

AMENDED IN SENATE AUGUST 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2443**

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**Introduced by Assembly Member Rendon  
(Coauthor: Assembly Member Nestande)**

February 21, 2014

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An act to amend Section 1506 of the Public Utilities Code, *and to amend Sections 13580, 13580.5, and 13580.7 of the Water Code*, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2443, as amended, Rendon. ~~Duplication of service: mutual water companies.~~ *Water Recycling Act of 1991: mutual water companies: duplication of service.*

*(1) The Water Recycling Act of 1991 establishes a statewide goal to recycle a total of 1,000,000 acre-feet of water per year by the year 2010. In order to achieve this goal, the act requires retail water suppliers to identify potential uses for recycled water within their service areas, potential customers for recycled water service within their service areas, and, within a reasonable time, potential sources of recycled water. The act authorizes a retail water supplier that has identified a potential use or customer to apply to a recycled water producer or wholesaler for a recycled water supply and authorizes a recycled water producer or wholesaler that has identified a potential use or customer to request, in writing, a retail water supplier to enter into an agreement to provide recycled water to the potential customer.*

*This bill would authorize a recycled water producer or wholesaler that has identified a potential use or customer within the service area or jurisdiction of the retail water supplier, to request, in writing, a retail*

*water supplier to enter into an agreement to provide recycled water to the potential customer consistent with specified requirements of the act.*

*The Water Recycling Act of 1991 includes specific requirements that are applicable only to a retail water supplier that is a public agency.*

*This bill would extend those provisions to a mutual water company formed and operating pursuant to specified provisions of the Corporations Code.*

**Existing**

(2) *Existing law states that the Legislature finds and declares that whenever a political subdivision, as defined, constructs facilities to provide or extend water service, or provides or extends water service, to any service area of a private utility, as defined, with the same type of service, this act constitutes a taking of the property of the private utility for a public purpose to the extent that the private utility is injured by reason of any of its property employed in providing the water service being made inoperative, reduced in value, or rendered useless to the private utility for the purpose of providing water service to the service area. Existing law requires that a political subdivision that makes such a taking of the property of a private water utility pay just compensation for the property taken for a public purpose. A mutual water company is a private utility for these purposes to the extent that its property is employed by the company in providing water service in or for a territory that is actually being provided with water service when the political subdivision constructs facilities to provide, or extends water service to, the territory serviced by the mutual water company. Existing law establishes an exception that is applicable only to Los Angeles County with respect to the use of reclaimed water.*

*This bill would make inapplicable the provision that a mutual water company is a private utility entitled to just compensation for a taking in a territory it services at the time of the taking when a political subdivision constructs facilities to provide or extend recycled water service to the territory of the mutual water ~~company~~ company, if the political subdivision complies with the Water Recycling Act of 1991. This exception would not apply to those customers and their properties to which the mutual water company was providing recycled water service, or for whom the mutual water company has identified and developed specific plans to provide recycled water service, as of December 31, 2014.*

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 1506 of the Public Utilities Code is  
2 amended to read:

3 1506. (a) As used in this chapter, “private utility” includes a  
4 mutual water company. In its application to mutual water  
5 companies, this chapter affects and relates only to the property, or  
6 portion of any property, of a mutual water company that is  
7 employed by the company in providing water service in or for a  
8 territory that is actually being provided with water service by the  
9 company when a political subdivision constructs facilities to  
10 provide or extend water service or provides or extends the service  
11 to the territory, and that territory shall constitute the “service area”  
12 of a mutual water company as used in Section 1502. ~~This~~

13 (b) *Subject to the preservation of rights of a mutual water*  
14 *company in subdivision (c), this section does not apply to a political*  
15 *subdivision that constructs facilities to provide or extend recycled*  
16 *water service to the territory of the mutual water—company.*  
17 *company, if the political subdivision complies with the Water*  
18 *Recycling Act of 1991 (Chapter 7.5 (commencing with Section*  
19 *13575) of Division 7 of the Water Code).*

20 (c) *The exception in subdivision (b), for a political subdivision*  
21 *that constructs facilities to provide or extend recycled water service*  
22 *to the territory of the mutual water company, does not apply to*  
23 *those customers and their properties to which the mutual water*  
24 *company was providing recycled water service, or for whom the*  
25 *mutual water company has identified and developed specific plans*  
26 *to provide recycled water service, as of December 31, 2014.*

27 SEC. 2. Section 13580 of the Water Code is amended to read:

28 13580. (a) A retail water supplier that has identified a potential  
29 use or customer pursuant to Section 13579 may apply to a recycled  
30 water producer or recycled water wholesaler for a recycled water  
31 supply.

32 (b) A recycled water producer or recycled water wholesaler that  
33 has identified a potential use or customer pursuant to Section ~~13579~~  
34 *13579, that is within the service territory or jurisdiction of a retail*  
35 *water supplier; may, in writing, request a retail water supplier to*  
36 *enter into an agreement to provide recycled water to the potential*  
37 *customer.*

1 (c) A customer may request, in writing, a retailer to enter into  
2 an agreement to provide recycled water to the customer.

3 (d) (1) An entity responsible for groundwater replenishment  
4 that is a customer of a retail water supplier and that has identified  
5 the potential use of recycled water for groundwater replenishment  
6 purposes may, in writing, request that retail water supplier to enter  
7 into an agreement to provide recycled water for that ~~purpose~~.  
8 *purpose consistent with Sections 13580.5, 13580.7, and 13580.8,*  
9 *as applicable.* That entity may not obtain recycled water for that  
10 purpose from a recycled water producer, a recycled water  
11 wholesaler, or another retail water supplier without the agreement  
12 of the entity's retail water supplier.

13 (2) An entity responsible for groundwater replenishment that  
14 is not a customer of a retail water supplier and that has identified  
15 the potential use of recycled water for groundwater replenishment  
16 purposes may, in writing, request a retail water supplier, a recycled  
17 water producer, or a recycled water wholesaler to enter into an  
18 agreement to provide recycled water for that purpose.

19 *SEC. 3. Section 13580.5 of the Water Code is amended to read:*

20 13580.5. (a) (1) Subject to subdivision (e) of Section 13580.7,  
21 a retail water supplier that receives a request from a customer  
22 pursuant to subdivision (c) of Section 13580 shall enter into an  
23 agreement to provide recycled water, if recycled water is available,  
24 or can be made available, to the retail water supplier for sale to  
25 the customer.

26 (2) Notwithstanding paragraph (1), in accordance with a written  
27 agreement between a recycled water producer or a recycled water  
28 wholesaler and a retail water supplier, the retail water supplier  
29 may delegate to a recycled water producer or a recycled water  
30 wholesaler its responsibility under this section to provide recycled  
31 water.

32 (b) A customer may not obtain recycled water from a recycled  
33 water producer, a recycled water wholesaler, or a retail water  
34 supplier that is not the retailer without the agreement of the retailer.

35 (c) If either a recycled water producer or a recycled water  
36 wholesaler provides a customer of a retail water supplier with a  
37 written statement that it can and will provide recycled water to the  
38 retailer, the retail water supplier shall, not later than 120 days from  
39 the date on which the retail water supplier receives the written  
40 statement from the customer, by certified mail, return receipt

1 requested, submit a written offer to the ~~customer~~. *customer that*  
2 *includes the items listed in subdivision (f) of Section 13580.7.* A  
3 determination of availability pursuant to Section 13550 is not  
4 required.

5 (d) If the state board pursuant to Section 13550 makes a  
6 determination that there is available recycled water to serve a  
7 customer of a retail water supplier, the retail water supplier, not  
8 later than 120 days from the date on which the retail water supplier  
9 receives a copy of that determination from the customer, by  
10 certified mail, return receipt requested, shall submit a written offer  
11 to the customer.

12 *SEC. 4. Section 13580.7 of the Water Code is amended to read:*

13 13580.7. (a) This section applies only to a retail water supplier  
14 that is *either a mutual water company, formed and operating*  
15 *pursuant to Part 7 (commencing with Section 14300) of Division*  
16 *3 of Title 1 of the Corporations Code, or a public agency.*

17 (b) A customer may request, in writing, a retail water supplier  
18 to enter into an agreement or adopt recycled water rates in order  
19 to provide recycled water service to the customer. The retail water  
20 supplier, by certified mail return receipt requested, shall submit a  
21 written offer to the customer not later than 120 days from the date  
22 on which the retail water supplier receives the written request from  
23 the ~~customer~~. *customer that complies with subdivision (f).*

24 (c) If no rate is in effect for recycled water service within the  
25 service area of a retail water supplier, the rate and conditions for  
26 recycled water service shall be established by contract between  
27 the retail water supplier and the customer, not later than 120 days  
28 from the date on which the customer requests a contract, or, by  
29 resolution or ordinance by the retail water ~~supplier~~, *supplier if it*  
30 *is a public agency, or by resolution if the retail water supplier is*  
31 *a mutual water company, not later than 120 days from the date on*  
32 *which the retail water supplier receives the customer's written*  
33 *request for an ordinance or resolution.*

34 (d) A rate for recycled water service established by contract,  
35 ordinance, or resolution, shall reflect a reasonable relationship  
36 between the amount of the rate and the retail cost of obtaining or  
37 producing the recycled water, the cost of conveying the recycled  
38 water, and overhead expenses for providing *and administering the*  
39 *use of* recycled water service. Capital costs of facilities required  
40 to serve the customer shall be amortized over the economic life of

1 the facility, or the length of time the customer agrees to purchase  
2 recycled water, whichever is less. The rate shall not exceed the  
3 estimated reasonable cost of providing the service, and any  
4 additional costs agreed to by the customer for recycled water  
5 supplemental treatment.

6 (e) ~~The~~ *To the extent feasible, the* rate for recycled water shall  
7 be comparable to, or less than, the retail water supplier’s rate for  
8 potable water. If recycled water service cannot be provided at a  
9 rate comparable to, or less than, the rate for potable water, the  
10 retail water supplier is not required to provide the recycled water  
11 service, unless the customer agrees to pay a rate that reimburses  
12 the retail water supplier for the costs described in subdivision (c).

13 (f) The offer required by *subdivision (b) and* subdivisions (c)  
14 and (d) of Section 13580.5 shall identify all of the following:

- 15 (1) The source for the recycled water.
- 16 (2) The method of conveying the recycled water.
- 17 (3) A schedule for delivery of the recycled water.
- 18 (4) The terms of service.
- 19 (5) The rate for the recycled water, including the per-unit cost  
20 for that water.

21 (6) The costs necessary to provide service and the basis for  
22 determining those costs.

23 (g) This section does not apply to recycled water service rates  
24 established before January 1, 1999, or any amendments to those  
25 rates.