ACWA
Association of California Water Agencies

Bringing Water Together

March 12, 2025

The Honorable Catherine Blakespear
Chair, Senate Environmental Quality Committee
1021 O Street, Room 7720
Sacramento, CA 95814

RE: **SB 350 (Durazo) – Water Rate Assistance Program**
Position: **OPPOSE UNLESS AMENDED**

Dear Chair Blakespear:

On behalf of the Association of California Water Agencies (ACWA), I am writing to respectfully express our "Oppose Unless Amended" position on SB 350, relating to the establishment of a statewide water low-income rate assistance (LIRA) program.

ACWA believes that SB 350 could be amended in a way that accomplishes the goals of the author and that meets the needs of the public water agencies that will play a key role in the administration of a LIRA program. Some water agencies already administer their own LIRA programs. However, many water agencies are precluded from funding a local LIRA program because of financial constraints and limits placed on how ratepayer dollars can be spent by Proposition 218. If a statewide LIRA program were to be established, ACWA would want to see that program succeed. The concerns summarized below are intended to improve the bill and make a statewide LIRA program as cost-effective and efficient as possible.

1) <u>The Bill Does Not Identify a Funding Source</u>

AB 401 (Dodd, 2015) directed the State Water Resources Control Board (State Water Board) to develop a study outlining how it would fund and implement a LIRA program. The AB 401 Report, which was released in 2018, has been used as the framework for multiple LIRA proposals and was developed with a robust public process. The cost estimate for direct water bill assistance at the time the report was released was approximately $140 million. Notably, neither AB 401 nor the AB 401 Report includes wastewater, whereas SB 350 does. With the inclusion of wastewater and persistent inflation since the report's release, the annual cost for the program proposed by SB 350 is likely much higher. It is vital that the funding mechanism for a LIRA program is not regressive and does not challenge water affordability (i.e. a tax on water).

2) <u>The Department of Community Services and Development (CSD) is the Appropriate Implementing Agency</u>

The bill proposes a LIRA program implemented by the State Water Board. ACWA's strong preference is that the Department of Community Services and Development (CSD) implement the program because CSD is experienced with implementing other statewide low-income assistance programs. CSD implemented the federally-funded Low-Income Household Water Assistance Program (LIHWAP) from 2020 – 2024 as part of the federal government's COVID assistance package.

3) Wastewater Should Be Removed from the Bill

SB 350 would provide rate assistance to low-income households for both retail water and wastewater. Including wastewater in a LIRA program adds significant logistical complexity and cost. As noted above, wastewater was not included in the State Water Board's AB 401 report, which outlined how they would fund and implement such a program. In many instances it is not possible to apply a credit to a wastewater bill because some wastewater agencies collect revenue through property taxes and do not have the same customer billing relationships as public water agencies that provide retail water. Some public water agencies provide drinking water services but not wastewater services, while some provide drinking water services to all customers and wastewater services to some customers. In addition to the inflated cost and logistical constraints, including wastewater in a LIRA program would create an equity issue by providing a benefit to some eligible customers and not others. It may be appropriate to explore an assistance mechanism for wastewater at a later date. ACWA strongly recommends removing it from this bill.

4) The Proposed Prioritization Framework is Not Appropriate for a LIRA Program

SB 350 directs the State Water Board to develop a process for determining how implementation will be prioritized among eligible systems in the event that full funding is not immediately available. The bill directs the State Water Board to prioritize eligible systems that have historically been overburdened by pollution and industrial development or faced other environmental justice hurdles. Because SB 350 is creating a LIRA program aimed at mitigating water affordability issues, not water quality issues, ACWA suggests that this is the wrong metric to use when determining funding priority. ACWA instead recommends using a prioritization framework that is based on financial need.

5) The Cap on Administrative Costs for Local Water Agencies May Be Insufficient

SB 350 proposes to cap reimbursement to water providers for reasonable costs of administration at the greater of 5% of total funds for water bill assistance or $2,000. Whether this provision would adequately cover the costs of implementation for all local water agencies is difficult to assess. The bill does not provide for situations where implementation costs exceed 5% or $2,000 and cannot be recovered from the State Water Board or from local ratepayers due to Proposition 218 limits, even in instances where local agencies make a good-faith effort to keep costs low. ACWA suggests that the bill be amended to give the State Water Board flexibility to grant an exemption to the cap on a case-by-case basis. We also suggest that the $2,000 limit be increased, as we expect most local water agencies to exceed $2,000 in administrative costs.

6) The Implementing Agency Should Make Advanced Payments to Local Water Agencies

SB 350 directs the State Water Board or third-party providers to provide funding to eligible systems that would be applied to ratepayer accounts. Small and medium public water agencies may not have the financial flexibility to carry a significant balance related to LIRA for a year before being reimbursed by the state. ACWA recommends that the bill specify that funds be provided to eligible systems in advance (as opposed to through reimbursement) based on an estimate of needed funding. The bill would already allow for eligible systems to return excess funding.

7) Existing LIRA Programs Should Be Able to Continue in Their Existing Form

Some public water agencies have existing LIRA programs at the local level. We appreciate that SB 350 provides for those existing programs. ACWA supports this approach and suggests that the bill specify that existing LIRA programs be allowed to maintain their existing systems and processes, where possible, to reduce redundancy and inefficiency.

8) The Bill Should Be Implemented with Regulations, Not Guidelines

The bill directs the State Water Board to adopt guidelines for implementation of the program following one public hearing and in consultation with other relevant agencies. The importance and complexity of the proposed program merits a more comprehensive public engagement process that allows for meaningful public input, multiple hearings, and draft reviews. This is a brand-new program that will, if approved and funded, provide benefits to millions of Californians. ACWA believes that a regulatory process would provide more appropriate opportunities for public engagement.

9) The Proposed Enforcement Mechanism is Out of Step with a LIRA Program

The bill proposes authorizing the Attorney General to take enforcement action. Enforcement by the implementing state agency is sufficient for a financial assistance program. Additionally, the proposed authority for the Attorney General fails to consider that there is a difference between an eligible system that refuses to participate in the program and a system that is trying to participate but is working through administrative or funding agreement issues that preclude them from complying. The bill also proposes to have the State Water Board qualify financial awards of financial assistance on the establishment of a water LIRA program. This language does not provide reasonable avenues for appeal or exceptions for extenuating circumstances in cases where local water agencies make good-faith efforts to comply with the law.

10) LIRA Funding Should Not Be Used to Fund Pilot Projects

SB 350 proposes to allocate 5% of the program's funds to pilot projects. This bill should be narrowly focused on providing water rate assistance. Support for water use efficiency projects can be funded with climate and/or drought resilience state budget funding that is separate from this program. ACWA is not opposed to pilot projects related to a LIRA program, but we do not believe they should be funded in a way that reduces the funding available for direct assistance to those who need it.

For these reasons, ACWA respectfully opposes SB 350 unless it is amended to address these concerns. ACWA is committed to working with the bill's author and proponents to positively amend the bill and requests your support for these changes when the bill is heard in the Senate Environmental Quality Committee. Please contact me at SorenN@acwa.com if you have any questions about these comments.

Sincerely,

Soren Nelson
Senior Policy Advocate