

Senate Bill 998

How California Districts Can Effectively Prepare for New Restrictions on Discontinuing Residential Water Service

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In September 2018, former Governor Jerry Brown signed into law Senate Bill 998 (“SB 998”), entitled the “Water Shutoff Protection Act.” SB 998 restricts the authority of “urban and community water systems,” which includes all public water systems with over 200 service connections, to discontinue residential water service for the nonpayment of a water bill. Districts qualifying as “urban water suppliers” were required to begin complying with SB 998 by February 1, 2020. All other districts must comply by April 1, 2020. Given these deadlines, districts should promptly adopt policies that comply with SB 998 and familiarize themselves with SB 998’s requirements and restrictions on discontinuing residential water service. This article addresses frequently raised issues regarding SB 998 compliance.

SB 998 requires each water supplier to adopt a written policy on discontinuing residential water service for nonpayment. SB 998 contains numerous requirements for a district’s written discontinuation of residential water service policy (“Discontinuation Policy”), including

the following information: 1) a plan for deferred or reduced payments; 2) alternative payment schedules; 3) a formal mechanism for a customer to contest or appeal a bill; and 4) a telephone number for a customer to contact to discuss options for averting service discontinuation.

SB 998 also contains new noticing requirements before a district may discontinue water service for nonpayment. Districts may not discontinue water service for nonpayment unless a customer’s payment has been delinquent for at least 60 days and the district has provided the proper notice to the customer. In order to adhere to SB 998’s notice requirements, districts must contact customers at least seven business days before discontinuing water service by telephone, written notice, or both, to discuss or explain the impending residential water service termination.

Pursuant to SB 998, if a district opts to provide notice telephonically, the district must offer to provide its Discontinuation Policy to the customer and offer to discuss options to avert service discontinuation. The district must also explain the procedure to request a review and/or appeal of the delinquent bill.

If written notice is provided, the notice must contain the following information: 1) the customer’s name and address; 2) the delinquent amount; 3) the date by which payment or arrangement for payment is required in order to avoid service discontinuation; 4) a description of the process to apply for an extension of time to pay the delinquent service rate, charge, or fee; 5) a description of the procedure to petition for bill review and appeal; and 6) a description of the procedure by which the customer may request a deferred, reduced, or alternative payment schedule, including an amortization of the delinquent service charges.

If these means of contact are unsuccessful, then the district must make a good faith effort to visit the customer's residence and leave a notice of imminent discontinuation of service and a copy of the Discontinuation Policy.

The Discontinuation Policy, and all written notices required by SB 998, including notices of water service discontinuation, must be translated into English, Spanish, Chinese, Tagalog, Vietnamese, and Korean, as well as any other language that is spoken by at least ten percent of the people residing in the district's water service area.

SB 998 does not specifically address the manner which the Discontinuation Policy must be translated into the required languages. For the avoidance of any doubt regarding meaning, we have recommended contracting with a professional translation service. Depending on the document's length, a professional translation service can be expected to be completed in seven to ten days, and the cost may range from 15 to 50 cents per word depending on the language. While online services, such as Google Translator, may be free, they may have difficulty capturing technical or grammatical nuances and are not as accurate as a professional service. A district staff member who is a fluent speaker of one or more of the languages may also be able to assist with the translations.

In addition to translation requirements, districts have also posed questions relating to the certification of primary care providers and low-income individuals. Under SB 998, a district may not discontinue water service for nonpayment if all of the following conditions are met: (1) a primary care provider certifies that discontinuation of water service

will either be life threatening to, or pose a serious threat to the health and safety of, a resident of the home where water service is provided; (2) the customer demonstrates that they are financially unable to pay for service within the district's normal billing cycle; and (3) the customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment, consistent with the district's Discontinuation Policy.

SB 998 does not contain specific verification requirements for these elements. We recommend taking a reasonable and practical approach toward verification. At minimum, the primary care physician's certification must be in writing. Districts may request letterhead that provides the physician's professional title or the name of their employer or hospital affiliation. SB 998 requires either that a customer "declare" they have a household annual income below 200 percent of the federal poverty level or "demonstrate" that a member of the customer's household is a current recipient of CalWORKS, CalFresh, general assistance,



Medi-Cal, Supplemental Security Income/ State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children. Districts may consider requiring a written certification that individuals qualify under one of these two financial options and, with respect to government assistance programs, provide evidence of their participation.

As the deadline approaches for districts to enact their Discontinuation Policies and begin implementing SB 998, it is important that they understand how to effectively implement SB 998's requirements associated with the discontinuation of residential water service.

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