

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 9, 2013

**SENATE BILL**

**No. 322**

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**Introduced by Senator Hueso**

February 19, 2013

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An act to amend Sections ~~13560, 13561, 13562,~~ 13563, ~~13563.5,~~ 13564, and 13565 of, and to add Section 13570 to, the Water Code, relating to water recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 322, as amended, Hueso. Water recycling.

(1) Existing law establishes the State Water Resources Control Board, *referred to as the state board*, and the California regional water quality control boards, *referred to as regional boards*, as the principal state agencies with authority over matters relating to water quality. ~~Existing law requires the State Department of Public Health to adopt uniform water recycling criteria for indirect potable water reuse for groundwater recharge, as defined, by December 31, 2013. Existing law requires the department to develop and adopt uniform water recycling criteria for surface water augmentation, as defined, by December 31, 2016, if a specified expert panel finds that the criteria would adequately protect public health. Existing law requires the department~~ *State Department of Public Health* to investigate the feasibility of developing uniform water recycling criteria for direct potable reuse, as defined, and to provide a final report on that investigation to the Legislature not later than December 31, 2016. Existing law also requires the department to complete a public review draft of its report by June 30, 2016. ~~Existing law requires the department, in consultation with the State Water Resources Control Board, to report to the Legislature from 2011 to~~

~~2016, inclusive, as part of the annual budget process, on the progress toward developing and adopting the water recycling criteria for surface water augmentation and its investigation of the feasibility of developing water recycling criteria for direct potable reuse.~~

~~This bill would require the State Department of Public Health to develop and adopt uniform water recycling criteria for reservoir augmentation, as defined, by December 31, 2016, if a specified expert panel finds that the criteria would adequately protect public health. This bill would require the department, *in consultation with the state board*, to investigate the feasibility of developing uniform water recycling criteria for raw water augmentation, as defined, or direct potable reuse and to provide a final report on that investigation to the Legislature not later than December 31, 2016. This bill would also require the department to complete the public review draft of its report by September 1, 2016. This bill would require the department, in consultation with the State Water Resources Control Board, to report to the Legislature from 2011 to 2016, inclusive, as part of the annual budget process, on the progress toward developing and adopting the uniform water recycling criteria for reservoir augmentation and its investigation of the feasibility of developing uniform water recycling criteria for raw water augmentation or direct potable reuse.~~

(2) Existing law requires an expert panel, as described above, *panel* to be convened and administered by the department and requires the expert panel to be comprised of, at a minimum, an epidemiologist, a microbiologist, and a chemist, among others. Existing law authorizes the department to appoint an advisory group, task force, or other group, comprised of no fewer than 9 representatives of specified entities to advise the department regarding the development of uniform water recycling criteria for direct potable reuse.

This bill would instead require, no later than January 30, 2014, the National Water Research Institute to convene and administer the expert panel. The bill would require the expert panel, in addition to its existing responsibilities, to assess any additional areas of research that are needed to be able to establish uniform regulatory criteria for direct potable reuse and recommend an approach for accomplishing any of the additional needed research in a timely manner. The bill would also require the expert panel to include a limnologist. The bill would authorize the National Water Research Institute to appoint an advisory group, task force, or other group, and would expand the list of specified entities from which the representatives could be selected to include the

department, the ~~State Water Resources Control Board~~ *state board*, and the United States Environmental Protection Agency. The bill would also provide that, on or before June 30, 2016, the National Water Research Institute shall submit a draft report to the department summarizing the recommendations of the expert panel. The bill would authorize the expert panel, advisory panel, and report to be directly funded through nonstate donations, and would require the department to provide staff for specified activities and to use state funds for those activities to the extent state funds are available. The bill would also authorize the department to accept funds from any source and use those funds for certain purposes.

~~(3) The bill would make other technical, conforming changes to various provisions.~~

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 13560 of the Water Code is amended to~~  
2 ~~read:~~

3 13560. ~~The Legislature finds and declares the following:~~

4 (a) ~~In February 2009, the state board unanimously adopted, as~~  
5 ~~Resolution No. 2009-0011, an updated water recycling policy,~~  
6 ~~which includes the goal of increasing the use of recycled water in~~  
7 ~~the state over 2002 levels by at least 1,000,000 acre-feet per year~~  
8 ~~by 2020 and by at least 2,000,000 acre-feet per year by 2030.~~

9 (b) ~~Section 13521 requires the department to establish uniform~~  
10 ~~statewide recycling criteria for each varying type of use of recycled~~  
11 ~~water where the use involves the protection of public health.~~

12 (c) ~~The use of recycled water for indirect potable reuse is critical~~  
13 ~~to achieving the state board's goals for increased use of recycled~~  
14 ~~water in the state. If direct potable reuse can be demonstrated to~~  
15 ~~be safe and feasible, implementing direct potable reuse would~~  
16 ~~further aid in achieving the state board's recycling goals.~~

17 (d) ~~Although there has been much scientific research on public~~  
18 ~~health issues associated with indirect potable reuse through~~  
19 ~~groundwater recharge, there are a number of significant unanswered~~  
20 ~~questions regarding indirect potable reuse, reservoir water~~  
21 ~~augmentation, and direct potable reuse.~~

1 ~~(e) Achievement of the state's goals depends on the timely~~  
2 ~~development of uniform statewide recycling criteria for indirect~~  
3 ~~and direct potable water reuse.~~

4 ~~(f) This chapter is not intended to delay, invalidate, or reverse~~  
5 ~~any study or project, or development of regulations by the~~  
6 ~~department, the state board, or the regional boards regarding the~~  
7 ~~use of recycled water for indirect potable reuse for groundwater~~  
8 ~~recharge, surface water augmentation, or direct potable reuse.~~

9 ~~(g) This chapter shall not be construed to delay, invalidate, or~~  
10 ~~reverse the department's ongoing review of projects consistent~~  
11 ~~with Section 116551 of the Health and Safety Code.~~

12 ~~SEC. 2. Section 13561 of the Water Code is amended to read:~~

13 ~~13561. For purposes of this chapter, the following terms have~~  
14 ~~the following meanings:~~

15 ~~(a) "Advanced treated purified water" means water of~~  
16 ~~wastewater origin treated by reverse osmosis, advanced oxidation,~~  
17 ~~and disinfection, or alternative treatment methods providing at~~  
18 ~~least the same level of public health protection as the processes~~  
19 ~~described above, as determined by the department.~~

20 ~~(b) "Department" means the State Department of Public Health.~~

21 ~~(c) "Direct potable reuse" means the planned introduction of~~  
22 ~~advanced treated purified water for raw or treated water~~  
23 ~~augmentation that includes engineered reliability features as~~  
24 ~~approved by the department.~~

25 ~~(d) "Indirect potable reuse for groundwater recharge" means~~  
26 ~~the planned use of recycled water for replenishment of a~~  
27 ~~groundwater basin or an aquifer that has been designated as a~~  
28 ~~source of water supply for a public water system, as defined in~~  
29 ~~Section 116275 of the Health and Safety Code.~~

30 ~~(e) "Raw water" means surface water or groundwater that has~~  
31 ~~not been treated for potable purposes.~~

32 ~~(f) "Raw water augmentation" means the planned introduction~~  
33 ~~of advanced treated purified water into the raw water supply~~  
34 ~~immediately upstream of a treatment plant for a public water~~  
35 ~~system, as defined in Section 116275 of the Health and Safety~~  
36 ~~Code.~~

37 ~~(g) "Reservoir augmentation" means the planned placement of~~  
38 ~~advanced treated purified water into a surface water reservoir used~~  
39 ~~as a source of domestic drinking water supply.~~

1 ~~(h) “Treated water augmentation” means the planned~~  
2 ~~introduction of advanced treated purified water into the treated~~  
3 ~~water supply for a public water system as defined in Section~~  
4 ~~116275 of the Health and Safety Code.~~

5 ~~(i) “Uniform water recycling criteria” has the same meaning as~~  
6 ~~in Section 13521.~~

7 ~~SEC. 3. Section 13562 of the Water Code is amended to read:~~  
8 ~~13562. (a) (1) On or before December 31, 2013, the~~  
9 ~~department shall adopt uniform water recycling criteria for indirect~~  
10 ~~potable reuse for groundwater recharge.~~

11 ~~(2) (A) Except as provided in subparagraph (C), on or before~~  
12 ~~December 31, 2016, the department shall develop and adopt~~  
13 ~~uniform water recycling criteria for reservoir augmentation.~~

14 ~~(B) Prior to adopting uniform water recycling criteria for~~  
15 ~~reservoir augmentation, the department shall submit the proposed~~  
16 ~~criteria to the expert panel convened pursuant to subdivision (a)~~  
17 ~~of Section 13565. The expert panel shall review the proposed~~  
18 ~~criteria and shall adopt a finding as to whether, in its expert~~  
19 ~~opinion, the proposed criteria would adequately protect public~~  
20 ~~health.~~

21 ~~(C) The department shall not adopt uniform water recycling~~  
22 ~~criteria for reservoir augmentation pursuant to subparagraph (A),~~  
23 ~~unless and until the expert panel adopts a finding that the proposed~~  
24 ~~criteria would adequately protect public health.~~

25 ~~(b) Adoption of uniform water recycling criteria by the~~  
26 ~~department is subject to the requirements of Chapter 3.5~~  
27 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~  
28 ~~2 of the Government Code.~~

29 ~~SEC. 4.~~

30 ~~SECTION 1. Section 13563 of the Water Code is amended to~~  
31 ~~read:~~

32 ~~13563. (a) (1) Not later than December 31, 2016, the~~  
33 ~~department, in consultation with the state board, shall investigate~~  
34 ~~and report to the Legislature on the feasibility of developing~~  
35 ~~uniform water recycling criteria for raw water augmentation or~~  
36 ~~direct potable reuse.~~

37 ~~(2) The department shall complete a public review draft of its~~  
38 ~~report by September 1, 2016. The department shall provide the~~  
39 ~~public not less than 45 days to review and comment on the public~~  
40 ~~review draft.~~

1 (3) The department shall provide a final report to the Legislature  
2 by December 31, 2016. The department shall make the final report  
3 available to the public.

4 (b) In conducting the investigation pursuant to subdivision (a),  
5 the department shall examine all of the following:

6 (1) The availability and reliability of recycled water treatment  
7 technologies necessary to ensure the protection of public health.

8 (2) Multiple barriers and sequential treatment processes that  
9 may be appropriate at wastewater and water treatment facilities.

10 (3) Available information on health effects.

11 (4) Mechanisms that should be employed to protect public health  
12 if problems are found in recycled water that is being served to the  
13 public as a potable water supply, including, but not limited to, the  
14 failure of treatment systems at the recycled water treatment facility.

15 (5) Monitoring needed to ensure protection of public health,  
16 including, but not limited to, the identification of appropriate  
17 indicator and surrogate constituents.

18 (6) Any other scientific or technical issues that may be  
19 necessary, including, but not limited to, the need for additional  
20 research.

21 (c) (1) Notwithstanding Section 10231.5 of the Government  
22 Code, the requirement for submitting a report imposed under  
23 paragraph (3) of subdivision (a) is inoperative on December 31,  
24 2020.

25 (2) A report to be submitted pursuant to paragraph (3) of  
26 subdivision (a) shall be submitted in compliance with Section 9795  
27 of the Government Code.

28 ~~SEC. 5. Section 13563.5 of the Water Code is amended to read:~~

29 ~~13563.5. (a) The department, in consultation with the state~~  
30 ~~board, shall report to the Legislature as part of the annual budget~~  
31 ~~process, in each year from 2011 to 2016, inclusive, on the progress~~  
32 ~~towards developing and adopting uniform water recycling criteria~~  
33 ~~for reservoir augmentation and its investigation of the feasibility~~  
34 ~~of developing uniform water recycling criteria for raw water~~  
35 ~~augmentation or direct potable reuse.~~

36 ~~(b) (1) A written report submitted pursuant to subdivision (a)~~  
37 ~~shall be submitted in compliance with Section 9795 of the~~  
38 ~~Government Code.~~

39 ~~(2) Pursuant to Section 10231.5 of the Government Code, this~~  
40 ~~section is repealed on January 1, 2017.~~

1 ~~SEC. 6.~~

2 *SEC. 2.* Section 13564 of the Water Code is amended to read:  
3 13564. In developing uniform water recycling criteria for  
4 ~~reservoir~~ *surface water* augmentation, the department shall consider  
5 all of the following:

6 (a) The final report from the National Water Research Institute  
7 Independent Advisory Panel for the City of San Diego Indirect  
8 Potable Reuse/Reservoir Augmentation (IPR/RA) Demonstration  
9 Project.

10 (b) Monitoring results of research and studies regarding ~~reservoir~~  
11 *surface water* augmentation.

12 (c) Results of demonstration studies conducted for purposes of  
13 approval of projects using ~~reservoir~~ *surface water* augmentation.

14 (d) Epidemiological studies and risk assessments associated  
15 with projects using ~~reservoir~~ *surface water* augmentation.

16 (e) Applicability of the advanced treatment technologies required  
17 for recycled water projects, including, but not limited to, indirect  
18 potable reuse for groundwater recharge projects.

19 (f) Water quality, limnology, and health risk assessments  
20 associated with existing potable water supplies subject to  
21 discharges from municipal wastewater, stormwater, and agricultural  
22 runoff.

23 (g) Recommendations of the State of California Constituents  
24 of Emerging Concern Recycled Water Policy Science Advisory  
25 Panel.

26 (h) State funded research pursuant to Section 79144 and  
27 subdivision (b) of Section 79145.

28 (i) Research and recommendations from the United States  
29 Environmental Protection Agency Guidelines for Water Reuse.

30 (j) The National Research Council of the National Academies’  
31 report titled “Water Reuse: Potential for Expanding the Nation’s  
32 Water Supply Through Reuse of Municipal Wastewater.”

33 (k) Other relevant research and studies regarding indirect potable  
34 reuse of recycled water.

35 ~~SEC. 7.~~

36 *SEC. 3.* Section 13565 of the Water Code is amended to read:  
37 13565. (a) (1) Not later than January 30, 2014, the National  
38 Water Research Institute shall convene and administer an expert  
39 panel for purposes of advising the department on public health  
40 issues and scientific and technical matters regarding development

1 of uniform water recycling criteria for indirect potable reuse  
2 through ~~reservoir~~ *surface water* augmentation and investigation  
3 of the feasibility of developing uniform water recycling criteria  
4 for direct potable reuse. The expert panel shall assess what, if any,  
5 additional areas of research are needed to be able to establish  
6 uniform regulatory criteria for direct potable reuse. The expert  
7 panel shall then recommend an approach for accomplishing any  
8 additional needed research in a timely manner.

9 (2) The expert panel shall be comprised, at a minimum, of a  
10 toxicologist, an engineer licensed in the state with at least three  
11 years' experience in wastewater treatment, an engineer licensed  
12 in the state with at least three years' experience in treatment of  
13 drinking water supplies and knowledge of drinking water standards,  
14 an epidemiologist, a limnologist, a microbiologist, and a chemist.  
15 The department, in consultation with the National Water Research  
16 Institute and the state board, shall select the expert panel members.

17 (3) Members of the expert panel may be reimbursed for  
18 reasonable and necessary travel expenses.

19 (b) (1) The National Water Research Institute may convene an  
20 advisory group, task force, or other group, comprised of no fewer  
21 than nine representatives of water and wastewater agencies, local  
22 public health officers, environmental organizations, environmental  
23 justice organizations, public health nongovernmental organizations,  
24 the department, the state board, the United States Environmental  
25 Protection Agency, and the business community, to advise the  
26 National Water Research Institute expert panel regarding the  
27 development of uniform water recycling criteria for direct potable  
28 reuse. The department, in consultation with the National Water  
29 Research Institute and the state board, shall select the advisory  
30 group members.

31 (2) Environmental, environmental justice, and public health  
32 nongovernmental organization representative members of the  
33 advisory group, task force, or other group may be reimbursed for  
34 reasonable and necessary travel expenses.

35 (c) On or before June 30, 2016, the National Water Research  
36 Institute shall submit a draft report to the department summarizing  
37 the recommendations of the expert panel.

38 ~~SEC. 8.~~

39 *SEC. 4.* Section 13570 is added to the Water Code, to read:



1 13570. The National Water Research Institute expert panel,  
2 advisory group, and report may be directly funded through nonstate  
3 donations. The department shall provide staff to select panel  
4 members, participate in the advisory group, provide input to the  
5 National Water Research Institute expert panel, and provide input  
6 on ongoing research projects that will form the basis of  
7 recommendations of the National Water Research Institute expert  
8 panel. To the extent that state funds are available, the department  
9 shall use state funds for staff time, the expert panel, and the report.  
10 The department may accept funds from any source and may expend  
11 these funds for purposes of completing its responsibilities under  
12 this chapter.

O