

AMENDED IN ASSEMBLY JUNE 21, 2016

AMENDED IN ASSEMBLY JUNE 6, 2016

AMENDED IN SENATE MARCH 30, 2016

AMENDED IN SENATE MARCH 17, 2016

SENATE BILL

No. 814

Introduced by Senator Hill

January 4, 2016

An act 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 amended, Hill. Drought: excessive water use: urban retail water suppliers.

The California Constitution declares the policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use of the waters in the interest of the people and for the public welfare. 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 a county jail for not more than 30 days, or by a fine not exceeding \$1,000, or both.

This bill would declare that *during prescribed periods* excessive water use by a residential customer, ~~as specified, is prohibited, if during a period when certain conditions exist, as prescribed.~~ *customer in a single-family residence or by a customer in a multiunit housing complex, as specified, is prohibited.* This ~~bill~~ *bill*, *during prescribed periods*, would require each urban retail water supplier to establish a method to identify and discourage excessive water use. This bill would authorize as a method to identify and discourage excessive water use the establishment of a rate structure that includes block tiers, water budgets, or rate surcharges over and above base rates for excessive water use by residential customers. This bill would authorize as a method to identify and discourage excessive water use the establishment of an excessive water use ordinance, rule, or tariff condition that includes a definition of or procedure to identify and address excessive water use, as prescribed, and would make a violation of this excessive water use ordinance, rule, or tariff condition an infraction or administrative civil penalty and would authorize the penalty for a violation to be based on conditions identified by the urban retail water supplier. By creating a new infraction, this bill would impose a state-mandated local program.

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

1 CHAPTER 3.3. EXCESSIVE RESIDENTIAL WATER USE DURING
2 DROUGHT
3

4 365. (a) The Legislature finds and declares that this chapter
5 furthers important state policies of encouraging water conservation
6 and protecting water resources in the interest of the people and for
7 the public welfare.

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

10 366. (a) ~~Excessive water use during~~ *During* periods described
11 in *subdivision (a) of Section 367* 367, *excessive water use is*
12 *prohibited* by a residential customer in a single-family residence
13 or by a customer in a multiunit housing complex in which each
14 unit is individually metered or submetered by the urban retail water
15 ~~supplier is prohibited.~~ *supplier.*

16 (b) Each urban retail water supplier shall establish a method to
17 identify and discourage excessive water use, through one of the
18 following options:

19 (1) Establishing a rate structure, subject to applicable
20 constitutional and statutory limitations, that includes block tiers,
21 water budgets, or rate surcharges over and above base rates for
22 excessive water use by a residential water customer.

23 (2) (A) Establishing an excessive water use ordinance, rule, or
24 tariff condition, or amending an existing ordinance, rule, or tariff
25 condition, that includes a definition of or a procedure to identify
26 and address excessive water use by metered single-family
27 residential customers and customers in multiunit housing
28 complexes in which each unit is individually metered or
29 submetered and may include a process to issue written warnings
30 to a customer and perform a site audit of customer water usage
31 prior to deeming the customer in violation. ~~Excessive~~

32 (B) *For the purposes of subparagraph (A), excessive* water use
33 shall be measured in terms of either gallons or hundreds of cubic
34 feet of water used during the urban retail water supplier’s regular
35 billing cycle. In establishing the definition of excessive use, the
36 urban retail water supplier may consider factors that include, but
37 are not limited to, all of the following:

38 (i) Average daily use.

39 (ii) Full-time occupancy of households.

40 (iii) Amount of landscaped land on a property.

1 (iv) Rate of evapotranspiration.
 2 (v) Seasonal weather changes.
 3 ~~(B)~~
 4 (C) (i) A violation of an excessive use ordinance, rule, or tariff
 5 condition established pursuant to subparagraph (A) shall result in
 6 an infraction or administrative civil penalty. The penalty for a
 7 violation may be based on conditions identified by the urban retail
 8 water supplier and may include, but is not limited to, a fine of up
 9 to five hundred dollars (\$500) for each hundred cubic feet of water,
 10 or 748 gallons, used above the excessive water use threshold
 11 established by the urban retail water supplier in a billing cycle.
 12 ~~Any~~
 13 (ii) *Any* fine imposed pursuant to this subparagraph shall be
 14 added to the customer’s water bill and is due and payable with that
 15 water bill. ~~Each~~
 16 (iii) *Each* urban retail water supplier shall have a process for
 17 nonpayment of the fine, which shall be consistent with due process
 18 and reasonably similar to the water supplier’s existing process for
 19 nonpayment of a water bill.
 20 ~~(C)~~
 21 (D) (i) Consistent with due process, an urban retail water
 22 supplier shall establish a process and conditions for the appeal of
 23 a fine imposed pursuant to subparagraph ~~(B)~~ (C) whereby the
 24 customer may contest the imposition of the fine for excessive water
 25 use.
 26 (ii) As part of the appeal process, the customer shall be provided
 27 with an opportunity to provide evidence *that there was no excessive*
 28 *water use or* of a bona fide reason for the excessive water use,
 29 including evidence of a water leak, a medical reason, or any other
 30 reasonable justification for the water use, as determined by the
 31 urban retail water supplier.
 32 (iii) *As part of the appeal process, the urban retail water*
 33 *supplier shall provide documentation demonstrating the excessive*
 34 *water usage.*
 35 (c) (1) The provisions of subdivision (b) do not apply to an
 36 urban retail water supplier that is not fully metered in accordance
 37 with Section 527. An urban retail water ~~supply~~ *supplier* shall
 38 comply with the provisions of subdivision (b) when all of the water
 39 supplier’s residential water service connections are being billed
 40 based on metered water usage.

1 (2) An urban retail water supplier that is not fully metered shall
2 prohibit water use practices by an ordinance, resolution, rule, or
3 tariff condition that imposes penalties for prohibited uses of water
4 supplied by the water supplier. The urban retail water supplier may
5 include a process to issue written warnings prior to imposing
6 penalties as well as increased penalty amounts for successive
7 violations.

8 367. (a) This chapter applies only as follows:

9 (1) During a period for which the Governor has issued a
10 proclamation of a state of emergency under the California
11 Emergency Services Act (Chapter 7 (commencing with Section
12 8550) of Division 1 of Title 2 of the Government Code) based on
13 statewide drought conditions to an urban retail water supplier that
14 has moved to a stage of action in response to a local water supply
15 shortage condition under the water supplier's contingency plan
16 pursuant to paragraph (1) of subdivision (a) of Section 10632 that
17 requires mandatory water use reductions.

18 (2) To an urban retail water supplier during a period in which
19 the water supplier has moved to a stage of action in response to a
20 local water supply shortage condition under the water supplier's
21 contingency plan pursuant to paragraph (1) of subdivision (a) of
22 Section 10632 that requires mandatory water use reductions.

23 (3) To an urban retail water supplier affected during a period
24 for which the Governor has issued a proclamation of a state of
25 emergency under the California Emergency Services Act (Chapter
26 7 (commencing with Section 8550) of Division 1 of Title 2 of the
27 Government Code) based on local drought conditions.

28 (b) The provisions of this chapter are in addition to, and do not
29 supersede or limit, any other measures or remedies implemented
30 by an urban retail water supplier.

31 SEC. 2. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within
38 the meaning of Section 6 of Article XIII B of the California
39 Constitution.

- 1 _____
- 2 **CORRECTIONS:**
- 3 **Amended Date—Page 1.**
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