

Introduced by Senator HillJanuary 4, 2016

An act to amend Section 6254.16 of the Government Code, and to add Chapter 3.3 (commencing with Section 365) to Division 1 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 814, as introduced, Hill. Drought: excessive water use: urban retail water suppliers.

The California Constitution requires the reasonable and beneficial use of water. Existing law requires the Department of Water Resources and the State Water Resources Control Board to take all appropriate proceedings or actions to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this state. Existing law authorizes any public entity, as defined, that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity to, by ordinance or resolution, adopt and enforce a water conservation program to reduce the quantity of water used for the purpose of conserving the water supplies of the public entity. Existing law provides that a violation of a requirement of a water conservation program is a misdemeanor punishable by imprisonment in the county jail for not more than 30 days, or by fine not exceeding \$1,000, or both.

This bill would declare that excessive water use, as defined by each urban retail water supplier, is a waste or unreasonable use of water. This bill would prohibit excessive water use by a residential customer and would make a violation of this prohibition an infraction punishable by a fine of at least \$500 per 100 cubic feet of water used above the

excessive water use definition in a billing cycle. By creating a new infraction, this bill would impose a state-mandated local program.

This bill would provide that these provisions apply only during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions.

The California Public Records Act requires that public records, as defined, be open to inspection at all times during the hours of a state or local agency and that every person has a right to inspect any public record, with specified exceptions. Existing law prohibits the act from being construed to require the disclosure of certain information concerning utility customers of local agencies, with specified exceptions.

This bill would require certain information about residential customers that violate the prohibition on excessive water use to be made available under the act upon request. By increasing the duties of local officials, the bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings if that enactment contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 6254.16 of the Government Code is
- 2 amended to read:
- 3 6254.16. Nothing in this chapter shall be construed to require
- 4 the disclosure of the name, credit history, utility usage data, home
- 5 address, or telephone number of utility customers of local agencies,
- 6 except that disclosure of name, utility usage data, and the home

1 address of utility customers of local agencies shall be made
2 available upon request as follows:

3 (a) To an agent or authorized family member of the person to
4 whom the information pertains.

5 (b) To an officer or employee of another governmental agency
6 when necessary for the performance of its official duties.

7 (c) Upon court order or the request of a law enforcement agency
8 relative to an ongoing investigation.

9 (d) Upon determination by the local agency that the utility
10 customer who is the subject of the request has used utility services
11 in a manner inconsistent with applicable local utility usage policies.

12 (e) Upon determination by the local agency that the utility
13 customer who is the subject of the request is an elected or appointed
14 official with authority to determine the utility usage policies of the
15 local agency, provided that the home address of an appointed
16 official shall not be disclosed without his or her consent.

17 (f) Upon determination by the local agency that the public
18 interest in disclosure of the information clearly outweighs the
19 public interest in nondisclosure.

20 (g) *Regarding residential customers that violate the prohibition*
21 *on excessive water use described in Section 367 of the Water Code.*

22 SEC. 2. Chapter 3.3 (commencing with Section 365) is added
23 to Division 1 of the Water Code, to read:

24

25 CHAPTER 3.3. EXCESSIVE RESIDENTIAL WATER USE DURING
26 DROUGHT

27

28 365. (a) The Legislature finds and declares that this chapter
29 is in furtherance of Section 2 of Article X of the California
30 Constitution as intended to prevent the unreasonable use or the
31 waste of water and to protect water resources in the interest of the
32 people and for the public welfare.

33 (b) For the purposes of this chapter, “urban retail water supplier”
34 has the same meaning as provided in Section 10608.12.

35 366. (a) (1) Each urban retail water supplier shall establish a
36 definition of excessive water use by a customer of the urban retail
37 water supplier that considers, but is not necessarily limited to
38 addressing, all of the following factors:

39 (A) Average daily use.

40 (B) Full-time occupancy of households.

1 (C) Amount of landscaped land on a property.

2 (D) Rate of evapotranspiration.

3 (2) An urban retail water supplier may also consider seasonal
4 weather changes when establishing a definition of excessive water
5 use by a customer of the urban retail water supplier.

6 (b) An urban retail water supplier shall define and measure
7 excessive water use in terms of hundreds of cubic feet of water
8 used during the water supplier’s regular billing cycle.

9 (c) An urban retail water supplier shall adopt the definition of
10 excessive water use and make any other changes necessary to
11 implement this chapter by adopting a new rule or ordinance or by
12 amending an existing rule or ordinance relating to drought or water
13 conservation.

14 367. (a) Excessive water use is a waste or unreasonable use
15 of water.

16 (b) Excessive water use by a residential customer is prohibited.

17 (c) A violation of subdivision (b) is an infraction punishable by
18 a fine of at least five hundred dollars (\$500) per hundred cubic
19 feet of water used above the excessive water use definition in a
20 billing cycle. Any fine imposed pursuant to this subdivision shall
21 be added to the customer’s water bill and is due and payable with
22 that water bill. Each urban retail water supplier shall have a process
23 for nonpayment of the fine, which shall be consistent with the
24 water supplier’s existing process for nonpayment of a water bill.
25 That process may include, but is not necessarily limited to, the
26 imposition of nonpayment penalties, interruption of water service,
27 and placing of a lien on the customer’s real property.

28 (d) A violation of subdivision (b) where a demonstrable water
29 leak at the residence occurred and a fix to that leak is underway
30 shall not be punishable pursuant to subdivision (c). Other
31 reasonable justifications for excessive water use shall be considered
32 consistent with subdivision (e).

33 (e) (1) An urban retail water supplier shall establish a process
34 for the appeal of a violation of subdivision (b) whereby the
35 customer may contest the imposition of any fine or penalty for
36 excessive water use.

37 (2) As part of the appeal process, the customer shall be provided
38 with an opportunity to provide evidence of a bona fide reason for
39 the excessive water use, including evidence of a water leak meeting

1 the requirements of subdivision (d), a medical reason, or any other
2 reasonable justification for the water use.

3 368. This chapter applies only during a period for which the
4 Governor has issued a proclamation of a state of emergency under
5 the California Emergency Services Act (Chapter 7 (commencing
6 with Section 8550) of Division 1 of Title 2 of the Government
7 Code) based on drought conditions.

8 SEC. 3. The Legislature finds and declares that Section 1 of
9 this act, which amends Section 6254.16 of the Government Code,
10 furthers, within the meaning of paragraph (7) of subdivision (b)
11 of Section 3 of Article I of the California Constitution, the purposes
12 of that constitutional section as it relates to the right of public
13 access to the meetings of local public bodies or the writings of
14 local public officials and local agencies. Pursuant to paragraph (7)
15 of subdivision (b) of Section 3 of Article I of the California
16 Constitution, the Legislature makes the following findings:

17 The Legislature finds that it is in the public's interest to be made
18 aware of excessive water use during a drought in order to help
19 prevent the unreasonable use or waste of water to protect water
20 resources in the interest of the people and for the public welfare.

21 SEC. 4. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the costs that may be incurred by a local agency or school district
24 under this act would result from a legislative mandate that is within
25 the scope of paragraph (7) of subdivision (b) of Section 3 of Article
26 I of the California Constitution or because the costs that may be
27 incurred by a local agency or school district will be incurred
28 because this act creates a new crime or infraction, eliminates a
29 crime or infraction, or changes the penalty for a crime or infraction,
30 within the meaning of Section 17556 of the Government Code, or
31 changes the definition of a crime within the meaning of Section 6
32 of Article XIII B of the California Constitution.