

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1249**

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**Introduced by Assembly Member Salas**

February 22, 2013

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An act to amend Section ~~10910~~ of 10541 of, and to add Section 10545 to, the Water Code, relating to ~~public water systems~~ water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1249, as amended, Salas. ~~Public water systems: water supply assessments.~~ *Integrated regional water management plans: nitrate contamination.*

*Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters as Proposition 84 at the November 7, 2006, statewide general election, authorized the issuance of bonds in the amount of \$5,388,000,000 for the purposes of financing a safe drinking water, water quality and supply, flood control, and resource protection program. Existing law, with regard to those bond funds, makes available to the Department of Water Resources, \$1,000,000,000 for grants for projects that assist local public agencies to meet the long term water needs of the state including the delivery of safe drinking water and the protection of water quality and the environment. The act requires that eligible projects implement integrated regional water management plans that meet specified criteria and requires the department to give preference to certain proposals.*

*Existing law, the Integrated Regional Water Management Planning Act, authorizes a regional water management group, as defined, to prepare and adopt an integrated regional water management plan. The*

*act requires the Department of Water Resources to develop and adopt guidelines for the preparation of integrated regional water management plans used to apply for the above-described Proposition 84 funds.*

*This bill would require an integrated regional water management plan to include an explanation of how the plan addresses nitrate contamination, or an explanation of why the plan does not address nitrate contamination, if an area within the boundaries of the plan has been identified as a nitrate high-risk area by the State Water Resources Control Board.*

*The bill would require the department when selecting projects for the above-described funds to establish a preference for projects that implement integrated regional water management plans that address nitrate impacts in areas identified as nitrate high-risk areas.*

~~Existing law requires a city or county that determines a project is subject to the California Environmental Quality Act to identify any public water system that may supply water for the project and to request those public water systems to prepare a specified water supply assessment. If no public water system is identified, the city or county is required to prepare the water supply assessment.~~

~~This bill would make a technical, nonsubstantive change to this requirement.~~

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

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

1     SECTION 1. Section 10541 of the Water Code is amended to  
2     read:  
3     10541. (a) The department shall develop project solicitation  
4     and evaluation guidelines for the application of funds made  
5     available pursuant to Section 75026 of the Public Resources Code,  
6     to enable broad and diverse participation in integrated regional  
7     water management plan development and refinement.  
8     (b) The department shall conduct two public meetings to  
9     consider public comments prior to finalizing the guidelines. The  
10    department shall publish the draft solicitation and evaluation  
11    guidelines on its Internet Web site at least 30 days before the public  
12    meetings. One meeting shall be conducted at a location in northern  
13    California and one meeting shall be conducted at a location in  
14    southern California. Upon adoption, the department shall transmit

1 copies of the guidelines to the fiscal committees and the appropriate  
2 policy committees of the Legislature. To the extent feasible, each  
3 state agency shall provide outreach to disadvantaged communities  
4 to promote access to and participation in those meetings.

5 (c) The department shall consult with the board, the California  
6 regional water quality control boards, the State Department of  
7 Public Health, the Department of Fish and ~~Game~~ *Wildlife*, the  
8 California Bay-Delta Authority or its successor, and other state  
9 agencies with water management responsibility and authority in  
10 the development of the guidelines.

11 (d) The department may periodically review and update the  
12 guidelines to accommodate changes in funding sources, statutory  
13 requirements, new commonly accepted management practices,  
14 and changes in state water management policy. Any guideline  
15 changes shall be made with appropriate consultation with other  
16 state agencies and public review pursuant to subdivisions (b) and  
17 (c).

18 (e) The guidelines shall require that integrated regional water  
19 management plans include all of the following:

20 (1) Consideration of all of the resource management strategies  
21 identified in the California Water Plan, as updated by department  
22 Bulletin No. 160-2005 and future updates.

23 (2) Consideration of objectives in the appropriate basin plan or  
24 plans and strategies to meet applicable water quality standards.

25 (3) Description of the major water-related objectives and  
26 conflicts within a region.

27 (4) Measurable regional objectives and criteria for developing  
28 regional project priorities.

29 (5) An integrated, collaborative, multibenefit approach to  
30 selection and design of projects and programs.

31 (6) Identification and consideration of the water-related needs  
32 of disadvantaged communities in the area within the boundaries  
33 of the plan.

34 (7) Performance measures and monitoring to demonstrate  
35 progress toward meeting regional objectives.

36 (8) A plan for implementation and financing of identified  
37 projects and programs.

38 (9) Consideration of greenhouse gas emissions of identified  
39 programs and projects.

- 1 (10) Evaluation of the adaptability to climate change of water  
2 management systems in the region.
- 3 (11) Documentation of data and technical analyses used in the  
4 development of the plan.
- 5 (12) A process to disseminate data and information related to  
6 the development and implementation of the plan.
- 7 (13) A process to coordinate water management projects and  
8 activities of participating local agencies and local stakeholders to  
9 avoid conflicts and take advantage of efficiencies.
- 10 *(14) If an area within the boundaries of the plan has been*  
11 *identified as a nitrate high-risk area by the state board, the plan*  
12 *shall include an explanation of how the plan addresses the nitrate*  
13 *contamination or, if the plan does not address the nitrate*  
14 *contamination, an explanation of why the plan does not address*  
15 *the nitrate contamination.*
- 16 ~~(14)~~
- 17 (15) Any other matters identified by the department.
- 18 (f) The guidelines shall include standards for identifying a region  
19 for the purpose of developing or modifying an integrated regional  
20 water management plan. At a minimum, a region shall be a  
21 contiguous geographic area encompassing the service areas of  
22 multiple local agencies, and shall be defined to maximize  
23 opportunities for integration of water management activities. The  
24 department shall develop a process to approve the composition of  
25 a region for the purposes of Sections 75026, 75027, and 75028 of  
26 the Public Resources Code.
- 27 (g) The guidelines shall require that the development and  
28 implementation of an integrated regional water management plan  
29 include a public process that provides outreach and an opportunity  
30 to participate in plan development and implementation to  
31 appropriate local agencies and stakeholders, as applicable to the  
32 region, including all of the following:
- 33 (1) Wholesale and retail water purveyors, including a local  
34 agency, mutual water company, or a water corporation as defined  
35 in Section 241 of the Public Utilities Code.
- 36 (2) Wastewater agencies.
- 37 (3) Flood control agencies.
- 38 (4) Municipal and county governments and special districts.
- 39 (5) Electrical corporations, as defined in Section 218 of the  
40 Public Utilities Code.

1 (6) Native American tribes that have lands within the region.

2 (7) Self-supplied water users, including agricultural, industrial,  
3 residential, park districts, school districts, colleges and universities,  
4 and others.

5 (8) Environmental stewardship organizations, including  
6 watershed groups, fishing groups, land conservancies, and  
7 environmental groups.

8 (9) Community organizations, including landowner  
9 organizations, taxpayer groups, and recreational interests.

10 (10) Industry organizations representing agriculture, developers,  
11 and other industries appropriate to the region.

12 (11) State, federal, and regional agencies or universities, with  
13 specific responsibilities or knowledge within the region.

14 (12) Disadvantaged community members and representatives,  
15 including environmental justice organizations, neighborhood  
16 councils, and social justice organizations.

17 (13) Any other interested groups appropriate to the region.

18 (h) The guidelines shall require integrated regional water  
19 management plans to be developed through a collaborative process  
20 that makes public both of the following:

21 (1) The process by which decisions are made in consultation  
22 with the persons or entities identified in subdivision (g).

23 (2) The manner in which a balance of interested persons or  
24 entities representing different sectors and interests listed in  
25 subdivision (g) have been or will be engaged in the process  
26 described in this subdivision, regardless of their ability to contribute  
27 financially to the plan.

28 (i) The guidelines shall provide for a process for the  
29 development, periodic review, updating, and amending of  
30 integrated regional water management plans. The department shall  
31 establish eligibility requirements for the project funding, that  
32 provide sufficient time for the updating of plans as necessary to  
33 reflect changes in the guidelines.

34 *SEC. 2. Section 10545 is added to the Water Code, to read:*

35 *10545. When selecting projects pursuant to Section 75026 of*  
36 *the Public Resources Code, the department shall provide a*  
37 *preference for projects that implement integrated regional water*  
38 *management plans that address nitrate impacts in areas that have*  
39 *been identified by the state board as nitrate high-risk areas,*

1 *including projects that provide safe drinking water to small*  
2 *disadvantaged communities.*

3 SECTION 1. ~~Section 10910 of the Water Code is amended to~~  
4 ~~read:~~

5 10910. (a) ~~Any city or county that determines that a project,~~  
6 ~~as defined in Section 10912, is subject to the California~~  
7 ~~Environmental Quality Act (Division 13 (commencing with Section~~  
8 ~~21000) of the Public Resources Code) under Section 21080 of the~~  
9 ~~Public Resources Code shall comply with this part.~~

10 (b) ~~The city or county, at the time it determines whether an~~  
11 ~~environmental impact report, a negative declaration, or a mitigated~~  
12 ~~negative declaration is required for any project subject to the~~  
13 ~~California Environmental Quality Act pursuant to Section 21080.1~~  
14 ~~of the Public Resources Code, shall identify any water system that~~  
15 ~~is, or may become as a result of supplying water to the project~~  
16 ~~identified pursuant to this subdivision, a public water system, as~~  
17 ~~defined in Section 10912, that may supply water for the project.~~  
18 ~~If the city or county is not able to identify any public water system~~  
19 ~~that may supply water for the project, the city or county shall~~  
20 ~~prepare the water assessment required by this part after consulting~~  
21 ~~with any entity serving domestic water supplies whose service~~  
22 ~~area includes the project site, the local agency formation~~  
23 ~~commission, and any public water system adjacent to the project~~  
24 ~~site.~~

25 (c) (1) ~~The city or county, at the time it makes the determination~~  
26 ~~required under Section 21080.1 of the Public Resources Code,~~  
27 ~~shall request each public water system identified pursuant to~~  
28 ~~subdivision (b) to determine whether the projected water demand~~  
29 ~~associated with a proposed project was included as part of the most~~  
30 ~~recently adopted urban water management plan adopted pursuant~~  
31 ~~to Part 2.6 (commencing with Section 10610).~~

32 (2) ~~If the projected water demand associated with the proposed~~  
33 ~~project was accounted for in the most recently adopted urban water~~  
34 ~~management plan, the public water system may incorporate the~~  
35 ~~requested information from the urban water management plan in~~  
36 ~~preparing the elements of the assessment required to comply with~~  
37 ~~subdivisions (d), (e), (f), and (g).~~

38 (3) ~~If the projected water demand associated with the proposed~~  
39 ~~project was not accounted for in the most recently adopted urban~~  
40 ~~water management plan, or the public water system has no urban~~

1 water management plan, the water supply assessment for the project  
2 shall include a discussion with regard to whether the public water  
3 system's total projected water supplies available during normal,  
4 single dry, and multiple dry water years during a 20-year projection  
5 will meet the projected water demand associated with the proposed  
6 project, in addition to the public water system's existing and  
7 planned future uses, including agricultural and manufacturing uses.

8 ~~(4) If the city or county is required to comply with this part~~  
9 ~~pursuant to subdivision (b), the water supply assessment for the~~  
10 ~~project shall include a discussion with regard to whether the total~~  
11 ~~projected water supplies, determined to be available by the city or~~  
12 ~~county for the project during normal, single dry, and multiple dry~~  
13 ~~water years during a 20-year projection, will meet the projected~~  
14 ~~water demand associated with the proposed project, in addition to~~  
15 ~~existing and planned future uses, including agricultural and~~  
16 ~~manufacturing uses.~~

17 ~~(d) (1) The assessment required by this section shall include~~  
18 ~~an identification of any existing water supply entitlements, water~~  
19 ~~rights, or water service contracts relevant to the identified water~~  
20 ~~supply for the proposed project, and a description of the quantities~~  
21 ~~of water received in prior years by the public water system, or the~~  
22 ~~city or county if either is required to comply with this part pursuant~~  
23 ~~to subdivision (b), under the existing water supply entitlements,~~  
24 ~~water rights, or water service contracts.~~

25 ~~(2) An identification of existing water supply entitlements, water~~  
26 ~~rights, or water service contracts held by the public water system,~~  
27 ~~or the city or county if either is required to comply with this part~~  
28 ~~pursuant to subdivision (b), shall be demonstrated by providing~~  
29 ~~information related to all of the following:~~

30 ~~(A) Written contracts or other proof of entitlement to an~~  
31 ~~identified water supply.~~

32 ~~(B) Copies of a capital outlay program for financing the delivery~~  
33 ~~of a water supply that has been adopted by the public water system.~~

34 ~~(C) Federal, state, and local permits for construction of necessary~~  
35 ~~infrastructure associated with delivering the water supply.~~

36 ~~(D) Any necessary regulatory approvals that are required in~~  
37 ~~order to be able to convey or deliver the water supply.~~

38 ~~(e) If no water has been received in prior years by the public~~  
39 ~~water system, or the city or county if either is required to comply~~  
40 ~~with this part pursuant to subdivision (b), under the existing water~~

1 supply entitlements, water rights, or water service contracts, the  
2 public water system, or the city or county if either is required to  
3 comply with this part pursuant to subdivision (b), shall also include  
4 in its water supply assessment pursuant to subdivision (c), an  
5 identification of the other public water systems or water service  
6 contractholders that receive a water supply or have existing water  
7 supply entitlements, water rights, or water service contracts, to the  
8 same source of water as the public water system, or the city or  
9 county if either is required to comply with this part pursuant to  
10 subdivision (b), has identified as a source of water supply within  
11 its water supply assessments.

12 (f) If a water supply for a proposed project includes  
13 groundwater, the following additional information shall be included  
14 in the water supply assessment:

15 (1) A review of any information contained in the urban water  
16 management plan relevant to the identified water supply for the  
17 proposed project.

18 (2) A description of any groundwater basin or basins from which  
19 the proposed project will be supplied. For those basins for which  
20 a court or the board has adjudicated the rights to pump  
21 groundwater, a copy of the order or decree adopted by the court  
22 or the board and a description of the amount of groundwater the  
23 public water system, or the city or county if either is required to  
24 comply with this part pursuant to subdivision (b), has the legal  
25 right to pump under the order or decree. For basins that have not  
26 been adjudicated, information as to whether the department has  
27 identified the basin or basins as overdrafted or has projected that  
28 the basin will become overdrafted if present management  
29 conditions continue, in the most current bulletin of the department  
30 that characterizes the condition of the groundwater basin, and a  
31 detailed description by the public water system, or the city or  
32 county if either is required to comply with this part pursuant to  
33 subdivision (b), of the efforts being undertaken in the basin or  
34 basins to eliminate the long-term overdraft condition.

35 (3) A detailed description and analysis of the amount and  
36 location of groundwater pumped by the public water system, or  
37 the city or county if either is required to comply with this part  
38 pursuant to subdivision (b), for the past five years from any  
39 groundwater basin from which the proposed project will be  
40 supplied. The description and analysis shall be based on

1 information that is reasonably available, including, but not limited  
2 to, historic use records.

3 ~~(4) A detailed description and analysis of the amount and~~  
4 ~~location of groundwater that is projected to be pumped by the~~  
5 ~~public water system, or the city or county if either is required to~~  
6 ~~comply with this part pursuant to subdivision (b), from any basin~~  
7 ~~from which the proposed project will be supplied. The description~~  
8 ~~and analysis shall be based on information that is reasonably~~  
9 ~~available, including, but not limited to, historic use records.~~

10 ~~(5) An analysis of the sufficiency of the groundwater from the~~  
11 ~~basin or basins from which the proposed project will be supplied~~  
12 ~~to meet the projected water demand associated with the proposed~~  
13 ~~project. A water supply assessment shall not be required to include~~  
14 ~~the information required by this paragraph if the public water~~  
15 ~~system determines, as part of the review required by paragraph~~  
16 ~~(1), that the sufficiency of groundwater necessary to meet the initial~~  
17 ~~and projected water demand associated with the project was~~  
18 ~~addressed in the description and analysis required by paragraph~~  
19 ~~(4) of subdivision (b) of Section 10631.~~

20 ~~(g) (1) Subject to paragraph (2), the governing body of each~~  
21 ~~public water system shall submit the assessment to the city or~~  
22 ~~county not later than 90 days from the date on which the request~~  
23 ~~was received. The governing body of each public water system,~~  
24 ~~or the city or county if either is required to comply with this act~~  
25 ~~pursuant to subdivision (b), shall approve the assessment prepared~~  
26 ~~pursuant to this section at a regular or special meeting.~~

27 ~~(2) Prior to the expiration of the 90-day period, if the public~~  
28 ~~water system intends to request an extension of time to prepare~~  
29 ~~and adopt the assessment, the public water system shall meet with~~  
30 ~~the city or county to request an extension of time, which shall not~~  
31 ~~exceed 30 days, to prepare and adopt the assessment.~~

32 ~~(3) If the public water system fails to request an extension of~~  
33 ~~time, or fails to submit the assessment notwithstanding the~~  
34 ~~extension of time granted pursuant to paragraph (2), the city or~~  
35 ~~county may seek a writ of mandamus to compel the governing~~  
36 ~~body of the public water system to comply with the requirements~~  
37 ~~of this part relating to the submission of the water supply~~  
38 ~~assessment.~~

39 ~~(h) Notwithstanding any other provision of this part, if a project~~  
40 ~~has been the subject of a water supply assessment that complies~~

1 with the requirements of this part, no additional water supply  
2 assessment shall be required for subsequent projects that were part  
3 of a larger project for which a water supply assessment was  
4 completed and that has complied with the requirements of this part  
5 and for which the public water system, or the city or county if  
6 either is required to comply with this part pursuant to subdivision  
7 (b), has concluded that its water supplies are sufficient to meet the  
8 projected water demand associated with the proposed project, in  
9 addition to the existing and planned future uses, including, but not  
10 limited to, agricultural and industrial uses, unless one or more of  
11 the following changes occurs:

12 (1) Changes in the project that result in a substantial increase  
13 in water demand for the project.

14 (2) Changes in the circumstances or conditions substantially  
15 affecting the ability of the public water system, or the city or county  
16 if either is required to comply with this part pursuant to subdivision  
17 (b), to provide a sufficient supply of water for the project.

18 (3) Significant new information becomes available which was  
19 not known and could not have been known at the time when the  
20 assessment was prepared.