

AMENDED IN SENATE APRIL 9, 2013

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SENATE BILL

No. 620

Introduced by Senator Wright

February 22, 2013

An act to amend Sections 60290, 60335, 60336, and 60339 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 620, as amended, Wright. Water replenishment districts.

(1) Existing law, the Water Replenishment District Act, provides for the formation of water replenishment districts and grants authority to a water replenishment district relating to the replenishment, protection, and preservation of groundwater supplies within that district. The act generally authorizes a water replenishment district to establish an annual reserve fund in an amount not to exceed \$10,000,000 commencing with the 2000–01 fiscal year, and thereafter, as that amount is adjusted annually. The act requires a minimum of 80% of the reserve fund to be expended for water purchases.

This bill would eliminate the requirement that a minimum of 80% of the reserve fund be expended for water purchases.

(2) The act requires the board of directors of a water replenishment district to declare whether funds are to be raised to purchase water for replenishment, as specified, and whether the funds are to be raised either by a water charge, a general assessment, a replenishment assessment, or a combination, as prescribed. The act requires the board to make certain determinations in connection with a decision to impose a water replenishment assessment and requires the water replenishment assessment to be fixed at a uniform rate per acre-foot of groundwater

produced within the district. The act provides that if a producer knowingly fails to pay a replenishment assessment within 30 days of when due, the producer is liable to the district for interest at the rate of 1% per month on the delinquent amount of the assessment.

This bill, instead, would provide that the producer is liable to the district for a penalty of 5% of the unpaid assessment as of the due date in addition to interest at the rate of 1% per month, or part of a month the assessment remains unpaid. ~~This bill would prohibit the penalty from exceeding 25% of the total unpaid assessment.~~

(3) The act provides that any operator of a water-producing facility that knowingly fails to register his or her water-producing facility or knowingly fails to file a groundwater production statement, or any other reports or statements required, as specified, in addition to interest due, as prescribed, is liable to the district for a penalty of \$150.

This bill would provide that the operator is liable to the district for a penalty of \$1,000.

(4) The act authorizes the superior court of the county in which the major portion of the district lies to issue a temporary restraining order upon the filing by the district with the court of a verified petition or complaint setting forth that the defendant is the operator of a water-producing facility that has not been registered with the district or that the defendant is delinquent in the payment of a replenishment assessment, as specified.

This bill would require the court to direct that the party prevailing on any motion, as prescribed, be awarded the reasonable attorney's fees and costs of making or opposing the motion unless the court finds that the party acted with substantial justification or that other circumstances make the imposition of attorney's fees and costs unjust.

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 60290 of the Water Code is amended to
2 read:

3 60290. The district may establish an annual reserve fund in an
4 amount not to exceed ten million dollars (\$10,000,000)
5 commencing with the 2000–01 fiscal year. The maximum
6 allowable reserve fund may be adjusted annually commencing

1 with *the* 2001–02 fiscal year to reflect percentage increases or
2 decreases in the blended cost of water from district supply sources.

3 SEC. 2. Section 60335 of the Water Code is amended to read:

4 60335. If any producer shall knowingly fail to pay a
5 replenishment assessment within 30 days of when due, the producer
6 shall become liable to the district for a penalty of 5 percent of the
7 unpaid assessment as of the due date in addition to interest at the
8 rate of 1 percent per month, or part of a month that the assessment
9 remains unpaid, on the delinquent amount of the assessment. ~~The~~
10 ~~penalty shall not exceed 25 percent of the total unpaid assessment.~~

11 SEC. 3. Section 60336 of the Water Code is amended to read:

12 60336. Should any operator of a water-producing facility
13 knowingly fail to register his or her water-producing facility or
14 knowingly fail to file the groundwater production statement, or
15 knowingly fail to file and furnish any other reports or statements
16 required by resolution of the board adopted pursuant to Section
17 60326, the operator shall, in addition to interest as provided in
18 Section 60335, become liable to the district for a penalty of one
19 thousand dollars (\$1,000).

20 SEC. 4. Section 60339 of the Water Code is amended to read:

21 60339. (a) The superior court of the county in which the major
22 portion of the district lies may issue a temporary restraining order
23 upon the filing by the district with the court of a verified petition
24 or complaint setting forth that the person named therein as
25 defendant is the operator of a water-producing facility which has
26 not been registered with the district or that the defendant is
27 delinquent in the payment of a replenishment assessment. The
28 temporary restraining order shall be returnable to the court on or
29 before 10 days after its issuance.

30 (b) The court may issue and grant an injunction restraining and
31 prohibiting the named defendant from the operation of any
32 water-producing facility when it is established by the
33 preponderance of the evidence at a hearing that the defendant has
34 failed to register the water-producing facility with the district or
35 that the defendant is delinquent in the payment of a replenishment
36 assessment. The court may provide that the injunction so made
37 and issued shall be stayed for a period not to exceed 10 days to
38 permit the defendant to register the water-producing facility or to
39 pay the delinquent replenishment assessment.

1 (c) Service of process shall be made by posting a copy of the
2 summons and complaint upon the water-producing facility or the
3 parcel of land upon which the water-producing facility is located
4 and by personal service of summons and complaint upon the named
5 defendant.

6 (d) The right to proceed for injunctive relief as provided in this
7 section shall be in addition to any other right which may be
8 provided elsewhere in this act or which may be otherwise allowed
9 by law. The procedure provided in Chapter 3 (commencing with
10 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure
11 regarding injunctions shall be followed except insofar as it may
12 be otherwise provided in this section.

13 (e) The court shall direct that the party prevailing on any motion
14 under this section be awarded the reasonable attorney's fees and
15 costs of making or opposing the motion unless the court finds that
16 the other party acted with substantial justification or that other
17 circumstances make the imposition of attorney's fees and costs
18 unjust.