

AMENDED IN SENATE JUNE 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 69

Introduced by Assembly Member Perea

January 10, 2013

An act to ~~add Section 13444 to~~ amend Section 14611 of, and to add Article 13 (commencing with Section 14690) to Chapter 5 of Division 7 of, the Food and Agricultural Code, and to add Section 13169.5 to, and to add and repeal Article 4 (commencing with Section 13444) of Chapter 6 of Division 7 of, the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 69, as amended, Perea. Groundwater: *drinking water*: Nitrate at Risk Area Fund.

Existing

(1) Existing law establishes the State Water Resources Control Board, or state board, and 9 California regional water quality control boards, and authorizes the state board to adopt regulations to carry out its powers and duties. Under existing law, the Porter-Cologne Water Quality Control Act, the state board is required to formulate and adopt state policy for water quality control. Under existing law the state board is further authorized to develop and implement a groundwater protection program consistent with federal law.

This bill would require the state board, in collaboration with the regional boards, and state and local agencies that collect water quality data or information, to develop a public information program on matters involving groundwater quality monitoring and assessment, as specified, and would also require the state board to develop and maintain on its

Internet Web site, in a format accessible to the general public, an information file with specific information on groundwater quality.

(2) Existing law requires a person who manufactures or distributes fertilizing materials to obtain a license from the Secretary of Food and Agriculture. Under existing law, a licensee whose name appears on the label who sells or distributes bulk fertilizing materials is required to pay specified fees for each dollar of sales, including an amount not to exceed \$0.001 per dollar of sales for all sales of fertilizing materials, to provide funding for research and education regarding the use and handling of fertilizing material.

This bill would expand the assessment to all commercial or retail sales of fertilizing materials by any person. This bill would require a seller of fertilizing materials to remit the assessment to the Department of Food and Agriculture for deposit in the Fertilizer Research and Education Program Fund that this bill would create. This bill would continuously appropriate this fund, without regard to fiscal years, to the department to provide funding for research and education regarding the use and handling of fertilizing materials.

Existing

(3) 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, adopting enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.

This bill would establish the Nitrate at Risk—Area Fund, to be administered by the board and, upon appropriation by the Legislature, moneys in the fund would be available for the purposes of developing and implementing sustainable and affordable solutions for disadvantaged communities in specified areas designated by the department, in conjunction with the board. department. This bill would continuously appropriate, without regard to fiscal years, the fund to the department for the purposes of loans, principal forgiveness loans, or grants to certain water systems for specified purposes. This bill would require a person who purchases nitrogen fertilizer materials in California to pay a nitrogen fertilizer materials charge, until January 1, 2016, of \$0.01 per dollar of materials, and on and after January 1, 2016, the department may increase the amount of the charge, as specified, to an

amount no greater than \$0.04 per dollar of materials if 80% of the moneys in the fund are committed. This bill would require a seller of nitrogen fertilizer materials to remit the nitrogen fertilizer materials charge to the department to be deposited in the fund. This bill would prohibit the fertilizer materials charge from being imposed when the department determines that the fund contains more than \$100,000,000 and less than \$50,000,000 of the moneys in the fund are committed. This bill would require the state board, on or before January 1, 2022, to submit a report to the Legislature that includes specified information relating to the fund and contaminated drinking water. This bill would repeal these provisions on January 1, 2024.

Vote: ~~majority~~^{2/3}. 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 14611 of the Food and Agricultural Code
2 is amended to read:

3 14611. ~~(a)~~—A licensee whose name appears on the label who
4 sells or distributes bulk fertilizing materials, as defined in Sections
5 14517 and 14533, to unlicensed purchasers, shall pay to the
6 secretary an assessment not to exceed two mills (\$0.002) per dollar
7 of sales for all fertilizing materials. A licensee whose name appears
8 on the label of packaged fertilizing materials, as defined in Sections
9 14533 and 14551, shall pay to the secretary an assessment not to
10 exceed two mills (\$0.002) per dollar of sales. The secretary may,
11 based on the findings and recommendations of the board, reduce
12 the assessment rate to a lower rate that provides sufficient revenue
13 to carry out this chapter.

14 ~~(b)~~—~~In addition to the assessment provided in subdivision (a),~~
15 ~~the secretary may impose an assessment in an amount not to exceed~~
16 ~~one mill (\$0.001) per dollar of sales for all sales of fertilizing~~
17 ~~materials, to provide funding for research and education regarding~~
18 ~~the use and handling of fertilizing material, including, but not~~
19 ~~limited to, support for University of California Cooperative~~
20 ~~Extension, the California resource conservation districts, other~~
21 ~~California institutions of postsecondary education, or other~~
22 ~~qualified entities to develop programs in the following areas:~~

23 ~~(1) Technical education for users of fertilizer materials in the~~
24 ~~development and implementation of nutrient management projects~~

1 that result in more agronomically sound uses of fertilizer materials
2 and minimize the environmental impacts of fertilizer use, including,
3 but not limited to, nitrates in groundwater and emissions of
4 greenhouse gases resulting from fertilizer use.

5 ~~(2) Research to improve nutrient management practices resulting~~
6 ~~in more agronomically sound uses of fertilizer materials and to~~
7 ~~minimize the environmental impacts of fertilizer use, including,~~
8 ~~but not limited to, nitrates in groundwater and emissions of~~
9 ~~greenhouse gases resulting from fertilizer use.~~

10 ~~(3) Education to increase awareness of more agronomically~~
11 ~~sound use of fertilizer products to reduce the environmental impacts~~
12 ~~resulting from the overuse or inefficient use of fertilizing materials.~~

13 *SEC. 2. Article 13 (commencing with Section 14690) is added*
14 *to Chapter 5 of Division 7 of the Food and Agricultural Code, to*
15 *read:*

16

17 *Article 13. Fertilizer Research and Education Program*

18

19 *14690. (a) The secretary may impose an assessment in an*
20 *amount not to exceed one mill (\$.001) per dollar of sales for all*
21 *commercial or retail sales of fertilizing materials by any person,*
22 *to provide funding for research and education regarding the use*
23 *and handling of fertilizing material, including, but not limited to,*
24 *support for the University of California Cooperative Extension,*
25 *the California resource conservation districts, other California*
26 *institutions of postsecondary education, or other qualified entities*
27 *to develop programs in the following areas:*

28 *(1) Technical education for users of fertilizing materials in the*
29 *development and implementation of nutrient management projects*
30 *that result in more agronomically sound uses of fertilizing*
31 *materials and minimize the environmental impacts of fertilizer*
32 *use, including, but not limited to, nitrates in groundwater and*
33 *emissions of greenhouse gases resulting from fertilizer use.*

34 *(2) Research to improve nutrient management practices*
35 *resulting in more agronomically sound uses of fertilizing materials*
36 *and to minimize the environmental impacts of fertilizer use,*
37 *including, but not limited to, nitrates in groundwater and emissions*
38 *of greenhouse gases resulting from fertilizer use.*

39 *(3) Education to increase awareness of more agronomically*
40 *sound use of fertilizer products to reduce the environmental*

1 *impacts resulting from the overuse or inefficient use of fertilizing*
2 *materials.*

3 *(b) Notwithstanding Section 14503, a seller of fertilizing*
4 *materials shall remit the assessment imposed pursuant to*
5 *subdivision (a) to the department for deposit in the Fertilizer*
6 *Research and Education Program Fund that is hereby established*
7 *in the State Treasury. Notwithstanding Section 13340 of the*
8 *Government Code, moneys in the Fertilizer Research and*
9 *Education Program Fund are continuously appropriated, without*
10 *regard to fiscal years, to the department for the purposes of this*
11 *section.*

12 *SEC. 3. Section 13169.5 is added to the Water Code, to read:*

13 *13169.5. (a) The state board, in collaboration with the regional*
14 *boards, and state and local agencies that collect water quality*
15 *data or information, shall develop a public information program*
16 *on matters involving groundwater quality monitoring and*
17 *assessment throughout the state by utilizing existing data, including*
18 *groundwater ambient monitoring and assessment results, along*
19 *with the collection of new information as needed.*

20 *(b) The state board shall develop and maintain on its Internet*
21 *Web site, in a format accessible to the general public, an*
22 *information file on groundwater quality monitoring, assessment,*
23 *research, standards, regulation, enforcement, and other pertinent*
24 *matters.*

25 *SEC. 4. Article 4 (commencing with Section 13444) is added*
26 *to Chapter 6 of Division 7 of the Water Code, to read:*

27

28

Article 4. Nitrate at Risk Fund

29

30 *13444. The Nitrate at Risk Fund is hereby established in the*
31 *State Treasury, to be administered by the State Department of*
32 *Public Health. Notwithstanding Section 13340 of the Government*
33 *Code, moneys in the Nitrate at Risk Fund are continuously*
34 *appropriated, without regard to fiscal years, to the State*
35 *Department of Public Health for the purposes described in Section*
36 *13446.*

37 *13445. (a) For purposes of this section, “fertilizer materials*
38 *charge” means the charge imposed pursuant to subdivision (b).*

39 *(b) (1) A person who purchases fertilizer materials in*
40 *California, including, but not limited to, all commercial or retail*

1 sales of fertilizer materials for agricultural or urban uses, shall
2 pay a fertilizer materials charge as follows:

3 (A) Until January 1, 2016, a charge of \$0.01 per dollar of
4 materials.

5 (B) On and after January 1, 2016, the State Department of
6 Public Health may increase the amount of the charge to an amount
7 no greater than \$0.04 per dollar of materials if 80 percent of the
8 moneys in the Nitrate at Risk Fund are committed. In determining
9 the amount of the charge, the State Department of Public Health
10 shall consider the demand for the moneys in the Nitrate at Risk
11 Fund.

12 (2) A seller of fertilizer materials shall remit the fertilizer
13 materials charge to the State Department of Public Health to be
14 deposited in the Nitrate at Risk Fund.

15 (c) The fertilizer materials charge shall not be imposed when
16 the State Department of Public Health determines that the Nitrate
17 at Risk Fund contains more than one hundred million dollars
18 (\$100,000,000) and less than fifty million dollars (\$50,000,000)
19 of the moneys in the Nitrate at Risk Fund are committed.

20 13446. (a) Moneys in the Nitrate at Risk Fund shall be used
21 for loans, principal forgiveness loans, or grants to a water system
22 that is either a small community water system serving a
23 disadvantaged community or an unregulated system of 2 to 15,
24 inclusive, service connections.

25 (b) Moneys in the Nitrate at Risk Fund may be used for any of
26 the following purposes:

27 (1) Preplanning drinking water projects.

28 (2) Planning drinking water projects.

29 (3) Interim water solutions.

30 (4) Constructing drinking water projects.

31 (5) Operating and maintaining drinking water systems. The
32 State Department of Public Health shall ensure that moneys used
33 for the purposes of this paragraph are for the operation and
34 maintenance of drinking water systems in communities that have
35 a substantial need and otherwise would not be able to afford to
36 operate or maintain their systems.

37 (c) Moneys in the Nitrate at Risk Fund shall not be used for
38 loans, principal forgiveness loans, or grants to a water system
39 that is a small community water system for the purposes of either

1 paragraph (2) or (4) of subdivision (b) unless no other funding
2 source is available to that system for that purpose.

3 13447. (a) On or before January 1, 2022, the state board, in
4 consultation with any other state entity or research institution as
5 appropriate, shall submit to the Legislature a report that includes
6 all of the following information:

7 (1) Communities that rely on contaminated drinking water as
8 a primary source of drinking water.

9 (2) The principal contaminants and other constituents of concern
10 affecting groundwater and contamination levels in the groundwater
11 sources for the communities described in paragraph (1).

12 (3) Potential solutions and funding sources to clean up or treat
13 groundwater or to provide alternative water supplies to ensure
14 the provision of safe drinking water to communities identified in
15 paragraph (1).

16 (4) The effect of the use of the moneys in the Nitrate at Risk
17 Fund for the purposes described in Section 13445 on nitrate
18 contaminated groundwater used as a source of drinking water.

19 (b) A report to be submitted pursuant to subdivision (a) shall
20 be submitted in compliance with Section 9795 of the Government
21 Code.

22 13448. If the responsibility for administering Chapter 4
23 (commencing with Section 116270) of Part 12 of Division 104 of
24 the Health and Safety Code is transferred to the state board, the
25 state board shall succeed to and is vested with all of the authority,
26 duties, powers, responsibilities, and jurisdiction of the State
27 Department of Public Health pursuant to this article.

28 13449. This article shall remain in effect only until January 1,
29 2024, and as of that date is repealed, unless a later enacted statute,
30 that is enacted before January 1, 2024, deletes or extends that
31 date.

32 ~~SECTION 1. Section 13444 is added to the Water Code, to~~
33 ~~read:~~

34 ~~13444. (a) The Nitrate at Risk Area Fund is hereby established~~
35 ~~in the State Treasury, to be administered by the state board. Upon~~
36 ~~appropriation by the Legislature, moneys in the fund shall be~~
37 ~~available for the purposes of developing and implementing~~
38 ~~sustainable and affordable solutions for disadvantaged communities~~
39 ~~in areas designated pursuant to subdivision (b).~~

1 ~~(b) The State Department of Public Health, in conjunction with~~
2 ~~the state board, shall, using existing data on public water systems,~~
3 ~~designate areas that are reliant on nitrate-contaminated groundwater~~
4 ~~for their source of drinking water and that do not have reliable~~
5 ~~access to safe, affordable drinking water.~~

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