

Senate Bill No. 1112

CHAPTER 631

An act to add Section 853.2 to the Public Utilities Code, relating to utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2016. Filed with
Secretary of State September 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1112, Cannella. Utilities: water and sewer system corporations: transactions.

The Public Utilities Act prohibits, with certain exemptions, any public utility other than a common carrier by railroad from selling, leasing, assigning, mortgaging, or otherwise disposing of or encumbering the whole or any part of specified property necessary or useful in the performance of the public utility's duties to the public, among other things, without first either having secured an order from the Public Utilities Commission authorizing it to do so for qualified transactions valued above \$5,000,000, or for qualified transactions valued at \$5,000,000 or less, having filed an advice letter and obtained approval from the commission authorizing it to do so. Under existing law, every sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the advice letter and approval from the commission authorizing it is void.

Existing law requires the commission, before authorizing the merger, acquisition, or change in control of an electric, gas, or telephone utility when one of the parties has revenues in excess of a specified amount, to consider, among other things, whether the proposal provides short-term and long-term economic benefits to ratepayers and equitably allocates the short-term and long-term forecasted economic benefits of the proposed merger, acquisition, or change in control, as determined by the commission, between shareholders and ratepayers, if the commission has ratemaking authority. Under existing law, any merger, acquisition, or change in control without that prior authorization is void.

This bill would provide that if a water or sewer system corporation or an entity merging with or acquiring control of a water or sewer system corporation with less than 2,000 service connections fails to receive the commission's approval before entering into any of the specified transactions valued at \$5,000,000 or less, the transaction is voidable by the commission until the commission either retroactively approves or conditionally approves the transaction. The bill would authorize the commission to delegate this approval authority to a specified division director.

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

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

SECTION 1. Section 853.2 is added to the Public Utilities Code, to read:
853.2. For a water or sewer system corporation or an entity merging with or acquiring control of a water or sewer system corporation with less than 2,000 service connections, the following shall apply to transactions valued at five million dollars (\$5,000,000) or less, notwithstanding Sections 851 and 854:

(a) (1) A water or sewer system corporation or an entity merging with or acquiring control of a water or sewer system corporation shall receive the commission’s approval before entering into a transaction that would otherwise be subject to Section 851 or 854.

(2) If a water or sewer system corporation or an entity merging with or acquiring control of a water or sewer system corporation fails to receive the commission’s approval pursuant to paragraph (1), the transaction is voidable by the commission until the commission does either of the following:

(A) Retroactively approves the transaction upon a determination that the transaction is in the best interests of both the corporation and its ratepayers.

(B) Conditionally approves the transaction, subject to the fulfillment of specified conditions that would ensure that the transaction is in the best interests of both the corporation and its ratepayers.

(b) The commission may delegate the authority to make the determinations described in subdivision (a) to the director of the division that investigates water and sewer system service quality issues and analyzes and processes utility rate change requests.

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

In order to ensure the safety of water and sewer systems, thereby protecting the public health, it is necessary that this act take effect immediately.