

AMENDED IN ASSEMBLY APRIL 29, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2202

**Introduced by Assembly Member V. Manuel Perez
(Principal coauthor: Assembly Member Salas)**

February 18, 2010

An act to amend Section 71103.5 of the Public Resources Code, relating to the New River.

LEGISLATIVE COUNSEL'S DIGEST

AB 2202, as amended, V. Manuel Perez. Safe, Clean, and Reliable Drinking Water Supply Act of 2010: New River Improvement Project: strategic plan.

Existing law ~~would~~, contingent upon the execution of an agreement with the City of Calexico for the purpose of providing the necessary funding, *would* require the California-Mexico Border Relations Council to develop a strategic plan containing specific elements to guide the implementation of the New River Improvement Project.

Existing law creates the Safe, Clean, and Reliable Drinking Water Supply Act of 2010 (bond act), which, if approved by the voters at the November 2, 2010, statewide general election, would authorize the issuance of bonds in the amount of \$11,140,000,000 pursuant to the State General Obligation Bond Law to finance a safe drinking water and water supply reliability program. The bond act would make \$20,000,000 available for water quality and public health projects on the New River.

This bill would require that any funds appropriated pursuant to this provision for the New River be consistent with the strategic plan developed by the California-Mexico Border Relations Council. The bill

would declare the intent of the Legislature that these moneys not be appropriated; until the completion of the strategic plan *or until January 1, 2013, whichever occurs first*. These provisions would become effective only if the bond act is approved by the voters.

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. (a) The Safe, Clean, and Reliable Drinking Water
2 Supply Act of 2010, if approved by the voters at the November 2,
3 2010, statewide general election, makes twenty million dollars
4 (\$20,000,000) available for water quality and public health projects
5 on the New River.

6 (b) The Safe, Clean, and Reliable Drinking Water Supply Act
7 of 2010 specifically gives the Legislature the authority to enact
8 legislation necessary to implement programs funded by the act.

9 (c) The Legislature finds that to ensure that moneys are available
10 for New River projects as expeditiously as possible, this act should
11 be enacted before the voters have approved the Safe, Clean, and
12 Reliable Drinking Water Supply Act of 2010.

13 SEC. 2. Section 71103.5 of the Public Resources Code is
14 amended to read:

15 71103.5. (a) The Legislature finds and declares all of the
16 following:

17 (1) The New River poses an imminent and severe threat to the
18 public health of residents of Calexico, California, and adjacent
19 communities in Imperial County. Since the 1940s, the New River
20 has been recognized as a significant pollution and human health
21 problem, primarily because of extremely high concentrations of
22 fecal coliform bacteria.

23 (2) While there have been recent measurable water quality
24 improvements as a result of sewage infrastructure projects
25 implemented and completed during the last 10 years in Mexicali,
26 Mexico, the residual and projected pollution in the New River
27 coming from Mexico remains a significant threat to public health
28 and the environment.

29 (3) Current bacteria levels in the New River are several orders
30 of magnitude above the state standards for bacteria. Based on these
31 levels and the historic levels of pollution, the waterway is believed

1 to carry pathogens that cause tuberculosis, encephalitis, polio,
2 cholera, hepatitis, and typhoid. The waterway also carries other
3 contaminants in concentrations that are in violation of federal,
4 state, and Mexican water quality standards by several hundredfold.

5 (4) The New River is listed as an impaired river by the United
6 States Environmental Protection Agency due to low dissolved
7 oxygen (DO) and the presence of chlordane, chlorpyrifos, copper,
8 dichloro-diphenyl-trichloroethane (DDT), diazinon, dieldrin,
9 mercury, nutrients, pathogens, polychlorinated biphenyls (PCBs),
10 sediment, selenium, toxaphene, toxicity, trash, and volatile organic
11 compounds (VOCs).

12 (5) The New River is a major contributor of pollution to the
13 Salton Sea, and failure to address water quality problems in the
14 New River are impeding the ability of the state to implement laws
15 and programs designed to restore and protect this important
16 environmental and wildlife habitat resource.

17 (6) The New River condition in the border area is also an
18 aesthetic nuisance for Calexico residents and has historically
19 inhibited the city's socioeconomic well-being and growth.

20 (7) A coordinated and comprehensive state strategy is needed
21 to deal with the residual and projected pollution so that the New
22 River and associated river channel can be enhanced to a condition
23 that will allow the residents of Calexico and Imperial County to
24 utilize them as recreational and natural assets as contemplated in
25 the California River Parkways Act of 2004 (Chapter 3.8
26 (commencing with Section 5750) of Division 5).

27 (8) In the Budget Act of 2009, as amended by Chapter 1 of the
28 Statutes of 2009 Fourth Extraordinary Session, eight hundred
29 thousand dollars (\$800,000) was appropriated to the City of
30 Calexico for various planning needs necessary to develop a river
31 parkway plan and river improvement project for the New River.
32 The moneys were appropriated in order to secure and serve as
33 matching funds for the four million dollars (\$4,000,000) allocated
34 pursuant to the Safe, Accountable, Flexible, Efficient
35 Transportation Equity Act: A Legacy for Users (Public Law
36 109-59) to the City of Calexico for the development of bicycle
37 paths and public park space adjacent to the New River.

38 (9) The City of Calexico, as the recipient of funding pursuant
39 to the California River Parkways Act of 2004, has agreed to provide

1 necessary financial support to the council for the development of
2 the council's strategic plan.

3 (b) As used in this section, the following terms have the
4 following meanings:

5 (1) "Agency" means the California Environmental Protection
6 Agency.

7 (2) "City" means the City of Calexico, California.

8 (3) "Council" means the California-Mexico Border Relations
9 Council established pursuant to Section 8711 of the Government
10 Code.

11 (4) "County" means the County of Imperial, California.

12 (5) "IBWC" means the International Boundary and Water
13 Commission, United States Section.

14 (6) "New River Improvement Project" or "project" means a
15 project to study, monitor, remediate, and enhance New River water
16 quality in the County of Imperial to protect human health, and
17 develop a river parkway suitable for public use and enjoyment.

18 (c) Pursuant to the authority granted to the council under Section
19 8712 of the Government Code and contingent upon the execution
20 of an agreement with the City of Calexico for the purpose of
21 providing the necessary funding, the council shall develop a
22 strategic plan to guide the implementation of the New River
23 Improvement Project. The strategic plan shall include, but need
24 not be limited to, all of the following elements:

25 (1) Quantification of current and projected New River water
26 quality impairments and their threat to public health.

27 (2) Prioritization of the actions necessary to protect public health
28 and to meet New River water quality objectives and other
29 environmental goals, such as improving the quality of waterflows
30 into the Salton Sea.

31 (3) Identification of potential funds for the implementation of
32 the project, and potential lead agencies that would be responsible
33 for environmental review of activities related to the cleanup and
34 restoration of the New River.

35 (4) Identification of the appropriate federal, state, and local
36 agencies with a role in implementing and achieving the New River
37 Improvement Project.

38 (d) (1) To the extent permitted by law, the council may work
39 with appropriate binational, federal, state, local, and
40 nongovernmental organizations on both sides of the

California-Mexico border to develop the strategic plan and to fund and establish cooperative water quality monitoring, public health studies, inspection, and technical assistance programs as needed to support, convene, and oversee the project.

(2) To further the objectives of this subdivision, the council may convene and oversee a technical advisory committee. The advisory committee shall advise the council regarding the necessary studies and activities to carry out the project, and shall serve at the pleasure of the council. The advisory committee shall include representatives from the following:

- (A) Impacted cities and counties.
- (B) Relevant local, regional, and state agencies and departments.
- (C) Nongovernmental organizations.
- (D) Other stakeholders deemed necessary by the council.

(3) The council shall appoint the chair of the committee and may expand the membership and expertise of the committee as it deems necessary.

(4) The council may enter into an agreement, including an interagency agreement and memorandum of understanding, with public agencies, including the city, to accept, manage, and expend funds for the implementation of this section.

(e) This section does not modify existing roles, responsibilities, or liabilities of the State of California, the City of Calexico, Imperial County, or any other governmental agency, under those laws that regulate, protect, and clean up surface waters entering the United States from Mexico.

(f) The New River Improvement Project Account is hereby created in the California Border Environmental and Public Health Protection Fund to receive moneys for activities related to the New River Improvement Project from sources identified in Section 71101 and other sources. Upon appropriation by the Legislature, moneys in the account shall be expended to implement the purposes identified in subdivision (c) or Section 71102 that are related to the New River.

(g) It is the intent of the Legislature that ~~money~~ moneys not be appropriated pursuant to Section 79720.6 of the Water Code, until the completion of the strategic plan developed pursuant to subdivision (c) *or until January 1, 2013, whichever occurs first*. Any funds appropriated pursuant to Section 79720.6 of the Water

- 1 Code shall be consistent with the strategic plan developed pursuant
- 2 to subdivision (c).
- 3 SEC. 3. This act shall take effect only if the Safe, Clean, and
- 4 Reliable Drinking Water Supply Act of 2010 is approved by the
- 5 voters at the November 2, 2010, statewide general election.