

Date of Hearing: August 31, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1577 (Gipson) – As Amended August 24, 2018

SUBJECT: California Safe Drinking Water Act: Sativa-Los Angeles County Water District.

SUMMARY: Requires the State Water Resources Control Board (SWRCB) to order the Sativa-Los Angeles County Water District (Sativa) to accept administrative and managerial services from an administrator selected by SWRCB.

The Senate amendments delete the Assembly version of this bill, and instead:

- 1) Define the following terms:
 - a) “District” to mean Sativa; and,
 - b) “Commission” to mean the Local Agency Formation Commission for the County of Los Angeles (LAFCO).
- 2) Specify that to provide affordable, safe drinking water to disadvantaged communities, the SWRCB shall order Sativa to accept administrative and managerial services, including full management and control, from an administrator selected by the SWRCB, except that the SWRCB is not required to conduct a public meeting.
- 3) Require that upon the appointment of an administrator, all of the following shall apply:
 - a) Sativa’s board of directors shall surrender all control to the appointed administrator and shall thereafter cease to exist;
 - b) The members of Sativa’s board of directors shall have no standing to represent Sativa’s ratepayers, and a member of the board shall have no claim for benefits other than those he or she actually received while a member of the board of directors; and,
 - c) Any action by the board of directors to divest Sativa of its assets shall be deemed tampering with a public water system and shall be subject to criminal penalties, as specified.
- 4) Specify that within 90 days of the appointment of an administrator, the Controller shall perform a desk audit or financial review of Sativa. The SWRCB shall exercise its legal authority to facilitate the desk audit or financial review, including, but not limited to, its authority to take possession of Sativa’s financial records.
- 5) Provide that any decision by the LAFCO about the dissolution or consolidation of Sativa shall not be subject to protest proceedings. The LAFCO shall not impose any condition on the successor agency that requires a protest proceeding or an election.

- 6) Require that if the LAFCO approves a dissolution of Sativa initiated by the LAFCO, a successor agency designated in the dissolution by the LAFCO, in consultation with the LAFCO, may solicit proposals, evaluate submittals, and select any public water system to be the receiving water system and subsume all assets, liabilities, adjudicated water rights, responsibilities, and service obligations to provide retail water service to existing and future ratepayers within the former territory of Sativa.
- 7) Specify that the SWRCB may provide additional funding to the administrator or the Water Replenishment District of Southern California or the successor agency designated by the LAFCO for urgent infrastructure repairs to the public water system of Sativa without regard to the future ownership of any facilities affected by this funding. “Urgent infrastructure repairs” are those that are immediately necessary to protect the public health, safety, and welfare of those served by Sativa.
- 8) Provide that if Sativa is consolidated with a receiving water system, the subsumed territory of Sativa may include both unincorporated territory of the County of Los Angeles and incorporated territory of the City of Compton.
- 9) Specify that any appointed administrator, any successor agency to Sativa designated by the LAFCO to take over Sativa, any receiving operator of a public water system that provides service to the territory of Sativa, any water corporation that acquires Sativa, and the LAFCO shall not be held liable for claims by past or existing ratepayers or those who consumed water provided by Sativa concerning the operation and supply of water from Sativa during the interim operation period for any good faith, reasonable effort using ordinary care to assume possession of, to operate, or to supply water to, the ratepayers within the territory of Sativa.
- 10) Provide that any appointed administrator, any successor agency to Sativa designated by the LAFCO to take over Sativa, any receiving operator of a public water system that provides service to the territory of Sativa, any water corporation that acquires Sativa, and the LAFCO shall not be held liable for claims by past or existing ratepayers or those who consumed water provided by Sativa for injury that occurred prior to the commencement of the interim operation period.
- 11) Require that for any successor agency to Sativa designated by the LAFCO to take over Sativa, any receiving operator of a public water system that provides service to the territory of Sativa, or any water corporation that acquires Sativa, the interim operation period shall commence upon the execution of an agreement or designation by the LAFCO to provide water services to Sativa and shall end one year later. Upon the showing of good cause, the interim operation period shall be extended by the LAFCO for up to three successive one-year periods at the request of the entity described in this paragraph.
- 12) Specify that for the appointed administrator, the interim operation period shall commence upon being appointed by the SWRCB and shall end when a successor agency has been designated by the LAFCO to provide water service to the ratepayers of Sativa, a receiving water agency is consolidated with or extends service to the ratepayers of Sativa, a water corporation acquires Sativa with the approval of the Public Utilities Commission, or when the administrator’s obligation to provide interim administrative and managerial services has otherwise ended.

- 13) Declare that a special statute is necessary and that a general statute cannot be made applicable to the California Constitution because of the unique circumstances in Sativa regarding the need to ensure the residents served by Sativa have access to safe, clean drinking water.
- 14) Contain an urgency clause.

EXISTING LAW:

- 1) Declares it to be established state policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.
- 2) Requires SWRCB to adopt primary drinking water standards for contaminants in drinking water that are consistent with those standards set by the U.S. EPA, as specified.
- 3) Authorizes SWRCB to order consolidation, either physical or operational, of a public water system or state small water system serving a disadvantaged community with a receiving water system when the public water system or state small water system consistently fails to provide an adequate supply of safe drinking water following specified actions and if certain findings are made.
- 4) Authorizes SWRCB to order extension of service to an area within a disadvantaged community that does not have access to an adequate supply of safe drinking water as long as the extension of service is an interim extension in preparation for consolidation.
- 5) Authorizes SWRCB to order a designated water system to accept administrative and managerial services to assist the water system with providing affordable, safe drinking water to disadvantaged communities and to prevent fraud, waste, and abuse if SWRCB finds consolidation or extension of service is not appropriate or not technically and economically feasible.

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Sativa-Los Angeles County Water District.** Incorporated in 1938, Sativa supplies domestic water services to a portion of the Willowbrook area, an unincorporated area of the County of Los Angeles. The service area is approximately one-half square mile and contains approximately 1,700 customers. According to the author, Sativa also serves between 20-30 service connections in the City of Compton. Sativa's reserves are approximately \$400,000, and its water rates are about \$65/month for a typical single-family dwelling, lower in comparison to other local water retailers in the vicinity.

On April 24 of this year, Sativa held a press conference in response to reports about discolored water in the Compton and Willowbrook area. The discoloration, explained by Sativa officials, is the result of crews opening up fire hydrants to flush out the build-up of minerals from inside the pipes. Although discolored, Sativa maintained that the water did not pose any threat to customers.

- 2) **Recent LAFCO Action.** On July 11, 2018, LAFCO unanimously approved to initiate the process to dissolve Sativa. In the staff report for the July 11 meeting, the LAFCO stated the following:

“The challenges facing the district are well-known to the Commission, having been documented in municipal service reviews in 2005 and 2012, as well as in periodic reviews/updates considered by the Commission and staff.

“Some of the reasons for the recommendation to initiate the dissolution of the Sativa County Water District include, but are not limited to: the extensive deficiencies in Sativa’s management, financial practices, and operations, which has resulted in a failing water system which delivers discolored, murky water that is high in manganese, in violation of the secondary water quality standards; the significant deficiencies in Sativa’s infrastructure, including decades of deferred maintenance, which require more than \$10 million in improvements, which the small customer base of approximately 1,700 ratepayers is unable to finance; the District’s failure to provide adequate documentation of an existing \$1.2 million bond; the failure to maintain accurate meeting records and make information publicly available on Sativa’s website; the fact that the elected officials and staff charged with addressing these matters have shown themselves unwilling or unable to address the very serious issues facing the District; and all of which is documented by LAFCO in municipal service reviews adopted in 2006 and 2014; the State Water Resources Control Board Compliance Order issued on June 1, 2018; the Civiltec engineering study on March 2014; the County of Los Angeles Public Health Memorandum of May 3, 2018; as well as several financial audits prepared for Fiscal Years 2005 through 2012.

“While LAFCO, and other public agencies, have documented the District’s deficiencies for quite some time, the water quality issue arose only recently. These water quality issues triggered heightened concern from the involved public agencies, including the Commission.”

- 3) **California’s Safe Drinking Water Program.** The California Safe Drinking Water Act (SDWA) generally provides for the operation of public water systems and enforces the federal act. As required by the federal act, the state’s drinking water program must set drinking water standards that are at least as stringent as the United States Environmental Protection Agency’s (U.S. EPA) standards. Each community water system also must monitor for a specified list of contaminants, and the findings must be reported to SWRCB.

In 2012, California became the first state to enact a Human Right to Water law [AB 685 (Eng), Chapter 524, Statutes of 2012], declaring that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation. Every state agency is required to consider this policy when revising, adopting, or establishing policies, regulations, and grant criteria, as applicable.

In June 2015, SB 88 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2015, gave SWRCB authority to require certain water systems that consistently fail to provide safe drinking water to consolidate with, or receive an extension of service from, another public water system following a series of specific actions. Although for many years the Safe Drinking Water Program has encouraged the voluntary consolidation of public

water systems, the new authority given to SWRCB allows it to mandate consolidation of water systems when appropriate.

In 2016, SB 552 (Wolk), Chapter 776, Statutes of 2016, further expanded SWRCB's authority by authorizing SWRCB, for the purpose of providing affordable, safe drinking water and preventing fraud, waste, and abuse, to contract with an administrator to provide administrative and managerial services to a designated water system.

According to SWRCB, it has not yet ordered a designated water system to accept administrative and managerial services.

- 4) **Contaminant Levels in Drinking Water.** Under the federal SDWA, the U.S. EPA sets national maximum contaminant levels (MCLs) in drinking water for human consumption to protect the health of its users. Under California SDWA, SWRCB can set MCLs that are more restrictive than those set by U.S. EPA and can set MCLs for those contaminants not covered by the U.S. EPA.

When larger systems exceed maximum contaminant levels, those problems are usually corrected promptly. In contrast, over time, small water systems, because of their small base of rate payers, are much less able to remain compliant with state drinking water standards. This is especially true when water system users include disadvantaged communities, defined as any community where the median household income is below 80% of the statewide median household income.

- 5) **Bill Summary.** This bill requires the SWRCB to order Sativa to accept administrative and managerial services from an administrator selected by SWRCB, and requires that upon the appointment of an administrator, Sativa's board of directors shall surrender all control to the appointed administrator and thereafter cease to exist. This bill provides for the transfer of assets, liabilities, adjudicated water rights, responsibilities, and service obligations to any public water system. Lastly, this bill provides liability protection to any appointed administrator, any successor agency to Sativa designated by the LAFCO to take over Sativa, any receiving operator of a public water system that provides service to the territory of Sativa, any water corporation that acquires Sativa, and the LAFCO.

This bill is sponsored by the author.

- 6) **Author's Statement.** According to the author, "There is currently a water crisis in the Los Angeles area. Residents served by the Sativa Water District (Sativa) in Willowbrook, unincorporated Los Angeles County, and the City of Compton are experiencing discolored water emanating from their pipes. Sativa represents approximately 1,600 customers and is facing several critical challenges that have so far prevented it from improving its water supply.

"First, Sativa has an insufficient customer base to finance system improvements. Sativa has approximately 1,700 service connections but needs to expend roughly \$10 million in infrastructure improvements and deferred maintenance. Since Sativa's reserves are approximately \$400,000 and its water rates are relatively low at \$65 dollars per month, the district simply does not have a sufficient revenue stream to address this issue. Sativa is therefore doomed to fail without outside intervention. Moreover, there is currently no

feasible opportunity to dissolve or consolidate Sativa into another public agency. No public agencies have been willing to acquire Sativa because of its water quality violations and more than \$10 million in deferred maintenance and infrastructure improvements.

“These troublesome incidents underscore the longstanding deficiencies associated with Sativa’s lack of proper fiscal management and operational capacity. Simply put, Sativa has not demonstrated an adequate ability to address its deferred maintenance challenges or to provide high quality water to its customers in a sustainable manner going forward.”

- 7) **Public Participation.** In an attempt to expedite the process and appoint an administrator to Sativa, AB 1577 permits SWRCB to order the administrative and managerial services without first conducting a public meeting for the affected ratepayers, renters, and property owners. Generally, at the public meeting, representatives of the public water system, affected ratepayers, renters, and property owners are given the opportunity to present testimony and there is an opportunity for public comment. Additionally, this bill exempts the dissolution from the traditional LAFCO protest proceedings and potential election. The Committee may wish to consider whether bypassing the public meeting and protest process will provide for the appropriate level of public participation.

- 8) **Arguments in Support.** The City of Compton states that, “The Los Angeles County LAFCO voted unanimously to pursue the dissolution of Sativa as part of its July 11th meeting. To completely dissolve the agency, the State Water Resources Control Board must step up to consolidate a merger or, alternatively, it can appoint a state administrator to take over managerial and administrative duties. AB 1577 complements LAFCO’s approach by empowering the State Water Resources Control Board to immediately take all appropriate steps to exercise vigorous oversight of Sativa, including selecting a representative to manage the district and ensure proper fiscal and operational activities are occurring while Sativa is still responsible for providing water to its customers. AB 1577 will help provide affordable, safe drinking water to Sativa’s customers while a long-term solution to Sativa’s existing problems is identified.”

- 9) **Arguments in Opposition.** None on file.

- 10) **Substantially Amended.** The provisions of this bill have not been heard in an Assembly policy committee this legislative session.

REGISTERED SUPPORT / OPPOSITION:

Support

Opposition

City of Compton
 Liberty Utilities
 Los Angeles County
 Los Angeles LAFCO
 Suburban Water Systems

None on file

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