

AMENDED IN ASSEMBLY JUNE 25, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE MAY 2, 2012

AMENDED IN SENATE APRIL 18, 2012

**SENATE BILL**

**No. 962**

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**Introduced by Senators Anderson and Rubio  
(Coauthors: Senators Dutton, Fuller, and Gaines)**

(Coauthors: Assembly Members Bill Berryhill, Garrick, Jeffries, Logue,  
Nielsen, Olsen, Portantino, and Valadao)

January 11, 2012

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An act to amend Sections 116380 and 116552 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 962, as amended, Anderson. Public water systems: point-of-use treatment.

Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and requires the State Department of Public Health to adopt regulations for these purposes. Under existing law, regulations adopted by the department are required to include requirements governing the use of point-of-entry and point-of-use treatment by public water systems in lieu of centralized treatment, where feasible. Existing law requires the department to adopt emergency regulations governing the permitted use of point-of-entry and point-of-use treatment by public water systems in lieu of centralized treatment and requires that these emergency regulations remain in effect

until the earlier of January 1, 2014, or the effective date of the required nonemergency regulations. Existing law limits these regulations to public water systems with less than 200 service connections.

This bill would, instead, limit these regulations to public water systems with less than 500 service connections, and would require the emergency regulations to remain in effect until the earlier of January 1, 2016, or the effective date of the required nonemergency regulations.

Existing law prohibits the department from issuing a permit to a public water system to allow the use of point-of-use treatment, unless the department makes specified determinations.

This bill would additionally prohibit the department from issuing a permit to a public water system to allow the use of point-of-entry treatment, unless the department makes specified determinations. The bill would require that prior to the approval of a permit allowing installation of point-of-use or point-of-entry treatment devices, that a water system submit a capital outlay plan outlining the plan for construction of centralized treatment, as specified. The bill also would require the department to conduct a full audit of the water system's finances. The bill would require the department to charge a fee to a public water system that is seeking a permit or an amendment to a permit for purposes of conducting these administrative and regulatory activities.

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) California's public water systems are required to provide~~
- 4     ~~clean water to their residents.~~
- 5     ~~(b) For the smallest of these water systems, especially in small~~
- 6     ~~isolated communities, such as those in the central valley, the Sierra~~
- 7     ~~Nevada Mountains, and the desert areas, the question of~~
- 8     ~~affordability of new central treatment is foremost, especially for~~
- 9     ~~systems serving customers of modest means.~~
- 10    ~~(c) Many small public water systems are faced with the prospect~~
- 11    ~~of heavy or insurmountable capital costs to comply with the new~~
- 12    ~~rules and the need to provide safe and clean drinking water to their~~
- 13    ~~customers.~~

1 ~~(d) Many of these small systems are challenged by having to~~  
2 ~~provide clean water to widely dispersed rural residents.~~

3 ~~(e) Even though the federal and state environmental regulators~~  
4 ~~give extensions for compliance with maximum contaminant level~~  
5 ~~mandates, and some grant or loan money if available, some small~~  
6 ~~systems struggle to move forward and meet the ever-changing~~  
7 ~~maximum contaminant level mandates.~~

8 ~~(f) Recently, the Australian Cooperative Research Centre for~~  
9 ~~Water Quality and Treatment published a report that concluded~~  
10 ~~that “commercially available equipment can produce safe drinking~~  
11 ~~water generally at a lower cost per household than centralized~~  
12 ~~treatment if a distribution per household network is in place.”~~

13 ~~(g) The report identified a significant cost savings for small~~  
14 ~~towns and showed that point-of-use or point-of-entry treatment~~  
15 ~~devices were highly effective at producing safe and clean water,~~  
16 ~~even with poor quality source waters.~~

17 ~~(h) Point-of-use and point-of-entry water treatment devices can~~  
18 ~~help bridge the compliance gap for these small systems and are a~~  
19 ~~cost-effective way to provide safe and clean drinking water.~~

20 ~~(i) Point-of-use or point-of-entry treatment devices may be~~  
21 ~~employed where the drinking water enters the house or building,~~  
22 ~~for the purpose of reducing contaminants in the drinking water~~  
23 ~~distributed throughout the house or building.~~

24 ~~(j) Point-of-use or point-of-entry treatment devices may be~~  
25 ~~employed at a single faucet or tap and used for the purpose of~~  
26 ~~reducing contaminants in drinking water at that one outlet. They~~  
27 ~~are typically installed at the kitchen faucet.~~

28 ~~(k) These devices must be certified according to product~~  
29 ~~standards of the American National Standards Institute and other~~  
30 ~~third-party testing organizations.~~

31 ~~(l) According to United States Environmental Protection Agency~~  
32 ~~and California health regulations, point-of-use or point-of-entry~~  
33 ~~treatment devices shall be owned, controlled, or maintained by the~~  
34 ~~public water system or by a person or company under contract~~  
35 ~~with the public water system in order to ensure proper operation~~  
36 ~~and maintenance and to ensure compliance with the maximum~~  
37 ~~contaminant levels or treatment techniques.~~

38 ~~(m) The State Department of Public Health adopted emergency~~  
39 ~~regulations that became effective on December 21, 2010, in~~  
40 ~~response to the passage of Assembly Bill 2515 (Chapter 601 of~~

1 the Statutes of 2010), which govern the permitted use of  
2 point-of-use or point-of-entry treatment devices by public water  
3 systems in lieu of centralized treatment if certain conditions are  
4 met.

5 (n) These emergency regulations limit the use of point-of-use  
6 or point-of-entry treatment devices to public water systems with  
7 fewer than 200 service connections in lieu of centralized treatment  
8 for compliance with one or more maximum contaminant levels or  
9 treatment techniques, other than for microbial contaminants,  
10 volatile organic chemicals, or radon for three years or until funding  
11 is available, whichever occurs first.

12 (o) This leaves many small, rural communities that suffer from  
13 poor water quality in the predicament of having too many residents  
14 to qualify to operate under the emergency regulations, but not  
15 having the financial capability to immediately upgrade to  
16 centralized treatment.

17 (p) It is estimated that only 1 percent or less of the water  
18 distributed from a water treatment plant and treated to federal  
19 standards is actually consumed by the public as drinking water.  
20 The remaining 99 percent of this expensively treated water is used  
21 for irrigation, fighting fires, and other household uses, and does  
22 not need to be treated to the same standard as drinking water.

23 (q) The water treatment industry has available trained,  
24 professional experts who are properly licensed by the state and  
25 certified to install, operate, and maintain point-of-use or  
26 point-of-entry water systems for these small communities.

27 (r) Compliant and safe drinking water treatment approaches  
28 using point-of-use or point-of-entry treatment devices can be  
29 implemented in a few months, while years are required to design,  
30 obtain plan approvals for, finance, and construct central water  
31 treatment plants under California's complicated permitting process.

32 ~~SEC. 2.~~

33 *SECTION 1.* Section 116380 of the Health and Safety Code is  
34 amended to read:

35 116380. (a) In addition to the requirements set forth in Section  
36 116375, the regulations adopted by the department pursuant to  
37 Section 116375 shall include requirements governing the use of  
38 point-of-entry and point-of-use treatment by public water systems  
39 in lieu of centralized treatment where it can be demonstrated that

1 centralized treatment is not immediately economically feasible,  
2 limited to the following:

3 (1) Water systems with less than 500 service connections.

4 (2) Usage allowed under the federal Safe Drinking Water Act  
5 (42 U.S.C. Sec. 300f et seq.) and its implementing regulations and  
6 guidance.

7 (3) Water systems that have submitted preapplications with the  
8 State Department of Public Health for funding to correct the  
9 violations for which the point-of-entry and point-of-use treatment  
10 is provided.

11 (b) (1) The department shall adopt emergency regulations  
12 governing the permitted use of point-of-entry and point-of-use  
13 treatment by public water systems in lieu of centralized treatment.

14 (2) The emergency regulations shall comply with Section  
15 116552, and shall comply with all of the requirements set forth in  
16 subdivision (a) applicable to nonemergency regulations, but shall  
17 not be subject to the rulemaking provisions of the Administrative  
18 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
19 Part 1 of Division 3 of Title 2 of the Government Code). The  
20 emergency regulations shall take effect when filed with the  
21 Secretary of State, and shall be published in the California Code  
22 of Regulations.

23 (3) The emergency regulations adopted pursuant to this  
24 subdivision shall remain in effect until the earlier of January 1,  
25 2016, or the effective date of nonemergency regulations adopted  
26 pursuant to subdivision (a).

27 ~~SEC. 3.~~

28 *SEC. 2.* Section 116552 of the Health and Safety Code is  
29 amended to read:

30 116552. (a) The department shall not issue a permit to a public  
31 water system or amend a valid existing permit to allow the use of  
32 point-of-use or point-of-entry treatment unless the department  
33 determines, after conducting a public hearing in the community  
34 served by the public water system, that there is no substantial  
35 community opposition to the installation of point-of-use or  
36 point-of-entry treatment devices. The issuance of a permit pursuant  
37 to this section shall be limited to not more than three years or until  
38 funding for centralized treatment is available, whichever occurs  
39 first. Prior to the approval of a permit allowing installation of  
40 point-of-use or point-of-entry treatment devices, a water system

1 shall submit a capital outlay plan outlining the plan for construction  
2 of centralized treatment to meet present and future water  
3 requirements of the district, and the department shall certify that  
4 a centralized treatment facility that complies with all state and  
5 federal requirements and meets all state and federal water quality  
6 standards shall be completed within five years of the application  
7 for the permit.

8 (b) Additional service connections shall not be added to a water  
9 system after application for a permit by a public water system for  
10 point-of-use or point-of-entry treatment until centralized treatment  
11 is available for all public water system connections consistent with  
12 the capital outlay plan.

13 (c) Point-of-use or point-of-entry treatment devices shall be  
14 certified and approved by the department for use by a water system  
15 to treat the contaminants present and shall meet all required federal  
16 and state water quality standards.

17 (d) For districts utilizing point-of-use or point-of-entry treatment  
18 devices, the department shall conduct a full audit of the water  
19 system's finances to examine why the water system does not have  
20 the funding necessary to complete needed upgrades and  
21 maintenance, including, but not limited to, evaluating the system's  
22 fee structure to ensure it is sufficient for operations, maintenance,  
23 and capital improvements, evaluating administrative costs and  
24 other costs in operating the water system to meet present and future  
25 water requirements of the district, and providing recommendations  
26 regarding any needed additional funding, fees, or assessments.

27 (e) In addition to any other fee the department may be authorized  
28 to charge, the department shall charge a fee to a public water  
29 system that is seeking a permit, or an amendment to a valid existing  
30 permit, to allow the use of a point-of-use or point-of-entry  
31 treatment system to cover the department's costs in conducting  
32 activities pursuant to this section. The fee shall be sufficient to  
33 pay, but shall not exceed, the department's costs.