

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE MAY 2, 2012

AMENDED IN SENATE APRIL 18, 2012

SENATE BILL

No. 962

**Introduced by Senators Anderson and Rubio
(Coauthors: Senators Dutton, Fuller, and Gaines)**

(Coauthors: Assembly Members Bill Berryhill, Garrick, Jeffries, Logue,
Nielsen, Olsen, Portantino, and Valadao)

January 11, 2012

An act to amend Sections 116380 and 116552 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 962, as amended, Anderson. Public water systems: point-of-use treatment.

Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and requires the State Department of Public Health to adopt regulations for these purposes. Under existing law, regulations adopted by the department are required to include requirements governing the use of point-of-entry and point-of-use treatment by public water systems in lieu of centralized treatment, where feasible. Existing law requires the department to adopt emergency regulations governing the permitted use of point-of-entry and point-of-use treatment by public water systems in lieu of centralized treatment and requires that these emergency regulations remain in effect until the earlier of January 1, 2014, or the effective date of the required nonemergency regulations. Existing law limits these regulations to public water systems with less than 200 service connections.

This bill would, instead, limit these regulations to public water systems with less than 500 service connections, and would require the emergency regulations to remain in effect until the earlier of January 1, 2016, or the effective date of the required nonemergency regulations.

Existing law prohibits the department from issuing a permit to a public water system to allow the use of point-of-use treatment, unless the department makes specified determinations.

This bill would additionally prohibit the department from issuing a permit to a public water system to allow the use of point-of-entry treatment, unless the department makes specified determinations. The bill would require that prior to the approval of a permit allowing installation of point-of-use or point-of-entry treatment devices, that a water system submit a capital outlay plan outlining the plan for construction of centralized treatment, as specified. The bill also would require the department to conduct a full audit of the water system's finances.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California's public water systems are required to provide
- 4 clean water to their residents.
- 5 (b) For the smallest of these water systems, especially in small
- 6 isolated communities, such as those in the central valley, the Sierra
- 7 Nevada Mountains, and the desert areas, the question of
- 8 affordability of new central treatment is foremost, especially for
- 9 systems serving customers of modest means.
- 10 (c) Many small public water systems are faced with the prospect
- 11 of heavy or insurmountable capital costs to comply with the new
- 12 rules and the need to provide safe and clean drinking water to their
- 13 customers.
- 14 (d) Many of these small systems are challenged by having to
- 15 provide clean water to widely dispersed rural residents, ~~often in~~
- 16 ~~areas with a population of 2,500 or less.~~
- 17 (e) Even though the federal and state environmental regulators
- 18 give extensions for compliance with maximum contaminant level
- 19 mandates, and some grant or loan money if available, some small

1 systems struggle to move forward and meet the ever-changing
2 maximum contaminant level mandates.

3 (f) Recently, the Australian Cooperative Research Centre for
4 Water Quality and Treatment published a report that concluded
5 that “commercially available equipment can produce safe drinking
6 water generally at a lower cost per household than centralized
7 treatment if a distribution per household network is in place.”

8 (g) The report identified a significant cost savings for small
9 towns and showed that point-of-use or point-of-entry treatment
10 devices were highly effective at producing safe and clean water,
11 even with poor quality source waters.

12 (h) Point-of-use and point-of-entry water treatment devices can
13 help bridge the compliance gap for these small systems and are a
14 cost-effective way to provide safe and clean drinking water.

15 (i) Point-of-use or point-of-entry treatment devices may be
16 employed where the drinking water enters the house or building,
17 for the purpose of reducing contaminants in the drinking water
18 distributed throughout the house or building.

19 (j) Point-of-use or point-of-entry treatment devices may be
20 employed at a single faucet or tap and used for the purpose of
21 reducing contaminants in drinking water at that one outlet. They
22 are typically installed at the kitchen faucet.

23 (k) These devices must be certified according to product
24 standards of the American National Standards Institute and other
25 third-party testing organizations.

26 (l) According to United States Environmental Protection Agency
27 and California health regulations, point-of-use or point-of-entry
28 treatment devices shall be owned, controlled, or maintained by the
29 public water system or by a person or company under contract
30 with the public water system in order to ensure proper operation
31 and maintenance and to ensure compliance with the maximum
32 contaminant levels or treatment techniques.

33 (m) The State Department of Public Health adopted emergency
34 regulations that became effective on December 21, 2010, in
35 response to the passage of Assembly Bill 2515 (Chapter 601 of
36 the Statutes of 2010), which govern the permitted use of
37 point-of-use or point-of-entry treatment devices by public water
38 systems in lieu of centralized treatment if certain conditions are
39 met.

(n) These emergency regulations limit the use of point-of-use or point-of-entry treatment devices to public water systems with fewer than 200 service connections in lieu of centralized treatment for compliance with one or more maximum contaminant levels or treatment techniques, other than for microbial contaminants, volatile organic chemicals, or radon for three years or until funding is available, whichever occurs first.

(o) This leaves many small, rural communities ~~containing 201 to 2,500 residents, inclusive, who~~ *that* suffer from poor water quality; in the predicament of having too many residents to qualify to operate under the emergency regulations, but not having the financial capability to immediately upgrade to centralized treatment.

(p) It is estimated that only 1 percent or less of the water distributed from a water treatment plant and treated to federal standards is actually consumed by the public as drinking water. The remaining 99 percent of this expensively treated water is used for irrigation, fighting fires, and other household uses, and does not need to be treated to the same standard as drinking water.

(q) The water treatment industry has available trained, professional experts who are properly licensed by the state and certified to install, operate, and maintain point-of-use or point-of-entry water systems for these small communities.

(r) Compliant and safe drinking water treatment approaches using point-of-use or point-of-entry treatment devices can be implemented in a few months, while years are required to design, obtain plan approvals for, finance, and construct central water treatment plants under California's complicated permitting process.

SEC. 2. Section 116380 of the Health and Safety Code is amended to read:

116380. (a) In addition to the requirements set forth in Section 116375, the regulations adopted by the department pursuant to Section 116375 shall include requirements governing the use of point-of-entry and point-of-use treatment by public water systems in lieu of centralized treatment where it can be demonstrated that centralized treatment is not immediately economically feasible, limited to the following:

(1) Water systems with less than 500 service connections.

1 (2) Usage allowed under the federal Safe Drinking Water Act
2 (42 U.S.C. Sec. 300f et seq.) and its implementing regulations and
3 guidance.

4 (3) Water systems that have submitted preapplications with the
5 State Department of Public Health for funding to correct the
6 violations for which the point-of-entry and point-of-use treatment
7 is provided.

8 (b) (1) The department shall adopt emergency regulations
9 governing the permitted use of point-of-entry and point-of-use
10 treatment by public water systems in lieu of centralized treatment.

11 (2) The emergency regulations shall comply with Section
12 116552, and shall comply with all of the requirements set forth in
13 subdivision (a) applicable to nonemergency regulations, but shall
14 not be subject to the rulemaking provisions of the Administrative
15 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
16 Part 1 of Division 3 of Title 2 of the Government Code). The
17 emergency regulations shall take effect when filed with the
18 Secretary of State, and shall be published in the California Code
19 of Regulations.

20 (3) The emergency regulations adopted pursuant to this
21 subdivision shall remain in effect until the earlier of January 1,
22 2016, or the effective date of nonemergency regulations adopted
23 pursuant to subdivision (a).

24 SEC. 3. Section 116552 of the Health and Safety Code is
25 amended to read:

26 116552. (a) The department shall not issue a permit to a public
27 water system or amend a valid existing permit to allow the use of
28 point-of-use or point-of-entry treatment unless the department
29 determines, after conducting a public hearing in the community
30 served by the public water system, that there is no substantial
31 community opposition to the installation of point-of-use or
32 point-of-entry treatment devices. The issuance of a permit pursuant
33 to this section shall be limited to not more than three years or until
34 funding for centralized treatment is available, whichever occurs
35 first. Prior to the approval of a permit allowing installation of
36 point-of-use or point-of-entry treatment devices, a water system
37 shall submit a capital outlay plan outlining the plan for construction
38 of centralized treatment to meet present and future water
39 requirements of the district, and the department shall certify that
40 a centralized treatment facility that complies with all state and

1 federal requirements and meets all state and federal water quality
2 standards shall be completed within five years of the application
3 for the permit.

4 (b) Additional service connections shall not be added to a water
5 system after application for a permit by a public water system for
6 point-of-use or point-of-entry treatment until centralized treatment
7 is available for all public water system connections consistent with
8 the capital outlay plan.

9 (c) Point-of-use or point-of-entry treatment devices shall be
10 certified and approved by the department for use by a water system
11 to treat the contaminants present and shall meet all required federal
12 and state water quality standards.

13 (d) For districts utilizing point-of-use or point-of-entry treatment
14 devices, the department shall conduct a full audit of the water
15 system's finances to examine why the water system does not have
16 the funding necessary to complete needed upgrades and
17 maintenance, including, but not limited to, evaluating the system's
18 fee structure to ensure it is sufficient for operations, maintenance,
19 and capital improvements, evaluating administrative costs and
20 other costs in operating the water system to meet present and future
21 water requirements of the district, and providing recommendations
22 regarding any needed additional funding, fees, or assessments.