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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)*

PART 12. DRINKING WATER [116270 - 117130] (*Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)*

CHAPTER 4. California Safe Drinking Water Act [116270 - 116755] (*Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)*

ARTICLE 9. Remedies [116650 - 116688] (*Article 9 added by Stats. 1995, Ch. 415, Sec. 6.)*

116650. (a) If the state board determines that a person is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the state board may issue a citation to the person. The citation shall be served upon the person personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.

(b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.

(c) A citation may specify a date for elimination or correction of the condition constituting the violation.

(d) A citation may include the assessment of a penalty as specified in subdivision (e).

(e) The state board may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation and shall be in addition to any liability or penalty imposed under any other law.

(*Amended by Stats. 2023, Ch. 810, Sec. 3. (AB 664) Effective January 1, 2024.*)

116655. (a) Whenever the state board determines that any person has violated or is violating this chapter, or any order, permit, regulation, or standard issued or adopted pursuant to this chapter, the state board may issue an order doing any of the following:

(1) Directing compliance forthwith.

(2) Directing compliance in accordance with a time schedule set by the state board.

(3) Directing that appropriate preventive action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:

(1) That the existing plant, works, or system be repaired, altered, or added to.

(2) That purification or treatment works be installed.

(3) That the source of the water supply be changed.

(4) That no additional service connection be made to the system.

(5) That the water supply, the plant, or the system be monitored.

(6) That a report on the condition and operation of the plant, works, system, or water supply be submitted to the state board.

(*Amended by Stats. 2015, Ch. 673, Sec. 9. (AB 1531) Effective January 1, 2016.*)

116660. (a) Any person who operates a public water system without having an unrevoked permit to do so, may be enjoined from so doing by any court of competent jurisdiction at the suit of the department.

(b) When the department determines that any person has engaged in or is engaged in any act or practice that constitutes a violation of this chapter, or any regulation, permit, standard, or order issued or adopted thereunder, the department may bring an action in the superior court for an order enjoining the practices or for an order directing compliance.

(c) Upon a showing by the department of any violation set forth in subdivision (b), the superior court shall enjoin the practices and may do any of the following:

(1) Enforce a reasonable plan of compliance, including the appointment of a competent person, to be approved by the department, and paid by the operator of the public water system, who shall take charge of and operate the system so as to secure compliance.

(2) Enjoin further service connections to the public water system.

(3) Afford any further relief that may be required to insure compliance with this chapter.

(Amended by Stats. 2006, Ch. 538, Sec. 436. Effective January 1, 2007.)

116665. Whenever the department determines that any public water system is unable or unwilling to adequately serve its users, has been actually or effectively abandoned by its owners, or is unresponsive to the rules or orders of the department, the department may petition the superior court for the county within which the system has its principal office or place of business for the appointment of a receiver to assume possession of its property and to operate its system upon such terms and conditions as the court shall prescribe. The court may require, as a condition to the appointment of the receiver, that a sufficient bond be given by the receiver and be conditioned upon compliance with the orders of the court and the department, and the protection of all property rights involved. The court may provide, as a condition of its order, that the receiver appointed pursuant to the order shall not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the order.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116670. Anything done, maintained, or suffered as a result of failure to comply with any primary drinking water standard is a public nuisance dangerous to health, and may be enjoined or summarily abated in the manner provided by law. Every public officer or body lawfully empowered to do so shall abate the nuisance immediately.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116675. Notwithstanding Sections 116340 and 116500, the department shall, after adequate notification of the local health officer, take action authorized by this chapter against a public water system under the jurisdiction of the local health officer if any of the following occur:

(a) The public water system has been in violation of any provision of this chapter or the regulations adopted hereunder, including any violation of compliance with drinking water standards or waterworks standards, for a period of at least 90 days within the previous year.

(b) A contaminant is present in, or likely to enter, a public water system and presents an imminent and substantial danger to the health of the users of the system.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116680. The Legislature finds and declares as follows:

(a) It is the policy of the state to encourage orderly growth and development, which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation, consolidation, and operation of water systems is an important factor in promoting orderly development and in balancing that development against sometimes competing state interests of discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending other government services. Therefore, the policy of the state should be affected by the logical formation, consolidation, and operation of water systems.

(b) The powers set forth in Section 116682 for consolidation of water systems are consistent with the intent of promoting orderly growth.

(Added by Stats. 2015, Ch. 27, Sec. 1. (SB 88) Effective June 24, 2015.)

116681. The following definitions shall apply to this section and Sections 116682, 116684, 116686, and 116688:

(a) "Adequate supply" means sufficient water to meet residents' health and safety needs at all times.

(b) "Affected residence" means a residence within a disadvantaged community that is reliant on a water supply that is either inadequate or unsafe and that is not served by a public water system or state small water system.

(c) "At-risk domestic well" means a domestic well that serves a disadvantaged community and is at risk of consistently failing to provide an adequate supply of safe drinking water as determined by the state board pursuant to the methodology established in the 2021 Drinking Water Needs Assessment referenced in subdivision (b) of Section 116769, or a substantially similar methodology adopted by the state board in an update to the Drinking Water Needs Assessment.

(d) "At-risk water system" means a water system that meets all the following conditions:

(1) The water system is either a public water system with 3,300 or fewer connections or a state small water system.

(2) The system serves a disadvantaged community.

(3) The system is at risk of consistently failing to provide an adequate supply of safe drinking water, as determined by the state board pursuant to the methodology established in the 2021 Drinking Water Needs Assessment referenced in subdivision (b) of Section 116769, or a substantially similar methodology adopted by the state board in an update to the Drinking Water Needs Assessment.

(e) "Consistently fails" means a failure to provide an adequate supply of safe drinking water.

(f) "Consolidated water system" means the public water system resulting from the consolidation of a public water system with another public water system, state small water system, or affected residences.

(g) "Consolidation" means joining two or more public water systems, state small water systems, or affected residences into a single public water system.

(h) "Disadvantaged community" means a disadvantaged community, as defined in Section 79505.5 of the Water Code.

(i) "Domestic well" means a groundwater well used to supply water for the domestic needs of an individual residence or a water system that is not a public water system and that has no more than four service connections.

(j) "Extension of service" means the provision of service through any physical or operational infrastructure arrangement other than consolidation.

(k) "Groundwater sustainability agency" has the same meaning as provided in Section 10721 of the Water Code.

(l) "Infill site" means a site within the area served by a subsumed water system that, as of the date of consolidation, is adjacent to a parcel that is developed for a qualified urban use.

(m) "Operation period" means the period during which an administrator provides services to a designated water system, as provided in paragraph (2) of subdivision (r) of Section 116686.

(n) "Qualified urban use" means any residential, commercial, public institutional, industrial, transit or transportation facility, or retail use, or any combination of those uses.

(o) "Receiving water system" means the public water system that provides service to a subsumed water system through consolidation or extension of service.

(p) "Safe drinking water" means water that meets all primary and secondary drinking water standards.

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

(r) "Subsumed water system" means a public water system, state small water system, or affected residences served by domestic wells consolidated into or receiving service from the receiving water system.

(Amended by Stats. 2024, Ch. 506, Sec. 1. (AB 2454) Effective January 1, 2025.)

116682. (a) (1) The state board, in circumstances described in subparagraph (A) or (B), may order consolidation with a receiving water system as provided in this section and Section 116684. The consolidation may be physical or operational. The state board may also order the extension of service to an area within a disadvantaged community that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The consolidation shall occur within six months of the initiation of the extension of service. The state board may set timelines and performance measures to facilitate completion of consolidation.

(A) A public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, or is an at-risk water system.

(B) A disadvantaged community, in whole or in part, is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water, or are at-risk domestic wells.

(2) No later than July 1, 2020, the state board shall develop and adopt a policy that provides a process by which members of a disadvantaged community may petition the state board to consider ordering consolidation. The state board shall adopt the policy in a policy handbook consistent with the process provided for in subdivision (a) of Section 116760.43.

(b) Before ordering consolidation or extension of service as provided in this section, the state board shall do all of the following:

(1) Encourage voluntary consolidation or extension of service.

(2) Consider other enforcement remedies specified in this article.

(3) Consult with, and fully consider input from, the relevant local agency formation commission regarding the provision of water service in the affected area, the recommendations for improving service in a municipal service review, whether the consolidation or extension of service is cost effective, and any other relevant information.

(4) Consult with, and fully consider input from, the Public Utilities Commission when the consolidation would involve a water corporation subject to the commission's jurisdiction. If a receiving water system is regulated by the Public Utilities Commission, the state board shall inform the commission at least 60 days before the consolidation order, and upon issuance of the order the commission shall open a proceeding to determine cost allocation, ratemaking, and commission public participation requirements for the consolidation process.

(5) Consult with, and fully consider input from, the local government with land use planning authority over the affected area, particularly regarding any information in the general plan required by Section 65302.10 of the Government Code.

(6) Consult with, and fully consider input from, the potentially receiving water system and all public water systems in the chain of distribution of the potentially receiving water system. The input from the potentially receiving water system may include, but is not limited to, information related to the classification of the potentially subsumed water system as an at-risk water system or a state small water system or of at-risk domestic wells.

(7) Consult with, and fully consider input from, any groundwater sustainability agency in a basin that provides groundwater supply, in whole or in part, to the affected area.

(8) (A) Notify the potentially receiving water system and the potentially subsumed water system, if any, and establish a reasonable deadline of no less than six months, unless a shorter period is justified, for the potentially receiving water system and the potentially subsumed water system, if any, to negotiate consolidation or another means of providing an adequate supply of safe drinking water.

(B) During this period, the state board shall provide technical assistance and work with the potentially receiving water system and the potentially subsumed water system to develop a financing package that benefits both the receiving water system and the subsumed water system.

(C) Upon a showing of good cause, the deadline may be extended by the state board at the request of the potentially receiving water system, potentially subsumed water system, the local agency formation commission with jurisdiction over the potentially subsumed water system, or the Public Utilities Commission.

(9) Consider the affordability of the anticipated monthly rates for drinking water service to residential customers of the potentially subsumed water system.

(10) (A) Hold at least one public meeting at the initiation of this process in a place as close as feasible to the affected areas. The state board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers. The 30-day notice shall include information about water quality concerns in the area, relevant information about health effects of water contaminants, and information about opportunities for consolidation or extension of service to address water quality issues. The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, the potentially receiving water system, and the public an opportunity to present oral and written comments.

(B) The state board shall provide an opportunity to submit comments by mail or electronically during the notice period and for at least one week after the meeting.

(C) The state board shall review comments received during the meeting and received by mail and electronically during the notice period and for one week after the public meeting.

(11) If the potentially subsumed water system to be consolidated into the receiving water system is an at-risk water system, the state board shall do all of the following:

(A) Conduct outreach to ratepayers and residents served by the at-risk water system, including identifiable local community groups. These outreach efforts shall gauge community support for consolidation of the at-risk water system. The state board shall consider the results of this outreach when deciding whether to order consolidation of the at-risk water system.

(B) Consider any petition submitted pursuant to paragraph (2) of subdivision (a) by members of a disadvantaged community served by the at-risk water system.

(C) (i) If the potentially subsumed water system contends during the initial written comment period set forth in subparagraph (B) of paragraph (10) that it is not an at-risk water system, the state board shall consider during a public meeting any information provided by the potentially subsumed water system in support of its contention that it is not an at-risk water system.

(ii) The state board shall make reasonable efforts to provide a 30-day notice of the public meeting described in clause (i) to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers.

(c) If a consolidation or other means of providing an adequate supply of safe drinking water has not been negotiated by the potentially receiving water system and the potentially subsumed water system before the expiration of the deadline set by the state board pursuant to paragraph (8) of subdivision (b), the state board shall do the following:

(1) Consult with the potentially receiving water system and the potentially subsumed water system, if any.

(2) (A) If the consolidation has not concluded within six months following the first public meeting held pursuant to paragraph (10) of subdivision (b), conduct a public meeting in a location as close as feasible to the affected communities. The meeting shall be held after the state board has made the findings described in subdivision (d).

(B) The state board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, property owners to receive water service through service extension or in the area of the subsumed water system, and the public, and to all affected local government agencies and drinking water service providers.

(C) The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, and the potentially receiving water system an opportunity to present oral and written comments.

(D) The meeting shall provide an opportunity for public comment.

(3) The state board shall make reasonable efforts to ensure that a receiving water system and a subsumed water system are informed on a regular basis of progress regarding actions taken pursuant to this section.

(d) Before ordering consolidation or extension of service, the state board shall find all of the following:

(1) The potentially subsumed water system has consistently failed to provide an adequate supply of safe drinking water or it is at risk of doing so, as determined by the state board.

(2) Reasonable efforts to negotiate consolidation or extension of service were made.

(3) Consolidation of the receiving water system and subsumed water system or extension of service is appropriate and technically and economically feasible. In making this finding, the state board shall consider how many owners of dwelling units served by domestic wells in the service area have provided, or are likely to provide, written consent to extension of service. The state board need not find that any specific percentage of the owners of dwelling units served by domestic wells in the service area are likely to consent to the consolidation or extension of service to serve their dwelling unit.

(4) There is no pending local agency formation commission process that is likely to resolve the problem in a reasonable amount of time.

(5) Concerns regarding water rights and water contracts of the subsumed and receiving water systems have been adequately addressed.

(6) Consolidation or extension of service is an effective and cost-effective means to provide an adequate supply of safe drinking water.

(7) The capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving the current customers of the subsumed water system, infill sites within the community served by the subsumed water system, residents of disadvantaged communities in existence as of the date of consolidation and that are located along the service line connecting the subsumed water system and the receiving water system, and vacant lots within the community served by the subsumed water system that are zoned to allow residential use and have no more than one other vacant lot between that parcel and an infill parcel, including capacity needed for services such as firefighting.

(e) Upon ordering consolidation or extension of service, the state board shall do all of the following:

(1) As necessary and appropriate, as determined by the state board, compensate the receiving water system for any capacity lost as a result of the consolidation or extension of service either by paying the water system's capacity charge set out in the water system's adopted rate structure or by providing additional capacity needed as a result of the consolidation or extension of service, and by paying legal fees. When the receiving water system is compensated for capacity lost by payment of a capacity charge, the capacity charge shall be paid only to the extent that it does not exceed the reasonable cost of providing the service in accordance with Section 66013 of the Government Code. If capacity beyond what is needed for consolidation is provided by a project funded through the state board, the state board shall retain an option to use that capacity for future consolidations, without paying additional capacity charges, for five years, unless it releases that option in writing. Funding pursuant to this paragraph is available for the general purpose of providing financial assistance for the infrastructure needed for the consolidation or extension of service and does not need to be specific to each individual consolidation project. The state board shall provide appropriate financial assistance for the water infrastructure needed for the consolidation or extension of service. The state board's existing financial assistance guidelines and policies shall be the basis for the financial assistance.

(2) Ensure payment of standard local agency formation commission fees caused by state board-ordered consolidation or extension of service.

(3) Adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system, as determined by the Public Utilities Commission or the state board.

(4) Coordinate with the appropriate local agency formation commission and other relevant local agencies to facilitate the change of organization or reorganization.

(5) If ordering consolidation or extension of service between two water systems, consider any existing domestic wells within the service area that could also be subject to consolidation or extension of service pursuant to this section.

(6) If ordering consolidation or extension of service to a community containing residences served by domestic wells, promptly take all reasonable steps to obtain written consent to the consolidation or extension of service from an owner of each residence served by a domestic well.

(f) If funds are appropriated for this purpose, the state board may make funds available for the purposes of subdivision (e), as necessary and appropriate, to the receiving water system, the subsumed water system, or an administrator providing full oversight of construction or development projects related to a consolidation or extension of service.

(g) (1) For purposes of this section, fees, charges, and terms and conditions that may be imposed on new and existing customers of a receiving water system shall be subject to the following limitations:

(A) The consolidated water system shall not increase charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customers receive a corresponding benefit.

(B) Except as provided in paragraph (2), fees or charges imposed on a customer of a subsumed water system shall not exceed the costs of the service.

(C) Except as provided in paragraph (2), the receiving water system shall not charge any fees to, or place conditions on, customers of the subsumed water system that it does not charge to, or impose on, new customers that are not subject to the consolidation with the receiving water system.

(2) (A) Notwithstanding subparagraph (B) or (C) of paragraph (1), if costs incurred by the receiving water system in completing the consolidation or extension of service are not otherwise recoverable as provided in subparagraph (B) of this paragraph, the receiving water system may charge fees to customers of the subsumed water system to recover those costs.

(B) A receiving water system shall not charge a fee pursuant to subparagraph (A) for costs that are otherwise recoverable from the state, the federal government, programs administered by local agencies, parties responsible for causing contamination that the consolidation or extension of service is designed to address, or other sources, as determined by the state board.

(h) The state board shall not, pursuant to this section, fund public works or upgrades unrelated to the delivery of an adequate supply of affordable, safe drinking water, including, but not limited to, the installation of streetlights, sidewalks, curbs, and gutters. A local agency's decision whether to provide these public works or upgrades shall not delay the consolidation or extension of service.

(i) When a public water system is operated by a local educational agency, the state board may order a receiving water system to consolidate or extend service to a public water system operated by a local educational agency pursuant to this section if both the following additional conditions are met:

(1) The local educational agency serves students from one or more census blocks that are disadvantaged communities.

(2) The state board obtains a written determination from the local educational agency that the state board's analysis in the financing package, developed pursuant to subparagraph (B) of paragraph (8) of subdivision (b), indicates that consolidating or extending service would not result in additional unacceptable costs to the local educational agency and would result in safe drinking water being available to the local educational agency.

(j) (1) An order pursuant to this section shall not require consolidation or extension of service to a residence served solely by a domestic well until an owner of the affected residence provides written consent to the consolidation or extension of service.

(2) Any owner of a domestic well that is located within the consolidation or extended service area who does not provide written consent shall be ineligible, until the consent is provided, for any future water-related grant funding from the state other than funding to mitigate a well failure, disaster, or other emergency.

(3) (A) Notwithstanding any other law, any owner of a domestic well that serves a rental property and is located within the consolidation or extended service area who does not provide written consent shall ensure that tenants of rental properties served solely by that domestic well have access to an adequate supply of safe drinking water and, until consent is provided, shall do all of the following:

(i) Once per year, test the drinking water from domestic wells subject to subparagraph (A). Testing shall be conducted for all contaminants for which the state board has adopted primary and secondary drinking water standards and conducted pursuant to Section 64534 of Title 22 of the California Code of Regulations, and any revisions to those regulations.

(ii) Provide the results from the testing to all tenants within 10 days of receiving those results. The notice shall comply with subdivisions (a) and (d) of Section 64465 of Title 22 of the California Code of Regulations, and any revisions to those regulations, and shall be provided in English and the primary language spoken by the tenant recipient.

(iii) Provide the test results to the local health officer or other relevant health agency.

(B) If the testing results collected pursuant to subparagraph (A) demonstrate a violation of any primary or secondary drinking water standards adopted by the state board, the domestic well owner shall provide or pay for uninterrupted replacement water service, which may include wellhead treatment.

(C) If wellhead treatment is used to meet the requirement of subparagraph (B), the domestic well owner shall do both of the following:

(i) Conduct testing pursuant to Section 64534 of Title 22 of the California Code of Regulations, and any revisions to those regulations, to determine if, subsequent to wellhead treatment, water from the domestic well meets primary and secondary drinking water standards adopted by the state board.

(ii) Provide the test results to tenants pursuant to clause (ii) of subparagraph (A) and to the local health officer or other relevant health agency.

(D) An owner of a domestic well shall not impose any charge, or increase any fee, rent, or other charge imposed, on any tenant solely as a result of the requirements of subparagraphs (A), (B), and (C).

(E) The requirements of this paragraph shall apply to consolidations ordered by the state board pursuant to this section, and to voluntary consolidations negotiated between a receiving water system and a subsumed water system, subsequent to encouragement to consolidate by the state board pursuant to paragraph (1) of subdivision (b).

(F) The state board shall enforce this paragraph if the Legislature has appropriated sufficient funds in the annual Budget Act or otherwise for that purpose.

(k) A finding that a disadvantaged community, in whole or in part, is substantially reliant on at-risk domestic wells shall be based on the maps created pursuant to paragraph (1) of subdivision (a) of Section 116772 and inspection or testing of the domestic wells showing an imminent risk of failing to provide an adequate supply of safe drinking water.

(l) The state board may prioritize consolidation of an at-risk water system that has historically been overburdened by pollution and industrial development or faced other environmental justice hurdles.

(m) Division 3 (commencing with Section 56000) of Title 5 of the Government Code does not apply to an action taken by the state board pursuant to this section.

(Amended by Stats. 2023, Ch. 810, Sec. 4. (AB 664) Effective January 1, 2024.)

116684. (a) Liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system shall be limited as described in this section.

(b) (1) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or those who consumed water provided through the subsumed water system concerning the operation and supply of water from the subsumed water system during the interim operation period specified in subdivision (d) for any good faith, reasonable effort using ordinary care to assume possession of, to operate, or to supply water to the subsumed water system.

(2) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (d).

(c) (1) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system concerning the provision of supplemental imported water supplies to the subsumed water system during the interim operation period specified in subdivision (d) for any good faith, reasonable effort using ordinary care to supply water to the subsumed water system.

(2) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system concerning the operation and supply of water from the subsumed water system for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (d).

(3) This subdivision shall only apply if the water supplied by the consolidated water system through a temporary potable service pipeline to the subsumed water system meets or exceeds federal and state drinking water quality standards.

(d) (1) The interim operation period shall commence upon the connection of a temporary potable service pipeline by the consolidated water system to the subsumed water system, or upon the execution of an agreement between the consolidated water system, subsumed water system, and any other signatories to provide service to the customers of the subsumed water system, whichever occurs first.

(2) (A) Except as provided in subparagraph (B), the interim operation period shall last until permanent replacement facilities are accepted by the consolidated water system with the concurrence of the State Water Resources Control Board and the facilities and water supply meet drinking water and water quality standards.

(B) Upon the showing of good cause, the interim operation period shall be extended by the State Water Resources Control Board for up to three successive one-year periods at the request of the consolidated water system.

(3) The acceptance date of permanent replacement facilities shall be publicly noticed by the consolidated water system.

(e) Subdivision (b) shall only apply if the consolidated water system provides water to the subsumed water system in accordance with all of the following conditions:

(1) Water provided by the consolidated water system through a temporary potable service pipeline to the subsumed water system shall meet or exceed federal and state drinking water quality standards.

(2) Reasonable water system flow and pressure through a temporary potable service pipeline shall be maintained during the interim operation period based upon the condition and integrity of the existing subsumed water system, and any disruptions to water delivery resulting from construction-related activities associated with the installation of permanent replacement facilities shall be minimal.

(3) The consolidated water system shall notify fire officials serving the subsumed water system service area of the condition and firefighting support capabilities of the subsumed water system and planned improvements with the installation of permanent replacement facilities thereto. The consolidated water system shall maintain or improve the condition and firefighting support capabilities of the subsumed water system during the interim operation period.

(4) Customers of the subsumed water system shall receive written notice upon any change in possession, control, or operation of the water system.

(f) Nothing in this section shall be construed to do any of the following:

(1) Relieve any water district, water wholesaler, or any other entity from complying with any provision of federal or state law pertaining to drinking water quality.

(2) Impair any cause of action by the Attorney General, a district attorney, a city attorney, or any other public prosecutor, or impair any other action or proceeding brought by or on behalf of a regulatory agency.

(3) Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.

(Added by Stats. 2015, Ch. 27, Sec. 4. (SB 88) Effective June 24, 2015.)

116686. (a) (1) To provide an adequate supply of affordable, safe drinking water to disadvantaged communities, voluntary participants, and public water systems that have demonstrated difficulty in maintaining technical, managerial, and financial capacity and to prevent fraud, waste, and abuse, the state board may do any of the following, if sufficient funding is available:

(A) (i) Contract with, or provide a grant to, an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of those services, to a designated water system to assist the designated water system with the provision of an adequate supply of affordable, safe drinking water, which services may include steps necessary to enable consolidation.

(ii) To fulfill the requirements of this section, the state board may contract with more than one administrator, but only one administrator may be assigned to provide services to a given designated water system.

(iii) An administrator may provide services to more than one designated water system.

(B) Order a designated water system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated water system, from an administrator selected by the state board.

(C) Order a designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator appointed by the state board for full oversight of construction or development projects related to a consolidation or extension of service, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated water system.

(2) In performing its duties pursuant to paragraph (1), the state board may use criteria from the handbook adopted pursuant to subdivision (g).

(b) Unless the state board has already held a public meeting pursuant to subdivision (b) of Section 116682, the state board shall do all of the following to determine that a public water system or state small water system is a designated water system:

(1) Provide the public water system or state small water system with notice and an opportunity to show either of the following:

(A) That the public water system or state small water system has neither consistently failed to provide an adequate supply of affordable, safe drinking water nor is it an at-risk water system.

(B) That the public water system or state small water system has taken steps to timely address its failure to provide an adequate supply of affordable, safe drinking water and that it is not an at-risk water system.

(2) (A) Conduct a public meeting in a location as close as feasible to the affected community.

(B) The state board shall make reasonable efforts to provide a 30-day notice of the public meeting to affected ratepayers, renters, and property owners.

(C) The state board shall provide representatives of the public water system or state small water system, affected ratepayers, renters, and property owners with an opportunity to present oral and written comments at the public meeting.

(D) The state board shall provide at the meeting an opportunity for public comment.

(3) Provide the public with an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2).

(4) If the public water system is operated by a local educational agency, obtain the local educational agency's agreement, in writing, to the appointment of an administrator.

(c) The state board shall make financial assistance available to an administrator of a designated water system, as appropriate and to the extent that funding is available.

(d) The authority granted to an administrator by the state board pursuant to subdivision (a) may include, but shall not be limited to, the authority to do all of the following:

(1) Expend available moneys for capital infrastructure improvements that the designated water system needs to provide an adequate supply of affordable, safe drinking water or to execute a consolidation ordered pursuant to Section 116682.

(2) Set and collect user water rates and fees, subject to approval by the state board. The state board shall consider affordability when approving water rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII D of the California Constitution.

(3) Expend available moneys for operation and maintenance costs of the designated water system.

(4) Expend available moneys necessary to achieve consolidation, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.

(e) The state board shall work with the administrator of a designated water system and the communities served by that designated water system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver an adequate supply of affordable, safe drinking water so that the services of the administrator are no longer necessary.

(f) A designated water system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated water system and provide an adequate supply of affordable, safe drinking water.

(g) Before ordering a designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator pursuant to subdivision (a), the state board shall develop standards, terms, and procedures in a handbook adopted consistent with the process provided for in subdivision (a) of Section 116760.43 for all of the following:

(1) Ensuring compliance with subdivision (f).

(2) Providing opportunity for public comment on the selection of an administrator and the services to be provided.

(3) Providing public access to budgets, ownership and financial information, and other documents and records related to the provision of water service to the designated water system or affected residences and to the management of the designated water system by the administrator.

(4) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated water system for significant decisions or actions made on behalf of the designated water system, including, but not limited to, establishing operating budgets, altering water rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.

(5) Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.

(6) Ensuring an administrator acts in the best interests of the community served.

(7) Development and approval of a post-administrator drinking water service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.

(h) An administrator appointed pursuant to this section for a designated water system shall not be liable for claims by past or existing ratepayers, or those who consumed water provided through the designated water system, if good faith, reasonable effort, and ordinary care were used by the administrator to assume possession of, or to operate, the designated water system.

(i) An administrator appointed pursuant to this section for a designated water system shall not be liable for claims by past or existing ratepayers, or those who consumed water provided through the designated water system, for any injury or damages that occurred before the commencement of the operation period.

(j) This section does not limit or supersede any other law authorizing claims against the state board or providing a defense to liability, and shall not be construed to create any new or expanded basis for liability.

(k) Nothing in this section shall be construed to do any of the following:

(1) Relieve a water district, water wholesaler, or any other entity from complying with any provision of federal or state law, including those pertaining to drinking water quality.

(2) Impair any cause of action by the Attorney General, a district attorney, a city attorney, or other public prosecutor, or impair any other action or proceeding brought by, or on behalf of, a regulatory agency.

(3) Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.

(4) Relieve any person or entity from liability for action or inaction in bad faith, or without reasonable effort or ordinary care.

(l) Nothing in this section shall absolve, indemnify, or protect a prior operator, designated water system, or individual from liability based on an act or failure to act prior to the operation period.

(m) Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

(n) For purposes of this section, a local government, as defined in Article XIII C of the California Constitution, that sets water rates in accordance with Article XIII D of the California Constitution shall be deemed to be providing affordable water.

(o) This section does not apply to a charter city, charter county, or charter city and county.

(p) (1) For purposes of this section, an administrator is authorized to act on behalf of an affected residence to the same extent, and in the same manner, as a designated water system with the consent of the affected residence.

(2) For purposes of this section, where an administrator is authorized to act on behalf of a designated public water system, it may also act on behalf of a voluntary participant.

(q) The Legislature finds and declares that the funding provided to a state small water system, affected residence, public water system, voluntary participant, or administrator for purposes of this section serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

(r) For purposes of this section, the following terms have the following meanings:

(1) "Administrator" means a person whom the state board has determined is competent to perform the administrative, technical, operational, legal, or managerial services required for purposes of this section, pursuant to criteria set forth in the handbook adopted pursuant to subdivision (g). Notwithstanding any other law, a privately owned public utility may serve as an administrator for purposes of this section.

(2) "Designated water system" means any of the following:

(A) A public water system or state small water system that has been ordered to consolidate pursuant to Section 116682.

(B) A public water system or state small water system that serves a disadvantaged community and that the state board finds consistently fails to provide an adequate supply of affordable, safe drinking water.

(C) An at-risk water system.

(3) "Voluntary participant" means the owner of a domestic well or state small water system who has agreed to accept financial assistance pursuant to Chapter 4.6 (commencing with Section 116765) for the provision of an adequate and affordable supply of safe drinking water.

(Amended by Stats. 2022, Ch. 681, Sec. 2. (SB 1254) Effective January 1, 2023.)

116687. (a) For purposes of this section, the following terms have the following meanings:

(1) "District" means the Sativa-Los Angeles County Water District.

(2) "Commission" means the Local Agency Formation Commission for the County of Los Angeles.

(b) To provide affordable, safe drinking water to disadvantaged communities, the state board shall order the district to accept administrative and managerial services, including full management and control, from an administrator selected by the state board, as prescribed in Section 116686, except that the state board is not required to conduct a public meeting as described in paragraph (2) of subdivision (b) of Section 116686.

(c) (1) Upon the appointment of an administrator, all of the following apply:

(A) Notwithstanding Article 1 (commencing with Section 30500) of Chapter 1 of Part 3 of Division 12 of the Water Code, the district's board of directors shall surrender all control to the appointed administrator and shall thereafter cease to exist.

(B) The members of the board of directors of the district shall have no standing to represent the district's ratepayers, and a member of the board of directors shall have no claim for benefits other than those the member actually received while a member of the board of directors.

(C) Any action by the board of directors to divest the district of its assets shall be deemed tampering with a public water system pursuant to Section 116750 and is subject to the criminal penalties provided for in that section.

(2) Within 90 days of the appointment of an administrator, the Controller shall perform a desk audit or financial review of the district. The state board shall exercise its legal authority to facilitate the desk audit or financial review, including, but not limited to, its authority to take possession of the district's financial records.

(3) Any decision by the commission about the dissolution or consolidation of the district is not subject to the provisions of Section 57077.6 of the Government Code, nor to any other requirement for a protest proceeding or election. The commission shall not impose any condition on the successor agency that requires a protest proceeding or an election, as described in Part 4 (commencing with Section 57000) and Part 5 (commencing with Section 57300) of Division 3 of Title 5 of the Government Code, respectively.

(4) If the commission approves a dissolution of the district initiated by the commission, a successor agency designated in the dissolution by the commission, in consultation with the commission, may solicit proposals, evaluate submittals, and select any public water system to be the receiving water system and subsume all assets, liabilities, adjudicated water rights, responsibilities, and service obligations to provide retail water service to existing and future ratepayers within the former territory of the district. The successor agency shall represent the interests of the public and the ratepayers in the former territory of the district.

(d) The state board may provide additional funding to the administrator or the Water Replenishment District of Southern California or the successor agency designated by the commission for urgent infrastructure repairs to the public water system of the district without regard to the future ownership of any facilities affected by this funding. For purposes of this section, "urgent infrastructure repairs" are those that are immediately necessary to protect the public health, safety, and welfare of those served by the district.

(e) If the district is consolidated with a receiving water system as prescribed in Sections 116682 and 116684, the subsumed territory of the district may include both unincorporated territory of the County of Los Angeles and incorporated territory of the City of Compton.

(f) (1) Any administrator appointed pursuant to subdivision (b), any successor agency to the district designated by the commission to take over the district, any receiving operator of a public water system that provides service to the territory of the district, any water corporation that acquires the district, and the commission shall not be held liable for claims by past or existing district ratepayers or those who consumed water provided through the district concerning the operation and supply of water from the district during the interim operation period specified in subdivision (g) for any good faith, reasonable effort using ordinary care to assume possession of the territory of, to operate, or to supply water to the ratepayers within the territory of, the district.

(2) Any administrator appointed pursuant to subdivision (b), any successor agency to the district designated by the commission to take over the district, any receiving operator of a public water system that provides service to the territory of the district, any water corporation that acquires the district, and the commission shall not be held liable for claims by past or existing district ratepayers or those who consumed water provided through the district for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (g).

(g) (1) Notwithstanding subdivision (d) of Section 116684, for any successor agency to the district designated by the commission to take over the district, any receiving operator of a public water system that provides service to the territory of the district, or any water corporation that acquires the district, the interim operation period shall commence upon the execution of an agreement or designation by the commission to provide water services to the district and shall end one year later. Upon the showing of good cause, the interim operation period shall be extended by the commission for up to three successive one-year periods at the request of an entity described in this paragraph.

(2) For the administrator appointed pursuant to subdivision (b), the interim operation period commences upon being appointed by the state board and ends when a successor agency has been designated by the commission to provide water service to ratepayers of the district, when a receiving water agency is consolidated with or extends service to ratepayers of the district, when a water corporation acquires the district with the approval of the Public Utilities Commission, or when the administrator's obligation to provide interim administrative and managerial services has otherwise ended.

(Amended by Stats. 2022, Ch. 89, Sec. 17. (SB 938) Effective January 1, 2023.)

116688. (a) For the purposes of this section, "testing program" means a program that provides domestic well testing for one or more primary or secondary drinking water contaminants by a laboratory accredited by the state to conduct drinking water sampling and analysis, that is offered free of charge to the owner of a domestic well or a resident of a rental property served by a domestic well, and that was established by, or receives funding from, the state board or a regional water quality control board.

(b) (1) An owner of a domestic well that serves a rental property that is within the boundaries of a testing program shall participate in the testing program, to the extent that the testing program has capacity, and shall do all of the following:

(A) (i) Request testing for all primary and secondary drinking water contaminants for which testing is provided by the testing program.

(ii) The domestic well owner may request testing for contaminants of emerging concern if offered by the testing program.

(B) Request regular testing as frequently as the testing program recommends, within the capacity of the testing program.

(C) Provide all necessary consent for the testing and for submission of testing results by the accredited laboratory to the state board, to any relevant database maintained by the state board, or to the local health officer or other relevant local agency, depending on the testing program's procedures for sharing testing data.

(2) If a domestic well that serves a rental property is located within the boundaries of more than one testing program, the owner of the domestic well shall be required to participate in only one testing program at a time.

(3) If the owner of a domestic well that serves a rental property does not qualify for a testing program but a resident of the rental property does, the owner shall participate in the testing program on the resident's behalf, to the extent allowed by the testing program.

(c) (1) The state board shall post information regarding applicable testing programs on its internet website. The information shall include, but is not limited to, all of the following:

(A) The boundaries of the testing program.

(B) Qualifications for participating in the testing program.

(C) Information on how to participate in the testing program.

(D) The duty of an owner of a domestic well that serves a rental property to comply with the requirements of this section.

(E) Information on how to read and understand test results.

(F) Information on how domestic well users can access safe drinking water, including through programs offered by the state board, regional water quality control boards, or other state agencies.

(2) The state board shall inform all counties within the boundaries of a testing program of the presence of the testing program and of the information described in paragraph (1), and shall encourage the relevant local health officers or other relevant local agencies to share this information with the owners of domestic wells and residents of rental properties served by domestic wells, within the boundaries of the testing program.

(3) The state board and the regional water quality control boards may partner with local agencies and community organizations to spread awareness and educate domestic well owners and residents of rental properties served by domestic wells about testing programs and the requirements of this section.

(d) Within 10 days of receiving test results from a testing program, the owner of a domestic well that serves a rental property shall ensure that the test results, and the information on how to read and understand test results posted by the board pursuant to subparagraph (E) of paragraph (1) of subdivision (c), are provided to current residents of the rental property.

(e) If the test results collected pursuant to this section demonstrate an exceedance of any primary drinking water standard, and the owner of the domestic well or a resident served by the domestic well is eligible for the provision of safe drinking water under a program identified pursuant to subparagraph (F) of paragraph (1) of subdivision (c), the domestic well owner shall provide safe drinking water under that program to residents served by the domestic well.

(f) An owner of a domestic well shall not impose any charge, or increase any fee, rent, or other charge imposed, on any resident solely as a result of the requirements of this section.

(g) This section does not impose any new obligation or requirement on a testing program.

(Added by Stats. 2024, Ch. 506, Sec. 2. (AB 2454) Effective January 1, 2025.)