

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 591 (Cristina Garcia) – As Amended March 11, 2019

SUBJECT: Central Basin Municipal Water District: board of directors.

SUMMARY: Clarifies who can be an appointed member of the Central Basin Municipal Water District (District) Board of Directors (Board). Specifically, **this bill:**

- 1) Defines “representative” as a consultant of an entity, a contractor of an entity, or a board member of an entity that is a mutual water company.

EXISTING LAW:

- 1) Specifies that the District Board shall be composed, as follows:
 - a) Four directors, one director for each division by the voters of the division. Each director shall be a resident of the division from which he or she is elected; and,
 - b) Three directors appointed by the water purveyors of the district, as specified.
- 2) Establishes an interim governance structure for the Board *until* the directors elected, pursuant to 1) a) above, at the November 6, 2022, election take office. Required the Board to be composed of eight directors, as follows:
 - a) Five directors in accordance with the Municipal Water District Law which required each of the five directors to be a resident from the division which they are elected from; and,
 - b) Three directors appointed by the water purveyors of the District, pursuant to the appointment process described in 3) below.
- 3) Establishes an appointment process for the three directors appointed by water purveyors every four years, as follows:
 - a) One director selected by large water purveyors from the nominees of large water purveyors. Required each water purveyor to have one vote;
 - b) One director selected by cities that are water purveyors of the District from the nominees of cities. Required each city to have one vote; and,
 - c) One director selected by all water purveyors of the District from any nominee. Established a weighted vote for each purveyor to reflect their number of service connections.
- 4) Prohibits the appointment of directors from resulting in any of the following:
 - a) The appointment of three directors that are all employed by or representatives of all large water purveyors;

- b) The appointment of three directors that are all employed by or representatives of all cities; and,
 - c) The appointment of three directors that are all employed by or representatives of all small water purveyors.
- 5) Specifies that the term of an appointed director is terminated if the appointed director is no longer an employee or representative of the city or water purveyor.

FISCAL EFFECT: None

COMMENTS:

- 1) **Central Basin Municipal Water District.** The District was formed in 1952 by the voters, pursuant to the Municipal Water District Act of 1911, to help mitigate the over pumping of groundwater in southeast Los Angeles County. The District is a member agency of the Metropolitan Water District of Southern California (Metropolitan) and purchases imported water from Metropolitan to wholesale to 40 retail water agencies and one wholesaler, which includes cities, water districts, mutual water companies, investor-owned utilities, and private companies. A smaller source of the District's incoming revenue is from the sale of recycled water for municipal, commercial, and industrial use. The District serves nearly two million people in 24 cities in southeast Los Angeles County and in some unincorporated areas of the County.
- 2) **State Audit.** In December 2015, the Bureau of State Audits (BSA) issued a report that identified several key findings: a) the Board has failed to provide the leadership necessary for the District to fulfill its responsibilities; b) a lack of policies to safeguard the District's long-term financial viability; c) the District's debt coverage ratio is insufficient and the District's credit rating has been downgraded several times; d) the Board's actions caused the District to lose its insurance coverage; e) the Board violated state law in 2010 when it approved the establishment of a legal trust fund without adequate public disclosure; f) the District frequently inappropriately avoided its competitive bidding processes while awarding contracts to vendors; g) the District spent thousands of dollars on purposes unrelated to its underlying authority; and, h) the District failed to follow its policies for hiring employees and failed to ensure stability in its key executive management position. To address these findings the audit made numerous recommendations, most of which did not require legislation. Additionally, the audit included an addendum report from the District which included actions to put in place many of the recommendations contained in the audit.

The audit only included one recommendation that required legislation: "To ensure the efficient and effective delivery of imported and recycled water in southeastern Los Angeles County, the Legislature should pass special legislation to preserve the district as an independent entity but modify the District's governance structure. In doing so, the Legislature should consider a governance structure that ensures the District remains accountable to those it serves, for example, by changing the District's board from one elected by the public at large to one appointed by the District's customers."

- 3) **Response to Audit.** To respond to the audit, the Legislature adopted AB 1794 (Garcia), Chapter 401, Statutes of 2016, to establish a new board governance structure for the District. AB 1794 established an interim board of five elected members and three appointed members. The interim board will transition into a permanent board in 2022, and it will consist of four elected and three appointed members. The process to appoint members to the board began in January 2017, and has since resulted in controversy.

The City of Huntington Park nominated an individual to serve on the Board as the appointed member that represents cities, but the nomination was denied. The District denied the nomination saying the individual was “not a qualified candidate for the city Directorship because he is not an employee or designated representative of the city.” The City of Huntington Park proclaimed its nomination was wrongfully denied and has since filed a lawsuit, *The People of the State of California, et al v. John Oskoui*. The next hearing for this case is not until July 5, 2019, and it is unclear when the case will ultimately be decided.

- 2) **Bill Summary and Author’s Statement.** This bill clarifies which individuals can serve as appointed members on the District board by defining “representative” as a consultant of an entity, a contractor of an entity, or a board member of an entity that is a mutual water company. This bill is author-sponsored.

According to the author, “Today Central Basin Municipal Water District serves more than two million people in 27 cities in Southeast Los Angeles. Rather than serve consumers directly, Central Basin has historically sold water to 47 different cities, mutual water companies, water districts, investor-owned utilities, and private companies. Currently they serve 40 purveyors and one water wholesaler. These purveyors in turn serve consumers. In order to increase accountability a new governance structure is needed that balances input from the purveyors, who are the direct customers, with input from the public through elections.

“I authored AB 1794 which created a new governance structure to ensure that the Central Basin Municipal Water District will effectively fulfill its responsibilities moving forward. First, the number of members on the Board will be increased from five to seven members. In order to maintain the input of the public, four of the seven members will be an elected resident of the district. To ensure that there is sufficient technical expertise, three of the seven members will be elected from the 41 direct customers. One director elected from the purveyors will be a large water purveyor, nominated and elected from the large water purveyors. One director shall be nominated and elected from the purveyors which are cities, with each of these cities having a vote. Finally, one director shall be elected at large, with the vote of each purveyor being weighted to the number of service connections of that purveyor. No director shall hold an elected office and there are restrictions on who can serve from a private water company to address issues around potential conflict of interest. This bill seeks to clarify the definition of a representative, in response to litigation over the meaning of “representative”. We hope that this change will make clear to all parties the original intent in AB 1794.”

- 4) **Policy Consideration.** The author states that the intent of AB 1794 was to have the appointed members on the District board be an employee of an entity, consultant of an entity, a contractor of an entity, or a board member of an entity that is a mutual water company and is served by the District. This bill defines the meaning of “representative”, which is the exact

term currently being challenged in court. The Committee may wish to consider if this bill is premature seeing that there has been no conclusion in the lawsuit.

5) **Arguments in Support.** None on file.

6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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