

AMENDED IN SENATE APRIL 21, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 454**

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**Introduced by Senator Allen**

February 25, 2015

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An act to add Section 3113 to the Public Resources Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 454, as amended, Allen. Water quality: oil and gas: exempt aquifer.

Existing federal law prohibits certain oil and gas well activities that affect underground sources of drinking water unless those sources are located in an exempt aquifer. Existing federal law authorizes a state delegated with the responsibility of regulating certain wells to propose that an aquifer or a portion of an aquifer be an exempt aquifer and authorizes the United States Environmental Protection Agency to approve the proposal if the aquifer or a portion of the aquifer meets certain criteria. Under existing federal law, the authority to regulate those wells in California is delegated to the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation.

This bill would prohibit the division from submitting a proposal for an aquifer exemption to the United States Environmental Protection Agency unless the division and the State Water Resources Control Board concur in writing that the aquifer meets specified conditions.

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 3113 is added to the Public Resources  
2 Code, to read:

3 3113. The division shall not submit a proposal for an aquifer  
4 exemption to the United States Environmental Protection Agency  
5 under the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f  
6 et seq.) and regulations implementing that act unless the division  
7 and the State Water Resources Control Board concur in writing  
8 that the aquifer meets either of the following conditions:

9 (a) The division determines that the aquifer is hydrocarbon  
10 bearing, as described in Section 146.4(b)(1) of Title 40 of the Code  
11 of Federal Regulations, and ~~either~~ *both* of the following additional  
12 determinations ~~is are~~ made:

13 (1) The division and the State Water Resources Control Board  
14 determine that the intended injection zone is geologically and  
15 hydrogeologically isolated from any *other* zone containing waters  
16 that may have a beneficial use.

17 (2) The State Water Resources Control Board determines *either*  
18 *that the intended injection zone does not contain waters with*  
19 *potential beneficial uses or that the intended injection zone contains*  
20 *waters with potential beneficial uses and the fluids to be injected*  
21 *into the zone will not impact those beneficial uses.*

22 (b) The division ~~determines~~ *and the State Water Resources*  
23 *Control Board concur* that the aquifer is nonhydrocarbon bearing  
24 and the aquifer meets all of the following conditions:

25 (1) The aquifer meets the criteria in Section 146.4(a) to (c),  
26 inclusive, of Title 40 of the Code of Federal Regulations.

27 (2) The total dissolved solids content of the water in the aquifer  
28 is greater than 3,000 milligrams per liter.

29 ~~The division and the State Water Resources Control Board~~  
30 ~~determine that the~~ intended injection zone is geologically and  
31 hydrogeologically isolated from any *other* zone containing waters  
32 that may have a beneficial use.

33 (4) The State Water Resources Control Board determines in  
34 writing to the division and posts on the board's Internet Web site  
35 in a public and readily accessible location that the injection of  
36 fluids into the aquifer would not contaminate a source of water  
37 that currently has, or could in the future have, a beneficial ~~use;~~  
38 ~~subject to the following:~~ *use.*

1     ~~(A) For an aquifer situated at a depth or location that makes~~  
2 ~~recovery of the water currently technologically impractical or an~~  
3 ~~aquifer that is so contaminated that it would be economically or~~  
4 ~~technologically impractical to render that water fit for human~~  
5 ~~consumption or other beneficial use, the board shall consider and~~  
6 ~~make a written determination regarding the potential for future~~  
7 ~~technology to make the aquifer viable as a water source.~~

8     ~~(B) The board shall consider and make a written determination~~  
9 ~~regarding the state's need to identify and develop new sources of~~  
10 ~~water and how that need might affect the viability of a currently~~  
11 ~~contaminated aquifer.~~

12     (5) If the aquifer contains water that is currently or potentially  
13 limited in its beneficial use due to existing contamination, the State  
14 Water Resources Control Board determines that the injection of  
15 fluids into the aquifer would not impair the limited current or  
16 potential beneficial use of the waters.