

April 23, 1999

To: Board of Directors (Communications and Legislation Committee—Information)

From: General Manager _____

Submitted by: Debra C. Man, Chief _____
Planning and Resources

Subject: SB 1006 (Costa): Drinking Water; Water Softening Devices

RECOMMENDATION

For information only.

EXECUTIVE SUMMARY

State Senator Jim Costa (Fresno) recently amended SB 1006 (attached) on behalf of the Irvine Ranch Water District to modify the State Health and Safety Code to provide local agencies with authority to regulate the discharge of residential water softening brine waste to sewer systems. Local ordinances would be authorized, when needed, to comply with waste discharge requirements, to support water recycling or to protect beneficial uses of water. SB 1006 will protect the quality of local water resources from salt loading. Residents may continue to have home water softeners, however the types of water softening devices would be regulated.

DETAILED REPORT

State Senator Jim Costa (Fresno) has recently amended SB 1006 (attached) to address regulation of residential water softening at the request of the Irvine Ranch Water District. The State Health and Safety Code currently limits the discharge of salt from water softening devices by placing a limit (efficiency standard) on the amount of salt used by residential water softeners based on 1970's technology. SB 1006 would authorize local agencies to adopt ordinances and regulations to control the discharge of brine waste from regeneration of a residential water softener for the purposes of:

- achieving compliance with waste discharge requirements, water reclamation requirements or a master reclamation permit issued by a Regional Water Quality Control Board; or
- recycling water containing waste; or
- protecting present and probable future beneficial uses of water.

By reducing hardness of water, water softeners improve efficiency of soaps and detergents which benefits consumers with improved laundering, house-cleaning, dish washing and bathing. Softening also reduces mineral deposits which cause troublesome scaling, clogging of appliances

and dish spotting. The softening process involves passing water through a resin bed which picks up hardness ions of calcium and magnesium and exchanges them for sodium. In order for the process to proceed, the resin bed must be periodically flushed with a high concentration salt brine which is ultimately discharged to the sewer. It is the discharge of this regeneration brine that has caused the controversy between water agencies and water softener manufacturers. In the past, water agencies have sought to reduce this controllable contribution of salt to wastewater because it adversely impacts water recycling and worsens the regional salt imbalance of groundwater.

In 1997, the Appellate Courts upheld prior decisions involving ordinances adopted by the Cities of Santa Maria and Escondido, concluding that the existing provisions of the Health and Safety Code established the standard for limiting salt discharges from water softening devices and that more stringent ordinances by local agencies were in conflict with State law. The Court further determined that the State Water Resources Control Board (SWRCB) - the State agency with primary responsibility for water quality - had improperly concluded that local regulation was not preempted by State law in issuing Order No. 81-5 that permitted local agencies to regulate water softening devices.

Under SB 1006, residents could continue to have home water softeners, however the type of water softening device would be regulated. Agencies are expected to restore past ordinances that prohibited self-regenerative water softeners, i.e., where salt is added to the home unit and discharged to the sewer. Off-site regeneration of exchange canisters provided to the homeowner by commercial vendors would be allowed. This is an effective approach which allows water softening in the home, while the brines from a commercial regeneration plant are regulated as an industrial discharge. The homeowner's cost for exchange-canister service is about \$25 to \$40 per month including the rental of the water-softening unit. Manufacturers have stated that recurring service charges reduce water softener sales and therefore oppose the State granting authority for local control.

In some locations, non-reclaimable brine disposal systems channel brines from commercial regeneration plants to the ocean for disposal. However, some commercial regeneration plants and other industrial facilities discharge brines to recycled water treatment plants. In these situations, the salt loading problem is not corrected by commercial regeneration. This demonstrates the need for careful siting of industrial brine generating plants and the construction of more non-reclaimable brine disposal pipelines in the region to complement local control of water softening.

In April, the Board supported legislation proposed by Assemblyman Mike Machado (AB 237) to fund a \$1.5 million study by the SWRCB to examine the extent to which water softening devices, along with other sources of salinity, affect the salinity of water resources state-wide. The study would be completed by January 2002, would assess the extent of the water softening problem and make specific recommendations regarding salinity management. The study may provide a foundation for future State legislation as well as provide data to guide the implementation of local ordinances, should SB 1006 pass.

The WaterReuse Association of California supports SB 1006. The Water Quality Association (the Plaintiffs in the Santa Maria and Escondido lawsuits) and the Pacific Water Quality Association - organizations representing the water softening manufacturers and services industry have consistently opposed local ordinances that might adversely affect sales of water softeners.

In April, the Board adopted a comprehensive policy and action plan that identifies broad salinity management responsibilities for Metropolitan as well as expectations of other agencies. Action Item No. 9, identifies water softening, as primarily a local agency responsibility and states:

"Local leadership is needed to rectify existing statutes that hinder local agencies from managing salt discharges from residential water softeners. Metropolitan can help organize concerned local agencies to assess the regional scale of this issue and facilitate an effective outcome among the WateReuse Association, the Water Quality Association, and State regulators."

In California, the residential water softening issue does not follow a uniform geographic distribution. In some communities, especially in Southern California, the issue is significant. In other communities, water softeners are of little concern. Under SB 1006, local agencies would ultimately be responsible for weighing the benefits of water softener ordinances in comparison to the potential inconveniences to residents of their service area in finding a solution to the long-debated water softener issue.

KMK:cl

Attachment 10-24A

Attachment 10-24A

**The following 6 pages are attachments to
Board Letter Item 10-24**

AMENDED IN SENATE APRIL 12, 1999

SENATE BILL

No. 1006

Introduced by Senator Costa

February 26, 1999

~~An act to add Section 54954.7 to the Government Code, and to add Section 454.1 to the Public Utilities Code, relating to services. An act to amend Section 116775 of, and to add Section 116791 to, the Health and Safety Code, relating to drinking water.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1006, as amended, Costa. ~~Water and sewer systems: rates~~ *Drinking water: water softening devices.*

Existing law contains provisions regulating the use of residential water softening or conditioning appliances.

This bill would provide that nothing contained in these provisions shall authorize the discharge of brine waste into a community water system from regeneration of any water softening or conditioning appliance performed at a residence where the appliance is used, or authorize the installation of any water softening or conditioning appliance regenerated at a residence where the appliance is used, where the discharge or installation is in violation of an ordinance, rule, or regulation of a local agency, as defined, adopted to control residential salinity input for the purpose of achieving compliance with waste discharge requirements, water reclamation requirements, or a master reclamation permit issued by a regional water quality control board, or recycling

water containing waste, or protecting present and probable future beneficial uses of water.

~~(1) Under the Public Utilities Act, a public utility, including a water corporation and a sewer system corporation, may not change any rate or alter a classification, contract, practice, or rule so as to result in a rate increase unless a showing is made before the Public Utilities Commission, and a finding is made by the commission pursuant to prescribed proceedings, that the change is justified.~~

~~This bill would permit a customer to request to be notified with regard to any water or sewer system corporation rate increase application that proposes any rate increase and would require the water or sewer system corporation to notify any individual customer that requests the notification. Because, under the act, a violation of this provision would be a crime, this bill would impose a state-mandated local program by creating a new crime. The bill would authorize the corporation to charge a specified notification fee.~~

~~The bill would also permit a customer to request to be notified a minimum of 30 days in advance of an approval by a legislative body of a local agency retail water or sewer provider, as defined, for any water or sewer rate increase in excess of specified percentages, and would require the local agency to notify any individual that requests the notification, thereby imposing a state-mandated local program. The bill would authorize the provider to charge a specified notification fee.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~



~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 54954.7 is added to the~~
2 *SECTION 1. Section 116775 of the Health and Safety*
3 *Code is amended to read:*

4 116775. The Legislature hereby finds and declares
5 that the utilization of the waters of the state by residential
6 consumers for general domestic purposes, including
7 drinking, cleaning, washing, and personal grooming and
8 sanitation of the people is a right that should be interfered
9 with only when necessary for specified health and safety
10 purposes *and to protect the quality of the waters of the*
11 *state.* The Legislature further finds that variation in water
12 quality, and particularly in water hardness, throughout
13 the state ~~requires that may require the use of on-site~~
14 ~~water softening or conditioning be available throughout~~
15 ~~the state to insure to domestic consumers their right to~~
16 *appliances to ensure* a water supply that is effective and
17 functional for domestic requirements of the residential
18 household, but that the on-site water softening or
19 conditioning shall be available only as hereinafter set
20 forth.

21 *SEC. 2. Section 116791 is added to the Health and*
22 *Safety Code, to read:*

23 116791. (a) *Nothing contained in this article shall*
24 *authorize the discharge of brine waste into a community*
25 *water system from regeneration of any water softening or*
26 *conditioning appliance performed at a residence where*
27 *the appliance is used, or authorize the installation of any*
28 *water softening or conditioning appliance regenerated at*
29 *a residence where the appliance is used, where the*
30 *discharge or installation is in violation of an ordinance,*



1 rule, or regulation of a local agency adopted to control
2 residential salinity input for the purpose of achieving
3 compliance with waste discharge requirements, water
4 reclamation requirements, or a master reclamation
5 permit issued by a regional water quality control board,
6 or recycling water containing waste, or protecting
7 present and probable future beneficial uses of water
8 pursuant to Division 7 (commencing with Section 13000)
9 of the Water Code.

10 (b) As used in this section, "local agency" means a city,
11 county, city and county, district, or any other political
12 subdivision of the state that is located in an area subject
13 to a water quality control plan adopted pursuant to
14 Article 3 (commencing with Section 13240) of Chapter 4
15 of Division 7 of the Water Code where the plan contains
16 applicable salinity standards, limits, or objectives.

17 Government Code, to read:

18 ~~54954.7. (a) A customer may request to be notified a~~
19 ~~minimum of 30 days in advance of the date when action~~
20 ~~may be taken by the legislative body of a local agency~~
21 ~~retail water or sewer provider to approve a water or~~
22 ~~sewer rate increase in excess of either 8 percent for one~~
23 ~~year, 18 percent on a cumulative basis over three years,~~
24 ~~or 20 percent on a cumulative basis over four years.~~
25 ~~"Customer" shall mean a retail account that uses or~~
26 ~~discharges in excess of 10,000 gallons of water or~~
27 ~~wastewater per day over the course of any standard~~
28 ~~billing cycle.~~

29 ~~(b) A request filed pursuant to this section shall be~~
30 ~~submitted in writing to the office of the local agency. The~~
31 ~~request shall contain the name of the person and mailing~~
32 ~~address to which notice shall be provided by the local~~
33 ~~agency. Any request for notice filed pursuant to this~~
34 ~~section shall be valid for one year from the date on which~~
35 ~~it was filed unless a renewal request is filed. Renewal~~
36 ~~requests for notice shall be filed within 90 days after~~
37 ~~January 1 of each year.~~

38 ~~(c) Notice shall be sent by first class mail and shall be~~
39 ~~deposited in a post office, mailbox, subpost office,~~
40 ~~substation, mail chute, or other like facility regularly~~



1 ~~maintained by the United States Postal Service, in a~~
2 ~~sealed envelope, with postage paid. Notice by mail is~~
3 ~~complete at the time of deposit. The failure of any~~
4 ~~customer to receive the notice given pursuant to this~~
5 ~~section shall not constitute grounds for any court to~~
6 ~~invalidate the actions of the legislative body for which the~~
7 ~~notice was given.~~

8 ~~(d) Action taken to adopt a rate increase pursuant to~~
9 ~~this section that is continued to any subsequent meeting~~
10 ~~of the legislative body shall not require further notice~~
11 ~~beyond that required pursuant to this chapter.~~

12 ~~(e) In case of a generally recognized emergency, a~~
13 ~~legislative body may pass a resolution declaring that the~~
14 ~~public interest and necessity demand the immediate~~
15 ~~increase of water or sewer rates to safeguard life, health,~~
16 ~~or property. If notice will not be given pursuant to this~~
17 ~~section, the legislative body shall comply with the other~~
18 ~~provisions of this chapter.~~

19 ~~(f) The provisions of this section shall apply to actions~~
20 ~~taken after January 1, 2000.~~

21 ~~(g) The legislative body may establish a reasonable~~
22 ~~annual fee for sending the notice based on the estimated~~
23 ~~cost of providing the service. The fee shall not exceed one~~
24 ~~hundred dollars (\$100) per customer.~~

25 ~~(h) For purposes of this section, retail water and sewer~~
26 ~~providers include any entities that provide water and~~
27 ~~sewer system services, including, but not limited to, all~~
28 ~~governmental and quasi-governmental agencies, cities,~~
29 ~~counties, cities and counties, regional agencies, irrigation~~
30 ~~districts, special districts, and special agencies.~~

31 ~~(i) This section does not apply to those entities~~
32 ~~providing notification pursuant to Section 454.1 of the~~
33 ~~Public Utilities Code.~~

34 ~~SEC. 2. Section 454.1 is added to the Public Utilities~~
35 ~~Code, to read:~~

36 ~~454.1. (a) A customer may request any water~~
37 ~~corporation or any sewer system corporation to provide~~
38 ~~the customer with a copy of an application to the~~
39 ~~commission for a rate increase pursuant to Section 454.~~
40 ~~The water or sewer system corporation shall provide the~~



1 customer with a copy of the rate increase application
2 within 10 days after the filing of the application with the
3 commission, or within 10 days of the receipt of the
4 request, whichever is later.

5 The customer's request shall indicate the person to be
6 notified and the manner in which the notice is given. A
7 water or sewer system corporation shall notify any
8 individual customer who requests notification as
9 provided in this subdivision.

10 (b) A water or sewer system corporation may impose
11 a customer notification fee for notices required by
12 subdivision (a) for individual customers. The fee shall
13 reflect the reasonable costs of providing the notification
14 and shall not exceed one hundred dollars (\$100) per
15 customer request and notification.

16 SEC. 3. No reimbursement is required by this act
17 pursuant to Section 6 of Article XIII B of the California
18 Constitution for certain costs that may be incurred by a
19 local agency or school district because in that regard this
20 act creates a new crime or infraction, eliminates a crime
21 or infraction, or changes the penalty for a crime or
22 infraction, within the meaning of Section 17556 of the
23 Government Code, or changes the definition of a crime
24 within the meaning of Section 6 of Article XIII B of the
25 California Constitution.

26 However, notwithstanding Section 17610 of the
27 Government Code, if the Commission on State Mandates
28 determines that this act contains other costs mandated by
29 the state, reimbursement to local agencies and school
30 districts for those costs shall be made pursuant to Part 7
31 (commencing with Section 17500) of Division 4 of Title
32 2 of the Government Code. If the statewide cost of the
33 claim for reimbursement does not exceed one million
34 dollars (\$1,000,000), reimbursement shall be made from
35 the State Mandates Claims Fund.

