



Item No.

~ REVISED ~  
**ACTION ITEM**  
August 18, 2010

**TO:** Board of Directors

**FROM:** **Public Affairs & Legislation Committee**  
(Directors Hinman, Dick, Clark)

Kevin Hunt  
General Manager

Staff Contact: David Cordero

**SUBJECT: ESTABLISHMENT OF LEGISLATIVE POSITIONS**

**STAFF RECOMMENDATION**

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Staff recommends the Board of Directors adopt positions on the following state legislative bills:

- **AB 1260 (Fuller) – Support**  
California Water Commission: terms of office
- **AB 1265 (Caballero, Jeffries, Ma) – Support**  
Safe, Clean, and Reliable Drinking Water Supply Act of 2012: surface storage projects: submission to voters
- **AB 1975 (Fong) – Oppose unless Amended**  
Building standards: water charges and meters: multiunit structures.

**COMMITTEE RECOMMENDATION**

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Committee recommends (To be determined at Committee Meeting)

**SUMMARY**

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**AB 1260 (Fuller) – California Water Commission: terms of office**

**Summary:** This bill, with respect to the term of any member of the California Water Commission whose appointment has been confirmed by the Senate by January 1,

<b>Budgeted (Y/N):</b>	Budgeted amount:
<b>Action item amount:</b>	Line item:
<b>Fiscal Impact (explain if unbudgeted):</b>	

2011, and who is serving a term that is unexpired as of January 1, 2011, would change the expiration date of those terms to May 14, 2014. The bill, commencing on May 14, 2014, would require members succeeding to these terms to be appointed to the unexpired terms as specified by existing law.

**Analysis:** Under existing law, the California Water Commission consists of nine members who are appointed to 4-year terms by the Governor, subject to confirmation by the Senate. Existing law requires the terms of the 7 members in office as of January 1, 1958, to expire as follows: one member on January 15, 1958, 2 members on January 15, 1959, and 2 members on January 15, 1960. Existing law requires the terms of the 2 members added to the commission after January 1, 1959, to expire as follows: one member on January 15, 1962, and one member on January 15, 1963. Thereafter, the successors to the members of the commission are required to be appointed for terms of 4 years. AB 1260 changes the law and updates the term expiration dates to ensure that the governor's pending Commission appointees will be able to serve full, four-year terms prior to their replacement.

If the Safe, Clean, and Reliable Drinking Water Supply Act of 2010 is moved from the November 2010 to the November 2012 ballot and it should pass, the water commission is the state entity that would have authority over the \$3 billion of surface- and groundwater grant funds. This bill would ensure that the governor's pending appointments to the nine-member commission would serve full four-year terms prior to their replacement.

**Status:** This bill was "gutted and amended" on Thursday, August 5 and is scheduled to be heard in the Senate Natural Resources Committee on Monday, August 9.

**Recommended Position:** SUPPORT

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**AB 1265 (Caballero, Jeffries, Ma) – Safe, Clean, and Reliable Drinking Water Supply Act of 2012: surface storage projects: submission to voters**

**Summary:** AB 1265 would remove the Safe, Clean, and Reliable Drinking Water Supply Act of 2010 – officially Proposition 18 – from the November 2, 2010 statewide general election ballot. It would also amend the title of the act to the Safe, Clean, and Reliable Drinking Water Supply Act of 2012 and place it on the November 6, 2012 statewide general election ballot.

**Status:** This bill was "gutted and amended" on Thursday, August 5 to become the vehicle for moving the water bond from the November 2010 ballot to November 2012 ballot. It is scheduled to be heard in the Senate Natural Resources Committee on Monday, August 9.

**Recommended Position:** SUPPORT

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**AB 1975 (Fong) – Water charges and meters: multiunit structures.**

**Summary:** AB 1975 would:

- Require a water purveyor that provides water service to a multi-unit residential structure or mixed-use residential and commercial structure that is subject to specified building standards, to either:
  1. Adopt a general policy to require the installation of either a water meter or submeter to measure water supplied to each individual dwelling unit, or
  2. Inform, on an individual basis, an applicant for new water service as to whether a water meter or submeter is required to be installed for each individual dwelling unit.
- Require the owner of the structure to ensure that a water submeter installed for these purposes complies with laws and regulations governing installation, certification, maintenance, reading, billing, and testing of water submeters.
  1. The water purveyor would be prohibited from imposing specified fees related to the installation of submeters, and
  2. The owner of a rental structure, as specified, would be prohibited from assessing or collecting charges or fees related to water usage based on a submeter reading, from the occupants of the structure.

*(Note: The author's intent is that cleanup legislation would be adopted using taskforce recommendations that "establishes standards and procedures governing the practices of assessing and charging occupants of rental dwelling units in multiunit structures for water usage.")*
- Require the Department of Housing and Community Development to develop and submit to the commission building standards that require the installation of water meters or submeters in individual dwelling units within a newly constructed multiunit residential structure or a mixed-use residential and commercial structure, as specified.
- Authorize the department to include criteria for exemptions for certain types of residential structures and where installation is deemed infeasible.
  1. The commission, prior to adopting these proposed building standards, would be required to determine that a sufficient number of water meters and submeters are available in the market.
- Require the Department of Housing and Community Development, commencing on January 1, 2011, to convene a task force to develop recommendations for legislation to establish standards and procedures governing the practice of assessing and charging occupants of rental dwelling units in multiunit structures for water usage.

1. The department would be required to report the final recommendations of the task force to the Legislature no later than December 31, 2011.

**Analysis:** AB 1975 is intended to promote increased water conservation by requiring the installation of meters or submeters on all multi-unit residential structures. It also requires the formation of a taskforce that would make recommendations for legislation related to the development of billing standards for the use of water sub-meters. There are no established sub-meter billing standards currently in place and property owners/management companies have different methods for billing their tenants.

Staff has been monitoring this bill as it has evolved in recent months, soliciting feedback from the MWDOC client agencies, and providing general input to Metropolitan with regard to technical questions and applicability. While the bill has evolved in a positive direction and the author has been generally receptive to water industry suggestions, it appears to have reached a point where only limited amendments will be made during the final month of the legislative session.

There are two issues that have not yet been adequately resolved which prevent staff from recommending support for the bill at this time:

1. The bill allows water providers to determine whether to require installation of a water meter or submeter for each individual dwelling unit in the newly constructed multi-unit residential structures they would serve. However, the bill prohibits the owners of multi-unit residential rental structures from assessing or collecting from tenants any charges or fees associated with water usage based on a submeter reading.

This prohibition is intended to be temporary until cleanup legislation is signed into law that “establishes standards and procedures governing the practices of assessing and charging occupants of rental dwelling units in multiunit structures for water usage.” The problem with this “temporary” prohibition is that it lacks a sunset clause or some other protective measure for multi-unit rental property owners that would allow them to begin collecting charges and fees associated with their tenant’s sub-metered water use in the event that cleanup legislation never becomes law.

AB 1975 also creates a double standard that would provide protections for only renters in multiunit structures, but not for residents who live in condos and common interest developments, or sublet units. It is also unclear how this standard would be applied in multiunit structures where there are rental and owned units. Additionally, this double standard would place an undue burden on water purveyors that would be called upon to help those without billing standard protections even though the water purveyor has no authority to do so.

Staff would recommend that the bill be amended to either:

- 1) Eliminate submeters entirely from AB 1975 and simply require installation of individual meters on all units for newly constructed multiunit residential structure or mixed-use residential and commercial structure; or

- 2) Impose a December 31, 2012 sunset date for this billing prohibition, at which point owners of multi-unit residential rental structures with installed submeters on each individual unit could begin charging for water use.

The Association of California Water Agencies, Contra Costa Water District, East Bay Municipal Utility District, Metropolitan Water District of Southern California, and San Diego County Water Authority are presently seeking an amendment to the AB 1975 billing standards that would equitably apply to all multi-unit structures, regardless of whether they are rental, by deleting all references to “rental” from the bill.

2. The bill also directs that sewer use be included in the task force’s development of billing standards for submetered water use. Sewer and water use is not the same thing and sewer use is not metered. Also, outdoor water use can comprise a large portion of a multi-unit structure’s water use but it doesn’t contribute to a resident’s sewer use. Additionally, sewer and water service are often provided and billed by different agencies, so it makes no sense for the property owner to allocate the charges from one agency based on the charges of another. Finally, it is common for sewer charges to be “flat” rates that are not based on water use. Allocating sewer charges to residents based on their water use can result in some residents subsidizing others for their sewer service.

Staff would recommend supporting a second amendment being sought by the Association of California Water Agencies, Contra Costa Water District, East Bay Municipal Utility District, Metropolitan Water District of Southern California, and San Diego County Water Authority that would delete from the bill all references to “sewer,” including usage and service.

Staff recommends adoption of an “Oppose unless Amended” position on AB 1975 until such time as both proposed amendments are incorporated into the bill.

**Status:** AB 1975 is presently in the Senate Natural Resources & Water Committee. It has not yet been scheduled for a hearing.

**Recommended Position:** Oppose unless Amended

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**Attachments:**

- 1) AB 1260 (Fuller) – *an amended August 5, 2010*
- 2) AB 1265 (Caballero, Jeffries, Ma) – *as amended August 5, 2010*
- 3) AB 1975 (Fong) – *as amended August 2, 2010*