



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 – 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

AGENDA

Legislative/Human Resources Committee

Tuesday, May 14, 2013

10:30 a.m.

Training Resource Center

(Committee Members: Directors McIntosh {Chair}, Coleman and Mellon)

ROLL CALL:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

DETERMINATION AND DISCUSSION:

1. Legislative Update:
 - Receive Legislative Report No. 05-13 and consider positions on the following bills:
AB 145 (Perea) State Water Resources Control Board: Drinking Water; AB 371 (Salas) Sewage Sludge: Kern County; AB 1349 (Gatto) CalConserve Water Use Efficiency Revolving Fund
 - Update on Legislative Issues of Interest to EBMUD

ADJOURNMENT:

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EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: May 9, 2013
MEMO TO: Board of Directors
FROM: Alexander R. Coate, General Manager *ARC*
SUBJECT: Legislative Report No. 05-13

The following issues are being referred to the Legislative/Human Resources Committee for review and recommendation to the Board of Directors for action, as appropriate.

<u>STATE LEGISLATION</u>	<u>RECOMMENDED POSITION</u>
AB 145 (Perea) STATE WATER RESOURCES CONTROL BOARD: DRINKING WATER	OPPOSE UNLESS AMENDED

Existing law provides for the operation of public water systems and requires the Department of Public Health (DPH) – located within the California Health and Human Services Agency - to implement the Safe Drinking Water Act on behalf of the state through its regulation of the provision of drinking water by public water systems. Existing law also establishes the State Water Resources Control Board (SWRCB) – located within the California Environmental Protection Agency (Cal-EPA) – to implement the Clean Water Act and empowers the SWRCB to allocate water rights, adjudicate water rights disputes, develop statewide water protection plans, and establish water quality standards. In addition, existing law establishes two state revolving funds: 1) the Safe Drinking Water State Revolving Fund (SDWSRF), administered by DPH, to provide grants or revolving fund loans for the design and construction of projects to assist public water systems in meeting safe drinking water standards, and 2) the Clean Water State Revolving Fund (CWSRF), administered by the SWRCB, which funds projects addressing wastewater treatment, nonpoint sources of pollution, and estuary water quality protection.

AB 145 (Perea), as amended on April 24, 2013, would transfer the regulation and oversight of drinking water, and administration of the SDWSRF, from the DPH to the SWRCB. AB 145's findings and declarations assert that the state needs a consolidated and comprehensive system to ensure safe drinking water for all, and that consolidating all water quality programs into the SWRCB will provide numerous benefits, including coordination between water source protection and drinking water treatment programs, more accountability for drinking water programs, and consolidated funding programs for water related resources.

The intent of AB 145 is to improve the distribution of funds from the SDWSRF and increase access to safe drinking water for disadvantaged communities. The lack of access to safe drinking water by disadvantaged communities has been the subject of several recent legislative informational hearings where the primary focus has been the inability of disadvantaged

communities to access funding from the DPH via the SDWSRF. A recent Sacramento Bee article highlighted this problem in its coverage of a noncompliance notice issued to DPH by the United States Environmental Protection Agency for DPH's failure to distribute \$455 million in a timely manner and not effectively managing distributed funds. AB 145 is the direct result of the author's own inability to secure assistance from DPH for disadvantaged communities in his district.

AB 145 could potentially provide much needed assistance to disadvantaged communities by moving the administration of the SDWSRF from the DPH to the SWRCB. The SWRCB is recognized as an effective administrator of the CWSRF and may be able to manage the SDWSRF in a more aggressive manner. However, an examination of existing eligibility requirements may also be needed to determine whether any administrative or legislative changes are necessary to improve fund access for disadvantaged communities.

Nonetheless, AB 145's proposal to move the entirety of the drinking water program – some 30 other functions – from the DPH to the SWRCB is problematic. Such a move would be a wholesale shift of a critical public health function from one state agency, whose mission is to protect public health, to another state agency with an equally important but different mission without identifying the specific problems that are to be solved. This could result in serious unintended consequences that could disrupt the functions of all public water systems in the state.

The DPH's drinking water program undertakes critical regulatory functions that are in place to protect public health. These functions involve routine and direct interaction, sometimes on a daily basis, with all public water systems in the state, including EBMUD. Some of the specific regulatory functions crucial to the uninterrupted operation of public water systems include inspecting public water systems, issuing permits to operate, certifying drinking water treatment and distribution operators, providing technical assistance during emergencies, and reviewing water quality monitoring reports. The DPH is also responsible for other important aspects of drinking water regulation such as setting the maximum contaminant levels for drinking water, developing and monitoring water quality regulations, providing information on drought preparedness and water conservation, overseeing water recycling projects, and supporting and promoting water system security. The DPH is equipped to respond to emergencies and is available on a 24-hour basis.

AB 145 does not provide any detail as to how the shift from the DPH to the SWRCB would occur without interrupting the critical functions that are now performed by the DPH or how the integrity of the public health focus would be retained under the SWRCB and integrated with its other functions.

Though highly competent in the functions it performs, the SWRCB is not a public health agency. The SWRCB is responsible for the protection of the state's water resources from an environmental perspective. The SWRCB implements many critical and complex programs such as the water quality control plan in the Delta, developing flow standards in conjunction with various water quality control plans, administering the state's system of water rights, regulating

wastewater discharges, overseeing clean-up of contaminated groundwater, and administering the CWSRF. Many of the SWRCB functions are implemented at the regional level through semi-autonomous regional water quality control boards (RWQCBs), which results in regional variations for some its programs. Though the SWRCB and RWQCBs interact with public water systems and others on a regular basis, they are not equipped to respond to emergencies on a 24-hour basis. EBMUD works closely with the SWRCB on its water rights permits, wastewater discharge permits, and other water resource-related issues.

Given the distinct and separate roles of the DPH and the SWRCB, moving the state's drinking water program in its entirety to the SWRCB would inevitably result in unintended consequences and raises many unanswered questions about how such a change would affect the regulation and delivery of safe drinking water to all communities in the state, including those in EBMUD's service area, and how it would be accomplished without diverting the SWRCB's already limited resources away from its water resource responsibilities.

Beyond access to funding it is not clear what other specific problems are intended to be solved by AB 145, and thus the scope of AB 145 appears to be overly broad. A more tailored approach is recommended to strategically address the core problem of funding access and provide a means to identify any additional problems and develop targeted solutions. Such an approach would avoid the unintended consequences of the wholesale shift proposed by the bill before all of the problems are identified and reduce the potential for unnecessary disruptions throughout the broader water community. The approach described below was developed and is being advanced by an ACWA-led coalition of water associations.

- The administration of the SDWSRF and CWSRF should be combined under the SWRCB in a manner that keeps the funds separate but allows for a more efficient distribution of SDWSRF funds to disadvantaged communities. It may also be necessary to evaluate the existing eligibility requirements to determine whether any changes are needed to allow for improved access for disadvantaged communities. In addition, AB 145 should provide for a study to identify other problems relative to the access to safe drinking water by disadvantaged communities and develop targeted solutions that can be implemented in a timely manner.
- As an alternative, a dedicated program could be developed within Cal-EPA with the sole mission of administering the state's drinking water program, including the SDWSRF. This would eliminate the potential of overburdening the SWRCB while meeting the author's stated objective of removing the drinking water program from the responsibility of the DPH. Though this approach may appear to be contrary to the streamlining trend, it would provide a small agency with a single focus that is designed for rapid and efficient operation. Establishing a dedicated agency would also highlight the critical importance of access to safe drinking water.

A unified approach within the water community is needed to reach a mutually agreeable approach to better meet the needs of disadvantaged communities. Staff will work with others in the water community, including ACWA, to advance the approach outlined above.

EBMUD has supported other efforts to improve funding access for disadvantaged communities. Earlier this year, the Board adopted a “support” position on AB 115 (Perea), which would provide disadvantaged communities with increased access to the SDWSRF through consolidations. AB 115 is pending in the legislature.

The current list of support and opposition to AB 145 is shown below.

Support

California Rural Legal Assistance Foundation
California Teamsters Public Affairs Council
Clean Water Action
Community Water Center
Engineering Contractors Association
Environmental Justice Coalition for Water
Food and Water Watch
Physicians for Social Responsibility
PolicyLink
Sierra Club California
United Food & Commercial Workers Western States Council
Wholly H2O

Opposition

Alameda County Flood Control and Water Conservation District (Zone 7)
Association of California Water Agencies
California Conference of Local Health Officers
California Municipal Utilities Association
California Water Association
Castaic Lake Water Agency
Coachella Valley Water District
Desert Water Agency
Friant Water Authority
Health Officers Association of California
Lake County Special Districts
Orchard Dale Water District
Redwood Valley County Water District
Rowland Water District
Three Valleys Municipal Water District
United Water Conservation District
Walnut Valley Water District

**AB 371
(Salas)**

SEWAGE SLUDGE: KERN COUNTY

OPPOSE

Existing law, the California Integrated Waste Management Act (CIWMA), defines solid waste to include dewatered, treated, and chemically fixed sewage sludge that is not a hazardous waste and establishes an integrated waste management program that includes the regulation of solid waste disposal and solid waste facilities. Existing law also requires the State Water Resources Control Board or regional water quality control boards to prescribe general waste discharge requirements for sewage sludge or other biological solids.

AB 371 (Salas), as amended on March 19, 2013, would authorize the Kern County Board of Supervisors, upon a majority vote, to regulate or prohibit by ordinance, the land application of sewage sludge (i.e. biosolids), including sewage sludge imported from another county, in unincorporated areas in the county in a manner that is more stringent than state or federal law.

Biosolids are an organic byproduct of the wastewater treatment process. The U.S. Environmental Protection Agency sets pollutant limits and other regulations necessary to protect public health and the environment from exposure to pathogens and other constituents that may be found in biosolids. There are essentially two “classes” of biosolids: Class A and Class B. The main distinction between Class A and Class B biosolids is the level of pathogen reduction. Class A biosolids have been treated to essentially a “pathogen free” level, while Class B biosolids may contain low levels of pathogens which rapidly die off once they are applied to soils, essentially becoming pathogen-free within a short period of time.

Biosolids can be beneficially used as alternative daily cover at landfills or for land application (applied to soils to fertilize plants) for non-food crop agriculture. According to the California Association of Sanitation Agencies, Californians generated approximately 710,000 dry metric tons of biosolids in 2011, “the majority of which went to land application.” Land application of biosolids is a widespread and comprehensively regulated form of recycling which reduces the use of chemical fertilizers.

As part of their programs to recycle biosolids, the City of Los Angeles and other entities, including Orange County Sanitation District, send biosolids for land application to farms in Kern County, one of which the City of Los Angeles owns. In 2006, the voters in Kern County approved Measure E to ban the land application of biosolids within unincorporated areas of Kern County. Following the adoption of the ban, the City of Los Angeles and others sued to prevent the enforcement of the ban and won an injunction to block the implementation of Measure E. The litigation surrounding Measure E continues. AB 371 would circumvent the ongoing litigation.

By allowing Kern County to ban, and not just regulate, land application of biosolids, AB 371 conflicts with existing law, the CIWMA which, according to the policy committee analysis, “encourages cities and counties to reduce the level of waste going to landfills and to recycle wastes.” While the CIWMA does not eliminate local government authority to enact regulations

on land use and waste disposal, it does require such regulation to be reasonable and consistent with the CIWMA.

AB 371 would seriously undermine the environmentally beneficial use of biosolids for land application and hinder the state's ability to achieve recycling objectives and goals relating to diversion of wastes from landfills. In addition, AB 371 would "carve out" an exception to statute for one jurisdiction and establish a dangerous precedent that other jurisdictions could attempt to follow.

EBMUD has implemented various biosolids management strategies over the past 20 years. These have included creation of biosolids compost at the Main Wastewater Treatment Plant, use of biosolids for alternative daily cover at landfills, and use of biosolids for land application for non-food crop agriculture. Currently, 66 percent of EBMUD's biosolids (Class B) are used for alternative daily cover, and the remaining 34 percent for land application. When concerns have been raised regarding the land application of EBMUD's biosolids in the past, EBMUD worked cooperatively with the appropriate jurisdictions to encourage continued access to the practice of land application. AB 371 would set a precedent which, if followed by other jurisdictions could impact all biosolids management program's, including EBMUD's, and put a stop to land application of biosolids virtually overnight. This could significantly increase the cost of biosolids management for wastewater agencies, including EBMUD.

EBMUD previously opposed similar legislation, SB 926 (Florez) in 2005, which would have allowed Kern County to prohibit the land application of biosolids. SB 926 failed to advance out of the legislature.

The current list of AB 371 support and opposition is shown below.

Support

None

Opposition

California Association of Sanitation Agencies
Orange County Sanitation District

AB 1349 (Gatto)	CALCONSERVE WATER USE EFFICIENCY REVOLVING FUND	SUPPORT
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Existing law requires urban water suppliers to reduce their per capita water use by 10 percent by 2015, and by 20 percent by 2020. Existing law requires urban water suppliers to develop urban water use targets and include those targets in urban water management plans. Existing law also requires agricultural water suppliers to implement efficient water management practices.

AB 1349 (Gatto), as introduced on February 22, 2013, would establish the CalConserve Water Use Efficiency Revolving Fund, to be administered by the Department of Water Resources (DWR), and would appropriate moneys in the fund for the purpose of water use efficiency projects. AB 1349 would require that moneys in the fund be used for purposes including, but not limited to, at-or-below market interest rate loans and would permit DWR to enter into agreements with, and provide loans to, local governments or investor-owned utilities that provide water or recycled water.

AB 1349 would create a new state revolving loan program, similar to the Safe Drinking Water State Revolving Fund which finances the design and construction of projects for public water systems, to provide a sustainable funding source for urban and agricultural water use efficiency projects. Loans would be available to local governments or investor owned utilities for projects that reduce urban per capita water use, improve agricultural water use efficiency, increase the use of recycled water, or reduce greenhouse gas emissions through water efficiency improvements. Potential funding sources could include unused bond funds and federal grants.

According to the author's office, for communities that have already made significant investments in conservation, achieving additional water savings often requires more costly and challenging projects, such as landscape conversions, industrial process improvements, and recycled water connections, to meet their per capita targets. Agricultural irrigation improvements can yield significant water savings, but these projects can be costly as well. Existing grant programs provide limited funding and many are restricted to specific types of projects. By developing a state revolving loan program that replenishes itself as loans are repaid, AB 1349 would provide a sustainable, alternative funding source for local governments and utilities to implement water use efficiency projects, including projects that increase the use of recycled water.

EBMUD adopted its first Water Conservation Master Plan (WCMP) in 1994, and since that time EBMUD and its customers have saved an estimated 28 million gallons per day (mgd). In its 2011 update to the WCMP, EBMUD adopted a conservation target to achieve a cumulative savings of 43 mgd by 2020 and 62 mgd by 2040. EBMUD's Water Conservation program has implemented a wide array of measures that go beyond the 14 Best Management Practices adopted by the California Urban Water Conservation Council, and includes water management services to provide customers information they need to manage their water use, conservation incentives including loans and rebates to promote use of more efficient fixtures and appliances, as well as education and outreach.

Additionally, in EBMUD's service area, recycled water is an important part of the water supply portfolio. EBMUD initiated its recycled water program over 40 years ago and has developed several landmark projects where the use of recycled water for landscape irrigation, toilet flushing, and industrial purposes has reduced the demand on high-quality drinking water and can reduce the amount of treated wastewater that is discharged into the San Francisco Bay. These projects include RARE, East Bayshore Recycled Water Project, and the San Ramon Valley Recycled Water Program. In fiscal year 2012, EBMUD customers used more than 7.7 mgd of recycled water and EBMUD's goal is to increase this to 20 mgd by 2040.

By creating a program to finance water use efficiency projects, including projects to increase the use of recycled water, AB 1349 would promote statewide conservation and help the state reach its 20 percent conservation by 2020 goal, as well as encourage the use of recycled water. AB 1349 is consistent with EBMUD's conservation efforts, and EBMUD's efforts to use recycled water as a resource that can replace the use of potable water for some applications. In addition, the measure would potentially provide future opportunities for financing of EBMUD water conservation efforts and recycled water projects.

EBMUD has previously supported bills intended to promote urban water conservation and the use of recycled water. Earlier this year, EBMUD adopted a "support" position on AB 803 (Gomez), the Water Recycling Act of 2013, which would remove barriers to increased use of recycled water. AB 803 is pending in the legislature. In 2012, EBMUD adopted a "support in concept" position on AB 2398 (Hueso), which was a broader recycled water bill aimed at regulating recycled water as a resource rather than a waste.

The current list of support and opposition for AB 1349 is shown below.

Support

Association of California Water Agencies
California Association of Realtors
California Municipal Utilities Association
California Special Districts Association
Calleguas
Eastern Municipal Water District
Foothill Municipal Water District
Friant Water Authority
Las Virgenes Municipal Water District
San Diego County Water Authority
The Metropolitan Water District of Southern California

Opposition

None Listed

ARC:MD:JF

AMENDED IN ASSEMBLY APRIL 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 145

Introduced by Assembly Members Perea and Rendon

January 18, 2013

An act to add Sections 116271, 116272, and 116760.25 to the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 145, as amended, Perea. State Water Resources Control Board: drinking water.

The California Safe Drinking Water Act (state act) provides for the operation of public water systems and imposes on the State Department of Public Health various duties and responsibilities. Existing law requires the department to conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, to adopt regulations to implement the state act, and to enforce provisions of the federal Safe Drinking Water Act.

This bill would transfer to the State Water Resources Control Board the various duties and responsibilities imposed on the department by the state act. *The bill would require these provisions to be implemented during the 2014–15 fiscal year.*

The Safe Drinking Water State Revolving Fund Law of 1997 establishes the Safe Drinking Water State Revolving Fund to provide grants or revolving fund loans for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. Under that law, the department is responsible for administering the fund.

This bill would also transfer to the state board the authority, duties, powers, purposes, responsibilities, and jurisdiction of the department for the purposes of that law. *The bill would require these provisions to be implemented during the 2014–15 fiscal year.*

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. The Legislature finds and declares the following:

2 (a) Drinking water is a necessity of human life, and
3 contaminated drinking water can lead to sickness and death:

4 (1) California law provides that every human being has the right
5 to safe, clean, affordable, and accessible water adequate for human
6 consumption, cooking, and sanitary purposes.

7 (2) Providing safe drinking water is one of the most fundamental
8 duties of any government. While Californians rely on public water
9 systems operated by local agencies and utilities to deliver drinking
10 water to their homes and businesses, the State of California has a
11 duty to ensure that water is safe and clean.

12 (3) Water for drinking is a natural resource that is inherently
13 public. The people of California own the water within our borders,
14 and the state grants water rights only for its reasonable use for
15 beneficial purposes including human consumption.

16 (4) The California Constitution requires that all diversions and
17 use of water be reasonable, while the California Supreme Court
18 has recognized that the state holds a public trust responsibility over
19 California's water resources.

20 (b) Groundwater provides a significant portion of California's
21 drinking water, in urban and rural communities alike. From the
22 earliest days of statehood, communities relied on pumping
23 groundwater. While not all Californians enjoy groundwater
24 underlying their communities, those communities that have
25 groundwater have maximized its use for human consumption:

26 (1) Of the 8,700 public water systems, 7,800 rely on
27 groundwater, at least in part. These public water systems draw on
28 more than 15,000 wells, while individual landowners draw drinking
29 water from thousands more private wells.

1 (2) Overall, groundwater supplies one-third of the water used
2 in California in a typical year, and in drought years, as much as
3 one-half.

4 (3) Nationally, according to the United States Geological Survey,
5 51 percent of Americans rely on groundwater for drinking,
6 including 99 percent of the nation’s rural population. Groundwater
7 provides 22 percent of all fresh water.

8 (c) The governance of California’s groundwater resources is
9 diffused among many public agencies and private parties:

10 (1) Landowners enjoy a right to use water lying under their
11 lands for beneficial uses on the surface. When landowners in a
12 basin draw too much water out of their aquifer, commonly called
13 “overdraft,” they may go to a court to adjudicate how much water
14 each landowner may take out.

15 (2) Based on an adjudication of an aquifer or litigation over
16 groundwater contamination, a court may structure the management
17 of an individual aquifer to address overdraft or groundwater
18 contamination.

19 (3) Water agencies and groundwater users may voluntarily
20 establish a joint program to manage the aquifer on which they rely.

21 (4) Counties may exercise their police powers to address certain
22 groundwater issues, including the drilling and operation of
23 groundwater wells. County public health officers also may provide
24 oversight to or regulate the smaller public water systems in their
25 jurisdiction that rely on groundwater.

26 (5) In state government, the State Water Resources Control
27 Board (the board) has responsibility for protecting groundwater
28 quality and may adjudicate groundwater rights under certain
29 circumstances. The State Department of Public Health (the
30 department) has responsibility for overseeing the operation of
31 public water systems that use groundwater to provide drinking
32 water. The board may regulate drinking water source quality but
33 not the public water system. The department may regulate the
34 public water system, but not the water source.

35 (d) The Legislature has sought to address the difficulties of
36 communities that suffer poor drinking water quality, especially
37 those in communities that lack the financial resources to resolve
38 their drinking water problems:

39 (1) In 2008 the Legislature approved Senate Bill 1 of the Second
40 Extraordinary Session of 2008, to address nitrate contamination

1 in the Tulare Lake Basin and the Salinas Valley. That law required
2 study and development of pilot projects to better understand and
3 remediate nitrate contamination in those regions. As required, the
4 board studied and prepared a report addressing nitrate
5 contamination, which was delivered to the Legislature in 2013.

6 (2) In 2009, the Legislature adjusted the safe drinking water
7 program to maximize use of federal stimulus funds available to
8 communities that lack the resources to improve their water quality
9 to meet safe drinking water standards.

10 (3) In each annual Budget Act, the Legislature has appropriated
11 funding available from a variety of sources, including
12 voter-approved general obligation bonds, to fix public water
13 systems that do not provide safe drinking water.

14 (e) In order to provide Californians with a comprehensive system
15 to protect their groundwater for drinking water, the state needs a
16 consolidated and comprehensive strategy and program for
17 protecting and improving the quality of California's drinking water
18 resources, especially from groundwater. The state needs to improve
19 the quality and availability of groundwater for those communities
20 that rely on groundwater for drinking. State and local leaders need
21 to address the conflicts inherent in competing demands for
22 high-quality groundwater.

23 (f) The most effective way to create a consolidated and
24 comprehensive strategy to ensure safe drinking water for all
25 Californians is consolidating all water quality programs into the
26 one state agency whose primary mission relates to water quality,
27 the board. The benefits of that consolidation are numerous,
28 including the following:

29 (1) Greater focus of financial and staff support for the drinking
30 water program.

31 (2) More coordination and less duplication among programs
32 addressing drinking water quality.

33 (3) Greater efficiencies of scale and shared resources, resulting
34 in overall lower costs.

35 (4) Broader array of expertise concentrated on drinking water
36 quality, with agency experience in water quality science and policy.

37 (5) Coordination between water source protection and drinking
38 water treatment programs.

1 (6) More accountability for drinking water programs, with a
2 unified agency that has responsibility for oversight and funding
3 and a five-member expert board that makes decisions in public.

4 (7) Improved understanding and coordination between water
5 quality and water rights programs.

6 (8) Consolidated reporting of water use and quality in one
7 agency.

8 (9) Agency experience in fighting fraud, as part of the
9 Underground Storage Tank Cleanup Fund.

10 (10) Consolidated funding programs for related water resources,
11 including both source water protection and wastewater treatment.

12 (11) Combined agency experience in working with the private
13 sector to leverage public funds for public purposes.

14 (12) A board decision process that allows for public airing of
15 the conflicts inherent in managing critical and limited water
16 resources.

17 (g) Crafting the most effective management structure for
18 achieving a comprehensive strategy for protecting drinking water
19 quality requires broad public participation. It is the intent of the
20 Legislature to lead a public process that includes all stakeholders
21 and agencies that may be affected by these reforms to assess the
22 issues and options for fulfilling the state's responsibilities to ensure
23 drinking water quality for all Californians.

24 SEC. 2. Section 116271 is added to the Health and Safety Code,
25 to read:

26 116271. The Legislature finds and declares the following:

27 (a) It is the intent of the Legislature to make the most effective
28 use of California's limited water and financial resources to ensure
29 that all communities, regardless of socioeconomic status, enjoy
30 access to safe and clean drinking water, consistent with the human
31 right to safe, clean, affordable, and accessible water recognized in
32 Section 106.3 of the Water Code.

33 (b) The objectives of this 2013 reorganization of the state's
34 drinking water program include the following:

35 (1) Maximize the efficiency and effectiveness of drinking water,
36 groundwater, and water quality programs in a single agency whose
37 primary mission is water quality as follows:

38 (A) Consolidate regulatory and financing programs into a single
39 state agency that is most focused on protection of California water
40 quality, the State Water Resources Control Board.

1 (B) Provide a one-stop agency where communities can obtain
2 comprehensive technical assistance that helps resolve all their
3 water quality challenges.

4 (C) Minimize administrative costs and interagency differences
5 on water quality issues.

6 (2) Create a comprehensive water quality program that addresses
7 water quality at all stages of the hydrologic cycle as follows:

8 (A) Connect source water protection and wastewater treatment
9 options to create a comprehensive strategy to protect water quality
10 throughout the hydrologic cycle.

11 (B) Provide comprehensive protection of groundwater quality
12 for drinking water purposes for all Californians.

13 (C) Improve the management of California's groundwater
14 resources that are used for drinking and other human consumption
15 purposes.

16 (D) Focus heightened public attention and government resources
17 on protecting the particular groundwater aquifers that provide
18 drinking water.

19 SEC. 3. Section 116272 is added to the Health and Safety Code,
20 to read:

21 116272. The State Water Resources Control Board succeeds
22 to and is vested with all of the authority, duties, powers, purposes,
23 responsibilities, and jurisdiction of the department for the purposes
24 of this part. ~~The Division of Drinking Water and Environmental~~
25 ~~Management of the State Department of Public Health shall~~
26 ~~become the~~ of this part. The Division of Drinking Water Quality
27 of the State Water Resources Control Board *shall carry out the*
28 *functions described in this section.* All references to the department
29 in this part shall be construed to refer to the State Water Resources
30 Control Board. This section shall not be construed to impair the
31 authority of a local health officer to enforce this chapter or a
32 county's election not to enforce this chapter, as provided in Section
33 116500. The State Water Resources Control Board shall accept
34 responsibility for enforcing this chapter pursuant to a contract, as
35 provided in Section 116500. *This section shall be implemented*
36 *during the 2014–15 fiscal year.*

37 SEC. 4. Section 116760.25 is added to the Health and Safety
38 Code, to read:

39 116760.25. The State Water Resources Control Board succeeds
40 to and is vested with all of the authority, duties, powers, purposes,

1 responsibilities, and jurisdiction of the department for the purposes
2 of this chapter. All references to the department in this chapter
3 shall be construed to refer to the State Water Resources Control
4 Board. *This section shall be implemented during the 2014–15 fiscal*
5 *year.*

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AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 371

Introduced by Assembly Member Salas

February 14, 2013

An act to amend Section ~~120392.2~~ of the Health and Safety Code 13274 of the Water Code, relating to ~~health~~ sewage sludge.

LEGISLATIVE COUNSEL'S DIGEST

AB 371, as amended, Salas. ~~Immunizations~~ Sewage sludge: Kern County.

Existing law requires the State Water Resources Control Board or a California regional water quality control board, upon receipt of an application for waste discharge requirements for discharge of dewatered, treated, or chemically fixed sewage or other biological solids, to prescribe general waste discharge requirements for that sludge or those other solids. The California Integrated Waste Management Act of 1989, establishes an integrated waste management program that includes the regulation of solid waste disposal and solid waste facilities, and defines solid waste to include dewatered, treated, and chemically fixed sewage sludge that is not a hazardous waste.

This bill would authorize the Kern County Board of Supervisors, upon a majority vote, to regulate or prohibit by ordinance, in a manner more stringent than state or federal law and in a nondiscriminatory manner, the land application of sewage sludge in unincorporated areas in the jurisdiction of the county, as prescribed.

This bill would make legislative findings and declarations as to the necessity of a special statute for Kern County.

~~Existing law requires every skilled nursing facility, immediate care facility, and nursing facility, as defined, each year, commencing October 1 to the following April 1, inclusive, to offer immunizations for influenza and pneumococcal disease to residents, 65 years of age or older, receiving services at the facility, based upon the latest recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and the latest recommendations of appropriate entities for the prevention, detection, and control of influenza outbreaks in California long-term care facilities.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

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. Section 13274 of the Water Code is amended to
2 read:

3 13274. (a) (1) The state board or a regional board, upon receipt
4 of applications for waste discharge requirements for discharges of
5 dewatered, treated, or chemically fixed sewage sludge and other
6 biological solids, shall prescribe general waste discharge
7 requirements for that sludge and those other solids. General waste
8 discharge requirements shall replace individual waste discharge
9 requirements for sewage sludge and other biological solids, and
10 their prescription shall be considered to be a ministerial action.

11 (2) The general waste discharge requirements shall set minimum
12 standards for agronomic applications of sewage sludge and other
13 biological solids and the use of that sludge and those other solids
14 as a soil amendment or fertilizer in agriculture, forestry, and surface
15 mining reclamation, and may permit the transportation of that
16 sludge and those other solids and the use of that sludge and those
17 other solids at more than one site. The requirements shall include
18 provisions to mitigate significant environmental impacts, potential
19 soil erosion, odors, the degradation of surface water quality or fish
20 or wildlife habitat, the accidental release of hazardous substances,
21 and any potential hazard to the public health or safety.

22 (b) The state board or a regional board, in prescribing general
23 waste discharge requirements pursuant to this section, shall comply
24 with Division 13 (commencing with Section 21000) of the Public

1 Resources Code and guidelines adopted pursuant to that division,
2 and shall consult with the State Air Resources Board, the
3 Department of Food and Agriculture, and the Department of
4 Resources Recycling and Recovery.

5 (c) The state board or a regional board may charge a reasonable
6 fee to cover the costs incurred by the board in the administration
7 of the application process relating to the general waste discharge
8 requirements prescribed pursuant to this section.

9 (d) Notwithstanding any other law, except as specified in
10 subdivisions (f) to ~~(i)~~ (j), inclusive, general waste discharge
11 requirements prescribed by a regional board pursuant to this section
12 supersede regulations adopted by any other state agency to regulate
13 sewage sludge and other biological solids applied directly to
14 agricultural lands at agronomic rates.

15 (e) The state board or a regional board shall review general
16 waste discharge requirements for possible amendment upon the
17 request of any state agency, including, but not limited to, the
18 Department of Food and Agriculture and the State Department of
19 Public Health, if the board determines that the request is based on
20 new information.

21 (f) This section is not intended to affect the jurisdiction of the
22 Department of Resources Recycling and Recovery to regulate the
23 handling of sewage sludge or other biological solids for
24 composting, deposit in a landfill, or other use.

25 (g) This section is not intended to affect the jurisdiction of the
26 State Air Resources Board or an air pollution control district or
27 air quality management district to regulate the handling of sewage
28 sludge or other biological solids for incineration.

29 (h) This section is not intended to affect the jurisdiction of the
30 Department of Food and Agriculture in enforcing Sections 14591
31 and 14631 of the Food and Agricultural Code and any regulations
32 adopted pursuant to those sections, regarding the handling of
33 sewage sludge and other biological solids sold or used as fertilizer
34 or as a soil amendment.

35 (i) This section does not restrict the authority of a local
36 government agency to regulate the application of sewage sludge
37 and other biological solids to land within the jurisdiction of that
38 agency, including, but not limited to, the planning authority of the
39 Delta Protection Commission, the resource management plan of

1 which is required to be implemented by local government general
2 plans.

3 *(j) The Kern County Board of Supervisors, upon a majority*
4 *vote, may regulate or prohibit by ordinance, in a manner more*
5 *stringent than state or federal law and in a nondiscriminatory*
6 *manner, the land application of sewage sludge, including sewage*
7 *sludge imported from another California county, in unincorporated*
8 *areas in the jurisdiction of the county.*

9 *SEC. 2. The Legislature finds and declares that a special law*
10 *is necessary and that a general law cannot be made applicable*
11 *within the meaning of Section 16 of Article IV of the California*
12 *Constitution due to the unique and special problems associated*
13 *with the land application of sewage sludge in Kern County*
14 *requiring the control of sewage sludge for the public good.*

15 SECTION 1. Section 120392.2 of the Health and Safety Code
16 is amended to read:

17 ~~120392.2. (a) Each year, commencing October 1 to the~~
18 ~~following April 1, inclusive, every health care facility, as defined~~
19 ~~in subdivision (a) of Section 120392, shall offer, pursuant to~~
20 ~~Section 120392.4, immunizations for influenza and pneumococcal~~
21 ~~disease to residents, 65 years of age or older, receiving services at~~
22 ~~the facility, based upon the latest recommendations of the Advisory~~
23 ~~Committee on Immunization Practices (ACIP) of the federal~~
24 ~~Centers for Disease Control and Prevention, and the latest~~
25 ~~recommendations of appropriate entities for the prevention,~~
26 ~~detection, and control of influenza outbreaks in California~~
27 ~~long-term care facilities.~~

28 ~~(b) Each health care facility, as defined in subdivision (a) of~~
29 ~~Section 120392, shall offer, pursuant to Section 120392.4,~~
30 ~~pneumococcal vaccine to all new admittees to the health care~~
31 ~~facility, based on the latest recommendations of the ACIP.~~

32 ~~(c) The facility shall be reimbursed the standard Medi-Cal rate~~
33 ~~for an immunization provided to a Medi-Cal recipient, unless he~~
34 ~~or she is also a Medicare recipient whose coverage includes~~
35 ~~reimbursement for the immunization.~~

ASSEMBLY BILL

No. 1349

Introduced by Assembly Member Gatto

February 22, 2013

An act to add Division 30 (commencing with Section 81000) to the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1349, as introduced, Gatto. CalConserve Water Use Efficiency Revolving Fund.

The California Constitution requires the reasonable and beneficial use of water.

This bill would establish the CalConserve Water Use Efficiency Revolving Fund administered by the Department of Water Resources and would continuously appropriate moneys in the fund, without regard to fiscal year, to the department, for the purpose of water use efficiency projects. This bill would require moneys in the fund to be used for purposes that include, but are not limited to, at-or-below market interest rate loans and would permit the department to enter into agreements with local governments or investor-owned utilities that provide water or recycled water service to provide loans.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Division 30 (commencing with Section 81000)
- 2 is added to the Water Code, to read:

1 DIVISION 30. CALCONSERVE WATER USE EFFICIENCY
2 REVOLVING LOAN PROGRAM

3
4 PART 1. GENERAL PROVISIONS
5

6 81000. (a) It is the intent of the Legislature in establishing the
7 CalConserve Water Use Efficiency Revolving Fund to create a
8 sustainable funding source for water use efficiency projects.

9 (b) It is further the intent of the Legislature that the funds from
10 the CalConserve Water Use Efficiency Revolving Fund be used
11 for the following purposes:

12 (1) Reduce urban per capita water use.

13 (2) Improve agricultural water use efficiency.

14 (3) Increase use of recycled water.

15 (4) Reduce greenhouse gas emissions through water efficiency
16 improvements.

17 (c) It is the intent of the Legislature that any public funds made
18 available by this division to investor-owned utilities regulated by
19 the Public Utilities Commission should be for the benefit of the
20 ratepayers or the public and not the investors pursuant to oversight
21 by the Public Utilities Commission.

22 81005. For purposes of this division, “fund” means the
23 CalConserve Water Use Efficiency Revolving Fund established
24 pursuant to Section 81020.
25

26 PART 2. CALCONSERVE WATER USE EFFICIENCY
27 REVOLVING FUND
28

29 81020. The CalConserve Water Use Efficiency Revolving
30 Fund is hereby created in the State Treasury. Notwithstanding
31 Section 13340 of the Government Code, all moneys in the fund
32 are continuously appropriated, without regard to fiscal year, to the
33 department for expenditure in accordance with this division. The
34 department is the state agency responsible for administering the
35 fund.

36 81025. The department may undertake any of the following:

37 (a) Provide for the deposit of any available and necessary
38 moneys into the fund.

39 (b) Enter into agreements with local governments or
40 investor-owned utilities that provide water or recycled water service

1 to provide loans for the purposes described in subdivision (b) of
2 Section 81000.

3 (c) Provide for appropriate audit, accounting, and fiscal
4 management services, plans, and reports relative to the fund.

5 (d) Take additional incidental action as appropriate for the
6 adequate administration and operation of the fund.

7 81030. Moneys in the fund shall be used for the following
8 purposes:

9 (a) Loans that meet all of the following requirements:

10 (1) Are made at-or-below market interest rates.

11 (2) Require annual payments of principal and any interest, with
12 repayment commencing not later than one year after loan funding
13 and full amortization not later than 15 years after loan funding.
14 Full amortization for loans to disadvantaged communities shall be
15 not later than 20 years after loan funding.

16 (3) Require the loan recipient to establish an acceptable
17 dedicated source of revenue for repayment of a loan.

18 (4) Contain other terms and conditions required by the
19 department.

20 (b) As a source of revenue or security for the payment of
21 principal and interest on revenue or general obligation bonds issued
22 by the state, if the proceeds of the sale of those bonds will be
23 deposited in the fund.

24 (c) To earn interest.

25 (d) For payment of the reasonable costs of administering the
26 fund.

27 81035. Any repayment of fund moneys, including interest
28 payments, and all interest earned on, or accruing to, any moneys
29 in the fund, shall be deposited in the fund and shall be available
30 for expenditure for the purposes and uses authorized by this
31 division.

32
33 PART 3. IMPLEMENTATION

34
35 81040. Subject to all applicable constitutional restrictions, a
36 local government may borrow money and incur indebtedness
37 pursuant to this division.

1 81045. The department may adopt rules and regulations
2 necessary or convenient to implement this division.

O