

9b | Commission
Discussion

MEETING DATE: July 10, 2024

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Assistant Executive Officer

SUBJECT: Legislative Report (July 2024)

BACKGROUND

Before adjourning to recess, the Assembly and Senate continued to move bills through committees. Upon its return on August 5, the pace of legislators is expected to hasten to meet deadlines and move bills to the Governor’s desk by August 31. Governor Newsom will then have until September 30 to sign or veto bills that survived the process.

This report provides an update on bills of LAFCO-interest that are still active in the Legislature’s committees, a recommendation for the Commission to adopt a position on AB 2661, and a snapshot of things to come involving CALAFCO activity on the legislative front.

UPDATE ON PREVIOUSLY REVIEWED LEGISLATION

During the 2024 legislative session, the Commission adopted positions on four bills. The table on the next page provides additional information on the status of each bill. As a note, two bills identified in the table, AB 805 and SB 1209 were recently amended, and summaries of the amendments are provided as attachments to this staff report. However, staff is not recommending changes to the Commission’s previously adopted positions on these bills.

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Carolyn Emery
Executive Officer

Scott Smith
General Counsel

2023-24 Legislative Session – Bill Status			
Bill	Description	Adopted Position	Status
AB 805	Proposes the designation of an “Administrator” by the State Water Resources Control Board involving inadequate and failing sewer systems serving disadvantaged communities.	Watch	AB 805 is currently under review in the Senate. Next hearing date: None scheduled.
AB 3277	Proposes to amend the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) for proposals seeking the formation of a special district to exclude the exchange of property tax revenue when an affected agency is not seeking a share of the property tax revenue.	Support	Signed by the Governor on July 2, 2024
SB 1209	Proposes to amend current State law for explicit authorization by LAFCOs to require indemnification by applicants for litigation involving proposals.	Support	SB 1209 is currently under review in the Assembly. Next hearing date: None scheduled.
H.R. 7525	Proposes to codify a formal definition of special district in federal law and direct federal agencies to recognize special districts as local governments to ensure districts are able to receive federal assistance, including funding and grants.	Support	H.R. 7525 was approved by the United States House of Representatives on May 6, 2024. It is anticipated that the United States Senate will consider the proposed legislation during the upcoming months. Next hearing date: None scheduled.

Amendments to AB 805 (Arambula) Sewer Service: Disadvantaged Communities

During the March regular meeting, the Commission reviewed AB 805 and adopted a **Watch** position. The bill previously proposed that the State Water Resources Control Board designate an “Administrator” to a system that has demonstrated reasonable potential to cause sewer service violations to disadvantaged communities within incorporated or unincorporated territory. The Administrator would provide administrative, technical, operational, legal, and managerial services. On behalf of LAFCOs, CALAFCO submitted a letter of concern to the author regarding the lack of LAFCO involvement in the process proposed within the bill. The letter suggested that the bill be amended to require the State Board to consult with respective LAFCOs

prior to making its determination that a sewer system is inadequate, and if the amendment was accepted, CALAFCO would consider a “support if amended” position on the bill. While AB 805 was amended, the recommended amendments from CALAFCO were not included. Additionally, after further review of the current amendments by the CALAFCO legislative committee, it was concluded that the proposed amendment to the author was unnecessary. The recent amendments shift the focus of the bill to a regulatory process for the State Board. The bill proposes that the State Board appoint an administrator to sewer systems that have been identified with a history of continued failure due to non-compliance with existing state regulations to provide adequate sewer services to a disadvantaged community. The administrator would be responsible for assisting the sewer service systems in making the necessary upgrades and repairs to meet state regulations and provide high-quality sewer services.

Based on the recent shift of the intent of the bill, staff recommends that the Commission continue a “**Watch**” position on AB 805.

OC LAFCO POSITION: **Watch** position adopted on March 13, 2024. No additional action recommended.

SUPPORT: California Coastkeeper Alliance, California Environmental Voters, Clean Water Action, Community Water Center, Junior Philanthropists Foundation, Leadership Counsel for Justice & Accountability, Union of Concerned Scientists.

OPPOSE: None on record.

BILL LOCATION/STATUS: Senate Appropriations Committee. No hearing date scheduled at the time of agenda distribution.

Amendments to SB 1209 (Cortese) Local Agency Formation Commission: Indemnification

The initial bill language of SB 1209 proposed an amendment to State law that would explicitly authorize LAFCOs to require applicants to indemnify the respective Commission against litigation. At that time, the Commission adopted a support position on the bill as it aligned with the Commission’s legislative policy to support legislation that enhances and recognizes LAFCO’s authority to perform the duties mandated by the CKH Act.

Since that time, the bill has experienced amendments due to concerns of the California Building Industry Association (CBIA) expressed to the bill author. The amendments highlighted below were generated from meetings involving the bill author, CBIA, CALAFCO, and the two LAFCOs (Los Angeles and Butte) who proposed a change in the statute to legislative staff:

- Respective LAFCO will provide prompt notification to applicants when a legal challenge to the Commission’s approval of a proposal and fully cooperate with the applicant to defend the Commission’s decision.

- An applicant who indemnifies the Commission against litigation shall not be required to pay or perform any settlement resulting from a challenge to an approval by the Commission unless the applicant approves the settlement.
- The Commission's ability to independently defend the Commission's approval of a proposal is not limited if the Commission covers the attorney fees and costs and acts in good faith.

Amendments to SB 1209 have been reviewed by OC LAFCO general counsel to assess potential impacts to OC LAFCO. General counsel has determined that the amendments do not raise concerns for the agency. Therefore, staff recommends that the Commission continue a "**Support**" position as the bill continues to align with the Commission's policy to support legislation that furthers the implementation of the CKH Act.

OC LAFCO POSITION: **Support** position adopted on March 13, 2024. No additional action recommended.

SUPPORT: California Association of Local Agency Formation Commission, Alameda LAFCO, Butte LAFCO, Contra Costa LAFCO, Del Norte LAFCO, El Dorado LAFCO, Fresno LAFCO, Inyo LAFCO, Los Angeles County, Los Angeles LAFCO, Madera LAFCO, Marin LAFCO, Mendocino LAFCO, Merced LAFCO, Monterey LAFCO, Napa LAFCO, Nevada LAFCO, Orange LAFCO, Placer LAFCO, Riverside LAFCO, Sacramento LAFCO, San Francisco LAFCO, San Joaquin LAFCO, San Luis Obispo LAFCO, San Mateo LAFCO, Santa Barbara LAFCO, San Bernardino LAFCO, Santa Clara LAFCO, Shasta LAFCO, Solano LAFCO, Sonoma LAFCO, Stanislaus LAFCO, Tulare LAFCO, Yolo LAFCO.

OPPOSE: California Association of Resources Conservation Districts.

BILL LOCATION/STATUS: Assembly for third reading. No hearing date scheduled at the time of agenda distribution.

NEWLY INTRODUCED LEGISLATION

AB 2661 (Soria) Electricity: Westlands Water District

The California Water District Law (CWDL) provides for the establishment of water districts and their powers. One of the powers included within state law authorizes a water district to use any water or water supplies provided by the district or used by the district to construct, maintain, and operate plants to generate hydroelectric power and maintain transmission lines for the conveyance of that power. AB 2661 is specific to the Westlands Water District located in Fresno County. The bill would provide the authority for the District to generate, provide, and sell electricity without going through the LAFCO process as delineated in the CKH Act.

CALAFCO submitted a letter of concern to the Senate Local Government Committee regarding the bill not including the LAFCO process for the approval of a new or expanded service. The letter

suggested that the bill be amended to include language to clarify that any request for a new or expanded service must go through the local LAFCO process in accordance with the CKH Act.

While AB 2661 and an amendment to require the LAFCO process would only affect the Westlands Water District and Fresno County LAFCO, staff is recommending the Commission adopt a “**Watch**” position as an area of interest.

RECOMMENDED ACTION: Adopt a **Watch** position on SB 2661.

SUPPORT: California State Association of Electrical Workers, Coalition of California Utility Employees, Westlands Water District, Agricultural Council of California, Agricultural Energy Consumers Association, Almond Alliance, Association of California Water Agencies (ACWA), Bizfed Central Valley, CA Cotton Ginners & Growers Association, California Avocado Commission, California Citrus Mutual, California Cotton Ginners & Growers Association, California Manufacturers and Technology Association, California Special Districts Association, California Walnut Commission, City of Avenal, City of Coalinga, City of Hanford, City of San Joaquin, Dairy Institute of California, Golden State Clean Energy LLC, Harris Farms INC, Kings River Conservation District, Kings River Water Association, Regenerate California Innovation, INC, Self Help Enterprises, Western Agricultural Processors Association, Western Growers Association.

OPPOSE: None on record.

BILL LOCATION/STATUS: Senate Energy Utilities and Communications Committee. No hearing date scheduled at the time of agenda distribution.

UPCOMING 2025 LEGISLATIVE SESSION

The upcoming 2025 legislative session is expected to be full of activity. In the coming months, CALAFCO will identify priorities for the new session for discussion with the legislative committee and final approval by the Board. Expected priorities include a review of the CKH Act for potential technical and non-substantive clean-up to provide clarity to LAFCO procedures and provisions, the delivery of services outside of jurisdictional boundaries, reviewing legislation introduced by external groups and organizations impacting LAFCOs, and legislation that may continue on as two-year bills.

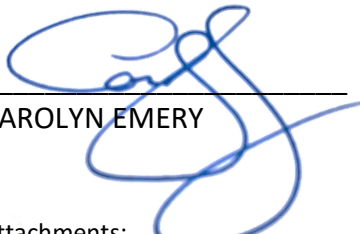
Staff will continue to proactively monitor and keep the Commission apprised of the legislative activity of Sacramento and CALAFCO through participation on the CALAFCO legislative committee, quarterly meetings of the southern region group, and general awareness of the activity of other key stakeholders.

RECOMMENDED ACTION


This is a receive and file report and staff recommends the Commission:

1. Adopt a **Watch** position on AB 2661.

Respectfully Submitted,



CAROLYN EMERY



LUIS TAPIA

Attachments:

1. Assembly Bill 805 (Arambula)
2. Senate Bill 1209 (Cortese)
3. Assembly Bill 2661 (Soria)


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AB-805 Sewer service: disadvantaged communities. (2023-2024)

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Date Published: 06/06/2024 09:00 PM

AMENDED IN SENATE JUNE 06, 2024

AMENDED IN SENATE MAY 15, 2024

AMENDED IN ASSEMBLY JANUARY 22, 2024

AMENDED IN ASSEMBLY MARCH 09, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 805

Introduced by Assembly Member Arambula
(Coauthor: [Senator Rubio](#))

February 13, 2023

An act to amend Sections 13288 and 13442 of, and to add Section 13289.5 to, the Water Code, relating to water quality, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 805, as amended, Arambula. Sewer service: disadvantaged communities.

Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality in accordance with the Porter-Cologne Water Quality Control Act and the federal Clean Water Act. Existing law authorizes a regional board to order the provision of sewer service by a receiving sewer system, as defined, to a disadvantaged community served by an inadequate onsite sewage treatment system, as defined.

This bill would authorize the state board, until January 1, 2029, and after it makes *a* specified *finding or* findings by ~~resolution or a prescribed process~~, *resolution*, to require a ~~sewer service provider~~ *designated sewer system* to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services to assist a designated sewer system with the ~~provision~~ *delivery* of adequate sewer service, as defined. The bill would also authorize the state board to order a designated sewer system to accept those services, including full management and control of all aspects of the designated sewer system, from an administrator. The bill would define "designated sewer system" for these purposes as a sewer *system service provider* that serves a disadvantaged community that is either an inadequate sewer ~~system~~

service or a sewer system that has *a* demonstrated ~~a~~ failure to maintain technical, managerial, ~~and or~~ financial capacity to prevent waste, fraud, and abuse.

The bill would require the state board to take specified actions before determining that a sewer service provider is a designated sewer system, including providing the sewer service provider an opportunity to show that it has taken steps to timely address its failure to be an adequate sewer system or to timely address its failure to maintain technical, managerial, and financial capacity, conducting a public meeting, and providing an opportunity for public comment. The bill would authorize the state board to grant specified authority over the designated sewer system to the administrator, including the authority to expend money for various purposes and to set and collect sewer rates and fees. The bill would require the state board to work with the administrator and the communities served by the designated sewer system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver adequate sewer service so that the services of the administrator are no longer necessary.

Existing law creates the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund and continuously appropriates moneys in the account to the state board for specified purposes, including providing grants for cleaning up a waste, abating the effects of a waste on waters of the state, or addressing an urgent drinking water need, as provided.

This bill would authorize the state board to also use moneys in the account to provide grants to administrators for specified purposes, including, among others, to provide administrative, technical, operational, legal, or managerial services to a sewer service ~~provider~~ *provider, until December 31, 2029, as provided*. By expanding the purposes for which moneys in a continuously appropriated account may be spent, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *It is the intent of the Legislature in enacting Section 13289.5 of the Water Code to do all of the following:*

(a) Provide a limited and temporary authority to the State Water Resources Control Board to appoint administrators to manage the responsibilities of sewer service providers that are obviously and egregiously failing to provide adequate sewer service while the wastewater needs assessment commissioned by the State Water Resources Control Board is being conducted.

(b) Allow the State Water Resources Control Board to finalize the statewide wastewater needs assessment to inform a future permanent program based on the findings from the wastewater needs assessment.

(c) Require the State Water Resources Control Board to implement Section 13289.5 of the Water Code in a manner that is consistent with the progressive approach to enforcement that is detailed in the provisions of its water quality enforcement policy regarding environmental justice and disadvantaged communities and facilities serving small communities.

SECTION 1. **SEC. 2.** Section 13288 of the Water Code is amended to read:

13288. For purposes of this chapter, the following definitions apply:

(a) "Adequate sewer service" means a *sanitary sewer service provided by a* sewer service provider that ~~meets public health and environmental standards~~ *is not an inadequate sewer service, as defined in subdivision (j).*

(b) "Administrator" means a person whom the state board has determined is competent and willing to perform the administrative, technical, operational, legal, or managerial services required for purposes of this chapter, pursuant to criteria set forth in the handbook described in subdivision (i) of Section 13289.5. An administrator may be any qualified individual, firm, or another sewer service provider.

(c) "Affected residence" means a residence within a disadvantaged community that may be subject to provision of sewer service pursuant to this chapter.

(d) "Affected resident" means a resident or a property owner of an affected residence.

(e) "Annexation" has the same meaning as set forth in Section 56017 of the Government Code.

(f) "Designated sewer system" means a sewer ~~system~~ *service provider* that serves a disadvantaged community that is either an inadequate sewer ~~system~~ *service* or a sewer system that has *a* demonstrated ~~a~~ failure to maintain technical, managerial, ~~and or~~ financial capacity to prevent waste, fraud, and abuse.

(g) "Disadvantaged community" means a disadvantaged community, as defined in Section 79505.5, or a low-income community, as defined in Section 39713 of the Health and Safety Code.

(h) "Extension of service" has the same meaning as set forth in Section 56133 of the Government Code.

(i) "Inadequate onsite sewage treatment system" means an onsite sewage treatment system that has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, or to cause pollution, nuisance, or contamination of waters of the state.

(j) (1) "Inadequate sewer ~~system~~ *service*" means a sewer service *provider* that ~~fails~~ *serves a disadvantaged community, has a demonstrated history of failures* to meet regulatory standards for proper wastewater collection, treatment, and disposal, and may exhibit deficiencies, such as infrastructure failure, insufficient capacity, or ineffective treatment of wastewater.

(2) A demonstrated history of failures to meet regulatory standards may include, but is not limited to, multiple violations, multiple instances of noncompliance with enforcement actions, or refusal to accept compliance assistance.

(k) (1) "Onsite sewage treatment system" means an onsite sewage treatment system, as defined in Section 13290, that is not operated by a local agency, as defined in Section 56054 of the Government Code, or a utility regulated by the Public Utilities Commission.

(2) "Onsite sewage treatment system" includes, but is not limited to, a septic tank, cesspool, leach field, and seepage pit.

(l) "Provision of sewer service" means the provision of sanitary sewer service, including the collection or treatment of sewage, to a disadvantaged community by any of the following processes:

- (1) Annexation where the receiving sewer system is a special district.
- (2) Extension of service where the receiving sewer system is a city, county, or special district.
- (3) Additional sewer service provided within city, county, or special district boundaries.

(m) "Receiving sewer system" means the sewer system that provides service to a disadvantaged community pursuant to this chapter.

(n) "Sewer service provider" means any local agency that provides sanitary sewer service, ~~including which may include~~ wastewater collection, treatment, disposal, or any combination thereof.

(o) "Special district" means a special district as defined in Section 56036 of the Government Code.

SEC. 2. SEC. 3. Section 13289.5 is added to the Water Code, immediately following Section 13289, to read:

13289.5. (a) ~~The~~ *Before implementing the actions authorized by this section, the* state board ~~may, by resolution or through the process described in the guidelines authorized pursuant to subdivision (e) of Section 13442, make findings that a sewer service provider has an inadequate sewer system, as defined in Section 13288, and that it is in the best interest of the customers of the inadequate sewer system and the State of California that an administrator be appointed to assist a sewer service provider with making improvements necessary to develop an adequate sewer system. When those findings are made, the sewer service provider shall be referred to as a "designated sewer system."~~ *shall, by resolution, make one or both of the following findings:*

(1) A sewer service provider is an inadequate sewer service, as defined in Section 13288, and that it is in the best interest of the customers of the sewer service provider and the State of California that an administrator be appointed to assist a sewer service provider with making improvements necessary to develop an adequate sewer system. When these findings are made, the sewer service provider shall be referred to as a designated sewer system.

(2) A sewer service provider has demonstrated a history of continued failures to maintain technical, managerial, or financial capacity to prevent waste, fraud, or abuse. When this finding is made, the sewer

service provider shall be referred to as a designated sewer system.

(b) Following adoption of a resolution based on the findings required by subdivision (a) for *identifying a sewer service provider as* a designated sewer system, the state board may do any of the following:

(1) (A) Require a ~~sewer service provider~~ *designated sewer system* to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services, or any combination of those services, to assist the designated sewer system with the ~~provision~~ *delivery* of adequate sewer service.

(B) To fulfill the requirements of this section, a ~~sewer service provider~~ *designated sewer system* may contract with administrators. Where administrator services are comprehensive, the sewer service provider may contract with no more than one administrator at a time. Where administrator services are limited in scope, a sewer service provider may contract with more than one limited scope provider at a time, provided that in no instance will the scopes overlap. An administrator that is not designated or approved by the state board shall not be used for purposes of this section.

(C) An administrator may provide services to more than one designated sewer system.

(D) If a designated sewer system is also a water system that has been ordered to consolidate or has been ordered to accept assistance from an administrator, the state board shall consider designating the same administrator for the designated sewer system that was designated to the water system, and requiring that administrator to consult with the management of both the designated water and the designated sewer ~~system~~ *systems* in carrying out their duties.

(2) Order a designated sewer system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated sewer system, from an administrator selected by the state board.

(3) Order a designated sewer system to accept administrative, technical, operational, legal, or managerial services from an administrator for full oversight of construction or development projects, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated sewer system.

(c) The state board shall do all of the following before determining that a sewer service provider is a designated sewer system pursuant to subdivision (a).

(1) Provide the sewer service provider with notice and an opportunity to show that the sewer service provider has taken steps to timely address its failure to be an adequate sewer system or has taken steps to timely address its failure to maintain technical, managerial, and financial capacity.

(2) (A) Conduct a public meeting in a location as close as feasible to the affected community.

(B) The state board shall make reasonable efforts to provide a 30-day notice of the public meeting to affected ratepayers, renters, and property owners.

(C) The state board shall provide representatives of the sewer service provider, affected ratepayers, renters, and property owners with an opportunity to present oral and written comments at the public meeting.

(D) The state board shall provide an opportunity for public comment at the meeting.

(3) Provide the public with an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2).

(4) Consider whether designating a sewer system and ordering a designated sewer system to contract with an administrator is feasible, and not in conflict with any federal or state laws, regulations, or permit requirements.

(d) The state board shall make financial assistance available to an administrator of a designated sewer system, as appropriate and to the extent that funding is available.

(e) The state board shall not *identify a designated sewer system or* make findings that a sewer service provider has an inadequate sewer ~~system~~ *service* or require a sewer service provider to contract with an administrator pursuant to this section on or after January 1, 2029. All other authorizations and requirements pursuant to this section shall remain in effect ~~on and after January 1,~~ *until December 31,* 2029.

(f) The authority granted to an administrator by the state board pursuant to subdivision (b) may include, but is not limited to, the authority to do all of the following:

(1) Expend available money for capital infrastructure improvements that the designated sewer system needs to provide adequate sewer service.

(2) Set and collect user sewer rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII D of the California Constitution.

(3) Expend available money for operation and maintenance costs of the designated sewer system, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.

(g) The state board shall work with the administrator of a designated sewer system and the communities served by that designated sewer system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver adequate sewer service so that the services of the administrator are no longer necessary.

(h) A designated sewer system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated sewer system and ~~provide~~ *deliver* adequate sewer service.

(i) Before ordering a designated sewer system to accept administrative, technical, operational, legal, or managerial services from an administrator pursuant to subdivision (b), the state board shall develop standards, terms, and procedures, to be incorporated in the handbook adopted pursuant to subdivision (g) of Section 116686 of the Health and Safety Code, consistent with the process provided in subdivision (a) of Section 116760.43 of the Health and Safety Code, for all of the following:

(1) The process and criteria for the state board to designate a sewer service provider as a designated sewer system, and the evidence required to support findings by the state board in a resolution pursuant to subdivision (a).

(2) Ensuring compliance with subdivision (h).

(3) Providing opportunity for public comment on the selection of an administrator and the services to be provided.

(4) Providing public access to budgets, ownership and financial information, and other documents and records related to the provision of sewer service to affected residences and to the management of the designated sewer system by the administrator.

(5) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated sewer system for significant decisions or actions made on behalf of the designated sewer system, including, but not limited to, establishing operating budgets, altering sewer rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.

(6) Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.

(7) Ensuring an administrator acts in the best interests of the community served.

(8) Development and approval of a post-administrator sewer service plan to ensure compliance with subdivision (g). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.

(9) The process for the state board to determine an administrator is no longer needed and to terminate the administrator's responsibilities.

(j) An administrator appointed pursuant to this section for a designated sewer system shall not be liable for claims by past or current ratepayers, ~~or~~ by those affected by the sewer service provided by the designated sewer system, *or for enforcement actions taken by the state board* in any of the following circumstances:

(1) If good faith, reasonable effort, and ordinary care were used by the administrator to assume possession of, or to operate, the sewer service provider.

(2) For any injury or damages that occurred before the commencement of the operation period.

(3) For injury, violations, or damages after the administrator has assumed control of the designated system until the necessary upgrades to the infrastructure or managerial responsibilities have been completed to become an adequate sewer system.

(k) This section does not limit or supersede any other law authorizing claims against the state board or providing a defense to liability, and shall not be construed to create any new or expanded basis for liability.

(l) Nothing in this section shall be construed to do any of the following:

(1) Relieve a ~~sewer service provider~~ *designated sewer system* or any other entity from complying with any provision of federal or state law, including those pertaining to water quality.

(2) Impair any cause of action by the Attorney General, a district attorney, a city attorney, or other public prosecutor, or impair any other action or proceeding brought by, or on behalf of, a regulatory ~~agency~~ *agency against a designated sewer system*.

(3) Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.

(4) Relieve any person or entity from liability for action or inaction in bad faith, or without reasonable effort or ordinary care.

(m) Nothing in this section shall absolve, indemnify, or protect a prior operator, designated sewer system, or individual from liability based on an act or failure to act prior to the operation period.

(n) Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

(o) This section does not apply to a charter city, charter county, or charter city and county.

~~SEC. 3.~~**SEC. 4.** Section 13442 of the Water Code is amended to read:

13442. (a) Upon application by an eligible entity, as described in subdivision (b), the state board may approve the payment of grant moneys from the account to that entity to assist in cleaning up a waste, abating the effects of a waste on waters of the state, addressing actions required pursuant to Section 13289.5, or addressing an urgent drinking water need without regard to whether the need for drinking water is a result of the discharge of waste.

(b) An entity is eligible to apply for funding pursuant to this section if that entity has authority to undertake the activity described in subdivision (a) for which it seeks moneys and the entity is any of the following:

(1) A public agency.

(2) A tribal government that is on the California Tribal Consultation List maintained by the Native American Heritage Commission and is a disadvantaged community, as defined in Section 79505.5, that agrees to waive tribal sovereign immunity for the explicit purpose of regulation by the state board pursuant to this division.

(3) A not-for-profit organization serving a disadvantaged community, as defined in Section 79505.5.

(4) A community water system, as defined in Section 116275 of the Health and Safety Code, that serves a disadvantaged community, as defined in Section 79505.5.

(5) An administrator, as defined in Section 13288.

(c) An eligible entity shall not become liable to the state board for repayment of moneys paid to the entity under this section and expended in accordance with the state board's approval of payment, but this shall not be a defense to an action brought pursuant to subdivision (a) of Section 13304 for the recovery of moneys paid under this section.

(d) Projects using moneys that are paid to an eligible entity pursuant to this section shall be exempt from state contracting and procurement requirements set forth in the Government Code and the Public Contract Code to the extent necessary to take immediate action to protect public health and safety.

(e) The state board may adopt guidelines for the allocation and administration of these moneys that shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The state board may expend funds for the purposes described in Section 13289.5, but is not authorized to use funds for these purposes for costs incurred after December 31, 2029.

SEC. 4. SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the State Water Resources Control Board to take appropriate action as soon as possible to ensure that adequate, sanitary sewer service is provided to communities, it is necessary for this act to take effect immediately.


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SB-1209 Local agency formation commission: indemnification. (2023-2024)

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Date Published: 06/11/2024 09:00 PM

AMENDED IN ASSEMBLY JUNE 11, 2024

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL
NO. 1209

Introduced by Senator Cortese

February 15, 2024

An act to add Section 56383.5 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1209, as amended, Cortese. Local agency formation commission: indemnification.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. The act continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, as specified.

This bill would authorize a LAFCO to require, as a condition for, among other things, processing a change of organization or reorganization, that the applicant agrees to defend, indemnify, and hold harmless the LAFCO, its agents, officers, and employees from and against any claim, action, or proceeding, as specified, ~~arising from or relating to the action or determination by the LAFCO.~~ *to attack, set aside, void, or annul an approval by the LAFCO. The bill would require the LAFCO to promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul an approval by the LAFCO and require the LAFCO to fully cooperate in the defense. The bill would specify that an applicant who is a party to the agreement is not responsible to defend, indemnify, or hold harmless the LAFCO if the LAFCO fails to notify the applicant or cooperate fully in the defense, and is not required to pay or perform any settlement relating to the agreement, unless the applicant approves the settlement. The bill would specify that nothing in its provisions are to be construed to prohibit the LAFCO from participating in the defense of any claim, action, or proceeding to attack, set aside, void, or annul an approval by the commission if specified conditions are met, including that the LAFCO bears its own attorney's fees and costs of the claim, action, or proceeding.*

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56383.5 is added to the Government Code, to read:

56383.5. (a) The commission may require, as a condition for processing a change of organization or reorganization, a sphere amendment or a sphere update, or any other action or determination requested from the commission, that the applicant agrees to defend, indemnify, and hold harmless the commission, its agents, officers, and employees from any claim, action, or proceeding against the commission, its agents, officers, or employees ~~arising from or relating to the action or determination by the commission~~ to attack, set aside, void, or annul an approval by the commission.

(b) (1) An agreement to defend, indemnify, and hold harmless entered into pursuant to subdivision (a) shall require the commission to promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul an approval by the commission and shall require the commission to cooperate fully in the defense.

(2) An applicant who is a party to an agreement to defend, indemnify, and hold harmless entered into pursuant to subdivision (a) shall not be responsible to defend, indemnify, or hold harmless if the commission fails to notify the applicant or cooperate fully in the defense pursuant to paragraph (1).

(c) An applicant who is a party to an agreement to defend, indemnify, and hold harmless entered into pursuant to subdivision (a) shall not be required to pay or perform any settlement relating to the agreement, unless the applicant approves the settlement.

(d) Nothing in this section shall be construed to prohibit the commission from participating in the defense of any claim, action, or proceeding to attack, set aside, void or annul an approval by the commission if both of the following conditions are met:

(1) The commission bears its own attorney's fees and costs of the claim, action, or proceeding.

(2) The commission defends the claim, action, or proceeding in good faith.


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AB-2661 Electricity: Westlands Water District. (2023-2024)

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AMENDED IN ASSEMBLY MAY 16, 2024

AMENDED IN ASSEMBLY APRIL 24, 2024

AMENDED IN ASSEMBLY MARCH 21, 2024

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 2661

Introduced by Assembly Member Soria

February 14, 2024

An act to ~~amend Section 454.57 of the Public Utilities Code, and to~~ add Chapter 4 (commencing with Section 37860) to Part 8.1 of Division 13 of the Water Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2661, as amended, Soria. Electricity: ~~transmission facility planning~~: Westlands Water District.

~~(1)Existing law vests the Public Utilities Commission (PUC) with regulatory authority over public utilities. Existing law requires the PUC to adopt a process for each load-serving entity, as defined, to file an integrated resource plan and a schedule for periodic updates to the plan to ensure that it meets, among other things, the state's targets for reducing emissions of greenhouse gases and the requirement to procure at least 60% of its electricity from eligible renewable energy resources by December 31, 2030. Under existing law, after the load-serving entities updated the integrated resource plans pursuant to the schedule adopted by the PUC, the PUC adopted an aggregated resource portfolio known as the preferred system plan.~~

~~Existing law establishes an Independent System Operator (ISO) as a nonprofit public benefit corporation, and requires the ISO to ensure the efficient use and reliable operation of the electrical transmission grid consistent with the achievement of planning and operating reserve criteria, as specified. Existing law requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission, to provide, not later than March 31, 2024, transmission-focused guidance to the ISO about resource portfolios of expected future renewable energy resources and zero-carbon resources. Existing law requires the guidance to include the allocation of those resources by region based on technical feasibility and commercial interest in each region.~~

~~This bill would require the PUC to perform a sensitivity analysis evaluating the potential for 10,000 to 30,000 megawatts of solar electrical generation located in the Central Valley beyond the amount of solar electrical generation described in the most recently adopted preferred system plan as of January 1, 2025. The bill would~~

~~require the PUC to transmit the sensitivity analysis to the ISO for evaluation as part of the next transmission planning process.~~

~~(2)The~~

The California Water District Law provides for the establishment of water districts and authorizes a district to construct, maintain, and operate plants for the generation of hydroelectric energy and transmission lines for the conveyance of the hydroelectric energy. Existing law merged the former West Plains Water Storage District into the Westlands Water District, and provides for the operation of the Westlands Water District.

This bill would authorize the Westlands Water District to provide, generate, and deliver solar photovoltaic or hydroelectric electricity and to construct, operate, and maintain works, facilities, improvements, and property necessary or convenient for generating and delivering that electricity. The bill would require the district to use the electricity for the district's own purposes, and the bill would authorize the district to sell surplus electricity to a public or private entity engaged in the distribution or sale of electricity. The bill would also authorize the district to construct, operate, and maintain energy storage systems and electric transmission lines, and to construct, operate, and maintain works, facilities, improvements, and property necessary or convenient for the operation of the energy storage system and electric transmission lines, within the boundaries of the district, as specified. *The bill would require the district to report the amount of income, and the purposes for expenditure of that income, from these electricity facilities in a specified report.*

This bill would make legislative findings and declarations as to the necessity of a special statute for the Westlands Water District.

Vote: majority Appropriation: no Fiscal Committee: ~~yes~~*no* Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1. Section 454.57 of the Public Utilities Code is amended to read:~~

~~454.57.(a) This section shall be known, and may be cited, as the Accelerating Renewable Energy Delivery Act.~~

~~(b) The Legislature finds and declares all of the following:~~

~~(1) The commission, the Energy Commission, and the State Air Resources Board have jointly estimated that the state's installed electric generation may need a threefold increase in capacity to meet state carbon-free electricity policy targets.~~

~~(2) Record-setting renewable energy generation build rates are needed to meet the goals of the California Renewables Portfolio Standard Program and the Senate Bill 100 (Chapter 312 of the Statutes of 2018) target of supplying 100 percent of retail sales of electricity from renewable energy resources and zero-carbon resources. However, these build rates are not achievable without additional electrical transmission lines and facilities connecting new resources to consumers in the state's load centers.~~

~~(3) In recent years, California has seen problems in delivering renewable energy resources and zero-carbon resources to customers, including problems caused by constraints on the transmission system. First, there are generation pockets where the total potential output from renewable energy generation exceeds the capacity of the transmission system to export that energy. Second, there are load pockets where there is insufficient transmission capacity to import the renewable energy resources and zero-carbon resources that are available. Both types of constraints should be promptly fixed so that all available renewable energy resources and zero-carbon resources can be delivered to customers.~~

~~(4) Reducing the use of nonpreferred resources in disadvantaged communities has been a priority for those communities, and they would benefit from increased access to electricity from new renewable energy resources and zero-carbon resources delivered to serve in-city loads.~~

~~(5) New transmission facilities have many steps that must be accomplished before they are online and delivering electricity. Major new transmission lines can take more than a decade from initial planning to operation.~~

~~(6) New transmission facilities should be planned proactively to support delivery to load centers from expected locations for future renewable energy resource and zero-carbon resource development, where those locations are identified in the integrated resource planning process pursuant to Sections 454.52 and 9621 or as part of longer range planning processes pursuant to Section 454.53.~~

~~(7)The Central Valley may have the potential to host substantially increased amounts of solar energy generation and energy storage beyond current planning assumptions if there were sufficient transmission capacity to deliver the energy to load centers. The commission, Energy Commission, and Independent System Operator should consider potential increased development of solar energy generation and energy storage in the Central Valley and of the transmission capacity needed to deliver that energy to load centers.~~

~~(8)New transmission facilities should be designed to minimize the risk of transmission-triggered wildfires.~~

~~(9)New transmission facilities should be designed to facilitate renewable energy transmission across California to better manage the variability of electrical supply.~~

~~(10)The Independent System Operator has issued a 20-Year Transmission Outlook that identifies substantial additional transmission projects needed to integrate renewable energy resources and storage for retail suppliers within the Independent System Operator balancing authority. Given the scale of this challenge, there is an urgent need to prioritize and accelerate the substantial effort needed to build transmission projects with long development times.~~

~~(c)Recognizing that the Independent System Operator's Federal Energy Regulatory Commission-approved tariff requires the Independent System Operator to plan and approve new transmission facilities needed to achieve the state's goals, it is the intent of the Legislature that the Independent System Operator shall take notice of the state policies expressed in this section.~~

~~(d)(1)In support of the state's policy to supply increasing amounts of electricity from renewable energy resources and zero-carbon resources pursuant to Article 16 (commencing with Section 399.11) and Section 454.53, beginning as soon as possible and not later than March 31, 2024, the commission, in consultation with the Energy Commission, shall provide transmission-focused guidance to the Independent System Operator about resource portfolios of expected future renewable energy resources and zero-carbon resources. The guidance shall include the allocation of those resources by region based on technical feasibility and commercial interest in each region to allow the Independent System Operator to identify and approve transmission facilities needed to interconnect resources and reliably serve the needs of load centers.~~

~~(2)(A)For purposes of the next integrated resource plan cycle after January 1, 2025, the commission shall perform a sensitivity analysis evaluating the potential for 10,000 to 30,000 megawatts of solar electrical generation located in the Central Valley beyond the amount of solar electrical generation described in the most recently adopted preferred system plan as of January 1, 2025.~~

~~(B)The commission shall transmit the results of the sensitivity analysis performed pursuant to subparagraph (A) to the Independent System Operator for evaluation as part of the next transmission planning process.~~

~~(e)In providing the guidance described in subdivision (d), the commission and the Energy Commission shall provide projections each year, including from the integrated energy policy report prepared pursuant to Section 25302 of the Public Resources Code and the load-serving entities' integrated resource plans prepared pursuant to Section 454.52, to support planning and approvals by the Independent System Operator in its annual transmission planning process, including by doing all of the following:~~

~~(1)Providing projections of resource portfolios and electricity demand by region for at least 15 years into the future to ensure adequate lead time for the Independent System Operator to analyze and approve transmission development, and for the permitting and construction of the approved facilities, to meet the projections;~~

~~(2)Providing load growth projections, including projected growth from building and transportation electrification, that are consistent with achieving the economywide greenhouse gas emissions reductions required pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code;~~

~~(3)Providing projections of new renewable energy resources and zero-carbon resources consistent with the build rates necessary to achieve the targets established in Article 16 (commencing with Section 399.11) and Section 454.53;~~

~~(4)(A)Providing resource projections that, combined with transmission capacity expansions, are expected to substantially reduce, no later than 2035, the need to rely on nonpreferred resources in local capacity areas;~~

~~(B)The resource projections in subparagraph (A) shall include consideration of cost-effective and feasible alternatives to transmission capacity expansions, including the use of energy storage resources, renewable energy resources, or zero-carbon resources that are located within the local capacity areas.~~

~~(5) Providing projections for offshore wind generation as identified by the SB 100 Joint Agency Report of the commission, the Energy Commission, and the State Air Resources Board, and informed by the strategic plan developed pursuant to Section 25991 of the Public Resources Code, to allow the Independent System Operator to identify and approve transmission facilities needed from offshore wind resource areas that would be sufficient to make offshore wind resources fully deliverable to load centers.~~

~~(6) Providing projections for increases in imports of electricity into the state that reflect the expected development of renewable energy resources and zero-carbon resources in other parts of the Western Interconnection for the purpose of delivering clean energy to California balancing authorities.~~

~~(f) On or before January 15, 2023, the commission shall request the Independent System Operator to do both of the following:~~

~~(1) Identify, based as much as possible on studies completed before January 1, 2023, by the Independent System Operator and projections provided before January 1, 2023, by the commission and the Energy Commission, the highest priority transmission facilities that are needed to allow for increased transmission capacity into local capacity areas to deliver renewable energy resources or zero-carbon resources that are expected to be developed by 2035 into those areas.~~

~~(2) Consider whether to approve transmission projects identified pursuant to paragraph (1) as part of its 2022–23 transmission planning process.~~

~~(g) It is the policy of the state that new transmission facilities be built on a timely basis and in anticipation of new electrical generation that will be built to meet the state's renewable energy resource and zero-carbon resource targets, with interim targets for transmission capacity additions that demonstrate adequate progress toward meeting these long-term transmission needs. The commission shall request that the Independent System Operator implement this policy by approving transmission projects needed based on a longer planning period supported by the guidance provided pursuant to subdivisions (d) and (e). The projects should be approved in time to be online when needed, considering permitting and construction lead times.~~

~~(h) It is the policy of the state that planning for new transmission facilities considers the following goals:~~

~~(1) Minimizing the risk of wildfire.~~

~~(2) Increasing systemwide reliability and cost efficiency, including through the sharing of diverse electrical generation resources within California and with other parts of the Western Interconnection.~~

~~(3) Eliminating transmission constraints that prevent electrical generation resources from delivering to the wider grid and that prevent importing energy into load pockets.~~

~~(i) For purposes of this section, the following definitions apply:~~

~~(1) "Local capacity area" means a transmission constrained load pocket, as identified by the Independent System Operator, where local generation capacity is needed for reliability due to insufficient transmission capacity into the load pocket to meet electricity demand with electricity from outside of the load pocket.~~

~~(2) "Nonpreferred resources" means electrical generation resources that are not renewable energy resources or zero-carbon resources pursuant to Section 454.53.~~

~~**SEC. 2. SECTION 1.** Chapter 4 (commencing with Section 37860) is added to Part 8.1 of Division 13 of the Water Code, to read:~~

CHAPTER 4. Additional Powers of the District

37860. (a) For purposes of this section, "for its own purposes" means the Westlands Water District performing only functions within its capacity as a water district, including, but not ~~be~~ limited to, any of the following:

- (1) Pumping operations.
- (2) Water treatment operations.
- (3) Barrier intrusion operations.
- (4) Desalination operations.

(b) (1) The Westlands Water District may provide, generate, and deliver solar photovoltaic or hydroelectric electricity, and may construct, operate, and maintain any and all works, facilities, improvements, and property, or portions thereof, necessary or convenient for generating and delivering that electricity.

(2) An electric powerplant or transmission line constructed pursuant to this subdivision may be leased for operation.

(3) The electricity generated pursuant to this subdivision shall be used by the Westlands Water District for its own purposes. The district may sell surplus electricity to a public or private entity that is engaged in the distribution or sale of electricity.

(c) The Westlands Water District may construct, operate, and maintain an energy storage system, as defined in Section 2835 of the Public Utilities Code, and all works, facilities, improvements, and property, or portions thereof, necessary or convenient for the operation of an energy storage system, within the boundaries of the district, regardless of whether the energy storage system is interconnected to or directly charged by an electric powerplant constructed pursuant to subdivision (b). An energy storage system constructed pursuant to this subdivision may be leased for operation. The district may operate an energy storage system in a manner intended, as determined by the district, to increase the economic value of the energy storage system and the district is not required to use the discharging energy for its own purposes. The district may purchase discharging energy through a market administered by the Independent System Operator. The district may sell discharging energy and any attributes of the energy storage system through a market administered by the Independent System Operator.

(d) The Westlands Water District may construct, operate, and maintain electrical transmission lines and all works, facilities, improvements, and property, or portions thereof, necessary or convenient for the conveyance of electricity within the boundaries of the district, regardless of whether the transmission lines are used for the purpose of conveying electricity from an electric powerplant constructed pursuant to subdivision (b). Transmission lines constructed pursuant to this subdivision may be leased for operation. The district may sell the rights to use transmission lines constructed pursuant to this subdivision to any public or private entity that is engaged in the distribution or sale of electricity. Transmission facilities developed pursuant to this section shall be controlled by a California balancing authority, as defined in Section 399.12 of the Public Utilities Code, regardless of ownership by the Westlands Water District or a subsequent owner.

(e) This section does not authorize the Westlands Water District to provide, sell, or deliver electricity at retail.

(f) The Westlands Water District shall not acquire property employed in the generation or delivery of electricity for public or private utility purposes, except by mutual agreement between the district and the owner of that property.

(g) The Westlands Water District shall report the amount of income, and the purposes for expenditure of that income, from electricity facilities constructed pursuant to this section in the report required by Section 53892 of the Government Code.

SEC. 3. SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need of the Westlands Water District to support the development of solar electrical generation for the electrical grid and to facilitate the development of transmission capacity to help California reach its clean energy and climate goals.