

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE APRIL 16, 2015

SENATE BILL

No. 552

Introduced by Senator Wolk

February 26, 2015

An act to ~~add Section 116325.5 to~~ amend Sections 116681 and 116682 of the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 552, as amended, Wolk. Public water systems: disadvantaged communities: ~~drinking water standards~~. *consolidation or extension of service.*

Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and imposes on the State Water Resources Control Board various responsibilities and duties. The act authorizes the state board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. The act authorizes the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. Existing law, for these purposes, defines "disadvantaged community" to mean a disadvantaged community that is in an unincorporated area or is served by a mutual water company.

This bill would allow a community to be a "disadvantaged community" if the community is in a mobilehome park even if it is not in an unincorporated area or served by a mutual water company. The

bill would limit the authority of the state board to order consolidation or extension of service only with regard to a disadvantaged community.

The act requires the state board, before ordering consolidation or extension of service, to hold at least one initial public meeting, as specified, and to obtain written consent from any domestic well owner for consolidation or extension of service. The act provides that any affected resident within the consolidation or extended service area who does not provide written consent is ineligible, until consent is provided, for any future water-related grant funding from the state, except as specified.

This bill would provide that an initial public meeting is not required for a potentially subsumed area that is served only by domestic wells. The bill would require any domestic well owner, instead of an affected resident, within the consolidation or extended service area who does not provide written consent to be ineligible for future water-related grant funding from the state.

The act requires the state board, upon ordering the consolidation or extension of service, to adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system as determined by the Public Utilities Commission for water corporations subject to the commission's jurisdiction or the state board for all other systems. The act prohibits a consolidated water system from increasing charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customer receives a corresponding benefit.

This bill would instead authorize the Public Utilities Commission or the state board to determine the fair market value, without regard to whether the system is a water corporation subject to the commission's jurisdiction. The bill would prohibit fees or charges imposed on a customer of a subsumed water system from exceeding the cost of consolidating the water system or the extension of service to the area.

~~Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies. Existing law~~

~~requires the state board to ensure that all public water systems are operated in compliance with the act.~~

~~This bill would require, by January 1, 2017, the state board to develop a report identifying specific funding and enforcement mechanisms necessary to ensure disadvantaged communities have water systems that are in compliance with state and federal drinking water standards. The bill would require the report to identify specific legislative and administrative actions necessary to bring disadvantaged communities into compliance with safe drinking water standards.~~

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 116681 of the Health and Safety Code is
2 amended to read:

3 116681. The following definitions shall apply to this section
4 and Sections 116682 and 116684:

5 (a) “Adequate supply” means sufficient water to meet residents’
6 health and safety needs.

7 (b) “Affected residence” means a residence *within a*
8 *disadvantaged community that is* reliant on a water supply that is
9 either inadequate or unsafe.

10 (c) “Consistently fails” means a failure to provide an adequate
11 supply of safe drinking water.

12 (d) “Consolidated water system” means the public water system
13 resulting from the consolidation of a public water system with
14 another public water system, state small water system, or affected
15 residences not served by a public water system.

16 (e) “Consolidation” means joining two or more public water
17 systems, state small water systems, or affected residences not
18 served by a public water system, into a single public water system.

19 (f) “Disadvantaged community” means a disadvantaged
20 community, as defined in Section 79505.5 of the Water Code, that
21 is in an unincorporated ~~area~~ *area, mobilehome park*, or is served
22 by a mutual water company.

23 (g) “Extension of service” means the provision of service
24 through any physical or operational infrastructure arrangement
25 other than consolidation.

1 (h) “Receiving water system” means the public water system
2 that provides service to a subsumed water system through
3 consolidation or extension of service.

4 (i) “Safe drinking water” means water that meets all primary
5 and secondary drinking water standards.

6 (j) “Subsumed water system” means the public water system,
7 state small water system, or affected residences not served by a
8 public water system consolidated into or receiving service from
9 the receiving water system.

10 *SEC. 2. Section 116682 of the Health and Safety Code is*
11 *amended to read:*

12 116682. (a) Where a public water ~~system~~, *system* or a state
13 small water system within a disadvantaged ~~community~~, *community*
14 consistently fails to provide an adequate supply of safe drinking
15 water, the State Water Resources Control Board may order
16 consolidation with a receiving water system as provided in this
17 section and Section 116684. The consolidation may be physical
18 or operational. The State Water Resources Control Board may also
19 order the extension of service to an area *within a disadvantaged*
20 *community* that does not have access to an adequate supply of safe
21 drinking water so long as the extension of service is an interim
22 extension of service in preparation for consolidation. The State
23 Water Resources Control Board may set timelines and performance
24 measures to facilitate completion of consolidation.

25 (b) ~~Prior to~~ *Before* ordering consolidation or extension of service
26 as provided in this section, the State Water Resources Control
27 Board shall do all of the following:

28 (1) Encourage voluntary consolidation or extension of service.

29 (2) Consider other enforcement remedies specified in this article.

30 (3) Consult with, and fully consider input from, the relevant
31 local agency formation commission regarding the provision of
32 water service in the affected area, the recommendations for
33 improving service in a municipal service review, and any other
34 relevant information.

35 (4) Consult with, and fully consider input from, the Public
36 Utilities Commission when the consolidation would involve a
37 water corporation subject to the commission’s jurisdiction.

38 (5) Consult with, and fully consider input from, the local
39 government with land use planning authority over the affected

1 area, particularly regarding any information in the general plan
2 required by Section 65302.10 of the Government Code.

3 (6) Notify the potentially receiving water system and the
4 potentially subsumed water system, if any, and establish a
5 reasonable deadline of no less than six months, unless a shorter
6 period is justified, for the potentially receiving water system and
7 the potentially subsumed water system, if any, to negotiate
8 consolidation or another means of providing an adequate supply
9 of safe drinking water.

10 (A) During this period, the State Water Resources Control Board
11 shall provide technical assistance and work with the potentially
12 receiving water system and the potentially subsumed water system
13 to develop a financing package that benefits both the receiving
14 water system and the subsumed water system.

15 (B) Upon a showing of good cause, the deadline may be
16 extended by the State Water Resources Control Board at the request
17 of the potentially receiving water system, potentially subsumed
18 water system, or the local agency formation commission with
19 jurisdiction over the potentially subsumed water system.

20 (7) Obtain written consent from any domestic well owner for
21 consolidation or extension of service. ~~Any affected resident~~
22 *domestic well owner* within the consolidation or extended service
23 area who does not provide written consent shall be ineligible, until
24 the consent is provided, for any future water-related grant funding
25 from the state other than funding to mitigate a well failure, disaster,
26 or other emergency.

27 (8) (A) Hold at least one public meeting at the initiation of this
28 process in a place as close as feasible to the affected areas. The
29 State Water Resources Control Board shall make reasonable efforts
30 to provide a 30-day notice of the meeting to the ratepayers, renters,
31 and property owners to receive water service through service
32 extension or in the area of the subsumed water system and all
33 affected local government agencies and drinking water service
34 providers. The meeting shall provide representatives of the
35 potentially subsumed water system, affected ratepayers, renters,
36 property owners, and the potentially receiving water system an
37 opportunity to present testimony. The meeting shall provide an
38 opportunity for public comment.

39 (B) *An initial public meeting shall not be required for a*
40 *potentially subsumed area that is served only by domestic wells.*

1 (c) Upon expiration of the deadline set by the State Water
2 Resources Control Board pursuant to paragraph (6) of subdivision
3 (b), the State Water Resources Control Board shall do the
4 following:

5 (1) Consult with the potentially receiving water system and the
6 potentially subsumed water system, if any.

7 (2) Conduct a public hearing, in a location as close as feasible
8 to the affected communities.

9 (A) The State Water Resources Control Board shall make
10 reasonable efforts to provide a 30-day notice of the hearing to the
11 ratepayers, renters, and property owners to receive water service
12 through service extension or in the area of the subsumed water
13 system and to all affected local government agencies and drinking
14 water service providers.

15 (B) The hearing shall provide representatives of the potentially
16 subsumed water system, affected ratepayers, renters, property
17 owners, and the potentially receiving water system an opportunity
18 to present testimony.

19 (C) The hearing shall provide an opportunity for public
20 comment.

21 (d) ~~Prior to~~ *Before* ordering consolidation or extension of
22 service, the State Water Resources Control Board shall find all of
23 the following:

24 (1) The potentially subsumed water system has consistently
25 failed to provide an adequate supply of safe drinking water.

26 (2) All reasonable efforts to negotiate consolidation or extension
27 of service were made.

28 (3) Consolidation of the receiving water system and subsumed
29 water system or extension of service is appropriate and technically
30 and economically feasible.

31 (4) There is no pending local agency formation commission
32 process that is likely to resolve the problem in a reasonable amount
33 of time.

34 (5) Concerns regarding water rights and water contracts of the
35 subsumed and receiving water systems have been adequately
36 addressed.

37 (6) Consolidation or extension of service is the most effective
38 and cost-effective means to provide an adequate supply of safe
39 drinking water.

1 (7) The capacity of the proposed interconnection needed to
2 accomplish the consolidation is limited to serving the current
3 customers of the subsumed water system.

4 (e) Upon ordering consolidation or extension of service, the
5 State Water Resources Control Board shall do all of the following:

6 (1) As necessary and appropriate, make funds available, upon
7 appropriation by the Legislature, to the receiving water system for
8 the costs of completing the consolidation or extension of service,
9 including, but not limited to, replacing any capacity lost as a result
10 of the consolidation or extension of service, providing additional
11 capacity needed as a result of the consolidation or extension of
12 service, and legal fees. Funding pursuant to this paragraph is
13 available for the general purpose of providing financial assistance
14 for the infrastructure needed for the consolidation or extension of
15 service and does not need to be specific to each individual
16 consolidation project. The State Water Resources Control Board
17 shall provide appropriate financial assistance for the infrastructure
18 needed for the consolidation or extension of service. The State
19 Water Resources Control Board's existing financial assistance
20 guidelines and policies shall be the basis for the financial
21 assistance.

22 (2) Ensure payment of standard local agency formation
23 commission fees caused by State Water Resources Control
24 Board-ordered consolidation or extension of service.

25 (3) Adequately compensate the owners of a privately owned
26 subsumed water system for the fair market value of the system as
27 determined by the Public Utilities Commission ~~for water~~
28 ~~corporations subject to the commission's jurisdiction or the State~~
29 ~~Water Resources Control Board for all other water systems.~~ *Board.*

30 (4) Coordinate with the appropriate local agency formation
31 commission and other relevant local agencies to facilitate the
32 change of organization or reorganization.

33 (f) (1) For the purposes of this section, the consolidated water
34 system shall not increase charges on existing customers of the
35 receiving water system solely as a consequence of the consolidation
36 or extension of service unless the customers receive a
37 corresponding benefit.

38 (2) *For purposes of this section, fees or charges imposed on a*
39 *customer of a subsumed water system shall not exceed the cost of*

1 *consolidating the water system with a receiving system or the*
2 *extension of service to the area.*

3 (g) Division 3 (commencing with Section 56000) of Title 5 of
4 the Government Code shall not apply to the consolidation or
5 extension of service required pursuant to this section.

6 ~~SECTION 1. The Legislature finds and declares all of the~~
7 ~~following:~~

8 ~~(a) An estimated 500 public water systems in disadvantaged~~
9 ~~communities rely on, and have to pay high rates for, sources of~~
10 ~~drinking water that do not meet state and federal safe drinking~~
11 ~~water standards.~~

12 ~~(b) Although funding sources are available to assist~~
13 ~~disadvantaged communities with needed capital improvements,~~
14 ~~these communities often lack governance infrastructure, technical~~
15 ~~expertise, and the ability to pay for the ongoing operations and~~
16 ~~maintenance costs necessary to continue to meet the state and~~
17 ~~federal drinking water standards.~~

18 ~~SEC. 2. Section 116325.5 is added to the Health and Safety~~
19 ~~Code, to read:~~

20 ~~116325.5. (a) On or before January 1, 2017, the State Water~~
21 ~~Resources Control Board shall develop a report identifying specific~~
22 ~~funding and enforcement mechanisms necessary to ensure~~
23 ~~disadvantaged communities have water systems that are in~~
24 ~~compliance with state and federal drinking water standards.~~

25 ~~(b) The report shall identify specific legislative and~~
26 ~~administrative actions necessary to bring the disadvantaged~~
27 ~~communities into compliance with safe drinking water standards,~~
28 ~~including the following:~~

29 ~~(1) Mechanisms for identification of the specific issues and~~
30 ~~solutions for each community and any specific state or local~~
31 ~~authority that is necessary to address these issues.~~

32 ~~(2) Identification of available, and any recommended new,~~
33 ~~sources of revenue to fund ongoing operations and maintenance~~
34 ~~costs or any other costs associated with providing water at an~~
35 ~~affordable rate.~~

36 ~~(3) Other recommendations for specific actions or authorities~~
37 ~~necessary to address drinking water needs for these communities.~~