

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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~~), *or 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~~ *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 SEC. 2. Section 75101 is added to the Public Resources Code,
- 4 to read:
- 5 75101. For purposes of implementing Section 75025, all of the
- 6 following shall apply:
- 7 (a) ~~A grantee of funds awarded pursuant to Section 75025 shall,~~
- 8 ~~where appropriate and cost-effective, take reasonable actions~~
- 9 ~~pursuant to the Comprehensive Environmental Response,~~
- 10 ~~Compensation, and Liability Act of 1980 (42 U.S.C. Secs. 9601~~
- 11 ~~et seq.) or other federal or state law to recover the costs of cleanup~~
- 12 ~~from the parties responsible for the contamination.~~

1 ~~(b)~~

2 (a) To the extent that the following projects are available, a
3 grantee of funds awarded pursuant to Section 75025 shall utilize
4 funds recovered from ~~a responsible party under subdivision (a)~~
5 *parties responsible for the contamination pursuant to the*
6 *Comprehensive Environmental Response, Compensation, and*
7 *Liability Act of 1980 (42 U.S.C. Secs. 9601, et seq.) or other federal*
8 *or state law* only for projects that meet both of the following
9 conditions:

10 (1) The total of the grant amount awarded to the grantee pursuant
11 to Section 75025 and the funds recovered from a responsible party
12 under *this* subdivision ~~(a)~~ do not exceed the grantee's total cost of
13 the project to clean up contaminated groundwater or prevent the
14 contamination of groundwater.

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

20 ~~(e)~~

21 (b) Funds recovered from a responsible party shall be utilized
22 by the grantee only for projects that meet the requirements of
23 subdivision ~~(b)~~ (a) and in the following priority order:

24 (1) Projects to clean up areas of groundwater contamination
25 within the grantee's jurisdiction where the initial grant awarded
26 pursuant to Section 75025 is insufficient to pay for the full costs
27 of the cleanup.

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

30 ~~(e)~~

31 (c) (1) Before expending funds recovered from a responsible
32 party on projects specified in subdivision ~~(e)~~ (b), the grantee shall
33 submit an expenditure plan to the Department of Toxic Substances
34 Control for its review and concurrence that the proposed
35 expenditures are consistent with subdivisions (a) and (b) ~~and (e)~~.

36 (2) Funds recovered from a responsible party by the grantee
37 that are in excess of the costs to conduct a project or projects
38 authorized under subdivision ~~(e)~~ (b) shall be remitted to the
39 Department of Toxic Substances Control for deposit into the Site
40 Remediation Account, established pursuant to Section 25337 of

1 the Health and Safety Code. Recovered funds deposited into the
 2 account shall be used by the Department of Toxic Substances
 3 Control for orphan groundwater contamination cleanup projects
 4 at sites that are on the list maintained by the Department of Toxic
 5 Substances Control pursuant to Section 25356 of the Health and
 6 Safety Code or on the National Priorities List pursuant to the
 7 Comprehensive Environmental Response, Compensation, and
 8 Liability Act of 1980 (42 U.S.C. Secs. 9601 et seq.), as amended.

9 ~~(e)~~

10 (d) Funds recovered from a responsible party by a grantee
 11 pursuant to subdivision (a) and used by the grantee for costs,
 12 including ~~capital~~ *capital* costs and operation and maintenance
 13 costs, of a project that complies with subdivisions (a) and (b) ~~and~~
 14 ~~(e)~~, are deemed to be repaid by the grantee to the state.

15 ~~(f)~~

16 (e) Commencing no later than July 1, 2014, and annually
 17 thereafter until the grantee’s funds are expended, a grantee of funds
 18 awarded pursuant to Section 75025 shall provide public notice, by
 19 posting a list on the grantee’s Internet Web site, of projects that
 20 meet the requirements of subdivisions (a) and (b) ~~and (e)~~ and the
 21 amount of funds recovered from a responsible party to be expended
 22 for the projects.

23 ~~(g)~~

24 (f) As used in this section, “funds recovered from a responsible
 25 party” means the amount of any judgment or settlement received
 26 by the grantee from a responsible party that is attributable to costs
 27 funded by the grant, less all reasonable and necessary fees and
 28 expenses incurred by the grantee to recover these funds.

29 SEC. 3. Section 75101.3 is added to the Public Resources Code,
 30 to read:

31 75101.3. For the purposes of implementing subdivision (a) of
 32 Section 75050, the Department of Fish and Wildlife, when
 33 funding a natural community conservation plan, shall fund only
 34 the development of a natural community conservation plan that is
 35 consistent with the Natural Community Conservation Planning
 36 Act (Chapter 10 (commencing with Section 2800) of Division 3
 37 of the Fish and Game Code).

38 SEC. 4. Section 75101.4 is added to the Public Resources Code,
 39 to read:

1 75101.4. The San Francisco Bay Area Conservancy may use
2 the funds made available pursuant to subdivision (c) of Section
3 75060 to restore the salt ponds in the south San Francisco Bay and
4 to create trails and visitor facilities for public use in that area.

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