

<p>California Department of Justice</p> <p>OFFICE OF THE ATTORNEY GENERAL</p> 	<h1>Legal Alert</h1>	
<p><i>Subject:</i></p> <p>The Water Shutoff Protection Act – As Amended by SB 3 (2023)</p>	<p><i>No.</i> OAG-2024-04</p> <p><i>Date:</i> September 19, 2024</p>	<p><i>Contact for information:</i></p> <p><a href="mailto:EJ@doj.ca.gov">EJ@doj.ca.gov</a></p>

**TO: All Community Water Systems**

The Office of the California Attorney General issues this legal alert to remind all community water systems of the requirements of the Water Shutoff Protection Act and to reflect recent changes in the law. This alert amends and supersedes Legal Alert OAG-2022-04.

In 2019, the Legislature adopted Senate Bill 998, the Water Shutoff Protection Act (the Act), Health and Safety Code Sections 116900 *et. seq.*, increasing protections for residents facing termination of water service due to non-payment.<sup>1</sup> In enacting these protections, the Legislature recognized that water debt and residential water shutoffs threaten human health and well-being and “have disproportionate impact on infants, children, the elderly, low-income families, communities of color, people for whom English is a second language, physically disabled persons, and persons with life-threatening medical conditions.” (Sen. Bill. 998 (2017-2018 Reg. Sess.) §1, subd. (c).)

In 2023, the Legislature adopted Senate Bill 3 which expanded the protections of the Act to more people by applying the Act to smaller water systems. While the Act previously applied to systems with more than 200 service connections, the Act now applies to all community water systems. (§116902, subd. (e) incorporating the definition in §116275.) Application of the Act to these newly covered, smaller systems took effect August 1, 2024. (§116904, subd.(d).)

Senate Bill 3 also clarified that covered water systems must provide alternative payment plan options to all customers who are unable to pay their water bill, not only customers who meet certain medical and financial criteria. (§116906, subds. (a)(1) & (a)(2).) This requirement took effect on January 1, 2024.

The Act continues to apply only to the discontinuation of residential water service for nonpayment. (§§116906, subd. (a); 116902, subd. (c).) The Act does not apply to terminations due to an unauthorized action by a customer. (§116926.) The Act has several requirements for termination of water service due to nonpayment, discussed below.

Covered water systems should immediately cease all water shutoffs that do not comply with the Act. Water systems that have not yet adopted compliant policies and made those policies available to the public must do so immediately. The Act can be enforced by the State Water Resources Control Board and the California Public Utilities Commission, which have authority to issue citations with monetary

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<sup>1</sup> All statutory references are to the Health and Safety Code.

penalties to non-compliant water systems. The Attorney General and the California Public Utilities Commission can enforce the Act by seeking a temporary or permanent injunction and the Attorney General can seek restitution against non-compliant water systems.

### **No Water Shutoffs Unless At Least 60-Days Delinquent**

- Under the Act, a covered water system cannot discontinue service until a payment by a customer has been delinquent for at least 60 days. (§116908, subd. (a)(1)(A).)
- If service is discontinued for nonpayment, the water system is required to provide information about how to restore residential service. (§116912.)
- The Act also prohibits water shutoffs for residents who meet certain health and financial requirements and who are willing to make alternative payments. (§116910.)
- Reconnection fees are limited by the Act for residents with income below 200 percent of the federal poverty level and those residents are entitled to a waiver of interest charges on delinquent bills once every 12 months. (§116914.)

### **Written Policy Required**

The Act requires every covered water system to have a written policy on discontinuation of residential water service for nonpayment. The policy shall include all of the following:

- (1) a plan for deferred or reduced payments that is available to any customer;
- (2) alternative payment schedules that are available for any customer;
- (3) a formal mechanism for a customer to contest or appeal a bill; and
- (4) a telephone number for a customer to discuss options to avoid discontinuation of service due to nonpayment. (§116906, subd. (a).)

This policy shall be available on a website if the provider has one. (§116906, subd. (b).) If the water system does not have a website, the policy shall be provided to the customer upon request. (§116906, subd. (b).) Covered water systems with 200 or more service connections must make the policy available in English, Spanish, Chinese, Tagalog, Vietnamese and Korean. (§116906, subd. (a); Civil Code, §1632.) Covered water systems with fewer than 200 service connections must make the policy available in English, any other language spoken by at least 10 percent of the people residing in the service area, and, upon customer request, any of the languages listed in Civil Code section 1632. (*Ibid.*)

### **Telephone or Written Notification Requirements**

The Act also addresses the notice which must be provided to the person listed on the water bill and provides notification protections for tenants, including:

- Notice must be provided to the person listed on the water bill at least 7 business days before the possible termination of service. (§116908, subd. (a)(1)(B).)
- If the customer's address is not the address of the property where water service is provided, notice must also be mailed to the property address, addressed to "Occupant."
- If the water system is unable to make contact with the customer or an adult occupying the residence by telephone, and written notice is returned as undeliverable, the water system is required to make a good faith effort to visit the residence and leave or make arrangements for

placement in a conspicuous place a notice of imminent discontinuation for nonpayment and the system's discontinuation policy. (§116908, subd. (a)(2).)

- The notice must include the following: customer's name and address; amount of delinquency; date by which payment or arrangement for payment is required to avoid discontinuation of service; description of the process to apply for an extension of time to pay the delinquent charges; description of the procedure to petition for bill review and appeal; and description of the procedure by which the customer can request a deferred, reduced, amortized or alternative payment schedule. (§116908, subd. (a)(1)(C).)
- Tenants of individually metered residences must be notified in writing that they have the right to become customers to whom water service will be billed without having to pay any of the delinquent amounts. (§116916, subd. (b).)

If an appeal is filed by "an adult at the residence," a covered water system cannot terminate service while the appeal is pending. (§116908, subd. (b).)

### **Annual Reporting**

A covered water system must report annually to the State Water Resources Control Board on water shutoffs due to inability to pay and post the information on its website if it has one. (§116918.)