



COACHELLA VALLEY WATER DISTRICT

Established in 1918 as a public agency

GENERAL MANAGER
Jim Barrett

ASSISTANT GENERAL MANAGER
Robert Cheng

June 10, 2019

The Honorable Benjamin Allen, Chair
California Senate Committee on Environmental Quality
State Capitol, Room 2205
Sacramento, CA 95814

Re: Assembly Bill 402 (Quirk) – Oppose unless Amended

Dear Senator Allen:

Coachella Valley Water District (CVWD) opposes AB 402 unless amendments are made to bring the language of the bill in line with the intent as CVWD understands it.

The bill, as introduced and currently drafted, aims to create a funding stabilization program (program) to subsidize Local Primacy Agencies (LPAs), which have been approved under the California Safe Drinking Water Act to act as the local administration and enforcement office for the Safe Drinking Water Act provisions within a county. These LPAs have jurisdiction for water systems in the county with fewer than 200 connections.

AB 402 would add enforcement costs to the costs covered by annual drinking water surveillance program grants, which the LPA is eligible to apply for and receive reimbursement from the State Water Resources Control Board (SWRCB) for costs associated with the “administration and enforcement” of the Safe Drinking Water Act. Currently, LPA reimbursement costs only include inspection, monitoring, surveillance, and water quality evaluation.

CVWD’s opposition lies in the overly broad language currently included in the bill, which would direct the State Water Board to “establish and collect all fees payable by public water systems for the local primacy activities set forth in this section,” (emphasis added). *AB 402 Section 1, amending Health and Safety Code § 116330*. Analyses by the Assembly Environmental Safety & Toxic Materials Committee and the Assembly Appropriations Committee stated the bill authorized the SWRCB to establish and collect fees only on “small public water systems,” (emphasis added). The language in the bill, however, would allow the State Water Board to collect fees from all water systems, including CVWD.

CVWD works closely with the Association of California Water Agencies (ACWA) and relies on information it shares with member agencies. In this instance, ACWA has informed CVWD that bill proponents have been reluctant to amend the language to reflect its original intent—which was to provide the SWRCB the authority to assess fees only on small public water systems overseen by LPAs that opt into this program. As a result, CVWD now raises strong concern with this bill and urges the Committee on Environmental Quality to amend the bill to appropriately reflect the bill’s original intent or to hold the bill.

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Secondly, if the bill is amended so that this new fee may only be imposed on *small* public water systems, CVWD also encourages additional cleanup to the new proposed Subsection (g) to be added to Cal. Health & Saf Code § 116330. The language provides no clear mechanism for establishing the new “funding stabilization program,” nor does it include any such definition. It would be beneficial to the State Water Board, who is responsible for implementing these programs, to clearly define the program as well as clearly establishing it within the statute rather than relying on context for the agency to create something inconsistent with legislative intent.

Lastly, a letter submitted to this committee on June 1, 2019 by ACWA outlines strong concerns regarding the bill’s authorization of this new fee, and rightly explained that the fee is, in fact, a tax within the meaning of Article XIII A of the California Constitution. CVWD adopts and reiterates the concerns contained in ACWA’s letter.

In conclusion, AB 402 moved out of the Assembly without receiving a single “no” vote. However, that overwhelming support stems from a fundamentally misunderstanding the practical application of the new provisions proposed in this bill.

I am happy to address questions you, Chair Allen, your fellow committee members or staff have about the comments and concerns laid out above. Please feel free contact me at kjohnson@cvwd.org or (760) 398-2651 extension 3564.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Johnson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Kristen Johnson, JD
Government Affairs Specialist