

April 28, 1999

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

From: General Manager _____

Submitted by: Jay W. Malinowski, Chief of Operations _____

Subject: Senate Bill 1107 – (Sher) Operator Certification Program: Water Distribution Systems

RECOMMENDATION(S)

For information only.

EXECUTIVE SUMMARY

Senate Bill 1107 (Sher) would authorize the California Department of Health Services (DHS) to make the necessary changes to its operator certification program to comply with the provisions of the federal Safe Drinking Water Act (SDWA). Once authorized, DHS would proceed to adopt rules and regulations related to water distribution system operator certification. The DHS process to develop rules and regulations will provide water utilities, including Metropolitan and its member agencies, with a vehicle to make changes to the State’s operator certification program.

DETAILED REPORT

Authored by Senator Byron Sher and sponsored by the DHS, SB 1107 is intended to make those changes to the State’s Safe Drinking Water Act and related provisions to ensure that DHS has the expanded authority to regulate water distribution system operators.

SB 1107 would require the DHS to examine and certify water distribution system operators in a manner consistent with federal SDWA. This bill would also require DHS to ensure those persons overseeing water distribution systems possess a valid certification from DHS (distribution system certification is currently voluntary). In addition, a Drinking Water Operator Certification Special Account in the California State Treasury would be established to collect fees for the examination and certification of operators.

SB 1107 would authorize DHS to adopt rules and regulations related to water system operator certification. The process to adopt these rules and regulations will offer water agencies and others the opportunity to provide input into DHS’ operator certification program. In anticipation of this opportunity, the Association of California Water Agencies (ACWA) formed a workgroup of drinking water agency stakeholders to provide concerted input to DHS during the rule-making process. Metropolitan and several member agencies are participating as members in this

workgroup. With the reauthorization of the operator certification program by the State of California through SB 1107, DHS would remain the governing authority. This authority would provide for local (State) control of a federally mandated program.

Metropolitan and all of its Member Agencies will be impacted by DHS' operator certification program. Staff will continue to track this legislation and will participate in the rule-making process.

EGD/KLW/slm

Attachment 10-25A

Attachment 10-25A

**The following 14 pages are attachments to
Board Letter Item 10-25**

**Introduced by Senator Sher
(Principal coauthor: Senator Solis)**

February 26, 1999

An act to amend Sections 106875, 106876, 106880, 106885, 106890, 106895, 106900, 106910, 116275, and 116555 of, to amend the heading of Article 3 (commencing with Section 106875) of Chapter 4 of Part 1 of Division 104 of, to add Sections 106892, 106896, and 106897 to, to repeal Section 106905 of, and to repeal Chapter 6 (commencing with Section 116900) of Part 12 of Division 104 of, the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1107, as amended, Sher. Operator certification program: water distribution systems.

(1) Existing law requires all persons responsible for the supervision or operation of water treatment plants to be certified by the State Department of Health Services. Existing law authorizes the department to take certain administrative action with regard to a water treatment operator or water treatment operator-in-training certificate.

This bill would require the department to examine and certify persons as to their qualifications to supervise or operate a water distribution system. The bill would authorize the department to take designated administrative actions with regard to a water distribution ~~system~~ operator certificate.

The bill would require all persons who are in responsible charge of the water distribution system of a community water system or a nontransient noncommunity water ~~system~~ to possess a valid and current water distribution~~—system~~ operator certificate of the appropriate grade in accordance with regulations.

(2) Existing law authorizes the department to establish fee schedules for the issuance and renewal of these operator certificates sufficient to recover all costs incurred in the administration of regulatory provisions.

This bill would authorize the department to establish fee schedules for the replacement and reinstatement of certificates under these provisions. The bill would establish in the State Treasury the Drinking Water Operator Certification Special Account into which fees collected for purposes of the certification and examination of water treatment ~~plant~~ operators, water treatment ~~plant~~ operators-in-training, and water distribution ~~system~~ operators would be deposited.

(3) Existing law authorized any person employed as a water treatment plant operator on the date provisions authorizing the regulation of water treatment plant operators became effective to be issued an appropriate certificate provided that the person provided evidence of certain qualifications acceptable to the director as prescribed by regulations.

This bill would, instead, require that an appropriate certificate be issued to a person employed as a water distribution ~~system~~ operator if the water system employing the operator has applied for the certificate within one year after the adoption of regulations implementing these provisions.

This bill would require the department to evaluate the water distribution~~—system~~ operator certification program of the California-Nevada Section of the American Water Works Association (CNAWWA) and issue an appropriate water distribution ~~system~~ operator certificate for those certified operators that have satisfied the provisions regulating water distribution system operators.

The bill would require, on or after the effective date of regulations implementing the bill's water distribution system



operator regulatory provisions, that certificates issued by certification programs of other states be recognized as valid and sufficient as provided under the bill.

(4) Existing law requires that all preentry and postentry educational programs under these operator provisions be tailored to the needs of all segments of the population without respect to race, color, or creed.

This bill would repeal this provision.

(5) Existing law requires the department to establish the level of skill, knowledge, and experience necessary to supervise and operate a water treatment facility. Existing law requires the department to establish criteria to classify the type of water treatment plants.

This bill would, instead, authorize the department to approve courses of instruction provided by educational institutions, professional associations, public agencies, or private agencies for purposes of qualifying persons for initial certification, certification renewal, and recertification as a water treatment ~~plant~~ operator, water treatment ~~plant~~ operator-in-training, or water distribution ~~system~~ operator. The bill would authorize the department to adopt specified rules, regulations, and certification standards with regard to these operators and to water treatment plants and water distribution systems.

(6) Existing law sets forth definitions governing the California Safe Drinking Water Act and the provisions governing water treatment plant operators.

This bill would add to these definitions for purposes of existing provisions regulating water treatment ~~plant~~ operators, water treatment operators-in-training, and water treatment plants and for purposes of provisions of the bill that would regulate water distribution ~~system~~ operators and water distribution systems.

(7) Existing law specifies certain requirements of any person who operates a public water system.

This bill would revise this provision to provide that any person who owns a public water system shall ensure that the system meets certain requirements and the bill would add to those requirements that the public water system comply with specified operator certification programs. The bill also would



set forth requirements for any person who owns a community water system or a nontransient noncommunity water system.

(8) Existing law requires the Director of Health Services to adopt regulations and certification standards for purposes of the operation of water treatment plants.

This bill would repeal these provisions.

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

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

1 SECTION 1. The heading of Article 3 (commencing
2 with Section 106875) of Chapter 4 of Part 1 of Division 104
3 of the Health and Safety Code is amended to read:

4

5 Article 3. Operator Certification Program: Water
6 Treatment Plants and Water Distribution Systems

7

8 SEC. 2. Section 106875 of the Health and Safety Code
9 is amended to read:

10 106875. (a) The department shall examine and
11 certify persons as to their qualifications to supervise or
12 operate water treatment plants. The certification shall
13 indicate the classification of water treatment plant that
14 the person is qualified to supervise or operate.

15 (b) The department shall examine and certify persons
16 as to their qualifications to supervise or operate a water
17 distribution system. The certification shall indicate the
18 classification of distribution system that the person is
19 qualified to supervise or operate.

20 SEC. 3. Section 106876 of the Health and Safety Code
21 is amended to read:

22 106876. (a) The department may suspend, revoke, or
23 refuse to grant or renew any water treatment ~~plant~~
24 operator certificate or water treatment—~~plant~~
25 operator-in-training certificate to operate or supervise
26 the operation of a water treatment plant or may place on
27 probation or reprimand the certificate holder upon any
28 reasonable grounds, including, but not limited to, any of
29 the following:



1 (1) The submission of false or misleading information
2 on an application for a certificate or engaging in dishonest
3 conduct during an examination.

4 (2) The use of fraud or deception in the course of
5 operating or supervising the operation of a water
6 treatment plant or a water recycling treatment plant.

7 (3) The failure to use reasonable care or judgment in
8 the operation or supervision of the operation of a water
9 treatment plant or a water recycling treatment plant.

10 (4) The inability to perform operating duties properly
11 in a water treatment plant or a water recycling treatment
12 plant.

13 (5) The failure to meet all requirements for certificate
14 renewal.

15 (6) The conduct of willful or negligent acts that cause
16 or allow the violation of the Safe Drinking Water Act
17 (Subchapter XII (commencing with Section 300f) of
18 Chapter 6A of Title 42 of the United States Code) or the
19 regulations and standards adopted pursuant to that act.

20 (7) Willfully or negligently violating or causing or
21 allowing the violation of waste discharge requirements or
22 permits issued pursuant to the Federal Water Pollution
23 Control Act (33 U.S.C. Sec. 1251 et seq.) while operating
24 a water recycling treatment plant.

25 (b) The department may suspend, revoke, or refuse to
26 grant or renew any water distribution operator ~~system~~
27 certificate to operate or supervise the operation of a
28 water distribution system or may place on probation or
29 reprimand the certificate holder upon any reasonable
30 grounds, including, but not limited to, any of the ~~grounds~~
31 ~~specified in paragraphs (1) to (6), inclusive, of~~
32 ~~subdivision (a).~~ *following:*

33 (1) *The submission of false or misleading information*
34 *on an application for a certificate or engaging in dishonest*
35 *conduct during an examination.*

36 (2) *The use of fraud or deception in the course of*
37 *operating or supervising the operation of a water*
38 *distribution system.*



1 (3) *The failure to use reasonable care of judgment in*
2 *the operation or supervision of the operation of a water*
3 *distribution system.*

4 (4) *The inability to perform operating duties properly*
5 *in a water distribution system.*

6 (5) *The failure to meet all requirements for certificate*
7 *renewal.*

8 (6) *The conduct of willful or negligent acts that cause*
9 *or allow the violation of the federal Safe Drinking Water*
10 *Act (Subchapter XII (commencing with Section 300f) of*
11 *Chapter 6A of Title 42 of the United States Code) or the*
12 *regulations and standards adopted pursuant to that act.*

13 (c) Prior to revocation of a valid operator certificate,
14 the department shall provide the certificate holder with
15 an opportunity for a hearing before the department.

16 (d) For purposes of this section, “water recycling
17 treatment plant” means a treatment plant that receives
18 and further treats secondary and/or tertiary effluent
19 from a wastewater treatment plant.

20 SEC. 4. Section 106880 of the Health and Safety Code
21 is amended to read:

22 106880. The state department shall hold at least one
23 examination each year for the purpose of examining
24 candidates for certification.

25 SEC. 5. Section 106885 of the Health and Safety Code
26 is amended to read:

27 106885. (a) All persons who operate or supervise the
28 operation of water treatment plants shall possess a valid
29 and current water treatment ~~plant~~ operator certificate or
30 water treatment ~~plant~~ operator-in-training certificate of
31 appropriate grade in accordance with the regulations
32 referred to in Section 106910.

33 (b) All persons who are in responsible charge of the
34 water distribution system of a community water system
35 or a nontransient noncommunity water system shall
36 possess a valid and current water distribution ~~system~~
37 operator certificate of the appropriate grade in
38 accordance with the regulations referred to in Section
39 106910.



1 SEC. 6. Section 106890 of the Health and Safety Code
2 is amended to read:

3 106890. It is the intent of the Legislature that the
4 program authorized pursuant to this article be entirely
5 self-supporting, and for this purpose the ~~board~~
6 *department* is authorized to establish fee schedules for
7 the issuance, replacement, reinstatement, *continuing*
8 *education*, and renewal of certificates that shall provide
9 revenues that shall not exceed the amount necessary, but
10 shall be sufficient, to recover all costs incurred in the
11 administration of this article.

12 SEC. 7. Section 106892 is added to the Health and
13 Safety Code, to read:

14 106892. There is in the State Treasury the Drinking
15 Water Operator Certification Special Account. Fees
16 collected pursuant to Section 106890 shall be deposited in
17 the account created by this section.

18 SEC. 8. Section 106895 of the Health and Safety Code
19 is amended to read:

20 106895. (a) A person employed as a water
21 distribution ~~system~~ operator, as defined by Section ~~116915~~
22 *116275*, shall be issued an appropriate certificate provided
23 that the water system with which the operator is
24 employed has applied for the certificate within one year
25 after the adoption of the regulations implementing this
26 section.

27 (b) A certificate issued pursuant to subdivision (a)
28 shall be effective only at the site at which the operator was
29 employed.

30 (c) If the classification of the distribution system
31 changes to a higher level, the certificate of the water
32 distribution ~~system~~ operator that was issued pursuant to
33 subdivision (a) for that water distribution system is no
34 longer valid.

35 (d) Any water distribution ~~system~~ operator who is
36 certified under subdivision (a) shall meet all of the
37 requirements for renewal, including necessary training
38 and the payment of fees.

39 SEC. 9. Section 106896 is added to the Health and
40 Safety Code, to read:



1 106896. The department shall evaluate the water
2 distribution ~~system~~ operator certification program of the
3 California-Nevada Section of the American Water Works
4 Association (CNAWWA) and issue an appropriate water
5 distribution system operator certificate for those certified
6 operators that have satisfied the provisions of this article
7 and any regulations promulgated under this chapter.

8 SEC. 10. Section 106897 is added to the Health and
9 Safety Code, to read:

10 106897. On or after the effective date of regulations
11 implementing this article, certificates issued by
12 certification programs of other states shall be recognized
13 as valid and sufficient under this article if the department
14 determines that the program of the other state is
15 consistent with this article and the regulations
16 promulgated under this article.

17 SEC. 11. Section 106900 of the Health and Safety Code
18 is amended to read:

19 106900. The department may approve courses of
20 instruction provided by educational institutions,
21 professional associations, public agencies, or private
22 agencies for purposes of qualifying persons for initial
23 certification, certification renewal, and recertification as
24 a water treatment ~~plant~~ operator, water treatment ~~plant~~
25 operator-in-training, or water distribution ~~system~~
26 operator.

27 SEC. 12. Section 106905 of the Health and Safety Code
28 is repealed.

29 SEC. 13. Section 106910 of the Health and Safety Code
30 is amended to read:

31 106910. The department may adopt rules, regulations,
32 and certification standards necessary to carry out the
33 provisions of this article, pursuant to Chapter 3.5
34 (commencing with Section 11340) of Part 1 of Division 3
35 of Title 2 of the Government Code. The rules, regulations,
36 and standards shall include, but not be limited to, the
37 following:

38 (a) The classification of treatment plants taking into
39 consideration the plant size, character of the water being
40 treated, type and degree of treatment, complexity of



1 operation, and other physical conditions affecting the
2 operation of the water treatment plant.

3 (b) The classification of distribution systems of
4 community water systems and nontransient
5 noncommunity water systems taking into consideration
6 the complexity and size of the system.

7 (c) Criteria and standards establishing the level of
8 skill, knowledge, *education*, and experience necessary to
9 operate successfully or ~~super~~*vis*e to *super*vis~~e~~ *successfully*
10 the operation of specific classes of water treatment plants
11 so as to protect public health.

12 (d) Criteria and standards establishing the level of
13 skill, knowledge, and experience necessary to operate
14 successfully or ~~super~~*vis*e to *super*vis~~e~~ *successfully* the
15 operation of specific classes of water distribution systems
16 so as to protect the public health.

17 (e) Criteria and standards for operator certification
18 renewal including continuing education requirements.

19 (f) Criteria and standards for recertification of an
20 operator when the operator's certificate has lapsed.

21 (g) Criteria and standards for the availability of
22 designated water treatment ~~plant~~ operators for each
23 operating shift.

24 SEC. 14. Section 116275 of the Health and Safety Code
25 is amended to read:

26 116275. As used in this chapter:

27 (a) "Contaminant" means any physical, chemical,
28 biological, or radiological substance or matter in water.

29 (b) "Department" means the State Department of
30 Health Services.

31 (c) "Primary drinking water standards" means:

32 (1) Maximum levels of contaminants that, in the
33 judgment of the department, may have an adverse effect
34 on the health of persons.

35 (2) Specific treatment techniques adopted by the
36 department in lieu of maximum contaminant levels
37 pursuant to subdivision (j) of Section 116365.

38 (3) The monitoring and reporting requirements as
39 specified in regulations adopted by the department that
40 pertain to maximum contaminant levels.



1 (d) “Secondary drinking water standards” means
2 standards that specify maximum contaminant levels that,
3 in the judgment of the department, are necessary to
4 protect the public welfare. Secondary drinking water
5 standards may apply to any contaminant in drinking
6 water that may adversely affect the odor or appearance
7 of the water and may cause a substantial number of
8 persons served by the public water system to discontinue
9 its use, or that may otherwise adversely affect the public
10 welfare. Regulations establishing secondary drinking
11 water standards may vary according to geographic and
12 other circumstances and may apply to any contaminant
13 in drinking water that adversely affects the taste, odor, or
14 appearance of the water when the standards are
15 necessary to assure a supply of pure, wholesome, and
16 potable water.

17 (e) “Human consumption” means the use of water for
18 drinking, bathing or showering, hand washing, or oral
19 hygiene.

20 (f) “Maximum contaminant level” means the
21 maximum permissible level of a contaminant in water.

22 (g) “Person” means an individual, corporation,
23 company, association, partnership, limited liability
24 company, municipality, public utility, or other public
25 body or institution.

26 (h) “Public water system” means a system for the
27 provision of water for human consumption through pipes
28 or other constructed conveyances that has 15 or more
29 service connections or regularly serves at least 25
30 individuals daily at least 60 days out of the year. A public
31 water system includes the following:

32 (1) Any collection, treatment, storage, and
33 distribution facilities under control of the operator of the
34 system which are used primarily in connection with the
35 system.

36 (2) Any collection or pretreatment storage facilities
37 not under the control of the operator that are used
38 primarily in connection with the system.



1 (3) Any water system that treats water on behalf of
2 one or more public water systems for the purpose of
3 rendering it safe for human consumption.

4 (i) “Community water system” means a public water
5 system that serves at least 15 service connections used by
6 yearlong residents or regularly serves at least 25 yearlong
7 residents of the area served by the system.

8 (j) “Noncommunity water system” means a public
9 water system that is not a community water system.

10 (k) “Nontransient noncommunity water system”
11 means a public water system that is not a community
12 water system and that regularly serves at least 25 of the
13 same persons over 6 months per year.

14 (l) “Local health officer” means a local health officer
15 appointed pursuant to Section 101000 or a local
16 comprehensive health agency designated by the board of
17 supervisors pursuant to Section 101275 to carry out the
18 drinking water program.

19 (m) “Significant rise in the bacterial count of water”
20 means a rise in the bacterial count of water that the
21 department determines, by regulation, represents an
22 immediate danger to the health of water users.

23 (n) “State small water system” means a system for the
24 provision of piped water to the public for human
25 consumption that serves at least five, but not more than
26 14, service connections and does not regularly serve
27 drinking water to more than an average of 25 individuals
28 daily for more than 60 days out of the year.

29 (o) “Transient noncommunity water system” means a
30 noncommunity water system that does not regularly
31 serve at least 25 of the same persons over six months per
32 year.

33 (p) “User” means any person using water for domestic
34 purposes. User does not include any person processing,
35 selling, or serving water or operating a public water
36 system.

37 (q) “Waterworks standards” means regulations
38 adopted by the department that take cognizance of the
39 latest available “Standards of Minimum Requirements for
40 Safe Practice in the Production and Delivery of Water for

1 Domestic Use” adopted by the California section of the
2 American Water Works Association.

3 (r) “Local primacy agency” means any local health
4 officer that has applied for and received primacy
5 delegation from the department pursuant to Section
6 116330.

7 (s) “Service connection” means the point of
8 connection between the customer’s piping or
9 constructed conveyance, and the water system’s meter,
10 service pipe, or constructed conveyance. A connection to
11 a system that delivers water by a constructed conveyance
12 other than a pipe shall not be considered a connection in
13 determining if the system is a public water system if any
14 of the following apply:

15 (1) The water is used exclusively for purposes other
16 than residential uses, consisting of drinking, bathing, and
17 cooking or other similar uses.

18 (2) The department determines that alternative
19 water to achieve the equivalent level of public health
20 protection provided by the applicable primary drinking
21 water regulation is provided for residential or similar uses
22 for drinking and cooking.

23 (3) The department determines that the water
24 provided for residential or similar uses for drinking,
25 cooking, and bathing is centrally treated or treated at the
26 point of entry by the provider, a passthrough entity, or
27 the user to achieve the equivalent level of protection
28 provided by the applicable primary drinking water
29 regulations.

30 (t) “Resident” means a person who physically
31 occupies, whether by ownership, rental, lease or other
32 means, the same dwelling for at least 60 days of the year.

33 (u) “Water treatment ~~plant~~ operator” means a person
34 who has met the requirements for a specific water
35 treatment operator grade pursuant to Section 106875.

36 (v) “Water treatment ~~plant~~ operator-in-training”
37 means a person who has applied for and passed the
38 written examination given by the department but does
39 not yet meet the experience requirements for a specific



1 water treatment—~~plant~~ operator grade pursuant to
2 Section 106875.

3 (w) “Water distribution ~~system~~ operator” means a
4 person who has met the requirements for a specific water
5 distribution ~~system~~ operator grade pursuant to Section
6 106875.

7 (x) “Water treatment plant” means a group or
8 assemblage of structures, equipment, and processes that
9 treat, blend, or condition the water supply of a public
10 water system for the purpose of meeting primary
11 drinking water standards.

12 (y) “Water distribution system” means any
13 combination of pipes, tanks, pumps, and other physical
14 features that deliver water from the source or water
15 treatment plant to the consumer.

16 SEC. 15. Section 116555 of the Health and Safety Code
17 is amended to read:

18 116555. (a) Any person who owns a public water
19 system shall ensure that the system does all of the
20 following:

21 (1) Complies with primary and secondary drinking
22 water standards.

23 (2) Will not be subject to backflow under normal
24 operating conditions.

25 (3) Provides a reliable and adequate supply of pure,
26 wholesome, healthful, and potable water.

27 (4) Employs or utilizes only water treatment ~~plant~~
28 operators or *water treatment* operators-in-training that
29 have been certified by the department at the appropriate
30 grade.

31 (5) Complies with the operator certification program
32 established pursuant to Chapter 4 (commencing with
33 Section 106875).

34 (b) Any person who owns a community water system
35 or a nontransient noncommunity water system shall do all
36 of the following:

37 (1) Employ or utilize only water distribution system
38 operators who have been certified by the department at
39 the appropriate grade for positions in responsible charge
40 of the distribution system.



1 (2) Place the direct supervision of the water system,
2 including water treatment plants, water distribution
3 systems, or both under the responsible charge of an
4 operator or operators holding a valid certification equal
5 to or greater than the classification of the treatment ~~plant,~~
6 ~~distribution system, or both.~~ *plant and the distribution*
7 *system.*
8 SEC. 16. Chapter 6 (commencing with Section
9 116900) of Part 12 of Division 104 of the Health and Safety
10 Code is repealed.

