

June 19, 2019

The Honorable Bill Quirk  
State Capitol, Room 2163  
Sacramento, CA 95814

**Re: AB 402 State Water Resources Control Board: local primacy delegation:  
funding stabilization program.**

**Position: Oppose Unless Amended**

Dear Assemblymember Quirk:

On behalf of the Regional Water Authority (“RWA”), I am writing to respectfully express RWA’s position of “Oppose Unless Amended” on AB 402, as amended June, 18, 2019, your measure related to funding local primacy agencies (LPAs). RWA is a joint powers agency representing 21 public water suppliers in Sacramento, Placer, El Dorado, Yolo, and Sutter counties. RWA’s mission is to protect and enhance the reliability, availability, affordability and quality of water resources for our members. To meet our mission, adapting to climate change and advancing the human right to water in our service areas are our top priorities. RWA’s concern with the bill, as amended, is that RWA members will be required to subsidize LPAs, something they will not receive a benefit from. This will take resources from RWA members’ ability to adapt to climate change and meet the human right to water, ultimately making them harder to achieve.

LPAs are voluntarily established at the county level to assume the oversight role the State Water Board would otherwise have for small public water systems comprised of 15 to 199 connections. This bill would create a fund stabilization program administered by the State Water Board, which LPA’s could opt-in to. RWA appreciates the intent behind the bill and supports the concept of maintaining viable LPAs. RWA does not object to restructuring fees collected within systems regulated by LPAs. However, RWA objects to the approach of using funds out of all drinking water fees to support the fund stabilization program.

RWA members, as public water agencies, by law, charge only the cost of providing service. RWA members pay drinking water fees, and are therefore required to pass on drinking water fee costs to all of their customers. The proposed funding source in this bill is drinking water fees. Unfortunately, an increase to drinking water fees must be regressively passed on, requiring those who can least afford drinking water to pay more for it.

As part of the budget passed in 2015, drinking water fees were completely restructured. That shift was heavily negotiated, and has only been fully implemented beginning in April of 2017. The restructured drinking water fee deal capped the total amount of fees to be collected and limited the rate at which fees could increase annually overtime. This bill would cause that deal to be violated.



Paul Schubert, Chair  
Kerry Schmitz, Vice  
Chair

**Members**

California American Water  
Carmichael Water District  
Citrus Heights Water District  
Del Paso Manor Water  
District  
El Dorado Irrigation District  
Elk Grove Water District  
Fair Oaks Water District  
Folsom, City of  
Golden State Water  
Company  
Lincoln, City of  
Orange Vale Water Company  
Placer County Water Agency  
Rancho Murieta Community  
Services District  
Roseville, City of  
Rio Linda / Elverta  
Community Water District  
Sacramento, City of  
Sacramento County Water  
Agency  
Sacramento Suburban Water  
District  
San Juan Water District  
West Sacramento, City of  
Yuba City, City of

**Associates**

County of Placer  
El Dorado County Water  
Agency  
Sacramento Area Flood  
Control Agency  
Sacramento Municipal Utility  
District  
Sacramento Regional County  
Sanitation District

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RWA requests that you not move the bill forward until the following issues are resolved:

1. **Process:** The intent to broadly use drinking water fees was not made clear until just prior to the proposed amendments. RWA has serious concerns with this approach from a process stand point. RWA regrets opposing the bill at this juncture, and would prefer a collaborative process to identify a funding source that does not have the downside of being paid for out of all drinking water fees.
2. **Unknown Significant Impacts on Drinking water fees:** It is not known the extent to which this bill would impact drinking water fees. However, the Assembly Appropriations analysis indicated that the bill would have increase costs of \$6.9 million annually. Given that drinking water fees in the 2018-2019 fiscal year are projected to be approximately \$25 million the \$6.9 million increase is significant. Additionally, there are currently 30 county LPA's that were considered in the Assembly Appropriations analysis, while the proposed amendments would provide a path to expanding the fund stabilization program established by the bill to the remaining 28 counties. The additional cost created by the bill would certainly exceed the statutory limits on expansion of drinking water fees, and it is not known what the ultimate ramifications of this bill on drinking water fees will be.
3. **Unidentified Benefits:** Information on the benefits from the fund stabilization program has not been provided. Since 1996 the State Water Board has been required to evaluate LPAs annually. The extent to which the fund stabilization program can provide benefits should be provided.
4. **Potentially Significant Precedent:** Amending the State Clean Drinking Water Act to tap into all drinking water fees is a significant precedent. It is not clear how the drinking water fee program would remain in compliance Article XIII A of California Constitution, which requires fees to bear a fair and reasonable relationship to the fee payer's benefits.

RWA supports the intent of the bill, but cannot support the bill, as amended, until the issues outlined above are addressed. RWA requests you hold the bill until these issues are resolved or amend it to permit the State Water Board to fund the stabilization program only through fees on water systems overseen by LPAs in the program. The proposed amendment language is on the next page.

With these amendments, RWA would remove our opposition to the bill. We appreciate your office's willingness to consider these amendments and we look forward to an

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opportunity to work with you and your staff to address these issues. If you or your staff have any questions, please contact Ryan Ojakian of RWA's staff at (916) 967-7692 or rojakian@rwah2o.org.

Sincerely,



Rob Swartz  
Interim Executive Director

cc: Senator Ben Allen, Chair, Senate Environmental Quality Committee  
Honorable Members, Senate Environmental Quality Committee  
Ms. Gabrielle Meindl, Chief Consultant, Senate Environmental Quality Committee  
Mr. Josh Tooker, Chief Consultant, Assembly Environmental Safety and Toxic Materials Committee  
Ms. Pajau Vangay, Science Fellow, Assembly Environmental Safety & Toxic Materials Committee  
Ms. Tomasa Duenas, Chief of Staff, Assemblymember Quirk  
Ms. Ashley Ames, Consultant, Senate Appropriations Committee

## RWA Proposed Amendment to RN 191675508 in Italics

HSC 116565

*(f) (1) Notwithstanding Section 116590, the funding stabilization program established by subdivision (f) of Section 116330 shall be funded only with fees established as follows:*

~~1~~(a) A public water system under the jurisdiction of a local primacy agency shall pay the fees specified in this section to the local primacy agency in lieu of the state board unless the local primacy agency with jurisdiction is participating in the funding stabilization program established by subdivision (f) of Section 116330. A local primacy agency not participating in the funding stabilization program is not precluded from imposing additional fees pursuant to Section 101325.

~~2~~(b) A public water system under the jurisdiction of a local primacy agency that is participating in the funding stabilization program established by subdivision (f) of Section 116330 shall pay the fees specified in this section to the state board. Notwithstanding Section 101325, a local primacy agency shall not charge a designated public water system regulated by a local primacy agency any fee in addition to the fees established and collected pursuant to this section.