

- **Board of Directors**
Communications and Legislation Committee

April 8, 2008 Board Meeting

8-11

Subject

Express support, if amended, for AB 2882 (Wolk, D-Davis) – Allocation-based conservation water pricing

Description

Assembly Bill 2882 (Wolk, D-Davis), which is sponsored by the Irvine Ranch Water District and the Santa Ana Watershed Project Authority, would authorize and encourage a public entity to adopt allocation-based conservation water rates provided that the rates remain reasonable for water service, including the cost of conservation programs and overuse charges.

Background

In 1996, the California voters amended the California Constitution (Articles XIIC and XIID) through the passage of Proposition 218. This amendment included additional requirements and procedures for approval of new or increased assessments and property-related fees or charges imposed by local government agencies. A subsequent legal decision determined that water rates can be viewed as property-related fees, subject to Proposition 218, including requirements that the rates “shall not exceed the funds required to provide the service” and “shall not be used for any purpose other than that for which the fee was imposed.”

The intent of AB 2882, as stated by the bill’s sponsor, is to define by statute that conservation programs, including recycled water programs and projects, are costs of providing water service and that allocation-based rates are an appropriate and encouraged rate structure. The majority of the language in the bill speaks to the specifics of allocation-based water pricing. As an example, the bill requires that for an allocation-based rate structure, *“the conservation charge for the highest-price increment is at least three times the basic charge.”*

Analysis

AB 2882 would protect water rate structures that collect reasonable costs for service, including the cost of conservation and recycled water projects. Allocation-based rate structures are an effective method of establishing rates, achieving water use efficiency to the benefit of our region.

However, allocation-based rate structures are just one specific case of inclining block rate structures, which charge higher rates as the customer uses more water. Most forms of inclining block rate structures are considered to be water conserving and are often established for this very reason. In addition to inclining block rate structures, uniform block rate structures (which charge the same rate for water regardless of the amount of water a customer uses) can also be water conserving. The California Urban Water Conservation Council recognizes uniform rates, that collect a minimum percentage of a water purveyor’s revenue through volumetric charges, as water conservation. Because of these issues, staff is recommending a support, if amended, position on AB 2882.

Recommended Amendments

Staff recommends that the following amendments be sought to AB 2882:

1. Remove the requirements for establishing tiers at a specific level, and instead provide that all tiers be based upon reasonable costs as defined in the legislation;
2. Clarify that the legislation does not direct or otherwise compel a public entity to utilize allocation-based conservation water pricing; and

3. Clarify that the legislation is applicable to retail water service.

Policy

By Minute Item 45208, dated February 11, 2003, the Board adopted a set of policy principles on water conservation to ensure a solid foundation for development of future Metropolitan positions on water conservation legislation and to provide guidance to Metropolitan staff.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and authorize the General Manager to express Metropolitan's support for AB 2882, if amended, as described in this letter.

Fiscal Impact: \$0 to Metropolitan

Business Analysis: Strengthen retail agencies' ability to adopt allocation-based rate structure that would contribute to regional water-use efficiency

Option #2

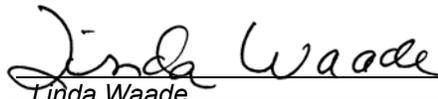
Take no position on AB 2882.

Fiscal Impact: \$0 to Metropolitan

Business Analysis: Lost opportunity to strengthen retail agencies ability to adopt allocation-based rate restructures

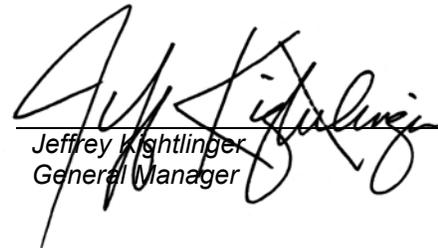
Staff Recommendation

Option #1


 Linda Waade
 Deputy General Manager, External Affairs

4/1/2008

Date


 Jeffrey Lightlinger
 General Manager

4/1/2008

Date

Attachment 1 – AB 2882

BLA #6112

ASSEMBLY BILL

No. 2882

Introduced by Assembly Member Wolk

February 22, 2008

An act to add Chapter 3.4 (commencing with Section 370) to Division 1 of the Water Code, relating to water rates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2882, as introduced, Wolk. Allocation-based conservation water pricing.

Existing law relative to water conservation programs authorizes any public entity, as defined, that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity to adopt and enforce, by ordinance or resolution, a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity.

This bill would authorize a public entity to adopt allocation-based conservation water pricing meeting certain requirements. The bill would require that revenues derived from allocation-based conservation water pricing not exceed the reasonable cost of water service, including conservation measure costs and overuse costs, as defined.

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

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

- 1 SECTION 1. Chapter 3.4 (commencing with Section 370) is
- 2 added to Division 1 of the Water Code, to read:

CHAPTER 3.4. ALLOCATION-BASED CONSERVATION WATER PRICING

370. The Legislature hereby finds and declares all of the following:

(a) The use of allocation-based conservation water pricing by public entities that sell and distribute water is one effective means by which waste or unreasonable use of water can be prevented and water can be saved in the interest of the people and for the public welfare, within the contemplation of Section 2 of Article X of the California Constitution.

(b) It is the intention of the Legislature that the state take steps to encourage the voluntary use of allocation-based conservation water pricing on a regular and ongoing basis as a means of reducing wasteful or unreasonable use of water under both normal and dry-year hydrologic conditions.

(c) The Legislature intends that allocation-based conservation water pricing is an additional option to incentivize water users to conserve and eliminate waste of water and the Legislature does not intend to limit the discretion of public entities to evaluate and select among different methods for conserving water or to create a presumption that the election to not use a particular method is a waste or unreasonable use of water by the public entity.

371. For purposes of this chapter, the following terms have the following meanings:

(a) "Allocation-based conservation water pricing" means a retail water rate structure that meets all of the criteria in Section 372.

(b) "Basic charge" means a volumetric unit charge for the cost of water service other than any fixed costs that are recovered through meter charges or other fixed charges and any conservation measure costs and costs that are recovered through conservation charges. A basic charge may include the cost of generally applicable conservation measures assumed in establishing basic use allocations.

(c) "Conservation charge" means a volumetric unit charge for conservation measure costs.

(d) "Conservation measure costs" means expenses incurred for water conservation measures employed by the public entity to reduce the wasteful or unreasonable use of water, and may include conservation best management practices, conservation education,

1 irrigation controls and other conservation devices, water system
2 retrofitting for production and use of alternative water supplies
3 including recycled water, energy costs related to water use, and
4 securing dry-year supply arrangements.

5 (e) “Overuse costs” means costs incurred as a result of the
6 wasteful or unreasonable use of water, and may include preventing,
7 controlling, or treating the runoff of water wasted by irrigation
8 and other outdoor uses, and procuring water supplies to satisfy
9 increments of water use in excess of the basic use allocations for
10 the customers of the public entity.

11 (f) “Public entity” means a city, whether general law or
12 chartered, county, city and county, special district, agency,
13 authority, any other municipal public corporation or district, or
14 any other political subdivision of the state.

15 372. (a) A public entity may employ allocation-based
16 conservation water pricing that meets all of the following criteria:

17 (1) Billing is based on metered water use.

18 (2) A basic use allocation is established for each customer
19 account that provides a reasonable amount of water for the
20 customer’s needs and property characteristics. Factors used to
21 determine the basic use allocation may include, but are not limited
22 to, the number of occupants, the type or classification of use, the
23 size of lot or irrigated area, and the local climate data for the billing
24 period.

25 (3) A basic charge per volumetric unit is imposed for all water
26 used within the customer’s basic use allocation, except that at the
27 option of the public entity, a lower rate may be applied to any
28 portion of the basic use allocation that the public entity has
29 determined to represent superior or more than reasonable
30 conservation efforts.

31 (4) A conservation charge is imposed for increments of water
32 use in excess of the basic use allocation. The conservation charge
33 for the increments shall, in the aggregate, provide revenue not to
34 exceed conservation measure costs and overuse costs. The
35 increments may be fixed or may be determined on a percentage
36 or other basis, provided that the conservation charge for the
37 highest-price increment is at least three times the basic charge.

38 (b) (1) Except as specified in subdivision (b), the design of an
39 allocation-based conservation pricing rate structure shall be
40 determined in the discretion of the public entity.

1 (2) The public entity may impose meter charges or other fixed
2 charges to recover fixed costs of water service in addition to the
3 allocation-based conservation pricing rate structure.

4 373. (a) Revenues derived from allocation-based conservation
5 water pricing shall not exceed the reasonable cost of water service
6 including conservation measure costs and overuse costs. This
7 chapter does not limit the sources of funding for conservation
8 measure costs to charges for water use.

9 (b) Revenues derived from allocation-based conservation water
10 pricing shall not exceed the proportional cost of service attributable
11 to the customer’s parcel, as determined by giving consideration to
12 all of the following:

13 (1) Customer classes established in consideration of service
14 characteristics, demand patterns, and other factors.

15 (2) Basic use allocations.

16 (3) Meter size.

17 (4) Metered volume of water consumed.

18 (c) Revenues derived from conservation charges shall not exceed
19 the proportional cost of service attributable to the increments of
20 water use subject to conservation charges. Under an
21 allocation-based conservation water pricing structure, the public
22 entity may establish proportionality between the cost of service
23 and increments of water usage subject to conservation charges
24 either on an aggregate basis, by the total metered volume of water
25 consumed within all increments subject to conservation charges,
26 or separately within each increment.

27 374. (a) Allocation-based conservation water pricing under
28 this chapter may be used on an ongoing basis and shall not require
29 any finding of emergency or other water shortage conditions.

30 (b) The authority granted in this chapter is in addition to any
31 other authority that a public entity has to use rate structure design
32 to foster the conservation of water.

33 (c) The imposition and revision of rates and charges by a public
34 entity under this chapter shall be subject to the procedures
35 otherwise required by law for the public entity’s water rates.