

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN SENATE JULY 13, 2009

AMENDED IN SENATE JUNE 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1366

**Introduced by Assembly Members Feuer, Caballero, and
Audra Strickland
(Coauthors: Assembly Members John A. Perez and Salas)**

February 27, 2009

An act to add Section 13148 to the Water Code, relating to water softeners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, as amended, Feuer. Residential self-regenerating water softeners.

Existing law requires the State Water Resources Control Board to formulate and adopt state policy for water quality control. California regional water quality control boards are required to establish water quality objectives in water quality control plans. Under existing law, a local agency, by ordinance, may limit the availability, or prohibit the installation, of residential water softening or conditioning appliances that discharge to the community sewer system if the local agency makes certain findings and includes them in the ordinance.

This bill would authorize any local agency that owns or operates a community sewer system or water recycling facility, within specified areas of the state, to take action, by ordinance or resolution, after a

public hearing on the matter, to control salinity inputs from residential self-regenerating water softeners to protect the quality of the waters of the state, if the appropriate regional board makes a finding that the control of residential salinity input will contribute to the achievement of water quality objectives.

~~The objectives.~~ *The bill would state related findings and declarations of the Legislature, including findings and declarations concerning the need for special legislation.*

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 all of the
2 following:

3 (a) Recycled water provides additional water supplies that are
4 a cost-effective and reliable method of helping to meet California's
5 water needs.

6 (b) The Water Recycling Act of 1991 established a statewide
7 goal to recycle a total of 700,000 acre-feet of water per year by
8 2000, and one million acre-feet of water per year by 2010.

9 (c) The 2005 California Water Plan indicates that the statewide
10 potential for recycled water use by 2030 is between 900,000
11 acre-feet to 1.4 million acre-feet per year. Based on this projection,
12 the state will fall far short of the goal of recycling one million
13 acre-feet per year by 2010, unless new policies are enacted to
14 accelerate recycled water use.

15 (d) Elevated levels of salinity in community sewer systems can
16 hinder needed water recycling projects, and discharges from those
17 systems may impair groundwater resources and surface waters of
18 the state.

19 (e) The State Water Resources Control Board's Recycled Water
20 Policy is intended to support an increase in the use of recycled
21 water from municipal wastewater sources in a manner that
22 implements state and federal water quality laws. Some groundwater
23 basins in the state contain salts and nutrients that exceed or threaten
24 to exceed water quality objectives established in the applicable
25 water quality control plans. The policy requires every groundwater
26 basin or subbasin to have a salt and nutrient management plan that
27 includes adequate implementation procedures for achieving or

1 ensuring compliance with the water quality objectives for salt or
2 nutrients. *It is the intent of the policy that salts and nutrients from*
3 *all sources be managed in a manner that ensures attainment of*
4 *water quality objectives and protection of beneficial uses. The*
5 *policy recognizes that local water and wastewater agencies,*
6 *together with local salt and nutrient contributing stakeholders,*
7 *including, but not limited to, the water treatment industry, will*
8 *engage in a collaborative process that is open to all stakeholders*
9 *to prepare salt management plans.*

10 (f) Existing law allows regulation of discharges from industrial,
11 commercial, and agricultural sources, but severely limits local
12 agencies from regulating salinity discharges from residential
13 self-regenerating water softeners, which can discharge up to one
14 pound of salt per day.

15 (g) The California Water Recycling Task Force Report of 2003,
16 prepared by the Department of Water Resources and the State
17 Water Resources Control Board, recommends that current law be
18 changed to allow local agencies more control over salinity from
19 residential self-regenerating water softeners.

20 (h) It is the intent of the Legislature to require local agencies to
21 consider local economic issues and other community input before
22 taking action to regulate residential self-regenerating water
23 softeners.

24 (i) It is the intent of the Legislature, by enacting this act, to give
25 local agencies additional authority to regulate residential
26 self-regenerating water softeners, especially in areas of the state
27 with water bodies adversely impacted by salinity and high use
28 groundwater basins that are hydrogeologically vulnerable to
29 contamination.

30 SEC. 2. Section 13148 is added to the Water Code, to read:

31 13148. (a) This section applies to the following hydrologic
32 regions as identified in the California Water Plan: Central Coast,
33 South Coast, San Joaquin River, Tulare Lake, and the Counties of
34 Butte, Glenn, Placer, Sacramento, Solano, Sutter, and Yolo.

35 (b) Notwithstanding Article 1 (commencing with Section
36 116775) of Chapter 5 of Part 12 of Division 104 of the Health and
37 Safety Code, any local agency that owns or operates a community
38 sewer system or water recycling facility and that is subject to a
39 finding made by a regional board pursuant to subdivision (e) may
40 take action to control salinity input from residential

1 self-regenerating water softeners to protect the quality of the waters
 2 of the state. A local agency may take action only by adoption of
 3 an ordinance or resolution after a public hearing. The local agency
 4 shall not consider the adoption of an ordinance or resolution until
 5 at least 30 days following the date of the public hearing on the
 6 proposed ordinance or resolution. An ordinance or resolution shall
 7 become effective 30 days from the date of adoption.

8 (c) Actions to control residential self-regenerating water softener
 9 salinity inputs authorized by subdivision (b) include, but are not
 10 limited to, any of the following:

11 (1) Require that residential self-regenerating water softeners
 12 installed within the jurisdiction of the local agency be rated at the
 13 highest efficiency commercially available *and certified by NSF*
 14 *International or the American National Standards Institute.*

15 (2) Require that plumbing permits be obtained prior to the
 16 installation of residential self-regenerating water softeners.

17 (3) Require that residential self-regenerating water softeners be
 18 plumbed to hook up to hot water only.

19 ~~(4) Require that potassium chloride be used in residential~~
 20 ~~self-regenerating water softeners instead of sodium chloride, if~~
 21 ~~water quality conditions warrant.~~

22 ~~(5)~~
 23 (4) Enact a voluntary buy-back *or exchange* program for ~~the~~
 24 ~~removal of existing~~ residential self-regenerating water softeners,
 25 consistent with existing law. A voluntary buy-back *or exchange*
 26 program may be conducted in cooperation with local water
 27 treatment businesses.

28 ~~(6)~~
 29 (5) Require the removal of previously installed residential
 30 self-regenerating water softeners.

31 ~~(7)~~
 32 (6) Prohibit the installation of residential self-regenerating water
 33 softeners.

34 ~~(8)~~
 35 (7) Require the retrofit of clock control and demand control
 36 systems on previously installed residential self-regenerating water
 37 softeners.

38 ~~(9)~~
 39 (8) Require the replacement of previously installed residential
 40 self-regenerating water softeners with appliances that meet or

1 exceed the salt efficiency rating set forth in paragraph (2) of
2 subdivision (b) of Section 116785 of the Health and Safety Code.

3 (d) If a local agency adopts an ordinance or resolution to require
4 the removal of previously installed residential self-regenerating
5 water softeners pursuant to paragraph ~~(6)~~ (5) of subdivision (c),
6 the local agency shall make available to owners of residential
7 self-regenerating water softeners within its service area a program
8 to compensate the owner of the residential self-regenerating water
9 softener for the reasonable value of the removed residential
10 self-regenerating water softener, as determined by the local agency.

11 (e) Before a local agency may take action to control salinity
12 input from residential self-regenerating water softeners pursuant
13 to subdivision (b), a regional board with jurisdiction over a region
14 identified in subdivision (a) shall have made a finding at a public
15 hearing that the control of residential salinity input will contribute
16 to the achievement of water quality objectives. The finding may
17 be made in any of the following water quality actions adopted by
18 a regional board:

19 (1) A total maximum daily load that addresses salinity-related
20 pollutants in a water segment.

21 (2) A salt and nutrient management plan for a groundwater basin
22 or subbasin.

23 (3) Waste discharge requirements for a local agency discharger.

24 (4) Master reclamation permit for a supplier or distributor of
25 recycled water.

26 (5) Water recycling requirements for a supplier or distributor
27 of recycled water.

28 (6) Cease and desist order directed to a local agency.

29 (f) The regional board making a finding pursuant to subdivision
30 (e) shall base its finding on the evidence in the record, *such as a*
31 *source determination study or other appropriate studies*. The
32 standard of judicial review required for a finding made pursuant
33 to subdivision (e) shall be the same as the standard of review
34 required for the water quality action in which the finding is made.

35 (g) This section does not limit the use of portable exchange
36 water softening appliances or limit the authority of a local agency
37 to regulate the discharge from a centralized portable exchange tank
38 servicing facility into the community sewer system.

39 (h) For purposes of this section, “residential self-regenerating
40 water softener” means residential water softening equipment or

1 conditioning appliances that discharge brine into a community
2 sewer system.

3 SEC. 3. The Legislature finds and declares that it is necessary
4 to address elevated levels of salinity in community sewer systems
5 in specified hydrologic regions of the state. It is therefore hereby
6 declared that a general law within the meaning of Section 16 of
7 Article IV of the California Constitution cannot be made applicable
8 to those specified hydrologic regions and the enactment of this
9 special law is necessary for the public good.

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