

AMENDED IN SENATE APRIL 6, 2011

SENATE BILL

No. 900

Introduced by Senator Steinberg

February 18, 2011

An act to amend ~~Section 13260.3~~ of Sections 175.5 and 13207 of, and to add Section 13388.1 to, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 900, as amended, Steinberg. ~~Water quality: waste discharge requirements: fees: report. California regional water quality control boards: members: proceedings.~~

Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act).

The state act prescribes requirements and qualifications for the membership of the state board and the regional boards, and prohibits a member of the state board or a regional board from participating in specified board actions that involve the member or any waste discharger with which the member is connected as a director, officer, or employee, or in which the board member has a financial interest within the meaning of the Political Reform Act of 1974.

This bill would delete the provisions prohibiting a board member from participating in actions that involve the member or a waste discharger with which the member is connected. The bill would specify that the limitation on a board member's financial interest applies only

to a disqualifying financial interest within the meaning of the Political Reform Act of 1974.

The state act prohibits a person from being a member of the state board or a regional board if that person receives or has received during the previous 2 years a significant portion of his or her income directly or indirectly from any person subject to waste discharge requirements or applicants for waste discharge requirements that are prescribed pursuant to the NPDES permit program.

This bill, with regard to a regional board, would provide that a person would not be disqualified from being a member of that board because that person receives, or has received during the previous 2 years, a significant portion of his or her income directly or indirectly from a person subject to waste discharge requirements, or an applicant for waste discharge requirements, that govern discharges not within the jurisdiction of that regional board. The bill would provide that this revised eligibility provision relating to members of a regional board shall be implemented only if certain requirements are met.

~~The Porter-Cologne Water Quality Control Act, with certain exceptions, requires a waste discharger to file a report of waste discharge with a California regional water quality control board and to pay an annual fee established by the State Water Resources Control Board (state board). The act requires the state board to report to the Governor and the Legislature on the expenditure of those annual fees on or before January 1 of each year.~~

This bill would, instead, require the state board to provide the report to the Governor and the Legislature on or before December 1 of each year.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 175.5 of the Water Code is amended to
- 2 read:
- 3 175.5. (a) ~~No~~A member of the board shall *not* participate in
- 4 any board action pursuant to Article 2 (commencing with Section
- 5 13320) of Chapter 5 of Division 7 ~~which involves himself or herself~~
- 6 ~~or any waste discharger with which the board member is connected~~
- 7 ~~as a director, officer or employee, or in which the board member~~

1 has a *disqualifying* financial interest in the decision within the
2 meaning of Section 87103 of the Government Code.

3 (b) ~~No~~A board member shall *not* participate in any proceeding
4 before any regional board as a consultant or in any other capacity
5 on behalf of any waste discharger.

6 (c) Upon the request of any person, or on the Attorney General's
7 own initiative, the Attorney General may file a complaint in the
8 superior court for the county in which the board has its principal
9 office alleging that a board member has knowingly violated this
10 section and the facts upon which the allegation is based and asking
11 that the member be removed from office. Further proceedings shall
12 be in accordance as near as may be with rules governing civil
13 actions. If after trial the court finds that the board member has
14 knowingly violated this section it shall pronounce judgment that
15 the member be removed from office.

16 *SEC. 2. Section 13207 of the Water Code is amended to read:*

17 13207. (a) ~~No~~A member of a regional board shall *not*
18 participate in any board action pursuant to Article 4 (commencing
19 with Section 13260) of Chapter 4, or Article 1 (commencing with
20 Section 13300) of Chapter 5, of this division ~~which involves~~
21 ~~himself or herself or any waste discharger with which he or she is~~
22 ~~connected as a director, officer or employee, or in which he or she~~
23 has a *disqualifying* financial interest in the decision within the
24 meaning of Section 87103 of the Government Code.

25 (b) ~~No~~A board member shall *not* participate in any proceeding
26 before any regional board or the state board as a consultant or in
27 any other capacity on behalf of any waste discharger.

28 (c) Upon the request of any person, or on the Attorney General's
29 own initiative, the Attorney General may file a complaint in the
30 superior court for the county in which the regional board has its
31 principal office alleging that a board member has knowingly
32 violated this section and the facts upon which the allegation is
33 based and asking that the member be removed from office. Further
34 proceedings shall be in accordance as near as may be with rules
35 governing civil actions. If after trial the court finds that the board
36 member has knowingly violated this section it shall pronounce
37 judgment that the member be removed from office.

38 *SEC. 3. Section 13388.1 is added to the Water Code, to read:*

39 13388.1. (a) *Notwithstanding Section 13388, a person shall*
40 *not be disqualified from being a member of a regional board*

1 *because that person receives, or has received during the previous*
 2 *two years, a significant portion of his or her income directly or*
 3 *indirectly from a person subject to waste discharge requirements,*
 4 *or an applicant for waste discharge requirements, that govern*
 5 *discharges pursuant to this chapter not within the jurisdiction of*
 6 *that regional board.*

7 *(b) This section shall be implemented only if the United States*
 8 *Environmental Protection Agency either determines that no*
 9 *program approval is necessary, or approves of a change in*
 10 *California’s national pollutant discharge elimination system*
 11 *program, to allow the state to administer the national pollutant*
 12 *discharge elimination system permit program consistent with*
 13 *subdivision (a).*

14 ~~SECTION 1. Section 13260.3 of the Water Code is amended~~
 15 ~~to read:~~

16 ~~13260.3. On or before December 1 of each year, the state board~~
 17 ~~shall report to the Governor and the Legislature on the expenditure~~
 18 ~~of annual fees collected pursuant to Section 13260.~~