Section 116275,
32 shall, within six months of taking office, or by December 31, 2012,
33 if that member was serving on the board on December 31, 2011,
34 complete a two-hour course offered by a qualified trainer regarding
35 the duties of board members of mutual water companies, including,
36 but not limited to, the duty of a corporate director to avoid
37 contractual conflicts of interest and fiduciary duties, the duties of
38 public water systems to provide clean drinking water that complies
39 with the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et
40 seq.) and this chapter, and long-term management of a public water

1 system. For the purposes of this subdivision, a trainer may be
2 qualified in any of the following ways:

3 (1) Membership in the California State Bar.

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

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

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

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

23 116760.65. (a) A public water system, as defined in Section
24 116275, that is a lead applicant for a project that may be funded
25 pursuant to this chapter may apply to the department for a letter
26 of no prejudice for the project or a component of the project. The
27 department may approve the letter of no prejudice for one or more
28 projects or project components that the department has determined
29 to be eligible for federal or state funding pursuant to established
30 funding priorities and has issued an invitation to apply for funding
31 from the Safe Drinking Water Revolving Fund. The letter of no
32 prejudice shall reference the project or component thereof and the
33 maximum amount of bond funding that may be allocated for that
34 project or project component.

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

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

5 (2) The expenditures made by the local agency are eligible for
6 reimbursement in accordance with state and federal laws and
7 procedures, and are permitted expenditures under the applicable
8 provisions of the federal Safe Drinking Water Act (42 U.S.C. Sec.
9 300f et seq.) or the California Safe Drinking Water Act. If the
10 expenditures made are determined to be ineligible, the state shall
11 not be obligated to provide any reimbursement for those
12 expenditures.

13 (3) The public water system complies with all legal requirements
14 for the project, including the requirements of the California
15 Environmental Quality Act (Division 13 (commencing with Section
16 21000) of the Public Resources Code).

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

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

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

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

32 (e) For purposes of this section, “letter of no prejudice” means
33 an agreement between a public water system and the department
34 that makes eligible for future reimbursement from the Safe
35 Drinking Water Revolving Fund the expenditure of funds under
36 the control of the public water system, subject to availability of
37 bond funds, as provided in this section. The timing and final
38 amount of reimbursement are dependent on the terms of the
39 agreement and the availability of funds. The final amount of

- 1 reimbursement may be less than the amount stated in the letter of
- 2 no prejudice.

O