

AMENDED IN ASSEMBLY JUNE 8, 2020

AMENDED IN ASSEMBLY JUNE 2, 2020

AMENDED IN ASSEMBLY MAY 26, 2020

AMENDED IN ASSEMBLY JULY 1, 2019

SENATE BILL

No. 625

Introduced by Senator Bradford

(Principal coauthors: Assembly Members Cristina Garcia and
Jones-Sawyer)

(Coauthors: Assembly Members Calderon, Carrillo, Chau, Gipson,
Kamlager, Rendon, and Santiago)

February 22, 2019

An act to add and repeal Part 3.5 (commencing with Section 71400) of Division 20 of the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 625, as amended, Bradford. Central Basin Municipal Water District: receivership.

(1) Existing law, the Municipal Water District Law of 1911, provides for the formation of municipal water districts and grants to those districts specified powers. Existing law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district. Existing law requires the board of directors of the Central Basin Municipal Water District (CBMWD) to be composed of 8 directors until the directors elected at the November 8, 2022, election take office, when the board would be composed of 7 directors, as prescribed.

This bill would dissolve the board of directors of CBMWD and would provide that the November 3, 2020, election for directors of CBMWD shall not occur. The bill would require the Water Replenishment District of Southern California (WRD) to act as the receiver for CBMWD, would vest WRD with all necessary powers under the Municipal Water District Law of 1911 to take control of CBMWD, and would transfer all powers vested in the board of directors of CBMWD to the board of directors of WRD, except as specified. The bill would require CBMWD's board of directors to surrender all control of CBMWD and its resources to WRD.

The bill would require the Local Agency Formation Commission for the County of Los Angeles to conduct a municipal service review of CBMWD and to seek ideas through a public process for governance of CBMWD. The bill would require the commission to report the results of those activities to the Legislature, as provided.

The bill would make its provisions inoperative 18 months after the effective date of the bill and would repeal its provisions as of January 1 of the following year.

By imposing additional duties on the board of directors of CBMWD, WRD, and the Local Agency Formation Commission for the County of Los Angeles, the bill would impose a state-mandated local program.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Central Basin Municipal Water District.

(3) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) In a 2015 audit of the Central Basin Municipal Water District
4 (district), the California State Auditor concluded that the district's
5 board of directors' poor leadership, decisionmaking, and oversight
6 hinder the district's ability to meet its responsibilities. In other
7 findings, the audit states that the board violated state law in creating
8 a \$2,750,000 trust fund. In addition, the audit observed that the
9 board gave its members benefits that were too generous. The
10 California State Auditor recommended that the Legislature preserve
11 the district as an independent entity but modify its governance
12 structure to ensure it remains accountable to those it serves—it
13 could change the district's board from one elected by the public
14 at large to one appointed by the district's customers.

15 (b) In 2016, the Legislature reformed the district's board by
16 enacting Chapter 401 of the Statutes of 2016 to add three water or
17 management professionals appointed by the district's customers,
18 which are public water systems, increasing the total number of
19 directors to eight. The district does not serve water directly to
20 residents or voters. A majority of the board of a municipal water
21 district constitutes a quorum for the transaction of business, thereby
22 requiring five of the eight total district board members to form a
23 quorum or take any action.

24 (c) In late 2019, four members of the district's board (the Four
25 Directors) started asserting that a majority of the board only
26 required four board members, because one of the appointed
27 members had resigned in October 2019. Despite the parties
28 responsible for the appointment completing the required process
29 for appointment, the board has resisted swearing in an eighth
30 member.

31 (d) On January 30, 2020, the Four Directors rejected the advice
32 from the district's counsel at a public meeting that, with only four
33 members remaining, they no longer had a quorum and could not
34 legally transact district business. The Four Directors then purported
35 to appoint Leticia Vasquez as president of the board. On February
36 6, 2020, the Four Directors purported to fire the district's counsel
37 and hire another attorney, who then advised the board publicly
38 that four members of the board constituted a quorum.

1 (e) On March 6, 2020, the Los Angeles District Attorney's
2 Office (DA) sent the district's board members a letter demanding
3 that they cure the February 6, 2020, violations of the Ralph M.
4 Brown Act (Chapter 9 (commencing with Section 54950) of Part
5 1 of Division 2 of Title 5 of the Government Code). Specifically,
6 the DA demanded the cure of deficient notice of the February 6,
7 2020, "special meeting" and the insufficient votes to appoint a
8 new attorney. The board's purported attorney responded in a letter,
9 rejecting the DA's demand and arguing that four members
10 constituted a majority.

11 (f) On March 25, 2020, district customers filed *City of*
12 ~~*Commerce et al*~~ *Commerce, et al. v. Central Basin Municipal*
13 ~~*Water-District District, a Special District, et al.*~~ to void the
14 district's alleged illegal actions and stop the board of directors of
15 the district from further illegal action. In response, the board's
16 purported attorney filed an ex parte application for the superior
17 court to order that four board members constituted a majority. The
18 court denied the ex parte application, and set the trial for July 23,
19 2020, despite the board's purported attorney arguing that the district
20 needed an immediate answer because the district could not obtain
21 insurance.

22 (g) The district operates at a deficit, using its reserve funds to
23 make up the difference. It has failed to enact cost-cutting measures
24 in light of a substantial loss of water sales revenue. The district
25 has not adopted a budget for the 2020–21 fiscal year and has not
26 started the process required to impose the standby charge it has
27 imposed since 1991. Failure to approve the standby charge would
28 reduce the district's annual revenues by more than \$3,000,000.

29 (h) The district has failed to legally appoint a general manager
30 or general counsel with the necessary five directors to approve
31 those appointments. The district has failed to contract for
32 information technology support services, resulting in risk to its
33 supervisory control and data acquisition (SCADA) system, billing
34 system, payroll system, and computer network.

35 (i) In light of the COVID-19 crisis, a stable and consistent
36 drinking water supply is essential to the people of the southeastern
37 portion of the County of Los Angeles. They cannot afford to have
38 the public water systems that deliver drinking water to their taps
39 focus on conflict with the district. Their public water systems need
40 a water supply from a stable wholesale water agency.

1 (j) The problems at the district that the California State Auditor
2 identified in 2015 cannot be resolved by the district board as
3 currently constituted. Protecting the imported water supply from
4 the district requires immediate action to appoint a receiver for the
5 district while the community addresses alternatives for long-term
6 governance.

7 SEC. 2. Part 3.5 (commencing with Section 71400) is added
8 to Division 20 of the Water Code, to read:

9
10 PART 3.5. CENTRAL BASIN MUNICIPAL WATER DISTRICT
11 RECEIVERSHIP
12

13 71400. For purposes of this part, “district” means the Central
14 Basin Municipal Water District.

15 71401. Notwithstanding Chapter 1.6 (commencing with Section
16 71265) of Part 3, all of the following shall apply:

17 (a) The board of directors of the district is hereby dissolved. A
18 member of the board of directors of the district shall have no claim
19 for benefits other than those the member actually received while
20 a member of the board of directors.

21 (b) Upon the effective date of this part, the district’s board of
22 directors shall surrender all control of the district and its resources
23 to the Water Replenishment District of Southern California. The
24 members of the district’s board of directors shall surrender to
25 district staff all district property, including, but not limited to, keys,
26 mobile telephones, and credit cards, and access to district bank
27 accounts and other resources or information provided to the
28 directors in their capacity as directors.

29 (c) The board of directors of the district shall not have any
30 authority, including, but not limited to, the authority to do either
31 of the following:

32 (1) Represent the interests of the voters or public water systems
33 within the service territory of the district.

34 (2) Influence the operation of the district.

35 (d) The November 3, 2020, election for directors of the district
36 shall not occur.

37 71402. (a) The Water Replenishment District of Southern
38 California shall act as the receiver for the district.

39 (b) The Water Replenishment District of Southern California
40 shall have all necessary powers described in this division to take

1 control of the district, including, but not limited to, powers related
2 to assets, revenues, employees, facilities, and services. Financial
3 institutions holding money or other assets owned by the district
4 shall transfer control of those assets to the Water Replenishment
5 District of Southern California.

6 (c) All powers vested in the board of directors of the district are
7 hereby transferred to the board of directors of the Water
8 Replenishment District of Southern California, except that the
9 Water Replenishment District of Southern California shall not
10 have the authority to do ~~either~~ any of the following:

11 (1) Dissolve the district.

12 (2) Revise the transfer of powers from the district to the Water
13 Replenishment District of Southern California as provided in this
14 part.

15 (3) (A) *Change the wages, hours, or other terms and conditions*
16 *of employment of the district's employees, including imposing*
17 *layoffs or furloughs, unless the Water Replenishment District of*
18 *Southern California makes such changes after meeting and*
19 *conferring with a recognized employee organization representative*
20 *of the district's employees pursuant to Chapter 10 (commencing*
21 *with Section 3500) of Division 4 of Title 1 of the Government Code.*

22 (B) *Notwithstanding subparagraph (A), the Water Replenishment*
23 *District of Southern California shall have the authority to increase*
24 *wages and benefits of the district's employees.*

25 (d) The board of directors of the Water Replenishment District
26 of Southern California shall, on or before 30 days after the effective
27 date of this part, present a financial plan for managing the
28 receivership to its existing budget advisory committee.

29 (e) The Water Replenishment District of Southern California
30 shall, on or before 60 days after the effective date of this part,
31 complete the annual process required by the Uniform Standby
32 Charge Procedures Act (Chapter 12.4 (commencing with Section
33 54984) of Part 1 of Division 2 of Title 5 of the Government Code)
34 to impose the standby charge that the district has imposed annually
35 since 1991.

36 (f) The Water Replenishment District of Southern California
37 shall use only the district's revenues to pay the costs of the
38 receivership and the reasonable costs of the Local Agency
39 Formation Commission for the County of Los Angeles to complete
40 the municipal service review required pursuant to Section 71403.

1 (g) To the extent permitted under the Constitution of the United
2 States or the Constitution of the State of California, the Water
3 Replenishment District of Southern California *and the Local*
4 *Agency Formation Commission for the County of Los Angeles*
5 shall not be held liable for claims concerning the operation and
6 supply of water from the district before the commencement of the
7 receivership.

8 71403. (a) The Local Agency Formation Commission for the
9 County of Los Angeles shall, using its existing authority, conduct
10 a municipal service review of the district pursuant to Section 56430
11 of the Government Code.

12 (b) (1) The commission shall report the results of the municipal
13 service review to the Legislature in compliance with Section 9795
14 of the Government Code on or before ~~six~~ *nine* months after the
15 effective date of this part or December 31, 2020, whichever date
16 occurs later.

17 (2) The report shall focus on the element of the municipal
18 service review described in paragraph (7) of subdivision (a) of
19 Section 56430 of the Government Code by recommending
20 alternatives for long-term governance of the services of selling
21 Metropolitan Water District of Southern California water to public
22 water systems in the service territory of the district and selling
23 recycled water from the Los Angeles County Sanitation Districts.

24 (c) (1) The commission shall, through a public process, seek
25 ideas for governance of the district from all of the following:

26 (A) Customers who buy water from the district, represented by
27 the Central Basin Water Association.

28 (B) Other public agencies in or near the district's service
29 territory, including, but not limited to, the County of Los Angeles,
30 the Water Replenishment District of Southern California, and the
31 Metropolitan Water District of Southern California.

32 (C) The general public in and near the district's service territory.

33 (2) The commission shall include the results of the public
34 process in the report.

35 71404. This part shall become inoperative 18 months after the
36 effective date of this part, and, as of January 1 of the following
37 year, is repealed.

38 SEC. 3. The Legislature finds and declares that a special statute
39 is necessary and that a general statute cannot be made applicable
40 within the meaning of Section 16 of Article IV of the California

1 Constitution because of the unique need to protect the imported
2 water supply from the Central Basin Municipal Water District by
3 immediately appointing a receiver for the district while the
4 community addresses alternatives for long-term governance.

5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 a local agency or school district has the authority to levy service
8 charges, fees, or assessments sufficient to pay for the program or
9 level of service mandated by this act, within the meaning of Section
10 17556 of the Government Code.

11 However, if the Commission on State Mandates determines that
12 this act contains other costs mandated by the state, reimbursement
13 to local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.

16 SEC. 5. This act is an urgency statute necessary for the
17 immediate preservation of the public peace, health, or safety within
18 the meaning of Article IV of the California Constitution and shall
19 go into immediate effect. The facts constituting the necessity are:

20 In order to protect the imported water supply from the Central
21 Basin Municipal Water District by immediately appointing a
22 receiver for the district while the community addresses alternatives
23 for long-term governance, it is necessary that this act take effect
24 immediately.