Beverly Hills City Council Liaison / Legislative/Lobby Committee will conduct a Special Meeting, at the following time and place, and will address the agenda listed below:

CITY HALL  
455 North Rexford Drive  
4th Floor Conference Room A  
Beverly Hills, CA 90210

Thursday, June 13, 2019  
4:30 PM  
AGENDA

A. Oral Communications

1. Public Comment

Members of the public will be given the opportunity to directly address the Committee on any item listed on the agenda.

B. Direction

These items require direction by the Liaisons as they may not be consistent with the City Council adopted Legislative Platform. Direction provided by the Liaisons may require City Council approval.

1. Request Direction on Various State Water Tax Proposals

   Comment: This item will review the Governor’s budget trailer bill as it relates to clean water in distressed communities. This item will also review five state legislative items that are proposed to tax water in order to create safe drinking water throughout the state.

2. Request Direction on Assembly Bill 857 (Chiu) Public Banks

   Comment: This item seeks direction on AB 857, which would allow local cities, counties, or a joint power authority to create a public bank.

3. Request Direction on Assembly Bill 1286 (Muratsuchi) Shared Mobility Devices: Local Authorization

   Comment: This item seeks direction on AB 1286, which would require companies that provide shared mobility devices to enter into agreements with local governments.

4. Request Direction on Assembly Bill 516 (Chiu) – Authority to Remove Vehicles

   Comment: This item seeks direction on AB 516, which would remove the authority of a peace officer or public employee to remove or immobilize a vehicle if the vehicle has been left standing on a public right of way for 72 or more consecutive hours or has been issued five or more parking violations.
5. Request Direction on Assembly Bill 1407 (Friedman) Reckless Driving: Speed Contests: Vehicle Impoundment

Comment: This item seeks direction on AB 1407, which would allow law enforcement to impound a vehicle for 30 days if the vehicle's registered owner is convicted of reckless driving or engaging in a speed contest while operating the vehicle.

6. Request Direction on Senate Bill 23 (Wiener) Unlawful Entry of a Vehicle

Comment: This item seeks direction on SB 23, which would make forcibly entering a vehicle with the intent to commit a crime a felony-misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year for the misdemeanor or for 16 months, two years, or three years for a felony.

7. Request Direction on Assembly Bill 1782 (Chau) Automated License Plate Recognition Information: Usage and Privacy Policy

Comment: This item seeks direction on AB 1782, which would require automated license plate recognition (ALPR) end-users to amend their privacy policies to require the destruction of ALPR information after 60 days, and to prohibit the sharing of non-anonymized ALPR information.

8. Request Direction on Senate Bill 128 (Beall) Enhanced Infrastructure Financing Districts

Comment: This item seeks direction on SB 128. This legislation would eliminate the vote requirement to issue enhanced infrastructure financing district (EIFD) bonds as the property taxes allocated to EIFDs are not new taxes or special assessments, and EIFDS bonds do not result in an increased burden on taxpayers.

9. Request Direction on Assembly Bill 1788 (Bloom) Pesticides: Use of Anticoagulants

Comment: This item seeks direction on AB 1788, which would expand the prohibition against the use of pesticides containing specified anticoagulants in wildlife habitat areas to the entire state.

10. Request Direction on Senate Bill 518 (Wieckowski) Public Records: Disclosure: Court Costs and Attorney’s Fees

Comment: This item seeks direction on SB 518, which would eliminate the utility of Section 998 settlement offers in California Public Records Act (CPRA) lawsuits against public agencies.

11. Request Direction on Senate Bill 54 (Allen) California Circular Economy and Plastic Pollution Reduction Act

Comment: This item seeks direction on SB 54. This legislation would require the adoption of regulations requiring manufacturers and retailers to reduce the waste associated with single use packaging and products 75 percent by 2030.

12. State and Federal Legislative Updates
Comment: The City’s state and federal lobbyist will provide a verbal update to the Liaisons on state and federal issues.

13. Legislative Platform Update

Comment: Staff will provide a verbal update on the status of the revision of the City’s Legislative Platform

C. Adjournment

Lourdes Sy-Rodriguez, Assistant City Clerk

Posted: June 10, 2019

A DETAILED LIAISON AGENDA PACKET IS AVAILABLE FOR REVIEW IN THE LIBRARY AND CITY CLERK’S OFFICE.

Pursuant to the Americans with Disabilities Act, the City of Beverly Hills will make reasonable efforts to accommodate persons with disabilities. If you require special assistance, please call (310) 285-1014 (voice) or (310) 285-6881 (TTY). Providing at least forty-eight (48) hours’ advance notice will help to ensure availability of services. City Hall, including Conference Room 4A, is wheelchair accessible.
Item B-1
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Various State Water Tax proposals have been introduced in Sacramento. These proposals involve policy matters that are not specifically addressed within the City’s adopted Legislative Platform.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) that reviews the issue of access to safe drinking water in California. The memo then provides an overview of:

- The Governor’s 2019-20 budget trailer bill would create a new charge on water system rate payers;
- Assembly Bill 217 (Garcia) Safe Drinking Water for All Act (AB 217) would impose fees on agricultural activities;
- Assembly Bill 134 (Bloom) Safe Drinking Water Restoration (AB 134), which is a companion bill to AB 217, would require the annual budget to show expenditures from the Safe Affordable Drinking Water Fund created by AB 217;
- Assembly Bill 1606 (Gray) University of California: school of medicine: San Joaquin Valley Regional Campus Medical Education Endowment Fund (AB 1606) would eliminate a state income tax deduction for gamblers. While not in the written in AB 1606, the author is stating a portion of the funding would be used for the Safe Affordable Drinking Water Fund;
- Senate Bill 200 (Monning) Safe and Affordable Drinking Water Fund (SB 200) would create a Safe and Affordable Drinking Water Fund without imposing a levy, charge, or exaction of any kind, such as a tax or fee; and
- Senate Bill 414 (Caballero) Small System Water Authority Act of 2019 (SB 414) would create small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems.
RECOMMENDATION

After discussion of the various State Water Tax proposals, the Liaisons may recommend the following actions:

1) Support any of the legislation listed above;
2) Support if amended any of the legislation listed above;
3) Oppose any of the legislation listed above;
4) Oppose unless amended any of the legislation listed above;
5) Remain neutral; or
6) Provide other direction to City staff.

Staff is proposing the Liaisons minimally consider supporting SB 200.

Should the Liaisons recommend the City take a position on the proposed legislation, then staff will place the item on a future City Council Agenda for concurrence.
June 6, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
Priscilla Quiroz, Legislative Advocate, Shaw / Yoder / Antwih, Inc.
Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: State Water Tax Proposals

Introduction and Overview
The federal Safe and Affordable Drinking Water Act (SDWA) was enacted in 1974 to protect public health by regulating drinking water. California has enacted its own safe drinking water act to implement the federal law and establish state standards. The United States Environmental Protection Agency (U.S. EPA) enforces the federal SDWA at the national level. However, most states, including California, have been granted “primacy” by the U.S. EPA, giving them authority to implement and enforce the federal SDWA at the state level.

Maximum contaminant levels (MCLs) are health-based drinking water standards that public water systems are required to meet. MCLs take into account the health risk, detectability, treatability, and costs of treatment associated with a pollutant. Agencies responsible for regulating water quality enforce these standards.

The California State Water Resources Control Board’s (State Water Board) Division of Drinking Water (DDW) regulates public water systems that provide water for human consumption and have 15 or more service connections, or regularly serve at least 25 individuals daily at least 60 days out of the year.

A service connection is usually the point of access between a water system’s service pipe and a user’s piping. The state does not regulate water systems with less than 15 connections; county health officers oversee them. At the local level, 30 of the 58 county environmental health departments in California have been delegated primacy—known as Local Primacy Agencies (LPAs)—by the State Water Board to regulate systems with between 15 and 200 connections within their jurisdiction. For investor-owned water utilities under the jurisdiction of California Public Utilities Commission (CPUC), the DDW or LPAs share water quality regulatory authority with CPUC.

The DDW regulates approximately 7,500 water systems. About one-third of these systems have between 15 and 200 service connections. The number of smaller systems—specifically, those with 14 or fewer connections—is unknown but estimated to be in the thousands.
Multiple Causes of Unsafe Drinking Water. The causes of unsafe drinking water can generally be separated into two categories: (1) contamination caused by human action and; (2) naturally occurring contaminants. In some areas, there are both human caused and natural contaminants in the drinking water. Three of the most commonly detected pollutants in contaminated water are arsenic, perchlorate, and nitrates. While arsenic is naturally occurring, perchlorate contamination is generally a result of military and industrial uses.

High concentrations of nitrate in groundwater are primarily caused by human activities, including fertilizer application (synthetic and manure), animal operations, industrial sources (wastewater treatment and food processing facilities), and septic systems. Agricultural fertilizers and animal wastes applied to cropland are by far the largest regional sources of nitrate in groundwater, although other sources can be important in certain areas.

Unsafe Drinking Water a Statewide Problem. The State Water Board has identified a total of 331 water systems that it or local agencies regulate that are in violation of water quality standards. These water systems serve an estimated 500,000 people throughout the state. The number of water systems with 14 or fewer connections that are currently in violation of water quality standards is unknown, but estimated to be in the thousands by the State Water Board.

Of the 331 systems identified by the State Water Board, 68 have violations associated with nitrates and, in some cases, additional contaminants. In some of these water systems, unsafe contamination levels persist over time because the local agency cannot generate sufficient revenue from its customer base to implement, operate, or maintain the improvements necessary to address the problem. The challenge in these systems is often a product of a combination of factors, including the high costs of the investments required, low income of the customers, and the small number of customers across whom the costs would need to be spread.

Governor Newsom’s 2019-20 Trailer Bill would establish the Safe and Affordable Drinking Water program to increase access to safe drinking water for Californians. The program would provide certain local water agencies with grants, loans, contracts, or services to help support their operations and maintenance (O&M) costs. This funding would be supported by new charges proposed by the Governor on water system ratepayers, fertilizer sales, and certain agricultural entities.

Governor Newsom’s 2019 proposal is based on SB 623 (Monning) from 2017 and is a slightly modified version of Governor Brown’s proposed statewide water tax budget trailer bill language from 2018, which the Legislature ultimately rejected as part of that year’s final budget negotiations.

Governor Newsom’s proposed budget trailer bill would authorize two types of new charges to generate revenue for these clean drinking water assistance programs:

1) **Agricultural assessments related to fertilizer sales and dairy and confined animal operations to address nitrate-related contamination; and**

2) **A state-mandated tax on drinking water (tap water) that the bill would require approximately 3,000 local water systems to assess on their local residential and business ratepayers’ water bills.**
Governor Newsom makes the following arguments in support of his water tax proposal:

- The language would establish a fund administered by the State Water Resources Control Board (State Water Board) to assist those who do not have access to safe drinking water.

- There is general agreement in the Legislature that the lack of access to safe drinking water in certain disadvantaged communities around the state is a public health issue that needs to address.

- Lack of access to safe drinking water is a public health issue the state must address.

- A funding gap exists for O&M costs for community water systems.

- In general, O&M costs cannot be financed using existing state and federal drinking water funding sources. A financial solution is needed for O&M and consolidation costs in disadvantaged communities that can complement existing federal and state funding sources for capital costs.

The Association of California Water Agencies, the California Municipal Utilities Association, the League of California Cities and dozens of public water agencies around the state have registered an Oppose Unless Amended Position in response to the Governor’s Water Tax Proposal. And make the following points in opposition:

- Requiring local water systems and cities across the state to impose a tax on drinking water for the State of California is not the appropriate response to the problem;

- It is not sound policy to tax a resource that is essential to life;

- State law sets forth a policy of a human right to water for human consumption that is safe, clean, affordable and accessible. Adding a regressive statewide water tax would work against keeping water affordable for all Californians; and

- It is highly inefficient to turn approximately 3,000 water systems into taxation entities for the state and require them to collect the tax and send it straight to Sacramento. The costs for changing billing software (e.g., $100,000 for one system) and hiring one or more staff (e.g., $100,000 for salary and benefits for one employee for one system) to implement the tax would skyrocket if implemented by about 3,000 community water systems. The implementation costs would add to the cost of water and work against keeping water affordable.

The following groups have registered their formal opposition to Governor Newsom’s water tax budget trailer bill:

- Alameda County Water District
- Alhambra Chamber of Commerce
- Amador Water Agency
- Anderson-Cottonwood Irrigation District
- Apple Valley Chamber of Commerce
- Antelope Valley – East Kern Water Agency
- Association of California Water Agencies
- Bard Water District
- Bella Vista Water District
- Bighorn-Desert View Water Agency
- BifFed Los Angeles County
- Borrego Water District
- Brawley Chamber of Commerce
- Brooktrails Township Community Services District
- Browns Valley Irrigation District
- Calaveras County Water District
- California Building Owners and Managers Association
- California Business Properties Association
- California Cleaners Association
- California Craft Beer Association
- California Municipal Utilities Association
- California Special Districts Association
- Calleguas Municipal Water District
Status: Governor Newsom’s Water Tax Budget Trailer Bill is currently pending before the Budget Conference Committee.

Senate Budget Committee Alternative Proposal
The Senate Budget Committee voted to reject Governor Newsom’s water tax proposal and then voted to establish a $150 million per year continuous appropriation from the State General Fund to the Safe and Affordable Drinking Water Fund.

OTHER RELATED PROPOSALS:
AB 217 (Eduardo Garcia) would create the Safe Drinking Water for All Act, which establishes a Safe and Affordable Drinking Water Fund to provide a source of funding to secure access to safe drinking water for all Californians, while also ensuring long-term sustainability of drinking water systems. Imposes several fees on agricultural activities and creates a trust fund using investments from the state General Fund that together would provide the source of revenue to the Fund.

Support:
Alliance Of Child And Family Services
American Heart Association
American Rivers
American Stroke Association
Arvin Community Services District
Asian Pacific Environment Network
Asociación De Gente Unida Por El Agua
Audubon California
California Alliance of Child And Family Services
California Bicycle Coalition
California Environmental Justice Alliance
California Food Policy Advocates
California League of Conservation Voters
California Rural Legal Assistance Foundation
California Water Service
Carbon Cycle Institute
Central Valley Air Quality (CVAQ)
Coalition
Ceres
Clean Water Action
Coalition For Humane Immigrant Rights (CHIRLA)
Community Alliance for Agroecology
Community Water Center
Dolores Huerta Foundation
Environmental Defense Fund
Environmental Health Coalition
Esperanza Community Housing Corp
Faith In The Valley
Friends Committee On Legislation Of California
Leadership Council For Justice And Accountability
Lutheran Office of Public Policy - California
Martin Luther King Jr Freedom Center
Mi Familia Vota
NextGen California
Pesticide Action Network North America
Physicians for Social Responsibility - Los Angeles
PICO California
Planning And Conservation League
PODER
Policylink
Professional Engineers In California Government
Public Health Advocates
Pueblo Unido Community Development Coordinator
RCAC
Self-Help Enterprises
Service Employees International Union (SEIU)
The Nature Conservancy
Water Foundation
Western Center On Law And Poverty

Opposition:
Central Garden and Pet
Harrell's LLC
Household and Commercial Products Association
Lawn & Horticulture Products Work Group
Scotts Miracle-Gro Company

Status: AB 217 is a 2-year bill and is currently pending on the Assembly Floor.

AB 134 (Bloom) would require that the Governor's annual budget show expenditures from Safe and Affordable Drinking Water Fund (Fund) and that the LAO review the effectiveness of expenditures from the Fund.
Support/Opposition:
None listed

Status: AB 134 was approved on the Assembly Floor on May 29th and is currently pending in the Senate Rules Committee.

AB 1606 (Gray) would eliminate a state income tax deduction that allows gamblers to deduct losses against winnings for tax purposes. The author projects that this would generate roughly $320 million per year. The bill proposes that some of this revenue be dedicated to funding O&M subsidies to water districts in low income communities around the state, effectively serving as an alternative to the Governor’s proposed water tax. The author argues that this proposal could resolve an apparent impasse between the two houses over how to fund the ongoing operation and maintenance of these small, mostly rural, impaired drinking water systems.

After directing roughly 40 percent for education under Proposition 98, the tax deduction would leave about $200 million per year. While not in the current version of the bill, Assemblyman Gray proposes that the remaining 60 percent, or $115 million, be used for the drinking water fund. The remainder, $85 million, would go toward fledgling University of California medical programs — an expansion of the UC Riverside School of Medicine and a new UC San Francisco branch campus in Fresno and Merced. The schools would also receive $200 million in one-time funding.

Support
CaliforniaHealth+ Advocates
California Medical Association

Opposition
None on file

Status: AB 1606 is now a two-year bill. It did clear the Assembly Floor by the house of origin deadline, but elements of this bill could be adopted as part of the state budget.

SB 200 (Monning) would create the Safe and Affordable Drinking Water Fund, administered by SWRCB, to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards.

Status: SB 200 was approved on the Senate Floor on May 22nd and is currently pending at the Assembly Desk.

Support:
Agricultural Council of California
Alliance of Child & Family Services
American Diabetes Association
American Heart Association/ American Stroke Association
American Rivers
Arvin Community Services District
Asian Pacific Environmental Network
Asociacion de Gente Unida por el Agua
Black Women for Wellness
Burton Snowboards
California Association of Professional Scientists
California Audubon
California Bicycle Coalition
California Cattlemen’s Association
California Citrus Mutual
California Environmental Justice Alliance
California Food Policy Advocates
California Fresh Fruit Association
California Health Care Climate Alliance
California Housing Partnership
California League of Conservation Voters
California Pan-Ethnic Health Network
California Rural Legal Assistance Foundation
California Water Service
Carbon Cycle Institute
Center for Race, Poverty, & the Environment
Central California Environmental Justice Network
Ceres
Channel Island Surfboards
Clean Water Action
Clif Bar & Company
Coalition for Humane Immigrant Rights
Community Alliance for Agroecology
Community Alliance for Agroecology
Community Water Center
Consumer Attorneys of California
Opposition:
San Diego County Water Authority

Status: SB 200 is currently pending at the Assembly desk.

SB 414 (Caballero) would create the Small System Water Authority Act of 2019 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems.

Support:
California Municipal Utilities Association (co-source) 
Eastern Municipal Water District (co-source) 
City of Riverside 
City of Roseville 
Irvine Ranch Water District 
Metropolitan Water District of Southern California 
Municipal Water District of Orange County 
Northern California Water Association 
Orange County Water District

Opposition:
Clean Water Action 
Community Water Council 
Leadership Counsel for Justice and Accountability 
RCAC 
Self-Help Enterprises

Status: SB 414 was approved on the Senate Floor on May 23rd and is at the Assembly Desk.
An act to add Article 10.5 (commencing with Section 595) to Chapter 3 of Part 1 of Division 1 of, to add Article 6.5 (commencing with Section 14615) to Chapter 5 of Division 7 of, to add Article 14.5 (commencing with Section 62215) to Chapter 2 of Part 3 of Division 21 of, and to repeal Section 14616 of, the Food and Agricultural Code, to add Chapter 4.6 (commencing with Section 116765) to Part 12 of Division 104 of, to add Chapter 4.7 (commencing with Section 116774) to Part 12 of Division 104 of, and to repeal Article 5 (commencing with Section 116771) of Chapter 4.6 of Part 12 of Division 104 of, the Health and Safety Code, and to add Section 79724.5 to the Water Code, relating to water, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

(1) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

This bill would enact the Safe Drinking Water for All Act and would establish the Safe and Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the board to provide a source of funding to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure. The bill would authorize the board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, bequests, and settlements from parties responsible for contamination of drinking water supplies, and to contribute funding available from other sources related to water quality. The bill would require the board to expend moneys in the fund for grants, loans, contracts, or services to assist eligible applicants with certain projects. The bill would authorize the board to provide money from the fund to the Attorney General for the purpose of litigation brought against parties responsible for contamination of drinking water supplies to recover the costs of remediation, replacement drinking water supplies, or other board activities that restore safe drinking water to communities and would require all funds recovered through litigation to be deposited into the fund. The bill would require the board, working with a multistakeholder advisory group, to adopt a fund implementation plan and policy handbook with priorities and guidelines for expenditures of the fund. The bill would require the board annually to prepare and make available a report of expenditures from the fund. The bill would require the board to adopt annually, after a public hearing, an assessment of funding need that estimates the anticipated funding needed for the next fiscal year to achieve the purposes of the fund. By creating a new continuously appropriated fund, this bill would make an appropriation.
(2) Existing law, the Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would establish a statewide safe and affordable drinking water system charge in the amount of $0.50 per service connection per month on all public retail water systems. The bill would require each public retail water system to remit to the board the amount of the system charge for their public retail water system on July 1, 2020, and by July 1 annually thereafter. The bill would require these system charges to be deposited into the fund. The bill would require the board, in consultation with the California Department of Tax and Fee Administration, to administer and collect the system charge in accordance with the Fee Collection Procedures Law. The bill would authorize the board to allocate to each drinking water regional office sufficient funds to pay for the development and implementation of sustainable plans for restoring safe drinking water and would require the board to annually allocate up to 20% of the annual revenues originating in each of the Division of Drinking Water regions from the system charge to the region from which the revenues originate. The bill would require the Legislative Analyst to report to the Legislature and the board if the Legislative Analyst determines, on or before January 1, 2023, that at least $3,000,000,000 has been made available in an interest bearing account in the State Treasury with a goal of at least $400,000,000 in interest revenues per year available for the purposes of the Safe and Affordable Drinking Water Fund. The bill would make this reporting requirement and the imposition of the system charges inoperative upon the Legislative Analyst submitting the report, and would repeal them as of January 1 of the year following that determination.

The bill would establish the Safe and Affordable Drinking Water Trust Fund and would require moneys held in the trust fund to be invested by the Treasurer, in consultation with the Director of Finance and the controller, as specified. The bill would transfer the investment income derived from the trust fund on January 1 of each year to the Safe and Affordable Drinking Water Fund. The bill would state that a transfer of $200,000,000 is to be made by the Legislature each year for
5 years for the purpose of establishing a $1,000,000,000 trust account to derive interest revenues to fund the Safe and Affordable Drinking Water Fund.

(2)

(3) Existing law requires every person who manufactures or distributes fertilizing materials to be licensed by the Secretary of Food and Agriculture and to pay a license fee that does not exceed $300. Existing law requires every lot, parcel, or package of fertilizing material to have a label attached to it, as required by the secretary. Existing law requires a licensee who sells or distributes bulk fertilizing materials to pay to the secretary an assessment not to exceed $0.002 per dollar of sales for all sales of fertilizing materials, as prescribed, for the purposes of the administration and enforcement of provisions relating to fertilizing materials. In addition to that assessment, existing law authorizes the secretary to impose an assessment in an amount not to exceed $0.001 per dollar of sales for all sales of fertilizing materials for the purpose of providing funding for research and education regarding the use of fertilizing materials. Existing law specifies that a violation of the fertilizing material laws or the regulations adopted pursuant to those laws is a misdemeanor.

This bill, during the 2020–34 calendar years, would require a licensee to pay to the secretary a fertilizer safe drinking water fee of $0.008 per dollar of sale for all sales of fertilizing materials, as defined, intended for noncommercial use and $0.004 per dollar of sale for all sales of packaged fertilizing materials intended for noncommercial use. The bill, beginning in the 2035 calendar year, would reduce the fee to $0.004 per dollar of sale intended for noncommercial use and $0.002 per dollar of sale of packaged materials intended for noncommercial use. The bill, on and after January 1, 2035, would authorize the secretary to adjust the fee as necessary to meet but not exceed 70% of the anticipated funding need for nitrate in the most recent assessment of funding need adopted by the board or the sum of $7,000,000, whichever is less, and would authorize the secretary to adopt regulations relating to the administration and enforcement of these provisions. The bill would require the secretary to deposit these moneys into the Safe and Affordable Drinking Water Fund. Because a violation of these provisions or regulations adopted pursuant to these provisions would be a crime, the bill would impose a state-mandated local program.

(3)
Existing law regulates the production, handling, and marketing of milk and dairy products and requires every milk handler subject to that regulatory scheme to pay specified assessments and fees to the Secretary of Food and Agriculture to cover the costs of regulating milk. Existing law governing milk defines “handler” as any person who, either directly or indirectly, receives, purchases, or otherwise acquires ownership, possession, or control of market milk from a producer, a producer-handler, or another handler for the purpose of manufacture, processing, sale, or other handling. Existing law defines “market milk” as milk conforming to specified standards and “manufacturing milk” as milk that does not conform to the requirements of market milk. Existing law provides that a violation of that regulatory scheme or a regulation adopted pursuant to that regulatory scheme is a misdemeanor.

This bill would require, beginning January 1, 2022, each handler to deduct from payments made to producers for market and manufacturing milk the sum of $0.01355 $0.020325 per hundredweight of milk as a dairy safe drinking water fee. The bill would require the secretary to deposit these moneys into the Safe and Affordable Drinking Water Fund. The bill would authorize the secretary to take specified enforcement actions and would require the secretary to adopt regulations for the administration and enforcement of these provisions. Because a violation of these provisions or regulations adopted pursuant to these provisions would be a crime, the bill would impose a state-mandated local program.

Existing law requires the Secretary of Food and Agriculture to enforce provisions governing livestock operations. Existing law generally provides that a violation of a provision of the Food and Agricultural Code is a misdemeanor.

This bill would require each producer owning a nondairy confined animal facility, as defined, beginning the 2021 calendar year to pay annually to the secretary a safe drinking water fee of $1,000 for the first facility and $750 per each facility thereafter owned by the same producer, not to exceed $12,000. The bill would require these moneys to be deposited into the Safe and Affordable Drinking Water Fund. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

Existing law, the Water Quality, Supply, and Infrastructure Improvement Act of 2014, a bond act approved by the voters as
Proposition 1 at the November 4, 2014, statewide general election, authorizes the issuance of general obligation bonds to finance a water quality, supply, and infrastructure improvement program, as specified. Under the bond act, $520,000,000 is available, upon appropriation by the Legislature, for expenditures, grants, and loans for projects that improve water quality or help provide clean, safe, and reliable drinking water to all Californians. Of these funds, the bond act makes $260,000,000 available for grants and loans for public water system infrastructure improvements and related actions to meet safe drinking water standards, ensure affordable drinking water, or both, and requires that priority be given to projects that provide treatment for contamination or access to an alternate drinking water source or sources for small community water systems or state small water systems in disadvantaged communities whose drinking water source is impaired, as specified.

This bill, for purposes of an award of the $260,000,000 available from the bond act, would provide that priority is a preference and not a necessary element of funding.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

(7) This bill would declare that it is to take effect immediately as an urgency statute.


The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Safe Drinking Water for All Act.

SEC. 2. Article 10.5 (commencing with Section 595) is added to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, to read:
Article 10.5. Safe Drinking Water Fee for Nondairy Confined Animal Facilities

595. For purposes of this article, the following definitions apply:
   (a) “Fee” means the safe drinking water fee for nondairy confined animal facilities.
   (b) “Fund” means the Safe and Affordable Drinking Water Fund established by Section 116767 of the Health and Safety Code.
   (c) (1) “Nondairy confined animal facilities” means bovine operations, poultry operations, swine operations, and other livestock operations, excluding dairies, where all of the following apply:
       (A) Operations are designed to corral, pen, or otherwise enclose or hold domestic livestock.
       (B) Feeding is exclusively by means other than grazing.
       (C) Facilities are subject to annual fees for confined animal facilities adopted in accordance with Section 13260 of the Water Code.
   (2) “Nondairy confined animal facilities” does not include facilities subject to Article 14.5 (commencing with Section 62215) of Chapter 2 of Part 3 of Division 21.

596. (a) Beginning in the 2021 calendar year, each producer owning a nondairy confined animal facility shall pay annually to the secretary a safe drinking water fee. The amount of the fee paid annually to the secretary shall equal one thousand dollars ($1,000) for a producer that owns a single nondairy confined animal facility. For a producer that owns more than one nondairy confined animal facility, the amount of the fee paid annually to the secretary shall equal one thousand dollars ($1,000) for the first facility and seven hundred fifty dollars ($750) per each facility thereafter owned by the same producer.
   (b) Notwithstanding subdivision (a), the amount of the fee paid annually to the secretary by a producer that owns more than one nondairy confined animal facility shall not exceed twelve thousand dollars ($12,000) per year.
   (c) The secretary may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this article.

597. The secretary shall deposit all moneys received under this article into the fund.
SEC. 3. Article 6.5 (commencing with Section 14615) is added to Chapter 5 of Division 7 of the Food and Agricultural Code, to read:

Article 6.5. Fertilizer Safe Drinking Water Fee

14615. (a) It is the intent of the Legislature to require licensees of bulk fertilizing materials, and to authorize licensees of packaged fertilizing materials, to pass the fertilizer safe drinking water fee on to the end user of the fertilizer.

(b) For purposes of this article, the following definitions apply:

(1) “Bulk fertilizing material” has the same meaning as applies to “bulk material” in Section 14517.

(2) “Compost” has the same meaning as defined in Section 14525.

(3) “Fertilizing material” means any commercial fertilizer, agricultural mineral, auxiliary soil and plant substance, organic input material, or packaged soil amendment. “Fertilizing material” does not include compost.

(4) “Fund” means the Safe and Affordable Drinking Water Fund established by Section 116767 of the Health and Safety Code.

(5) “Noncommercial use” has the same meaning as defined in Section 14549.

(6) “Packaged” has the same meaning as defined in Section 14551.

14616. (a) In addition to the assessments provided in Section 14611, during calendar years 2020 to 2034, inclusive, a licensee whose name appears on the label of packaged fertilizing materials labeled for noncommercial use shall pay to the secretary a fertilizer safe drinking water fee of four mills ($0.004) per dollar of sales for all sales of fertilizing materials to be deposited into the fund.

(b) In addition to the assessments provided in Section 14611, during calendar years 2020 to 2034, inclusive, a licensee whose name appears on the label of fertilizing materials, excluding
packaged fertilizing materials labeled for noncommercial use, shall pay to the secretary a fertilizer safe drinking water fee of eight mills ($0.008) one cent ($0.01) per dollar of sales for all sales of fertilizing materials to be deposited into the fund.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2035, deletes or extends that date.

14617. (a) In addition to the assessments provided in Section 14611, beginning with calendar year 2035, a licensee whose name appears on the label of packaged fertilizing materials labeled for noncommercial use shall pay to the secretary a fertilizer safe drinking water fee of two mills ($0.002) per dollar of sales for all sales of fertilizing materials to be deposited into the fund.

(b) In addition to the assessments provided in Section 14611, beginning with calendar year 2035, a licensee whose name appears on the label of a fertilizing material, excluding packaged fertilizing materials labeled for noncommercial use, shall pay to the secretary a fertilizer safe drinking water fee of four mills ($0.004) per dollar of sales for all sales of fertilizing materials to be deposited into the fund.

(c) (1) The secretary may adjust the fertilizer safe drinking water fee through regular or emergency regulation as necessary to meet but not exceed 70 percent of the anticipated funding need for nitrate in the most recent assessment of funding need adopted by the State Water Resources Control Board pursuant to subdivision (b) of Section 116769 of the Health and Safety Code, or the sum of seven million dollars ($7,000,000), whichever is less. By October 1 of each year, the secretary shall notify all licensees of the amount of the fertilizer safe drinking water fee to be assessed in the following calendar year.

(2) An emergency regulation adopted pursuant to this subdivision shall be adopted by the secretary in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Any emergency regulations adopted by the secretary pursuant to this subdivision shall remain in effect until revised by the secretary.

(d) This section shall become operative on January 1, 2035.
14618. (a) (1) A licensee whose name appears on the label who sells or distributes bulk fertilizing materials shall charge an unlicensed purchaser the fertilizer safe drinking water fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the purchaser. This fee shall be included on the bill of sale as a separate line item.

(2) (A) A licensee whose name appears on the label of packaged fertilizing materials may include the fertilizer safe drinking water fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the purchaser or may include the charge with the assessment collected pursuant to Section 14611 as a separate line item on the bill of sale and identified as the California Regulatory and Safe Drinking Water Assessment.

(B) Notwithstanding paragraph (1), a licensee whose name appears on the label who sells or distributes bulk fertilizing material may include the fertilizer safe drinking water fee with the assessment collected pursuant to Section 14611 as a separate line item on the bill of sale and identified as the California Regulatory and Safe Drinking Water Assessment.

(b) The secretary may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this article.

(c) Beginning July 1, 2022, the secretary may retain up to 5 percent of the moneys collected pursuant to this article for reasonable costs associated with the implementation and enforcement of this article.

14619. The secretary shall deposit all moneys received under this article into the fund.

SEC. 4. Article 14.5 (commencing with Section 62215) is added to Chapter 2 of Part 3 of Division 21 of the Food and Agricultural Code, to read:

Article 14.5. Dairy Safe Drinking Water Fee

62215. (a) It is the intent of the Legislature that the dairy safe drinking water fee described in Section 62216 be paid for all milk produced in the state, regardless of grade.

(b) For purposes of this article, the following definitions apply:

(1) “Fee” means the dairy safe drinking water fee.
(2) “Fund” means the Safe and Affordable Drinking Water Fund established by Section 116767 of the Health and Safety Code.

(3) “Manufacturing milk” has the same meaning as defined in Section 32509.

(4) “Market milk” has the same meaning as defined in Section 32510.

(5) “Milk” includes market milk and manufacturing milk.

62216. (a) Beginning January 1, 2022, each handler, including a producer-handler, shall deduct the sum of one cent and three hundred fifty-five mills ($0.01355) two cents and three hundred twenty-five-tenths mills ($0.020325) per hundredweight of milk from payments made to producers for milk, including the handler’s own production, as a dairy safe drinking water fee.

(b) The secretary shall adopt regulations necessary for the proper administration and enforcement of this section by January 1, 2022.

62217. (a) A handler shall pay the dairy safe drinking water fee to the secretary on or before the 45th day following the last day of the month in which the milk was received.

(b) The secretary shall deposit all moneys received under this article into the fund.

(c) (1) Except as provided in paragraph (2), the secretary may retain up to 4 percent of the total amount that is paid to the secretary pursuant to this article for reasonable costs of the secretary associated with the implementation and enforcement of this article.

(2) Beginning July 1, 2022, the secretary may retain up to 2 percent of the moneys collected pursuant to this article for reasonable costs of the secretary associated with the implementation and enforcement of this article.

(d) The secretary may require handlers, including cooperative associations acting as handlers, to make reports at any intervals and in any detail that the secretary finds necessary for the accurate collection of the fee.

(e) For the purposes of enforcing this article, the secretary, through the secretary’s duly authorized representatives and agents, shall have access to the records of every producer and handler. The secretary shall have at all times free and unimpeded access to any building, yard, warehouse, store, manufacturing facility, or transportation facility in which any milk or milk product is produced, bought, sold, stored, bottled, handled, or manufactured.
(f) Any books, papers, records, documents, or reports made to, acquired by, prepared by, or maintained by the secretary pursuant to this article that would disclose any information about finances, financial status, financial worth, composition, market share, or business operations of any producer or handler, excluding information that solely reflects transfers of production base and pool quota among producers, is confidential and shall not be disclosed to any person other than the person from whom the information was received, except pursuant to the final order of a court with jurisdiction, or as necessary for the proper determination of any proceeding before the secretary.

SEC. 5. Chapter 4.6 (commencing with Section 116765) is added to Part 12 of Division 104 of the Health and Safety Code, to read:

**CHAPTER 4.6. SAFE AND AFFORDABLE DRINKING WATER**

**Article 1. Legislative Findings and Declarations**

116765. (a) *It is the intent of the Legislature to secure safe drinking water for all Californians by establishing the Safe and Affordable Drinking Water Fund in order to address current barriers to safe drinking water, including, but not limited to, lack of funding for interim and long-term drinking water solutions, the need for funding for technical assistance, and funding for long-term operation and maintenance costs.*

(b) It is the intent of the Legislature that any interest revenues from the Safe and Affordable Drinking Water Trust Fund as well as revenue from fees deposited in the Safe and Affordable Drinking Water Fund be available annually for the purposes of this chapter.

**Article 2. Definitions**

116766. For the purposes of this chapter:

(a) “Administrator” has the same meaning as defined in Section 116686.

(b) “Board” means the State Water Resources Control Board.

(c) “Community water system” has the same meaning as defined in Section 116275.
(d) “Disadvantaged community” has the same meaning as defined in Section 116275.

(e) “Domestic well” means a groundwater well used to supply water for the domestic needs of an individual residence or water systems that are not public water systems and that have no more than four service connections.

(f) “Eligible applicant” means a public water system, including, but not limited to, a mutual water company; a public utility; a public agency, including, but not limited to, a local educational agency that owns or operates a public water system; a nonprofit organization; a federally recognized Indian tribe; a state Indian tribe listed on the Native American Heritage Commission’s California Tribal Consultation List; an administrator; or a groundwater sustainability agency.

(g) “Fund” means the Safe and Affordable Drinking Water Fund established pursuant to Section 116767.

(h) “Fund implementation plan” means the fund implementation plan adopted pursuant to Section 116769.

(i) “Groundwater sustainability agency” has the same meaning as defined in Section 10721 of the Water Code.

(j) “Low-income household” means a household with an income that is less than 80 percent of the statewide median household income. 200 percent of the federal poverty level.

(k) “Public water system” has the same meaning as defined in Section 116275.

(l) “Replacement water” includes, but is not limited to, bottled water, vended water, point-of-use, or point-of-entry treatment units.

(m) “Retail water system” has the same meaning as provided in Section 116455.

(n) “Safe drinking water” has the same meaning as defined in Section 116681. means drinking water that meets primary and secondary drinking water standards and applicable regulations and does not contain unhealthy levels of copper or lead.

(o) “Service connection” has the same meaning as defined in Section 116275.
“State small water system” has the same meaning as defined in Section 116275.

“(p) “Vended water” has the same meaning as defined in Section 111070.

Article 3. Safe and Affordable Drinking Water Fund

116767. (a) The Safe and Affordable Drinking Water Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the board without regard to fiscal years, in accordance with this chapter. Moneys in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the General Fund. Moneys in the fund shall not be available for appropriation or borrowed for use for any purpose not established in this chapter unless that use of the moneys receives an affirmative vote of two-thirds of the membership in each house of the Legislature.

(b) The board shall report annually in the Governor’s budget fund revenues, including interest revenues, expenditures, and fund balances.

116768. (a) The board shall administer the fund for the purposes of this chapter to provide a source of funding to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure. The board shall prioritize the use of this funding to assist disadvantaged communities and low-income households. In order to maximize the use of other funding sources for capital construction projects when available, the board shall prioritize use of this funding for costs other than those related to capital construction costs, except for capital construction costs associated with consolidation and service extension to reduce the ongoing unit cost of service and to increase sustainability of drinking water infrastructure and service delivery. Beginning January 1, 2020, an expenditure from the fund shall be consistent with the annual fund implementation plan.

(b) In accordance with subdivision (a), the board shall expend moneys in the fund for grants, loans, contracts, or services to assist eligible applicants with any of the following:
(1) The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.

(2) The development, implementation, and sustainability of long-term drinking water solutions that include, but are not limited to, the following:
   (A) Technical assistance, planning, construction, repair, and operation and maintenance costs associated with replacing, blending, or treating contaminated drinking water or with fixing or replacing failing water systems; system infrastructure, pipes, or fixtures. Technical assistance and planning costs may include, but are not limited to, analyses to identify, and efforts to further, opportunities to reduce the unit cost of providing drinking water through organizational and operational efficiency improvements, system consolidation and service extension, implementation of new technology, and other options and approaches to reduce costs.
   (B) Operations and maintenance costs associated with consolidated water systems, extended drinking water services, or reliance on a substituted drinking water source.
   (C) Creating and maintaining natural means and green infrastructure solutions that contribute to sustainable drinking water.
   (D) Consolidating water systems.
   (E) Extending drinking water services to other public water systems, domestic wells, or state small water systems.
   (F) The satisfaction of outstanding long-term debt obligations of public water systems where the board determines that a system’s lack of access to capital markets renders this solution the most cost effective for removing a financial barrier to the system’s sustainable, long-term provision of drinking water.

(3) Identifying and providing outreach to Californians who are eligible to receive assistance from the fund.

(4) Testing the drinking water quality of domestic wells serving low-income households in high-risk areas identified pursuant to Section 117211.

(5) The provision of administrative and managerial services under Section 116686.

(6) Provision of wastewater treatment plant operations and maintenance for areas in which polluted water originates from outside the state.
(c) The board may provide money from the fund to the Attorney General for the purpose of litigation brought against parties responsible for contamination of drinking water supplies to recover the costs of remediation, replacement drinking water supplies, or other board activities that restore safe drinking water to communities, including the costs of litigation. All funds recovered through litigation shall be deposited into the fund.

(d) The board may expend moneys from the fund for reasonable costs associated with administration of the fund. Beginning July 1, 2022, the board may expend no more than 5 percent of the annual revenues from the fund for reasonable costs associated with administration of the fund.

(e) The board may undertake any of the following actions to implement the fund:

1. Provide for the deposit of any of the following moneys into the fund:
   (A) Federal contributions.
   (B) Voluntary contributions, gifts, grants, or bequests.
   (C) Settlements from parties responsible for contamination of drinking water supplies.

2. Enter into agreements for contributions to the fund from the federal government, local or state agencies, and private corporations or nonprofit organizations.

3. Provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

4. Direct portions of the fund to a subset of eligible applicants as required or appropriate based on funding source and consistent with the annual fund implementation plan.

5. Direct moneys deposited into the fund described in subparagraph (B) of paragraph (1) towards a specific project, program, or study.

6. Contribute funding available from other sources related to water quality to the fund or combine funding from the other sources with money from the fund to support activities otherwise authorized by this article.

7. Take additional action as may be appropriate for adequate administration and operation of the fund.

(e)
(f) In administering the fund, the board shall make reasonable efforts to ensure all of the following:

1. That parties responsible for contamination of drinking water supplies affecting an eligible applicant who can be directly or easily identified by the board pay or reimburse costs associated with contamination.

2. 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. Funding shall be prioritized to implement consolidations and service extensions when feasible, and administrative and managerial contracts or grants entered into pursuant to Section 116686 where applicable. Funds shall not be used to delay, prevent, or avoid the consolidation or extension of service to public water systems where it is feasible and the least-cost alternative. The board may set appropriate requirements as a condition of funding, including, but not limited to, a system technical, managerial, or financial capacity audit, improvements to reduce costs and increase efficiencies, an evaluation of alternative treatment technologies, and a consolidation or service extension feasibility study. As a condition of funding, the board may require a domestic well with nitrate contamination where ongoing septic system failure may be causing or contributing to contamination of a drinking water source to conduct an investigation and project to address the septic system failure if adequate funding sources are identified and accessible.

3. That funds are not used to subsidize large-scale nonpotable use.

4. That the total uncommitted amount in the fund does not exceed two times the anticipated funding need in the most recent assessment of funding need.

(g) In administering the fund, the board shall ensure that all moneys deposited into the fund from the safe drinking water fee for nondairy confined animal facilities pursuant to Article 10.5 (commencing with Section 595) of Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, the fertilizer safe drinking
water fee pursuant to Article 6.5 (commencing with Section 14615) of Chapter 5 of Division 7 of the Food and Agricultural Code, and the dairy safe drinking water fee pursuant to Article 14.5 (commencing with Section 62215) of Chapter 2 of Part 3 of Division 21 of the Food and Agricultural Code shall be used to address nitrate-related contamination issues.

(h) At least once every 10 years, the board shall conduct a public review and assessment of the fund to determine all of the following:

1. The effectiveness of the fund in securing access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure.
2. If the fees deposited into the fund have been appropriately expended.
3. For community water systems that have received funding for 10 years or more and for which self-sufficiency has not been achieved, the actions that have been taken, the reasons why self-sufficiency has not been achieved, and, if available, ways in which the community water system may become self-sufficient.
4. What other actions are necessary to carry out the purposes of this chapter.

(i) Neither the board nor any employee of the board may be held liable for any act that is necessary to carry out the purposes of this chapter. The board or any authorized person shall not be deemed to have incurred or to be required to incur any obligation to provide additional funding or undertake additional action solely as a result of having undertaken an action pursuant to this chapter.

(j) (1) The board shall convene an environmental justice advisory committee, for the purposes of this section, consisting of at least three members, to advise it in conducting the public review and assessment pursuant to subdivision (g) (h) and any other pertinent matter in implementing this chapter. The advisory committee shall be comprised of representatives from communities in the state with the most significant exposure to water pollution, including, but not limited to, communities with minority populations or low-income populations, or both.
(2) The board shall appoint committee members to the environmental justice advisory committee from nominations received from environmental justice organizations and community groups.

(3) The board shall provide reasonable per diem for attendance at environmental justice advisory committee meetings by committee members from nonprofit organizations.

116769. By July 1 of each year, the board shall do all of the following:
(a) Prepare and make available a report of expenditures from the fund.
(b) Adopt, after a public hearing, an assessment of funding need, based on available data, that includes all of the following:
   (1) Identification of systems and populations potentially in need of assistance, including, but not limited to, all of the following:
   (A) A list of systems that consistently fail to provide an adequate supply of safe drinking water. The list shall include all of the following:
      (i) Any public water system that consistently fails to provide an adequate supply of safe drinking water.
      (ii) Any community water system that serves a disadvantaged community that must charge fees that exceed the affordability threshold established in the board’s Safe Drinking Water State Revolving Fund Intended Use Plan in order to supply, treat, and distribute potable water that complies with federal and state drinking water standards.
      (iii) Any state small water system that consistently fails to provide an adequate supply of safe drinking water.
   (B) A list of programs that assist, or that will assist, households supplied by a domestic well that consistently fails to provide an adequate supply of safe drinking water. This list shall include the number and approximate location of households served by each program without identifying exact addresses or other personal information.
   (C) A list of public water systems and state small water systems that may be at risk of failing to provide an adequate supply of safe drinking water.
   (D) An estimate of the number of households that are served by domestic wells or state small water systems in high-risk areas identified pursuant to Section 117211. The estimate shall identify
approximate locations of households, without identifying exact
addresses or other personal information, in order to identify
potential target areas for outreach and assistance programs.

(E) An estimate of the need related to drinking water containing
unhealthy levels of copper or lead that includes, but is not limited
to, unhealthy levels of lead and copper in drinking water in schools
and daycare facilities.

(2) An analysis of anticipated funding, per contaminant, needed
for known projects, services, or programs by eligible applicants,
consistent with the fund implementation plan, including any
funding needed for existing long-term funding commitments from
the fund. The board shall identify and consider other existing
funding sources able to support any projects, services, or programs
identified, including, but not limited to, local funding capacity,
state or federal funding sources for capital projects, funding from
responsible parties, and specialized funding sources contributing
to the fund.

(3) An estimate of the funding needed for the next fiscal year
based on the amount available in the fund, anticipated funding
needs, other existing funding sources, and other relevant data and
information.

(c) (1) Adopt, after a public hearing, a fund implementation
plan and policy handbook with priorities and guidelines for
expenditures of the fund.

(2) The board shall work with a multistakeholder advisory group
to establish priorities and guidelines for the fund implementation
plan and policy handbook. The multistakeholder advisory group
shall be open to participation by all of the following:

(A) Representatives of entities paying into the fund.

(B) Public water systems.

(C) Technical assistance providers.

(D) Local agencies.

(E) Nongovernmental organizations.

(F) Residents served by community water systems in
disadvantaged communities, state small water systems, and
domestic wells.

(G) The public.

(3) The adoption of a fund implementation plan and policy
handbook and the implementation of the fund pursuant to the policy
handbook are not subject to the Administrative Procedure Act
Article 5. Statewide Safe and Affordable Drinking Water System Charge

116771. (a) There is hereby imposed a statewide safe and affordable drinking water system charge of fifty cents ($0.50) per service connection per month on all public retail water systems.

(b) (1) By July 1, 2020, and annually by each July 1 thereafter, each public retail water system shall remit to the board the amount of the system charge imposed pursuant to subdivision (a) for their public retail water system.

(2) To the extent that a public water system seeks to recover the costs of the system charge from its ratepayers, it shall incorporate the costs into its water rates and shall not impose a per-connection fee. A public water system may draw on other available financial resources to pay the system charge.

(c) (1) The board may adopt regulations to implement and enforce this article.

(2) The regulations adopted pursuant to this section, or any amendment to these regulations, the board shall adopt as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and the Office of Administrative Law shall consider the adoption of the regulations as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(3) The board shall adopt the initial regulations to implement this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and may not rely on the statutory declaration of emergency in paragraph (2).

(4) Any emergency regulations adopted by the board pursuant to this section shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the board.

(d) (c) The executive director of the board shall deposit all moneys received pursuant to this section in the fund. The board may expend
moneys from the fund for reasonable costs associated with the
implementation and enforcement of this section.

116772. (a) The Legislative Analyst shall report to the
Legislature and the board if the Legislative Analyst determines,
on or before January 1, 2023, that at least three billion dollars
($3,000,000,000) has been made available in an interest bearing
account in the State Treasury with a goal of at least one hundred
million dollars ($100,000,000) in interest revenues per year
available for the purposes of the fund.

(b) (1) A report to be submitted pursuant to subdivision (a)
shall be submitted in compliance with Section 9795 of the
Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this
section is repealed on January 1, 2027.

(c) This article shall become inoperative upon the Legislative
Analyst submitting a report pursuant to subdivision (a), and, as of
January 1 of the year following that determination, is repealed.

116772. (a) The board, in consultation with the California
Department of Tax and Fee Administration, shall administer and
collect the system charge imposed by this article in accordance
with the Fee Collection Procedures Law (Part 30 (commencing
with Section 55001) of Division 2 of the Revenue and Taxation
Code).

(b) For purposes of administration of the system charge imposed
by this article, the following references in the Fee Collection
Procedures Law shall have the following meanings:

(1) “Board” or “State Board of Equalization” means the State
Water Resources Control Board.

(2) “Fee” means the safe and affordable drinking water system
charge imposed pursuant to this article.

(3) “Feepayer” means a customer liable to pay the fee.

(c) The board, in consultation with the California Department
of Tax and Fee Administration, may prescribe, adopt, and enforce
regulations relating to the administration and enforcement of this
article, including, but not limited to, collections, reporting, refunds,
and appeals.

(d) The initial regulations adopted by the board to implement
this article shall be adopted in accordance with Chapter 3.5
(commencing with Section 11340) of Part I of Division 3 of Title
2 of the Government Code, and shall not rely on the statutory
declaration of emergency in subdivision (e).

(e) Except as provided in subdivision (d), the regulations
adopted pursuant to this section, any amendment to those
regulations, or subsequent adjustments to the annual fees or
adoption of fee schedule, shall be adopted by the board as
emergency regulations in accordance with Chapter 3.5
(commencing with Section 11340) of Part 1 of Division 3 of Title
2 of the Government Code. The adoption of these regulations is
an emergency and shall be considered by the Office of
Administrative Law as necessary for the immediate preservation
of the public peace, health, safety, and general welfare. Any
emergency regulations adopted by the board, or adjustments to
the annual fees made by the board pursuant to this section, shall
remain in effect until revised by the board.

Article 6. Regional Distribution

116773. (a) The Legislature finds and declares as follows:
(1) Water quality problems occur in all areas of the state,
including rural and urban areas.
(2) In particular, aging school infrastructure, including lead
pipes, puts at risk thousands of children per year.
(b) It is the intent of the Legislature to establish a region-specific
program to address the purposes of this chapter.
(c) (1) The board may allocate to each regional office sufficient
funds to pay for the development of sustainable plans for restoring
safe drinking water to the communities identified by the board as
provided in Article 3 (commencing with Section 117220) of
Chapter 8.
(2) The board may allocate funding to a regional office for
implementation of an approved sustainable plan for restoring safe
drinking water to an identified community.
(d) The board shall annually allocate 20 percent of the annual
revenues originating in each of the Division of Drinking Water
regions from the statewide safe and affordable drinking water
system charge imposed pursuant to Article 5 (commencing with
Section 116771) to the region from which the revenues originate
pursuant to subdivision (c). Funding allocated to a region that the
regional engineer does not expend in the region for two or more
years shall revert to the fund.

SEC. 6. Chapter 4.7 (commencing with Section 116774) is
added to Part 12 of Division 104 of the Health and Safety Code;
to read:

Chapter 4.7. Safe and Affordable Drinking Water Trust
Fund

116774. (a) The Safe and Affordable Drinking Water Trust
Fund is hereby established within the State Treasury. It is the intent
of the Legislature that moneys in the trust fund remain for the
purposes of the trust in perpetuity.

(b) Moneys held in the trust fund shall be invested by the
Treasurer, in consultation with the Director of Finance and the
Controller, in investments authorized by Section 16430 of the
Government Code.

(c) Investment income derived from the trust fund is hereby
transferred on January 1 of each year to the Safe and Affordable
Drinking Water Fund, established by Section 116767 for the
purposes of Chapter 4.6 (commencing with Section 116765).

116774.1. The sum of two hundred million dollars
($200,000,000) shall be transferred to the trust fund by the
Legislature each year for five years for the purpose of establishing
a one-billion-dollar ($1,000,000,000) trust fund to derive interest
revenues to fund Chapter 4.6 (commencing with Section 116765).

SEC. 7.

SEC. 6. Section 79724.5 is added to the Water Code, to read:

79724.5. Priority is a preference and not a necessary element
for an award of funding available pursuant to Section 79724.

SEC. 8.

SEC. 7. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.
SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure public health and safety relative to the funding for and provision of safe drinking water, it is necessary that this act take effect immediately.
Attachment 3
An act to add Chapter 8 (commencing with Section 117200) to Part 12 of Division 104 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL’S DIGEST


(1) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. The act authorizes the board to order consolidation with a receiving water system where a public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. The act, if consolidation is either not appropriate or not technically and economically feasible, authorizes the board to contract with an administrator to provide administrative and managerial services to designated public water systems and to order the designated public water system to accept administrative and managerial services, as specified. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water.
adequate for human consumption, cooking, and sanitary purposes. Assembly Bill 217 of the 2019–20 Regular Session of the Legislature, if enacted, would require the board to adopt an assessment of funding need that identifies systems and populations potentially in need of assistance and an analysis of anticipated funding needed based on the amount available in the Safe and Affordable Drinking Water Fund.

This bill, by July 1 of each year, would require the board to adopt an assessment of need for state financial assistance to provide safe drinking water that identifies failed water systems throughout the state. The bill would require the assessment of need to prioritize the systems with the most urgent need for state financial assistance in light of specified factors. The bill would require the board, upon adoption of an assessment of funding need, to convey to each regional engineer a list of at-risk water systems in that region and additional information. The bill would require the board by December 31 of each year to review the assessment of funding need and to prioritize the public water systems, community water systems, state small water systems, and domestic wells with the most urgent need for state financial assistance. The bill would require each regional engineer to arrange for a prescribed comprehensive assessment analysis of each failed at-risk water system in the region of the drinking water regional office to be completed within 2 years of the board identifying the failed at-risk water system in the assessment of funding need. The bill would require a regional engineer to review a comprehensive assessment analysis and develop and submit a recommendation to the board as to the preferred options or plan presented by the comprehensive assessment analysis within 60 days of the submission of the comprehensive assessment analysis. The bill would require the board to consider the comprehensive assessment analysis and recommendation at a public hearing within 90 days of receiving a recommendation from a regional engineer, to request recommendations from all divisions of the board to ensure coordination with other related water quality and water resource programs, and to review a recommendation of a regional engineer in light of the recommendation’s likelihood of success in creating a stable and sustainable supply of safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. The bill would require the board to adopt and provide for a sustainable plan for restoring safe drinking water based on the recommendation of the regional engineer.
This bill would require the board to ensure that water systems that serve new communities will provide safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes, fulfill legal requirements for technical, managerial, and financial capacity, and will be sustainable over the long term. The bill would require the board to report to the Legislature by July 1, 2025, on its progress in restoring safe drinking water to all California communities and to create an internet website that provides data transparency for all of the board’s activities described in this measure. The bill would require the board to develop metrics to measure the efficacy of the fund in ensuring safe and affordable drinking water for all Californians. The bill would require the Legislative Analyst’s Office, at least every 5 years, to provide an assessment of the effectiveness of expenditures from the Safe and Affordable Drinking Water Fund proposed by AB 217 of the 2019–20 Regular Session.

(2) Existing law, the federal Safe Drinking Water Act, requires the federal Environmental Protection Agency to establish national primary drinking water standards for public water systems, prohibits states from enacting drinking water laws that are less stringent than the federal primary drinking water standards, and establishes procedures for state compliance. The California Safe Drinking Water Act requires the board to adopt primary drinking water standards for contaminants in drinking water based upon specified criteria, to review the standards at least once every 5 years, and to amend the standards under certain circumstances.

This bill would require the board to develop an enforcement assistance implementation plan, in connection with the adoption of any new or revised primary drinking water standard, that considers the ability of any public water system that serves a disadvantaged community to comply with the primary drinking water standard. The bill would require an enforcement assistance implementation plan to include provisions for funding sources to assist any public water system that is found to be unable to timely comply with a new or revised primary drinking water standard.

This bill would require, by January 1, 2021, the board, in consultation with local health officers and other relevant stakeholders, to make available a map of aquifers that are used or likely to be used as a source of drinking water that are at high risk of containing contaminants. The bill would require the board to make available to each regional engineer a map of high-risk areas in that region. For purposes of the map, the bill would require local health officers and other relevant local agencies
to provide all results of, and data associated with, water quality testing performed by certified laboratories to the board, as specified. By imposing additional duties on local health officers and local agencies, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(4) This bill would make its operation contingent on the enactment of AB 217 of the 2019–20 Regular Session of the Legislature.


The people of the State of California do enact as follows:

SECTION 1. Chapter 8 (commencing with Section 117200) is added to Part 12 of Division 104 of the Health and Safety Code, to read:

CHAPTER 8. SAFE DRINKING WATER RESTORATION


117200. The Legislature finds and declares all of the following:
(a) Section 106.3 of the Water Code declares that it is the policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.
(b) According to the board, as of November 2017, there are approximately 300 public water systems in the State of California that are chronically serving contaminated water to their customers and are operationally deficient in violation of public health regulations.
(c) In addition, other public water systems suffer from contamination that is emerging or expanding, putting their communities’ safe drinking water supply at growing risk.

(d) To ensure that the right of every Californian to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes is protected, it is in the interest of the State of California to identify where Californians are at high risk of lacking reliable access to safe drinking water or are known to lack reliable access to safe drinking water, whether they rely on a public water system, state small water system, or domestic well for their potable water supply.

(e) Long-term sustainability of drinking water infrastructure and service provision is necessary to secure safe drinking water for all Californians and therefore it is in the interest of the state to discourage the proliferation of new, unsustainable public water systems and state small water systems, to prevent waste, and to encourage consolidation and service extension when feasible.

117201. Unless the context otherwise requires, the following definitions govern this chapter:

(a) “Administrator” has the same meaning as defined in Section 116686.

(b) “At-risk water system” means a water system that consistently fails to provide an adequate supply of safe drinking water, is at substantial risk of failing to provide an adequate supply of safe drinking water, or suffers from unhealthy levels of copper or lead in its water.

(c) “Assessment of funding need” means the assessment of funding need for state financial assistance to provide safe drinking water adopted by the board pursuant to Section 117210.

(d) “Board” means the State Water Resources Control Board.

(e) “Community water system” has the same meaning as defined in Section 116275.

(f) “Disadvantaged community” has the same meaning as defined in Section 116275.
(g) “Domestic well” means a groundwater well used to supply water for the domestic needs of an individual residence or water system that is not a public water system and that has no more than four service connections.

(h) “Eligible applicant” means a public water system, including, but not limited to, a mutual water company, a public utility, a public agency, including including, but not limited to, a local educational agency that owns or operates a public water system, a nonprofit organization, a federally recognized Indian tribe, a state Indian tribe listed on the Native American Heritage Commission’s California Tribal Consultation List, an administrator, or a groundwater sustainability agency.

(i) “Failed water system” means a water system that consistently fails to provide an adequate supply of safe drinking water, or is at substantial risk of failing to provide an adequate supply of safe drinking water.

(j) “Fund” means the Safe and Affordable Drinking Water Fund established pursuant to Section 116767.

(k) “Public agency” means a state entity, county, city, special district, or other political subdivision of the state.

(l) “Public water system” has the same meaning as defined in Section 116275.

(m) “Replacement water” includes, but is not limited to, bottled water, vended water, or point-of-use or point-of-treatment units.

(n) “Safe drinking water” has the same meaning as defined in Section 116681. means drinking water that meets primary and secondary drinking water standards and applicable regulations and does not contain unhealthy levels of copper or lead.

(o) “State small water system” has the same meaning as defined in Section 116275.

Article 2. Assessment and Planning

117210. (a) By July 1 of each year the board shall adopt, after a public hearing and based on available data, an assessment of need for state financial assistance to provide safe drinking water. The assessment of need shall identify failed water systems.
throughout the state. The assessment of need shall include, but is not limited to, all of the following:

(1) Any public water system that consistently fails to provide an adequate supply of safe drinking water.

(2) Any community water system that serves a disadvantaged community that must charge fees that exceed the affordability threshold established in the Clean Water State Revolving Fund Intended Use Plan in order to supply, treat, and distribute potable water that complies with federal and state drinking water standards.

(3) Any state small water system that consistently fails to provide an adequate supply of safe drinking water.

117210. (a) The board, upon adoption of the assessment of funding need, shall convey to each regional engineer a list of at-risk water systems in that region and additional information regarding at-risk water systems and communities reliant on domestic wells that do not supply an adequate or reliable supply of safe drinking water.

(b) A regional engineer shall review additional information generated from analyses of drinking water deficiencies and wastewater deficiencies, including, but not limited to, analyses conducted pursuant to Sections 56425, 56430, and 65302.10 of the Government Code.

(b) The assessment of need shall prioritize the systems:

(c) By December 31 of each year, the board shall review the assessment of funding need and shall prioritize the public water systems, community water systems, state small water systems, and domestic wells with the most urgent need for state financial assistance, in light of the following factors:

(1) Severity of the public health threat.

(2) The extent to which the community served by the public water system is a disadvantaged community.

(3) The number of people served by the water system.

(4) Technical, managerial, and financial capacity of the entity that operates the water system.

(d) The assessment of funding need and priorities shall consider all information submitted to the board in furtherance of the board’s duty to complete the assessment of funding need.

117211. (a) (1) By January 1, 2021, the board, in consultation with local health officers and other relevant stakeholders, shall use
available data to make available a map of aquifers that are at high
risk of containing contaminants and that exceed primary federal
and state drinking water standards that are used or likely to be used
as a source of drinking water for a state small water system or a
domestic well. The board shall update the map at least annually
based on any newly available data. The board shall make available
a map of high-risk areas in a region to each regional engineer.

(2) The board shall make the map of high-risk areas, as well as
the data used to make the map, publicly accessible on its internet
website in a manner that does not identify exact addresses or other
personal information and that complies with the Information
Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
of Title 1.8 of Part 4 of Division 3 of the Civil Code). The board
shall notify local health officers and county planning agencies of
high-risk areas within their jurisdictions.

(b) (1) By January 1, 2021, a local health officer or other
relevant local agency shall provide to the board all results of, and
data associated with, water quality testing performed by certified
laboratories for a state small water system or domestic well that
was collected after January 1, 2015, and that is in the possession
of the local health officer or other relevant local agency.

(2) By January 1, 2022, and by January 1 of each year thereafter,
all results of, and data associated with, water quality testing
performed by a certified laboratory for a state small water system
or domestic well that is submitted to a local health officer or other
relevant local agency shall also be submitted directly to the board
in electronic format.

(c) A map of high-risk areas developed pursuant to this article
is not subject to the Administrative Procedure Act (Chapter 3.5
(commencing with Section 11340) of Part 1 of Division 3 of Title

117212. (a) Each regional engineer shall arrange for a
comprehensive assessment analysis of each failed at-risk water
system in the region of the drinking water regional office to be
completed within two years of the board identifying the failed
at-risk water system in the assessment of funding need. The
regional engineer may combine more than one failed water system
in the region for the purposes of a comprehensive assessment. A
comprehensive assessment shall be submitted to the regional
engineer and posted on the board’s internet website. analysis.
(b) The regional engineer shall post a comprehensive analysis on the board’s internet website. A comprehensive assessment analysis shall review a failed an at-risk water system’s water supply and infrastructure and the entity that operates the failed at-risk water system. A comprehensive assessment shall include all of the following:

1. The sources and quality of its water supply, including, the primary and secondary contaminants in each of the failed at-risk water system’s water sources.
2. The condition of its physical infrastructure.
3. The technical, managerial, and financial qualifications of the entity that operates the water system.
4. Alternative water supplies that comply with safe drinking water standards adopted pursuant to this part and a method to connect the failed system to the alternative water supplies.
5. One or more options for resolving the problems that cause or caused the water system to fail be at-risk and making the water system sustainable over the long term. The options shall address, to the extent necessary, problems with physical infrastructure, water supply quality, and governance of the failed at-risk water system. The options shall address opportunities to consolidate public water systems, community water systems, state small water systems, and domestic wells that may benefit from the proposed solution.
6. Engagement of members of the community served by the failed at-risk water system to improve understanding of the failed at-risk water system’s problems, the options for addressing the problems, and the challenges in overcoming the problems.
7. Consideration of the unique nature of the community served by the failed at-risk water system, including, but not limited to, the following:
   A. The community’s economic conditions.
   B. Community member reliance on languages other than English and their immigration status.
   C. Physical proximity to other water systems and communities.
   D. The community’s willingness and capacity to afford and support the operation and maintenance of new water infrastructure.
   E. Technical, managerial, and financial capacity of the entity that operates the failed at-risk water system.
(8) Local agency actions that would be required to support each proposed solution, including consolidations, service extensions, and other organizations or sphere of influence updates pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code.

(9) Consultation with the Office of Sustainable Water Solutions within the board, any local primacy agency with authority over the at-risk water system, and representatives of and community members served by the at-risk water system.

(c) A comprehensive assessment may include the following:

(1) A comprehensive analysis shall include a proposed plan that includes a set of options to address several problems either concurrently or sequentially that ensure the long-term sustainability of the at-risk water system.

(2) Assistance from a local advisory committee that may include local residents, customers of the failed water system, elected officials, business owners, or farmers.

(d) A regional engineer may do the following:

(1) Contract or otherwise provide funding to one or more of the following entities to complete the comprehensive assessment:

(A) Nonprofit organizations.

(B) Water agencies.

(C) Counties.

(D) Cities.

(E) For-profit businesses, such as engineering consulting firms.

(2) Organize a local advisory committee that may include local residents of the at-risk water system, elected officials of local public agencies, local water systems, business owners, or farmers.

(3) Organize a strike team that combines the entities identified in subparagraphs (A) to (E), inclusive, of paragraph (1) to provide diverse expertise, experience, and perspective relating to topics that may include engineering, government, administration, water management, public outreach, and education.

(e) Any water agency, including a special district, may act pursuant to a contract entered into under paragraph (1) of subdivision (d) outside of the jurisdiction of the agency.
Article 3. Plan Implementation

117220. A regional engineer shall review a comprehensive assessment analysis submitted in accordance with Section 117212 and develop and submit a recommendation to the board as to the preferred options or plan presented by the comprehensive assessment analysis within 60 days of the submission of the comprehensive assessment analysis to the regional engineer. A regional engineer may adjust the options or plan the regional engineer recommends to the board as necessary. The board shall post the recommendations of a regional engineer to the board on the board’s internet website.

117221. (a) Within 90 days of receiving the regional engineer’s recommendation pursuant to Section 117220, the board shall consider the comprehensive assessment analysis and the regional engineer’s recommendation at a public hearing. The board shall request recommendations from all divisions of the board to ensure coordination with other related water quality and water resource programs. The Public Utilities Commission may provide input to the board for the purposes of this section if a regional engineer’s recommendation involves a failed at-risk water system subject to the commission’s jurisdiction. The board shall review a recommendation in light of the recommendation’s likelihood of success in creating a stable and sustainable supply of safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

(b) Based on the recommendations described in subdivision (a), the board shall adopt and provide for a sustainable plan for restoring safe drinking water. The board may contract with one or more of the following entities to implement the sustainable plan for restoring safe drinking water:

(1) Nonprofit organizations.

(2) Water agencies.

(3) Counties.

(4) Cities.

(5) For-profit businesses, such as engineering consulting firms.

(c) The board shall coordinate implementation of the sustainable plan for restoring safe drinking water by engaging the affected community, local governments, water agencies, and local agency formation commissions.
The board may delegate implementation of the sustainable plan for restoring safe drinking water to the Division of Drinking Water or another division of the board.

(e) Any water agency, including a special district, may act pursuant to a contract entered into under subdivision (b) outside of the jurisdiction of the agency.

117223. (a) In connection with the adoption of any new or revised primary drinking water standard pursuant to Section 116365, the board shall develop an enforcement assistance implementation plan that considers the ability of any public water system that serves a disadvantaged community to comply with the proposed new or revised primary drinking water standard.

(b) An enforcement assistance implementation plan developed pursuant to subdivision (a) shall include provisions for funding sources to assist any public water system that is found to be unable to timely comply with the new or revised primary drinking water standard, including funding through the fund or though the Safe Drinking Water State Revolving Fund program.

Article 4. Safe Drinking Water for New Communities

117230. The board shall ensure that water systems that serve new communities will provide safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes, fulfill legal requirements for technical, managerial, and financial capacity, and will be sustainable over the long term.

117230. (a) The Legislature finds and declares all of the following:

(1) Current state law seeks to ensure that homes in new residential developments have access to adequate, safe, and clean water supplies by linking local agency decisions on land use to water supply and water quality.

(2) In recent years, changes in water law and the emergence of California communities without sustainable, safe drinking water supplies have emphasized the need to review this land and water nexus to better ensure that all Californians will have sustainable, safe drinking water for decades to come.

(3) To protect the public health and welfare and to protect existing residential, agricultural, and commercial water users, it
is vital that cities and counties consider the adequacy of water
supplies in terms of both quantity and quality as part of their review
of additional new residential developments.

(b) It is the intent of the Legislature to review existing laws
designed to ensure the long-term adequacy of water supplies as
part of the process of approving new development projects and to
further integrate water quality and quantity considerations into
land use decisions.

Article 5. Oversight

117240. (a) (1) By July 1, 2025, the board shall report to the
Legislature on its progress restoring safe drinking water to all
California communities in accordance with this chapter. The board
shall develop metrics to measure the efficacy of the fund in
ensuring safe and affordable drinking water for all Californians
and shall use those metrics in its report to the Legislature.

(2) The requirement for submitting a report imposed under
paragraph (1) is inoperative on July 1, 2029, pursuant to Section
10231.5 of the Government Code.

(3) A report to be submitted pursuant to this subdivision shall
be submitted in compliance with Section 9795 of the Government
Code.

(b) Funding for the board’s actions to restore safe drinking water
to all California communities shall be displayed in the annual
Governor’s budget, Budget, including revenues, expenditures, and
fund balances.

(c) At least every five years, the Legislative Analyst’s Office
shall provide an assessment of the effectiveness of expenditures
from the fund.

117241. The board shall create an internet website that provides
data transparency for all of its activities pursuant to this chapter,
in conjunction with implementation of the Open and Transparent
Water Data Act (Part 4.9 (commencing with Section 12400) of
Division 6 of the Water Code).

SEC. 2. If the Commission on State Mandates determines that
this act contains costs mandated by the state, reimbursement to
local agencies and school districts for those costs shall be made
pursuant to Part 7 (commencing with Section 17500) of Division
4 of Title 2 of the Government Code.
SEC. 3. This act shall only become operative if Assembly Bill 217 of the 2019–20 Regular Session is enacted and becomes effective.
Attachment 4
An act to add Section 92163 to the Education Code, and to add Section 17201.2 to the Revenue and Taxation Code, relating to the University of California, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1606, as introduced, Gray. University of California: school of medicine: San Joaquin Valley Regional Campus Medical Education Endowment Fund.

Existing law creates the University of California, San Francisco, San Joaquin Valley Regional Campus Medical Education Endowment Fund for the purpose of supporting the annual operating costs for the development, operation, and maintenance of a branch campus of the University of California, San Francisco, School of Medicine in the San Joaquin Valley, as specified. Existing law provides that moneys in the fund shall not be expended on the development, operation, or maintenance of the branch campus until the State Controller determines a sufficient balance of $500,000,000 is achieved and maintained in the fund. Upon appropriation by the Legislature, existing law requires earnings on the investment of the principal of the fund to be used to cover the annual costs for the development, operation, and maintenance of a branch campus supporting 50 students per class in the San Joaquin Valley over the 10 years following the accrual of the funds, as well as the estimated costs of obtaining approval and accreditation from the Liaison Committee on Medical Education, among other expenses.
The Personal Income Tax Law, in conformity or modified conformity to federal income tax laws as of January 1, 2015, allows specified itemized deductions and does not allow a deduction for other items, except as otherwise provided. Existing law, in conformity with federal income tax provisions, allows a deduction for losses from wagering transactions to the extent of the gains from those transactions.

This bill, for taxable years beginning on or after January 1, 2019, would disallow that deduction and would require the State Controller to transfer from the General Fund to the University of California, San Francisco, San Joaquin Valley Regional Campus Medical Education Endowment Fund the amount, as estimated by the Franchise Tax Board in consultation with the Department of Finance, received by the state as a result of the elimination of that deduction until the amount of $500,000,000 has been reached in the latter fund.

This bill would declare that it is to take effect immediately as an urgency statute.


The people of the State of California do enact as follows:

SEC. 1. Section 92163 is added to the Education Code, to read:

92163. (a) The State Controller shall transfer from the General Fund to the University of California, San Francisco, San Joaquin Valley Regional Campus Medical Education Endowment Fund an amount equal to the annual estimate of the revenues derived from the disallowance of the deduction pursuant to Section 17201.2 of the Revenue and Taxation Code, until the amount of five hundred million dollars ($500,000,000) has been reached in the latter fund.

(b) For the purposes of subdivision (a), the Franchise Tax Board, in consultation with the Department of Finance, shall estimate and annually report to the State Controller the amount of revenue derived from the disallowance of the deduction pursuant to Section 17201.2 of the Revenue and Taxation Code.

SEC. 2. Section 17201.2 is added to the Revenue and Taxation Code, to read:

17201.2. For taxable years beginning on or after January 1, 2019, Section 165(d) of the Internal Revenue Code, relating to wagering losses, shall not apply.
SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Residents of the San Joaquin Valley in California lack access to trained medical providers for their immediate health care needs due to the need for more trained medical professionals in the area.
Attachment 5
SENATE BILL No. 200

Introduced by Senator Monning
(Principal coauthor: Assembly Member Eduardo Garcia)

January 31, 2019

An act to add Chapter 4.6 (commencing with Section 116765) to Part 12 of Division 104 of the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL’S DIGEST

SB 200, as amended, Monning. Safe and Affordable Drinking Water Fund.

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

This bill would establish the Safe and Affordable Drinking Water Fund in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and the long term. The bill would authorize the board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, and bequests and would provide that moneys in the fund are available, upon appropriation by the Legislature, to the board to fund grants, loans, contracts, or services to assist eligible recipients. The bill
would require the board to adopt a fund implementation plan with specified contents and would require expenditures of the fund to be consistent with the plan. The bill would require, by January 1, 2021, the board, in consultation with local health officers and other relevant stakeholders, to make publicly available, as specified, a map of aquifers that are used or likely to be used as a source of drinking water that are at high risk of containing contaminants that exceed safe drinking water standards. For purposes of the map, the bill would require local health officers and other relevant local agencies to provide all results of, and data associated with, water quality testing performed by certified laboratories to the board, as specified. By imposing additional duties on local health officers and local agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.


The people of the State of California do enact as follows:

SECTION 1. Chapter 4.6 (commencing with Section 116765) is added to Part 12 of Division 104 of the Health and Safety Code, to read:

CHAPTER 4.6. SAFE AND AFFORDABLE DRINKING WATER

Article 1. Safe and Affordable Drinking Water Fund

116765. (a) The Safe and Affordable Drinking Water Fund is hereby established in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. All moneys deposited in the fund pursuant to paragraph (1) of subdivision (a) of Section 116771 are available, upon appropriation by the Legislature, to the board to fund the following:
(1) Operation and maintenance costs to help deliver an adequate supply of safe drinking water in both the near and long terms.

(2) Consolidation costs for public water systems, community water systems, and state small water systems.

(3) Replacement water to provide the systems with safe drinking water as a short-term solution.

(4) The provision of administrative and managerial services under Section 116686 for purposes of helping the systems become self-sufficient in the long term.

(b) Consistent with subdivision (a), the board shall expend moneys in the fund for grants, loans, contracts, or services to assist eligible recipients.

(c) (1) Eligible recipients of funding under this chapter are public agencies, nonprofit organizations, public utilities, mutual water companies, federally recognized Indian tribes, state Indian tribes listed on the Native American Heritage Commission’s California Tribal Consultation List, and administrators.

(2) To be eligible for funding under this chapter, grants, loans, contracts, or services provided to a public utility that is regulated by the Public Utilities Commission or a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the water system and not the investors.

(d) An expenditure from the fund shall be consistent with the fund implementation plan.

(e) The board may expend moneys from the fund for reasonable costs associated with the administration of this chapter, not to exceed 5 percent of the annual deposits into the fund.

(f) In administering the fund, the board shall 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.

Article 2. Definitions

116766. For the purposes of this chapter:

(a) “Adequate supply” has the same meaning as defined in Section 116681.
(b) “Administrator” has the same meaning as defined in Section 116686.
(c) “Board” means the State Water Resources Control Board.
(d) “Community water system” has the same meaning as defined in Section 116275.
(e) “Consistently fails” has the same meaning as defined in Section 116681.
(f) “Disadvantaged community” has the same meaning as defined in Section 79505.5 of the Water Code.
(g) “Domestic well” has the same meaning as defined in Section 116681.
(h) “Fund” means the Safe and Affordable Drinking Water Fund established pursuant to Section 116765.
(i) “Fund implementation plan” means the fund implementation plan adopted pursuant to Article 3 (commencing with Section 116767).
(j) “Low-income household” means a single household whose income is less than 200 percent of the federal poverty level.
(k) “Mutual water company” means a mutual water company, as defined in Section 14300 of the Corporations Code, that operates a public water system or a state small water system.
(l) “Nonprofit organization” means an organization qualified to do business in California and qualified under Section 501(c)(3) of Title 26 of the United States Code.
(m) “Public agency” means a state agency or department, special district, joint powers authority, city, county, city and county, or other political subdivision of the state.
(n) “Public utility” has the same meaning as defined in Section 216 of the Public Utilities Code.
(o) “Public water system” has the same meaning as defined in Section 116275.
(p) “Replacement water” includes, but is not limited to, bottled water, vended water, point-of-use, or point-of-entry treatment units.
(q) “Safe drinking water” has the same meaning as defined in Section 116681.
(r) “Service connection” has the same meaning as defined in Section 116275.
(s) “State small water system” has the same meaning as defined in Section 116275.
(t) “Vended water” has the same meaning as defined in Section 111070.

Article 3. Fund Implementation Plan

116767. The purposes of the fund implementation plan are as follows:

(a) To identify public water systems, community water systems, and state small water systems that consistently fail to provide an adequate supply of safe drinking water, including the cause or causes of the failure and appropriate measures to remedy the failure.

(b) To determine the amount and type of funding necessary to implement appropriate measures to remedy a failure to provide an adequate supply of safe drinking water.

(c) To identify public water systems, community water systems, and state small water systems that are at significant risk of failing to provide an adequate supply of safe drinking water, including the source or sources of the risk and appropriate measures to eliminate the risk.

(d) To determine the amount and type of funding necessary to implement appropriate measures to eliminate the risk of failing to provide an adequate supply of safe drinking water.

(e) To identify gaps in the provision of safe drinking water, in furtherance of Section 106.3 of the Water Code, and to determine the amount and type of funding necessary to minimize or eliminate those gaps.

(f) To prioritize available funding provided by this chapter for measures identified in subdivisions (a), (c), and (e).

116768. (a) On or before July 1, 2020, the board shall develop and adopt a policy for developing the fund implementation plan that includes all of the following elements:

(1) A requirement that the board consult with an advisory group to aid in meeting the purposes of the fund implementation plan as established in Section 116767. The advisory group shall include representatives of the following:

(A) Entities paying into the fund.

(B) Public water systems.

(C) Technical assistance providers.

(D) Local agencies.
(E) Nongovernmental organizations.
(F) Residents served by community water systems in disadvantaged communities, state small water systems, and domestic wells.
(G) The public.

(2) Identification of key terms, criteria, and metrics, and their definitions.
(3) A description of how proposed remedies will be identified, evaluated, prioritized, and included in the fund implementation plan.
(4) The establishment of a process by which members of a disadvantaged community may petition the state board to consider ordering consolidation.
(5) A requirement that the board hold at least one public hearing before adopting a fund implementation plan.

(b) The board shall annually adopt a fund implementation plan. The board may adopt a policy handbook and update it at least once every three years.

c) On or before January 10, 2021, and every January 10 thereafter, the board shall provide to the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature the most recently adopted fund implementation plan. The board may submit the fund implementation plan as required by this subdivision either in the Governor’s Budget documents or as a separate report.

116769. (a) The fund implementation plan shall contain the following:

(1) A report of expenditures from the fund for the prior fiscal year and planned expenditures for the current fiscal year.

(2) A list of systems that consistently fail to provide an adequate supply of safe drinking water. The list shall include, but is not limited to, all of the following:

(A) Any public water system that consistently fails to provide an adequate supply of safe drinking water.

(B) Any community water system that serves a disadvantaged community that must charge fees that exceed the affordability threshold established by the board in order to supply, treat, and distribute potable water that complies with federal and state drinking water standards.
(C) Any state small water system that consistently fails to
provide an adequate supply of safe drinking water.

(3) A list of public water systems, community water systems,
and state small water systems that may be at risk of failing to
provide an adequate supply of safe drinking water.

(4) An estimate of the number of households that are served by
domestic wells or state small water systems in high-risk areas
identified pursuant to Article 5 (commencing with Section 116772).
The estimate shall identify approximate locations of households,
without identifying exact addresses or other personal information,
in order to identify potential target areas for outreach and assistance
programs.

(5) An estimate of the funding needed for the next fiscal year
based on the amount available in the fund, anticipated funding
needs, other existing funding sources, and other relevant data and
information.

(6) A list of programs to be funded that assist or will assist
households supplied by a domestic well that consistently fails to
provide an adequate supply of safe drinking water.

(7) A list of programs to be funded that assist or will assist
households and schools whose tap water contains contaminants,
such as lead or secondary contaminants, at levels that exceed
recommended standards.

(b) The fund implementation plan shall be based on data and
analysis drawn from the drinking water needs assessment funded
by Chapter 449 of the Statutes of 2018 as that assessment may be
updated and as information is developed pursuant to Article 5
(commencing with Section 116772).

(c) The fund implementation plan shall prioritize funding for
all of the following:

(1) Assisting disadvantaged communities served by a public
water system and low-income households served by a state small
water system or a domestic well.

(2) The consolidation or extension of service, or both.

(3) Funding costs other than those related to capital construction
costs, except for capital construction costs associated with
consolidation and service extension to reduce the ongoing unit
cost of service and to increase sustainability of drinking water
infrastructure and service delivery.
The fund implementation plan may include expenditures for the following:

(a) The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.

(b) The development, implementation, and sustainability of long-term drinking water solutions, including, but not limited to, the following:

(1) (A) Technical assistance, planning, construction, repair, and operation and maintenance costs associated with any of the following:

(i) Replacing, blending, or treating contaminated drinking water.

(ii) Repairing or replacing failing water system equipment, pipes, or fixtures.

(iii) Operation and maintenance costs associated with consolidated water systems, extended drinking water services, or reliance on a substituted drinking water source.

(B) Technical assistance and planning costs may include, but are not limited to, analyses to identify and efforts to further opportunities to reduce the unit cost of providing drinking water through organizational and operational efficiency improvements, and other options and approaches to reduce costs.

(2) Creating and maintaining natural means and green infrastructure solutions that contribute to sustainable drinking water.

(3) Consolidating water systems.

(4) Extending drinking water services to other public water systems, community water systems, and state small water systems, or domestic wells.

(5) Satisfying outstanding long-term debt obligations of public water systems, community water systems, and state small water systems where the board determines that a system’s lack of access to capital markets renders this solution the most cost effective for removing a financial barrier to the system’s sustainable, long-term provision of drinking water.

(c) Identifying and providing outreach to persons who are eligible to receive assistance from the fund.

(d) Testing the drinking water quality of domestic wells serving low-income households, prioritizing those in high-risk areas identified pursuant to Article 5 (commencing with Section 116772).
(e) Providing administrative and managerial services under Section 116686.


116771. (a) The board may undertake any of the following actions to implement the fund:

(1) Provide for the deposit of both of the following moneys into the fund:

(A) Federal contributions.

(B) Voluntary contributions, gifts, grants, or bequests.

(2) Enter into agreements for contributions to the fund from the federal government, local or state agencies, and private corporations or nonprofit organizations.

(3) Direct portions of the fund to a subset of eligible applicants as required or appropriate based on funding source and consistent with the annual fund implementation plan.

(4) Direct moneys described in subparagraph (B) of paragraph (1) towards a specific project, program, or study.

(b) The board may set appropriate requirements as a condition of funding, including, but not limited to, the following:

(1) A system technical, managerial, or financial capacity audit.

(2) Improvements to reduce costs and increase efficiencies.

(3) An evaluation of alternative treatment technologies.

(4) A consolidation or service extension feasibility study.

(5) Requirements for a domestic well with nitrate contamination where ongoing septic system failure may be causing or contributing to contamination of a drinking water source, to have conducted an investigation and project to address the septic system failure, if adequate funding sources are identified and accessible.

(c) Actions taken to implement, interpret, or make specific this chapter, including, but not limited to, the adoption or development of any plan, handbook, or map, are not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
Article 5. Information on High-Risk Areas

116772. (a) (1) By January 1, 2021, the board, in consultation with local health officers and other relevant stakeholders, shall use available data to make available a map of aquifers that are at high risk of containing contaminants that exceed safe drinking water standards that are used or likely to be used as a source of drinking water for a state small water system or a domestic well. The board shall update the map annually based on new and relevant data.

(2) The board shall make the map of high-risk areas, as well as the data used to make the map, publicly accessible on its internet website in a manner that complies with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The board shall notify local health officers and county planning agencies of high-risk areas within their jurisdictions.

(b) (1) By January 1, 2021, a local health officer or other relevant local agency shall provide to the board all results of, and data associated with, water quality testing performed by certified laboratories for a state small water system or domestic well that was collected after January 1, 2014, and that is in the possession of the local health officer or other relevant local agency.

(2) By January 1, 2022, and by January 1 of each year thereafter, all results of, and data associated with, water quality testing performed by a certified laboratory for a state small water system or domestic well that is submitted to a local health officer or other relevant local agency shall also be submitted directly to the board in electronic format.

SEC. 2. (a) Implementation of Chapter 4.6 (commencing with Section 116765) of Part 12 of Division 104 of the Health and Safety Code is contingent upon an appropriation for its purposes in the annual Budget Act.

(b) This act does not impose a levy, charge, or exaction of any kind, such as a tax or fee.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made
pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
Attachment 6
An act to amend Sections 56017.1, 56017.2, 56069, 56653, 56658, and 56895 of, and to add Section 56666.5 to, the Government Code, and to add Division 23 (commencing with Section 78000) to the Water Code, relating to small system water authorities.

LEGISLATIVE COUNSEL'S DIGEST


Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems and imposes on the State Water Resources Control Board various responsibilities and duties. The act authorizes the state board to order consolidation with a receiving water system where a public water system or a state small water system, serving a disadvantaged community, as defined, consistently fails to provide an adequate supply of safe drinking water. The act, if consolidation is either not appropriate or not technically and economically feasible, authorizes the state board to contract with an administrator to provide administrative and managerial services to designated public water systems and to order the designated public water system to accept administrative and managerial services, as specified.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of
organization and reorganization for cities and districts, except as specified.

This bill would create the Small System Water Authority Act of 2019 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified. The bill would require the state board to provide a copy of the notice, in the case of a water corporation, to the Public Utilities Commission and would require the Public Utilities Commission to be responsible with the state board for ensuring compliance with the provisions of the bill. The bill would require an entity receiving the notice to respond to the state board, and, if appropriate, the Public Utilities Commission, as to whether the violations of drinking water standards are remedied and the basis for that conclusion, as specified. The bill would require an entity reporting a continuing violation of drinking water standards to have 180 days from the date of a specified response filed with the state board to prepare and submit a plan to the state board to permanently remedy a violation of drinking water standards within a reasonable time that is not later than January 1, 2025. The bill would require the state board to review the plan and accept, accept with reasonable conditions, or reject the plan, as prescribed. The bill would require an entity with an accepted plan to provide quarterly reports to the state board on progress towards a permanent remedy for violations of drinking water standards and would require the state board to annually hold a public hearing to consider whether the progress is satisfactory. The bill would require the state board, if it rejects the plan or if a plan is not submitted by the prescribed deadline, to cause, after a certain period to allow for a petition for reconsideration, the formation of an authority by the applicable local agency formation commission to serve the customers of the public water system or to remedy the failure to meet the applicable drinking water standards, as specified.

The bill would require the state board, no later than July 1, 2021, to provide written notice to each county, city, water district, private water
company, or mutual water company located within a county where an entity receiving a notice to cure from the state board is located stating that the state board may consider the formation of an authority within that county and inviting other public water suppliers to consider a voluntary dissolution and subsequent inclusion into the authority that may be formed. The bill would require an entity wishing to consolidate into a proposed authority to provide a written statement opting into an authority to the administrator of the authority on or before December 31, 2021. The bill would authorize an entity wishing to join an authority after the formation of an authority to do so by a proposal or petition to the local agency formation commission and would require an entity to join a proposed authority upon the petition of the entity’s customers, as prescribed. The bill would require any county or city receiving a notice to cure from the state board to determine, not later than November 1, 2021, whether any county service areas, county waterworks districts, or other dependent special districts providing water service or water and sewer service located within the county that provide water service or water and sewer service only in the proposed area of the authority should be included within the proposed authority, as prescribed. The bill would authorize an authority to include areas that are not contiguous.

The bill would require the state board, no later than 30 days after determining that an authority shall be formed, to notify a local agency formation commission of a county where the public water system that submitted the plan is located, and if appropriate, the Public Utilities Commission, that it has determined that the public water system shall be consolidated into an authority. The bill would require the state board, no later than 60 days after determining that an authority shall be formed, to notify the local agency formation commission, and if appropriate, the Public Utilities Commission, of the public water systems that will be consolidated into an authority and to appoint an administrator for each proposed authority. The bill would require an administrator to be responsible for the interim administration and management of the authority and would require the state board to bear the cost of the administrator, as specified. The bill would require the administrator, after consultation with the executive officer of the local agency formation commission, to submit to the state board a conceptual formation plan, with specified components. The bill would require the state board to provide comments on the conceptual formation plan to the administrator and applicable local agency formation commission within 60 days of its receipt.
The bill would require the administrator, within 180 days after the state board provides comments on the draft conceptual formation plan, to submit an application for formation and proposed plan for service to the local agency formation commission for review and would require the commission to hold a hearing on the plan and approve or deny it, as prescribed. The bill would require an authority to file a statement, under penalty of perjury, with the executive office of the local agency formation commission certifying that the authority will take the appropriate actions to comply with an approved plan. By expanding the application of the crime of perjury, this bill would impose a state-mandated local program. The bill would require the executive officer of the commission, within 30 days of the filing of a statement, to issue a notice of completion to the authority and send a copy of that notice to the state board. The bill would authorize the state board, in the event that the authority fails to timely file a statement certifying compliance with the plan, to issue an order to the authority requiring the filing of a statement certifying compliance with the plan or other remedial action as may be appropriate. The bill would require, annually for the first 3 years after the date of an authority’s formation by a local agency formation commission, an authority to file a certain report with the local agency formation commission and the state board. The bill would require a local agency formation commission to hold a public hearing within 90 days of receipt of the report to review the authority’s performance during the previous year and would authorize the state board to order an authority to remedy any failures to comply with conditions imposed by the state board or the plan for service. The bill would authorize the state board to impose a civil penalty on an authority of up to $500 per day for each violation if an authority fails to timely comply with a remedial order by the state board, up to a maximum of $10,000 per year for each particular violation.

The bill would require the Public Utilities Commission to order the dissolution of a public water system and the transfer of all assets of a subject water corporation to an authority formed by the local agency formation commission, as prescribed. The bill would require the state board to petition a court for an order dissolving any mutual water company, water corporation, or private corporation that has been operating a public water system and transferring the assets of that company or corporation to the authority formed by the local agency formation commission. The bill would provide for an owner or shareholder of a dissolved public water system to be compensated, as
specified, in accordance with a distressed business valuation issued by the state board. The bill would authorize an authority to receive financing from the state to pay all liabilities assumed from a public water system and would require an authority to issue bonds to repay the state with interest.

The bill would require the Controller, no later than January 1, 2026, to prepare and submit to the Legislature a report regarding the fiscal and operational health of the authorities that includes a recommendation regarding the need for supplemental state funding, if any, and the potential sources of that funding. Following the formation of the authorities, to perform an audit of the fiscal and operational health of each authority, and to submit the results of the audits to the Legislature in the form of a report no later than January 1, 2026. The bill would require the state board, no later than January 1, 2026, to prepare and submit to the Legislature a report specifying the number of public water systems that, at any time between July 1, 2018, and January 1, 2025, were out of compliance with one or more state or federal primary drinking water standards, as specified.

The bill would provide for the appointment of an initial board of an authority, and the election of subsequent boards of an authority. The bill would require a director to be a resident of the area served by the authority and, to the extent practicable, to represent a division with equal population being served by the authority. The bill would require a director to receive compensation in an amount not to exceed $250 per day, not to exceed a total of 10 days in any calendar month, together with any expenses incurred in the performance of the director’s duties required or authorized by the board. The bill would require the board to hold meetings, exercise and perform all powers, privileges, and duties of an authority, designate a depository to have custody of the funds of the authority, appoint officers, and hire employees, as specified. The bill would require the board to file a certain certificate with the Secretary of State within 180 days of its initial meeting after formation. The bill would require a person convicted of an infraction for a violation of any local ordinance or regulation adopted by an authority to be punished upon a first conviction by a fine not exceeding $50 and for a 2nd conviction within a period of one year by a fine of not exceeding $100 and for a 3rd or any subsequent conviction within a period of one year by a fine of not exceeding $250. By creating new crimes, this bill would impose a state-mandated local program.
The bill would specify the powers of an authority, including that an authority is authorized to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water, including sewage and stormwater, for the beneficial use of the authority. The bill would authorize the authority to fix a water standby assessment or availability charge, as prescribed. The bill would require a board of supervisors to levy the standby charge in the amounts for the respective parcels fixed by the board of the authority. The bill would require all county officers charged with the duty of collecting taxes to collect authority standby charges with the regular tax payments to the county and would require the charges to be paid to the authority. The bill would authorize an authority to restrict the use of authority water, as specified, and would provide that it is a misdemeanor, punishable as specified, for any person to use or apply water received from the authority contrary to or in violation of any restriction or prohibition specified in the authority’s ordinance. By creating a new crime, this bill would impose a state-mandated local program. The bill would authorize an authority to conduct inspections and would authorize an authority to obtain an inspection warrant. Because the willful refusal of an inspection lawfully authorized by an inspection warrant is a misdemeanor, this bill would impose a state-mandated local program by expanding the application of a crime. The bill would require an authority to notify the county or city building inspector, county health inspector, or other affected county or city employee or office, in writing, within a reasonable time if an actual violation of an authority, city, or county ordinance is discovered during the investigation.

The bill would require the administrator to prepare and submit a capital improvement plan to the state board no later than one year after the date upon which an authority is formed. The bill would require the plan to bring the authority into full compliance with drinking water standards within 3 years, which time may be extended by the state board for good cause. The bill would require the state board, upon appropriation by the Legislature from the General Fund, or, to the extent funds are available from bond revenues or other sources, to provide funding for the administrator and for formation and startup costs for up to 3 fiscal years after formation of the authority, as specified. The bill would provide for the state board, upon appropriation by the Legislature from the General Fund, or, to the extent funds are available from bond revenues or other sources, including federal, state, academic, or other public or private entities, to provide funding for the administrator and for formation and startup costs for up to 3 fiscal years after formation of the authority, as specified.
public or private entities, to receive up to an unspecified amount for
the preparation of distressed business valuations to determine the net
fair market value of the water corporation or mutual water company.
The bill would require, if those moneys are not sufficient to meet the
statewide needs of the authorities, funding to be made available upon
appropriation from the Safe Drinking Water State Revolving Fund.

By imposing new duties or a higher level of service on cities, counties,
and local agency formation commissions, this bill would impose a
state-mandated local program.

The California Constitution requires the state to reimburse local
agencies and school districts for certain costs mandated by the state.
Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no
reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the
Commission on State Mandates determines that the bill contains costs
so mandated by the state, reimbursement for those costs shall be made
pursuant to the statutory provisions noted above.

State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 56017.1 of the Government Code is amended to read:

56017.1. “Applicant” means a local agency or person or persons
that submits an application, as defined by Section 56017.2, or the
State Water Resources Control Board where an application is
submitted by its appointed administrator pursuant to Section 78038
of the Water Code.

SEC. 2. Section 56017.2 of the Government Code is amended to read:

56017.2. “Application” means any of the following:

(a) A resolution of application or petition initiating a change of
organization or reorganization with supporting documentation as
required by the commission or executive officer.
(b) A request for a sphere of influence amendment or update
pursuant to Section 56425.
(c) A request by a city or district for commission approval of an extension of services outside the agency’s jurisdictional boundaries pursuant to Section 56133.

(d) A request by a public agency for commission approval of an extension of services outside the agency’s jurisdictional boundaries pursuant to Section 56134.

(e) A request by the State Water Resources Control Board that includes the formation of a small system water authority made pursuant to Section 78038 of the Water Code.

SEC. 3. Section 56069 of the Government Code is amended to read:

56069. “Proposal” means a desired change of organization or reorganization initiated by a petition, by resolution of application of a legislative body or school district, or by order of the State Water Resources Control Board in the case of an application including the formation of a small system water authority submitted pursuant to Section 78038 of the Water Code, for which a certificate of filing has been issued.

SEC. 4. Section 56653 of the Government Code, as amended by Section 1 of Chapter 43 of the Statutes of 2017, is amended to read:

56653. (a) If a proposal for a change of organization or reorganization is submitted pursuant to this part, the applicant shall submit a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

(1) An enumeration and description of the services currently provided or to be extended to the affected territory.

(2) The level and range of those services.

(3) An indication of when those services can feasibly be extended to the affected territory, if new services are proposed.

(4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

(5) Information with respect to how those services will be financed.

(c) (1) In the case of a change of organization or reorganization initiated by a local agency that includes a disadvantaged,
unincorporated community as defined in Section 56033.5, a local
government may include in its resolution of application for change of
organization or reorganization an annexation development plan
adopted pursuant to Section 99.3 of the Revenue and Taxation
Code to improve or upgrade structures, roads, sewer or water
facilities, or other infrastructure to serve the disadvantaged,
unincorporated community through the formation of a special
district or reorganization of one or more existing special districts
with the consent of each special district’s governing body.

(2) The annexation development plan submitted pursuant to this
subdivision shall include information that demonstrates that the
formation or reorganization of the special district will provide all
of the following:

(A) The necessary financial resources to improve or upgrade
structures, roads, sewer or water facilities, or other infrastructure.
The annexation development plan shall also clarify the local entity
that shall be responsible for the delivery and maintenance of the
services identified in the application.

(B) An estimated timeframe for constructing and delivering the
services identified in the application.

(C) The governance, oversight, and long-term maintenance of
the services identified in the application after the initial costs are
recouped and the tax increment financing terminates.

(3) If a local agency includes an annexation development plan
pursuant to this subdivision, a local agency formation commission
may approve the proposal for a change of organization or
reorganization to include the formation of a special district or
reorganization of a special district with the special district’s
consent, including, but not limited to, a community services district,
municipal water district, or sanitary district, to provide financing
to improve or upgrade structures, roads, sewer or water facilities,
or other infrastructure to serve the disadvantaged, unincorporated
community, in conformity with the requirements of the principal
act of the district proposed to be formed and all required formation
proceedings.

(4) Pursuant to Section 56881, the commission shall include in
its resolution making determinations a description of the annexation
development plan, including, but not limited to, an explanation of
the proposed financing mechanism adopted pursuant to Section
99.3 of the Revenue and Taxation Code, including, but not limited
to, any planned debt issuance associated with that annexation
development plan.
(d) This section shall not preclude a local agency formation
commission from considering any other options or exercising its
powers under Section 56375.
(e) A plan for providing services accompanying an application
that includes the formation of a small system water authority
submitted pursuant to subdivision (a) of Section 78038 of the Water
Code shall meet the requirements set forth in subdivision (b) of
Section 78038 of the Water Code.
(f) This section shall remain in effect only until January 1, 2025,
and as of that date is repealed.
SEC. 5. Section 56658 of the Government Code is amended
to read:
56658. (a) Any petitioner or legislative body desiring to initiate
proceedings shall submit an application to the executive officer of
the principal county.
(b) (1) Immediately after receiving an application and before
issuing a certificate of filing, the executive officer shall give mailed
notice that the application has been received to each affected local
agency, the county committee on school district organization, and
each school superintendent whose school district overlies the
affected territory. The notice shall generally describe the proposal
and the affected territory. The executive officer shall not be
required to give notice pursuant to this subdivision if a local agency
has already given notice pursuant to subdivision (c) of Section
56654.
(2) It is the intent of the Legislature that a proposal for
incorporation or disincorporation shall be processed in a timely
manner. With regard to an application that includes an
incorporation or disincorporation, the executive officer shall
immediately notify all affected local agencies and any applicable
state agencies by mail and request the affected agencies to submit
the required data to the commission within a reasonable timeframe
established by the executive officer. Each affected agency shall
respond to the executive officer within 15 days acknowledging
receipt of the request. Each affected local agency and the officers
and departments thereof shall submit the required data to the
executive officer within the timelines established by the executive
officer. Each affected state agency and the officers and departments
thereof shall submit the required data to the executive officer within
the timelines agreed upon by the executive officer and the affected
state departments.

(3) If a special district is, or as a result of a proposal will be,
located in more than one county, the executive officer of the
principal county shall immediately give the executive officer of
each other affected county mailed notice that the application has
been received. The notice shall generally describe the proposal
and the affected territory.

(c) Except when a commission is the lead agency pursuant to
Section 21067 of the Public Resources Code, the executive officer
shall determine within 30 days of receiving an application whether
the application is complete and acceptable for filing or whether
the application is incomplete.

(d) The executive officer shall not accept an application for
filing and issue a certificate of filing for at least 20 days after giving
the mailed notice required by subdivision (b). The executive officer
shall not be required to comply with this subdivision in the case
of an application that meets the requirements of Section 56662 or
in the case of an application for which a local agency has already
given notice pursuant to subdivision (c) of Section 56654.

(e) If the appropriate fees have been paid, an application shall
be deemed accepted for filing if no determination has been made
by the executive officer within the 30-day period. An executive
officer shall accept for filing, and file, any application submitted
in the form prescribed by the commission and containing all of
the information and data required pursuant to Section 56652.

(f) When an application is accepted for filing, the executive
officer shall immediately issue a certificate of filing to the
applicant. A certificate of filing shall be in the form prescribed by
the executive officer and shall specify the date upon which the
proposal shall be heard by the commission. From the date of
issuance of a certificate of filing, or the date upon which an
application is deemed to have been accepted, whichever is earlier,
an application shall be deemed filed pursuant to this division.

(g) If an application is determined not to be complete, the
executive officer shall immediately transmit that determination to
the applicant specifying which parts of the application are
incomplete and the manner in which they can be made complete.
(h) Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. In the case of an application submitted pursuant to subdivision (a) of Section 78038 of the Water Code by an administrator appointed by the State Water Resources Control Board, the date of the hearing shall be not more than 180 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. Notwithstanding Section 56106, the date for conducting the hearing, as determined pursuant to this subdivision, is mandatory.

SEC. 6. Section 56666.5 is added to the Government Code, to read:

56666.5. (a) This section applies only to a proposal that includes the formation of a small system water authority submitted pursuant to subdivision (a) of Section 78038 of the Water Code.

(b) At the hearing described in Section 56666, the commission shall approve the plan and the formation of the authority, approve the plan and the formation of the authority with modifications, or disapprove the plan and request resubmittal by the administrator.

(c) If the commission disapproves the plan, the commission shall, within 30 days of the hearing, provide the administrator with written comments identifying the changes that the administrator must make in order to submit an acceptable plan. If the administrator concurs with those changes, the administrator may provide a written statement of concurrence to the commission and the commission shall deem approved the commission’s proposed changes upon receipt of the written statement of concurrence. If the administrator disagrees with those changes, the administrator shall provide a revised plan for service to the commission no later than 90 days after the date on which the commission provides the administrator with comments disapproving the plan.

(d) The commission shall hold a hearing no later than 90 days after the date the administrator provides a revised plan for service to the commission, during which the commission shall approve the revised plan for service, either as proposed by the administrator or with the modifications the commission believes best serve the public interest.
SEC. 7. Section 56895 of the Government Code is amended to read:

56895. (a) When a commission has adopted a resolution making determinations, any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to Section 56658, the commission shall consider that request at a public hearing.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file any action, including, but not limited to, an action pursuant to Section 21167 of the Public Resources Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the commission is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as the executive officer deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 35 days from the date specified in the notice. The person or agency that filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.
At the conclusion of its consideration, the commission may approve with or without amendment, wholly, partially, or conditionally, or disapprove the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations that shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56883.

(j) This section does not apply to commission determinations for a proposal that includes the formation of a small system water authority submitted pursuant to subdivision (a) of Section 78038 of the Water Code.

SEC. 8. Division 23 (commencing with Section 78000) is added to the Water Code, to read:

DIVISION 23. SMALL SYSTEM WATER AUTHORITY ACT OF 2019

PART 1. SHORT TITLE

78000. This division shall be known, and may be cited, as the Small System Water Authority Act of 2019.

PART 2. FINDINGS AND DECLARATIONS

78001. The Legislature finds and declares all of the following:

(a) As of November 2017, according to the state board, there are approximately 300 public water systems in the State of California that are chronically serving contaminated water to their customers and are operationally deficient in violation of public health regulations.

(b) The vast majority of those systems are small, only serving a population of less than 10,000 people, with deficiencies that range from natural contaminants, manmade contaminants, and
failing infrastructure. These systems are located throughout California, with a greater percentage of these failing systems primarily located in economically distressed or rural counties.

(c) These chronically out of compliance systems lack the financial, managerial, and technical resources to adequately serve their communities and face higher costs per customer to provide adequate service because of their small size, rural location, and aging infrastructure.

(d) There is an inefficient deployment of existing local system financial resources and potential funding shortfalls, largely due to duplication of overhead and the inability to access state and other funding streams necessary for modern water service.

(e) A new category of public water agency is needed to absorb and consolidate failing small public water systems to provide technical, managerial, and financial capabilities to ensure the provision of safe, clean, affordable, and accessible water and local governance.

(f) This act authorizes the creation of small system water authorities that will have unique powers to absorb, improve, and competently operate currently noncompliant public water systems with either contiguous or noncontiguous boundaries.

(g) Existing public water systems, whether public agencies, investor-owned utilities, water corporations regulated by the Public Utilities Commission, private mutual water companies, or other private unregulated water systems, that are currently providing adequate water service but that are located in a county where an authority may be formed will have the option of voluntarily consolidating with a new authority.

PART 3. DEFINITIONS

78005. Unless the context otherwise requires, the provisions of this part govern the construction of this division.

78006. “Affected county” means any county in which the land of a proposed authority is situated.

78007. “Authority” means a small system water authority formed pursuant to this division.

78008. “Board” means the board of directors of an authority.

78009. “Board of supervisors” means the board of supervisors of the principal county.
78010. “City” means any chartered or general law city.
78011. “County clerk” means the county clerk of the principal county.
78012. “Local agency formation commission” means a local agency formation commission of the principal county in which the proposed authority is located.
78013. “President” means the president of the board of directors of an authority.
78014. “Principal county” means the county in which the greater portion of the land of a proposed authority is situated.
78015. “Private corporation” means any private corporation organized under the laws of the United States or of this or any other state.
78016. “Public agency” means the state or any department or agency thereof, and a county, city, public corporation, or public district of the state, including an authority formed pursuant to this division.
78017. “Public water system” has the same meaning as defined in Section 116275 of the Health and Safety Code.
78018. “Secretary” means the secretary of an authority.
78019. “State board” means the State Water Resources Control Board.
78020. “Voter” means a voter as defined in Section 359 of the Elections Code.
78021. “Water” includes potable water and nonpotable water.
78022. “Water corporation” has the same meaning as defined in Section 241 of the Public Utilities Code.

PART 4. FORMATION

Chapter 1. In General

78025. The area proposed to be served by a proposed authority may consist of the service areas of one or more public agencies, private water companies, or mutual water companies that need not be contiguous. The area proposed to be served by a proposed authority may also include one or more parcels that need not be contiguous, either with each other or with the service areas of the public agencies, private water companies, or mutual water companies that will be served through the proposed authority.
Chapter 2. Formation Proceedings

78030. (a) No later than March 1, 2020, the state board shall provide written notice to cure to all public agencies, private water companies, or mutual water companies that meet both of the following criteria:
   (1) Operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people.
   (2) Are not in compliance with one or more state or federal primary drinking water standard maximum contaminant levels based on a running average for the period from July 1, 2018, through December 31, 2019.

(b) In the case of a water corporation, the state board shall provide a copy of the notice to the Public Utilities Commission and the Public Utilities Commission shall be responsible with the state board for ensuring compliance with this part.

78031. An entity receiving a notice pursuant to subdivision (a) of Section 78030 shall respond to the state board and, if appropriate, the Public Utilities Commission, within 60 days of receiving the notice as to whether the violations of drinking water standards are remedied and the basis for that conclusion.

78032. (a) (1) If an entity receiving a notice pursuant to subdivision (a) of Section 78030 reports pursuant to Section 78031 that a violation of drinking water standards is continuing, the entity shall have 180 days from the date of the response filed with the state board pursuant to Section 78031 to prepare and submit a plan to the state board to permanently remedy a violation of drinking water standards within a reasonable time that is not later than January 1, 2025.
   (2) The state board shall review a plan submitted pursuant to paragraph (1) and, within 60 days of receipt, shall accept, accept with reasonable conditions, or reject the plan.
   (3) The state board shall not accept the plan with reasonable conditions or reject the plan without meeting with the entity at least 15 days before the acceptance with reasonable conditions or rejection of the plan. The state board may extend the 60-day period described in paragraph (2) by no more than 180 days in order to allow for full consultation and collaboration between the state board and the entity, with the goal of that full consultation and collaboration being a mutually agreeable plan to remedy the
violations of drinking water standards in a timely manner. The state board shall not unreasonably withhold or delay approval of a plan or impose unreasonable conditions on a plan.

(b) If an entity receiving a notice pursuant to subdivision (a) of Section 78030 has begun a remediation plan under the authority of the state board, a California regional water quality control board, the Public Utilities Commission, or a local agency formation commission, the state board shall deem the remediation plan acceptable without additional conditions.

(c) (1) If the state board accepts the plan or accepts the plan with conditions, the entity shall provide quarterly reports to the state board on progress towards a permanent remedy for the violations of drinking water standards and the state board shall hold an annual public hearing to consider whether progress is satisfactory.

(2) If the state board rejects the plan or if a plan is not filed by the deadline specified in paragraph (1) of subdivision (a), the state board shall initiate action to do one of the following within 30 days:

(A) Cause the formation of an authority, subject to the provisions of subdivision (d), by the applicable local agency formation commission, in accordance with Section 78034.

(B) Exercise its authority to promptly cause the consolidation of the entity with a public water system or take other actions to remedy the failure to meet applicable drinking water standards pursuant to Article 9 (commencing with Section 116650) of Chapter 4 of Part 12 of Division 104 of the Health and Safety Code. Consolidation or other action taken pursuant to this subparagraph shall bring the water delivered to customers of the public water system into full compliance with all applicable water quality standards within two years of the date on which the state board rejects the plan or the date the deadline specified in paragraph (1) of subdivision (a) is missed. The two-year period may be extended for a reasonable time to allow for the construction of new or improved infrastructure only upon an affirmative vote of a majority of the members of the state board after notice and public hearing.

(C) Use existing funding sources and existing legal authority to remedy the failure to meet applicable drinking water standards.
(3) Before initiating action pursuant paragraph (2), the state board shall make all of the following findings:

(A) The continued operation of the public water system in its current condition is a threat to public health and safety.

(B) The public water system lacks the financial, managerial, or technical resources required to remedy the violation of state or federal primary drinking water standards, which results in the entity’s inability to remain operationally viable as a public water system.

(C) There is no reasonable alternative that would protect the public drinking water supplies of the public water system.

(d) Before causing the formation of an authority by the applicable local agency formation commission, the state board shall provide the entity with a period of 15 business days from the date on which the state board issues a written determination rejecting the plan to file a petition for reconsideration. The state board shall, if so requested by the entity, hold an evidentiary hearing under the provisions of the Administrative Procedure Act that shall commence within 90 days of the date on which the petition for reconsideration is filed with the state board and shall issue a final order not later than 60 days after the close of the evidentiary hearing. If the entity does not request an evidentiary hearing, the state board shall issue a final order not later than 60 days after the date on which the entity files its petition for reconsideration.

(e) If the state board and the Public Utilities Commission reject the plan of a water corporation regulated by the commission, the commission shall proceed with the consolidation or receivership, or both, under the commission’s existing programs, or, in consultation with the state board, the commission shall cause the dissolution and transfer of assets of the water corporation into an authority pursuant to paragraph (2) of subdivision (a) of Section 78037.

78033. (a) (1) No later than July 1, 2021, the state board shall provide written notice to each county, city, water district, private water company, or mutual water company located within a county where an entity receiving a notice under subdivision (a) of Section 78030 is located stating that the state board may consider the formation of an authority within that county and inviting other
public water suppliers to consider a voluntary dissolution and subsequent inclusion into the authority that may be formed.

(2) (A) An entity wishing to consolidate into a proposed authority shall provide a written statement opting into an authority to the administrator of the authority on or before December 31, 2021. After the formation of an authority, an entity wishing to join an authority may do so by means of a proposal or petition to the local agency formation commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(B) (i) The customers of an entity identified in paragraph (1) may submit a petition to the administrator of a proposed authority on or before December 31, 2021, that their public water system be included in the proposed authority by filing a petition containing the signatures of either of the following, whichever is less:

(I) One thousand residents of the area served by the public water system

(II) Ten percent of the service connections of the public water system.

(ii) If a petition is timely submitted under this subparagraph, the administrator shall deem that petition to be a request by the entity to be included within the authority. The administrator may deny the request if the administrator determines that including the entity would substantially increase the costs for other anticipated customers of the authority or if the administrator determines that the consolidation of the water systems cannot be accomplished in a successful manner in a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

(b) On or before November 1, 2021, a county or city receiving notice from the state board pursuant to subdivision (a) shall determine whether any county service areas, county waterworks districts, or other dependent special districts providing water service or water and sewer service located within the county that provide water service or water and sewer service only in the proposed area of the authority should be included within the proposed authority. If the governing board of the county or city determines that the dependent special district should be included within the proposed authority, the county or city shall provide a
written statement on behalf of the dependent special district opting into an authority to the administrator of the authority on or before December 1, 2021. After the formation of an authority, a county or city that concludes that a dependent special district should be consolidated into an authority shall make a proposal or petition to the local agency formation commission for the consolidation pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(c) An authority may include areas that are not contiguous.

(d) No later than November 1, 2021, the administrator for an authority shall consult with all entities identified pursuant to subdivision (a) to provide advice as to the advantages and disadvantages of opting into being included in the authority.

78034. (a) No later than 30 days after determining that an authority shall be formed pursuant to Section 78032, the state board shall notify a local agency formation commission of a county where the public water system that submitted the plan is located, and, if appropriate given the governance of the public water system, the Public Utilities Commission, that it has determined that the public water system shall be consolidated into an authority.

(b) No later than 60 days after determining that an authority shall be formed, the state board shall do both of the following:

(1) Notify the appropriate state agency identified in subdivision (a) of the public water systems that will be consolidated into an authority.

(2) Appoint an independent administrator pursuant to Section 78035 for each proposed authority who shall be responsible for the preparation of a plan for service and interim administration and management of the authority.

78035. (a) On or before March 1, 2022, the administrator, after consultation with the executive officer of the local agency formation commission, shall submit to the state board a conceptual formation plan that includes all of the following:

(1) The public water system service areas to be served by the authority.

(2) The population to be served by the authority.

(3) The available infrastructure to be used by the authority and any known deficiencies.
(4) The recorded violations of drinking water standards and the nature of the threat to public health and safety.

(5) Financial and operational provisions to be addressed in the plan for service pursuant to Section 78038.

(6) A plan for the provision of safe and clean water supplies to the customers of the public water system being included in the authority from the date of submission until the date upon which all infrastructure repair, construction, rehabilitation, or reconstruction needed to provide safe and clean drinking water is completed.

(b) The state board shall provide comments on the conceptual formation plan to the administrator and applicable local agency formation commission within 60 days of its receipt.

(c) The state board or an authority may determine the legality of the existence of the authority or validate the financial provisions of an interim plan in an action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

78036. (a) On or before March 1, 2021, the state board shall establish and publish a list of individuals who meet the qualifications in subdivision (e) to serve as administrators pursuant to this division.

(b) A single administrator may provide services to several authorities if, in the judgment of the state board, the services can be provided in a manner that achieves the purposes of this division.

(c) An administrator, who may be an employee of a consulting firm, shall provide or contract for administrative and managerial service to establish the authority, retain staff and consultants, and commence the remediation of the violations of drinking water standards.

(d) The state board shall bear the cost of the administrator and be responsible for all compensation and reasonable expenses incurred by the administrator for the duration of the period that the administrator serves the authority.

(e) The minimum qualifications and selection process for an administrator appointed by the state board pursuant to this division shall be consistent with the minimum qualifications and selection process for administrators appointed in accordance with paragraph (1) of subdivision (m) of Section 116686 of the Health and Safety Code.
(f) An administrator shall serve at the pleasure of the state board until whichever of the following dates occurs earlier:

(1) The local agency formation commission issues a notice of completion of the plan for service pursuant to Section 78038.
(2) Three years from the date that the local agency formation commission forms an authority.
(3) No sooner than 30 days after the appointment of a general manager by the board of the authority, at which date the services of the administrator shall be terminated.

78037. (a) (1) No later than 240 days after the state board issues a notice pursuant to paragraph (1) of subdivision (b) of Section 78034, the Public Utilities Commission shall order the dissolution of the public water system and the transfer of all assets of the water corporation subject to this paragraph to the authority formed by the local agency formation commission.
(2) No later than 240 days after the state board issues a notice pursuant to paragraph (1) of subdivision (b) of Section 78034, the state board shall petition a court of competent jurisdiction for an order dissolving any mutual water company, water corporation, or private corporation that has been operating a public water system identified in subdivision (a) of Section 78034 and transferring the assets of that company or corporation to the authority formed by the local agency formation commission.

(b) An owner or shareholder of a water corporation or a mutual water company consolidated into an authority pursuant to subdivision (a) shall be compensated as follows:

(1) Within 180 days of the dissolution, the state board shall cause to be prepared a distressed business valuation to determine the net fair market value of the corporation or company, calculated as follows, with repayment by an authority as described in paragraph (4):

(A) The assets of the water corporation or mutual water company shall be calculated by estimating the net book value of all assets, including, but not limited to, cash and investments, receivables, prepaid expenses, water in storage, real property, water rights, structures and improvements, equipment, general facilities, and other assets.
(B) Notwithstanding subparagraph (A), water rights shall be appraised at their market value if both of the following requirements are met:
(i) The water rights provide for the extraction of groundwater in a groundwater basin that has been fully adjudicated and wherein the production right of the water corporation or mutual water company has been determined in that adjudication.

(ii) The market valuation is calculated so as to exclude any capital or operating costs that may be required to bring the water being produced under the water right into full compliance with all state and federal law.

(C) The liabilities of the water corporation or mutual water company shall be calculated by estimating the financial liabilities, including, but not limited to, accounts payable, unfunded pension or other benefit liabilities, notes payable, bonds payable, as well as outstanding fines, fees, or other assessments for drinking water or other public health violations, estimated costs for outstanding litigation and other anticipated liabilities, and the estimated costs to bring all structures and works into good repair and in compliance with contemporary water infrastructure and drinking water standards.

(2) Upon issuance by the state board of the distressed business valuation determining the net fair market value, the authority may seek an order for immediate possession of all of the assets and liabilities of the corporation or company using the procedures set forth in Article 3 (commencing with Section 1255.410) of Chapter 6 of Title 7 of Part 3 of the Code of Civil Procedure. A court shall grant immediate possession if the court determines that the procedures in this section have been followed. Judicial review of the determinations by the state board shall be based on substantial evidence in the record before the state board.

(3) If an owner or shareholder disputes the distressed business valuation of the state board, the owner or shareholder may file an action pursuant to Section 1094.5 of the Code of Civil Procedure seeking a writ of mandate overturning the valuation. An action pursuant to this paragraph shall have preference in the civil calendar.

(4) Payment of the net fair market value of the water corporation or mutual water company, with interest accruing from the effective date of dissolution, shall be paid by the authority within two years of the authority’s formation from the proceeds of bond sales or other available funds derived from rates, fees, charges, taxes, or other revenue sources.
(5) The authority shall assume all obligations and liabilities of the public water system. After paying the net fair market value to the owners or shareholders of a water corporation or mutual water company, the authority may receive financing from the state to pay all liabilities. The authority shall issue bonds to repay the state with interest for those liabilities pursuant to Part 8 (commencing with Section 78100).

(c) At the time a water corporation or a mutual water company is dissolved and consolidated into an authority pursuant to subdivision (a), if there is pending any action in state or federal court or other judicial proceeding brought or maintained by the water corporation or mutual water company for damages to property associated with contamination or pollution of its water supply against one or more responsible parties, both of the following apply:

(1) The water corporation’s or mutual water company’s rights, interests, claims, and causes of action in the action or proceeding shall be deemed transferred, as that term is used in Section 954 of the Civil Code and Section 368.5 of the Code of Civil Procedure, to the authority.

(2) The authority shall assume any and all contractual obligations of the water corporation or mutual water company owed to any attorney or law firm in connection with the attorney’s or firm’s representation of the water corporation or mutual water company in connection with the action or proceeding.

78038. (a) Within 180 days after the state board provides comments on the draft conceptual formation plan pursuant to subdivision (b) of Section 78035, the administrator shall submit an application for the dissolution and formation and proposed plan for service to the local agency formation commission for review and potential approval pursuant to Part 3 (commencing with Section 56650) of Division 3 of Title 5 of the Government Code. An application to form an authority shall include at least five public water systems, unless the administrator determines that the authority would be financially and operationally viable with fewer than five public water systems, and may include the following:

(1) A public water system from a county service area or other dependent special district.

(2) A public water system that has been meeting drinking water standards and that wishes to join the proposed authority.
(3) A public water system identified by the state board as chronically serving water that fails to meet drinking water standards in the county in which the proposed authority will be formed.

(4) A public water system for which a petition was submitted to the administrator pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 78033 and not denied by the administrator.

(b) A proposed plan for service shall include all of the following information, as well as any additional information required or requested by the local agency formation commission or its executive officer:

1. In the case of the formation of an authority that does not involve the dissolution of an existing special district, the plan for service shall include all of the following:
   1. An enumeration and description of the services currently provided and to be extended to the affected territory, including the level and range of those services and an indication of when those services can feasibly be extended to the affected territory.
   2. An indication of any improvement or upgrading of water facilities, or other conditions the authority would impose or require within the affected territory.
   3. Information with respect to how the services to be provided by the authority will be financed, in accordance with Articles XIII, XIII A, XIII C, and XIII D and any other applicable provisions of the California Constitution, that shall include all of the following:
      1. The necessary financial resources to improve or upgrade water facilities or other infrastructure identified in the formation application.
      2. A discussion of the economies of scale that accrue when several small organizations are consolidated into a single authority.
      3. An estimated timeframe for constructing and delivering the services identified in the formation application.
      4. The operation and maintenance needs of the authority.
      5. Financial plans for the financing of capital improvements, operation and maintenance of facilities, and operation of the authority.
      6. The governance, oversight, and long-term maintenance of the services identified in the formation application after the initial costs are recouped and any tax increment financing terminates.
(D) Information showing how the area currently being serviced by a public water system that will be included within an authority will be served with water during the period when the authority is being formed until the completion of all capital improvement projects needed to provide safe and clean drinking water.

(2) In the case of the formation of an authority that includes dissolution of an existing special district, the plan for services shall include all of the following:

(A) All of the elements required pursuant to subparagraphs (A) to (C), inclusive, of paragraph (1).

(B) An enumeration and description of the services currently provided by the special district proposed for dissolution and identification of the authority proposed to be formed by the successor to assume responsibility for the services following completion of the dissolution.

(C) An enumeration and description of each service proposed to be discontinued or transferred, the current financing of each service, and any method of financing proposed by the successor.

(D) A delineation of any existing financing of services currently provided to include, but not be limited to, bonds, assessments, general taxes, special taxes, other charges, and joint powers authorities or agreements.

(E) Information about any current bankruptcy proceeding, including, but not limited to, the status and exit plan.

(F) Information about any current order relating to services provided by the special district proposed for dissolution by any agency, department, office, or other division of the state, including, but not limited to, a cease and desist order or water prohibition order.

(G) Information showing how the area currently being serviced by a public water system that will be included within an authority will be served with water during the period when the authority is being formed until the completion of all capital improvement projects needed to provide safe and clean drinking water.

(H) Any other information that the local agency formation commission or its executive officer may deem necessary to evaluate the plan for services submitted.

(3) A statement by the administrator that the administrator has consulted with representatives of the entities whose customers will be served by the authority to consider the plan for service.
(c) (1) If the administrator determines that the formation of an authority would be infeasible for financial, technical, or operational reasons, or would not provide the necessary economies of scale or operating benefits, the administrator may set forth those conclusions in a report to the state board in lieu of submitting a plan for service to the local agency formation commission.

(2) The report to the state board shall be submitted at the same time that the administrator would have submitted the application for consolidation to the local agency formation commission.

(3) If the state board receives notice from the administrator pursuant to paragraph (1), the state board shall, based on substantial evidence, determine whether the following conditions are present:

(A) The continued operation of the public water system in its current condition is a threat to public health and safety.

(B) The public water system lacks the financial, managerial, or technical resources required to remedy the violation of state or federal primary drinking water standards, which results in the entity’s inability to remain operationally viable as a public water system.

(4) If the state board makes both of the findings in paragraph (3), the state board shall do either of the following:

(A) Exercise its authority to remedy the failure to meet applicable drinking water standards pursuant to Article 9 (commencing with Section 116650) of Chapter 4 of Part 12 of Division 104 of the Health and Safety Code.

(B) Use existing funding sources and existing legal authority to remedy the failure to meet applicable drinking water standards.

(d) (1) If the local agency formation commission approves the plan and the formation of the authority, the authority shall take the appropriate actions to comply with the plan, subject to Articles XIII, XIII A, XIII C, and XIII D and any other applicable provisions of the California Constitution.

(2) If the local agency formation commission approves the plan and the formation of the authority with modifications, the authority shall take the appropriate actions to comply with the modifications within 180 days of the plan’s approval with modifications in accordance with Articles XIII, XIII A, XIII C, and XIII D and any other applicable provisions of the California Constitution.

(3) An authority subject to paragraph (1) or (2) shall file a statement, under penalty of perjury, with the executive officer of
the local agency formation commission certifying compliance with
the plan. An authority shall take the appropriate actions to comply
with Articles XIII, XIII A, XIII C, and XIII D and any other
applicable provisions of the California Constitution and shall file
a statement, under penalty of perjury, with the executive officer
of the local agency formation commission certifying the
compliance. Within 30 days of filing a statement, the executive
officer of the local agency formation commission shall issue a
notice of completion to the authority and send a copy of that notice
to the state board. In the event that the authority fails to timely file
a statement certifying compliance with the plan, the state board
may issue an order to the authority requiring the filing or other
remedial action as may be appropriate.

(e) An authority is deemed to be a successor agency to an entity
identified in subdivision (a) of Section 78030. An action described
in this chapter shall not affect an authority’s eligibility or priority
for a state loan or grant.

78039. Division 13 (commencing with Section 21000) of the
Public Resources Code does not apply to either of the following:
(a) The formation of an authority pursuant to this chapter.
(b) The dissolution of a public water system pursuant to this
chapter.

78040. (a) Annually for the first three years after the date of
an authority’s formation by the local agency formation commission,
an authority shall file a report with the local agency formation
commission and state board as follows:
(1) The report shall contain both of the following:
(A) A description of operations over the past year.
(B) Details of any violations of drinking water standards and
the actions taken to remediate a violation.
(2) The administrator or, after the discharge of the administrator,
the general manager of the authority shall submit the report.
(3) A certificate stating that the report consists of a true, full,
and complete description of the activities of the authority during
the past year shall accompany the report.
(b) A local agency formation commission shall hold a public
hearing within 90 days of receipt of a report pursuant to subdivision
(a) to review the authority’s performance during the previous year.
If a report states that an authority has failed to comply with any
conditions imposed by the commission on either the original
formation or the plan for service adopted pursuant to Section 78038, the state board may order the authority to remedy the violations within a reasonable period of time. If an authority fails to timely comply with a remedial order by the state board, the state board may impose a civil penalty on the authority in an amount not to exceed five hundred dollars ($500) per day for each violation and not to exceed ten thousand dollars ($10,000) per year for each particular violation.

78041. (a) No later than January 1, 2026, the Controller shall prepare, or cause the preparation of, and submit to the Legislature a report that does all of the following:

1. Reviews and evaluates the startup operations of the authorities, in terms of timeliness and cost effective provision of safe and clean water.
2. Evaluates the fiscal and operational health of the authorities.
3. Makes a recommendation regarding the need for supplemental state funding, if any, and the potential sources of that funding.

(b) In preparing the report, the Controller may consult with any individual or organization the Controller deems appropriate, including, but not limited to, the state board, the Association of California Water Agencies, the California Association of Local Agency Formation Commissions, the California Municipal Utilities Association, the California Association of Mutual Water Companies, or the California State Association of Counties.

(c) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, the requirement for submitting a report imposed under subdivision (a) is inoperative on January 1, 2030.

78041. (a) (1) Following the formation of the authorities, the Controller shall perform an audit of the fiscal and operational health of each authority. The Controller shall prepare and submit the results of the audits to the Legislature, no later than January 1, 2026, in the form of a report.

(2) An authority shall make sufficient records available, as necessary, for the Controller to complete the audit. These records shall include, but are not limited to, financial statements prepared
in accordance with generally accepted accounting principles and related source documents.

(3) Each authority shall reimburse the Controller for all costs associated with conducting the fiscal and operational audit of that authority.

(b) (1) A report submitted pursuant to paragraph (1) of subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, the requirement for submitting a report imposed under paragraph (1) of subdivision (a) is inoperative on January 1, 2030.

78042. (a) No later than January 1, 2026, the state board shall prepare and submit to the Legislature a report specifying the number of public water systems that, at any time between July 1, 2018, and January 1, 2025, were out of compliance with one or more state or federal primary drinking water standards on a running annual average. The report shall identify the public water systems that satisfy any of the following conditions:

(1) Were brought into compliance with the applicable drinking water standards through the creation of an authority pursuant to this division.

(2) Were brought into compliance with the applicable drinking water standards pursuant to Article 9 (commencing with Section 116650) of Chapter 4 of Part 12 of Division 104 of the Health and Safety Code.

(3) Remain out of compliance with the applicable drinking water standards.

(b) For those public water systems that remain out of compliance with those standards as of January 1, 2025, the report shall propose one or more plans that will, using financial and other resources then available to the state board to the greatest extent feasible, bring those public water systems into compliance with the applicable drinking water standards by January 1, 2029.

(c) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, the requirement for submitting a report imposed under subdivision (a) is inoperative on January 1, 2030.
PART 5. INTERNAL ORGANIZATION

CHAPTER 1. DIRECTORS

78045. (a) The initial board of an authority shall consist of an odd number of directors composed as follows:

(1) One representative from each entity consolidated into the authority appointed by the entity before its dissolution.

(2) One representative from the board of supervisors.

(3) Additional directors, as needed, appointed by the board of supervisors to comprise at least a five-member board of directors, if one of the entities does not appoint a director.

(b) The public water system representatives in consultation with the administrator shall determine the final number of directors that will compose the initial board if it will consist of more than five members because of the number of former public water systems included in the authority. If the number of directors cannot be agreed upon by the representatives of the public water systems that will become part of the authority in a timely manner, the local agency formation commission shall determine the number of directors that will compose the initial board.

(c) If the initial board consists of five members, the directors shall classify themselves by lot so that two of them shall hold office until the qualification of their successors after the first general district election and three of them shall hold office until the election and qualification of their successors and the second general district election. If the initial board of directors consists of more than five members, the local agency formation commission shall provide for the classification of directors so as to provide that not more than a majority of the directors stand for election every two years.

(d) If the initial board consists of more than five members, the administrator shall include, as part of the plan for service, after consultation with the representatives of public water systems, and the local agency formation commission shall include, as part of the order forming the authority, a transitional plan that will bring the number of directors to five within a reasonable period of time. To the extent practicable, the transitional plan shall ensure that each director represents a division with equal population being served by the authority and that the final divisions are drawn so
as to ensure that each director represents a division with equal
population being served by the authority.

78046. (a) A director shall be a resident of the area served by
the authority. To the extent practicable, a director shall represent
a division with equal population being served by the authority. If
a director moves residence, as defined in Section 244 of the
Government Code, outside of the area served by the authority, the
director shall have 180 days after the move to reestablish a place
of residence within the area served by the authority. If a director
cannot establish a place of residence, it shall be presumed that a
permanent change of residence has occurred and that a vacancy
exists on the board of directors pursuant to Section 1770 of the
Government Code.

(b) Each elected director shall hold office for a term of four
years. A director elected to office shall take office at noon on the
first Friday in December succeeding the director’s election.

(c) Whenever a vacancy occurs in the office of director it shall
be filled pursuant to Section 1780 of the Government Code by a
qualified person.

78047. Notwithstanding Section 20201, a director shall receive
compensation in an amount not to exceed two hundred fifty dollars
($250) per day for each day’s attendance at meetings of the board
or for each day’s service rendered as a director by request of the
board, not exceeding a total of 10 days in any calendar month,
together with any expenses incurred in the performance of the
director’s duties required or authorized by the board. For purposes
of this section, the determination of whether a director’s activities
on any specific day are compensable shall be made pursuant to,
and reimbursement for these expenses is subject to, Article 2.3
(commencing with Section 53232) of Chapter 2 of Part 1 of
Division 2 of Title 5 of the Government Code. The board may
adjust the compensation for directors pursuant to Chapter 2
(commencing with Section 20200) of Division 10.

Chapter 2. The Board

78050. (a) The board is the governing body of the authority.

(b) The board shall hold its first meeting as soon as possible
after the selection of the first board of directors and not later than
the sixth Monday after the date of the formation.
(c) At its first meeting, the board shall provide for the time and place of holding its meetings and the manner in which its special meetings may be called.

(d) At its first meeting, and its first meeting in the month of January of each odd-numbered year, the board shall elect one of its members as president. The board may, at any meeting, elect one of its members as vice president. If the president is absent or unable to act, the vice president shall exercise the powers of the president granted in this division.

(e) A majority of the board shall constitute a quorum for the transaction of business. However, no ordinance, motion, or resolution may become effective without the affirmative vote of a majority of the members of the board.

(f) The board shall act only by ordinance, resolution, or motion. Votes of the members of the board shall not be cast or exercised by proxy.

(g) On all ordinances the roll shall be called and the ayes and noes shall be recorded in the journal of the proceedings of the board.

(h) The board may adopt resolutions or motions by voice vote, but on demand of any member of the board, the roll shall be called.

(i) The board may destroy a record pursuant to Chapter 7 (commencing with Section 60200) of Division 1 of Title 6 of the Government Code.

78051. (a) The board shall exercise and perform all powers, privileges, and duties of an authority.

(b) Any executive, administrative, and ministerial powers may be delegated and redelegated by the board to any of the offices created by this division or by the board.

(c) The board may fix the time and place or places at which its regular meetings will be held and shall provide for the calling and holding of special meetings.

(d) The board may fix the location of the principal place of business of the authority and the location of all offices and departments maintained under this division.

(e) The board may, by ordinance, prescribe a system of business administration.

(f) The board may create any necessary offices and establish and reestablish the powers, duties, and compensation of all officers and employees.
(g) The board may require and fix the amount of all official bonds necessary for the protection of the funds and property of the authority.

(h) The board may, by ordinance, prescribe a system of civil service.

(i) The board may, by ordinance, delegate and redelegate to the officers of the authority the power to employ clerical, legal, and engineering assistants and labor.

(j) The board may prescribe a method of auditing and allowing or rejecting claims and demands.

(k) The board shall designate a depository or depositories to have the custody of the funds of the authority, all of which depositories shall give security sufficient to secure the authority against possible loss, and who shall pay the warrants drawn by the authority’s treasurer for demands against the authority under any rules the directors may prescribe.

(l) An authority may issue bonds, borrow money, and incur indebtedness as authorized by law.

(m) An authority may refund bonds, loans, or indebtedness by the issuance of the same obligations following the same procedure or retire any indebtedness or lien that may exist against the authority or its property.

(n) An authority may insure its directors, officers, assistants, employees, agents, and deputies for injury, death, or disability incurred while engaged in the business of the authority and the cost of the insurance is a proper charge against the authority. The insurance is in addition to any compensation secured under the provisions of Division 4 (commencing with Section 3200) of the Labor Code and inuring to the benefit of the director, officer, deputy, assistant, employee, or agent, or their beneficiary or heir.

78052. Within 180 days of its initial meeting after formation, the board shall file a certificate with the Secretary of State that includes all of the following:

(a) The name of the authority.

(b) The date of formation.

(c) Any county in which the authority is located and a legal description of the boundaries of the authority, a reference to a map showing the boundaries of the authority, or a reference to a map on file with a county recorder’s office showing the boundaries of the authority.
(d) An identification of all of the public agencies, water corporations, or mutual water companies that were consolidated into the authority.

Chapter 3. Officers and Employees

78055. (a) At its first meeting, or as soon as practicable, the board shall appoint, by a majority vote, a secretary, treasurer, attorney, general manager, and auditor. The board, at any meeting, may appoint a deputy secretary and a deputy treasurer. The board shall define the duties of these officers and fix their compensation. Each officer shall serve at the pleasure of the board. A deputy director, deputy secretary, attorney, general manager, and auditor shall not be directors, but the secretary and treasurer may be directors.

(b) The officers appointed pursuant to subdivision (a) shall, until such time as the local agency formation commission issues a notice of completion, pursuant to Section 78038, take direction from the administrator appointed by the state board.

(c) The board may employ additional assistants, contractors, and employees as the board deems necessary to efficiently maintain and operate the authority.

(d) The board may consolidate the offices of secretary and treasurer.

78056. (a) The president and secretary, in addition to the duties imposed on them by law, shall perform any duties that may be imposed on them by the board.

(b) The treasurer, or other person as may be authorized by the board, shall draw checks or warrants to pay demands when the demands have been audited and approved in the manner prescribed by the board.

(c) Subject to the approval of the board, the general manager shall have full charge and control of the maintenance, operation, and construction of the waterworks or waterworks system of the authority, with full power and authority to employ and discharge all employees and assistants, other than those described in subdivision (a) of Section 78055, at pleasure, prescribe their duties, and fix their compensation.

(d) The general manager shall perform duties as may be imposed on the general manager by the board. The general manager shall
report to the board in accordance with the rules and regulations adopted by the board.

(e) The attorney shall be the legal adviser of the authority and shall perform any other duties that may be prescribed by the board.

(f) The general manager, secretary, and treasurer, and other employees or assistants of the authority designated by the board, shall give any bonds to the authority conditioned for the faithful performance of their duties that the board from time to time may provide. The premiums on the bonds shall be paid by the authority.

PART 6. ELECTIONS

78060. Elections shall be conducted pursuant to the provisions of the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

PART 7. POWERS AND PURPOSES

Chapter 1. Powers Generally

78065. An authority may exercise the powers that are expressly granted by this division or are necessarily implied.

78066. An authority may have perpetual succession. An authority may adopt a seal and alter it at pleasure.

78067. An authority may make contracts, employ labor, and do all acts necessary for the full exercise of its powers.

78068. (a) An authority may provide by ordinance for the pensioning of officers or employees, for the terms and conditions under which the pensions shall be awarded, and for the time and extent of service of officers or employees before the pensions shall be available to them.

(b) An authority may contract with any insurance corporation, the Public Employees' Retirement System, or any other insurance carrier for the maintenance of a service covering the pension of the authority officers or employees and for their health and accident insurance coverage.

78069. An authority may disseminate information concerning the rights, properties, and activities of the authority. The power shall not be construed as an exception to the California Public
78070. An authority may, by resolution, obtain membership in an association having for its purpose the furtherance of a subject relating to the powers and duties of the authority and for the interchange of information relating to those powers and duties. An authority may appropriate the funds necessary for these purposes.

78071. An authority may, by resolution of the board of directors spread on its minutes, change the name of the authority. Certified copies of the resolution changing the name of the authority shall be recorded in the office of the county recorder of every affected county and sent to the county clerk of every affected county and to the state board.

78072. Every person convicted of an infraction for a violation of any local ordinance or regulation adopted pursuant to this division shall be punished upon a first conviction by a fine not exceeding fifty dollars ($50) and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars ($100) and for a third or any subsequent conviction within a period of one year by a fine of not exceeding two hundred fifty dollars ($250).

78073. (a) In order to enforce the provisions of any ordinance of the authority, including an ordinance fixing charges for the furnishing of commodities or services, the authority may correct any violation of an ordinance of the authority. The authority may also petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of any ordinance of the authority or for the issuance of an order stopping or disconnecting a service if the charges for that service are unpaid at the time specified in the ordinance.

(b) The authority may enter upon the private property of any person within the jurisdiction of the authority in order to investigate possible violations of an ordinance of the authority. The investigation shall be made with the consent of the owner or tenant of the property or, if consent is refused, with a warrant duly issued pursuant to the procedures set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, except that, notwithstanding Section 1822.52 of the Code of Civil Procedure, the warrant shall be issued only upon probable cause.
(c) The authority shall notify the county or city building inspector, county health inspector, or other affected county or city employee or office, in writing, within a reasonable time if an actual violation of an authority, city, or county ordinance is discovered during the investigation.

Chapter 2. Water

78075. (a) An authority may acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water, including sewage and stormwater, for the beneficial use of the authority.

(b) An authority may undertake a water conservation program to reduce water use and may require, as a condition of new service, that reasonable water-saving devices and water reclamation devices be installed to reduce water use.

(c) An authority may sell water under its control, without preference, to cities, other public corporations, agencies, and persons, within the authority for use within the authority.

(d) An authority may fix the rates at which water shall be sold. Different rates may be established for different classes or conditions of service, but rates shall be uniform throughout the authority for like classes and conditions of service. Rates fixed by an authority shall result in revenues that will do all of the following:

1. Pay the operating expenses of the authority.
2. Provide for repairs and depreciation of works.
3. Provide a reasonable surplus for improvements, extensions, and enlargements.
4. Pay the interest on any bonded debt.
5. Provide a sinking or other fund for the payment of the principal of the bonded debt as it becomes due.

(e) An authority furnishing water for residential use to a tenant shall not seek to recover any charge or penalty for the furnishing of water to or for the tenant’s residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The authority may require that service to subsequent tenants be furnished on the account of the landlord or property owner.

78076. (a) Pursuant to the notice, protest, and hearing requirements imposed by Section 53753 of the Government Code, an authority, by ordinance on or before the third Monday in August
in each fiscal year, may fix a water standby assessment or
availability charge in the authority or in any portion of the authority
to which the authority makes water available, whether the water
is actually used or not.
(b) The standby assessment or availability charge shall not
exceed one hundred dollars ($100) per acre per year for each acre
of land on which the charge is levied or one hundred dollars ($100)
per year for a parcel less than one acre.
(c) The ordinance fixing a standby assessment or availability
charge shall be adopted by the board pursuant to the notice, protest,
and hearing procedures in Section 53753 of the Government Code
and only after adoption of a resolution setting forth the particular
schedule or schedules of charges or assessments proposed to be
established by ordinance and after a hearing on the resolution.
(d) If the procedures set forth in this section were followed, the
board may, by ordinance, continue the standby assessment or
availability charge pursuant to this chapter in successive years at
the same rate. If new, increased, or extended assessments are
proposed, the board shall comply with the notice, protest, and
(e) An ordinance fixing a standby assessment or availability
charge may establish a schedule varying the charges according to
land uses, water uses, and degree of water availability.
(f) On or before the third Monday in August, the board shall
furnish in writing to the board of supervisors and the county auditor
of each affected county a description of each parcel of land within
the authority upon which a standby charge is to be levied and
collected for the current fiscal year, together with the amount of
standby charge fixed by the authority on each parcel of land.
(g) The board shall direct that, at the time and in the manner
required by law for the levying of taxes for county purposes, the
board of supervisors shall levy, in addition to any other tax it levies,
the standby charge in the amounts for the respective parcels fixed
by the board.
(h) All county officers charged with the duty of collecting taxes
shall collect authority standby charges with the regular tax
payments to the county. The charges shall be collected in the same
form and manner as county taxes are collected, and shall be paid
to the authority.
(i) Charges fixed by the authority shall be a lien on all the
property benefited by the charges. Liens for the charges shall be
of the same force and effect as other liens for taxes, and their
collection may be enforced by the same means as provided for the
enforcement of liens for state and county taxes.

78077. (a) An authority may restrict the use of authority water
during any emergency caused by drought, or other threatened or
existing water shortage, and may prohibit the wastage of authority
water or the use of authority water during periods for any purpose
other than household uses or other restricted uses as the authority
determines to be necessary. An authority may also prohibit use of
authority water during these periods for specific uses that it finds
to be nonessential.

(b) An authority may prescribe and define by ordinance the
restrictions, prohibitions, and exclusions referred to in subdivision
(a). The ordinance is effective upon adoption; but, within 10 days
after its adoption, the ordinance shall be published pursuant to
Section 6061 of the Government Code in full in a newspaper of
general circulation that is printed, published, and circulated in the
authority. If there is no newspaper of general circulation printed,
published, and circulated in the authority, the ordinance shall be
posted within 10 days after its adoption in three public places
within the authority.

(c) A finding by the board upon the existence, threat, or duration
of an emergency or shortage, or upon the matter of necessity or of
any other matter or condition referred to in subdivision (a), shall
be made by resolution or ordinance. The finding is prima facie
evidence of the fact or matter so found, and the fact or matter shall
be presumed to continue unchanged unless and until a contrary
finding is made by the board by resolution or ordinance.

(d) The finding made by the board pursuant to subdivision (c)
shall be received in evidence in any civil or criminal proceeding
in which it may be offered, and shall be proof and evidence of the
fact or matter found until rebutted or overcome by other sufficient
evidence received in the proceeding. A copy of any resolution or
ordinance setting forth the finding shall, when certified by the
secretary of the authority, be evidence that the finding was made
by the authority as shown by the resolution or ordinance and
certification.
(e) From and after the publication or posting of any ordinance pursuant to subdivision (b), and until the ordinance has been repealed or the emergency or threatened emergency has ceased, it is a misdemeanor for any person to use or apply water received from the authority contrary to or in violation of any restriction or prohibition specified in the ordinance. Upon conviction, such a person shall be punished by imprisonment in the county jail for not more than 30 days, or by fine not exceeding six hundred dollars ($600), or by both.

Chapter 3. Property

78080. An authority may, within or without the authority, take real and personal property of every kind by grant, purchase, gift, device, or lease, and hold, use, enjoy, lease, or dispose of real and personal property of every kind.

78081. An authority may do all of the following:

(a) Acquire, or contract to acquire, waterworks or a waterworks system, waters, water rights, lands, rights, and privileges.

(b) Construct, maintain, and operate conduits, pipelines, reservoirs, works, machinery, and other property useful or necessary to store, convey, supply, or otherwise make use of water for a waterworks plant or system for the benefit of the authority.

(c) Complete, extend, add to, repair, or otherwise improve any waterworks or waterworks system acquired by the authority.

(d) Carry on and conduct waterworks or a waterworks system.

78082. An authority may lease from any person, or public corporation or agency, with the privilege of purchasing or otherwise, all or any part of water storage, transportation, or distribution facilities, existing waterworks, or a waterworks system.

78083. An authority may exercise the right of eminent domain to take any property necessary to supply the authority or any portion of the authority with water. The authority, in exercising the power, shall, in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility that is required to be removed to a new location.

78084. An authority may construct works along and across any stream of water, watercourse, street, avenue, highway, canal,
ditch, or flume, or across any railway that the route of the works
may intersect or cross. The works shall be constructed in such a
manner as to afford security for life and property, and the authority
shall restore the crossings and intersections to their former state
as near as may be, or in a manner so as not to have impaired
unnecessarily their usefulness.

Chapter 4. Contracts

78085. Contracts mentioned in this chapter include those made
with the United States under the Federal Reclamation Act of June
17, 1902, and all acts amendatory thereof or supplementary thereto,
or any other act of Congress heretofore or hereafter enacted
permitting cooperation.

78086. An authority may join with one or more public agencies,
private corporations, or other persons for the purpose of carrying
out any of the powers of the authority, and for that purpose may
contract with any other public agencies, private corporations, or
persons to finance acquisitions, construction, and operations.

78087. The contracts with other public agencies, private
corporations, or persons may provide for contributions to be made
by each party to the contract, for the division and apportionment
of the expenses of the acquisitions and operations, and for the
division and apportionment of the benefits, services, and products
from the contract. The contracts may also provide for an agency
to effect the acquisitions and to carry on the operations, and shall
provide in the powers and methods of procedure for the agency
the method by which the agency may contract. The contracts may
contain other and further covenants and agreements as may be
necessary or convenient to accomplish the purposes of the contract.

Chapter 5. Controversies

78090. An authority may sue and be sued, except as otherwise
provided in this division or by law, in all actions and proceedings
in all courts and tribunals of competent jurisdiction.

78091. An authority may commence, maintain, intervene in,
and compromise, in the name of the authority, any action or
proceeding involving or affecting the ownership or use of water
or water rights within the authority, used or useful for any purpose
of the authority, or a common benefit to lands within the authority
or inhabitants of the authority.

78092. An action to determine the validity of any contract
authorized by Chapter 4 (commencing with Section 78085) and
any bonds, notes, or other evidences of indebtedness may be
brought pursuant to Chapter 9 (commencing with Section 860) of
Title 10 of Part 2 of the Code of Civil Procedure.

78093. All claims for money or damages against the authority
are governed by Part 3 (commencing with Section 900) and Part
4 (commencing with Section 940) of Division 3.6 of Title 1 of the
Government Code except as provided therein, or by other statutes
or regulations expressly applicable to the authority.

78094. To carry out the purposes of this division, an authority
shall have the power to commence, maintain, intervene in, defend,
and compromise, in the name of the authority, or as a class
representative of the inhabitants, property owners, taxpayers, water
producers, or water users within the authority, or otherwise, and
to assume the costs and expenses of any and all actions and
proceedings now or hereafter begun to determine or adjudicate all
or substantially all of the water rights of a basin or other hydrologic
unit overlain, in whole or in part, by the authority, as between
owners of or claimants to those rights, to prevent any interference
with water or water rights used or useful to the lands, inhabitants,
owners, operators, or producers within the authority, or to prevent
the diminution of the quantity or quality of the water supply of the
authority or the basin, or to prevent unlawful exportation of water
from the authority or basin.

78095. An authority may employ counsel to defend any action
brought against it or against any of its officers, agents, or
employees on account of any claimed action or inaction involving
any claimed injury, taking, damage, or destruction, and the fees
and expenses involved in the defense shall be a lawful charge
against the authority.

78096. If any officer, agent, or employee of the authority is
held liable for any act or omission in their official capacity, except
in case of actual fraud or actual malice, and any judgment is
rendered, the authority shall pay the judgment without obligation
for repayment by the officer, agent, or employee.
PART 8. FINANCIAL PROVISIONS

Chapter 1. Powers

78100. Article 4 (commencing with Section 53500) and Article 4.5 (commencing with Section 53506) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code apply to an authority for the purpose of providing funds for the acquisition, construction, improving, or financing of any public improvement authorized by this division. For the purposes of Article 4 (commencing with Section 53500) and Article 4.5 (commencing with Section 53506) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, “property” shall refer to both land and improvements with the effect that ad valorem taxes or assessments levied by an authority to repay a general obligation bond may be levied upon both land and improvements if approved by the electorate.

78101. Any money belonging to an authority may be deposited or invested and drawn out as provided in Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, as that article may be amended. References in that article to “auditor” shall mean, for the purposes of an authority, the secretary of an authority.

78102. (a) An improvement district may be formed in an authority in the same manner as an improvement district is formed in an irrigation district pursuant to Part 7 (commencing with Section 23600) of Division 11. When formed, an improvement district shall be governed and have the same powers as an improvement district in an irrigation district pursuant to Part 7 (commencing with Section 23600) of Division 11.

(b) A board shall have the same rights, powers, duties, and responsibilities with respect to the formation and government of an improvement district as the board of directors of an irrigation district has with respect to an improvement district in an irrigation district pursuant to Division 11 (commencing with Section 20500).

(c) An assessment in an improvement district in an authority shall be levied, collected, and enforced at the same time and in as nearly the same manner as practicable as annual taxes for purposes of the authority in which formed, except that the assessment shall be made in the same manner as provided with respect to an
improvement district in an irrigation district pursuant to Part 7
(commencing with Section 23600) of Division 11.

(d) All powers and duties of an authority may be exercised on
behalf of or within any improvement district formed pursuant to
this section.

(e) An authority may issue revenue bonds in accordance with
the Revenue Bond Law of 1941 (Chapter 6 (commencing with
Section 54300) of Part 1 of Division 2 of Title 5 of the Government
Code) on behalf of any portion of the authority created as an
improvement district pursuant to this section, except that the
issuance of revenue bonds by an authority shall not be subject to
the election procedures of Article 3 (commencing with Section
54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the
Government Code. The board shall authorize undertaking the
improvement and the issuance of revenue bonds for that purpose
by ordinance or resolution of the board, which shall be subject to
referendum. If an authority issues revenue bonds on behalf of an
improvement district, the issuance of the revenue bonds is limited
to the area of the improvement district. The proceeds of any
revenue bonds issued on behalf of an improvement district shall
not be used to finance public improvements to provide service
outside the service area of the improvement district. Only revenue
derived from rates or charges for providing the service within the
service area of the improvement district shall be pledged or used
to pay for any revenue bonds issued on behalf of an improvement
district.

(f) For the purposes of subdivision (e), “service area of the
improvement district” means the territory of an improvement
district as it existed at the time of revenue bond issuance plus lands
outside of the improvement district, if any, being served at the
time of the bond issuance by the improvement district facilities,
and additional territory, if any, annexed to the improvement district
as the improvement district existed at the time of the issuance
election, not exceeding, in the aggregate, 40 percent by area of the
improvement district as the improvement district existed at the
time of the bond issuance.

78103. The authority may exercise the powers granted pursuant
to Division 10 (commencing with Section 8500) of the Streets and
Highways Code.
Chapter 2. Financial Plan and Implementation

78110. No later than one year after the date upon which an authority is formed, the administrator shall prepare and submit a capital improvement plan to the state board. The plan shall bring the authority into full compliance with drinking water standards within three years, which time may be extended by the state board for good cause.

78111. No later than 18 months after the date upon which an authority is formed, the authority shall levy an assessment, fee, charge, or special tax, in accordance with Articles XIII, XIII A, XIII C, and XIII D of the California Constitution, and any other applicable law, to fund the ongoing operations and maintenance of the public water system.


78115. (a) Upon appropriation by the Legislature from the General Fund, or, to the extent funds are available from bond revenues or other sources, including federal, state, academic, or other public or private entities, the state board shall provide funding for an administrator pursuant to subdivision (d) of Section 78036, and for formation and startup costs of an authority for up to three fiscal years after formation of the authority, as follows:

(1) The state board shall provide to the local agency formation commission in the counties in which one or more authorities are to be formed up to a total of ____ dollars ($____) for staffing and consulting resources and other reasonable expenses to implement Sections 78035, 78038, 78040, and 78041. This amount shall be for all formations of authorities pursuant to this division.

(2) The state board shall provide, for the administrator and consulting resources under Section 78036, funding of up to a total of ____ dollars ($____). This amount shall be for all formations of authorities pursuant to this division.

(3) The state board shall provide funding assistance to each authority for three consecutive fiscal years after formation based upon the plan for service approved by the local agency formation commission pursuant to Section 78038 in an amount not to exceed 33 percent of an authority’s annual projected rate revenue in the first fiscal year, 20 percent of an authority’s projected rate revenue...
in the second fiscal year, and 10 percent of an authority’s projected
rate revenue in the third fiscal year. The total funding requirement
for this paragraph shall not exceed ____ dollars ($____).

(4) The state board shall provide funding assistance to each
authority in its first fiscal year equivalent to 25 percent of an
authority’s projected rate revenue to function as a working capital
reserve fund. The total funding requirement for this paragraph
shall not exceed ____ dollars ($____).

(b) Upon appropriation by the Legislature from the General
Fund, or, to the extent funds are available from bond revenues or
other sources, including federal, state, academic, or other public
or private entities, the state board shall receive up to ____ dollars
($____) for the preparation of distressed business valuations to
determine the net fair market value of the water corporations or
mutual water companies pursuant to Section 78037.

(c) If the moneys specified in subdivisions (a) and (b) are not
sufficient to meet the statewide needs of the authorities created
pursuant to this division, funding shall be made available for the
purposes of this division upon appropriation from the Safe Drinking
Water State Revolving Fund created by Section 116760.30 of the
Health and Safety Code as follows, to the extent permitted by
federal law:

(1) Grants or loans, as applicable, for capital improvements
shall be deemed to be within the highest funding priority within
the state revolving fund. Loans shall, until January 1, 2030, be
awarded to an authority without interest. On and after January 1, 2030, the interest on loans shall be at the lowest possible rate
then available.

(2) Grants or loans, as applicable, for technical assistance,
planning, or other nonconstruction-related matters other than
staffing or the operation and maintenance of facilities shall, until
January 1, 2030, be deemed to be within the highest funding
priority within the state revolving fund and, on and after January 1, 2030, shall be deemed to be within the second-highest priority
within the state revolving fund.

PART 9. CHANGES IN ORGANIZATION

78120. Provided that a change in organization is consistent
with this division, a change in organization shall be carried out as
set forth in the Cortese-Knox-Hertzberg Local Government
Reorganization Act of 2000 (Division 3 (commencing with Section
56000) of Title 5 of the Government Code).
SEC. 9. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB of the California Constitution for certain
costs that may be incurred by a local agency or school district
because, in that regard, this act creates a new crime or infraction,
eliminates a crime or infraction, or changes the penalty for a crime
or infraction, within the meaning of Section 17556 of the
Government Code, or changes the definition of a crime within the
meaning of Section 6 of Article XIIIB of the California
Constitution.
However, if the Commission on State Mandates determines that
this act contains other costs mandated by the state, reimbursement
to local agencies and school districts for those costs shall be made
pursuant to Part 7 (commencing with Section 17500) of Division
4 of Title 2 of the Government Code.
Item B-2
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 857 (Chiu) Public Banks (AB 857) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for AB 857.

After discussion of AB 857, the Liaisons may recommend the following actions:

1) Support AB 857;
2) Support if amended AB 857;
3) Oppose AB 857;
4) Oppose unless amended AB 857;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 857, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 8, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
Priscilla Quiroz, Legislative Advocate, Shaw / Yoder / Antwih, Inc.
Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: AB 857 (Chiu) Public Banks.

Introduction and Background
AB 857 was introduced by Assembly Member David Chiu and is sponsored by the California Public Banking Alliance. The bill would allow a local agency to establish a public bank. Public banks are not a new concept, but they have received renewed interest following the 2007-08 financial crisis, and many state and local governments have introduced legislation or conducted feasibility studies related to public banks. Two bills were introduced during the 2011-12 Legislative session related to public banks, AB 750 (Hueso, 2011) which would have created a task force to study a public bank at the state level and AB 2500 (Hueso, 2012) which would have established a state public bank. AB 750 (Hueso, 2011) was ultimately vetoed by Governor Brown, and AB 2500 (Hueso, 2012) was never heard in policy committee at the request of the author.

As to what constitutes a “public bank” aside form public ownership of the institution, other details and purposes of the institution are not generally agreed upon. However, proponents of public banks often cite several potential public benefits including the ability to divest from commercial banks that provide financial services to industries that the electorate may find objectionable, being able to provide capital at a lower cost than commercial banks for preferred uses such as infrastructure projects and affordable housing, and the opportunity for government entities to reduce their costs for banking services. AB 857 (Chiu) does lay out several provisions regarding the establishment of a public bank by a local agency and other regulatory requirements.

Specifically, this bill would:
- Define a public bank as a corporation, organized to engage in the commercial banking business or industrial banking business that is wholly owned by a local agency, local agencies, or a joint powers authority that is composed only of local agencies;
- Require a local agency located within a county with a population of less than 250,000 may organize a public bank if it does so as part of a joint powers authority formed for those purposes;
- Require a public bank to obtain and maintain deposit insurance provided by the Federal Deposit Insurance Corporation (FDIC);
- Require a public bank to comply with all requirements of the Financial Institutions Law and the Banking Law unless a requirement of those laws is inconsistent with a requirement proposed by this bill, in which case the requirement of this bill shall prevail;
- Require a local agency to conduct a study of a viability study before applying for a public banking charter.
As it relates to the purpose of this legislation and the establishment of a public bank, AB 857 states that:

“It is the intent of the Legislature that this act authorize the lending of public credit to public banks and authorize public ownership of stock in public banks for the purpose of achieving cost savings, strengthening local economies, supporting community economic development, and addressing infrastructure and housing needs for localities. It is the intent of the Legislature that public banks shall partner with local financial institutions, such as credit unions and local community banks, and shall not compete with local financial institutions.”

**Status of Legislation**
The bill passed out of the Assembly and is currently pending referral in the Senate.

**Support and Opposition**
Proponents of the bill argue that unlike privately-owned banks, a public bank would be able to operate in a manner that prioritized public benefits rather than shareholder profits. The author of the bill states that a “public bank's board of directors will have a fiduciary duty to protect taxpayers' assets,” and argues that “By creating a public bank, taxpayer money will be held by an insured financial institution that measures its return on investment not only by profits but also by its success in supporting communities.”

Opponents of the bill argue that proponents have not established that the current marketplace is not meeting the public’s financial needs. They also argue that local banks, particularly community banks, will be harmed by the loss of local agency deposits that would have provided those institutions with additional liquidity to make loans in those communities. They also assert that this bill would force community banks to compete on an uneven playing field with public banks.

*Note: The support and opposition listed below is based on a prior version of the bill*

**Support**
- California Public Banking Alliance [SPONSOR]
- AFSCME Council 57
- Alliance for Community Transit, Los Angeles
- Alliance of Californians for Community Empowerment Action
- American Indian Movement SoCal
- Asian Pacific Environmental Network
- Backbone Campaign
- Beneficial State Foundation
- California Democratic Party Delegates (97)
- California Environmental Justice Alliance
- California Faculty Association, San Francisco
- State University
- California Nurses Association
- California Progressive Alliance
- California Reinvestment Coalition
- Campaign for Sustainable Transportation, Santa Cruz
- Center for Community Action and Environmental Justice
- City and County of San Francisco
- City of Berkeley Mayor Jesse Arreguin
- City of Los Angeles
- City of Oakland
- City of San Jose
- Coleman Advocates for Children and Youth
- Commonomics
- Communities for a Better Environment
- Community Financial Resources
- Cooperation Humboldt, Eureka
- Courage Campaign
- Democracy Collaborative
- Democratic Party of the San Fernando Valley
- Democratic Socialists of America, Los Angeles
- Divest LA
- Friends of the Earth
- Friends of Public Banking Santa Rosa
Fossil Free California
Green Party of California
Green Party of Santa Clara County
Healthcare for All
Hollywood NOW
Home It
Hubert H. Humphrey Democratic Club
Idle No More – San Francisco Bay
Indivisible, CA-33
Indivisible California Green Team
Indivisible California: StateStrong
Indivisible East Bay
Indivisible Los Angeles, CA-43
Lawyers’ Committee for Civil Rights of the San Francisco Bay Area
Local Clean Energy Alliance
Los Angeles County Democratic Party
Media Alliance
McGee-Spaulding Neighbors in Action
NAACP, Santa Cruz Chapter
National Nurses United
Orange County Poor People’s Campaign
Our Revolution Long Beach
People for Public Banking Santa Cruz
People Organizing to Demand Environmental and Economic Rights
Progressive Asian Network for Action
Public Bank East Bay
Public Bank Los Angeles
Public Bank San Diego
Public Bank Santa Barbara
Public Banking Institute
Resistance – Northridge, Indivisible Revolution LA
San Francisco Berniecrats
San Francisco Living Wage Coalition
San Francisco Public Bank Coalition
San Francisco Rising
Santa Cruz Climate Action Network
Santa Cruz for Bernie
Service Employees International Union, California
SoCal 350 Climate Action
South Bay Progressive Alliance
Sunrise Movement Los Angeles
Sustainable Economies Law Center
Unites Educators of San Francisco
Women’s International League for Peace and Freedom
350 Bay Area Action
350 Conejo San Fernando Valley
350 Riverside
350 Santa Cruz
350 Silicon Valley
350 South Bay Los Angeles
38 Individuals

Opposition
Bay Area Council
California Association of Treasurers and Tax Collectors
California Bankers Association
California Chamber of Commerce
California Community Banking Network
California Credit Union League
California Taxpayers Association
Howard Jarvis Taxpayers Association
Attachment 2
An act to amend Section 119 of the Financial Code, to amend Sections 23007, 53601, 53635, and 53635.2 of, and to add Division 5 (commencing with Section 57600) to Title 5 of, the Government Code, and to add Section 23701aa to the Revenue and Taxation Code, relating to public banks.

LEGISLATIVE COUNSEL’S DIGEST

AB 857, as amended, Chiu. Public banks.

Existing law, the Financial Institutions Law, regulates the activities of various financial entities, including commercial banks, industrial banks, trust companies, credit unions, and savings associations. The Banking Law defines and regulates state banks and commits the enforcement of banking laws to the Commissioner of Business Oversight.

Existing law prohibits a county from giving or loaning its credit to, or in aid of, any person or corporation. Existing law requires a local agency, as defined, to deposit all money belonging to, or in the custody
of that local agency, into specified state or national banks, as defined. Existing law regulates the investment of public funds by local agencies.

Existing law generally governs benefit corporations and requires that a benefit corporation make an annual report to shareholders, as specified. Existing law, the Social Purpose Corporations Act, generally governs social purpose corporations and requires that a social purpose corporation make a specified annual report to shareholders.

This bill would define the term “bank” for purposes of the Financial Institutions Law and the Banking Law to include a public bank. The bill would define the term “public bank” to mean a corporation, organized for the purpose of engaging in the commercial banking business or industrial banking business, that is wholly owned by a local agency, as specified, local agencies, or a joint powers authority, or a special district authority.

The bill would require a public bank to comply with all requirements of the Financial Institutions Law and the Banking Law and to obtain and maintain insurance, subject to specified requirements. The bill would require a local agency to conduct and approve, as specified, a study of the viability of a public bank containing specified elements before submitting an application to the commissioner to organize and establish a public bank. The bill would require the local agency to include a copy of that study in the application submitted to the commissioner. The bill would authorize a county to lend its credit to a public bank. The bill also would authorize a local agency to deposit funds in a public bank, and to invest in a public bank, subject to certain requirements.

The bill would further require a public bank to identify in its articles of incorporation either a special purpose or a special public benefit. The bill would authorize, but not require, a public bank to incorporate as a benefit corporation or a social purpose corporation but would require a public bank to comply with the reporting requirements to which a social benefit or social purpose corporation are held, as specified.

The Corporation Tax Law imposes a franchise tax on financial corporations, but provides that the tax is in lieu of all other state and local taxes and licenses, with certain exceptions. That law also exempts specified classes of entities from the franchise and income taxes imposed by that law, including state-chartered credit unions.

This bill would additionally exempt from those franchise and income taxes any public bank. This bill would also exempt a public bank from all other state and local taxes and licenses, with certain exceptions.
The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that this act authorize the lending of public credit to public banks and authorize public ownership of stock in public banks for the purpose of achieving cost savings, strengthening local economies, supporting community economic development, and addressing infrastructure and housing needs for localities. It is the intent of the Legislature that public banks shall partner with local financial institutions, such as credit unions and local community banks, and shall not compete with local financial institutions.

SEC. 2. Section 119 of the Financial Code is amended to read:

119. “Bank” or “banks” includes a public bank, as defined in Section 57600 of the Government Code, commercial banks, industrial banks, and trust companies unless the context otherwise requires. However, “bank” does not include a savings association or a credit union.

SEC. 3. Section 23007 of the Government Code is amended to read:

23007. Except as specified in this chapter, a county shall not, in any manner, give or loan its credit to or in aid of any person or corporation that is not a public bank, as defined in Section 57600. An indebtedness or liability incurred contrary to this chapter is void.

SEC. 4. Section 53601 of the Government Code is amended to read:

53601. This section shall apply to a local agency that is a city, a district, or other local agency that does not pool money in deposits or investments with other local agencies, other than local agencies that have the same governing body. However, Section 53635 shall apply to all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies. The legislative body of a local agency having moneys in a sinking fund or moneys in its treasury not required for the immediate needs of the local agency may invest any portion of the moneys that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any
securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency’s funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank’s customer book entry account may be used for book entry delivery.

For purposes of this section, “counterparty” means the other party to the transaction. A counterparty bank’s trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement or securities lending agreement authorized by this section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Registered treasury notes or bonds of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.
(e) Bonds, notes, warrants, or other evidences of indebtedness of a local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

(g) Bankers’ acceptances otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. Purchases of bankers’ acceptances shall not exceed 180 days’ maturity or 40 percent of the agency’s moneys that may be invested pursuant to this section. However, no more than 30 percent of the agency’s moneys may be invested in the bankers’ acceptances of any one commercial bank pursuant to this section. This subdivision does not preclude a municipal utility district from investing moneys in its treasury in a manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(h) Commercial paper of “prime” quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or (2):

(1) The entity meets the following criteria:

(A) Is organized and operating in the United States as a general corporation.

(B) Has total assets in excess of five hundred million dollars ($500,000,000).

(C) Has debt other than commercial paper, if any, that is rated in a rating category of “A” or its equivalent or higher by an NRSRO.

(2) The entity meets the following criteria:

(A) Is organized within the United States as a special purpose corporation, trust, or limited liability company.

(B) Has programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or a surety bond.
(C) Has commercial paper that is rated “A-1” or higher, or the equivalent, by an NRSRO. Eligible commercial paper shall have a maximum maturity of 270 days or less. Local agencies, other than counties or a city and county, may invest no more than 25 percent of their moneys in eligible commercial paper. Local agencies, other than counties or a city and county, may purchase no more than 10 percent of the outstanding commercial paper of any single issuer. Counties or a city and county may invest in commercial paper pursuant to the concentration limits in subdivision (a) of Section 53635.

(i) Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed 30 percent of the agency’s moneys that may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638.

The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the moneys are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or a person with investment decisionmaking authority in the administrative office manager’s office, budget office, auditor-controller’s office, or treasurer’s office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or the supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(j) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on an investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities
that underlie a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold using a reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty using a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may be made only upon prior approval of the governing body of the local agency and shall be made only with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.
For purposes of this chapter, “significant banking relationship” means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency’s bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency’s activities.

(iii) Acceptance of a local agency’s securities or funds as deposits.

(A) “Repurchase agreement” means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank’s customer book-entry account may be used for book-entry delivery.

(B) “Securities,” for purposes of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) “Reverse repurchase agreement” means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) “Securities lending agreement” means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency’s pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.
(k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of “A” or its equivalent or better by an NRSRO. Purchases of medium-term notes shall not include other instruments authorized by this section and shall not exceed 30 percent of the agency’s moneys that may be invested pursuant to this section.

(l) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (q), inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company’s board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years’ experience investing in the securities and obligations authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (q), inclusive, and with assets under management in excess of five hundred million dollars ($500,000,000).
(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two NRSROs.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years’ experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include commission that the companies may charge and shall not exceed 20 percent of the agency’s moneys that may be invested pursuant to this section. However, no more than 10 percent of the agency’s funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(m) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(n) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.
(o) A mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond. Securities eligible for investment under this subdivision shall be rated in a rating category of “AA” or its equivalent or better by an NRSRO and have a maximum remaining maturity of five years or less. Purchase of securities authorized by this subdivision shall not exceed 20 percent of the agency’s surplus moneys that may be invested pursuant to this section.

(p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (q), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

1. The adviser is registered or exempt from registration with the Securities and Exchange Commission.
2. The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (q), inclusive.
3. The adviser has assets under management in excess of five hundred million dollars ($500,000,000).

(q) United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years or less, and eligible for purchase and sale within the United States. Investments under this subdivision shall be rated in a rating category of “AA” or its equivalent or better by an NRSRO and shall not exceed 30 percent of the agency’s moneys that may be invested pursuant to this section.

(r) Commercial paper, debt securities, or other obligations of a public bank, as defined in Section 57600.

SEC. 5. Section 53635 of the Government Code is amended to read:
53635. (a) This section shall apply to a local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other local agencies, including local agencies that have the same governing body. However, Section 53601 shall apply to all local agencies that pool money in deposits or investments exclusively with local agencies that have the same governing body.

This section shall be interpreted in a manner that recognizes the distinct characteristics of investment pools and the distinct administrative burdens on managing and investing funds on a pooled basis pursuant to Article 6 (commencing with Section 27130) of Chapter 5 of Division 2 of Title 3.

A local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other agencies may invest in commercial paper pursuant to subdivision (h) of Section 53601, except that the local agency shall be subject to the following concentration limits:

1. No more than 40 percent of the local agency’s money may be invested in eligible commercial paper.
2. No more than 10 percent of the total assets of the investments held by a local agency may be invested in any one issuer’s commercial paper.

(b) Notwithstanding Section 53601, the City of Los Angeles shall be subject to the concentration limits of this section for counties and for cities and counties with regard to the investment of money in eligible commercial paper.

(c) A local agency subject to this section may invest in commercial paper, debt securities, or other obligations of a public bank, as defined in Section 57600.

SEC. 6. Section 53635.2 of the Government Code is amended to read:

53635.2. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks, public banks, savings associations, federal associations, credit unions, or federally insured industrial loan companies in this state selected by the treasurer or other official having legal custody of the money; or may be invested in the investments set forth in Section 53601. To be eligible to receive local agency money, a bank, savings
association, federal association, or federally insured industrial loan
company shall have received an overall rating of not less than
“satisfactory” in its most recent evaluation by the appropriate
federal financial supervisory agency of its record of meeting the
credit needs of California’s communities, including low- and
moderate-income neighborhoods, pursuant to Section 2906 of Title
12 of the United States Code. Sections 53601.5 and 53601.6 shall
apply to all investments that are acquired pursuant to this section.
SEC. 7. Division 5 (commencing with Section 57600) is added
to Title 5 of the Government Code, to read:

DIVISION 5. PUBLIC BANKS

57600. For purposes of this division:
(a) “Local financial institution” means a certified community
development financial institution, a credit union, or a small bank
or an intermediate small bank, as defined in Section 25.12 of Title
12 of the Code of Federal Regulations.
(b) (1) “Public bank” means a corporation, organized for the
purpose of engaging in the commercial banking business or
industrial banking business, that is wholly owned by a local agency,
local agencies, or a joint powers authority formed pursuant to the
Joint Exercise of Powers Act (Article 1 (commencing with Section
6500) of Chapter 5 of Division 7 of Title 1) that is composed only
of local agencies, or a special district agencies.
(2) A local agency located within a county with a population of
less than 250,000 may organize a public bank only if it does so as
part of a joint powers authority formed for those purposes.
(3) For purposes of paragraph (2), population shall be based
on the most recent estimate of population data determined by the
Demographic Research Unit of the Department of Finance.
57601. (a) A public bank shall identify in its articles of
incorporation either a social purpose, as provided in paragraph (2)
of subdivision (6) of Section 2602 of the Corporations Code, or a
specific public benefit, as provided in Section 14610 of the
 Corporations Code. Examples of a social purpose or a specific
public benefit include, but are not limited to, strengthening local
economies, supporting community economic development,
addressing infrastructure and housing needs for localities, and
providing banking services to the unbanked or underbanked.
(b) A public bank may, but is not required to, incorporate as a benefit corporation or a social purpose corporation.

(c) Notwithstanding subdivision (b), a public bank that identifies a social purpose in its articles of incorporation shall comply with Section 3500 of the Corporations Code, and a public bank that identifies a specific public benefit in its articles of incorporation shall comply with Section 14630 of the Corporations Code.

57602. (a) A public bank shall obtain and maintain deposit insurance provided by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act (12 U.S.C. Sec. 1811 et seq.).

(b) In seeking and retaining insurance, a public bank may do all things and assume and discharge all obligations required of it that are not in conflict with state law.

57603. (a) A public bank shall comply with all requirements of the Financial Institutions Law (Division 1 (commencing with Section 99) of the Financial Code) and the Banking Law (Division 1.1 (commencing with Section 1000) of the Financial Code), except to the extent that a requirement of those laws is inconsistent with a provision of this division, in which case the provisions of this division shall prevail.

(b) A public bank shall comply with the requirements of Section 53638 unless the public bank and the depositor agree otherwise.

(c) Notwithstanding Section 23010, a county may lend its credit to any public bank.

(d) Notwithstanding Section 53601, any local agency that does not pool money in deposits or investments with other local agencies that have separate governing bodies may invest in debt securities or other obligations of a public bank.

(e) Notwithstanding Section 53635, any local agency that pools money in deposits or investments with other local agencies, including local agencies that have the same governing body, may invest in debt securities or other obligations of a public bank.

(f) Notwithstanding Section 53635.2, a public bank shall be eligible to receive local agency money.

57604. (a) Wherever possible, any retail services of a public bank shall be conducted in partnership with local financial institutions.

(b) Notwithstanding subdivision (a), a public bank may do both of the following:
(1) Engage in banking activities, including, but not limited to, infrastructure lending, wholesale lending, and participation lending.

(2) Engage in retail activities that are not provided by local financial institutions in the jurisdiction of the local agency or agencies that own the public bank.

57605. For the purposes of Section 1280 of the Financial Code, any person or entity, including a local agency, that owns, controls, or holds an ownership interest in a public bank is not a bank holding company by reason of that ownership interest.

57606. (a) Before submitting an application to organize and establish a public bank pursuant to Section 1020 of the Financial Code, a local agency shall conduct a study to assess the viability of the proposed public bank. The study shall include, but is not limited to, all of the following elements:

(1) A discussion of the purposes of the bank including, but not limited to, achieving cost savings, strengthening local economies, supporting community economic development, and addressing infrastructure and housing needs for localities.

(2) A fiscal analysis of costs associated with starting the proposed public bank.

(3) An estimate of the initial amount of capital to be provided by the local agency to the proposed public bank.

(4) Financial projections, including a pro forma balance sheet and income statement, of the proposed public bank for at least the first five years of operation. The financial projections shall include an estimate of the time period for when expected revenues meet or exceed expected costs and an estimate of the total operating subsidy that the local agency may be required to provide until the proposed public bank generates sufficient revenue to cover its costs. In addition to projections that assume favorable economic conditions, the analysis shall also include a downside scenario that considers the effect of an economic recession on the financial results of the proposed public bank. The projections may include the downside scenario of continuing to do business with the local government’s current banker or bankers.

(5) A legal analysis of whether the proposed structure and operations of the public bank would likely comply with Section 6 of Article XVI of the California Constitution, but nothing herein shall compel the waiver of any attorney-client privilege attaching to that legal analysis.
An analysis of how the proposed governance structure of the public bank would protect the bank from unlawful insider transactions and apparent conflicts of interest.

(b) The study may include any of the following elements:

1. A fiscal analysis of benefits associated with starting the proposed public bank, including, but not limited to, cost savings, jobs created, jobs retained, economic activity generated, and private capital leveraged.

2. A qualitative assessment of social or environmental benefits of the proposed public bank.

3. An estimate of the fees paid to the local agency’s current banker or bankers.

4. A fiscal analysis of the costs, including social and environmental, of continuing to do business with the local agency’s current banker or bankers.

(c) The study required by subdivision (a) shall be presented and approved by the governing body of the local agency, and a motion to move forward with an application for a public banking charter shall be approved by a majority vote of the governing body at a public meeting prior to the local agency submitting an application pursuant to Section 1020 of the Financial Code. In addition, the local agency shall include a copy of the study required by subdivision (a) in the application submitted to the Commissioner of Business Oversight.

(d) The local agency shall make available to the public the financial models and key assumptions used to estimate the elements described in paragraphs (2) through (4) of subdivision (a) before presenting the study to the governing body of the local agency as required by subdivision (c).

SEC. 8. Section 23701aa is added to the Revenue and Taxation Code, to read:

23701aa. A public bank as defined in Section 57600 of the Government Code. In addition, a public bank is exempt from all other taxes and licenses, state, county, and municipal, imposed upon a public bank, except taxes upon its real property, local utility user taxes, sales and use taxes, state energy resources surcharges, state emergency telephone users surcharges, motor vehicle and other vehicle registration license fees, and any other tax or license
fee imposed by the state upon vehicles, motor vehicles, or the operation thereof.
Item B-3
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cindy Owens, Policy and Management Analyst
DATE: June 13, 2019
SUBJECT: Request Direction on Assembly Bill 1286 (Muratsuchi) Shared Mobility Devices: Local Authorization
ATTACHMENT: 1. Summary Memo – AB 1286
2. Bill Text – AB 1286

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 1286 (Muratsuchi) Shared Mobility Devices: Local Authorization (AB 1286) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for AB 1286.

After discussion of AB 1286, the Liaisons may recommend the following actions:

1) Support AB 1286;
2) Support if amended AB 1286;
3) Oppose AB 1286;
4) Oppose unless amended AB 1286;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1286, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 6, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
Priscilla Quiroz, Legislative Advocate, Shaw / Yoder / Antwih, Inc.
Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: AB 1286 (Muratsuchi) Shared Mobility Devices: Local Authorization

Introduction and Overview

Assemblyman Muratsuchi argues that shared mobility devices, like bikes and scooters, which are rented across a mobile platform, can be helpful to local governments as they search for eco-friendly, low-cost options to solving "the last mile" transportation options and creating access for traditionally underserved communities.

In a number of California cities, the devices have been introduced in a city or county without discussion or rule-making by the local government. Some cities have sought injunctions against this practice, and in various cities the devices are no longer available. In July 2018, the City of Beverly Hills voted to establish a six-month moratorium on these devices. In December 2018, the moratorium was extended for an additional twelve months.

The sudden, rapid and unauthorized deployment of these scooters has led to a disturbing trend of negative public safety concerns for the riders as well as for pedestrians. Four scooter riders have died, while many riders and pedestrians have suffered injuries. In January 2019, The Journal of the American Medical Association (JAMA) issued a report detailing a 2018 study of scooter injuries in two Southern California emergency rooms. The findings were out of 249 patients who found themselves seeking treatment Emergency Rooms for scooter injuries; 96 percent of them were injured as riders.

California has been in the forefront of consumer protection with emerging technologies. State legislators enacted first-in-the-nation insurance requirements for transportation network companies such as Uber and Lyft. Companies that offer shared mobility devices are already complying with minimum insurance requirements in cities like San Francisco and Santa Monica.

AB 1286 (Muratsuchi) would codify these regulations to create a uniform statewide standard, require basic safety standards, and prohibit waivers of rights to protect riders. The bill would also require companies that provide shared mobility devices, as defined, to enter into agreements with local governments that contain certain provisions.
1) Require a shared mobility service provider to enter into an agreement with, or obtain a permit from, the city or county with jurisdiction over the area of use before distribution of a shared mobility device. The bill also specifies that the agreement must, at a minimum, require that the provider comply with both of the following requirements:

a) The shared mobility service provider shall maintain commercial general liability insurance coverage with a carrier doing business in California, with limits not less than $1 million for each occurrence for injury or damage, and not less than $5 million aggregate for all occurrences during the policy period. Specifies that the insurance shall not exclude coverage for injuries or damages caused by the shared mobility service provider to the shared mobility device user.

b) The agreement between the shared mobility provider and a user shall not contain a provision by which the user waives, releases, or in any way limits their legal rights or remedies.

2) Require a city or county that authorizes a provider to operate within its jurisdiction on or after January 1, 2020, to adopt operation, parking, maintenance, and safety rules regarding the use of shared mobility devices before a provider may offer any shared mobility device for rent or use in the city or county.

3) Define various terms including "shared mobility device" and "shared mobility device service provider" for these purposes

AB 1286 is sponsored by the Consumer Attorneys of California (CAOC), they argue that this bill addresses the unregulated "wild west" of e-scooters by enacting minimum state protections. According to CAOC, "E-scooters and bikes have appeared in major California cities often overnight – leaving cities and counties in the dust as they attempt to catch up and create regulations. What results is a patchwork of conflicting laws and regulations." While CAOC acknowledges that e-scooters and e-bikes "may provide an eco-friendly, low-cost transportation option”, they argue that the current lack of uniform consumer protections is very problematic.

Opponents, including the Civil Justice Association of California (CJAC) contend that the measure "will lead to additional unjustified lawsuits against scooter manufacturers by prohibiting scooter companies from requiring users to sign standard liability waivers. According to CJAC, many "providers of recreational activities that involve some amount of risk require participants to sign liability waivers before engaging in the activity. For example, participants in activities like spin classes, yoga, and summer camp routinely sign liability waivers, as well as participants in more apparently dangerous activities like rafting, zip lining and skydiving.

**Status**
AB 1286 is scheduled for a hearing in the Senate Judiciary Committee on Tuesday, June 18th.

**Support**
Consumer Attorneys of California
Consumer Federation of California
Consumer Watchdog
Courage Campaign

Disability Rights California
League of California Cities (support in concept)
Oppose
Bird
California Chamber of Commerce
Civil Justice Association of California
Neutron Holdings, Inc. DBA Lime
TechNet
Jump/Uber Technologies, Inc.
Attachment 2
An act to add Title 10.1 (commencing with Section 2505) to Part 4 of Division 3 of the Civil Code, relating to mobility devices.

LEGISLATIVE COUNSEL’S DIGEST

AB 1286, as amended, Muratsuchi. Shared mobility devices: agreements.

Existing law regulates contracts for particular transactions, including those in which one person agrees to give to another person the temporary possession and use of personal property, other than money for reward, and the latter agrees to return the property to the former at a future time.

This bill would require a shared mobility service provider, as defined, to enter into an agreement with, or obtain a permit from, the city or county with jurisdiction over the area of use. The bill would require that the provider maintain a specified amount of commercial general liability insurance and would prohibit the provider from including specified provisions in a user agreement before distributing a shared mobility device within that jurisdiction. The bill would define shared mobility device to mean an electrically motorized board, motorized...
scooter, electric bicycle, bicycle, or other similar personal transportation device, except as provided.

This bill would require a city or county that authorizes a shared mobility device provider to operate within its jurisdiction on or after January 1, 2020, to adopt operation, parking, maintenance, and safety rules and maintenance rules, as provided, regarding the use of the shared mobility devices in its jurisdiction before the provider may offer shared mobility devices for rent or use. The bill would require a city or county that authorized a provider to operate within its jurisdiction before January 1, 2020, and continues to provide that authorization to adopt those operation, parking, maintenance, and safety rules and maintenance rules, as provided, by January 1, 2021.


The people of the State of California do enact as follows:

SECTION 1. Title 10.1 (commencing with Section 2505) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 10.1. SHARED MOBILITY DEVICES

2505. (a) For purposes of this title:
(1) “Shared mobility device” means an electrically motorized board as defined in Section 313.5 of the Vehicle Code, motorized scooter as defined in Section 407.5 of the Vehicle Code, electric bicycle as defined in Section 312.5 of the Vehicle Code, bicycle as defined in Section 231 of the Vehicle Code, or other similar personal transportation device, except as provided in subdivision (b) of Section 415 of the Vehicle Code, that is made available to the public by a shared mobility service provider for shared use and transportation in exchange for financial compensation via a digital application or other electronic or digital platform.
(2) “Shared mobility service provider” or “provider” means a person or entity that offers, makes available, or provides a shared mobility device in exchange for financial compensation or membership via a digital application or other electronic or digital platform.
(b) Before distribution of a shared mobility device, a shared mobility service provider shall enter into an agreement with, or
obtain a permit from, the city or county with jurisdiction over the
area of use. The agreement or permit shall, at a minimum, require
that the provider comply with both of the following requirements:
(1) Require that the shared mobility service provider
to maintain commercial general liability insurance coverage with
a carrier doing business in California, with limits not less than one
million dollars ($1,000,000) for each occurrence for bodily injury
or property damage, including contractual liability, personal injury,
and product liability and completed operations, and not less than
five million dollars ($5,000,000) aggregate for all occurrences
during the policy period. The insurance shall not exclude coverage
for injuries or damages caused by the shared mobility service
provider to the shared mobility device user.
(2) The shared mobility provider agreement between the
provider and a user shall not contain a provision by which the user
waives, releases, or in any way limits their legal rights or remedies
under the agreement.
(c) (1) A city or county that authorizes a provider to operate
within its jurisdiction on or after January 1, 2020, shall adopt rules
for the operation, parking, maintenance, and safety rules regarding
the use and maintenance of shared mobility devices before a
provider may offer any shared mobility device for rent or use in
the city or county by any of the following:
(A) Ordinance.
(B) Agreement.
(C) Permit terms.
(2) A city or county that authorized a provider to operate within
its jurisdiction before January 1, 2020, and continues to provide
that authorization shall adopt rules for the operation, parking,
maintenance, and safety rules regarding the use and maintenance
of shared mobility devices by January 1, 2021, by any of the
following:
(A) Ordinance.
(B) Agreement.
(C) Permit terms.
(3) A provider shall comply with all—operation, parking,
maintenance, and safety rules applicable rules, agreements, and
permit terms established pursuant to this subdivision.
(d) Nothing in this section shall prohibit a city or county from adopting any ordinance or regulation that is not inconsistent with this title.

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
Item B-4
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cindy Owens, Policy and Management Analyst
DATE: June 13, 2019
SUBJECT: Request Direction on Assembly Bill 516 (Chiu) – Authority to Remove Vehicles

ATTACHMENT: 1. Summary Memo – AB 516
               2. Bill Text – AB 516

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 516 (Chiu) – Authority to Remove Vehicles (AB 516) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for AB 516.

After discussion of AB 516, the Liaisons may recommend the following actions:

1) Support AB 516;
2) Support if amended AB 516;
3) Oppose AB 516;
4) Oppose unless amended AB 516;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 516, then staff will place the item on a future City Council Agenda for concurrence. Staff will also analyze the potential fiscal impact of this legislation on the City should it pass and include the information in the report to City Council.
Attachment 1
June 5, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
Priscilla Quiroz, Legislative Advocate, Shaw / Yoder / Antwih, Inc.
Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: AB 516 (Chiu) Authority to remove vehicles.

Introduction and Background
AB 516 was introduced by Assembly Member Chiu and is sponsored by the American Civil Liberties Union of California, the Lawyers’ Committee for Civil Rights, and the Western Center on Law & Poverty. The bill would repeal existing law that authorizes peace officers to tow vehicles for having five or more delinquent parking or traffic violations, for leaving a vehicle on a road for 72 or more consecutive hours, and for a having a lapsed vehicle registration in excess of six months. The bill would also repeal existing law that allows for the immobilization of a vehicle that has five or more unpaid parking or traffic tickets.

This bill is one in a handful of bills that the Legislature has introduced in recent years to provide additional options and protections to low-income drivers. Most notably in 2017, the Legislature passed and the Governor signed AB 503 (Lackey) which created a system whereby indigent individuals are offered options to have their parking citation debt reduced (on a sliding scale) and to repay the debt in installments. This system, which the City implemented last year, allows these individuals to continue to be able to register and operate their vehicles while paying off their citations.

Status of Legislation
This bill passed out of the State Assembly and has been referred by the Senate Rules Committee to the Senate Transportation and Public Safety Committees but has not yet been scheduled for a hearing.

Support and Opposition
The bill’s author states that “If you can’t afford to pay your parking tickets or car registration, or afford private parking, you can’t afford hundreds or thousands of dollars to get your car out of a tow yard.” He goes on to note that these laws result in low-income Californians losing their vehicles, tow yards losing money to cover the costs of towing and vehicle storage, all while cities fail to recoup the original debts and fines incurred by the car-owner. The Western Center on Law & Poverty also argues that towing a vehicle is a disproportionate form of punishment for minor traffic infractions.

The California Public Parking Association opposes the bill and argues that it would allow drivers to park their vehicles for extended periods anywhere in the state and that this would negatively impact retail and restaurant activity in downtown areas.

Support
American Civil Liberties Union of California (Sponsor)
Lawyers’ Committee for Civil Rights (Sponsor)

Opposition
Western Center on Law & Poverty, Inc. (Sponsor)
Access Women’s Health Justice
Act for Women and Girls
| Asian Americans Advancing Justice - California | Initiate Justice |
| Bay Area Community Services | Kiwa |
| Bend the Arc: Jewish Action | Law Foundation of Silicon Valley |
| California Low-Income Consumer Coalition | Legal Aid of Marin |
| California Partnership | Legal Services for Prisoners with Children |
| California Public Defenders Association | Legal Services of Northern California |
| California Reinvestment Coalition | National Council of Jewish Women Ca |
| California State Council of Service Employees | National Lawyers Guild Los Angeles |
| California Voices for Progress | Parent Voices California |
| Community Housing Partnership | Rubicon Programs |
| Community Legal Services in East Palo Alto | San Francisco Public Defender’s Office |
| Courage Campaign | San Francisco Senior and Disability Action |
| Disability Rights California | The W. Haywood Burns Institute |
| Ella Baker Center for Human Rights | Tipping Point Community |
| Equal Rights Advocates | UDW/AFSCME Local 3930 |
| Food for People, The Food Bank for Humboldt County | United Food and Commercial Workers, Western States Council |
| Friends Committee on Legislation of California | Youth Alive! |
| Homeboy Industries | Youth Justice Coalition |

**Opposition**

California Public Parking Association
Attachment 2
An act to amend Section 22651 of Sections 2810.2, 2814.2, 4000, 14602, 22651, and 40206.5 of, and to repeal Sections 22651.7, 22651.8, and 22851.1 of, the Vehicle Code relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

AB 516, as amended, Chiu. Authority to remove vehicles.
Existing law authorizes a peace officer, as defined, or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency where a vehicle is located, to remove a vehicle located within the territorial limits where the officer or employee may act, under designated circumstances, including, but not limited to, when a vehicle is found upon a highway or public land or removed pursuant to the Vehicle Code, and has been issued 5 or more notices of parking violations to which the owner or person in control of the vehicle has not responded within a designated time period. Under existing law, a vehicle that has been removed and impounded under those circumstances that is not released may be subject to a lien sale to compensate for the costs of towage and for caring for and keeping safe the vehicle.
Existing law authorizes a peace officer and specified public employees, as an alternative to removal of a vehicle, to immobilize the
vehicle with a device designed and manufactured for that purpose, if, among other circumstances, the vehicle is found upon a highway or public lands by the peace officer or employee and it is known to have been issued 5 or more notices of parking violations that are delinquent because the owner or person in control of the vehicle has not responded to the appropriate agency within a designated time period.

This bill would make technical, nonsubstantive changes to these provisions. It would delete the authority of a peace officer or public employee, as appropriate, to remove or immobilize a vehicle under those circumstances. The bill would also delete the authority to remove a vehicle parked or left standing for 72 or more consecutive hours in violation of a local ordinance, or a vehicle with a registration expiration date in excess of 6 months found or operated on the highway or on public lands or in an offstreet parking facility. The bill would repeal the related authority to conduct a lien sale to cover towing and storage expenses. The bill would make various conforming and technical changes.


The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is a fundamental and constitutional principle that a state cannot take and sell the private property of its residents except under limited circumstances, nor can it punish people because they cannot afford to pay its fines and fees.

(b) It is not sound public policy to tow privately owned vehicles that are safely parked, not causing traffic inconvenience, and not involved in a crime. To retrieve a vehicle from a tow yard can cost thousands of dollars. For people who cannot afford to pay the often-astronomical fines and fees, their cars are sold and they lose them permanently. Over 500,000 vehicles are sold at lien sales each year in California.

(c) Approximately 78 percent of Californians have to drive for work or to get to work. Studies have shown that the ability to drive significantly impacts employment rates, and that over the past 50 years, American households without cars consistently lost income.
For many Californians, their vehicle is their only shelter, their only way to get needed medical care, or their most valuable asset.

(d) Towing for debt collection purposes is not cost effective. It costs money for a local government to find the car, order the tow, and pay a private tow company to transport it. Vehicles towed for debt collection are more likely to be sold instead of reclaimed, which means the tow company has to use its limited lot space to store them for at least 30 days, and pay for an auction. Since vehicles towed because their owners could not afford to pay fees tend to be low in value, these lien sales usually fail to cover the cost of the tow and storage, let alone the cost of enforcement.

(e) There is no public safety purpose when a local government uses towing as a costly and draconian method to collect small amounts of debt, and this sanction has a disproportionate impact on lower income families and people of color.

SEC. 2. Section 2810.2 of the Vehicle Code is amended to read:

2810.2. (a) (1) A peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may stop a vehicle transporting agricultural irrigation supplies that are in plain view to inspect the bills of lading, shipping, or delivery papers, or other evidence to determine whether the driver is in legal possession of the load, if the vehicle is on a rock road or unpaved road that is located in a county that has elected to implement this section and the road is located as follows:

(A) Located under the management of the Department of Parks and Recreation, the Department of Fish and Wildlife, the Department of Forestry and Fire Protection, the State Lands Commission, a regional park district, the United States Forest Service, or the federal Bureau of Land Management.

(B) Located within the respective ownership of a timberland production zone, as defined in Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code, either that is larger than 50,000 acres or for which the owner of more than 2,500 acres has given express written permission for a vehicle to be stopped within that zone pursuant to this section.

(2) Upon reasonable belief that the driver of the vehicle is not in legal possession, the law enforcement officer specified in paragraph (1) shall take custody of the vehicle and load and turn them over to the custody of the sheriff of the county that has elected
to implement this section where the agricultural irrigation supplies are apprehended.

(b) The sheriff shall receive and provide for the care and safekeeping of the apprehended agricultural irrigation supplies that were in plain view within the boundaries of public lands under the management of the entities listed in subparagraph (A) of paragraph (1) of subdivision (a) or on a timberland production zone as specified in subparagraph (B) of paragraph (1) of subdivision (a), and immediately, in cooperation with the department, proceed with an investigation and its legal disposition.

(c) An expense incurred by the sheriff in the performance of his or her the sheriff’s duties under this section shall be a legal charge against the county.

(d) Except as provided in subdivision (e), a peace officer shall not cause the impoundment of a vehicle at a traffic stop made pursuant to subdivision (a) if the driver’s only offense is a violation of Section 12500.

(e) During the conduct of pulling a driver over in accordance with subdivision (a), if the peace officer encounters a driver who is in violation of Section 12500, the peace officer shall make a reasonable attempt to identify the registered owner of the vehicle. If the registered owner is present, or the peace officer is able to identify the registered owner and obtain the registered owner’s authorization to release the motor vehicle to a licensed driver during the vehicle stop, the vehicle shall be released to either the registered owner of the vehicle if he or she that person is a licensed driver or to the licensed driver authorized by the registered owner of the vehicle. If a notice to appear is issued, the name and the driver’s license number of the licensed driver to whom the vehicle was released pursuant to this subdivision shall be listed on the officer’s copy of the notice to appear issued to the unlicensed driver. If a vehicle cannot be released, the vehicle shall be removed pursuant to subdivision (p) (n) of Section 22651, whether a notice to appear has been issued or not.

(f) For purposes of this section, “agricultural irrigation supplies” include agricultural irrigation water bladder and one-half inch diameter or greater irrigation line.

(g) This section shall be implemented only in a county where the board of supervisors adopts a resolution authorizing the enforcement of this section.
SEC. 3. Section 2814.2 of the Vehicle Code is amended to read:

2814.2. (a) A driver of a motor vehicle shall stop and submit to a sobriety checkpoint inspection conducted by a law enforcement agency when signs and displays are posted requiring that stop.

(b) Notwithstanding Section 14602.6 or 14607.6, a peace officer or any other authorized person shall not cause the impoundment of a vehicle at a sobriety checkpoint if the driver’s only offense is a violation of Section 12500.

(c) During the conduct of a sobriety checkpoint, if the law enforcement officer encounters a driver who is in violation of Section 12500, the law enforcement officer shall make a reasonable attempt to identify the registered owner of the vehicle. If the registered owner is present, or the officer is able to identify the registered owner and obtain the registered owner’s authorization to release the motor vehicle to a licensed driver by the end of the checkpoint, the vehicle shall be released to either the registered owner of the vehicle if he or she is a licensed driver or to the licensed driver authorized by the registered owner of the vehicle. If a notice to appear is issued, the name and driver’s license number of the licensed driver to whom the vehicle was released pursuant to this subdivision shall be listed on the officer’s copy of the notice to appear issued to the unlicensed driver. When a vehicle cannot be released, the vehicle shall be removed pursuant to subdivision (p) (n) of Section 22651, whether a notice to appear has been issued or not.

SEC. 4. Section 4000 of the Vehicle Code is amended to read:

4000. (a) (1) A person shall not drive, move, or leave standing upon a highway, or in an offstreet public parking facility, any a motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging dolly, unless it is registered and the appropriate fees have been paid under this code or registered under the permanent trailer identification program, except that an off-highway motor vehicle which that displays an identification plate or device issued by the department pursuant to Section 38010 may be driven, moved, or left standing in an offstreet public parking facility without being registered or paying registration fees.

(2) For purposes of this subdivision, “offstreet public parking facility” means either of the following:

(A) Any publicly owned parking facility.
(B) Any privately owned parking facility for which no fee for the privilege to park is charged and which is held open for the common public use of retail customers.

(3) This subdivision does not apply to any motor vehicle stored in a privately owned offstreet parking facility by, or with the express permission of, the owner of the privately owned offstreet parking facility.

(4) Beginning July 1, 2011, the enforcement of paragraph (1) shall commence on the first day of the second month following the month of expiration of the vehicle’s registration. This paragraph shall become inoperative on January 1, 2012.

(b) No person shall drive, move, or leave standing upon a highway any motor vehicle, as defined in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code, that has been registered in violation of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

(c) Subdivisions (a) and (b) do not apply to off-highway motor vehicles operated pursuant to Sections 38025 and 38026.5.

(d) This section does not apply, following payment of fees due for registration, during the time that registration and transfer is being withheld by the department pending the investigation of any use tax due under the Revenue and Taxation Code.

(e) Subdivision (a) does not apply to a vehicle that is towed by a tow truck on the order of a sheriff, marshal, or other official acting pursuant to a court order or on the order of a peace officer acting pursuant to this code.

(f) Subdivision (a) applies to a vehicle that is towed from a highway or offstreet parking facility under the direction of a highway service organization when that organization is providing emergency roadside assistance to that vehicle. However, the operator of a tow truck providing that assistance to that vehicle is not responsible for the violation of subdivision (a) with respect to that vehicle. The owner of an unregistered vehicle that is disabled and located on private property, shall obtain a permit from the department pursuant to Section 4003 prior to having the vehicle towed on the highway.

(g) (1) Pursuant to Section 4022 and to subparagraph (B) of paragraph (3) of subdivision (m) of Section 22651, a vehicle obtained by a licensed repossession as a release of collateral is
exempt from registration pursuant to this section for purposes of
the repossessor removing the vehicle to his or her storage facility or the facility of the legal owner. A law enforcement
agency, impounding authority, tow yard, storage facility, or any
other person in possession of the collateral shall release the vehicle
without requiring current registration and pursuant to subdivision
(f) of Section 14602.6.

(2) The legal owner of collateral shall, by operation of law and
without requiring further action, indemnify and hold harmless a
law enforcement agency, city, county, city and county, the state,
a tow yard, storage facility, or an impounding yard from a claim
arising out of the release of the collateral to a licensee, and from
any damage to the collateral after its release, including reasonable
attorney’s fees and costs associated with defending a claim, if the
collateral was released in compliance with this subdivision.

(h) For purposes of this section, possession of a California
driver’s license by the registered owner of a vehicle shall give rise
to a rebuttable presumption that the owner is a resident of
California.

SEC. 5. Section 14602 of the Vehicle Code is amended to read:
14602. In accordance with subdivision (p) (n) of Section 22651,
a vehicle removed pursuant to subdivision (c) of Section 2814.2
shall be released to the registered owner or his or her agent at any time the facility to which the vehicle has been removed
is open upon presentation of the registered owner’s or his or her
agent’s currently valid driver’s license to operate the vehicle and
proof of current vehicle registration.

SECTION 1.

SEC. 6. Section 22651 of the Vehicle Code is amended to read:
22651. A peace officer, as defined in Chapter 4.5 (commencing
with Section 830) of Title 3 of Part 2 of the Penal Code, or a
regularly employed and salaried employee, who is engaged in
directing traffic or enforcing parking laws and regulations, of a
city, county, or jurisdiction of a state agency where a vehicle is
located, may remove a vehicle located within the territorial limits
where the officer or employee may act, under the following
circumstances:

(a) If a vehicle is left unattended upon a bridge, viaduct, or
causeway, or in a tube or tunnel where the vehicle constitutes an
obstruction to traffic.
(b) If a vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) If a vehicle is found upon a highway or public land and a report has previously been made that the vehicle is stolen or a complaint has been filed and a warrant thereon is issued charging that the vehicle was embezzled.

(d) If a vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) If a vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) If a vehicle, except highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of a freeway that has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) If the person in charge of a vehicle upon a highway or public land is, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) (1) If an officer arrests a person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody.

(2) If an officer serves a notice of an order of suspension or revocation pursuant to Section 13388 or 13389.

(i) (1) If a vehicle, other than a rented vehicle, is found upon a highway or public land, or is removed pursuant to this code, and it is known that the vehicle has been issued five or more notices of parking violations to which the owner or person in control of the vehicle has not responded within 21 calendar days of notice of citation issuance or citation issuance or 14 calendar days of the mailing of a notice of delinquent parking violation to the agency responsible for processing notices of parking violations, or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which a certificate has not been issued by the magistrate or clerk of the court hearing the case showing that the
case has been adjudicated or concerning which the registered owner’s record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency all of the following:

(A) Evidence of the person’s identity.
(B) An address within this state where the person can be located.
(C) Satisfactory evidence that all parking penalties due for the vehicle and all other vehicles registered to the registered owner of the impounded vehicle, and all traffic violations of the registered owner, have been cleared.

(2) The requirements in subparagraph (C) of paragraph (1) shall be fully enforced by the impounding law enforcement agency on and after the time that the Department of Motor Vehicles is able to provide access to the necessary records.

(3) A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full amount of parking penalties or bail has been deposited, that person may demand to be taken without unnecessary delay before a magistrate, for traffic offenses, or a hearing examiner, for parking offenses, within the county where the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded, or, at the discretion of the impounding law enforcement agency, a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(4) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:
(A) Pays the cost of towing and storing the vehicle.
(B) Submits evidence of payment of fees as provided in Section 9561.
(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for
purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt of that surplus, the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5.

(5) The impounding agency that has a lien on the surplus that remains upon the sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4) has a deficiency claim against the registered owner for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5, less the amount received from the sale of the vehicle.

(j) If a vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnish the impounding law enforcement agency evidence of identity and an address within this state where that individual can be located.

(k) If a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(l) If a vehicle is illegally parked on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(m) If the use of the highway, or a portion of the highway, is authorized by a local authority for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or
structures of unusual size, and the parking of a vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(n) Whenever a vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. Except as provided in subdivisions (v) and (w), (t) and (u), a vehicle shall not be removed unless signs are posted giving notice of the removal.

(o) (1) If a vehicle is found or operated upon a highway, public land, or an offstreet parking facility under any of the following circumstances:

(A) With a registration expiration date in excess of six months before the date it is found or operated on the highway, public land, or the offstreet parking facility.

(B) Displaying in, or upon, the vehicle, a registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit that was not issued for that vehicle, or is not otherwise lawfully used on that vehicle under this code.

(C) (i) The vehicle is operating using autonomous technology, without the registered owner or manufacturer of the vehicle having first applied for, and obtained, a valid permit that is required to operate the vehicle on public roads pursuant to Section 38750, and Article 3.7 (commencing with Section 227.00) and Article 3.8 (commencing with Section 228.00) of Title 13 of the California Code of Regulations.

(ii) The vehicle is operating using autonomous technology after the registered owner or person in control of the vehicle received notice that the vehicle’s permit required for the operation of the
vehicle pursuant to Section 38750, and Article 3.7 (commencing
with Section 227.00) and Article 3.8 (commencing with Section
228.00) of Title 13 of the California Code of Regulations is
suspended, terminated, or revoked.

(iii) For purposes of this subdivision, the terms “autonomous
technology” and “autonomous vehicle” have the same meanings
as in Section 38750.

(iv) This subparagraph does not provide the authority for a peace
officer to stop an autonomous vehicle solely for the purpose of
determining whether the vehicle is operating using autonomous
technology without a valid permit required to operate the
autonomous vehicle on public roads pursuant to Section 38750,
and Article 3.7 (commencing with Section 227.00) and Article 3.8
(commencing with Section 228.00) of Title 13 of the California
Code of Regulations.

(2) If a vehicle described in paragraph (1) is occupied, only a
peace officer, as defined in Chapter 4.5 (commencing with Section
830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle.

(3) For the purposes of this subdivision, the vehicle shall be
released under any of the following circumstances:

(A) If the vehicle has been removed pursuant to subparagraph
(A), (B), or (C) of paragraph (1), to the registered owner
of, or person in control of, the vehicle only after the owner or
person furnishes the storing law enforcement agency with proof
of current registration and a valid driver’s license to operate the
vehicle.

(B) If the vehicle has been removed pursuant to subparagraph
(C) of paragraph (1), to the registered owner of, or person in
control of, the autonomous vehicle, after the registered owner or
person furnishes the storing law enforcement agency with proof
of current registration and a valid driver’s license, if required to
operate the autonomous vehicle, and either of the following:

(i) Proof of a valid permit required to operate the autonomous
vehicle using autonomous technology on public roads pursuant to
Section 38750, and Article 3.7 (commencing with Section 227.00)
and Article 3.8 (commencing with Section 228.00) of Title 13 of
the California Code of Regulations.

(ii) A declaration or sworn statement to the Department of Motor
Vehicles that states that the autonomous vehicle will not be
operated using autonomous technology upon public roads without
first obtaining a valid permit to operate the vehicle pursuant to
Section 38750, and Article 3.7 (commencing with Section 227.00)
and Article 3.8 (commencing with Section 228.00) of Title 13 of
the California Code of Regulations.

(C) To the legal owner or the legal owner’s agency, without
payment of any fees, fines, or penalties for parking tickets or
registration and without proof of current registration, if the vehicle
will only be transported pursuant to the exemption specified in
Section 4022 and if the legal owner does all of the following:
   (i) Pays the cost of towing and storing the vehicle.
   (ii) Completes an affidavit in a form acceptable to the
   impounding law enforcement agency stating that the vehicle was
   not in possession of the legal owner at the time of occurrence of
   an offense relating to standing or parking. A vehicle released to a
   legal owner under this subdivision is a repossessed vehicle for
   purposes of disposition or sale. The impounding agency has a lien
   on any surplus that remains upon sale of the vehicle to which the
   registered owner is or may be entitled, as security for the full
   amount of parking penalties for any notices of parking violations
   issued for the vehicle and for all local administrative charges
   imposed pursuant to Section 22850.5. Upon receipt of any surplus,
   the legal owner shall promptly remit to, and deposit with, the
   agency responsible for processing notices of parking violations
   from that surplus, the full amount of the parking penalties for all
   notices of parking violations issued for the vehicle and for all local
   administrative charges imposed pursuant to Section 22850.5.

(4) The impounding agency that has a lien on the surplus that
remains upon the sale of a vehicle to which a registered owner is
entitled has a deficiency claim against the registered owner for the
full amount of parking penalties for any notices of parking
violations issued for the vehicle and for all local administrative
charges imposed pursuant to Section 22850.5, less the amount
received from the sale of the vehicle.

(5) As used in this subdivision, “offstreet parking facility” means
an offstreet facility held open for use by the public for parking
vehicles and includes a publicly owned facility for offstreet
parking, and a privately owned facility for offstreet parking if a
fee is not charged for the privilege to park and it is held open for
the common public use of retail customers.

(†)
(n) If the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604, and the vehicle is not impounded pursuant to Section 22655.5. A vehicle so removed from the highway or public land, or from private property after having been on a highway or public land, shall not be released to the registered owner or the owner’s agent, except upon presentation of the registered owner’s or agent’s currently valid driver’s license to operate the vehicle and proof of current vehicle registration, to the impounding law enforcement agency, or upon order of a court.

(o) If a vehicle is parked for more than 24 hours on a portion of highway that is located within the boundaries of a common interest development, as defined in Section 4100 or 6534 of the Civil Code, and signs, as required by paragraph (1) of subdivision (a) of Section 22658 of this code, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner’s expense, pursuant to a resolution or ordinance adopted by the local authority.

(p) If a vehicle is illegally parked and blocks the movement of a legally parked vehicle.

(q) (1) If a vehicle, except highway maintenance or construction equipment, an authorized emergency vehicle, or a vehicle that is properly permitted or otherwise authorized by the Department of Transportation, is stopped, parked, or left standing for more than eight hours within a roadside rest area or viewpoint.

(2) Notwithstanding paragraph (1), if a commercial motor vehicle, as defined in paragraph (1) of subdivision (b) of Section 15210, is stopped, parked, or left standing for more than 10 hours within a roadside rest area or viewpoint.

(3) For purposes of this subdivision, a roadside rest area or viewpoint is a publicly maintained vehicle parking area, adjacent to a highway, utilized for the convenient, safe stopping of a vehicle to enable motorists to rest or to view the scenery. If two or more roadside rest areas are located on opposite sides of the highway, or upon the center divider, within seven miles of each other, then that combination of rest areas is considered to be the same rest area.
If a peace officer issues a notice to appear for a violation of Section 25279.

If a peace officer issues a citation for a violation of Section 11700, and the vehicle is being offered for sale.

(i) (1) If a vehicle is a mobile billboard advertising display, as defined in Section 395.5, and is parked or left standing in violation of a local resolution or ordinance adopted pursuant to subdivision (m) of Section 21100, if the registered owner of the vehicle was previously issued a warning citation for the same offense, pursuant to paragraph (2).

(2) Notwithstanding subdivision (a) of Section 22507, a city or county, in lieu of posting signs noticing a local ordinance prohibiting mobile billboard advertising displays adopted pursuant to subdivision (m) of Section 21100, may provide notice by issuing a warning citation advising the registered owner of the vehicle that the owner may be subject to penalties upon a subsequent violation of the ordinance, that may include the removal of the vehicle as provided in paragraph (1). A city or county is not required to provide further notice for a subsequent violation prior to the enforcement of penalties for a violation of the ordinance.

(u) (1) If a vehicle is parked or left standing in violation of a local ordinance or resolution adopted pursuant to subdivision (p) of Section 21100, if the registered owner of the vehicle was previously issued a warning citation for the same offense, pursuant to paragraph (2).

(2) Notwithstanding subdivision (a) of Section 22507, a city or county, in lieu of posting signs noticing a local ordinance regulating advertising signs adopted pursuant to subdivision (p) of Section 21100, may provide notice by issuing a warning citation advising the registered owner of the vehicle that the owner may be subject to penalties upon a subsequent violation of the ordinance that may include the removal of the vehicle as provided in paragraph (1). A city or county is not required to provide further notice for a subsequent violation prior to the enforcement of penalties for a violation of the ordinance.

SEC. 7. Section 22651.7 of the Vehicle Code is repealed.
22651.7. (a) In addition to, or as an alternative to, removal, a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried employee who is engaged in directing traffic or enforcing parking laws and regulations, of a jurisdiction in which a vehicle is located may immobilize the vehicle with a device designed and manufactured for the immobilization of vehicles, on a highway or any public lands located within the territorial limits in which the officer or employee may act if the vehicle is found upon a highway or public lands and it is known to have been issued five or more notices of parking violations that are delinquent because the owner or person in control of the vehicle has not responded to the agency responsible for processing notices of parking violation within 21 calendar days of notice of issuance or citation issuance or 14 calendar days of the mailing of a notice of delinquent parking violation, or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which no certificate has been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner’s record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17. The vehicle may be immobilized until that person furnishes to the immobilizing law enforcement agency all of the following:

1. Evidence of his or her identity.
2. An address within this state at which he or she can be located.
3. Satisfactory evidence that the full amount of parking penalties has been deposited for all notices of parking violation issued for the vehicle and any other vehicle registered to the registered owner of the immobilized vehicle and that bail has been deposited for all traffic violations of the registered owner that have not been cleared. The requirements in this paragraph shall be fully enforced by the immobilizing law enforcement agency on and after the time that the Department of Motor Vehicles is able to provide access to the necessary records. A notice of parking violation issued to the vehicle shall be accompanied by a warning that repeated violations may result in the impounding or immobilization of the vehicle. In lieu of furnishing satisfactory evidence that the full
amount of parking penalties or bail, or both, have been deposited
that person may demand to be taken without unnecessary delay
before a magistrate, for traffic offenses, or a hearing examiner, for
parking offenses, within the county in which the offenses charged
are alleged to have been committed and who has jurisdiction of
the offenses and is nearest or most accessible with reference to the
place where the vehicle is immobilized. Evidence of current
registration shall be produced after a vehicle has been immobilized
or, at the discretion of the immobilizing law enforcement agency,
a notice to appear for violation of subdivision (a) of Section 4000
shall be issued to that person:

(b) A person, other than a person authorized under subdivision
(a), shall not immobilize a vehicle.

SEC. 8. Section 22651.8 of the Vehicle Code is repealed.

22651.8. For purposes of paragraph (1) of subdivision (i) of
Section 22651 and Section 22651.7, “satisfactory evidence”
includes, but is not limited to, a copy of a receipt issued by the
department pursuant to subdivision (a) of Section 4760 for the
payment of notices of parking violations appearing on the
department’s records at the time of payment. The processing
agency shall, within 72 hours of receiving that satisfactory
evidence, update its records to reflect the payments made to the
department. If the processing agency does not receive the amount
of the parking penalties and administrative fees from the
department within four months of the date of issuance of that
satisfactory evidence, the processing agency may revise its records
to reflect that no payments were received for the notices of parking
violation.

SEC. 9. Section 22851.1 of the Vehicle Code is repealed.

22851.1. (a) If the vehicle is impounded pursuant to
subdivision (i) of Section 22651 and not released as provided in
that subdivision, the vehicle may be sold pursuant to this chapter
to satisfy the liens specified in Section 22851 and in subdivision
(b) of this section.

(b) A local authority impounding a vehicle pursuant to
subdivision (i) of Section 22651 shall have a lien dependent upon
possession by the keeper of the garage for satisfaction of bail for
all outstanding notices of parking violation issued by the local
authority for the vehicle, when the conditions specified in
subdivision (c) have been met. This lien shall be subordinate in
priority to the lien established by Section 22851, and the proceeds
of any sale shall be applied accordingly. Consistent with this order
of priority, the term “lien,” as used in this article and in Chapter
6.5 (commencing with Section 3067) of Title 14 of Part 4 of
Division 3 of the Civil Code, includes a lien imposed by this
subdivision. In any action brought to perfect the lien, where
required by subdivision (d) of Section 22851.8 of this code, or by
subdivision (d) of Section 3071 or subdivision (d) of Section 3072
of the Civil Code, it shall be a defense to the recovery of bail that
the owner of the vehicle at the time of impoundment was not the
owner of the vehicle at the time of the parking offense:

(c) A lien shall exist for bail with respect to parking violations
for which no person has answered the charge in the notice of
parking violation given, or filed an affidavit of nonownership
pursuant to and within the time specified in subdivision (b) of
Section 41103:

SEC. 10. Section 40206.5 of the Vehicle Code is amended to
read:

40206.5. (a) Within 15 days of a request, by mail or in person,
the processing agency shall mail or otherwise provide to any a
person who has received a notice of delinquent parking violation,
or his or her that person’s agent, a photostatic copy of the original
notice of parking violation or an electronically produced facsimile
of the original notice of parking violation. The issuing agency may
charge a fee sufficient to recover the actual cost of providing the
copy, not to exceed two dollars ($2). Until the issuing agency
complies with a request for a copy of the original notice of parking
violation, the processing agency may not proceed pursuant to
subdivision (i) of Section 22651, Section 22651.7, or Section
40220.

(b) If the description of the vehicle on the notice of parking
violation does not substantially match the corresponding
information on the registration card for that vehicle and the
processing agency is satisfied that the vehicle has not been
incorrectly described due to the intentional switching of license
plates, the processing agency shall, on written request of the person
cancel the notice of parking violation without the necessity of an
appearance by that person.
(c) For purposes of this section, a copy of the notice of parking violation may be a photostatic copy or an electronically produced facsimile.
Item B-5
TO: City Council Liaison/Legislative/Lobby Committee  
FROM: Cindy Owens, Policy and Management Analyst  
DATE: June 13, 2019  
SUBJECT: Request Direction on Assembly Bill 1407 (Friedman) Reckless Driving: Speed Contests: Vehicle Impoundment  

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 1407 (Friedman) Reckless Driving: Speed Contests: Vehicle Impoundment (AB 1407) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City's state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for AB 1407.

After discussion of AB 1407, the Liaisons may recommend the following actions:

1) Support AB 1407;  
2) Support if amended AB 1407;  
3) Oppose AB 1407;  
4) Oppose unless amended AB 1407;  
5) Remain neutral; or  
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1407, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 5, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
Priscilla Quiroz, Legislative Advocate, Shaw / Yoder / Antwih, Inc.
Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: AB 1407 (Friedman) Reckless driving: speed contests: vehicle impoundment.

Introduction and Background
AB 1407 was introduced by Assembly Member Laura Friedman and would allow law enforcement to impound a vehicle for 30 days if the vehicle’s registered owner is convicted of reckless driving or engaging in a speed contest while operating the vehicle.

Specifically, this bill would:
- Allow law enforcement, for a first offense, to impound a vehicle for 30 days if the vehicle’s registered owner is convicted of reckless driving or engaging in a speed contest;
- Require law enforcement, for a second and every subsequent offense, to impound for 30 days, at the owner’s expense;
- Authorize the court to waive the 30-day impoundment requirements if the court determines that impoundment of the vehicle would impose an undue hardship on the registered owner’s family;
- As it relates to speed contests, authorize an officer to issue a notice to correct for a violation of a mechanical or safety requirement and require that the correction be made within 30 days after the date the vehicle is released from impound;
- Waive certain provisions of the bill if the legal owner is a motor vehicle dealer, bank, or other financial institution.

The Legislature has previously sought to provide law enforcement with this authority with SB 510 (Hall, 2015) and AB 1393 (Friedman, 2017) but both bills were ultimately vetoed by Governor Brown.

Status of Legislation
This bill passed out of the State Assembly. The bill is set to be heard in the Senate Transportation Committee on June 11th.

Support and Opposition
The author states that "In order to combat reckless driving and street racing, law enforcement entities have turned to evidence-based penalties like extended vehicle impoundments that have proven to change driver behavior.” The California State Sheriff’s Association argues that the mandatory impoundment requirement at the owner’s expense for repeat offenses would deter individuals from engaging in dangerous and reckless driving activities.
The American Civil Liberties Union argues that the determination of an appropriate period of impoundment should remain with judges and that they should be able to utilize their discretion based on the circumstances of each particular case. They assert that there is no reason to limit the ability of the courts to determine the appropriate length of time for a particular impoundment.

Support
California State Sheriff’s Association

Opposition
American Civil Liberties Union
Attachment 2
An act to amend Sections 23103, 23109, and 23109.2 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

AB 1407, as amended, Friedman. Reckless driving: speed contests: vehicle impoundment.

Under existing law, a person who drives a vehicle upon a highway or in an offstreet parking facility in willful or wanton disregard for the safety of persons or property is guilty of reckless driving, punishable by imprisonment in the county jail or by the payment of a fine, or both imprisonment and a fine, as specified.

Existing law makes it a crime to engage in a motor vehicle speed contest on a highway. If a person is convicted of engaging in a motor vehicle speed contest on a highway and the vehicle used in the violation is registered to that person, existing law allows the vehicle to be impounded at the registered owner’s expense for not less than one day and not more than 30 days.

Existing law allows a peace officer to arrest a person and seize the motor vehicle of the person if a peace officer determines that the person was engaged in a motor vehicle speed contest, reckless driving, or an exhibition of speed on a highway. Existing law allows a vehicle seized under this provision to be impounded for up to 30 days.

This bill would, with respect to a conviction for reckless driving, or a conviction for engaging in a speed contest, if the person convicted is
the registered owner of the vehicle, allow the vehicle to be impounded for 30 days for a first offense and require the vehicle to be impounded for 30 days for a 2nd or subsequent offense, at the registered owner’s expense. The bill would allow the impoundment period to be reduced by the number of days, if any, that the vehicle was previously impounded, and would authorize the court to decline to impound the vehicle if it would cause undue hardship for the defendant’s family, as specified. The bill would authorize the release of the vehicle to the legal owner before the 30th day of impoundment, if specified conditions are met.

With regard to speed contests, this bill would authorize an officer to issue a notice to correct for violation of a mechanical or safety requirement and require correction to be made within 30 days after the date upon which the vehicle was released from impoundment. The bill would require the violation to be dismissed upon correction, as specified.

By imposing new requirements on local agencies responsible for vehicle impoundment, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.


The people of the State of California do enact as follows:

SECTION 1. Section 23103 of the Vehicle Code is amended to read:

23103. (a) A person who drives a vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. (b) A person who drives a vehicle in an offstreet parking facility, as defined in subdivision (c) of Section 12500, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. (c) Except as otherwise provided in Section 40008, a person convicted of the offense of reckless driving shall be punished by imprisonment in a county jail for not less than five days nor more
than 90 days or by a fine of not less than one hundred forty-five dollars ($145) nor more than one thousand dollars ($1,000), or by both that fine and imprisonment, except as provided in Section 23104 or 23105.

(d) (1) If a person is convicted of a violation of subdivision (a) or (b) and the vehicle used in the violation is registered to that person, the vehicle may be impounded by the arresting or citing law enforcement agency for 30 days if this is the first offense, and shall be impounded by the arresting or citing law enforcement agency for 30 days if this is the second or subsequent offense, at the registered owner’s expense. This subdivision applies whether the person is sentenced pursuant to this section, Section 23104, or Section 23105.

(A) The 30-day period shall be reduced by the number of days, if any, that the vehicle was impounded pursuant to Section 23109.2.

(B) If the court finds that the vehicle to be impounded is the only means of transportation for other members of the defendant’s family and impounding the vehicle will result in undue hardship for the family, the court may decline to order the vehicle impounded.

(2) A vehicle seized and impounded pursuant to paragraph (1) shall be released to the legal owner of the vehicle, or the legal owner’s agent, upon demand on or before the 30th day of impoundment if all of the following conditions are met:

(A) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, that holds a security interest in the vehicle.

(B) The legal owner or the legal owner’s agent pays all the towing and storage fees related to the impoundment of the vehicle. Lien sale processing fees shall not be charged to a legal owner that redeems the vehicle on or before the 15th day of impoundment.

(C) The legal owner or the legal owner’s agent presents foreclosure documents or an affidavit of repossession of the vehicle.

SEC. 2. Section 23109 of the Vehicle Code is amended to read:

23109. (a) A person shall not engage in a motor vehicle speed contest on a highway. As used in this section, a motor vehicle speed contest includes a motor vehicle race against another vehicle, a clock, or other timing device. For purposes of this section, an
event in which the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limits, is not a speed contest.

(b) A person shall not aid or abet in a motor vehicle speed contest on a highway.

(c) A person shall not engage in a motor vehicle exhibition of speed on a highway, and a person shall not aid or abet in a motor vehicle exhibition of speed on a highway.

(d) A person shall not, for the purpose of facilitating or aiding or as an incident to a motor vehicle speed contest or exhibition upon a highway, in any manner obstruct or place a barricade or obstruction or assist or participate in placing a barricade or obstruction upon a highway.

(e) (1) A person convicted of a violation of subdivision (a) shall be punished by imprisonment in a county jail for not less than 24 hours nor more than 90 days or by a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000), or by both that fine and imprisonment. That person shall also be required to perform 40 hours of community service. The court may order the privilege to operate a motor vehicle suspended for 90 days to six months, as provided in paragraph (8) of subdivision (a) of Section 13352. The person’s privilege to operate a motor vehicle may be restricted for 90 days to six months to necessary travel to and from that person’s place of employment and, if driving a motor vehicle is necessary to perform the duties of the person’s employment, restricted to driving in that person’s scope of employment. This subdivision does not interfere with the court’s power to grant probation in a suitable case.

(2) If a person is convicted of a violation of subdivision (a) and that violation proximately causes bodily injury to a person other than the driver, the person convicted shall be punished by imprisonment in a county jail for not less than 30 days nor more than six months or by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(f) (1) If a person is convicted of a violation of subdivision (a) for an offense that occurred within five years of the date of a prior offense that resulted in a conviction of a violation of subdivision (a), that person shall be punished by imprisonment in a county jail.
for not less than four days nor more than six months, and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(2) If the perpetration of the most recent offense within the five-year period described in paragraph (1) proximately causes bodily injury to a person other than the driver, a person convicted of that second violation shall be imprisoned in a county jail for not less than 30 days nor more than six months and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(3) If the perpetration of the most recent offense within the five-year period described in paragraph (1) proximately causes serious bodily injury, as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code, to a person other than the driver, a person convicted of that second violation shall be imprisoned in the state prison, or in a county jail for not less than 30 days nor more than one year, and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(4) The court shall order the privilege to operate a motor vehicle of a person convicted under paragraph (1), (2), or (3) suspended for a period of six months, as provided in paragraph (9) of subdivision (a) of Section 13352. In lieu of the suspension, the person’s privilege to operate a motor vehicle may be restricted for six months to necessary travel to and from that person’s place of employment and, if driving a motor vehicle is necessary to perform the duties of the person’s employment, restricted to driving in that person’s scope of employment.

(5) This subdivision does not interfere with the court’s power to grant probation in a suitable case.

(g) If the court grants probation to a person subject to punishment under subdivision (f), in addition to subdivision (f) and any other terms and conditions imposed by the court, which may include a fine, the court shall impose as a condition of probation that the person be confined in a county jail for not less than 48 hours nor more than six months. The court shall order the person’s privilege to operate a motor vehicle to be suspended for a period of six months, as provided in paragraph (9) of subdivision (a) of Section 13352 or restricted pursuant to subdivision (f).
(h) (1) If a person is convicted of a violation of subdivision (a) and the vehicle used in the violation is registered to that person, the vehicle may be impounded by the arresting or citing law enforcement agency for 30 days if this is the first offense, and shall be impounded by the arresting or citing law enforcement agency for 30 days if this is the second or subsequent offense, at the registered owner’s expense.

(A) The 30-day period shall be reduced by the number of days, if any, that the vehicle was impounded pursuant to Section 23109.2.

(B) If the court finds that the vehicle to be impounded is the only means of transportation for other members of the defendant’s family and impounding the vehicle will result in undue hardship for the family, the court may decline to order the vehicle impounded.

(2) If the impounded vehicle was found to be in violation of a mechanical requirement of this code, or the vehicle is inspected pursuant to Section 2806 and found to violate that section, an officer may issue a notice to correct pursuant to Section 40303.5, and correction of the violation as set forth in Sections 40610 and 40611 shall be made within 30 days after the date upon which the vehicle was released from impound. Upon correction, the violation issued pursuant to Section 40303.5 shall be dismissed pursuant to Section 40522.

(3) A vehicle seized and impounded pursuant to paragraph (1) shall be released to the legal owner of the vehicle, or the legal owner’s agent, upon demand on or before the 30th day of impoundment, if all of the following conditions are met:

(A) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, that holds a security interest in the vehicle.

(B) The legal owner or the legal owner’s agent pays all the towing and storage fees related to the impoundment of the vehicle. Lien sale processing fees shall not be charged to a legal owner that redeems the vehicle on or before the 15th day of impoundment.

(C) The legal owner or the legal owner’s agent presents foreclosure documents or an affidavit of repossession of the vehicle.

(i) A person who violates subdivision (b), (c), or (d) shall upon conviction of that violation be punished by imprisonment in a...
county jail for not more than 90 days, by a fine of not more than five hundred dollars ($500), or by both that fine and imprisonment.

(j) If a person’s privilege to operate a motor vehicle is restricted by a court pursuant to this section, the court shall clearly mark the restriction and the dates of the restriction on that person’s driver’s license and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The Department of Motor Vehicles shall place that restriction in the person’s records in the Department of Motor Vehicles and enter the restriction on a license subsequently issued by the Department of Motor Vehicles to that person during the period of the restriction.

(k) The court may order that a person convicted under this section, who is to be punished by imprisonment in a county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(l) This section shall be known and may be cited as the Louis Friend Memorial Act.

SEC. 3. Section 23109.2 of the Vehicle Code is amended to read:

23109.2. (a) (1) Whenever a peace officer determines that a person was engaged in an activity set forth in paragraph (2), the peace officer may immediately arrest and take into custody that person and may cause the removal and seizure of the motor vehicle used in that offense in accordance with Chapter 10 (commencing with Section 22650). A motor vehicle so seized may be impounded for not more than 30 days.

(2) (A) A motor vehicle speed contest, as described in subdivision (a) of Section 23109.

(B) Reckless driving on a highway, as described in subdivision (a) of Section 23103.

(C) Reckless driving in an offstreet parking facility, as described in subdivision (b) of Section 23103.

(D) Exhibition of speed on a highway, as described in subdivision (c) of Section 23109.

(b) The registered and legal owner of a vehicle removed and seized under subdivision (a) or their agents shall be provided the opportunity for a storage hearing to determine the validity of the storage in accordance with Section 22852.
(c) Notwithstanding Chapter 10 (commencing with Section 22650) or any other law, an impounding agency shall release a motor vehicle to the registered owner or his or her agent prior to the conclusion of the impoundment period described in subdivision (a) under any of the following circumstances:

(A) If the vehicle is a stolen vehicle.

(B) If the person alleged to have been engaged in the motor vehicle speed contest, as described in subdivision (a), was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense.

(C) If the registered owner of the vehicle was neither the driver nor a passenger of the vehicle at the time of the alleged violation pursuant to subdivision (a), or was unaware that the driver was using the vehicle to engage in an activity described in subdivision (a).

(D) If the legal owner or registered owner of the vehicle is a rental car agency.

(E) If, prior to the conclusion of the impoundment period, a citation or notice is dismissed under Section 40500, criminal charges are not filed by the district attorney because of a lack of evidence, or the charges are otherwise dismissed by the court.

(2) A vehicle shall be released pursuant to this subdivision only if the registered owner or his or her agent presents a currently valid driver’s license to operate the vehicle and proof of current vehicle registration, or if ordered by a court.

(3) If, pursuant to subparagraph (E) of paragraph (1) a motor vehicle is released prior to the conclusion of the impoundment period, neither the person charged with a violation of subdivision (a) of Section 23109 nor the registered owner of the motor vehicle is responsible for towing and storage charges nor shall the motor vehicle be sold to satisfy those charges.

(d) A vehicle seized and removed under subdivision (a) shall be released to the legal owner of the vehicle, or the legal owner’s agent, on or before the 30th day of impoundment if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle.
(2) The legal owner or the legal owner’s agent pays all towing and storage fees related to the impoundment of the vehicle. Lien sale processing fees shall not be charged to a legal owner who redeems the vehicle on or before the 15th day of impoundment. 

(3) The legal owner or the legal owner’s agent presents foreclosure documents or an affidavit of repossession for the vehicle. 

(e) (1) The registered owner or his or her the registered owner’s agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5. 

(2) Notwithstanding paragraph (1), if the person convicted of engaging in the activities set forth in paragraph (2) of subdivision (a) was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall order the convicted person to reimburse the registered owner for any towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5 incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person convicted does not have the ability to pay all or part of those charges. 

(3) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 incurred by the rental car agency in connection with obtaining possession of the vehicle. 

(4) The owner is not liable for any towing and storage charges related to the impoundment if acquittal or dismissal occurs. 

(5) The vehicle may not be sold prior to the defendant’s conviction. 

(6) The impounding agency is responsible for the actual costs incurred by the towing agency as a result of the impoundment should the registered owner be absolved of liability for those charges pursuant to paragraph (3) of subdivision (c). Notwithstanding this provision, an impounding agency is not prohibited from making prior payment arrangements to satisfy this requirement.
(f) A period when a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under subdivision (d) of Section 23103 or subdivision (h) of Section 23109.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Item B-6
TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cindy Owens, Policy and Management Analyst

DATE: June 13, 2019

SUBJECT: Request Direction on Senate Bill 23 (Wiener) Unlawful Entry of a Vehicle

ATTACHMENT: 1. Summary Memo – SB 23
               2. Bill Text – SB 23

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Senate Bill 23 (Wiener) Unlawful Entry of a Vehicle (SB 23) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for SB 23.

After discussion of SB 23, the Liaisons may recommend the following actions:

1) Support SB 23;
2) Support if amended SB 23;
3) Oppose SB 23;
4) Oppose unless amended SB 23;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 23, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 5, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
Priscilla Quiroz, Legislative Advocate, Shaw / Yoder / Antwih, Inc.
Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: SB 23 (Wiener) Unlawful entry of a vehicle.

Introduction and Background
Senator Wiener introduced SB 23 on the first day of the 2019-2020 Legislative Session. Under existing law, entering a vehicle while its doors are locked with the intent to commit a theft inside the vehicle is considered a burglary. Burglary of a vehicle is the only burglary section that specifically states that the doors to enter are locked at the time of entry. This bill would make forcibly entering a vehicle with the intent to commit a crime a felony-misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year for the misdemeanor or for 16 months, two years, or three years for a felony.

Specifically, this bill would:
- Create a new crime for forcibly entering a vehicle with the intent to commit a theft;
- Define forcibly entry as:
  - Force that damages the exterior of the vehicle, including, but not limited to, breaking a window, cutting a convertible top, punching a lock, or prying open a door,
  - Use of a tool or device that manipulates the locking mechanism, including, without limitation, a slim jim or similar tool, a shaved key, lock pick, or electronic device such as a signal extender.

Status of Legislation
The bill has been referred to the Assembly Public Safety Committee and has not been set for a hearing.

Support and Opposition
Proponents of the bill argue that the locked door requirement of the state’s statute defining auto burglary places an undue burden on crime victims and prosecutors to establish that a vehicle’s doors were locked at the time of the burglary. Although prosecutors can establish through victim testimony that a car’s doors were locked the San Francisco District Attorney notes that “with over 55 percent of all auto burglaries in San Francisco targeting tourists, getting victims to return to court from out of town is difficult.”

Opponents of the bill argue that it would dramatically and unnecessarily expand the definition of vehicle burglary. They state that existing criminal law and penalties are sufficient to address individuals who break into a car when its doors are locked. The California Public Defenders Association assert that “Inserting the word ‘force’ into the statute instead of requiring that vehicle locks have been overcome to gain entry would expanding the prosecution and punishment to include people who simply open a car door and who are alleged to have done so with the intent to commit theft.”
*It should be noted that Support and Opposition are based on a prior version of the bill*

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Attachment 2
An act to add Section 465 to the Penal Code, relating to crime.

LEGISLATIVE COUNSEL’S DIGEST

SB 23, as amended, Wiener. Unlawful entry of a vehicle.

Existing law defines the crime of burglary to include entering a vehicle when the doors are locked with the intent to commit grand or petit larceny or a felony. Existing law makes the burglary of a vehicle punishable as a misdemeanor or a felony.

This bill would make forcibly entering a vehicle, as defined, with the intent to commit a theft therein a crime punishable by imprisonment in a county jail for a period not to exceed one year or imprisonment in a county jail for 16 months, or 2 or 3 years. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 465 is added to the Penal Code, to read:
465. (a) A person who forcibly enters a vehicle, as defined in
Section 670 of the Vehicle Code, with the intent to commit a theft
therein is guilty of unlawful entry of a vehicle.

(b) Unlawful entry of a vehicle is punishable by imprisonment
in a county jail for a period not to exceed one year or imprisonment
pursuant to subdivision (h) of Section 1170.

(c) As used in this section, forcible entry of a vehicle means the
entry of a vehicle accomplished through either of the following
means:

(1) Force that damages the exterior of the vehicle, including,
but not limited to, breaking a window, cutting a convertible top,
punching a lock, or prying open a door.

(2) Use of a tool or device that manipulates the locking
mechanism, including, without limitation, a slim jim or other
lockout tool, a shaved key, jiggler key, or lock pick, or an electronic
device such as a signal extender.

(d) The provisions of this section do not restrict the application
of any other law. However, an act or omission punishable pursuant
to multiple provisions of law shall not be punished under more
than one provision.

SEC. 2. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIIIB of the California
Constitution.
Item B-7
TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cindy Owens, Policy and Management Analyst

DATE: June 13, 2019

SUBJECT: Request Direction on Assembly Bill 1782 (Chau) Automated License Plate Recognition Information: Usage and Privacy Policy

ATTACHMENT: 1. Summary Memo – AB 1782
               2. Bill Text – AB 1782

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 1782 (Chau) Automated License Plate Recognition Information: Usage and Privacy Policy (AB 1782) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for AB 1782.

After discussion of AB 1782, the Liaisons may recommend the following actions:

1) Support AB 1782;
2) Support if amended AB 1782;
3) Oppose AB 1782;
4) Oppose unless amended AB 1782;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1782, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 8, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
Priscilla Quiroz, Legislative Advocate, Shaw / Yoder / Antwih, Inc.
Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: AB 1782 (Chau) Automated License Plate Recognition Systems; Usage and Privacy Policy

Introduction
AB 1782 requires automated license plate recognition (ALPR) operators and end-users to amend their privacy policies to require the destruction of ALPR information after 60 days, and to prohibit the sharing of non-anonymized ALPR information, as specified. Specifically, this bill would:

- Requires an operator or end-user that holds ALPR information to amend its usage and privacy policy to include a procedure to provide for the destruction of all non-anonymized ALPR information no more than 60 days from the date of collection, except in circumstances where the California Highway Patrol (CHP) is using the ALPR data in a felony investigation or where a law enforcement agency is using the ALPR data as evidence or for the investigation of a felony.

- Requires an operator or end-user that holds ALPR information to amend its usage and privacy policy to include a procedure to ensure that all ALPR information shared with an organization or individual, not including a law enforcement agency, outside of the entity that generated that information is anonymized to protect the privacy of the license plate holder.

Background
Assemblyman Chau has introduced AB 1782 with the goal of strengthening current law regarding the retention and destruction of data generated and maintained by automated license plate recognition (ALPR) systems. He argues that current privacy policies regarding this data are vague and do not provide the public with the accountability of knowing their information is safe. He argues further that this area of the law should be strengthened to require collectors and end users of the data to include stronger protections and privacy policies to ensure that any non-investigative data be destroyed, and make their policies easily accessible to the public.

An ALPR system is one or more mobile or fixed cameras combined with computer algorithms that can read and convert images of automobile registration plates, and the characters they contain, into computer-readable data showing the license plate itself, as well as the time, date, and place of the picture.

ALPR systems can also provide a contextual photo of the car itself, making information about car make and model, distinguishing features, state of registration, and individuals in the car available. ALPR systems operate by automatically scanning any license plate within range. Some ALPR systems can scan up to 2,000 license plates per minute.
In the private sector, ALPR systems are used to monitor parking facilities and assist repossession companies in identifying vehicles. Some gated communities use ALPRs to monitor and regulate access.

When used by law enforcement, each scanned license plate is checked against a variety of databases, such as the federal AMBER Alert for missing children or the National Crime Information Center, which aggregates 21 different databases tracking categories such as stolen property, sex offenders, gang affiliates, and known violent persons. If one of the license plates photographed by the system gets a hit based on a match with one of the databases or some other "hot list," the ALPR system can alert law enforcement in real time so they can take action.

As recently amended, this bill allows law enforcement to share non-anonymized ALPR data, but continues to impose the 60-day destruction policy for ALPR data whether held by a private or public entity, with the exception of a law enforcement agency that is using the ALPR data as evidence or for the investigation of a felony.

The California State Sheriffs' Association argues in opposition to this measure. They point out that law enforcement agencies across the state and nation have used ALPR data to solve crimes and apprehend criminal suspects. While some cases are solved quickly using this technology, it can also be exceptionally helpful in solving crimes that have occurred deeper in the past. To set an arbitrary data destruction timeline such as 60 days in statute will hinder the use of a valuable law enforcement tool. They argue further that AB 1782 would effectively stop the use of ALPR data sharing among law enforcement agencies and other collectors of the data, and would hamper a major virtue of the technology inasmuch as it provides information regarding the whereabouts of objects that are transient by nature.

The League of California Cities has a Watch position on this measure.

**Status of Legislation**
AB 1782 was approved by the Assembly and is currently in the Senate Rules Committee pending referral to a Senate Policy Committee.

**Support**
None on file

**Oppose**
California State Sheriffs Association
Attachment 2
Introduced by Assembly Member Chau

February 22, 2019

An act to amend Sections 1798.90.5, 1798.90.51, and 1798.90.53 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL’S DIGEST

AB 1782, as amended, Chau. Automated license plate recognition information: usage and privacy policy.

Existing law authorizes the Department of the California Highway Patrol to retain license plate data captured by license plate reader technology, also referred to as an automated license plate recognition (ALPR) system, for not more than 60 days unless the data is being used as evidence or for the investigation of felonies. Existing law authorizes the department to share that data with law enforcement agencies for specified purposes and requires both an ALPR operator and an ALPR end-user, as those terms are defined, to implement a usage and privacy policy regarding that ALPR information, as specified. Existing law requires that the usage and privacy policy implemented by an ALPR operator and an ALPR end-user include the length of time ALPR information will be retained, and the process the ALPR operator and
ALPR end-user will utilize to determine if and when to destroy retained ALPR information.

This bill would delete the requirement that the usage and privacy policy implemented by an ALPR operator and an ALPR end-user include the retention and destruction information described above, and would instead require those usage and privacy policies to include a procedure to ensure the destruction of all nonanonymized ALPR information no more than 60 days from the date of collection, except as provided. The bill would also require that the usage and privacy policy implemented by an ALPR operator and an ALPR end-user include a procedure to ensure that all ALPR information that is shared with an organization or individual, not including a law enforcement agency, outside of the entity that generated that information is sufficiently anonymized, as defined, to protect the privacy of the license plate holder.


The people of the State of California do enact as follows:

SECTION 1. Section 1798.90.5 of the Civil Code is amended to read:

1798.90.5. The following definitions shall apply for purposes of this title:

(a) “Anonymize” means to redact the images of the registration plates and the characters they contain from the ALPR information so that the ALPR information does not identify, or does not provide a reasonable basis from which to identify, an individual.

(b) “Automated license plate recognition end-user” or “ALPR end-user” means a person that accesses or uses an ALPR system, but does not include any of the following:

(1) A transportation agency when subject to Section 31490 of the Streets and Highways Code.

(2) A person that is subject to Sections 6801 to 6809, inclusive, of Title 15 of the United States Code and state or federal statutes or regulations implementing those sections, if the person is subject to compliance oversight by a state or federal regulatory agency with respect to those sections.
(3) A person, other than a law enforcement agency, to whom
information may be disclosed as a permissible use pursuant to
Section 2721 of Title 18 of the United States Code.

(c) “Automated license plate recognition information,” or
“ALPR information” means information or data collected through
the use of an ALPR system.

(d) “Automated license plate recognition operator” or “ALPR
operator” means a person that operates an ALPR system, but does
not include a transportation agency when subject to Section 31490
of the Streets and Highways Code.

(e) “Automated license plate recognition system” or “ALPR
system” means a searchable computerized database resulting from
the operation of one or more mobile or fixed cameras combined
with computer algorithms to read and convert images of registration
plates and the characters they contain into computer-readable data.

(f) “Person” means any natural person, public agency,
partnership, firm, association, corporation, limited liability
company, or other legal entity.

(g) “Public agency” means the state, any city, county, or city
and county, or any agency or political subdivision of the state or
a city, county, or city and county, including, but not limited to, a
law enforcement agency.

SECTION 1.
SEC. 2. Section 1798.90.51 of the Civil Code is amended to
read:
1798.90.51. An ALPR operator shall do all of the following:
(a) Maintain reasonable security procedures and practices,
including operational, administrative, technical, and physical
safeguards, to protect ALPR information from unauthorized access,
destruction, use, modification, or disclosure.

(b) (1) Implement a usage and privacy policy in order to ensure
that the collection, use, maintenance, sharing, and dissemination
of ALPR information is consistent with respect for individuals’
privacy and civil liberties. The usage and privacy policy shall be
available to the public in writing, and, if the ALPR operator has
an internet website, the usage and privacy policy shall be posted
conspicuously on that internet website.

(2) The usage and privacy policy shall, at a minimum, include
all of the following:

(A) The authorized purposes for using the ALPR system and
collecting ALPR information.

(B) A description of the job title or other designation of the
employees and independent contractors who are authorized to use
or access the ALPR system, or to collect ALPR information. The
policy shall identify the training requirements necessary for those
authorized employees and independent contractors.

(C) A description of how the ALPR system will be monitored
to ensure the security of the information and compliance with
applicable privacy laws.

(D) The purposes of, process for, and restrictions on, the sale,
sharing, or transfer of ALPR information to other persons.

(E) The title of the official custodian, or owner, of the ALPR
system responsible for implementing this section.

(F) A description of the reasonable measures that will be used
to ensure the accuracy of ALPR information and correct data errors.

(G) A procedure to ensure the destruction of all nonanonymized
ALPR information no more than 60 days from the date of
collection, except as authorized pursuant to Section 2413 of the
Vehicle Code. Code or if the ALPR operator is a law enforcement
agency and the ALPR information is being used as evidence or for
the investigation of a felony.

(H) A procedure to ensure that all ALPR information that is
shared with an organization or individual, not including a law
enforcement agency, outside of the entity that generated that
information is sufficiently anonymized to protect the privacy of
the license plate holder.

SEC. 3. Section 1798.90.53 of the Civil Code is amended to
read:

1798.90.53. An ALPR end-user shall do all of the following:
(a) Maintain reasonable security procedures and practices,
including operational, administrative, technical, and physical
safeguards, to protect ALPR information from unauthorized access,
destruction, use, modification, or disclosure.
(b) (1) Implement a usage and privacy policy in order to ensure that the access, use, sharing, and dissemination of ALPR information is consistent with respect for individuals’ privacy and civil liberties. The usage and privacy policy shall be available to the public in writing, and, if the ALPR end-user has an internet website, the usage and privacy policy shall be posted conspicuously on that internet website.

(2) The usage and privacy policy shall, at a minimum, include all of the following:

(A) The authorized purposes for accessing and using ALPR information.
(B) A description of the job title or other designation of the employees and independent contractors who are authorized to access and use ALPR information. The policy shall identify the training requirements necessary for those authorized employees and independent contractors.
(C) A description of how the ALPR system will be monitored to ensure the security of the information accessed or used, and compliance with all applicable privacy laws and a process for periodic system audits.
(D) The purposes of, process for, and restrictions on, the sale, sharing, or transfer of ALPR information to other persons.
(E) The title of the official custodian, or owner, of the ALPR information responsible for implementing this section.
(F) A description of the reasonable measures that will be used to ensure the accuracy of ALPR information and correct data errors.
(G) A procedure to ensure the destruction of all nonanonymized ALPR information no more than 60 days from the date of collection, except as authorized pursuant to Section 2413 of the Vehicle Code or if the ALPR end-user is a law enforcement agency and the ALPR information is being used as evidence or for the investigation of a felony.
(H) A procedure to ensure that all ALPR information that is shared with an organization or individual, not including a law enforcement agency, outside of the entity that generated that information is sufficiently anonymized to protect the privacy of the license plate holder.
Item B-8
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Senate Bill 128 (Beall) Enhanced Infrastructure Financing Districts (SB 128) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for SB 128.

After discussion of SB 128, the Liaisons may recommend the following actions:

1) Support SB 128;
2) Support if amended SB 128;
3) Oppose SB 128;
4) Oppose unless amended SB 128;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 128, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 6, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
Priscilla Quiroz, Legislative Advocate, Shaw / Yoder / Antwih, Inc.
Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: SB 128 (Beall) Enhanced infrastructure financing districts

Introduction and Overview

SB 128 (Beall) would authorize Enhanced Infrastructure Financing Districts to issue bonds without voter approval.

Generally under current law, property tax increment financing involves a city or county forming a tax increment-financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues that are generated when projects financed by the bonds have the effect of increasing the assessed property values within the project area.

To calculate the increased property tax revenues captured by the district, the amount of property tax revenues received by any local agency that receives a share of property tax revenues from property within a project area is “frozen” at the amount it received from that property prior to the project area’s formation.

In future years, as the project area’s assessed valuation grows above the frozen base, the resulting additional property tax revenues—the so-called property tax “increment” revenues—flow to the tax increment financing district instead of other local agencies. After the bonds have been fully repaid using the property tax increment revenues, the district is dissolved, ending the diversion of tax increment revenues from participating local agencies and property tax revenues again flow directly to each local agency that receives a share of the property tax.

After the state dissolved redevelopment agencies (RDAs) in 2011, local officials sought other ways to use tax increment financing to raise the capital they need to fund public works projects. In response, the Legislature enacted SB 628 (Beall, Chapter 785, Statutes of 2014) to allow local officials to create EIFDs, which augment the tax increment financing powers available to local agencies under existing infrastructure financing district statutes.
SB 128 (Beall) makes the following specific changes to current law regarding Enhanced Infrastructure Financing Districts (EIFDs):

1. Requires the public financing authority to hold three public hearings to hear and comment on all public comments to consider the EIFD infrastructure plan.
2. Requires the public financing authority terminate the EIFD infrastructure plan if there is a majority protest. A majority protest exists if protests have been filed representing over 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age.
3. Requires an election if between 25 percent and 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age file a protest.
4. Repeals the 55 percent voter approval requirement for an EIFD to issue bonds after the public finance authority approves the bond issuance.
5. Requires only the public finance authority to approve a bond before it can issue the bond.

The author argues that EIFDs are an important economic development finance tool since their structure and use allow jurisdictions to move economic development projects forward that would otherwise remain inactive. EIFDs provide local agencies a way to finance needed infrastructure projects with tax increment financing (TIF). The tax increment can be used to make infrastructure investments, inducing private investment. Local jurisdictions that take advantage of the powers provided in state law to form EIFDs are empowered to provide financing for a broad range of infrastructure work, and public use economic development projects.

Presently, EIFDs require a 55% vote approval to issue bonds. The vote requirement is burdensome for implementing the key purpose of EIFDs—issuing bonds for infrastructure projects. It adds an element of uncertainty and restricts the ability of the EIFD to make long-term commitments.

Senator Beall argues that the solution is to eliminate the vote requirement to issue EIFD bonds. The property taxes allocated to EIFDs are not new taxes or special assessments, and EIFDS bonds do not result in an increased burden on taxpayers. Public oversight and transparency are built in to the EIFD process. SB 128 streamlines the EIFD tool, making it a more practical and attractive tool for economic growth. SB 128 will help California realize the full potential of EIFDs.

Opponents have argued that local governments have been slow to utilize the EIFD law to form this district due to legal uncertainty over their bonding capacity. They suggest that there is concern over whether making payments to an EIFD counts as a debt obligation for participating cities or counties, which would require two-thirds voter approval. It is unclear whether removing the vote threshold without addressing some of the other challenges faced by EIFDs will increase their utilization.

**Support and Opposition**

**SUPPORT**
- California Association for Local Economic Development (source)
- American Planning Association
- California Special Districts Association
- California State Association of Counties
- California Transit Association
- City of Indio
- City of Lakeport
- City of Merced
- City of Sacramento
City of West Hollywood
City/County Association of Governments of San Mateo County
County of Stanislaus

Greater Sacramento Economic Council
League of California Cities
Madera County Economic Development Commission

**OPPOSITION**
Howard Jarvis Taxpayers Association
Southwest California Legislative Council
Attachment 2
An act to amend Sections 53398.58, 53398.63, 53398.66, 53398.69, 53398.77, and 53398.88 of, to amend and renumber Section 53398.80.5 of, and to repeal Sections 53398.67, 53398.78, 53398.79, 53398.80, 53398.81, and 53398.82 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST


Existing law authorizes the legislative body of a city or a county to establish an enhanced infrastructure financing district, with a governing body referred to as a public financing authority, to finance public capital facilities or other specified projects of communitywide significance. Existing law requires a public financing authority to adopt an infrastructure financing plan and hold a public hearing on the plan, as specified. Existing law authorizes the public financing authority to issue bonds for these purposes upon approval by 55% of the voters voting on a proposal to issue the bonds. Existing law requires the proposal submitted to the voters by the public financing authority and the resolution for the issuance of bonds following approval by the voters to include specified information regarding the bond issuance.

This bill would instead authorize the public financing authority to issue bonds for these purposes without submitting a proposal to the voters. The bill would require the resolution to issue bonds to contain...
specified information related to the issuance of the bonds. *The bill would also require the public financing authority to hold three public hearings on an enhanced infrastructure financing plan, as specified.* The bill would also make conforming changes.


*The people of the State of California do enact as follows:*

1. **SECTION 1.** Section 53398.58 of the Government Code is amended to read:

   53398.58. An action to determine the validity of the issuance of bonds pursuant to this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. However, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, the action shall be commenced within 30 days after adoption of the resolution pursuant to Section 53398.77 providing for issuance of the bonds if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

2. **SEC. 2.** Section 53398.63 of the Government Code is amended to read:

   53398.63. After receipt of a copy of the resolution of intention to establish a district, the official designated pursuant to Section 53395.62 shall prepare a proposed infrastructure financing plan. The infrastructure financing plan shall be consistent with the general plan of the city or county within which the district is located and shall include all of the following:

   a) A map and legal description of the proposed district, which may include all or a portion of the district designated by the legislative body in its resolution of intention.

   b) A description of the public facilities and other forms of development or financial assistance that is proposed in the area of the district, including those to be provided by the private sector, those to be provided by governmental entities without assistance under this chapter, those public improvements and facilities to be financed with assistance from the proposed district, and those to be provided jointly. The description shall include the proposed
location, timing, and costs of the development and financial assistance.

(c) If funding from affected taxing entities is incorporated into the financing plan, a finding that the development and financial assistance are of communitywide significance and provide significant benefits to an area larger than the area of the district.

(d) A financing section, which shall contain all of the following information:

(1) A specification of the maximum portion of the incremental tax revenue of the city or county and of each affected taxing entity proposed to be committed to the district for each year during which the district will receive incremental tax revenue. The portion need not be the same for all affected taxing entities. The portion may change over time.

(2) A projection of the amount of tax revenues expected to be received by the district in each year during which the district will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year.

(3) A plan for financing the public facilities to be assisted by the district, including a detailed description of any intention to incur debt.

(4) A limit on the total number of dollars of taxes that may be allocated to the district pursuant to the plan.

(5) A date on which the district will cease to exist, by which time all tax allocation to the district will end. The date shall not be more than 45 years from the date on which the issuance of bonds is approved pursuant to Section 53398.77, or the issuance of a loan is approved by the governing board of a local agency pursuant to Section 53398.87.

(6) An analysis of the costs to the city or county of providing facilities and services to the area of the district while the area is being developed and after the area is developed. The plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city or county as a result of expected development in the area of the district.

(7) An analysis of the projected fiscal impact of the district and the associated development upon each affected taxing entity.

(8) A plan for financing any potential costs that may be incurred by reimbursing a developer of a project that is both located entirely within the boundaries of that district and qualifies for the Transit
Priority Project Program, pursuant to Section 65470, including any permit and affordable housing expenses related to the project.

(e) If any dwelling units within the territory of the district are proposed to be removed or destroyed in the course of public works construction within the area of the district or private development within the area of the district that is subject to a written agreement with the district or that is financed in whole or in part by the district, a plan providing for replacement of those units and relocation of those persons or families consistent with the requirements of Section 53398.56.

(f) The goals the district proposes to achieve for each project financed pursuant to Section 53398.52.

SEC. 3. Section 53398.66 of the Government Code is amended to read:

53398.66. (a) (1) The public financing authority shall conduct a public hearing prior to adopting the proposed infrastructure financing plan. The public hearing shall be called no sooner than 60 days after the plan has been sent to each affected taxing entity. Consider adoption of the enhanced infrastructure financing plan at three public hearings that shall take place at least 30 days apart.

In addition to the notice given to landowners and affected taxing entities pursuant to Sections 53398.60 and 53398.61, notice of the each public hearing shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the city or county in which the proposed district is located. The notice shall state that the district will be used to finance public facilities or development, briefly describe the public facilities or development, briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the proposed district and state the day, hour, and place when and where any persons having any objections to the proposed infrastructure financing plan or the regularity of any of the prior proceedings, may appear before the public financing authority and object to the adoption of the proposed plan by the public financing authority. in accordance with subdivision (i).

(2) At the first public hearing, the public financing authority shall hear all written and oral comments, but take no action.

(3) At the second public hearing, the public financing authority shall consider any additional written and oral comments and take
action to modify or reject the enhanced infrastructure financing plan. If the enhanced infrastructure financing plan is not rejected at the second public hearing, then the public financing authority shall conduct a protest proceeding at the third public hearing to consider whether the landowners and residents within the enhanced infrastructure financing plan area wish to present oral or written protests against the adoption of the enhanced infrastructure financing plan.

(b) The draft-enhanced infrastructure financing plan shall be made available to the public and to each landowner within the area at a meeting held at least 30 days prior to the notice given for the first public hearing. The purposes of the meeting shall be to allow the staff of the public financing authority to present the draft-enhanced infrastructure financing plan, answer questions about the enhanced infrastructure financing plan, and consider comments about the enhanced infrastructure financing plan.

(c) (1) Notice of the meeting required by subdivision (b) and the public hearings required by subdivision (a) shall be given in accordance with subdivision (i). The notice shall do the following, as applicable:

(A) Describe specifically the boundaries of the proposed area.
(B) Describe the purpose of the enhanced infrastructure financing plan.
(C) State the day, hour, and place when and where any and all persons having any comments on the proposed enhanced infrastructure financing plan may appear to provide written or oral comments to the enhanced infrastructure financing district.
(D) Notice of the second public hearing shall include a summary of the changes made to the enhanced infrastructure financing plan as a result of the oral and written testimony received at or before the public hearing and shall identify a location accessible to the public where the enhanced infrastructure financing plan proposed to be presented at the second public hearing can be reviewed.

(E) Notice of the third public hearing to consider any written or oral protests shall contain a copy of the enhanced infrastructure financing plan, and shall inform the landowner and resident of their right to submit an oral or written protest before the close of the public hearing. The protest may state that the landowner or resident objects to the public financing authority taking action to implement the enhanced infrastructure financing plan.
(2) At the third public hearing, the public financing authority shall consider all written and oral protests received prior to the close of the public hearing along with the recommendations, if any, of affected taxing entities, and shall terminate the proceedings or adopt the enhanced infrastructure financing plan subject to confirmation by the voters at an election called for that purpose. The public financing authority shall terminate the proceedings if there is a majority protest. A majority protest exists if protests have been filed representing over 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age. An election shall be called if between 25 percent and 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age file a protest.

(d) An election required pursuant to paragraph (2) of subdivision (c) shall be held within 90 days of the public hearing and may be held by mail-in ballot. The public financing authority shall adopt, at a duly noticed public hearing, procedures for this election.

(e) If a majority of the landowners and residents vote against the enhanced infrastructure financing plan, then the public financing authority shall not take any further action to implement the proposed enhanced infrastructure financing plan. The public financing authority shall not propose a new or revised enhanced infrastructure financing plan to the affected landowners and residents for at least one year following the date of an election in which the enhanced infrastructure financing plan was rejected.

(f) At the hour set in the notices required by subdivision (a), the public financing authority shall consider all written and oral comments.

(g) If less than 25 percent of the combined number of landowners and residents in the area who are at least 18 years of age file a protest, the public financing authority may adopt the enhanced infrastructure financing plan at the conclusion of the third public hearing by ordinance. The ordinance adopting the enhanced infrastructure financing plan shall be subject to referendum as prescribed by law.

(h) The public financing authority shall consider and adopt an amendment or amendments to an enhanced infrastructure financing plan in accordance with the provisions of this section.
(i) The public financing authority shall post notice of each
meeting or public hearing required by this section in an easily
identifiable and accessible location on the enhanced infrastructure
financing district’s internet website and shall mail a written notice
of the meeting or public hearing to each landowner, each resident,
and each taxing entity at least 10 days prior to the meeting or
public hearing.

(1) Notice of the first public hearing shall also be published not
less than once a week for four successive weeks prior to the first
public hearing in a newspaper of general circulation published in
the county in which the area lies. The notice shall state that the
district will be used to finance public facilities or development,
briefly describe the public facilities or development, briefly
describe the proposed financial arrangements, including the
proposed commitment of incremental tax revenue, describe the
boundaries of the proposed district, and state the day, hour, and
place when and where any persons having any objections to the
proposed infrastructure financing plan, or the regularity of any
of the prior proceedings, may appear before the public financing
authority and object to the adoption of the proposed plan by the
public financing authority.

(2) Notice of the second public hearing shall also be published
not less than 10 days prior to the second public hearing in a
newspaper of general circulation in the county in which the area
lies. The notice shall state that the district will be used to finance
public facilities or development, briefly describe the public
facilities or development, briefly describe the proposed financial
arrangements, describe the boundaries of the proposed district,
and state the day, hour, and place when and where any persons
having any objections to the proposed infrastructure financing
plan, or the regularity of any of the prior proceedings, may appear
before the public financing authority and object to the adoption
of the proposed plan by the public financing authority.

(3) Notice of the third public hearing shall also be published
not less than 10 days prior to the third public hearing in a
newspaper of general circulation in the county in which the area
lies. The notice shall state that the district will be used to finance
public facilities or development, briefly describe the public
facilities or development, briefly describe the proposed financial
arrangements, describe the boundaries of the proposed district,
and state the day, hour, and place when and where any persons having any objections to the proposed infrastructure financing plan, or the regularity of any of the prior proceedings, may appear before the public financing authority and object to the adoption of the proposed plan by the public financing authority.

(j)(1) The public financing authority shall review the enhanced infrastructure financing plan at least annually and make any amendments that are necessary and appropriate and shall require the preparation of an annual independent financial audit paid for from revenues of the enhanced infrastructure financing district.

(2) A public financing authority shall adopt an annual report on or before June 30 of each year after holding a public hearing. Written copies of the draft report shall be made available to the public 30 days prior to the public hearing. The public financing authority shall cause the draft report to be posted in an easily identifiable and accessible location on the enhanced infrastructure financing district’s internet website and shall mail a written notice of the availability of the draft report on the internet website to each owner of land and each resident within the area covered by the enhanced infrastructure financing plan and to each taxing entity that has adopted a resolution pursuant to Section 53398.68. The notice shall be mailed by first-class mail, but may be addressed to “occupant.”

(3) The annual report shall contain all of the following:

(A) A description of the projects undertaken in the fiscal year, including any rehabilitation of structures, and a comparison of the progress expected to be made on those projects compared to the actual progress.

(B) A chart comparing the actual revenues and expenses, including administrative costs, of the public financing authority to the budgeted revenues and expenses.

(C) The amount of tax increment revenues received.

(D) An assessment of the status regarding completion of the enhanced infrastructure financing district’s projects.

(E) The amount of revenues expended to assist private businesses.

(4) If the public financing authority fails to provide the annual report required by paragraph (3), the public financing authority shall not spend any funds received pursuant to a resolution adopted
pursuant to this chapter until the public financing authority has provided the report.

SEC. 4. Section 53398.67 of the Government Code is repealed.

53398.67. At the hour set in the required notices, the public financing authority shall proceed to hear and pass upon all written and oral objections. The hearing may be continued from time to time. The public financing authority shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the adoption of the plan. The public financing authority may modify the plan by eliminating or reducing the size and cost of proposed facilities or development, by reducing the amount of proposed debt, or by reducing the portion, amount, or duration of incremental tax revenues to be committed to the district.

SEC. 5.

SEC. 5. Section 53398.69 of the Government Code, as amended by Chapter 599 of the Statutes of 2017, is amended to read:

53398.69. (a) (1) At the conclusion of the hearing(s) pursuant to Section 53398.66, the public financing authority may adopt a resolution proposing adoption of the infrastructure financing plan, as modified, and formation of the enhanced infrastructure financing district in a manner consistent with Section 53398.68, or it may adopt a resolution abandoning the proceedings. If the proceedings are abandoned, then the public financing authority shall cease to exist by operation of this section with no further action required of the legislative body and the legislative body may not enact a resolution of intention to establish a district that includes the same geographic area within one year of the date of the resolution abandoning the proceedings.

(2) In the case of an infrastructure financing plan adopted pursuant to Section 53398.75.7, the proceedings set forth in subdivision (e) of that section shall govern the adoption of the infrastructure financing plan.

(b) The infrastructure financing plan shall take effect upon the adoption of the resolution. The infrastructure financing plan shall specify if the district shall be funded solely through the district’s share of tax increment, governmental or private loans, grants, bonds, assessments, fees, or some combination thereof. However, the public financing authority shall not issue bonds or levy
assessments or fees that may be included in the infrastructure financing plan before one or more of the following:

(1) The adoption of a resolution meeting the requirements of Section 53398.77, and, if applicable, subdivision (c) of Section 53398.78, to issue bonds to finance the infrastructure financing plan.

(2) Compliance with the procedures required in subdivision (f) of Section 53398.75, to levy assessments or fees to finance the infrastructure financing plan.

(c) In addition, the district may expend up to 10 percent of any accrued tax increment in the first two years of the effective date of the enhanced infrastructure financing district on planning and dissemination of information to the residents within the district’s boundaries about the infrastructure financing plan and planned activities to be funded by the district.

SEC. 4.
SEC. 6. Section 53398.77 of the Government Code is amended to read:

53398.77. The public financing authority may, by majority vote, issue bonds pursuant to this chapter by adopting a resolution that includes all of the following:

(a) A description of the facilities or developments to be financed with the proceeds of the proposed bond issue.

(b) The estimated cost of the facilities or developments, the estimated cost of preparing and issuing the bonds, and the principal amount of the bond issuance.

(c) The maximum interest rate and discount on the bond issuance.

(d) A determination of the amount of tax revenue available or estimated to be available, for the payment of the principal of, and interest on, the bonds.

(e) A finding that the amount necessary to pay the principal of, and interest on, the bond issuance will be less than, or equal to, the amount determined pursuant to subdivision (d).

(f) The issuance of the bonds in one or more series.

(g) The principal amount of the bonds that shall be consistent with the amount specified in subdivision (b).

(h) The date the bonds will bear.

(i) The date of maturity of the bonds.

(j) The denomination of the bonds.
(k) The form of the bonds.

(l) The manner of execution of the bonds.

(m) The medium of payment in which the bonds are payable.

(n) The place or manner of payment and any requirements for registration of the bonds.

(o) The terms of call or redemption, with or without premium.

SEC. 5.
SEC. 6.

SEC. 7. Section 53398.78 of the Government Code is repealed.

SEC. 8. Section 53398.79 of the Government Code is repealed.


SEC. 10. Section 53398.80.5 of the Government Code is amended and renumbered to read:

53398.78 (a) If the public financing authority adopts a resolution to issue bonds pursuant to Section 53398.77 for port or harbor infrastructure, it shall, before issuing the bonds, submit the resolution to issue bonds to the affected harbor agency pursuant to Section 1713 of the Harbors and Navigation Code for its preliminary approval.

(b) If the harbor agency grants preliminary approval, the proposal shall be considered by the State Lands Commission for final approval pursuant to Section 1714 of the Harbors and Navigation Code.

(c) If the State Lands Commission votes in favor of the issuance of the bonds as provided in Section 1714 of the Harbors and Navigation Code, the public financing authority may issue bonds pursuant to Section 53398.77.

SEC. 11. Section 53398.81 of the Government Code is repealed.

SEC. 12. Section 53398.82 of the Government Code is repealed.

SEC. 13. Section 53398.88 of the Government Code is amended to read:

53398.88. (a) Every two years after the issuance of debt pursuant to Section 53398.77, the district shall contract for an independent financial and performance audit. The audit shall be conducted according to guidelines established by the Controller.
A copy of the completed audit shall be provided to the Controller, the Director of Finance, and to the Joint Legislative Budget Committee.

(b) Upon the request of the Governor or of the Legislature, the Bureau of State Audits shall be authorized to conduct financial and performance audits of districts. The results of the audits shall be provided to the district, the Controller, the Director of Finance, and the Joint Legislative Budget Committee.
Item B-9
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 1788 (Bloom) Pesticides: Use of Anticoagulants (AB 1788) involves a policy matter that is not specifically addressed within the City’s adopted Legislative Platform.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for AB 1788.

After discussion of AB 1788, the Liaisons may recommend the following actions:

1) Support AB 1788;
2) Support if amended AB 1788;
3) Oppose AB 1788;
4) Oppose unless amended AB 1788;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1788, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
Introduction

Most of the rodenticides used today are anticoagulant compounds, either first or second generation, that interfere with blood clotting and cause death from excessive bleeding. Deaths typically occur between four days and two weeks after rodents begin to feed on the bait. While rodenticides are pesticides designed to kill rodents, the ingestion of, or sometimes contact with, rodenticides can have the same type of effect on any mammal. Contact with rodenticides can also affect birds and fish. Predatory and scavenging birds and mammals that eat dead or dying rodents that have consumed these baits will also be poisoned.

The author argues that AB 1788 is necessary because current regulatory action to restrict the use of these pesticides has not been effective in stemming the harmful tide of these substances. In 2014, the state Department of Pesticide Regulation (DPR) adopted regulations to minimize harm from one subset of rodenticides—SGARs. The goal of this action was to prohibit their use by consumers, but Assemblyman Bloom and supporters of AB 1788 argue that this action by DPR does not go far enough to achieve these protections.

Necropsy data generated by scientists at the State Department of Fish and Wildlife (DFW) and others that have studied this issue have generated data, which demonstrates these toxins have been poisoning California ecosystems, and continue to pose a rampant threat to children, pets, and wildlife. First generation anticoagulant rodenticides are also harmful, though non-target lethal poisoning is more widespread with second generation formulations of these rodenticides."

Summary of AB 1788

This bill would prohibit the use of Second Generation Anticoagulant Rodenticides (SGARs) throughout the state and also prohibits the use of First Generation Anticoagulant Rodenticides (FGARs) on state-owned property. Specifically, this bill would:

1) Prohibits the use, except as specified below, of any pesticide that contains one or more of the following SGAR anticoagulants:
   a. Brodifacoum,
   b. Bromadiolone,
   c. Difenacoum, and
   d. Difethialone.
2) Exempts from the prohibition on the use of SGARs a situation in which the local health authority determines that an emergency pest infestation poses an immediate threat to public health; use for vector control; and use for agricultural activities.

3) Prohibits the use, except for agricultural activities, of any pesticide that contains one or more of the following FGAR anticoagulants on any state-owned property in California:
   a. Chlorophacinone,
   b. Diphacinone, or
   c. Warfarin.

Background

Rodent control: Rodents native to California play an important ecological role, and are a major food source for predators and scavengers. However, rodents are pests when they infest houses, threaten public health, and destroy property. Rodent infestations can also damage or destroy critical habitat, native plants and animals, crops, and food supplies. The most popular option control rodent infestations include lethal traps, live traps, and chemical control (rodenticides).

The California Department of Fish and Wildlife (DFW) contends that the use of poison baits to control rodents has injured and killed hundreds or thousands of pets and wild animals throughout California, including the golden eagle, great-horned owl, black bear, fisher, San Joaquin kit fox (federally endangered), coyote, mountain lion, bobcat, and badger.

State regulatory action on SGARs: While mitigation efforts had been in effect for some SGARS, the ongoing impacts of SGARs on wildlife throughout the state led DPR designated to designate all SGAR products as restricted materials. Under this new regulatory requirement, these substances can only be purchased and used by entities with a certified commercial or private applicator that hold permits issued by the County Agricultural Commissioner.

Have the regulations been effective? In November 2018, DPR released an investigation that found that while the 2014 regulations changed SGAR use patterns by restricting their purchase, sale, and use, reported rates of non-target wildlife exposure to SGARs have not decreased. Additionally, the investigation found evidence of possible population-level impacts among non-target wildlife in California due to statistically significant associations with SGAR exposure and sub-lethal impacts. On March 12, 2019, the Director of DPR noticed its final decision to begin reevaluation of SGARs. DPR says that once the reevaluation process begins, there is no set period for completion because DPR has not determined which data it will require pursuant to the reevaluation.

A coalition of opponents, including the American Chemistry Council and the California Chamber of Commerce, argues announced in March 2019, they will enter a formal reevaluation of SGARs. This scientific evaluation should be allowed to take place before the legislature bans a product without all the necessary data, leaving California with fewer and, in some cases, less effective methods for controlling rodent populations... Rodenticides have been a critical tool for controlling rodent populations to protect Californians from the spread of disease and illness. They argue that they believe all rodenticides, when used according to the labeled instructions, serve an important function protecting Californians from disease and property damage. The League of California Cities currently has a Watch position on this measure.
Status of Legislation
This bill passed out of the State Assembly. This bill is scheduled for hearing in the Senate Environmental Quality Committee (chaired by Senator Ben Allen) on Wednesday, June 19th.

Support
Animal Legal Defense Fund (sponsor)  District 5, City of Los Angeles  Poison Free Agoura
California Wildlife Center  Honorable Tom Butt, Mayor, City of Richmond  Poison Free Malibu
Californians for Pesticide Reform  Humane Society of the United States, The  Public Land Alliance Network Plan
Center for Biological Diversity  In Defense of Animals  Raptors Are The Solution
Citizens for Los Angeles Wildlife (CLAW)  Indivisible Ventura  River Otter Ecology Project, The
City of Agoura Hills  Injured & Orphaned Wildlife  San Fernando Valley Audubon Society
City of Malibu  Law Offices of Rosemary Ward  Santa Cruz Bird Club
Conejo Valley Audubon Society  Los Padres ForestWatch  Santa Monica Mountains Conservancy
Environmental Protection Information Center  Malibu Coalition for Slow Growth  Santa Monica Mountains Fund
Federation of Hillside and Canyon Associations  Malibu Monarch Project  Santa Susana Mountain Park Association
Friends of Griffith Park  Mendocino Coast Audubon Society  Save Chatsworth, Inc.
Friends of the Inyo  Midpeninsula Regional Open Space District  Social Compassion in Legislation
Friends of the LA River  District  Sonoma County Wildlife Rescue
Friends of the Santa Clara River  Mt. Diablo Audubon Society  Sustainable North Bay
Golden West Humanitarian Foundation  National Association for Wildlife Emergency Services
Griffith Park Advisory Board  National Parks Conservation Association  Ventura Audubon Society
Honorable Paul Koretz, Council  Native Animal Rescue  WildEarth Guardians
Individuals (270)

Oppose
American Chemistry Council  Poison Free Agoura
Animal Pest Management Services, Inc.  Poison Free Malibu
California Chamber of Commerce  Public Land Alliance Network Plan
California Food Producers  Raptors Are The Solution
California Manufacturers & Technology Association  River Otter Ecology Project, The
California Retailers Association  San Fernando Valley Audubon Society
Household and Commercial Products Association  Santa Cruz Bird Club
Pest Control Operators of California  Santa Monica Mountains Conservancy
Responsible Industry for a Sound Environment - RISE  Santa Monica Mountains Fund
Syngenta  Santa Susana Mountain Park Association
Western Plant Health Association  Save Chatsworth, Inc.

Attachment 2
Introduced by Assembly Member Bloom  
*(Coauthor: Assembly Member Friedman)*

February 22, 2019

An act to amend Section 12978.7 of, and to add Section 12978.8 to, the Food and Agricultural Code, relating to pesticides.

**LEGISLATIVE COUNSEL’S DIGEST**

AB 1788, as amended, Bloom. Pesticides: use of anticoagulants.

Existing law regulates the use of pesticides and authorizes the Director of Pesticide Regulation to adopt regulations to govern the possession, sale, or use of any pesticide, as prescribed. Existing law prohibits the use of any pesticide that contains one or more of specified anticoagulants in wildlife habitat areas, as defined. Existing law exempts from this prohibition the use of these pesticides for agricultural activities, as defined. Existing law requires the director, and each county agricultural commissioner under the direction and supervision of the director, to enforce the provisions regulating the use of pesticides. A violation of these provisions is a misdemeanor.

This bill would create the California Ecosystems Protection Act of 2019 and expand this prohibition against the use of a pesticide containing specified anticoagulants in wildlife habitat areas to the entire state. The bill would also authorize the use of a pesticide containing a specified anticoagulant if the local health authority determines that an emergency pest infestation poses an immediate threat...
to public health. The bill would require the county agricultural commissioner to grant permission for licensed pest control operators, upon application, to use an anticoagulant for the limited time frame of the public health emergency. The bill would authorize the county agricultural commissioner to impose additional conditions for public health emergency applications of an anticoagulant. The bill would expand the exemption for agricultural activities to include activities conducted in certain locations and would also exempt from its provisions the use of pesticides by any governmental agency employee who uses pesticides for public health activities and a mosquito or vector control district that uses pesticides to protect the public health.

The bill would also prohibit the use of any pesticide that contains one or more specifically identified anticoagulants on state-owned property.

By imposing additional duties on county agricultural commissioners, and expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.


_The people of the State of California do enact as follows:_

1 SECTION 1. (a) The Legislature finds and declares all of the following:

   (1) Wildlife, including birds of prey, mountain lions, bobcats, fishers, foxes, coyotes, and endangered species such as the northern spotted owl, pacific fisher, and San Joaquin kit fox, are an irreplaceable part of California’s natural ecosystems. As predators of small mammals, they play an important role in regulating and controlling the population of rodents throughout the state to improve public health and welfare.
(2) Millions of people annually visit California for the purposes of viewing and photographing wildlife, and these visits contribute millions of dollars to California’s economy.

(3) Urban areas are increasingly being used by predatory mammals and birds of prey and the public enjoys seeing them and values these animals and the ecosystem services they provide.

(4) The ecosystem services provided by native wildlife predators are a public trust, just like clean air and water. We, as California residents, are obligated to conserve these wildlife populations for future generations of Californians.

(5) Scientific research and state studies have found rodenticides in over 75 percent of animals tested. These rodenticides lead to direct mortality and chronic long-term health impacts for natural predators, nontarget organisms, and endangered species and further steps are needed to reduce rodenticide exposure in nontarget animals.

(6) While all anticoagulant rodenticides have a harmful impact on nontarget animals, second generation anticoagulant rodenticides (SGARs) are particularly dangerous to nontarget wildlife as SGARs are higher potency than prior generations and a single dose has a half-life of more than 100 days in a rodent’s liver. Due to high toxicity and concern for impact on nontarget wildlife, Department of Pesticide Regulation banned consumer sales and use of SGARs in 2014, restricting their purchase and use to certified pesticide applicators.

(7) Despite the 2014 regulations issued by the Department of Pesticide Regulation, scientific research and state studies have found no significant reduction in the number of nontarget wildlife with detectable levels of SGARs in their system. From 2014 through 2018, the Department of Fish and Wildlife found SGARs in more than 90 percent of tested mountain lions, 88 percent of tested bobcats, 85 percent of protected Pacific fishers tested, and 70 of northern spotted owls tested. Such data indicates that a consumer sales and use ban of SGARs has been insufficient to reduce rodenticide exposure in nontarget animals and further steps must be taken.

(8) Rodenticides can be counterproductive to rodent control by poisoning, harming, and killing natural predators that help regulate rodent populations throughout California.
(b) It is the intent of the Legislature in enacting this act to ensure
that aquatic, terrestrial, and avian wildlife species remain a fully
functional component of the ecosystems they inhabit and move
through in California.

(c) This act shall be known, and may be cited, as the California
Ecosystems Protection Act of 2019.

SEC. 2. Section 12978.7 of the Food and Agricultural Code is
amended to read:

12978.7. (a) Except as provided in subdivision (c), (d), (e), or
(f), the use of any pesticide that contains one or more of the
following anticoagulants is prohibited in this state:

(1) Brodifacoum.

(2) Bromadiolone.

(3) Difenacoum.

(4) Difethialone.

(b) State agencies are directed to encourage federal agencies to
comply with subdivision (a).

(c) (1) This section does not apply to the use of a pesticide that
contains an anticoagulant described in paragraphs (1) to (4),
inclusive, of subdivision (a) if the local health authority determines
that an emergency pest infestation poses an immediate threat to
public health.

(2) In the event that the local health authority determines that
there is a public health emergency, the county agricultural
commissioner shall grant permission for licensed pest control
operators, upon application, to use an anticoagulant described in
paragraphs (1) to (4), inclusive, of subdivision (a). That permission
shall be granted for the limited time frame of the public health
emergency.

(3) The county agricultural commissioner may impose additional
conditions for public health emergency applications of an
anticoagulant described in paragraphs (1) to (4), inclusive, of
subdivision (a).

(d) (c) This section does not apply to either of the following:

(1) The use of pesticides used by any governmental agency
employee who complies with Section 106925 of the Health and
Safety Code, who uses pesticides for public health activities.

(2) A mosquito or vector control district formed under Chapter
1 (commencing with Section 2000) of Division 3 or Chapter 8
(commencing with Section 2800) of Division 3 of the Health and Safety Code, that uses pesticides to protect the public health.

(e) (1) This section does not apply to the use of pesticides for agricultural activities, as defined in Section 564.

(2) For purposes of paragraph (1), “agricultural activities” include activities conducted in any of the following locations:

(A) A warehouse used to store foods for human or animal consumption.

(B) An agricultural food production site, including, but not limited to, a slaughterhouse and cannery.

(C) A factory, brewery, or winery.

(f) This section does not preempt or supersede any federal statute or the authority of any federal agency.

SEC. 3. Section 12978.8 is added to the Food and Agricultural Code, to read:

12978.8. (a) Except as provided in subdivision (d), the use of any pesticide that contains one or more of the following anticoagulants is prohibited on any state-owned property in California:

(1) Chlorophacinone.

(2) Diphacinone.

(3) Warfarin.

(b) State agencies are directed to encourage federal agencies to comply with subdivision (a).

(c) This section does not apply to the use of pesticides for agricultural activities, as defined in Section 564.

(d) This section does not preempt or supersede any federal statute or the authority of any federal agency.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

REVISIONS:

Heading—Line 2.

Heading—Line 2.
Item B-10
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cindy Owens, Policy and Management Analyst
DATE: June 13, 2019
SUBJECT: Request Direction on Senate Bill 518 (Wieckowski) Public Records: Disclosure: Court Costs and Attorney’s Fees
ATTACHMENT: 1. Summary Memo – SB 518
2. Bill Text – SB 518

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Senate Bill 518 (Wieckowski) Public Records: Disclosure: Court Costs and Attorney’s Fees (SB 518) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for SB 518.

After discussion of SB 518, the Liaisons may recommend the following actions:

1) Support SB 518;
2) Support if amended SB 518;
3) Oppose SB 518;
4) Oppose unless amended SB 518;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 518, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 9, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
Priscilla Quiroz, Legislative Advocate, Shaw / Yoder / Antwih, Inc.
Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: SB 518 (Wieckowski) Public Records: disclosure: court cost and attorney's fees

Introduction/Background
This bill clarifies that notwithstanding Code of Civil Procedure Section 998, the court must award court costs and reasonable attorney’s fees to the requester should the requester prevail in litigation under the California Public Records Act.

Summary of SB 518
This bill provides that notwithstanding Section 998 of the Code of Civil Procedure, the court shall award court costs and reasonable attorney’s fees to the requester should the requester prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the requester’s case is clearly frivolous, it shall award court costs and reasonable attorney’s fees to the public agency.

Existing law provides that when it appears to a superior court that certain public records are being improperly withheld from a member of the public, the California Public Records Act (CPRA) requires the court to order the officer or person charged with withholding the records to disclose the public record or show cause why they should not do so. Additionally, under specified circumstances, the CPRA affords public agencies a variety of discretionary exemptions which they may utilize as a basis for withholding records from disclosure. These exemptions generally include personnel records, investigative records, drafts, and material made confidential by other state or federal statutes. In addition, a record may be withheld whenever the public interest in nondisclosure clearly outweighs the public interest in disclosure. Failure of a public agency to disclose records pursuant to the CPRA can result in significant financial consequences for the agency from potential litigation.

The CPRA includes provisions that allows for so called “fee-shifting.” The intent of this provision is to provide “protection... for members of the public” seeking public records and it is intentionally asymmetrical. (Filarsky v. Superior Court (2002) 28 Cal.4th 419, 427.) Fees are mandatory for a successful requester, but they can be awarded to a prevailing public entity only if the requester’s claim was clearly frivolous.

Offers to compromise made under Code of Civil Procedure Section 998 are intended to encourage litigants to settle their disputes in an amicable and reasonable fashion and avoid excessive litigation costs. If the Section 998 settlement offer is rejected, the party that made the offer is entitled to recover litigation costs if the party that rejected the offer fails to obtain a better result at trial.
According to the author, Section 998 offers “are an important tool in getting parties to settle in certain cases, however they do not work in CPRA cases.” The author asserts that is the fundamental right of every Californian to inspect identifiable and disclosable records held by their government.

The author argues that public agencies are using Section 998 offers in court to prevent the release of disclosable documents. The author claims further that Section 998 offers can shift court costs onto the requestor. This undermines the CPRA which requires the requester to have their court costs covered if they prevail.

**Status of Legislation**
This bill was approved by State Senate and is currently scheduled for hearing in the Assembly Judiciary Committee on Tuesday, June 18th.

**Support and Opposition**
The author and supporters argue that SB 518 ensures that the CPRA is being used as it is intended: as a way for Californians to get information from their government without fear of being burdened by attorney fees. The threat of possibly having to pay an agency’s attorney fees could deter the public from seeking records they are entitled to under the law.

A coalition of opponents, including the League of California Cities and California State Association of Counties, believe this measure creates a lopsided benefit to plaintiff attorneys over public agencies that encourages costly litigation, when a simple agreement could be reached. They also argue that SB 518 incentivize additional litigation and increase costs to public agencies for CPRA disputes.

**Support**
California Employment Lawyers Association
California News Publishers Association
Coalition for Sensible Public Records Access
First Amendment Coalition
Jeffer Mangels Butler & Mitchell LLP
League of Women Voters of California
National Lawyers Guild
Oakland Privacy

**Opposition**
Association of California Healthcare Districts
California Downtown Association
California Special Districts Association
California State Association of Counties
League of California Cities
Rural County of Representatives of California
Urban Counties of California
Attachment 2
An act to amend Section 6259 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL’S DIGEST

SB 518, as introduced, Wieckowski. Public records: disclosure: court costs and attorney’s fees.

The California Public Records Act requires a public agency, defined to mean a state or local agency, to make its public records available for public inspection and to make copies available upon request and payment of a fee, unless the public records are exempt from disclosure. The act makes specified records exempt from disclosure and provides that disclosure by a state or local agency of a public record that is otherwise exempt constitutes a waiver of the exemptions.

The act, when it appears to a superior court that certain public records are being improperly withheld from a member of the public, requires the court to order the officer or person charged with withholding the records to disclose the public record or show cause why that officer or person should not do so. The act requires the court to award court costs and reasonable attorney’s fees to the plaintiff if the plaintiff prevails in litigation filed pursuant to these provisions, and requires the court to award court costs and reasonable attorney’s fees to the public agency if the court finds that the plaintiff’s case is clearly frivolous.

This bill, for purposes of the award of court costs and reasonable attorney’s fees pursuant to the above provisions, would specifically notwithstand a provision of existing law that prescribes the withholding or augmentation of costs if an offer is made before judgment or award in a trial or arbitration.
The people of the State of California do enact as follows:

SECTION 1. Section 6259 of the Government Code is amended to read:

6259. (a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official’s decision to refuse disclosure is not justified under Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the
merits. Any person who fails to obey the order of the court shall
be cited to show cause why he or she is not in contempt of court.
(d) The court shall award court costs and reasonable attorney’s fees to the requester should the requester prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the requester’s case is clearly frivolous, it shall award court costs and reasonable attorney’s fees to the public agency.
(e) Nothing in this section shall be construed to limit a requester’s right to obtain fees and costs pursuant to subdivision (d) or pursuant to any other law.
Item B-11
MEMORANDUM

TO: 
City Council Liaison/Legislative/Lobby Committee

FROM: 
Cindy Owens, Policy and Management Analyst

DATE: 
June 13, 2019

SUBJECT: 
Request Direction on Senate Bill 54 (Allen) California Circular Economy and Plastic Pollution Reduction Act

ATTACHMENT: 
1. Summary Memo – SB 54
   2. Bill Text – SB 54

The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Senate Bill 54 (Allen) California Circular Economy and Plastic Pollution Reduction Act (SB 54) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw/Yoder/Antwih, Inc., provided a summary memo (Attachment 1) for SB 54.

After discussion of SB 54, the Liaisons may recommend the following actions:

1) Support SB 54;
2) Support if amended SB 54;
3) Oppose SB 54;
4) Oppose unless amended SB 54;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 54, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 9, 2019

To: Cindy Owens, City of Beverly Hills

From: Andrew K. Antwih, Partner, Shaw / Yoder / Antwih, Inc.
       Priscilla Quiroz Legislative Advocate, Shaw / Yoder / Antwih, Inc.
       Tim Sullivan, Legislative Aide, Shaw / Yoder / Antwih, Inc.

Re: SB 54 (Allen) California Circular Economy and Plastic Pollution Reduction Act

Introduction and Background

SB 54 (Allen) requires the Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations that would mandate that manufacturers and retailers of single-use packaging or priority single-use plastic products source reduce those products and ensure that the essential materials are recyclable or compostable.

Source reduction includes activities designed to reduce the volume, mass, or toxicity of products throughout the life cycle of a product. It includes the design and manufacture, use, and disposal of products with minimum toxic content, minimum volume of material, and/or a longer useful life. An example of source reduction would be the use of a Reusable shopping bag at the grocery store; although it uses more material than a single-use disposable bag, the material per use is less.

Specifically, SB 54 would:

- Establish a comprehensive framework to address the pollution and waste crisis. It would also set a statewide goal of ensuring that manufacturers reduce the waste generated by single-use packaging and products by 75 percent by 2030.
- Requires CalRecycle to conduct a robust stakeholder process to develop regulations that do the following:
  - Require manufacturers and retailers of single-use packaging to source reduce single-use packaging to the maximum extent feasible and to ensure that all single-use packaging in the California market is recyclable or compostable.
  - Require all single-use packaging to be effectively reusable, recyclable or compostable after 2030.
  - Identify the top ten most littered single use plastic products and require these to be manufactured with only recyclable or compostable material.
  - Develop incentives and policies to encourage in-state manufacturing using recycled material generated in California.

Solid Waste in California: For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the Integrated Waste Management Act (IWMA) of 1989. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal by 2020 and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills. According to CalRecycle’s State
of Disposal and Recycling in California 2017 Update, 42.7 million tons of material were disposed into landfills in 2016.

Market challenges for recyclable materials: The United States has not developed significant markets for recycled content materials, including plastic and mixed paper. Historically, China has been the largest importer of recycled materials. According to the International Solid Waste Association, China accepted 56% by weight of global recycled plastic exports. In California, approximately one-third of recycled material is exported; and, until recently, 85 percent of the state’s recycled mixed paper has been exported to China.

In 2017, China established Operation National Sword, which included additional inspections of imported recycled materials and a filing with the World Trade Organization indicating its intent to ban the import of 24 types of scrap, including mixed paper and paperboard, polyethylene terephthalate, polyethylene, polyvinyl chloride, and polystyrene beginning January 1, 2018.

In November 2017, China announced that imports of recycled materials that are not banned will be required to include no more than 0.5 percent contamination. In January of this year China announced that it would be expanding its ban even further – to encompass 32 types of scraps for recycling and reuse, including post-consumer plastics such as shampoo and soda bottles.

The shift in policy of the international markets have resulted in a major disruption in recycling commodities markets, a sign that California can no longer be primarily reliant on exports to manage its recyclable materials. As a result of these policies, more material is being stockpiled at solid waste facilities and recycling centers or disposed of in landfills. Since California has historically relied on being able to export a significant percentage of these materials, the state now has to figure out a new plan to manage these materials.

Status of Legislation
SB 54 (Allen) passed out of the State Senate. This bill has been referred to the Assembly Natural Resources Committee and has not been scheduled for a hearing.

Support and Opposition
The author and supporters argue this measure provides a comprehensive plan to transition manufacturers and consumers toward more sustainable packaging and products. The dire impacts of single-use plastic on our oceans, marine life, the broader environment and human health are too powerful to ignore. Additionally, local cities are forced to spend millions of taxpayer dollars on waste management and cleanup that should be spent on other essential services. The League of California Cities also argue that local governments have long been responsible for ensuring that California achieves its recycling and waste management goals and support the efforts of this bill to reduce waste at its source before it gets to our local landfills and recycling centers.

A coalition of opponents, including the California Chamber of Commerce and American Chemistry Council, argue that it leaves much of the specifics to future rulemaking and grants CalRecycle authority to implement new policies including the potential for new fees on manufacturers. They also argue that the bill needs reasonable timelines to develop the scoping plan to allow for manufacturers to comply with any recycling rate requirements.
Los Angeles County Waste Management Association
Los Angeles Waterkeeper
Lutheran Office of Public Policy - California
Lydia's Kind Foods, Inc.
MD Global
MoneyVoice
Monterey Regional Waste Management District
Napa Recycling & Waste Services
National Parks Conservation Association
National Stewardship Action Council
Natural Resources Council of Maine
Natural Resources Defense Council
No Plastic Oceans
Northcoast Environmental Center
Northern California Recycling Association
Ocean Conservancy
Ocean Press
Outdoor Outreach
Owl Post Calligraphy
Pacific Forest Trust
Pacoima Beautiful
Pharmacists Planning Services, Inc.
Pier 23 Café Restaurant & Bar
Plastic Pollution Coalition
Ponce's Mexican Restaurant
R3 Consulting Group, Inc.
Recology
Refill Madness, LLC
Republic Services
Repurpose
ReThink Waste
Rooted in Resistance
Rural County
Representatives of California
S. Groner Associates, Inc.
San Diego 350
San Francisco Bay Area
Physicians for Social Responsibility
San Francisco Baykeeper
San Francisco Department of the Environment
San Francisco Wildlife Rescue
Save Our Shores
Sea Hugger
Service Employees
International Union
California
Seventh Generation Advisors
Shafir Environmental
Shizen & Tataki Restaurants
Sierra Club California
Sierra Leadership
Smart Planet Technologies
Solid Waste Association of Orange County
St. Francis Center
Steelys Drinkware
StopWaste
Surfrider Foundation
Sustain LA
Sustainable Environmental Management Co.
Symbiosis Gathering
TDC Environmental, LLC
Teamsters Local Union No. 396
The 5 Gyres Institute
The Last Plastic Straw
The Nature Conservancy
The River Project
The Story of Stuff Project
The Watershed Project
To-Go Ware
TOMRA Systems ASA
Tonic Nightlife Group
TreePeople
Tri-CED Community Recycling
Trust for Public Lands
UPSTREAM
Valley Improvement Projects
Waste Busters, Inc.
Wholly H2O
WILDCOAST
Wishtoyo Chumash Foundation
Women’s Voices for Earth
World Centric
Yggdrasil Urban Wildlife Rescue of Oakland
Zero Waste Sonoma
Zero Waste USA

**Opposition**
American Chemistry Council
AMERIPEN
California Chamber of Commerce
California Grocers Association
Grocery Manufacturers Association
Household and Commercial Products Association
Plastics Industry Association
Product Management Alliance
Attachment 2
An act to add Chapter 3 (commencing with Section 42040) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL’S DIGEST


The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste, including, among other solid waste, single-use plastic straws.

The Sustainable Packaging for the State of California Act of 2018 prohibits a food service facility located in a state-owned facility, operating on or acting as a concessionaire on state property, or under contract to provide food service to a state agency from dispensing prepared food using a type of food service packaging unless the type of food service packaging is on a list that the department publishes and
maintains on its internet website that contains types of approved food service packaging that are reusable, recyclable, or compostable.

Existing law makes a legislative declaration that it is the policy goal of the state that not less than 75% of solid waste generated be source reduced, recycled, or composted by 2020.

This bill would establish the California Circular Economy and Plastic Pollution Reduction Act, which would require the department, in consultation with the State Water Resources Control Board and the Ocean Protection Council, to adopt, on or before January 1, 2023, regulations to achieve, the policy goal of the state that, by 2030, manufacturers and retailers achieve a 75% reduction—by manufacturers and retailers of the waste generated from single-use packaging and products offered for sale or sold in the state through source reduction, recycling, or composting. The bill would require those regulations to include specified requirements, including, among others, that the department, before January 1, 2023, to adopt regulations that require manufacturers and retailers, to the maximum extent feasible, retailers to source reduce, to the maximum extent feasible, single-use packaging and products and transition single-use packaging and products to reusable packaging and products, that manufacturers and retailers reduce waste generation of single-use plastic packaging and products by 75% through combined source reduction and recycling, and priority single-use plastic products, as defined, and to ensure that all single-use packaging and priority single-use plastic products offered for sale or sold in California in the California market are recyclable or compostable. The bill would require manufacturers and retailers to annually report specified information to the department. The bill would require the department, before adopting the regulations, to develop a scoping plan to achieve those requirements. The bill would require the department to develop criteria to determine which types of single-use packaging or priority single-use plastic products are reusable, recyclable, or compostable. The bill would require local governments, solid waste facilities, recycling facilities, and composting facilities to provide information requested by the department for purposes of developing that criteria. By imposing additional duties on local governments, the bill would impose a state-mandated local program.

The bill would require a manufacturer of single-use plastic packaging or priority single-use plastic products sold or distributed in California...
to demonstrate a recycling rate of not less than 20% on and after January 1, 2022, 2024, not less than 40% on and after January 1, 2026, 2028, and not less than 75% on and after January 1, 2030, as a condition of sale, and would authorize the department to impose a higher recycling rate as a condition of sale, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.


The people of the State of California do enact as follows:

SECTION 1. Chapter 3 (commencing with Section 42040) is added to Part 3 of Division 30 of the Public Resources Code, to read:

Chapter 3. California Circular Economy and Plastic Pollution Reduction Act

42040. This chapter shall be known, and may be cited, as the California Circular Economy and Plastic Pollution Reduction Act.

42041. The Legislature finds and declares all of the following:

(a) Annual global production of plastic has reached 335 million tons and continues to rise. The United States alone discards 30 million tons each year. Global plastic production is projected to more than triple by 2050, accounting for 20 percent of all fossil fuel consumption.

(b) Without action, projections estimate that by 2050 the mass of plastic pollution in the ocean will exceed the mass of fish. A study by the University of Exeter and Plymouth Marine Laboratory in the United Kingdom found plastics in the gut of every single sea turtle examined and in 90 percent of seabirds. Additionally, plastic negatively affects marine ecosystems and wildlife, as demonstrated by countless seabirds, turtles, and marine mammals,
including, but not limited to, whales and dolphins, dying from plastic ingestion or entanglement.

(c) Based on data from the United States Environmental Protection Agency, Institute of Scrap Recycling Industries trade statistics, and industry news source Resource Recycling, the national recycling rate for plastic is projected to sink from 9.1 percent in 2015 to 4.4 percent in 2018, and could drop to 2.9 percent in 2019. Even in California, less than 15 percent of single-use plastic is recycled.

(d) Before 2017, the United States was sending 4,000 shipping containers a day full of American waste to China every year, including two-thirds of California’s recyclable materials. However, China has implemented the Green Fence, National Sword, and Blue Sky policies, severely restricting the amount of contaminated and poorly sorted plastics it would accept. This shift in China’s policy has resulted in the loss of markets for low-value plastic packaging that was previously considered recyclable. That material is now being landfilled or burned.

(e) Additionally, the foreign market for recycled paper has collapsed in California. Foreign exports of mixed paper fell from over 400,000 tons in the first quarter of 2017 to just 136,000 tons in the first quarter of 2018. The price of mixed paper fell from ninety-five dollars ($95) per ton to just ten dollars ($10) a ton in the same timeframe.

(f) The loss of markets for recyclable material has added huge costs to local governments for the disposal and diversion of material. For many cities, counties, and waste haulers in California, recycling has turned from a profitable business into an activity that actually costs local governments money. These costs are being absorbed by city general funds or by rate increases on residents for waste collection.

(g) The environmental and public health impacts of plastic pollution are devastating and the environmental externalities and public costs of cleaning up and mitigating plastic pollution are already staggering and continue to grow.

(h) Local governments in California annually spend in excess of four hundred twenty million dollars ($420,000,000) in ongoing efforts to clean up and prevent plastic and other litter from entering our rivers and streams and polluting our beaches and oceans.
(i) Evidence now shows that even our own food and drinking water sources are contaminated with plastic. Microplastics have been found in tap water, bottled water, table salt, and fish and shellfish from local California fish markets. A growing body of research is finding plastic and associated toxins throughout the food web, including in our blood, feces, and tissues. Exposure to these toxins has been linked to cancers, birth defects, impaired immunity, endocrine disruption, and other ailments.

(j) It is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020. However, as of 2017, the state was only on track to reach 44 percent, falling far short of this important goal. Additionally, the state has done little to require businesses to reduce the amount of packaging and single-use product waste they generate in California.

(k) As the fifth largest economy in the world, California has a responsibility to lead on solutions to the growing plastic pollution crisis, and to lead in the reduction of unnecessary waste generally.

(l) Further, businesses selling products into California have a responsibility to ensure that their packaging and products are minimizing waste, including ensuring materials used are reusable, recyclable, or compostable. This responsibility includes paying for the cost of the negative externality of recovery for materials they sell in California.

42042. (a) Consistent with the policy goal established in Section 41780.01, the department, in consultation with the State Water Resources Control Board and the Ocean Protection Council, shall, on or before January 1, 2023, adopt regulations to achieve it is the policy goal of the State of California that, by 2030, manufacturers and retailers of single-use packaging and products achieve a 75-percent reduction by each manufacturer and retailer of single-use packaging or products of the waste generated from single-use packaging and products offered for sale or sold in the state through source reduction, recycling, or composting.

(b) The regulations adopted pursuant to subdivision (a) shall include, but are not limited to, provisions that do all of the following:

(b) In accordance with the policy goal established in subdivision (a), it is the intent of the Legislature that manufacturers and
retailers of single-use packaging and products do all of the following:

1. Require manufacturers and retailers of single-use packaging or products, to the maximum extent feasible, to source and reduce single-use packaging and products, and transition single-use packaging and products to reusable packaging and products, to the maximum extent feasible.

2. Require all single-use packaging and products that are offered for sale or sold in California to be recyclable or compostable, as determined by the department pursuant to Section 42045, as of January 1, 2030.

3. For plastic single-use plastic packaging and products that are offered for sale or sold in California, require manufacturers and retailers of single-use plastic packaging or products to each reduce waste generation by 75 percent through combined source reduction and recycling.

4. Develop incentives and policies to maximize and encourage in-state manufacturing using recycled material generated in California.

5. Develop economic mechanisms to reduce the distribution of single-use packaging and products.

6. Discourage, to the extent feasible, the litter, export, or improper disposal of single-use packaging, products, and other materials likely to harm the environment or public health in California or elsewhere in the world.

42043. (a) Before adopting regulations pursuant to Section 42042, the department shall develop a scoping plan for achieving the requirements established in Section 42042.

(b) As part of the scoping plan, the department shall conduct extensive outreach to stakeholders. This outreach shall include, but is not limited to, both of the following:

1. Convening a series of public workshops throughout the state to give interested parties an opportunity to comment.

2. Convening a series of stakeholder meetings designed to facilitate dialogue between stakeholders representing different interest groups such as local governments, the solid waste and recycling industries, product and packaging manufacturers, retailers, trade associations, and environmental organizations. These meetings shall be held throughout the state to increase the
opportunity for participation and shall inform the development of
regulations pursuant to this section.

(c) As part of the scoping plan, the department shall evaluate
the feasibility of employing the following regulatory measures:

(1) Requiring individuals or entities, including, but not limited
to, brokers, processors, and sorting facilities, to notify the
department prior to the export of unprocessed plastic for recycling
in a country that is not a member of the Organization for Economic
Cooperation and Development.

(2) Establishing labeling requirements regarding the recyclability
or compostability of single-use packaging and products. Labeling
may reflect whether the packaging or product can be readily
recycled or composted and whether the packaging or product is
likely to contaminate other recyclable or compostable material or
complicate processing.

(3) Adopting model best practices for manufacturers and retailers
to reduce packaging waste, including through the creation of
effective and convenient take-back opportunities, deposit systems,
reusable and refillable delivery systems, or similar mechanisms.

(4) Developing alternative compliance mechanisms for
manufacturers and retailers, including market mechanisms that
reduce the overall material usage across a company’s product line
or between multiple manufacturers of similar products.

(5) Adopting actions identified through the California Ocean
Litter Prevention Strategy and the Statewide Microplastics Strategy.

(6) Establishing an extended producer responsibility program
to require manufacturers and retailers to contribute to the costs
associated with processing the single-use packaging and products
they produce.

(7) Establishing criteria for the source reduction requirements
specified in Section 42042, including reducing weight, volume,
or quantity of single-use packaging and product material in a way
that does not decrease the ability of the material to be recycled or
reused.

(8) Establishing minimum postconsumer recycled content
requirements for single-use packaging and products:

42044. (a) In adopting regulations pursuant to Section 42042;
the department shall consult with all relevant state agencies with
jurisdiction over sources of waste in California, and local
jurisdictions and regional agencies charged with meeting waste
diversion goals.

(b) As part of the regulations, the department shall determine
which products or types of packaging are considered single use
for the purposes of this chapter. In making this determination, the
department shall consider all of the following:

(1) Whether the product is routinely disposed of after a single
use.

(2) Whether the packaging is routinely disposed of after its
contents have been used or unpackaged, and typically not refilled.

(3) Whether the packaging or product is durable, washable, or
routinely used for its original purpose multiple times before
disposal.

42043. (a) Before January 1, 2023, the department shall, in
consultation with all relevant state agencies with jurisdiction over
sources of waste in California, and local jurisdictions and regional
agencies charged with meeting waste diversion goals, adopt
regulations that do all of the following:

(1) (A) Require manufacturers and retailers of single-use
packaging to source reduce single-use packaging to the maximum
extent feasible.

(B) Require manufacturers and retailers of single-use packaging
to ensure that all single-use packaging in the California market
is recyclable or compostable as determined by the department
pursuant to Section 42044.

(2) (A) Require manufacturers and retailers of priority
single-use plastic products to source reduce priority single-use
plastic products to the maximum extent feasible.

(B) Require manufacturers and retailers of priority single-use
plastic products to ensure that priority single-use plastic products
in the California market are recyclable or compostable as
determined by the department pursuant to Section 42044.

(C) For purposes of this chapter, “priority single-use plastic
products” means the 10 single-use plastic products that are the
most littered in California, as determined by the department based
on litter surveys conducted in California between 2017 and 2020.

(b) (1) Before adopting the regulations, the department shall
develop a scoping plan for meeting the requirements of this section.
(2) As part of the scoping plan, the department shall conduct extensive outreach to stakeholders. This outreach shall include, but is not limited to, all of the following:

(A) Convening a series of public workshops throughout the state to give interested parties an opportunity to comment.

(B) Convening a series of stakeholder meetings designed to facilitate dialogue between stakeholders representing different interest groups such as local governments, the solid waste and recycling industries, product and packaging manufacturers, retailers, trade associations, and environmental organizations. These meetings shall be held throughout the state to increase the opportunity for participation and shall inform the development of regulations pursuant to this section.

(3) As part of the scoping plan, the department shall evaluate the feasibility of employing the following regulatory measures:

(A) Developing incentives and policies to maximize and encourage in-state manufacturing using recycled material generated in California.

(B) Developing economic mechanisms to reduce the distribution of single-use packaging and priority single-use plastic products.

(C) Discouraging, to the extent feasible, the litter, export, or improper disposal of single-use packaging, products, and other materials likely to harm the environment or public health in California or elsewhere in the world.

(D) Requiring individuals or entities, including, but not limited to, brokers, processors, and sorting facilities, to notify the department prior to the export of unprocessed plastic for recycling in a country that is not a member of the Organization for Economic Cooperation and Development.

(E) Establishing labeling requirements regarding the recyclability or compostability of single-use packaging and products. Labeling may reflect whether the packaging or product can be readily recycled or composted and whether the packaging or product is likely to contaminate other recyclable or compostable material or complicate processing.

(F) Adopting model best practices for manufacturers and retailers to reduce packaging waste, including through the creation of effective and convenient take-back opportunities, deposit systems, reusable and refillable delivery systems, or similar mechanisms.
(G) Developing alternative compliance mechanisms for manufacturers and retailers, including market mechanisms that reduce the overall material usage across a company’s product line or between multiple manufacturers of similar products.

(H) Adopting actions identified through the California Ocean Litter Prevention Strategy and the Statewide Microplastics Strategy.

(I) Establishing an extended producer responsibility program to require manufacturers and retailers to contribute to the costs associated with processing the single-use packaging and products they produce.

(J) Establishing criteria for the source reduction requirements specified in subdivision (a), including reducing weight, volume, or quantity of single-use packaging and product material in a way that does not decrease the ability of the material to be recycled or reused.

(K) Establishing minimum postconsumer recycled content requirements for single-use packaging and products.

(c) The department may identify single-use packaging or priority single-use plastic products that, while determined to be single use for purposes of this chapter, present unique challenges in complying with this chapter that require the single-use packaging or products to be phased into the regulations after January 1, 2023, and subsequently subject to the requirements for single-use products and packaging. For any packaging or products identified as presenting those unique challenges, the department shall—include in the scoping plan develop a plan to phase the packaging or products into the regulations.

(d) For purposes of this chapter, medical devices, medical products that are required to be sterile, prescription medicine, and the packaging used for these products shall not be considered single-use packaging or priority single-use plastic products.

(e) The regulations shall include a mechanism for accounting for the total statewide generation of single-use packaging and priority single-use plastic products in order to set a baseline amount for the requirements of Section 42042. These sources.

(f) To determine the amount of source reduction required pursuant to the regulations, the department shall establish a baseline for each manufacturer and retailer of single-use products or
packaging using the last three years of packaging material sold by that manufacturer or retailer into the State of California. For purposes of this chapter, source reduction shall not include replacing a recyclable or compostable material with a nonrecyclable or noncompostable material, and shall not include a shift to plastic material. The department may consider single-use packaging and product reductions achieved by a manufacturer or retailer before the effective date of the regulations if the manufacturer or retailer can demonstrate to the satisfaction of the department that the manufacturer or retailer reduced the single-use packaging or product in a manner consistent with this chapter.

(f) (1) The department shall require manufacturers and retailers of single-use packaging and priority single-use plastic products to annually report all of the following information to the department:

(A) The quantity, weight, volume, and type of single-use packaging and product materials sold into California by the manufacturer or retailer annually.

(B) The quantity, weight, volume, and type of material source reduced by the manufacturer or retailer annually.

(C) Any other data the department deems necessary to establish a baseline for waste generation and subsequent source reduction by a manufacturer or retailer.

(2) Any market sensitive data received by the department pursuant to this subdivision shall be held confidentially by the department to the extent required by existing law.

(3) The department may create an online registration form to facilitate submitting reports pursuant to this subdivision.

(g) The regulations shall include direct source reductions of single-use packaging and priority single-use plastic products to the maximum extent feasible, in accordance with paragraph (1) of subdivision (b) of Section 42042, (a), as follows:

(1) To determine the amount of source reduction required pursuant to the regulations, the department shall establish a baseline for each manufacturer and retailer of priority single-use plastic products or single-use packaging using the last three years of packaging material and product data sold by that manufacturer or retailer into the State of California. For purposes of this chapter,
source reduction shall not include replacing a recyclable or compostable material with a nonrecyclable or noncompostable material, and shall not include a shift to plastic material. The department may consider single-use packaging and product reductions achieved by a manufacturer or retailer before the effective date of the regulations if the manufacturer or retailer can demonstrate to the satisfaction of the department that the manufacturer or retailer reduced the single-use packaging or product in a manner consistent with this chapter.

(1)

(2) To determine which source reduction measures to implement, the department shall consider which single-use packaging and products are prone to become litter, have readily available alternatives, make up a significant portion of the waste stream, or have established, or the potential for, recycling or composting infrastructure.

(2)

(3) When establishing the source reduction measures, the department shall avoid incentivizing regrettable substitutions.

(3)

(4) In developing the regulations, the department shall count a manufacturer’s source reductions achieved to comply with Chapter 5.5 (commencing with Section 42300) toward compliance with this chapter.

(h) If the department determines that early actions to source reduce certain single-use packaging and priority single-use plastic products can further the purposes of this chapter, the department may adopt regulations to achieve those reductions.

(i) In developing the regulations, the department shall consider all relevant information on reduction programs in other states, localities, and nations, including, but not limited to, the European Union, India, Costa Rica, and Canada.

(j) As an alternative compliance mechanism, the department may allow manufacturers and retailers to achieve the requirements in Section 42042 through alternative methods. The department shall provide technical guidance and outreach to these manufacturers and retailers to help them identify
packaging and product reform solutions to achieve the
requirements.

(4)

(k) The department shall ensure that any regulations adopted
pursuant to this chapter account for health and safety as required
by the United States Food and Drug Administration.

42045. (a) In adopting regulations pursuant to Section 42042,
42043, the department shall develop criteria to determine which
types of single-use packaging or priority single-use plastic products
are reusable, recyclable, or compostable.

(b) For purposes of determining if single-use packaging or
priority single-use plastic products are recyclable, the director
shall consider, at a minimum, all of the following criteria:

(1) Whether the single-use packaging or priority single-use
plastic product is eligible to be labeled as “recyclable” in
accordance with the uniform standards contained in Article 7
(commencing with Section 17580) of Chapter 1 of Part 3 of
Division 7 of the Business and Professions Code.

(2) Whether the single-use packaging or priority single-use
plastic product is regularly collected, separated, and cleansed for
recycling by recycling service providers.

(3) Whether the single-use packaging or priority single-use
plastic product is regularly sorted and aggregated into defined
streams for recycling processes.

(4) Whether the single-use packaging or priority single-use
plastic product is regularly processed and reclaimed or recycled
with commercial recycling processes.

(5) Whether the single-use packaging or priority single-use
plastic product material regularly becomes feedstock that is used
in the production of new products.

(6) Whether the single-use packaging or priority single-use
plastic product material is recycled in sufficient quantity, and is
of sufficient quality, to maintain a market value.

(c) For purposes of determining if single-use packaging or
priority single-use plastic products are compostable, the director
shall consider, at a minimum, all of the following criteria:

(1) Whether the single-use packaging or priority single-use
plastic product will, in a safe and timely manner, break down or
otherwise become part of usable compost that can be composted
in a public or private compost facility designed for and capable of processing postconsumer food waste and food-soiled paper.

(2) Whether the single-use packaging or priority single-use plastic product made from plastic is certified to meet the ASTM standard specification identified in either subparagraph (A) or (C) of paragraph (1) of subdivision (b) of Section 42356 and adopted in accordance with Section 42356.1, if applicable.

(3) Whether the single-use packaging or priority single-use plastic product is regularly collected and accepted for processing at public and private compost facilities.

(4) Whether the single-use packaging or priority single-use plastic product is eligible to be labeled as “compostable” in accordance with the uniform standards contained in Article 7 (commencing with Section 17580) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.

(d) (1) In implementing this section, the department may consult with local governments and representatives of the solid waste industry, the recycling industry, the compost industry, and single-use product and packaging manufacturers to determine if a type of single-use packaging or priority single-use plastic product is recyclable, reusable, or compostable.

(2) Local governments, solid waste facilities, recycling facilities, and composting facilities shall provide information requested by the department pursuant to paragraph (1) to the department.

42045. (a) A manufacturer of single-use plastic packaging or priority single-use plastic products sold or distributed in California shall demonstrate the following recycling rates as a condition of sale of single-use plastic packaging or priority single-use plastic products:

(1) On and after January 1, 2022, 2024, not less than 20 percent.

(2) On and after January 1, 2026, 2028, not less than 40 percent.

(3) On and after January 1, 2030, not less than 75 percent.

(b) Notwithstanding subdivision (a), the department may impose a higher recycling rate as a condition of sale of single-use plastic packaging or priority single-use plastic products by a manufacturer as needed to achieve the requirements established in Section 42042.

(c) For purposes of this section, “recycling rate” means the percentage, as measured by weight, volume, or number, of
single-use plastic packaging or priority single-use plastic products sold or offered for sale in the state that is recycled over a three-year rolling period, as determined by the department. Recycling rate may be measured by either of the following:

(1) A particular type of single-use packaging or priority single-use plastic product, such as a thermoformed or molded container, soft drink container, or detergent bottle.

(2) A single resin type, as specified in Section 18015.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
Item B-12
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cindy Owens, Policy & Management Analyst
DATE: June 13, 2019
SUBJECT: State and Federal Legislative Updates
ATTACHMENTS: None

A verbal update on federal legislative issues will be given by Jamie Jones of David Turch & Associates.

A verbal update on state legislative issues will be given by Andrew Antwih with Shaw/Yoder/Antwih, Inc.
Item B-13
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cindy Owens, Policy & Management Analyst
DATE: June 13, 2019
SUBJECT: Legislative Platform Update
ATTACHMENTS: None

Staff will provide a verbal update on the status of the revision of the City’s Legislative Platform.