

**Introduced by Senator Sher**

February 22, 2002

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An act to amend Section 13269 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 2050, as introduced, Sher. Water quality.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are among the principal agencies with authority over water quality. Under the act, persons discharging waste are required to file with the appropriate regional board a report of the discharge and the discharge is subject to waste discharge requirements prescribed by that regional board. Under the act, persons are prohibited from initiating a new discharge of waste, or making any material changes in any discharge of waste, prior to the filing of the waste discharge report, and after the filing of that report unless waste discharge requirements have been prescribed or, under certain circumstances, 120 days have elapsed since the filing of that report. The act authorizes the regional boards to waive these requirements as to a specific discharge or typed of discharge if the waiver is not against the public interest.

This bill would authorize the regional board to waive the described requirements as to a specific discharge or a specific type of discharge if the regional board first determines that the waiver and any conditions placed on the waiver are consistent with the regional water quality control plan and will not cause a violation of applicable water quality objectives, rather than if the waiver is not against the public interest.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 13269 of the Water Code is amended to  
2 read:

3 13269. (a) ~~On and after January 1, 2000, the provisions of~~  
4 ~~subdivisions~~ *Subdivisions* (a) and (b) of Section 13260,  
5 subdivision (a) of Section 13263, or subdivision (a) of Section  
6 13264 may be waived by a regional board as to a specific discharge  
7 or a specific type of discharge if the ~~waiver is not against the public~~  
8 ~~interest~~ *regional board first determines that the waiver and any*  
9 *conditions placed on the waiver are consistent with the regional*  
10 *water quality control plan and will not cause a violation of*  
11 *applicable water quality objectives. Waivers for specific types of*  
12 *discharges may not exceed five years in duration, but may be*  
13 *renewed by a regional board. The waiver shall be conditional and*  
14 *may be terminated at any time by the board.*

15 (b) A waiver in effect on January 1, 2000, shall remain valid  
16 until January 1, 2003, unless the regional board terminates that  
17 waiver prior to that date. All waivers that were valid on January  
18 1, 2000, and granted an extension until January 1, 2003, and not  
19 otherwise terminated, may be renewed by a regional board in  
20 five-year increments.

21 (c) Upon notification of the appropriate regional board of the  
22 discharge or proposed discharge, except as provided in subdivision  
23 (d), the provisions of subdivisions (a) and (b) of Section 13260,  
24 subdivision (a) of Section 13263, and subdivision (a) of Section  
25 13264 shall not apply to discharge resulting from any of the  
26 following emergency activities:

27 (1) Immediate emergency work necessary to protect life or  
28 property or immediate emergency repairs to public service  
29 facilities necessary to maintain service as a result of a disaster in  
30 a disaster-stricken area in which a state of emergency has been  
31 proclaimed by the Governor pursuant to Chapter 7 (commencing  
32 with Section 8550) of Division 1 of Title 2 of the Government  
33 Code.

34 (2) Emergency projects undertaken, carried out, or approved  
35 by a public agency to maintain, repair, or restore an existing  
36 highway, as defined in Section 360 of the Vehicle Code, except for  
37 a highway designated as an official state scenic highway pursuant  
38 to Section 262 of the Streets and Highways Code, within the



1 existing right-of-way of the highway, damaged as a result of fire,  
2 flood, storm, earthquake, land subsidence, gradual earth  
3 movement, or landslide within one year of the damage. This  
4 paragraph does not exempt from this section any project  
5 undertaken, carried out, or approved by a public agency to expand  
6 or widen a highway damaged by fire, flood, storm, earthquake,  
7 land subsidence, gradual earth movement, or landslide.

8 (d) Subdivision (c) is not a limitation of the authority of a  
9 regional board under subdivision (a) to determine that any  
10 provision of this division shall not be waived or to establish  
11 conditions of a waiver. Subdivision (c) shall not apply to the extent  
12 that it is inconsistent with any waiver or other order or prohibition  
13 issued under this division.

14 (e) The regional boards and the state board shall require  
15 compliance with the conditions pursuant to which waivers are  
16 granted under this section.

17 (f) Prior to renewing any waiver for a specific type of discharge  
18 established under this section, the regional boards shall review the  
19 terms of the waiver policy at a public hearing. At the hearing, a  
20 regional board shall determine whether the discharge for which the  
21 waiver policy was established should be subject to general or  
22 individual waste discharge requirements.

