

## ASSEMBLY THIRD READING

AB 1195 (Cristina Garcia)

As Amended May 24, 2021

Majority vote

**SUMMARY**

Creates the Southern Los Angeles County Human Right to Water Collaboration Act. Requires the State Water Resources Control Board (State Water Board) to appoint a Commissioner to implement the Safe and Affordable Funding for Equity and Resilience (SAFER) Program in southern Los Angeles County.

**Major Provisions**

- 1) Requires the State Water Board, to appoint a Commissioner, from its own staff located in Los Angeles County, to implement the SAFER Program in southern Los Angeles County, within the jurisdictional boundaries of the Water Replenishment District of Southern California (WRD), excluding the area overlying the west coast groundwater basin, and in collaboration with the communities and operators of public water systems in the region.
- 2) Requires the Commissioner, appointed by the State Water Board, to expend moneys from the Safe and Affordable Drinking Water Fund, subject to the State Water Board's approval, for the purposes and to the eligible recipients identified in the SAFER Program. Requires the Commissioner to make reasonable efforts to ensure that funds are used to secure the long-term sustainability of drinking water service and infrastructure, including, but not limited to, requiring adequate technical, managerial, and financial capacity of eligible applicants as part of funding agreement outcomes.
- 3) Authorizes the Commissioner to assist operators of public water systems in operating and managing their public water systems, including, but not limited to, funding, technical assistance, and other collaboration that promotes economies of scale; and, serve as an administrator or as a receiver of a public water system pursuant to a court order for a public water system that serves a disadvantaged community, that consistently fails, or is at risk of doing so, as determined by the Commissioner.
- 4) Requires the Commissioner to, on or before December 31, 2024, develop and submit to the State Water Board a plan (Plan) for the long-term sustainability of public water systems in southern Los Angeles County. In preparing the Plan the Commissioner shall do all of the following:
  - a) Oversee and collaborate with the state-funded work of the WRD of Southern California in assessing the condition of small public water systems in its jurisdiction;
  - b) Review the assessment of small public water systems by WRD and evaluate public water systems and other water infrastructure in the region;
  - c) Identify projects, processes, and systems that may assist public water systems that consistently fail or are at risk of failing as determined by the Commissioner;
  - d) Plan for the consolidation of public water systems that either consistently fail or are at risk of failing as determined by the Commissioner; and,

- e) Consult with the Los Angeles County Local Agency Formation Commission (LAFCO) regarding effective public water system governance strategies in the region and how the LAFCO may facilitate consolidation of public water systems that consistently fail or are risk of failing as determined by the Commissioner.
- 5) Requires the Commissioner to be advised by a technical advisory board of experts in water management or water policy consisting of an unspecified number of members.
- 6) Authorizes the technical advisory board to promote regional collaboration by developing alternatives for creating sustainable public water systems in the region, which the Commissioner may consider in preparing the Plan.

## COMMENTS

*Lack of clean safe drinking water:* Although most of the state's residents receive drinking water that meets federal and state drinking water standards, up to two percent of drinking water systems in the state consistently fail to provide safe drinking water to their customers. Lack of safe drinking water is a problem that disproportionately affects residents of California's disadvantaged communities.

Disadvantaged communities often lack the rate base, as well as the technical, managerial, and financial capacity to show they can afford and effectively manage operations and maintenance costs related to water treatment. Without being able to pay for maintenance, these communities are effectively barred from accessing capital improvement funding. In contrast, larger water systems have the financial capacity both to pay treatment costs and to provide for a well-trained and technically competent workforce of water system operators.

*The Safe and Affordable Funding for Equity and Resilience (SAFER) program:* SB 200 (Monning), Chapter 120, Statutes of 2019, created SAFER and the Safe and Affordable Drinking Water Fund (Fund). The SAFER program supports permanent and sustainable drinking water solutions that ensure all Californians have access to safe, affordable, and reliable drinking water. The Fund was established to address funding gaps and provide solutions to water systems, especially those serving disadvantaged communities, to address both their short- and long-term drinking water needs. Money transferred into the Fund is continuously appropriated and must be expended consistent with the Expenditure Plan (Plan), which is adopted annually by the State Water Board. The Plan is based on a drinking water needs assessment and will document past and planned expenditures and prioritize projects for funding. Potential options for funding include consolidation with larger water systems, operations and maintenance costs, building local technical and managerial capacity, providing interim replacement water, and administrators to run the small systems. Additionally, SAFER funds will provide short-term operation and maintenance support as a bridge until long-term sustainable solutions are in place, and providing long-term operation and maintenance support when necessary.

*Needs Assessment:* The annual Drinking Water Needs Assessment (Needs Assessment) required to be carried out by the SAFER Program provides foundational information and recommendations to guide the Plan. The Needs Assessment is comprised of Risk Assessment, Affordability Assessment, and Cost Assessment components. Development of the 2021 Needs Assessment consisted of stages between September 2019 and March 2021.

The results from the 2021 Needs Assessment illustrate the breadth and depth of challenges to safe and affordable water supply provision across system types in California for the first time. The Needs Assessment identifies water systems that are failing and those that are at-risk of failing to provide safe and affordable drinking water. The 2021 Needs Assessment was conducted for 2,779 public water systems and evaluated their performance across 19 risk indicators within the following four categories: water quality, accessibility, affordability, and technical, managerial, and financial (TMF) Capacity. The results identified 326 water systems as failing; 617 water systems at risk of failing, 552 water systems potentially at-risk of failing, and 1,284 water systems not at risk of failing.

This bill requires the Commissioner to implement the SAFER program in Los Angeles County, according to the State Water Board's adopted expenditure plan and utilizing the Needs Assessment.

*Challenges for small water systems serving disadvantaged communities in Los Angeles County:* In early 2021, "The Human Right To Water In Poor Communities of Color: Southern Los Angeles County, UCLA Institute of the Environment and Sustainability" was released. This report identified the 64 community water systems in Los Angeles County serving disadvantaged or severely disadvantaged populations. These 64 water systems have 281,000 connections, serving approximately one million people, nearly 10% of the population of Los Angeles County in 2019. The largest population is concentrated in 29 disadvantaged community water systems in Southern Los Angeles County that largely serve communities of color. According to the report, "Disadvantaged communities concentrated in southern Los Angeles County lack fair options when it comes to water supply. When served by public utilities, aging infrastructure, water quality problems, and other complications can translate into sacrifices in quality or reliability. When supplied by investor-owned utilities, they receive reliable water supply but pay more than affluent communities."

*Drinking water: multiple problems and multiple solutions:* There are multiple factors impacting the ability of a public water system to provide safe, clean, affordable, drinking water. Additionally, the very nature of delivering water to millions of customers in Los Angeles County poses added complexities. The problems facing urban water systems in this region are many and complex, including lack of resources, lack of sufficient infrastructure, challenges with contamination, and the reality that the number and size of these public water systems may not be sufficient to address today's problems. AB 1195 was introduced to further the dialogue with the State Water Board and all of those in the region with the goal of providing some type of bridge or foundation for how to use all of the state's resources collectively to bring safe, clean, affordable drinking water to the communities in southern Los Angeles County. There are likely other regions of the state that also face unique challenges specific to their region.

#### **According to the Author**

"The people in southern Los Angeles County depend on a multitude of small water systems. These water systems are growing old, and the operator/owner may lack the funding to pay to rebuild the system or clean up water contamination. If the system fails, there is no public agency with the capacity to save them and the people's water supply. By contrast, other neighboring companies owned by outside investors charge higher water rates and they are not accountable to the public. In fact, some of the region's disadvantaged communities of color pay some of the highest water prices in the County, depending on which retailer sells them water.

Some small water systems may be close to failure, but there is no public agency with the capacity to take them over to fix the problems. This may lead to privatization of these water systems, as investor-owned utilities, which generally charge higher water rates, have the capacity and the authority to increase water rates to pay for rebuilding the system. This bill will create a regional administrator identified by the State Water Board to help resolve the many water challenges facing the region and build regional collaboration, to keep water rates low, increase water quality, and keep management of southeast water public.

### **Arguments in Support**

None on file.

### **Arguments in Opposition**

According to the Central Basin Municipal Water District (district), "The district writes in opposition to AB 1195. The proposed governance structure within AB 1195 doesn't respect existing local representation from diverse communities or disadvantaged communities. This act ostensibly seeks to improve water quality in areas that cannot endure substantial increases in water rates, but does not empower local representation from the region who are seeking relief. The result will be another well-intentioned government act that does not live up to its acclaim."

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee, enactment of this bill could cost the State Water Board approximately \$4.95 million to \$6.525 million annually to implement the SAFER program within the boundaries of the WRD and support the technical advisory board, as well as potentially unknown but reimbursable costs to the LAFCO.

## **VOTES**

### **ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 6-0-3**

**YES:** Quirk, Arambula, Bauer-Kahan, Cristina Garcia, Bloom, Muratsuchi

**ABS, ABST OR NV:** Smith, Megan Dahle, Mathis

### **ASM LOCAL GOVERNMENT: 6-1-1**

**YES:** Aguiar-Curry, Bloom, Boerner Horvath, Ramos, Luz Rivas, Robert Rivas

**NO:** Lackey

**ABS, ABST OR NV:** Voepel

### **ASM APPROPRIATIONS: 12-4-0**

**YES:** Lorena Gonzalez, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

**NO:** Bigelow, Megan Dahle, Davies, Fong

## **UPDATED**

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