

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisor Kevin Jeffries

SUBMITTAL DATE:
October 30, 2013

SUBJECT: Support of Senate Bill 722 (Emmerson, Roth): to provide necessary protections to the existing public water district customers, while working to secure the health and safety of the CWC customers

RECOMMENDED MOTION: That the Board of Supervisors:

1. Support Senate Bill 722 which will exempt the Elsinore Valley Municipal Water District and the Eastern Municipal Water District from liability for injuries or damages arising out of the delivery of water to County Water Company of Riverside customers, as specified.
2. Authorize the chairman of the Board to forward a letter of support to the bill's author, the Riverside County state legislative delegation and our Sacramento advocates.

BACKGROUND:

Summary

The County Water Company (CWC), a privately-owned water provider, serves roughly 140 home in the cities of Menifee and Wildomar. Residents in the CWC service area have experienced extended periods without water caused from system failure and nitrate levels that exceed the state's maximum contamination level leaving families unable to drink or cook with the water.

KEVIN JEFFRIES
1ST District Supervisor

FINANCIAL DATA	Current Fiscal Year	Next Fiscal Year	Total Cost	Ongoing Cost	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	
SOURCE OF FUNDS: N/A				Budget Adjustment: N/A	
				For Fiscal Year: N/A	

C.E.O. RECOMMENDATION: N/A

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Ashley and duly carried,
IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone and Ashley
Nays: None
Absent: Benoit
Date: November 5, 2013
xc: Supvr. Jeffries, State Rep's.

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

- A-30
- Positions Added
- Change Order
- 4/5 Vote

Prev. Agn. Ref.:

District: All

Agenda Number:

3-68

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FORM 11: Support of Senate Bill 722 (Emmerson, Roth): to provide necessary protections to the existing public water district customers, while working to secure the health and safety of the CWC customers

DATE: October 30, 2013

PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

Elsinore Valley Municipal Water District (EVMWD) and Eastern Municipal Water District (EMWD), the two public water agencies in the region have been working with the California Department of Public Health to secure necessary funding to finance improved water supply and provide new infrastructure. The improved infrastructure will allow the delivery of potable water that meets and exceeds all state and federal safe drinking water standards, improves system reliability and provides adequate fire flow and fire hydrants throughout the community.

SB 772 is a legislative effort to provide necessary protections to the existing public water district customers, while working to secure the health and safety of the CWC customers. EMWD and EVMWD are seeking to establish a narrowly crafted bill that would provide legal protections for the two public water districts to move forward with assisting those families in crisis.

The intent of the bill is to provide protections to the public water districts during the interim operation of the system. Such protections would include:

- Liability release for interim operation during construction;
- Release from claims for operations, water quality, or other specific functions prior to EMWD/EVMWD ownership of the facility; and
- Release from any future claims stemming from any remaining portions of the existing system.

This bill is not intended to provide on-going blanket liability protections to EMWD and EVMWD in their activities related to maintenance and operation of new facilities designed to service the existing CWC customers.

All of the involved public agencies and elected officials have made a firm commitment to move forward with this process for the benefit of the public health of the entire community. This will require ongoing coordination and cooperation from the County Water Company to help ensure our ultimate goal of providing safe and reliable drinking water to this community.

The County of Riverside in cooperation with the State Department of Public Health is working with EVMWD and EMWD to prepare a long-term solution that will provide clean, potable water to affected residents now and in the future.

EMWD and EVMWD have proposed to construct critical capital improvements and then assume service of the County Water Company (CWC).

Impact on Citizens and Businesses

N/A

SUPPLEMENTAL:

Additional Fiscal Information

N/A

Contract History and Price Reasonableness

N/A

ATTACHMENTS (If needed, in this order)

- A. Text of the bill included

AMENDED IN SENATE SEPTEMBER 6, 2013

SENATE BILL

No. 772

**Introduced by Senator Emmerson
(Principal coauthor: Senator Roth)**

February 22, 2013

An act to amend Section 56430 of the Government Code, to add Section 116453 to the Health and Safety Code, and to amend Section 2709 of the Public Utilities add Section 71760 to the Water Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 772, as amended, Emmerson. Drinking water.

The Municipal Water District Law of 1911 provides for the formation of municipal water districts and grants to those districts specified powers. Existing law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district.

This bill would exempt the Elsinore Valley Municipal Water District and the Eastern Municipal Water District from liability for injuries or damages arising out of the delivery of water to County Water Company of Riverside customers, as specified.

~~(1) Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.~~

~~This bill would require the department or the local health agency, where applicable, annually to provide the address and telephone number for each public water system and state small water system to the Public Utilities Commission and, as prescribed, to a local agency formation commission.~~

~~(2) Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, each local agency formation commission is required to develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere of influence, and requires the commission, in preparing and updating spheres of influence, to conduct a service review of the municipal services provided in the county or other area designated by the commission. Existing law authorizes the commission, in conducting the service review, to request information from identified public or private entities that provide wholesale or retail supply of drinking water, and authorizes the commission to include a review of whether the agencies under review are in compliance with the California Safe Drinking Water Act, as specified.~~

~~This bill would require the commission to request information, as part of a service review, from identified public or private entities that provide wholesale or retail supply of drinking water, and would require the information submitted to include the identification of any retail water suppliers within or contiguous to the responding entity for the purpose of aiding the commission in creating a comprehensive review of retail water~~

~~suppliers in the county. This bill would also require the commission to provide a copy of its sphere of influence review for retail private and public water suppliers to the Public Utilities Commission and the department.~~

~~(3) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including water corporations. Existing law authorizes the Public Utilities Commission to require any water corporation to file with the Public Utilities Commission a statement in writing defining and describing the lands and territory to be supplied by the corporation with water.~~

~~This bill would require the commission to require the above-described statement, and would require the statement also to be filed with the local agency formation committee for the county in which the water corporation is located.~~

~~(4) By imposing additional duties on local officials 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, 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 these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: *yes-no*.~~

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

- P3 1 **SECTION 1.**
 The Legislature finds and declares the following:
 2 (a) *The Legislature recognizes there is an urgent need for safe*
 3 *and reliable water service to be provided to the water users of the*
 4 *County Water Company of Riverside, a private water company.*
 5 (b) *The company is located in Riverside County, California.*
 6 *Currently, the County Water Company of Riverside is unable to*
 7 *provide clean and reliable water services to their water users.*
 8 (c) *The County Water Company of Riverside is located adjacent*
 9 *to two municipal water districts, the Eastern Municipal Water*
 10 *District and the Elsinore Valley Municipal Water District, both*
 11 *of which are formed pursuant to the Municipal Water District Law*
 12 *of 1911 (Chapter 1 (commencing with Section 71000) of Part 1 of*
 13 *Division 20 of the Water Code).*
 14 (d) *It is the intent of the Legislature to provide the Eastern*
 15 *Municipal Water District and the Elsinore Valley Municipal Water*
 16 *District immunity from any and all claims and operational liability,*
 17 *while they are using the preexisting substandard facilities of the*
 18 *County Water Company of Riverside to provide water service to*
 19 *the County Water Company of Riverside's customers and*
 20 *simultaneously constructing new facilities which will serve those*
 21 *customers.*
 22 (e) *It is the intent of the Legislature to provide the Eastern*
 23 *Municipal Water District and the Elsinore Valley Municipal Water*
 24 *District ongoing immunity from any and all future claims*
 P4 1 *associated with the unimproved, substandard facilities portions*
 2 *of the system originally constructed by the County Water Company*
 3 *of Riverside.*
 4 **SEC. 2.**
 Section 71760 is added to the Water Code, to read:
 5 **71760.**
 The Elsinore Valley Municipal Water District and the

6 Eastern Municipal Water District are hereby exempt from liability
 7 for any and all injuries or damages arising out of the delivery of
 8 water to the County Water Company of Riverside customers, as
 9 follows:

10 (a) Immunity from liability shall exist during the period of
 11 operation from the initiation of service by the Elsinore Valley
 12 Municipal Water District and the Eastern Municipal Water District
 13 upon the connection of a temporary potable service pipeline on
 14 or before January 2014, until permanent replacement facilities
 15 are accepted by the Elsinore Valley Municipal Water District and
 16 the Eastern Municipal Water District. The acceptance date of the
 17 permanent replacement facilities will be publicly noticed by the
 18 Elsinore Valley Municipal Water District and the Eastern
 19 Municipal Water District with the concurrence of the State
 20 Department of Public Health.

21 (b) Immunity from liability shall extend to all future claims
 22 associated with portions of the system originally constructed by
 23 the County Water Company of Riverside, including, but not limited
 24 to, claims arising from personal injury, property damage, liability
 25 related to water quality, fire flow, and service interruptions.

26 (c) Immunity from liability shall extend to all claims by the
 27 County Water Company of Riverside's customers arising prior to
 28 the Elsinore Valley Municipal Water District's and the Eastern
 29 Municipal Water District's ownership and operation of the system.

30 SECTION 1.—

31 ~~The Legislature finds and declares all of the~~
 following:

32 ~~(a) Californians are dependent on public and private entities to~~
 33 ~~deliver clean and safe drinking water. Public and private water~~
 34 ~~companies provide an essential public service.~~

35 ~~(b) While the state's goal is to ensure clean and safe drinking~~
 36 ~~water, some public water systems suffer poor water quality that~~
 37 ~~fails to meet safe drinking water standards.~~

38 ~~(c) Private corporations and persons that, own, operate, control,~~
 39 ~~or manage a system for production, generation, transmission, or~~
 40 ~~furnishing of water, other than mutual water companies, are public~~
 P5 1 ~~utilities subject to the jurisdiction of the Public Utilities~~
 2 ~~Commission. These regulated utilities are required to provide the~~
 3 ~~Public Utilities Commission with a statement describing the~~
 4 ~~territory served by the utility.~~

5 ~~(d) Mutual water companies are required to submit to the local~~
 6 ~~agency formation commission for its county a map depicting the~~
 7 ~~approximate boundaries of the territory served by the mutual water~~
 8 ~~company.~~

9 ~~(e) Public agency water suppliers are required to submit to the~~
 10 ~~local agency formation commission a description of their~~
 11 ~~boundaries and service areas.~~

12 ~~(f) The State Department of Public Health, as part of its~~
 13 ~~regulatory oversight of public water systems and state small water~~
 14 ~~systems, collects information from each system, including its~~
 15 ~~address and telephone number.~~

16 ~~(g) The Legislature has identified a need to have greater~~
 17 ~~coordination between the local agency formation commissions,~~
 18 ~~the Public Utilities Commission, and the State Department of~~
 19 ~~Public Health in identifying public water systems and state small~~
 20 ~~water systems for purposes of planning, assuring regulatory~~

21 oversight by the appropriate entity, and compliance with regulatory
 22 requirements. Accordingly, this legislation is designed to require
 23 that a local agency formation commission, the State Department
 24 of Public Health, and the Public Utilities Commission share with
 25 each other the identity and other appropriate information of public
 26 water systems and state small water systems within their
 27 jurisdiction:

28 ~~SEC. 2.~~

29 Section 56430 of the Government Code is amended
 to read:

30 ~~56430.~~

(a) In order to prepare and to update spheres of
 31 influence in accordance with Section 56425, the commission shall
 32 conduct a service review of the municipal services provided in the
 33 county or other appropriate area designated by the commission.
 34 The commission shall include in the area designated for service
 35 review the county, the region, the subregion, or any other
 36 geographic area as is appropriate for an analysis of the service or
 37 services to be reviewed, and shall prepare a written statement of
 38 its determinations with respect to each of the following:

39 (1) Growth and population projections for the affected area.

P6 1 (2) The location and characteristics of any disadvantaged
 2 unincorporated communities within or contiguous to the sphere
 3 of influence.

4 (3) Present and planned capacity of public facilities, adequacy
 5 of public services, and infrastructure needs or deficiencies including
 6 needs or deficiencies related to sewers, municipal and industrial
 7 water, and structural fire protection in any disadvantaged,
 8 unincorporated communities within or contiguous to the sphere
 9 of influence.

10 (4) Financial ability of agencies to provide services.

11 (5) Status of, and opportunities for, shared facilities.

12 (6) Accountability for community service needs, including
 13 governmental structure and operational efficiencies.

14 (7) Any other matter related to effective or efficient service
 15 delivery, as required by commission policy.

16 (b) In conducting a service review, the commission shall
 17 comprehensively review all of the agencies that provide the
 18 identified service or services within the designated geographic
 19 area. The commission may assess various alternatives for
 20 improving efficiency and affordability of infrastructure and service
 21 delivery within and contiguous to the sphere of influence,
 22 including, but not limited to, the consolidation of governmental
 23 agencies.

24 (c) In conducting a service review, the commission may include
 25 a review of whether the agencies under review, including any
 26 public water system as defined in Section 116275, are in
 27 compliance with the California Safe Drinking Water Act (Chapter
 28 4 (commencing with Section 116270) of Part 12 of Division 104
 29 of the Health and Safety Code). A public water system may satisfy
 30 any request for information as to compliance with that act by
 31 submission of the consumer confidence or water quality report
 32 prepared by the public water system as provided by Section 116470
 33 of the Health and Safety Code.

34 (d) The commission shall request information, as part of a
 35 service review under this section, from identified public or private

36 entities that provide wholesale or retail supply of drinking water,
 37 including mutual water companies formed pursuant to Part 7
 38 (commencing with Section 14300) of Division 3 of Title 1 of the
 39 Corporations Code, and private utilities, as defined in Section 1502
 40 of the Public Utilities Code. The information submitted shall
 P7 1 include the identification of any retail water supplier within or
 2 contiguous to the responding entity for the purpose of aiding the
 3 commission in creating a comprehensive review of retail water
 4 suppliers in the county.

5 ~~(e) The commission shall conduct a service review before, or~~
 6 ~~in conjunction with, but no later than the time it is considering an~~
 7 ~~action to establish a sphere of influence in accordance with Section~~
 8 ~~56425 or 56426.5 or to update a sphere of influence pursuant to~~
 9 ~~Section 56425.~~

10 ~~(f) The commission shall provide a copy of its sphere of~~
 11 ~~influence review for retail private and public water suppliers to~~
 12 ~~the Public Utilities Commission and the State Department of Public~~
 13 ~~Health.~~

14 ~~SEC. 3.~~

~~Section 116453 is added to the Health and Safety Code,~~
 15 ~~to read:~~
 16 ~~116453.~~

~~The department or the local health agency, where~~
 17 ~~applicable, annually shall provide the following:~~

18 ~~(a) The address and telephone number for each public water~~
 19 ~~system and state small water system to the Public Utilities~~
 20 ~~Commission:~~

21 ~~(b) The address and telephone number for each public water~~
 22 ~~system and state small water system in a county to the local agency~~
 23 ~~formation commission for that county:~~

24 ~~SEC. 4.~~

~~Section 2709 of the Public Utilities Code is amended~~
 25 ~~to read:~~

26 ~~2709.~~

27 ~~(a) The commission shall require any water corporation~~
 28 ~~to file with the commission a statement in writing defining and~~
 29 ~~describing the lands and territory to be supplied by the corporation~~
 30 ~~with water:~~

31 ~~(b) A water corporation shall also file the statement described~~
 32 ~~in subdivision (a) with a local agency formation commission~~
 33 ~~formed pursuant to Division 3 (commencing with Section 56000)~~
 34 ~~of Title 5 for the county in which the water corporation is located.~~

~~SEC. 5.~~

~~If the Commission on State Mandates determines that~~
 35 ~~this act contains costs mandated by the state, reimbursement to~~
 36 ~~local agencies and school districts for those costs shall be made~~
 37 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
 38 ~~4 of Title 2 of the Government Code.~~