

AMENDED IN SENATE APRIL 5, 1999

SENATE BILL

No. 855

Introduced by Senator Haynes

February 25, 1999

An act to amend Sections 13580.5 and 13580.7 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 855, as amended, Haynes. Recycled water.

(1) The Water Recycling Act of 1999 requires ~~a retail water supplier that receives a specified request from a customer to enter into an agreement to provide recycled water, if recycled water is available, or can be made available, to the retail water supplier for sale to the customer. The act requires a retail water supplier, if a recycled water producer or wholesaler provides a customer of that supplier with a written statement that it will provide recycled water to that supplier, to submit a written offer to the customer not later than 120 days from the date on which that supplier receives the written statement from the customer. The act requires the retail water supplier, not later than 120 days from the date on which that supplier receives a copy of a specified determination by the State Water Resources Control Board, to submit a written offer to the customer.~~

~~The act requires the rate for, and conditions of, recycled water service to be established by contract between a public agency retail water supplier and the customer, if there is no rate in effect for recycled water service within the service area of that supplier and prescribes certain other~~

requirements relating to recycled water service rates established by a public agency retail water supplier on and after January 1, 1999.

~~This bill would require the retail water supplier, not later than 60 days from the date on which that supplier receives from the customer that written statement regarding the availability of recycled water from a producer or wholesaler, or a copy of that state board determination, to submit a written offer to provide recycled water service to the customer.~~

~~The bill would require a public agency retail water supplier, if a customer requests, in writing, recycled water service and that supplier determines that a recycled water wholesaler or producer, by contract or otherwise, can provide the recycled water to that supplier, to adopt, by resolution or ordinance, a rate for recycled water service not later than 60 days from the date of the customer's request, thereby imposing a state-mandated local program. The bill would require the rate for, and conditions of, recycled water service to be established by contract between the public agency retail water supplier and the customer, not later than 60 days from the date of the receipt of a written request for recycled water service, if no rate is in effect or being proposed for adoption, as prescribed, within the service area of that supplier, thereby imposing a state-mandated local program.~~

~~The bill would make those prescribed recycled water service rate requirements applicable to rates established by a public agency retail water supplier on and after January 1, 2000, instead of January 1, 1999 allow a customer to request, in writing, a retail water supplier to enter into an agreement or adopt recycled water rates in order to provide recycled water service to the customer. The bill would require the public agency retail water supplier, by certified mail return receipt requested, to submit a written offer to the customer not later than 90 days from the date on which the retail water supplier receives the written request from the customer. The bill would require the rate and conditions for recycled water service to be established by contract between the retail water supplier and the customer, if no rate is in effect for recycled water service within the service area of a retail water supplier,~~

not later than 120 days from the date of the customer's request for a contract, or, by resolution or ordinance by the retail water supplier; not later than 120 days from the date of the customer's written request for an ordinance or resolution. By imposing duties on public agency retail water suppliers, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 13580.5 of the Water Code is~~
2 *SECTION 1. Section 13580.5 of the Water Code is*
3 *amended to read:*

4 13580.5. (a) (1) Subject to subdivision ~~(d)~~ (e) of
5 Section 13580.7, a retail water supplier that receives a
6 request from a customer pursuant to subdivision (c) of
7 Section 13580 shall enter into an agreement to provide
8 recycled water, if recycled water is available, or can be
9 made available, to the retail water supplier for sale to the
10 customer.

11 (2) Notwithstanding paragraph (1), in accordance
12 with a written agreement between a recycled water
13 producer or a recycled water wholesaler and a retail
14 water supplier, the retail water supplier may delegate to
15 a recycled water producer or a recycled water wholesaler
16 its responsibility under this section to provide recycled
17 water.

1 (b) A customer may not obtain recycled water from a
2 recycled water producer, a recycled water wholesaler, or
3 a retail water supplier that is not the retailer without the
4 agreement of the retailer.

5 (c) If either a recycled water producer or a recycled
6 water wholesaler provides a customer of a retail water
7 supplier with a written statement that it can and will
8 provide recycled water to the retailer, the retail water
9 supplier shall, not later than 120 days from the date on
10 which the retail water supplier receives the written
11 statement from the customer, by certified mail, return
12 receipt requested, submit a written offer to the customer.
13 A determination of availability pursuant to Section 13550
14 is not required.

15 (d) If the state board pursuant to Section 13550 makes
16 a determination that there is available recycled water to
17 serve a customer of a retail water supplier, the retail
18 water supplier, not later than 120 days from the date on
19 which the retail water supplier receives a copy of that
20 determination from the customer, by certified mail,
21 return receipt requested, shall submit a written offer to
22 the customer.

23 *SEC. 2. Section 13580.7 of the Water Code is amended*
24 *to read:*

25 13580.7. (a) This section applies only to a retail water
26 supplier that is a public agency.

27 (b) *A customer may request, in writing, a retail water*
28 *supplier to enter into an agreement or adopt recycled*
29 *water rates in order to provide recycled water service to*
30 *the customer. The retail water supplier, by certified mail*
31 *return receipt requested, shall submit a written offer to*
32 *the customer not later than 90 days from the date on*
33 *which the retail water supplier receives the written*
34 *request from the customer.*

35 (c) If no rate is in effect for recycled water service
36 within the service area of a retail water supplier, the rate
37 and conditions ~~of service~~ for recycled water service shall
38 be established by contract between the retail water
39 supplier and the customer *not later than 120 days from*
40 *the date of the customer requests a contract, or, by*

1 *resolution or ordinance by the retail water supplier, not*
2 *later than 120 days from the date on which the retail*
3 *water supplier receives the customer's written request*
4 *for an ordinance or resolution.*

5 ~~(e)~~

6 (d) A rate for recycled water service established by
7 contract, ordinance, or resolution, shall reflect a
8 reasonable relationship between the amount of the rate
9 and the retail cost of obtaining or producing the recycled
10 water, the cost of conveying the recycled water, and
11 overhead expenses for providing recycled water service.
12 Capital costs of facilities required to serve the customer
13 shall be amortized over the economic life of the facility,
14 or the length of time the customer agrees to purchase
15 recycled water, whichever is less. The rate shall not
16 exceed the estimated reasonable cost of providing the
17 service, and any additional costs agreed to by the
18 customer for recycled water supplemental treatment.

19 ~~(d)~~

20 (e) The rate for recycled water shall be comparable to,
21 or less than, the retail water supplier's rate for potable
22 water. If recycled water service cannot be provided at a
23 rate comparable to, or less than, the rate for potable
24 water, the retail water supplier is not required to provide
25 the recycled water service, unless the customer agrees to
26 pay a rate that reimburses the retail water supplier for the
27 costs described in subdivision (c).

28 ~~(e)~~

29 (f) The offer required by subdivisions (c) and (d) of
30 Section 13580.5 shall identify all of the following:

- 31 (1) The source for the recycled water.
32 (2) The method of conveying the recycled water.
33 (3) A schedule for delivery of the recycled water.
34 (4) The terms of service.
35 (5) The rate for the recycled water, including the
36 per-unit cost for that water.
37 (6) The costs necessary to provide service and the basis
38 for determining those costs.

39 ~~(f)~~

(g) This section does not apply to recycled water service rates established before January 1, 1999, or any amendments to those rates.

~~amended to read:~~

~~13580.5. (a) (1) Subject to subdivision (d) of Section 13580.7, a retail water supplier that receives a request from a customer pursuant to subdivision (c) of Section 13580 shall enter into an agreement to provide recycled water, if recycled water is available, or can be made available, to the retail water supplier for sale to the customer.~~

~~(2) Notwithstanding paragraph (1), in accordance with a written agreement between a recycled water producer or a recycled water wholesaler and a retail water supplier, the retail water supplier may delegate to a recycled water producer or a recycled water wholesaler its responsibility under this section to provide recycled water.~~

~~(3) If a customer requests, in writing, a retail water supplier that is a public agency, to provide recycled water and the retail water supplier determines that a recycled water wholesaler or producer, by contract or otherwise, can provide recycled water to that retail water supplier, the retail water supplier shall adopt, by resolution or ordinance, a rate, not later than 60 days from the date of the customer's request.~~

~~(b) A customer may not obtain recycled water from a recycled water producer, a recycled water wholesaler, or a retail water supplier that is not the retailer without the agreement of the retailer.~~

~~(c) If either a recycled water producer or a recycled water wholesaler provides a customer of a retail water supplier with a written statement that it can and will provide recycled water to the retailer, the retail water supplier shall, not later than 60 days from the date on which the retail water supplier receives the written statement from the customer, by certified mail, return receipt requested, submit a written offer to the customer. A determination of availability pursuant to Section 13550 is not required.~~

~~(d) If the state board pursuant to Section 13550 makes a determination that there is available recycled water to serve a customer of a retail water supplier, the retail water supplier, not later than 60 days from the date on which the retail water supplier receives a copy of that determination from the customer, by certified mail, return receipt requested, shall submit a written offer to the customer.~~

~~SEC. 2. Section 13580.7 of the Water Code is amended to read:~~

~~13580.7. (a) This section applies only to a retail water supplier that is a public agency.~~

~~(b) If no rate is in effect, or if no rate is being proposed for adoption pursuant to paragraph (3) of subdivision (a) of Section 13580.5, for recycled water service within the service area of a retail water supplier, the rate for, and conditions of, recycled water service shall be established by contract between the retail water supplier and the customer, not later than 60 days from the date on which the retail water supplier receives a written request for recycled water service from the customer.~~

~~(c) A rate for recycled water service established by contract, ordinance, or resolution, shall reflect a reasonable relationship between the amount of the rate and the retail cost of obtaining or producing the recycled water, the cost of conveying the recycled water, and overhead expenses for providing recycled water service. Capital costs of facilities required to serve the customer shall be amortized over the economic life of the facility, or the length of time the customer agrees to purchase recycled water, whichever is less. The rate shall not exceed the estimated reasonable cost of providing the service, and any additional costs agreed to by the customer for recycled water supplemental treatment.~~

~~(d) The rate for recycled water shall be comparable to, or less than, the retail water supplier's rate for potable water. If recycled water service cannot be provided at a rate comparable to, or less than, the rate for potable water, the retail water supplier is not required to provide the recycled water service, unless the customer agrees to~~

~~1 pay a rate that reimburses the retail water supplier for the
2 costs described in subdivision (e).~~

~~3 (e) The offer required by subdivisions (c) and (d) of
4 Section 13580.5 shall identify all of the following:~~

~~5 (1) The source for the recycled water.~~

~~6 (2) The method of conveying the recycled water.~~

~~7 (3) A schedule for delivery of the recycled water.~~

~~8 (4) The terms of service.~~

~~9 (5) The rate for the recycled water, including the
10 per-unit cost for that water.~~

~~11 (6) The costs necessary to provide service and the basis
12 for determining those costs.~~

~~13 (f) This section does not apply to recycled water
14 service rates established before January 1, 2000, or any
15 amendments to those rates.~~

16 SEC. 3. Notwithstanding Section 17610 of the
17 Government Code, if the Commission on State Mandates
18 determines that this act contains costs mandated by the
19 state, reimbursement to local agencies and school
20 districts for those costs shall be made pursuant to Part 7
21 (commencing with Section 17500) of Division 4 of Title
22 2 of the Government Code. If the statewide cost of the
23 claim for reimbursement does not exceed one million
24 dollars (\$1,000,000), reimbursement shall be made from
25 the State Mandates Claims Fund.