

Introduced by Senators Wieckowski and PavleyFebruary 18, 2016

An act to amend Section 116540 of, and to add Section 116527 to, the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1263, as introduced, Wieckowski. Public water system: permits.

(1) Existing law, the California Safe Drinking Water Act, imposes on the State Water Resources Control Board various responsibilities and duties relating to providing a dependable, safe supply of drinking water. The act prohibits a person from operating a public water system unless he or she first submits an application, including a technical report, to the state board and receives a permit, as specified. The act requires the state board, upon determination that the application is complete, to make a specified investigation, and allows the state board to impose permit conditions, requirements for system improvements, and time schedules as the state board deems necessary to ensure an affordable, reliable, and adequate supply of water at all times that is pure, wholesome, and potable. The act prohibits a public water system that was not in existence on January 1, 1998, from being granted a permit unless the system demonstrates that the water supplier possesses adequate financial, managerial, and technical capability to ensure the delivery of pure, wholesome, and potable drinking water, and requires that this prohibition apply to any change of ownership of a public water system.

This bill would, commencing January 1, 2017, prohibit an application for a permit for a new public water system from being deemed complete unless the applicant has submitted a preliminary technical report to the state board, as specified, and would allow the state board to impose

technical, financial, or managerial requirements on the permit. The bill would prohibit a public water system not in existence on January 1, 1998, from being granted a permit unless the public water system demonstrates that the water supplier also possesses adequate water rights to ensure the delivery of pure, wholesome, and potable drinking water, and would specify that the prohibition applies to any change in ownership of the public water system, including the consolidation of a public water system. The bill would allow the state board to deny the permit if the state board determines that the service area of the public water system can be served by one or more currently permitted public water systems.

(2) Existing law allows the state board to delegate primary responsibility for the administration and enforcement of the act within a county to a local health officer if certain criteria are met. Existing law requires that the local primacy agency be empowered with all of the authority granted to the state board over the specified public water systems.

This bill would prohibit a local primacy agency from issuing a permit without the concurrence of the state board.

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 116527 is added to the Health and Safety
 2 Code, to read:
 3 116527. (a) Commencing January 1, 2017, an application for
 4 a permit for a new public water system under this chapter shall
 5 not be deemed complete unless the applicant has complied with
 6 the requirements of this section.
 7 (b) The applicant shall submit a preliminary technical report to
 8 the state board six months before submission of an application for
 9 a building permit for any improvement in the service area of a
 10 proposed new public water system or six months before initiating
 11 construction of any facility or component of a new public water
 12 system, whichever is earliest. This report shall include all of the
 13 following:
 14 (1) The name of each public water system for which any service
 15 area boundary is within three miles of any boundary of the
 16 applicant’s proposed public water system’s service area.

1 (2) A discussion of the feasibility of each of the adjacent public
2 water systems annexing, connecting, or otherwise supplying
3 domestic water to the service area of the applicant’s proposed
4 public water system.

5 (3) All proposed sources of domestic water supply for the
6 proposed new public water system.

7 (4) The estimated cost to construct, operate, and maintain the
8 proposed new public water system, including long-term operation
9 and maintenance costs and a proposed rate structure.

10 (5) A comparison of the cost associated with the construction,
11 operation and maintenance, and long-term sustainability of the
12 proposed new public water system to costs associated with the
13 annexation, consolidation, or connection to an existing public water
14 system.

15 (6) A discussion of all actions taken by the applicant to secure
16 a supply of domestic water from an existing public water system
17 for the service area of the proposed new public water system.

18 (7) A discussion of all actions taken by the applicant to pursue
19 a contract for managerial or operational oversight from an existing
20 public water system.

21 (c) Upon review of a preliminary technical report submitted
22 pursuant to this section, the state board may do all of the following
23 actions:

24 (1) Direct the applicant to undertake additional discussion and
25 negotiation with any existing public water system the state board
26 determines has the technical, managerial, and financial capacity
27 to provide an adequate and reliable supply of domestic water to
28 the service area of the proposed new public water system.

29 (2) Direct the applicant to report on the results of discussion
30 and negotiations conducted pursuant to paragraph (1) to the state
31 board.

32 (3) Establish a time schedule for the applicant’s performance
33 of directives issued pursuant to this subdivision.

34 (d) An applicant shall comply with the state board’s directives
35 before submitting an application for a permit under this chapter.

36 (e) The state board’s review of a preliminary technical report
37 pursuant to this section shall not be deemed approval of a project
38 or approval of any permit application submitted under this chapter.

39 SEC. 2. Section 116540 of the Health and Safety Code is
40 amended to read:

1 116540. (a) Following completion of the investigation and
 2 satisfaction of the requirements of ~~subdivisions (a) and (b)~~
 3 *paragraphs (1) and (2)*, the ~~department~~ *state board* shall issue or
 4 deny the permit. The ~~department~~ *state board* may impose permit
 5 conditions, requirements for system improvements, *technical,*
 6 *financial, or managerial requirements*, and time schedules as it
 7 deems necessary to ensure a reliable and adequate supply of water
 8 at all times that is pure, wholesome, potable, and does not endanger
 9 the health of consumers.

10 ~~(a) No~~

11 (1) A public water system that was not in existence on January
 12 1, 1998, shall *not* be granted a permit unless the *public water*
 13 *system* demonstrates to the ~~department~~ *state board* that the water
 14 supplier possesses adequate *water rights, as well as* financial,
 15 managerial, and technical capability to ensure the delivery of pure,
 16 wholesome, and potable drinking water. This section shall also
 17 apply to any change of ownership of a public water ~~system that~~
 18 ~~occurs after January 1, 1998.~~ *system, including the consolidation*
 19 *of a public water system.*

20 ~~(b) No~~

21 (2) A permit under this chapter shall *not* be issued to an
 22 association organized under Title 3 (commencing with Section
 23 18000) of the Corporations Code. This section shall not apply to
 24 unincorporated associations ~~that that~~, as of December 31, 1990,
 25 are holders of a permit issued under this chapter.

26 (b) *Notwithstanding Section 116330, a local primacy agency*
 27 *shall not issue a permit under this chapter without the concurrence*
 28 *of the state board.*

29 (c) *If the state board determines that the service area of the*
 30 *public water system addressed by an application under this article*
 31 *can be served by one or more currently permitted public water*
 32 *systems, the state board may deny the permit.*