

AMENDED IN SENATE JUNE 18, 2013

AMENDED IN ASSEMBLY APRIL 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 145

Introduced by Assembly Members Perea and Rendon
(Principal coauthor: Assembly Member Alejo)

January 18, 2013

An act to add Sections 116271, 116272, 116272.5, 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.

This bill would require the California Environmental Protection Agency, in consultation with the California Health and Human Services Agency, to prepare a project initiation document for the transfer of the state drinking water program of this part from the State Department of Public Health to a Division of Drinking Water Quality of the State Water Resources Control Board, to be delivered to specified legislative committees by April 1, 2014, and included in the May Revision of the 2014–15 fiscal year budget.

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

1 earliest days of statehood, communities relied on pumping
2 groundwater. While not all Californians enjoy groundwater
3 underlying their communities, those communities that have
4 groundwater have maximized its use for human consumption:

5 (1) Of the 8,700 public water systems, 7,800 rely on
6 groundwater, at least in part. These public water systems draw on
7 more than 15,000 wells, while individual landowners draw drinking
8 water from thousands more private wells.

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

12 (3) Nationally, according to the United States Geological Survey,
13 51 percent of Americans rely on groundwater for drinking,
14 including 99 percent of the nation’s rural population. Groundwater
15 provides 22 percent of all fresh water.

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

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

23 (2) Based on an adjudication of an aquifer or litigation over
24 groundwater contamination, a court may structure the management
25 of an individual aquifer to address overdraft or groundwater
26 contamination.

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

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

34 (5) In state government, the State Water Resources Control
35 Board (the board) has responsibility for protecting groundwater
36 quality and may adjudicate groundwater rights under certain
37 circumstances. The State Department of Public Health (the
38 department) has responsibility for overseeing the operation of
39 public water systems that use groundwater to provide drinking
40 water. The board may regulate drinking water source quality but

1 not the public water system. The department may regulate the
2 public water system, but not the water source.

3 (d) The Legislature has sought to address the difficulties of
4 communities that suffer poor drinking water quality, especially
5 those in communities that lack the financial resources to resolve
6 their drinking water problems:

7 (1) In 2008 the Legislature approved Senate Bill 1 of the Second
8 Extraordinary Session of 2008, to address nitrate contamination
9 in the Tulare Lake Basin and the Salinas Valley. That law required
10 study and development of pilot projects to better understand and
11 remediate nitrate contamination in those regions. As required, the
12 board studied and prepared a report addressing nitrate
13 contamination, which was delivered to the Legislature in 2013.

14 (2) In 2009, the Legislature adjusted the safe drinking water
15 program to maximize use of federal stimulus funds available to
16 communities that lack the resources to improve their water quality
17 to meet safe drinking water standards.

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

22 (e) In order to provide Californians with a comprehensive system
23 to protect their groundwater for drinking water, the state needs a
24 consolidated and comprehensive strategy and program for
25 protecting and improving the quality of California's drinking water
26 resources, especially from groundwater. The state needs to improve
27 the quality and availability of groundwater for those communities
28 that rely on groundwater for drinking. State and local leaders need
29 to address the conflicts inherent in competing demands for
30 high-quality groundwater.

31 (f) The most effective way to create a consolidated and
32 comprehensive strategy to ensure safe drinking water for all
33 Californians is consolidating all water quality programs into the
34 one state agency whose primary mission relates to water quality,
35 the board. The benefits of that consolidation are numerous,
36 including the following:

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

39 (2) More coordination and less duplication among programs
40 addressing drinking water quality.

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

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

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

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

10 (7) Improved understanding and coordination between water
11 quality and water rights programs.

12 (8) Consolidated reporting of water use and quality in one
13 agency.

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

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

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

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

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

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

32 116271. The Legislature finds and declares the following:

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

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

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

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

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

10 (C) Minimize administrative costs and interagency differences
11 on water quality issues.

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

14 (A) Connect source water protection and wastewater treatment
15 options to create a comprehensive strategy to protect water quality
16 throughout the hydrologic cycle.

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

19 (C) Improve the management of California's groundwater
20 resources that are used for drinking and other human consumption
21 purposes.

22 (D) Focus heightened public attention and government resources
23 on protecting the particular groundwater aquifers that provide
24 drinking water.

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

27 116272. The State Water Resources Control Board succeeds
28 to and is vested with all of the authority, duties, powers, purposes,
29 responsibilities, and jurisdiction of the department for the purposes
30 of this part. The Division of Drinking Water Quality of the State
31 Water Resources Control Board shall carry out the functions
32 described in this section. All references to the department in this
33 part shall be construed to refer to the State Water Resources
34 Control Board. This section shall not be construed to impair the
35 authority of a local health officer to enforce this chapter or a
36 county's election not to enforce this chapter, as provided in Section
37 116500. The State Water Resources Control Board shall accept
38 responsibility for enforcing this chapter pursuant to a contract, as
39 provided in Section 116500. This section shall be implemented
40 during the 2014–15 fiscal year.

1 *SEC. 4. Section 116272.5 is added to the Health and Safety*
2 *Code, to read:*

3 *116272.5. (a) The California Environmental Protection Agency*
4 *shall, in consultation with the California Health and Human*
5 *Services Agency, prepare a project initiation document for the*
6 *transfer of the state drinking water program of this part from the*
7 *State Department of Public Health to a Division of Drinking Water*
8 *Quality of the State Water Resources Control Board.*

9 *(b) The project initiation document shall be completed by April*
10 *1, 2014, and provided to the Legislature in compliance with Section*
11 *9795 of the Government Code, with copies to be provided to the*
12 *Joint Budget Committee, the Assembly Committee on*
13 *Environmental Safety and Toxic Materials, the Assembly*
14 *Committee on Health, the Assembly Committee on Water, Parks,*
15 *and Wildlife, the Senate Committee on Environmental Quality,*
16 *and the Senate Committee on Health. The project initiation*
17 *document shall also be included in the May Revision of the*
18 *2014–15 fiscal year budget submitted to the Legislature.*

19 ~~SEC. 4.~~

20 *SEC. 5. Section 116760.25 is added to the Health and Safety*
21 *Code, to read:*

22 *116760.25. The State Water Resources Control Board succeeds*
23 *to and is vested with all of the authority, duties, powers, purposes,*
24 *responsibilities, and jurisdiction of the department for the purposes*
25 *of this chapter. All references to the department in this chapter*
26 *shall be construed to refer to the State Water Resources Control*
27 *Board. This section shall be implemented during the 2014–15*
28 *fiscal year.*