

Date of Hearing: June 28, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
SB 634 (Wilk) – As Amended May 26, 2017

SENATE VOTE: 34-0

SUBJECT: Santa Clarita Valley Water District.

SUMMARY: Reorganizes the Castaic Lake Water Agency and the Newhall County Water District into the Santa Clarita Valley Water District. Specifically, **this bill:**

- 1) Repeals the act that governs the Castaic Lake Water Agency (CLWA) and establishes the Santa Clarita Valley Water District (District) by reorganizing CLWA and Newhall County Water District (NCWD) into the new District.
- 2) Requires CLWA and NCWD to be reorganized into the District and requires CLWA and NCWD to no longer operate as separate entities or exercise independent functions.
- 3) Authorizes the District to include contiguous or noncontiguous parcels of both unincorporated and incorporated territory and territory included in any public district having similar powers.
- 4) States the purpose of the District to unify and modernize water resource management within the Santa Clarita Valley through the efficient, sustainable, and affordable provision, sale, management, and delivery of surface water, groundwater, and recycled water for municipal, industrial, domestic, and other purposes at retail and wholesale within the territory of the District.
- 5) Defines the initial boundaries of the District to be the same as CLWA's boundaries as of December 31, 2017, and as confirmed by Los Angeles County LAFCO (LA LAFCO) in their final report, specified below.
- 6) Requires the District to be the successor to CLWA and NCWD for the purposes of rights, duties, obligations, contracts, responsibilities, assets, entitlements, liabilities, outstanding bonds, and property.
- 7) Requires all employees of CLWA and NCWD to become employees of the District.
- 8) Authorizes the District to continue to levy, impose, fix, and collect any previously authorized charges, fees, assessments, or taxes approved by CLWA and NCWD, including, but not limited to, any charges for water which shall remain in effect until modified by the District's Board.
- 9) Requires the District to be the successor in interest to CLWA's State Department of Water Resources contract and all associated rights, responsibilities, and obligations.

- 10) Requires the indebtedness of NCWD and the Santa Clarita Water Division, a retail division of CLWA, to be borne by retail divisions of the District and to be paid for from the revenues of the corresponding retail divisions.
- 11) Requires the District to continue to supply water at wholesale to Los Angeles Waterworks District No. 36, Val Verde (District 36). Prohibits the District from serving retail water within District 36, unless District 36 consents or mutually agrees to be incorporated into the District, subject to LAFCO law.
- 12) Requires any future proposed changes of organization or reorganization involving the District and District 36 or any other public agency to be subject to filing with LA LAFCO and subject to review, consideration, and determination by LA LAFCO consistent with LAFCO law.
- 13) Requires the District to continue to supply water at wholesale to Valencia Water Company.
- 14) Requires the District, if CLWA is the owner of the stock of Valencia Water Company on December 31, 2017, as the successor in interest to CLWA, to take the appropriate steps together with the Valencia Water Company board of directors to dissolve Valencia Water Company and to transfer its assets, property, liabilities, and indebtedness to the District no later than July 1, 2018. Provides that the dissolution and transfer of Valencia Water Company must be consistent with 16), below.
- 15) Prohibits the dissolution of Valencia Water Company and the transfer pursuant to 14), above, from being subject to LAFCO.
- 16) Requires indebtedness of a retail water supplier that is incorporated into the District, including Valencia Water Company, to be borne by the customers in the area that corresponds with the boundaries of the retail water supplier and paid for from the revenues of that area.
- 17) Allows the District to treat the retail divisions as a single unit for purposes of operations and expenses to the extent that it is economically beneficial for the operations of the District as a whole, but as long as any preexisting indebtedness of a retail division remains outstanding, that indebtedness must be allocated to each retail division and paid from that retail division's rates and charges.
- 18) Requires the District to eliminate the retail divisions for all purposes as soon as feasible after retiring all preexisting indebtedness.
- 19) Establishes boundaries for three electoral divisions within the District, and authorizes the electoral division boundaries to be adjusted, pursuant to existing law, which bases adjustments after each census.
- 20) Establishes an initial 15-member board of directors (Board), as follows:
 - a) Five elected members of NCWD's board of directors, in office as of December 31, 2017;

- b) Nine elected members of CLWA's board of directors, in office as of December 31 2017; and,
 - c) One appointed member of CLWA's board of directors representing District 36.
- 21) Establishes requirements for the residency and electoral divisions for the members of the Board, including initial directors, and requires directors to be elected at the time and in the manner provided by the Uniform District Election Law, which governs elections for special districts.
 - 22) Extends, by two years, the terms for the initial Board members whose terms expire in 2018 and 2020.
 - 23) Requires, as terms for the initial directors expire, directors to be elected by electoral divisions to comprise the District's nine-member Board, as follows:
 - a) Six directors, two members from each electoral division, elected at the 2020 general election and every four years thereafter; and,
 - b) Three directors, one member from each electoral division, elected at the 2022 general election and every four years thereafter.
 - 24) Establishes four-year terms for directors and a process to fill vacancies.
 - 25) Provides an appointment process for the appointed member of the Board, pursuant to 20), above, and eliminates the position of the appointed director effective January 1, 2023. Authorizes the appointed position to be eliminated and abolished prior to that date if specified conditions are met.
 - 26) Provides that the statutes that govern incompatible activities for a local agency officer or employee are not applicable to the appointed director, as specified.
 - 27) Requires the Board to hold its first meeting as soon as possible and to choose a director as president.
 - 28) Authorizes the Board to appoint its directors as additional officers and allows the Board to define the duties of those officers.
 - 29) Provides that a majority of the Board constitutes a quorum for the transaction of business.
 - 30) Authorizes the Board to act by ordinance, resolution, or motion. Establishes requirements for the recordation of votes and ordinances.
 - 31) Requires Board members to receive compensation equal to the amount of compensation authorized for CLWA as of December 31, 2017, as specified.
 - 32) Requires a four-fifths vote of the Board until January 1, 2025, for the following actions:
 - a) Authorizing the District to support or further amendments to the District's Act;

- b) Issuing new debt exceeding \$10 million for any single debt issue as it relates to any retail functions of the District, excluding the refinancing of existing debt. Requires the \$10 million threshold to be adjusted annually in proportion to the assessed value of real property in the District; and,
 - c) Changing the volumetric, non-tiered rate structure imposed by NCWD as of December 31, 2017, for the retail division of the District that corresponds with NCWD.
- 33) Requires the Board to develop and adopt a rate setting process that includes an advisory independent ratepayer advocate on or before January 1, 2019. Requires a four-fifths vote, until January 1, 2025, and a majority thereafter, for any changes to the independent ratepayer advocate or rate setting process.
- 34) Requires the Board, at the first meeting or as soon as practicably possible, to appoint a general manager, secretary, and treasurer or auditor by a majority vote of the Board.
- 35) Requires the Board to define the duties of the appointees and to fix their compensation, pursuant to existing law. Authorizes the Board to employ additional employees as deemed necessary to efficiently maintain and operate the District.
- 36) Provides the District with the same powers granted to a county water district, as well as the following powers to:
- a) Acquire, hold, and utilize water and water rights, including, but not limited to, water available from the state under the State Water Resources Development System, and to provide, sell, manage, and deliver surface water, groundwater, and recycled water for municipal, industrial, domestic, and other purposes at retail and wholesale throughout the territory of the District;
 - b) Construct, operate, and maintain works to develop energy, including but not limited to, hydroelectric, solar, wind and other renewable sources, inside or outside the District for use of the District or to sell the energy at wholesale to any public agency or private entity;
 - c) Develop, treat, distribute, manage, and reclaim water, and to store and recover water from groundwater basins located wholly or partially inside or outside the boundaries of the District and, in exercising that power, to make and enter into contracts allowing that storage and recovery;
 - d) Enter into contracts with public agencies or private entities engaged in the generation or distribution of electric energy for the right to use falling water, facilities, or real property of the District, either inside or outside the District, for energy generation or distribution purposes;
 - e) Join with one or more public agencies, private corporations, or other persons for the purposes of carrying out any of the powers of the District, as specified;
 - f) Require reporting of production, distribution, and reclamation of water in amounts greater than 10 acre feet per year;

- g) Join one or more local agencies to form a groundwater sustainability agency, and to participate with a groundwater sustainability agency to develop and implement a groundwater sustainability plan within the District;
 - h) Contract with the purveyor or successor in interest to the purveyor;
 - i) Construct works along and across any stream of water, street, highway or railway if it restores those crossings to their prior state;
 - j) Pursuant to existing law, levy and collect standby charges in connection with the provision of water service, as well as capacity charges and connection fees; and,
 - k) Annex and contain lands situated in more than one county.
- 37) Requires the District, on or before January 31, 2018, to submit to LA LAFCO an application for conditions addressing the creation of the District.
- 38) Requires the application to include a plan for providing services, as specified by LAFCO law, and a map and description of the District's boundaries. Requires the application to identify the functions or class of services exercised by CLWA and NCWD on December 31, 2017.
- 39) Requires LA LAFCO to do the following:
- a) Hold a public hearing within 60 days;
 - b) Prepare a written report, which may include binding terms and conditions, for the creation of the District that are consistent with the provisions of this bill;
 - c) Post the written report on the LA LAFCO Website, and make it available to the public, as specified;
 - d) Approve the written report within 30 days; and,
 - e) Certify any powers that were exercised by CLWA and NCWD prior to the formation of the District.
- 40) Requires any powers or functions provided in this bill to the District, but not exercised by CLWA and NCWD at the time of formation, to only be exercised with LA LAFCO approval.
- 41) Provides that existing law that requires a tax agreement does not apply to this bill.
- 42) Prohibits LA LAFCO from imposing any condition on the District that requires protest or election proceedings, pursuant to LAFCO law.
- 43) Requires the District to reimburse LA LAFCO for all costs associated with the submittal, review, considerations, preparation, and determination associated with the application for conditions and the preparation of the written report.

- 44) Authorizes the District to prescribe, by resolution or ordinance, rules and regulations for unpaid capacity charges or connection fees, in accordance with 45) and 46), below.
- 45) Requires delinquent and unpaid capacity charges or connection fees to be collected by annual taxes levied on the property and establishes a lien on the property, as specified.
- 46) Establishes the lien, notification, and recording requirements relating to delinquent and unpaid charges.
- 47) Provides any bonds issued by the District with the same force, value, and use as bonds issued by any city and exempts bonds from all taxations within the state.
- 48) Provides that the County Water District Law shall govern the formation, operation, and dissolution of all improvement districts.
- 49) Authorizes the Board to advance general funds to accomplish the purposes of an improvement district formed, which may be to incur bonded indebtedness, and specifies repayment and interest rate requirements.
- 50) Prohibits a public corporation or public agency with a substantially similar purpose from being formed within the District without the consent of the Board.
- 51) Defines the following terms:
 - a) "Private corporation" to mean and include "any private corporation organized under federal law or the laws of any state;"
 - b) "Public agency" to mean and include "the federal government, State of California, a county, city public corporation, the Metropolitan Water District of Southern California, or other public district of this state;" and,
 - c) "Purveyor" to mean "District 36 which is a retail water supplier that has facilities connected to the District's water transmission system and is under contract with the District for water."
- 52) Repeals provisions in existing law that require protest proceedings if the 10% threshold is met for the dissolution of NCWD.
- 53) Makes numerous findings and declarations.
- 54) Provides that no reimbursement for a state-mandated local program is required because the local agency has the authority to levy fees to pay for the requirements of this bill, and because this bill is at the request of a local agency.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Unknown loss of income tax revenues, potentially in the low hundreds of thousands annually beginning in 2018-19, as a result of the dissolution of the Valencia Water Company (a private entity) and transfer of its assets, property, and liabilities to [the District] (a public

entity). There would also be an unknown loss of property tax revenues related to this action. Approximately 47% of property tax revenues are allocated to schools in Los Angeles County. In general, any reduction in school property tax allocations must be backfilled by the State General Fund.

- 2) Any local costs to the affected districts or LA LAFCO would not be state-reimbursable because affected entities have fee authority sufficient to cover any increased costs (local fee disclaimer), and because the bill was requested by an entity that could incur mandated costs (local request disclaimer).

COMMENTS:

- 1) **CLWA and NCWD.** The Legislature established the Upper Santa Clarita Valley Water Agency, subsequently renamed the Castaic Lake Water Agency (CLWA), as a contractor agency to the State Water Project (SWP) to provide water to the Santa Clarita Valley in Los Angeles County (County). CLWA was authorized to deliver water wholesale to public or private water agencies within its boundaries that deliver water to retail customers (homes and businesses). Initially, four retail entities received water from CLWA: two public water districts, Los Angeles Waterworks District No. 36 (District 36) and Newhall County Water District (NCWD); and, two private water companies, the Santa Clarita Water Company (SCWC) and Valencia Water Company.

According to the 2015 Santa Clarita Valley Water Report, CLWA's service area covers 34,700 acres and includes a portion of the City of Santa Clarita and unincorporated portions of the County in the communities of Saugus, Canyon country, and Newhall serving approximately 30,700 connections. District 36 serves approximately 6,600 acres with 1,350 service connections. NCWD's service area is approximately 24,170 acres, including portions of Santa Clarita and unincorporated portions of the County in the communities of Newhall, Canyon country, Valencia, and Castaic with approximately 9,750 service connections. Valencia Water Company services 18,000 acres in a portion of Santa Clarita, and in the unincorporated communities of Castaic, Newhall, Saugus, Stevenson Ranch, and Valencia serving approximately 31,350 connections.

- 2) **Bill Summary.** This bill repeals CLWA's act and creates the Santa Clarita Valley Water District (District) by reorganizing CLWA and NCWD into the new District. This bill establishes the District as the successor to the two reorganized districts for the purposes of debts, assets, contracts, employees, property, and outstanding bonds. This bill provides that the purpose of the District is to provide, sell, manage, and deliver surface water, groundwater, and recycled water for municipal, industrial, domestic, and other purposes at retail and wholesale, and provide a means to unify and modernize water resource management within the Santa Clarita Valley. The initial boundaries of the District are the same as CLWA's boundaries on December 31, 2017, and as confirmed by LA LAFCO. Under this bill, fees and charges imposed by CLWA and NCWD continue to be levied until the District's Board modifies them, and the District is the successor in interest to CLWA's SWP contract and all associated rights and responsibilities.

This bill creates retail divisions for the territory previously covered by NCWD and the Santa Clarita Water Division and keeps indebtedness separate for the retail divisions. This bill requires the District to continue to supply water at wholesale to District 36 and Valencia

Water Company. However, by July 1, 2018, the board of Valencia Water Company and the District must take the appropriate steps to dissolve the company and transfer its assets and liabilities to the District. Any future proceedings to incorporate District 36 must go through LA LAFCO.

This bill provides the District with the same powers as a county water district and incorporates numerous provisions of CLWA's act. Under this bill, the District is granted powers including the authority to acquire water rights, construct and operate works to develop and sell energy, to develop, treat, distribute and reclaim water, and to recover water from groundwater basins, participate in a groundwater sustainability agency, and to levy and collect standby charges for the provision of water service, as well as capacity charges and connection fees. This bill is co-sponsored by CLWA and NCWD.

Governance. This bill establishes the District's initial Board to include the five current NCWD board members, nine current CLWA elected board members, and one CLWA board member appointed by District 36. This bill provides a process by which the initial 15-member Board will transition into a nine-member elected Board. Under this bill, the District will be divided into three electoral divisions. Six directors will be elected, two from each division, in the 2020 general election. Three directors will be elected, one from each division, in the 2022 general election. The terms for the initial Board members are extended and the appointed member on CLWA's board will be eliminated.

This bill requires a supermajority four-fifths vote of the District's Board to take a number of actions. For example, this bill requires the Board to develop and adopt a rate setting process, including an advisory independent ratepayer advocate by January 1, 2019. Any changes to the advocate or rate setting process requires a four-fifths supermajority vote until January 1, 2025, and a majority vote thereafter.

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 requires numerous steps: 1) 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; 2) Noticed public hearing, testimony, and approval or disapproval by LAFCO in which LAFCO can impose terms and conditions; 3) 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; 4) If existing law requires it, an election that requires a majority vote approval; and, 5) 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. Current law also authorizes LAFCOs to impose terms and conditions.

The formation of this District is not subject to the usual LAFCO process. This bill creates the District and establishes a modified LAFCO process. This bill requires the District, by January 31, 2018, to submit to LA LAFCO an application for conditions, including the District's plan for providing services, addressing the creation of the District. The LAFCO must hold a hearing within 60 days and prepare a written report that includes terms and conditions, pursuant to LAFCO law, which must be consistent with the provisions of the District's Act established by this bill. The written report must be made public and must certify the functions and services that were being exercised by CLWA and NCWD on December 31, 2017. This bill provides that a property tax exchange is not required and prohibits LAFCO from imposing any condition on the District that will require protest or election proceedings.

- 3) **Author's Statement.** According to the author, "In alignment with state goals for integrated, regional approaches to water management, this bill will consolidate service and provide the Santa Clarita Valley with a regional water supply rather than the patchwork of retail water utility providers that exists currently, improving reliability and bringing a savings of approximately \$14 million over the next 10 years to the benefit of ratepayers. The current patchwork presents a number of difficulties to residents and the providers themselves. An ongoing chloride level issue in the Santa Clara River has proven difficult to confront from a divided front, a consolidated approach will enhance the ability to combat water quality issues include chloride contamination. Further, infrastructural incompatibility between service areas serves as a barrier to conjunctive use, impacting quality and cost of water with sometimes vast discrepancies from street to street. This too will be solved through SB 634 as compatibility retrofitting will now be made possible. Finally, the agencies involved have spent years litigating water rates and management issues. This bill is a culmination of years of negotiations between the two sides and with the passing of this bill and consolidation of the agencies, tax dollars will no longer be wasted on lawyer fees and can be better utilized to serve the ratepayers and residents."
- 4) **History.** There is an extensive history of litigation over water in the Santa Clarita Valley, including between the co-sponsors of this bill. In particular, litigation over whether CLWA can provide retail water service. In 1999, CLWA purchased SCWC. Because the CLWA's authorizing statute limits it to providing water at wholesale, the CLWA relied on a 1990 statute that allowed any agency that contracts for water from the SWP to sell directly to "any ultimate water consumer." Under that statute, a wholesale-only CLWA may deliver water to retail customers only if it has a written contract with either a wholesaler to which the water would have otherwise been sold, or a public entity retail purveyor or a retail water corporation regulated by the California Public Utilities Commission (PUC).

Following litigation over the authority provided to CLWA in its act, CLWA sponsored AB 134 (Kelly), Chapter 929, Statutes of 2001, which enacted the following:

- a) Granted CLWA the authority to exercise the powers provided to county water districts and provided clarity to CLWA's authority to provide retail water service to SCWC boundaries;
- b) Prohibited CLWA from serving water to retail customers in NCWD's boundaries, unless it has the approval of NCWD;

- c) Prohibited CLWA from providing retail service to any customer outside the boundaries described in the statute without new legislative authority, instead of going through the typical LAFCO process to exercise new powers; and,
- d) Required the approval of NCWD before CLWA could serve water to retail customers located within NCWD's boundaries but who were not receiving service.

In 2012, CLWA acquired all of the outstanding stock of Valencia Water Company. In 2014, NCWA sued CLWA, alleging that CLWA was serving water at retail through Valencia Water Company in violation of its enabling act. However, in 2015, NCWD and CLWA agreed to stay further litigation pending settlement negotiations. On December 13, 2016, the boards of both districts voted to settle with one dissenting vote. The settlement agreement provided that the two districts would jointly seek legislation (this bill) to create a single new successor entity.

- 5) **Policy Consideration.** This bill requires Valencia Water Company to be dissolved by July 1, 2018, if CLWA is the owner of stock as of December 31, 2017. The new District's application to LA LAFCO must be submitted on or before January 31, 2018. Opposition to this bill argues that Valencia, a private water company, is owned and operated by CLWA, but water rates are not under the jurisdiction of the PUC, and are not subject to Proposition 218 (1996) or Proposition 26 (2010). Additionally, opposition to this bill argues that Valencia's operations are not subject to the Ralph M. Brown Act or other transparency laws that govern the accountability of special districts and local agencies. The Committee may wish to note that there is no requirement in this bill that Valencia Water Company is dissolved by the time an application is submitted to LA LAFCO. The Committee may wish to ask the author to continue working to ensure that the LAFCO process can occur for the entire new District as opposed to a piecemeal approach.
- 6) **Arguments in Support.** CLWA states, "This new district will be able to integrate systems of NCWD and CLWA, leverage economics of scale and operational efficiencies to save ratepayer funds. Because of the integrated planning opportunities, it is believed the agencies will be able to secure more grant dollars and build regional projects, including a recycled water system. Additionally, the new district will implement a division-based election system fully compliant with California Voting Rights Act."
- 7) **Arguments in Opposition.** The Planning and Conservation League argues, "This bill is touted as a consolidation and creation of a new agency. It appears instead to actually be a takeover of [NCWD] and the extending of County Water District powers to [CLWA], a state water wholesaler, currently excluded from pumping groundwater....Support the democratic process – [NCWD] voters should be able to vote on whether or not they want to dissolve...The new district should not be created unless and until Valencia Water Co. is included in the merger, not six months afterwards. This section is unenforceable."
- 8) **Double Referral.** This bill is double-referred to the Water, Parks and Wildlife Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Castaic Lake Water Agency [CO-SPONSOR]
Newhall County Water District [CO-SPONSOR]
BizFed (Los Angeles County Business Federation)

Opposition

Food & Water Watch
Sierra Club California
Planning and Conservation League
Santa Clarita Organization for Planning and the Environment
Individual letters (25)

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