

**ASSEMBLY BILL**

**No. 2335**

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**Introduced by Assembly Member Beth Gaines**

February 18, 2016

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An act to amend Section 13260 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2335, as introduced, Beth Gaines. Waste discharge reports.

Under existing law, the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with responsibility for the coordination and control of water quality in the state. The act, with certain exceptions, requires a waste discharger to file certain information with the appropriate regional board and to pay an annual fee.

This bill would make nonsubstantive changes to these provisions.

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

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

- 1 SECTION 1. Section 13260 of the Water Code is amended to
- 2 read:
- 3 13260. (a) Each of the following persons shall file with the
- 4 appropriate regional board a report of the discharge, containing
- 5 the information that may be required by the regional board:

1 (1) A person discharging waste, or proposing to discharge waste,  
2 within any region that could affect the quality of the waters of the  
3 state, other than into a community sewer system.

4 (2) A person who is a citizen, domiciliary, or political agency  
5 or entity of this state discharging waste, or proposing to discharge  
6 waste, outside the boundaries of the state in a manner that could  
7 affect the quality of the waters of the state within any region.

8 (3) A person operating, or proposing to construct, an injection  
9 well.

10 (b) ~~No~~ A report of waste discharge ~~need is not required to be~~  
11 filed pursuant to subdivision (a) if the requirement is waived  
12 pursuant to Section 13269.

13 (c) Each person subject to subdivision (a) shall file with the  
14 appropriate regional board a report of waste discharge relative to  
15 any material change or proposed change in the character, location,  
16 or volume of the discharge.

17 (d) (1) (A) Each person who is subject to subdivision (a) or  
18 (c) shall submit an annual fee according to a fee schedule  
19 established by the state board.

20 (B) The total amount of annual fees collected pursuant to this  
21 section shall equal that amount necessary to recover costs incurred  
22 in connection with the issuance, administration, reviewing,  
23 monitoring, and enforcement of waste discharge requirements and  
24 waivers of waste discharge requirements.

25 (C) Recoverable costs may include, but are not limited to, costs  
26 incurred in reviewing waste discharge reports, prescribing terms  
27 of waste discharge requirements and monitoring requirements,  
28 enforcing and evaluating compliance with waste discharge  
29 requirements and waiver requirements, conducting surface water  
30 and groundwater monitoring and modeling, analyzing laboratory  
31 samples, adopting, reviewing, and revising water quality control  
32 plans and state policies for water quality control, and reviewing  
33 documents prepared for the purpose of regulating the discharge of  
34 waste, and administrative costs incurred in connection with  
35 carrying out these actions.

36 (D) In establishing the amount of a fee that may be imposed on  
37 a confined animal feeding and holding operation pursuant to this  
38 section, including, but not limited to, a dairy farm, the state board  
39 shall consider all of the following factors:

40 (i) The size of the operation.

1 (ii) Whether the operation has been issued a permit to operate  
2 pursuant to Section 1342 of Title 33 of the United States Code.

3 (iii) Any applicable waste discharge requirement or conditional  
4 waiver of a waste discharge requirement.

5 (iv) The type and amount of discharge from the operation.

6 (v) The pricing mechanism of the commodity produced.

7 (vi) Any compliance costs borne by the operation pursuant to  
8 state and federal water quality regulations.

9 (vii) Whether the operation participates in a quality assurance  
10 program certified by a regional water quality control board, the  
11 state board, or a federal water quality control agency.

12 (2) (A) Subject to subparagraph (B), the fees collected pursuant  
13 to this section shall be deposited in the Waste Discharge Permit  
14 Fund, which is hereby created. The money in the fund is available  
15 for expenditure by the state board, upon appropriation by the  
16 Legislature, solely for the purposes of carrying out this division.

17 (B) (i) Notwithstanding subparagraph (A), the fees collected  
18 pursuant to this section from stormwater dischargers that are  
19 subject to a general industrial or construction stormwater permit  
20 under the national pollutant discharge elimination system (NPDES)  
21 shall be separately accounted for in the Waste Discharge Permit  
22 Fund.

23 (ii) Not less than 50 percent of the money in the Waste  
24 Discharge Permit Fund that is separately accounted for pursuant  
25 to clause (i) is available, upon appropriation by the Legislature,  
26 for expenditure by the regional board with jurisdiction over the  
27 permitted industry or construction site that generated the fee to  
28 carry out stormwater programs in the region.

29 (iii) Each regional board that receives money pursuant to clause  
30 (ii) shall spend not less than 50 percent of that money solely on  
31 stormwater inspection and regulatory compliance issues associated  
32 with industrial and construction stormwater programs.

33 (3) A person who would be required to pay the annual fee  
34 prescribed by paragraph (1) for waste discharge requirements  
35 applicable to discharges of solid waste, as defined in Section 40191  
36 of the Public Resources Code, at a waste management unit that is  
37 also regulated under Division 30 (commencing with Section 40000)  
38 of the Public Resources Code, shall be entitled to a waiver of the  
39 annual fee for the discharge of solid waste at the waste management  
40 unit imposed by paragraph (1) upon verification by the state board

1 of payment of the fee imposed by Section 48000 of the Public  
2 Resources Code, and provided that the fee established pursuant to  
3 Section 48000 of the Public Resources Code generates revenues  
4 sufficient to fund the programs specified in Section 48004 of the  
5 Public Resources Code and the amount appropriated by the  
6 Legislature for those purposes is not reduced.

7 (e) Each person that discharges waste in a manner regulated by  
8 this section shall pay an annual fee to the state board. The state  
9 board shall establish, by regulation, a timetable for the payment  
10 of the annual fee. If the state board or a regional board determines  
11 that the discharge will not affect, or have the potential to affect,  
12 the quality of the waters of the state, all or part of the annual fee  
13 shall be refunded.

14 (f) (1) The state board shall adopt, by emergency regulations,  
15 a schedule of fees authorized under subdivision (d). The total  
16 revenue collected each year through annual fees shall be set at an  
17 amount equal to the revenue levels set forth in the Budget Act for  
18 this activity. The state board shall automatically adjust the annual  
19 fees each fiscal year to conform with the revenue levels set forth  
20 in the Budget Act for this activity. If the state board determines  
21 that the revenue collected during the preceding year was greater  
22 than, or less than, the revenue levels set forth in the Budget Act,  
23 the state board may further adjust the annual fees to compensate  
24 for the over and under collection of revenue.

25 (2) The emergency regulations adopted pursuant to this  
26 subdivision, any amendment thereto, or subsequent adjustments  
27 to the annual fees, shall be adopted by the state board in accordance  
28 with Chapter 3.5 (commencing with Section 11340) of Part 1 of  
29 Division 3 of Title 2 of the Government Code. The adoption of  
30 these regulations is an emergency and shall be considered by the  
31 Office of Administrative Law as necessary for the immediate  
32 preservation of the public peace, health, safety, and general welfare.  
33 Notwithstanding Chapter 3.5 (commencing with Section 11340)  
34 of Part 1 of Division 3 of Title 2 of the Government Code, any  
35 emergency regulations adopted by the state board, or adjustments  
36 to the annual fees made by the state board pursuant to this section,  
37 shall not be subject to review by the Office of Administrative Law  
38 and shall remain in effect until revised by the state board.

39 (g) The state board shall adopt regulations setting forth  
40 reasonable time limits within which the regional board shall

1 determine the adequacy of a report of waste discharge submitted  
2 under this section.

3 (h) Each report submitted under this section shall be sworn to,  
4 or submitted under penalty of perjury.

5 (i) The regulations adopted by the state board pursuant to  
6 subdivision (f) shall include a provision that annual fees shall not  
7 be imposed on those who pay fees under the national pollutant  
8 discharge elimination system until the time when those fees are  
9 again due, at which time the fees shall become due on an annual  
10 basis.

11 (j) A person operating or proposing to construct an oil, gas, or  
12 geothermal injection well subject to paragraph (3) of subdivision  
13 (a) shall not be required to pay a fee pursuant to subdivision (d) if  
14 the injection well is regulated by the Division of ~~Oil and Gas~~ *Oil,*  
15 *Gas, and Geothermal Resources* of the Department of  
16 Conservation, in lieu of the appropriate California regional water  
17 quality control board, pursuant to the memorandum of  
18 understanding, entered into between the state board and the  
19 Department of Conservation on May 19, 1988. This subdivision  
20 shall remain operative until the memorandum of understanding is  
21 revoked by the state board or the Department of Conservation.

22 (k) In addition to the report required by subdivision (a), before  
23 a person discharges mining waste, the person shall first submit  
24 both of the following to the regional board:

25 (1) A report on the physical and chemical characteristics of the  
26 waste that could affect its potential to cause pollution or  
27 contamination. The report shall include the results of all tests  
28 required by regulations adopted by the board, any test adopted by  
29 the Department of Toxic Substances Control pursuant to Section  
30 25141 of the Health and Safety Code for extractable, persistent,  
31 and bioaccumulative toxic substances in a waste or other material,  
32 and any other tests that the state board or regional board may  
33 require, including, but not limited to, tests needed to determine  
34 the acid-generating potential of the mining waste or the extent to  
35 which hazardous substances may persist in the waste after disposal.

36 (2) A report that evaluates the potential of the discharge of the  
37 mining waste to produce, over the long term, acid mine drainage,  
38 the discharge or leaching of heavy metals, or the release of other  
39 hazardous substances.

1     *(l)* Except upon ~~the~~ *a* written request of the regional board, a  
2     report of waste discharge need not be filed pursuant to subdivision  
3     (a) or (c) by a user of recycled water that is being supplied by a  
4     supplier or distributor of recycled water for whom a master  
5     recycling permit has been issued pursuant to Section 13523.1.