
VETO

Bill No: SB 222
Author: Dodd (D), et al.
Amended: 8/24/22
Vote: 27

SENATE ENERGY, U. & C. COMMITTEE: 11-2, 4/12/21
AYES: Hueso, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire,
Min, Rubio, Stern
NOES: Dahle, Borgeas
NO VOTE RECORDED: Grove

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 4/29/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 31-7, 6/1/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd,
Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado,
Kamlager, Laird, Leyva, Limón, McGuire, Newman, Pan, Portantino, Roth,
Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Dahle, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Borgeas, Min

SENATE FLOOR: 31-8, 8/30/22
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd,
Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager,
Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio,
Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Wilk
NO VOTE RECORDED: Ochoa Bogh

ASSEMBLY FLOOR: 52-13, 8/29/22 - See last page for vote

SUBJECT: Water Rate Assistance Program

SOURCE: Clean Water Action
Community Water Center
Leadership Counsel for Justice and Accountability

DIGEST: This bill requires the State Water Resources Control Board (SWRCB) to develop and administer a statewide Water Rate Assistance Program to provide rate assistance to low-income residential ratepayers of a community water system or wastewater system.

ANALYSIS:

Existing law:

- 1) Establishes the California Safe Drinking Water Act, requires the SWRCB to administer provisions relating to the regulation of drinking water to protect public health. (Health and Safety Code §§116270 – 116755)
- 2) Declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Water Code §106.3)
- 3) Requires the SWRCB, by January 1, 2018, to develop a plan for the funding and implementation of the Low-Income Water Rate Assistance Program, as prescribed. Requires the SWRCB, by February 1, 2018, to report to the Legislature on its findings regarding the feasibility, financial stability, and desired structure of the program, including any recommendations for any needed legislative action. (Water Code §189.5)
- 4) Establishes the California Public Utilities Commission (CPUC) with regulatory authority over privately owned utilities, including water corporations. (Article XII of the California Constitution)
- 5) Establishes the Department of Community Services and Development (CSD) as a department within the California Health and Human Services Agency, and tasks CSD with implementing several types of federal assistance to help low-income households meet their energy needs. (Government Code §§12085-12091 and 16366.1-16367.8)

- 6) Requires the CPUC to consider programs to provide rate relief for low-income ratepayers of water corporations. (Public Utilities Code §739.8)

This bill:

- 1) Establishes the Water Rate Assistance Fund in the State Treasury to help provide water affordability assistance, for both drinking water and wastewater services, to low-income residential ratepayers.
- 2) Makes moneys in the fund available upon appropriation by the Legislature to the SWRCB to provide, in consultation with relevant agencies, direct water bill assistance to low-income residential ratepayers served by eligible systems and requires 80 percent of total expenditures from the fund to be directly applied to residential ratepayer accounts.
- 3) Requires the SWRCB, to the extent feasible, cost effective, and permitted under the California Constitution, to identify and contract with one or more third-party providers.
- 4) Imposes requirements on the SWRCB in connection with the program, including, among others, within 270 days of the effective date, as defined, adopting guidelines in consultation with relevant agencies and an advisory group for implementation of the program and preparing a report to be posted on SWRCB's internet website identifying how the fund has performed.
- 5) Requires the guidelines to include minimum requirements for eligible systems, including the ability to confirm eligibility for enrollment through a request for self-certification of eligibility under penalty of perjury. Imposes a state-mandated local program by expanding the crime of perjury.
- 6) Requires, within 365 days of the effective date, the CPUC to establish a mechanism for electrical corporations and gas corporations to, and would authorize the SWRCB or third-party providers to enter into agreements with local publicly owned electric utilities and local publicly owned gas utilities to, regularly share specified customer data with the SWRCB or third-party providers.
- 7) Requires the SWRCB to, among other things, coordinate with the CPUC to align criteria between all existing water rate assistance programs offered by

investor-owned utilities (IOUs) and to ensure timely processing of payments to IOUs.

- 8) Makes the operation of these provisions contingent on an appropriation in the annual Budget Act or another statute for these purposes.

Background

Water utilities. California residents are served by various types of water utilities or water systems, including publicly owned utilities (POU), investor-owned utilities (IOU), and small community water systems. The majority of California's residential water customers are served by POUs, which are operated and governed by cities, special districts, and mutual water companies. As established by Proposition 218 (1996), the majority of these utilities are subject to state constitutional and statutory requirements that ensure water rates are restricted to cost-of-service. As a result, these water utilities are limited in their ability to increase rates on some customer in order to fund programs or provide rate relief to other customers. These limitations are not imposed on the CPUC-regulated utilities whose rates are set by the CPUC which has jurisdiction over water companies, or privately owned water utilities (also known as IOUs), that provide water service to about 16 percent of California's residents. Approximately 95 percent of those residents are served by nine large water IOUs, each serving more than 10,000 service connection. Known as Class A water utilities, combined, the nine largest utilities serve nearly 1.2 million customers. However, the majority of the CPUC-regulated water utilities (92) have service connections of 2,000 or less, and 87 of those have service connections of 500 or less. As with other IOUs, the CPUC regulates the rates of the water utilities under its jurisdiction. Under existing law, the CPUC generally has authority over the regulation of utility services and rates to assure that California residents have access to safe and reliable utility infrastructure and services from IOUs, including water companies, at just and reasonable rates. In comparison, the SWRCB has regulatory authority over the quality of the state's water resources and drinking water, including the authority to adopt regulations to address contaminant levels.

CPUC-regulated water utilities' low-income assistance programs. The CPUC has authorized the largest nine water IOUs to offer low-income rate assistance programs similar in concept to those provided to electricity customers through California Alternate Rates for Energy (CARE). However, each program varies in terms of the amount of the assistance provided to customers and the collection of the surcharge from non-participating customers to cover the cost of the program. All nine Class A water utilities, one Class B in a few districts, and one Class C

water utility offer discounts on their monthly bills for qualifying low-income customers. Water utilities have been slowly transitioning the unique names of their low-income assistance programs to the uniform name Customer Assistance Program (CAP) pursuant to CPUC Decision (D.)20-08-047. Discounts and surcharges supporting the programs are reviewed in each utility's general rate cases.

SB 401 (Dodd, Chapter 662, Statutes of 2015) required report on funding a statewide low-income rate assistance program. SB 401 required the SWRCB, in collaboration with the State Board of Equalization and stakeholders, to develop a plan for the funding and implementation of a new program to provide water rate relief for low-income ratepayers by January 1, 2018 and provide a corresponding report to the Legislature by February 1, 2018. In February 2020, the SWRCB released its final recommendations to implement a statewide low-income water rate assistance program. The SWRCB recommends the creation of a statewide Water Rate Assistance Program funded through taxes on personal income, business income, and bottled water, as most water systems are not able to fund low-income assistance programs via their rates. For qualifying customers, the program recommended by the SWRCB will support bill discounts, crisis assistance, and a tax credit for renters who pay for their water indirectly through rent. These bill discounts are modeled on the low-income assistance program for customers of CPUC-regulated energy utilities, and the crisis assistance is modeled on the federal energy crisis program known as Low Income Heating and Assistance Program (LIHEAP), administered by CSD in California. The SWRCB estimates the first-year cost for the recommended program, including administrative costs, at \$606 million.

Proposition 218 and 26. As noted above, non-CPUC regulated water utilities are subject to differing constraints on their ability to collect rates for rate relief from one customer to another. Specifically, as acknowledged by the SB 401 report: “[Proposition 218 and Proposition 26]...These substantive restrictions on ratemaking by publicly owned water systems prevent subsidization of one customer's water rates by another and would pose serious, if not fatal, obstacles to publicly owned water systems funding individual W-LIRA [water low-income rate assistance] programs from water rates and charges. As a result, publicly owned water systems instead fund existing W-LIRA programs from revenues derived from sources other than water rates and charges, such as lease revenues or voluntary donations. These non-rate revenue options are limited and considered insufficient to sustainably fund W-LIRA programs throughout the state.”

Recent efforts to provide water utility assistance. There has been a number of recent actions by the state and federal governments to provide one-time funding, especially to address impacts from COVID-19 pandemic. Most notably, last year, the Legislature and Governor approved one billion dollars in funding to help address water utility debt relief caused by the COVID-19 pandemic. Rental Assistance enacted by the Legislature in response to COVID-19 crisis provides flexibility to apply assistance towards both rent and utilities. However, it seems reasonable to assume that given the arrears on rent and the desire to prevent evictions, most eligible renters will apply the majority (if not all) of the rental assistance towards the debt owed on their rent. In December 2020, Congress passed and the President signed the COVID relief bill that provides limited one-time relief for water utilities and ratepayers. Specifically, 638 million dollars was appropriated nationwide for emergency low-income drinking and wastewater assistance. California is expect to receive approximately \$60-70 million given the state's share of the national population. CSD is administering the program for the state. Additionally, existing safety-net programs provide assistance for utility service. CalFresh participants, funded via the federal Supplemental Nutrition Assistance Program (SNAP) are also eligible for utility assistance allowance that can range from \$130 to over \$400, according to the program's website. This assistance can be used towards any utility service: water, energy, sewer, etc.

Where's the funding? As noted by the author and sponsors, this bill does not identify a specific source of funding for the ambitious goals of the proposed program. However, they advocate for the need to establish a permanent program and address funding via the state budgeting process.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriation Committee:

- Significant ongoing cost pressure, likely of at least \$100 million annually (Water Rate Assistance Fund), to provide funding for ratepayer assistance.
- CSD estimates ongoing costs of \$1.9 million in 2021-22 and \$1.5 million annually thereafter (Water Rate Assistance Fund) for program modifications, reporting infrastructure, stakeholder engagement, competitive procurement, and third-party auditing of water service providers. CSD notes that its costs are ultimately dependent on the overall amount of funding provided for rate assistance.
- The State Water Board estimates an annual additional cost of \$1.575 million to develop and implement regulations associated with an annual fund expenditure

plan, provide full consultative services to CSD that include identifying water systems and their needs, and developing a needs assessment analysis related to water affordability issues.

- CPUC costs are negligible.

SUPPORT: (Verified 10/3/22)

Clean Water Action (co-source)
 Community Water Center (co-source)
 Leadership Counsel for Justice and Accountability (co-source)
 AGUA-Association of People United for Water
 Alliance of Nurses for Healthy Environments
 American Academy of Pediatrics California
 Asian Americans Advancing Justice – California
 Asian Pacific Environmental Network
 Avocado Green Brands
 Burton
 California Apartment Association
 California Catholic Conference
 California Coastkeeper Alliance
 California Community Action Partnership Association
 California Environmental Voters
 California League of Conservation Voters
 California Water Association
 California Water Service
 Campesinos Unidos Inc.
 Center for Community Action and Environmental Justice
 Central California Environmental Justice Network
 Central Coast Energy Services
 Ceres
 City of Thousand Oaks
 Coachella Valley Waterkeeper
 CommUnify
 Community Action Marin
 Community Action Partnership – Long Beach
 Community Action Partnership – San Bernardino
 Community Resource Project Inc.
 Contra Costa County Family Economic Security Partnership
 Courage California
 Defenders of Wildlife

Del Norte Senior Center Inc.
Dignity Health
Dolores Huerta Foundation
Drug Policy Alliance
ECOS
Ella Baker Center for Human Rights
Environmental Defense Fund
Environmental Working Group
Friends Committee on Legislation of California
Gap, Inc.
Humboldt Baykeeper
Impossible Foods
Inland Empire Waterkeeper
Inner City Law Center
LA Voice
Latino Coalition for a Healthy California
League of Women Voters of California
Local Government Commission
Los Angeles Alliance for a New Economy
Los Angeles Waterkeeper
Mono Lake Committee
Monterey Coastkeeper
National Association of Social Workers, CA Chapter
Natural Resources Defense Council
NextGen California
Numi Organic Tea
Orange County Coastkeeper
Physicians for Social Responsibility, Los Angeles
Planning and Conservation League
PolicyLink
Redwood Community Action Agency
Russian Riverkeeper
San Diego Coastkeeper
San Diego County Water Authority
San Francisco Bay Area Planning and Urban Research Association
San Francisco Democratic County Central Committee
San Francisco Public Utilities Commission
Santa Barbara Channelkeeper
San Clarita Organization for Planning and the Environment
Sierra Club California

Sierra Nevada Brewing Co.
Spectrum Community Services Inc.
The Nature Conservancy
Tulare County Board of Supervisors
Union of Concerned Scientists
Voices for Progress
Water Foundation
Western Center on Law and Poverty
Yuba River Waterkeeper
One Individual

OPPOSITION: (Verified 10/3/22)

Amador Water Agency
Association of California Water Agencies
Bella Vista Water District
Brooktrails Township
California Association of Mutual Water Companies
California Special Districts Association
Calleguas Municipal Water District
Cities of Oceanside, Roseville, and Shasta Lake
Community Water Systems Alliance
Cucamonga Valley Water District
Desert Water Agency
East Valley Water District
Eastern Municipal Water District
El Dorado Irrigation District
Elk Grove Water District
Elsinore Valley Municipal Water District
Helix Water District
Hidden Valley Lake Community Services District
Humboldt Bay Municipal Water District
Inland Empire Utilities Agency
Irvine Ranch Water District
Lakeside Water District
Las Virgenes Municipal Water District
McKinleyville Community Service District
Mesa Water District
Mid-Peninsula Water District
Mojave Water Agency
Monte Vista Water District

Monterey Peninsula Water Management District
Municipal Water District of Orange County
North Coast County Water District
Olivenhain Municipal Water District
Otay Water District
Padre Dam Municipal Water District
Palmdale Water District
Panoche Water District
Placer County Water Agency
Rancho California Water District
Regional Water Authority
Rio Alto Water District
Rio Linda/Elverta Community Water District
Rosamond Community Service District
Rowland Water District
San Gabriel County Water District
San Gabriel Valley Water Association
San Juan Water District
Santa Margarita Water District
Scotts Valley Water District
South Lake Tahoe Public Utility District
Southern California Water Coalition
Tahoe City Public Utility District
Three Valleys Municipal Water District
Tuolumne Utilities District
Valley Central Municipal Water District
Vista Irrigation District
Walnut Valley Water District
Western Municipal Water District

ARGUMENTS IN SUPPORT: According to the author, “SB 222 would establish a long-needed framework for a statewide water affordability assistance program. The pandemic has dramatically increased attention to this lack of a statewide water affordability program and the real urgency to address it. Access to affordable water is a racial justice and equity issue, and we must ensure equitable access for all Californians to realize the Human Right to Water (AB 685, 2012). The need for water affordability assistance will not magically disappear — it has been a major challenge and gap in our utility safety net for decades, and water affordability challenges will only continue to increase due to the rising cost of water.

ARGUMENTS IN OPPOSITION: Association of California Water Agencies (ACWA) and its members oppose this bill due to concerns that this bill did not address “regarding how much funding will be available for actual low-income household assistance as opposed to program administration.” ACWA and its members argue this bill is inefficient in its use of low-income water rate assistance funding in program enrollment. They argue the state should handle enrollment of the program, not the thousands of community providers. ACWA also opposes the lack of a cap on administration of the first year of the program. Additionally, ACWA expresses concerns that “the bill would make tracking of the administrative costs versus how much goes to actually assisting low-income households (i.e. program efficiency).”

GOVERNOR'S VETO MESSAGE:

This bill establishes a Water Rate Assistance Program and Water Rate Assistance Fund to provide water affordability assistance for drinking and wastewater services to low-income ratepayers. The State Water Resources Control Board would be required to administer the program, and community water systems and wastewater systems would be subsequently required to provide rate assistance to residential ratepayers. This is a permanent program that would not be implemented or initiated until funding is provided. At this time, there is no sustainable, ongoing funding identified.

Lowering costs and making sure that Californians have access to safe and affordable drinking water is a top priority of this administration. The last two budgets have provided billions in rebates, debt relief, assistance grants, and free support services. For water costs alone, the 2021-22 Budget provided \$1 billion to the State Water Board for the California Water and Wastewater Arrearage Payment Program, which cleared unpaid water and wastewater debts resulting from the pandemic. This year, our 2022-23 budget added an additional \$200 million to the Low-Income Household Water Assistance Program at the Department of Community Services and Development. These are programs that were both approved and funded by the Legislature.

I commend the author and stakeholders for their work during this Legislative session to craft a vision for such a program. However, this bill does not have any funding identified, and because it is an ongoing program that would require all community water systems and wastewater systems to participate, signing this policy would result in significant General Fund pressures in the billions of dollars to continuously provide such assistance.

With our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined when it comes to spending, particularly spending that is ongoing. The Legislature sent measures with potential costs of well over \$20 billion in one-time spending commitments and more than \$10 billion in ongoing commitments not accounted for in the state budget. Bills with significant fiscal impact, such as this measure, should be considered and accounted for as part of the annual budget process.

For these reasons, I cannot sign this bill.

ASSEMBLY FLOOR: 52-13, 8/29/22

AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Fong, Friedman, Gabriel, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, McCarty, McKinnor, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Cooley, Megan Dahle, Davies, Kiley, Lackey, Mayes, Nguyen, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Chen, Choi, Cooper, Cunningham, Daly, Flora, Gallagher, Cristina Garcia, Gray, Irwin, Medina, Patterson, Ramos, Rodriguez, Wilson

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
10/12/22 9:51:05

**** END ****