

AMENDED IN SENATE SEPTEMBER 2, 1999

AMENDED IN SENATE AUGUST 17, 1999

AMENDED IN ASSEMBLY MAY 28, 1999

AMENDED IN ASSEMBLY APRIL 22, 1999

AMENDED IN ASSEMBLY APRIL 8, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 538

Introduced by Assembly Member Wayne

February 18, 1999

~~An act to amend Section 115915 of the Health and Safety Code to add Section 13178 to the Water Code, relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 538, as amended, Wayne. Public beaches: bacteriological standards.

Existing law sets forth duties and responsibilities of the State Water Resources Control Board.

This bill, in addition, would require the state board, on or before September 30, 2000, in conjunction with the State Department of Health Services and a panel of experts established by the state board, to develop source investigation protocols for use in conducting source investigations of storm drains that produce exceedences of specified bacteriological standards.

The bill also would require the state board, on or before March 31, 2001, in conjunction with the State Department of

Health Services, to report to the Legislature on the methods by which it intends to conduct sources investigations of storm drains that produce exceedences of bacteriological standards established, as specified.

~~(1) Existing law requires the State Department of Health Services to adopt regulations establishing minimum bacteriological standards for the sanitation of public beaches and requires a local health officer having jurisdiction over the area in which a public beach is created to inspect the public beach to determine whether those standards are being complied with. Under existing law, whenever a beach fails to meet those standards, the health officer is required to close, or restrict the use of, the beach, and to post the beach with conspicuous warning signs, as provided.~~

~~This bill would require the local permitted agency or the appropriate California regional water quality control board, in cooperation with the local health officer, whenever testing reveals that the waters adjacent to a public beach fail to meet those bacteriological standards on 3 testing dates within a 4-week period, or on 75% or more of the aggregate tests conducted within a 4-week period, or in certain other described circumstances, to investigate and identify the geographical sources and biological origins of the bacteriological contamination. The bill would require the regional boards to report annually to the State Water Resources Control Board, the department, and the general public on the results of any investigation and subsequent actions performed pursuant to those provisions.~~

~~By imposing new duties on regional boards, the bill would create a state-mandated local program.~~

~~(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by~~



~~the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

1 ~~SECTION 1. Section 115915 of the Health and Safety~~

2 *SECTION 1. Section 13178 is added to the Water*
3 *Code, to read:*

4 *13178. (a) (1) On or before September 30, 2000, the*
5 *state board, in conjunction with the State Department of*
6 *Health Services and a panel of experts established by the*
7 *state board, shall develop source investigation protocols*
8 *for use in conducting source investigations of storm drains*
9 *that produce exceedences of bacteriological standards*
10 *established pursuant to subdivision (c) of Section 115880*
11 *of the Health and Safety Code. The protocols shall be*
12 *based upon the experiences drawn from previous source*
13 *investigations performed by the state board, regional*
14 *boards, or other agencies, and other available data. The*
15 *protocols shall include methods for identifying the*
16 *location and biological origins of sources of*
17 *bacteriological contamination, and, at a minimum, shall*
18 *require source investigations if bacteriological standards*
19 *are exceeded in any three weeks of a four-week period,*
20 *or, for areas where testing is done more than once a week,*
21 *75 percent of testing days that produce an exceedence of*
22 *those standards.*

23 *(2) The development of source investigation protocols*
24 *pursuant to paragraph (1) is not subject to Chapter 3.5*
25 *(commencing with Section 11340) of Part 1 of Division 3*
26 *of Title 2 of the Government Code.*

27 *(b) Notwithstanding Section 7550.5 of the*
28 *Government Code, on or before March 31, 2001, the state*
29 *board, in conjunction with the State Department of*
30 *Health Services, shall report to the Legislature on the*
31 *methods by which it intends to conduct source*
32 *investigations of storm drains that produce exceedences*
33 *of bacteriological standards established pursuant to*



1 subdivision (c) of Section 115880 of the Health and Safety
2 Code. Factors to be addressed in the report shall include
3 the approximate number of public beaches expected to
4 be affected by the exceedence of bacteriological
5 standards established pursuant to subdivision (c) of
6 Section 115880 of the Health and Safety Code, as well as
7 the costs expected for source investigation of the storm
8 drains affecting those public beaches. The report shall
9 include a timeline for completion of source
10 investigations.

11 Code is amended to read:

12 ~~115915. (a) Whenever any beach fails to meet the~~
13 ~~bacteriological standards established pursuant to~~
14 ~~subdivision (b) of Section 115880, the health officer shall,~~
15 ~~at a minimum, post the beach with conspicuous warning~~
16 ~~signs to inform the public of the nature of the problem~~
17 ~~and the possibility of risk to public health.~~

18 ~~(b) A warning sign shall be visible from each legal~~
19 ~~primary beach access point, as identified in the coastal~~
20 ~~access inventory prepared and updated pursuant to~~
21 ~~Section 30531 of the Public Resources Code, and any~~
22 ~~additional access points identified by the health officer.~~

23 ~~(c) (1) Whenever testing reveals that the waters~~
24 ~~adjacent to a public beach fail to meet any of the~~
25 ~~bacteriological standards established pursuant to~~
26 ~~subdivision (b) of Section 115880 on three testing dates~~
27 ~~within a four-week period, or on 75 percent or more of~~
28 ~~aggregate tests conducted in a four-week period, or~~
29 ~~whenever testing causes the health officer or the regional~~
30 ~~water quality control board to conclude that~~
31 ~~microbiological contamination of a chronic, repeated, or~~
32 ~~episodic nature is occurring in the waters adjacent to a~~
33 ~~public beach, the local permitted agency, or, if none~~
34 ~~exists, the appropriate California regional water quality~~
35 ~~control board, in cooperation with the local health officer,~~
36 ~~shall, at a minimum, investigate and identify the~~
37 ~~geographical sources and biological origins of the~~
38 ~~bacteriological contamination that causes, that the~~
39 ~~regional water quality control board reasonably believes~~
40 ~~to have caused, or that contributes to a failure to comply~~



1 with the bacteriological standards established pursuant to
2 subdivision (b) of Section 115880. In order to fulfill this
3 requirement, the regional board may request technical
4 information pursuant to subdivision (b) of Section 13267
5 of the Water Code.

6 (2) The California regional water quality control
7 boards shall report to the State Water Resources Control
8 Board, the State Department of Health Services, and the
9 general public, annually, on the results of any
10 investigation and subsequent actions performed
11 pursuant to this subdivision.

12 (d) Any duty imposed upon a local public officer or
13 agency pursuant to this section, except for the regional
14 water quality control board's authority to request
15 technical information pursuant to Section 13267 of the
16 Water Code, shall be mandatory only during a fiscal year
17 in which the Legislature has appropriated sufficient
18 funds, as determined by the State Director of Health
19 Services, in the annual Budget Act or otherwise for local
20 agencies to cover the costs to those agencies associated
21 with the performance of these duties. The State Director
22 of Health Services shall annually, within 15 days after
23 enactment of the Budget Act, file a written statement
24 with the Secretary of the Senate and with the Chief Clerk
25 of the Assembly memorializing whether sufficient funds
26 have been appropriated.

27 SEC. 2. Notwithstanding Section 17610 of the
28 Government Code, if the Commission on State Mandates
29 determines that this act contains costs mandated by the
30 state, reimbursement to local agencies and school
31 districts for those costs shall be made pursuant to Part 7
32 (commencing with Section 17500) of Division 4 of Title
33 2 of the Government Code. If the statewide cost of the
34 claim for reimbursement does not exceed one million
35 dollars (\$1,000,000), reimbursement shall be made from
36 the State Mandates Claims Fund.

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