

AMENDED IN SENATE JUNE 20, 2012  
AMENDED IN ASSEMBLY MAY 25, 2012  
AMENDED IN ASSEMBLY MAY 1, 2012  
AMENDED IN ASSEMBLY APRIL 11, 2012  
AMENDED IN ASSEMBLY MARCH 29, 2012  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2238**

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**Introduced by Assembly Member Perea**

February 24, 2012

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An act to amend ~~Section 56430 of the Government Code~~, to amend Section 116326 of the Health and Safety Code, and to amend Section 75125 of, and to add Section 75129.5 to, the Public Resources Code, relating to public water systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2238, as amended, Perea. Public water systems: drinking water. Existing law requires the State Department of Public Health to administer programs to fund improvements and expansion of small community water systems using specified priorities. Existing law requires the department to encourage the consolidation of small community water systems that serve disadvantaged communities if consolidation will help the affected agencies and the state meet specified goals. Existing law allows funding of studies regarding the feasibility of consolidating 2 or more community water systems, at least one of which is a small community water system that serves a disadvantaged community. Existing law requires the department to give funding priority

to projects involving physical restructuring of 2 or more community water systems into a single, consolidated system when it is shown that the consolidation would further specified goals.

~~This bill would require the department to promote the consolidation of small community water systems that serve disadvantaged communities, as specified, and would require the studies performed prior to a construction project to include the feasibility of consolidating public water systems, unless the department makes a determination that consolidation is not feasible. This bill, if the local agency formation commission (LAFCO) conducted a study or service review of the consolidation within the previous 5 calendar years and found that consolidation was feasible, would require the department to consider the LAFCO's findings during the department's assessment of feasibility. This bill would also require the department to give priority to funding projects involving consolidation of 2 or more community water systems when the consolidation would further specified goals.~~

~~Existing law requires LAFCOs to conduct a service review of the municipal services provided in the county, as specified, and to review all of the agencies that provide the service within a designated geographic area. Existing law permits LAFCOs to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery, as specified.~~

~~This bill would authorize LAFCOs to also assess various alternatives for improving efficiency and affordability of infrastructure and service delivery for drinking water and wastewater services.~~

~~*This bill would require the department, in administering programs to fund improvements and expansions of small community water systems and other water systems, as specified, to promote service delivery alternatives that improve efficiency and affordability of infrastructure and service delivery, as specified.*~~

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative measure, provides funding for safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. Existing law establishes the Strategic Growth Council and appropriates \$500,000 from the funding provided by the initiative to support the council and its activities. Existing law requires the council to manage and award grants and loans to support the planning and development of sustainable communities, as specified.

This bill would provide that LAFCOs intending to fund consolidation, merger, or extension of services projects for the purposes of promoting water conservation, and to support the planning and development of sustainable communities, are eligible for funding under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

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. It is the intent of the Legislature to encourage  
2 local area formation commissions to focus on the consolidation,  
3 merger, or extension of public water systems, especially those  
4 located in disadvantaged communities, by seeking financial  
5 assistance in order to perform the necessary service reviews and  
6 other appropriate studies.

7 ~~SEC. 2. Section 56430 of the Government Code is amended~~  
8 ~~to read:~~

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

- 18 ~~(1) Growth and population projections for the affected area.~~
- 19 ~~(2) The location and characteristics of any disadvantaged~~  
20 ~~unincorporated communities within or contiguous to the sphere~~  
21 ~~of influence.~~
- 22 ~~(3) Present and planned capacity of public facilities, adequacy~~  
23 ~~of public services, and infrastructure needs or deficiencies including~~  
24 ~~needs or deficiencies related to sewers, municipal and industrial~~  
25 ~~water, and structural fire protection in any disadvantaged,~~  
26 ~~unincorporated communities within or contiguous to the sphere~~  
27 ~~of influence.~~
- 28 ~~(4) Financial ability of agencies to provide services.~~
- 29 ~~(5) Status of, and opportunities for, shared facilities.~~

1 ~~(6) Accountability for community service needs, including~~  
2 ~~governmental structure and operational efficiencies.~~

3 ~~(7) Any other matter related to effective or efficient service~~  
4 ~~delivery, as required by commission policy.~~

5 ~~(b) In conducting a service review, the commission shall~~  
6 ~~comprehensively review all of the agencies that provide the~~  
7 ~~identified service or services within the designated geographic~~  
8 ~~area. The commission may assess various alternatives for~~  
9 ~~improving efficiency and affordability of infrastructure and service~~  
10 ~~delivery within and contiguous to the sphere of influence,~~  
11 ~~including, but not limited to, the consolidation of governmental~~  
12 ~~agencies. The commission may comprehensively assess various~~  
13 ~~alternatives for improving efficiency and affordability of~~  
14 ~~infrastructure and service delivery for drinking water and~~  
15 ~~wastewater services.~~

16 ~~(c) In conducting a service review, the commission may include~~  
17 ~~a review of whether the agencies under review, including any~~  
18 ~~public water system as defined in Section 116275, are in~~  
19 ~~compliance with the California Safe Drinking Water Act (Chapter~~  
20 ~~4 (commencing with Section 116270) of Part 12 of Division 104~~  
21 ~~of the Health and Safety Code). A public water system may satisfy~~  
22 ~~any request for information as to compliance with that act by~~  
23 ~~submission of the consumer confidence or water quality report~~  
24 ~~prepared by the public water system as provided by Section 116470~~  
25 ~~of the Health and Safety Code.~~

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

33 ~~(e) The commission shall conduct a service review before, or~~  
34 ~~in conjunction with, but no later than the time it is considering an~~  
35 ~~action to establish a sphere of influence in accordance with Section~~  
36 ~~56425 or 56426.5 or to update a sphere of influence pursuant to~~  
37 ~~Section 56425.~~

38 ~~SEC. 3.~~

39 ~~SEC. 2. Section 116326 of the Health and Safety Code is~~  
40 ~~amended to read:~~

1 116326. (a) In administering programs to fund improvements  
2 and expansions of small community water systems *and, pursuant*  
3 *to subdivision (b), other water systems*, the department shall do  
4 all of the following:

5 (a)

6 (1) Give priority to funding projects in disadvantaged  
7 communities.

8 (b)

9 ~~(2) Promote the consolidation of small community water systems~~  
10 ~~that serve disadvantaged communities in instances where~~  
11 ~~consolidation will help at least one of the affected agencies~~ *service*  
12 *delivery alternatives that improve efficiency and affordability of*  
13 *infrastructure and service delivery, including, but not limited to,*  
14 *the consolidation of governmental agencies, consolidation of water*  
15 *systems, and the extension of services, in and to disadvantaged*  
16 *communities, where such service delivery options will help affected*  
17 *agencies, communities, and the state to meet all of the following*  
18 *goals:*

19 (1)

20 (A) Improvement in the quality of water delivered.

21 (2)

22 (B) Improvement in the reliability of water delivery.

23 (3)

24 (C) Reduction in the cost of drinking water for ratepayers.

25 (c)

26 ~~Pursuant to subdivision (b), require that feasibility studies~~  
27 ~~performed prior to a construction project include studies of the~~  
28 ~~feasibility of consolidating public water systems, if at least one of~~  
29 ~~the water systems serves a disadvantaged community, unless the~~  
30 ~~department makes a written determination that consolidation is~~  
31 ~~not feasible. If, within the previous five calendar years, the local~~  
32 ~~agency formation commission conducted a study, pursuant to~~  
33 ~~Section 56378 of the Government Code, or conducted a service~~  
34 ~~review, pursuant to Section 56430 of the Government Code, which~~  
35 ~~found the consolidation of the public water systems feasible, the~~  
36 ~~department shall consider those findings during its assessment of~~  
37 ~~feasibility.~~

38 (d) ~~If it is shown that small community water system~~  
39 ~~consolidation will further the goals of subdivision (b), give priority~~  
40 ~~to funding construction projects that involve consolidation of two~~

1 ~~or more community water systems, at least one of which is a small~~  
2 ~~community water system that serves a disadvantaged community,~~  
3 ~~into a single, consolidated system.~~

4 (3) Pursuant to paragraph (2) of subdivision (a), require that  
5 funding for feasibility studies performed prior to a construction  
6 project include studies of service delivery alternatives that improve  
7 efficiency and affordability of capital improvements and service  
8 delivery, if at least one of the potentially affected agencies serves,  
9 or would serve by way of an extraterritorial service extension, a  
10 disadvantaged community, unless the department makes a written  
11 determination that such service delivery alternatives are not  
12 feasible under the circumstances. In making this determination,  
13 the department shall do all of the following:

14 (A) Review and consider the determinations and  
15 recommendations made by the affected local agency formation  
16 commission within the previous five calendar years in any of the  
17 following:

18 (i) A special study conducted pursuant to Section 56378 of the  
19 Government Code.

20 (ii) A sphere of influence study conducted pursuant to Section  
21 56425 of the Government Code.

22 (iii) A service review conducted pursuant to Section 56430 of  
23 the Government Code.

24 (B) Consult with the executive officer of the affected local agency  
25 formation commission to determine whether any circumstances  
26 have changed since the studies and review conducted pursuant to  
27 subparagraph (A) were completed or if there is any additional  
28 information that would assist the department in its determination.

29 (C) Review and consider the conclusions and recommendations  
30 of other local and regional studies designed to develop and identify  
31 regional solutions for drinking water delivery.

32 (4) If it is shown that an alternative service delivery option will  
33 further the goals of paragraph (2) of subdivision (a), fund  
34 construction projects that include the alternative service delivery  
35 option, unless the department makes a written determination that  
36 the alternative service delivery option is not feasible under the  
37 circumstances.

38 (b) If an applicant submits an application that includes a service  
39 delivery alternative that furthers the goals specified in paragraph

1 (2) of subdivision (a), the applicant need not be a small community  
2 water system.

3 ~~SEC. 4.~~

4 SEC. 3. Section 75125 of the Public Resources Code is  
5 amended to read:

6 75125. The council shall do all of the following:

7 (a) Identify and review activities and funding programs of  
8 member state agencies that may be coordinated to improve air and  
9 water quality, improve natural resource protection, increase the  
10 availability of affordable housing, improve transportation, meet  
11 the goals of the California Global Warming Solutions Act of 2006  
12 (Division 25.5 (commencing with Section 38500) of the Health  
13 and Safety Code), encourage sustainable land use planning, and  
14 revitalize urban and community centers in a sustainable manner.  
15 At a minimum, the council shall review and comment on the  
16 five-year infrastructure plan developed pursuant to Article 2  
17 (commencing with Section 13100) of Chapter 2 of Part 3 of  
18 Division 3 of the Government Code and the State Environmental  
19 Goals and Policy Report developed pursuant to Section 65041 of  
20 the Government Code.

21 (b) Recommend policies and investment strategies and priorities  
22 to the Governor, the Legislature, and to appropriate state agencies  
23 to encourage the development of sustainable communities, such  
24 as those communities that promote equity, strengthen the economy,  
25 protect the environment, and promote public health and safety,  
26 consistent with subdivisions (a) and (c) of Section 75065.

27 (c) Provide, fund, and distribute data and information to local  
28 governments and regional agencies that will assist in developing  
29 and planning sustainable communities.

30 (d) Manage and award grants and loans to support the planning  
31 and development of sustainable communities, pursuant to Sections  
32 75127, 75128, 75129, and 75129.5. To implement this subdivision,  
33 the council may do all of the following:

34 (1) Develop guidelines for awarding financial assistance,  
35 including criteria for eligibility and additional consideration.

36 (2) Develop criteria for determining the amount of financial  
37 assistance to be awarded. The council shall award a revolving loan  
38 to an applicant for a planning project, unless the council determines  
39 that the applicant lacks the fiscal capacity to carry out the project  
40 without a grant. The council may establish criteria that would allow

1 the applicant to illustrate an ongoing commitment of financial  
2 resources to ensure the completion of the proposed plan or project.

3 (3) Provide for payments of interest on loans made pursuant to  
4 this article. The rate of interest shall not exceed the rate earned by  
5 the Pooled Money Investment Board.

6 (4) Provide for the time period for repaying a loan made  
7 pursuant to this article.

8 (5) Provide for the recovery of funds from an applicant that fails  
9 to complete the project for which financial assistance was awarded.  
10 The council shall direct the Controller to recover funds by any  
11 available means.

12 (6) Provide technical assistance for application preparation.

13 (7) Designate a state agency or department to administer  
14 technical and financial assistance programs for the disbursing of  
15 grants and loans to support the planning and development of  
16 sustainable communities, pursuant to Sections 75127, 75128,  
17 75129, and 75129.5.

18 (e) (1) No later than July 1, ~~2010, and every~~ *of each* year  
19 ~~thereafter~~, provide a report to the Legislature that shall include,  
20 but is not limited to, all of the following:

- 21 (A) A list of applicants for financial assistance.
- 22 (B) Identification of which applications were approved.
- 23 (C) The amounts awarded for each approved application.
- 24 (D) The remaining balance of available funds.
- 25 (E) A report on the proposed or ongoing management of each  
26 funded project.
- 27 (F) Any additional minimum requirements and priorities for a  
28 project or plan proposed in a grant or loan application developed  
29 and adopted by the council pursuant to subdivision (c) of Section  
30 75126.

31 (2) A report submitted pursuant to paragraph (1) shall be  
32 submitted in accordance with Section 9795 of the Government  
33 Code.

34 ~~SEC. 5.~~

35 *SEC. 4.* Section 75129.5 is added to the Public Resources Code,  
36 to read:

37 75129.5. To support the planning and development of  
38 sustainable communities, the council shall manage and award  
39 financial assistance to a city, county, local area formation  
40 commission, special district, nonprofit organization, or entity

1 formed pursuant to Chapter 5 (commencing with Section 6500)  
2 of Division 7 of Title 1 of the Government Code, or a local agency  
3 formation commission formed pursuant to Chapter 4 (commencing  
4 with Section 56425) of Division 7 of Title 1 of the Government  
5 Code, if at least one of the parties to the joint powers agreement  
6 qualifies as an eligible applicant, for the preparation, planning,  
7 and implementation of a public water system consolidation, merger,  
8 or extension of services project for the purposes of promoting  
9 water conservation. The financial assistance provided pursuant to  
10 this section shall be funded from moneys made available pursuant  
11 to subdivision (c) of Section 75065. The council shall give priority  
12 to funding projects proposed by a disadvantaged community.

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