

Date of Hearing: April 9, 2024

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 2962 (Papan) – As Amended March 21, 2024

SUBJECT: Wholesale Regional Water System Security and Reliability Act

SUMMARY: Extends the sunset of the “Wholesale Regional Water System Security and Reliability Act” from January 1, 2026 to January 1, 2036. Specifically, **this bill:**

- 1) Extends the sunset of the “Wholesale Regional Water System Security and Reliability Act” from January 1, 2026 to January 1, 2036.
- 2) Makes findings and declarations regarding the need for this bill.
- 3) States that no reimbursement is required by this bill because the local agencies affected by this bill have the authority to levy service charges, fees, or assessments to cover the cost of its implementation.

EXISTING LAW:

- 1) Requires, under the Wholesale Regional Water System Security and Reliability Act, the City and County of San Francisco (City) to adopt a program of capital improvement projects to restore and improve the Bay Area regional water system (RWS) by February 1, 2003. The program of capital improvement shall contain specified projects and the program shall be 50% complete by 2010 and 100% complete by 2015. A copy of the capital improvement program shall be submitted to the State Water Resources Control Board (State Water Board) and the City shall report annually by September 1st to the Joint Legislative Audit Committee, the Seismic Safety Commission, and the State Water Board on progress made implementing the program of capital improvement (Water Code § 73501).
- 2) Requires, under the Wholesale Regional Water System Security and Reliability Act, the City to prepare an emergency response plan in consultation with the San Francisco Bay Area Water Users Association (BAWSCA), Alameda County, Santa Clara County, and San Mateo County that describes how water service will be restored to its water service area following an earthquake or other natural or manmade disaster (Water Code § 73503).
- 3) Requires, under the Wholesale Regional Water System Security and Reliability Act, the City to submit an annual report to the Legislature and Department of Public Health by February 1st that describes progress made in securing supplemental sources of water for its water service customers during dry years. Provides that the City shall assign a higher priority to the delivery of water to its urban customers than to the generation of hydroelectricity so long as doing so does not violate federal law (Water Code § 73504).
- 4) Requires, under the Wholesale Regional Water System Security and Reliability Act, the Department of Health Services to conduct an audit of the City’s program of maintenance for RWS by July 1, 2004. Prescribes the scope of said audit (Water Code § 73505).

- 5) Sunsets the Wholesale Regional Water System Security and Reliability Act on January 1, 2026 (Water Code § 73514).
- 6) Provides for the formation, membership, powers and authorities, and financing of the Bay Area Water Supply and Conservation Agency (BAWSCA) (Water Code § 81300 *et seq.*).
- 7) Establishes the San Francisco Bay Area Regional Water System Financing Authority (Financing Authority), prescribes its membership, and authorizes it to issue bonds to finance a capital improvement program for RWS (Water Code § 81600 *et seq.*).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** The author asserts that the original goal of the Wholesale Regional Water System Security and Reliability Act has been successful, but that a sunset extension is necessary because the capital improvement program for RWS is yet to be complete and, therefore, continued state oversight is necessary. The author argues that this bill is necessary because “continuation of state oversight has been instrumental in the successful execution of SFPUC's necessary capital program. Maintaining this oversight without interruption is paramount to safeguarding the resilience and reliability of the area’s water infrastructure.”
- 2) **Background.** The San Francisco Public Utilities Commission (SFPUC) is part of the City and County of San Francisco and provides retail and wholesale water service to approximately 2.7 million residential, commercial, and industrial customers in San Francisco and the counties of Alameda, San Mateo, Santa Clara, San Joaquin, and Tuolumne. SFPUC owns and operates RWS which consists of water storage and treatment facilities, water transmission infrastructure, buildings and structures for facilities and employees, communications systems, and watersheds and rights-of-way lands in San Mateo, Santa Clara, and Alameda Counties as well as western San Joaquin County. The major feature and water source in the RWS is the Hetch Hetchy Reservoir on the Tuolumne River that was built in the 1920’s and -30’s following congressional authorization via the Raker Act in 1913. On average, water captured in Hetch Hetchy provides 85% of the water for RWS with the remaining 15% coming from runoff in the Alameda and San Francisco Peninsula watersheds.

SFPUC State Auditor report (99124). Completed in February 2000 as requested by the Legislature, the State Auditor found “that [SFPUC] has been slow to assess and upgrade its water delivery system to enable it to survive catastrophic events such as earthquakes, fires, or floods. [SFPUC] has also been slow to estimate the amount of water it will need to meet demand in the future and to seek additional sources of water. As a result, the nearly 2.4 million customers in the City and County of San Francisco, and in Alameda, San Mateo, and Santa Clara counties who rely on [SFPUC] for their drinking water are at greater risk of disruptions and water shortages in the event of a catastrophe or a drought.” In response to the audit report, Assemblymember Lou Papan introduced AB 1823 in 2002 to provide oversight of and accountability for SFPUC’s efforts to develop and complete a capital improvement plan. AB 1823 enacted the “Wholesale Regional Water System Security and Reliability Act” (see “Existing Law,” above for outline of its major features).

At the time of the audit, most features of SFPUC’s regional water system were more than 75 years old and SFPUC had only begun the process to develop a capital improvement program

in 1994. This alarmed many of SFPUC's wholesale customers in Alameda, San Mateo, and Santa Clara counties, some of whom depend upon SFPUC for up to 80% of their drinking water supplies.

SFPUC Water System Improvement Program (WSIP). SFPUC adopted the WSIP in May 2002. It is a \$4.8 billion capital improvement program intended to rebuild and retrofit RWS to improve system reliability, especially focused on ensuring seismic safety. The Wholesale Regional Water System Security and Reliability Act identified nine priority projects (Water Code § 73502) that were intended to keep water service relatively intact in the event of a major earthquake. SFPUC reports, as of September 1, 2023, that the WSIP is on track to be completed by February 2027 and that 98.9% of the regional program component of the WSIP is already complete. According to BAWSCA, the completion date was recently revised and is now expected to be June 2032.

BAWSCA. BAWSCA was established by AB 2058 (Lou Papan) and has the sole authority to represent the needs of the 24 public and two private water agencies that rely on RWS. BAWSCA represents these agencies and works with SFPUC to ensure that RWS is fixed.

- 3) **Arguments in support.** The California Water Association supports this bill arguing that it is necessary to allow for the completion of projects to upgrade RWS and improve drought resiliency.
- 4) **Proposed technical amendments.** This bill contains two obsolete references to the Department of Public Health (DPH). These references are from AB 1823 that enacted the Wholesale Regional Water System Security and Reliability Act and are there because, at that time, the state's drinking water program was housed at DPH. The drinking water program, however, was transferred to the State Water Board in 2014. To reflect this change, the Committee may wish to ask the author to change the two references to DPH to the State Water Board.
- 5) **Dual-referral.** This bill has also been referred to the Committee on Local Government.
- 6) **Related legislation.** SB 699 (Hill), Chapter 214, Statutes of 2020, extends the sunset of the Wholesale Regional Water System Security and Reliability Act from January 1, 2022 to January 1, 2026, among other provisions.

SB 1345 (Committee on Natural Resources and Water), Chapter 489, Statutes of 2014, extends the sunset of the Wholesale Regional Water System Security and Reliability Act from January 1, 2015 to January 1, 2022, among other provisions.

AB 2437 (Ruskin), Chapter 99, Statutes of 2008, extends the sunset of the Wholesale Regional Water System Security and Reliability Act from December 31, 2010 to January 1, 2015.

AB 1823 (Lou Papan), Chapter 841, Statutes of 2002, enacts the Wholesale Regional Water System Security and Reliability Act.

AB 2058 (Lou Papan), Chapter 844, Statutes of 2002, provides for the formation of BAWSCA by at least 15 of the 26 public entities in Alameda, San Mateo, and Santa Clara

Counties that purchase water from the City and County of San Francisco.

SB 1870 (Speier), Chapter 849, Statutes of 2002, enacts the Financing Authority that prescribes the membership of the Financing Authority and authorizes it to issue bonds to finance a capital improvement program for the RWS.

REGISTERED SUPPORT / OPPOSITION:

Support

California Water Association

Opposition

None on file

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