An act to add and repeal Section 116431 of the Health and Safety Code, relating to drinking water, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 385, as introduced, Hueso. Primary drinking water standards: variances: hexavalent chromium.

The California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board various duties and responsibilities for the regulation and control of drinking water in the State of California. The act requires the state board to adopt primary drinking water standards for contaminants in drinking water based upon specified criteria, and required a primary drinking water standard to be established for hexavalent chromium by January 1, 2004. Existing law authorizes the state board to grant a variance from primary drinking water standards to a public water system. Existing law makes certain violations of the act a crime.

This bill would authorize, until January 1, 2020, the state board, at the request of a public water system, to grant a variance from the primary drinking water standard for hexavalent chromium if the public water system prepares and submits a compliance plan, the state board approves the compliance plan, the public water system provides specified notice requirements regarding the compliance plan to its customers, and the public water system sends annual reports to the state board that updates
the status of the approved compliance plan. The bill would require the compliance plan to describe the actions the public water system is taking and will take to comply with the primary drinking water standard for hexavalent chromium by the earliest feasible date, include the public water system’s best estimate of the funding required for compliance, and the actions the public water system will take to secure funding.

The bill would authorize the state board to direct revisions to the compliance plan or previously approved compliance plan, if the board makes certain determinations and would make a variance ineffective under certain circumstances, including if the public water system does not submit a revised compliance plan or the revised compliance plan is disapproved. The bill would authorize the state board to adopt emergency regulations to implement these provisions, to be in effect for no more than 2 years. To the extent that a public water system, when requesting a variance or submitting a report pursuant to these provisions, would violate certain provisions of the act, this bill would expand the scope of a crime and impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.


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

SECTION 1. Section 116431 is added to the Health and Safety Code, to read:

(a) At the request of any public water system, the state board may grant a variance from the primary drinking water standard for hexavalent chromium, if all of the following conditions are met:

(1) (A) The public water system has prepared and submitted a compliance plan, as described in subparagraph (B), to the state board for approval.

(B) The compliance plan shall describe the actions the public water system is taking and will take by milestone dates to comply
with the primary drinking water standard for hexavalent chromium
by the earliest feasible date. The actions may include, but are not
limited to, planning, designing, permitting, financing, constructing,
testing, and activating treatment facilities or other capital
improvements. The compliance plan shall include the public water
system’s best estimate of the funding required for compliance and
the actions that the public water system will take to secure the
funding. In no event shall the earliest feasible date exceed five
years from the date on which compliance otherwise would be
required.

(2) The state board has reviewed the compliance plan, identified
any changes needed to ensure compliance with the primary
drinking water standard for hexavalent chromium by the earliest
feasible date, and approved the plan. The state board shall ensure
that the public water system has reviewed available funding
sources, cleanup and treatment technologies, and other options to
achieve and maintain compliance of the primary drinking water
standard by the earliest feasible date.

(3) The public water system provides written notice regarding
the compliance plan to its customers at least two times per year.
The written notice shall meet the translation requirements provided
in subdivision (h) of Section 116450 and shall include notice of
all of the following:

(A) That the public water system is implementing the
compliance plan that has been approved by the state board and
that demonstrates the public water system is taking the needed
feasible actions to comply with the primary drinking water standard
for hexavalent chromium. The notice shall summarize those actions
in a form and manner determined by the state board. For notices
after the initial notice, the public water system shall update
information demonstrating progress implementing the compliance
plan.

(B) That the public water system’s customers have an alternative
to consuming tap water and that the public water system can
provide information on that alternative. The notice shall identify
where the customer can obtain that information.

(4) Every 12 months following the state board’s approval of the
compliance plan, the public water system shall submit a written
report to the state board, for the state board’s approval, that updates
the status of actions specified in the state board-approved
compliance plan and that specifies any changes to the compliance plan that are needed to achieve compliance with the primary drinking water standard for hexavalent chromium by the earliest feasible date. Approval of a report with changes to the compliance plan shall result in an approved revised compliance plan.

(b) A public water system that has requested, or has been granted, a variance pursuant to this section shall not be deemed in violation of the primary drinking water standard for hexavalent chromium while the request for a variance is pending or while the variance is in effect.

(c) At any time, the state board may direct revisions to a compliance plan if the state board determines that the compliance plan is insufficient or may disapprove an annual report if the state board determines that the annual report fails to demonstrate that the public water system is complying with the approved compliance plan by the milestone dates. In these instances, the state board shall provide the public water system with written notice specifying the reason for the required revisions or disapproval and the deficiencies that shall be addressed before the compliance plan is resubmitted.

(d) A previously approved compliance plan that the state board requires to be revised, or an annual report that is disapproved by the state board, may be revised and resubmitted by the public water system for state board approval within 60 days of receipt of the notice required by subdivision (c). A public water system shall not be deemed in violation of the primary drinking water standard for hexavalent chromium for 60 days following receipt of this notice. A variance granted pursuant to subdivision (a) shall not be effective for any public water system that fails to submit a revised compliance plan or revised annual report within 60 days of receiving the notice, or that submits a revised compliance plan or revised annual report that is subsequently disapproved.

(e) (1) Except as provided in paragraph (2), the state board may adopt emergency regulations in accordance Section 11346.1 of the Government Code in order to implement this section.

(2) The emergency regulations shall remain in effect for a period not to exceed two years during which time the state board shall go back and adopt the regulations in conformity with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
(f) (1) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

(2) A variance granted by the state board pursuant to this section before January 1, 2020, shall continue in effect until the state board determines that the variance is no longer in effect pursuant to subdivision (d) or until the earliest feasible compliance date, as specified by the compliance plan.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The state’s regulation setting the new maximum contaminant level for hexavalent chromium VI went into effect on July 1, 2014. The regulation required that the initial compliance monitoring under the regulation be performed by January 1, 2015. Public water systems need to take major compliance actions, such as designing, financing, and constructing water treatment facilities, to comply with the new regulation. To avoid the systems being deemed in violation of the regulation in 2015, and for a limited time period thereafter, it is necessary for this act, which authorizes a time-limited variance, to take effect immediately.