

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 480 (Stern) – As Amended March 15, 2021

SENATE VOTE: 38-0

SUBJECT: Metropolitan Water District of Southern California: rules: inappropriate conduct.

SUMMARY: Requires the Metropolitan Water District of Southern California (MWD) to adopt rules relating to inappropriate conduct by board members, officers, and employees. Specifically, **this bill:**

- 1) Requires MWD, within its Office of Ethics, to adopt rules relating to inappropriate conduct by board members, officers, and employees.
- 2) Defines “inappropriate conduct” to mean any conduct toward others that is physical, verbal, or visual based on or because of sex, gender, gender identity or expression, race, color, ancestry, religious creed, national origin, age for 40 years of age and over, physical or mental disability, sexual orientation, marital status, military or veteran status, medical condition, genetic information, or any other characteristic protected by state or federal employment law when the conduct reasonably would be considered inappropriate for the workplace.
- 3) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, as specified.

EXISTING LAW:

- 1) Prohibits discrimination on the basis of specified personal characteristics such as sex, gender, gender identity, race, color, national origin, religion, and disability under numerous laws, including the Fair Employment and Housing Act (FEHA) and the Unruh Civil Rights Act.
- 2) Requires an employer having five or more employees to provide at least two hours of training and education regarding sexual harassment to all “supervisory employees” within six months of becoming a supervisor, and at least one hour of sexual harassment training to all nonsupervisory employees by January 1, 2020, and every two years thereafter.
- 3) Authorizes the creation of metropolitan water districts for the purpose of developing, storing, and distributing water for municipal and domestic purposes under the Metropolitan Water District Act (MWD Act).
- 4) Requires MWD to have an Office of Ethics and adopt rules relating to internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics that apply to its board members, officers, and employees.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Author's Statement and Bill Summary.** According to the author, "Recently there have been troubling reports of sexual harassment and other unacceptable and inappropriate conduct by Metropolitan Water District of Southern California (MWD) employees. We, as public employees and public entities must hold ourselves to the highest standards for interacting with the public, our coworkers, and everyone we come into contact with. No one should ever be subject to the type of behavior that has recently been reported.

"This bill will require MWD to adopt standards of conduct rules and to enforce those rules. The goal is to ensure the expectations for behavior are clearly delineated and make it clear to those who are subject to inappropriate conduct that they do not have to stand for such behavior. We all must stand together when we see abuse and harassment, and we must do everything in our power to stop it."

This bill requires MWD to adopt rules relating to inappropriate conduct by board members, officers, and employees. This bill is sponsored by the author.

- 2) **Background.** Numerous laws prohibit discrimination in employment, housing, public accommodation, and services provided by business establishments on the basis of specified personal characteristics such as sex, gender, gender identity, race, color, national origin, religion, and disability. The FEHA also requires an employer having five or more employees to provide at least two hours of training and education regarding sexual harassment to all "supervisory employees" within six months of becoming a supervisor, and at least one hour of sexual harassment training to all nonsupervisory employees by January 1, 2020, and every two years thereafter [SB 1343 (Mitchell), Chapter 956, Statutes of 2018].

The Department of Fair Employment and Housing administers the FEHA and regulates its implementation. FEHA regulations define employer to include the state of California, cities, counties, special districts, boards, commissions, and any other political or civil subdivision of the state.

Because of uncertainty around whether local elected officials are "supervisors," in 2015 the Legislature clarified that local elected officials must receive sexual harassment prevention training and education if the local agency provides any type of compensation, salary, or stipend to those officials, and allowed a local agency to require employees to receive sexual harassment prevention training or information [AB 1661 (McCarty), Chapter 816, Statutes of 2016].

- 3) **MWD.** The MWD Act authorizes the creation of metropolitan water districts for the purpose of developing, storing, and distributing water for municipal and domestic purposes. MWD is the only district organized under this act. MWD is a regional wholesale water district in Southern California that delivers water to 26 member public agencies. These member agencies in turn provide water to 19 million people in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties, making MWD the largest distributor of treated drinking water in the United States. MWD owns and operates an extensive water system, including the Colorado River Aqueduct, 16 hydroelectric facilities, nine reservoirs, 819 miles of large-scale pipes, and five water treatment plants. MWD also helps its member agencies develop water recycling, storage, and other local resource programs.

The MWD Act sets out the district's governance structure, powers and duties, annexation processes, and taxation and bonding authorities. MWD is governed by a 38-member board, representing each of the district's 26 member agencies. The board establishes and administers MWD's policies and oversees the operations of the district.

- 4) **MWD Office of Ethics.** SB 60 (Hayden), Chapter 415, Statutes of 1999, amended the MWD Act to require it to have an Office of Ethics and adopt rules relating to internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics that apply to its board members, officers, and employees. The Office of Ethics must operate as an independent entity that is not subject to political influence and do all of the following:
 - a) Adopt conflict of interest rules for approval by the board. The rules must address ethical abuses relating to business relationships, campaign contributions, and approval procedures for contracts over \$50,000.
 - b) Educate the board, staff, contractors, and subcontractors concerning those rules.
 - c) Investigate complaints concerning the violation of those rules.
 - d) Adopt procedures for protecting the confidentiality of sources, the job security of "whistle blowers," and the due process rights of the accused.
 - e) Make public the results of the investigations that it undertakes.
 - f) Adopt a schedule of penalties for violations of the conflict of interest rules.

- 5) **Equal Employment Opportunity and Sexual Harassment Policies.** MWD's administrative code establishes the policies and procedures that govern MWD operations, including those pertaining to board meetings, water supply policies, financial matters, and personnel matters. The administrative code implements the requirements of SB 60 and also establishes the district's Equal Employment Opportunity (EEO) and sexual harassment policies, which are further spelled out in more specific policy documents. MWD's EEO policy, among other provisions:
 - a) Prohibits discrimination and harassment based on a legally protected characteristic.
 - b) Specifies that engaging in discrimination or harassment is conduct subject to disciplinary action, which can include dismissal.
 - c) Establishes an internal complaint procedure for processing alleged violations of the EEO policy.
 - d) Prohibits retaliation against individuals who make a complaint of discrimination or harassment.
 - e) Allows and encourages individuals who believe they have been subjected to discrimination, harassment, or retaliation to immediately report the incident directly to the EEO Investigations staff, the Ethics Office, or other managers or supervisors.

- f) Requires managers and supervisors to provide a harassment- and discrimination-free environment, enforce the EEO policy, immediately report conduct that violates the policy, and cooperate in any investigation.

MWD has also adopted a similar sexual harassment prohibition policy that identifies types of sexual harassment and prohibits such conduct. These policies apply to employees, contractors, or job applicants. Within MWD, Human Resources handles EEO and sexual harassment complaints, responds to inquiries, determines when an investigation is needed, and works with the legal department to conduct investigations.

MWD's administrative code makes violations of the EEO policy or actions to harass, coerce, or intimidate subject to disciplinary action and provides a wide range of potential penalties, including warning, demotion, suspension, reduction in pay, discharge, or other appropriate action. The particular disciplinary action imposed must depend on the severity of the misconduct and the factual circumstances involved. The district's Memoranda of Understanding with various unions spell out disciplinary procedures and actions in greater detail.

- 6) **Allegations of Sexual Harassment and Discrimination at MWD.** In early 2021, reports emerged of disturbing and widespread allegations of sexual harassment and discrimination at MWD, particularly in its trades apprenticeship program that trains personnel to operate MWD facilities. According to a February 12, 2021, Los Angeles Times investigation, multiple women alleged that MWD leadership tolerated sexual harassment, bullying, and intimidation after being made aware of the allegations. The investigation noted:

“Only nine of the 218 apprentices hired between 2003 and 2019 were women, according to agency records. Four of them have filed equal employment opportunity complaints with the district, a spokeswoman said.

“Overall, 18 women worked in trades positions for the district between 2005 and 2019, records show. Six of those filed formal EEO complaints.

“The women said they were ignored or dismissed by agency officials as they complained and pleaded for help. Three said they were pressured to continue working around men they accused of abusive behavior or to seek lower-paying positions.

“In one case, a woman was transferred to a facility more than 100 miles from her home, a move that split up her family. Two of her children soon left because there was no high school at the remote desert location.”

Prior to the Los Angeles Times investigation, in November 2020, the MWD board took steps to respond to allegations of systemic harassment by directing the district's Ethics Officer to retain the Shaw Law Group to conduct a review of the allegations, MWD's policies, and prior investigations of EEO complaints. That review is currently ongoing and its findings will be presented to MWD's Board of Directors on July 27, 2021.

Since the investigation became public, numerous state and local elected officials, along with several labor organizations, have called for a state audit of MWD's personnel policies by the Joint Legislative Audit Committee (JLAC).

- 7) **Arguments in Support.** The California Labor Federation writes, "Recently, there have been troubling reports of sexual harassment and other inappropriate conduct by MWD management. Some of the incidents were exposed in a March 18, 2021 article in the LA Times which revealed MWD leadership tolerated sexual harassment and abuse of women, particularly those in the trades apprenticeship program. In interviews with 20 current and former staffers and reviews of hundreds of pages of district records, court documents, and audio recordings, the LA Times found a pattern of complaints alleging harassment and bullying of women who operate and repair the water pumping stations and treatment plants of the Colorado River Aqueduct and other district facilities.

"Yet these are not isolated incidents, as seen in other articles written by the LA Times over the past few months. These articles shed light on a culture of bullying, discrimination, harassment, retaliation, and other abuses on the job including safety concerns against women, minorities, LGBTQ+ members, and other employees at MWD. The allegations of inappropriate conduct at MWD are very serious and no one should ever be subject to the type of behavior that has recently been reported.

"The goal of SB 480 is to ensure the expectations for behavior are clearly delineated and make it clear to those who are subject to inappropriate conduct that they do not have to stand for such behavior. This bill will strengthen the MWD ethics oversight to better protect workers against inappropriate behavior in the workplace. MWD is a public agency that exists to serve nearly half the people in the state of California with clean, safe, reliable drinking water. They should be held to the same standards as any other public entity, and model what is expected from public agencies in California. SB 480 is a step in the right direction to ensure a safer, more equitable workplace that protects employees and prevents them from being retaliated against."

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

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees
California Labor Federation

Opposition

None on file

Analysis Prepared by: Angela Mapp / L. GOV. / (916) 319-3958