

# Training for Mutual Water Company Directors

Assembly Bill 54  
(Effective January 1, 2012)

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# Why are we here?

- **Review new state law – AB 54**
- **Receive training to meet new state mandate**

# Circumstances

- **Circumstance motivating AB 54**
- **Assembly analysis handout**

# What does AB 54 say?

- **Regardless of the form of organization (public or private), an entity that operates a “public water system” is providing a public service**

# What does AB 54 say?

- **California's goal is to provide safe drinking water**
- **But water quality has deteriorated**
- **Some public water systems continue to suffer poor water quality inconsistent with safe drinking water standards**

# What does AB 54 say?

- **California has funding for public water systems to improve drinking water quality**
- **The Safe Drinking Water Revolving Fund**
- **Demands (\$39 billion) exceed funding (\$1.2 billion for 1997-2008)**

# What does AB 54 say?

- **Any corporation supplying drinking water must provide in its articles of incorporation or bylaws that the water will only be provided to owners of shares**
- **Shares must be appurtenant to the land**
- **Such corporations are defined as mutual water companies**

# What does AB 54 say?

- **Defines public water system per Health and Safety Code 116275**
  - **A system for the provision of water for human consumption through pipes or other constructed conveyances**
  - **Has 15 or more service connections**
- OR**
- **Regularly serves at least 25 individuals daily at least 60 days out of the year**



# What does AB 54 require?

- **Must provide LAFCO with information for LAFCO's municipal service review report within 45 days of LAFCO's request**
- **LAFCO must produce a map**
- **LAFCO reviews whether the mutual water company is complying with the Safe Drinking Water Act**
- **LAFCO approves annexation of territory served by a mutual water company to a city or special district**

# What does AB 54 require?

- **A mutual water company formed pursuant to Corporations Code Section 14300 shall be liable for:**
  - **Payment of any fines, penalties, costs, expenses, and other amounts that may be imposed upon the mutual water company pursuant to the Health and Safety Code**

# What does AB 54 require?

- **The mutual water company may:**
  - **Levy an assessment to pay these fines, penalties, costs, expenses, and other amounts so imposed**
  - **If the amount of outstanding fines, penalties, costs, expenses exceed 5 percent of the annual budget of the mutual water company, then the mutual water company shall levy an assessment to pay those fines, penalties, costs, expenses and other amounts so imposed**

# What does AB 54 require?

- **Directors training**
  - **Avoidance of contractual conflicts of interest and fiduciary duties**
  - **Duties of public water systems to provide clean drinking water, and**
  - **Long-term management of a public water system**

# What does AB 54 require?

- **Specifies public water systems construction standards**
- **Requires public water systems to maintain financial reserves for R&R to enable continuous operation to meet drinking water standards**

# What does AB 54 require?

- **Enables funding to ensure compliance with drinking water standards**
- **Covers costs incurred after submittal of the funding application and before approval**

# Training

## Fiduciary Duties

- **Corporations Code Section 309  
(Business Judgment Rule)**
- **Contractual Conflicts of Interest  
Corporations Code Section 310  
(Materiality)**

# Training

## California Safe Drinking Water Act

- **Duty of public water systems to provide clean drinking water**
- **State Revolving Fund Law of 1997**



# Training

## **Long-Term Management of a Public Water System**

- **Capital replacement program**
- **Funding – pay/go using water rates**
- **Demand management/water conservation challenges**
  - **Fixed charges vs. consumptive use charges**

# Training

## **Long-Term Management of a Public Water System**

- **Maintaining financial reserves for maintaining integrity of water system to serve water that meets drinking water standards**