May 17th, 2018

To:         CSAC Agriculture, Environment and Natural Resources (AENR) Policy Committee

From:    Cara Martinson, Senior Legislative Representative, Federal Affairs Manager

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**Re:         SB 623 (Monning**) **Water quality: Safe and Affordable Drinking Water**

**Summary.** SB 623, by Senator Bill Monning, would create new charges on drinking water customers and certain agricultural entities to generate revenue to implement a new financial assistance program to address unsafe drinking water, with a focus on disadvantaged communities. The measure proposes to establish a new program—the Safe and Affordable Drinking Water Fund (SADWF)—to be administered by the State Water Resources Control Board (SWRCB) and designed to increase access to safe drinking water. Specifically, the program would provide certain local water agencies—particularly ones in disadvantaged communities—with grants, loans, contracts, or services to help support their operations and maintenance costs. Currently, this measure is also included as part of the Governor’s proposed FY 18-19 State Budget. This proposal is strongly supported by a unique coalition of agriculture and environmental justice advocates and is opposed by the Association of California Water Agencies.

**CSAC Staff Recommendation.**  While CSAC does not have specific policy on a statewide water tax, the CSAC AENR platform does recognize the statewide funding challenges and needs that involve stormwater, flood control, drinking water and groundwater management requirements and compliance with water conservation requirements. In addition, CSAC, in conjunction with our County Environmental Health Directors, has been working with the Administration over the years to discuss pragmatic and practical approaches to addressing this critical public health and equity issue – access to safe and affordable water. CSAC staff recommends that the AENR Committee take a support position on this measure as it strikes a balance between the “polluter pays” principle, and recognizing that lack of access to safe and affordable drinking water is an issue of statewide significance. Furthermore, without adequate funding to address these failing systems, it could ultimately fall upon counties to provide the necessary resources to address this issue.

**Background.** According to a 2017 Assembly Appropriations Committee analysis of SB 623, over 300 drinking water systems, serving 200,000 Californians, are failing to provide safe drinking water. Many of these systems are found in the Central Valley, where water supplies have been contaminated by pesticides, arsenic and other toxins that have seeped into the water table. In addition to pollution issues, many of these small communities lack the rate payer base to provide adequate revenue for the ongoing maintenance and operations costs of water treatment plants. This can lead to drastically increased water rates. Bonds, grants, and other funding sources are available to help finance the construction of infrastructure, but often once these plants are built there are not enough users to pay for ongoing maintenance and operations. This can lead to sharp increases in water rates for small communities. For example the Alpaugh Community Services District, located in Tulare County, has proposed raising water rates 26% over the next several years in order to pay for the operation of a new water treatment facility which was paid for by a state grant.

**County Responsibilities.** Counties also regulate these systems. At the local level, 30 of the 58 county environmental health departments in California, also known as Local Primacy Agencies (LPAs), have been delegated the State Water Board’s authority to regulate all Public Water Systems within their jurisdiction that have less than 200 service connections. These 30 LPAs regulate small water systems to ensure that these systems deliver adequate and safe drinking water. The LPA primacy counties are as follows: Alpine, Amador, Butte, Calaveras, Contra Costa, El Dorado, Imperial, Inyo, Kings, Los Angeles, Madera, Mono, Monterey, Napa, Nevada, Placer, Plumas, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Stanislaus, Tehama, Yolo, and Yuba.

The bill also requires the State Water Board to work in conjunction with local public health officers

to make available a map of aquifers that are at high risk of containing contaminants that are used or likely to be used as a source of drinking water for certain smaller water systems and domestic wells. This would include identification of water systems potentially in need of assistance to address water contamination issues. The County Environmental Health Officers Association is seeking technical amendments to this section that would lessen the burden of data collection by requiring that certain data be collected and/or provided upon request of SWRCB rather than mandated.

**Fees.** If adopted, the proposal is expected to generate roughly $100 million per year by imposing a tax of $0.95 a month on individuals that purchase water from a public water system (any retail customer with a water meter). The fee paid by users would be determined by a sliding schedule based the size of a user’s water connection; businesses with a connection greater than four inches could pay up to $10 a month for larger connections. The proposal includes an exemption for households whose income is less than 200 percent of the federal poverty level.

In addition, the proposal includes several fees on industry, including: a mill fee of six “mills” (equal to six‑tenths of a cent) per dollar on the sale of all fertilizer; a charge on milk producers beginning January 2021; and, a charge on confined animal facilities—excluding dairies—such as egg‑production facilities. The charges are capped at $1,000 per facility per year. Furthermore, the proposal includes immunity from enforcement action against agricultural operations for exceeding nitrate groundwater objectives or other groundwater pollution standards if the agricultural operation demonstrates implementation of best practicable treatment control, and pays the charges required by this proposal.

In total, the fees are expected to generate roughly $100 million from water users, $17 million from fertilizer producers, and $5.3 million from dairy producers in the first years of implementation, totaling $122.3 million. The revenue generated from these fees would be placed into a fund and administered by the State Water Resources Control Board’s Office of Sustainable Water Solutions. Funds would be prioritized to assist disadvantaged communities and low‑income households served by a water system with less than 14 connections. Funding would be prioritized to support operations and maintenance costs, as well as capital costs associated with water system consolidation and service extensions. Allowable uses would include providing replacement water on a short‑term basis, as well as the development, implementation, maintenance, and operation of more permanent solutions (such as treatment systems).

**Support and Opposition.** The coalition of agriculture, dairy and environmental advocates supporting this measure came together late in the Legislative session last year. Agriculture and dairy interests are supportive of the fees imposed on their industries through this proposal in exchange for some relief from enforcement. Environmental justice advocates support the measure because it provides certainty and generates a more consistent source of funding for these systems. The Rural County Representatives of California have also expressed their support for SB 623.

The third major group involved in negotiations of this proposal is the public water agencies whose users would pay a bulk of the fee. This measure is opposed by the Association of California Water Agencies (ACWA). ACWA supports the intent of the bill, but believes that general fund dollars, in addition to other funding sources should be used to address the issue. ACWA also opposes language that would require testing of private wells and small water systems (which have less than 15 connections) for water contamination.

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