

GOVERNOR'S VETO

AB 2296 (Quirk)

As Enrolled August 31, 2020

2/3 vote

SUMMARY:

Authorizes Local Primacy Agency (LPA) counties to elect to participate in a funding stabilization program, administered by the State Water Resources Control Board (State Water Board), to fund regulatory oversight of small public drinking water systems.

Governor's Veto Message:

"This bill would authorize LPA counties to elect to participate in a funding stabilization program, administered by the State Water Board, to fund regulatory oversight of small public drinking water systems.

The goal of stabilizing the funding that is needed to assist LPA's with providing proper regulatory oversight of small water systems is laudable and fits into the state's overarching goal of achieving clean drinking water for every Californian. However, to the extent that LPA counties choose to participate in the new funding stabilization program authorized by the bill, the State Water Board would need to raise fees to cover the costs of the program. If participation among LPAs is high, the total funding needed from the Safe Drinking Water Account to administer the funding stabilization program would almost certainly exceed the statutory funding cap and as a result the State Water Board would be unable to implement the program."

COMMENTS:

Regulation of public water systems: The State Water Board has regulatory oversight of approximately 7,500 public drinking water systems (PWS) in California. Thirty of California's 58 counties have LPA delegation agreements with the State Water Board, and therefore have primary responsibility of regulatory oversight of the public drinking water systems in their counties. LPA counties regulate approximately 4,500 public drinking water systems, and the remaining public water systems are directly overseen by the State Water Board. Under LPA delegation agreements, the State Water Board reviews the performance of each LPA annually and makes recommendations for program improvement.

Regulatory fees for public water systems: The State Water Board establishes regulatory fees, paid annually by public water systems, based on costs of activities associated with regulating public water systems. The total collected revenue cannot exceed the amount allocated by the Legislature in the annual budget, while also taking into account available reserves. Fees collected by the State Water Board are deposited in the Safe Drinking Water Account.

LPAs establish and collect oversight fees independently from the State Water Board and do not deposit revenue into the Safe Drinking Water Account. Fee revenue collected by LPAs are used to fund all costs associated with oversight.

Challenges in regulating water systems in LPAs: According to the 2015 Safe Drinking Water Plan, "the greatest need for oversight is among those smaller PWS serving less than 1,000 service connections, but the fees to cover this activity are insufficient. As a result, it has been a struggle to maintain a program that provides sufficient oversight of smaller PWS. In recent

years, more LPAs have returned the small PWS regulatory oversight program because their funding is inadequate to effectively administer the program." In their 2015 Safe Drinking Water Plan, the State Water Board recommended the Legislature implement a funding strategy to address the need for more oversight and technical assistance to small PWS, especially those serving disadvantaged communities.

Drinking water violations in small water systems: In November 2018, the Public Policy Institute of California reported, "more than 230 systems, serving roughly 357,000 people (0.9% of the population), had unsafe drinking water." The State Water Board estimates that one million Californians in more than 300 communities lack access to safe drinking water because of contamination in smaller, poorly maintained older water systems in disadvantaged communities. To ensure that disadvantaged communities could afford drinking water oversight, in 2017, the State Water Board limited its own oversight fees to \$100 per system.

This bill would create an opt-in program, administered by the State Water Board, to fund approved LPA activities including inspection, monitoring, and enforcement, with the goal of continued local oversight of small water systems, as opposed to remitting oversight back to the State Water Board. In order to qualify for the funding stabilization program, the board of supervisors of the LPA county must make a determination that the LPA has a need for state funding augmentation. The funding stabilization program would continue annually until either the LPA terminates participation or the State Water Board determines the LPA is no longer in compliance with the delegation agreement or the board of supervisors determines the LPA does not have a need for state funding augmentation.

Consolidation of water systems: The State Water Board maintains that consolidating public water systems and extending service from existing public water systems to areas that currently rely on under-performing small water systems reduces costs and improves reliability by extending costs to a larger pool of ratepayers. Under this bill, an LPA participating in the funding stabilization program would be required to identify small water systems under the LPA's jurisdiction that may be suitable for consolidation and report the identified small water systems to the State Water Board.

According to the Author:

"LPA delegation agreements help ensure that small water systems deliver adequate and safe drinking water. Compared to larger systems, small water systems often require more resources per consumer to ensure compliance with state requirements, but also generate less regulatory fee revenue. However, increasing regulatory fees to match program cost is difficult, especially when the communities served are also disadvantaged. LPAs currently regulate more than half of all public drinking water systems, but are at risk of relinquishing oversight authority to the state without a continuous source of funding."

Arguments in Support:

According to the California Association of Environmental Health Administrators, AB 2296, "offers a much-needed fund stabilization option for local jurisdictions to implement their LPA drinking water oversight programs. This measure has become even more important since the outbreak of COVID-19 because of the strain this pandemic has placed on all local environmental health programs and the urgent need to shore up local public environmental health resources across the board. AB 2296 will help to ensure that all Californians who rely on public drinking

water systems – regardless of whether they live in counties whose system oversight is through the state or delegated to the county – can be assured of safe, adequate drinking water."

Arguments in Opposition:

According to the Howard Jarvis Taxpayers Association, "language in the bill continues to mandate that each local public water agency pay increased fees to the State Water Board. The probable result is that larger water agencies will be subsidizing this new program. Further, they will be receiving no additional benefit from these funds. While we appreciate the narrower focus offered by AB 2296, what happens if the State Water Board determines all the LPA's have a financial need?... To fund the program the Water Board would need to increase fees by as much as 28 percent, burdening public water agencies many of whom would receive no direct benefit. Undoubtedly, costs to ratepayers will increase."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, if all LPAs participate in the new program, there will be estimated increased costs of \$13 million to meet the drinking water needs of the counties (special funds). There would be an annual State Water Board cost of \$200,000 to negotiate with LPAs, oversee the program, and extend the State Water Board's regulatory fee program (special fund). This bill limits the LPAs that can participate in the program to those where a determination of need has been made; however, the State Water Board is unable to determine at this time how many LPAs would choose to participate in the program. Without this bill, many LPAs will relinquish the program and turn it back to the State Water Board, and the State Water Board will be required to hire staff and increase fees to pay for the costs of assuming this regulatory responsibility.

VOTES:

ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 6-1-2

YES: Arambula, Bauer-Kahan, Cristina Garcia, Bloom, Muratsuchi, Holden

NO: Melendez

ABS, ABST OR NV: Mathis, Obernolte

ASM APPROPRIATIONS: 14-1-3

YES: Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Diep, Eggman, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas

NO: Fong

ABS, ABST OR NV: Bigelow, Megan Dahle, Voepel

ASSEMBLY FLOOR: 63-6-10

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Chu, Cooley, Cooper, Daly, Diep, Eggman, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NO: Brough, Cunningham, Fong, Kiley, Lackey, Obernolte

ABS, ABST OR NV: Bigelow, Cervantes, Chen, Choi, Megan Dahle, Flora, Patterson, Quirk, Voepel, Waldron

SENATE FLOOR: 29-9-2

YES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Chang, Grove, Melendez, Moorlach, Morrell, Nielsen, Wilk

ABS, ABST OR NV: Dahle, Jones

UPDATED:

VERSION: August 31, 2020

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FN: 0003724