

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JULY 1, 2011

AMENDED IN ASSEMBLY MAY 4, 2011

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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 938

Introduced by Assembly Member V. Manuel Pérez

February 18, 2011

An act to amend Sections 116450 and 116761.23 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 938, as amended, V. Manuel Pérez. Public water systems.

(1) Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.

Existing law establishes the Safe Drinking Water State Revolving Fund that is continuously appropriated to the department for the provision of grants and revolving fund loans to provide for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards.

Under existing law, the funding for grants for planning, engineering studies, environmental documentation, and design of a single project is set at a maximum of \$500,000. Existing law requires total funding for planning, engineering studies, project design, and construction costs of a single project, whether in the form of a grant, a loan, or both, to be determined by an assessment of affordability using criteria established by the department.

This bill would add environmental documentation to the costs of a single project that the department is required to determine by an assessment of affordability.

(2) Existing law requires that various notices be made by a public water system and others regarding compliance with safe drinking water requirements.

This bill would require, commencing July 1, 2012, that written public notice given by a public water system pursuant to these provisions be in English, Spanish, and in the language spoken by prescribed numbers of residents of the community served, and that the notice contain prescribed public water system contact information. The bill would establish specified presumptions of compliance if the public water system takes prescribed actions relating to the notice. The bill would also authorize and encourage nonwritten notice to be provided through foreign language media outlets.

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 116450 of the Health and Safety Code
 2 is amended to read:
 3 116450. (a) When any primary drinking water standard
 4 specified in the department’s regulations is not complied with,
 5 when a monitoring requirement specified in the department’s
 6 regulations is not performed, or when a water purveyor fails to
 7 comply with the conditions of any variance or exemption, the
 8 person operating the public water system shall notify the
 9 department and shall give notice to the users of that fact in the
 10 manner prescribed by the department. When a variance or an
 11 exemption is granted, the person operating the public water system
 12 shall give notice to the users of that fact.

1 (b) When a person operating a public water system determines
2 that a significant rise in the bacterial count of water has occurred
3 in water he or she supplies, the person shall provide, at his or her
4 expense, a report on the rise in bacterial count of the water, together
5 with the results of an analysis of the water, within 24 hours to the
6 department and, where appropriate, to the local health officer.

7 (c) When the department receives the information described in
8 subdivision (b) and determines that it constitutes an immediate
9 danger to health, the department shall immediately notify the
10 person operating the public water system to implement the
11 emergency notification plan required by this chapter.

12 (d) In the case of a failure to comply with any primary drinking
13 water standard that represents an imminent danger to the health
14 of water users, the operator shall notify each of his or her customers
15 as provided in the approved emergency notification plan.

16 (e) In addition, the same notification requirement shall be
17 required in any instance in which the department or the local health
18 department recommends to the operator that it notify its customers
19 to avoid internal consumption of the water supply and to use bottled
20 water due to a chemical contamination problem that may pose a
21 health risk.

22 (f) The content of the notices required by this section shall be
23 approved by the department. Notice shall be repeated at intervals,
24 as required by the department, until the department concludes that
25 there is compliance with its standards or requirements. Notices
26 may be given by the department.

27 In any case where public notification is required by this section
28 because a contaminant is present in drinking water at a level in
29 excess of a primary drinking water standard, the notification shall
30 include identification of the contaminant, information on possible
31 effects of the contaminant on human health, and information on
32 specific measures that should be taken by persons or populations
33 who might be more acutely affected than the general population.

34 (g) Whenever a school or school system, the owner or operator
35 of residential rental property, or the owner or operator of a business
36 property receives a notification from a person operating a public
37 water system under any provision of this section, the school or
38 school system shall notify school employees, students and parents
39 if the students are minors, the owner or operator of a residential
40 rental property shall notify tenants, and the owner or operator of

1 business property shall notify employees of businesses located on
2 the property.

3 (1) The operator shall provide the customer with a sample
4 notification form that may be used by the customer in complying
5 with this subdivision and that shall indicate the nature of the
6 problem with the water supply and the most appropriate methods
7 for notification that may include, but is not limited to, the sending
8 of a letter to each water user and the posting of a notice at each
9 site where drinking water is dispensed.

10 (2) The notice required by this subdivision shall be given within
11 10 days of receipt of notification from the person operating the
12 public water system.

13 (3) Any person failing to give notice as required by this
14 subdivision shall be civilly liable in an amount not to exceed one
15 thousand dollars (\$1,000) for each day of failure to give notice.

16 (4) If the operator has evidence of noncompliance with this
17 subdivision the operator shall report this information to the local
18 health department and the department.

19 (h) (1) Notwithstanding any other provision of law,
20 commencing July 1, 2012, a written Tier 1 public notice given by
21 a public water system pursuant to this section shall comply with
22 the following:

23 (A) It shall be provided in English, Spanish, and in the language
24 spoken by any non-English-speaking group that exceeds 10 percent
25 of persons served by the public water system, and it shall contain
26 a telephone number or address where residents may contact the
27 public water system for assistance.

28 (B) For each *non-English-speaking* group that speaks a language
29 other than ~~English~~ or Spanish and that exceeds 1,000 residents but
30 is less than 10 percent of the persons served by the public water
31 system described in subparagraph (A), the notice shall contain
32 information regarding the importance of the notice and a telephone
33 number or address where the public water system will provide
34 either a translated copy of the notice or assistance in the appropriate
35 language.

36 (2) (A) After July 1, 2012, it shall be presumed that the public
37 water system has determined the appropriate languages for
38 notification pursuant to paragraph (1) if the public water system
39 has made a reasonable attempt to utilize the data available through
40 the American Community Survey of the United States Census

1 Bureau to identify the non-English speaking groups that reside in
2 a city, county, or city and county that encompasses the service
3 area of the public water system.

4 (B) After July 1, 2012, it shall be presumed that the notice has
5 been correctly translated if the public water system has made a
6 reasonable attempt to obtain either in-house or contracted-for
7 translation services for providing a translated copy of the notice
8 or assistance in the appropriate languages pursuant to paragraph
9 (1) and the translated copy of the notice or assistance has been
10 provided.

11 (C) After July 1, 2012, if the public water system has made a
12 reasonable attempt to have the notice required by paragraph (1)
13 translated into the appropriate languages, it shall be presumed that
14 a notice translated into languages other than Spanish has been
15 adequately provided if it contains translations in the appropriate
16 languages of all of the following:

17 (i) Identification of the contaminant.

18 (ii) Information on the health effects associated with the
19 presence of the contaminant in drinking water at a level in excess
20 of the primary drinking water standard.

21 (iii) Actions that members of the public should take to protect
22 their health, such as, for example, “Do not drink,” “Boil water
23 before using,” or “Stop boiling your water.”

24 (3) In addition to nonwritten notification provided for in the
25 public water system’s emergency notification plan, the public
26 water system may, and is encouraged to, provide notice through
27 foreign language media outlets.

28 (4) For purposes of this section, “Tier 1 public notice” means
29 a public notice as defined pursuant to Section 64401.71 of Title
30 22 of the California Code of Regulations.

31 SEC. 2. Section 116761.23 of the Health and Safety Code is
32 amended to read:

33 116761.23. (a) The maximum amount of a planning grant
34 permitted under this chapter for each participating public water
35 system’s share of the costs of the planning, engineering studies,
36 environmental documentation, and design of a single project shall
37 be no more than five hundred thousand dollars (\$500,000).

38 (b) Unless the department approves an increase pursuant to this
39 subdivision, the maximum amount of a construction grant award
40 authorized under this chapter to each participating public water

1 system for its share of the cost of the construction of a single
2 project shall be no more than three million dollars (\$3,000,000).
3 The department may approve an increase in the maximum amount
4 for a construction grant award authorized under this chapter so
5 that the maximum amount of the construction grant award does
6 not exceed ten million dollars (\$10,000,000) only if the department
7 makes all of the following findings:
8 (1) A public water system that serves a disadvantaged
9 community has a defined project need that exceeds the maximum
10 grant amount of three million dollars (\$3,000,000).
11 (2) The defined project has been bypassed in at least one funding
12 cycle due to a lack of funds.
13 (3) The defined project is eligible for funding pursuant to the
14 program regulations.
15 (4) The defined project represents the highest public health risk
16 among unfunded projects, as determined by the department
17 according to its standard criteria.
18 (c) Total funding under this article for planning, engineering
19 studies, environmental documentation, project design, and
20 construction costs of a single project, whether in the form of a loan
21 or a grant, or both, shall be determined by an assessment of
22 affordability using criteria established by the department.