

AMENDED IN SENATE JUNE 5, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 240**

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**Introduced by Assembly Member Rendon**

February 5, 2013

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An act to add ~~Section 14304~~ *Sections 14304, 14305, and 14306* to the Corporations Code, to amend Section 116755 of the Health and Safety Code, and to add Section 10531.5 to the Water Code, relating to mutual water companies.

LEGISLATIVE COUNSEL'S DIGEST

AB 240, as amended, Rendon. Mutual water companies.

Under existing law, a mutual water company is defined as a corporation organized for or engaged in the business of selling, distributing, supplying, or delivering water for irrigation or domestic purposes that provides in its articles or bylaws that the water shall be sold, distributed, supplied, or delivered only to owners of its shares, as specified.

(1) Existing law requires each board member of a mutual water company that operates a public water system to complete a training course regarding the duties of board members of mutual water companies, as specified.

This bill would require a board member to repeat this training course every 6 years.

(2) Existing law permits a mutual water company that is not a public utility to levy assessments upon its shares, unless otherwise provided in its articles or bylaws.

This bill would also permit the board of directors of a mutual water company, if authorized by its articles or bylaws, to record a notice of

lien against a shareholder's property if the shareholder has not timely paid any rate, charge, or assessment arising from, or related to, water services provided by the mutual water company to the shareholder's property and if the shareholder was given at least 20 days' notice of the lien.

*(3) Existing law, the California Public Records Act, provides that public records are open to inspection at all times during the office hours of the state or local agency that retains those records, and that every person has a right to inspect any public record, except as provided. The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate.*

*This bill would require a mutual water company that operates a public water system to comply with the Ralph M. Brown Act and the California Public Records Act, as specified. The bill would require the board of the mutual water company to adopt, in an open meeting, an annual budget on or before the start of each fiscal year. The bill would require the board of a mutual water company that operates a public water system to contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the mutual water company, and would require the report to be filed, within 12 months of the end of the mutual water company's fiscal year under examination, as a public record with the mutual water company, and to be sent to the Controller and any person served by the mutual water company that submits a written request to the board, as specified.*

~~(3)~~

*(4) Existing law declares that water is a valuable natural resource in California and should be managed to ensure the availability of sufficient supplies to meet the state's agricultural, domestic, industrial, and environmental needs. Existing law declares that local agencies can realize efficiencies by coordinating and integrating their assets and seeking mutual solutions to water management issues.*

*This bill would declare the intent of the Legislature to encourage collaboration among mutual water companies that operate public water systems in the City of Maywood to create a public agency that can consolidate drinking water services for the people and business of that city.*

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

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

1 SECTION 1. Section 14304 is added to the Corporations Code,  
2 to read:

3 14304. If a shareholder of a mutual water company has not  
4 timely paid any rate, charge, or assessment arising from, or related  
5 to, water service provided by the mutual water company to the  
6 shareholder's property, and if authorized by its articles or bylaws,  
7 then after providing at least 20 days' written notice to the  
8 shareholder, the board of directors of the mutual water company  
9 may authorize the recording of a notice of lien against that  
10 shareholder's property to secure the collection of the rates, charges,  
11 and assessments owed to the mutual water company by the  
12 shareholder.

13 SEC. 2. Section 14305 is added to the Corporations Code, to  
14 read:

15 14305. (a) A mutual water company that operates a public  
16 water system shall comply with the Ralph M. Brown Act (Chapter  
17 9 (commencing with Section 54950) of Part 1 of Division 2 of Title  
18 5 of the Government Code) and the California Public Records Act  
19 (Chapter 3.5 (commencing with Section 6250) of Division 7 of  
20 Title 1 of the Government Code).

21 (b) The board of a mutual water corporation that operates a  
22 public water system shall contract with a certified public  
23 accountant or public accountant to make an annual audit of the  
24 accounts and records of the mutual water company. The audit  
25 shall conform to generally accepted auditing standards. A report  
26 of the audit shall be filed as a public record with the mutual water  
27 company and shall be sent to the Controller and any person served  
28 by the mutual water company that submits a written request to the  
29 board. The report shall be filed within 12 months of the end of the  
30 mutual water company's fiscal year under examination.

31 SEC. 3. Section 14306 is added to the Corporations Code, to  
32 read:

33 14306. The board of a mutual water company that operates a  
34 public water system shall adopt, in an open meeting, an annual  
35 budget on or before the start of each fiscal year of the mutual water  
36 company.

1     ~~SEC. 2.~~

2     *SEC. 4.* Section 116755 of the Health and Safety Code is  
3 amended to read:

4     116755. (a) Each board member of a mutual water company  
5 that operates a public water system, as defined in Section 116275,  
6 shall, within six months of taking office, or by December 31, 2012,  
7 if that member was serving on the board on December 31, 2011,  
8 complete a two-hour course offered by a qualified trainer regarding  
9 the duties of board members of mutual water companies, including,  
10 but not limited to, the duty of a corporate director to avoid  
11 contractual conflicts of interest and fiduciary duties, the duties of  
12 public water systems to provide clean drinking water that complies  
13 with the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et  
14 seq.) and this chapter, and long-term management of a public water  
15 system. A board member of a mutual water company shall repeat  
16 this training every six years. For the purposes of this subdivision,  
17 a trainer may be qualified in any of the following ways:

- 18     (1) Membership in the California State Bar.
- 19     (2) Accreditation by the International Association of Continuing  
20 Education and Training (IACET) ANSI/IACET 1-2007.
- 21     (3) Sponsorship by either the Rural Community Assistance  
22 Corporation or the California Rural Water Association.

23     (b) A mutual water company formed pursuant to Part 7  
24 (commencing with Section 14300) of Division 3 of Title 1 of the  
25 Corporations Code shall be liable for the payment of any fines,  
26 penalties, costs, expenses, and other amounts that may be imposed  
27 upon the mutual water company pursuant to this chapter. The  
28 mutual water company may levy an assessment, pursuant to Section  
29 14303 of the Corporations Code, to pay these fines, penalties,  
30 costs, expenses, and other amounts so imposed. If the amount of  
31 outstanding fines, penalties, costs, expenses and other amounts  
32 imposed pursuant to this chapter exceed 5 percent of the annual  
33 budget of the mutual water company, then the mutual water  
34 company shall levy an assessment, pursuant to Section 14303 of  
35 the Corporations Code, to pay those fines, penalties, costs,  
36 expenses, and other amounts so imposed.

37     ~~SEC. 3.~~

38     *SEC. 5.* Section 10531.5 is added to the Water Code, to read:

39     10531.5. It is the intent of the Legislature to encourage  
40 collaboration among mutual water companies that operate public

- 1 water systems in the City of Maywood to create a public agency
- 2 that can consolidate drinking water services for the people and
- 3 businesses of that city.

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