

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2238

Introduced by Assembly Member Perea

February 24, 2012

An act to amend Section 56430 of the Government Code, to amend Section 116326 of the Health and Safety Code, and to amend Section 75125 of, and to add Section 75129.5 to, the Public Resources Code, relating to public water systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2238, as amended, Perea. Public water systems: drinking water.

Existing law requires the State Department of Public Health to administer programs to fund improvements and expansion of small community water systems using specified priorities. Existing law requires the department to encourage the consolidation of small community water systems that serve disadvantaged communities if consolidation will help the affected agencies and the state meet specified goals. Existing law allows funding of studies regarding the feasibility of consolidating 2 or more community water systems, at least one of which is a small community water system that serves a disadvantaged community. Existing law requires the department to give funding priority to projects involving physical restructuring of 2 or more community

water systems into a single, consolidated system when it is shown that the consolidation would further specified goals.

This bill would require the department to promote the consolidation of small community water systems that serve disadvantaged communities, as specified, and would require the studies performed prior to a construction project to include the feasibility of consolidating public water systems, unless the department makes a determination that consolidation is not feasible. This bill, if the local agency formation commission (LAFCO) conducted a study or service review of the consolidation within the previous 5 calendar years and found that consolidation was feasible, would require the department to consider the LAFCO's findings during the department's assessment of feasibility. This bill would also require the department to give priority to funding projects involving consolidation of ~~two~~ 2 or more community water systems when the consolidation would further specified goals.

Existing law requires LAFCOs to conduct a service review of the municipal services provided in the county, as specified, and to review all of the agencies that provide the service within a designated geographic area. Existing law permits LAFCOs to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery, as specified.

This bill would ~~require~~ *authorize* LAFCOs to also assess various alternatives for improving efficiency and affordability of infrastructure and service delivery for drinking water and wastewater services. ~~By imposing additional duties on local officials, this bill would impose a state-mandated local program.~~

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative measure, provides funding for safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. Existing law establishes the Strategic Growth Council and appropriates \$500,000 from the funding provided by the initiative to support the council and its activities. Existing law requires the council to manage and award grants and loans to support the planning and development of sustainable communities, as specified.

This bill would provide that LAFCOs intending to fund consolidation, merger, or extension of services projects for the purposes of promoting water conservation, and to support the planning and development of sustainable communities, are eligible for funding under the Safe

Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

1 SECTION 1. It is the intent of the Legislature to encourage
2 local area formation commissions to focus on the consolidation,
3 merger, or extension of public water systems, especially those
4 located in disadvantaged communities, by seeking financial
5 assistance in order to perform the necessary service reviews and
6 other appropriate studies.

7 SEC. 2. Section 56430 of the Government Code is amended
8 to read:

9 56430. (a) In order to prepare and to update spheres of
10 influence in accordance with Section 56425, the commission shall
11 conduct a service review of the municipal services provided in the
12 county or other appropriate area designated by the commission.
13 The commission shall include in the area designated for service
14 review the county, the region, the subregion, or any other
15 geographic area as is appropriate for an analysis of the service or
16 services to be reviewed, and shall prepare a written statement of
17 its determinations with respect to each of the following:

18 (1) Growth and population projections for the affected area.

19 (2) The location and characteristics of any disadvantaged
20 unincorporated communities within or contiguous to the sphere
21 of influence.

22 (3) Present and planned capacity of public facilities, adequacy
23 of public services, and infrastructure needs or deficiencies including
24 needs or deficiencies related to sewers, municipal and industrial
25 water, and structural fire protection in any disadvantaged,

1 unincorporated communities within or contiguous to the sphere
2 of influence.

3 (4) Financial ability of agencies to provide services.

4 (5) Status of, and opportunities for, shared facilities.

5 (6) Accountability for community service needs, including
6 governmental structure and operational efficiencies.

7 (7) Any other matter related to effective or efficient service
8 delivery, as required by commission policy.

9 (b) In conducting a service review, the commission shall
10 comprehensively review all of the agencies that provide the
11 identified service or services within the designated geographic
12 area. The commission may assess various alternatives for
13 improving efficiency and affordability of infrastructure and service
14 delivery within and contiguous to the sphere of influence,
15 including, but not limited to, the consolidation of governmental
16 agencies. The commission ~~shall~~ *may* comprehensively assess
17 various alternatives for improving efficiency and affordability of
18 infrastructure and service delivery for drinking water and
19 wastewater services.

20 (c) In conducting a service review, the commission may include
21 a review of whether the agencies under review, including any
22 public water system as defined in Section 116275, are in
23 compliance with the California Safe Drinking Water Act (Chapter
24 4 (commencing with Section 116270) of Part 12 of Division 104
25 of the Health and Safety Code). A public water system may satisfy
26 any request for information as to compliance with that act by
27 submission of the consumer confidence or water quality report
28 prepared by the public water system as provided by Section 116470
29 of the Health and Safety Code.

30 (d) The commission may request information, as part of a service
31 review under this section, from identified public or private entities
32 that provide wholesale or retail supply of drinking water, including
33 mutual water companies formed pursuant to Part 7 (commencing
34 with Section 14300) of Division 3 of Title 1 of the Corporations
35 Code, and private utilities, as defined in Section 1502 of the Public
36 Utilities Code.

37 (e) The commission shall conduct a service review before, or
38 in conjunction with, but no later than the time it is considering an
39 action to establish a sphere of influence in accordance with Section

1 56425 or 56426.5 or to update a sphere of influence pursuant to
2 Section 56425.

3 SEC. 3. Section 116326 of the Health and Safety Code is
4 amended to read:

5 116326. In administering programs to fund improvements and
6 expansions of small community water systems, the department
7 shall do all of the following:

8 (a) Give priority to funding projects in disadvantaged
9 communities.

10 (b) Promote the consolidation of small community water systems
11 that serve disadvantaged communities in instances where
12 consolidation will help at least one of the affected agencies and
13 the state to meet all of the following goals:

14 (1) Improvement in the quality of water delivered.

15 (2) Improvement in the reliability of water delivery.

16 (3) Reduction in the cost of drinking water for ratepayers.

17 (c) Pursuant to subdivision (b), require that feasibility studies
18 performed prior to a construction project include studies of the
19 feasibility of consolidating public water systems, if at least one of
20 the water systems serves a disadvantaged community, unless the
21 department makes a written determination that consolidation is
22 not feasible. If, within the previous five calendar years, the local
23 agency formation commission conducted a study, pursuant to
24 Section 56378 of the Government Code, or conducted a service
25 review, pursuant to Section 56430 of the Government Code, which
26 found the consolidation of the public water systems feasible, the
27 department shall consider those findings during its assessment of
28 feasibility.

29 (d) If it is shown that small community water system
30 consolidation will further the goals of subdivision (b), give priority
31 to funding construction projects that involve consolidation of two
32 or more community water systems, at least one of which is a small
33 community water system that serves a disadvantaged community,
34 into a single, consolidated system.

35 SEC. 4. Section 75125 of the Public Resources Code is
36 amended to read:

37 75125. The council shall do all of the following:

38 (a) Identify and review activities and funding programs of
39 member state agencies that may be coordinated to improve air and
40 water quality, improve natural resource protection, increase the

1 availability of affordable housing, improve transportation, meet
2 the goals of the California Global Warming Solutions Act of 2006
3 (Division 25.5 (commencing with Section 38500) of the Health
4 and Safety Code), encourage sustainable land use planning, and
5 revitalize urban and community centers in a sustainable manner.
6 At a minimum, the council shall review and comment on the
7 five-year infrastructure plan developed pursuant to Article 2
8 (commencing with Section 13100) of Chapter 2 of Part 3 of
9 Division 3 of the Government Code and the State Environmental
10 Goals and Policy Report developed pursuant to Section 65041 of
11 the Government Code.

12 (b) Recommend policies and investment strategies and priorities
13 to the Governor, the Legislature, and to appropriate state agencies
14 to encourage the development of sustainable communities, such
15 as those communities that promote equity, strengthen the economy,
16 protect the environment, and promote public health and safety,
17 consistent with subdivisions (a) and (c) of Section 75065.

18 (c) Provide, fund, and distribute data and information to local
19 governments and regional agencies that will assist in developing
20 and planning sustainable communities.

21 (d) Manage and award grants and loans to support the planning
22 and development of sustainable communities, pursuant to Sections
23 75127, 75128, 75129, and 75129.5. To implement this subdivision,
24 the council may do all of the following:

25 (1) Develop guidelines for awarding financial assistance,
26 including criteria for eligibility and additional consideration.

27 (2) Develop criteria for determining the amount of financial
28 assistance to be awarded. The council shall award a revolving loan
29 to an applicant for a planning project, unless the council determines
30 that the applicant lacks the fiscal capacity to carry out the project
31 without a grant. The council may establish criteria that would allow
32 the applicant to illustrate an ongoing commitment of financial
33 resources to ensure the completion of the proposed plan or project.

34 (3) Provide for payments of interest on loans made pursuant to
35 this article. The rate of interest shall not exceed the rate earned by
36 the Pooled Money Investment Board.

37 (4) Provide for the time period for repaying a loan made
38 pursuant to this article.

39 (5) Provide for the recovery of funds from an applicant that fails
40 to complete the project for which financial assistance was awarded.

1 The council shall direct the Controller to recover funds by any
2 available means.

3 (6) Provide technical assistance for application preparation.

4 (7) Designate a state agency or department to administer
5 technical and financial assistance programs for the disbursing of
6 grants and loans to support the planning and development of
7 sustainable communities, pursuant to Sections 75127, 75128,
8 75129, and 75129.5.

9 (e) (1) No later than July 1, 2010, and every year thereafter,
10 provide a report to the Legislature that shall include, but is not
11 limited to, all of the following:

12 (A) A list of applicants for financial assistance.

13 (B) Identification of which applications were approved.

14 (C) The amounts awarded for each approved application.

15 (D) The remaining balance of available funds.

16 (E) A report on the proposed or ongoing management of each
17 funded project.

18 (F) Any additional minimum requirements and priorities for a
19 project or plan proposed in a grant or loan application developed
20 and adopted by the council pursuant to subdivision (c) of Section
21 75126.

22 (2) A report submitted pursuant to paragraph (1) shall be
23 submitted in accordance with Section 9795 of the Government
24 Code.

25 SEC. 5. Section 75129.5 is added to the Public Resources Code,
26 to read:

27 75129.5. To support the planning and development of
28 sustainable communities, the council shall manage and award
29 financial assistance to a city, county, local area formation
30 commission, special district, nonprofit organization, or entity
31 formed pursuant to Chapter 5 (commencing with Section 6500)
32 of Division 7 of Title 1 of the Government Code, or a local agency
33 formation commission formed pursuant to Chapter 4 (commencing
34 with Section 56425) of Division 7 of Title 1 of the Government
35 Code, if at least one of the parties to the joint powers agreement
36 qualifies as an eligible applicant, for the preparation, planning,
37 and implementation of a public water system consolidation, merger,
38 or extension of services project for the purposes of promoting
39 water conservation. The financial assistance provided pursuant to
40 this section shall be funded from moneys made available pursuant

1 to subdivision (c) of Section 75065. The council shall give priority
2 to funding projects proposed by a disadvantaged community.

3 ~~SEC. 6. If the Commission on State Mandates determines that~~
4 ~~this act contains costs mandated by the state, reimbursement to~~
5 ~~local agencies and school districts for those costs shall be made~~
6 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
7 ~~4 of Title 2 of the Government Code.~~