

Assembly Bill No. 1366

Passed the Assembly September 9, 2009

Chief Clerk of the Assembly

Passed the Senate September 3, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 13148 to the Water Code, relating to water softeners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, Feuer. Residential self-regenerating water softeners.

Existing law requires the State Water Resources Control Board to formulate and adopt state policy for water quality control. California regional water quality control boards are required to establish water quality objectives in water quality control plans. Under existing law, a local agency, by ordinance, may limit the availability, or prohibit the installation, of residential water softening or conditioning appliances that discharge to the community sewer system if the local agency makes certain findings and includes them in the ordinance.

This bill would authorize any local agency that owns or operates a community sewer system or water recycling facility, within specified areas of the state, to take action, by ordinance or resolution, after a public hearing on the matter, to control salinity inputs from residential self-regenerating water softeners to protect the quality of the waters of the state, if the appropriate regional board makes a finding that the control of residential salinity input will contribute to the achievement of water quality objectives. The bill would state related findings and declarations of the Legislature, including findings and declarations concerning the need for special legislation.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Recycled water provides additional water supplies that are a cost-effective and reliable method of helping to meet California's water needs.

(b) The Water Recycling Act of 1991 established a statewide goal to recycle a total of 700,000 acre-feet of water per year by 2000, and one million acre-feet of water per year by 2010.

(c) The 2005 California Water Plan indicates that the statewide potential for recycled water use by 2030 is between 900,000 acre-feet to 1.4 million acre-feet per year. Based on this projection, the state will fall far short of the goal of recycling one million acre-feet per year by 2010, unless new policies are enacted to accelerate recycled water use.

(d) Elevated levels of salinity in community sewer systems can hinder needed water recycling projects, and discharges from those systems may impair groundwater resources and surface waters of the state.

(e) The State Water Resources Control Board's Recycled Water Policy is intended to support an increase in the use of recycled water from municipal wastewater sources in a manner that implements state and federal water quality laws. Some groundwater basins in the state contain salts and nutrients that exceed or threaten to exceed water quality objectives established in the applicable water quality control plans. The policy requires every groundwater basin or subbasin to have a salt and nutrient management plan that includes adequate implementation procedures for achieving or ensuring compliance with the water quality objectives for salt or nutrients. It is the intent of the policy that salts and nutrients from all sources be managed in a manner that ensures attainment of water quality objectives and protection of beneficial uses. The policy recognizes that local water and wastewater agencies, together with local salt and nutrient contributing stakeholders, including, but not limited to, the water treatment industry, will engage in a collaborative process that is open to all stakeholders to prepare salt management plans.

(f) Existing law allows regulation of discharges from industrial, commercial, and agricultural sources, but severely limits local agencies from regulating salinity discharges from residential self-regenerating water softeners, which can discharge up to one pound of salt per day.

(g) The California Water Recycling Task Force Report of 2003, prepared by the Department of Water Resources and the State Water Resources Control Board, recommends that current law be changed to allow local agencies more control over salinity from residential self-regenerating water softeners.

(h) It is the intent of the Legislature to require local agencies to consider local economic issues and other community input before

taking action to regulate residential self-regenerating water softeners.

(i) It is the intent of the Legislature, by enacting this act, to give local agencies additional authority to regulate residential self-regenerating water softeners, especially in areas of the state with water bodies adversely impacted by salinity and high use groundwater basins that are hydrogeologically vulnerable to contamination.

SEC. 2. Section 13148 is added to the Water Code, to read:

13148. (a) This section applies to the following hydrologic regions as identified in the California Water Plan: Central Coast, South Coast, San Joaquin River, Tulare Lake, and the Counties of Butte, Glenn, Placer, Sacramento, Solano, Sutter, and Yolo.

(b) Notwithstanding Article 1 (commencing with Section 116775) of Chapter 5 of Part 12 of Division 104 of the Health and Safety Code, any local agency that owns or operates a community sewer system or water recycling facility and that is subject to a finding made by a regional board pursuant to subdivision (e) may take action to control salinity input from residential self-regenerating water softeners to protect the quality of the waters of the state. A local agency may take action only by adoption of an ordinance or resolution after a public hearing. The local agency shall not consider the adoption of an ordinance or resolution until at least 30 days following the date of the public hearing on the proposed ordinance or resolution. An ordinance or resolution shall become effective 30 days from the date of adoption.

(c) Actions to control residential self-regenerating water softener salinity inputs authorized by subdivision (b) include, but are not limited to, any of the following:

(1) Require that residential self-regenerating water softeners installed within the jurisdiction of the local agency be rated at the highest efficiency commercially available and certified by NSF International or the American National Standards Institute.

(2) Require that plumbing permits be obtained prior to the installation of residential self-regenerating water softeners.

(3) Require that residential self-regenerating water softeners be plumbed to hook up to hot water only.

(4) Enact a voluntary buy-back or exchange program for residential self-regenerating water softeners, consistent with

existing law. A voluntary buy-back or exchange program may be conducted in cooperation with local water treatment businesses.

(5) Require the removal of previously installed residential self-regenerating water softeners.

(6) Prohibit the installation of residential self-regenerating water softeners.

(7) Require the retrofit of clock control and demand control systems on previously installed residential self-regenerating water softeners.

(8) Require the replacement of previously installed residential self-regenerating water softeners with appliances that meet or exceed the salt efficiency rating set forth in paragraph (2) of subdivision (b) of Section 116785 of the Health and Safety Code.

(d) If a local agency adopts an ordinance or resolution to require the removal of previously installed residential self-regenerating water softeners pursuant to paragraph (5) of subdivision (c), the local agency shall make available to owners of residential self-regenerating water softeners within its service area a program to compensate the owner of the residential self-regenerating water softener for the reasonable value of the removed residential self-regenerating water softener, as determined by the local agency.

(e) Before a local agency may take action to control salinity input from residential self-regenerating water softeners pursuant to subdivision (b), a regional board with jurisdiction over a region identified in subdivision (a) shall have made a finding at a public hearing that the control of residential salinity input will contribute to the achievement of water quality objectives. The finding may be made in any of the following water quality actions adopted by a regional board:

(1) A total maximum daily load that addresses salinity-related pollutants in a water segment.

(2) A salt and nutrient management plan for a groundwater basin or subbasin.

(3) Waste discharge requirements for a local agency discharger.

(4) Master reclamation permit for a supplier or distributor of recycled water.

(5) Water recycling requirements for a supplier or distributor of recycled water.

(6) Cease and desist order directed to a local agency.

(f) The regional board making a finding pursuant to subdivision (e) shall base its finding on the evidence in the record, such as a source determination study or other appropriate studies. The standard of judicial review required for a finding made pursuant to subdivision (e) shall be the same as the standard of review required for the water quality action in which the finding is made.

(g) This section does not limit the use of portable exchange water softening appliances or limit the authority of a local agency to regulate the discharge from a centralized portable exchange tank servicing facility into the community sewer system.

(h) For purposes of this section, “residential self-regenerating water softener” means residential water softening equipment or conditioning appliances that discharge brine into a community sewer system.

SEC. 3. The Legislature finds and declares that it is necessary to address elevated levels of salinity in community sewer systems in specified hydrologic regions of the state. It is therefore hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable to those specified hydrologic regions and the enactment of this special law is necessary for the public good.

Approved _____, 2009

Governor