

ASSEMBLY BILL

No. 1043

Introduced by Assembly Member Chau
(Coauthor: Senator Hernandez)

February 22, 2013

An act to add Sections 75101.3 and 75101.4 to, and to repeal and add Section 75101 of, the Public Resources Code, relating to the groundwater.

LEGISLATIVE COUNSEL'S DIGEST

AB 1043, as introduced, Chau. Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006: groundwater contamination.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (initiative bond act), an initiative statute approved by the voters as Proposition 84 at the November 7, 2006, statewide general election, makes approximately \$5.4 billion in bond funds available for safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. The initiative bond act makes \$60,000,000 available to the State Department of Public Health (department) for the purpose of loans and grants for projects to prevent or reduce contamination of groundwater that serves as a source of drinking water and requires the department to require repayment for costs that are subsequently recovered from parties responsible for the contamination. Existing law requires the department, in collaboration with the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board, to develop and adopt regulations governing the repayment of

costs that are subsequently recovered from parties responsible for the contamination of groundwater.

This bill would eliminate the requirement to develop and adopt regulations and instead would require a grantee of certain initiative bond act funds to take specific actions to recover the costs of cleanup and to utilize those funds for certain groundwater contamination cleanup projects, as specified. The bill would require the grantee, before expending the funds recovered from a responsible party, as defined, to submit an expenditure plan to the DTSC for its review. The bill would require that funds recovered from a responsible party by a grantee and used by the grantee for the costs of the specified groundwater contamination cleanup projects be deemed to be repaid by the grantee to the state.

Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, creates in the General Fund the Site Remediation Account, and authorizes the money in that account to be expended by the DTSC, upon appropriation by the Legislature, for direct site remediation costs.

The bill would require any funds recovered from a responsible party in excess of the specified groundwater contamination cleanup projects costs to be remitted to DTSC and deposited into the Site Remediation Account, to be used for orphan groundwater contamination cleanup projects, as specified.

The bill would make technical nonsubstantive changes.

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. Section 75101 of the Public Resources Code is
- 2 repealed.
- 3 ~~75101. (a) For the purposes of implementing Section 75025,~~
- 4 ~~the State Department of Public Health shall do all of the following:~~
- 5 ~~(1) Develop guidelines pursuant to Section 75100 in~~
- 6 ~~collaboration with the Department of Toxic Substances Control~~
- 7 ~~and the state board.~~
- 8 ~~(2) In collaboration with the Department of Toxic Substances~~
- 9 ~~Control and the state board, develop and adopt regulations~~
- 10 ~~governing the repayment of costs that are subsequently recovered~~
- 11 ~~from parties responsible for the contamination.~~

1 ~~(b) For the purposes of implementing subdivision (a) of Section~~
2 ~~75050, the Department of Fish and Game, when funding a natural~~
3 ~~community conservation plan, shall fund only the development of~~
4 ~~a natural community conservation plan that is consistent with the~~
5 ~~Natural Community Conservation Planning Act (Chapter 10~~
6 ~~(commencing with Section 2800) of Division 3 of the Fish and~~
7 ~~Game Code).~~

8 ~~(c) The San Francisco Bay Area Conservancy may use the funds~~
9 ~~made available pursuant to subdivision (c) of Section 75060 to~~
10 ~~restore the salt ponds in the south San Francisco Bay and to create~~
11 ~~trails and visitor facilities for public use in that area.~~

12 SEC. 2. Section 75101 is added to the Public Resources Code,
13 to read:

14 75101. For purposes of implementing Section 75025, all of the
15 following shall apply:

16 (a) A grantee of funds awarded pursuant to Section 75025 shall,
17 where appropriate and cost-effective, take reasonable actions
18 pursuant to the Comprehensive Environmental Response,
19 Compensation, and Liability Act of 1980 (42 U.S.C. Secs. 9601
20 et seq.) or other federal or state law to recover the costs of cleanup
21 from the parties responsible for the contamination.

22 (b) To the extent that the following projects are available, a
23 grantee of funds awarded pursuant to Section 75025 shall utilize
24 funds recovered from a responsible party under subdivision (a)
25 only for projects that meet both of the following conditions:

26 (1) The total of the grant amount awarded to the grantee pursuant
27 to Section 75025 and the funds recovered from a responsible party
28 under subdivision (a) do not exceed the grantee's total cost of the
29 project to clean up contaminated groundwater or prevent the
30 contamination of groundwater.

31 (2) The groundwater is a primary source of drinking water and
32 the grantee will use the funds recovered from a responsible party
33 for groundwater contamination cleanup activities, including, but
34 not limited to, ongoing treatment and remediation activities in
35 accordance with the purposes of Section 75025.

36 (c) Funds recovered from a responsible party shall be utilized
37 by the grantee only for projects that meet the requirements of
38 subdivision (b) and in the following priority order:

39 (1) Projects to clean up areas of groundwater contamination
40 within the grantee's jurisdiction where the initial grant awarded

1 pursuant to Section 75025 is insufficient to pay for the full costs
2 of the cleanup.

3 (2) Projects to clean up additional areas of groundwater
4 contamination within the grantee's jurisdiction.

5 (d) (1) Before expending funds recovered from a responsible
6 party on projects specified in subdivision (c), the grantee shall
7 submit an expenditure plan to the Department of Toxic Substances
8 Control for its review and concurrence that the proposed
9 expenditures are consistent with subdivisions (b) and (c).

10 (2) Funds recovered from a responsible party by the grantee
11 that are in excess of the costs to conduct a project or projects
12 authorized under subdivision (c) shall be remitted to the
13 Department of Toxic Substances Control for deposit into the Site
14 Remediation Account, established pursuant to Section 25337 of
15 the Health and Safety Code. Recovered funds deposited into the
16 account shall be used by the Department of Toxic Substances
17 Control for orphan groundwater contamination cleanup projects
18 at sites that are on the list maintained by the Department of Toxic
19 Substances Control pursuant to Section 25356 of the Health and
20 Safety Code or on the National Priorities List pursuant to the
21 Comprehensive Environmental Response, Compensation, and
22 Liability Act of 1980 (42 U.S.C. Secs. 9601 et seq.), as amended.

23 (e) Funds recovered from a responsible party by a grantee
24 pursuant to subdivision (a) and used by the grantee for costs,
25 including capitol costs and operation and maintenance costs, of a
26 project that complies with subdivisions (b) and (c), are deemed to
27 be repaid by the grantee to the state.

28 (f) Commencing no later than July 1, 2014, and annually
29 thereafter until the grantee's funds are expended, a grantee of funds
30 awarded pursuant to Section 75025 shall provide public notice, by
31 posting a list on the grantee's Internet Web site, of projects that
32 meet the requirements of subdivisions (b) and (c) and the amount
33 of funds recovered from a responsible party to be expended for
34 the projects.

35 (g) As used in this section, "funds recovered from a responsible
36 party" means the amount of any judgment or settlement received
37 by the grantee from a responsible party that is attributable to costs
38 funded by the grant, less all reasonable and necessary fees and
39 expenses incurred by the grantee to recover these funds.

1 SEC. 3. Section 75101.3 is added to the Public Resources Code,
2 to read:

3 75101.3. For the purposes of implementing subdivision (a) of
4 Section 75050, the Department of Fish and Wildlife, when
5 funding a natural community conservation plan, shall fund only
6 the development of a natural community conservation plan that is
7 consistent with the Natural Community Conservation Planning
8 Act (Chapter 10 (commencing with Section 2800) of Division 3
9 of the Fish and Game Code).

10 SEC. 4. Section 75101.4 is added to the Public Resources Code,
11 to read:

12 75101.4. The San Francisco Bay Area Conservancy may use
13 the funds made available pursuant to subdivision (c) of Section
14 75060 to restore the salt ponds in the south San Francisco Bay and
15 to create trails and visitor facilities for public use in that area.