

August 27, 2021



Senator Bill Dodd
State Capitol, Room 2082
Sacramento, CA 95814

Sean Bigley, Chair
Dan York, Vice Chair

**SUBJECT: SB 222 (DODD) WATER RATE ASSISTANCE PROGRAM –
SUPPORT IF AMENDED**

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
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

Dear Senator Dodd,

On behalf of the Regional Water Authority (RWA), I write to thank you and your sponsors for the hard work and significant amendments that have been accepted to this point to improve and streamline SB 222, which would establish the Water Rate Assistance Program (Program), to be administered by the Department of Community Services and Development (Department), to provide water affordability assistance for both drinking water and wastewater services to low-income ratepayers in California. RWA has a “Support if Amended” position on the bill and respectfully asks your consideration of the three clarifying amendments below and shown in the attached mock-up.

The RWA is seeking clarifying amendments, as follows:

1) Terminology change to address potential legal issue. In Article 3, Section 116932 (a), we are concerned that the phrase “forgiveness of delinquency” could cause potential legal issues because a public water system is not able to “forgive” a delinquency in this manner due to constitutional restrictions. To capture a similar intent, but avoid legal complications, we would suggest alternative language - “payment of delinquent amount to the public water system for the low-income household’s past due bill or total balance owed,” as indicated in the mock-up.

2) Clarifying amendments needed in Article 4 to accurately reflect public water systems’ role. In Article 4, Section 116933 (a)(3) we suggest clarifying amendments to change “public water system’s implementation of the program” to “public water system’s application of program funds to customers of that system pursuant to Section 116930.1”.

3) Also in Article 4, Section 116933 (a)(6), we suggest a similar clarifying amendment to change “public water system is incapable of administering the program” to “public water system is incapable of applying program funds to customers of that system pursuant to 116930.1”. Both changes to Article 4 are indicated in the mock-up.

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The RWA believes that this clarifying language more accurately reflects a public water system's role in providing ratepayer assistance, based on language in Article 1, and would ensure alignment between Article 1 and Article 4.

4) Add Public Sewer System References. The term “public sewer system” is missing from several parts of the bill. The attached mock-up includes these amendments (Article 4, Section 116933(a)(1), (a)(6), and (b)).

The RWA thanks you in advance for your consideration of these amendments to SB 222, which we believe would provide greater clarity to the role of public water systems in the Program and avoid legal issues in managing delinquencies. Ryan Ojakian, Legislative and Regulatory Affairs Program Manager with the RWA is available to answer any questions you may have concerning the RWA's position on SB 222 and may be reached at (916) 967-7692 or rojakian@rwah2o.org.

Sincerely,

A handwritten signature in black ink, appearing to read "James Peifer". The signature is written in a cursive style with a large initial "J".

James Peifer

Regional Water Authority Requested Amendments

SB-222 (Dodd) - July 15, 2021 version

Requested amendments highlighted and in **bold underline**

SECTION 1.

Section 12087.8 is added to the Government Code, to read:

12087.8.

Subject to Section 116931.3 of the Health and Safety Code, the department shall develop and administer the Water Rate Assistance Program established pursuant to Chapter 6.5 (commencing with Section 116930) of Part 12 of Division 104 of the Health and Safety Code and expend moneys appropriated by the Legislature for the purposes of the program.

SEC. 2.

Chapter 6.5 (commencing with Section 116930) is added to Part 12 of Division 104 of the Health and Safety Code, to read:

CHAPTER 6.5. Water Rate Assistance Program

Article 1. Water Rate Assistance Fund

116930.

(a) The Water Rate Assistance Fund is hereby established in the State Treasury to provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. Moneys in the fund shall be available upon appropriation by the Legislature to the department to provide, in consultation with the state board, all of the following:

(1) Direct water bill assistance.

(2) Water bill credits to renters and individuals or households that pay other amounts, fees, or charges related to residential water or wastewater service.

(3) Water crisis assistance.

(b) The department may, upon appropriation by the Legislature, expend moneys from the fund for reasonable costs associated with the administration of this chapter, not to exceed 10 percent of the annual deposits into the fund. "Reasonable costs associated with the administration of this chapter" includes state board administrative costs associated with this chapter.

116930.1.

The department shall do all of the following in administering the fund:

(a) Track and manage revenue in the fund separately from all other revenue.

(b) Develop and implement a process for the department to disburse program funds to public water systems, sewer systems, or third-party providers for direct application to households, including controls to prevent fraud, waste, and abuse.

(c) Manage and maintain fund balances in conjunction with the Controller, the Treasurer, the California State Auditor's Office, and the Department of Finance, as appropriate.

(d) (1) Expend, upon appropriation by the Legislature, moneys in the fund for grants, contracts, direct monetary assistance, or services to assist eligible recipients.

(2) Services may include technical assistance to public water systems, or sewer systems, serving fewer than 3,300 connections to administer the application of funds to low-income households, including initial startup costs.

(3) The department may identify and contract with a third-party fund administrator. The scope of work for the fund administrator may include, but is not limited to, eligibility determination, call center services, internet-based enrollments, and document intake and processing.

(e) (1) Verify the eligibility of each recipient, based upon eligibility pursuant to Section 116931.1.

(2) Establish a process to regularly confirm the eligibility of recipients, based upon eligibility pursuant to Section 116931.1.

(3) The verification requirements in paragraphs (1) and (2) may be carried out by the third-party fund administrator described in paragraph (3) of subdivision (d).

Article 2. Program Implementation

116931.

(a) The department, in consultation with the state board, shall, by January 1, 2023, develop guidelines and fund oversight procedures for implementation of the program.

(b) In developing the guidelines, the department shall consult with an advisory group that includes representatives of all of the following:

(1) Public water systems.

(2) Sewer systems.

(3) Technical assistance providers, including organizations that support the federal Low-Income Home Energy Assistance Program.

(4) Local agencies, including agencies that manage multifamily housing serving low-income residents.

(5) Nongovernmental organizations that work with residents of disadvantaged communities.

(6) Representatives from the public, including, but not limited to, low-income residents, low-income residents who live in multifamily housing, and residents served by tribal water systems.

116931.1.

(a) The department shall, in consultation with the state board and advisory group described in subdivision (b) of Section 116931 and after a public hearing, adopt an annual fund expenditure plan.

(b) The annual fund expenditure plan shall contain all of the following:

(1) Identification of key terms, criteria, and metrics, and their definitions related to implementation of this section.

(2) A description of how proposed remedies related to this section will be identified, evaluated, prioritized, and included in the annual fund expenditure plan.

(3) A report of expenditures from the fund for the prior fiscal year, including how many households were served, and planned expenditures for the current fiscal year.

(4) (A) An estimate of the number of households eligible for assistance, including those that do not receive a direct bill for water or wastewater.

(B) In identifying household eligibility, the department shall consider both of the following:

(i) If any member of the customer's household is a current enrollee in, or recipient of, CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income or State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children.

- (ii) Utility customers enrolled in the California Alternate Rates for Energy (CARE) program established pursuant to Section 739.1 of the Public Utilities Code and the Family Electric Rate Assistance program established pursuant to Section 739.12 of the Public Utilities Code.*
- (5) A section that discusses water and wastewater affordability challenges and proposed solutions for reducing water debt for eligible Californians served by public water systems, sewer systems, state small water systems, local small water systems, and domestic wells. An evaluation of solutions shall include, but not be limited to, all of the following:*
- (A) Amortization of an unpaid balance.*
 - (B) Participation in an alternative payment schedule.*
 - (C) Partial or full reduction of the unpaid balance financed without additional charges to other ratepayers.*
 - (D) Temporary deferral of payment.*
 - (E) An arrearage management plan.*
 - (F) Percentage of income payment plan.*
- (6) Methods to ensure timely and meaningful public participation and encourage enrollment in the program.*
- (7) An estimate of the funding available for the next fiscal year based on the amount available in the fund, anticipated funding needs, other existing funding sources, and other relevant data and information.*
- (c) The annual fund expenditure plan shall identify the funding need of disadvantaged communities and low-income households whose water and wastewater bill charges pose affordability challenges based on metrics developed by the department in consultation with the state board and Public Utilities Commission.*
- (d) The annual fund expenditure plan shall include analysis with metrics to evaluate how expenditures from prior fiscal years improved affordability.*
- (e) Within one year of an appropriation in the annual Budget Act or another statute for purposes of this chapter, and every March 1 thereafter, the department shall provide to the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature the most recently adopted fund expenditure plan. The department may submit the fund expenditure plan as required by this subdivision either in the Governor's Budget or as a separate report.*

116931.2.

- (a) By July 1, 2022, the Public Utilities Commission shall establish a mechanism for electrical corporations and gas corporations to regularly share data with the department regarding the utility customers enrolled in, or eligible to be enrolled in, the California Alternate Rates for Energy (CARE) program established pursuant to Section 739.1 of the Public Utilities Code and the Family Electric Rate Assistance program established pursuant to Section 739.12 of the Public Utilities Code. Electrical corporations and gas corporations shall regularly share that data with the department through the mechanism.*
- (b) (1) The department may enter into agreements with local publicly owned electric utilities and local publicly owned gas utilities, including, but not limited to, municipal utility districts and irrigation districts, for the purpose of regularly sharing data with the department regarding utility customers enrolled in, or eligible to be enrolled in, affordability programs benefiting low-income customers.*
- (2) The agreements may authorize the department to provide data pursuant to this subdivision to local water agencies for the sole purpose of assisting with the administration of the program.*

(c) Data shared pursuant to subdivision (a) or (b) is subject to Section 6254.16 of the Government Code and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

116931.3.

The operation of this chapter is contingent on an appropriation in the annual Budget Act or another statute for purposes of this chapter.

Article 3. Fund Expenditures

116932.

(a) If moneys are deposited into the fund before the adoption of an annual fund expenditure plan, the department, in consultation with the state board, shall, upon appropriation by the Legislature, expend those moneys from the fund to provide water crisis assistance to low-income households through direct assistance to the low-income households, **payment of delinquent amount to the public water system for the low-income customer's past due bill or total balance owed,** ~~forgiveness of delinquency by the public water system and reimbursement by the department or state board,~~ or some other disbursement mechanism. **A public water system or public sewer system shall apply credit to a customer account for monies received from the department that are intended to address that customer's delinquency.** The department may use up to 10 percent of those moneys for administrative purposes. "Administrative purposes" includes state board administrative costs associated with this chapter.

(b) The department may adopt emergency regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to implement this section.

Article 4. Program Administration

116933.

(a) The department shall do all of the following in administering the program:

(1) Once an annual funding expenditure plan is adopted and includes funding for a low-income rate assistance program, provide low-income rate assistance for customers of public water systems **and sewer systems** and eligible households that do not receive a direct bill for water.

(2) Coordinate with the Public Utilities Commission to cease existing rate assistance programs offered by investor-owned water utilities and transition the customers to the program through a process established by the commission.

(3) For a public water system or sewer system that is not regulated by the Public Utilities Commission, consult with the state board on options to provide oversight of the public water system's **or sewer system's application of program funds to customers of that system pursuant to Section 116930.1** ~~implementation of the program~~ to ensure effectiveness and prevent fraud, waste, and abuse.

(4) In consultation with the state board and the Public Utilities Commission, develop and publish performance metrics for the program, including, but not limited to, enrollment levels, total water shutoffs for inability to pay, and on-time payment levels.

(5) Coordinate with other state agencies and resolve disputes as necessary.

(6) Identify alternative entities to distribute and track benefits if a public water system **or sewer system** is unwilling to do so or if the department, in consultation with the state board, has determined a public water system **or sewer system** is incapable of **applying program funds to customers of that system pursuant to Section 116930.1.** ~~administering the program.~~

(b) This chapter does not prohibit a public water system not regulated by the Public Utilities Commission from offering assistance to ratepayers that is in addition to, or on top of, the assistance provided through the program.

Article 5. Definitions

116934.

For purposes of this chapter, the following definitions apply:

(a) "Department" means the Department of Community Services and Development.

(b) "Fund" means the Water Rate Assistance Fund created pursuant to Section 116930.

(c) "Low income" means an annual household income that is no greater than 200 percent of the federal poverty guideline level and consistent with the guidelines established for the California Alternative Rates for Energy (CARE) program pursuant to subdivision (a) of Section 739.1 of the Public Utilities Code.

(d) "Program" means the Water Rate Assistance Program established pursuant to this chapter.

(e) "Public water system" has the same meaning as defined in Section 116275.

(f) "Sewer system" means a city, county, special district, or investor owned utility that provides sanitary sewer service, including the collection or treatment of sewage.

(g) "State board" means the State Water Resources Control Board.

(h) "State small water system" has the same meaning as defined in Section 116275.