

**BIGHORN DESERT VIEW WATER AGENCY
AGENDA ITEM SUBMITTAL**

Meeting Date: January 22, 2013

To: Board of Directors

Budgeted: No

Budgeted Amount: \$0

Cost: Unknown (staff and legal counsel)

Funding Source: Budget Line: 56007

From: Marina D. West
Joe Aklufi

General Counsel Approval: Yes

CEQA Compliance: Not Required

Subject: Draft Modernized Bighorn-Desert View Water Agency Law (California Water Code Appendix 112 and Related Water Codes)

SUMMARY

At the November 27, 2012 Board of Directors meeting staff reviewed the status of the Agency's request to repeal Section 33305 from the Bighorn-Desert View Water Agency Law (Law) through "spot bill" action by the California State Legislature. Staff has obtained written support from the Association of California Water Agencies (ACWA) and California Special Districts Association (CSDA) for the proposed "spot bill" (attached).

During consultation with San Bernardino Local Agency Formation Commission (SB LAFCO) regarding the support for the "spot bill" it was recommended that the Agency take this opportunity to "modernize" the entire Law.

On November 27, 2012 the Board of Directors concurred with SB LAFCO's suggestion and directed staff to proceed with modernizing the entire Law. The original "spot bill", within SB1519, was sponsored by Senator Jean Fuller (Senate District 18). Staff has received a positive response from the Senator's office regarding our interest to "modernize" the entire Law. Consultation with ACWA and CSDA regarding this change has not yet been initiated.

Agency General Counsel has prepared the attached redline draft for Board and public input/comment. SB LAFCO has been contacted and concurs that this draft is in conformance with their suggested revisions; however, formal support has not yet been obtained.

Staff is seeking Board approval to proceed with "modernization" of the Bighorn-Desert View Water Agency Law (California Water Code Appendix 112 and Related Water Codes) through the California State Legislature.

RECOMMENDATION

That the Board considers taking the following action(s):

1. Direct staff to proceed with “modernization” of the Bighorn-Desert View Water Agency Law (California Water Code Appendix 112 and Related Water Codes) through the California State Legislature;
2. Direct staff to proceed with the request to repeal Section 33305 from the Bighorn-Desert View Water Agency Law (Law) through “spot bill” action by the California State Legislature.

BACKGROUND/ANALYSIS

The Agency has not strictly complied with Section 33305 of the Bighorn-Desert View Water Agency Law (California Water Code Appendix 112 and Related Water Codes) which requires funds of the predecessor entities to be “separately accounted for”. In January 2012, following a thorough review of the issue, the Board directed staff to seek assistance from the State Legislature to modify the existing Bighorn-Desert View Water Agency Law (Law) limiting the financial separation to that of debt obligations of the predecessors only.

Senator Fuller (Senate District 18) subsequently agreed to carry a “spot bill” which would adequately resolve the issue. However, timing became an issue and the bill was pulled in mid-2012.

In preparation for the 2013 legislative session, staff was encouraged to obtain support for the “spot bill” from three specific entities: Local Agency Formation Commission (CA LAFCO and SB LAFCO), Association of California Water Agency’s (ACWA) and California Special District’s Association (CSDA). Letters in support of repealing Section 33305 of the Law have been received from ACWA and CSDA (attached).

President McBride and General Manager West met with Executive Officer Rollings-McDonald of SB LAFCO in early November 2012. While the idea of repealing Section 33305 is an acceptable solution to the issue of required financial separation, SB LAFCO encouraged, and would therefore support, a more comprehensive modernization of the entire Law.

“Modernization” equates to removing conflicting, confusing and inconsistent language; reorganizing and condensing similar sections; updating the Agency boundary description including annexations that have occurred since consolidation; and creating a document that is current and factual. For instance, the current Law refers to a potential consolidation between Bighorn Mountain Water Agency and Desert View Water District. While modernization is recommended, staff does not believe that the Agency is out of compliance with any other provision(s) of the Law except Section 33305.

Attached is a draft of the revised Law, prepared by General Counsel Aklufi, for Board and public input. Staff is seeking Board approval to process the changes through the California State Legislature. As part of that effort, ACWA and CSDA will be approached for their continued support of our efforts.

PRIOR RELEVANT BOARD ACTION(S)

11/27/2012 Motion No. 12-082 To Direct staff to continue processing request through the State Legislature to pursue a revision to Bighorn-Desert View Water Agency Law (California Water Code Appendix 112 & Related Water Codes) retroactively repealing, in part, Section 33305; and Authorize staff to proceed with modifications/updates to “modernize” the Bighorn-Desert View Water Agency Law (California Water Code Appendix 112 and Related Water Codes) as requested by San Bernardino Local Area Formation Commission Executive Officer.

1/24/2012 Motion 12-013 Authorize staff to solicit assistance from the State Legislature to pursue a revision to the Bighorn-Desert View Water Agency Law (California Water Code Appendix 112 & Related Water Codes) retroactively repealing Section 33305.