

AMENDED IN ASSEMBLY JUNE 16, 2016

AMENDED IN ASSEMBLY MAY 17, 2016

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE APRIL 16, 2015

SENATE BILL

No. 552

Introduced by Senator Wolk

February 26, 2015

An act to amend Sections 116681 and 116682 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: administrative and managerial services.

Existing law, the California Safe Drinking Water Act, provides for the operation of public water ~~systems~~, *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 authorize the state board to order consolidation where a public water system or a state small water system is serving, rather than within, a disadvantaged community, and 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. This bill would make a 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 apply to the domestic well owner, instead of to an affected resident, within the consolidation or extended service area the written consent requirement for eligibility for water-related grant 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 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 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. 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, 116684, and 116686:

6 (a) "Adequate supply" means sufficient water to meet residents'
7 health and safety needs.

1 (b) “Affected residence” means a residence within a
2 disadvantaged community that is reliant on a water supply that is
3 either inadequate or unsafe.

4 (c) “Consistently fails” means a failure to provide an adequate
5 supply of safe drinking water.

6 (d) “Consolidated water system” means the public water system
7 resulting from the consolidation of a public water system with
8 another public water system, state small water system, or affected
9 residences not served by a public water system.

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

13 (f) “Disadvantaged community” means a disadvantaged
14 community, as defined in Section 79505.5 of the Water Code, that
15 is in an unincorporated area, is in a mobilehome park, or is served
16 by a mutual water company.

17 (g) “Extension of service” means the provision of service
18 through any physical or operational infrastructure arrangement
19 other than consolidation.

20 (h) “Receiving water system” means the public water system
21 that provides service to a subsumed water system through
22 consolidation or extension of service.

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

25 (j) “Subsumed water system” means the public water system,
26 state small water system, or affected residences not served by a
27 public water system consolidated into or receiving service from
28 the receiving water system.

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

31 116682. (a) Where a public water system or a state small water
32 system, ~~within~~ *serving* a disadvantaged community, consistently
33 fails to provide an adequate supply of safe drinking water, the state
34 board may order consolidation with a receiving water system as
35 provided in this section and Section 116684. The consolidation
36 may be physical or operational. The state board may also order
37 the extension of service to an area within a disadvantaged
38 community that does not have access to an adequate supply of safe
39 drinking water so long as the extension of service is an interim
40 extension of service in preparation for consolidation. The state

1 board may set timelines and performance measures to facilitate
2 completion of consolidation.

3 (b) Before ordering consolidation or extension of service as
4 provided in this section, the state board shall do all of the
5 following:

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

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

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

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

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

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

27 (A) During this period, the state board shall provide technical
28 assistance and work with the potentially receiving water system
29 and the potentially subsumed water system to develop a financing
30 package that benefits both the receiving water system and the
31 subsumed water system.

32 (B) Upon a showing of good cause, the deadline may be
33 extended by the state board at the request of the potentially
34 receiving water system, potentially subsumed water system, or the
35 local agency formation commission with jurisdiction over the
36 potentially subsumed water system.

37 (7) Obtain written consent from any domestic well owner for
38 consolidation or extension of service. Any domestic well owner
39 within the consolidation or extended service area who does not
40 provide written consent shall be ineligible, until the consent is

1 provided, for any future water-related grant funding from the state
2 other than funding to mitigate a well failure, disaster, or other
3 emergency.

4 (8) (A) Hold at least one public meeting at the initiation of this
5 process in a place as close as feasible to the affected areas. The
6 state board shall make reasonable efforts to provide a 30-day notice
7 of the meeting to the ratepayers, renters, and property owners to
8 receive water service through service extension or in the area of
9 the subsumed water system and all affected local government
10 agencies and drinking water service providers. The meeting shall
11 provide representatives of the potentially subsumed water system,
12 affected ratepayers, renters, property owners, and the potentially
13 receiving water system an opportunity to present testimony. The
14 meeting shall provide an 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 board
18 pursuant to paragraph (6) of subdivision (b), the state board shall
19 do the following:

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

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

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

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

33 (C) The hearing shall provide an opportunity for public
34 comment.

35 (d) Before ordering consolidation or extension of service, the
36 state board shall find all of the following:

37 (1) The potentially subsumed water system has consistently
38 failed to provide an adequate supply of safe drinking water.

39 (2) All reasonable efforts to negotiate consolidation or extension
40 of service were made.

1 (3) Consolidation of the receiving water system and subsumed
2 water system or extension of service is appropriate and technically
3 and economically feasible.

4 (4) There is no pending local agency formation commission
5 process that is likely to resolve the problem in a reasonable amount
6 of time.

7 (5) Concerns regarding water rights and water contracts of the
8 subsumed and receiving water systems have been adequately
9 addressed.

10 (6) Consolidation or extension of service is the most effective
11 and cost-effective means to provide an adequate supply of safe
12 drinking water.

13 (7) The capacity of the proposed interconnection needed to
14 accomplish the consolidation is limited to serving the current
15 customers of the subsumed water system.

16 (e) Upon ordering consolidation or extension of service, the
17 state board shall do all of the following:

18 (1) As necessary and appropriate, make funds available, upon
19 appropriation by the Legislature, to the receiving water system for
20 the costs of completing the consolidation or extension of service,
21 including, but not limited to, replacing any capacity lost as a result
22 of the consolidation or extension of service, providing additional
23 capacity needed as a result of the consolidation or extension of
24 service, and legal fees. Funding pursuant to this paragraph is
25 available for the general purpose of providing financial assistance
26 for the infrastructure needed for the consolidation or extension of
27 service and does not need to be specific to each individual
28 consolidation project. The state board shall provide appropriate
29 financial assistance for the infrastructure needed for the
30 consolidation or extension of service. The state board's existing
31 financial assistance guidelines and policies shall be the basis for
32 the financial assistance.

33 (2) Ensure payment of standard local agency formation
34 commission fees caused by state board-ordered consolidation or
35 extension of service.

36 (3) Adequately compensate the owners of a privately owned
37 subsumed water system for the fair market value of the system as
38 determined by the Public Utilities Commission or the state board.

1 (4) Coordinate with the appropriate local agency formation
2 commission and other relevant local agencies to facilitate the
3 change of organization or reorganization.

4 (f) (1) For the purposes of this section, the consolidated water
5 system shall not increase charges on existing customers of the
6 receiving water system solely as a consequence of the consolidation
7 or extension of service unless the customers receive a
8 corresponding benefit.

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

13 (g) Division 3 (commencing with Section 56000) of Title 5 of
14 the Government Code shall not apply to an action taken by the
15 state board pursuant to this section.

16 SEC. 3. Section 116686 is added to the Health and Safety Code,
17 to read:

18 116686. (a) (1) To provide affordable, safe drinking water to
19 disadvantaged communities and to prevent fraud, waste, and abuse,
20 the state board may do both of the following:

21 (A) Contract with an administrator to provide administrative
22 and managerial services to a designated public water system to
23 assist the designated public water system with the provision of an
24 adequate and affordable supply of safe drinking water.

25 (i) To fulfill the requirements of this section, the state board
26 may contract with more than one administrator, but only one
27 administrator may be assigned to provide services to a given
28 designated public water system.

29 (ii) An administrator may provide administrative and managerial
30 services to more than one designated public water system.

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

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

37 (b) Before the state board determines that a public water system
38 is a designated public water system, the state board shall provide
39 the public water system with notice and an opportunity to show
40 either of the following:

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

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

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

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

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

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

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

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

18 (f) Administrative and managerial contracts pursuant to this
19 section shall be exempt from Chapter 2 (commencing with Section
20 10290) of Part 2 of Division 2 of the Public Contract Code and
21 may be awarded on a noncompetitive bid basis as necessary to
22 implement the purposes of this section.

23 (g) For purposes of this section, the following terms have the
24 following meanings:

25 (1) “Administrator” means a person that the state board has
26 determined is competent to perform the administrative and
27 managerial services of a public water system, as described in
28 subdivision (d). In determining competency, the state board may
29 consider demonstrated experience in managing and operating a
30 public water system.

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