



June 15, 2021

The Honorable Eduardo Garcia
Chair, Assembly Water, Parks & Wildlife
Committee
State Capitol, Room 4140
Sacramento, CA 95814

**RE: Senate Bill 552 (Hertzberg) – OPPOSE
As Proposed to be Amended**

Dear Assembly Member Garcia:

On behalf of California State Association of Counties (CSAC) and the Rural County Representatives of California (RCRC), we write in opposition to Senate Bill 552, by Senator Robert Hertzberg, which, among other provisions, directs counties to establish a task force to facilitate drought preparedness. Newly proposed amendments—only recently shared by the author’s office with stakeholders—would additionally require counties to include a question about dry wells in a new well permit application, and to report information on dry and failing wells to relevant groundwater sustainability agencies and to the Department of Water Resources (DWR).

While we appreciate the intent of this newly proposed section, our organizations must oppose these amendments. As was explained to us at this bill’s introduction by author’s office, this bill was intended to implement a series of recommendations included in the Small Water Suppliers and Rural Communities at Risk of Drought and Water Shortage Vulnerability and Recommendations and Guidance to Address the Planning Needs of these Communities report, produced by DWR pursuant to Assembly Bill 1668 (Friedman, 2018). The report is the result of a year-long multiparty stakeholder process that included several representatives from California counties, and is meant to reflect solutions that were mutually discussed among stakeholders.

However, the author’s amendments for consideration before your Committee this Thursday, June 17th, propose new mandates on counties that are outside the scope of this report. Furthermore, these amendments seek to require counties to perform duties that will be costly, difficult, and, at times, locally contentious. While these alone are not reasons to preclude consideration of new policy, they are reasons for representatives of local governments to be at the table to discuss what challenges such amendments might present. Unfortunately, that is not the case with these amendments. Our organizations

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were only provided the text of proposed amendments on Monday, June 14th, and were made aware about the possibility of amendments the Friday afternoon before.

The proposed amendments require counties to collect and report extensive amounts of information on wells beyond the scope of the original DWR report. Not all well constructions and modifications are permitted by counties or their agencies, as state law designates the responsibility to a relevant local authority, which can include cities or water agencies. Additionally, when counties or their agencies serve as the local well permitting entity, it is often county public health or environmental quality departments that oversee well permitting. These departments are not water science agencies, and they do not tend to have expert hydrogeologists on staff. Typically, the information sought from county permitting authorities pertains to the aspects of the well construction or modification that are known to well drillers and experienced well owners.

These amendments impose new duties on counties that are not easily performed, nor easily accomplished without substantial additional resources. While our member counties can go through the process of amending their well permitting applications to try and meet the intent of these amendments, the process will likely involve time and cost, and may be met by local concern and opposition. Further, amendments are not clear about what would constitute sufficient basis to consider a new well permit application being made due to a well being dry, versus other reasons for seeking a well permit. Reasons for new well applications include diminishing output, a want for increased supply, and because shifting hydrological conditions at a site requires a new well. Sometimes these reasons are related to large hydrological dynamics like climate and drought, but, as groundwater users know well, the actual reasons for modifying existing wells or constructing new wells can be quite complex, and not always attributed to one reductive explanation. Drought is itself transient, and can exacerbate conditions, but may not be the exclusive, primary, or even attributable cause of diminishing groundwater supply. Drought is also defined differently and declared at different times by federal, state, and local authorities for differing purposes.

Even if counties have the expert staff readily on hand to attempt to make conclusions about the status of wells, the mandate directed by these amendments place counties in a politically fraught situation. Again, drought is transitory, and local hydrology varies greatly year by year. Reasons for new well permits are likely to not be easily slotted within the amendment's proposed definition for wells that are "actively failing or at risk of failing due to drought and water shortage." Counties, therefore, are placed in an incredibly difficult position of making public statements about well conditions. And if this new reporting requirement gets combined with other state policy objectives, counties do not have the expertise or staff capacity to engage in policing of local groundwater use, as we fear these amendments may portend.

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We strongly urge you to reject the recent amendments to SB 552 and focus our efforts on implementation of the collaboratively-developed DWR report. If you should have any questions, please do not hesitate to contact Sidd Nag, RCRC, at snag@rcrcnet.org or (916) 447-4806 or Catherine Freeman, CSAC, at cfreeman@counties.org or (916) 662-6400.

Sincerely,



SIDD NAG
Legislative Advocate
RCRC



CATHERINE FREEMAN
Legislative Representative
CSAC

cc: The Honorable Robert Hertzberg, Member of the State Senate
Members of the Assembly Water, Parks & Wildlife Committee
Consultant, Assembly Water, Parks & Wildlife Committee
Calvin Rusch, Consultant, Assembly Republican Caucus