

AMENDED IN SENATE AUGUST 24, 2012  
AMENDED IN SENATE JUNE 25, 2012  
AMENDED IN SENATE JUNE 20, 2012  
AMENDED IN ASSEMBLY MAY 25, 2012  
AMENDED IN ASSEMBLY MAY 1, 2012  
AMENDED IN ASSEMBLY APRIL 11, 2012  
AMENDED IN ASSEMBLY MARCH 29, 2012  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2238**

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**Introduced by Assembly Member Perea**  
*(Principal coauthor: Senator Rubio)*

February 24, 2012

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An act to ~~add Section 116760.85 to~~ amend Sections 116475 and 116760.30 of the Health and Safety Code, relating to public water systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2238, as amended, Perea. Public water systems: drinking water. Existing law establishes the Emergency Clean Water Grant Fund (Grant Fund), which is continuously appropriated for the purpose of providing financial assistance to public water systems and funding emergency actions, as defined by the department, to ensure the availability of safe drinking water supplies. Existing law requires the department to determine the definition of what constitutes an emergency

*requiring an alternative or improved water supply. Existing law authorizes the State Department of Public Health to expend funds from the Grant Fund for these purposes, including, but not limited to, the payment of specified actions.*

*This bill would eliminate the requirement that the department develop a definition of what constitutes an emergency and would instead provide a definition of a public health emergency as an unexpected event that requires immediate action, as specified. This bill would authorize the department to expend the moneys from the Grant Fund if the department determines that a public health emergency has occurred and would list the provision of interim water treatment as one of the listed specified actions for which the department may provide payment. By revising and expanding the application of funds in the Grant Fund, the bill would make an appropriation. This bill would limit the provision of an alternative water supply to \$50,000 per public water system per public health emergency.*

*Existing law creates the Safe Drinking Water State Revolving Fund (Revolving Fund) and authorizes the department to provide grants or revolving fund loans for public water system projects that enable suppliers to meet safe drinking water standards. Existing law requires the department to report at least once every 2 years to specified committees of the Legislature on the implementation of these provisions and expenditures from the Revolving Fund. Existing law requires the report to include, among other things, the number and types of projects funded and the reduction in risks to public health from contaminants in drinking water provided through the funding of the projects.*

*This bill would require the department to also post on its Internet Web site funding commitments made by the department for certain water system projects and other specified projects.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law, the Safe Drinking Water State Revolving Fund Law of 1997, requires the State Department of Public Health to administer programs to fund specified projects for public water systems that will enable suppliers to meet safe drinking water standards.~~

~~This bill would require the department to take specified actions in considering an application for funding pursuant to these provisions, including, but not limited to, reviewing and considering the determinations and recommendations made by the affected local agency~~

formation commission within the previous 5 calendar years in certain specified studies.

Vote: majority <sup>2</sup>/<sub>3</sub>. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 116475 of the Health and Safety Code is  
2 amended to read:

3 116475. (a) The Emergency Clean Water Grant Fund is hereby  
4 established in the General Fund and, notwithstanding Section  
5 13340 of the Government Code, is continuously appropriated to  
6 the department, without regard to fiscal years, to provide financial  
7 assistance to public water systems and to fund emergency actions  
8 by the department to ensure that safe drinking water supplies are  
9 available to all Californians who are served by public water  
10 systems.

11 (b) ~~The~~ *If the department determines that a public health*  
12 *emergency exists, the* department may expend funds in the  
13 Emergency Clean Water Grant Fund for the purposes specified in  
14 subdivision (a), including, but not limited to, payment for all of  
15 the following actions:

16 (1) The provision of alternative water supplies ~~and including~~  
17 bottled water.

18 (2) Improvements of the existing water supply system.

19 (3) Hookups with adjacent water systems.

20 (4) Design, purchase, installation, and operation and  
21 maintenance of water treatment technologies.

22 (5) *The provision of interim water treatment.*

23 (c) (1) The department shall develop and revise guidelines for  
24 the allocation and administration of moneys in the Emergency  
25 Clean Water Grant Fund. These guidelines shall include, but are  
26 not limited to, all of the following:

27 (1) ~~A definition of what constitutes an emergency requiring an~~  
28 ~~alternative or improved water supply.~~

29 (2)

30 (A) Priorities and procedures for allocating funds.

31 (3)

32 (B) Repayment provisions, as appropriate.

33 (4)

1 (C) Procedures for recovering funds from parties responsible  
 2 for the contamination of public water supplies.

3 ~~The~~

4 (2) *The* guidelines are not subject to Chapter 3.5 (commencing  
 5 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
 6 Government Code.

7 (d) *As used in this section, “public health emergency” means*  
 8 *a sudden or unexpected event which has occurred, is occurring,*  
 9 *or is an imminent threat, and requires immediate action to avoid*  
 10 *or mitigate serious health effects to persons served by a public*  
 11 *water system due to the public water system’s inability to provide*  
 12 *an adequate supply of safe drinking water to its service area.*

13 *Public health emergency includes, but is not limited to, the*  
 14 *following:*

15 (1) *A public water system that serves a severely disadvantaged*  
 16 *community that either:*

17 (A) *Lacks the technical or financial capacity to deliver water*  
 18 *that meets primary drinking water standards for which maximum*  
 19 *contaminant levels have been established pursuant to this chapter.*

20 (B) *Has applied for funding for a project to address the public*  
 21 *health emergency and the project is ranked on the project priority*  
 22 *list established pursuant to Section 116760.70.*

23 (2) *Disruption or contamination of drinking water supplies*  
 24 *caused by events, including, but not limited to, fire, flood,*  
 25 *earthquake, drought, or other natural disaster.*

26 (e) *Direct expenditures, for the purposes of this section, shall*  
 27 *be exempt from contracting and procurement requirements,*  
 28 *including, but not limited to, requirements set forth by the Public*  
 29 *Contract Code, to the extent necessary to take immediate action*  
 30 *to protect public health and safety.*

31 (f) *Notwithstanding any other law, funding under this section,*  
 32 *whether in the form of funding for emergency actions by the*  
 33 *department or financial assistance to a public water system, for*  
 34 *the provision of an alternative water supply, including bottled*  
 35 *water, shall not exceed fifty thousand dollars (\$50,000) per public*  
 36 *water system per public health emergency.*

37 **SEC. 2.** *Section 116760.30 of the Health and Safety Code is*  
 38 *amended to read:*

39 116760.30. (a) There is hereby created in the State Treasury  
 40 the Safe Drinking Water State Revolving Fund for the purpose of

1 implementing this chapter, and, notwithstanding Section 13340 of  
2 the Government Code, the fund is hereby continuously  
3 appropriated, without regard to fiscal years, to the department to  
4 provide, from moneys available for this purpose, grants or  
5 revolving fund loans for the design and construction of projects  
6 for public water systems that will enable suppliers to meet safe  
7 drinking water standards. The department shall be responsible for  
8 administering the fund.

9 (b) Notwithstanding Section 10231.5 of the Government Code,  
10 the department shall report at least once every two years to the  
11 policy and budget committees of the Legislature on the  
12 implementation of this chapter and expenditures from the fund.  
13 The report shall describe the numbers and types of projects funded,  
14 the reduction in risks to public health from contaminants in  
15 drinking water provided through the funding of the projects, and  
16 the criteria used by the department to determine funding priorities.  
17 Commencing with reports submitted on or after January 1, 2013,  
18 the report shall include the results of the United States  
19 Environmental Protection Agency's most recent survey of the  
20 infrastructure needs of California's public water systems, the  
21 amount of money available through the fund to finance those needs,  
22 the total dollar amount of all funding agreements executed pursuant  
23 to this chapter since the date of the previous report, the fund  
24 utilization rate, the amount of unliquidated obligations, and the  
25 total dollar amount paid to funding recipients since the previous  
26 report. *The department shall post on its Internet Web site funding*  
27 *commitments made by the department in the previous two years*  
28 *for systems of less than 200 connections, for disadvantaged and*  
29 *severely disadvantaged communities, and for projects which*  
30 *achieve coordination or consolidation of multiple water systems.*  
31 *The department shall also identify, on its Internet Web site, projects*  
32 *which fall within the health-based funding categories of the priority*  
33 *list, as described in Section 116760.70, that have been bypassed*  
34 *for at least two years.*

35 (c) Notwithstanding any other law, the Controller may use the  
36 moneys in the Safe Drinking Water State Revolving Fund for loans  
37 to the General Fund as provided in Sections 16310 and 16381 of  
38 the Government Code. However, interest shall be paid on all  
39 moneys loaned to the General Fund from the Safe Drinking Water  
40 State Revolving Fund. Interest payable shall be computed at a rate

1 determined by the Pooled Money Investment Board to be the  
2 current earning rate of the fund from which loaned. This  
3 subdivision does not authorize any transfer that will interfere with  
4 the carrying out of the object for which the Safe Drinking Water  
5 State Revolving Fund was created.

6 *SEC. 3. This act is an urgency statute necessary for the*  
7 *immediate preservation of the public peace, health, or safety within*  
8 *the meaning of Article IV of the Constitution and shall go into*  
9 *immediate effect. The facts constituting the necessity are:*

10 *To ensure all Californians have access to safe drinking waters*  
11 *supplies, especially in the time of a public health emergency.*

12 ~~SECTION 1. Section 116760.85 is added to the Health and~~  
13 ~~Safety Code, to read:~~

14 ~~116760.85. In considering an application for funding pursuant~~  
15 ~~to this chapter, the department shall do all of the following:~~

16 ~~(a) Review and consider the determinations and~~  
17 ~~recommendations made by the affected local agency formation~~  
18 ~~commission within the previous five calendar years in any of the~~  
19 ~~following:~~

20 ~~(1) A special study conducted pursuant to Section 56378 of the~~  
21 ~~Government Code.~~

22 ~~(2) A sphere of influence study conducted pursuant to Section~~  
23 ~~56425 of the Government Code.~~

24 ~~(3) A service review conducted pursuant to Section 56430 of~~  
25 ~~the Government Code.~~

26 ~~(b) Consult with the executive officer of the affected local~~  
27 ~~agency formation commission to determine whether any~~  
28 ~~circumstances have changed since the studies and review conducted~~  
29 ~~pursuant to subdivision (a) were completed or if there is any~~  
30 ~~additional information that would assist the department in its~~  
31 ~~determination.~~

32 ~~(c) Review and consider the conclusions and recommendations~~  
33 ~~of other local and regional studies designed to develop and identify~~  
34 ~~regional solutions to meet the goals of the Safe Drinking Water~~  
35 ~~Revolving Fund Law of 1997.~~

36 ~~(d) Report to the applicant regarding the review required~~  
37 ~~pursuant to subdivision (a) and the consultation required pursuant~~  
38 ~~to subdivision (b).~~

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