

Date of Hearing: June 17, 2021

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Eduardo Garcia, Chair

SB 552 (Hertzberg) – As Amended June 14, 2021

Comment [CK1]: Update amended date.

SENATE VOTE: 40-0

SUBJECT: Drought planning: small water suppliers: nontransient noncommunity water systems

SUMMARY: Requires the State Water Resources Control Board (State Water Board), the Department of Water Resources (DWR), and counties to take various steps to increase the drought preparation and resiliency of rural small water suppliers and domestic wells. Specifically, **this bill**:

- 1) Defines the following terms for the purposes of this bill:
 - a) “County Drought Advisory Group” as the group convened by DWR to implement AB 1668 (Friedman), Chapter 15, Statutes of 2018, and that helped develop the “Small Water Systems and Rural Communities Drought and Water Shortage Contingency Planning and Risk Assessment” report.
 - b) “Risk vulnerability tool” as the tool developed by DWR and the State Water Board to implement AB 1668 (Friedman).
 - c) “Rural community” as a community with fewer than 15 water service connections or regularly serving less than 25 individuals daily at least 60 days of the year.
 - d) “Small water supplier” as a community water system serving 15 to 2,999 water service connections and that provides less than 3,000 acre-feet (AF) annually.
- 2) Requires small water suppliers and nontransient noncommunity water systems that are schools to develop and maintain at their facilities an abridged Water Shortage Contingency Plan (WSCP).
- 3) Requires the WSCP to contain the following information:
 - a) Drought-planning contacts, including at least one at the water system for water shortage planning and response; local public safety partners and potential vendors that can provide repairs or alternative water sources; state and local agencies that should be made aware of a crisis; and regional water planning groups or mutual aid networks, if applicable.
 - b) Triggering mechanisms and levels for action, including standard water shortage levels corresponding to progressive ranges based on water supply conditions, and mitigation, response, customer communications, enforcement, and relief actions that correspond to water shortage levels.
- 4) Requires a small water supplier or nontransient noncommunity water system that is a school to make its WSCP available on its internet website, if it has one. If the system does not have

an internet website, it must make its WSCP available upon request and shall provide its WSCP to the State Water Board upon demand.

- 5) Requires DWR and the State Water Board to create a WSCP template by June 30, 2022, that can be used by small water suppliers and nontransient noncommunity water systems that are a school to develop their WSCP.
- 6) Requires a small water supplier and a nontransient noncommunity water system that is a school to report specified water supply condition information to the State Water Board through its Electronic Annual Reporting (eAR) System or other tool as required by the State Water Board.
- 7) Requires a small water supplier and a nontransient noncommunity water system that is a school to include information regarding the water system's risk to drought and water shortage in its annual consumer confidence report.
- 8) Requires the State Water Board, in partnership with DWR, counties, and groundwater sustainability agencies, to conduct an assessment of small water suppliers and nontransient noncommunity water systems that are schools drought and emergency water shortage resiliency measures by December 31, 2022. The State Water Board shall engage stakeholders in developing the assessment and adopt a final assessment in a public hearing of the State Water Board. The assessment shall cover the following resiliency measures:
 - a) Backup water supplies, including backup wells, interties to adjacent water systems, or other sources of backup water supplies;
 - b) Water level monitoring;
 - c) Backup electrical supplies;
 - d) Participation in the California Water/Wastewater Agency Response Network (CalWARN) or other mutual aid organization;
 - e) Source and distribution facilities adequate to meet fire flow; and
 - f) Staged implementation of connection metering to measure customer water use.
- 9) Requires the State Water Board, in partnership with DWR, counties, and groundwater sustainability agencies, to make recommendations for solutions to address any lack of availability of resiliency measures identified in the assessment.
- 10) Requires the State Water Board to consider and address the drought planning and preparedness of small water suppliers and nontransient noncommunity water systems that are schools in its expenditure plan for implementing the Safe and Affordable Funding for Equity and Resilience Program.
- 11) Requires the State Water Board to establish minimum resiliency measures for infrastructure improvements for small water suppliers and nontransient noncommunity water systems that are schools.

- 12) Requires the State Water Board to identify funding needs for implementation of resiliency projects and to incorporate those needs into its fund expenditure plan and intended use plan analysis and develop a prioritization process for funding sources.
- 13) Permits the State Water Board to provide funding to small water suppliers and nontransient noncommunity water systems that are schools to improve drought and water shortage response.
- 14) Requires a county to establish a standing drought and water shortage task force with specified stakeholders by January 1, 2022 to facilitate drought and water shortage preparedness for state small systems (i.e., those with five to 14 service connections) and domestic wells. In lieu of a task force, a county may establish an alternative process that accomplishes the same goal and that provides opportunities for coordination and communication amongst specified stakeholders.
- 15) Requires counties to develop a plan that includes potential drought and water shortage risk and proposes interim and long-term solutions. The plan may be stand-alone or part of an existing county plan. A county must coordinate with its drought and water shortage task force in developing its plan and the plan must consider the following solutions:
 - a) Consolidations for existing water systems and domestic wells;
 - b) Domestic well drinking water mitigation programs;
 - c) Provision of emergency and interim drinking water solutions;
 - d) An analysis of steps necessary to implement the plan; and
 - e) An analysis of federal, state, and local funding sources available to implement the plan.
- 16) Requires counties to update their groundwater well application form so that the form indicates whether the application is due to a dry well or a well that is actively failing due to drought or water shortage. If the application is made due to a dry well or a well that is actively failing, the form shall request information about the well in question, including identification number, location, and screening level.
- 17) Requires a county to report summary information on groundwater well permits to DWR via the Household Water Supply Shortage Reporting System tool at least annually and to make this information available on the county's internet web site.
- 18) Requires a county to report information on groundwater well permits to DWR via the Household Water Supply Shortage Reporting System tool on a quarterly basis during a drought emergency and to make this information available on the county's internet web site.
- 19) Requires DWR to maintain and continue to refine the risk vulnerability tool developed as part of the County Drought Advisory Group process. DWR shall gather data on the following to incorporate into the tool:
 - a) Small water suppliers and nontransient noncommunity water systems serving a school;
 - b) State small water suppliers and rural communities; and

c) Domestic wells and other self-supplied residents.

20) Requires DWR to update the risk vulnerability tool annually by October 15th as follows:

- a) Revise the indicators and construction of the scoring based on new data;
- b) Make existing and new data publicly available in a centralized location; and
- c) Consult with other state agencies to identify deficits in data quality and availability and develop recommendations to address these gaps.

21) Requires DWR to collaborate with the State Water Board and other state agencies in establishing a standing interagency drought and water shortage task force to facilitate proactive state planning and coordination for predrought planning and postdrought emergency response. The task force shall be a continuation of, or modeled off of, the County Drought Advisory Group.

22) Requires DWR to update their Household Water Supply Shortage Reporting System and public website at least once a month during a drought emergency.

23) Requires DWR to notify a county when a dry well voluntary report for a well within the county is filed in the Household Water Supply Shortage Reporting System.

24) Requires DWR to update the interagency drought and water shortage task force with information from the Household Water Supply Shortage Reporting System on at least a quarterly basis.

25) Makes findings and declarations regarding the increasing severity and frequency of drought due to climate change and drought's disproportionate and more severe adverse impact on low-income, small, and rural communities.

EXISTING LAW:

1) Declares that small water suppliers and rural communities are often not covered by established water shortage requirements, and that the state should provide guidance to improve drought planning for small water suppliers and rural communities.

2) Directs DWR to propose to the Governor and the Legislature recommendations and guidance relating to the development and implementation of countywide drought and water shortage contingency plans to address the planning needs of small water suppliers and rural communities.

3) Defines the following terms:

- a) "Community water system" means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.
- b) "Nontransient noncommunity water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over

six months per year.

- c) “Public water system” means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.
- d) “State small water system” means a system for the provision of piped water to the public for human consumption that serves 5-14 service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** According to the author,

California’s water challenges are mounting as climate change causes more intense and prolonged droughts. Rural communities are most susceptible to losing running water because they typically rely on groundwater from small community or domestic wells, which tend to run dry during these periods. Access to water is a fundamental human right and every Californian should be able turn on their tap and expect clean water to flow - it is unacceptable this was not the case for thousands of Californians during the last drought.

There are currently varying levels of water contingency planning and coverage across counties for small water suppliers and self-supplied communities. (This bill) improves drought preparedness for small and rural communities by making various changes to local drought and water shortage contingency plans and by enhancing coordination to ensure we can keep faucets running for all Californians.

- 2) **Background.** In 2018, the Legislature passed AB 1668 (Friedman) and SB 606 (Hertzberg) which the Governor subsequently signed. These bills were a response to the 2012-16 drought and built on the “making conservation a way of life” executive order (B-37-16) issued by Governor Brown in May 2016. Among other provisions, AB 1668 tasked DWR with identifying small water suppliers and rural communities that may be at risk of drought and water shortage vulnerability and to report back to the Governor and Legislature by January 1, 2020, with recommendations to address the drought planning needs of small water suppliers and rural communities. DWR convened the County Drought Advisory Group (CDAG) in November 2018 to implement this and other requirements of AB 1668 (Friedman) and SB 606 (Hertzberg). CDAG issued a final report on small community water suppliers and rural communities in March 2021, the “Small Water Systems and Rural Communities Drought and Water Shortage Contingency Planning and Risk Assessment” (CDAG report). See below for more detail on this report.

According to the State Water Board, there are 2,481 small community water systems (those with 3,300 connections or less) and 1,497 nontransient noncommunity water systems in California. Approximately 425 of those nontransient noncommunity water systems are schools.

Electronic Annual Reporting (eAR) System. The State Water Board’s Division of Drinking Water uses the eAR system to receive information to produce the annual Electronic Annual Report, a survey of public water systems mandated by law that uses water system information to assess compliance with regulatory requirements such as source water capacity, updated contact information, and information to assess the financial capacity of systems. This bill requires small water suppliers and nontransient noncommunity water systems that are schools to report specified information through the eAR System.

Household Water Supply Shortage Reporting System. Established in 2014, this online tool managed by DWR allows local, state, and federal agencies and non-governmental organizations to voluntarily report household water shortage information to the state. The information is used to provide a better understanding of conditions across the state and to help locals obtain drought assistance. DWR caveats that information is received from a variety of sources and may contain errors or omissions and that “missing information or no data for a county does not necessarily mean that there are no household water shortages in the county [...]” See: www.mydrywatersupply.water.ca.gov/report/publicpage. This bill requires a county to notify DWR via this system when it receives information regarding a dry or failing well. Likewise, this bill requires DWR to report information it receives through this system on dry or failing wells to the county where the well is located.

Many of this bill’s provisions align with the CDAG report. The final CDAG report makes 17 recommendations to improve the drought resiliency of small water suppliers, rural communities, and tribes while observing that “it will require time, effort, and funding to carry out these recommendations. The pace of implementation will depend on the feasibility and availability of resources and competing priorities.” This bill bases its provisions on many of the recommendations in the CDAG report. These include:

- *Small Water Supplier Recommendation S3:* “All small community water systems serving 1,000 to 2,999 service connections should be required to develop an abridged drought and water shortage contingency plan and coordinate with groundwater sustainability agencies, where applicable.” This bill largely follows this recommendation, but is more expansive in requiring small water suppliers with 15 to 999 service connections (as well as those with 1,000 to 2,999 service connections) to develop a WCSP. In contrast, the CDAG report recommends that “the State Water Board work with small community water systems serving less than 1,000 connections and noncommunity water systems that are schools to improve drought and water shortage resiliency” (Recommendation S2) rather than requiring those systems to develop their own plan. The CDAG report’s rationale for not requiring systems with less than 1,000 service connections to develop their own WCSP is that “small water systems with less than 1,000 service connections may not have the capacity to develop water shortage contingency plans.”
- *Small Water Supplier Recommendation S7:* “State should support small community water systems and noncommunity water system that are schools to install additional infrastructure to improve drought and water shortage preparedness and response (e.g., backup well or water meters).” This bill requires the State Water Board to consider and address any identified deficiencies in the expenditure plan for the Safe and Affordable Funding for Equity Resilience Program [See proposed § 10606.62(a)(3)].

- *Self-Supplied Communities Recommendation R3*: “Incorporate drought resilience and water shortage contingency policies or implementation programs into the safety element, conservation element, or other appropriate elements of the General Plans.” This bill requires counties to implement this recommendation [see proposed § 10609.70(b)].
- *General Recommendation G1*: “The state should conduct periodic statewide drought and water shortage risk assessments, generating relative risk scores for each small water system, noncommunity water system that is a school, and self-supplied community using best available statewide information.” This bill tracks with this recommendation by requiring the State Water Board to conduct an assessment of drought and water shortage resiliency measures of small water suppliers and nontransient noncommunity water systems that are schools [See proposed § 10609.63(a)(1)(A)].
- *General Recommendation G3*: “Establish a standing interagency drought and water shortage task force to facilitate proactive State planning and coordination, both for pre-drought planning and post-drought emergency response. The task force would be composed of DWR, State Water Board, (California Public Utilities Commission, Office of Emergency Services, and Office of Planning and Research).” This bill requires DWR and other state agencies to implement this recommendation by establishing a standing interagency drought and water shortage task force [See proposed § 10609.80(b)(1)].

3) **Recent Amendments.** Among several clarifying changes and refinements to this bill, the recent amendments also impose new reporting requirements on counties and DWR regarding dry and failing groundwater wells. These changes require counties to report to DWR when they become aware of a dry or failing well (via the well permit application process) and, likewise, require DWR to notify a county when it receives a report of a dry or failing well located within the county’s boundaries via the Household Water Supply Shortage Reporting System. Such reporting requirements are not addressed by recommendations contained in the CDAG report.

4) **Arguments in support.** A coalition of environmental justice and environmental organizations support this bill asserting that it is urgently needed given the worsening drought across the Western United States. The coalition notes that small, rural communities are the most vulnerable to increasingly severe drought caused by climate change and arguing that “without planning in place for small and rural communities, hundreds of thousands of people are at risk of going without water to meet their basic household and drinking water needs in the next drought.”

5) **Dual-referral.** This bill has also been referred to the Assembly Local Government Committee.

6) **Proposed committee amendments.** The committee proposes the following technical and clarifying amendments:

Amendment 1. On page 6, line 33, insert “annually” after “shall report” to clarify that small water suppliers and nontransient noncommunity water systems that are schools must report specified information on an annual basis.

Amendment 2. On page 8, line 9, strike “, and contract with third party experts and technical

assistance providers” and on page 8, after line 28, insert “(c) The state board may contract with third party experts and technical assistance providers to implement this chapter”. This is to clarify the State Water Board has the discretion to contract with these entities, but not require them to do so, in implementing this bill.

Amendment 3. On page 9, line 21, strike “solutions” after “following” to clarify that not all of the required components of a county’s drought and water shortage plan need to be “solutions.”

Amendment 4. On page 11, after line 17 insert: “(3) Provide a process for small water systems to contest data or findings of the risk vulnerability tool, no later than 45 days prior to the publication of the updated tool. The department shall consider any new information provided by the small water system for inclusion.” This amendment was intended to be part of the most recent author’s amendments, but unintentionally omitted.

7) **Related legislation.**

SB 200 (Monning), Chapter 120, Statutes of 2019, establishes 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 through June 30, 2030, it annually transfers to the Safe and Affordable Drinking Water Fund five percent of the proceeds of the Greenhouse Gas Reduction Fund (GGRF), up to \$130 million. It further requires the State Water Board to adopt a fund implementation plan and requires expenditures of the fund to be consistent with the plan.

SB 606 (Hertzberg), Chapter 14, Statutes of 2018, requires the State Board and DWR to adopt water efficiency regulations, outlines requirements for water suppliers, specifies penalties for violations, and makes technical, conforming changes.

AB 1668 (Friedman), Chapter 15, Statutes of 2018, among other provisions, requires DWR, in consultation with the State Water Board and other stakeholders, to identify small water suppliers and rural communities that may be at risk of drought and water shortage vulnerability by January 1, 2020. Further requires DWR by January 1, 2020, to propose recommendations and guidance regarding the development and use of countywide drought contingency plans to address drought planning for small water suppliers and rural communities.

AB 685 (Eng), Chapter 524, Statutes of 2012, establishes in law a state policy that all residents of the state have a right to clean, affordable, and accessible water for human consumption, and directs relevant state agencies to implement the policy.

REGISTERED SUPPORT / OPPOSITION:

Support

350 South Bay Los Angeles
Alliance of Nurses for Healthy Environments
California League of Conservation Voters
California Municipal Utilities Association

Carbon Cycle Institute
Clean Water Action
Community Water Center
Leadership Council for Justice and Accountability
Local Government Commission
Mi Familia Vota
Mono Lake Committee
Natural Resources Defense Council (NRDC)
Nextgen California
North County Watch
Planning and Conservation League
Policy Link
Pueblo Unido CDC
Union of Concerned Scientists

Opposition

None on file.

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