



April 18, 2012

The Honorable Lois Wolk  
Chair, Committee on Senate Governance & Finance  
California State Senate  
State Capitol, Room 4038  
Sacramento, CA 95814

**Re: Senate Bill 1498 (Emmerson) - Oppose**

Dear Chair Wolk:

I am writing in opposition to Senate Bill 1498 on behalf of the California Water Association ("CWA"), the statewide trade group that represents more than 125 water utilities regulated by the California Public Utilities Commission ("CPUC" or "Commission"). CWA members provide safe and reliable water service to nearly 6 million Californians.

While CWA is obviously supportive of the goal to protect public health and safety, as discussed in the bill, it is troubled by the fact that SB 1498 would allow public agencies to provide services outside its jurisdictional boundaries and outside its sphere of influence. In particular, CWA is concerned about the provision of water service, an essential element of public health, reliable utility service, and firefighting capability. These are all things that contribute to economic prosperity and quality of life, but they require considerable expertise and carry significant risks. Having Local Agency Formation Commissions (LAFCOs) enable public agencies without the requisite experience and expertise to provide water utility service outside their jurisdictional boundaries is not necessarily in the best interest of protecting public health and safety.

In CWA's view, SB 1498 would usurp the Commission's authority by allowing a public agency to serve in a regulated utility's existing service area. To eliminate the possibility of duplicative service, the Commission grants water utilities Certificates of Public Convenience and Necessity that define their service areas. Allowing public agencies to provide the same service in the same area constitutes a "taking" under Public Utilities Code Sec. 1503 and is illegal.

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SB 1498 is vague as to what constitutes a threat to public health and safety. This ambiguity places a CPUC-regulated utility in the unenviable position of having to defend its service record against any claim(s), regardless of merit, all at a cost to its customers.

In addition to its regulatory mandates under the auspices of the California Department of Public Health, comparable to their public agency counterparts, private water corporations are also subject to comprehensive economic, operational and water quality regulation by the CPUC. The necessary regulations and mechanisms currently exist within these organizations, as well as local county public health departments, to protect their customers, and to protect the public from entities (public and private) that are not providing safe and reliable water service.

For these reasons, CWA must, regretfully, oppose the measure. CWA, however, would welcome the opportunity to work with Sen. Emmerson to resolve the conflicts between SB 1498 and PU Code Sections 1501-1507. Please do not hesitate to contact me or our legislative advocate, Meg Catzen-Brown of Nossaman LLP, at 916-442-8888, if you have any questions about our position.

Thank you for your consideration of our views.

Sincerely,

A handwritten signature in blue ink that reads "Jack Hawks". The signature is fluid and cursive, with the first letters of "Jack" and "Hawks" being significantly larger and more prominent.

Jack Hawks

Cc: Honorable Members of the Committee on Senate Governance & Finance  
Honorable Bill Emmerson  
Toby Ewing – Committee Consultant  
Ryan Eisberg – Senate Republican Consultant  
Gareth Elliott, Office of the Governor