
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2021 - 2022 Regular

Bill No: SB 1476
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Tax Levy: No
Fiscal: No

WATER REPLENISHMENT DISTRICTS: CONTRACTS

Loosens specified contracting requirements for the Water Replenishment District of Southern California.

Background

Water Replenishment District of Southern California. State law allows the formation of water replenishment districts to recharge water into groundwater basins for later withdrawal by water purveyors. In 1959, the voters of Los Angeles County established the Water Replenishment District of Southern California (WRD). Created to counteract the effects of over pumping groundwater from the West Coast and Central basins, the WRD's mission is "to provide, protect and preserve high-quality groundwater through innovative, cost-effective, and environmentally sensitive basin management practices for the benefit of residents and businesses of the Central and West Coast Basins." The WRD is the state's sole water replenishment district. It earns revenue by charging water replenishment assessments to the agencies, utilities, and companies that pump groundwater. The district also gets property tax revenues from its share of the 1% property tax rate. The WRD uses these funds to secure water—by purchasing imported water and constructing projects that produce local water supplies—that percolates into the groundwater basin. The WRD is the most populous groundwater management agency in the state of California, managing groundwater resources for four million residents over a 420 square-mile territory, with annual revenues of over \$80 million. The WRD is governed by a five-member board, with each member representing a division of the district.

Fiscal controls. The WRD has been the subject of considerable local controversy over its water rates, fund balances, capital projects, and administrative practices. A December 1999 State Auditor's report found that WRD didn't exercise strict fiscal controls. In response to the audit, the Legislature amended the Water Replenishment District Act to install a host of restrictions over the WRD's finances, including limitations on the amount and usage of WRD's reserve funds (SB 1979, Escutia, 2000). The Legislature also established rules for contracting and constructing capital projects. Specifically, AB 1834 (Havice, 2000) required all contracts of \$25,000 or more to be advertised for bids and required WRD's board president and secretary to sign all contracts, and established contracting procedures setting forth a specific process when WRD advertises contracts for bid, including requirements for notice, sealed bids, and security from bidders and contract recipients. After opening the sealed bids, WRD's board of directors can (1) contract with the lowest responsible bidder, (2) reject all bids and readvertise, or (3) carry out the work on its own.

SB 883 (Escutia, 2001) tightened these requirements to require contracts totaling \$25,000 for the same expenditure in the district's annual budget to be advertised for bids, but exempted from these requirements:

- The recruitment, hiring, and dismissal of district employees and officers;
- Specified contracts with other public entities;
- Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered;
- Contracts solely for the purpose of retaining expert witnesses for litigation;
- Contracts for proprietary information or systems;
- Contracts for professional services, including, but not limited to, architectural, engineering, environmental, land surveying, or construction project management services; and
- Contracts for legal services.

The Senate Local Government Committee's omnibus bill in 2004 (SB 1165) revised the requirement that all contracts be signed by the president and secretary, and instead allowed contracts under \$10,000 to be signed instead by the district manager or another district representative, so long as the same manager does not sign multiple contracts with the same entity that exceed \$10,000 collectively in a single year. SB 1165 also allowed WRD's board to delegate by resolution the ability to sign contracts for specific expenditures under \$25,000 to the district manager or another representative.

AB 1834 and subsequent legislation (AB 1163, Calderon, 2002) also required follow-up audits of the WRD by the State Auditor in 2002 and 2004. Those audits found that although the WRD had implemented many of the recommendations in previous audits, its reserve policies continued to raise questions. In 2018, the Legislature repealed some of the limitation on WRD's reserves and loosened audit requirements for the district (SB 963, Allen). The WRD wants to lift some of the contracting restrictions imposed in the aftermath of the audit findings.

Proposed Law

Senate Bill 1476 repeals the requirement that WRD must advertise for bids any contracts for \$25,000, and instead requires an expenditure for construction or alteration of a public structure of \$25,000 to be let by contract by formal bidding procedure. The bill also requires WRD to adopt policies and procedures, including formal and informal bidding requirements, governing contracts for professional services, materials, supplies, and equipment.

SB 1476 also increases the threshold for contracts that must be approved by the WRD board from \$10,000 to \$40,000, but allows the board to delegate by resolution specific contracts over \$40,000 to be signed by the district manager and one additional district representative.

SB 1476 limits the work that can be done by district personnel to \$25,000, except if the work consists of maintenance work or emergency work.

SB 1476 makes additional technical and conforming changes to WRD's contracting authority.

State Revenue Impact

No estimate.

Comments

1. **Purpose of the bill.** According to the author, “Over the past 20 years, WRD has transitioned from a local agency that purchased imported water for groundwater replenishment purposes to an agency that owns two advanced water treatment facilities and a groundwater desalter. The evolution from entering one contract for water purchases to entering myriad contracts necessary for the operation of advanced water treatment facilities now calls for updating the Water Replenishment District Act. SB 1476 modernizes the purchasing authority for WRD, bringing it in line with other local agencies, including cities and counties.”

2. **Trust but verify.** State law regulating local contracting attempts to balance the goals of accountability and efficiency. For decisions to be accountable, public officials must spend the public’s money in full view. Inviting bids and awarding contracts to the lowest possible bidder is an effective method of ensuring transparency for the expenditures of public funds. SB 1476 repeals the requirement that non-construction contracts be competitively bid, instead relying on WRD’s administrative code to establish bidding thresholds and other contracting practices. The authority to set a district’s own bidding thresholds for contracts that aren’t related to construction is standard for water districts and restoring the same authority to WRD could increase the efficiency of WRD operations. However, it may also result in a loss of accountability and transparency on the use of public funds, which may be relevant given WRD’s history. The bidding requirement that SB 1476 repeals was instituted in response to concerns that WRD’s administrative code didn’t contain sufficient detail regarding contracting and that its provisions weren’t always followed. Subsequent audits found that WRD had made changes to address these concerns, but controversies at WRD periodically bubble up. As recently as December 2020, WRD came under scrutiny as it considered a controversial hire for the position of interim general manager. Specifically, according to news reports, WRD’s board was set to approve—before reversing course—the hiring for that position of a former WRD board member who was previously ordered to vacate his seat in 2018 because he held incompatible offices as the Mayor of Carson. To allow the district an opportunity to verify that its recent management challenges are not indicative of its ability to effectively manage contracts, the Committee may wish to consider amending SB 1476 to impose a five-year sunset on the repeal of the competitive bidding requirement.

3. **Related legislation.** SB 1194 (Archuleta, 2020) would have made similar, but narrower changes to WRD’s contracting authority. SB 1194 was referred to the Governance and Finance Committee but was never heard due to health the COVID-19 pandemic.

Support and Opposition (5/2/22)

Support: Water Replenishment District of Southern California – SPONSOR
Association of California Water Agencies (ACWA)
California Groundwater Coalition

Opposition: None submitted

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