
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 223 (Dodd) - Discontinuation of residential water service

Version: May 3, 2021

Urgency: No

Hearing Date: May 17, 2021

Policy Vote: E., U., & C. 11 - 1, E.Q. 5 - 2

Mandate: Yes

Consultant: Ashley Ames

Bill Summary: This bill would make numerous changes to expand provisions related to prohibiting discontinuation of residential water service due to nonpayment.

Fiscal Impact:

- The State Water Resources Control Board (SWRCB) estimates ongoing costs of \$1.575 million annually (special fund) to assume new enforcement responsibilities and investigate complaints from consumers.
- SWRCB estimates one-time costs between \$43 million and \$120 million (General Fund, special fund, or bond funds) to provide technical assistance and bridge loans to all “very small community water systems” that may be eligible for the assistance provided in this bill (see staff comments). Loan repayment may offset some of these costs. However, the bill also calls for partial loan forgiveness to systems that offer debt forgiveness to low-income residents with past due accounts, to the extent that funding is available.
- The California Public Utilities Commission (CPUC) estimates ongoing costs of \$812,000 annually for the first three years and then \$586,000 annually thereafter (PUC Utilities Reimbursement Account) to implement the customer protections established by this bill and to open a new proceeding to consider the establishment of an arrearage management pilot program for low-income customers.

Background: The majority of California's residential water customers are served by cities, special districts, and mutual water companies. These utilities are governed by the city council, or other local governing body, which set their own water rates. As established by Proposition 218 (1996), the majority of these utilities are subject to state constitutional and statutory requirements that ensure water rates are directly tied to the cost-of-service. As a result, these utilities are not able to increase rates in order to fund low-income rate relief programs for customers.

The CPUC has jurisdiction over water companies that provide water service to about 16 percent of California's residents with annual water and wastewater revenues totaling about \$1.4 billion. As with other investor-owned utilities, the CPUC regulates rates of the water utilities under its jurisdiction, as well as, rules regarding discontinuation of service due to nonpayment.

SB 998 (Dodd, Chapter 891, Statutes of 2018) made numerous changes to the policies to discontinue residential water service due to nonpayment. Specifically, SB 998 (1) requires all public water systems (with more than 200 service connections) to have a written policy on discontinuation of residential water service due to nonpayment

provided in multiple languages, (2) includes provisions for not shutting off water for certain customers that meet specified criteria, (3) prohibits the shutoff of water service until the residential water bill has been delinquent for 60 days, and (4) caps the reconnection fees for restoring water service. SB 998 required that CPUC-regulated water utilities and publicly-owned urban water suppliers comply with these policies by February 1, 2020 and other smaller water utility providers (under 3,000 connections) by April 1, 2020.

The timing of the COVID-19 crisis and subsequent moratorium on suspension of discontinuation of residential water service enacted in March 2020 and still in existence today, means that the provisions adopted in SB 998 have not been lived by residential customers or water service providers. The CPUC-regulated water utilities and publicly-owned urban water suppliers had only recently enacted the provisions (February 1, 2020) and the other water service providers had, yet, to do so (April 1, 2020), before the current moratorium was adopted in March 2020. As such, water utilities' and CPUC's disconnection moratoriums appear to have temporarily shielded customers from losing water service during the pandemic, while also suspended the need and lived experience of SB 998.

Proposed Law: This bill would:

1. Apply existing provisions related to prohibiting discontinuing residential water service for nonpayment, on and after July 1, 2022, to a very small community water system, defined as a public water system that supplies water to 200 or fewer service connections used by yearlong residents.
2. Require the written policy on discontinuation of residential service for nonpayment to include an arrearage management plan (AMP), as specified, and, for those systems that provide water use audits or have the capacity to do so, to include a water use audit offered at no additional charge to low-income households.
3. Require the State Water Board to provide technical assistance to very small community water systems, as appropriate, to assist with compliance with these requirements and to establish a bridge loan program to assist very small community water systems that may suffer revenue loss or delayed collection while complying with these requirements. Additionally, require the SWRCB to develop a template for a written policy on discontinuation of residential service for nonpayment, on or before September 1, 2022, to aid very small community water systems in complying with the requirement to have a written policy on discontinuation of residential service for nonpayment.
4. Revise the conditions under which urban and community water systems and very small community water systems can discontinue residential service for nonpayment by prohibiting discontinuation:
 - a. Until a payment by a customer has been delinquent for at least 90, rather than 60, days or the total amount of the delinquency, exclusive of late charges and interest, is at least \$250.
 - b. If a residential water customer who pays a water bill that is combined with billing for other services, including but not limited to, sewer service or

- electricity service, paid an amount equal to or greater than the monthly charge for water service.
- c. To a master-metered multifamily residence with at least 4 units or to a master-metered mobile home park.
 - d. If a residential customer, or tenant of the customer, self-certifies in writing, under penalty of perjury, that they do not have a primary care provider and that discontinuation of residential service will be life-threatening to, or pose a serious threat to, a resident of the premises, including the presence of a resident younger than 18 year of age.
 - e. During a state or local emergency when the area of the declared state or local emergency encompasses the customer's residence, unless the entity declaring the emergency finds that the emergency will not impact the customers' ability to pay for residential service.
5. Require an urban and community water system and very small community water system to waive fees for disconnection and reconnection of service for low-income customers, as specified.
 6. Require the CPUC, by January 1, 2023, in an existing or new proceeding, to consider whether to establish a pilot program for an AMP program to be offered by urban and community water systems regulated by the CPUC to eligible low-income customers, as specified. If the CPUC establishes such a pilot program, requires it provide an evaluation of the program and sunset the pilot program no later than four years if the evaluation determines it is not in the interest of all ratepayers.
 7. Require an urban and community water system not regulated by the CPUC to, by January 1, 2023, or during its next rate study, whichever comes first, determine whether it *may* offer an AMP to aid low-income residential customers with household income below 200 percent of the federal poverty line with high arrearages for water or wastewater service without using ratepayer funds from customers who are not enrolled in the arrearage management plan. Authorizes such water systems to *consider* specified criteria in evaluating whether it may offer an AMP, including other system priorities that may limit the ability of establishing an AMP, such as the need for water quality improvements and infrastructure upgrades. Requires *consideration* of specified actions if an urban and community water system, based on the required evaluation, finds that it may not offer an AMP.
 8. Authorize the State Water Board to issue an order to an urban and community water system or very small community water system to enforce these requirements, or to seek an injunction, as specified.
 9. Require an urban and community water system to report certain information to the State Water Board during the reporting year that it completes a specified evaluation. This bill would require, by January 1, 2024, the State Water Board to complete a report to the Legislature on AMPs that includes whether and to what extent urban and community water systems have offered AMPs, any identified barriers, any identified alternatives, and all available information regarding reduction in shutoffs and revenue impacts.

Related Legislation:

SB 91 (Committee on Budget, Chapter 2, Statutes of 2021) this trailer bill would extend the moratorium on evictions for non-payment of rent due to COVID-19 financial hardship, subject to numerous conditions from January 31, 2021, to June 30, 2021. This trailer bill also contains an appropriation of federal funds and statutory changes necessary to implement a rental assistance program as part of the 2020 Budget Act.

AB 3088 (Chiu, Chapter 37, Statutes of 2020), a set of temporary measures designed to prevent widespread loss of housing through evictions and foreclosures resulting from the economic impacts of the COVID-19 pandemic. These provisions are set to expire on January 31, 2021.

Enacted December 27, 2020, the federal Consolidated Appropriations Act, 2021 (Public Law 116-260), included \$25 billion for rental assistance programs, allocated to the states. California is expected to receive roughly \$2.6 billion of this amount. \$1.1 billion is to be allocated directly to local jurisdictions with populations above 200,000, with the balance allocated to the state for administration.

SB 998 (Dodd, Chapter 891, Statutes of 2018) required all public water systems (with more than 200 connections) to have a written policy on discontinuation of residential water service, provide that policy in multiple languages, include provisions for not shutting off water for certain customers that meet specified criteria, prohibit the shutoff of water service until the bill has been delinquent for 60 days, and cap the reconnection fees for restoring water service.

SB 401 (Dodd, Chapter 662, Statutes of 2015) required the SWRCB, in collaboration with the State Board of Equalization and stakeholders, to develop a plan for the funding and implementation of a new program to provide water rate relief for low-income ratepayers by January 1, 2018 and provide a corresponding report to the Legislature by February 1, 2018.

SB 200 (Monning, Chapter 120, Statutes of 2019) established the Safe and Affordable Drinking Water Fund (SADWF) to help water systems provide an adequate and affordable supply of safe drinking water in both the near and the long term. Beginning in fiscal year 2020-21 and until June 30, 2030, it annually transfers to the SADWF five percent of the proceeds of the GGRF up to \$130 million. It further requires the SWRCB to adopt a fund implementation plan and requires expenditures of the fund to be consistent with the plan.

Staff Comments:

SWRCB Costs for Technical Assistance and Bridge Loans. According to the SWRCB, the costs of the contracts for technical assistance and the overall costs of the bridge program are difficult to estimate due to the range of how many systems may request assistance and each system's need. There are approximately 1800 water systems in the state that would meet the definition of a "very small community water system" created in this bill. If all of those systems required assistance, the Water Board estimates the cost for technical assistance contracts would range from \$13 million to \$30 million, and between \$30 to \$90 million in bridge loans would be awarded. These

costs would be lower if fewer systems require assistance, and this estimate assumes that no system would receive assistance more than once.

Other Ongoing Efforts to Assist Ratepayers. The Senate has proposed a \$3.41 billion plan of one-time state and federal funds (Federal “American Rescue Plan” funds, one-time state General Fund, and an appropriation of general obligation bonds (Propositions 1 and 68) to address drinking water and ratepayer assistance. The package includes \$1 billion to help ratepayers, community water systems, wastewater treatment works and public utilities recover from COVID-19 economic impacts. Additionally, on Monday, May 11, the Governor announced that he is proposing \$2 billion be appropriated to help Californians pay their overdue water and utility bills.

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