An act to add Sections 116271, 116272, and 116760.25 to the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL’S DIGEST

AB 145, as introduced, Perea. State Water Resources Control Board: drinking water.

The California Safe Drinking Water Act (state act) provides for the operation of public water systems and imposes on the State Department of Public Health various duties and responsibilities. Existing law requires the department to conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, to adopt regulations to implement the state act, and to enforce provisions of the federal Safe Drinking Water Act.

This bill would transfer to the State Water Resources Control Board the various duties and responsibilities imposed on the department by the state act.

The Safe Drinking Water State Revolving Fund Law of 1997 establishes the Safe Drinking Water State Revolving Fund to provide grants or revolving fund loans for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. Under that law, the department is responsible for administering the fund.

This bill would also transfer to the state board the authority, duties, powers, purposes, responsibilities, and jurisdiction of the department for the purposes of that law.
The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) Drinking water is a necessity of human life, and contaminated drinking water can lead to sickness and death:

(1) California law provides that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

(2) Providing safe drinking water is one of the most fundamental duties of any government. While Californians rely on public water systems operated by local agencies and utilities to deliver drinking water to their homes and businesses, the State of California has a duty to ensure that water is safe and clean.

(3) Water for drinking is a natural resource that is inherently public. The people of California own the water within our borders, and the state grants water rights only for its reasonable use for beneficial purposes including human consumption.

(4) The California Constitution requires that all diversions and use of water be reasonable, while the California Supreme Court has recognized that the state holds a public trust responsibility over California’s water resources.

(b) Groundwater provides a significant portion of California’s drinking water, in urban and rural communities alike. From the earliest days of statehood, communities relied on pumping groundwater. While not all Californians enjoy groundwater underlying their communities, those communities that have groundwater have maximized its use for human consumption:

(1) Of the 8,700 public water systems, 7800 rely on groundwater, at least in part. These public water systems draw on more than 15,000 wells, while individual landowners draw drinking water from thousands more private wells.

(2) Overall, groundwater supplies one-third of the water used in California in a typical year, and in drought years, as much as one-half.

(3) Nationally, according to the United States Geological Survey, 51 percent of Americans rely on groundwater for drinking,
including 99 percent of the nation’s rural population. Groundwater provides 22 percent of all fresh water.

(c) The governance of California’s groundwater resources is diffused among many public agencies and private parties:

(1) Landowners enjoy a right to use water lying under their lands for beneficial uses on the surface. When landowners in a basin draw too much water out of their aquifer, commonly called “overdraft,” they may go to a court to adjudicate how much water each landowner may take out.

(2) Based on an adjudication of an aquifer or litigation over groundwater contamination, a court may structure the management of an individual aquifer to address overdraft or groundwater contamination.

(3) Water agencies and groundwater users may voluntarily establish a joint program to manage the aquifer on which they rely.

(4) Counties may exercise their police powers to address certain groundwater issues, including the drilling and operation of groundwater wells. County public health officers also may provide oversight to or regulate the smaller public water systems in their jurisdiction that rely on groundwater.

(5) In state government, the State Water Resources Control Board (the board) has responsibility for protecting groundwater quality and may adjudicate groundwater rights under certain circumstances. The State Department of Public Health (the department) has responsibility for overseeing the operation of public water systems that use groundwater to provide drinking water. The board may regulate drinking water source quality but not the public water system. The department may regulate the public water system, but not the water source.

(d) The Legislature has sought to address the difficulties of communities that suffer poor drinking water quality, especially those in communities that lack the financial resources to resolve their drinking water problems:

(1) In 2008 the Legislature approved Senate Bill 1 of the Second Extraordinary Session of 2008, to address nitrate contamination in the Tulare Lake Basin and the Salinas Valley. That law required study and development of pilot projects to better understand and remediate nitrate contamination in those regions. As required, the board studied and prepared a report addressing nitrate contamination, which was delivered to the Legislature in 2013.
(2) In 2009, the Legislature adjusted the safe drinking water program to maximize use of federal stimulus funds available to communities that lack the resources to improve their water quality to meet safe drinking water standards.

(3) In each annual Budget Act, the Legislature has appropriated funding available from a variety of sources, including voter-approved general obligation bonds, to fix public water systems that do not provide safe drinking water.

(e) In order to provide Californians with a comprehensive system to protect their groundwater for drinking water, the state needs a consolidated and comprehensive strategy and program for protecting and improving the quality of California’s drinking water resources, especially from groundwater. The state needs to improve the quality and availability of groundwater for those communities that rely on groundwater for drinking. State and local leaders need to address the conflicts inherent in competing demands for high-quality groundwater.

(f) The most effective way to create a consolidated and comprehensive strategy to ensure safe drinking water for all Californians is consolidating all water quality programs into the one state agency whose primary mission relates to water quality, the board. The benefits of that consolidation are numerous, including the following:

1. Greater focus of financial and staff support for the drinking water program.
2. More coordination and less duplication among programs addressing drinking water quality.
3. Greater efficiencies of scale and shared resources, resulting in overall lower costs.
4. Broader array of expertise concentrated on drinking water quality, with agency experience in water quality science and policy.
5. Coordination between water source protection and drinking water treatment programs.
6. More accountability for drinking water programs, with a unified agency that has responsibility for oversight and funding and a five-member expert board that makes decisions in public.
7. Improved understanding and coordination between water quality and water rights programs.
8. Consolidated reporting of water use and quality in one agency.
(9) Agency experience in fighting fraud, as part of the Underground Storage Tank Cleanup Fund.

(10) Consolidated funding programs for related water resources, including both source water protection and wastewater treatment.

(11) Combined agency experience in working with the private sector to leverage public funds for public purposes.

(12) A board decision process that allows for public airing of the conflicts inherent in managing critical and limited water resources.

(g) Crafting the most effective management structure for achieving a comprehensive strategy for protecting drinking water quality requires broad public participation. It is the intent of the Legislature to lead a public process that includes all stakeholders and agencies that may be affected by these reforms to assess the issues and options for fulfilling the state’s responsibilities to ensure drinking water quality for all Californians.

SEC. 2. Section 116271 is added to the Health and Safety Code, to read:

116271. The Legislature finds and declares the following:

(a) It is the intent of the Legislature to make the most effective use of California’s limited water and financial resources to ensure that all communities, regardless of socioeconomic status, enjoy access to safe and clean drinking water, consistent with the human right to safe, clean, affordable, and accessible water recognized in Section 106.3 of the Water Code.

(b) The objectives of this 2013 reorganization of the state’s drinking water program include the following:

(1) Maximize the efficiency and effectiveness of drinking water, groundwater, and water quality programs in a single agency whose primary mission is water quality as follows:

(A) Consolidate regulatory and financing programs into a single state agency that is most focused on protection of California water quality, the State Water Resources Control Board.

(B) Provide a one-stop agency where communities can obtain comprehensive technical assistance that helps resolve all their water quality challenges.

(C) Minimize administrative costs and interagency differences on water quality issues.

(2) Create a comprehensive water quality program that addresses water quality at all stages of the hydrologic cycle as follows:
(A) Connect source water protection and wastewater treatment options to create a comprehensive strategy to protect water quality throughout the hydrologic cycle.

(B) Provide comprehensive protection of groundwater quality for drinking water purposes for all Californians.

(C) Improve the management of California’s groundwater resources that are used for drinking and other human consumption purposes.

(D) Focus heightened public attention and government resources on protecting the particular groundwater aquifers that provide drinking water.

SEC. 3. Section 116272 is added to the Health and Safety Code, to read:

116272. The State Water Resources Control Board succeeds to and is vested with all of the authority, duties, powers, purposes, responsibilities, and jurisdiction of the department for the purposes of this part. The Division of Drinking Water and Environmental Management of the State Department of Public Health shall become the Division of Drinking Water Quality of the State Water Resources Control Board. All references to the department in this part shall be construed to refer to the State Water Resources Control Board. This section shall not be construed to impair the authority of a local health officer to enforce this chapter or a county’s election not to enforce this chapter, as provided in Section 116500. The State Water Resources Control Board shall accept responsibility for enforcing this chapter pursuant to a contract, as provided in Section 116500.

SEC. 4. Section 116760.25 is added to the Health and Safety Code, to read:

116760.25. The State Water Resources Control Board succeeds to and is vested with all of the authority, duties, powers, purposes, responsibilities, and jurisdiction of the department for the purposes of this chapter. All references to the department in this chapter shall be construed to refer to the State Water Resources Control Board.