

Assembly Bill No. 2882

CHAPTER 610

An act to add Chapter 3.4 (commencing with Section 370) to Division 1 of the Water Code, relating to water rates.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2882, Wolk. Allocation-based conservation water pricing.

Existing law relative to water conservation programs authorizes any public entity, as defined, that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity to adopt and enforce, by ordinance or resolution, a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity.

This bill would authorize a public entity to adopt allocation-based conservation water pricing meeting certain requirements. The bill would require that revenues derived from allocation-based conservation water pricing not exceed the reasonable cost of water service, including basic costs and incremental costs, as defined.

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

SECTION 1. Chapter 3.4 (commencing with Section 370) is added to Division 1 of the Water Code, to read:

CHAPTER 3.4. ALLOCATION-BASED CONSERVATION WATER PRICING

370. The Legislature hereby finds and declares all of the following:

(a) The use of allocation-based conservation water pricing by public entities that sell and distribute water is one effective means by which waste or unreasonable use of water can be prevented and water can be saved in the interest of the people and for the public welfare, within the contemplation of Section 2 of Article X of the California Constitution.

(b) It is in the best interest of the people of California to encourage public entities to voluntarily use allocation-based conservation water pricing, tailored to local needs and conditions, as a means of increasing efficient uses of water, and further discouraging wasteful or unreasonable use of water under both normal and dry-year hydrologic conditions.

(c) The Legislature intends that allocation-based conservation water pricing is an alternative method that can be used by public entities to

encourage water users to conserve water, increase efficient uses of water, and further discourage waste of water. The Legislature does not intend to limit the discretion of public entities to evaluate and select among different methods for conserving water or to create a presumption that the election to not use a particular method is a waste or unreasonable use of water by the public entity.

(d) Nothing in this chapter is intended to limit, or dictate, the design of rate structures that public entities may use to promote conservation by water users.

(e) Nothing in this chapter directs, or otherwise compels, a public entity to use allocation-based conservation water pricing.

371. For purposes of this chapter, the following terms have the following meanings:

(a) “Allocation-based conservation water pricing” means a retail water rate structure that meets all of the criteria in Section 372.

(b) “Basic charge” means a volumetric unit charge for the cost of water service other than any fixed costs that are recovered through meter charges or other fixed charges other than incremental costs that are recovered through conservation charges. A basic charge may include the cost of generally applicable conservation measures assumed in establishing basic use allocations.

(c) “Conservation charge” means a volumetric unit charge for incremental costs.

(d) “Incremental costs” means the costs of water service, including capital costs, that the public entity incurs directly, or by contract, as a result of the use of water in excess of the basic use allocation or to implement water conservation or demand management measures employed to increase efficient uses of water, and further discourage the wasteful or unreasonable use of water, and may include any of the following:

(1) Conservation best management practices, conservation education, irrigation controls and other conservation devices, and other demand management measures.

(2) Water system retrofitting, dual plumbing and facilities for production, distribution, and all uses of recycled water and other alternative water supplies.

(3) Projects and programs for prevention, control, or treatment of the runoff of water from irrigation and other outdoor water uses. Incremental costs shall not include the costs of stormwater management systems and programs.

(4) Securing dry-year water supply arrangements.

(5) Procuring water supplies to satisfy increments of water use in excess of the basic use allocations for the customers of the public entity, including supply or capacity contracts for water supply rights or entitlements and related energy costs for water delivery.

(e) “Public entity” means a city, whether general law or chartered, county, city and county, special district, agency, authority, any other municipal public corporation or district, or any other political subdivision of the state

that provides retail water service and that is an urban water supplier, as defined in Section 10617.

372. (a) A public entity may employ allocation-based conservation water pricing that meets all of the following criteria:

(1) Billing is based on metered water use.

(2) A basic use allocation is established for each customer account that provides a reasonable amount of water for the customer's needs and property characteristics. Factors used to determine the basic use allocation may include, but are not limited to, the number of occupants, the type or classification of use, the size of lot or irrigated area, and the local climate data for the billing period. Nothing in this chapter prohibits a customer of the public entity from challenging whether the basic use allocation established for that customer's account is reasonable under the circumstances. Nothing in this chapter is intended to permit public entities to limit the use of property through the establishment of a basic use allocation.

(3) A basic charge is imposed for all water used within the customer's basic use allocation, except that at the option of the public entity, a lower rate may be applied to any portion of the basic use allocation that the public entity has determined to represent superior or more than reasonable conservation efforts.

(4) A conservation charge shall be imposed on all increments of water use in excess of the basic use allocation. The increments may be fixed or may be determined on a percentage or any other basis, without limitation on the number of increments, or any requirement that the increments or conservation charges be sized, or ascend uniformly, or in a specified relationship. The volumetric prices for the lowest through the highest priced increments shall be established in an ascending relationship that is economically structured to encourage conservation and reduce the inefficient use of water, consistent with Section 2 of Article X of the California Constitution.

(b) (1) Except as specified in subdivision (a), the design of an allocation-based conservation pricing rate structure shall be determined in the discretion of the public entity.

(2) The public entity may impose meter charges or other fixed charges to recover fixed costs of water service in addition to the allocation-based conservation pricing rate structure.

(c) A public entity may use one or more allocation-based conservation water pricing structures for any class of municipal or other service that the public entity provides.

373. (a) Revenues derived from allocation-based conservation water pricing shall not exceed the reasonable cost of water service including basic costs and incremental costs. This chapter does not limit the sources of funding for incremental costs to charges for water use.

(b) Revenues derived from allocation-based conservation water pricing shall not exceed the proportional cost of service attributable to the customer's parcel, as determined by giving consideration to all of the following:

(1) Customer classes established in consideration of service characteristics, demand patterns, and other factors.

(2) Basic use allocations.

(3) Meter size.

(4) Metered volume of water consumed.

(5) The public entity's discretionary allocation of incremental costs between and among the increments of water use subject to conservation charges, as permitted by paragraph (4) of subdivision (a) of Section 372 to meet the requirement of that section.

(c) In establishing the schedule of charges and metered volumes for the increments of water use subject to conservation charges, the public entity may also consider both of the following:

(1) Customer overuse characteristics, including ratios between overuse volumes and basic use allocations, variations in demand and consumption patterns, or other characteristics of overuse experienced by the public entity.

(2) The extent to which the pricing structure of the increments will be effective in minimizing or eliminating the need for other measures to curtail potential overuse.

374. (a) Allocation-based conservation water pricing under this chapter may be used on an ongoing basis and shall not require any finding of emergency or other water shortage conditions.

(b) The authority granted in this chapter is in addition to any other authority that a public entity has to use rate structure design to foster the conservation of water.

(c) The imposition and revision of rates and charges by a public entity under this chapter shall be subject to the procedures otherwise required by law for the public entity's water rates.