



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

March 10, 2009 Board Meeting

8-5

**Subject**

Express support and authorize cosponsorship for AB 1366 (Feuer, D-Los Angeles) – Residential Self-Regenerating Water Softeners

**Description**

Staff recommends the Board express support and authorize cosponsor legislation to improve the ability of local wastewater agencies to regulate water softeners. The Inland Empire Utilities Agency is sponsoring the legislation and has requested Metropolitan's support and cosponsorship. Benefits of the proposed legislation (**Attachment 1**) include reducing salt loads to recycled water plants and groundwater basins where salinity may be a limiting factor.

**Background:** The salt loading impact from water softeners on water reclamation efforts has been a divisive issue. Water softeners remove the scale-forming minerals in hard water, benefiting residential customers by improving the efficiency and extending the life of water heaters and other hot-water using appliances. However, the discharge of salt from the regeneration of water softeners into the wastewater collection system has a negative impact on recycled water and wastewater plant effluent with downstream beneficial uses including groundwater recharge. Utilizing recycled water is a major component of Metropolitan's long-term resource portfolio as identified in the Integrated Resources Plan, and reducing the salinity of the influent into the wastewater system helps sustain recycled water use. The problem exists primarily with widespread use of water softeners at the residential level. Discharges from industrial and commercial units are already regulated.

**Existing Regulation:** Existing regulations limit local agency authority to regulate softeners. The following conditions must be in place before a local agency can regulate residential softeners: (1) a regional board must determine that regulating water softeners is necessary to comply with discharge requirements, (2) the local agency must adopt a water softener ordinance enforcing limits on non-residential sources of salinity as well as a finding that lower salinity is necessary to meet water reclamation requirements, and (3) an independent study is performed documenting all sources of salinity and potential salinity control measures. These provisions have proven to be burdensome to local agencies wishing to protect recycled water supplies.

Last year, Assembly Member John Laird (D-Santa Cruz) introduced AB 2270, a bill supported by Metropolitan and many of its member agencies, which would have provided for reliable tracking of the recycled water supply and streamlined the steps that local agencies could take to regulate the use of self-generating residential water softeners. Although recognizing that excess salinity in surface and groundwater is a serious water quality challenge throughout the state, Governor Schwarzenegger ultimately vetoed the bill as he felt the bill unduly limited consumer choice. There are positive indications this year that the time may be right to resurrect this issue. The Inland Empire Utilities Agency is building support among a consortium of water agencies to promote passage of a similar bill this session.

**Proposed Legislation:** The State Water Resources Control Board has identified areas within California where residential salinity inputs are contributing to the impairment of water bodies. Under the proposed legislation, local public agencies that maintain a community sewer system would have the authority to:

1. Regulate residential water softeners in areas of impaired water bodies and those vulnerable to contamination;

2. Consider local economic issues and other community input before taking action to regulate water softeners;
3. Adopt by resolution, instead of ordinance, the ability to take action to control salinity inputs from residential water softeners; and
4. Enact a voluntary buy-back program for existing residential water softeners.

Water agencies recognize the economic benefits to consumers of softened water in areas with hard water sources. However, there are practical alternatives that can address customers' needs for softened water, including the regeneration of softeners at controlled off-site locations where brine discharges can be managed.

Staff believes that the proposed legislation could be an effective method to control ongoing water softener impacts, and improve local control of salt loading to recycled water projects and impaired groundwater basins. Metropolitan will collaborate with the Member Agencies to identify further amendments as deemed appropriate.

## **Policy**

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By Minute Item 42820, dated February 10, 1998, the Board adopted the Source Water Quality Protection Policy Principles.

## **California Environmental Quality Act (CEQA)**

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CEQA determination for Options #1 and 2:

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 #3:

None required

## **Board Options**

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### **Option #1**

Adopt the CEQA determination and authorize the General Manager to express Metropolitan's support and cosponsorship of the proposed legislation.

**Fiscal Impact:** None

**Business Analysis:** Allowing local agencies greater ability to manage self-generating residential water softeners would help protect Metropolitan's and member agency investments in recycled water which can be adversely affected by higher levels of salinity.

### **Option #2**

Adopt the CEQA determination and authorize the General Manager to express Metropolitan's support but without cosponsorship of the proposed legislation.

**Fiscal Impact:** None

**Business Analysis:** Allowing local agencies greater ability to manage self-generating residential water softeners would help protect Metropolitan's and member agency investments in recycled water which can be adversely affected by higher levels of salinity.

### **Option #3**

Take no position on the proposed legislation.

**Fiscal Impact:** None

**Business Analysis:** If the legislation is not enacted, local agencies would have to seek other means for managing salinity in source waters. Certain recycling facilities in Metropolitan's service area could be affected by higher salinity.

**Staff Recommendation**

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Option #1

  
\_\_\_\_\_  
Linda Waade 3/2/2009  
Deputy General Manager, External Affairs Date

  
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Jeffrey Kichtlinger 3/2/2009  
General Manager Date

**Attachment 1 – Assembly Bill 1366**

BLA #6634

**ASSEMBLY BILL**

**No. 1366**

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**Introduced by Assembly Members Feuer, Caballero, and Audra  
Strickland  
(Coauthor: Assembly Member John A. Perez)**

February 27, 2009

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An act to add Section 13148 to the Water Code, relating to water softeners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, as introduced, Feuer. Residential self-regenerating water softeners.

Existing law requires the State Water Resources Control Board to formulate and adopt state policy for water quality control. California regional water quality control boards are required to establish water quality objectives in water quality control plans. Under existing law, a local agency, by ordinance, may limit the availability, or prohibit the installation, of residential water softening or conditioning appliances that discharge to the community sewer system if the local agency makes certain findings and includes them in the ordinance.

This bill would authorize any local agency that maintains a community sewer system within specified areas of the state to take action, by ordinance or resolution and after a public meeting, to control salinity inputs from residential self-regenerating water softeners to protect the quality of the waters of the state, if the appropriate regional board makes a finding that the control of residential salinity input will contribute to the achievement of water quality objectives. The bill would state related findings and declarations of the Legislature, including findings and declarations concerning the need for special legislation.

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 Legislature finds and declares all of the  
2 following:

3 (a) Recycled water provides additional water supplies that are  
4 a cost-effective and reliable method of helping to meet California’s  
5 water needs.

6 (b) The Water Recycling Act of 1991 established a statewide  
7 goal to recycle a total of 700,000 acre-feet of water per year by  
8 2000, and one million acre-feet of water per year by 2010.

9 (c) The 2005 California Water Plan indicates that the statewide  
10 potential for recycled water use by 2030 is between 900,000  
11 acre-feet to 1.4 million acre-feet per year. Based on this projection,  
12 the state will fall far short of the goal of recycling one million  
13 acre-feet per year by 2010, unless new policies are enacted to  
14 accelerate recycled water use.

15 (d) Elevated levels of salinity in community sewer systems can  
16 hinder needed water recycling projects, and discharges from those  
17 systems may impair groundwater resources and surface waters of  
18 the state.

19 (e) The State Water Resources Control Board’s Recycled Water  
20 Policy requires every region in California to develop a salt/nutrient  
21 management plan by 2014 to assist regions in providing a clean  
22 and abundant water supply.

23 (f) Existing law allows regulation of discharges from industrial,  
24 commercial, and agricultural sources, but severely limits local  
25 public agencies from regulating salinity discharges from residential  
26 self-regenerating water softeners, which can discharge up to one  
27 pound of salt per day.

28 (g) The California Water Recycling Task Force Report of 2003,  
29 prepared by the Department of Water Resources and the State  
30 Water Resources Control Board, recommends that current law be  
31 changed to allow local public agencies more control over salinity  
32 from residential self-regenerating water softeners.

33 (h) It is the intent of the Legislature to require local public  
34 agencies to consider local economic issues and other community

1 input before taking action to regulate residential self-regenerating  
2 water softeners.

3 (i) It is the intent of the Legislature, by enacting this act, to give  
4 local public agencies additional authority to regulate residential  
5 self-regenerating water softeners, especially in areas of the state  
6 with water bodies adversely impacted by salinity and high use  
7 groundwater basins that are hydrogeologically vulnerable to  
8 contamination.

9 SEC. 2. Section 13148 is added to the Water Code, to read:

10 13148. (a) This section applies to the following hydrologic  
11 regions as identified in the California Water Plan: Central Coast,  
12 South Coast, San Joaquin River, Tulare Lake, and the Counties of  
13 Butte, Glenn, Placer, Sacramento, Solano, Sutter, and Yolo.

14 (b) Notwithstanding Article 1 (commencing with Section  
15 116775) of Chapter 5 of Part 12 of Division 104 of the Health and  
16 Safety Code, if a regional board with jurisdiction over a region  
17 identified in subdivision (a) makes a finding at a public hearing  
18 that the control of residential salinity input will contribute to the  
19 achievement of water quality objectives, any local agency that  
20 maintains a community sewer system affected by the finding, may  
21 take action by ordinance or resolution after at least one public  
22 meeting to take into consideration local economic issues and other  
23 community input, to control salinity inputs from residential  
24 self-regenerating water softeners, to protect the quality of the  
25 waters of the state. The finding may be made in any of the  
26 following water quality actions adopted by regional board:

- 27 (1) Water quality control plans.
- 28 (2) Waste discharge requirements.
- 29 (3) Master reclamation permits.
- 30 (4) Water recycling requirements.
- 31 (5) Cease and desist orders.

32 (c) Actions to control residential self-regenerating water softener  
33 salinity inputs authorized by subdivision (b) include, but are not  
34 limited to, actions to do any of the following:

35 (1) Require that residential self-regenerating water softeners  
36 sold within the jurisdiction of the local agency be rated at the  
37 highest efficiency commercially available.

38 (2) Require that plumbing permits be obtained prior to the  
39 installation of residential self-regenerating water softeners.

1 (3) Require that residential self-regenerating water softeners be  
2 plumbed to hook up to hot water only.

3 (4) Require that potassium chloride be used in residential  
4 self-regenerating water softeners instead of sodium chloride, if  
5 water quality conditions warrant.

6 (5) Enact a voluntary “buy back” program for the removal of  
7 existing residential self-regenerating water softeners, consistent  
8 with existing law.

9 (6) Require the removal of previously installed residential  
10 self-regenerating water softeners.

11 (7) Prohibit the installation of residential self-regenerating water  
12 softeners.

13 (d) If a local agency adopts an ordinance or resolution to require  
14 the removal of previously installed residential self-regenerating  
15 water softeners pursuant to paragraph (6) of subdivision (c), the  
16 local agency shall make available to owners of residential  
17 self-regenerating water softeners within its service area a program  
18 to compensate the owner of the residential self-regenerating water  
19 softener for the reasonable value of the removed residential  
20 self-regenerating water softener, as determined by the local agency.

21 (e) The regional board making a finding pursuant to subdivision  
22 (b) shall base its finding on the evidence in the record. The standard  
23 of judicial review required for a finding made pursuant to  
24 subdivision (b) shall be the same as the standard of review required  
25 for the water quality action in which the finding is made.

26 (f) This section does not require a local agency to adopt an  
27 ordinance or resolution if a finding is made pursuant to subdivision  
28 (b).

29 (g) This section does not limit the use of portable exchange  
30 water softening appliances or limit the authority of a local public  
31 agency to regulate the discharge from a centralized portable  
32 exchange tank servicing facility into the community sewer system.

33 SEC. 3. The Legislature finds and declares that it is necessary  
34 to address elevated levels of salinity in community sewer systems  
35 in specified hydrologic regions of the state. It is therefore hereby  
36 declared that a general law within the meaning of Section 16 of  
37 Article IV of the California Constitution cannot be made applicable

- 1 to those specified hydrologic regions and the enactment of this
- 2 special law is necessary for the public good.

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