

MEETING OF THE
BOARD OF DIRECTORS OF THE
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
Jointly with the
PUBLIC AFFAIRS AND LEGISLATION COMMITTEE
March 18, 2019, 8:30 a.m.
Conference Room 101

Committee:

Director Dick, Chair
Director Thomas
Director Osborne

Staff: R. Hunter, K. Seckel, H. Baez,
D. Micalizzi, T. Dubuque, T. Baca

Ex Officio Member: Director Barbre

MWDOC Committee meetings are noticed and held as joint meetings of the Committee and the entire Board of Directors and all members of the Board of Directors may attend and participate in the discussion. Each Committee has designated Committee members, and other members of the Board are designated alternate committee members. If less than a quorum of the full Board is in attendance, the Board meeting will be adjourned for lack of a quorum and the meeting will proceed as a meeting of the Committee with those Committee members and alternate members in attendance acting as the Committee.

PUBLIC PARTICIPATION

Public comments on agenda items and items under the jurisdiction of the Committee should be made at this time.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED - Determine there is a need to take immediate action on item(s) and that the need for action came to the attention of the District subsequent to the posting of the Agenda. (Requires a unanimous vote of the Committee)

ITEMS DISTRIBUTED TO THE BOARD LESS THAN 72 HOURS PRIOR TO MEETING --

Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection in the lobby of the District's business office located at 18700 Ward Street, Fountain Valley, California 92708, during regular business hours. When practical, these public records will also be made available on the District's Internet Web site, accessible at <http://www.mwdoc.com>.

DISCUSSION ITEMS

1. LEGISLATIVE ACTIVITIES
 - a. Federal Legislative Report (Barker)
 - b. State Legislative Report (BBK)
 - c. County Legislative Report (Lewis)
 - d. Legal and Regulatory Report (Ackerman)
 - e. MWDOC Legislative Matrix
 - f. Metropolitan Legislative Matrix
2. SOUTHERN CALIFORNIA WATER ISSUES CONGRESSIONAL DELEGATION BRIEFING LUNCHEON (DC)
3. SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT – RULE 1403: ASBESTOS EMISSION FROM DEMOLITION/RENOVATION ACTIVITIES

ACTION ITEMS

4. SB 307 (ROTH) – WATER CONVEYANCE: USE OF FACILITY WITH UNUSED CAPACITY
5. SB 669 (CABALLERO) – SAFE DRINKING WATER FUND
6. SB 414 (CABALLERO) - THE SMALL SYSTEM WATER AUTHORITY ACT OF 2019
7. SOLE SOURCE CONTRACT FOR BROWN AND CALDWELL TO DEVELOP INFORMATION RELATIVE TO SMALL NON-COMPLIANT CALIFORNIA DRINKING WATER SYSTEMS
8. CALIFORNIA SPECIAL DISTRICTS ASSOCIATION (CSDA) 2020-2022 BOARD OF DIRECTORS CALL FOR NOMINATIONS – SOUTHERN NETWORK REGION, SEAT B
9. AB 533 (HOLDEN) – INCOME TAX EXCLUSION, WATER CONSERVATION OR EFFICIENCY PROGRAMS
10. AB 1194 (FRAZIER) - SACRAMENTO-SAN JOAQUIN DELTA: DELTA STEWARDSHIP COUNCIL

INFORMATION ITEMS (THE FOLLOWING ITEMS ARE FOR INFORMATIONAL PURPOSES ONLY – BACKGROUND INFORMATION IS INCLUDED IN THE PACKET. DISCUSSION IS NOT NECESSARY UNLESS REQUESTED BY A DIRECTOR.)

11. MWDOC SOCIAL MEDIA AUDIT
12. 2019 OC WATER SUMMIT (May 31, 2019)
13. EDUCATION PROGRAMS UPDATE
14. PUBLIC AFFAIRS ACTIVITIES REPORT

OTHER ITEMS

15. REVIEW ISSUES RELATED TO LEGISLATION, OUTREACH, PUBLIC INFORMATION ISSUES, AND MET

ADJOURNMENT

NOTE: At the discretion of the Committee, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated, and may be subject to action by the Committee. On those items designated for Board action, the Committee reviews the items and makes a recommendation for final action to the full Board of Directors; final action will be taken by the Board of Directors. Agendas for Committee and Board meetings may be obtained from the District Secretary. Members of the public are advised that the Board consideration process includes consideration of each agenda item by one or more Committees indicated on the Board Action Sheet. Attendance at Committee meetings and the Board meeting considering an item consequently is advised.

Accommodations for the Disabled. Any person may make a request for a disability-related modification or accommodation needed for that person to be able to participate in the public meeting by telephoning Maribeth Goldsby, District Secretary, at (714) 963-3058, or writing to Municipal Water District of Orange County at P.O. Box 20895, Fountain Valley, CA 92728. Requests must specify the nature of the disability and the type of accommodation requested. A telephone number or other contact information should be included so that District staff may discuss appropriate arrangements. Persons requesting a disability-related accommodation should make the request with adequate time before the meeting for the District to provide the requested accommodation.

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Nicholas Crockett
 Allison Leavitt

Municipal Water District of Orange County, California
Washington Update
March 12, 2019

The Trump Administration released its annual budget proposal to the Congress on March 11, 2019. Details are still being released as this report is being written. This Budget is the fiscal year that begins on October 1, 2019.

In the minds of many here in Washington, the Politico Media Publication said it best: “THIS IS YOUR ANNUAL REMINDER that the White House budget is a particularly meaningless document. A White House budget is a list of priorities. It doesn't become law or have any other tremendous import otherwise. The budget is particularly useless this year, since Democrats control the House.”

At the outset it is important to remember that the Congress has the power of the purse and will appropriate and set spending the priorities it wants. For the last several budgets, we have seen the Trump Administration severely reduce domestic spending and this year's budget is no different.

For the Department of the Interior: (quoting from the Budget Documents)

“The FY 2020 budget will continue to support water delivery and quality concerns along the Colorado River. The long-term impacts from droughts, such as those in the Colorado River Basin, can't be solved by a single wet year. Even in states such as California, where hydrologic patterns have recently been beneficial, the hydrologic system is ill equipped to address long term needs. The FY 2020 budget, through programs such as the Lower Colorado River Operations Program (\$31.3 million) and the Central Valley Project (\$144.3 million), will continue efforts in both areas to find a long-term, comprehensive solution to water supply and quality issues in Colorado and California.

Other highlights of Reclamation's FY 2020 budget proposal include:

- \$92.8 million for the Dam Safety Program, to effectively manage risks to the downstream public, property, project and natural resources and provides for risk management activities at Reclamation's high and significant hazard dams.

- \$54.8 million for the Central Valley Project Restoration Fund, to protect, restore, and enhance fish, wildlife, and associated habitats and address impacts of the Central Valley Project (CVP). Offset by discretionary receipts to be collected from project beneficiaries.
- \$2.6 million for the Desalination and Water Purification Research Program, to support new and continued projects in three funding areas -- laboratory scale research studies, pilot-scale testing projects and full-scale testing projects.
- \$11.0 million for the Science and Technology Program to support continued science and technology projects, water and power technology prize competitions, technology transfer and dissemination/outreach activities that address critical water and power management issues.
- \$36.4 million for the Site Security Program, which includes physical security upgrades at key facilities, guards and patrols, anti-terrorism program activities and security risk assessments.
- \$19.9 for the WaterSMART Program to support Reclamation's collaboration with non-federal partners in efforts to address emerging water demands and water shortage issues in the West as well as promote water conservation and improved water management."

President Donald Trump is requesting a 14 percent cut in spending for the entire Interior Department in his fiscal 2020 budget proposal. And the White House request for \$12.5 billion for Interior would shave \$2 billion from the estimated fiscal 2019 funding. It is, however, an increase compared with the \$11.5 billion the president proposed the previous year.

Some other key takeaways in the Bureau of Reclamation Budget:

- Overall cut of \$450 million
- Title XVI funded at \$3 million
- Colorado River Basin Salinity Control Project funding is up by \$1.2 million
- Dam Safety got a slight increase in funding

Again, while the White House issues a budget plan, enacting it ultimately rests with Congress. Lawmakers have consistently approved spending for Interior above the administration's suggested levels — even under a GOP-held Congress the previous two years.

Of note, the White House proposal would hike spending for offshore and onshore energy development. The Trump administration is expected to release its final five-year offshore drilling plan for 2019 through 2024 soon and vastly expand the federal waters open to energy exploration.

EPA:

The White House's proposed budget for the EPA seeks \$6.1 billion for fiscal year 2020. That would represent a 31 percent reduction over this year's enacted funding of \$8.8 billion. This is similar to previous recommendations made to Congress—which the House and the Senate have rejected.

Virtually every major EPA program would be hit, according to EPA budget request. That includes popular programs such as the two water-based state revolving funds, grants that pay for state-level environmental work and money for the Superfund clean-up program.

The budget also proposes eliminating dozens of programs at EPA. Among them are a \$9.5 million beach protection program, an \$8 million radon program, \$1.5 million in grants for leaking underground storage tanks, a \$4 million program to monitor river water contaminated by the Gold King mine spill and \$13 million for water infrastructure and environmental programs along the Mexican border.

The administration used the budget document to underscore its deregulatory priorities, including efforts to reduce the scope of federal Clean Water Act protections and to replace the Obama administration's Clean Power Plan with a narrower rule that would ease requirements for coal-fired power plants.

Again, Congressional appropriators rejected Trump's first two requests for similar cuts to EPA budgets, instead increasing funding levels seen during most of the Obama administration.

Republican lawmakers in both chambers have indicated they believe EPA's funding, now down to levels not seen in decades, has been cut as low as it can go. Around half of EPA's funding goes back out the door to states to fund water infrastructure projects, toxic clean-ups and other environmental work that enjoys broad support.

The proposed cuts to drinking water and sewer programs stand to be among its most controversial.

The Trump administration proposed slashing the two primary programs by which the federal government helps communities upgrade drinking water and sewer infrastructure by 31 percent. Specifically, the Clean Water SRF would be reduced to \$1.12 billion under the proposal, a cut of 34 percent, and the Drinking Water SRF would see a budget of \$863 million under the spending blueprint, a reduction of 26 percent from fiscal 2019 enacted levels.

The proposal also calls for a 60 percent cut to WIFIA, a newer program that loans money for water infrastructure projects at Treasury's long-term interest rate and can leverage billions more in investment. The proposal would slash that program's funding from the \$63 million it received last year down to \$25 million.

The SRFs and WIFIA are very popular with lawmakers on both sides of the aisle on Capitol Hill, and proposed cuts to the programs are usually dismissed out of hand.

All of these cuts have caused many to question the Administration's commitment to "Infrastructure" development...

The Army Corps:

The Trump administration is proposing to cut the country's builder of locks, dams, levees and ecosystem restoration projects by nearly a third at the same time it is calling for a major boost to infrastructure spending.

The White House's budget blueprint envisions a 31 percent cut to the Army Corps of Engineers, following a pattern that has spanned administrations and parties in which the water resources agency is targeted for cuts every year—which the House and the Senate typically reject.

In it, the Trump administration argues that the Corps should focus its spending on projects addressing "the most significant risks to public safety or to provide a high economic or environmental return." It calls for the agency not to begin any new projects and instead focus on those where construction is already underway. There will be more information coming out on the Army Corps budget in the coming weeks.

Earmarks:

The House and the Senate have decided, at least for this year that they would not authorize Congressionally Directed Spending or "Earmarks". See the attached letter from the new Chairwoman of the House Appropriations Committee.

Wildfire Funding:

As reported in our last Conference Call, there was \$12 Billion appropriated for wildfire related disaster relief in the funding bill that was signed into law on February 14th.

Infrastructure Bill in the New Congress:

Congressman Peter DeFazio (D-Ore.), the incoming Chairman of the House Transportation and Infrastructure Committee, continues to discuss writing a Infrastructure Bill this year. Most experienced observers question that as long as the Trump Administration sits on the sidelines—not supporting any funding streams—we are not likely to see an Infrastructure Bill pass this year. We may see elements of Infrastructure package pushed into a Surface Transportation Bill next year. The vexing issue that has yet to be resolved that we have discussed many times—how to pay for an ambitious national infrastructure bill –which would also include water infrastructure.

Washington, DC Water Luncheon:

MWDOC helped host a very well attended water briefing and luncheon on February 27, 2019. Six Members of Congress attended and participated (Representatives Calvert, Lowenthal, Cook, Levin, Chu, and Cisneros). In addition, there were many legislative staffers who attended the meeting, as well as water officials from California.

JCB 3/12/19

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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

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SHALANDA YOUNG
CLERK AND STAFF DIRECTOR
(202) 225-2771

February 28, 2019

Dear Colleague,

One of the questions I am most frequently asked by Democrats and Republicans is whether Congress will return to the practice of earmarking. I am a strong proponent of Congressionally-directed spending and believe it is imperative that Congress exercise its constitutional responsibility in determining how and where taxpayer dollars that we appropriate are spent.

Unfortunately, there is currently not the necessary bipartisan, bicameral agreement to allow the Appropriations Committee to earmark. For that reason, I do not expect Fiscal Year 2020 House spending bills to include Congressionally-directed spending.

Over the coming months, Democrats and Republicans in the House and Senate must discuss the issue of earmarks in our respective caucuses and conferences to determine member preferences, solicit ideas to ensure that taxpayer dollars are spent wisely, and when applicable, change rules to permit members to request earmarks.

I would be happy to hear your thoughts on the matter of earmarks and encourage Members over the coming months to submit ideas to houseappropriations.submissions@mail.house.gov.

Sincerely,



Nita M. Lowey
Chairwoman
House Committee on Appropriations



Memorandum

To: Municipal Water District of Orange County
From: Syrus Devers, Best Best & Krieger
Date: March 18, 2019
Re: Monthly State Political Report

Legislative Report

In General

With all the bills now introduced for 2019, BB&K is tracking 43 water-related bills for MWDOC, 34 of which are included on the Bill Matrix. This exceeds the number of bills tracked during the peak of the drought, and nearly twice the number from last year. The first round of policy committee hearings have started, albeit with limited agendas, but the activity level will jump exponentially the third week of March and continue until the deadline to hear fiscal bills in policy committees on April 26th.

In other news, Assemblyman Joaquin Arambula (D-Fresno) was arrested for misdemeanor child abuse and has taken a voluntary leave of absence. The arrest stems from a highly-publicized investigation from last December where the Assemblyman held a press conference flanked by his attorney and denied all charges. His absence temporarily reduces the number of Democrats in the Assembly to a mere 60.

WaterFix

The Senate Natural Resources and Water Committee (NR&W) heard the first of several bills attacking the WaterFix on March 12th. SB 204 (Dodd—MWDOC is opposed) seeks to insert the Legislature into the process of negotiating contracts on the State Water Project (SWP) and the JPA formed to build the tunnels. Under the guise of even more transparency, the bill would open up contract negotiations to significant delays even without legislative hearing, and possible delays of six months with hearings. Sen. Dodd is a highly successful author and the bill did pass out of committee, but not until the committee amendments were taken that called for removing the two most onerous provisions, and Sen. Dodd agreeing to work on alternatives to the remaining provisions with the SWP contractors.



NR&W is a nine member committee, and four democrats and the Chair pressed Dodd to work on amendments and bring the bill back to committee. While encouraging, Sen. Dodd does have a history of moving bills along as a “work in progress” but ultimately ignoring verbal commitments to take further amendments. Not a bad outcome, but more work to be done.

Tax on Water

Senator Monning amended his bill SB 200 to begin in the same way as SB 623 did previously. The March 11th version creates the Safe and Affordable Drinking Water Fund in the State Treasury, specifies how the funds may be spent, but does not provide a funding source. In 2017, SB 623 was not amended to include the tax on water until three weeks from the end of session.

The lobbying effort against a tax on water continues to roll out. BB&K and MWDOC staff have now met with all but three of the Orange County delegation offices¹, five member offices on the Assembly Water, Parks and Wildlife Committee, and BB&K has organized a multi-agency meeting on March 15th with Sen. NR&W Chair Henry Stern in his district office. BB&K will give an update on that meeting during the PAL Committee hearing, as well as two other member meetings scheduled to take place before the 18th. Although this is just the start of a long process, opponents of the tax are feeling like they are out ahead of the supporters at this stage.

Administrative Report

Administrative activity on policy matters has been understandably quiet over the last month as Governor Newsom continues to work on filling hundreds of vacancies in his administration, and in light of changes made to the SWRCB board last month. Budget Subcommittee testimony by administrative staff has shown that many of Newsom’s budget priorities have yet to be turned into actionable policy language.

¹ MWDOC staff also discusses the importance of the WaterFix when meeting with any office representing Southern California.

The County of Orange Report

March 13, 2019
by Lewis Consulting Group



**EDGE TO WAGNER BUT
TOO CLOSE TO CALL**



When the initial absentee ballots were counted, Mayor Don Wagner opened up an 1,800 vote lead. The lead swelled to 3,000 votes when precinct election votes were counted. Usually you would say this election is over, but to do so you would have to know the status of the Democrat's vaunted ballot harvesting program. Have those votes been counted? And if not, how many are there? As of Wednesday morning, the Registrar says there are only 9,233 ballots left to count,



although this number will increase somewhat. Unless the overwhelming majority of uncounted ballots are harvested Democrat votes, Don Wagner will be the new Orange County Supervisor from the Third District.

VOTE TOTALS AS OF WEDNESDAY A.M.

CANDIDATE	TOTAL VOTES	PERCENTAGE
WAGNER	25,017	41.6%
SANCHEZ	22,037	36.6%
MURRAY	4,496	7.5%



Lite Board Agenda on Election Day

The March 12th meeting of the Board of Supervisors led to a shorter than usual meeting undoubtedly accommodating the election day calendars of the four current Supervisors. It also provides yours truly a convenient time to place a small blemish on my near perfect record of Board meeting attendance.

One item of interest on the agenda is approval of a funding agreement to allow the widening of Oso Parkway at Antonio Parkway. Widening is needed to accommodate the future growth in the Rancho Mission Viejo area. Part of the reconstruction will require the relocation of water and sewer lines within the Santa Margarita Water District. The lion's share of the \$2.2 million project will be shouldered by the Ranch Mission Viejo LLC and the Orange County Transportation Authority, with lesser amounts required from the County and SMWD.

Revolutionary New Voting System in our Future

At the February 26, 2019 Board of Supervisors meeting, the Board of Supervisors unanimously voted to allow County Registrar Neal Kelley the ability to issue an RFP for new voting systems to accommodate 188 Vote Centers which will be strategically placed throughout the County. The Vote Centers, now allowed under state law, will bring an end to neighborhood precincts we have been accustomed to.

The Vote Centers will be open for up to ten days prior to the election. A registered voter in Orange County can vote at any of the 188 locations and can drop off completed absentee ballots as well. The life cycle of current voting machines is at their end and it is estimated that moving to the new Vote Center system will result in about \$10 million savings to the County.





ORANGE COUNTY LAFCO Update

EST. 1963

The March 13th LAFCO meeting occurred after our print deadline. The focus of the meeting is the Annual Strategic Planning Workshop. As noted by the LAFCO agenda, "The Strategic Plan Workshop will serve as the foundation for the development of an agency strategic plan and annual work plan to be considered at a future Commissioners meeting".

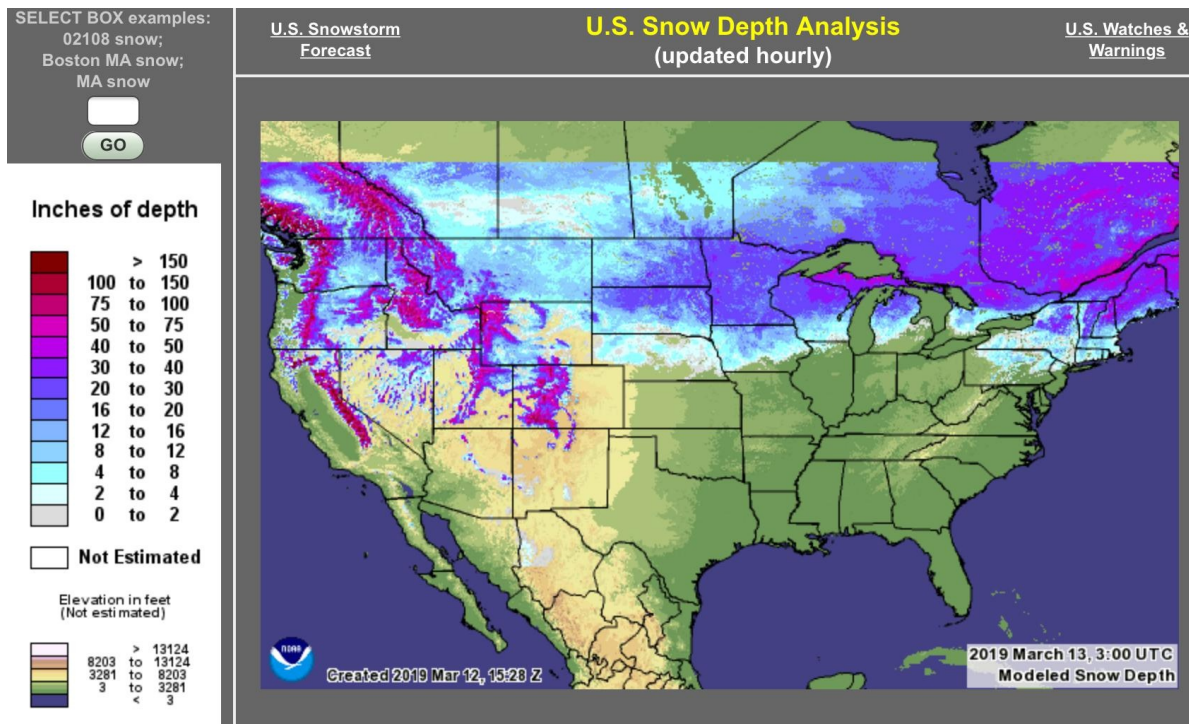
The Strategic Plan Workshop has a wide ranging agenda including:

- ◆ Assessment of LAFCO progress and accomplishments
- ◆ Discussion of public perception - How does LAFCO want to be known?
- ◆ Challenges and Opportunities - looking towards 2023
- ◆ Commission and staff expectations
- ◆ 18 month priorities

All of the above will hugely impact the direction of the Commissioner's 4th Cycle of Sphere of Influence Reviews and Updates and Municipal Services Review.

WHOA NELLIE! *

The turnaround in California's water fortune is nothing less than spectacular. The last estimate for California's Sierra snowpack was approximately 160% of normal. Mammoth Mountain has received 426 inches of snow at 9000 foot elevation. As a result, our drought has been decimated, reservoirs are nearing capacity and the only thing left to fear this year is a sudden warm El Niño rain which could unleash dangerous flooding.



* POPULARIZED BY PAT BUTTRUM, DICK LANE& KEITH JACKSON



FROM THE YEAR 2000
 "Children just aren't going to
 know what snow is"

DR. DAVID VINER
 CLIMATE SCIENTIST
 CLIMATE RESEARCH UNIT
 UNIVERSITY OF EAST ANGLIA - U.K.

California's Disappearing Drought

DROUGHT AT LOWEST POINT

About 99 percent of California is currently drought-free — a stark contrast from March 2016 during the state's historic drought.

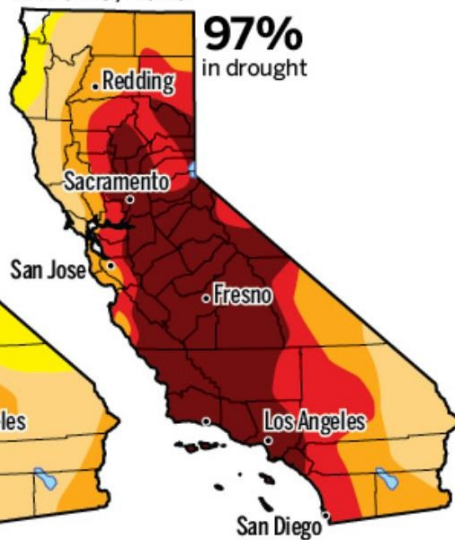
March 5, 2019



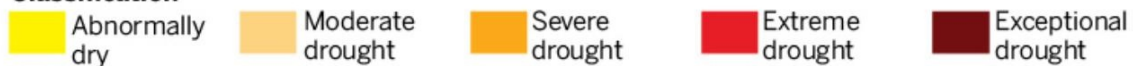
March 6, 2018



March 8, 2016

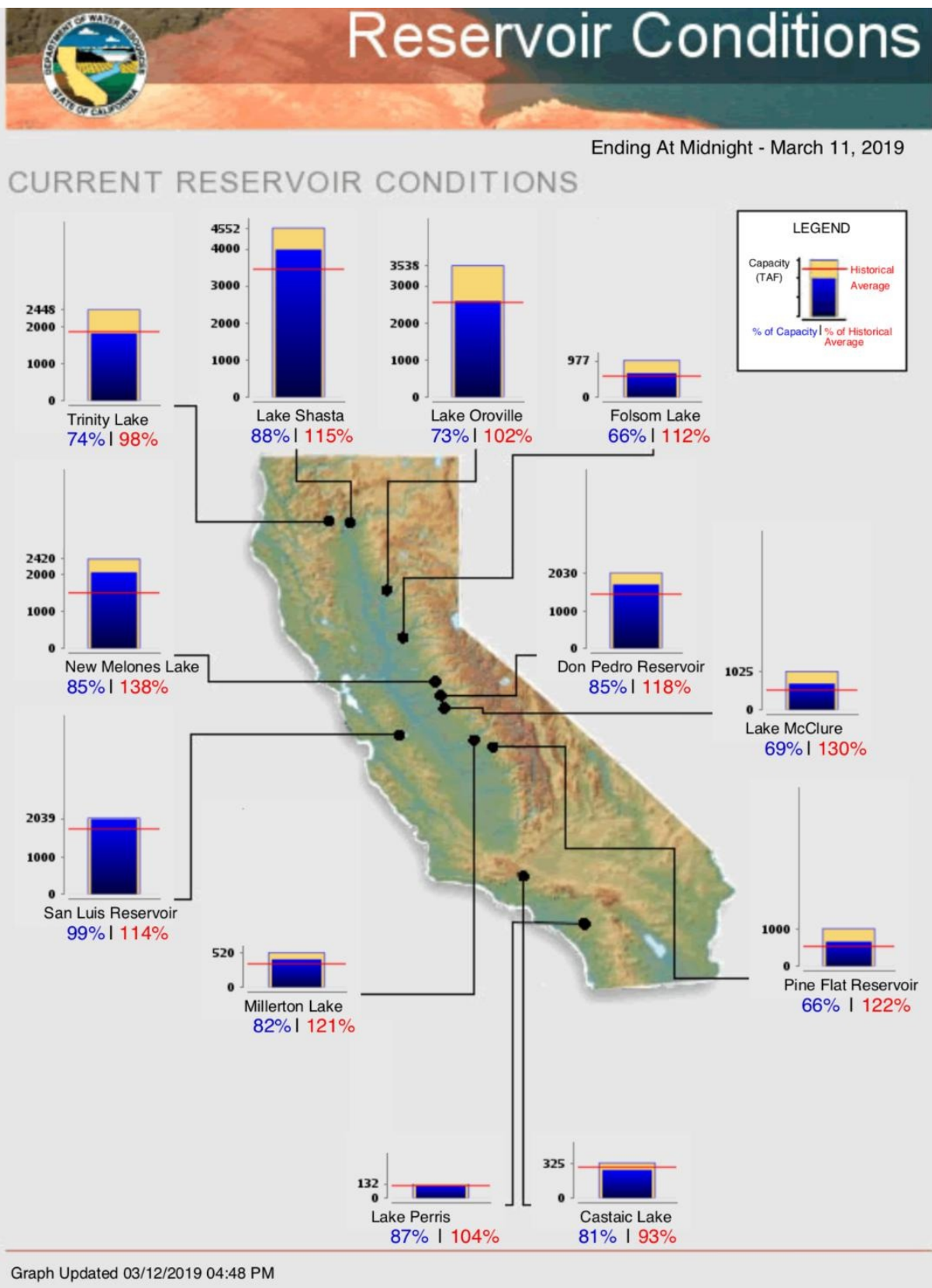


Classification



Source: U.S. Drought Monitor

BAY AREA NEWS GROUP



The highlight of this map is the much beleaguered Oroville Dam and Reservoir. Only a month ago, Oroville was still at 66% of normal capacity for that time of year. Now it is at 102% of historical capacity.

Legal and Regulatory

March 18, 2019

1. Less Dead Trees: We have reported over the past few years of the large number of trees dead or dying because of the drought. As you may recall, the biggest problem was the trees being weakened by the lack of water and being more susceptible to beetle infestation. The recent rains have changed that. The estimate for last year in California was a loss of 18 million trees, much below the trend line that was developing. More rain means stronger trees. The total since the drought began in 2010 was more 147 millions on federal, state and private land. This will still not help the wildfire situation as the majority of the dead trees are still there. They will provide fuel for any new fire. It should be noted that Governor Newsom has budgeted \$1 billion for forest management over the next five years.

2. Sativa Water District Gone: A final decision has been reached on the future of Sativa Water District which serves about 1600 homes in Compton. LA County Local Agency Formation Commission has ruled that Sativa will be disbanded and taken over by LA County Department of Public Works. While originally the cause of the smelly water was manganese in the old pipes, it was ultimately determined that wells were responsible for the dirty, smelly condition of the water. Experts said the water was actually safe but looked and smelled bad. This final action marks the first time the State Water Resources Control Board actually took over a water board. This was aided by Assembly Bill 1577 which allowed that State to take such action.

3. Sites Reservoir and MWD: The \$5.1 billion Sites Reservoir project is slowing making progress. But, its list of shareholders is changing and causing some concern to some Northern California interests. Originally, it was anticipated that all of the ownership would be Northern California water districts. However, most of those water districts have senior water rights to the Sacramento River and ample supply. They support the project in general but have not made the financial commitments necessary to push the project forward. MWD, which was a small investor to begin with, has upped its ownership and capital investment. Some folks have raised concern about this but the governing body is by law limited to Sacramento Valley water agencies. The good news is that most of the major players involved are not concerned with MWDs involvement and in fact welcome it. Some farmers are still concerned about the balance between agricultural interests and fish interests. They do want to invest in a project that will send more water to fish than the people who are paying the bill. (MWD initial interest was \$1.5 million. They have added an additional \$4.2 million.) Late addition: Congressman John Garamendi has announced he is joining with Congressman Doug LaMalfa in introducing legislation who help this project along.

4. Potter Valley Project: This issue continues to be unresolved. The diversion of the Eel River began 100 years, to provide electricity to the Ukiah Valley also provides water to the Valley and other communities along the Russian River. Now the proposal is to remove the dam at the same time PG&E wants to walk away from the

power plant. Congressman Huffman is offering a Two Basin Solution (Eel River and Russian River watersheds). Thus far, nothing is settled.

5. San Diego City Shakeup: We have previously reported on problems the City of San Diego was having with their smart meters, billing and other issues. Two weeks ago, the City announced that 5 top directors and managers in the water department had left. As a result of TV and media investigations and huge public outrage, the Mayor took action.

6. LAs Wastewater Plans: Mayor Eric Garcetti recently announced an \$8 billion, 15 plus year project to treat all of LA wastewater. Currently the City recycles about 2% of its wastewater. The plant would expand the Hyperion Water Reclamation Plant near LAX. The plan is to treat the wastewater (like OC does), transport the water 15 miles and inject into underground aquifers in LA. Currently, LA does not have the funding for this but think they can obtain bonds, grants and low interest government loans. State law does not permit this process but changes may be underway.

7. Winter Rains and Wildfires: Conventional wisdom used to be that strong winter rains would be a deterrent to summer wildfires we usually experience. A National Academy of Sciences report suggests that this may no longer be true. They put forth the idea that current fire management techniques and climate change may actually make fire risk greater. They offer as evidence the damaging fires we have experience this year after heavy rain fall seasons. They also track the North Pacific jet stream, which influences California rainfall, and point to weather patterns going back to 1900. They rely on existing data and also climate model simulations.

8. Drought and Floods to Worsen: The Pacific Institute, a water think tank, reports that California has always had variable climate and that it will continue in the future and may get worse. They conclude that we need capability to capture and retain water and improve our aging infrastructure. Atmospheric rivers which we are getting more of, usually are caused by warmer conditions. Although, this year, AR have been associated with colder conditions. These are a result of stratospheric polar vortex breakdowns. This causes cold air to settle over Canada and then come south to us. It also messes with the jets stream and makes them move around more. As the planets pole warm up faster than the tropics, the difference between the two climate zones produces different results than what we are used to. The rain moves around and we get more. Having said all that, California is not following the projected trend and is expected to get more rain in the future due to the AR action. These possible heavy rain episodes could cause extensive damage to California due to our aging dams and infrastructure. The Whittier Narrows Dam was specifically called out. We saw what happened to Oroville a few rains ago. One thing the report noted was the changes that can occur globally when one part of the climate system moves.

9. Santa Rosa Dumps Sewage: After the last rain in Santa Rosa, city officials declared an emergency as a result of high levels of rain in their systems and rivers. As a result, they released 250 million gallons of treated sewage in the two creeks and a lagoon, which drain into the Russian River. Some of the partially treated waste had to be diverted to storage basins, waiting for full treatment. Their facility also had to deal with contamination caused by the Tubbs fire in 2017 and carried by the heavy rainfall into their system. State law allows such

action in emergency situation but monitoring is required. That was not done in this case because of the short time to make a decision.

10. Santa Barbara Message: Santa Barbara is having a battle regarding the drought. The County wants to end the emergency declaration regarding the status of the drought. While the County position is correct in following the guidelines and current state of water supply, local water agencies also correctly state that Santa Barbara continues to have water shortage issues. Those agencies don't want to send conflicting messages to their residents. The drought has ended but the city's water shortage continues. The Thomas Fire has also caused water quality issues making it more difficult to treat and use water in the area. They are also expecting higher allocations from the State Water Project.

11. Trump and Biological Opinions: The Administration is trying to speed up decision-making process to get more water to farmers in the Central Valley. These reports historically take a long time to produce, review and implement. Trump is trying to expedite the process while still complying with applicable law. The effort is being opposed by environmental groups and the agencies themselves claim they do not have sufficient staff to complete the work in the time prescribed. Acting interior secretary David Bernhardt is also being criticized as he used to be a lawyer for Westlands Water District, one of the principal players in the area. These biological opinions have been under serious scrutiny for years and been criticized by both sides for their conclusions. The old debate about water supply and fish protection continues.

PAL Committee

Prepared by Best Best & Krieger for MWDOC

March, 18, 2019

A. Priority Support/Oppose

Measure	Author	Topic	Status	Brief Summary	Position	Priority	Notes 1
<u>AB 134</u>	<u>Bloom D</u>	Safe, clean, affordable, and accessible drinking water.	1/7/2019-Read first time.	Would state findings and declarations relating to the intent of the Legislature to adopt policies to ensure that every Californian has the right to safe, clean, affordable, and accessible drinking water.	Out for Analysis	A. Priority Support/Oppose	
<u>AB 217</u>	<u>Garcia, Eduardo D</u>	Safe and Affordable Drinking Water Fund.	2/4/2019-Referred to Com. on E.S. & T.M.	Would establish the Safe and Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are available, upon appropriation by the Legislature, to the board to provide a stable source of funding to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure.	Watch	A. Priority Support/Oppose	
<u>AB 223</u>	<u>Stone, Mark D</u>	California Safe Drinking Water Act: microplastics.	2/25/2019-In committee: Set, first hearing. Hearing canceled at the request of author.	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. Current law requires the state board, on or before July 1, 2020, to adopt a definition of microplastics in drinking water and, on or before July 1, 2021, to adopt a standard methodology to be used in the testing of drinking water for microplastics and requirements for 4 years of testing and reporting of microplastics in drinking water, including public disclosure of those results. This bill would require the state board, to the extent possible, and where feasible and cost effective, to work with the State Department of Public Health in complying with those requirements.	Out for Analysis	A. Priority Support/Oppose	
<u>AB 533</u>	<u>Holden D</u>	Income taxes: exclusion: water conservation or efficiency programs: water runoff	2/21/2019-Referred to Com. on REV. & TAX.	The Personal Income Tax Law and the Corporation Tax Law, in conformity with federal income tax law, generally defines "gross income" as income from whatever source derived, except as specifically excluded, and provides various		A. Priority Support/Oppose	In PAL Committee for consideration.

		management improvement program.		exclusions from gross income. This bill would provide an exclusion from gross income for any amount received as a rebate, voucher, or other financial incentive issued by a local water agency or supplier for any water conservation or efficiency program or water runoff management improvement program, as provided.			
<u>AB 756</u>	<u>Garcia, Cristina</u> D	Public water systems: perfluorooctanoic acid and perfluorooctane sulfonate.	2/28/2019- Referred to Com. on E.S. & T.M.	Would require a public water system to monitor for perfluorooctanoic acid and perfluorooctane sulfonate.	Out for Analysis	A. Priority Support/ Oppose	
<u>AB 1194</u>	<u>Frazier</u> D	Sacramento-San Joaquin Delta: Delta Stewardship Council.	3/11/2019- Referred to Com. on W., P., & W.	Would increase the membership of the Delta Stewardship Council to 13 members, including 11 voting members and 2 nonvoting members, as specified. By imposing new duties upon local officials to appoint new members to the council, the bill would impose a state-mandated local program.		A. Priority Support/ Oppose	In PAL Committee for consideration
<u>ACA 3</u>	<u>Mathis</u> R	Water: minimum funding guarantee.	1/17/2019- From printer. May be heard in committee February 16.	Would additionally require, commencing with the 2021–22 fiscal year, not less than 2% of specified state revenues to be set apart for the payment of principal and interest on bonds authorized pursuant to the Water Quality, Supply, and Infrastructure Improvement Act of 2014; water supply, delivery, and quality projects administered by the department, and water quality projects administered by the state board, as provided.	Out for Analysis	A. Priority Support/ Oppose	
<u>SB 134</u>	<u>Hertzberg</u> D	Water conservation: water loss performance standards: enforcement.	1/24/2019- Referred to Com. on N.R. & W.	Current law authorizes the State Water Resources Control Board to issue information orders, written notices, and conservation orders to an urban retail water supplier that does not meet its urban water use objective, and existing law authorizes the board to impose civil liability for a violation of an order or regulation issued pursuant to these provisions, as specified. Current law requires the board, no earlier than January 1, 2019, and no later than July 1, 2020, to adopt rules requiring urban retail water suppliers to meet performance standards for the volume of water losses. This bill would prohibit the board from imposing liability for a violation of the performance standards for the volume of water losses except as part of the enforcement of an urban water use objective.	Support	A. Priority Support/ Oppose	
<u>SB 200</u>	<u>Monning</u>	Safe and	3/11/2019-	Would establish the Safe and	Watch	A.	

	D	<i>Affordable Drinking Water Fund.</i>	<i>From committee with author's amendments. Read second time and amended. Re-referred to Com. on EQ.</i>	<i>Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the State Water Resources Control Board. The bill would require the board to administer the fund to provide a stable source of funding to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure. The bill would authorize the board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, and bequests. The bill would require the board to expend moneys in the fund for grants, loans, contracts, or services to assist eligible applicants with projects relating to the provision of safe and affordable drinking water.</i>		<i>Priority Support/ Oppose</i>	
<u>SB 204</u>	<u>Dodd D</u>	<i>State Water Project: contracts.</i>	<i>2/26/2019-Set for hearing March 12.</i>	<i>Would require the Department of Water Resources to provide at least 10 days' notice to the Joint Legislative Budget Committee and relevant policy and fiscal committees of the Legislature before holding public sessions to negotiate any potential amendment of a long-term water supply contract that is of projectwide significance with substantially similar terms intended to be offered to all contractors, or that would permanently transfer a contractual water amount between contractors.</i>	<i>Oppose</i>	<i>A. Priority Support/ Oppose</i>	
<u>SB 205</u>	<u>Hertzberg D</u>	<i>Business licenses: stormwater discharge compliance.</i>	<i>3/6/2019-Set for hearing March 20.</i>	<i>Would require, when applying to a city or a county for an initial business license or business license renewal, a person who conducts a business operation that is a regulated industry to demonstrate compliance with the NPDES permit program by providing specified information, under penalty of perjury, on the application, including, among other things, the Standard Industrial Classification code for the business. This bill would apply to all applications for initial business licenses and business license renewals submitted on and after January 1, 2020.</i>	<i>Watch</i>	<i>A. Priority Support/ Oppose</i>	
<u>SB 332</u>	<u>Hertzberg D</u>	<i>Wastewater treatment: recycled water.</i>	<i>3/5/2019-Set for hearing April 3.</i>	<i>Would declare, except in compliance with the bill's provisions, that the discharge of treated wastewater from ocean outfalls is a waste and unreasonable use of water. The bill would require each wastewater treatment facility that discharges</i>	<i>Out for Analysis</i>	<i>A. Priority Support/ Oppose</i>	

				<i>through an ocean outfall and affiliated water suppliers to reduce the facility's annual flow as compared to the average annual wastewater discharge baseline volume, as prescribed, by at least 50% on or before January 1, 2030, and by at least 95% on or before January 1, 2040. The bill would subject the owner or operator of a wastewater treatment facility, as well as the affiliated water suppliers, to a civil penalty of \$2,000 per acre-foot of water above the required reduction in overall volume discharge for the failure to meet these deadlines.</i>			
<u>SB 414</u>	<u>Caballero D</u>	<i>Small System Water Authority Act of 2019.</i>	<i>2/28/2019-Referred to Coms. on GOV. & F. and EQ.</i>	<i>Would create the Small System Water Authority Act of 2019 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified.</i>		<i>A. Priority Support/ Oppose</i>	<i>In PAL Committee for consideration</i>
<u>SB 669</u>	<u>Caballero D</u>	<i>Water quality: Safe Drinking Water Fund.</i>	<i>2/25/2019-From printer. May be acted upon on or after March 27. Read first time.</i>	<i>Would establish the Safe Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the State Water Resources Control Board. The bill would require the state board to administer the fund to assist community water systems in disadvantaged communities that are chronically noncompliant relative to the federal and state drinking water standards and do not have the financial capacity to pay for operation and maintenance costs to comply with those standards, as specified.</i>		<i>A. Priority Support/ Oppose</i>	<i>In PAL Committee for consideration</i>

B. Watch

Measure	Author	Topic	Status	Brief Summary	Position	Priority	Notes 1
<u>AB 129</u>	<u>Bloom D</u>	<i>Waste management:</i>	<i>1/7/2019-Read first time.</i>	<i>Would declare the intent of the Legislature to, among other things,</i>	<i>Out for Analysis</i>	<i>B. Watch</i>	

		<i>plastic microfiber.</i>		<i>enact legislation to recognize the emerging threat that microfibers pose to the environment and water quality and would make related findings and declarations.</i>			
<u>AB 231</u>	<u>Mathis R</u>	<i>California Environmental Quality Act: exemption: recycled water.</i>	<i>2/7/2019-Referred to Com. on NAT. RES.</i>	<i>Would exempt from CEQA a project to construct or expand a recycled water pipeline for the purpose of mitigating drought conditions for which a state of emergency was proclaimed by the Governor if the project meets specified criteria. Because a lead agency would be required to determine if a project qualifies for this exemption, this bill would impose a state-mandated local program. The bill would also exempt from CEQA the development and approval of building standards by state agencies for recycled water systems.</i>	<i>Watch</i>	<i>B. Watch</i>	
<u>AB 292</u>	<u>Quirk D</u>	<i>Recycled water: raw water and groundwater augmentation .</i>	<i>3/7/2019-Re-referred to Com. on E.S. & T.M.</i>	<i>Current law requires the State Water Resources Control Board, on or before December 31, 2023, to adopt uniform water recycling criteria for direct potable reuse through raw water augmentation, as specified. Current law defines “direct potable reuse” and “indirect potable reuse for groundwater recharge” for these purposes. This bill would eliminate the definition of “direct potable reuse” and instead would substitute the term “groundwater augmentation” for “indirect potable reuse for groundwater recharge” in these definitions. The bill would revise the definition of “treated drinking water augmentation.”</i>	<i>Watch</i>	<i>B. Watch</i>	
<u>AB 405</u>	<u>Rubio, Blanca D</u>	<i>Sales and use taxes: exemption: water treatment.</i>	<i>2/15/2019-Referred to Com. on REV. & TAX.</i>	<i>Would exempt from Sales and Use Tax the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, chemicals used to treat water, recycled water, or wastewater regardless of whether those chemicals or other agents become a component part thereof and regardless of whether the treatment takes place before or after the delivery to consumers.</i>	<i>Watch</i>	<i>B. Watch</i>	
<u>AB 441</u>	<u>Eggman D</u>	<i>Water: underground storage.</i>	<i>2/21/2019-Referred to Com. on W., P., & W.</i>	<i>Under current law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Current law provides for the reversion of water rights to which a person is entitled when the person fails to beneficially use the water for a period of 5 years. Current law declares that the storing of water underground, and related diversions</i>	<i>Watch</i>	<i>B. Watch</i>	

				<i>for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made. This bill would revise the above declaration to additionally provide that certain uses of stored water while underground constitute beneficial use.</i>			
<u>AB 591</u>	<u>Garcia, Cristina D</u>	<i>Central Basin Municipal Water District: board of directors.</i>	<i>3/11/2019- From committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV. Read second time and amended.</i>	<i>Current law requires the board of directors of the Central Basin Municipal Water District 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. Current law requires the 3 directors appointed by the water purveyors, as specified, to live or work within the district and requires the term of an appointed director to be terminated if the appointed director no longer is employed by or a representative of the appointing entity. This bill would define representative for these purposes to be a consultant or contractor of an entity, or a board member of an entity that is a mutual water company.</i>	<i>Watch</i>	<i>B. Watch</i>	<i>Watch for potential amendments relating to membership allocation on MWD</i>
<u>AB 636</u>	<u>Gray D</u>	<i>State Water Resources Control Board: water quality objectives.</i>	<i>2/19/2019- From printer. May be heard in committee March 21.</i>	<i>Would prohibit the State Water Resources Control Board from implementing water quality objectives for which the state board makes a certain finding relating to environmental quality until it has submitted the water quality objectives and a statement of that finding to the appropriate policy committees of the Legislature and each committee has held a hearing on these matters.</i>	<i>Watch</i>	<i>B. Watch</i>	
<u>AB 637</u>	<u>Gray D</u>	<i>State Water Resources Control Board: regional water quality control boards: severely disadvantaged communities: drinking water supplies.</i>	<i>3/11/2019- From committee chair, with author's amendments: Amend, and re-refer to Com. on E.S. & T.M. Read second time and amended.</i>	<i>Would prohibit the State Water Resources Control Board or a regional board from adopting or implementing any policy or plan that results in a significant reduction to the drinking water supplies that serve a severely disadvantaged community, as defined.</i>	<i>Watch</i>	<i>B. Watch</i>	
<u>AB 638</u>	<u>Gray D</u>	<i>Department of Water Resources: water storage capacity.</i>	<i>2/25/2019- Referred to Com. on W., P., & W.</i>	<i>Current law requires the Department of Water Resources to update every 5 years the plan for the orderly and coordinated control, protection, conservation, development, and use</i>	<i>Watch</i>	<i>B. Watch</i>	

				<i>of the water resources of the state, which is known as The California Water Plan. This bill would require the department, on or before January 1, 2021, with updates every 2 years thereafter, to identify the statewide water storage capacity, the adverse impacts to the capacity from the effects of climate change, and the mitigation strategies for anticipated adverse impacts.</i>			
<u>AB 658</u>	<u>Arambula D</u>	Water rights: water management.	2/25/2019- Referred to Com. on W., P., & W.	<i>Would authorize a groundwater sustainability agency or local agency to apply for, and the State Water Resources Control Board to issue, a conditional temporary permit for diversion of surface water to underground storage for beneficial use that advances the sustainability goal of a groundwater basin, as specified.</i>	Watch	B. Watch	
<u>AB 841</u>	<u>Ting D</u>	Drinking water: contaminants : perfluoroalkyl and polyfluoroalkyl substances.	3/4/2019- Referred to Com. on E.S. & T.M.	<i>Would require the Office of Environmental Health Hazard Assessment to adopt and complete a work plan within prescribed timeframes to assess which substances in the class of perfluoroalkyl and polyfluoroalkyl substances should be tested as a risk to human health. The bill would require the office, as part of those assessments, to determine which of the substances are appropriate candidates for notification levels to be adopted by the State Water Resources Control Board.</i>	Watch	B. Watch	
<u>AB 955</u>	<u>Gipson D</u>	Water quality.	2/22/2019- From printer. May be heard in committee March 24.	<i>The Porter-Cologne Water Quality Control Act establishes a statewide program for the control of the quality of all the waters in the state and makes related legislative findings and declarations. This bill would make nonsubstantive changes to the legislative findings and declarations.</i>	Watch	B. Watch	
<u>AB 1204</u>	<u>Rubio, Blanca D</u>	Public water systems: primary drinking water standards: implementation date.	3/11/2019- Referred to Com. on E.S. & T.M.	<i>Would require the adoption or amendment of a primary drinking water standard for a contaminant in drinking water not regulated by a federal primary drinking water standard or that is more stringent than a federal primary drinking water standard to take effect 3 years after the date on which the state board adopts or amends the primary drinking water standard. The bill would authorize the state board to delay the effective date of the primary drinking water standard adoption or amendment by no more than 2 additional years as necessary for capital improvements to comply with a maximum contaminant level</i>	Watch	B. Watch	

				<i>or treatment technique.</i>			
<u>AB 1220</u>	<u>Garcia, Cristina</u> D	Metropolitan water districts.	3/11/2019- Referred to Com. on L. GOV.	Would authorize each member public agency to designate and appoint additional representatives pursuant to the greater of that allowed under either the assessed valuation calculation or, on and after January 1, 2021, for each full 5% of the population within the entire district that is within the member public agency. The bill would require a district to conduct the analysis of additional directors using the Department of Finance population data and any other pertinent population data and would require the number of population-based directors authorized to remain fixed until it is recalculated, every 10 years in the year immediately following each United States census.	Out for Analysis	B. Watch	
<u>AB 1414</u>	<u>Friedman</u> D	Urban retail water suppliers: reporting.	2/25/2019- Read first time.	Would require each urban retail water supplier on or before January 1 of each year until January 1, 2024, to submit a completed and validated water loss audit report as prescribed by the Department of Water Resources. The bill would require on or before January 1, 2024, and on or before January 1 of each year thereafter, each urban retail water supplier to submit a completed and validated water loss audit report for the previous calendar year or previous fiscal year as part of an existing report relating to its urban water use.	Watch	B. Watch	
<u>AB 1588</u>	<u>Gloria</u> D	Drinking water and wastewater operator certification programs.	2/25/2019- Read first time.	Would require for purposes of water treatment operator certification experience a treatment plant using advanced water treatment processes, as defined, that treats water of wastewater origin for purposes of water reuse to be considered to provide certain equivalent experience to working at a water treatment plant. The bill would require for purposes of water distribution operator certification experience operation of a recycled water distribution system to be considered to provide equivalent experience to operating a potable distribution system.	Watch	B. Watch	
<u>SB 1</u>	<u>Atkins</u> D	California Environmental, Public Health, and Workers Defense Act of 2019.	2/12/2019-Set for hearing March 20.	Current state law regulates the discharge of air pollutants into the atmosphere. The Porter-Cologne Water Quality Control Act regulates the discharge of pollutants into the waters of the state. The California Safe Drinking Water Act establishes standards for drinking water and regulates drinking water systems.	Out for Analysis	B. Watch	

				<i>The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species, and generally prohibits the taking of those species. This bill would require specified agencies to take prescribed actions regarding certain federal requirements and standards pertaining to air, water, and protected species, as specified.</i>			
<u>SB 19</u>	<u>Dodd D</u>	Water resources: stream gages.	2/28/2019-From committee with author's amendments. Read second time and amended. Re-referred to Com. on N.R. & W.	<i>Would require the Department of Water Resources and the State Water Resources Control Board, upon an appropriation of funds by the Legislature, to develop a plan to deploy a network of stream gages that includes a determination of funding needs and opportunities for modernizing and reactivating existing gages and deploying new gages, as specified. The bill would require the department and the board, in consultation with the Department of Fish and Wildlife, the Department of Conservation, the Central Valley Flood Protection Board, interested stakeholders, and, to the extent they wish to consult, local agencies, to develop the plan to address significant gaps in information necessary for water management and the conservation of freshwater species.</i>	Out for Analysis	B. Watch	
<u>SB 45</u>	<u>Allen D</u>	Wildfire, Drought, and Flood Protection Bond Act of 2020.	3/5/2019-From committee with author's amendments. Read second time and amended. Re-referred to Com. on N.R. & W. March 12 hearing postponed by committee.	<i>Would enact the Wildfire, Drought, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in an amount of \$4,300,000,000 pursuant to the State General Obligation Bond Law to finance projects to restore fire damaged areas, reduce wildfire risk, create healthy forest and watersheds, reduce climate impacts on urban areas and vulnerable populations, protect water supply and water quality, protect rivers, lakes, and streams, reduce flood risk, protect fish and wildlife from climate impacts, improve climate resilience of agricultural lands, and protect coastal lands and resources.</i>	Out for Analysis	B. Watch	
<u>SB 307</u>	<u>Roth D</u>	Water conveyance: use of facility with unused capacity.	2/28/2019-Referred to Com. on N.R. & W.	<i>Current law prohibits the state or a regional or local public agency from denying a bona fide transferor of water from using a water conveyance facility that has unused capacity for the period of time for which that capacity is available, if fair compensation is paid for that use and other requirements are met.</i>		B. Watch	In PAL Committee for consideration

				<i>This bill would, notwithstanding that provision, prohibit a transferor of water from using a water conveyance facility that has unused capacity to transfer water from a groundwater basin underlying desert lands, as defined, that is in the vicinity of specified federal lands or state lands to outside of the groundwater basin unless the State Lands Commission, in consultation with the Department of Fish and Wildlife, finds that the transfer of the water will not adversely affect the natural or cultural resources of those federal and state lands.</i>			
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<i>Total Measures: 34</i>
<i>Total Tracking Forms: 34</i>

Metropolitan Water District of Southern California
State Legislative Matrix
March 11, 2019

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
AB 292 Quirk (D) Sponsor: WasteReuse California	Amended 3/6/2019 Assembly Environmental Safety and Toxic Materials Committee Date of Hearing: 3/12/19	Recycled water: raw water and groundwater augmentation. Would modernize definitions from AB 574 (Quirk, 2017), which Metropolitan supported. Seeks to further clarify terminology related to recycled water that more accurately reflects current uses and practices.	SUPPORT Based upon Board- adopted 2019 State Legislative Priorities and Principles	Providing outreach and education on process and benefits of recycled water is essential as California encourages increased development of recycled water supplies. AB 292 will help reduce confusion as water agencies work to increase public's comfort level with use of recycled water.
AB 441 Eggman (D) Sponsor: Author	Introduced 2/11/2019 Assembly Water, Parks and Wildlife Committee Date of Hearing: 3/26/19	Water: underground storage. Provides that certain uses of stored water while underground will constitute a beneficial use.	OPPOSE Based upon past opposition to AB 647 (Eggman) from 2015/16 and AB 1427 (Eggman) from 2017/18	Fails to provide sufficient safeguards to ensure that permanent underground storage is implemented in reasonable manner. Unchecked, diversion of water for underground storage, whether new or existing appropriation, may adversely impact other beneficial uses of water for fish and wildlife, recreation, commerce, or use by downstream diverter.

Item No. 1f

Metropolitan Water District of Southern California
State Legislative Matrix
March 11, 2019

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
AB 533 Holden (D) Sponsors: CA Water Efficiency Partnership, WaterNow Alliance, and Metropolitan	Introduced 2/13/2019 Assembly Revenue and Taxation Committee Date of Hearing: 3/18/19	Income taxes: exclusion: water conservation or efficiency programs: water runoff management improvement program. Would exclude from gross income, under both personal and corporation income tax laws, amounts received as rebate, voucher, or other financial incentive issued by local water agency for participation in water efficiency program or storm water runoff improvement program.	CO-SPONSOR Based upon Board-adopted 2019 State Legislative Priorities and Principles	Water providers need broad array of tools to increase participation in water use efficiency programs to further achieve water use savings. Utility-sponsored financial incentives are effective measures, and their appeal increases if rebates are excluded from taxable income.
AB 654 B. Rubio (D) Sponsors: California Municipal Utilities Association (CMUA) and California Special Districts Association (CSDA)	Introduced 2/15/2019 Assembly Judiciary Committee Date of Hearing: 3/26/19	Public records: utility customers: disclosure of personal information. Authorizes local agency to voluntarily release customer information to another governmental agency for scientific, research, or educational purposes, and if receiving agency agrees to maintain information as confidential.	SUPPORT Based upon Board-adopted 2019 State Legislative Priorities and Principles	Data sharing is state policy objective, with intent to improve decision making. Measure will facilitate voluntary exchange of customer data information for prescribed uses to further improve customer programs and projects, while providing protections to ensure information remains confidential.

Metropolitan Water District of Southern California
State Legislative Matrix
March 11, 2019

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
AB 1194 Frazier (D) Sponsor: Delta Counties Caucus	Introduced 2/21/2019	Sacramento-San Joaquin Delta: Delta Stewardship Council. Will increase membership of Delta Stewardship Council from seven members to 13 members, all representing in-Delta interests.	OPPOSE Based upon past opposition to AB 1876 (Frazier) from 2017/18	Fails to recognize the importance of statewide approach to advancing progress in Sacramento-San Joaquin Delta as encompassed in comprehensive package of reforms embedded in Delta Reform Act of 2009.
AB 1204 B. Rubio (D) Sponsor: Association of California Water Agencies (ACWA)	Introduced 2/21/19	Public water systems: primary drinking water standards: implementation date. Requires State Water Resources Control Board (SWRCB) to allow water providers reasonable period of time to complete work required to comply with new Maximum Contaminant Levels (MCLs), without being found in violation. Specifically proposes that any drinking water standards (MCL or treatment technique) adopted or amended by SWRCB will only be effective three years after initial date of adoption. Also grants SWRCB authority to allow up to two additional years to comply with standards, if it determines that more time is necessary for capital improvements.	SUPPORT Based upon Board-adopted 2019 State Legislative Priorities and Principles	Positive impact to Metropolitan and its member agencies as it would establish fair and reasonable compliance period similar to that of U.S. Environmental Protection Agency.
AJR 8 Quirk (D) Sponsor: Author	Introduced 2/15/2019	Invasive species: Federal Nutria Eradication and Control Act of 2003. Requests that U.S. Congress add California to Nutria and Eradication and Control Act of 2003, and appropriate \$4 million for nutria eradication in California.	SUPPORT Based upon Board-adopted 2019 State Legislative Priorities and Principles	Invasive species create significant, long-term burdens that require significant investments to either control and/or eradicate. Presence of nutria within Delta represents significant threat to water supply and quality, and levee stabilization.

Metropolitan Water District of Southern California
State Legislative Matrix
March 11, 2019

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
SB 19 Dodd (D) Sponsor: The Nature Conservancy	Introduced 2/28/2019 Senate Natural Resources and Water Committee Date of Hearing: 3/12/19	Water resources: stream gages. Requires Department of Water Resources and State Water Resources Control Board to develop plan to implement network of stream gages that includes determination of funding and opportunities to modernize existing network of gages, in consultation with other stakeholders.	SUPPORT Based upon past support for SB 919 (Dodd) from 2017/18	Currently no comprehensive or authoritative database on gage locations exists, and ability to link measurements to water quantity and water quality is essential for sound, informed water management decisions statewide. Metropolitan supported the Open and Transparent Water Data Act (AB 1755 Dodd, 2016), and improving gage data is consistent with purpose of Act.
SB 204 Dodd (D) Sponsor: Delta Counties Caucus	Introduced 2/4/2019 Senate Natural Resources and Water Committee Date of Hearing: 3/12/19	State Water Project: contracts. Would require Delta Conveyance Design and Construction Authority (DCA) to submit terms and conditions of any contract for planning, design and construction to Joint Legislative Budget Committee (JLBC) and relevant policy and fiscal committees within 60 days of final approval. Further requires that if JLBC or relevant policy and fiscal committees hold hearing to review contract, contract may not be approved for 90 days until after first review hearing is convened.	OPPOSE UNLESS AMENDED Based upon Board-adopted 2019 State Legislative Priorities and Policies	While Metropolitan understands author's interest to further transparency and sharing of information regarding future State Water Project contract amendments and DCA contracting, his measure would significantly delay action to advance a Delta conveyance solution or in modifying SWP contracts in way that meets needs of population, economy, environment, and farms.

Metropolitan Water District of Southern California
State Legislative Matrix
March 11, 2019

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
SB 241 Moorlach (R) Sponsor: Author	Introduced 2/11/19 Senate Governance and Finance Committee	Public agencies: joint powers authorities: contracts. Would require Joint Powers Authorities formed pursuant to Joint Exercise of Powers Act to have each member agency of joint power authority (JPA) to approve and ratify each MOU negotiated between JPA and its employees for each contract for municipal services or functions.	OPPOSE UNLESS AMENDED Based upon Board- adopted 2019 State Legislative Priorities and Principles	Joint powers authorities for Delta, as well as other JPAs including Metropolitan as member, would be required to follow this requirement, requiring more work, delays, and possibly obstacles for getting work done.
SB 414 Caballero (D) Sponsor: Eastern Municipal Water District and California Municipal Utilities Association (CMUA)	Introduced 2/20/2019 Senate Governance and Finance Committee	Small System Water Authority Act of 2019. Authorizes State Water Resources Control Board (SWRCB) to merge small, non-noncompliant public water systems into regional water authority that will directly benefit from increased economies of scale and access to public financing.	SUPPORT Based upon past support for AB 2050 (Caballero) from 2017/18	SB 414 sets deadline for small water systems to comply with safe drinking water standards or consolidate into regional authority managed by SWRCB-appointed contractor until water system achieves self-sufficiency, complies with drinking water standards, and can reliably provide access to safe drinking water.



Item No. 2

DISCUSSION ITEM

March 18, 2019

TO: **Public Affairs and Legislation Committee**
(Directors Dick, Osborne and Thomas)

FROM: **Robert Hunter, General Manager**

Staff Contact: Heather Baez

**SUBJECT: SOUTHERN CALIFORNIA WATER ISSUES CONGRESSIONAL
 DELEGATION BRIEFING LUNCHEON**

STAFF RECOMMENDATION

Staff recommends the Public Affairs and Legislation Committee receive and file the report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

REPORT

CONGRESSIONAL BRIEFING

On Wednesday, February 27, MWDOC co-hosted a luncheon during the ACWA conference in Washington D.C., partnering with regional neighbors Eastern Municipal Water District (EMWD), Inland Empire Utilities Agency (IEUA), and Western Municipal Water District (WMWD).

The luncheon had roughly 60 attendees from the sponsoring and member agencies, members of congress and their staff. It was emceed by IEUA/MET Director Jasmin A. Hall. The focus and theme of the luncheon was infrastructure, highlighting the importance of the CA WaterFix project.

Budgeted (Y/N): Y	Budgeted amount: \$1,000 food and materials	Core X	Choice __
Action item amount: None		Line item: 31-7670	
Fiscal Impact (explain if unbudgeted):			

MWDOC's representatives at the luncheon were Director Yoo Schneider, Rob Hunter, Heather Baez, Melissa Baum-Haley and MWDOC's Washington D.C. advocate, Jim Barker.

Members of Congress who attended and spoke include: Congressman Ken Calvert, Congressman Mike Levin, Congresswoman Judy Chu, Congressman Alan Lowenthal, Congressman Paul Cook, and Congressman Gil Cisneros (unable to stay and speak, but did stop by briefly). Staff from all of these offices attended and many stayed for all of the presentations.

Staff from the following offices also attended: Congresswoman Katie Porter, Congressman Lou Correa, Congresswoman Norma Torres, and Congressman Raul Ruiz.

LUNCH PRESENTATIONS

The following agencies also made presentations to the group:

Eastern Municipal Water District
Inland Empire Utilities Agency
Municipal Water District of Orange County
Western Municipal Water District
Irvine Ranch Water District
South Coast Water District
Elsinore Valley Municipal Water District
Rancho California Water District
Cucamonga Valley Municipal Water District

The preliminary direct expenses for the luncheon are estimated to be as follows:

Catering	\$712.50
Materials (USB Drives)	\$286.17
Total	\$998.67

The cost of the luncheon and materials is included in the Governmental Affairs budget.



DISCUSSION ITEM

March 18, 2019

TO: Public Affairs and Legislation Committee
(Directors Dick, Osborne, and Thomas)

FROM: Robert Hunter, General Manager

Staff Contact: Heather Baez

**SUBJECT: SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT – RULE 1403:
ASBESTOS EMISSION FROM DEMOLITION/RENOVATION ACTIVITIES**

STAFF RECOMMENDATION

Staff recommends the Public Affairs and Legislation Committee receive and file this report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

BACKGROUND

Governed by a 13-member Board, the South Coast Air Quality Management District (SCAQMD) is the air pollution control agency for all of Orange County and the urban portions of Los Angeles, Riverside, and San Bernardino Counties. Responsible for controlling emissions primarily from stationary sources of air pollution -- from businesses and residences -- in the South Coast Air Basin, SCAQMD develops and adopts an Air Quality Management Plan that serves as the blueprint for compliance with federal and state clean air standards.

Rules to reduce emissions are adopted, and regularly updated, by SCAQMD which issues permits to businesses and industries to ensure compliance with air quality rules. Also, SCAQMD staff conducts periodic inspections to ensure compliance with these rules.

Budgeted (Y/N): N/A	Budgeted amount: n/a	Core X	Choice __
Action item amount: None	Line item:		
Fiscal Impact (explain if unbudgeted):			

SUMMARY

December 2018

One of the rules that SCAQMD recently proposed to amend is [Rule 1403: Asbestos Emissions from Demolition/Renovation Activities](#). In mid-December, the Proposed Amended Rule (PAR) 1403 came to the attention of MWDOC, several member agencies (i.e., East Orange County Water District, Mesa Water District, Yorba Linda Water District, etc.), and the City of Anaheim. By that time, SCAQMD had held several construction industry workgroups, but no workgroups with buried utility agencies. In fact, because of the “Demolition/Renovation” title of this rule, buried utility agencies were unaware that the proposed amendments were applicable to buried pipe repairs.

In late December, SCAQMD held a workshop with several dry utility agencies (i.e., cable, electric, gas, etc.). At this point, the City of Anaheim and several MWDOC member agencies sent a coalition letter to an SCAQMD staff member expressing Orange County water agencies’ concerns with PAR 1403, suggesting edits to the proposed amendments, and requesting that SCAQMD conduct outreach to water utilities. This did not transpire and SCAQMD did not respond to this coalition letter.

January 2019

By early January, it became obvious that SCAQMD staff planned to proceed with recommending that its Governing Board adopt PAR 1403, which would have applied to buried utilities with Asbestos Cement (“AC”) Pipe, for small, large, planned, and unplanned repairs. Many Orange County utilities have high percentages of AC Pipe in their water systems and PAR 1403 would have resulted in costly delays, overly burdensome processes, and unsafe conditions for water customers, workers, and the general public during water infrastructure repairs without any evidence that the air quality would be improved by PAR 1403. Further, no economic feasibility analysis was conducted for PAR 1403 by SCAQMD.

MWDOC staff was contacted by Mesa Water regarding forming a member agencies’ coalition to advocate for Orange County water utilities’ interests. MWDOC staff suggested bringing this item to the next MWDOC Member Agencies Managers Meeting to brief the agencies who may not be directly involved to obtain additional support. MWDOC, its member agencies, and several buried utility agencies throughout the South Coast Air Basin quickly formed and activated a Buried Utilities Coalition (“BUC”).

On January 24, the BUC sent a letter to SCAQMD Governing Board members, their consultants/assistants, and staff members expressing the coalition’s concerns and requests regarding PAR 1403. Following receipt of this letter, SCAQMD staff recommended to its Board that PAR 1403 be withdrawn from adoption consideration. Since that time, the item has not been re-agendized and SCAQMD staff informed the BUC that it will hold at least one workgroup meeting with the coalition. To date, no such meeting has been set.

February 2019

On February 13, about two dozen OC BUC members met with SCAQMD Governing Board member for Orange County Dwight Robinson, his consultant Matt Holder, and James Dinwiddie, the consultant to Lisa Bartlett as incoming SCAQMD Governing Board member for Orange County. At this meeting, the coalition members presented a list of requests

along with the results of a Water Research Foundation study showing non-detect of asbestos in air samples collected during buried AC Pipe repairs.

COMMENTS

Since the February 13 meeting, the BUC continues its advocacy and consensus-building among impacted agencies and associations throughout the South Coast Air Basin. Now over 100 members strong, and growing, the BUC comprises dry and wet utility agencies (except sanitation districts which have formed their own coalition) in all four counties within SCAQMD's jurisdiction, including: MWDOC and its members; Met and several of its members; American Water, Cal Water, and several ACWA members from Regions 8, 9 and 10; ACC-OC; City of Los Angeles and LADWP; Liberty Utilities; OCBC; Riverside PUC; SCE; Sempra and So. Cal Gas; and several other organizations.

The BUC's advocate continues to communicate with SCAQMD, monitor its activities, and report back to the BUC which holds regular conference calls, with the most recent call conducted on March 7, 2019. The latest development is that SCAQMD staff are inconsistently applying Rule 1403, with SCAQMD staff now claiming that asphalt contains asbestos and thus Rule 1403 applies to all road repairs. If so applied, PAR 1403 would have even broader cost, public health, and public safety implications and negatively impacting not only dry and wet buried utilities' work but also any/all road work by cities, counties, and transportation agencies throughout the South Coast Air Basin.

Given this recent development, the BUC is working to add more organizations to its coalition including cities, counties, special districts, and transportation agencies (i.e., OCTA, SBCTA, TCA, etc.), as well as the: California State Association of Counties; Councils of Governments in all four counties; League of California Cities; and, Southern California Association of Governments. Members of the BUC also continue to communicate concerns and requests regarding PAR 1403 with their representatives on SCAQMD's Governing Board and their consultants/assistants, as well as staff.

Lastly, in addition to requesting a workgroup with SCAQMD staff, the BUC has issued several requests to SCAQMD staff for a roundtable discussion meeting. One such meeting was confirmed with SCAQMD staff, which later cancelled the meeting. The BUC asked SCAQMD staff to provide several date/time options for a meeting in late March or beyond. As of the writing of this memo, SCAQMD has not replied.

At the BUC's most recent conference call on March 7th:

- Yorba Linda Water District (YLWD) suggested that it would be helpful if the coalition could provide SCAQMD with a PowerPoint presentation -- with graphics, images, and video -- that showcases a water utility's safe practices in handling AC Pipe repairs;
- YLWD volunteered to have a crew document one of its AC Pipe repair jobs; and,
- Mesa Water mentioned that the social media consulting firm, HashtagPinpoint, may be able to put something like this together being that #P is retained by YLWD, Mesa Water, and MWDOC.

Attached:

December 19 Coalition Letter

January 24 Coalition Letter

February 13 Working Group Meeting Agenda

Working Group Proposed List of Amendments

December 19, 2018

Don Hopps
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Subject: Proposed Revisions to Rule 1403 – Asbestos Emissions from Demolition / Renovation Activities

Dear Mr. Hopps:

The water agencies of Orange County recently learned that the South Coast Air Quality Management District (AQMD) is proposing to revise Rule 1403 (Asbestos Emissions from Demolition / Renovation Activities) and the AQMD intends to consider adopting the Proposed Rule on February 7, 2019. We are concerned that despite holding several workshops, revisions to this rule have not been fully communicated to the water industry. Therefore, we request that AQMD postpone adopting the Rule, as we have not had time to fully evaluate the impacts to our operations. The Proposed Rule refers to Proposed Rule 1403 dated October 31, 2018. As water utilities, the undersigned agencies use asbestos cement (AC) pipes in our water distribution systems. When handled properly, these pipelines pose no risk to our customers or the public.

We are concerned that AQMD does not explicitly define loss of water service as an emergency event. As written, it appears that the Proposed Rule would place the burden of proof on water utilities to justify that an AC pipe break is truly an emergency. We are concerned that leaving this interpretation to enforcement staff could cause water purveyors to be subject to violation. Any loss of water service is an emergency, and this should be reflected in the Rule.

We are troubled that the Proposed Rule will prohibit water purveyors from completing repairs in a timely manner. We understand AQMD expects that when a main breaks, the utility may repair the main break, but may not patch or repair the street until the site has been surveyed and AQMD has approved further work. This approach presents an unacceptable safety risk. Main breaks cannot always be safely secured. These unstable excavations can pose a risk to motorists, pedestrians, and our workers if not properly backfilled. Because trained workers would already be on-scene responding to a main break, it does not make sense to delay repairs to the street.

We understand that a revised draft will be released for public review prior adoption by your Board. We hope that AQMD intends to release a substantially revised next draft, as we have many additional concerns with the Proposed Rule as written. In the meantime, we have the following recommendations:

- Adoption of the Proposed Rule should be delayed until additional outreach has been conducted with water utilities.
- The Proposed Rule should explicitly include loss of water service as an emergency event.
- The Proposed Rule should allow utilities to fully complete repairs, including patching the street, without delay.

Water agencies of Orange County:



Anaheim Public Utilities



City of Buena Park



East Orange County
Water District



City of Fountain Valley



City of Fullerton



City of Garden Grove



Golden State Water Company



City of Huntington Beach



Irvine Ranch Water
District



City of La Palma



Mesa Water District



City of Newport Beach



City of Orange



City of Santa Ana



City of Seal Beach



Serrano Water District



City of Tustin



City of Westminster



Yorba Linda Water District



City of Brea



El Toro Water District



Emerald Bay Service District



Moulton Niguel Water District



Santa Margarita Water District



South Coast Water District



Trabuco Canyon Water District



Laguna Beach County Water District



City of San Juan Capistrano

January 24, 2019

Mr. Wayne Nastri
Executive Officer
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Subject: Proposed Amended Rule 1403—Asbestos Emissions from Demolition/Renovation Activities

Dear Mr. Nastri,

Please accept this letter as a request to delay the scheduled consideration of Proposed Amended Rule 1403 (*Asbestos Emissions from Demolition/Renovation Activities*) by the South Coast Air Quality Management District (SCAQMD) Governing Board on February 1, 2019. As SCAQMD stakeholders and providers of essential public services to residents and businesses throughout the South Coast Air Basin, we respectfully request additional time to meet with your staff on revisions to the proposed amendments to Rule 1403 to ensure consistency with existing regulations and to reduce the impacts of these revisions on our operations.

To comply with the proposed amendments to Rule 1403 as currently written, the SCAQMD may force facility owners and operators of buried utilities to prolong the exposure of renovated sections of buried pipe while on-site surveys are performed, even if Asbestos-Containing Materials (“ACM”) is assumed, therefore increasing the public’s potential exposure to ACM. Additionally, due to the substantial repetition of work with ACM buried pipe, our inability to avoid a wait-period with a generalized Procedure 5 plan will cause severe delays and interruptions in service for our customers. Our concerns regarding Rule 1403’s revisions, around which we are seeking additional time to fully evaluate their potential implications, are summarized below:

- The amended rule as written presents new requirements that will increase air emissions and public health risks which have not been evaluated by SCAQMD staff. An increase in emissions will be associated with the proposed requirement that utilities must wait for an on-site survey to be performed, which may include asbestos sampling, prior to the renovation activity. Emissions of diesel-particulate matter from off-road construction equipment, metal from grinding asphalt to install protective plates (that must be in place while the buried pipe trench is exposed), and exposure of the buried pipe itself must all be quantified and assessed for potential increases in health risk impacts pursuant to the amended rule as currently proposed.
- The rule should specify that any unplanned water, power or gas loss is an emergency that poses an imminent threat to public health or safety in order to avoid unnecessary delays, non-compliance with state law, or excessive costs in restoring these essential public services.
- Delays to excavation backfills and street repairs would delay restoration of essential public services. Any required repairs in a public right of way should be considered an emergency that poses an imminent threat to public health or safety.
- Extending on-site inspection and sampling requirements to water, power and gas utilities’ buried pipe repairs of less than 100 square feet would cause significant time delays and increased costs for utilities and our customers.
- Increased costs and time delays would result from requiring the “Procedure 5 Approved Alternative” rather than the “Procedure 3” protocol which is currently in use during the demolition and renovation of our ACM infrastructure and which has been deemed adequate and effective by OSHA and NESHAP standards in minimizing or eliminating asbestos emissions to ensure the health and safety of our employees and the public.

- Despite assertions by SCAQMD staff, Procedure 5 Plans are not site-specific. The rule should be revised to include provisions allowing all buried pipe work less than 100 square feet, whether intact or disturbed, to be conducted without case-by-case approval by SCAQMD personnel. A pre-approved Procedure 5 Plan should be sufficient for utilities to this work. We are unaware of any other California air district requiring pre-approval for these routine small maintenance projects.
- The draft rule requires a facility to conduct an on-site asbestos survey which will result in increased costs and delays to projects. No on-site surveys should be required when the material is known or presumed to be ACM for buried utilities, as the purpose of the survey is to identify whether or not material is ACM. Additionally, the proposed amendments include the option to conduct an on-site survey of surface materials as an alternative to digging a hole to survey presumed ACM buried pipe, which verifies that visual inspection of the ACM is not necessary to conduct a survey. Materials that are known to have no ACM should be exempt from on-site survey and notification, as should work that is less than 260 feet long, as is done under NESHAP. Thus, we recommend elimination of on-site surveys for buried utilities.
- SCAQMD staff has suggested a facility survey must include an on-site evaluation of ground surface above buried pipes. Asbestos debris would not be present on the ground surface in the public right-of-way, meaning the surveyor is not surveying possible ACM. This on-site surface survey is not required by NESHAP and we recommend this requirement be eliminated.
- The proposed Rule 1403 revisions exceed requirements set by NESHAP, State law, and OSHA without scientific evidence necessitating increased regulations. For example, while a survey is required under NESHAP, it does not have to be an on-site survey and it does not have to be conducted by an AHERA-certified building inspector. These amendments expand the conditions under which a project would qualify for Procedure 5 -- an SCAQMD-developed procedure -- with no scientific evidence that Procedure 3 or existing OSHA requirements for asbestos abatement are insufficient to protect the air and the public.
- The newly-required AHERA building inspector certification would also increase costs and is overly burdensome for buried utilities that typically assume pipes have ACM unless previously documented as non-ACM. AHERA training covers all aspects of building inspection for handling asbestos hazards in school districts, but does not include exterior installations such as buried utilities. Thus, we believe AHERA training is not applicable to buried utilities. NESHAP and CalOSHA do not specify training requirements for individuals presuming a material is asbestos. We recommend these training requirements be eliminated when a buried pipe is presumed to have ACM.
- A socioeconomic analysis of the rule revisions that includes our essential public services and the potential impact(s) on our residential and business customers throughout the South Coast Air Basin may need to be conducted. Also, the increased cost impacts on water utilities -- caused by Rule 1403's revisions -- would result in increased water costs for the public, impeding the State's policies on "water affordability," including California's "Human Right to Water" law.

We are especially concerned that Rule 1403's revisions disproportionately affect buried utilities whose condition cannot be determined prior to excavation. In such cases, we contend that there should be an exemption for assuming that buried infrastructure is disturbed ACM without the need for field determination. As proposed, the rule revisions could negatively impact the resource management of such utilities, necessitating additional labor and outsourcing, potentially causing pipe damage from extended exposure times (while awaiting confirmation by a certified asbestos consultant) and resulting in delays to essential public services (as defined in SCAQMD's Rule 1302).

As water, power or gas utilities operating within the South Coast Air Basin, we take very seriously our responsibilities to comply with SCAQMD's standards for reducing air emissions in the region as part of the agency's mission to protect the health of southland residents. The signatories to this letter are also committed to protecting and preserving public health and are committed to similar goals, as

demonstrated by our staff who are well-trained and certified by (ANSI and/or Cal/OSHA) standards for asbestos abatement, in accordance with the existing Rule 1403.

Water, power and gas utilities have a duty to safely and reliably serve residents and businesses. The public depends on the availability of water, power and gas at all times, with outages restored as quickly as possible. Any water, power, or gas service delays could impede other essential public services, such as potable water supply, hospital emergency room services, optimal fire flows, and police services. Furthermore, an extended water service disruption could also result in significant water loss due to Rule 1403's new restrictions that would delay repairs and cause water waste, in violation of State law.

In summary, SCAQMD's Proposed Amended Rule 1403 is broader than existing NESHAP and OSHA requirements for asbestos abatement and, in our view, the substantial new requirements are impractical for water, power and gas utility operations and pose risks to the public, particularly for unplanned interruptions of essential public services.

To that end, we propose at least one additional working group meeting with your staff, or another method whereby stakeholders may provide input to address concerns and potential unintended consequences.

The undersigned agencies appreciate your consideration of these concerns and of our desire for additional time to work with SCAQMD to sufficiently resolve these issues in a manner that preserves the intent of SCAQMD's Rule 1403 and provides for a conditional exemption or provision for consistently compliant water, power and gas utilities. Any questions regarding this letter can be directed to Peter Whittingham at 949.280.9181 or Peter@WhittinghamPAA.com. Thank you for your time and attention to this matter.

Sincerely,

Paul E. Shoenberger, P.E.
General Manager
Mesa Water District

Martin E. Zvirbulis
General Manager/CEO
Cucamonga Valley Water District

Dale Gonzales, CSP, P.E.
Director of Enviro Affairs
California Water Service

Jeff Armstrong
General Manager
Rancho California Water District

Greg Morrison
Government Relations Officer
Elsinore Valley Municipal Water District

Todd Corbin
General Manager
Riverside Public Utilities

Robert J. Hunter
General Manager
Municipal Water District of OC

Michael Markus
General Manager
Orange County Water District

Paul Cook
General Manager
Irvine Ranch Water District

Scott Stiles
City Manager
City of Garden Grove

Michael Perea
Acting General Manager
Trabuco Canyon Water District

Ken Vecchiarelli
General Manager, OC
Golden State Water Co.

Robert Hill
General Manager
El Toro Water District

Jonathan Sanks
Environmental Services Manager
Anaheim Public Utilities

Joone Lopez
General Manager
Moulton Niguel Water District

Fred Wilson
City Manager
City of Huntington Beach

Daniel Ferons
General Manager
Santa Margarita Water District

Jerry Vilander
General Manager
Serrano Water District

Laurie A. Murray
City Manager
City of La Palma

Jill Ingram
City Manager
City of Seal Beach

Rick Shintaku
General Manager
South Coast Water District

Grace Leung
City Manager
City of Newport Beach

Rick Otto
City Manager
City of Orange

Michael Dunbar
General Manager
Emerald Bay Community Services District

Marc Marcantonio
General Manager
Yorba Linda Water District

Jeffrey Parker
City Manager
City of Tustin

Eddie Manfro
City Manager
City of Westminster

James Makshanoff
City Manager
City of San Clemente

Robert Houston
City Manager
City of Fountain Valley

C: SCAQMD Governing Board Members

SCAQMD Governing Board Members' Assistants/Consultants

John Anderson, AQ Analysis & Compliance Supervisor, SCAQMD

Jason Aspell, Senior Enforcement Manager, SCAQMD

Dave De Boer, Planning & Rules Manager, SCAQMD

Philip Fine, Deputy Executive Officer, SCAQMD

Don Hopps, Program Supervisor, SCAQMD

Terrence Mann, Assistant Deputy Executive Officer, SCAQMD

Bradly McClung, Air Quality Specialist, SCAQMD

Christopher Ravenstein, Staff Specialist, SCAQMD

Sarah Rees, Assistant Deputy Executive Officer, SCAQMD

Jill Whynot, Chief Operating Officer, SCAQMD

A G E N D A

OC Buried Utilities Coalition Meeting

Wednesday, February 13, 2019

10:30 a.m. – 12:00 p.m.

**Irvine Ranch Water District – Committee Meeting Room
IRWD Committee Room, 15600 Sand Canyon Ave, Irvine, CA 92618**

Discussion Topic

SCAQMD Proposed Amendments to Rule 1403: *Asbestos Emissions from Demolition/Renovation Activities*

Special Guests

- **Honorable Dwight Robinson, SCAQMD Governing Board Member**
- **Matthew Holder, Consultant to SCAQMD Governing Board Member Robinson**
- **James Dinwiddie, III, MPA, Senior Policy Advisor, Office of Chairwoman Bartlett, OC Board of Supervisors**

10:30 a.m. – Welcome (C. Compton / S. Taylor)

10:35 a.m. – Self-Introductions (All)

10:40 a.m. – Purpose (P. Whittingham / D. Robinson)

10:45 a.m. – Issue Overview (C. Compton / S. Taylor)

10:50 a.m. – Concerns Summary (All)

- **Public Health**
- **Public Safety**
- **Resource & Operational Burdens**
- **Other Unintended Consequences**

11:10 a.m. – “Asks” Presentation (handout)

11:15 a.m. – “Asks” Discussion / Review (All)

11:45 a.m. – Actions / Next Steps (All)

12:00 p.m. – Adjourn

###

Buried Utilities Coalition's Requests

SCAQMD Proposed Amendments to Rule 1403: *Asbestos Emissions from Demolition/Renovation Activities*

Utilities have a critical responsibility in protecting public health and safety as part of delivering essential public service. It is with this recognition and understanding that utilities ask SCAQMD to add a buried utilities provision to PAR 1403, along with supporting definitions and training requirements, as outlined below.

1. Buried Utility Provision

- a. **Exempt Buried Utility Pipelines:** Exclude buried utilities' jobs of less than 260 linear feet¹ from Rule 1403 due to the lack of substantive data² demonstrating air emission impacts from work on asbestos-containing (AC) pipe.
- b. **Written Standard Procedure:** Rule 1403 should include a ***Buried Utility Procedure (BUP)***, a rule-specified standard operating procedure for all work on buried utility pipe, which may be added as "Procedure 6". Proposed Procedure 6 would apply to both intact and damaged pipe, with jobs of less than 260 linear feet being exempt from notification. Jobs greater than 260 linear feet would be subject to notification (which is consistent with NESHAP) and the BUP. A "Procedure 5 (Approved Alternative) Plan" should not apply to buried utility pipelines.
 - i. **Note:** The intent of this is to provide operational benefits and consistency in implementing work practices for buried utilities that frequently conduct certain work and enact the same, non-site-specific best practices on a regular basis.
- c. **Surveys:** Exclude buried pipe that is presumed and handled as Asbestos Containing Material (ACM) from the on-site inspection/survey requirement. This is consistent with the thorough survey required by NESHAP which does not require an on-site survey. The purpose of the asbestos survey is to identify which materials need to be handled and disposed of as ACM; presuming and handling the pipe as ACM satisfies the purpose of the survey, thus no on-site inspection is necessary.
 - i. **Note:** The current amendments allow for a buried pipe survey to be done before the hole is dug, signifying that a survey can be effectively conducted without directly looking at the physical pipe. Additionally, utility records show what type of pipe was installed throughout their underground system.

2. Definitions

- a. **Emergency / Emergency Renovation Operations:** Broaden the definition of *Emergency*, and, use the NESHAP definition of *Emergency Renovation Operations*.
- b. **Buried Pipe:** Subterranean utility pipe that is owned/leased/acquired by essential service utilities that provide electricity, natural gas, telephone, water, or sewer services. Includes, but not necessarily limited to, pipe and/or ACM pipe wrap.

3. Asbestos Consultants

- a. **Trainings and Certifications:** Include trainings and certifications that specialize in buried AC pipe, such as (but not limited to) the required training for buried utility workers and contractors who work on AC pipe with certification by Cal/OSHA as *Asbestos Cement Pipe Craft Workers*.
- b. **Surveys:** Allow surveys to be performed by Cal/OSHA certified *Asbestos Cement Pipe Craft Workers* per the expanded Trainings and Certifications for Asbestos Consultants discussed above.

¹The Business and Professions Code (BPC) section 7040 exempts government agencies, and BPC code 7042.5 exempts PUC-regulated entities, from contractor licensing requirements under 7058.5 regarding asbestos certification for asbestos-related jobs greater than 100 square feet.

http://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=3.&title=&part=&chapter=9.&article=3

²Web Report #4465, page 35, *Environmental Impact of Asbestos Cement Pipe Renewal Technologies*, ©2015 Water Research Foundation, WaterRF.org/PublicReportLibrary/4465.pdf

sampling pumps with approximate flow rates of 2 liters per min (LPM). The pumps were calibrated in the field prior to sample collection using a Bios Defender Model 510M flow calibrator. Note the Bios Defender is a primary calibration standard. Table 3-5 summarizes the air samples collected.

Table 3-5 Summary of collected air samples

Sample No.	Burst Run No.	Average Flow Rate (LPM)	Run Time (min)	Volume (L)
1	#2	2.0181	278	561
2	#2	2.0113	278	559
3	#2	2.0577	182	374
4	#2	2.0381	182	371
5	#6	2.0113	181	364
6	#6	1.9933	192	383
Field Blank-1	#2	N/A	N/A	N/A
Field Blank-2	#6	N/A	N/A	N/A

N/A = not available

Air sample analysis was performed by Reservoirs Environmental, Inc. (REI) laboratories located in Denver, Colorado. The samples were analyzed using TEM following ISO method 10312 (1995). The results of the air sample analyses are presented in Table 3-6.

Table 3-6 Asbestos air sample results summary

Sample No.	Number of Asbestos Structures Detected	Analytical Sensitivity (s/cc)	Asbestos Concentration (s/cc)
1	ND	0.0038	BAS
2	ND	0.0036	BAS
3	ND	0.0041	BAS
4	ND	0.0042	BAS
5	ND	0.0042	BAS
6	ND	0.0040	BAS
Field Blank-1	ND	N/A	BAS
Field Blank-2	ND	N/A	BAS

s/cc = structures per cm³; ND = none detected; N/A = not available; BAS = below analytical sensitivity

As shown in Table 3-6, the asbestos concentration of each sample is below the analytical sensitivity. The analytical sensitivity of each sample is below the 8-hr TWA-PEL of 0.1 s/cc set by OSHA. These results match well with NEA previously conducted in Casselberry (Jonsson 2011) and with the air studies conducted in Germany that showed asbestos did not exceed the detection limit during pipe bursting (Appendix D). This is a key finding in the study as there were not any positive exposure results found in the literature or testing to show pipe bursting posed a threat to works or the public.

The air sample results are representative of all activities that occurred onsite on the specific day of sampling. Note the Battelle staff member was not present in the machine pit or insertion pit at the time of bursting, but on the surface at the edge of the pit due to space restrictions and worker



ACTION ITEM
March 20, 2019

TO: Board of Directors

FROM: **Public Affairs and Legislation Committee**
(Directors Dick, Osborne, and Thomas)

Robert Hunter
General Manager

Staff Contact: Heather Baez

**SUBJECT: SB 307 (ROTH) – WATER CONVEYANCE: USE OF FACILITY WITH
UNUSED CAPACITY**

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt an oppose position on SB 307 (Roth).

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

BILL SUMMARY

SB 307 would prohibit a transferor of water from using a water conveyance facility that has unused capacity to transfer water from a groundwater basin underlying desert lands, as defined, that is in the vicinity of specified federal lands or state lands to outside of the groundwater basin unless the State Lands Commission, in consultation with the Department of Fish and Wildlife, finds the transfer of the water will not adversely affect the natural or cultural resources of those federal and state lands.

“Desert lands” are defined as the portion of California located south of Interstate 15, east of State Highway 247, north of State Highway 62, west of Interstate 95, and west of the Nevada state line between Interstate 95 and Interstate 15.

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice __
Action item amount: None		Line item:	
Fiscal Impact (explain if unbudgeted):			

BACKGROUND

Two bills with nearly identical language have been introduced by the Legislature the past two years. In 2017, AB 1000 (Friedman) was introduced as a “gut and amend” in July 2017 but died in the Senate Appropriations Committee. In 2018, SB 120 (Roth) was also a “gut and amend” in late August, with just two weeks remaining in the legislative session.

In 2017, Senate Natural Resources and Water Committee Consultant Dennis O’Connor had a very thorough committee analysis of then AB 1000 (Friedman):

It is All About Cadiz. This bill is focused on the proposed groundwater transfer and storage project known as the Cadiz Valley Water Conservation, Recovery and Storage Project. The Cadiz Valley is about 3 miles south of historic Route 66 near the now abandoned town of Chambless in the Mojave Desert. According to the Cadiz Inc. website, the project “is designed to capture and conserve billions of gallons of renewable native groundwater flowing beneath our property in California’s Mojave Desert that is currently being lost to evaporation and salt contamination at nearby dry lakes. Through the active management of the aquifer system and employing a state-of-the-art groundwater protection program, the Project will reduce the loss of groundwater to evaporation from the dry lakes, put this water to beneficial use and create a reliable water supply for Southern California.”

Long Standing Controversy. In 1998, Cadiz Inc. and Metropolitan Water District of Southern California (MWD) began discussion about a project that would have imported Colorado River water to Cadiz, Ca. and exported groundwater from Cadiz to the MWD service area. Ultimately, MWD decided not to go forward citing uncertainties about potential for environmental impacts.

In the intervening years, there have been environmental documents certified, numerous court challenges, sometimes-conflicting findings by federal agencies, and strong and consistent opposition by Senator Feinstein and others.

The crux of the dispute is differing estimates of the sustainable yield of the Cadiz Valley groundwater basin. Cadiz, citing a CH2M study, claims the groundwater basin naturally recharges at 32,500 acre-feet/year and can sustainably support the proposed water supply and storage project. Opponents respond that the U.S. Geological Survey’s study found that the natural refill rate of the desert aquifer is between 2,000 and 10,000-acre feet of water per year.

Why the State Lands Commission? The bill makes approval of the transfer contingent on a finding by the State Lands Commission, in consultation with the Department of Fish and Wildlife, that the transfer of the water will not adversely affect the natural or cultural resources, including groundwater resources or habitat, of those federal and state lands. One might wonder why the State Lands Commission is the key decision maker. In 1984, the California Legislature enacted the School Land Bank Act, requiring the Commission to take all action necessary to fully develop school lands into a permanent and productive resource base. According to the author’s office, there are school lands in and around the Cadiz Valley.

That might be, but the State Lands Commission doesn't have expertise in groundwater, water transfers, groundwater dependent desert ecosystems, water quality, or any of the other major points of contention that this project has generated over the years.

Given the controversy about this project, it might make sense for some sort of state role in approving this project. However, there are other state agencies might make more appropriate leads. For example, the Department of Water Resources has expertise in groundwater management and water transfers. The Department of Fish and Wildlife updated the groundwater priorities under the Sustainable Groundwater Management Act to reflect groundwater dependent ecosystems. The State Water Resources Control Board manages water quality under the Federal Clean Water Act and Porter-Cologne Water Quality Control Act. Any of these agencies would seem a reasonable lead agency for evaluating and approving a project under this bill.

Should the committee pass this bill, it might want to encourage the author to more fully explore which state agency should take the lead in determining if the project is appropriately protective of natural and cultural resources when the bill is in the appropriations committee.

ARGUMENTS IN SUPPORT

According to the author, "The California desert is home to unique scenic, historical, archeological, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation. Through acts of Congress and designations by past Presidents, the California desert is home to national parks, preserves, monuments and wilderness areas that preserve the unique values and history of the California desert including but not limited to: Mojave National Preserve, Mojave Trails National Monument, Joshua Tree National Park, Sheephole Valley Wilderness, and Clipper Mountains Wilderness.

These unique lands, which support wildlife and sustain tourism economies, face increasing threats to their existence from ongoing development and the effects of climate change. The current federal administration and the United States Congress has signaled a series of direct challenges to protections previously provided by the federal government to the California desert, including national monuments.

The federal administration has prioritized the Cadiz water extraction project—a proposed environmentally harmful groundwater extraction project in the Mojave Desert—by rescinding policies that would trigger a federal environmental review of the project. The project was also included on the "Emergency and National Security Projects" list developed by the administration.

Scientists have determined that the Cadiz project would draw out up to 10 times more water from the desert aquifer than can be naturally recharged. Cadiz asserts that the aquifer's water recharge rate is 32,000-acre feet per year and proposes to export an average of 50,000-acre feet of groundwater from the region each year over a 50-year period. However, the U.S. Geological Survey has stated the recharge rate is less than 5,000-acre feet per year.

SB 307 strengthens protections for the ecologically fragile Mojave Desert by ensuring any water transfers from desert groundwater basins do not adversely affect the region's natural or cultural resources, including vital groundwater or habitat."

ARGUMENTS IN OPPOSITION

According to the Santa Margarita Water District, this measure seeks to impose an unnecessary and duplicative environmental review of the [Cadiz Valley Water Conservation, Recovery & Storage Project (Project)]. Since 2009, the Project has been extensively studied, publicly-reviewed, and approved under California's stringent environmental laws. Following a multi-year public California Environmental Quality Act (CEQA) review process, Project operations were determined to have no significant adverse environmental impacts of any kind. Separately, under the County of San Bernardino's desert groundwater ordinance, the Project was independently reviewed, constrained and then approved, again with the determination that it would not harm the area's groundwater resources.

The CEQA approvals were challenged by opponents of the Project in 12 separate cases in Superior Court and the California Court of Appeal over four years from 2012 – 2016. Every claim brought by each opponent in every case was denied in court; and the Project's Environmental Impact Report and Groundwater Management Plan were upheld in their entirety, both at trial and on appeal. Not one word in the environmental documents has been changed by the courts or remanded back for further study.

If enacted, SB 307 will have far-reaching negative impacts on the entire California water community. The transportation of water in existing conveyance facilities is already a highly regulated process that must also follow CEQA. The creation of a new legislative layer to block the Cadiz Water Project sets a dangerous precedent that can be used to block any water conveyance project.

MWDOC'S POLICY PRINCIPLES

MWDOC's adopted policy principles directly reflect a position that hinders a local agency's ability to develop local resources and water planning decisions. *It is MWDOC's policy to oppose legislation or regulation that: restricts a local governmental agency's ability to develop their local resources in a manner that is cost-effective, environmentally sensitive, and protective of public health. And, restricts or limits a local governmental agency's ability to establish local priorities for water resources planning decisions.*

DETAILED REPORT

The full text of SB 307 is attached for your information.

Introduced by Senator Roth
(Principal coauthor: Senator Portantino)
(Principal coauthor: Assembly Member Friedman)
(Coauthor: Senator Allen)

February 15, 2019

An act to add Section 1815 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 307, as introduced, Roth. Water conveyance: use of facility with unused capacity.

Existing law prohibits the state or a regional or local public agency from denying a bona fide transferor of water from using a water conveyance facility that has unused capacity for the period of time for which that capacity is available, if fair compensation is paid for that use and other requirements are met.

This bill would, notwithstanding that provision, prohibit a transferor of water from using a water conveyance facility that has unused capacity to transfer water from a groundwater basin underlying desert lands, as defined, that is in the vicinity of specified federal lands or state lands to outside of the groundwater basin unless the State Lands Commission, in consultation with the Department of Fish and Wildlife, finds that the transfer of the water will not adversely affect the natural or cultural resources of those federal and state lands.

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 1815 is added to the Water Code, to read:

1 1815. (a) Notwithstanding Section 1810, a transferor of water
2 shall not use a water conveyance facility that has unused capacity
3 to transfer water from a groundwater basin underlying desert lands
4 that is in the vicinity of a national monument, a national preserve,
5 a national park, a state or federal wilderness area, or state lands to
6 outside of the groundwater basin unless the State Lands
7 Commission, in consultation with the Department of Fish and
8 Wildlife, finds that the transfer of the water will not adversely
9 affect the natural or cultural resources, including groundwater
10 resources or habitat, of those federal and state lands.

11 (b) For purposes of this section, “desert lands” means the portion
12 of California located within the following area:

13 Beginning at Interstate 15 and the intersection of the range line
14 between Ranges 5 and 6 East, Township 11 North, San Bernardino
15 Baseline and Meridian, southerly along those range lines to the
16 intersection with Interstate 40 in Township 8 North, San Bernardino
17 Baseline and Meridian;

18 Thence easterly along Interstate 40 to the intersection of
19 Interstate 40 and the range lines between Ranges 12 and 13 East,
20 Township 7 North, San Bernardino Baseline and Meridian;

21 Thence southerly along the range lines between Ranges 12 and
22 13 East to the intersection with State Highway Route 62 in
23 Township 1 South, San Bernardino Baseline and Meridian;

24 Thence easterly along State Highway Route 62 to the intersection
25 with United States Highway 95;

26 Thence northerly along United States Highway 95 to the
27 California-Nevada boundary;

28 Thence northerly along the California-Nevada boundary to
29 Interstate 15;

30 Thence westerly along Interstate 15 to the point of beginning.

O



ACTION ITEM
March 20, 2019

TO: Board of Directors

FROM: **Public Affairs and Legislation Committee**
(Directors Dick, Osborne, and Thomas)

Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: SB 669 (CABALLERO) – SAFE DRINKING WATER FUND

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a support position on SB 669 (Caballero).

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

BACKGROUND

On February 20, 2019 the MWD OC Board of Directors adopted a “Support in Concept” position on this proposal which is sponsored by the Association of California Water Agencies (ACWA) and the California Municipal Utilities Association (CMUA). At that time the bill language was not yet available and the Board directed that this item be brought back to the Public Affairs and Legislation Committee once the bill language was in print.

BILL SUMMARY

SB 669 was developed over a period of weeks by an ACWA working group to establish an alternative to a tax on water. This measure would establish the Safe Drinking Water Fund

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice __
Action item amount: None		Line item:	
Fiscal Impact (explain if unbudgeted):			

in the State Treasury and would provide that moneys in the fund are continuously appropriated to the State Water Resources Control Board (State Board). The bill would require the State Board to administer the fund to assist community water systems in disadvantaged communities that are chronically noncompliant relative to the federal and state drinking water standards and do not have the financial capacity to pay for operation and maintenance costs to comply with those standards, as specified.

The bill would authorize the State Board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, and bequests, transfers by the Legislature from the General Fund and the Greenhouse Gas Reduction Fund, funding from authorized general obligation bond acts, and net revenue from the Safe Drinking Water Trust that this bill would create.

SB 669 would require the state board to expend moneys in the fund for grants, loans, contracts, or services to assist eligible applicants. The bill by July 1, 2021, and by July 1 of each year thereafter, would require the State Board to adopt, working with a multi-stakeholder advisory group, after a public workshop and a public hearing, an annual fund implementation plan.

The bill would require the state board annually to prepare and make publicly available a report of expenditures of the fund and to adopt annually, after a public hearing, an annual update to a specified needs analysis.

In addition, SB 669 would create in the State Treasury the Safe Drinking Water Trust Fund, to hold the trust property of the Safe Drinking Water Trust. The bill would create the Safe Drinking Water Trust Commission, consisting of three (3) members, to serve as the trustee of the trust and would require the trustee to abide by the act and have all of the fiduciary duties, responsibilities, and obligations consistent with serving as a trustee of a trust.

ARGUMENTS IN SUPPORT

A financial solution is needed to fund Operations and Maintenance (O&M) in areas that are currently not providing safe drinking water to their customers. O&M costs generally cannot be financed with existing federal and state safe drinking water funding sources. Funding a durable Trust via the General Fund makes sense because taxpayers with higher incomes would contribute more, and taxpayers with lower income would contribute less.

State law sets forth a policy of a “human right to water” for human consumption that is safe, clean, affordable and accessible. Adding a regressive statewide water tax on local water bills would work against keeping water affordable for all Californians. An alternative proposal to a water tax that provides dedicated funding available to non-compliant systems, by addressing the problem directly using General Fund dollars, is the best approach.

ARGUMENTS IN OPPOSITION

The Administration and other water tax supporters feel like a tax on water meters provides the most consistent form of funding needed to bring non-compliant systems back into compliance. Money invested in the trust is invested and therefore subject to the rise and fall of the stock market.

STAFF COMMENTS

MWDOC's Legislative Policy Principles indirectly reflect supporting legislation that would be an alternative to a tax on water. Specifically, *it is MWDOC's policy to oppose legislation and regulation that: imposes a "public goods charge" "water user fee", or "water tax" on public water agencies or their ratepayers.*

Attached:

SB 669 Full Text
SB 669 Fact Sheet

Introduced by Senator CaballeroFebruary 22, 2019

An act to add Chapter 4.6 (commencing with Section 116765) and Chapter 4.7 (commencing with Section 116771) to, Part 12 of Division 104 of the Health and Safety Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 669, as introduced, Caballero. Water quality: Safe Drinking Water Fund.

(1) 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. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

This bill would establish the Safe Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the state board. The bill would require the state board to administer the fund to assist community water systems in disadvantaged communities that are chronically noncompliant relative to the federal and state drinking water standards and do not have the financial capacity to pay for operation and maintenance costs to comply with those standards, as specified. The bill would authorize the state board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, and bequests, transfers by the Legislature from the General Fund and the Greenhouse Gas Reduction Fund, funding from authorized general obligation bond acts, and net revenue from the Safe Drinking Water Trust that this bill would create.

The bill would require the state board to expend moneys in the fund for grants, loans, contracts, or services to assist eligible applicants. The bill by July 1, 2021, and by July 1 of each year thereafter, would require the state board to adopt, working with a multistakeholder advisory group, after a public workshop and a public hearing, an annual fund implementation plan. The bill would require the state board annually to prepare and make publicly available a report of expenditures of the fund and to adopt annually, after a public hearing, an annual update to a specified needs analysis. By creating a new continuously appropriated fund, this bill would make an appropriation.

(2) Existing law requires a trustee to administer a trust with reasonable care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity would use, as specified. The existing Uniform Prudent Investor Act requires a trustee to invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust.

This bill would create in the State Treasury the Safe Drinking Water Trust Fund, to hold the trust property of the Safe Drinking Water Trust. The bill would create the Safe Drinking Water Trust Commission, consisting of 3 members, to serve as the trustee of the trust and would require the trustee to abide by the act and have all of the fiduciary duties, responsibilities, and obligations consistent with serving as a trustee of a trust. The bill would require the trustee to transfer the net income from the trust fund to the Safe Drinking Water Fund for expenditure, as prescribed. The bill would authorize funding of the trust principal, subject to transfer by the Legislature. The bill would require the trustee to accept donations that shall be deemed trust property and increase the principal of the trust. The bill would require the trustee to meet, not less than quarterly, to review the investment of the trust principal and administer the trust. The bill would require the trustee to provide the state board annually with an accounting of the investments and a forecast of the projected income to be distributed from the funds in future fiscal years. The bill would require the trust to be deemed a charitable trust subject to the supervision of the Attorney General.

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

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

1 SECTION 1. Chapter 4.6 (commencing with Section 116765)
2 is added to Part 12 of Division 104 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 4.6. SAFE DRINKING WATER

6
7 Article 1. Legislative Findings and Declarations

8
9 116765. The Legislature finds and declares all of the following:

10 (a) Section 106.3 of the Water Code declares that it is the policy
11 of the state that every human being has the right to safe, clean,
12 affordable, and accessible water adequate for human consumption,
13 cooking, and sanitary purposes.

14 (b) For all community water systems, the operation and
15 maintenance costs to supply, treat, and distribute potable water
16 that complies with federal and state drinking water standards on
17 a routine and consistent basis may be significant.

18 (c) Some community water systems in disadvantaged
19 communities that do not have access to safe drinking water do not
20 have the technical, managerial, or financial capacity that is needed
21 to comply with the federal and state drinking water standards on
22 a routine and consistent basis.

23 (d) Some state or federal drinking water project funding sources
24 prohibit the use of that funding for operation and maintenance
25 costs. If a community water system does not have the financial
26 capacity to fund operations and maintenance costs, the community
27 water system may not be able to access funding for capital costs
28 to comply with the federal and state drinking water standards on
29 a routine and consistent basis.

30 (e) Hundreds of thousands of Californians, particularly those
31 living in small disadvantaged communities, rely on unsafe drinking
32 water from a chronically noncompliant community water system,
33 which impacts human health, household costs, and community
34 economic development.

35 (f) It is important that new permitted public water systems are
36 sustainable.

37 (g) Chapter 843 of the Statutes of 2016 added Section 116527
38 to and amended Section 116540 of the Health and Safety Code

1 and added Section 106.4 to the Water Code to authorize the State
2 Water Resources Control Board to prevent the permitting of new,
3 unsustainable public water systems.

4 (h) It is in the interest of the state to identify, help develop, and
5 help implement solutions for those chronically noncompliant
6 community water systems in disadvantaged communities that do
7 not have the technical, managerial, or financial capacity to comply
8 with the federal and state drinking water standards, and as a result,
9 have ongoing violations.

10 (i) To assist chronically noncompliant community water systems
11 in disadvantaged communities to come into compliance with the
12 federal and state drinking water standards and become
13 self-sufficient, the net revenue from a safe drinking water trust is
14 a reasonable and sustainable way to provide state funding
15 assistance for operation and maintenance costs and consolidation
16 costs where financial assistance is needed.

17 (j) Funding of the trust with General Fund dollars during one
18 or more years of state budget surplus is an appropriate priority for
19 the state because the lack of access to safe drinking water in some
20 disadvantaged communities is a social and public health issue for
21 the state. Once the trust is funded, the revenue from the trust will
22 be a long-term durable solution to assist chronically noncompliant
23 community water systems in disadvantaged communities in
24 becoming self-sufficient relative to safe drinking water.

25 26 Article 2. Definitions

27
28 116766. For the purposes of this chapter:

29 (a) “Administrator” has the same meaning as defined in Section
30 116686.

31 (b) “Board” means the State Water Resources Control Board.

32 (c) “Community water system” has the same meaning as defined
33 in Section 116275.

34 (d) “Disadvantaged community” has the same meaning as
35 defined in Section 116275.

36 (e) “Eligible applicant” means a public agency, a local
37 educational agency, a nonprofit organization, a public utility, a
38 federally recognized Indian tribe, a state Indian tribe listed on the
39 Native American Heritage Commission’s California Tribal
40 Consultation List, a mutual water company, and an administrator.

1 (f) “Fund” means the Safe Drinking Water Fund established
2 pursuant to Section 116767.

3 (g) “Public water system” has the same meaning as defined in
4 Section 116275.

5 (h) “Replacement water” means bottled water, vended water,
6 or point-of-use or point-of-entry treatment units.

7
8 Article 3. Safe Drinking Water Fund
9

10 116767. The Safe Drinking Water Fund is hereby established
11 in the State Treasury. Notwithstanding Section 13340 of the
12 Government Code, all moneys in the fund are continuously
13 appropriated to the board, without regard to fiscal years, in
14 accordance with this chapter. Moneys in the fund at the close of
15 the fiscal year shall remain in the fund and shall not revert to the
16 General Fund. Moneys in the fund shall not be available for
17 appropriation or borrowed for use for any purpose not established
18 in this chapter unless that use of the moneys is authorized by statute
19 that receives an affirmative vote of two-thirds of the membership
20 in each house of the Legislature.

21 116768. (a) The board shall administer the fund to assist
22 community water systems in disadvantaged communities that are
23 chronically noncompliant relative to the federal and state drinking
24 water standards and do not have the financial capacity to pay for
25 operation and maintenance costs to comply with those standards
26 by providing assistance for all of the following:

27 (1) Operation and maintenance costs to both help bring the
28 systems into compliance with those standards and help the systems
29 become self-sufficient relative to safe drinking water.

30 (2) Consolidation costs for the community water systems.

31 (3) Replacement water to provide the systems with safe drinking
32 water as a short-term solution.

33 (4) The provision of administrative and managerial services
34 under Section 116686 for purposes of helping the systems become
35 self-sufficient in the long term.

36 (b) Consistent with subdivision (a), the board shall expend
37 moneys in the fund for grants, loans, contracts, or services to assist
38 eligible applicants.

(c) Consistent with subdivision (a), the goals for implementation of this fund are that community water systems benefitting from the funding both:

(1) Will become compliant relative to the federal and state drinking water standards.

(2) Will become self-sufficient and will need assistance for no longer than 10 years.

(d) The board may undertake any of the following actions to implement the fund:

(1) Provide for the deposit of all of the following moneys into the fund:

(A) Federal funding.

(B) Transfers by the Legislature from the General Fund.

(C) Net revenue from the Safe Drinking Water Trust.

(D) Funding from a general obligation bond act that authorizes the deposit of bond moneys into the fund.

(E) Transfers by the Legislature from the Greenhouse Gas Reduction Fund.

(F) Voluntary contributions, gifts, grants, or bequests.

(2) Enter into agreements for contributions to the fund from the federal government, local or state agencies, private corporations, or nonprofit organizations.

(3) Direct portions of the fund to a subset of eligible applicants as required or appropriate based on funding source and consistent with the annual fund implementation plan.

(e) The board may expend moneys from the fund for reasonable costs associated with administration of the fund, including outreach regarding the availability of the funding. The board may expend no more than 5 percent of the annual revenue from the fund for reasonable costs associated with the administration of the fund.

(f) The board shall provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

(g) At least every five years, the board, in consultation with the Legislative Analyst's Office, shall conduct a public review and assessment of the fund that evaluates and reports on all of the following:

(1) The effectiveness of expending moneys from the fund in terms of both helping bring chronically noncompliant community water systems in disadvantaged communities into compliance with

1 the federal and state safe drinking water standards and helping
2 chronically noncompliant community water systems in
3 disadvantaged communities become self-sufficient.

4 (2) The sources of funding and the amount of funding from each
5 source that went into the fund during the time period that is being
6 reviewed and assessed.

7 (3) The community water systems for which self-sufficiency
8 has been achieved and for which funding from the fund is no longer
9 necessary.

10 (4) The community water systems that have received funding
11 for 10 years or more and for which self-sufficiency has not been
12 achieved, the actions that have been taken, the reasons why
13 self-sufficiency has not been achieved, and, where appropriate,
14 the reasons why continued funding from the fund is necessary.

15 (h) The board shall make a report of the public review and
16 assessment described in subdivision (g) available on the board's
17 internet website.

18 (i) The board, an employee of the board, or any authorized
19 person shall not be deemed to have incurred or be required to incur
20 any obligation to provide additional funding or undertake additional
21 action solely as a result of having undertaken an action pursuant
22 to this chapter.

23 116769. By July 1, 2021, and by July 1 of each year thereafter,
24 the board shall do all of the following:

25 (a) Prepare and make publicly available a report of expenditures
26 from the fund.

27 (b) Adopt, after a public hearing, an annual update to the needs
28 analysis of drinking water systems first directed by the Legislature
29 in Item 3940-002-0001 of Section 2.00 of the Budget Act of 2018.

30 (c) Work with a multistakeholder advisory group to obtain input
31 regarding priorities for the fund that can reasonably be
32 accomplished in the next year and development of the annual fund
33 implementation plan.

34 (d) Adopt, after a public workshop and a public hearing, an
35 annual fund implementation plan.

36 SEC. 2. Chapter 4.7 (commencing with Section 116771) is
37 added to Part 12 of Division 104 of the Health and Safety Code,
38 to read:

1 CHAPTER 4.7. SAFE DRINKING WATER TRUST ACT OF 2019

2
3 Article 1. Short Title

4
5 116771. This chapter shall be known, and may be cited, as the
6 Safe Drinking Water Trust Act of 2019.

7
8 Article 2. Legislative Findings of Necessity and Cause for
9 Action

10
11 116772. (a) Because Section 106.3 of the Water Code
12 establishes the policy of the state that every human being has the
13 right to safe, clean, affordable, and accessible water adequate for
14 human consumption, cooking, and sanitary purposes, it is in the
15 interest of the people of the state to enact this chapter to establish
16 a trust fund for the governmental purpose of providing a perpetual
17 source of funding to assist community water systems in
18 disadvantaged communities that are chronically noncompliant
19 relative to the federal and state drinking water standards and do
20 not have the financial capability to pay for operation and
21 maintenance costs to comply with those standards by providing
22 funding assistance for all of the following:

23 (1) Operation and maintenance costs to both help bring the
24 systems into compliance with those standards and help the systems
25 to become self-sufficient.

26 (2) Consolidation costs for the systems.

27 (3) Replacement water to provide the systems with safe drinking
28 water as a short-term solution.

29 (4) The provision of administrative and managerial services
30 pursuant to Section 116686 for purposes of helping the systems
31 become self-sufficient in the long term.

32 (b) The primary purpose of the Safe Drinking Water Trust, a
33 charitable trust established pursuant to this chapter, shall be to
34 provide a perpetual source of funding each year to the Safe
35 Drinking Water Fund established pursuant to Section 116767 in
36 furtherance of the trust fund purposes in subdivision (a).

37 (c) It is the intent of the Legislature that the funding for the trust
38 be from General Fund dollars transferred to the trust by the
39 Legislature during one or more years of state budget surplus.

Article 3. Safe Drinking Water Trust

116773. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a) “Board” means the State Water Resources Control Board.

(b) “Beneficiary” means the people of the state, as represented by the board in its implementation of the provisions of Chapter 4.6 (commencing with Section 116765) and its administration of the Safe Drinking Water Fund established pursuant to Section 116767. The beneficiary’s interest in the trust shall only be to the net income generated from the trust principal.

(c) “Income” means the money, enhanced value, or other income the trust receives as current return from the investment of the trust principal.

(d) “Net income” means the trust income earned July 1 to June 30, inclusive, of the previous year minus all of the necessary and reasonable expenses incident to the administration of the trust during that same period.

(e) “Principal” means the trust property, inclusive of any increase designated as part of the trust principal by the trustee as a result of a higher than anticipated return on the investment pursuant to paragraph (2) of subdivision (b) of Section 116773.6 that is held in trust for the beneficiary and to accomplish the purposes described in Section 116772.

(f) “Trust” means the Safe Drinking Water Trust.

(g) “Trust fund” means the account established pursuant to subdivision (a) of Section 116773.2 to hold the trust property.

(h) “Trust property” means the money transferred to the trust fund pursuant to subdivision (d) of Section 116773.6 and any donation to the trust fund received and accepted by the trustee after January 1, 2020.

(i) “Trustee” means the Safe Drinking Water Trust Commission.

116773.2. (a) There is hereby created in the State Treasury the Safe Drinking Water Trust Fund for holding the trust property of the Safe Drinking Water Trust and for the purpose of implementing the public and governmental purposes of this chapter. Net income distributed by the trustee from the trust fund is hereby transferred to the board for deposit in and expenditure from the Safe Drinking Water Fund in accordance with Chapter 4.6 (commencing with Section 116765).

(b) Moneys in the trust fund, including the trust principal and trust income, shall not be available for appropriation or be borrowed for use for any purpose not established in this chapter.

(c) Funding of the trust principal is hereby authorized and is subject to transfer by the Legislature. All transfers to the trust are hereby irrevocably transferred from the General Fund during budget surplus years to the trustee for deposit in the Safe Drinking Water Trust Fund for investment to accomplish the purposes of this chapter and on the conditions prescribed in Section 116773.6.

(d) Notwithstanding any other law, moneys deposited into the Safe Drinking Water Trust Fund or to fund the trust shall not be transferred to the General Fund.

116773.4. (a) There is hereby created the Safe Drinking Water Trust Commission, consisting of three members, selected as follows:

(1) The Treasurer, or the Treasurer's designee.

(2) The Lieutenant Governor, or the Lieutenant Governor's designee.

(3) The Controller, or the Controller's designee.

(b) The Safe Drinking Water Trust Commission shall serve as the trustee of the trust having all of the fiduciary duties, responsibilities, and obligations consistent with serving as a trustee of a trust.

(c) The Treasurer shall serve as chairperson of the Safe Drinking Water Trust Commission. The commission shall annually elect from its members a vice chairperson and a secretary who shall hold office until December 31 and shall continue to serve until their respective successors are elected.

(d) The trustee shall do all of the following:

(1) Meet not less than quarterly to review the investment of the trust principal and administer the trust.

(2) Meet on the call of the chairperson, at the request of a majority of the members, or at the request of the Governor.

(3) Adopt bylaws or other governing documents it deems necessary for the regulation of its affairs and the conduct of its business.

(e) Notwithstanding Section 10231.5 of the Government Code, the Safe Drinking Water Trust Commission annually shall provide the board with an accounting of the investments and a forecast of the projected income to be distributed from the fund in future fiscal

1 years. The board shall include the information in the fund
2 implementation plan prepared by subdivision (c) of Section
3 116769.

4 116773.6. (a) The trustee of the Safe Drinking Water Trust
5 shall hold the trust property for the primary benefit of the trust's
6 beneficiary and shall hold, manage, and invest the trust principal
7 with the obligation of providing a perpetual source of annual
8 funding to the Safe Drinking Water Fund established in Section
9 116767. The trustee shall not invade the trust principal.

10 (b) The trustee shall collect, receive, and monetize, if prudent,
11 the income from the trust, and shall transfer the trust's net income
12 annually as follows:

13 (1) If the net income earned by the trust during the previous
14 fiscal year is less than or equal to ____ dollars (\$____), the trustee
15 shall deposit the entire value of the net income into the Safe
16 Drinking Water Fund for the benefit of the trust's beneficiary.

17 (2) If the net income earned by the trust during the previous
18 fiscal year is greater than ____ dollars (\$____), the trustee shall
19 deposit at least ____ dollars (\$____) into the Safe Drinking Water
20 Fund for the benefit of the trust's beneficiary and shall determine
21 if any additional portion of the net income should be deposited
22 into the Safe Drinking Water Fund that year. Any portion of the
23 net income not deposited in the Safe Drinking Water Fund shall
24 be deemed a part of the trust principal by the trustee as a result of
25 a higher than anticipated return on the investment on the trust
26 principal in the previous fiscal year.

27 (3) Notwithstanding any other law, the trustee, and any
28 employee or agent of the trustee, shall not sell, purchase, exchange,
29 or otherwise deal with or dispose of all or any parts of the principal
30 of the trust.

31 (c) The trustee shall exercise its administration of the trust as a
32 fiduciary to the beneficiary. The trustee, in its administration of
33 the trust, shall abide by the Uniform Prudent Investor Act (Article
34 2.5 (commencing with Section 16045) of Chapter 1 of Part 4 of
35 Division 9 of the Probate Code). The trustee shall have the powers,
36 obligations, and responsibilities of a trustee prescribed in Part 4
37 (commencing with Section 16000) of Division 9 of the Probate
38 Code that are not inconsistent with the purposes and provisions of
39 this chapter.

40 (d) The trust shall have both of the following powers:

- 1 (1) To accept donations that shall be deemed trust property and
2 increase the principal of the trust.
- 3 (2) Use no more than 1 percent of the trust income earned July
4 1 to June 30, inclusive, of each year to pay for the necessary and
5 reasonable expenses incident to the administration of the trust
6 during that same period.
- 7 (e) The trust shall be deemed a charitable trust subject to the
8 supervision of the Attorney General.

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WATER TAX FACTS

Feb. 22, 2019

Facts on ACWA and CMUA Proposal for a Safe Drinking Water Trust

The Association of California Water Agencies (ACWA) and the California Municipal Utilities Association (CMUA) are sponsoring SB 669 (Caballero) to create a Safe Drinking Water Trust that will help community water systems in disadvantaged communities provide safe drinking water. The Trust would be funded with General Fund dollars during a state budget surplus year with the net income from the Trust creating a durable funding source.

Why is there a need for safe drinking water funding in California?

- Most Californians have access to safe drinking water, but some disadvantaged communities do not
- Lack of access to safe drinking water is a public health issue the state must address
- A funding gap exists for operations & maintenance (O&M) costs for community water systems that treat water
- In general, O&M costs cannot be financed using existing state and federal drinking water funding sources
- In some situations, consolidation of a community water system may be the most effective solution
- A financial solution is needed for O&M and consolidation costs that can complement existing federal and state funding sources for capital costs

How would the ACWA/CMUA proposal for a Trust work?

- The Trust's principal would be initially financed with a one-time infusion of General Fund dollars during a budget surplus year
- There is a record budget surplus for the 2019-2020 Fiscal Year, which makes it the perfect time to create and fund the Trust
- The Trust's principal would be invested, and the net income would be transferred to a Safe Drinking Water Fund, which the State Water Resources Control Board would administer
- Funding the Trust via the General Fund serves as a progressive source of revenue, as taxpayers with higher income would contribute more, while lower income taxpayers would contribute less

The governor and some legislators are proposing a statewide tax on drinking water. How would that work?

- The state would levy a monthly tax on the water bills of more than 10 million homes and businesses in California
- More than 3,000 local water agencies would serve as tax collectors for the state in collecting the tax on drinking water bills
- Local agencies would incur significant administrative and technology expenses associated with implementing new systems used for collecting water tax revenues from local water bills
- Revenues generated from the tax would be funneled through the State Water Board, which would allocate funding to safe drinking water projects in the state

For more information about the Safe Drinking Water Trust proposal or the proposed statewide water tax, please visit www.watertaxfacts.org. You may also contact ACWA Deputy Executive Director for Government Relations [Cindy Tuck](#) at [\(916\) 441-4545](tel:9164414545).



ACTION ITEM
March 20, 2019

TO: Board of Directors

FROM: **Public Affairs and Legislation Committee**
(Directors Dick, Osborne, and Thomas)

Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: SB 414 (CABALLERO) - THE SMALL SYSTEM WATER AUTHORITY ACT OF 2019

STAFF RECOMMENDATION

Staff recommends the Board of Directors:

- Receive presentation on SB 414 (Caballero) from Paul Jones, General Manager of Eastern Municipal Water District
- Adopt a support position on SB 414 (Caballero) - The Small System Water Authority Act of 2019.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

BACKGROUND

On February 20, 2019 the MWD OC Board of Directors adopted a "Support in Concept" position on this proposal. At that time the bill language was not yet available and the Board directed that this item be brought back to the Public Affairs and Legislation Committee once the bill language was in print.

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice __
Action item amount: None		Line item:	
Fiscal Impact (explain if unbudgeted):			

BILL SUMMARY

Last year, Senator Ana Caballero (then in the Assembly) introduced AB 2050 sponsored by the Eastern Municipal Water District (EMWD) and the California Municipal Utilities Association (CMUA) that would have created an additional tool to prevent chronically non-compliant water systems from serving contaminated water to Californians. AB 2050 proposed to merge non-compliant water systems into larger and more robust public water system that can take advantage of improved economies of scale, streamlined managerial functions and enhanced financial capacity.

SB 414 by now Senator Caballero makes some changes to what was in AB 2050 while keeping the overall concept that would be effective in helping non-compliant systems.

ARGUMENTS IN SUPPORT

Nearly 800,000 people in California lack access to safe and reliable drinking water on a daily basis. The State Water Resources Control Board (State Board) has identified 329 (as of November 2017) systems statewide that chronically serve contaminated drinking water or cannot provide reliable water service due to unsound infrastructure or because they lack the local financial, managerial, and technical resources to do so. The vast majority of these systems are small, rural systems that typically serve less than 10,000 people. A sustainable solution is necessary to address this drastic health and safety crisis.

To date, laws have been passed that address various elements of the water accessibility issue including voluntary and forced consolidations, supplying resources and technical support, and limiting the development of new unsustainable water systems. While these efforts have created a portfolio of options to address this critical issue of water accessibility in California, immediate and lasting changes to the governance structure of chronically noncompliant small systems are still needed to protect public health and safety.

SB 414 will provide yet another valuable tool to prevent chronically non-compliant water systems from serving contaminated water to Californians.

ARGUMENTS IN OPPOSITION

AB 2050 (Caballero, 2018) was vetoed by then Governor Jerry Brown. In his veto message he said that, “While I appreciate the author’s intent, this bill creates an expensive, bureaucratic process and does not address the most significant problem with providing safe drinking water – a stable funding source to pay for ongoing operations and maintenance.” While the new version also does not include a funding source, the Association of California Water Agencies and CMUA are co-sponsoring another measure that addresses that issue.

STAFF COMMENTS

MWDOC’s Legislative Policy Principles indirectly reflect supporting legislation that would be an alternative to a tax on water. This measure is another resource that can be used to assist non-compliant water providers that a tax on water is proposing to help. Specifically, *it is MWDOC’s policy to oppose legislation and regulation that: imposes a “public goods charge” “water user fee”, or “water tax” on public water agencies or their ratepayers.*

Attached:

SB 414 Full Text

SB 414 Summary of Language Changes

Introduced by Senator Caballero

February 20, 2019

An act to amend Sections 56017.1, 56017.2, 56069, 56653, 56658, and 56895 of, and to add Section 56666.5 to, the Government Code, and to add Division 23 (commencing with Section 78000) to the Water Code, relating to small system water authorities.

LEGISLATIVE COUNSEL'S DIGEST

SB 414, as introduced, Caballero. Small System Water Authority Act of 2019.

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, serving a disadvantaged community, as defined, consistently fails to provide an adequate supply of safe drinking water. The act, if consolidation is either not appropriate or not technically and economically feasible, authorizes the state board to contract with an administrator to provide administrative and managerial services to designated public water systems and to order the designated public water system to accept administrative and managerial services, as specified.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified.

This bill would create the Small System Water Authority Act of 2019 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified. The bill would require the state board to provide a copy of the notice, in the case of a water corporation, to the Public Utilities Commission and would require the Public Utilities Commission to be responsible with the state board for ensuring compliance with the provisions of the bill. The bill would require an entity receiving the notice to respond to the state board, and, if appropriate, the Public Utilities Commission, as to whether the violations of drinking water standards are remedied and the basis for that conclusion, as specified. The bill would require an entity reporting a continuing violation of drinking water standards to have 180 days from the date of a specified response filed with the state board to prepare and submit a plan to the state board to permanently remedy a violation of drinking water standards within a reasonable time that is not later than January 1, 2025. The bill would require the state board to review the plan and accept, accept with reasonable conditions, or reject the plan, as prescribed. The bill would require an entity with an accepted plan to provide quarterly reports to the state board on progress towards a permanent remedy for violations of drinking water standards and would require the state board to annually hold a public hearing to consider whether the progress is satisfactory. The bill would require the state board, if it rejects the plan and after a certain period to allow for a petition for reconsideration, to cause the formation of an authority by the applicable local agency formation commission to serve the customers of the public water system that submitted the plan the state board rejects, if certain findings are made by the state board. If the state board is unable to make those findings, the bill would require the state board to remedy the failure to meet the applicable drinking water standards, as specified.

The bill would require the state board, no later than July 1, 2021, to provide written notice to each county, city, water district, private water

company, or mutual water company located within a county where an entity receiving a notice to cure from the state board is located stating that the state board may consider the formation of an authority within that county and inviting other public water suppliers to consider a voluntary dissolution and subsequent inclusion into the authority that may be formed. The bill would require an entity wishing to consolidate into a proposed authority to provide a written statement opting into an authority to the administrator of the authority on or before December 31, 2021. The bill would authorize an entity wishing to join an authority after the formation of an authority to do so by a proposal or petition to the local agency formation commission and would require an entity to join a proposed authority upon the petition of the entity's customers, as prescribed. The bill would require any county or city receiving a notice to cure from the state board to determine, not later than November 1, 2021, whether any county service areas, county waterworks districts, or other dependent special districts providing water service or water and sewer service located within the county that provide water service or water and sewer service only in the proposed area of the authority should be included within the proposed authority, as prescribed. The bill would authorize an authority to include areas that are not contiguous.

The bill would require the state board, no later than 30 days after the rejection of an entity's plan to permanently remedy a violation of drinking water standards, to notify a local agency formation commission of a county where the public water system that submitted the plan is located, and if appropriate, the Public Utilities Commission, that it has determined that the public water system shall be consolidated into an authority. The bill would require the state board, no later than 60 days after the rejection, to notify the local agency formation commission, and if appropriate, the Public Utilities Commission, of the public water systems that will be consolidated into an authority and to appoint an administrator for each proposed authority. The bill would require an administrator to be responsible for the interim administration and management of the authority and would require the state board to bear the cost of the administrator, as specified. The bill would require the administrator, after consultation with the executive officer of the local agency formation commission, to submit to the state board a conceptual formation plan, with specified components. The bill would require the state board to provide comments on the conceptual formation plan to the administrator and applicable local agency formation commission within 60 days of its receipt.

The bill would require the administrator, within 180 days after the state board provides comments on the draft conceptual formation plan, to submit an application for formation and proposed plan for service to the local agency formation commission for review and would require the commission to hold a hearing on the plan and approve or deny it, as prescribed. The bill would require an authority to file a statement, under penalty of perjury, with the executive office of the local agency formation commission certifying that the authority will take the appropriate actions to comply with an approved plan. By expanding the application of the crime of perjury, this bill would impose a state-mandated local program. The bill would require the executive officer of the commission, within 30 days of the filing of a statement, to issue a notice of completion to the authority and send a copy of that notice to the state board. The bill would authorize the state board, in the event that the authority fails to timely file a statement certifying compliance with the plan, to issue an order to the authority requiring the filing of a statement certifying compliance with the plan or other remedial action as may be appropriate. The bill would require, annually for the first 3 years after the date of an authority's formation by a local agency formation commission, an authority to file a certain report with the local agency formation commission and the state board. The bill would require a local agency formation commission to hold a public hearing within 90 days of receipt of the report to review the authority's performance during the previous year and would authorize the state board to order an authority to remedy any failures to comply with conditions imposed by the state board or the plan for service. The bill would authorize the state board to impose a civil penalty on an authority of up to \$500 per day for each violation if an authority fails to timely comply with a remedial order by the state board, up to a maximum of \$10,000 per year for each particular violation.

The bill would require the Public Utilities Commission to order the dissolution of a public water system and the transfer of all assets of a subject water corporation to an authority formed by the local agency formation commission, as prescribed. The bill would require the state board to petition a court for an order dissolving any mutual water company, water corporation, or private corporation that has been operating a public water system and transferring the assets of that company or corporation to the authority formed by the local agency formation commission. The bill would provide for an owner or shareholder of a dissolved public water system to be compensated, as

specified, in accordance with a distressed business valuation issued by the state board. The bill would authorize an authority to receive financing from the state to pay all liabilities assumed from a public water system and would require an authority to issue bonds to repay the state with interest.

The bill would require the Controller, no later than January 1, 2026, to prepare and submit to the Legislature a report regarding the fiscal and operational health of the authorities that includes a recommendation regarding the need for supplemental state funding, if any, and the potential sources of that funding. The bill would require the state board, no later than January 1, 2026, to prepare and submit to the Legislature a report specifying the number of public water systems that, at any time between July 1, 2018, and January 1, 2025, were out of compliance with one or more state or federal primary drinking water standards, as specified.

The bill would provide for the appointment of an initial board of an authority, and the election of subsequent boards of an authority. The bill would require a director to be a resident of the area served by the authority and, to the extent practicable, to represent a division with equal population being served by the authority. The bill would require a director to receive compensation in an amount not to exceed \$250 per day, not to exceed a total of 10 days in any calendar month, together with any expenses incurred in the performance of the director's duties required or authorized by the board. The bill would require the board to hold meetings, exercise and perform all powers, privileges, and duties of an authority, designate a depository to have custody of the funds of the authority, appoint officers, and hire employees, as specified. The bill would require the board to file a certain certificate with the Secretary of State within 180 days of its initial meeting after formation. The bill would require a person convicted of an infraction for a violation of any local ordinance or regulation adopted by an authority to be punished upon a first conviction by a fine not exceeding \$50 and for a 2nd conviction within a period of one year by a fine of not exceeding \$100 and for a 3rd or any subsequent conviction within a period of one year by a fine of not exceeding \$250. By creating new crimes, this bill would impose a state-mandated local program.

The bill would specify the powers of an authority, including that an authority is authorized to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water, including sewage and stormwater, for the beneficial use of the authority. The bill would

authorize the authority to fix a water standby assessment or availability charge, as prescribed. The bill would require a board of supervisors to levy the standby charge in the amounts for the respective parcels fixed by the board of the authority. The bill would require all county officers charged with the duty of collecting taxes to collect authority standby charges with the regular tax payments to the county and would require the charges to be paid to the authority. The bill would authorize an authority to restrict the use of authority water, as specified, and would provide that it is a misdemeanor, punishable as specified, for any person to use or apply water received from the authority contrary to or in violation of any restriction or prohibition specified in the authority's ordinance. By creating a new crime, this bill would impose a state-mandated local program. The bill would authorize an authority to conduct inspections and would authorize an authority to obtain an inspection warrant. Because the willful refusal of an inspection lawfully authorized by an inspection warrant is a misdemeanor, this bill would impose a state-mandated local program by expanding the application of a crime. The bill would require an authority to notify the county or city building inspector, county health inspector, or other affected county or city employee or office, in writing, within a reasonable time if an actual violation of an authority, city, or county ordinance is discovered during the investigation.

The bill would require the administrator to prepare and submit a capital improvement plan to the state board no later than one year after the date upon which an authority is formed. The bill would require the plan to bring the authority into full compliance with drinking water standards within 3 years, which time may be extended by the state board for good cause. The bill would require the state board, upon appropriation by the Legislature from the General Fund, or, to the extent funds are available from bond revenues or other sources, including federal, state, academic, or other public or private entities, to provide funding for the administrator and for formation and startup costs for up to 3 fiscal years after formation of the authority, as specified. The bill would provide for the state board, upon appropriation by the Legislature from the General Fund, or, to the extent funds are available from bond revenues or other sources, including federal, state, academic, or other public or private entities, to receive up to an unspecified amount for the preparation of distressed business valuations to determine the net fair market value of the water corporation or mutual water company. The bill would require, if those moneys are not sufficient to meet the

statewide needs of the authorities, funding to be made available upon appropriation from the Safe Drinking Water State Revolving Fund.

By imposing new duties or a higher level of service on cities, counties, and local agency formation commissions, this bill would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 56017.1 of the Government Code is
2 amended to read:

3 56017.1. "Applicant" means a local agency or person or persons
4 that submits an application, as defined by Section ~~56017.2.~~
5 *56017.2, or the State Water Resources Control Board where an*
6 *application is submitted by its appointed administrator pursuant*
7 *to Section 78038 of the Water Code.*

8 SEC. 2. Section 56017.2 of the Government Code is amended
9 to read:

10 56017.2. "Application" means any of the following:

11 (a) A resolution of application or petition initiating a change of
12 organization or reorganization with supporting documentation as
13 required by the commission or executive officer.

14 (b) A request for a sphere of influence amendment or update
15 pursuant to Section 56425.

16 (c) A request by a city or district for commission approval of
17 an extension of services outside the agency's jurisdictional
18 boundaries pursuant to Section 56133.

19 (d) A request by a public agency for commission approval of
20 an extension of services outside the agency's jurisdictional
21 boundaries pursuant to Section 56134.

1 (e) A request by the State Water Resources Control Board that
2 includes the formation of a small system water authority made
3 pursuant to Section 78038 of the Water Code.

4 SEC. 3. Section 56069 of the Government Code is amended
5 to read:

6 56069. "Proposal" means a desired change of organization or
7 reorganization initiated by a ~~petition or~~ petition, by resolution of
8 application of a legislative body or school ~~district~~ district, or by
9 order of the State Water Resources Control Board in the case of
10 an application including the formation of a small system water
11 authority submitted pursuant to Section 78038 of the Water Code,
12 for which a certificate of filing has been issued.

13 SEC. 4. Section 56653 of the Government Code, as amended
14 by Section 1 of Chapter 43 of the Statutes of 2017, is amended to
15 read:

16 56653. (a) If a proposal for a change of organization or
17 reorganization is submitted pursuant to this part, the applicant shall
18 submit a plan for providing services within the affected territory.

19 (b) The plan for providing services shall include all of the
20 following information and any additional information required by
21 the commission or the executive officer:

22 (1) An enumeration and description of the services currently
23 provided or to be extended to the affected territory.

24 (2) The level and range of those services.

25 (3) An indication of when those services can feasibly be
26 extended to the affected territory, if new services are proposed.

27 (4) An indication of any improvement or upgrading of structures,
28 roads, sewer or water facilities, or other conditions the local agency
29 would impose or require within the affected territory if the change
30 of organization or reorganization is completed.

31 (5) Information with respect to how those services will be
32 financed.

33 (c) (1) In the case of a change of organization or reorganization
34 initiated by a local agency that includes a disadvantaged,
35 unincorporated community as defined in Section 56033.5, a local
36 agency may include in its resolution of application for change of
37 organization or reorganization an annexation development plan
38 adopted pursuant to Section 99.3 of the Revenue and Taxation
39 Code to improve or upgrade structures, roads, sewer or water
40 facilities, or other infrastructure to serve the disadvantaged,

1 unincorporated community through the formation of a special
2 district or reorganization of one or more existing special districts
3 with the consent of each special district's governing body.

4 (2) The annexation development plan submitted pursuant to this
5 subdivision shall include information that demonstrates that the
6 formation or reorganization of the special district will provide all
7 of the following:

8 (A) The necessary financial resources to improve or upgrade
9 structures, roads, ~~sewer~~, ~~sewer~~ or water ~~facilities~~ *facilities*, or other
10 infrastructure. The annexation development plan shall also clarify
11 the local entity that shall be responsible for the delivery and
12 maintenance of the services identified in the application.

13 (B) An estimated timeframe for constructing and delivering the
14 services identified in the application.

15 (C) The governance, oversight, and long-term maintenance of
16 the services identified in the application after the initial costs are
17 recouped and the tax increment financing terminates.

18 (3) If a local agency includes an annexation development plan
19 pursuant to this subdivision, a local agency formation commission
20 may approve the proposal for a change of organization or
21 reorganization to include the formation of a special district or
22 reorganization of a special district with the special district's
23 consent, including, but not limited to, a community services district,
24 municipal water district, or sanitary district, to provide financing
25 to improve or upgrade structures, roads, sewer or water facilities,
26 or other infrastructure to serve the disadvantaged, unincorporated
27 community, in conformity with the requirements of the principal
28 act of the district proposed to be formed and all required formation
29 proceedings.

30 (4) Pursuant to Section 56881, the commission shall include in
31 its resolution making determinations a description of the annexation
32 development plan, including, but not limited to, an explanation of
33 the proposed financing mechanism adopted pursuant to Section
34 99.3 of the Revenue and Taxation Code, including, but not limited
35 to, any planned debt issuance associated with that annexation
36 development plan.

37 (d) This section shall not preclude a local agency formation
38 commission from considering any other options or exercising its
39 powers under Section 56375.

1 ~~(e)~~ *A plan for providing services accompanying an application*
2 ~~that includes the formation of a small system water authority~~
3 ~~submitted pursuant to subdivision (a) of Section 78038 of the Water~~
4 ~~Code shall meet the requirements set forth in subdivision (b) of~~
5 ~~Section 78038 of the Water Code.~~

6 ~~(e)~~

7 ~~(f)~~ This section shall remain in effect only until January 1, 2025,
8 and as of that date is repealed.

9 SEC. 5. Section 56658 of the Government Code is amended
10 to read:

11 56658. (a) Any petitioner or legislative body desiring to initiate
12 proceedings shall submit an application to the executive officer of
13 the principal county.

14 (b) (1) Immediately after receiving an application and before
15 issuing a certificate of filing, the executive officer shall give mailed
16 notice that the application has been received to each affected local
17 agency, the county committee on school district organization, and
18 each school superintendent whose school district overlies the
19 affected territory. The notice shall generally describe the proposal
20 and the affected territory. The executive officer shall not be
21 required to give notice pursuant to this subdivision if a local agency
22 has already given notice pursuant to subdivision (c) of Section
23 56654.

24 (2) It is the intent of the Legislature that a proposal for
25 incorporation or disincorporation shall be processed in a timely
26 manner. With regard to an application that includes an
27 incorporation or disincorporation, the executive officer shall
28 immediately notify all affected local agencies and any applicable
29 state agencies by mail and request the affected agencies to submit
30 the required data to the commission within a reasonable timeframe
31 established by the executive officer. Each affected agency shall
32 respond to the executive officer within 15 days acknowledging
33 receipt of the request. Each affected local agency and the officers
34 and departments thereof shall submit the required data to the
35 executive officer within the timelines established by the executive
36 officer. Each affected state agency and the officers and departments
37 thereof shall submit the required data to the executive officer within
38 the timelines agreed upon by the executive officer and the affected
39 state departments.

1 (3) If a special district is, or as a result of a proposal will be,
2 located in more than one county, the executive officer of the
3 principal county shall immediately give the executive officer of
4 each other affected county mailed notice that the application has
5 been received. The notice shall generally describe the proposal
6 and the affected territory.

7 (c) Except when a commission is the lead agency pursuant to
8 Section 21067 of the Public Resources Code, the executive officer
9 shall determine within 30 days of receiving an application whether
10 the application is complete and acceptable for filing or whether
11 the application is incomplete.

12 (d) The executive officer shall not accept an application for
13 filing and issue a certificate of filing for at least 20 days after giving
14 the mailed notice required by subdivision (b). The executive officer
15 shall not be required to comply with this subdivision in the case
16 of an application ~~which~~ *that* meets the requirements of Section
17 56662 or in the case of an application for which a local agency
18 has already given notice pursuant to subdivision (c) of Section
19 56654.

20 (e) If the appropriate fees have been paid, an application shall
21 be deemed accepted for filing if no determination has been made
22 by the executive officer within the 30-day period. An executive
23 officer shall accept for filing, and file, any application submitted
24 in the form prescribed by the commission and containing all of
25 the information and data required pursuant to Section 56652.

26 (f) When an application is accepted for filing, the executive
27 officer shall immediately issue a certificate of filing to the
28 applicant. A certificate of filing shall be in the form prescribed by
29 the executive officer and shall specify the date upon which the
30 proposal shall be heard by the commission. From the date of
31 issuance of a certificate of filing, or the date upon which an
32 application is deemed to have been accepted, whichever is earlier,
33 an application shall be deemed filed pursuant to this division.

34 (g) If an application is determined not to be complete, the
35 executive officer shall immediately transmit that determination to
36 the applicant specifying ~~those~~ *which* parts of the application ~~which~~
37 are incomplete and the manner in which they can be made
38 complete.

39 (h) Following the issuance of the certificate of filing, the
40 executive officer shall proceed to set the proposal for hearing and

1 give published notice thereof as provided in this part. The date of
2 the hearing shall be not more than 90 days after issuance of the
3 certificate of filing or after the application is deemed to have been
4 accepted, whichever is earlier. *In the case of an application*
5 *submitted pursuant to subdivision (a) of Section 78038 of the Water*
6 *Code by an administrator appointed by the State Water Resources*
7 *Control Board, the date of the hearing shall be not more than 180*
8 *days after issuance of the certificate of filing or after the*
9 *application is deemed to have been accepted, whichever is earlier.*

10 Notwithstanding Section 56106, the date for conducting the
11 hearing, as determined pursuant to this subdivision, is mandatory.

12 SEC. 6. Section 56666.5 is added to the Government Code, to
13 read:

14 56666.5. (a) This section applies only to a proposal that
15 includes the formation of a small system water authority submitted
16 pursuant to subdivision (a) of Section 78038 of the Water Code.

17 (b) At the hearing described in Section 56666, the commission
18 shall approve the plan and the formation of the authority, approve
19 the plan and the formation of the authority with modifications, or
20 disapprove the plan and request resubmittal by the administrator.

21 (c) If the commission disapproves the plan, the commission
22 shall, within 30 days of the hearing, provide the administrator with
23 written comments identifying the changes that the administrator
24 must make in order to submit an acceptable plan. If the
25 administrator concurs with those changes, the administrator may
26 provide a written statement of concurrence to the commission and
27 the commission shall deem approved the commission's proposed
28 changes upon receipt of the written statement of concurrence. If
29 the administrator disagrees with those changes, the administrator
30 shall provide a revised plan for service to the commission no later
31 than 90 days after the date on which the commission provides the
32 administrator with comments disapproving the plan.

33 (d) The commission shall hold a hearing no later than 90 days
34 after the date the administrator provides a revised plan for service
35 to the commission, during which the commission shall approve
36 the revised plan for service, either as proposed by the administrator
37 or with the modifications the commission believes best serve the
38 public interest.

39 SEC. 7. Section 56895 of the Government Code is amended
40 to read:

1 56895. (a) When a commission has adopted a resolution
2 making determinations, any person or affected agency may file a
3 written request with the executive officer requesting amendments
4 to or reconsideration of the resolution. The request shall state the
5 specific modification to the resolution being requested and shall
6 state what new or different facts that could not have been presented
7 previously are claimed to warrant the reconsideration. If the request
8 is filed by a school district that received notification pursuant to
9 Section 56658, the commission shall consider that request at a
10 public hearing.

11 (b) Notwithstanding Section 56106, the deadlines set by this
12 section are mandatory. The person or agency shall file the written
13 request within 30 days of the adoption of the initial or superseding
14 resolution by the commission making determinations. If no person
15 or agency files a timely request, the commission shall not take any
16 action pursuant to this section.

17 (c) Upon receipt of a timely request, the executive officer shall
18 not take any further action until the commission acts on the request.

19 (d) Upon receipt of a timely request by the executive officer,
20 the time to file any action, including, but not limited to, an action
21 pursuant to Section 21167 of the Public Resources Code and any
22 provisions of Part 4 (commencing with Section 57000) governing
23 the time within which the commission is to act shall be tolled for
24 the time that the commission takes to act on the request.

25 (e) The executive officer shall place the request on the agenda
26 of the next meeting of the commission for which notice can be
27 given pursuant to this subdivision. The executive officer shall give
28 notice of the consideration of the request by the commission in
29 the same manner as for the original proposal. The executive officer
30 may give notice in any other manner as ~~he or she~~ *the executive*
31 *officer* deems necessary or desirable.

32 (f) At that meeting, the commission shall consider the request
33 and receive any oral or written testimony. The consideration may
34 be continued from time to time but not to exceed 35 days from the
35 date specified in the notice. The person or agency that filed the
36 request may withdraw it at any time prior to the conclusion of the
37 consideration by the commission.

38 (g) At the conclusion of its consideration, the commission may
39 approve with or without amendment, wholly, partially, or
40 conditionally, or disapprove the request. If the commission

1 disapproves the request, it shall not adopt a new resolution making
2 determinations. If the commission approves the request, with or
3 without amendment, wholly, partially, or conditionally, the
4 commission shall adopt a resolution making determinations that
5 shall supersede the resolution previously issued.

6 (h) The determinations of the commission shall be final and
7 conclusive. No person or agency shall make any further request
8 for the same change or a substantially similar change, as
9 determined by the commission.

10 (i) Notwithstanding subdivision (h), clerical errors or mistakes
11 may be corrected pursuant to Section 56883.

12 (j) *This section does not apply to commission determinations*
13 *for a proposal that includes the formation of a small system water*
14 *authority submitted pursuant to subdivision (a) of Section 78038*
15 *of the Water Code.*

16 SEC. 8. Division 23 (commencing with Section 78000) is added
17 to the Water Code, to read:

18
19 DIVISION 23. SMALL SYSTEM WATER AUTHORITY
20 ACT OF 2019

21
22 PART 1. SHORT TITLE

23
24 78000. This division shall be known, and may be cited, as the
25 Small System Water Authority Act of 2019.

26
27 PART 2. FINDINGS AND DECLARATIONS

28
29 78001. The Legislature finds and declares all of the following:

30 (a) As of November 2017, according to the state board, there
31 are approximately 300 public water systems in the State of
32 California that are chronically serving contaminated water to their
33 customers and are operationally deficient in violation of public
34 health regulations.

35 (b) The vast majority of those systems are small, only serving
36 a population of less than 10,000 people, with deficiencies that
37 range from natural contaminants, manmade contaminants, and
38 failing infrastructure. These systems are located throughout
39 California, with a greater percentage of these failing systems
40 primarily located in economically distressed or rural counties.

1 (c) These chronically out of compliance systems lack the
2 financial, managerial, and technical resources to adequately serve
3 their communities and face higher costs per customer to provide
4 adequate service because of their small size, rural location, and
5 aging infrastructure.

6 (d) There is an inefficient deployment of existing local system
7 financial resources and potential funding shortfalls, largely due to
8 duplication of overhead and the inability to access state and other
9 funding streams necessary for modern water service.

10 (e) A new category of public water agency is needed to absorb
11 and consolidate failing small public water systems to provide
12 technical, managerial, and financial capabilities to ensure the
13 provision of safe, clean, affordable, and accessible water and local
14 governance.

15 (f) This act authorizes the creation of small system water
16 authorities that will have unique powers to absorb, improve, and
17 competently operate currently noncompliant public water systems
18 with either contiguous or noncontiguous boundaries.

19 (g) Existing public water systems, whether public agencies,
20 investor-owned utilities, water corporations regulated by the Public
21 Utilities Commission, private mutual water companies, or other
22 private unregulated water systems, that are currently providing
23 adequate water service but that are located in a county where an
24 authority may be formed will have the option of voluntarily
25 consolidating with a new authority.

26 27 PART 3. DEFINITIONS

28
29 78005. Unless the context otherwise requires, the provisions
30 of this part govern the construction of this division.

31 78006. "Affected county" means any county in which the land
32 of a proposed authority is situated.

33 78007. "Authority" means a small system water authority
34 formed pursuant to this division.

35 78008. "Board" means the board of directors of an authority.

36 78009. "Board of supervisors" means the board of supervisors
37 of the principal county.

38 78010. "City" means any chartered or general law city.

39 78011. "County clerk" means the county clerk of the principal
40 county.

1 78012. “Local agency formation commission” means a local
2 agency formation commission of the principal county in which
3 the proposed authority is located.

4 78013. “President” means the president of the board of directors
5 of an authority.

6 78014. “Principal county” means the county in which the
7 greater portion of the land of a proposed authority is situated.

8 78015. “Private corporation” means any private corporation
9 organized under the laws of the United States or of this or any
10 other state.

11 78016. “Public agency” means the state or any department or
12 agency thereof, and a county, city, public corporation, or public
13 district of the state, including an authority formed pursuant to this
14 division.

15 78017. “Public water system” has the same meaning as defined
16 in Section 116275 of the Health and Safety Code.

17 78018. “Secretary” means the secretary of an authority.

18 78019. “State board” means the State Water Resources Control
19 Board.

20 78020. “Voter” means a voter as defined in Section 359 of the
21 Elections Code.

22 78021. “Water” includes potable water and nonpotable water.

23 78022. “Water corporation” has the same meaning as defined
24 in Section 241 of the Public Utilities Code.

25 26 PART 4. FORMATION

27 28 CHAPTER 1. IN GENERAL

29
30 78025. The area proposed to be served by a proposed authority
31 may consist of the service areas of one or more public agencies,
32 private water companies, or mutual water companies that need not
33 be contiguous. The area proposed to be served by a proposed
34 authority may also include one or more parcels that need not be
35 contiguous, either with each other or with the service areas of the
36 public agencies, private water companies, or mutual water
37 companies that will be served through the proposed authority.

CHAPTER 2. FORMATION PROCEEDINGS

78030. (a) No later than March 1, 2020, the state board shall provide written notice to cure to all public agencies, private water companies, or mutual water companies that meet both of the following criteria:

(1) Operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people.

(2) Are not in compliance with one or more state or federal primary drinking water standard maximum contaminant levels based on a running average for the period from July 1, 2018, through December 31, 2019.

(b) In the case of a water corporation, the state board shall provide a copy of the notice to the Public Utilities Commission and the Public Utilities Commission shall be responsible with the state board for ensuring compliance with this part.

78031. An entity receiving a notice pursuant to subdivision (a) of Section 78030 shall respond to the state board and, if appropriate, the Public Utilities Commission, within 60 days of receiving the notice as to whether the violations of drinking water standards are remedied and the basis for that conclusion.

78032. (a) (1) If an entity receiving a notice pursuant to subdivision (a) of Section 78030 reports pursuant to Section 78031 that a violation of drinking water standards is continuing, the entity shall have 180 days from the date of the response filed with the state board pursuant to Section 78031 to prepare and submit a plan to the state board to permanently remedy a violation of drinking water standards within a reasonable time that is not later than January 1, 2025.

(2) The state board shall review a plan submitted pursuant to paragraph (1) and, within 60 days of receipt, shall accept, accept with reasonable conditions, or reject the plan.

(3) The state board shall not accept the plan with reasonable conditions or reject the plan without meeting with the entity at least 15 days before the acceptance with reasonable conditions or rejection of the plan. The state board may extend the 60-day period described in paragraph (2) by no more than 180 days in order to allow for full consultation and collaboration between the state board and the entity, with the goal of that full consultation and collaboration being a mutually agreeable plan to remedy the

1 violations of drinking water standards in a timely manner. The
2 state board shall not unreasonably withhold or delay approval of
3 a plan or impose unreasonable conditions on a plan.

4 (b) If an entity receiving a notice pursuant to subdivision (a) of
5 Section 78030 has begun a remediation plan under the authority
6 of the state board, a California regional water quality control board,
7 the Public Utilities Commission, or a local agency formation
8 commission, the state board shall deem the remediation plan
9 acceptable without additional conditions.

10 (c) (1) If the state board accepts the plan or accepts the plan
11 with conditions, the entity shall provide quarterly reports to the
12 state board on progress towards a permanent remedy for the
13 violations of drinking water standards and the state board shall
14 hold an annual public hearing to consider whether progress is
15 satisfactory.

16 (2) If the state board rejects the plan, the state board shall cause
17 the formation of an authority, subject to the provisions of
18 subdivision (d), by the applicable local agency formation
19 commission, in accordance with Section 78034, to serve the
20 customers of the public water system that submitted the plan the
21 state board rejects, if the state board makes all of the following
22 findings:

23 (A) The continued operation of the public water system in its
24 current condition is a threat to public health and safety.

25 (B) The public water system lacks the financial, managerial, or
26 technical resources required to remedy the violation of state or
27 federal primary drinking water standards, which results in the
28 entity's inability to remain operationally viable as a public water
29 system.

30 (C) There is no reasonable alternative that would protect the
31 public drinking water supplies of the public water system other
32 than for there to be the formation of an authority to serve the
33 customers of the public water system.

34 (3) If the state board is unable to make all of the findings in
35 paragraph (2), the state board shall do either of the following:

36 (A) Exercise its authority to remedy the failure to meet
37 applicable drinking water standards pursuant to Article 9
38 (commencing with Section 116650) of Chapter 4 of Part 12 of
39 Division 104 of the Health and Safety Code.

1 (B) Use existing funding sources and existing legal authority
2 to remedy the failure to meet applicable drinking water standards.

3 (d) Before causing the formation of an authority by the
4 applicable local agency formation commission, the state board
5 shall provide the entity with a period of 15 business days from the
6 date on which the state board issues a written determination
7 rejecting the plan to file a petition for reconsideration. The state
8 board shall, if so requested by the entity, hold an evidentiary
9 hearing under the provisions of the Administrative Procedure Act
10 that shall commence within 90 days of the date on which the
11 petition for reconsideration is filed with the state board and shall
12 issue a final order not later than 60 days after the close of the
13 evidentiary hearing. If the entity does not request an evidentiary
14 hearing, the state board shall issue a final order not later than 60
15 days after the date on which the entity files its petition for
16 reconsideration.

17 (e) If the state board and the Public Utilities Commission reject
18 the plan of a water corporation regulated by the commission, the
19 commission shall proceed with the consolidation or receivership,
20 or both, under the commission's existing programs, or, in
21 consultation with the state board, the commission shall cause the
22 dissolution and transfer of assets of the water corporation into an
23 authority pursuant to paragraph (2) of subdivision (a) of Section
24 78037.

25 78033. (a) (1) No later than July 1, 2021, the state board shall
26 provide written notice to each county, city, water district, private
27 water company, or mutual water company located within a county
28 where an entity receiving a notice under subdivision (a) of Section
29 78030 is located stating that the state board may consider the
30 formation of an authority within that county and inviting other
31 public water suppliers to consider a voluntary dissolution and
32 subsequent inclusion into the authority that may be formed.

33 (2) (A) An entity wishing to consolidate into a proposed
34 authority shall provide a written statement opting into an authority
35 to the administrator of the authority on or before December 31,
36 2021. After the formation of an authority, an entity wishing to join
37 an authority may do so by means of a proposal or petition to the
38 local agency formation commission pursuant to the
39 Cortese-Knox-Hertzberg Local Government Reorganization Act

1 of 2000 (Division 3 (commencing with Section 56000) of Title 5
2 of the Government Code).

3 (B) (i) The customers of an entity identified in paragraph (1)
4 may submit a petition to the administrator of a proposed authority
5 on or before December 31, 2021, that their public water system
6 be included in the proposed authority by filing a petition containing
7 the signatures of either of the following, whichever is less:

8 (I) One thousand residents of the area served by the public water
9 system

10 (II) Ten percent of the service connections of the public water
11 system.

12 (ii) If a petition is timely submitted under this subparagraph,
13 the administrator shall deem that petition to be a request by the
14 entity to be included within the authority. The administrator may
15 deny the request if the administrator determines that including the
16 entity would substantially increase the costs for other anticipated
17 customers of the authority or if the administrator determines that
18 the consolidation of the water systems cannot be accomplished in
19 a successful manner in a reasonable period of time, taking into
20 account economic, environmental, legal, social and technological
21 factors.

22 (b) On or before November 1, 2021, a county or city receiving
23 notice from the state board pursuant to subdivision (a) shall
24 determine whether any county service areas, county waterworks
25 districts, or other dependent special districts providing water
26 service or water and sewer service located within the county that
27 provide water service or water and sewer service only in the
28 proposed area of the authority should be included within the
29 proposed authority. If the governing board of the county or city
30 determines that the dependent special district should be included
31 within the proposed authority, the county or city shall provide a
32 written statement on behalf of the dependent special district opting
33 into an authority to the administrator of the authority on or before
34 December 1, 2021. After the formation of an authority, a county
35 or city that concludes that a dependent special district should be
36 consolidated into an authority shall make a proposal or petition to
37 the local agency formation commission for the consolidation
38 pursuant to the Cortese-Knox-Hertzberg Local Government
39 Reorganization Act of 2000 (Division 3 (commencing with Section
40 56000) of Title 5 of the Government Code).

1 (c) An authority may include areas that are not contiguous.

2 (d) No later than November 1, 2021, the administrator for an
3 authority shall consult with all entities identified pursuant to
4 subdivision (a) to provide advice as to the advantages and
5 disadvantages of opting into being included in the authority.

6 78034. (a) No later than 30 days after the rejection of a plan
7 pursuant to Section 78032, the state board shall notify a local
8 agency formation commission of a county where the public water
9 system that submitted the plan is located, and, if appropriate given
10 the governance of the public water system, the Public Utilities
11 Commission, that it has determined that the public water system
12 shall be consolidated into an authority.

13 (b) No later than 60 days after the rejection of a proposed plan,
14 the state board shall do both of the following:

15 (1) Notify the appropriate state agency identified in subdivision
16 (a) of the public water systems that will be consolidated into an
17 authority.

18 (2) Appoint an independent administrator pursuant to Section
19 78035 for each proposed authority who shall be responsible for
20 the preparation of a plan for service and interim administration
21 and management of the authority.

22 78035. (a) On or before March 1, 2022, the administrator,
23 after consultation with the executive officer of the local agency
24 formation commission, shall submit to the state board a conceptual
25 formation plan that includes all of the following:

26 (1) The public water system service areas to be served by the
27 authority.

28 (2) The population to be served by the authority.

29 (3) The available infrastructure to be used by the authority and
30 any known deficiencies.

31 (4) The recorded violations of drinking water standards and the
32 nature of the threat to public health and safety.

33 (5) Financial and operational provisions to be addressed in the
34 plan for service pursuant to Section 78038.

35 (6) A plan for the provision of safe and clean water supplies to
36 the customers of the public water system being included in the
37 authority from the date of submission until the date upon which
38 all infrastructure repair, construction, rehabilitation, or
39 reconstruction needed to provide safe and clean drinking water is
40 completed.

1 (b) The state board shall provide comments on the conceptual
2 formation plan to the administrator and applicable local agency
3 formation commission within 60 days of its receipt.

4 (c) The state board or an authority may determine the legality
5 of the existence of the authority or validate the financial provisions
6 of an interim plan in an action brought pursuant to Chapter 9
7 (commencing with Section 860) of Title 10 of Part 2 of the Code
8 of Civil Procedure.

9 78036. (a) On or before March 1, 2021, the state board shall
10 establish and publish a list of individuals who meet the
11 qualifications in subdivision (e) to serve as administrators pursuant
12 to this division.

13 (b) A single administrator may provide services to several
14 authorities if, in the judgment of the state board, the services can
15 be provided in a manner that achieves the purposes of this division.

16 (c) An administrator, who may be an employee of a consulting
17 firm, shall provide or contract for administrative and managerial
18 service to establish the authority, retain staff and consultants, and
19 commence the remediation of the violations of drinking water
20 standards.

21 (d) The state board shall bear the cost of the administrator and
22 be responsible for all compensation of and reasonable expenses
23 incurred by the administrator for the duration of the period that
24 the administrator serves the authority.

25 (e) The minimum qualifications and selection process for an
26 administrator appointed by the state board pursuant to this division
27 shall be consistent with the minimum qualifications and selection
28 process for administrators appointed in accordance with paragraph
29 (1) of subdivision (m) of Section 116686 of the Health and Safety
30 Code.

31 (f) An administrator shall serve at the pleasure of the state board
32 until whichever of the following dates occurs earlier:

33 (1) The local agency formation commission issues a notice of
34 completion of the plan for service pursuant to Section 78038.

35 (2) Three years from the date that the local agency formation
36 commission forms an authority.

37 (3) No sooner than 30 days after the appointment of a general
38 manager by the board of the authority, at which date the services
39 of the administrator shall be terminated.

1 78037. (a) (1) No later than 240 days after the state board
2 issues a notice pursuant to paragraph (1) of subdivision (b) of
3 Section 78034, the Public Utilities Commission shall order the
4 dissolution of the public water system and the transfer of all assets
5 of the water corporation subject to this paragraph to the authority
6 formed by the local agency formation commission.

7 (2) No later than 240 days after the state board issues a notice
8 pursuant to paragraph (1) of subdivision (b) of Section 78034, the
9 state board shall petition a court of competent jurisdiction for an
10 order dissolving any mutual water company, water corporation,
11 or private corporation that has been operating a public water system
12 identified in subdivision (a) of Section 78034 and transferring the
13 assets of that company or corporation to the authority formed by
14 the local agency formation commission.

15 (b) An owner or shareholder of a water corporation or a mutual
16 water company consolidated into an authority pursuant to
17 subdivision (a) shall be compensated as follows:

18 (1) Within 180 days of the dissolution, the state board shall
19 cause to be prepared a distressed business valuation to determine
20 the net fair market value of the corporation or company, calculated
21 as follows:

22 (A) The assets of the water corporation or mutual water company
23 shall be calculated by estimating the net book value of all assets,
24 including, but not limited to, cash and investments, receivables,
25 prepaid expenses, water in storage, real property, water rights,
26 structures and improvements, equipment, general facilities, and
27 other assets.

28 (B) Notwithstanding subparagraph (A), water rights shall be
29 appraised at their market value if both of the following
30 requirements are met:

31 (i) The water rights provide for the extraction of groundwater
32 in a groundwater basin that has been fully adjudicated and wherein
33 the production right of the water corporation or mutual water
34 company has been determined in that adjudication.

35 (ii) The market valuation is calculated so as to exclude any
36 capital or operating costs that may be required to bring the water
37 being produced under the water right into full compliance with all
38 state and federal law.

39 (C) The liabilities of the water corporation or mutual water
40 company shall be calculated by estimating the financial liabilities,

1 including, but not limited to, accounts payable, unfunded pension
2 or other benefit liabilities, notes payable, bonds payable, as well
3 as outstanding fines, fees, or other assessments for drinking water
4 or other public health violations, estimated costs for outstanding
5 litigation and other anticipated liabilities, and the estimated costs
6 to bring all structures and works into good repair and in compliance
7 with contemporary water infrastructure and drinking water
8 standards.

9 (2) Upon issuance by the state board of the distressed business
10 valuation determining the net fair market value, the authority may
11 seek an order for immediate possession of all of the assets and
12 liabilities of the corporation or company using the procedures set
13 forth in Article 3 (commencing with Section 1255.410) of Chapter
14 6 of Title 7 of Part 3 of the Code of Civil Procedure. A court shall
15 grant immediate possession if the court determines that the
16 procedures in this section have been followed. Judicial review of
17 the determinations by the state board shall be based on substantial
18 evidence in the record before the state board.

19 (3) If an owner or shareholder disputes the distressed business
20 valuation of the state board, the owner or shareholder may file an
21 action pursuant to Section 1094.5 of the Code of Civil Procedure
22 seeking a writ of mandate overturning the valuation. An action
23 pursuant to this paragraph shall have preference in the civil
24 calendar.

25 (4) Payment of the net fair market value of the water corporation
26 or mutual water company, with interest accruing from the effective
27 date of dissolution, shall be paid by the authority within two years
28 of the authority's formation from the proceeds of bond sales or
29 other available funds derived from rates, fees, charges, taxes, or
30 other revenue sources.

31 (5) The authority shall assume all obligations and liabilities of
32 the public water system. After paying the net fair market value to
33 the owners or shareholders of a water corporation or mutual water
34 company, the authority may receive financing from the state to
35 pay all liabilities. The authority shall issue bonds to repay the state
36 with interest for those liabilities pursuant to Part 8 (commencing
37 with Section 78100).

38 (c) At the time a water corporation or a mutual water company
39 is dissolved and consolidated into an authority pursuant to
40 subdivision (a), if there is pending any action in state or federal

1 court or other judicial proceeding brought or maintained by the
2 water corporation or mutual water company for damages to
3 property associated with contamination or pollution of its water
4 supply against one or more responsible parties, both of the
5 following apply:

6 (1) The water corporation's or mutual water company's rights,
7 interests, claims, and causes of action in the action or proceeding
8 shall be deemed transferred, as that term is used in Section 954 of
9 the Civil Code and Section 368.5 of the Code of Civil Procedure,
10 to the authority.

11 (2) The authority shall assume any and all contractual
12 obligations of the water corporation or mutual water company
13 owed to any attorney or law firm in connection with the attorney's
14 or firm's representation of the water corporation or mutual water
15 company in connection with the action or proceeding.

16 78038. (a) Within 180 days after the state board provides
17 comments on the draft conceptual formation plan pursuant to
18 subdivision (b) of Section 78035, the administrator shall submit
19 an application for the dissolution and formation and proposed plan
20 for service to the local agency formation commission for review
21 and potential approval pursuant to Part 3 (commencing with
22 Section 56650) of Division 3 of Title 5 of the Government Code.
23 An application to form an authority shall include at least five public
24 water systems, unless the administrator determines that the
25 authority would be financially and operationally viable with fewer
26 than five public water systems, and may include the following:

27 (1) A public water system from a county service area or other
28 dependent special district.

29 (2) A public water system that has been meeting drinking water
30 standards and that wishes to join the proposed authority.

31 (3) A public water system identified by the state board as
32 chronically serving water that fails to meet drinking water standards
33 in the county in which the proposed authority will be formed.

34 (4) A public water system for which a petition was submitted
35 to the administrator pursuant to subparagraph (B) of paragraph (2)
36 of subdivision (a) of Section 78033 and not denied by the
37 administrator.

38 (b) A proposed plan for service shall include all of the following
39 information, as well as any additional information required or

1 requested by the local agency formation commission or its
2 executive officer:

3 (1) In the case of the formation of an authority that does not
4 involve the dissolution of an existing special district, the plan for
5 service shall include all of the following:

6 (A) An enumeration and description of the services currently
7 provided and to be extended to the affected territory, including the
8 level and range of those services and an indication of when those
9 services can feasibly be extended to the affected territory.

10 (B) An indication of any improvement or upgrading of water
11 facilities, or other conditions the authority would impose or require
12 within the affected territory.

13 (C) Information with respect to how the services to be provided
14 by the authority will be financed, in accordance with Articles XIII,
15 XIII A, XIII C, and XIII D and any other applicable provisions of
16 the California Constitution, that shall include all of the following:

17 (i) The necessary financial resources to improve or upgrade
18 water facilities or other infrastructure identified in the formation
19 application.

20 (ii) A discussion of the economies of scale that accrue when
21 several small organizations are consolidated into a single authority.

22 (iii) An estimated timeframe for constructing and delivering the
23 services identified in the formation application.

24 (iv) The operation and maintenance needs of the authority.

25 (v) Financial plans for the financing of capital improvements,
26 operation and maintenance of facilities, and operation of the
27 authority.

28 (vi) The governance, oversight, and long-term maintenance of
29 the services identified in the formation application after the initial
30 costs are recouped and any tax increment financing terminates.

31 (D) Information showing how the area currently being serviced
32 by a public water system that will be included within an authority
33 will be served with water during the period when the authority is
34 being formed until the completion of all capital improvement
35 projects needed to provide safe and clean drinking water.

36 (2) In the case of the formation of an authority that includes
37 dissolution of an existing special district, the plan for services shall
38 include all of the following:

39 (A) All of the elements required pursuant to subparagraphs (A)
40 to (C), inclusive, of paragraph (1).

1 (B) An enumeration and description of the services currently
2 provided by the special district proposed for dissolution and
3 identification of the authority proposed to be formed by the
4 successor to assume responsibility for the services following
5 completion of the dissolution.

6 (C) An enumeration and description of each service proposed
7 to be discontinued or transferred, the current financing of each
8 service, and any method of financing proposed by the successor.

9 (D) A delineation of any existing financing of services currently
10 provided to include, but not be limited to, bonds, assessments,
11 general taxes, special taxes, other charges, and joint powers
12 authorities or agreements.

13 (E) Information about any current bankruptcy proceeding,
14 including, but not limited to, the status and exit plan.

15 (F) Information about any current order relating to services
16 provided by the special district proposed for dissolution by any
17 agency, department, office, or other division of the state, including,
18 but not limited to, a cease and desist order or water prohibition
19 order.

20 (G) Information showing how the area currently being serviced
21 by a public water system that will be included within an authority
22 will be served with water during the period when the authority is
23 being formed until the completion of all capital improvement
24 projects needed to provide safe and clean drinking water.

25 (H) Any other information that the local agency formation
26 commission or its executive officer may deem necessary to evaluate
27 the plan for services submitted.

28 (3) A statement by the administrator that the administrator has
29 consulted with representatives of the entities whose customers will
30 be served by the authority to consider the plan for service.

31 (c) (1) If the administrator determines that the formation of an
32 authority would be infeasible for financial, technical, or operational
33 reasons, or would not provide the necessary economies of scale
34 or operating benefits, the administrator may set forth those
35 conclusions in a report to the state board in lieu of submitting a
36 plan for service to the local agency formation commission.

37 (2) The report to the state board shall be submitted at the same
38 time that the administrator would have submitted the application
39 for consolidation to the local agency formation commission.

(3) If the state board receives notice from the administrator pursuant to paragraph (1), the state board shall, based on substantial evidence, determine whether the following conditions are present:

(A) The continued operation of the public water system in its current condition is a threat to public health and safety.

(B) The public water system lacks the financial, managerial, or technical resources required to remedy the violation of state or federal primary drinking water standards, which results in the entity's inability to remain operationally viable as a public water system.

(4) If the state board makes both of the findings in paragraph (3), the state board shall do either of the following:

(A) Exercise its authority to remedy the failure to meet applicable drinking water standards pursuant to Article 9 (commencing with Section 116650) of Chapter 4 of Part 12 of Division 104 of the Health and Safety Code.

(B) Use existing funding sources and existing legal authority to remedy the failure to meet applicable drinking water standards.

(d) (1) If the local agency formation commission approves the plan and the formation of the authority, the authority shall take the appropriate actions to comply with the plan, subject to Articles XIII, XIII A, XIII C, and XIII D and any other applicable provisions of the California Constitution.

(2) If the local agency formation commission approves the plan and the formation of the authority with modifications, the authority shall take the appropriate actions to comply with the modifications within 180 days of the plan's approval with modifications in accordance with Articles XIII, XIII A, XIII C, and XIII D and any other applicable provisions of the California Constitution.

(3) An authority subject to paragraph (1) or (2) shall file a statement, under penalty of perjury, with the executive officer of the local agency formation commission certifying compliance with the plan. An authority shall take the appropriate actions to comply with Articles XIII, XIII A, XIII C, and XIII D and any other applicable provisions of the California Constitution and shall file a statement, under penalty of perjury, with the executive officer of the local agency formation commission certifying the compliance. Within 30 days of filing a statement, the executive officer of the local agency formation commission shall issue a notice of completion to the authority and send a copy of that notice

1 to the state board. In the event that the authority fails to timely file
2 a statement certifying compliance with the plan, the state board
3 may issue an order to the authority requiring the filing or other
4 remedial action as may be appropriate.

5 (e) An authority is deemed to be a successor agency to an entity
6 identified in subdivision (a) of Section 78030. An action described
7 in this chapter shall not affect an authority's eligibility or priority
8 for a state loan or grant.

9 78039. Division 13 (commencing with Section 21000) of the
10 Public Resources Code does not apply to either of the following:

11 (a) The formation of an authority pursuant to this chapter.

12 (b) The dissolution of a public water system pursuant to this
13 chapter.

14 78040. (a) Annually for the first three years after the date of
15 an authority's formation by the local agency formation commission,
16 an authority shall file a report with the local agency formation
17 commission and state board as follows:

18 (1) The report shall contain both of the following:

19 (A) A description of operations over the past year.

20 (B) Details of any violations of drinking water standards and
21 the actions taken to remediate a violation.

22 (2) The administrator or, after the discharge of the administrator,
23 the general manager of the authority shall submit the report.

24 (3) A certificate stating that the report consists of a true, full,
25 and complete description of the activities of the authority during
26 the past year shall accompany the report.

27 (b) A local agency formation commission shall hold a public
28 hearing within 90 days of receipt of a report pursuant to subdivision
29 (a) to review the authority's performance during the previous year.
30 If a report states that an authority has failed to comply with any
31 conditions imposed by the commission on either the original
32 formation or the plan for service adopted pursuant to Section
33 78038, the state board may order the authority to remedy the
34 violations within a reasonable period of time. If an authority fails
35 to timely comply with a remedial order by the state board, the state
36 board may impose a civil penalty on the authority in an amount
37 not to exceed five hundred dollars (\$500) per day for each violation
38 and not to exceed ten thousand dollars (\$10,000) per year for each
39 particular violation.

1 78041. (a) No later than January 1, 2026, the Controller shall
2 prepare, or cause the preparation of, and submit to the Legislature
3 a report that does all of the following:

4 (1) Reviews and evaluates the startup operations of the
5 authorities, in terms of timeliness and cost-effective provision of
6 safe and clean water.

7 (2) Evaluates the fiscal and operational health of the authorities.

8 (3) Makes a recommendation regarding the need for
9 supplemental state funding, if any, and the potential sources of
10 that funding.

11 (b) In preparing the report, the Controller may consult with any
12 individual or organization the Controller deems appropriate,
13 including, but not limited to, the state board, the Association of
14 California Water Agencies, the California Association of Local
15 Agency Formation Commissions, the California Municipal Utilities
16 Association, the California Association of Mutual Water
17 Companies, or the California State Association of Counties.

18 (c) (1) A report to be submitted pursuant to subdivision (a)
19 shall be submitted in compliance with Section 9795 of the
20 Government Code.

21 (2) Pursuant to Section 10231.5 of the Government Code, the
22 requirement for submitting a report imposed under subdivision (a)
23 is inoperative on January 1, 2030.

24 78042. (a) No later than January 1, 2026, the state board shall
25 prepare and submit to the Legislature a report specifying the
26 number of public water systems that, at any time between July 1,
27 2018, and January 1, 2025, were out of compliance with one or
28 more state or federal primary drinking water standards on a running
29 annual average. The report shall identify the public water systems
30 that satisfy any of the following conditions:

31 (1) Were brought into compliance with the applicable drinking
32 water standards through the creation of an authority pursuant to
33 this division.

34 (2) Were brought into compliance with the applicable drinking
35 water standards pursuant to Article 9 (commencing with Section
36 116650) of Chapter 4 of Part 12 of Division 104 of the Health and
37 Safety Code.

38 (3) Remain out of compliance with the applicable drinking water
39 standards.

(b) For those public water systems that remain out of compliance with those standards as of January 1, 2025, the report shall propose one or more plans that will, using financial and other resources then available to the state board to the greatest extent feasible, bring those public water systems into compliance with the applicable drinking water standards by January 1, 2029.

(b) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, the requirement for submitting a report imposed under subdivision (a) is inoperative on January 1, 2030.

PART 5. INTERNAL ORGANIZATION

CHAPTER 1. DIRECTORS

78045. (a) The initial board of an authority shall consist of an odd number of directors composed as follows:

(1) One representative from each entity consolidated into the authority appointed by the entity before its dissolution.

(2) One representative from the board of supervisors.

(3) Additional directors, as needed, appointed by the board of supervisors to comprise at least a five-member board of directors, if one of the entities does not appoint a director.

(b) The public water system representatives in consultation with the administrator shall determine the final number of directors that will compose the initial board if it will consist of more than five members because of the number of former public water systems included in the authority. If the number of directors cannot be agreed upon by the representatives of the public water systems that will become part of the authority in a timely manner, the local agency formation commission shall determine the number of directors that will compose the initial board.

(c) If the initial board consists of five members, the directors shall classify themselves by lot so that two of them shall hold office until the qualification of their successors after the first general district election and three of them shall hold office until the election and qualification of their successors and the second general district election. If the initial board of directors consists of more than five

1 members, the local agency formation commission shall provide
2 for the classification of directors so as to provide that not more
3 than a majority of the directors stand for election every two years.

4 (d) If the initial board consists of more than five members, the
5 administrator shall include, as part of the plan for service, after
6 consultation with the representatives of public water systems, and
7 the local agency formation commission shall include, as part of
8 the order forming the authority, a transitional plan that will bring
9 the number of directors to five within a reasonable period of time.

10 To the extent practicable, the transitional plan shall ensure that
11 each director represents a division with equal population being
12 served by the authority and that the final divisions are drawn so
13 as to ensure that each director represents a division with equal
14 population being served by the authority.

15 78046. (a) A director shall be a resident of the area served by
16 the authority. To the extent practicable, a director shall represent
17 a division with equal population being served by the authority. If
18 a director moves residence, as defined in Section 244 of the
19 Government Code, outside of the area served by the authority, the
20 director shall have 180 days after the move to reestablish a place
21 of residence within the area served by the authority. If a director
22 cannot establish a place of residence, it shall be presumed that a
23 permanent change of residence has occurred and that a vacancy
24 exists on the board of directors pursuant to Section 1770 of the
25 Government Code.

26 (b) Each elected director shall hold office for a term of four
27 years. A director elected to office shall take office at noon on the
28 first Friday in December succeeding the director's election.

29 (c) Whenever a vacancy occurs in the office of director it shall
30 be filled pursuant to Section 1780 of the Government Code by a
31 qualified person.

32 78047. Notwithstanding Section 20201, a director shall receive
33 compensation in an amount not to exceed two hundred fifty dollars
34 (\$250) per day for each day's attendance at meetings of the board
35 or for each day's service rendered as a director by request of the
36 board, not exceeding a total of 10 days in any calendar month,
37 together with any expenses incurred in the performance of the
38 director's duties required or authorized by the board. For purposes
39 of this section, the determination of whether a director's activities
40 on any specific day are compensable shall be made pursuant to,

1 and reimbursement for these expenses is subject to, Article 2.3
2 (commencing with Section 53232) of Chapter 2 of Part 1 of
3 Division 2 of Title 5 of the Government Code. The board may
4 adjust the compensation for directors pursuant to Chapter 2
5 (commencing with Section 20200) of Division 10.

6
7 CHAPTER 2. THE BOARD
8

9 78050. (a) The board is the governing body of the authority.

10 (b) The board shall hold its first meeting as soon as possible
11 after the selection of the first board of directors and not later than
12 the sixth Monday after the date of the formation.

13 (c) At its first meeting, the board shall provide for the time and
14 place of holding its meetings and the manner in which its special
15 meetings may be called.

16 (d) At its first meeting, and its first meeting in the month of
17 January of each odd-numbered year, the board shall elect one of
18 its members as president. The board may, at any meeting, elect
19 one of its members as vice president. If the president is absent or
20 unable to act, the vice president shall exercise the powers of the
21 president granted in this division.

22 (e) A majority of the board shall constitute a quorum for the
23 transaction of business. However, no ordinance, motion, or
24 resolution may become effective without the affirmative vote of
25 a majority of the members of the board.

26 (f) The board shall act only by ordinance, resolution, or motion.
27 Votes of the members of the board shall not be cast or exercised
28 by proxy.

29 (g) On all ordinances the roll shall be called and the ayes and
30 noes shall be recorded in the journal of the proceedings of the
31 board.

32 (h) The board may adopt resolutions or motions by voice vote,
33 but on demand of any member of the board, the roll shall be called.

34 (i) The board may destroy a record pursuant to Chapter 7
35 (commencing with Section 60200) of Division 1 of Title 6 of the
36 Government Code.

37 78051. (a) The board shall exercise and perform all powers,
38 privileges, and duties of an authority.

1 (b) Any executive, administrative, and ministerial powers may
2 be delegated and redelegated by the board to any of the offices
3 created by this division or by the board.

4 (c) The board may fix the time and place or places at which its
5 regular meetings will be held and shall provide for the calling and
6 holding of special meetings.

7 (d) The board may fix the location of the principal place of
8 business of the authority and the location of all offices and
9 departments maintained under this division.

10 (e) The board may, by ordinance, prescribe a system of business
11 administration.

12 (f) The board may create any necessary offices and establish
13 and reestablish the powers, duties, and compensation of all officers
14 and employees.

15 (g) The board may require and fix the amount of all official
16 bonds necessary for the protection of the funds and property of
17 the authority.

18 (h) The board may, by ordinance, prescribe a system of civil
19 service.

20 (i) The board may, by ordinance, delegate and redelegate to the
21 officers of the authority the power to employ clerical, legal, and
22 engineering assistants and labor.

23 (j) The board may prescribe a method of auditing and allowing
24 or rejecting claims and demands.

25 (k) The board shall designate a depository or depositories to
26 have the custody of the funds of the authority, all of which
27 depositories shall give security sufficient to secure the authority
28 against possible loss, and who shall pay the warrants drawn by the
29 authority's treasurer for demands against the authority under any
30 rules the directors may prescribe.

31 (l) An authority may issue bonds, borrow money, and incur
32 indebtedness as authorized by law.

33 (m) An authority may refund bonds, loans, or indebtedness by
34 the issuance of the same obligations following the same procedure
35 or retire any indebtedness or lien that may exist against the
36 authority or its property.

37 (n) An authority may insure its directors, officers, assistants,
38 employees, agents, and deputies for injury, death, or disability
39 incurred while engaged in the business of the authority and the
40 cost of the insurance is a proper charge against the authority. The

1 insurance is in addition to any compensation secured under the
2 provisions of Division 4 (commencing with Section 3200) of the
3 Labor Code and inuring to the benefit of the director, officer,
4 deputy, assistant, employee, or agent, or their beneficiary or heir.

5 78052. Within 180 days of its initial meeting after formation,
6 the board shall file a certificate with the Secretary of State that
7 includes all of the following:

8 (a) The name of the authority.

9 (b) The date of formation.

10 (c) Any county in which the authority is located and a legal
11 description of the boundaries of the authority, a reference to a map
12 showing the boundaries of the authority, or a reference to a map
13 on file with a county recorder's office showing the boundaries of
14 the authority.

15 (d) An identification of all of the public agencies, water
16 corporations, or mutual water companies that were consolidated
17 into the authority.

18
19 CHAPTER 3. OFFICERS AND EMPLOYEES
20

21 78055. (a) At its first meeting, or as soon as practicable, the
22 board shall appoint, by a majority vote, a secretary, treasurer,
23 attorney, general manager, and auditor. The board, at any meeting,
24 may appoint a deputy secretary and a deputy treasurer. The board
25 shall define the duties of these officers and fix their compensation.
26 Each officer shall serve at the pleasure of the board. A deputy
27 director, deputy secretary, attorney, general manager, and auditor
28 shall not be directors, but the secretary and treasurer may be
29 directors.

30 (b) The officers appointed pursuant to subdivision (a) shall,
31 until such time as the local agency formation commission issues
32 a notice of completion, pursuant to Section 78038, take direction
33 from the administrator appointed by the state board.

34 (c) The board may employ additional assistants, contractors,
35 and employees as the board deems necessary to efficiently maintain
36 and operate the authority.

37 (d) The board may consolidate the offices of secretary and
38 treasurer.

1 78056. (a) The president and secretary, in addition to the duties
2 imposed on them by law, shall perform any duties that may be
3 imposed on them by the board.

4 (b) The treasurer, or other person as may be authorized by the
5 board, shall draw checks or warrants to pay demands when the
6 demands have been audited and approved in the manner prescribed
7 by the board.

8 (c) Subject to the approval of the board, the general manager
9 shall have full charge and control of the maintenance, operation,
10 and construction of the waterworks or waterworks system of the
11 authority, with full power and authority to employ and discharge
12 all employees and assistants, other than those described in
13 subdivision (a) of Section 78055, at pleasure, prescribe their duties,
14 and fix their compensation.

15 (d) The general manager shall perform duties as may be imposed
16 on the general manager by the board. The general manager shall
17 report to the board in accordance with the rules and regulations
18 adopted by the board.

19 (e) The attorney shall be the legal adviser of the authority and
20 shall perform any other duties that may be prescribed by the board.

21 (f) The general manager, secretary, and treasurer, and other
22 employees or assistants of the authority designated by the board,
23 shall give any bonds to the authority conditioned for the faithful
24 performance of their duties that the board from time to time may
25 provide. The premiums on the bonds shall be paid by the authority.

26 27 PART 6. ELECTIONS

28
29 78060. Elections shall be conducted pursuant to the provisions
30 of the Uniform District Election Law (Part 4 (commencing with
31 Section 10500) of Division 10 of the Elections Code).

32 33 PART 7. POWERS AND PURPOSES

34 35 CHAPTER 1. POWERS GENERALLY

36
37 78065. An authority may exercise the powers that are expressly
38 granted by this division or are necessarily implied.

39 78066. An authority may have perpetual succession. An
40 authority may adopt a seal and alter it at pleasure.

1 78067. An authority may make contracts, employ labor, and
2 do all acts necessary for the full exercise of its powers.

3 78068. (a) An authority may provide by ordinance for the
4 pensioning of officers or employees, for the terms and conditions
5 under which the pensions shall be awarded, and for the time and
6 extent of service of officers or employees before the pensions shall
7 be available to them.

8 (b) An authority may contract with any insurance corporation,
9 the Public Employees' Retirement System, or any other insurance
10 carrier for the maintenance of a service covering the pension of
11 the authority officers or employees and for their health and accident
12 insurance coverage.

13 78069. An authority may disseminate information concerning
14 the rights, properties, and activities of the authority. The power
15 shall not be construed as an exception to the California Public
16 Records Act (Chapter 3.5 (commencing with Section 6250) of
17 Division 7 of Title 1 of the Government Code).

18 78070. An authority may, by resolution, obtain membership
19 in an association having for its purpose the furtherance of a subject
20 relating to the powers and duties of the authority and for the
21 interchange of information relating to those powers and duties. An
22 authority may appropriate the funds necessary for these purposes.

23 78071. An authority may, by resolution of the board of directors
24 spread on its minutes, change the name of the authority. Certified
25 copies of the resolution changing the name of the authority shall
26 be recorded in the office of the county recorder of every affected
27 county and sent to the county clerk of every affected county and
28 to the state board.

29 78072. Every person convicted of an infraction for a violation
30 of any local ordinance or regulation adopted pursuant to this
31 division shall be punished upon a first conviction by a fine not
32 exceeding fifty dollars (\$50) and for a second conviction within a
33 period of one year by a fine of not exceeding one hundred dollars
34 (\$100) and for a third or any subsequent conviction within a period
35 of one year by a fine of not exceeding two hundred fifty dollars
36 (\$250).

37 78073. (a) In order to enforce the provisions of any ordinance
38 of the authority, including an ordinance fixing charges for the
39 furnishing of commodities or services, the authority may correct
40 any violation of an ordinance of the authority. The authority may

1 also petition the superior court for the issuance of a preliminary
2 or permanent injunction, or both, as may be appropriate, restraining
3 any person from the continued violation of any ordinance of the
4 authority or for the issuance of an order stopping or disconnecting
5 a service if the charges for that service are unpaid at the time
6 specified in the ordinance.

7 (b) The authority may enter upon the private property of any
8 person within the jurisdiction of the authority in order to investigate
9 possible violations of an ordinance of the authority. The
10 investigation shall be made with the consent of the owner or tenant
11 of the property or, if consent is refused, with a warrant duly issued
12 pursuant to the procedures set forth in Title 13 (commencing with
13 Section 1822.50) of Part 3 of the Code of Civil Procedure, except
14 that, notwithstanding Section 1822.52 of the Code of Civil
15 Procedure, the warrant shall be issued only upon probable cause.

16 (c) The authority shall notify the county or city building
17 inspector, county health inspector, or other affected county or city
18 employee or office, in writing, within a reasonable time if an actual
19 violation of an authority, city, or county ordinance is discovered
20 during the investigation.

21 22 CHAPTER 2. WATER 23

24 78075. (a) An authority may acquire, control, distribute, store,
25 spread, sink, treat, purify, recycle, recapture, and salvage any water,
26 including sewage and stormwater, for the beneficial use of the
27 authority.

28 (b) An authority may undertake a water conservation program
29 to reduce water use and may require, as a condition of new service,
30 that reasonable water-saving devices and water reclamation devices
31 be installed to reduce water use.

32 (c) An authority may sell water under its control, without
33 preference, to cities, other public corporations, agencies, and
34 persons, within the authority for use within the authority.

35 (d) An authority may fix the rates at which water shall be sold.
36 Different rates may be established for different classes or conditions
37 of service, but rates shall be uniform throughout the authority for
38 like classes and conditions of service. Rates fixed by an authority
39 shall result in revenues that will do all of the following:

40 (1) Pay the operating expenses of the authority.

1 (2) Provide for repairs and depreciation of works.

2 (3) Provide a reasonable surplus for improvements, extensions,
3 and enlargements.

4 (4) Pay the interest on any bonded debt.

5 (5) Provide a sinking or other fund for the payment of the
6 principal of the bonded debt as it becomes due.

7 (e) An authority furnishing water for residential use to a tenant
8 shall not seek to recover any charge or penalty for the furnishing
9 of water to or for the tenant's residential use from any subsequent
10 tenant on account of nonpayment of charges by a previous tenant.
11 The authority may require that service to subsequent tenants be
12 furnished on the account of the landlord or property owner.

13 78076. (a) Pursuant to the notice, protest, and hearing
14 requirements imposed by Section 53753 of the Government Code,
15 an authority, by ordinance on or before the third Monday in August
16 in each fiscal year, may fix a water standby assessment or
17 availability charge in the authority or in any portion of the authority
18 to which the authority makes water available, whether the water
19 is actually used or not.

20 (b) The standby assessment or availability charge shall not
21 exceed one hundred dollars (\$100) per acre per year for each acre
22 of land on which the charge is levied or one hundred dollars (\$100)
23 per year for a parcel less than one acre.

24 (c) The ordinance fixing a standby assessment or availability
25 charge shall be adopted by the board pursuant to the notice, protest,
26 and hearing procedures in Section 53753 of the Government Code
27 and only after adoption of a resolution setting forth the particular
28 schedule or schedules of charges or assessments proposed to be
29 established by ordinance and after a hearing on the resolution.

30 (d) If the procedures set forth in this section were followed, the
31 board may, by ordinance, continue the standby assessment or
32 availability charge pursuant to this chapter in successive years at
33 the same rate. If new, increased, or extended assessments are
34 proposed, the board shall comply with the notice, protest, and
35 hearing procedures in Section 53753 of the Government Code.

36 (e) An ordinance fixing a standby assessment or availability
37 charge may establish a schedule varying the charges according to
38 land uses, water uses, and degree of water availability.

39 (f) On or before the third Monday in August, the board shall
40 furnish in writing to the board of supervisors and the county auditor

1 of each affected county a description of each parcel of land within
2 the authority upon which a standby charge is to be levied and
3 collected for the current fiscal year, together with the amount of
4 standby charge fixed by the authority on each parcel of land.

5 (g) The board shall direct that, at the time and in the manner
6 required by law for the levying of taxes for county purposes, the
7 board of supervisors shall levy, in addition to any other tax it levies,
8 the standby charge in the amounts for the respective parcels fixed
9 by the board.

10 (h) All county officers charged with the duty of collecting taxes
11 shall collect authority standby charges with the regular tax
12 payments to the county. The charges shall be collected in the same
13 form and manner as county taxes are collected, and shall be paid
14 to the authority.

15 (i) Charges fixed by the authority shall be a lien on all the
16 property benefited by the charges. Liens for the charges shall be
17 of the same force and effect as other liens for taxes, and their
18 collection may be enforced by the same means as provided for the
19 enforcement of liens for state and county taxes.

20 78077. (a) An authority may restrict the use of authority water
21 during any emergency caused by drought, or other threatened or
22 existing water shortage, and may prohibit the wastage of authority
23 water or the use of authority water during periods for any purpose
24 other than household uses or other restricted uses as the authority
25 determines to be necessary. An authority may also prohibit use of
26 authority water during these periods for specific uses that it finds
27 to be nonessential.

28 (b) An authority may prescribe and define by ordinance the
29 restrictions, prohibitions, and exclusions referred to in subdivision
30 (a). The ordinance is effective upon adoption; but, within 10 days
31 after its adoption, the ordinance shall be published pursuant to
32 Section 6061 of the Government Code in full in a newspaper of
33 general circulation that is printed, published, and circulated in the
34 authority. If there is no newspaper of general circulation printed,
35 published, and circulated in the authority, the ordinance shall be
36 posted within 10 days after its adoption in three public places
37 within the authority.

38 (c) A finding by the board upon the existence, threat, or duration
39 of an emergency or shortage, or upon the matter of necessity or of
40 any other matter or condition referred to in subdivision (a), shall

be made by resolution or ordinance. The finding is prima facie evidence of the fact or matter so found, and the fact or matter shall be presumed to continue unchanged unless and until a contrary finding is made by the board by resolution or ordinance.

(d) The finding made by the board pursuant to subdivision (c) shall be received in evidence in any civil or criminal proceeding in which it may be offered, and shall be proof and evidence of the fact or matter found until rebutted or overcome by other sufficient evidence received in the proceeding. A copy of any resolution or ordinance setting forth the finding shall, when certified by the secretary of the authority, be evidence that the finding was made by the authority as shown by the resolution or ordinance and certification.

(e) From and after the publication or posting of any ordinance pursuant to subdivision (b), and until the ordinance has been repealed or the emergency or threatened emergency has ceased, it is a misdemeanor for any person to use or apply water received from the authority contrary to or in violation of any restriction or prohibition specified in the ordinance. Upon conviction, such a person shall be punished by imprisonment in the county jail for not more than 30 days, or by fine not exceeding six hundred dollars (\$600), or by both.

CHAPTER 3. PROPERTY

78080. An authority may, within or without the authority, take real and personal property of every kind by grant, purchase, gift, device, or lease, and hold, use, enjoy, lease, or dispose of real and personal property of every kind.

78081. An authority may do all of the following:

(a) Acquire, or contract to acquire, waterworks or a waterworks system, waters, water rights, lands, rights, and privileges.

(b) Construct, maintain, and operate conduits, pipelines, reservoirs, works, machinery, and other property useful or necessary to store, convey, supply, or otherwise make use of water for a waterworks plant or system for the benefit of the authority.

(c) Complete, extend, add to, repair, or otherwise improve any waterworks or waterworks system acquired by the authority.

(d) Carry on and conduct waterworks or a waterworks system.

1 78082. An authority may lease from any person, or public
2 corporation or agency, with the privilege of purchasing or
3 otherwise, all or any part of water storage, transportation, or
4 distribution facilities, existing waterworks, or a waterworks system.

5 78083. An authority may exercise the right of eminent domain
6 to take any property necessary to supply the authority or any
7 portion of the authority with water. The authority, in exercising
8 the power, shall, in addition to the damage for the taking, injury,
9 or destruction of property, also pay the cost of removal,
10 reconstruction, or relocation of any structure, railways, mains,
11 pipes, conduits, wires, cables, or poles of any public utility that is
12 required to be removed to a new location.

13 78084. An authority may construct works along and across
14 any stream of water, watercourse, street, avenue, highway, canal,
15 ditch, or flume, or across any railway that the route of the works
16 may intersect or cross. The works shall be constructed in such a
17 manner as to afford security for life and property, and the authority
18 shall restore the crossings and intersections to their former state
19 as near as may be, or in a manner so as not to have impaired
20 unnecessarily their usefulness.

21 22 CHAPTER 4. CONTRACTS 23

24 78085. Contracts mentioned in this chapter include those made
25 with the United States under the Federal Reclamation Act of June
26 17, 1902, and all acts amendatory thereof or supplementary thereto,
27 or any other act of Congress heretofore or hereafter enacted
28 permitting cooperation.

29 78086. An authority may join with one or more public agencies,
30 private corporations, or other persons for the purpose of carrying
31 out any of the powers of the authority, and for that purpose may
32 contract with any other public agencies, private corporations, or
33 persons to finance acquisitions, construction, and operations.

34 78087. The contracts with other public agencies, private
35 corporations, or persons may provide for contributions to be made
36 by each party to the contract, for the division and apportionment
37 of the expenses of the acquisitions and operations, and for the
38 division and apportionment of the benefits, services, and products
39 from the contract. The contracts may also provide for an agency
40 to effect the acquisitions and to carry on the operations, and shall

1 provide in the powers and methods of procedure for the agency
2 the method by which the agency may contract. The contracts may
3 contain other and further covenants and agreements as may be
4 necessary or convenient to accomplish the purposes of the contract.

5
6 CHAPTER 5. CONTROVERSIES
7

8 78090. An authority may sue and be sued, except as otherwise
9 provided in this division or by law, in all actions and proceedings
10 in all courts and tribunals of competent jurisdiction.

11 78091. An authority may commence, maintain, intervene in,
12 and compromise, in the name of the authority, any action or
13 proceeding involving or affecting the ownership or use of water
14 or water rights within the authority, used or useful for any purpose
15 of the authority, or a common benefit to lands within the authority
16 or inhabitants of the authority.

17 78092. An action to determine the validity of any contract
18 authorized by Chapter 4 (commencing with Section 78085) and
19 any bonds, notes, or other evidences of indebtedness may be
20 brought pursuant to Chapter 9 (commencing with Section 860) of
21 Title 10 of Part 2 of the Code of Civil Procedure.

22 78093. All claims for money or damages against the authority
23 are governed by Part 3 (commencing with Section 900) and Part
24 4 (commencing with Section 940) of Division 3.6 of Title 1 of the
25 Government Code except as provided therein, or by other statutes
26 or regulations expressly applicable to the authority.

27 78094. To carry out the purposes of this division, an authority
28 shall have the power to commence, maintain, intervene in, defend,
29 and compromise, in the name of the authority, or as a class
30 representative of the inhabitants, property owners, taxpayers, water
31 producers, or water users within the authority, or otherwise, and
32 to assume the costs and expenses of any and all actions and
33 proceedings now or hereafter begun to determine or adjudicate all
34 or substantially all of the water rights of a basin or other hydrologic
35 unit overlain, in whole or in part, by the authority, as between
36 owners of or claimants to those rights, to prevent any interference
37 with water or water rights used or useful to the lands, inhabitants,
38 owners, operators, or producers within the authority, or to prevent
39 the diminution of the quantity or quality of the water supply of the

1 authority or the basin, or to prevent unlawful exportation of water
2 from the authority or basin.

3 78095. An authority may employ counsel to defend any action
4 brought against it or against any of its officers, agents, or
5 employees on account of any claimed action or inaction involving
6 any claimed injury, taking, damage, or destruction, and the fees
7 and expenses involved in the defense shall be a lawful charge
8 against the authority.

9 78096. If any officer, agent, or employee of the authority is
10 held liable for any act or omission in their official capacity, except
11 in case of actual fraud or actual malice, and any judgment is
12 rendered, the authority shall pay the judgment without obligation
13 for repayment by the officer, agent, or employee.

14 PART 8. FINANCIAL PROVISIONS

15 CHAPTER 1. POWERS

16
17
18
19 78100. Article 4 (commencing with Section 53500) and Article
20 4.5 (commencing with Section 53506) of Chapter 3 of Part 1 of
21 Division 2 of Title 5 of the Government Code apply to an authority
22 for the purpose of providing funds for the acquisition, construction,
23 improving, or financing of any public improvement authorized by
24 this division. For the purposes of Article 4 (commencing with
25 Section 53500) and Article 4.5 (commencing with Section 53506)
26 of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government
27 Code, “property” shall refer to both land and improvements with
28 the effect that ad valorem taxes or assessments levied by an
29 authority to repay a general obligation bond may be levied upon
30 both land and improvements if approved by the electorate.

31 78101. Any money belonging to an authority may be deposited
32 or invested and drawn out as provided in Article 2 (commencing
33 with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title
34 5 of the Government Code, as that article may be amended.
35 References in that article to “auditor” shall mean, for the purposes
36 of an authority, the secretary of an authority.

37 78102. (a) An improvement district may be formed in an
38 authority in the same manner as an improvement district is formed
39 in an irrigation district pursuant to Part 7 (commencing with
40 Section 23600) of Division 11. When formed, an improvement

1 district shall be governed and have the same powers as an
2 improvement district in an irrigation district pursuant to Part 7
3 (commencing with Section 23600) of Division 11.

4 (b) A board shall have the same rights, powers, duties, and
5 responsibilities with respect to the formation and government of
6 an improvement district as the board of directors of an irrigation
7 district has with respect to an improvement district in an irrigation
8 district pursuant to Division 11 (commencing with Section 20500).

9 (c) An assessment in an improvement district in an authority
10 shall be levied, collected, and enforced at the same time and in as
11 nearly the same manner as practicable as annual taxes for purposes
12 of the authority in which formed, except that the assessment shall
13 be made in the same manner as provided with respect to an
14 improvement district in an irrigation district pursuant to Part 7
15 (commencing with Section 23600) of Division 11.

16 (d) All powers and duties of an authority may be exercised on
17 behalf of or within any improvement district formed pursuant to
18 this section.

19 (e) An authority may issue revenue bonds in accordance with
20 the Revenue Bond Law of 1941 (Chapter 6 (commencing with
21 Section 54300) of Part 1 of Division 2 of Title 5 of the Government
22 Code) on behalf of any portion of the authority created as an
23 improvement district pursuant to this section, except that the
24 issuance of revenue bonds by an authority shall not be subject to
25 the election procedures of Article 3 (commencing with Section
26 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the
27 Government Code. The board shall authorize undertaking the
28 improvement and the issuance of revenue bonds for that purpose
29 by ordinance or resolution of the board, which shall be subject to
30 referendum. If an authority issues revenue bonds on behalf of an
31 improvement district, the issuance of the revenue bonds is limited
32 to the area of the improvement district. The proceeds of any
33 revenue bonds issued on behalf of an improvement district shall
34 not be used to finance public improvements to provide service
35 outside the service area of the improvement district. Only revenue
36 derived from rates or charges for providing the service within the
37 service area of the improvement district shall be pledged or used
38 to pay for any revenue bonds issued on behalf of an improvement
39 district.

(f) For the purposes of subdivision (e), “service area of the improvement district” means the territory of an improvement district as it existed at the time of revenue bond issuance plus lands outside of the improvement district, if any, being served at the time of the bond issuance by the improvement district facilities, and additional territory, if any, annexed to the improvement district as the improvement district existed at the time of the issuance election, not exceeding, in the aggregate, 40 percent by area of the improvement district as the improvement district existed at the time of the bond issuance.

78103. The authority may exercise the powers granted pursuant to Division 10 (commencing with Section 8500) of the Streets and Highways Code.

CHAPTER 2. FINANCIAL PLAN AND IMPLEMENTATION

78110. No later than one year after the date upon which an authority is formed, the administrator shall prepare and submit a capital improvement plan to the state board. The plan shall bring the authority into full compliance with drinking water standards within three years, which time may be extended by the state board for good cause.

78111. No later than 18 months after the date upon which an authority is formed, the authority shall levy an assessment, fee, charge, or special tax, in accordance with Articles XIII, XIII A, XIII C, and XIII D of the California Constitution, and any other applicable law, to fund the ongoing operations and maintenance of the public water system.

CHAPTER 3. FISCAL PROVISIONS

78115. (a) Upon appropriation by the Legislature from the General Fund, or, to the extent funds are available from bond revenues or other sources, including federal, state, academic, or other public or private entities, the state board shall provide funding for an administrator pursuant to subdivision (d) of Section 78036, and for formation and startup costs of an authority for up to three fiscal years after formation of the authority, as follows:

(1) The state board shall provide to the local agency formation commission in the counties in which one or more authorities are

1 to be formed up to a total of ____ dollars (\$____) for staffing and
2 consulting resources and other reasonable expenses to implement
3 Sections 78035, 78038, 78040, and 78041. This amount shall be
4 for all formations of authorities pursuant to this division.

5 (2) The state board shall provide, for the administrator and
6 consulting resources under Section 78036, funding of up to a total
7 of ____ dollars (\$____). This amount shall be for all formations
8 of authorities pursuant to this division.

9 (3) The state board shall provide funding assistance to each
10 authority for three consecutive fiscal years after formation based
11 upon the plan for service approved by the local agency formation
12 commission pursuant to Section 78038 in an amount not to exceed
13 33 percent of an authority's annual projected rate revenue in the
14 first fiscal year, 20 percent of an authority's projected rate revenue
15 in the second fiscal year, and 10 percent of an authority's projected
16 rate revenue in the third fiscal year. The total funding requirement
17 for this paragraph shall not exceed ____ dollars (\$____).

18 (4) The state board shall provide funding assistance to each
19 authority in its first fiscal year equivalent to 25 percent of an
20 authority's projected rate revenue to function as a working capital
21 reserve fund. The total funding requirement for this paragraph
22 shall not exceed ____ dollars (\$____).

23 (b) Upon appropriation by the Legislature from the General
24 Fund, or, to the extent funds are available from bond revenues or
25 other sources, including federal, state, academic, or other public
26 or private entities, the state board shall receive up to ____ dollars
27 (\$____) for the preparation of distressed business valuations to
28 determine the net fair market value of the water corporations or
29 mutual water companies pursuant to Section 78037.

30 (c) If the moneys specified in subdivisions (a) and (b) are not
31 sufficient to meet the statewide needs of the authorities created
32 pursuant to this division, funding shall be made available for the
33 purposes of this division upon appropriation from the Safe Drinking
34 Water State Revolving Fund created by Section 116760.30 of the
35 Health and Safety Code as follows, to the extent permitted by
36 federal law:

37 (1) Grants or loans, as applicable, for capital improvements
38 shall be deemed to be within the highest funding priority within
39 the state revolving fund. Loans shall, until January 1, 2030, be
40 awarded to an authority without interest. On and after July 1, 2030,

1 the interest on loans shall be at the lowest possible rate then
2 available.

3 (2) Grants or loans, as applicable, for technical assistance,
4 planning, or other nonconstruction-related matters other than
5 staffing or the operation and maintenance of facilities shall, until
6 January 1, 2030, be deemed to be within the highest funding
7 priority within the state revolving fund and, on and after January
8 1, 2030, shall be deemed to be within the second-highest priority
9 within the state revolving fund.

10

11 PART 9. CHANGES IN ORGANIZATION

12

13 78120. Provided that a change in organization is consistent
14 with this division, a change in organization shall be carried out as
15 set forth in the Cortese-Knox-Hertzberg Local Government
16 Reorganization Act of 2000 (Division 3 (commencing with Section
17 56000) of Title 5 of the Government Code).

18 SEC. 9. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution for certain
20 costs that may be incurred by a local agency or school district
21 because, in that regard, this act creates a new crime or infraction,
22 eliminates a crime or infraction, or changes the penalty for a crime
23 or infraction, within the meaning of Section 17556 of the
24 Government Code, or changes the definition of a crime within the
25 meaning of Section 6 of Article XIII B of the California
26 Constitution.

27 However, if the Commission on State Mandates determines that
28 this act contains other costs mandated by the state, reimbursement
29 to local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.

O

The Small System Water Authority Act of 2019

Summary of Language Changes

Version 1 – Long Version

(Changes reflect differences from AB 2050 [2018])

Part 4. Formation

- Amended Section 78030(a)(2) identifying that a system is deemed out of compliance if they are in violation of one or more state or federal primary drinking water standard maximum contaminant levels based on a running average for the period from July 1, 2018 through December 31, 2019. AB 2050 had identified a term of four consecutive quarters before March 1, 2019. This has since been deleted.
- Section 78032 (c)(2)(C) added the word “reasonable” as, “there is no other *reasonable* alternative that would protect the public drinking water supplies of the public water system...”
- Section 78032(c)(3) added language that directed the state board to remedy the water quality violations if they are unable to make the prescribed findings through the application of their existing authority to order consolidations or through the application of existing funding sources to remedy the failure.
- Added Section 78033(a)(2) identifying that the customers of a failing water system may submit a petition that their public water system be included in a proposed small system water authority by filing a petition comprised of either a specific number of customers or by a specific percentage of the service connections.
- Added Section 78035(6) which identified that the conceptual formation plan must include the identification of interim safe drinking water supplies sufficient to serve the customers of the system from submission of the conceptual plan until the date upon which all infrastructure repairs, construction, rehabilitation or reconstruction are complete.
- Added language to Section 78038(a) that provided flexibility for the system administrator to determine that an authority would be financially and operationally viable with less than five public water systems.
- Added subsection (4) to Section 78038 which outlines systems that may voluntarily opt-in, this subsection clarifies that those systems where the residents petition to be part of the system, may be included as an opt-in system.
- Added Section 78038(b)(1)(D) which ensures that interim water supplies are identified in the plan for service that is submitted to LAFCO.
- Added 78038(b)(2)(G) identifying that where a special district is to be dissolved a successor who will assume responsibility also must identify an interim water supply.
- Added 78038(c)(1) accelerates the period for notification by the Administrator to the State Board that formation of a small system water authority is not feasible.
- Added 78038(c)(2) which requires the State Board develop findings that even though a small system water authority could not be formed that continued operations of the system is still a threat to public health and safety.

- Added 78038(c)(3) specifying that if the previously identified findings have been made then the State Board will either exercise existing consolidation authorities under SB 88 [2015], or use existing funding sources to remedy the failure to meet applicable water quality standards.
- Amended Section 78040(a) which now identifies that both the LAFCO and the State Board (AB 2050 had only identified LAFCO) must receive a report annually for the first three years after formation describing the prior year's operation, any violations of drinking water standards, actions taken, etc.
- Amended Section 78040(b) where previous versions of the bill had identified that the LAFCO may order the authority to remedy any failure to comply with conditions imposed in either the conceptual formation plan or the plan for service, this version identifies the State Board as the entity responsible.
- Added the requested language from the State Controller in section 78041(a) stating that the Controller (instead of a consultant hired by the Controller) shall prepare a report to the Legislature reviewing startup operations, fiscal health, and identifies any supplemental state funding. Further outlines that the Controller may consult with any other individual or organization they deem appropriate including but not limited to a list of identified associations.
- Deleted former description for the qualifications and procedure for hiring an administrator and instead cross referenced the State Board's current authority to hire a system administrator (per the State Board's request).
- Added new Sections 78042(a) and (b) requiring the State Board to prepare a report to the Legislature no later than January 1, 2026 specifying the number of public water systems that, at any time between July 1, 2018 and January 1, 2025 were out of compliance with one or more state or federal primary drinking water standard maximum contaminant levels on a running annual average. The report shall identify public water systems that were a) brought into compliance through the formation of an authority, b) were brought into compliance with consolidations under SB 88 [2015], or c) those systems that remain out of compliance. For those systems that remain out of compliance the report shall further propose one or more plans that will, using financial and other resources available, bring those systems into compliance by January 1, 2029.

Part 8. Financial Provisions: Chapter 3: Fiscal provisions

- Section 78115(a)(1) – (5) removed the reference to specific dollar figures for LAFCO and each of the prescribed state agencies. We are in the process of refining the numbers and will likely be identifying Safe Drinking Water Trust as the method for funding.
- Added Sections 78115(c), (A) and (B) identifying sources of additional funding should the previously identified funding sources be insufficient. At a future date this may be linked to the Safe Drinking Water Trust Funding.

General Changes

- Changes to the timeline in terms of both calendar dates and a reference to a specific number of days have been made throughout the document.



ACTION ITEM
March 20, 2019

TO: Board of Directors

FROM: **Public Affairs and Legislation Committee**
(Directors Dick, Osborne, and Thomas)

Robert Hunter
General Manager

Staff Contact: Heather Baez

**SUBJECT: Sole Source Contract for Brown and Caldwell to Develop Information
Relative to Small Non-Compliant California Drinking Water Systems**

STAFF RECOMMENDATION

Staff recommends the Board of Directors to authorize the GM to enter into a contract with Brown and Caldwell to complete the scope of work attached. The cost for the MWD OC portion of this study effort will be provided prior to the March 18 PAL Committee meeting.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

BACKGROUND

In September 2018, the MWD OC Board of Directors authorized a scoping study for Black & Veatch to begin preparation of cost estimates to bring, small, non-compliant water systems, statewide, into compliance. In the process of researching this effort, and meeting with other groups who have done similar work, it was determined that Brown and Caldwell, collaborating with the California Urban Water Agencies (CUWA) and the Pacific Institute, was developing a similar study. MWD OC staff reached out to Brown and Caldwell to see if there was an opportunity to “add-on” to what was already being funded by CUWA to take advantage of economies of scale.

Budgeted (Y/N): No	Budgeted amount: TBD	Core X	Choice __
Action item amount: TBD		Line item:	
Fiscal Impact (explain if unbudgeted):			

REPORT

MWDOC discussed our interests with staff from Brown and Caldwell and requested that they prepare a scope of work and cost estimate. We requested that they focus on a financial analysis of funds that have been spent so far on chronically non-compliant water systems, and what has been accomplished. We believe the insight from this analysis will assist in presenting information to the SWRCB and others to re-focus the “water tax” discussions.

Attached is the scope of work that Brown and Caldwell has proposed for MWDOC to research to determine the impacts/outcomes of past investments and delineate areas where additional funds could be targeted now to address systems with persistent health-based violations.

In addition, Brown and Caldwell has shared an overview of the work they will be completing concurrently for CUWA and the Pacific Institute. The CUWA study focuses on small public water systems with persistent drinking water quality violations (at least 12 or more quarters of violations out of the 20 quarters between 2013 and 2017). Although in some instances, there is more current data available, not all water quality data is housed in the same database, especially if a contaminant is not regulated. CUWA has augmented information on drinking water violations and then added information relative to 1,2,3-TCP (only regulated since 2017) and Chromium VI (not yet regulated but being developed). The report will identify systems with long-term water quality problems, the approaches best suited for those systems based on type of contaminant and proximity to water of higher quality, and the potential range of costs for these solutions. This can inform the ongoing discussions at the State level on the best way to find long-lasting sustainable solutions for all failing water systems.

Work on both studies is expected to be done concurrently, with both studies complementing one another without conflicting with one another. When advised about MWDOC’s areas of interest, the CUWA Board expressed enthusiasm for the additional work as it will improve the overall effort. The completion date is estimated to be August 2019.

Brown and Caldwell has not yet provided a cost to complete the scope of work. They indicated the scoping would be completed and provided to MWDOC prior to the March 18 PAL meeting. Staff will provide it to the Board as soon as it is received.

Attached:

- Brown and Caldwell proposed Scope of Work - Proposal for MWDOC Financial Analysis for Small Non-Compliant Drinking Water System
- CUWA and the Pacific Institute - Summary of Work, Solutions for Failing Drinking Water Systems in California

Proposal for MWDOC Financial Analysis for Small Non-Compliant Drinking Water Systems

Background: Nearly a million Californians receive drinking water from failing public water systems, primarily from small sized water systems with persistent compliance issues. The State of California, State Water Resources Control Board (SWRCB) is exploring various approaches to funding their Human Right to Water (HR2W) initiative and has embarked on a needs assessment, which is expected to be completed in 2021. A number of funding sources are being leveraged to address systems in violation; however, the reporting of results of improvements and the need for additional funding has not been quantified. Estimates in legislative discussions have indicated that the need is around \$140 million, however it is unclear how this was quantified and there is no central source of information that documents the collective financial efforts and results of efforts being undertaken to solve this problem.

A recent analysis by the California Urban Water Agencies (CUWA) showed that nearly 700,000 people are served by small public water systems with one or more water quality violation(s) over the last five years. Of these, 150 systems collectively serving over 137,000 people have had persistent violations, defined for the purpose of their analysis as health-based violations in 12 or more quarters from 2013-2017 (Figure 1), but additional information is required to ascertain the cost of returning to compliance and how 100% compliance might be achieved. Figure 1 also predicts potential persistent non-compliance from chromium VI which is expected to be regulated in the near future.

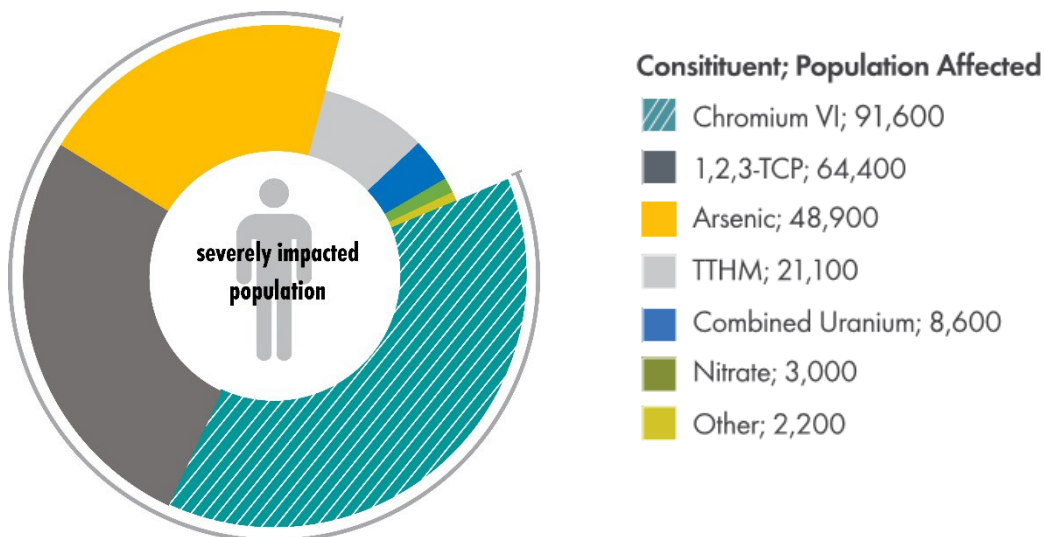


Figure 1: Types of Water Quality Challenges for Public Water Systems with Persistent Violations (2013-2017). Source: CUWA, 2018

An analysis of where funds have been spent to date, the resultant outcomes, and where additional funds are needed would provide valuable information to the State Board in its current needs assessment and help to direct resources where they would have the greatest impact. It is also complementary to an ongoing Water Research Foundation (WRF) project by CUWA/Pacific Institute which will match potential solutions and develop a high-level estimate of costs for persistently violating systems.

Brown and Caldwell (BC) staff have been engaged in various discussions regarding Safe and Affordable Water in California via our involvement with CUWA and the California-Nevada Section of AWWA (CA-NV AWWA). These organizations have been examining ways to make progress and leverage existing resources. The information developed from the project described below can contribute to and

complement this body of work by informing the ongoing discussions at the State level and encourage lasting solutions rather than short-term fixes requiring additional assistance/intervention down the road.

Project Goal/Outcome: Determine the impacts/outcomes of past investments and delineate areas where additional funds could be directed to address systems with persistent health-based violations.

Scope: This effort funded by Municipal Water District of Orange County (MWDOC) will help to examine which specific system's needs can be met with existing funding sources, and which will require new or additional sources of funding.

- **Existing Resources/Identified Projects** - Review existing financial reports (e.g. Drinking Water State Revolving Fund (DWSRF), Proposition 1, Proposition 84, others,) and what remedies and investments are already in process to the extent data and information are available. For example, several projects to improve drinking water quality have already been identified and are in various stages of the funding approval process. Based on conversations with Division of Drinking Water (DDW) staff, systems with arsenic compliance issues are in various stages of funding and the process is regularly being tracked by DDW and USEPA Region 9. Since this information is not readily available outside these agencies, it is possible that the financial need to address these systems may be double-counted. The Office of Financial Assistance also tracks the status of funding applications. It would be good to understand where systems are on the funding path, and what additional steps and funding are needed to provide solutions. To accomplish this, BC will:
 - Classify projects as either temporary (e.g. interim water source such as provision of bottled water) or long-term solutions (e.g. new treatment system, new management structure). The focus would be on long-term solutions as the ultimate goal to establish system sustainability and resolve the recurring compliance issues and prevent them from recurring, rather than continuing to subsidize interim fixes.
 - Understand whether one-time funding measures have been effective.
 - Classify additional funding needs for projects in progress.
 - Identify existing funding sources that are underutilized.
 - Review grants for technical assistance providers and NGOs (e.g. RCAC, CA Rural Water, CWC, Self-Help, etc.) to determine what work is underway and how effective the work has been in identifying costs and solutions.
- **Future Projects** – Identify which systems do not have an identified project (remedy) or potential funding source and leverage the upcoming WRF project by CUWA/Pacific Institute for class 5 treatment costs for arsenic and 1,2,3-TCP as well as the SWRCB estimate of needs if available.

A targeted approach to this analysis will help identify where the greatest progress can be made. The 2018 CUWA Issue Brief further determined that of the 150 systems in persistent violation, 80% of the population affected by persistent violations can be addressed by initially targeting 20% of these systems (those with ≥ 200 connections), or 33 systems (Table 1).

Table 1: Population Impacted by System Size for Public Water Systems with Persistent Violations (2013-2017). Source: CUWA, 2018

Number of Connections	Number of Systems with Persistent Violations	Population Impacted
≥200	33	111,700
<200	117	25,800
TOTALS*	150	137,500

**Chromium VI violations not included (no current MCL).*

We recommend segmenting this financial analysis to first consider the 33 systems with ≥200 connections and then examine the remaining 117 systems.

This analysis will leverage CUWA’s compiled data which focuses on community water systems and schools/daycares serving < 10,000 people and is more robust than the HR2W database.

Deliverable: BC will produce a report documenting findings from the above document review and analyses. The overall goal of the report will be to articulate and quantify the needs met by existing funding and what additional funding may be needed to achieve compliance for persistently violating systems.

Schedule: Assuming NTP of April 2019, BC proposes to deliver a draft report by August 2019 to inform the ongoing discussions at the State level on sustainable solutions for failing water systems. BC will incorporate comments from MWDOC and will deliver a final report by October 2019.

Technical Lead: Katie Porter

Katie Porter is based in Brown and Caldwell’s Los Angeles office and has been focused on California water issues for the last ten years consulting on regulatory compliance, resource planning, and aging infrastructure projects. She previously served as an Associate Branch Chief in USEPA’s Office of Ground Water and Drinking Water in Washington DC, where she developed national policy in conformance with the Safe Drinking Water Act (SDWA), participated on workgroups for regulatory development, and implemented programs to improve system sustainability and small system compliance. Katie is a staff member for the California Urban Water Agencies (CUWA) focused on Water Accessibility & Affordability issues and Water Quality issues. She also serves as the Chair of the SDWA committee for the California-Nevada Section of AWWA, and is a Board Member of the Urban Water Institute. Katie has a BS in Chemical Engineering from MIT and an MS in Chemical Engineering from Tufts University. She is a registered Professional Engineer in CA and a certified Envision Sustainability Professional.

Reference:

California Urban Water Agencies. Issue Brief - Restoring Water Accessibility in California. 2019
<https://www.cuwa.org/pubs/2019/accessibility-update>

Project Summary: Solutions for Failing Drinking Water Systems in California

Research Team: California Urban Water Agencies (CUWA) and Pacific Institute

Supported by the Water Research Foundation

February 2019

An estimated million Californians receive unsafe drinking water from failing public water systems. Yet there are solutions at hand: capital improvements for treatment systems, consolidation, water trading, and financial assistance for operations and maintenance can help systems deliver safe drinking water. CUWA and Pacific Institute plan to develop a decision tree to match failing systems with likely solutions. The project will focus on small public water systems with persistent drinking water quality violations. The report will identify systems with long-term water quality problems, the approaches best suited for those systems based on type of contaminant and proximity to water of higher quality, and the potential range of costs for these solutions. This can inform the ongoing discussions at the State level on the best way to find long-lasting sustainable solutions for all failing water systems. Accessibility to safe drinking water is a national problem, and the strategy developed under this research could be leveraged by other states.

Project Goal/Outcome: Develop a report detailing a systematic approach to dealing with communities lacking consistent access to safe water, using small failing public water systems in California as a case study for a framework that could be applied in other states.

Scope: Develop a decision tree to classify systems and match them with potential solutions, and develop a high level estimate of costs. Focus on small systems (200 – 10,000 people served) with persistent Safe Drinking Water Act violations, along with smaller systems that could be consolidated relatively easily.

Task 1: Develop Decision Tree and Match Systems with Solutions

- Focusing on small systems with long-term water quality problems, classify systems according to major characteristics: type of contaminant, proximity to other water systems, potential for water trading, and capacity deficiencies.
- Link categories of systems with likely solutions: treatment upgrades, consolidation, water trading, and operations and maintenance support.

Task 2: Explore Likely Solutions and Estimate Costs

- Identify innovative technology solutions (e.g. BATs, package systems, remote operation)
- Provide high level estimates of treatment and operation costs to the extent possible

Task 3: Gather Stakeholder Input

- Consult an Advisory Committee representing a range of viewpoints
- Conduct site visit to provide better understanding of existing conditions and technical challenges
- Convene a thought-leaders workshop to brainstorm innovative technical solutions.

Schedule:

- Site Visit: March 2019
- Thought-Leaders Workshop: April 2019
- Preliminary Findings: Summer 2019
- Final Report: Spring 2020



ACTION ITEM
March 20, 2019

TO: Board of Directors

FROM: **Public Affairs and Legislation Committee**
(Directors Dick, Osborne, and Thomas)

Robert Hunter
General Manager

Staff Contact: Heather Baez

**SUBJECT: CALIFORNIA SPECIAL DISTRICTS ASSOCIATION (CSDA) 2020-2022
BOARD OF DIRECTORS CALL FOR NOMINATIONS – SOUTHERN
NETWORK REGION, SEAT B**

STAFF RECOMMENDATION

Staff recommends the Board of Directors discuss and determine if a member of the MWDOC Board of Directors would like to be nominated and run for the CSDA Board of Directors Southern Network, Seat B.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

An 18-member Board of Directors elected from its six geographical networks governs CSDA. Each of the six networks (Northern, Sierra, Bay Area, Central, Coastal and Southern) have three seats on the board with staggered three-year terms. Candidates must be affiliated with an independent special district that is a CSDA Regular Member in good standing located within the geographic network they seek to represent.

CSDA is conducting a Call for Nominations for Seat B. The Southern Network, Seat B, has been represented by the Honorable Bill Nelson who has chosen to not run for reelection.

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice ____
Action item amount: None		Line item:	
Fiscal Impact (explain if unbudgeted):			

The CSDA Board of Directors is the governing body responsible for all policy decisions related to CSDA's member services, legislative advocacy, education and resources. The Board of Directors is crucial to the operation of the association and to the representation of the common interests of all California's special districts before the Legislature and the state administration.

Commitment and Expectations:

- Attend all Board meetings, held every other month at the CSDA office in Sacramento.
- Participate on at least one committee, meets 3-5 times a year at the CSDA office in Sacramento.

(CSDA reimburses Directors for their related expenses for Board and committee meetings as outlined in Board policy).

- Attend CSDA's two annual events: Special Districts Legislative Days (held in the spring) and the CSDA Annual Conference (held in the fall).
- Complete all four modules of CSDA's Special District Leadership Academy within two years.

(CSDA does not reimburse for expenses for the two conferences or the Academy classes even if a Board or committee meeting is held in conjunction with the events).

Nomination Procedure:

Any Regular Member in good standing is eligible to nominate one person, a board member or managerial employee (as defined by that district's Board of Directors) for election to the CSDA Board of Directors. A copy of the member district's resolution or minute action along with the Nomination Form and Candidate Information Sheet must accompany the nomination.

Deadline for receiving nomination applications is April 17, 2019.

Nominations and supporting documentation will be accepted by mail and email. Nominees will receive a Candidate's Packet in the mail. The packet will include campaign guidelines.

Attached:

CSDA Nomination Form
CSDA Candidate Information Sheet



**California Special
Districts Association**
Districts Stronger Together

2019 BOARD OF DIRECTORS NOMINATION FORM

Name of Candidate: _____

District: _____

Mailing Address: _____

Network: _____ (see map)

Telephone: _____

(PLEASE BE SURE THE PHONE NUMBER IS ONE WHERE WE CAN REACH THE CANDIDATE)

Fax: _____

E-mail: _____

Nominated by (optional): _____

Return this form and a Board resolution/minute action supporting the candidate and Candidate Information Sheet by fax, mail, or email to:

CSDA
Attn: Amber Phelen
1112 I Street, Suite 200
Sacramento, CA 95814
(877) 924-2732 (916) 442-7889 fax

amberp@csda.net

DEADLINE FOR RECEIVING NOMINATIONS – April 17, 2019



**California Special
Districts Association**
Districts Stronger Together

2019 CSDA BOARD CANDIDATE INFORMATION SHEET

The following information **MUST** accompany your nomination form and Resolution/minute order:

Name: _____

District/Company: _____

Title: _____

Elected/Appointed/Staff: _____

Length of Service with District: _____

1. Do you have current involvement with CSDA (such as committees, events, workshops, conferences, Governance Academy, etc.):

2. Have you ever been associated with any other state-wide associations (CSAC, ACWA, League, etc.):

3. List local government involvement (such as LAFCo, Association of Governments, etc.):

4. List civic organization involvement:

****Candidate Statement** – Although it is not required, each candidate is requested to submit a candidate statement of no more than 300 words in length. **Any statements received in the CSDA office after April 17, 2019 will not be included with the ballot.**



ACTION ITEM
March 20, 2019

TO: Board of Directors

FROM: **Public Affairs and Legislation Committee**
(Directors Dick, Osborne, and Thomas)

Robert Hunter
General Manager

Staff Contact: Heather Baez

**SUBJECT: AB 533 (HOLDEN) – INCOME TAX EXCLUSION, WATER
CONSERVATION OR EFFICIENCY PROGRAMS**

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a support position on AB 533 (Holden).

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

BILL SUMMARY

AB 533 would exclude from gross income, under personal income and corporation tax laws, amounts received as a rebate, voucher, or other financial incentive issued by a local water agency for participation in water efficiency or storm water runoff improvement programs.

BACKGROUND

In 2014, then Assembly Member Jimmy Gomez authored AB 2324 which excluded from gross income, under both the personal income tax and corporation tax laws, amounts received as a rebate, voucher, or other financial incentive issued by a local water agency for participation in a turf removal water conservation program. The measure went into effect immediately after being signed into law by Governor Brown, and applied to taxable years beginning on or after January 1, 2014 and before January 1, 2019. Last year,

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice __
Action item amount: None	Line item:		
Fiscal Impact (explain if unbudgeted):			

Assemblymember Holden introduced AB 2283, which would have extended the sunset date an additional five years. AB 2283 was approved unanimously by the Assembly Revenue and Taxation Committee, however, was held in the Assembly Appropriations Committee and did not move forward.

ARGUMENTS IN SUPPORT

Consumer rebates and subsidies are among the most cost-effective tools for increasing participation in conservation and storm water management programs. Yet, when the state is not faced with drought and water use restrictions, it is difficult to maintain public participation in conservation measures. Rebates provide a much-needed financial incentive to conserve year-round. Reducing that incentive by making rebates taxable income would be a major disincentive for households and businesses and will undermine their success.

ARGUMENTS IN OPPOSITION

None on file.

STAFF COMMENTS

MWDOC's Legislative Policy Principles directly reflect support tax exemptions for water conservation measures such as turf removal rebates. Specifically, *it is MWDOC's policy to support legislation and regulation that: Provides tax exemptions for water conservation or efficiency incentives for measures including, but not limited to, turf removal, devices, and other measures to reduce consumption of water or enhance the absorption and infiltration capacity of the landscape.*

DETAILED REPORT

The full text of AB 533 is attached.

ASSEMBLY BILL

No. 533

Introduced by Assembly Member Holden
(Principal coauthor: Senator Wiener)
(Coauthor: Assembly Member Friedman)

February 13, 2019

An act to add Sections 17139.9 and 24308.9 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 533, as introduced, Holden. Income taxes: exclusion: water conservation or efficiency programs: water runoff management improvement program.

The Personal Income Tax Law and the Corporation Tax Law, in conformity with federal income tax law, generally defines “gross income” as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income.

This bill would provide an exclusion from gross income for any amount received as a rebate, voucher, or other financial incentive issued by a local water agency or supplier for any water conservation or efficiency program or water runoff management improvement program, as provided.

This bill would take effect immediately as a tax levy.

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 17139.9 is added to the Revenue and
2 Taxation Code, to read:

3 17139.9. (a) Gross income does not include any amount
4 received as a rebate, voucher, or other financial incentive issued
5 by a local water agency or supplier for any water conservation or
6 efficiency program the primary purpose of which is to reduce
7 consumption of water or to improve the management of water
8 demand.

9 (b) Gross income does not include any amount received as a
10 rebate, voucher, or other financial incentive issued by a local water
11 agency or supplier for any water runoff management improvement
12 program the primary purpose of which is to reduce the amount or
13 manage the quality of storm water runoff.

14 SEC. 2. Section 24308.9 is added to the Revenue and Taxation
15 Code, to read:

16 24308.9. (a) Gross income does not include any amount
17 received as a rebate, voucher, or other financial incentive issued
18 by a local water agency or supplier for any water conservation or
19 efficiency program the primary purpose of which is to reduce
20 consumption of water or to improve the management of water
21 demand.

22 (b) Gross income does not include any amount received as a
23 rebate, voucher, or other financial incentive issued by a local water
24 agency or supplier for any water runoff management improvement
25 program the primary purpose of which is to reduce the amount or
26 manage the quality of storm water runoff.

27 SEC. 3. This act provides for a tax levy within the meaning of
28 Article IV of the California Constitution and shall go into
29 immediate effect.

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ACTION ITEM
March 20, 2019

TO: Board of Directors

FROM: **Public Affairs and Legislation Committee**
(Directors Dick, Osborne, and Thomas)

Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: AB 1194 (FRAZIER) - SACRAMENTO-SAN JOAQUIN DELTA: DELTA STEWARDSHIP COUNCIL

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt an oppose position on AB 1194 (Frazier).

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

BILL SUMMARY

AB 1194 would increase the membership of the Delta Stewardship Council (Council) from 7 members to 13 members, including 11 voting members and 2 nonvoting members, and would result in a majority of the members representing the Delta region.

BACKGROUND

In November 2009, the California Legislature enacted SBX7 1 (Delta Reform Act), one of the several bills that passed at this time related to water supply reliability, ecosystem health, and the Delta. The Act, effective on February 2, 2010, created the Delta Stewardship Council. The council is made up of seven members who provide a broad, statewide

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice __
Action item amount: None		Line item:	
Fiscal Impact (explain if unbudgeted):			

perspective and diverse expertise. In addition, they are advised by a 10-member board of nationally and internationally renowned scientists. The current council has two members from the south part of the state, two members from the central valley, two members from the Delta region, and one from the northern part of the state.

ARGUMENTS IN SUPPORT

This measure adds four additional voting members and two non-voting members to the Council all from the Delta region, creating a majority (7 of 13) of members from the Delta region. This increases their influence and voting weight which is beneficial to the residents of that region.

ARGUMENTS IN OPPOSITION

The current appointment format for the Council, as established by the Legislature in 2009, reflects the statewide interests of its actions. Two-thirds of Californians depend directly on water supplies from the Delta. Nearly 95 percent of all Californians get some or all of their water from the Delta watershed, which comes from rainfall and snowmelt in the upper watersheds and Sierra Nevada Mountains. The Delta is also the largest estuary in the western hemisphere, making it of international ecological importance.

The Council is tasked with developing and implementing a Delta Plan that seeks to coordinate the actions of dozens of local, state and federal agencies with decision-making authority over projects and programs in the Delta. Only one region, under existing law, has a guaranteed seat on this seven-member Council, that being the automatic appointment of the chair of the Delta Protection Commission. The State Assembly, State Senate and Governor also make appointments essential to achieving the Council's mission, which may include other representatives from the Delta region.

Altering the makeup of the Council so that it is dominated by in-Delta interests could create a potential bias against projects that have a statewide benefit or, in contrast, in support of proposed land development within the Delta, which was identified in the Delta Plan by the Council as among the threats to the region.

Finally, AB 1194 is contradictory to the intent of SBX7 1 which requires members to "possess diverse expertise and reflect a statewide perspective." Adding six (6) additional members to the council, who are all from the same region, does not reflect a statewide perspective. Six (6) of the eleven (11) voting members of the Council under this proposal could reside anywhere in the state, and five (5) members are required to reside in the Delta region. This creates a potential scenario where all 11 voting members and both non-voting members could reside in the Delta region.

DETAILED REPORT

The full text of AB 1194 is attached.

ASSEMBLY BILL

No. 1194

Introduced by Assembly Member Frazier
(Coauthors: Assembly Members Eggman, Grayson, and McCarty)
(Coauthors: Senators Dodd and Galgiani)

February 21, 2019

An act to amend Section 85200 of, and to add Sections 85061, 85066.5, and 85200.5 to, the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL’S DIGEST

AB 1194, as introduced, Frazier. Sacramento-San Joaquin Delta: Delta Stewardship Council.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council, which consists of 7 members, and requires the council to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, known as the Delta Plan.

This bill would increase the membership of the council to 13 members, including 11 voting members and 2 nonvoting members, as specified. By imposing new duties upon local officials to appoint new members to the council, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 85061 is added to the Water Code, to
2 read:
3 85061. “Primary zone of the Delta” means the primary zone
4 as defined in Section 29728 of the Public Resources Code.
5 SEC. 2. Section 85066.5 is added to the Water Code, to read:
6 85066.5. “Secondary zone of the Delta” means the secondary
7 zone as defined in Section 29731 of the Public Resources Code.
8 SEC. 3. Section 85200 of the Water Code, as added by Section
9 98 of Chapter 26 of the Statutes of 2017, is amended to read:
10 85200. (a) The Delta Stewardship Council is hereby established
11 as an independent agency of the state.
12 (b) *The council shall consist of 11 voting members and 2*
13 *nonvoting members, as follows:*
14 (1) *The 11 voting members shall be as follows:*
15 (A) *Four members shall be appointed by the Governor and*
16 *confirmed by the Senate.*
17 (B) *One member shall be appointed by the Senate Committee*
18 *on Rules.*
19 (C) *One member shall be appointed by the Speaker of the*
20 *Assembly.*
21 (D) *One member each shall be appointed by the municipal*
22 *selection committees for the primary zone and the secondary zone*
23 *of the Delta established in Section 85200.5.*
24 (E) *One member with expertise in Delta agricultural interests*
25 *and one member with expertise in Delta small business interests,*
26 *each with a primary residence in the Delta, shall be appointed by*
27 *the Boards of Supervisors of the Counties of Contra Costa,*
28 *Sacramento, San Joaquin, Solano, and Yolo. The boards of*
29 *supervisors of those counties shall organize a selection committee*
30 *for the purposes of this subparagraph. Nothing in this section shall*
31 *prevent the selection committee from appointing members who*
32 *meet the criteria for appointment under another provision of this*
33 *subdivision.*
34 (F) *One member shall be the Chairperson of the Delta*
35 *Protection Commission.*

1 (2) *One Member of the Senate appointed by the Senate*
2 *Committee on Rules and one Member of the Assembly appointed*
3 *by the Speaker of the Assembly, both of whom represent areas*
4 *within the primary zone of the Delta, shall be ex officio members*
5 *without a vote and shall participate in the activities of the*
6 *commission to the extent that the participation is not incompatible*
7 *with their respective positions as Members of the Legislature. For*
8 *purposes of this division, these Members of the Legislature shall*
9 *constitute a joint interim investigating committee on the subject*
10 *of this division, and, as that committee, shall have the powers and*
11 *duties imposed upon those committees by the Joint Rules of the*
12 *Senate and Assembly.*

13 ~~(b) The council shall consist of seven voting members, of which~~
14 ~~four members shall be appointed by the Governor and confirmed~~
15 ~~by the Senate, one member shall be appointed by the Senate~~
16 ~~Committee on Rules, one member shall be appointed by the~~
17 ~~Speaker of the Assembly, and one member shall be the Chairperson~~
18 ~~of the Delta Protection Commission. Initial~~

19 (c) (1) *Except as provided in paragraph (2), initial*
20 *appointments to the council shall be made by July 1, 2010.*

21 (2) (A) *Initial appointments of the members appointed by*
22 *selection committees shall be made by March 1, 2020.*

23 (B) *Initial appointments of the ex officio members described in*
24 *paragraph (2) of subdivision (b) shall be made by March 1, 2020.*

25 ~~(e)~~

26 (d) (1) (A) *The initial terms of two of the four members*
27 *appointed by the Governor shall be four years.*

28 (B) *The initial terms of two of the four members appointed by*
29 *the Governor shall be six years.*

30 (C) *The initial terms of the members appointed by the Senate*
31 *Committee on Rules and the Speaker of the Assembly shall be*
32 *four years.*

33 (D) *The initial terms of the members appointed by the selection*
34 *committees shall be four years.*

35 ~~(D)~~

36 (E) *Upon the expiration of each term described in subparagraph*
37 *(A), (B), (C), or ~~(C)~~; (D), the term of each succeeding member*
38 *shall be four years.*

(2) The Chairperson of the Delta Protection Commission shall serve as a member of the council for the period during which ~~he~~ ~~or she holds~~ *they hold* the position as commission chairperson.

~~(d)~~

(e) Any vacancy shall be filled by the appointing authority within 60 days. If the term of a council member expires, and no successor is appointed within the allotted timeframe, the existing member may serve up to 180 days beyond the expiration of ~~his or her~~ *the member's* term.

~~(e)~~

(f) The council members shall select a chairperson from among the members, who shall serve for not more than four years in that capacity.

~~(f)~~

(g) The council shall meet once a month in a public forum. At least two meetings each year shall take place at a location within the Delta.

~~(g) This section becomes operative on January 1, 2019.~~

SEC. 4. Section 85200.5 is added to the Water Code, to read:
85200.5. (a) For the purposes of this section, the term “unincorporated town” means the following:

(1) In the primary zone of the Delta, the communities of Clarksburg, Courtland, Hood, Knightsen, Locke, Ryde, Terminous, and Walnut Grove.

(2) In the secondary zone of the Delta, the communities of Bay Point, Bethel Island, Bird’s Landing, Byron, Collinsville, Discovery Bay, and Freeport.

(b) Municipal selection committees are hereby established for the primary zone and the secondary zone of the Delta to appoint members to the council.

(c) The municipal selection committees for the primary zone and the secondary zone of the Delta shall consist of the following members or their designees:

(1) The mayor or an elected member of the city council of each city in the applicable zone, selected by a majority of that city council.

(2) For each unincorporated town in the applicable zone, one of the following:

(A) A member of the municipal advisory council of the unincorporated town who is a resident of the town, selected by a

1 majority vote of the total membership of that municipal advisory
2 council.

3 (B) If no person is available for appointment under subparagraph
4 (A), a resident of the unincorporated town, selected by majority
5 vote of the total membership of the board of supervisors of the
6 applicable county.

7 (d) (1) Representatives of cities may only be nominated for
8 membership in the council from among the mayors or elected city
9 council members of those cities.

10 (2) Representatives of unincorporated towns may only be
11 nominated for membership in the council from among the members
12 of the municipal selection committee.

13 (e) A majority of the total membership of the municipal selection
14 committee shall constitute a quorum for the transaction of business.

15 (f) A majority vote of the total membership of a municipal
16 selection committee is required for the municipal selection
17 committee to take action. Each member of the municipal selection
18 committee shall have one vote.

19 SEC. 5. If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.

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INFORMATION ITEM
March 18, 2019

TO: **Public Affairs & Legislation Committee**
(Directors Dick, Thomas, Osborne)

FROM: **Robert Hunter, General Manager**

Staff Contact: Tiffany Baca

SUBJECT: MWDOC Social Media Audit

STAFF RECOMMENDATION

Staff recommends the Public Affairs & Legislation Committee: Receive and file the report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

Conducting a social media audit is a necessary step to ensuring an effective, successful social media presence that aligns with the MWDOC brand, mission, and meets identified goals and objectives. At the request of staff, MWDOC's Strategic Digital Communications contractors, HashtagPinpoint® (#P), conducted an audit of each of the Municipal Water District of Orange County's (MWDOC or District) social media platforms. The purpose of the audit is to evaluate existing efforts and determine what strategies are working, while also identifying areas for improvement and new opportunities for social engagement. #P has prepared a report that presents their findings, as well as the newest, mutually developed goals for the District's 2019 social media efforts.

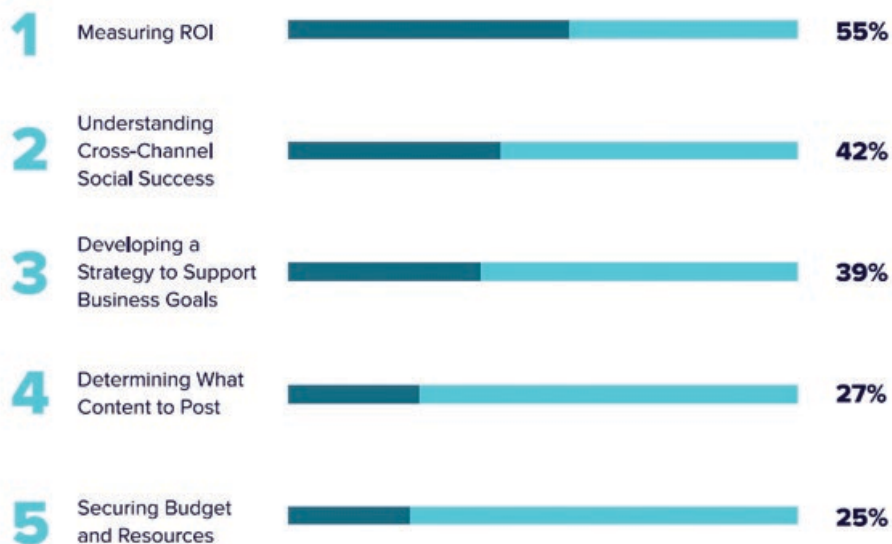
Budgeted (Y/N):	Budgeted amount:	Core __	Choice __
Action item amount:	Line item:		
Fiscal Impact (explain if unbudgeted):			

DETAILED REPORT

Background

Social media is an integral part of our daily lives – both personally and professionally. In 2018, it was reported that **77 percent** of internet users were also social network users, and these figures are expected to grow. If an organizational goal is to reach large, targeted audiences with important messages and calls to action, utilizing social media as an outreach tool is no longer optional. This is one of the many reasons why it is vital to understand where social efforts should be targeted, and nailing down the “magic formula” to ensure an effective Return on Investment (ROI) is reportedly one of the biggest challenges faced by those who are active on social media for business.

Challenges for Social Marketers



Data received from SproutSocial 2018 Index

Purpose

To ensure that the District’s social media approach is continuing to be effective, and to meet the objectives outlined in MWDOC’s Strategic Communications Program and Plan to “Monitor, Evaluate, and Amend,” staff requested a social media audit from MWDOC’s Strategic Digital Communications contractors, #P. The goals of the audit are to evaluate existing social media accounts for brand alignment, determine what strategies are working, and identify new opportunities for social engagement. #P’s comprehensive report has been included in the Public Affairs and Legislation Committee packet.

Audit Results

The audit breakdown shows that since switching to a video driven approach in Quarter 4, engagement rates and reach continue to climb across all of the District’s social media platforms hovering comfortably above industry average. Over the last 6 months, the top performing posts have all been on Facebook, which makes sense. Facebook continues to be the primary platform for roughly two-thirds of Americans who use the internet. As

#P and staff continue to develop video content, MWDOC's YouTube and Instagram TV (IGTV) channels are expected to significantly increase in engagement and reach as well.

Identified Goals- FACEBOOK

The top Facebook posts over the last 6 months are a mixture of static image posts and video content. Key themes include Infrastructure, Water Technology, and MWDOC Programs/Partners. #P and MWDOC Public Affairs staff share in the responsibility of creating daily/weekly posts (across all platforms)—an approach that has proven effective. In addition to continuing these best practices, the following goals have been developed for Facebook – 2019:

- Continue to test for optimal posting times based on message type
- Continue MWDOC program/partner promo videos (Long-Form Video)
- Implement 'community focused' content (E.g. Man-On-The-Street)
- Highlight Staff/Water Industry Professionals (Long-Form Video)
- Continue to build brand awareness, thereby strengthening credibility and trust in the District's activities and programs

Identified Goals- INSTAGRAM

Instagram is quickly catching up to Facebook as the District's most effective messaging platform. Similar to Facebook, the top performing posts are a mixture of static image posts and video content. Instagram has also done well with "live event" content. The following goals have been developed for Instagram - 2019:

- Continue to test for optimal posting times based on message type
- Take advantage of behind-the-scenes opportunities (Events, Tours, etc.)
- Continue to develop and enhance the MWDOC IGTV channel
- Continue to develop 30-60 second video content
- Continue to build brand awareness, thereby strengthening credibility and trust in the District's activities and programs

Identified Goals- TWITTER

The top tweets over the past 6 months, similar to Facebook and Instagram, are a mixture of static image tweets and video content. Also similar to Instagram, Twitter has done well with "live event" content. The following goals have been developed for Twitter - 2019:

- Continue to test for optimal posting times based on message type
- Continue a regular stream of content, while monitoring engagement rate
- Take advantage of behind-the-scenes opportunities (Events, Tours, etc.)
- Continue to build brand awareness, thereby strengthening credibility and trust in the District's activities and programs

Identified Goals- YOUTUBE

YouTube has over one billion users – this number is almost one-third of all internet users. Looking at the past 90 days, the MWDOC YouTube audience has

viewed content for **976 minutes** (over 16 hours). That number is **up 67%** over the past 90 days and should continue to climb as #P and MWDOC Public Affairs staff continue producing video content. The following goals have been developed for YouTube – 2019:

- Place a stronger focus on this platform as a key messaging tool
- Explore effectiveness of short-form vs long-form video
- Continue to test for optimal posting times based on message type
- Develop original videos highlighting MWDOC events, staff, and programs
- Develop original video content that 'opens the door' to the water industry
- Continue to build brand awareness, thereby strengthening credibility and trust in the District's activities and programs

Identified Goals- VIDEO CONTENT

It is clear that the implementation of video has greatly increased engagement and reach across all of the District's social channels. Videos have proven to easily captivate ratepayers and allow them to connect with the brand in an entertaining and educational way. The strategy developed for the District's 2019 video efforts include:

- Engage new audience groups
- Create more original video content
- Encourage staff participation

Conclusion

Through the process of the District's social media audit, #P and MWDOC Public Affairs staff have been able to identify several key contributors to the success of the program as well as to prepare realistic, thoughtful goals for each of the District's social media platforms for 2019. To ensure that the District's social media presence continues to perform on an upward trajectory, #P and MWDOC Public Affairs staff will carry on monitoring and evaluating performance metrics as well as conducting social listening to best identify what the audience members on each platform care about and respond to.

Additionally, #P and MWDOC Public Affairs staff plan to evaluate the effectiveness and value of the District's two, lesser-utilized social channels—Pinterest and LinkedIn, and will make additional adjustments to the program based on the findings.

Social Media Audit

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY



Glossary

DAILY ENGAGEMENT RATE

The number of people your post reached who then liked, commented, shared or clicked on your post.

DAILY ORGANIC REACH

The number of people who had any content from your Page or about your Page enter their screen through unpaid distribution. This includes posts, check-ins, social information from people who interact with your Page and more. (Unique Users)

DAILY VIRAL REACH

The number of people who had any content from your Page or about your Page enter their screen with social information attached. As a form of organic distribution, social information displays when a person's friend interacted with your Page or post. This includes when someone's friend likes or follows your Page, engages with a post, shares a photo of your Page and checks into your Page. (Unique Users)

DAILY ORGANIC REACH OF PAGE POSTS

The number of people who had any of your Page's posts enter their screen through unpaid distribution. (Unique Users)

DAILY VIRAL REACH OF PAGE POSTS

The number of people who had any of your Page's posts enter their screen with social information attached. As a form of organic distribution, social information displays when a person's friend interacted with your Page or post. This includes when someone's friend likes or follows your Page, engages with a post, shares a photo of your Page and checks into your Page. (Unique Users)

DAILY ORGANIC IMPRESSIONS OF YOUR POSTS

The number of times your Page's posts entered a person's screen through unpaid distribution. (Total Count)

DAILY TOTAL ORGANIC 30-SECOND VIEWS

Number of times the video has been viewed for at least 30 seconds by organic reach. (Total Count)

Quick Stats | 2018

Comparing numbers from Quarter 3 of 2018 vs Quarter 4 (2018) on MWDOC's Facebook Page.

****Important to note:** July - Sept. (Quarter 3) we were posting two to three times (static images) daily to MWDOC's social channels versus Oct. - Dec. when posting frequency was changed to once a day, including 3 videos per week. Since switching to a video driven approach in Quarter 4, we've increased our engagement rate and reach - while providing higher quality posting, less frequently.*

Total Engagement Rate (July - September) - 871.53%

Total Posts: 240

Average Daily Engagement Rate: 3.63%

July Rate: 339.82%

Total Posts: 83

Average Daily Rate: 4.09%

August Rate - 240.71%

Total Posts: 93

Average Daily Rate: 2.58%

September Rate - 290.99%

Total Posts: 64

Average Daily Rate: 4.54%

Total Rate (October - December) - 567.70%

Total Posts 109

Average Daily Engagement Rate: 5.21%

October Rate - 300%

Total Posts: 45

Average Daily Rate: 6.66%

November Rate - 179%

Total Posts: 38

Average Daily Rate: 4.71%

December Rate: 88.70%

Total Posts: 26

Average Daily Rate: 3.41%

Quick Stats | 2018

A look at **Quarter 3** (July - September) vs. **Quarter 4** (October - December)

DAILY ORGANIC REACH

Q3	Q4
497	544

Increase: 9.46%

DAILY VIRAL REACH

Q3	Q4
147	209

Increase: 42.18%

DAILY TOTAL ORGANIC 30-SECOND VIEWS

Q3	Q4
3	11

Increase: 266.67%

DAILY ORGANIC REACH OF PAGE POSTS

Q3	Q4
433	493

Increase: 13.86%

DAILY VIRAL REACH OF PAGE POSTS

Q3	Q4
82	157

Increase: 91.46%

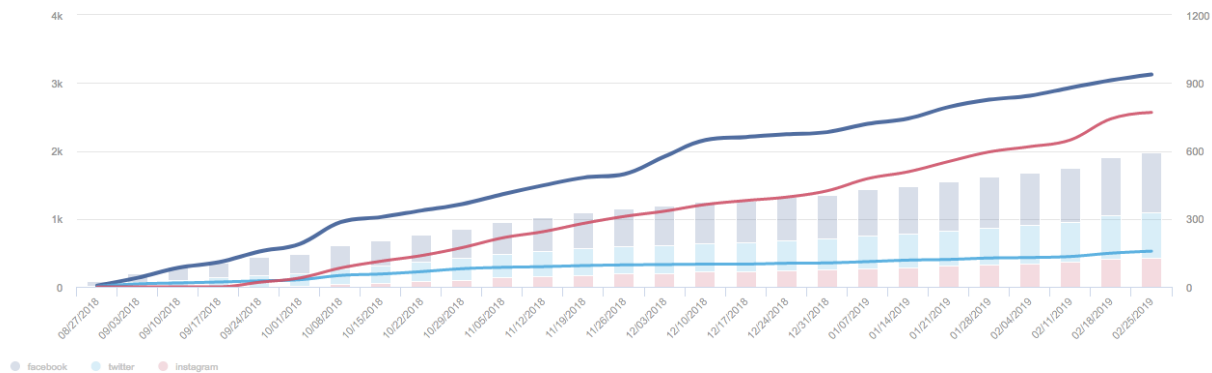
DAILY ENGAGEMENT RATE

Q3	Q4
3.63%	5.21%

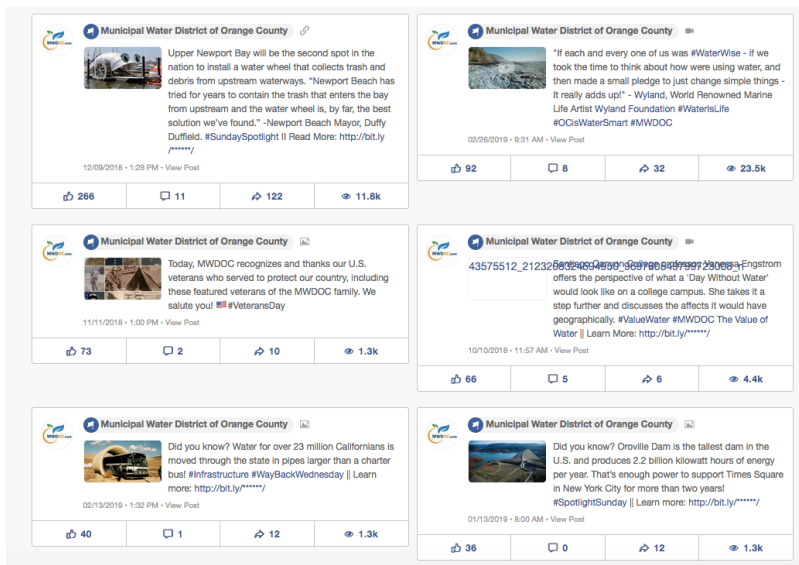
Increase: 43.53%

When comparing the engagement growth between Facebook, Instagram and Twitter, we are seeing a **steady increase** with all 3 platforms over the last 6 months. This increase is more prevalent with Facebook and Instagram, however we are still seeing a climb with Twitter.

Engagement Growth ?






Top Performing Posts



Over the last 6 months, our top performing posts have all been on **Facebook** and have been a **mixture** of **VIDEO** and **STATIC IMAGES**. The 2 common themes amongst these posts are '**Infrastructure/Technology**' and '**MWDOC Programs/Partners**'. We have seen great success with posts (across **all** platforms) when one of these two themes are focused on.

The **average engagement rate across all of Facebook is just 2%**. This low number is primarily due to Facebook's filtering algorithm called EdgeRank, where users see only a small selection of posts by friends and pages they've liked in their news feed. Given those numbers, MWDOC is doing exceptionally well with an **average engagement of 14%**.

Post Type		Total Posts Sent	Total Engagements	Engagement Rate per Post	
T	Text	2	13	6.5	
	Image	135	1517 +1153.7%	11.2	+178.6%
	Video	62	880	14.2	
★ 	Link	4	424 +42300.0%	106.0	+10500.0%
Total		203	2834 +2223.0%	14.0	+254.7%

*Numbers based off of last 6 months

Quick Stats

Best Day to Post

SUNDAY

Best Time to Post

11a - 2p

Best Message Type to Post


VIDEO*

*CoSchedule actually lists 'Link Messages' as the best message type to post, however; after a deeper look into the numbers, it is clear that the 'Link Message' numbers are inflated due to one **very** successful post regarding the 'Water Wheel' in Newport. Putting that post aside - Video maintains the highest level of engagement.

Top Posts

The top Facebook posts over the past 6 months are a mixture of video and static image posts which has been our focus since September. Key themes include Infrastructure, Water Technology and MWDOC Programs/Partners.

Municipal Water District of Orange County




Upper Newport Bay will be the second spot in the nation to install a [water wheel](#) that collects trash and debris from upstream waterways. "Newport Beach has tried for years to contain the trash that enters the bay from upstream and the water wheel is, by far, the best solution we've found." -Newport Beach Mayor, Duffy Duffield. [#SundaySpotlight](#) [It Read More: http://bit.ly/*****](#)

13/08/2018 - 1:28 PM - View Post

266	11	122	11.8k
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Municipal Water District of Orange County




"If each and every one of us was [#WaterWise](#) - if we took the time to think about how were using water, and made even a small change to just change simple things - I really adds up" - Wyland, World Renowned Marine Life Artist Wyland Foundation [#WaterIsLife](#) [#OCisWaterSmart](#) [#MWDOC](#)

02/05/2019 - 9:31 AM - View Post

92	8	32	23.5k
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Municipal Water District of Orange County




Today, MWDOC recognizes and thanks our U.S. veterans who served to protect our country, displaying these featured veterans of the MWDOC family. We salute you! [#VeteransDay](#)

1/11/2018 - 1:00 PM - View Post

73	2	10	1.3k
----	---	----	------

Municipal Water District of Orange County




Sanjago Canyon College professor, Vanessa Engstrom offers the perspective of what a [Day Without Water](#) would be like. [#DWOW](#) [#WaterWise](#) [#MWDOC](#) [#TheValueOfWater](#) | Learn More: [http://bit.ly/*****](#)

10/10/2018 - 1:57 AM - View Post

66	5	6	4.4k
----	---	---	------

Municipal Water District of Orange County




Did you know? Water for over 23 million Californians is moved through the state in pipes larger than a charter bus! [#Infrastructure](#) [#WaterBackWednesday](#) | Learn more: [http://bit.ly/*****](#)

03/13/2018 - 1:02 PM - View Post

40	1	12	1.3k
----	---	----	------

Municipal Water District of Orange County



Did you know? Oroville Dam is the tallest dam in the U.S. and produces 2.2 billion kilowatt hours of energy per year. That's enough power to support Times Square in New York City for more than two years! [#OrovilleSunday](#) | Learn more: [http://bit.ly/*****](#)

01/13/2019 - 8:02 AM - View Post

36	0	12	1.3k
----	---	----	------

Platform Breakdown (Facebook)

Recommendations

Facebook remains our most active platform for messaging. We spent the first 6 months of our '**reboot**' developing content. It was important to create a solid foundation of new video and improved static content to be able to evaluate the new approach. The new strategy (Reboot) has **proven to be successful** - a video driven approach that is supplemented by strong, static content. We are achieving **higher levels of engagement with less content**.

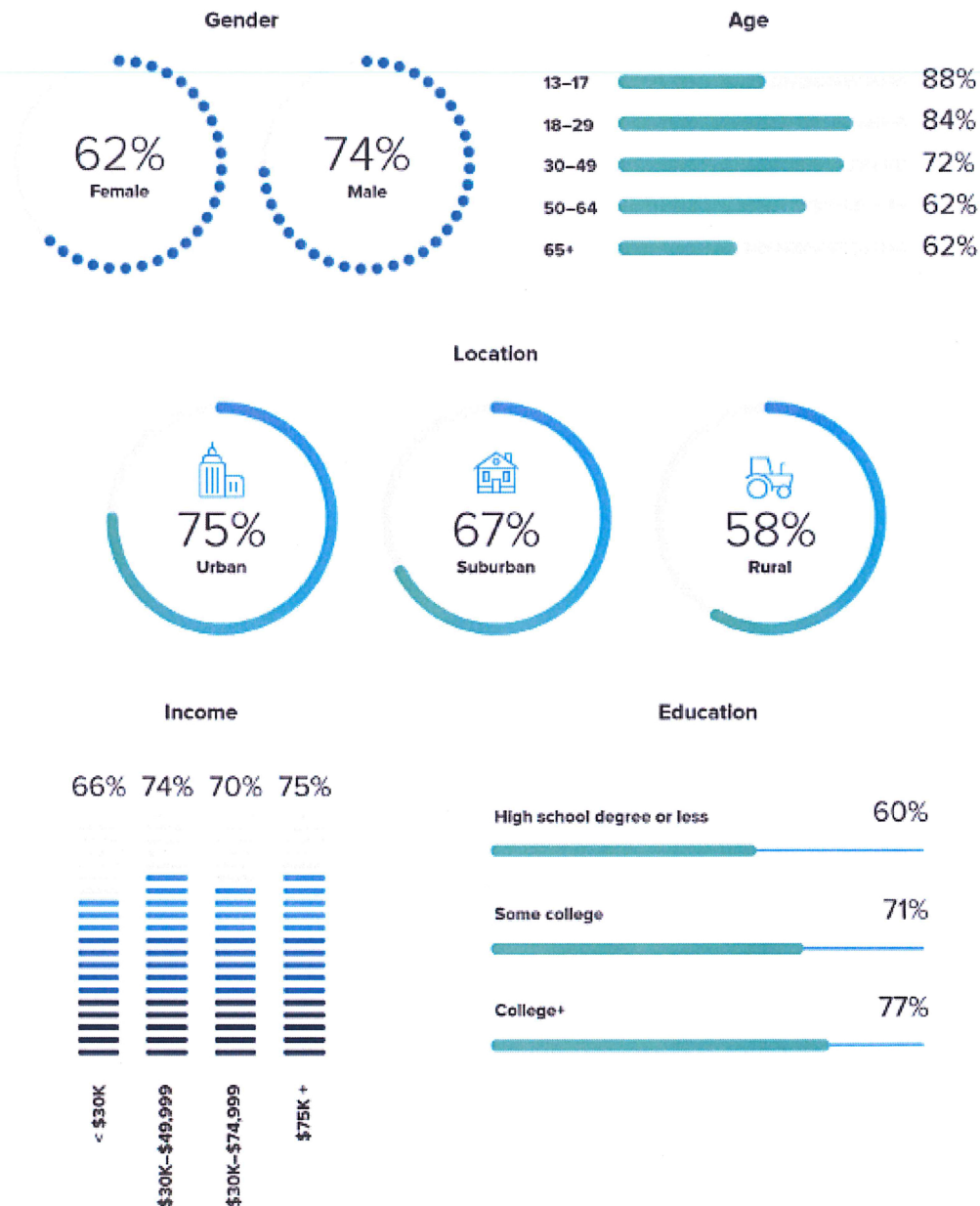
2019 Goals - Facebook

- Continue to test for optimal posting times based off of messaging type
- Focus more on infrastructure/technology - exploring new ways to present this content
- Continue MWDOC program/partner promo videos (Long Form Video)
- Implement 'community focused' content (Man-On-The-Street)
- Highlight Staff/Water Industry Professionals (Long Form Video)
- Continue building brand awareness and strength

Platform Breakdown (Facebook)

Among internet users, percentage (%) of each demographic group who are also Facebook users:

Facebook Demographics



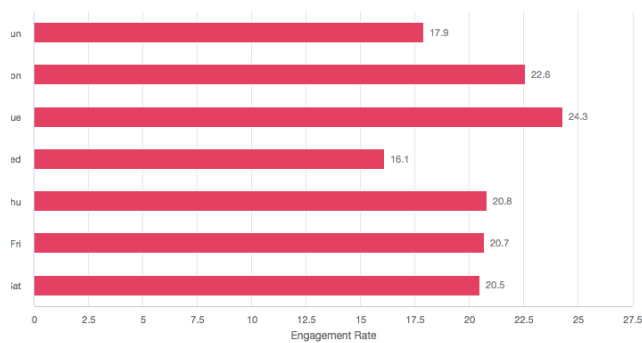
Platform Breakdown (Instagram)

Engagement

As shown above (overview), Instagram is quickly catching up to Facebook as our most effective messaging platform. MWDOC's engagement rate, prior to September (Reboot) was hovering just above the **average of 1.73%** - since then, MWDOC's Instagram has taken off, seeing an average engagement rate of nearly 20% - **18% higher than the industry average.**

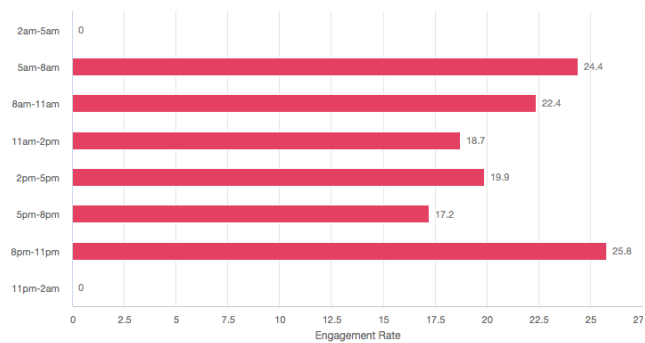
Engagement Rate by Day of Week

Posts Sent from 09/01/2018 - 02/28/2019



Engagement Rate by Time of Day

Posts Sent from 09/01/2018 - 02/28/2019



Engagement per Post Type

Post Type	Total Posts Sent	Total Engagements	Engagement Rate per Post
Image	79	1471	18.6
Video	40	896	22.4
Total	119	2367	19.9

*Numbers based off of last 6 months

Quick Stats

Best Day to Post

TUESDAY

Best Time to Post

8p - 11p

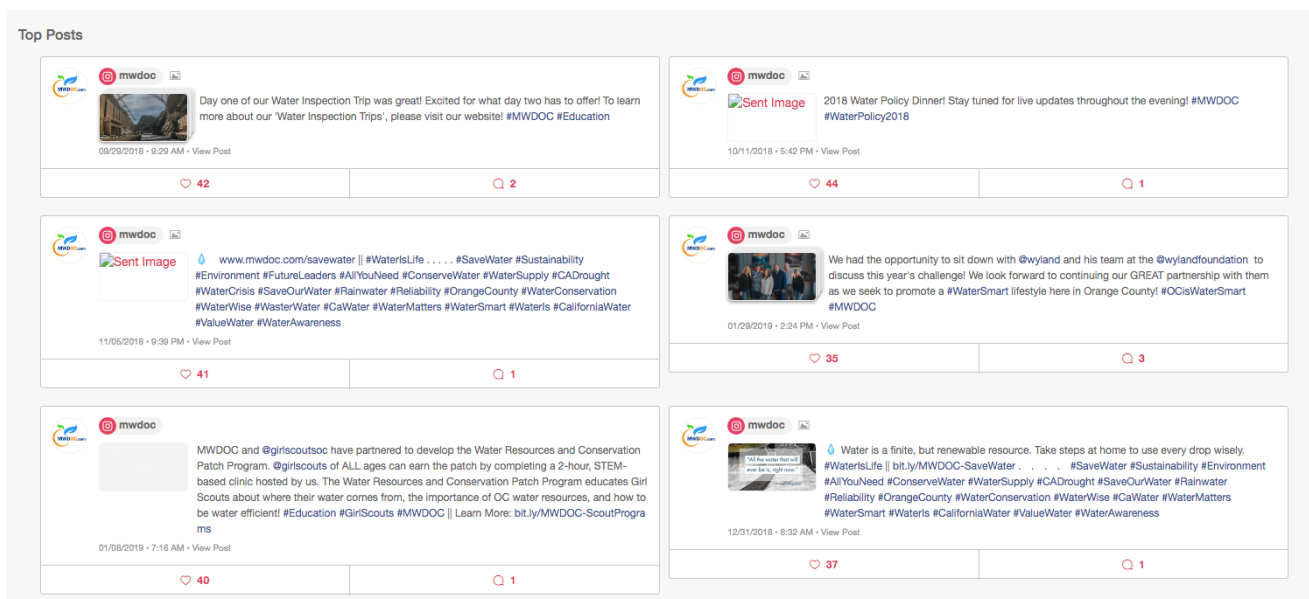
Best Message Type to Post

VIDEO

Platform Breakdown (Instagram)

Top Posts

The top Instagram posts over the past 6 months are a **mixture of video and static image posts**, which has been our focus since September. Much like Facebook, we see great success with infrastructure and MWDOC programs/partner focused content. Instagram has also done very well with behind the scenes and "live event" content.



Recommendations

As Instagram continues to climb as one of our **most powerful tools for messaging**, we'd like to place more focus on this particular platform in 2019. Instagram continues to develop more functionality for IGTV (Instagram TV) and continues to make improvements - linking Instagram to IGTV, **helping to drive more traffic to long form video**.

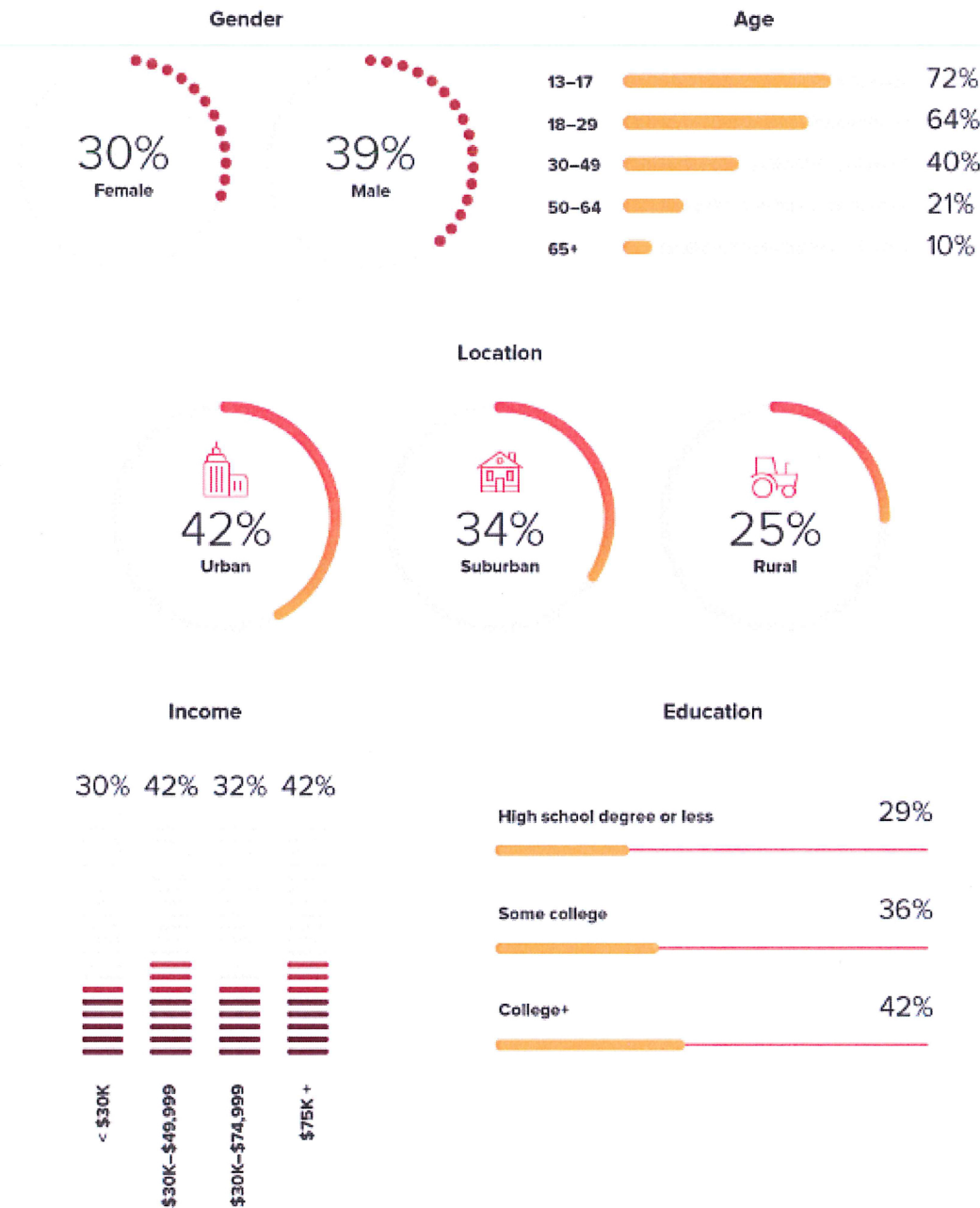
2019 Goals - Instagram

- Continue to test for optimal posting times based off of messaging type
- Take advantage of behind-the-scenes opportunities (Events, Tours, Meetings)
- Continue to develop and enhance the MWDOC IGTV channel
- Continue to develop more 30-60 second video content
- Continue building brand awareness and strength

Platform Breakdown (Instagram)

Among internet users, percentage (%) of each demographic group who are also Instagram users:

Instagram Demographics



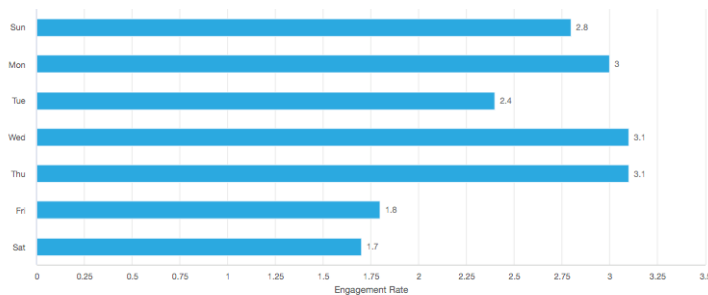
Platform Breakdown (Twitter)

Engagement

In comparison to Facebook and Instagram, MWDOC's Twitter has seen the least amount of engagement - although - **MWDOC's engagement rate (2.6%) still sits comfortably above the platforms average of .046%.** We believe the lower engagement rate is due to the nature of Twitter users. Twitter is commonly used as a **visual feed that can quickly be scanned** - with our increase in video content, users are forced to stop scanning and watch content. Nevertheless, MWDOC's engagement rate has slowly continued to climb over the past 6 months.

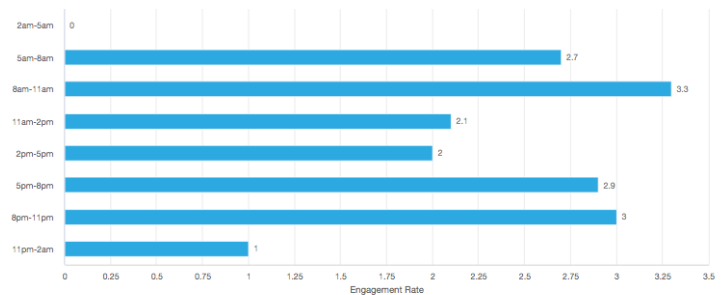
Engagement Rate by Day of Week

Tweets Sent from 09/01/2018 - 02/28/2019



Engagement Rate by Time of Day

Tweets Sent from 09/01/2018 - 02/28/2019



Engagement per Tweet Type

Tweet Type	Total Tweets Sent	Total Engagements	Engagement Rate per Tweet
Text	4	4	1.0
Image	151	374 +367.5%	2.5 +42.4%
Video	43	144	3.3
Link	3	5	1.7
Total	201	527 +568.0%	2.6 +50.8%

*Numbers based off of last 6 months

Quick Stats

Best Day to Post

WEDNESDAY

Best Time to Post

8a - 11a

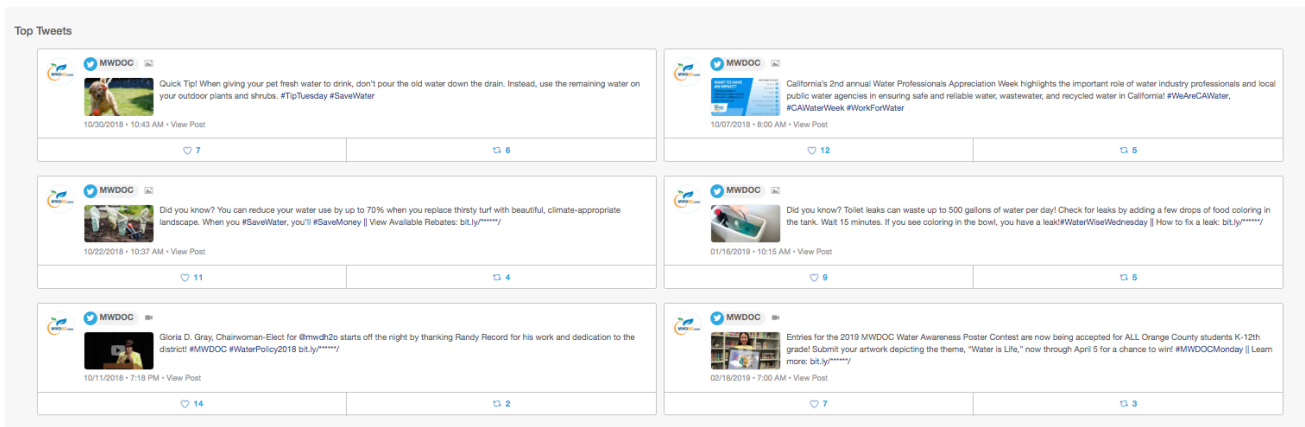
Best Message Type to Post

VIDEO

Platform Breakdown (Twitter)

Top Tweets

The top tweets over the past 6 months are a **mixture of video and static image tweets**, which has been our focus since September. Much like Instagram, we see great success with "live event" and "behind the scenes" content.



Recommendations

Because of Twitter's slow engagement growth, we'd like to suggest we slowly back down our efforts here and place a stronger emphasis on Instagram and YouTube as we continue with a video driven approach. The platform remains a top messaging platform, but serves best as a micro-blogging platform.

2019 Goals - Twitter

- Continue to test for optimal posting times based off of messaging type
- Continue a regular stream of content, while monitoring engagement rate levels
- Take advantage of live, behind-the-scenes opportunities (Events, Tours, Meetings)
- Continue building brand awareness and strength

Platform Breakdown (Twitter)

Among internet users, percentage (%) of each demographic group who are also Twitter users:

Twitter Demographics

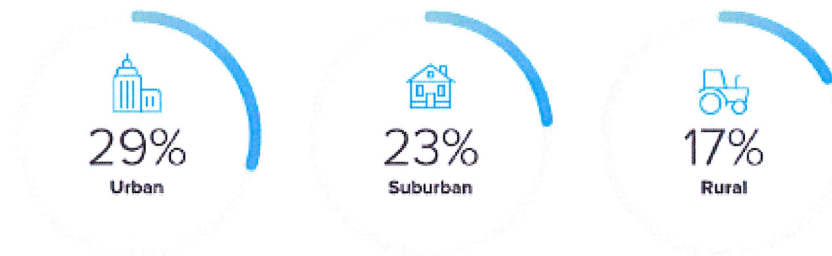
Gender



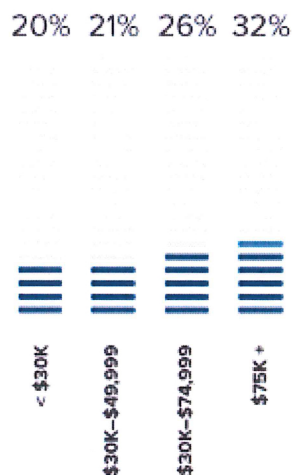
Age



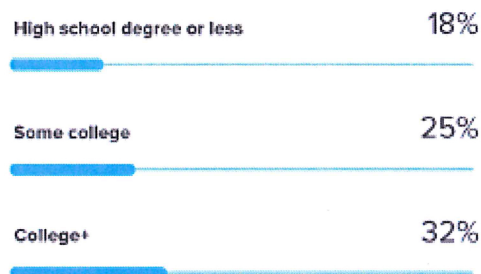
Location



Income



Education



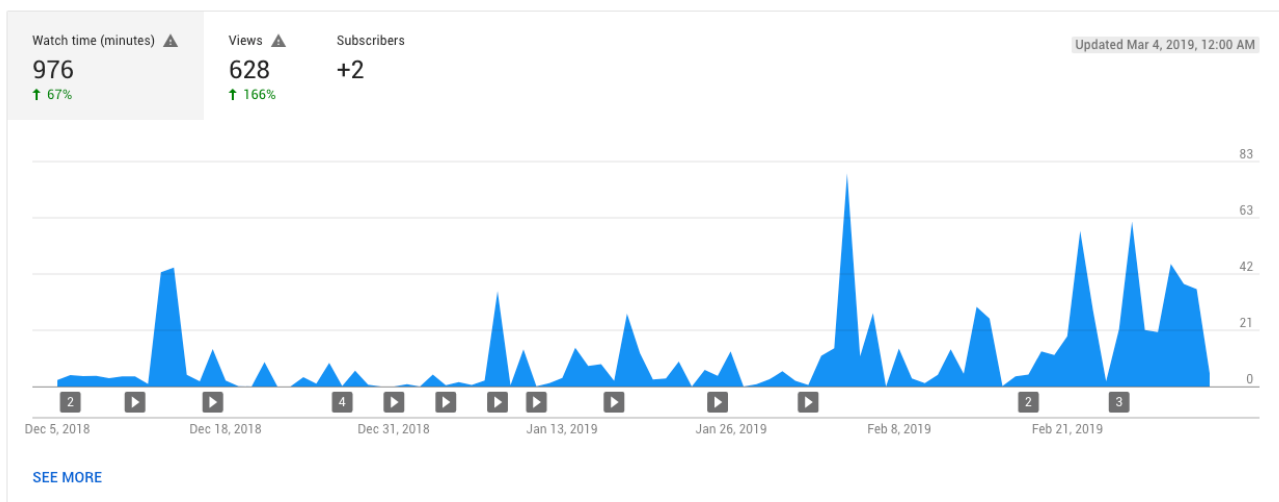
Platform Breakdown (YouTube)

Overview

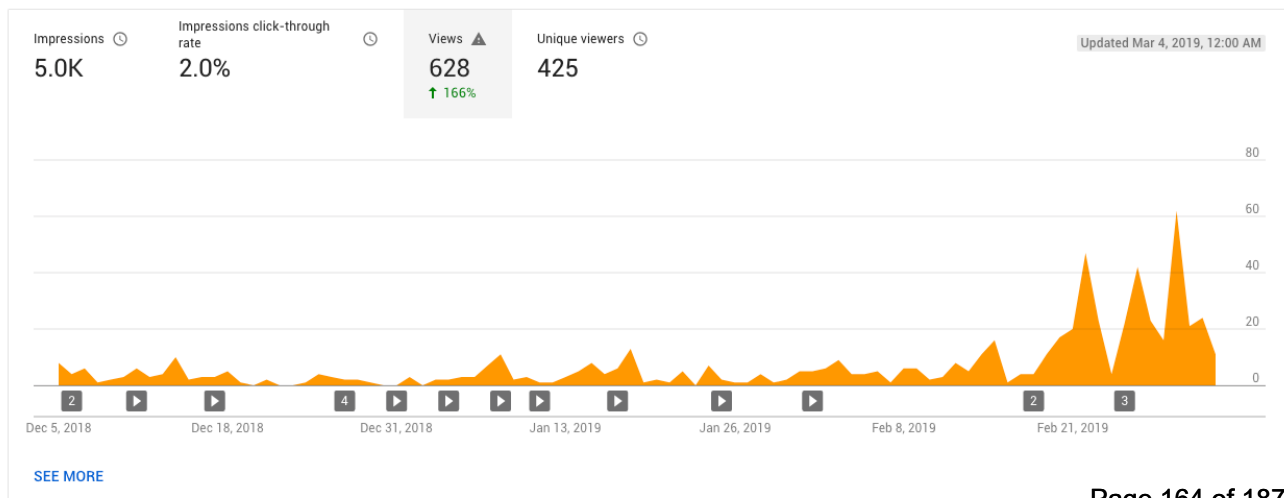
YouTube is a messaging tool that is still being developed for MWDOC. YouTube, as a platform, is unquestionably powerful. Video, both short and long form, has proven to be the most effective form of media.

Watch Time & Views

Looking at the past 90 days, our audience has viewed content on MWDOC's YouTube channel for **976 minutes** (16.3 hours). **That number is up 67% from the past 90 days** and should continue to climb with our video driven approach.



Looking at the past 90 days, **MWDOC's views are significantly higher (+166%) than the previous range.** Over time, monitoring views can help you spot high-performing videos, anticipate seasonal changes, and determine when to upload new videos.



Platform Breakdown (YouTube)

Why YouTube?

- In 2018 YouTube is now recognized as the **world's second largest search engine**
- Almost **5 billion videos are watched on YouTube every single day** and growing
- **One billion hours watched daily**
- YouTube has **over a billion users** – almost one-third of all people on the Internet
- In an average month, **eight out of ten 18 - 49 year olds watch YouTube**
- YouTube overall on mobile alone **reaches more 18–34 and 18–49-year-olds than any cable network in the US**
- More than half of YouTube views come from **mobile devices**.

Recommendations

Besides creating more content based around new ideas, tips, and current events, MWDOC can give viewers front row seating to high-value interviews and panels with water professionals, influencers, lobbyists, and others contributing to the Water discussion.

YouTube gives the opportunity to remove the prevalent “insider” nature of available information and have a national voice for this precious resource that is engaging and easily consumable.

2019 Goals - YouTube

- Place a stronger focus on this platform as a key messaging tool moving forward
- Explore effectiveness of short-form vs long-form video
- Continue to test for optimal posting times based off of messaging type
- Develop more original video content highlighting MWDOC events, staff, programs
- Develop more original video content that 'opens the door' to the water industry
- Continue building brand awareness and strength

Social Hashtags

What is a Hashtag?

A hashtag is a word or phrase that follows a pound sign (also known as a hash) and is **used to identify specific posts** on social media. A type of metadata, hashtags allow anyone to tag content on sites like Facebook, Instagram, and Twitter.

Hashtags **help users more easily navigate posts and engage in larger online conversations**. Hashtags are user-generated, not created by social media sites. While companies can make and sponsor their own hashtags, the tags themselves are not owned by any one company.

Public opinion and engagement are responsible for what become popular hashtags and what content gets tagged.

Twitter & Facebook

* Updates on water decisions

Trending:

#Water
#GlobalWarming
#ClimateChange
#Climate
#ActOnClimate
#Vote
#Infrastructure
#Critical
#RebuildRenew
#FixItNow
#CAWx
#CADrought
#WaterBond
#Innovation
#Delta
#DeltaTunnels
#CAWater
#WaterSupply --> #WeCare

Not as popular:

#CAWaterFix
* MWDOC programs

Trending:

#CAWater
#WaterMatters

Brand Focused:

#ValueWater
#YourWater
#WaterEfficiency
#WaterEducation
#WaterIsLife
#OCisWaterSmart
#MWDOC

* MWDOC themed days

#MWDOCMonday
#TipTuesday
#WaterWiseWednesday
#WayBackWednesday
#ThirstyThursday
#FridayFacts
#SaturdayShoutOut
#SaturdaySelfie
#SpotlightSunday

* Water Efficiency Based Tweets:

Trending:

#Environment
#Sustainability
#Conservation
#SaveOurWater
#WaterTip
#MondayMotivation
#Irrigation
#Landscape

Brand Focused:

#SaveWater
#AllYouNeed
#EveryDropCounts
#OCisWaterSmart
#MWDOC

* Facts about OC Water

Trending:

#WasteWater
#WasteWaterEducation
#WaterFactWednesday
#WaterWisePro
#CleanWaterWednesday
#CAWater
#WaterwiseWednesday
#WednesdayWisdom
#ThursdayThoughts
#OCWater
#Community
#SoCal

Brand Focused:

#YourWater

Fun/popular for other audiences:

#WokeOnWater
#WaterCrisis
#OCisWaterSmart
#MWDOC

Job Postings

Most popular but competitive:

#WaterIndustry
#JoinOurTeam

Most relevant and Popular:

#WaterJobs

Brand Focused:

#WorkInWater
#H2Opportunity
#OCisWaterSmart
#MWDOC

Social Hashtags

Instagram

* Instagram allows up to 30 hashtags. It is recommend to add at least 11 hashtags per post, (insert things in the comment section, not in your caption).

* Out of those 30 hashtags, it is recommended to add 5-7 hashtags belonging to a larger audience of 100,000-1,000,000 hashtag results, 10-15 hashtags that are medium sized (10,000-70,000 results) and 5-7 hashtags from a smaller audience (under 10,000).

100,000 – 1,000,000:

#SaveWater
#GlobalWarming
#Infrastructure
#AllYouNeed
#DidYouKnow
#Drought
#WaterIsLife
#ColoradoRiver
#CleanWater
#Sustainability
#BoyScouts
#GirlScouts
#ConserveWater
#OrangeCounty
#SaveMoney
#Climate
#Environment
#FutureLeader

10,000-70,000:

#WaterSupply
#TimeToBuild
#CADrought
#SaveOurWater
#WaterCrisis
#Rainwater
#Aqueduct
#CADrought
#WasteWater
#Reliability
#WaterWise
#WaterConservation
#DrinkingWater

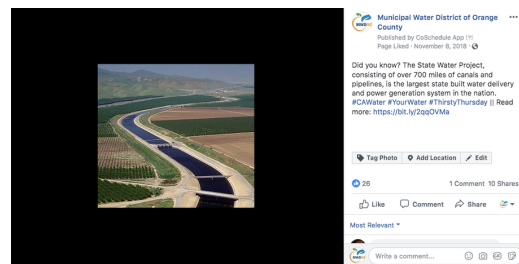
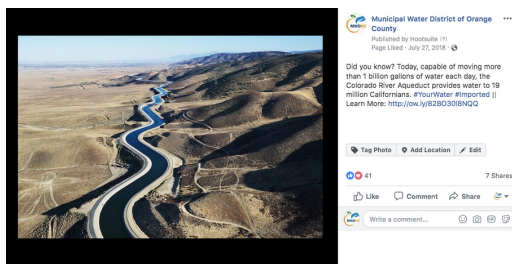
Under 10,000:

#CaWater
#WaterEducation
#Value Water
#WaterMatters
#WaterAwareness
#RickiOnTheRun
#WaterSmart
#WaterIs
#CaliforniaWater
#OCisWaterSmart
#MWDOC

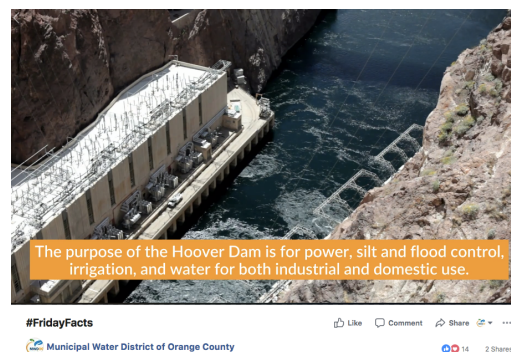
WHAT'S TRENDING

Over the course of the past year - pushing the California WaterFix and other infrastructure/water supply related content has shown a high engagement rate and a peaked interest within our audience. Our rate payers have invested interest in this topic, and have shown that through a constant, high-level count of reactions and multiple shares per post. Based off of these metrics, we confidently encourage continuing related content - and furthering our education outreach. We believe there is great potential with creating content centered around MWDOC's infrastructure tours with our new approach. (i.e. Behind-The-Scene Tours, Interviews and Education Briefs)

Static Photo Posts

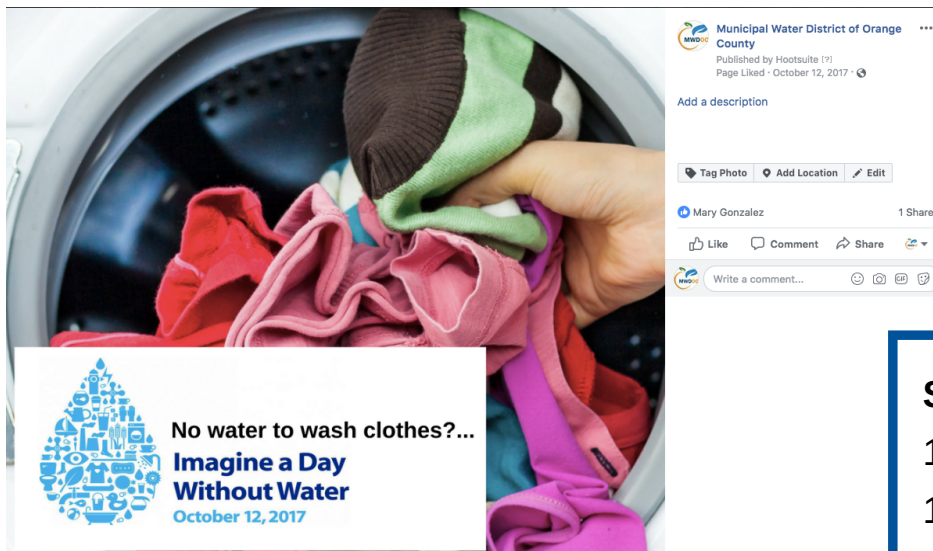


Video Posts



THE POWER OF VIDEO

Imagine A Day Without Water



Static Image

1 Like

1 Share

0 Comments



Video

1.3K Views

66 Reactions

6 Shares

5 Comments

THE POWER OF VIDEO

Scouts Program



Static Image

6 Likes

0 Share

0 Comments



Video

899 Views

31 Reactions

10 Shares

3 Comments



WHERE WE'RE HEADING

Our most successful content over the past 2 years has all been original, video content. We have had great success in highlighting MWDOC programs, partners, contests and events, and believe this will be the road to successful messaging as we continue moving forward. Because of the recent changes within Facebook's algorithm, for content to be seen and shared on a higher level, it **must** be engaging to users - Video has proven to be the solution.



AD SPEND

Since **HashtagPinpoint's** proposal fundamentally changed the way MWDOC was going to engage its users with a "video-first" paradigm shift, it was decided a decent baseline would be necessary to run organic content without promotion from September to March (~6 mos). This allowed **#P** to work out any kinks in the new content model and see how things would perform on their own.

As the model has proven successful, and a large pool of content now exists -- with high engagement, **#P** will begin to gently start spending promotional dollars on more important content. Currently, there is a \$500 ad spend for the Wyland "Water is Life" PSA. And **#P** expects to keep that level and apply to others as needed.

By September 2019, #P expects to double the ad spend.

CONCLUSION



Since #P™ has strategically implemented the use of video for Municipal Water District of Orange County's Facebook platform, daily organic reach and views have increased. Videos, by comparison, have proven to easily captivate rate payers, sparking further reach. This powerful form of content delivery gives viewers the opportunity to resonate deeper with the brand's overall message and engage with the content in an unprecedented way.

2019 Strategy

- 1. Engage new audience groups**
- 2. Continue creating more original video content**
 - a. Program/Partner Highlights
 - b. Infrastructure Tour, Behind-The-Scenes
 - c. Industry Interviews
 - d. Community Engagement, Man-On-The-Street
- 3. Encourage staff participation:**
 - a. Like/share/comment
 - b. Check in at office, company, and partner meetings and events



INFORMATION ITEM
March 18, 2019

TO: **Public Affairs & Legislation Committee**
(Directors Dick, Thomas, Osborne)

FROM: **Robert Hunter, General Manager**

Staff Contact: Damon Micalizzi

SUBJECT: **2019 OC Water Summit (May 31, 2019)**

STAFF RECOMMENDATION

Staff recommends the Public Affairs & Legislation Committee: Receive and file the report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

REPORT

The program for the 2019 OC Water Summit is near complete, as Metropolitan Water District of Southern California's Bill Hasencamp is confirmed to headline a panel discussion titled: *What's in "Storage" for CA's Water Future?* Issues on the Colorado River with hydroelectricity being threatened and drought contingency plan are just two of the topics that will be discussed during this featured session that also includes Eric Averett, General Manager of the Rosedale Rio Bravo Water Storage District who will discuss challenges and opportunities of implementing the Sustainable Groundwater Management Act (SGMA) and Jim Watson, General Manager of Sites Project Authority.

The entire draft program for the event is attached to this report.

Staff from OCWD and MWD OC continue to solicit sponsorships for the 12th Annual Summit that will be held on Friday, May 31st at Disneyland's Grand Californian Hotel.

The next OC Water Summit Committee Meeting is scheduled for Monday, April 29th.

Budgeted (Y/N):	Budgeted amount:	Core __	Choice __
Action item amount:	Line item:		
Fiscal Impact (explain if unbudgeted):			

2019 OC Water Summit – “Water - Under the Microscope”

DRAFT EXTERNAL PROGRAM*

2.28.19

8:00 am to 8:10 am	Welcome and Pledge of Allegiance <ul style="list-style-type: none">• Stephen R. Sheldon, Board Member, Orange County Water District (Confirmed)• Jeffery M. Thomas, Board Member, Municipal Water District of Orange County (Confirmed)
8:10 am – 8:20 am	Emcee Welcome & Water Forecast <ul style="list-style-type: none">• Fritz Coleman, Weathercaster, NBC 4 (Confirmed)
8:20 am – 8:55 am	Session 1: A Closer Look at our Past, to Prepare Wisely for the Future <ul style="list-style-type: none">• Phil Brigandi, Orange County Historian (Confirmed)• Nathan Masters, Host and Executive Producer of Lost L.A (Confirmed)
8:55 am- 9:55 am	Session 2: Magnifying the Situation – Contaminants of Emerging Concern <ul style="list-style-type: none">• Representative, CA Division of Drinking Water TBD• Jason Dadakis, Executive Director of Water Quality & Technology, Orange County Water District (Confirmed)• Dr. Wayne Miller, Director, Yorba Linda Water District (Confirmed)• The Honorable Anthony Portantino, California State Senate, District 25 (Invited)
9:55 am – 10:10 am	Networking Break
10:10 am – 11:05 am	Session 3: What’s in “Storage” for CA’s Water Future? <ul style="list-style-type: none">• Bill Hasencamp, Manager, Colorado River Resources, Metropolitan Water District of Southern California (Confirmed)• Eric Averett, General Manager, Rosedale Rio Bravo Water Storage District (Invited)• Jim Watson, General Manager, Sites Project Authority (Confirmed)
11:05 am – 11:45 am	Session 4: 2018 Wildfires – Water Shortages, Environmental Policies or Forestry Management Issue? <ul style="list-style-type: none">• Rich Gordon, President, California Forestry Association (Confirmed)• Chief Thom Porter, Acting Director, California Department of Forestry and Fire Protection (Invited)
11:45 am – 12:05 pm	Networking Break

*Program subject to change

12:05 pm **Lunch Service Begins**

12:15 pm – 1:05 pm **Session 5: Innovate to Satisfy**

Unlocking the molecular make-up of resurrection plants, will it be possible to grow nourishing crops that can survive in arid climates without water for very long periods of time? Also, in this session, we will learn about new technologies being developed for sustaining and growing California's multi-billion-dollar ag industry and creating water out of thin air.

- Moderator & Speaker: Joseph I. Castro, Ph.D., M.P.P., President, California State University, Fresno (Confirmed)
- Jill Farrant, Professor of Molecular and Cell Biology at the University of Cape Town, South Africa (Confirmed)
- Jorge Heraud, Co-founder & CEO, Blue River Technology (Invited)
- Willem Swart, Project Manager, Studio of Environmental Architecture, Skysource Project (2018 X-Prize winner) (Confirmed)

1:05 pm – 1:30 pm **Session 6: California's Water Future**

- The Honorable Gavin Newsom, Governor, State of California (Invited)

1:30 pm **Closing Remarks**



INFORMATION ITEM
March 18, 2019

TO: **Public Affairs & Legislation Committee**
(Directors Dick, Thomas, Osborne)

FROM: **Robert Hunter, General Manager**

Staff Contact: Sarah Wilson

SUBJECT: **Education Programs Update**

STAFF RECOMMENDATION

Staff recommends the Public Affairs & Legislation Committee: Receive and file this report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

Contractors for the Municipal Water District of Orange County's (MWDOC) water education programs continue to schedule visits for the 2018/19 school year. The following reports are included: Elementary Education Student Counts and the "What About Water" High School Program report.

The primary goal for both the Elementary and High School programs is to provide comprehensive instruction on the science, geography, economics, and history of Orange County water. These goals are measured through pre- and post-test metrics.

Elementary School Program

- **Goal 1:** Students will understand the importance of water as it relates to the local climate and ecosystem.

Budgeted (Y/N):	Budgeted amount:	Core X	Choice X
Action item amount:	Line item:		
Fiscal Impact (explain if unbudgeted):			

- **Goal 2:** Students will be able to identify California water sources and understand the challenges in delivering a reliable source of drinking water to Orange County.
- **Goal 3:** Students will recognize and have the necessary resources to apply water efficient practices at home and in the community.

The following keypad response data demonstrates the average increase in student understanding after attending the February 2019 Elementary School Program assemblies:

- **First Grade:** Students are tested on the water cycle and how plants use water, carbon dioxide, and sunlight. Students demonstrated a **12.48%** average increase in understanding from the pre- to post-test.
- **Second Grade:** Students are tested on where water is found in nature and the ways in which nature cleans our water. Students demonstrated a **9%** average increase in understanding from the pre- to post-test.
- **Third Grade:** Students are tested on local climate and the ability of plants and organisms to survive in a particular climate. Students demonstrated an **8.18%** average increase in understanding from the pre- to post-test.
- **Fourth Grade:** Students are tested on the local ecosystem, water sources, and water use efficiency. Students demonstrated a **30.33%** average increase in understanding from the pre- to post-test.
- **Fifth Grade:** Students are tested on how the water cycle cleans and recycles freshwater supply and water use efficiency. Students demonstrated a **35.65%** average increase in understanding from the pre- to post-test.
- **Sixth Grade:** Students are tested on the forces that drive the water cycle and factors that influence the growth of organisms in our local area. Students demonstrated a **30.58%** average increase in understanding from the pre- to post-test.

This is the first year incorporating the Next Generation Science Standards into the curriculum. The 2018/19 school year is a baseline year in which to compare future school year's data. Several factors can affect the keypad response data including attendance numbers, attention span, retention rate, and language barriers. Discovery Cube will assess the entire year as a whole before adjusting the questions or teaching style.

High School Program

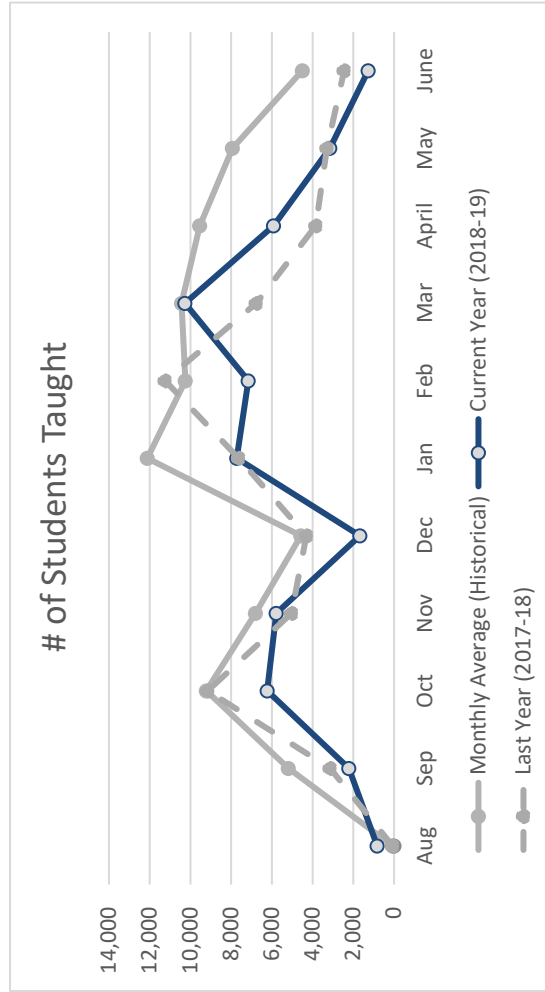
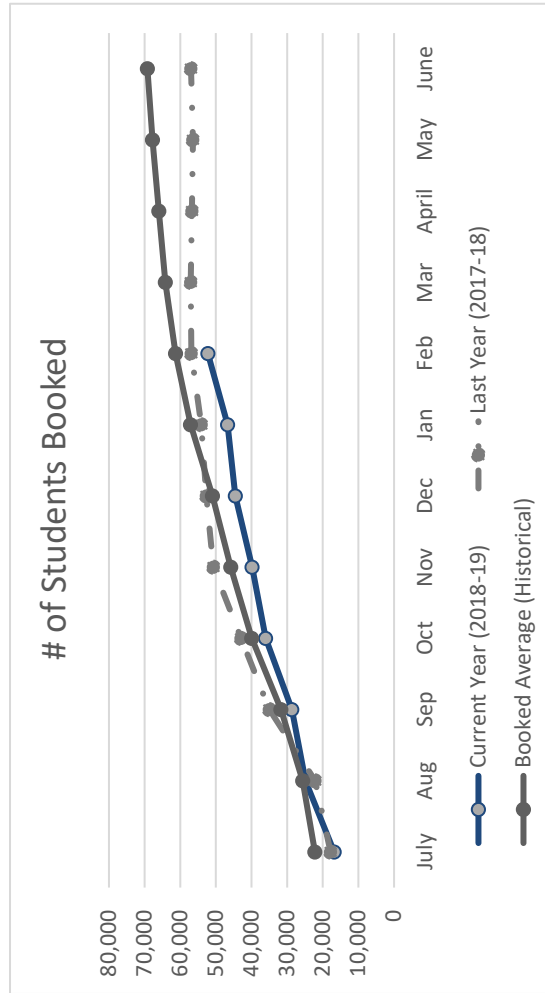
- **Goal 1:** Students will be able to identify California water sources and understand the challenges in delivering a reliable source of drinking water to Orange County.
- **Goal 2:** Students will understand local water policy and reliability issues and be able to debate the merits of a current or proposed policy or project.
- **Goal 3:** Students will recognize and have the necessary resources to apply water efficient practices at home and in the community.

The following keypad response data demonstrates the average increase in student understanding after attending the 2018/19 High School Program classroom visits. Students are tested on water supply sources, local climate, and water use efficiency.

- **Buena Park High School:** Students demonstrated a **43.93%** average increase in understanding from the pre- to post-test.

2018-19 Water Education School Program

# of Students Booked		July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Target
Booked Average (Historical)		22,206	25,634	31,729	39,925	45,814	50,938	57,082	61,319	64,177	66,001	67,758	69,213	71,394
Last Year (2017-18)		17,823	22,162	34,981	42,926	50,696	52,682	54,111	56,887	57,056	56,720	56,445	56,994	62,035
Current Year (2018-19)		16,801	24,868	28,668	36,007	39,820	44,521	46,703	52,234					63,084
# of Students Taught		July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total
Monthly Average (Historical)		-	71	5,190	9,216	6,805	4,576	12,117	10,250	10,435	9,542	7,935	4,502	80,639
Last Year (2017-18)		0	77	3,144	9,149	5,033	4,305	7,634	11,242	6,771	3,840	3,296	2,453	56,944
Current Year (2018-19)		0	829	2,220	6,230	5,787	1,676	7,724	7,160	10,266	5,917	3,154	1,271	52,234



WHAT ABOUT WATER?

Quarterly Report
Presented by

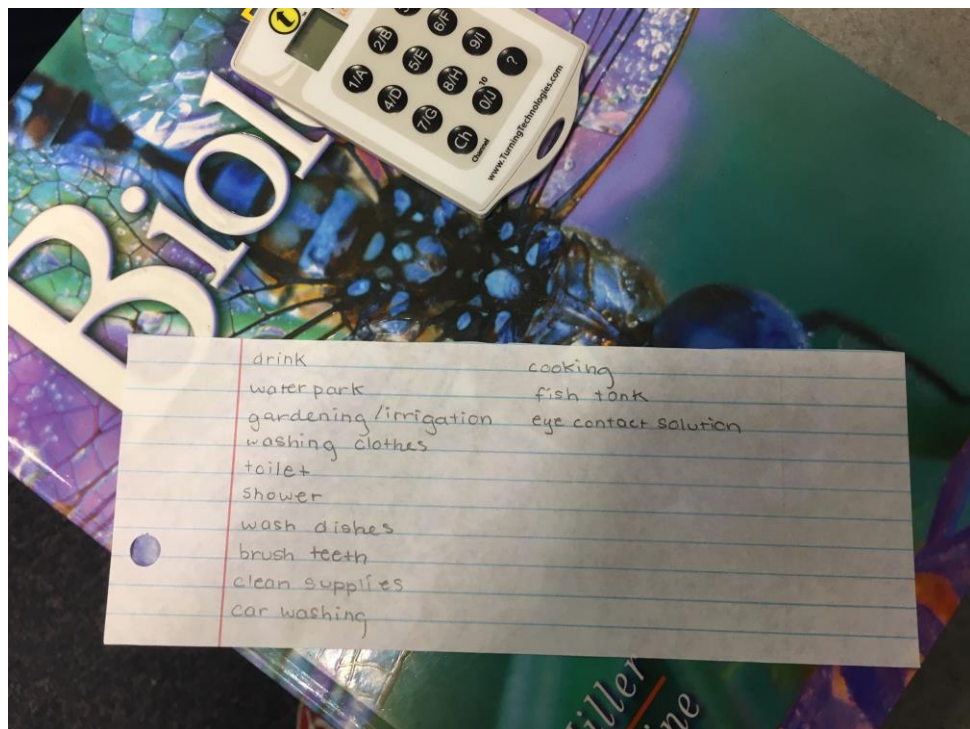
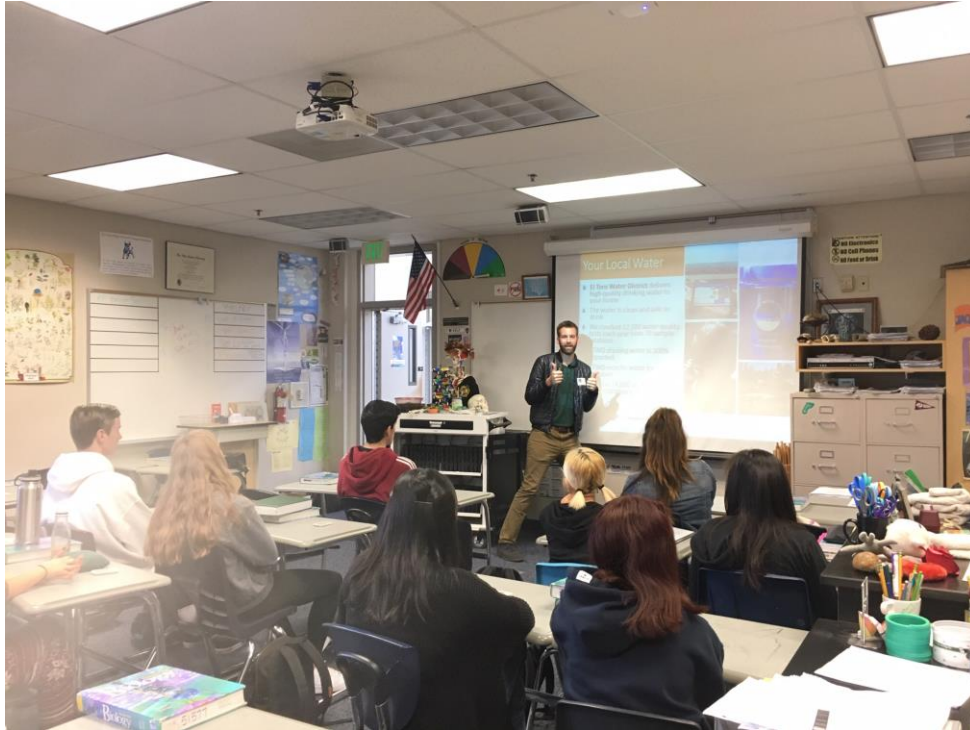


March 2019

What About Water? - Inside the Outdoors School Visits										
Year 4 - 2018/2019										
Agency	High School	1st Visit - student	1st Visit Attendance	2nd Visit - student	2nd Visit Attendance	School Expo Date	Total Students	Class Type	Grade Served	Notes
Anaheim	Anaheim High School	11/28/18	73	2/7/19	88	3/20/19	161	AP Environmental Science	11-12th grade	3/20 - Lunchtime Expo
City of Brea	Brea Olinda High School	4/26/19		5/31/19		6/4/18	0	AP Environmental Science		6/4 - Lunchtime Expo
City of Buena Park	Buena Park High School	2/27/19	25	3/13/19			25	AP Environmental Science	10-12th grade	TBD- Expo
City of Fountain Valley	Fountain Valley High School or Los Amigos (alternate)						0			
City of Huntington Beach	Edison High School						0			
City of San Clemente	San Clemente High School	4/29/19		5/6/19		5/14/19	0	Biology		5/19 - Lunchtime Expo
City of San Juan Capistrano	Junipero Serra High School or San Juan Hills High School	1/14/19	10	1/28/19	10	3/11/19	20	Health Science	10th grade	3/11 - Lunchtime Expo
City of Tustin	Tustin High School or Columbus Middle School	1/8/19	175	2/21/19	177	5/14/19	352	Science	6-8th grade	5/14 - Science Night
East Orange WD	Foothill High School						0			
El Toro	El Toro High School	12/12/18	13	12/14/18	12	tbd	25	AP Environmental Science	11th grade	TBD- Expo/Showcase
El Toro Water District	Los Alisos Jr. High						0			
Moulton Niguel	Aliso Niguel High School						0			
Moulton Niguel	Laguna Hills High School	1/31/19	35	2/14/19	30	2/28/19	65	AP Environmental Science	11th grade	2/28 - Lunchtime Expo
Moulton Niguel	Capistrano Valley High School						0			new teacher contact, waiting for date confirmation
Moulton Niguel /Santa Margarita WD	Mission Viejo High School	2/1/19	101	2/4/19	92	3/25/19	193	AP Biology		3/25 - Lunchtime Expo?
Santa Ana	Saddleback High School						0			
Santa Margarita WD	Tesoro High School	4/10/19		5/15/19		5/29/19	0	Biology/Earth Club		5/29 - Lunchtime Expo
South Coast WD	Dana Hills High School	12/3/18	62	4/15/19		5/21/19	62	Biology		5/21 - Lunchtime Expo
Westminster	La Quinta High School						0			
Westminster	Westminster High School						0			
Total			494		409		903			
Teacher Workshops										
Student Summits										
Where's My Water? - Inside the Outdoors School Visits - 2018/2019										
Core Program	High School	Program Date	Attendance					Class Type	Grade Served	Notes
Where's My Water										
	Brea Olinda High School	9/21/18	87					Biology	11th grade	
	Back Bay High School	12/18/18	47					Science	11-12 grade	
	Fountain Valley Education Center	1/9/19	11					Science	11-12 grade	
	Sierra School	3/18/19						Science	7th grade	
	Sierra School	3/19/19						Science	7th grade	
	Esqueda School	4/16/19						Science	6th grade	
tbd = verbal confirmation, pending calendar dates										

What About Water?

El Toro High School



(Where can we save water?)

Serra High School



**Public Affairs Activities Report
February 12, 2019 – March 11, 2019**

Member Agency Relations	<p>Public Affairs Staff:</p> <ul style="list-style-type: none"> • Prepared Media and Tool Kits Water Tax, Water Use Efficiency and Disaster Response • Sent Media/Took Kit for annual Wyland National Mayor's Challenge and OC Breakaway Competition • Hosted Public Affairs Workgroup meeting including presentations on Water Tax, water supply, Water Use Efficiency programs, Member Agency media kits, and school programs • Provided Public Affairs update at the monthly Water Use Efficiency Workgroup meeting • Created bill inserts for eleven member agencies, promoting \$2 square foot turf rebates. <p>Governmental Affairs Staff:</p> <ul style="list-style-type: none"> • Provided an update to the MWDOC member agency GMs on the status of the water tax and ACWA alternative • Attended Moulton Niguel Water District's reception for MWD Chairwoman Gloria Gray
Community Relations	<p>Public Affairs Staff:</p> <ul style="list-style-type: none"> • Entries open for 2019 Water Awareness Poster Contest • Reached out to Orange County Boys and Girls Club, libraries, chamber offices and over 600 school district contacts. • Entries open for 2019 Voice4Planet High School Video Contest <ul style="list-style-type: none"> ○ Secured prize sponsors for the Orange County water category: Discovery Cube, Wyland Foundation, HashtagPinpoint, and Great Wolf Lodge <p>Governmental Affairs Staff:</p> <ul style="list-style-type: none"> • Attended the Southern California Water Coalition Quarterly Lunch
Education	<p>Public Affairs Staff:</p> <ul style="list-style-type: none"> • Posted RFP for both Elementary and High School Programs • Requested samples and quotes for the redesign of the Ricki Raindrop education booklets • Coordinated details with Bolsa Chica Conservancy and registered attendees for the April 6 Girl Scout Clinic

	<ul style="list-style-type: none"> • Coordinated details with Santa Margarita Water District for the April 13 clinic • Attended school program visit to Bryant Elementary • Sent member agency notifications regarding upcoming school program visits • Provided Moulton Niguel Water District with information for Laguna Hills High School visit • Attended school program visit to Violette Elementary • Coordinated outreach efforts with Discovery Cube and Laguna Beach County Water District for elementary school program participation • Promoted Voice4Planet video contest on social media, and prepared newsletter article for Orange County Department of Education's newsletter • Provided South Coast Water District with details regarding school program visit to Saint Edwards Elementary School • Drafted text for City of San Clemente Girl Scout program presentation • Coordinated with Inside the Outdoors on Core Program visit to Esqueda school per Metropolitan referral • Provided Moulton Niguel Water District with details on Moulton Elementary school program visit • Provided City of San Juan Capistrano with information on Serra High School expo schedule
Media Relations	<p>Public Affairs Staff:</p> <ul style="list-style-type: none"> • Worked with Consultants to produce PSA promoting Wyland Mayor's OC Challenge • Discussed potential partnership, participation and promotion of Xtreme Home Water Makeover with NBC/ Water Zone/Toro • Coordinated and booked 30 minute radio segment on KSBR
Staff Training and Development	<p>Public Affairs Staff:</p> <ul style="list-style-type: none"> • Four (4) staff completed the Hootsuite Advanced Social Media Advertising Certification
Special Projects	<p>Public Affairs Staff:</p> <ul style="list-style-type: none"> • Accompanied Director Dick for his upcoming inspection trip February 22-23. • Currently working on itineraries, trip logistics, guest and Director requirements for the following inspection trips: <ul style="list-style-type: none"> ○ April 12, Director McKenney Infrastructure

	<ul style="list-style-type: none"> • Worked with Consultant HashtagPinpoint on Social Media Audit. • Continued to work on booking speakers and sponsors for OC Water Summit. <p>Governmental Affairs Staff:</p> <ul style="list-style-type: none"> • Participated in the SCAQMD “Buried Utilities Coalition” (BUC) group conference call • Staffed the WACO Planning Meeting • Made name tags for the D.C. Luncheon • Participated in the ISDOC Scholarship Ad-Hoc Committee • Sent out invite for upcoming ISDOC Quarterly Luncheon • Secured speaker for June WACO meeting on the Salton Sea • Booked room for April ACC-OC Energy, Environment & Water Committee Meeting • Staffed the ISDOC Executive Committee Meeting
Water Policy Dinner	<p>Public Affairs Staff:</p> <ul style="list-style-type: none"> • Hosted quarterly Water Policy Forum & Dinner. <p>Governmental Affairs Staff:</p> <ul style="list-style-type: none"> • Sent out invitation to Congressional, State Senate and State Assembly offices encouraging attendance
Legislative Affairs	<p>Governmental Affairs Staff:</p> <ul style="list-style-type: none"> • Participated in the MWD Legislative Coordinators’ Conference Call • Met with Congressman Lou Correa’s District Director and provided a brief overview of MWDOC and our current priorities • Attended the ACWA State Legislative Committee meeting • Attended meetings in Washington D.C. with ACWA Federal Affairs Committee members: <ul style="list-style-type: none"> - Senate Committee on Indian Affairs (Minority staff) - Senate Appropriations Committee, Interior and Environment Subcommittee (Majority staff) - Congresswoman Anna Eshoo (staff) - Congressman Salud Carbajal (staff) - Senate Environment and Public Works Committee (Majority staff) - Congresswoman Julia Brownley (staff) - House Appropriations, Interior and Environment Subcommittee (Majority staff) • Attended the ACWA D.C. Conference

	<ul style="list-style-type: none"> • Coordinated and staffed the Southern California Congressional Briefing Luncheon hosted by MWDOC, EMWD, IEUA and WMWD • Participated in the Southern California Water Coalition Legislative Task Force Meeting • Participated in the ACWA State Legislative Committee conference call for Orange County ACWA members • Coordinated signatories for MWD's SB 204 (Dodd) and AB 533 (Holden) coalition letters • Attended Water Agencies of the Inland Empire and Orange County Reception in Sacramento • Attended the ACWA Legislative Symposium • Meet with staff from the following offices: <ul style="list-style-type: none"> - Senator Tom Umberg - Assemblyman Tom Daly - Assembly Water, Parks and Wildlife Committee - Assembly Appropriations Committee
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