

Assembly Bill No. 938

CHAPTER 514

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

[Approved by Governor October 7, 2011. Filed with
Secretary of State October 7, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 938, 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.

The bill would specify that the department is not required to review or approve notices in any language other than English.

The people of the State of California do enact as follows:

SECTION 1. Section 116450 of the Health and Safety Code is amended to read:

116450. (a) When any primary drinking water standard specified in the department's regulations is not complied with, when a monitoring requirement specified in the department's regulations is not performed, or when a water purveyor fails to comply with the conditions of any variance or exemption, the person operating the public water system shall notify the department and shall give notice to the users of that fact in the manner prescribed by the department. When a variance or an exemption is granted, the person operating the public water system shall give notice to the users of that fact.

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

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

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

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

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

In any case where public notification is required by this section because a contaminant is present in drinking water at a level in excess of a primary drinking water standard, the notification shall include identification of the contaminant, information on possible effects of the contaminant on human health, and information on specific measures that should be taken by persons

or populations who might be more acutely affected than the general population.

(g) Whenever a school or school system, the owner or operator of residential rental property, or the owner or operator of a business property receives a notification from a person operating a public water system under any provision of this section, the school or school system shall notify school employees, students and parents if the students are minors, the owner or operator of a residential rental property shall notify tenants, and the owner or operator of business property shall notify employees of businesses located on the property.

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

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

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

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

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

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

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

(2) (A) After July 1, 2012, it shall be presumed that the public water system has determined the appropriate languages for notification pursuant to paragraph (1) if the public water system has made a reasonable attempt to utilize the data available through the American Community Survey of the United States Census Bureau to identify the non-English speaking groups that reside in a city, county, or city and county that encompasses the service area of the public water system.

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

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

- (i) Identification of the contaminant.
- (ii) Information on the health effects associated with the presence of the contaminant in drinking water at a level in excess of the primary drinking water standard.
- (iii) Actions that members of the public should take to protect their health, such as, for example, “Do not drink,” “Boil water before using,” or “Stop boiling your water.”

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

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

(5) Nothing in this subdivision shall require the department to review or approve notices in any language other than English.

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

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

(b) Unless the department approves an increase pursuant to this subdivision, the maximum amount of a construction grant award authorized under this chapter to each participating public water system for its share of the cost of the construction of a single project shall be no more than three million dollars (\$3,000,000). The department may approve an increase in the maximum amount for a construction grant award authorized under this chapter so that the maximum amount of the construction grant award does not exceed ten million dollars (\$10,000,000) only if the department makes all of the following findings:

(1) A public water system that serves a disadvantaged community has a defined project need that exceeds the maximum grant amount of three million dollars (\$3,000,000).

(2) The defined project has been bypassed in at least one funding cycle due to a lack of funds.

(3) The defined project is eligible for funding pursuant to the program regulations.

(4) The defined project represents the highest public health risk among unfunded projects, as determined by the department according to its standard criteria.

(c) Total funding under this article for planning, engineering studies, environmental documentation, project design, and construction costs of a single project, whether in the form of a loan or a grant, or both, shall be determined by an assessment of affordability using criteria established by the department.