

ASSEMBLY BILL

No. 145

Introduced by Assembly Members Perea and Rendon

January 18, 2013

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.

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

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

1 SECTION 1. The Legislature finds and declares the following:

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

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

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

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

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

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

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

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

33 (3) Nationally, according to the United States Geological Survey,
34 51 percent of Americans rely on groundwater for drinking,

1 including 99 percent of the nation’s rural population. Groundwater
2 provides 22 percent of all fresh water.

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

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

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

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

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

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

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

34 (1) In 2008 the Legislature approved Senate Bill 1 of the Second
35 Extraordinary Session of 2008, to address nitrate contamination
36 in the Tulare Lake Basin and the Salinas Valley. That law required
37 study and development of pilot projects to better understand and
38 remediate nitrate contamination in those regions. As required, the
39 board studied and prepared a report addressing nitrate
40 contamination, which was delivered to the Legislature in 2013.

1 (2) In 2009, the Legislature adjusted the safe drinking water
2 program to maximize use of federal stimulus funds available to
3 communities that lack the resources to improve their water quality
4 to meet safe drinking water standards.

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

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

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

24 (1) Greater focus of financial and staff support for the drinking
25 water program.

26 (2) More coordination and less duplication among programs
27 addressing drinking water quality.

28 (3) Greater efficiencies of scale and shared resources, resulting
29 in overall lower costs.

30 (4) Broader array of expertise concentrated on drinking water
31 quality, with agency experience in water quality science and policy.

32 (5) Coordination between water source protection and drinking
33 water treatment programs.

34 (6) More accountability for drinking water programs, with a
35 unified agency that has responsibility for oversight and funding
36 and a five-member expert board that makes decisions in public.

37 (7) Improved understanding and coordination between water
38 quality and water rights programs.

39 (8) Consolidated reporting of water use and quality in one
40 agency.

1 (9) Agency experience in fighting fraud, as part of the
2 Underground Storage Tank Cleanup Fund.

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

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

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

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

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

19 116271. The Legislature finds and declares the following:

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

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

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

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

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

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

39 (2) Create a comprehensive water quality program that addresses
40 water quality at all stages of the hydrologic cycle as follows:

1 (A) Connect source water protection and wastewater treatment
2 options to create a comprehensive strategy to protect water quality
3 throughout the hydrologic cycle.

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

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

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

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

14 116272. The State Water Resources Control Board succeeds
15 to and is vested with all of the authority, duties, powers, purposes,
16 responsibilities, and jurisdiction of the department for the purposes
17 of this part. The Division of Drinking Water and Environmental
18 Management of the State Department of Public Health shall
19 become the Division of Drinking Water Quality of the State Water
20 Resources Control Board. All references to the department in this
21 part shall be construed to refer to the State Water Resources
22 Control Board. This section shall not be construed to impair the
23 authority of a local health officer to enforce this chapter or a
24 county’s election not to enforce this chapter, as provided in Section
25 116500. The State Water Resources Control Board shall accept
26 responsibility for enforcing this chapter pursuant to a contract, as
27 provided in Section 116500.

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

30 116760.25. The State Water Resources Control Board succeeds
31 to and is vested with all of the authority, duties, powers, purposes,
32 responsibilities, and jurisdiction of the department for the purposes
33 of this chapter. All references to the department in this chapter
34 shall be construed to refer to the State Water Resources Control
35 Board.

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