

AMENDED IN SENATE AUGUST 20, 2010

AMENDED IN SENATE JUNE 9, 2010

AMENDED IN ASSEMBLY APRIL 29, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2202

**Introduced by Assembly Member V. Manuel Perez
(Principal coauthor: Assembly Member Salas)**

February 18, 2010

An act to amend Section 71103.5 of the Public Resources Code, relating to the New River.

LEGISLATIVE COUNSEL'S DIGEST

AB 2202, as amended, V. Manuel Perez. Safe, Clean, and Reliable Drinking Water Supply Act of ~~2010~~ 2012: New River Improvement Project: strategic plan.

Existing law, contingent upon the execution of an agreement with the City of Calexico for the purpose of providing the necessary funding, would require the California-Mexico Border Relations Council to develop a strategic plan containing specific elements to guide the implementation of the New River Improvement Project.

Existing law creates the Safe, Clean, and Reliable Drinking Water Supply Act of ~~2010~~ 2012 (bond act), which, if approved by the voters at the November ~~2, 2010~~ 6, 2012, statewide general election, would authorize the issuance of bonds in the amount of \$11,140,000,000 pursuant to the State General Obligation Bond Law to finance a safe drinking water and water supply reliability program. The bond act would make \$20,000,000 available for water quality and public health projects on the New River.

This bill would require that any funds appropriated pursuant to this provision for the New River be consistent with the strategic plan developed by the California-Mexico Border Relations Council. The bill would declare the intent of the Legislature that ~~these moneys not be appropriated until the completion of the strategic plan or until January 1, 2013, whichever occurs first~~ *any funds appropriated be consistent with the strategic plan.* The bill would require the Secretary for Environmental Protection to oversee the expenditure of bond funds that are appropriated for water quality and public health projects on the New River. These provisions would become effective only if the bond act is approved by the voters.

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. (a) The Safe, Clean, and Reliable Drinking Water
 2 Supply Act of ~~2010~~ 2012, if approved by the voters at the
 3 November ~~2, 2010~~ 6, 2012, statewide general election, makes
 4 twenty million dollars (\$20,000,000) available for water quality
 5 and public health projects on the New River.

6 (b) The Safe, Clean, and Reliable Drinking Water Supply Act
 7 of ~~2010~~ 2012 specifically gives the Legislature the authority to
 8 enact legislation necessary to implement programs funded by the
 9 act.

10 (c) The Legislature finds that to ensure that moneys are available
 11 for New River projects as expeditiously as possible, this act should
 12 be enacted before the voters have approved the Safe, Clean, and
 13 Reliable Drinking Water Supply Act of ~~2010~~ 2012.

14 SEC. 2. Section 71103.5 of the Public Resources Code is
 15 amended to read:

16 71103.5. (a) The Legislature finds and declares all of the
 17 following:

18 (1) The New River poses an imminent and severe threat to the
 19 public health of residents of Calexico, California, and adjacent
 20 communities in Imperial County. Since the 1940s, the New River
 21 has been recognized as a significant pollution and human health
 22 problem, primarily because of extremely high concentrations of
 23 fecal coliform bacteria.

1 (2) While there have been recent measurable water quality
2 improvements as a result of sewage infrastructure projects
3 implemented and completed during the last 10 years in Mexicali,
4 Mexico, the residual and projected pollution in the New River
5 coming from Mexico remains a significant threat to public health
6 and the environment.

7 (3) Current bacteria levels in the New River are several orders
8 of magnitude above the state standards for bacteria. Based on these
9 levels and the historic levels of pollution, the waterway is believed
10 to carry pathogens that cause tuberculosis, encephalitis, polio,
11 cholera, hepatitis, and typhoid. The waterway also carries other
12 contaminants in concentrations that are in violation of federal,
13 state, and Mexican water quality standards by several hundredfold.

14 (4) The New River is listed as an impaired river by the United
15 States Environmental Protection Agency due to low dissolved
16 oxygen (DO) and the presence of chlordane, chlorpyrifos, copper,
17 dichloro-diphenyl-trichloroethane (DDT), diazinon, dieldrin,
18 mercury, nutrients, pathogens, polychlorinated biphenyls (PCBs),
19 sediment, selenium, toxaphene, toxicity, trash, and volatile organic
20 compounds (VOCs).

21 (5) The New River is a major contributor of pollution to the
22 Salton Sea, and failure to address water quality problems in the
23 New River are impeding the ability of the state to implement laws
24 and programs designed to restore and protect this important
25 environmental and wildlife habitat resource.

26 (6) The New River condition in the border area is also an
27 aesthetic nuisance for Calexico residents and has historically
28 inhibited the city's socioeconomic well-being and growth.

29 (7) A coordinated and comprehensive state strategy is needed
30 to deal with the residual and projected pollution so that the New
31 River and associated river channel can be enhanced to a condition
32 that will allow the residents of Calexico and Imperial County to
33 utilize them as recreational and natural assets as contemplated in
34 the California River Parkways Act of 2004 (Chapter 3.8
35 (commencing with Section 5750) of Division 5).

36 (8) In the Budget Act of 2009, as amended by Chapter 1 of the
37 Statutes of 2009 Fourth Extraordinary Session, eight hundred
38 thousand dollars (\$800,000) was appropriated to the City of
39 Calexico for various planning needs necessary to develop a river
40 parkway plan and river improvement project for the New River.

1 The moneys were appropriated in order to secure and serve as
2 matching funds for the four million dollars (\$4,000,000) allocated
3 pursuant to the Safe, Accountable, Flexible, Efficient
4 Transportation Equity Act: A Legacy for Users (Public Law
5 109-59) to the City of Calexico for the development of bicycle
6 paths and public park space adjacent to the New River.

7 (9) The City of Calexico, as the recipient of funding pursuant
8 to the California River Parkways Act of 2004, has agreed to provide
9 necessary financial support to the council for the development of
10 the council’s strategic plan.

11 (b) As used in this section, the following terms have the
12 following meanings:

13 (1) “Agency” means the California Environmental Protection
14 Agency.

15 (2) “City” means the City of Calexico, California.

16 (3) “Council” means the California-Mexico Border Relations
17 Council established pursuant to Section 8711 of the Government
18 Code.

19 (4) “County” means the County of Imperial, California.

20 (5) “New River Improvement Project” or “project” means a
21 project to study, monitor, remediate, and enhance New River water
22 quality in the County of Imperial to protect human health, and
23 develop river parkway projects suitable for public use and
24 enjoyment.

25 (c) Pursuant to the authority granted to the council under Section
26 8712 of the Government Code and contingent upon the execution
27 of an agreement with the City of Calexico for the purpose of
28 providing the necessary funding, the council shall develop a
29 strategic plan to guide the implementation of the New River
30 Improvement Project. The strategic plan shall include, but need
31 not be limited to, all of the following elements:

32 (1) Quantification of current and projected New River water
33 quality impairments and their threat to public health.

34 (2) Prioritization of the actions necessary to protect public health
35 and to meet New River water quality objectives and other
36 environmental goals, such as improving the quality of waterflows
37 into the Salton Sea.

38 (3) Identification of potential funds for the implementation of
39 the project, and potential lead agencies that would be responsible

1 for environmental review of activities related to the cleanup and
2 restoration of the New River.

3 (4) Identification of the appropriate federal, state, and local
4 agencies with a role in implementing and achieving the New River
5 Improvement Project.

6 (d) (1) To the extent permitted by law, the council may work
7 with appropriate binational, federal, state, local, and
8 nongovernmental organizations on both sides of the
9 California-Mexico border to develop the strategic plan and to fund
10 and establish cooperative water quality monitoring, public health
11 studies, inspection, and technical assistance programs as needed
12 to support, convene, and oversee the project.

13 (2) To further the objectives of this subdivision, the council
14 may convene and oversee a technical advisory committee. The
15 advisory committee shall advise the council regarding the necessary
16 studies and activities to carry out the project, and shall serve at the
17 pleasure of the council. The advisory committee shall include
18 representatives from the following:

- 19 (A) Impacted cities and counties.
- 20 (B) Relevant local, regional, and state agencies and departments.
- 21 (C) Nongovernmental organizations.
- 22 (D) Other stakeholders deemed necessary by the council.

23 (3) The council shall appoint the chair of the committee and
24 may expand the membership and expertise of the committee as it
25 deems necessary.

26 (4) The council may enter into an agreement, including an
27 interagency agreement and memorandum of understanding, with
28 public agencies, including the city, to accept, manage, and expend
29 funds for the implementation of this section.

30 (e) This section does not modify existing roles, responsibilities,
31 or liabilities of the State of California, the City of Calexico,
32 Imperial County, or any other governmental agency, under those
33 laws that regulate, protect, and clean up surface waters entering
34 the United States from Mexico.

35 (f) The New River Improvement Project Account is hereby
36 created in the California Border Environmental and Public Health
37 Protection Fund to receive moneys for activities related to the New
38 River Improvement Project from sources identified in Section
39 71101 and from other sources. Upon appropriation by the
40 Legislature, moneys in the account shall be expended to implement

1 the purposes identified in subdivision (c) or Section 71102 that
2 are related to the New River.

3 (g) It is the intent of the Legislature that ~~moneys not be~~
4 ~~appropriated pursuant to Section 79720.6 of the Water Code until~~
5 ~~the completion of the strategic plan developed pursuant to~~
6 ~~subdivision (c) or until January 1, 2013, whichever occurs first.~~
7 ~~Any~~ any funds appropriated pursuant to Section 79720.6 of the
8 Water Code shall be consistent with the strategic plan developed
9 pursuant to subdivision (c).

10 (h) As the chair of the council, the Secretary for the California
11 Environmental Protection Agency shall oversee the expenditure
12 of bond funds that are appropriated for water quality and public
13 health projects on the New River pursuant to Section 79720.6 of
14 the Water Code.

15 SEC. 3. This act shall take effect only if the Safe, Clean, and
16 Reliable Drinking Water Supply Act of ~~2010~~ 2012 is approved by
17 the voters at the November ~~2, 2010~~ 6, 2012, statewide general
18 election.