

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2050 (Caballero) – As Amended April 17, 2018

SUBJECT: Small System Water Authority Act of 2018.

SUMMARY: Creates the Small System Water Authority Act of 2018, which authorizes the creation of small system water authorities (authority) that will have powers to absorb, improve, and operate noncompliant public water systems. Specifically, **this bill:**

1) Defines the following terms:

- a) “Authority” as a small system water authority;
- b) “Affected county” as any county in which the land of a proposed authority is situated;
- c) “Board” as the board of directors of an authority;
- d) “Board of Supervisors” as the board of supervisors of the principal county;
- e) “City” as any chartered or general law city;
- f) “County clerk” as the county clerk of the principal county;
- g) “Local agency formation commission (LAFCO)” as the LAFCO of the principal county in which the proposed authority is located;
- h) “President” as the president of the board of an authority;
- i) “Principal county” as the county in which the greater portion of the land of a proposed authority is situated;
- j) “Private corporation” as any private corporation organized under the law of the United States or of this or any other state;
- k) “Public agency” as the United States or any department or agency thereof, the state or any departments or agency thereof, and a county, city, public corporation, or public district of the state, including an authority formed pursuant to this Act;
- l) “Public water system” as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year;
- m) “Secretary” as the secretary of an authority;
- n) “State board” as the State Water Resources Control Board (State Water Board); and,
- o) “Water” as potable and nonpotable water.

- 2) Provides that 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 do not need to be contiguous.
- 3) Requires the State Water Board, no later than March 1, 2019, to provide written notice to cure (Notice) to all public agencies, private water companies, or mutual water companies that meet both of the following criteria:
 - a) Operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people; and,
 - b) Are not in compliance with one or more state or federal primary drinking water standard maximum contaminant levels as of December 31, 2018, and for four consecutive quarters before March 1, 2019.
- 4) Requires an entity receiving a Notice to respond to the State Water Board within 60 days of receiving the Notice as to whether the violations of drinking water standards are remedied and the basis for that conclusion.
- 5) Gives the entity receiving the Notice, that reports that it is still in violation of drinking water standards, 180 days, from the date of the response filed with the State Water Board, to prepare and submit a plan (Plan) to the State Water Board to permanently remedy a violation of drinking water standards within a reasonable time that is not later than January 1, 2024.
- 6) Requires the State Water Board to review a Plan, and within 60 days of receipt of the Plan, to accept, accept with reasonable conditions, or reject the Plan.
- 7) Specifies that the State Water Board shall not accept the plan with reasonable conditions or reject the plan without meeting with the entity at least 15 days before acceptance with reasonable conditions or rejection of the plan.
- 8) Authorizes the State Water Board to extend the 60 day period by no more than 180 days in order to allow for full consultation and collaboration between the State Water Board and the entity.
- 9) Requires an entity where the State Water Board has accepted the Plan or accepted the Plan with conditions, to provide quarterly reports to the State Water Board on progress towards a permanent remedy for the violations of drinking water standards.
- 10) Requires the State Water Board, if it rejects the Plan, to cause the formation of an authority by the applicable LAFCO, to serve the customers of the public water system that submitted the Plan.
- 11) Specifies that before causing the formation of an authority, the State Water Board shall provide the entity with a period of 15 business days from the date on which the State Water Board issues a written determination rejecting the Plan to file a petition for reconsideration. The State Water Board shall, if so requested by the entity, hold an evidentiary hearing under the provisions of the Administrative Procedures Act that shall commence within 90 days of the date on which the petition for reconsideration is filed. The State Water Board shall issue

a final order not later than 60 days after the close of the hearing. If the entity does not request a hearing, the State Water Board shall issue a final order not later than 60 days after the date on which the entity files its petition for reconsideration.

- 12) Requires the State Water Board, no later than January 1, 2021, to provide written notice to each county, city, or water district, private water company, or mutual water company located within a county where an entity receiving a notice is located stating that the State Water Board may consider the formation of an authority within that county and inviting other public water suppliers to consider consolidating with the authority that may be formed.
- 13) Requires an entity wishing to consolidate into a proposed authority to provide a written statement opting into an authority on or before July 1, 2021.
- 14) Authorizes an entity, after July 1, 2019, wishing to join an authority to do so by means of a petition to the LAFCO.
- 15) Specifies that on or before June 1, 2021, a county or city receiving notice from the State Water Board 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.
- 16) Provides that if the governing body 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 opting into an authority on or before July 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 to the LAFCO.
- 17) Authorizes that an authority may include areas that are not contiguous.
- 18) Specifies that no later than March 1, 2021, the independent administrator (Administrator) for an authority shall consult with all entities to provide advice as to the advantages and disadvantages of opting into being included in the authority.
- 19) Requires the State Water Board, no later than 30 days after the rejection of a Plan by an entity that received a Notice, to notify a LAFCO of a county where the public water system that submitted the Plan is located, and that it has determined that the public water system shall be consolidated into an authority. If appropriate the Public Utilities Commission shall be notified as well.
- 20) Requires the State Water Board, no later than 60 days after rejecting the Plan to notify the entity that submitted the Plan, that the Plan was rejected and that it will be consolidated into an authority and appoint an Administrator who shall be responsible for preparing a plan for service and interim administration and management of the authority.
- 21) Prohibits a LAFCO from *accepting an application* to form an authority, unless the authority consists of at least five public water systems that may include public water systems from county services areas, other public water systems that have been meeting drinking water standards, and public water systems identified by the State Water Board that chronically serve contaminated water in the county in which the proposed authority will be formed.

- 22) Requires the applicable LAFCO, no later than 30 days after the date upon which the LAFCO determines the application for formation and proposed plan for service is complete, to initiate proceedings to form an authority to provide safe drinking water to the public water system's customers.
- 23) Requires that, on or before January 1, 2022, the Administrator, after consultation with the executive officer of the LAFCO, shall submit to the State Water Board a conceptual formation plan that includes the following:
 - a) The public water system service areas to be served by the authority;
 - b) The population to be served by the authority;
 - c) The available infrastructure to be used by the authority and any known deficiencies;
 - d) The recorded violation of drinking water standards and the nature of the threat to public health and safety; and,
 - e) Financial and operational provisions to be addressed in the plan for service.
- 24) Mandates that on or before January 1, 2020, the State Water Board shall retain a minimum number of individuals who meet the qualifications to serve as Administrators, as specified.
- 25) Requires the State Water Board to bear the cost of the Administrator and be responsible for all compensation of and reasonable expenses incurred by the Administrator for the duration of the period that the Administrator serves the authority.
- 26) Requires the Public Utilities Commission, no later than 240 days after the State Water Board informs an entity that their Plan was rejected and they will be consolidated into an authority, to order the dissolution of the public water system that is being consolidated and the transfer of all assets of the water corporation to the authority formed by LAFCO.
- 27) Requires the State Water Board to petition a court of competent jurisdiction for an order dissolving any mutual water company, nonregulated water corporation, or nonregulated private water company, no later than 240 days after the State Water Board informs an entity that their Plan was rejected and they will be consolidated into an authority, and the transfer of all assets of the water system to the authority formed by LAFCO.
- 28) Provides compensation and an appeal process for the owner or shareholder of a water corporation or a mutual water company that is consolidated into an authority.
- 29) Requires the Administrator, within 180 days after the State Water Board provides comments on the draft conceptual formation plan, to submit an application for formation and proposed plan for service to the LAFCO for review and potential approval.
- 30) Specifies what information a proposed plan for service needs to include.
- 31) Provides that if the Administrator determines that a 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, he or she may set forth those conclusions in a report to the State Water Board in lieu of submitting a plan for service to the LAFCO.

- 32) Requires a LAFCO to hold a public hearing on the proposed plan for service no later than 180 days after the LAFCO initiates proceedings.
- 33) Requires the authority, if the LAFCO approves the Plan and the formation of the authority, to take the appropriate actions to comply with the Plan. Places additional requirements on the LAFCO if the plan for service is disapproved.
- 34) Exempts the formation of an authority and the dissolution of a public water system from the requirements of the California Environmental Quality Act.
- 35) Requires an authority for the first three years after the date of its formation to file a report with the LAFCO containing specified information.
- 36) Requires a LAFCO to hold a public hearing within 90 days of the receipt of the report to review the authority's performance. If the report states the authority has failed to comply with any conditions imposed by the LAFCO, the LAFCO can order the authority to remedy the violations and impose a civil penalty not to exceed \$500 per day for each violation and not to exceed \$10,000 per year for each particular violation.
- 37) Requires the State Treasurer, no later than January 1, 2025, and in consultation with the State Water Board, the Association of California Water Agencies, the California Association of LAFCOs, the California Municipal Utilities Association, California Association of Mutual Water Companies, the California State Association of Counties, and others deemed appropriate by the Treasurer, to contract with an independent consultant to review the start-up operations of the Authorities and the management of the Authorities by the Administrators. Requires the consultant to prepare a report for the Legislature regarding fiscal and operational health of the Authorities that includes recommendations regarding the need for supplemental state funding, if any, and the potential sources of that funding.
- 38) Provides specified criteria and requirements for the following:
 - a) The establishment of the authority's board;
 - b) Elections of the board;
 - c) Appointment of officers and employees of the authority; and,
 - d) The powers, duties, and financial provisions of the authority.
- 39) Contains findings and declarations to support its purposes.
- 40) Provides that 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.

EXISTING LAW:

- 1) Vests the State Water Board with all of the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Public Health and its predecessor to enforce the State Drinking Water Act (SDWA).

- 2) Defines a "public water system" as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.
- 3) Requires the State Water Board, in administering SDWA programs to fund improvements and expansions of small community water systems, to encourage the consolidation of small community water systems that serve disadvantaged communities, and prioritize funding for construction projects that involve the physical restructuring of two or more community water systems, at least one of which is a small community water system that serves a disadvantaged community, into a single, consolidated system.
- 4) Authorizes the State Water Board, where a public water system or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, to order consolidation with a receiving water system. Provides that the consolidation may be physical or operational.
- 5) Limits the liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, as specified.
- 6) Declares 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.
- 7) Enacts the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), which:
 - a) Controls how local officials change the boundaries of cities and special districts, putting LAFCOs in charge of the proceedings; and,
 - b) Directs LAFCOs to ensure that services are effectively and efficiently delivered, and local governments can only exercise their powers and provide services where allowed to by LAFCO, including the formation of new cities and special districts, modifications of existing boundaries, and dissolutions of unsustainable special districts.

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

COMMENTS:

- 1) **Bill Summary.** This bill creates the Small System Water Authority Act of 2018, which authorizes the creation of authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. This bill requires the State Water Board, no later than March 1, 2019, to provide Notice to all public agencies, private water companies, or mutual water companies of a specified size and that are in violation of certain drinking water standards. If the water systems are unable to remedy the compliance violations, the State Water Board is required to cause the formation of an authority. Lastly, AB 2050 establishes a governance structure, provides for the election of board members and appointment of employees, and authorizes specified powers, duties, and financing mechanisms for the delivery of water to residents. This bill is co-sponsored by the Eastern

Municipal Water District and the California Municipal Utilities Association.

- 2) **Author's Statement.** According to the author, "The State Water Resources Control Board has identified 329 water systems (as of November 2017) statewide that chronically serve contaminated drinking water or cannot provide reliable water service due to unsound infrastructure or because they lack the local financial, managerial, and technical resources to do so. The vast majority of these systems are small, rural systems that typically serve less than 10,000 people. A sustainable solution is necessary to address this drastic public health and safety crisis.

"To date, laws have been passed that address various elements of the water accessibility issue, including voluntary and forced consolidations, supplying resources and technical support, and limiting the development of new unsustainable water systems. While these efforts have created a portfolio of options to address this critical issue of water accessibility in California, immediate and lasting changes to the underlying governance structure of chronically noncompliant small systems is still needed to protect public health and safety.

"AB 2050 does not preclude voluntary or mandated consolidations; instead, this bill seeks to complement existing consolidations laws. However, consolidations are complex to execute and each consolidation must address the unique nature of the region and the situation that has resulted in the system failure. Additionally, traditional consolidations must rely on a larger host agency to facilitate the consolidation. That larger system must also ensure that the consolidation does not impact its existing customers. AB 2050 establishes a roadmap for the consolidation of multiple systems and does not rely on a larger host agency – which is important as many of these systems may not be adjacent to a larger system."

- 3) **California's Drinking Water Program.** Senate Bill 861 (Committee on Budget and Fiscal Review), Chapter 35, Statutes of 2014, transferred the Drinking Water Program from the Department of Public Health (DPH) to the State Water Board effective July 1, 2014, creating the new Division of Drinking Water within the State Water Board, and made other statutory changes to create efficiencies and adoption and administration of the Drinking Water Program.

The State Water Board directly enforces the SDWA for all large water systems (those with 200 or more service connections). For small water systems (those with less than 200 connections), local health departments can be delegated to have regulatory authority as the local primacy agency.

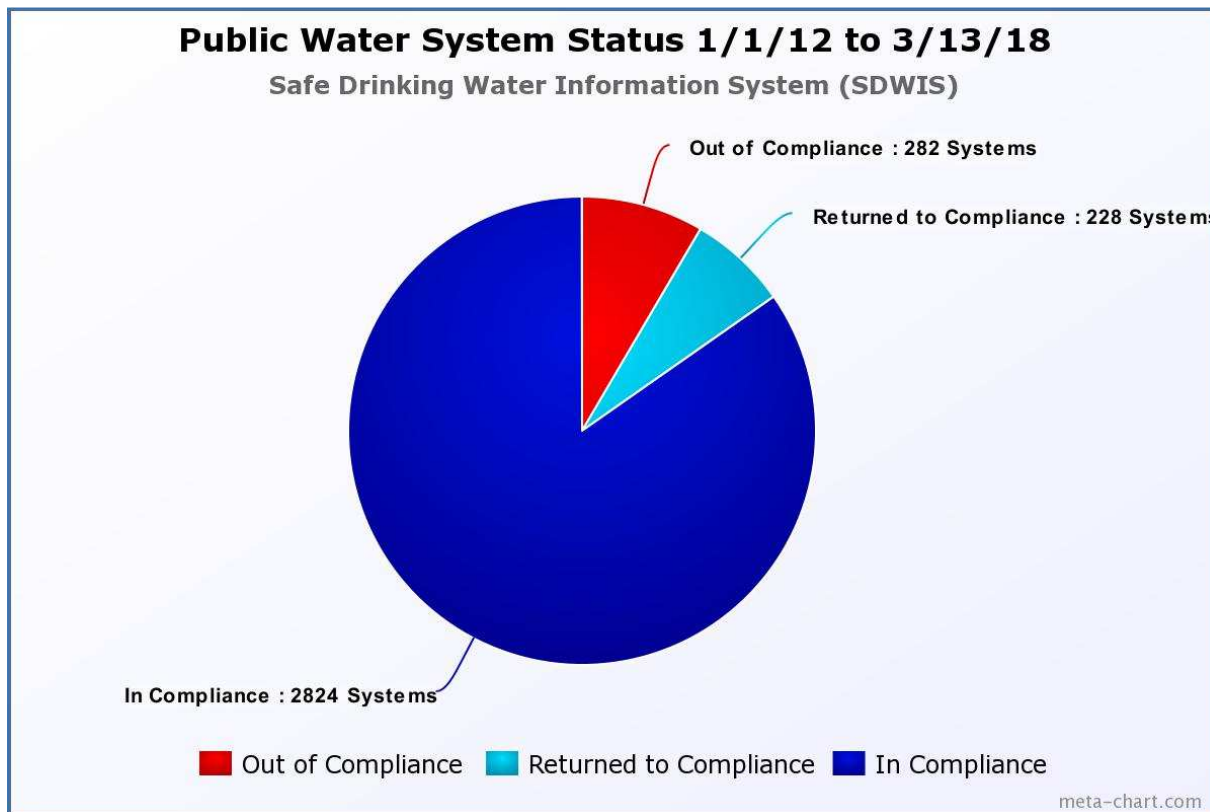
- 4) **Human Right to Water.** In 2012, California became the first state to enact a Human Right to Water law [AB 685 (Eng), Chapter 524, Statutes of 2012]. Public policy continues to be focused on the right of every human being to have safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation. Water supply, contaminants, costs of treatment and distribution systems, the number and nature of small public water systems, especially in disadvantaged communities, and many other factors will continue to challenge progress in addressing the Human Right to Water.
- 5) **Drinking Water Contamination in Disadvantaged Communities.** The State Water Board report, "*Communities that Rely on Contaminated Groundwater*," released in January 2013, reported that 682 community public water systems in California, which serve nearly 21

million people, rely on contaminated groundwater as a primary source of drinking water. It also found that 265 community public water systems that rely on contaminated groundwater, which serve a little more than two million people, had received at least one drinking water quality violation within the last compliance cycle. The report points out that an additional two million Californians rely on groundwater from a private domestic well or a smaller groundwater-reliant system that is not regulated by the state, of which the water quality is uncertain. The findings from the State Water Board report, and a January 2012, University of California at Davis study, "*Addressing Nitrate in California's Drinking Water*," suggest that drinking water contamination in California disproportionately affects small, rural, and low-income communities that depend mostly on groundwater as their drinking water source.

The recent drought has further compromised the state's drinking water supplies. Since many rural households rely on shallow, domestic wells or small, poorly funded community water supply systems, they have been hardest hit. According to the Public Policy Institute of California, as of early July 2015, more than 2,000 domestic wells were reported to be dry, mostly in the Central Valley and the Sierras. Emergency water supply needs have also been identified for more than 100 small water community water systems around the state.

- 6) **Water Contamination.** According to the State Water Board, for common sources of drinking water contamination, such as arsenic and nitrates, expensive systems must be installed and operated to treat the water to meet drinking water standards. In many cases, technological advances have not yet been sufficient to make such treatment systems affordable, especially to small, disadvantaged communities. In addition, many small, disadvantaged communities do not have the technical, managerial, or financial capability to operate what are sometimes complex drinking water systems.

Below is a snapshot of the public water systems out of compliance with SDWA requirements for the first three months of 2018.



As shown above, about 9% of all systems are failing to meet the SDWA standards.

- 7) **Existing Tools for Addressing Drinking Water System Failures.** SB 88 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2015, authorizes the State Water Board to require water systems that are serving disadvantaged communities with unreliable and unsafe drinking water to consolidate with, or receive service from, public water systems with safe, reliable, and adequate drinking water. SB 552 (Wolk), Chapter 773, Statutes of 2016, gave the State Water Board another tool to address the systemic issues affecting public water systems serving small, disadvantaged communities. SB 552 authorizes the State Water Board to identify public water systems that are consistently unable to provide an adequate and affordable supply of safe drinking water and, once funding is available, to then contract with a competent Administrator to provide managerial and technical expertise to that system.
- 8) **How Does Consolidation of a Public Water System Work?** Consolidating public water systems and extending service from existing public water systems to communities and areas, which currently rely on under-performing or failing small water systems, as well as private wells, reduces costs and improves reliability. Consolidating or extending service from a public water system to a community otherwise served by unreliable systems or unregulated private wells advances the goal of a reliable, accessible supply of safe drinking water for all California residents.

Public water systems experiencing chronic water quality failures or unreliable supplies are first provided technical assistance to analyze the problem and recommend a course of action.

Enforcement may also be necessary to achieve compliance with SDWA requirements. Lacking progress, the State Water Board may initiate discussions with the system and neighboring/adjacent public water systems regarding consolidation. Consolidation may involve the actual physical consolidation of the participating water systems (physical consolidation), just the management of the participating water system (managerial consolidation), or both. If voluntary consolidation cannot be negotiated in a reasonable time period, the State Water Board may commence proceedings for direct mandatory consolidation or a mandatory extension of service. In this case, consolidation letters will be sent to the consistently failing water system (subsumed system) and to the receiving system notifying them that they have six months to develop a plan for voluntarily consolidation. If the two systems have not developed a plan for consolidation within six months of the letters being issued, the State Water Board may then order the two systems to consolidate.

The State Water Board will provide funding as necessary and appropriate from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1, 2014), the Drinking Water State Revolving Fund (DWSRF), and monies made available from the emergency drought relief package, for consolidation or extension of service, including infrastructure improvements. SB 88 added a provision to the law limiting the liability of water systems, wholesalers, or any other agencies that deliver water to consolidated water systems. This liability relief is available regardless of whether the consolidation occurs through the mandatory consolidation process or through a voluntary act. These new liability relief provisions will protect water systems involved in consolidations and remove a barrier that previously limited voluntary consolidations.

- 9) **Consolidations in California to Date.** The State Water Board currently posts information on its website about ordered consolidations. It also tracks and has information on voluntary consolidations. Under the State Water Board's authority, there have been two mandatory consolidations completed, and there have been more than 100 voluntary consolidations in that time period. Within those, the State Water Board has had varying levels of participation. Some (about 40) were consolidations the State Water Board helped to fund, some to which the State Water Board provided guidance, and others for which the State Water Board just issued a permit.
- 10) **Progress on Providing Clean Drinking Water.** Ensuring that all Californians have access to clean, affordable drinking water is a goal the state has been vigorously pursuing, especially in the last several years. Legislatively, the state has enacted laws to give the State Water Board the authority to force failing water systems to consolidate, either physically, or managerially, as well as improving the permitting of new public water systems in order to avoid the proliferation of new unsustainable water systems. While the State Water Board has been pursuing voluntary and forced consolidation, the ability to provide funding for this effort has fallen short. One major piece that has eluded the Legislature is an ongoing funding stream to provide clean drinking water for small, disadvantaged communities and ultimately set them on a path of sustainability.

AB 2050 seeks to provide the State Water Board with another tool to address chronically failing public water systems. This bill sets up a series of new local water systems that essentially take over five failing systems within a county. If there are fewer than five failing

systems in a county that the State Water Board has identified as failing, it is unclear exactly what would be the remedy, other than using existing consolidation authority.

The approach in the bill does provide the State Water Board with an additional tool to address the issue of chronically failing water systems. This tool may be useful as the State Water Board evaluates failing water systems and pursues consolidation when necessary.

- 11) **LAFCO.** LAFCOs are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structures, and preparing a sphere of influence for each city and special district within each county. The courts refer to LAFCOs as the Legislature's "watchdog" over local boundary changes. LAFCO law establishes procedures for local government changes of organization, including special district consolidations. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals for these procedures.

The process for most boundary changes and agency formations requires numerous steps:

- a) Application to LAFCO, by petition or resolution, for an environmental review, property tax exchange agreement, and a plan for services that describe what services will be provided and how the services will be financed;
- b) Noticed public hearing, testimony, and approval or disapproval by LAFCO in which LAFCO can impose terms and conditions;
- c) Additional public hearing for protests. If a majority of the city's voters file protest, the disincorporation stops, and if not, LAFCO must order an election on the proposed disincorporation;
- d) If existing law requires it, an election that requires a majority vote approval; and,
- e) LAFCO staff files documents to complete the reorganization. LAFCOs are required to approve district consolidations where each merging district passes a resolution endorsing the consolidation, but provisions that govern protest and elections still apply.

The formation of an authority is not subject to the usual LAFCO process. This bill establishes a modified LAFCO process. While LAFCOs certainly are given the opportunity to provide input and to apply terms and conditions to the formation of an authority, the LAFCO ultimately does not have the authorization to prohibit an authority's formation.

- 12) **Policy Considerations.** The Committee may wish to consider the following:

- a) **Penalties.** AB 2050 gives LAFCOs the authority to levy civil penalties if the authority does not comply with the conditions imposed on its formation. This bill allows the LAFCO to order the authority to remedy any violations of the conditions within a reasonable period of time. If the authority fails to timely comply with the remedial order by the LAFCO, the LAFCO can impose civil penalties of \$500 per day per violation, and up to \$10,000 per year for each particular violation. LAFCOs do not currently have any authority to levy fines or other penalties. The Committee may wish to consider if there is

a more suitable entity to apply these penalties. For instance, the State Water Board does have the authorization to levy penalties for a number of different reasons and may be the more appropriate entity.

- b) **Where Does the Money Come From?** Implementation of the provisions of AB 2050 will likely be costly. The bill currently contains placeholder language that requires the State Water Board to provide funding for an authority's Administrator, formation of the authority, and two years of start-up costs. While this bill is clear that the State Water Board is responsible for providing funding for the formation of an authority and its associated costs, the funding sources and amounts are not identified. The Committee may wish to consider if the bill should identify specific funding sources, whether it be through the General Fund, cap-and-trade funds, from the Proposition 1 Water Bond, the DWSRF, or others.
- c) **Who Pays?** Traditionally, the agency that initiates dissolution, consolidation, annexation, or other change of organization pays for the costs associated with completing the process. LAFCOs are funded by the cities, counties, and, in 30 counties, special districts. CALAFCO states that one third of the 58 LAFCOs have an annual budget of less than \$100,000 and one-fifth have an annual budget of less than \$50,000. AB 2050 is unclear on the amount that is to be provided for the LAFCO's efforts. Depending upon each unique set of circumstances, the complexity, and therefore cost, is going to vary widely. As LAFCOs budgets are already strained, the Committee may wish to consider if the language in this bill should be less specific regarding the amount of money the State Water Board is required to provide.

- 13) **Related and Prior Legislation.** AB 685 (Eng), Chapter 524, Statutes of 2012, declares that it is the established policy of the state that every human being has the right to clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes and that relevant state agencies, including the Department of Water Resources, the State Water Board, and the State Department of Public Health shall consider this state policy when revising, adopting, or establishing policies, regulations, and grant criteria pertinent to the human uses of water.

SB 88 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2015, authorizes the State Water Board to require water systems that are serving disadvantaged communities with unreliable and unsafe drinking water to consolidate with or receive service from public water systems with safe, reliable, and adequate drinking water.

SB 1263 (Wieckowski), Chapter 843, Statutes of 2016, requires a person submitting an application for a permit for a proposed new public water system to first submit a preliminary technical report to the State Water Board. Authorizes the State Water Board to deny a permit for a new public water system, if it determines that it is reasonably foreseeable that the proposed new public water system will be unable to provide affordable, safe drinking water.

SB 552 (Wolk), Chapter 773, Statutes of 2016, authorizes the State Water Board to contract with an Administrator to provide administrative and managerial services to a designated public water system to assist with the provision of an adequate and affordable supply of safe drinking water.

SB 623 (Monning, 2017) creates the Safe and Affordable Drinking Water Fund, administered by the State Water Board, to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards. This bill is pending action in the Assembly Rules Committee.

SB 778 (Hertzberg, 2017). Would have required the State Water Board to report on public water system consolidations to date, and their success or failure. This bill was held in Assembly Appropriations.

SB 1215 (Hertzberg, 2018) authorizes the State Water Board to order the provision of sewer service by a special district, city, or county to a disadvantaged community, as defined, under specified circumstances, and requires the State Water Board to take certain actions before ordering the provision of sewer service that are similar to those required for the consolidation or extension of water systems.

- 14) **Arguments in Support.** Supporters argue that there are communities throughout the state that do not have access to safe and reliable water supplies. In fact, as of November 2017, the State Water Board has identified 329 water systems that consistently fail to provide safe drinking water to their residents, often due to a lack of technical, managerial, and financial capacity. It is unacceptable for any Californians to live without safe drinking water and it is imperative that a solution be crafted to address this critical health issue. The Small Water System Authority Act of 2018 would establish a new and innovative tool for water systems that are currently unable to serve safe drinking water in their communities.
- 15) **Arguments in Opposition.** Opponents argue that this new authority is exempted from getting voter approval before issuing some bonds. While the measure allows the bond to be subject to the People's power of referenda, this is far from a sufficient safeguard. Just because the bonds being issued are revenue bonds, voter approval remains imperative.
- 16) **Double referral.** This bill was heard in the Environmental Safety and Toxic Materials Committee on April 10, and passed with a 5-2 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Municipal Utilities Association [CO-SPONSOR]
Eastern Municipal Water District [CO-SPONSOR]
Association of California Water Agencies
California Association of Mutual Water Companies [if amended]
California Special Districts Association
California State Association of Counties
Calleguas Municipal Water District
City of Riverside
City of Sacramento
Cucamonga Valley Water District
Inland Empire Utilities Agency
Irvine Ranch Water District
Las Virgenes Municipal Water District
Long Beach Water Department
Mesa Water District
Metropolitan Water District of Southern California
Municipal Water District of Orange County
Northern California Water Association
Orange County Water District
Rural County Representatives of California
San Diego County Water Authority
Santa Ana Watershed Project Authority
Western Municipal Water District

Opposition

Howard Jarvis Taxpayers Association

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