

AMENDED IN SENATE MARCH 26, 2014

SENATE BILL

No. 1130

Introduced by Senator Roth

February 20, 2014

An act to add Section 71760 to the Water Code, relating to drinking water, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1130, as amended, Roth. Drinking water: County Water Company of Riverside water system: liability.

The Municipal Water District Law of 1911 provides for the formation of municipal water districts and grants to those districts specified powers. Existing law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district.

Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and imposes on the State Department of Public Health various responsibilities and duties. Existing law requires the department to conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, to adopt regulations to implement the California Safe Drinking Water Act, and to enforce provisions of the federal Safe Drinking Water Act.

This bill would exempt the Elsinore Valley Municipal Water District, the Eastern Municipal Water District, and those urban wholesale water suppliers, as defined, providing supplemental imported water supplies to Elsinore Valley Municipal Water District and the Eastern Municipal Water District, from liability for any good faith, reasonable effort to

~~assume possession of, and to operate and supply water to, the County Water Company of Riverside water system prior, during, or for a certain time after District, the Western Municipal Water District, and the Metropolitan Water District of Southern California from liability, as prescribed, for claims by past or existing County Water Company of Riverside customers or those who consumed water provided through the County Water Company of Riverside water system prior to and during the interim operation period, as specified. This bill would prohibit the immunity from liability from being construed either to relieve the municipal water districts or urban wholesale water suppliers any water district, water wholesaler, or any other entity from compliance with drinking water standards, impair any cause of action or proceeding brought by specified public entities, or to extend to claims alleging the taking of property without compensation. This bill would require the interim operation period to last until permanent replacement facilities are accepted by the municipal water districts Elsinore Valley Municipal Water District and the Eastern Municipal Water District with the concurrence of the department, or December 31, 2015, whichever occurs first. This bill would require the department to extend the interim operation period for up to 2 years 3 successive one-year periods at the request of the municipal water districts Elsinore Valley Municipal Water District and the Eastern Municipal Water District, as prescribed.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 71760 is added to the Water Code, to
2 read:
3 71760. (a) (1) The Elsinore Valley Municipal Water District
4 and the Eastern Municipal Water District shall not be held liable
5 for claims by past or existing County Water Company of Riverside
6 customers or those who consumed water provided through the
7 County Water Company of Riverside water system concerning the
8 operation and supply of water from the County Water Company
9 of Riverside water system during the interim operation period
10 specified in subdivision (c) for any good faith, reasonable effort
11 using ordinary care to assume possession of, to operate, or to

1 *supply water to, the County Water Company of Riverside water*
2 *system.*

3 *(2) The Elsinore Valley Municipal Water District and the*
4 *Eastern Municipal Water District shall not be held liable for claims*
5 *by past or existing County Water Company of Riverside customers*
6 *or by those who consumed water provided through the County*
7 *Water Company of Riverside water system for any injury that*
8 *occurred prior to the commencement of the interim operation*
9 *period specified in subdivision (c).*

10 *(b) (1) (A) The Western Municipal Water District and the*
11 *Metropolitan Water District of Southern California shall not be*
12 *held liable for claims by past or existing County Water Company*
13 *of Riverside customers or by those who consumed water provided*
14 *through the County Water Company of Riverside water system*
15 *concerning the provision of supplemental imported water supplies*
16 *to the County Water Company of Riverside water system during*
17 *the interim operation period specified in subdivision (c) for any*
18 *good faith, reasonable effort using ordinary care to supply water*
19 *to the County Water Company of Riverside water system.*

20 *(B) The Western Municipal Water District and the Metropolitan*
21 *Water District of Southern California shall not be held liable for*
22 *claims by past or existing County Water Company of Riverside*
23 *customers or by those who consumed water provided through the*
24 *County Water Company of Riverside water system concerning the*
25 *operation and supply of water from the County Water Company*
26 *of Riverside water system for any injury that occurred prior to the*
27 *commencement of the interim operation period specified in*
28 *subdivision (c).*

29 *(2) This subdivision shall only apply if the water supplied by*
30 *the Western Municipal Water District and the Metropolitan Water*
31 *District of Southern California through the temporary potable*
32 *service pipeline to the County Water Company of Riverside water*
33 *system meets or exceeds federal and state drinking water quality*
34 *standards.*

35 *(c) (1) The interim operation period shall commence upon the*
36 *connection of a temporary potable service pipeline by either the*
37 *Elsinore Valley Municipal Water District or the Eastern Municipal*
38 *Water District to the County Water Company of Riverside water*
39 *system, or upon the execution of an agreement between the Elsinore*
40 *Valley Municipal Water District, the Eastern Municipal Water*

1 *District, the County Water Company of Riverside, and any other*
2 *signatories, to provide service to the customers of the County*
3 *Water Company of Riverside, whichever occurs first.*

4 (2) (A) *Except as provided in subparagraph (B), the interim*
5 *operation period shall last until permanent replacement facilities*
6 *are accepted by the Elsinore Valley Municipal Water District and*
7 *the Eastern Municipal Water District with the concurrence of the*
8 *State Department of Public Health, or December 31, 2015,*
9 *whichever occurs first.*

10 (B) *Upon the showing of good cause, the interim operation*
11 *period shall be extended by the State Department of Public Health*
12 *for up to three successive one-year periods at the request of the*
13 *Elsinore Valley Municipal Water District and the Eastern*
14 *Municipal Water District.*

15 (3) *The acceptance date of permanent replacement facilities*
16 *shall be publicly noticed by the Elsinore Valley Municipal Water*
17 *District and the Eastern Municipal Water District.*

18 (d) *Subdivision (a) shall only apply if the Elsinore Valley*
19 *Municipal Water District and the Eastern Municipal Water District*
20 *provide water to the County Water Company of Riverside water*
21 *system in accordance with all of the following conditions:*

22 (1) *The Elsinore Valley Municipal Water District and the*
23 *Eastern Municipal Water District shall comply with the special*
24 *terms and conditions established by the State Department of Public*
25 *Health for safe drinking water emergency funding under Section*
26 *75021 of the Public Resources Code for the interim operation*
27 *period.*

28 (2) *Water provided by the Elsinore Valley Municipal Water*
29 *District and the Eastern Municipal Water District through the*
30 *temporary potable service pipeline to the County Water Company*
31 *of Riverside water system shall meet or exceed federal and state*
32 *drinking water quality standards.*

33 (3) *Reasonable water system flow and pressure through the*
34 *temporary potable service pipeline shall be maintained during the*
35 *interim operation period based upon the condition and integrity*
36 *of the existing County Water Company of Riverside water system*
37 *and any disruptions to water delivery resulting from construction*
38 *related activities associated with the installation of permanent*
39 *replacement facilities shall be minimal.*

1 (4) *The Elsinore Valley Municipal Water District and the*
2 *Eastern Municipal Water District shall notify Riverside County*
3 *fire officials serving the County Water Company of Riverside*
4 *service area of the condition and firefighting support capabilities*
5 *of the existing County Water Company of Riverside water system*
6 *and planned improvements with the installation of permanent*
7 *replacement facilities thereto. The Elsinore Valley Municipal Water*
8 *District and the Eastern Municipal Water District shall maintain*
9 *or improve the condition and firefighting support capabilities of*
10 *the existing County Water Company of Riverside water system*
11 *during the interim operation period.*

12 (5) *Customers of the County Water Company of Riverside shall*
13 *receive written notice upon any change in possession, control, or*
14 *operation of the water system.*

15 (e) *Nothing in this section shall be construed to do any of the*
16 *following:*

17 (1) *Relieve any water district, water wholesaler, or any other*
18 *entity from complying with any provision of federal or state law*
19 *pertaining to drinking water quality.*

20 (2) *Impair any cause of action by the Attorney General, a district*
21 *attorney, a city attorney, or any other public prosecutor, or impair*
22 *any other action or proceeding brought by or on behalf of a*
23 *regulatory agency.*

24 (3) *Extend to any claim alleging the taking of property without*
25 *compensation within the meaning of either the Fifth Amendment*
26 *to the United States Constitution or Section 19 of Article I of the*
27 *California Constitution.*

28 SECTION 1. ~~Section 71760 is added to the Water Code, to~~
29 ~~read:~~

30 ~~71760. (a) Elsinore Valley Municipal Water District, Eastern~~
31 ~~Municipal Water District, and those urban wholesale water~~
32 ~~suppliers, as defined in subdivision (r) of Section 10608.12,~~
33 ~~providing supplemental imported water supplies to Elsinore Valley~~
34 ~~Municipal Water District and the Eastern Municipal Water District~~
35 ~~shall not be held liable for any good faith, reasonable effort to~~
36 ~~assume possession of, and to operate and supply water to, the~~
37 ~~County Water Company of Riverside water system, as follows:~~

38 (1) ~~Immunity from liability shall exist for claims by past or~~
39 ~~existing County Water Company of Riverside customers or those~~
40 ~~consuming water provided through the County Water Company~~

1 of Riverside water system concerning the operation and supply of
2 water from the County Water Company of Riverside water system
3 during the interim operation period.

4 (2) Immunity from liability shall exist for the following claims,
5 including, but not limited to, claims alleging personal injury,
6 property damage, liability related to water quality, fire flow, and
7 service interruption:

8 (A) All claims brought by existing or past County Water
9 Company of Riverside customers or those claimants consuming
10 water provided through the County Water Company of Riverside
11 water system. The immunity shall extend to all claims concerning
12 the operation of and supply of water from the County Water
13 Company of Riverside water system arising prior to the
14 commencement of the interim operation period.

15 (B) All claims by County Water Company of Riverside
16 customers served by Elsinore Valley Municipal Water District and
17 Eastern Municipal Water District arising within two years after
18 the termination of the interim operation period associated with
19 those portions of the County Water Company of Riverside water
20 system that are retained by Elsinore Valley Municipal Water
21 District and Eastern Municipal Water District as part of the
22 permanent replacement facilities.

23 (b) Immunity from liability pursuant to this section shall not be
24 construed to do either of the following:

25 (1) Relieve Elsinore Valley Municipal Water District, Eastern
26 Municipal Water District, and those urban wholesale water
27 suppliers, defined in subdivision (r) of Section 10608.12, providing
28 supplemental imported water supplies to Elsinore Valley Municipal
29 Water District and the Eastern Municipal Water District from
30 compliance with drinking water standards established pursuant to
31 Chapter 4 (commencing with Section 116275) of Part 12 of
32 Division 104 of the Health and Safety Code.

33 (2) Extend to claims alleging the taking of property without
34 compensation within the meaning of either the Fifth Amendment
35 to the United States Constitution or Section 19 of Article I of the
36 California Constitution.

37 (c) (1) The interim operation period shall commence upon the
38 connection of a temporary potable service pipeline by either
39 Elsinore Valley Municipal Water District or Eastern Municipal
40 Water District to the County Water Company of Riverside water

1 system, or upon the execution of an agreement between Elsinore
2 Valley Municipal Water District, Eastern Municipal Water District,
3 the County Water Company of Riverside, and any other signatories,
4 to provide service to the customers of County Water Company of
5 Riverside, whichever occurs first.

6 ~~(2) (A) Except as provided in subparagraph (B), the interim~~
7 ~~operation period shall last until permanent replacement facilities~~
8 ~~are accepted by Elsinore Valley Municipal Water District and~~
9 ~~Eastern Municipal Water District with the concurrence of the State~~
10 ~~Department of Public Health, or December 31, 2015, whichever~~
11 ~~occurs first.~~

12 ~~(B) The interim operation period shall be extended by the State~~
13 ~~Department of Public Health for up to two years at the request of~~
14 ~~Elsinore Valley Municipal Water District and Eastern Municipal~~
15 ~~Water District based upon evidence of unforeseen circumstances~~
16 ~~associated with the construction of the permanent replacement~~
17 ~~facilities.~~

18 ~~(3) The acceptance date of permanent replacement facilities~~
19 ~~and the transfer of the County Water Company of Riverside water~~
20 ~~system and operations to Elsinore Valley Municipal Water District~~
21 ~~and Eastern Municipal Water District shall be publicly noticed by~~
22 ~~Elsinore Valley Municipal Water District and Eastern Municipal~~
23 ~~Water District.~~

24 ~~(d) The immunity provided by paragraph (1) of subdivision (a)~~
25 ~~shall be contingent upon Elsinore Valley Municipal Water District,~~
26 ~~Eastern Municipal Water District, or both, delivering water to the~~
27 ~~County Water Company of Riverside water system in accordance~~
28 ~~with the special terms and conditions established by the State~~
29 ~~Department of Public Health for safe drinking water emergency~~
30 ~~funding under Section 75021 of the Public Resources Code for the~~
31 ~~Elsinore Valley Municipal Water District and Eastern Municipal~~
32 ~~Water District during the interim operation period, including, but~~
33 ~~not limited to, the following conditions:~~

34 ~~(1) Water provided by Elsinore Valley Municipal Water District~~
35 ~~and Eastern Municipal Water District through the temporary~~
36 ~~potable service pipeline to the County Water Company of Riverside~~
37 ~~water system shall meet or exceed drinking water standards~~
38 ~~established pursuant to Chapter 4 (commencing with Section~~
39 ~~116275) of Part 12 of Division 104 of the Health and Safety Code.~~

1 ~~(2) Reasonable water system flow and pressure through the~~
2 ~~temporary potable service pipeline are maintained based upon the~~
3 ~~condition and integrity of the existing County Water Company of~~
4 ~~Riverside water system and any disruptions to water delivery~~
5 ~~resulting from construction related activities associated with the~~
6 ~~installation of permanent replacement facilities are minimal.~~

7 ~~(3) Elsinore Valley Municipal Water District and Eastern~~
8 ~~Municipal Water District shall notify Riverside County fire officials~~
9 ~~serving the County Water Company of Riverside area of the~~
10 ~~condition and firefighting support capabilities of the existing~~
11 ~~County Water Company of Riverside water system and planned~~
12 ~~improvements with the installation of permanent replacement~~
13 ~~facilities thereto.~~

14 SEC. 2. This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety within
16 the meaning of Article IV of the Constitution and shall go into
17 immediate effect. The facts constituting the necessity are:

18 In order to provide safe drinking water that is always reliable
19 for current customers of the County Water Company of Riverside
20 at the earliest possible date, it is necessary that this act take effect
21 immediately.