

**Senate Bill No. 222**

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Passed the Senate August 30, 2022

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*Secretary of the Senate*

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Passed the Assembly August 29, 2022

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Chapter 6.5 (commencing with Section 116930) to Part 12 of Division 104 of the Health and Safety Code, relating to water.

## LEGISLATIVE COUNSEL'S DIGEST

SB 222, Dodd. Water Rate Assistance Program.

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

Existing law requires the state board, by January 1, 2018, to develop a plan for the funding and implementation of the Low-Income Water Rate Assistance Program, as prescribed. Existing law requires the state board, by February 1, 2018, to report to the Legislature on its findings regarding the feasibility, financial stability, and desired structure of the program, including any recommendations for legislative action that may need to be taken.

This bill would establish the Water Rate Assistance Fund in the State Treasury to help provide water affordability assistance, for both drinking water and wastewater services, to low-income residential ratepayers. The bill would make moneys in the fund available upon appropriation by the Legislature to the state board to provide, in consultation with relevant agencies, direct water bill assistance to low-income residential ratepayers served by eligible systems, as defined, and would require 80% of total expenditures from the fund to be directly applied to residential ratepayer accounts. The bill would require the state board, to the extent feasible, cost effective, and permitted under the California Constitution, to identify and contract with one or more third-party providers. The bill would impose requirements on the state board in connection with the program, including, among others, within 270 days of the effective date, as defined, adopting guidelines in consultation with relevant agencies and an advisory group for

implementation of the program and preparing a report to be posted on state board's internet website identifying how the fund has performed. The bill would require the guidelines to include minimum requirements for eligible systems, including the ability to confirm eligibility for enrollment through a request for self-certification of eligibility under penalty of perjury. By expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would require, within 365 days of the effective date, the Public Utilities Commission to establish a mechanism for electrical corporations and gas corporations to, and would authorize the state board or third-party providers to enter into agreements with local publicly owned electric utilities and local publicly owned gas utilities to, regularly share specified customer data with the state board or third-party providers, subject to certain protections. The bill would require the state board to, among other things, coordinate with the commission to align criteria between all existing water rate assistance programs offered by investor-owned utilities and to ensure timely processing of payments to investor-owned utilities.

The bill would make the operation of these provisions contingent on an appropriation in the annual Budget Act or another statute for these purposes.

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.

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

SECTION 1. Chapter 6.5 (commencing with Section 116930) is added to Part 12 of Division 104 of the Health and Safety Code, to read:

CHAPTER 6.5. WATER RATE ASSISTANCE PROGRAM

116930. (a) The Water Rate Assistance Fund is hereby established in the State Treasury to provide water affordability

assistance, for both drinking water and wastewater services, to low-income residential ratepayers. Moneys in the fund shall be available upon appropriation by the Legislature to the state board to provide, in consultation with relevant agencies, direct water bill assistance to low-income residential ratepayers served by eligible systems.

(b) The program shall be entirely funded by the fund or other available state or federal funding.

(c) (1) The state board shall, upon appropriation by the Legislature, expend moneys from the fund for reasonable costs associated with the administration of this chapter.

(2) Commencing 365 days after the effective date, funds for the reasonable costs associated with the administration of this chapter shall not exceed 10 percent of the average annual deposits into the fund. “Reasonable costs associated with the administration of this chapter” includes relevant agencies’ administrative costs associated with this chapter. The state board shall reimburse eligible systems for reasonable costs associated with the administration of this chapter, which shall not count toward the 10-percent limitation.

(3) Commencing 450 days after the effective date, a minimum of 80 percent of total expenditures from the fund shall be directly applied to residential ratepayer accounts.

(d) The state board may undertake any of the following actions to implement this chapter:

(1) Provide for the deposit of any of the following moneys into the fund:

(A) Federal or state funding.

(B) Voluntary contributions, gifts, grants, or bequests.

(C) Any returned funds.

(2) Enter into funding agreements with the federal government, local or state agencies, private entities, or nonprofit organizations.

(3) Take additional action as necessary and appropriate for adequate administration and operation of the fund and provision of direct water bill assistance.

116930.1. The state board shall do all of the following in administering the fund:

(a) Track and manage revenue in the fund separately from all other revenue.

(b) Develop and implement a process for the state board, or a third-party provider contracted by the state board, to disburse

program funds to eligible systems, contract operators, or third-party providers for direct application to the system's low-income residential ratepayer accounts, including controls to prevent fraud, waste, and abuse.

(c) Manage and maintain fund balances in conjunction with the Controller, the Treasurer, the California State Auditor's Office, and the Department of Finance, as appropriate.

(d) (1) Expend, upon appropriation by the Legislature, moneys in the fund for grants, contracts, or services to provide benefits to eligible residential ratepayers.

(2) Services may include technical assistance to eligible systems serving fewer than 3,300 connections to administer the application of funds to low-income residential ratepayer accounts, including initial startup costs.

(3) The state board shall, to the extent feasible, cost effective, and permitted under Article VII of the California Constitution, identify and contract with one or more third-party providers. The scope of work for a third-party provider may include, but is not limited to, eligibility determination, call center services, internet-based enrollments, document intake and processing, and distribution of funds to eligible systems for application to qualified residential ratepayer accounts.

(4) Provide funds to eligible systems for reasonable costs for administration of the program, not to exceed the greater of 5 percent of the total funds for water bill assistance or two thousand dollars (\$2,000).

(e) (1) Establish a process to regularly confirm the eligibility of recipients, based upon eligibility pursuant to Section 116931.

(2) The eligibility requirement in paragraph (1) may be carried out by a third-party provider described in paragraph (3) of subdivision (d).

116931. (a) Within 270 days of the effective date, the state board, in consultation with relevant agencies, shall adopt guidelines for implementation of the program.

(b) In developing the guidelines, the state board shall consult with an advisory group that includes representatives of all of the following:

- (1) Community water systems of small, medium, and large sizes.
- (2) Wastewater systems.

(3) Technical assistance providers, including organizations that support the federal Low-Income Home Energy Assistance Program or the federal Low-Income Household Water Assistance Program.

(4) Local agencies, including agencies that manage multifamily housing serving low-income residents.

(5) Nongovernmental organizations that work with residents of disadvantaged communities.

(6) Representatives from the public, including, but not limited to, low-income residential ratepayers and residential ratepayers served by tribal water or wastewater systems.

(c) The guidelines shall include, at minimum, all of the following:

(1) Direction to eligible systems to automatically enroll households in the program under both of the following circumstances:

(A) Available information shows that any member of the residential ratepayer's household is a current enrollee in, or recipient of, CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income or the State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children.

(B) The residential ratepayer's household is a utility customer enrolled in the California Alternate Rates for Energy (CARE) program established pursuant to Section 739.1 of the Public Utilities Code or in the Family Electric Rate Assistance program established pursuant to Section 739.12 of the Public Utilities Code.

(2) Minimum requirements for eligible systems, including both of the following:

(A) Participation in the statewide program.

(B) The ability to confirm eligibility for enrollment through a request for self-certification of eligibility under penalty of perjury.

(3) A process for the state board or third-party providers to provide funding to eligible systems for application to eligible low-income residential ratepayer accounts. Funding shall be provided to eligible systems on, at minimum, an annual basis.

(4) A provision to audit eligible systems receiving funds under this chapter regarding the receipt and distribution of those funds.

(5) Parameters and options for providing funding to eligible systems that bill exclusively or partially on the property tax roll.

(6) A process for instances when a residential ratepayer moves outside of the eligible system's service area.

(7) A process for exemption of eligible systems from providing low-income rate assistance upon determination by the state board that the system does not have eligible residential ratepayers. Exemptions shall be reviewed periodically to determine whether any residential ratepayers of the eligible system have become eligible for assistance.

(8) A process for eligible systems to return funds to the state if needed.

116931.1. (a) The state board shall, in consultation with relevant agencies and the advisory group described in subdivision (b) of Section 116931 and after a public hearing, adopt an annual report to be posted on the state board's internet website identifying how the fund has performed.

(b) The annual report shall contain all of the following:

(1) A report of expenditures from the fund for the prior fiscal year, including how many households were served, and estimated expenditures for the current fiscal year.

(2) An estimate of the number of households eligible for assistance. The estimate shall not be based on a household-by-household evaluation.

(3) An evaluation of available relevant information regarding any household-level water affordability issues that remain after application of bill assistance.

(4) A description of methods to include public participation and efforts to encourage enrollment in the program.

(5) An estimate of the funding available for the next fiscal year based on the amount available in the fund, anticipated funding needs, other existing funding sources, and other relevant data and information.

116931.2. (a) Within 365 days of the effective date, the Public Utilities Commission shall establish a mechanism for electrical corporations and gas corporations to regularly share data with the state board or relevant third-party providers regarding the utility customers enrolled in, or eligible to be enrolled in, the California Alternate Rates for Energy (CARE) program established pursuant to Section 739.1 of the Public Utilities Code and the Family Electric Rate Assistance program established pursuant to Section 739.12 of the Public Utilities Code. Electrical corporations and

gas corporations shall regularly share that data with the state board through the mechanism.

(b) (1) The state board and third-party providers may enter into agreements with local publicly owned electric utilities and local publicly owned gas utilities, including, but not limited to, municipal utility districts and irrigation districts, for the purpose of regularly sharing data with the state board or third-party provider regarding utility customers enrolled in, or eligible to be enrolled in, affordability programs benefiting low-income residential ratepayers.

(2) The agreements may authorize the state board to provide data pursuant to this subdivision to third-party providers or eligible systems for the sole purpose of assisting with the administration of the program.

(c) Data shared pursuant to subdivision (a) or (b) is subject to Section 6254.16 of the Government Code and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(d) Data shared pursuant to subdivision (a) or (b) shall not be considered a disclosure under Section 1798.83 of the Civil Code.

116931.3. The operation of this chapter is contingent on an appropriation in the annual Budget Act or another statute for purposes of this chapter.

116932. (a) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any guidelines developed by the state board pursuant to this chapter.

(b) (1) Notwithstanding Section 11019 of the Government Code, the state board, or a third-party provider contracted by the state board, shall, to the extent permissible, make advance payments to eligible systems for direct water bill assistance, for related administrative costs, and to implement the purposes of this chapter.

(2) Before distribution of an advance payment, eligible systems shall provide to the state board an estimate of the number of households enrolled in the program and their expected bill discounts.

(3) The state board shall have discretion regarding the terms and conditions that apply to advance payment.

(c) An eligible system shall provide a full accounting of its expenditures on an annual basis and as requested by the state board.

(d) The state board, in consultation with the Public Utilities Commission, may authorize up to 5 percent of program funding to establish pilot projects that include expenditures that improve water or wastewater affordability for low-income residential households through installation of water efficiency measures or assistance programs that otherwise improve residential household water or wastewater affordability in mobilehome parks, multifamily housing, or other households that do not directly pay a water or wastewater bill.

116933. (a) The state board shall do all of the following in administering the program:

(1) Provide guidance, oversight, and funding for low-income rate assistance for residential ratepayers of eligible systems.

(2) Coordinate with the Public Utilities Commission, to the extent reasonable and consistent with this chapter and related policy goals, to align criteria between all existing water rate assistance programs offered by investor-owned utilities, and to ensure timely processing of payments to investor-owned utilities.

(3) For an eligible system that is not regulated by the Public Utilities Commission, consult with relevant agencies on options to provide oversight of the eligible system's application of program funds to the system's low-income residential ratepayer accounts pursuant to this chapter to ensure effectiveness and prevent fraud, waste, and abuse.

(4) Coordinate with other relevant state agencies and resolve disputes as necessary.

(5) Consider identifying alternative entities to distribute and track benefits if the state board determines that an eligible system is incapable of applying program funds to residential ratepayers of the system pursuant to this chapter.

(b) This chapter does not prohibit an eligible system from offering assistance to ratepayers that is in addition to, or on top of, the assistance provided through the program.

(c) An eligible system that offers assistance that is in addition to the assistance provided through the program to the same ratepayers served by the program shall still receive funds from the program for the eligible portion of the assistance.

116933.1. (a) Within 450 days of the effective date, all nontribal, community water systems and wastewater systems shall begin providing water rate assistance to residential ratepayers in compliance with the minimum requirements specified in subdivision (c) of Section 116931. A tribal water or wastewater system may offer water rate assistance. Eligible systems shall continue to provide water rate assistance to low-income residential ratepayers as long as there is sufficient state or federal funding available to provide water rate assistance and fund eligible systems for reasonable costs for administration of the program.

(b) If the state board has not met the deadline in subdivision (a) of Section 116931 for the adoption of program implementation guidelines within 270 days of the effective date, the deadline in subdivision (a) of this section shall be delayed by the total number of additional days the state board takes to adopt program implementation guidelines.

(c) Prior to disconnection of service, a community water system shall provide residential ratepayers with arrearages a notice that they may enter into a payment plan and time to enroll in conformity with the requirements of Chapter 6 (commencing with Section 116900), notwithstanding limitations relating to a community water system's size. A community water system shall not discontinue water service to a residential ratepayer that remains current on a payment plan.

116933.2. (a) The Attorney General, at the request of the state board or upon the Attorney General's own motion, may bring an action in state court to restrain, by temporary or permanent injunction, the use of any method, act, or practice declared in this chapter to be unlawful, including nonparticipation by a public water system within the program.

(b) The state board may qualify awards of financial assistance upon participation in the program.

116934. For purposes of this chapter, the following definitions apply:

(a) "Community water system" has the same meaning as defined in Section 116275.

(b) "Effective date" means the date of appropriation of funding in the annual Budget Act or another statute for purposes of this chapter.

(c) “Eligible system” means a community water system, wastewater system, or a participating tribal water or wastewater system.

(d) “Fund” means the Water Rate Assistance Fund created pursuant to Section 116930.

(e) “Low income” means an annual household income that is no greater than 200 percent of the federal poverty guideline level and consistent with the guidelines established for the California Alternative Rates for Energy (CARE) program pursuant to subdivision (a) of Section 739.1 of the Public Utilities Code.

(f) “Program” means the Water Rate Assistance Program established pursuant to this chapter.

(g) “Relevant agencies” means those agencies that have a role, through data collection, regulation, or enforcement, in providing services, oversight, and assistance to public water systems and low-income ratepayers.

(h) “Residential ratepayer” means a resident of a single-family or multifamily residence who receives a bill for water or wastewater.

(i) “State board” means the State Water Resources Control Board.

(j) “Wastewater system” means a city, county, special district, joint powers authority, or tribal or investor-owned utility that provides wastewater collection, treatment, or disposal service.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved \_\_\_\_\_, 2022

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*Governor*