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AB-1361 Municipal water districts: water service: Indian tribes. (2017-2018)

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Assembly Bill No. 1361

CHAPTER 449

An act to amend Section 71611.5 of the Water Code, relating to water.

[Approved by Governor October 03, 2017. Filed with Secretary of State October 03, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1361, Eduardo Garcia. Municipal water districts: water service: Indian tribes.

Existing law, the Municipal Water District Law of 1911, provides for the formation of municipal water districts and grants to those districts specified powers. Existing law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district. Existing law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe's lands that are not within a district, as prescribed.

This bill would additionally authorize a district to apply to the applicable local agency formation commission to provide this service of water to Indian lands, as defined, that are not within the district. The bill would require the local agency formation commission to approve the application and authorize the commission to impose conditions on the district with regard to the extension of service. By imposing additional duties on local officials, this bill would impose a state-mandated local program. The bill would prohibit a local agency formation commission from approving an application pursuant to the bill's provisions received on or after January 1, 2023, but would authorize a district that received authorization to extend water service to Indian lands before that date to continue to do so after that date.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 71611.5 of the Water Code is amended to read:

71611.5. (a) (1) Except as provided in paragraph (2), upon the request of an Indian tribe and the satisfaction of the conditions stated in subdivision (b), a district shall provide service of water at substantially the same terms applicable to the customers of the district to an Indian tribe's lands that are not within a district as if the lands had been fully annexed into the district and into any other public agencies required for the provision of water service if the Indian tribe's lands meet all of the following requirements:

(A) The lands were owned by the tribe on January 1, 2016.

(B) The lands are contiguous with at least two districts.

(C) The lands lie within the special study area of at least one district.

(D) At least 70 percent of the Indian tribe's total Indian lands are currently within the boundaries of one or more districts.

(2) (A) Upon the request of an Indian tribe that does not meet the requirements of paragraph (1) and upon the satisfaction of the conditions stated in subdivision (b), a district may, until January 1, 2023, apply to the applicable local agency formation commission to extend water service at substantially the same terms applicable to customers of the district to Indian lands that are not within a district as if the lands had been fully annexed into the district and into any other public agencies required for the provision of water service. The local agency formation commission shall approve the application and may impose conditions on the district with regard to the extension of service in accordance with Section 56886 of the Government Code, as long as those terms and conditions do not impair the provision of water service to Indian lands pursuant to this section and similar to those imposed on all agency service recipients without discrimination. A district shall provide the water extension agreement to the local agency formation commission.

(B) A local agency formation commission shall not approve an application on or after January 1, 2023. A district that received authorization to extend water service to Indian lands pursuant to subparagraph (A) may continue to do so after January 1, 2023, provided that the district continues to comply with the conditions imposed by the local agency formation commission.

(C) For purposes of this subdivision, "Indian lands" means Indian lands, as defined in Section 2703 of Title 25 of the United States Code, that were part of a reservation or held in trust as of January 1, 2017.

(b) Before a district provides service of water pursuant to this section, the Indian tribe shall satisfy all of the following conditions:

(1) The Indian tribe complies with all federal and tribal laws.

(2) The Indian tribe acquires all federal and tribal approvals necessary for the applicable district to provide water service to the tribal lands on substantially the same terms applicable to customers of the district.

(3) The Indian tribe accepts, by agreement, all terms of, and payments to (including service payments), the district and any public agency providing water to said district, as if the Indian tribe's lands were fully annexed into the district and into the service area of any other public agency, which terms and payments are also a condition of continued service by a district and by any public agency providing water to said district.

(c) If a district provides service of water to an Indian tribe's lands pursuant to this section, the service areas of the district and of any public agencies providing water to the district are deemed for all purposes to include the Indian tribe's lands for the longest of the following periods of time:

(1) The time service of water is provided by the district to the Indian tribe.

(2) The time moneys are owed by the Indian tribe to the district for the service of water.

(3) The term of any agreement between the district and the Indian tribe.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.