

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2962 (Papan) – As Amended April 10, 2024

**SUBJECT:** Wholesale Regional Water System Security and Reliability Act.

**SUMMARY:** Extends the sunset date of the Wholesale Regional Water System Security and Reliability Act (WRWSSR Act) from January 1, 2026 to January 1, 2036. Specifically, **this bill:**

- 1) Extends the sunset date of the WRWSSR Act from January 1, 2026 to January 1, 2036.
- 2) Makes additional technical changes.
- 3) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique circumstances regarding the operation of the bay area regional water system.
- 4) Contains additional findings and declarations to support its purposes.
- 5) Provides that no reimbursement is required by this bill because a local agency or school district has the authority to levy service charges, fees, or, assessment sufficient to pay for the program or level of service mandated by this bill.

**EXISTING LAW:**

- 1) Requires, under the WRWSSR Act, the City and County of San Francisco (City) to adopt a program of capital improvement projects to restore and improve the Bay Area regional water system (RWS) by February 1, 2003. The program of capital improvement shall contain specified projects and the program shall be 50% complete by 2010 and 100% complete by 2015. A copy of the capital improvement program shall be submitted to the State Water Resources Control Board (State Water Board) and the City shall report annually by September 1<sup>st</sup> to the Joint Legislative Audit Committee, the Seismic Safety Commission, and the State Water Board on progress made implementing the program of capital improvement (Water Code § 73501).
- 2) Requires, under the WRWSSR Act, the City to submit an annual report to the Legislature and Department of Public Health by February 1<sup>st</sup> that describes progress made in securing supplemental sources of water for its water service customers during dry years. Provides that the City shall assign a higher priority to the delivery of water to its urban customers than to the generation of hydroelectricity so long as doing so does not violate federal law (Water Code § 73504).
- 3) Requires, under the WRWSSR Act, the Department of Health Services to conduct an audit of the City's program of maintenance for RWS by July 1, 2004. Prescribes the scope of said audit (Water Code § 73505).
- 4) Sunsets the WRWSSR Act on January 1, 2026 (Water Code § 73514).

- 5) Provides for the formation, membership, powers and authorities, and financing of Bay Area Water Supply and Conservation Agency (BAWSCA) (Water Code § 81300 *et seq.*).
- 6) Establishes the San Francisco Bay Area Regional Water System Financing Authority (Financing Authority), prescribes its membership, and authorizes it to issue bonds to finance a capital improvement program for RWS (Water Code § 81600 *et seq.*).

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state mandated local program.

**COMMENTS:**

- 1) **Bill Summary and Author’s Statement.** This bill extends the sunset date of the WRWSSR Act from January 1, 2026 to January 1, 2036. BAWSCA is the sponsor of this bill.

According to the author, “AB 2962 is a simple sunset extension bill that extends state oversight of San Francisco Public Utility Commission’s capital investment program. In 2002, the San Francisco Regional Water System was outdated compared to seismic safety standards. Since the system crosses three active earthquake fault lines, the threat of entire counties being left without water was both evident and real. Recognizing the urgency of the situation, Assemblymember Lou Papan introduced AB 1823 to ensure ongoing state oversight of crucial capital improvements. The continuation of state oversight has been instrumental in the successful execution of SFPUC’s necessary capital program. Maintaining this oversight without interruption is paramount to safeguarding the resilience and reliability of the area’s water infrastructure.”

- 2) **Background.** The San Francisco Public Utilities Commission (SFPUC) is part of the City and County of San Francisco and provides retail and wholesale water service to approximately 2.7 million residential, commercial, and industrial customers in San Francisco and the counties of Alameda, San Mateo, Santa Clara, San Joaquin, and Tuolumne. SFPUC owns and operates RWS which consists of water storage and treatment facilities, water transmission infrastructure, buildings and structures for facilities and employees, communications systems, and watersheds and rights-of-way lands in San Mateo, Santa Clara, and Alameda Counties as well as western San Joaquin County. The major feature and water source in the RWS is the Hetch Hetchy Reservoir on the Tuolumne River that was built in the 1920’s and -30’s following congressional authorization via the Raker Act in 1913.
- 3) **SFPUC State Auditor Report.** Completed in February 2000 as requested by the Legislature, the State Auditor found “that [SFPUC] has been slow to assess and upgrade its water delivery system to enable it to survive catastrophic events such as earthquakes, fires, or floods. [SFPUC] has also been slow to estimate the amount of water it will need to meet demand in the future and to seek additional sources of water. As a result, the nearly 2.4 million customers in the City and County of San Francisco, and in Alameda, San Mateo, and Santa Clara counties who rely on [SFPUC] for their drinking water are at greater risk of disruptions and water shortages in the event of a catastrophe or a drought.” In response to the audit report, Assemblymember Lou Papan introduced AB 1823 in 2002 to provide oversight of and accountability for SFPUC’s efforts to develop and complete a capital improvement plan. AB 1823 enacted the “WRWSSR Act”.

At the time of the audit, most features of SFPUC's regional water system were more than 75 years old and SFPUC had only begun the process to develop a capital improvement program in 1994. This alarmed many of SFPUC's wholesale customers in Alameda, San Mateo, and Santa Clara counties, some of whom depend upon SFPUC for up to 80% of their drinking water supplies.

- 4) **SFPUC Water System Improvement Program (WSIP).** SFPUC adopted the WSIP in May 2002. It is a \$4.8 billion capital improvement program intended to rebuild and retrofit RWS to improve system reliability, especially focused on ensuring seismic safety. The WRWSSR Act identified nine priority projects (Water Code § 73502) that were intended to keep water service relatively intact in the event of a major earthquake. SFPUC reports, as of September 1, 2023, that the WSIP is on track to be completed by February 2027 and that 98.9% of the regional program component of the WSIP is already complete. According to BAWSCA, the completion date was recently revised and is now expected to be June 2032.
- 5) **BAWSCA.** BAWSCA was established by AB 2058 (Lou Papan), Chapter 844, Statutes of 2002 and has the sole authority to represent the needs of the 24 public and two private water agencies that rely on RWS. BAWSCA represents these agencies and works with SFPUC to ensure that RWS is fixed.
- 6) **Previous legislation.** SB 699 (Hill), Chapter 214, Statutes of 2020, extends the sunset of the WRWSSR Act from January 1, 2022 to January 1, 2026, among other provisions.

SB 1345 (Committee on Natural Resources and Water), Chapter 489, Statutes of 2014, extends the sunset of the WRWSSR Act from January 1, 2015 to January 1, 2022, among other provisions.

AB 2437 (Ruskin), Chapter 99, Statutes of 2008, extends the sunset of the WRWSSR Act from December 31, 2010 to January 1, 2015.

AB 1823 (Lou Papan), Chapter 841, Statutes of 2002, enacts the WRWSSR Act.

AB 2058 (Lou Papan), Chapter 844, Statutes of 2002, provides for the formation of BAWSCA by at least 15 of the 26 public entities in Alameda, San Mateo, and Santa Clara Counties that purchase water from the City and County of San Francisco.

SB 1870 (Speier), Chapter 849, Statutes of 2002, enacts the Financing Authority that prescribes the membership of the Financing Authority and authorizes it to issue bonds to finance a capital improvement program for the RWS.

- 7) **Arguments in Support.** According to the California Water Association, "Assembly Bill (AB) 2962 extends the authority of the BAWSCA for ten years, to January 1, 2036. The extension will allow BAWSCA to completed much need drought water supply projects."
- 8) **Arguments in Opposition.** None on file.

- 9) **Double-Referral.** This bill was double-referred to the Assembly Water, Parks, and Wildlife Committee, where it passed on a 14-0 vote on April 9, 2024.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Water Association

**Opposition**

None on file

**Analysis Prepared by:** Jimmy MacDonald / L. GOV. / (916) 319-3958