

AMENDED IN ASSEMBLY MAY 17, 2016

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE APRIL 16, 2015

**SENATE BILL**

**No. 552**

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**Introduced by Senator Wolk**

February 26, 2015

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An act to amend Sections 116681 and 116682 ~~of of, and to add Section 116686 to~~, the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 552, as amended, Wolk. Public water systems: disadvantaged communities: consolidation or extension of ~~service. service:~~ *administrative and managerial services.*

Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and imposes on the State Water Resources Control Board various responsibilities and duties. The act authorizes the state board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. The act authorizes the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. Existing law, for these purposes, defines "disadvantaged community" to mean a disadvantaged community that is in an unincorporated area or is served by a mutual water company.

This bill would ~~allow~~ *make* a community ~~to be a "disadvantaged community"~~ *disadvantaged for these purposes* if the community is in

a mobilehome park even if it is not in an unincorporated area or served by a mutual water company. The bill would limit the authority of the state board to order consolidation or extension of service *to provide that authority* only with regard to a disadvantaged community.

The act requires the state board, before ordering consolidation or extension of service, to hold at least one initial public meeting, as specified, and to obtain written consent from any domestic well owner for consolidation or extension of service. The act provides that any affected resident within the consolidation or extended service area who does not provide written consent is ineligible, until consent is provided, for any future water-related grant funding from the state, except as specified.

This bill would provide that an initial public meeting is not required for a potentially subsumed area that is served only by domestic wells. The bill would ~~require any~~ *apply to the* domestic well owner, instead of *to* an affected resident, within the consolidation or extended service area ~~who does not provide the~~ written consent ~~to be ineligible for future requirement for eligibility for water-related grant funding from the state.~~ *funding.*

The act requires the state board, upon ordering the consolidation or extension of service, to adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system as determined by the Public ~~Utilities~~ *Utilities* Commission for water corporations subject to the commission's jurisdiction or the state board for all other systems. The act prohibits a consolidated water system from increasing charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customer receives a corresponding benefit.

This bill would instead authorize the Public Utilities Commission or the state board to determine the fair market ~~value,~~ *value of a subsumed water system,* without regard to whether the system is a water corporation subject to the commission's jurisdiction. The bill would prohibit fees or charges imposed on a customer of a subsumed water system from exceeding the cost of consolidating the water system or the *cost of* extension of service to the area.

*The act exempts the consolidation or extension of service pursuant to these provisions from the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, which governs the procedures for the formation and change of organization of cities and special districts.*

*This bill would instead exempt an action taken by the state board pursuant to these provisions from the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.*

*This bill would authorize the state board, for the purpose of providing affordable, safe drinking water to disadvantaged communities and preventing fraud, waste, and abuse, to contract with an administrator to provide administrative and managerial services to a designated water system and to order the designated public water system to accept those services. The bill would define designated water system as a public water system that serves a disadvantaged community and that the state board finds consistently fails to provide an adequate and affordable supply of safe drinking water. The bill would require the state board to provide a public water system with notice, as specified, before determining that the public water system is a designated public water system. The bill would authorize the administrator of a designated public water system to expend available moneys for capital infrastructure improvements that the designated public water system needs to provide an adequate and affordable supply of safe drinking water, to set and collect user water rates and fees, and to expend available moneys for the operation and maintenance costs of the designated public water system.*

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. Section 116681 of the Health and Safety Code
- 2 is amended to read:
- 3 116681. ~~The~~ *Except as provided in paragraph (2) of subdivision*
- 4 *(g) of Section 116686, the following definitions shall apply to this*
- 5 *section and Sections ~~116682 and 116684: 116682, 116684, and~~*
- 6 *116686:*
- 7 (a) “Adequate supply” means sufficient water to meet residents’
- 8 health and safety needs.
- 9 (b) “Affected residence” means a residence within a
- 10 disadvantaged community that is reliant on a water supply that is
- 11 either inadequate or unsafe.
- 12 (c) “Consistently fails” means a failure to provide an adequate
- 13 supply of safe drinking water.

1 (d) “Consolidated water system” means the public water system  
2 resulting from the consolidation of a public water system with  
3 another public water system, state small water system, or affected  
4 residences not served by a public water system.

5 (e) “Consolidation” means joining two or more public water  
6 systems, state small water systems, or affected residences not  
7 served by a public water system, into a single public water system.

8 (f) “Disadvantaged community” means a disadvantaged  
9 community, as defined in Section 79505.5 of the Water Code, that  
10 is in an unincorporated area, *is in a* mobilehome park, or is served  
11 by a mutual water company.

12 (g) “Extension of service” means the provision of service  
13 through any physical or operational infrastructure arrangement  
14 other than consolidation.

15 (h) “Receiving water system” means the public water system  
16 that provides service to a subsumed water system through  
17 consolidation or extension of service.

18 (i) “Safe drinking water” means water that meets all primary  
19 and secondary drinking water standards.

20 (j) “Subsumed water system” means the public water system,  
21 state small water system, or affected residences not served by a  
22 public water system consolidated into or receiving service from  
23 the receiving water system.

24 SEC. 2. Section 116682 of the Health and Safety Code is  
25 amended to read:

26 116682. (a) Where a public water system or a state small water  
27 ~~system~~ *system*, within a disadvantaged-~~community~~ *community*,  
28 consistently fails to provide an adequate supply of safe drinking  
29 water, the ~~State Water Resources Control Board~~ *state board* may  
30 order consolidation with a receiving water system as provided in  
31 this section and Section 116684. The consolidation may be physical  
32 or operational. The ~~State Water Resources Control Board~~ *state*  
33 *board* may also order the extension of service to an area within a  
34 disadvantaged community that does not have access to an adequate  
35 supply of safe drinking water so long as the extension of service  
36 is an interim extension of service in preparation for consolidation.  
37 The ~~State Water Resources Control Board~~ *state board* may set  
38 timelines and performance measures to facilitate completion of  
39 consolidation.

1 (b) Before ordering consolidation or extension of service as  
2 provided in this section, the ~~State Water Resources Control Board~~  
3 *state board* shall do all of the following:

4 (1) Encourage voluntary consolidation or extension of service.

5 (2) Consider other enforcement remedies specified in this article.

6 (3) Consult with, and fully consider input from, the relevant  
7 local agency formation commission regarding the provision of  
8 water service in the affected area, the recommendations for  
9 improving service in a municipal service review, and any other  
10 relevant information.

11 (4) Consult with, and fully consider input from, the Public  
12 Utilities Commission when the consolidation would involve a  
13 water corporation subject to the commission's jurisdiction.

14 (5) Consult with, and fully consider input from, the local  
15 government with land use planning authority over the affected  
16 area, particularly regarding any information in the general plan  
17 required by Section 65302.10 of the Government Code.

18 (6) Notify the potentially receiving water system and the  
19 potentially subsumed water system, if any, and establish a  
20 reasonable deadline of no less than six months, unless a shorter  
21 period is justified, for the potentially receiving water system and  
22 the potentially subsumed water system, if any, to negotiate  
23 consolidation or another means of providing an adequate supply  
24 of safe drinking water.

25 (A) During this period, the ~~State Water Resources Control Board~~  
26 *state board* shall provide technical assistance and work with the  
27 potentially receiving water system and the potentially subsumed  
28 water system to develop a financing package that benefits both the  
29 receiving water system and the subsumed water system.

30 (B) Upon a showing of good cause, the deadline may be  
31 extended by the ~~State Water Resources Control Board~~ *state board*  
32 at the request of the potentially receiving water system, potentially  
33 subsumed water system, or the local agency formation commission  
34 with jurisdiction over the potentially subsumed water system.

35 (7) Obtain written consent from any domestic well owner for  
36 consolidation or extension of service. Any domestic well owner  
37 within the consolidation or extended service area who does not  
38 provide written consent shall be ineligible, until the consent is  
39 provided, for any future water-related grant funding from the state

1 other than funding to mitigate a well failure, disaster, or other  
2 emergency.

3 (8) (A) Hold at least one public meeting at the initiation of this  
4 process in a place as close as feasible to the affected areas. The  
5 ~~State Water Resources Control Board~~ *state board* shall make  
6 reasonable efforts to provide a 30-day notice of the meeting to the  
7 ratepayers, renters, and property owners to receive water service  
8 through service extension or in the area of the subsumed water  
9 system and all affected local government agencies and drinking  
10 water service providers. The meeting shall provide representatives  
11 of the potentially subsumed water system, affected ratepayers,  
12 renters, property owners, and the potentially receiving water system  
13 an opportunity to present testimony. The meeting shall provide an  
14 opportunity for public comment.

15 (B) An initial public meeting shall not be required for a  
16 potentially subsumed area that is served only by domestic wells.

17 (c) Upon expiration of the deadline set by the ~~State Water~~  
18 ~~Resources Control Board~~ *state board* pursuant to paragraph (6) of  
19 subdivision (b), the ~~State Water Resources Control Board~~ *state*  
20 *board* shall do the following:

21 (1) Consult with the potentially receiving water system and the  
22 potentially subsumed water system, if any.

23 (2) Conduct a public hearing, in a location as close as feasible  
24 to the affected communities.

25 (A) The ~~State Water Resources Control Board~~ *state board* shall  
26 make reasonable efforts to provide a 30-day notice of the hearing  
27 to the ratepayers, renters, and property owners to receive water  
28 service through service extension or in the area of the subsumed  
29 water system and to all affected local government agencies and  
30 drinking water service providers.

31 (B) The hearing shall provide representatives of the potentially  
32 subsumed water system, affected ratepayers, renters, property  
33 owners, and the potentially receiving water system an opportunity  
34 to present testimony.

35 (C) The hearing shall provide an opportunity for public  
36 comment.

37 (d) Before ordering consolidation or extension of service, the  
38 ~~State Water Resources Control Board~~ *state board* shall find all of  
39 the following:

- 1 (1) The potentially subsumed water system has consistently  
2 failed to provide an adequate supply of safe drinking water.
- 3 (2) All reasonable efforts to negotiate consolidation or extension  
4 of service were made.
- 5 (3) Consolidation of the receiving water system and subsumed  
6 water system or extension of service is appropriate and technically  
7 and economically feasible.
- 8 (4) There is no pending local agency formation commission  
9 process that is likely to resolve the problem in a reasonable amount  
10 of time.
- 11 (5) Concerns regarding water rights and water contracts of the  
12 subsumed and receiving water systems have been adequately  
13 addressed.
- 14 (6) Consolidation or extension of service is the most effective  
15 and cost-effective means to provide an adequate supply of safe  
16 drinking water.
- 17 (7) The capacity of the proposed interconnection needed to  
18 accomplish the consolidation is limited to serving the current  
19 customers of the subsumed water system.
- 20 (e) Upon ordering consolidation or extension of service, the  
21 ~~State Water Resources Control Board~~ *state board* shall do all of  
22 the following:
- 23 (1) As necessary and appropriate, make funds available, upon  
24 appropriation by the Legislature, to the receiving water system for  
25 the costs of completing the consolidation or extension of service,  
26 including, but not limited to, replacing any capacity lost as a result  
27 of the consolidation or extension of service, providing additional  
28 capacity needed as a result of the consolidation or extension of  
29 service, and legal fees. Funding pursuant to this paragraph is  
30 available for the general purpose of providing financial assistance  
31 for the infrastructure needed for the consolidation or extension of  
32 service and does not need to be specific to each individual  
33 consolidation project. ~~The State Water Resources Control Board~~  
34 *state board* shall provide appropriate financial assistance for the  
35 infrastructure needed for the consolidation or extension of service.  
36 ~~The State Water Resources Control Board's~~ *state board's* existing  
37 financial assistance guidelines and policies shall be the basis for  
38 the financial assistance.
- 39 (2) Ensure payment of standard local agency formation  
40 commission fees caused by ~~State Water Resources Control~~

1 ~~Board-ordered~~ *state board-ordered* consolidation or extension of  
 2 service.

3 (3) Adequately compensate the owners of a privately owned  
 4 subsumed water system for the fair market value of the system as  
 5 determined by the Public Utilities Commission or the ~~State Water~~  
 6 ~~Resources Control Board~~. *state board*.

7 (4) Coordinate with the appropriate local agency formation  
 8 commission and other relevant local agencies to facilitate the  
 9 change of organization or reorganization.

10 (f) (1) For the purposes of this section, the consolidated water  
 11 system shall not increase charges on existing customers of the  
 12 receiving water system solely as a consequence of the consolidation  
 13 or extension of service unless the customers receive a  
 14 corresponding benefit.

15 (2) For purposes of this section, fees or charges imposed on a  
 16 customer of a subsumed water system shall not exceed the cost of  
 17 consolidating the water system with a receiving system or the  
 18 extension of service to the area.

19 (g) Division 3 (commencing with Section 56000) of Title 5 of  
 20 the Government Code shall not apply to ~~the consolidation or~~  
 21 ~~extension of service required~~ *an action taken by the state board*  
 22 pursuant to this section.

23 *SEC. 3. Section 116686 is added to the Health and Safety Code,*  
 24 *to read:*

25 *116686. (a) (1) To provide affordable, safe drinking water to*  
 26 *disadvantaged communities and to prevent fraud, waste, and abuse,*  
 27 *the state board may do both of the following:*

28 (A) *Contract with an administrator to provide administrative*  
 29 *and managerial services to a designated public water system to*  
 30 *assist the designated public water system with the provision of an*  
 31 *adequate and affordable supply of safe drinking water.*

32 (i) *To fulfill the requirements of this section, the state board*  
 33 *may contract with more than one administrator, but only one*  
 34 *administrator may be assigned to provide services to a given*  
 35 *designated public water system.*

36 (ii) *An administrator may provide administrative and*  
 37 *managerial services to more than one designated public water*  
 38 *system.*

1 (B) Order the designated public water system to accept  
2 administrative and managerial services, including full management  
3 and control, from an administrator selected by the state board.

4 (2) In performing its duties pursuant to paragraph (1), the state  
5 board may use criteria from the policy handbook adopted pursuant  
6 to Section 116760.43.

7 (b) Before the state board determines that a public water system  
8 is a designated public water system, the state board shall provide  
9 the public water system with notice and an opportunity to show  
10 either of the following:

11 (1) That the public water system has not consistently failed to  
12 provide an adequate and affordable supply of safe drinking water.

13 (2) That the public water system has taken steps to timely  
14 address its failure to provide an adequate and affordable supply  
15 of safe drinking water.

16 (c) The state board shall make financial assistance available  
17 to an administrator for a designated public water system, as  
18 appropriate and to the extent that funding is available.

19 (d) An administrator may do any of the following:

20 (1) Expend available moneys for capital infrastructure  
21 improvements that the designated public water system needs to  
22 provide an adequate and affordable supply of safe drinking water.

23 (2) Set and collect user water rates and fees.

24 (3) Expend available moneys for operation and maintenance  
25 costs of the designated public water system.

26 (e) A designated public water system shall not be responsible  
27 for any costs associated with an administrator.

28 (f) Administrative and managerial contracts pursuant to this  
29 section shall be exempt from Chapter 2 (commencing with Section  
30 10290) of Part 2 of Division 2 of the Public Contract Code and  
31 may be awarded on a noncompetitive bid basis as necessary to  
32 implement the purposes of this section.

33 (g) For purposes of this section, the following terms have the  
34 following meanings:

35 (1) "Administrator" means a person that the state board has  
36 determined is competent to perform the administrative and  
37 managerial services of a public water system, as described in  
38 subdivision (d). In determining competency, the state board may  
39 consider demonstrated experience in managing and operating a  
40 public water system.

1     (2) *“Designated public water system” means a public water*  
2 *system that serves a disadvantaged community, as defined in*  
3 *Section 79505.5 of the Water Code, and that the state board finds*  
4 *consistently fails to provide an adequate and affordable supply of*  
5 *safe drinking water.*

O