

AMENDED IN SENATE JULY 11, 2013

AMENDED IN SENATE JUNE 27, 2013

AMENDED IN SENATE JUNE 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 69**

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**Introduced by Assembly Member Perea**  
*(Coauthor: Assembly Member Stone)*

January 10, 2013

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An act 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, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

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

(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, 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 Fund, to be administered by the 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 operating in a high-nitrate at-risk area 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.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
 State-mandated local program: no.

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

1 SECTION 1. Section 13169.5 is added to the Water Code, to  
 2 read:

1 13169.5. (a) The state board, in collaboration with the regional  
2 boards, and state and local agencies that collect water quality data  
3 or information, shall develop a public information program on  
4 matters involving groundwater quality monitoring and assessment  
5 throughout the state by utilizing existing data, including  
6 groundwater ambient monitoring and assessment results, along  
7 with the collection of new information as needed.

8 (b) The state board shall develop and maintain on its Internet  
9 Web site, in a format accessible to the general public, an  
10 information file on groundwater quality monitoring, assessment,  
11 research, standards, regulation, enforcement, and other pertinent  
12 matters.

13 SEC. 2. Article 4 (commencing with Section 13444) is added  
14 to Chapter 6 of Division 7 of the Water Code, to read:

15  
16 Article 4. Nitrate at Risk Fund  
17

18 13444. The Nitrate at Risk Fund is hereby established in the  
19 State Treasury, to be administered by the State Department of  
20 Public Health. Notwithstanding Section 13340 of the Government  
21 Code, moneys in the Nitrate at Risk Fund are continuously  
22 appropriated, without regard to fiscal years, to the State Department  
23 of Public Health for the purposes described in Section 13446.

24 13445. (a) For purposes of this section, “fertilizer materials  
25 charge” means the charge imposed pursuant to subdivision (b).

26 (b) (1) A person who purchases fertilizer materials in California,  
27 including, but not limited to, all commercial or retail sales of  
28 fertilizer materials for agricultural or urban uses, shall pay a  
29 fertilizer materials charge as follows:

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

32 (B) On and after January 1, 2016, the State Department of Public  
33 Health may increase the amount of the charge to an amount no  
34 greater than \$0.04 per dollar of materials if 80 percent of the  
35 moneys in the Nitrate at Risk Fund are committed. In determining  
36 the amount of the charge, the State Department of Public Health  
37 shall consider the demand for the moneys in the Nitrate at Risk  
38 Fund. ~~The adoption or revision of the charge pursuant to this~~  
39 ~~subparagraph is exempt from Chapter 3.5 (commencing with~~  
40 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~

1 ~~Code.~~ In determining the charge, the State Department of Public  
2 Health shall allow stakeholder participation and make available  
3 to the public the information upon which the State Department of  
4 Public Health calculates, bases, or determines the charge.

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

8 ~~(e) The fertilizer materials charge shall not be imposed when  
9 the State Department of Public Health determines that the Nitrate  
10 at Risk Fund contains more than one hundred million dollars  
11 (\$100,000,000) and less than fifty million dollars (\$50,000,000)  
12 of the moneys in the Nitrate at Risk Fund are committed.~~

13 13446. (a) Moneys in the Nitrate at Risk Fund shall be used  
14 for loans, principal forgiveness loans, or grants to a water system  
15 operating in a high-nitrate at-risk area that is one of the following:

16 (1) A small community water system serving a disadvantaged  
17 community.

18 (2) An unregulated system of 2 to 15, inclusive, service  
19 connections.

20 (3) A nontransient noncommunity water system owned by a  
21 public agency.

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

24 (1) Preplanning drinking water projects.

25 (2) Planning drinking water projects.

26 (3) Interim water solutions.

27 (4) Constructing drinking water projects.

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

38 (c) Moneys in the Nitrate at Risk Fund shall not be used for  
39 loans, principal forgiveness loans, or grants to a water system that  
40 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 a  
8 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 the  
14 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 13446 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 date.

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

35 To address the public health problem of nitrate contaminated  
36 drinking water as soon as possible, it is necessary for this act to  
37 take effect immediately.

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