

AMENDED IN ASSEMBLY APRIL 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 145

Introduced by Assembly Members Perea and Rendon

January 18, 2013

An act to add Sections 116271, 116272, and 116760.25 to the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 145, as amended, Perea. State Water Resources Control Board: drinking water.

The California Safe Drinking Water Act (state act) provides for the operation of public water systems and imposes on the State Department of Public Health various duties and responsibilities. Existing law requires the department to conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, to adopt regulations to implement the state act, and to enforce provisions of the federal Safe Drinking Water Act.

This bill would transfer to the State Water Resources Control Board the various duties and responsibilities imposed on the department by the state act. *The bill would require these provisions to be implemented during the 2014–15 fiscal year.*

The Safe Drinking Water State Revolving Fund Law of 1997 establishes the Safe Drinking Water State Revolving Fund to provide grants or revolving fund loans for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. Under that law, the department is responsible for administering the fund.

This bill would also transfer to the state board the authority, duties, powers, purposes, responsibilities, and jurisdiction of the department for the purposes of that law. *The bill would require these provisions to be implemented during the 2014–15 fiscal year.*

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. The Legislature finds and declares the following:
- 2 (a) Drinking water is a necessity of human life, and
- 3 contaminated drinking water can lead to sickness and death:
- 4 (1) California law provides that every human being has the right
- 5 to safe, clean, affordable, and accessible water adequate for human
- 6 consumption, cooking, and sanitary purposes.
- 7 (2) Providing safe drinking water is one of the most fundamental
- 8 duties of any government. While Californians rely on public water
- 9 systems operated by local agencies and utilities to deliver drinking
- 10 water to their homes and businesses, the State of California has a
- 11 duty to ensure that water is safe and clean.
- 12 (3) Water for drinking is a natural resource that is inherently
- 13 public. The people of California own the water within our borders,
- 14 and the state grants water rights only for its reasonable use for
- 15 beneficial purposes including human consumption.
- 16 (4) The California Constitution requires that all diversions and
- 17 use of water be reasonable, while the California Supreme Court
- 18 has recognized that the state holds a public trust responsibility over
- 19 California’s water resources.
- 20 (b) Groundwater provides a significant portion of California’s
- 21 drinking water, in urban and rural communities alike. From the
- 22 earliest days of statehood, communities relied on pumping
- 23 groundwater. While not all Californians enjoy groundwater
- 24 underlying their communities, those communities that have
- 25 groundwater have maximized its use for human consumption:
- 26 (1) Of the 8,700 public water systems, 7,800 rely on
- 27 groundwater, at least in part. These public water systems draw on
- 28 more than 15,000 wells, while individual landowners draw drinking
- 29 water from thousands more private wells.

1 (2) Overall, groundwater supplies one-third of the water used
2 in California in a typical year, and in drought years, as much as
3 one-half.

4 (3) Nationally, according to the United States Geological Survey,
5 51 percent of Americans rely on groundwater for drinking,
6 including 99 percent of the nation’s rural population. Groundwater
7 provides 22 percent of all fresh water.

8 (c) The governance of California’s groundwater resources is
9 diffused among many public agencies and private parties:

10 (1) Landowners enjoy a right to use water lying under their
11 lands for beneficial uses on the surface. When landowners in a
12 basin draw too much water out of their aquifer, commonly called
13 “overdraft,” they may go to a court to adjudicate how much water
14 each landowner may take out.

15 (2) Based on an adjudication of an aquifer or litigation over
16 groundwater contamination, a court may structure the management
17 of an individual aquifer to address overdraft or groundwater
18 contamination.

19 (3) Water agencies and groundwater users may voluntarily
20 establish a joint program to manage the aquifer on which they rely.

21 (4) Counties may exercise their police powers to address certain
22 groundwater issues, including the drilling and operation of
23 groundwater wells. County public health officers also may provide
24 oversight to or regulate the smaller public water systems in their
25 jurisdiction that rely on groundwater.

26 (5) In state government, the State Water Resources Control
27 Board (the board) has responsibility for protecting groundwater
28 quality and may adjudicate groundwater rights under certain
29 circumstances. The State Department of Public Health (the
30 department) has responsibility for overseeing the operation of
31 public water systems that use groundwater to provide drinking
32 water. The board may regulate drinking water source quality but
33 not the public water system. The department may regulate the
34 public water system, but not the water source.

35 (d) The Legislature has sought to address the difficulties of
36 communities that suffer poor drinking water quality, especially
37 those in communities that lack the financial resources to resolve
38 their drinking water problems:

39 (1) In 2008 the Legislature approved Senate Bill 1 of the Second
40 Extraordinary Session of 2008, to address nitrate contamination

1 in the Tulare Lake Basin and the Salinas Valley. That law required
2 study and development of pilot projects to better understand and
3 remediate nitrate contamination in those regions. As required, the
4 board studied and prepared a report addressing nitrate
5 contamination, which was delivered to the Legislature in 2013.

6 (2) In 2009, the Legislature adjusted the safe drinking water
7 program to maximize use of federal stimulus funds available to
8 communities that lack the resources to improve their water quality
9 to meet safe drinking water standards.

10 (3) In each annual Budget Act, the Legislature has appropriated
11 funding available from a variety of sources, including
12 voter-approved general obligation bonds, to fix public water
13 systems that do not provide safe drinking water.

14 (e) In order to provide Californians with a comprehensive system
15 to protect their groundwater for drinking water, the state needs a
16 consolidated and comprehensive strategy and program for
17 protecting and improving the quality of California's drinking water
18 resources, especially from groundwater. The state needs to improve
19 the quality and availability of groundwater for those communities
20 that rely on groundwater for drinking. State and local leaders need
21 to address the conflicts inherent in competing demands for
22 high-quality groundwater.

23 (f) The most effective way to create a consolidated and
24 comprehensive strategy to ensure safe drinking water for all
25 Californians is consolidating all water quality programs into the
26 one state agency whose primary mission relates to water quality,
27 the board. The benefits of that consolidation are numerous,
28 including the following:

29 (1) Greater focus of financial and staff support for the drinking
30 water program.

31 (2) More coordination and less duplication among programs
32 addressing drinking water quality.

33 (3) Greater efficiencies of scale and shared resources, resulting
34 in overall lower costs.

35 (4) Broader array of expertise concentrated on drinking water
36 quality, with agency experience in water quality science and policy.

37 (5) Coordination between water source protection and drinking
38 water treatment programs.

1 (6) More accountability for drinking water programs, with a
2 unified agency that has responsibility for oversight and funding
3 and a five-member expert board that makes decisions in public.

4 (7) Improved understanding and coordination between water
5 quality and water rights programs.

6 (8) Consolidated reporting of water use and quality in one
7 agency.

8 (9) Agency experience in fighting fraud, as part of the
9 Underground Storage Tank Cleanup Fund.

10 (10) Consolidated funding programs for related water resources,
11 including both source water protection and wastewater treatment.

12 (11) Combined agency experience in working with the private
13 sector to leverage public funds for public purposes.

14 (12) A board decision process that allows for public airing of
15 the conflicts inherent in managing critical and limited water
16 resources.

17 (g) Crafting the most effective management structure for
18 achieving a comprehensive strategy for protecting drinking water
19 quality requires broad public participation. It is the intent of the
20 Legislature to lead a public process that includes all stakeholders
21 and agencies that may be affected by these reforms to assess the
22 issues and options for fulfilling the state's responsibilities to ensure
23 drinking water quality for all Californians.

24 SEC. 2. Section 116271 is added to the Health and Safety Code,
25 to read:

26 116271. The Legislature finds and declares the following:

27 (a) It is the intent of the Legislature to make the most effective
28 use of California's limited water and financial resources to ensure
29 that all communities, regardless of socioeconomic status, enjoy
30 access to safe and clean drinking water, consistent with the human
31 right to safe, clean, affordable, and accessible water recognized in
32 Section 106.3 of the Water Code.

33 (b) The objectives of this 2013 reorganization of the state's
34 drinking water program include the following:

35 (1) Maximize the efficiency and effectiveness of drinking water,
36 groundwater, and water quality programs in a single agency whose
37 primary mission is water quality as follows:

38 (A) Consolidate regulatory and financing programs into a single
39 state agency that is most focused on protection of California water
40 quality, the State Water Resources Control Board.

1 (B) Provide a one-stop agency where communities can obtain
2 comprehensive technical assistance that helps resolve all their
3 water quality challenges.

4 (C) Minimize administrative costs and interagency differences
5 on water quality issues.

6 (2) Create a comprehensive water quality program that addresses
7 water quality at all stages of the hydrologic cycle as follows:

8 (A) Connect source water protection and wastewater treatment
9 options to create a comprehensive strategy to protect water quality
10 throughout the hydrologic cycle.

11 (B) Provide comprehensive protection of groundwater quality
12 for drinking water purposes for all Californians.

13 (C) Improve the management of California’s groundwater
14 resources that are used for drinking and other human consumption
15 purposes.

16 (D) Focus heightened public attention and government resources
17 on protecting the particular groundwater aquifers that provide
18 drinking water.

19 SEC. 3. Section 116272 is added to the Health and Safety Code,
20 to read:

21 116272. The State Water Resources Control Board succeeds
22 to and is vested with all of the authority, duties, powers, purposes,
23 responsibilities, and jurisdiction of the department for the purposes
24 ~~of this part. The Division of Drinking Water and Environmental~~
25 ~~Management of the State Department of Public Health shall~~
26 ~~become the of this part. The~~ Division of Drinking Water Quality
27 of the State Water Resources Control Board *shall carry out the*
28 *functions described in this section.* All references to the department
29 in this part shall be construed to refer to the State Water Resources
30 Control Board. This section shall not be construed to impair the
31 authority of a local health officer to enforce this chapter or a
32 county’s election not to enforce this chapter, as provided in Section
33 116500. The State Water Resources Control Board shall accept
34 responsibility for enforcing this chapter pursuant to a contract, as
35 provided in Section 116500. *This section shall be implemented*
36 *during the 2014–15 fiscal year.*

37 SEC. 4. Section 116760.25 is added to the Health and Safety
38 Code, to read:

39 116760.25. The State Water Resources Control Board succeeds
40 to and is vested with all of the authority, duties, powers, purposes,

1 responsibilities, and jurisdiction of the department for the purposes
2 of this chapter. All references to the department in this chapter
3 shall be construed to refer to the State Water Resources Control
4 Board. *This section shall be implemented during the 2014–15 fiscal*
5 *year.*

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