
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

**Senator Steven Bradford, Chair
2023 - 2024 Regular**

Bill No:	SB 3	Hearing Date:	3/21/2023
Author:	Dodd		
Version:	3/9/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Nidia Bautista		

SUBJECT: Discontinuation of residential water service: community water system

DIGEST: This bill eliminates the exemption for water systems that serve less than 200 service connections (but at least 15 service connections) from statutes and policies related to the discontinuation of water service due to nonpayment.

ANALYSIS:

Existing law:

- 1) Establishes the California Public Utilities Commission (CPUC) with regulatory authority over public utilities, including water corporations and ensure rates are just and reasonable. (California Constitution Article XII, Public Utilities Code §451)
- 2) Establishes the State Water Resources Control Board (SWRCB) and requires the SWRCB to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the Federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies. (Water Code §174 *et seq.* and Health and Safety Code §116271)
- 3) Defines a “community water system” as a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system. (Health and Safety Code §116275 (i))
- 4) Defines an “urban and community water system” as a public water system that supplies water to more than 200 service connections.” (Health and Safety Code §116902)

- 5) Establishes the Water Shutoff Protection Act, which prohibits an urban and community water system, from discontinuing residential water service for nonpayment until a payment by a customer has been delinquent for at least 60 days. Requires an urban and community water system to have a written policy on discontinuation of residential service for nonpayment in English, the specified languages in the Civil Code, and any other language spoken by at least 10 percent of the people residing in its service area. Requires an urban and community water system to provide notice of that policy to customers, as provided, including, among other things, specified options for addressing the nonpayment. (Health and Safety Code §116902 *et seq.*)
- 6) Prohibits an urban and community water system from discontinuing residential service for nonpayment if certain conditions are met, including that the customer or a tenant submits certification that discontinuation of residential service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises. (Health and Safety Code §116910)
- 7) Requires an urban and community water system to impose specified fees for reconnection of service for customers with a household income below 200 percent of the federal poverty line. (Health and Safety Code §116914)
- 8) Requires an urban and community water system to report annually the number of discontinuations of residential service for inability to pay, as specified, on the water system's internet website, if an internet website exists, and to the SWRCB. (Health and Safety Code §116918)
- 9) Authorizes the Attorney General to enforce the requirements imposed on urban and community water systems in connection with discontinuing residential service for nonpayment by seeking an injunction, as specified. (Health and Safety Code §116920)
- 10) Provides a fee that encompasses any levy other than an *ad valorem* tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service. (California Constitution Article XIII D)
- 11) Provides, among its provisions, that any person engaged in a trade or business who negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, in the course of entering into specified contracts or agreements, must deliver to the other party to the contract or agreement a translation of the

contract or agreement in the language in which it was negotiated. (Civil Code §1632)

This bill:

- 1) Eliminates, by August 1, 2024, the existing exemption for small community water systems, those that serve less than 200 service connections, from the policies and requirements of the Water Shutoff Protection Act. As such, this bill extends the requirements of the Water Shutoff Protection Act to these smaller water systems.
- 2) Requires water systems that serve fewer than 200 service connections to have a written policy on disconnection of residential service for nonpayment available in English, any language spoken by at least 10 percent of the people residing in its service area, and, upon request of a customer, the languages specified in section 1632 of the Civil Code (specifically: Spanish, Chinese, Tagalog, Vietnamese, and Korean).
- 3) Applies the definition of “community water system” in section 116275 of the Health and Safety Code – a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.
- 4) Makes other technical and non-substantive changes.

Background

Water utilities. California residents are served by an estimated 2,800 water providers of various types of water utilities or water systems, including publicly owned utilities, investor-owned utilities, and small community water systems. Nearly half of these systems (roughly 1,100 water providers) provide water to fewer than 200 customer service connections.

- *Publicly owned water utilities.* The majority of California’s residential water customers are served by cities, special districts, and mutual water companies. These utilities are not subject to economic regulation by the CPUC, but are instead governed by the city council, or other local governing body, which set their own water rates. As established by Proposition 218 (1996), the majority of these utilities are subject to state constitutional and statutory requirements that ensure water rates are restricted to cost-of-

service. As a result, these entities have limitations, not imposed on the CPUC-regulated utilities that may hinder their ability to increase rates to fund programs or provide rate relief to customers.

- *CPUC-regulated water utilities.* The CPUC has regulatory oversight over water companies that provide water service to about 16 percent of California's residents with annual water and wastewater revenues totaling about \$1.4 billion. Approximately 95 percent of those residents are served by nine large water utilities, each serving more than 10,000 customer service connections (approximately 1.175 million customers). However, the majority of the CPUC-regulated water utilities (92) have 2,000 or less customer service connections, and 87 of those have service connections of 500 or less. As with other investor-owned utilities, the CPUC regulates rates of the water utilities under its jurisdiction, as well as, rules regarding discontinuation of service due to nonpayment.

SB 998 (Dodd, Chapter 891, Statutes of 2018). SB 998 established the Water Shutoff Protection Act, and made numerous changes to the policies required of water providers when discontinuing residential water service due to nonpayment. Specifically, SB 998 requires public water systems (those with more than 200 service connections) to: prohibit the shutoff of water service until the residential water bill has been delinquent for 60 days; requires the water utility to have a written policy on discontinuation of residential water service due to nonpayment and provide that policy in multiple languages (as specified in statute); include provisions to prevent discontinuation of water service for certain customers that meet specified criteria; and caps the reconnection fees for restoring water service. SB 998 required CPUC-regulated water utilities to comply with these policies by February 1, 2020 and other water providers by April 1, 2020. The bill exempted water service providers that serve less than 200 service connections.

COVID-19 pandemic crisis prompts statewide moratorium and funding for utility debt relief. As the provisions of SB 998 were scheduled to be implemented, the COVID-19 pandemic abruptly changed the world. In response to the COVID-19 crisis, California instituted a number of protections for residents from the economic fallout of the pandemic. These measures included moratoriums on rental evictions and disconnection of utility services due to nonpayment (including water utility service). The moratorium was initially authorized by CPUC resolution that was subsequently expanded and extended by an Executive Order authored by the governor. As the pandemic continued, the Legislature and governor adopted legislation to extend the moratorium to December 31, 2021, and provide utility

debt relief for customers. Specifically, one billion dollars was appropriated to the newly established California Water and Wastewater Arrearage Payment Program in order to help offset water utility bill debt. These funds were applied to utility debt for both drinking water and wastewater services. As such, moratoriums and utility debt relief appear to have temporarily shielded many customers from losing water service during the pandemic. However, the moratoriums have since been lifted and customers of water service providers with over 200 service connections who have fallen behind on their utility bill are now receiving the protections and process afforded by the Water Shutoff Act. However, per the statute, these protections are not applicable to customers of water providers with less than 200 service connections.

SB 3. SB 3 expands provisions from SB 998 providing protections and process to discontinue water service due to nonpayment for customers of community water systems (those with fewer than 200 service connections, but at least 15 service connections). The bill provides that the translation requirements apply differently to these smaller water systems compared to other systems by only requiring translation of written policy on discontinuation of water service to be available if ten percent of the customers served speak the language, or specifically in Spanish, Chinese, Tagalog, Vietnamese, and Korean, when requested by a customer.

Need to address affordability for all customers. The supporters of this bill contend that residents of these smaller systems are unfairly at risk of losing an essential service due to lack of affordability and consumer protections afforded to customers of larger water systems. The supporters note that water shutoffs due to nonpayment often result from an inability to afford water utility bills. They argue that the lack of affordability for water service results in disproportionate impacts on Black, indigenous, and people of color households.

Need for financial assistance for small water systems. In opposition to this bill, California Association of Mutual Water Companies (CalMutuals) raises concerns about the lack of clear financial resources to help these smaller systems comply with the requirements of this bill. CalMutuals contends that many of their smallest systems are operated by volunteers or part-time contractors. They note that they can't just use the information created by the larger systems to comply with the requirements of this bill. Rather, the implementation requires staff resources to prepare documents, provide notice, make changes to the billing systems, and also requires cash-flow to afford the delays in utility bill collections. CalMutuals has requested amendments that would clarify their ability to access funding for technical assistance for small water systems from the funding authority in the Safe

and Affordable Funding for Equity and Resilience (SAFER) program funded from the sale of greenhouse gas allowances in the state's Cap-and-Trade Program. Should this bill move forward, the author and Committee on Appropriations should consider whether CalMutuals proposed amendments should be adopted.

Prior/Related Legislation

SB 223 (Dodd, 2021) made numerous changes to expand provisions related to prohibiting discontinuation of residential water service due to nonpayment. The bill was held in the Senate Committee on Appropriations.

SB 155 (Committee on Budget and Fiscal Review, Chapter 258, Statutes of 2021) public resources trailer bill includes numerous policies, including extending from September 30, 2021 to December 31, 2021 the date by when a community water system may discontinue water service due to nonpayment.

AB 148 (Committee on Budget, Chapter 115, Statutes of 2021) establishes the California Water and Wastewater Arrearage Payment Program to provide utility arrearages debt relief, upon appropriation, by requiring a community water system to provide customers with arrearages accrued during the COVID-19 pandemic bill relief period, as defined, a notice that they may enter into a payment plan, as prescribed. The bill also requires a moratorium on discontinuation of water service due to nonpayment through September 30, 2021.

SB 998 (Dodd, Chapter 891, Statutes of 2018) required all public water systems (with more than 200 connections) to have a written policy on discontinuation of residential water service, provide that policy in multiple languages, include provisions for not shutting off water for certain customers that meet specified criteria, prohibit the shutoff of water service until the utility bill has been delinquent for 60 days, and cap the reconnection fees for restoring water service.

SB 401 (Dodd, Chapter 662, Statutes of 2015) required the SWRCB, in collaboration with the State Board of Equalization and stakeholders, to develop a plan for the funding and implementation of a new program to provide water rate relief for low-income ratepayers by January 1, 2018 and provide a corresponding report to the Legislature by February 1, 2018.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

Clean Water Action, Co-sponsor
Community Water Center, Co-sponsor
Leadership Counsel for Justice & Accountability, Co-sponsor
California Coastkeeper Alliance
California Environmental Voters
Carbon Cycle Institute
Center on Race, Poverty & the Environment
Central California Environmental Justice Network
Central Coast Energy Services
Environmental Working Group
Friends Committee on Legislation of California
Los Angeles Alliance for a New Economy
Natural Resources Defense Council
Physicians for Social Responsibility - Los Angeles
Pueblo Unido CDC
San Francisco Peninsula Energy Services
Sierra Club California
SPUR
Union of Concerned Scientists
Western Center on Law & Poverty

OPPOSITION:

California Association of Mutual Water Companies, unless amended

ARGUMENTS IN SUPPORT: According to the author:

The pandemic demonstrated both the importance of affordable and accessible water for drinking and sanitation, and the challenge that many Californians face in affording this necessity. A half-million households received one-time assistance to address their arrearages, but data from the CPUC and other water agencies tell us that consumers continue to fall behind on their bills. The implementation of SB 998, passed in 2018, will help maintain access to water by requiring most water systems to provide notice and opportunity to enroll in a payment plan prior to shutting off water for nonpayment. SB 3 builds on SB 998 by ensuring that all Californians served by community water systems benefit from these common-sense protections, regardless of system size.

ARGUMENTS IN OPPOSITION: The California Association of Mutual Water Companies (CalMutuals) opposes SB 3 due to the lack of clear financial resources to support smaller water systems ability to implement the provisions of the Water Shutoff Act. CalMutuals states that many of their smallest water systems do not have staff to carry out the various provisions of the Water Shutoff Act, as many of these systems are operated by volunteers, part-time or contract operators. CalMutuals contends that many of the requirements of the bill could force these smaller water systems into financial hardship, including the translation requirements, billing systems changes, and cash-flow constraints of following the “prescriptive and cumbersome set of steps before discontinuing service.”

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