

AMENDED IN SENATE MAY 29, 2012

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. *The bill would require the department to charge a fee to a public water system that is seeking a permit or an amendment to a permit for purposes of conducting these administrative and regulatory activities.*

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.

1 (d) Many of these small systems are challenged by having to
2 provide clean water to widely dispersed rural residents.

3 (e) Even though the federal and state environmental regulators
4 give extensions for compliance with maximum contaminant level
5 mandates, and some grant or loan money if available, some small
6 systems struggle to move forward and meet the ever-changing
7 maximum contaminant level mandates.

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

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

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

20 (i) Point-of-use or point-of-entry treatment devices may be
21 employed where the drinking water enters the house or building,
22 for the purpose of reducing contaminants in the drinking water
23 distributed throughout the house or building.

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

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

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

38 (m) The State Department of Public Health adopted emergency
39 regulations that became effective on December 21, 2010, in
40 response to the passage of Assembly Bill 2515 (Chapter 601 of

1 the Statutes of 2010), which govern the permitted use of
2 point-of-use or point-of-entry treatment devices by public water
3 systems in lieu of centralized treatment if certain conditions are
4 met.

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

12 (o) This leaves many small, rural communities that suffer from
13 poor water quality in the predicament of having too many residents
14 to qualify to operate under the emergency regulations, but not
15 having the financial capability to immediately upgrade to
16 centralized treatment.

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

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

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

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

34 116380. (a) In addition to the requirements set forth in Section
35 116375, the regulations adopted by the department pursuant to
36 Section 116375 shall include requirements governing the use of
37 point-of-entry and point-of-use treatment by public water systems
38 in lieu of centralized treatment where it can be demonstrated that
39 centralized treatment is not immediately economically feasible,
40 limited to the following:

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

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

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

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

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

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

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

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

1 a centralized treatment facility that complies with all state and
2 federal requirements and meets all state and federal water quality
3 standards shall be completed within five years of the application
4 for the permit.

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

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

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

24 (e) *In addition to any other fee the department may be*
25 *authorized to charge, the department shall charge a fee to a public*
26 *water system that is seeking a permit, or an amendment to a valid*
27 *existing permit, to allow the use of a point-of-use or point-of-entry*
28 *treatment system to cover the department's costs in conducting*
29 *activities pursuant to this section. The fee shall be sufficient to*
30 *pay, but shall not exceed, the department's costs.*