



BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

Notice of Time and Location Change

**LEGISLATIVE/HUMAN RESOURCES
COMMITTEE MEETING**

Tuesday, June 9, 2020

10:30 a.m.

*****Teleconference*****

Notice is hereby given that the Tuesday, June 9, 2020 Legislative/Human Resources Committee Meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 10:30 a.m.

Due to COVID-19 and in accordance with Alameda County Health Order 20-11 (issued May 18, 2020), and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, **this meeting will be conducted via teleconference only**. In compliance with said orders, a physical location will not be provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

Dated: June 4, 2020

A handwritten signature in blue ink that reads 'Rischa S. Cole'.

Rischa S. Cole

Secretary of the District

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**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, June 9, 2020
10:30 a.m.**

Location

Due to COVID-19 and in accordance with Alameda County Health Order 20-11 (issued May 18, 2020), and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, **this meeting will be conducted via teleconference only**. In compliance with said orders, a physical location will not be provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

*Committee Members John A. Coleman {Chair}, Lesa R. McIntosh,
and William B. Patterson will participate via teleconference*

Public Participation

***Dial 855-369-0450 to participate via telephone;
Enter participant pin 49-281-364 # when prompted***

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. ***If you participate via telephone and wish to speak on agenda OR non-agenda items you will be asked to:***

- State your name, affiliation if applicable, and topic
- The Secretary will compile a list of those who wish to make public comment and will call each speaker in the order received
- The Secretary will keep track of time and inform each speaker when his/her allotted time has concluded
- Each speaker will be allotted 3 minutes to speak; the Committee Chair has the discretion to amend this time based on the number of speakers

DETERMINATION AND DISCUSSION:

1. Legislative Update: (Dumaine)
 - Receive Legislative Report No. 04-20 and consider positions on the following bills: AB 2178 (Levine) Emergency Services; AB 2560 (Quirk) Water Quality: Notification and Response Levels: Procedures; SB 862 (Dodd) Planned Power Outage: Public Safety; and SB 1044 (Allen) Firefighting Equipment and Foam: PFAS Chemicals; and receive information on State and Federal Government Actions Related to the Coronavirus Disease 2019
 - Update on Legislative Issues of Interest to EBMUD

ADJOURNMENT:

Disability Notice

If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.

Document Availability

Materials related to an item on this agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours, and can be viewed on our website at www.ebmud.com.

W:\Board of Directors - Meeting Related Docs\Agendas\Agendas 2020\2020 LHR Committee\060920_LHR_ agenda.doc

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: June 4, 2020

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Legislative Report No. 04-20

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, on June 9, 2020.

RECOMMENDED ACTION

Approve positions on the following bills: 1) Support AB 2178 (Levine) Emergency services; 2) Support AB 2560 (Quirk) Water quality: notification and response levels: procedures; 3) Support SB 862 (Dodd) Planned power outage: public safety; and 4) Support SB 1044 (Allen) Firefighting equipment and foam: PFAS chemicals; and receive information on State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

STATE LEGISLATION

RECOMMENDED POSITION

AB 2178 (Levine)

EMERGENCY SERVICES

SUPPORT

Existing law, the California Emergency Services Act (CESA), authorizes the governor to proclaim a state of emergency, and allows local officials and local governments to proclaim a local emergency, when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the governor or the appropriate local government to exercise certain powers in response to that emergency. Generally, a local emergency proclamation is a prerequisite for requesting state assistance. Cities, counties, and special districts may seek financial assistance through the California Disaster Assistance Act (CDAA), with the California Office of Emergency Services and the governor evaluating a number of facts when determining whether to deny or grant the state of emergency and to provide financial assistance.

AB 2178 (Levine), as introduced on February 11, 2020, would add the term “deenergization” to the list of conditions that may constitute both a local emergency and a state of emergency, for purposes of CESA, and define “deenergization” as a planned public safety power shutoff consistent with specified requirements of the Public Utilities Code.

According to the author, AB 2178 will give the governor and local authority “explicit authority to declare an emergency based on a public safety power shutoff (PSPS) and ensure the rapid deployment of resources needed during this type of emergency.”

This bill explicitly acknowledges in statute the impact of PSPS events, and may potentially provide an avenue for both funding and other disaster assistance resources for an impacted local agency. The bill would not result in additional costs to EBMUD, and may give the opportunity for a local agency, like EBMUD, to seek financial assistance from the state to recover costs in future PSPS events.

EBMUD has not taken a position on similar legislation in the past because of the relatively recent use of public safety power shutoffs by electrical corporations as a way to reduce the risk of wildfires in the Bay Area.

The official list of support and opposition to AB 2178 is shown below.

Support

Association of California Water Agencies
Elsinore Valley Municipal Water District
Mesa Water District
Rural County Representatives of California
San Diego County Water Authority
The Utility Reform Network

Opposition

None listed

**AB 2560
(Quirk)**

**WATER QUALITY: NOTIFICATION AND
RESPONSE LEVELS: PROCEDURES**

SUPPORT

Existing law requires drinking water to meet specified standards, known as maximum contamination levels (MCLs). In addition, the State Water Resources Control Board (SWRCB) may set notification levels and response levels for chemicals that are monitored on a voluntary basis. Under existing law, if a public water system monitors for chemicals with a notification level or response level, notice must be provided to its governing body within 30 days of detecting a chemical that has a notification level or a response level.

AB 2560 (Quirk), as amended on May 12, 2020, is a water quality-related measure intended to create a clear and consistent process for the establishment of notification levels and response levels for chemicals in drinking water. Specifically, AB 2560 would require the SWRCB when establishing or revising a notification level or response level to: 1) post on its website and distribute through email that the SWRCB has initiated the development of a notification level or response level; 2) post on its website and distribute through email a notice that a draft notification level or response level is available, including materials, such as studies, that were

used to support the development of the level and whether the studies used were peer reviewed; and 3) prior to finalizing a notification level or response level include the draft level as an information item at a SWRCB meeting.

According to the Assembly Committee on Environmental Safety and Toxic Materials, the SWRCB's Division of Drinking Water (DDW) establishes health-based advisory levels, called notification levels, for non-regulated chemicals in drinking water that do not have MCLs. Notification levels are advisory and are not enforceable limits though when a chemical is found in a drinking water source at levels higher than the notification level, certain requirements and recommendations apply. Once a notification level has been established it generally stays in place unless it is replaced by an MCL. A response level refers to the concentration of a chemical that is generally considerably greater than the notification level and the point at which DDW recommends taking a source of water out of service or notifying the public.

According to the author, there is a very clear process for the establishment of MCLs, which are health protective drinking water standards to be implemented by public water systems. However, there is not a clear and consistent process for the establishment of notification levels and response levels, which are not set through a SWRCB hearing process but set administratively by DDW.

EBMUD has an extensive water quality program, which includes sampling, testing, and treatment, to ensure that customers receive high-quality drinking water that meets or exceeds all state and federal regulatory requirements. EBMUD performs more than 20,000 lab tests annually and tests for more than 100 substances. In addition to regulated chemicals and substances, EBMUD monitors for chemicals and substances of emerging concern, some of which have notification levels and response levels and some of which do not. EBMUD follows DDW recommendations and includes information in the annual Consumer Confidence Report on monitored chemicals and substances that are detected above a notification level.

AB 2560 is intended to provide greater transparency in the DDW process of setting notification levels and response levels and help water agencies, including EBMUD, have clear and consistent information regarding notification and response levels.

With regard to anticipated costs and benefits to EBMUD and its ratepayers, benefits are anticipated in terms of improved access to the process and information used in setting notification levels and response levels. Additional costs are not anticipated to accrue as a result of AB 2560.

EBMUD has previously supported drinking water quality-related measures that pertain to constituents of emerging concern. In 2018, EBMUD supported AB 2072 (Quirk) to require the SWRCB to establish and maintain a program to research the potential effects of constituents of emerging concern in water sources on human and ecosystem health. AB 2072 failed to advance out of the legislature.

The official list of support and opposition to AB 2560 is shown below.

Support

California Municipal Utilities Association
(Co-sponsor)
Association of California Water Agencies
(ACWA)
California Groundwater Coalition (CGC)
California-Nevada Section, American Water
Works Association
Clean Water Action
Desert Water Agency
Eastern Municipal Water District
El Dorado Irrigation District
Elsinore Valley Municipal Water District
Environmental Working Group (EWG)
Inland Empire Utilities Agency
Irvine Ranch Water District
Leadership Council for Justice and
Accountability

Mesa Water District
Metropolitan Water District of Southern
California (Metropolitan)
Municipal Water District of Orange County
Natural Resources Defense Council (NRDC)
Orange County Water District
Palmdale Water District
Rowland Water District
Sierra Club California
Valley County Water District
Walnut Valley Water District
WaterReuse Association
Western Municipal Water District
Yorba Linda Water District

Opposition

None listed

**SB 862
(Dodd)**

**PLANNED POWER OUTAGE:
PUBLIC SAFETY**

SUPPORT

Existing law, the California Emergency Services Act (CESA), authorizes the governor to proclaim a state of emergency, and local officials and local governments to proclaim a local emergency, when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the governor or the appropriate local government to exercise certain powers in response to that emergency. Generally, a local emergency proclamation is a prerequisite for requesting state assistance. Cities, counties, and special districts may seek financial assistance through the California Disaster Assistance Act (CDAA), with the California Office of Emergency Services and the governor evaluating a number of facts when determining whether to deny or grant the state of emergency and to provide financial assistance.

SB 862 (Dodd), as amended on May 20, 2020, would define and include a “deenergization event” in the list of conditions that may constitute both a local emergency and a state of emergency, for purposes of CESA. The bill would also impose new requirements on electrical corporations regarding certain protocols for deenergization events.

While the definition included in SB 862 for a “deenergization event” is slightly different than what is contained in AB 2178 (Levine), the intent to include these events in statute as an eligible

condition to declare a local or state of emergency is the same. Of less relevance to EBMUD are other provisions of the bill which require an electrical corporation to coordinate with cities and counties in its service territory to identify sites within those jurisdictions where community resource centers can be established and operated during a deenergization event, including the provision of backup generation for the center, as necessary. SB 862 also requires an electrical corporation, as part of its public safety mitigation protocols, to include protocols that deal specifically with access and functional needs of individuals. These provisions are supported by disability rights groups as well as individual counties and the California State Association of Counties.

This bill explicitly acknowledges in statute the impact of deenergization events, and may potentially provide an avenue for both funding and other disaster assistance resources for an impacted local agency. The bill would not result in additional costs to EBMUD, and may provide the opportunity for a local agency, like EBMUD, to seek financial assistance from the state to recover costs in future deenergization events.

EBMUD has not taken a position on similar legislation in the past because of the relatively recent use of deenergization as a way to reduce the risk of wildfires in the Bay Area.

The official list of support and opposition to SB 862 is shown below.

Support

California Association of Public Authorities
for IHSS (Co-sponsor)
Disability Rights California (Co-sponsor)
Association of Regional Center Agencies
California Community Choice Association
California State Sheriffs' Association
California State Association of Counties
City of San Jose
Coalition of California Welfare Rights
Organizations
County Welfare Directors Association of
California

Elsinore Valley Municipal Water District
Health Officers Association of California
Marin Clean Energy
Marin County Board of Supervisors
Napa County Board of Supervisors
National Association of Social Workers-
California Chapter
Rural County Representatives of California
Solano County Board of Supervisors
The Utility Reform Network
Western Manufactured Housing
Communities Association

Opposition

San Diego Gas & Electric

**SB 1044
(Allen)**

**FIREFIGHTING EQUIPMENT AND
FOAM: PFAS CHEMICALS**

SUPPORT

Existing law authorizes the State Fire Marshal to standardize all existing fire protective equipment throughout the state and requires the State Fire Marshal to notify industrial establishments and property owners with fire protective equipment of the changes necessary to

bring their equipment into conformity with standard requirements. Existing law also authorizes the State Water Resources Control Board (SWRCB) to order a public water system to monitor for perfluoroalkyl substances and polyfluoroalkyl substances (PFAS); requires water systems to report detections; and where a detected level of these substances exceeds the response level, to take a water source out of use or provide a prescribed public notification.

SB 1044 (Allen), as amended on May 18, 2020, is intended to protect drinking water and reduce health risks to firefighters by addressing two sources of PFAS chemicals. SB 1044 would do two primary things: 1) ban the use of class B firefighting foam containing PFAS chemicals except in situations where it is federally required and 2) require notification of the presence of PFAS in the protective equipment of firefighters.

Under SB 1044, beginning January 1, 2022, a manufacturer of class B firefighting foam may not manufacture, or knowingly sell, offer for sale, distribute for sale, or distribute for use in this state class B firefighting foam to which PFAS chemicals have been intentionally added unless the inclusion of PFAS chemicals is required by federal law. The bill also prohibits the use of such foam beginning January 1, 2022. These restrictions would not apply until January 1, 2024, for the use of class B firefighting foam for use on large atmospheric storage tank fires at chemical plants, fuel storage and distribution facilities, or oil refineries. In addition, SB 1044 would require, beginning January 1, 2022, any person or manufacturer that sells firefighter personal protective equipment to provide a written notice to the purchaser if the personal protective equipment contains PFAS. The bill contains various other provisions, including civil penalties for violating the provisions of the bill.

According to the Senate Committee on Environmental Quality (Senate Committee), PFAS are a group of nearly 5,000 man-made chemicals including perfluorooctanoic acid (PFOA) and perfluorooctanesulfonate (PFOS). “Produced since the 1950s, PFAS chemicals, used in food packaging, stain- and water-repellent fabrics, nonstick products such as Teflon, and in firefighting foams, have been linked to cancers and other health issues. Firefighting foam accounts for a significant amount of total global production of PFAS. People are exposed to PFOS and PFOA through food, food packaging, consumer products, house dust, and drinking water. Exposure through drinking water has become an increasing concern due to the tendency of PFASs to accumulate in groundwater. Such contamination is typically localized and associated with a specific facility, for example, an industrial facility where these chemicals were manufactured or used in other products, or airfields which used the chemicals for firefighting.”

The Senate Committee notes that class B firefighting foam is used to extinguish flammable liquid fires, primarily at airports, refineries, and chemical plants (it is not fire retardant used to stop the spread of wildfires), and that there are PFAS-free firefighting foams available. For example, London’s Heathrow Airport, as well as other airports around the world including all 27 major Australian airports, have already transitioned to PFAS-free firefighting foam.

According to the author, one of the primary sources of PFAS contamination “is the use of PFAS-containing firefighting foam, used to fight liquid fires, known as “Class B” fires. Firefighters

already face greater risks of cancer and other health problems than the general population due to exposure related to their vital work. Firefighting protective gear also contains PFAS, so there is exposure from both the gear and the firefighting foam. Elevated levels of PFAS chemicals have been documented in the bodies of firefighters, putting them at greater risk of harm from the health effects associated with PFAS, including cancer. SB 1044 addresses two sources of PFAS chemicals that threaten the health of firefighters and pollute our drinking water.”

With regard to PFAS in drinking water, the SWRCB’s Division of Drinking Water (DDW) has established a notification level of 6.5 parts per trillion for PFOS and 5.1 parts per trillion for PFOA. Notification levels are “nonregulatory, health-based advisory levels established for contaminants in drinking water for which maximum contaminant levels have not been established. Notification levels are established as precautionary measures for contaminants that may be considered candidates for establishment of maximum contaminant levels but have not yet undergone or completed the regulatory standard-setting process prescribed for the development of maximum contaminant levels and are not drinking water standards.” In addition to the notification level, DDW has set the response level for PFOS at 40 parts per trillion and 10 parts per trillion for PFOA. The response level is the concentration level at which DDW recommends taking a source of water out of service or notifying the public.

EBMUD has an extensive water quality program, which includes sampling, testing, and treatment, to ensure that customers receive high-quality drinking water that meets or exceeds all state and federal regulatory requirements. EBMUD voluntarily monitors its drinking water for several PFAS chemicals including, PFOA and PFOS and has not detected significant concentrations of these substances to date.

SB 1044 takes a pollution prevention approach to address the proliferation of PFAS in the environment by taking a step to eliminate their use. SB 1044 would help protect drinking water supplies and reduce the state firefighters’ risk of exposure from PFAS by eliminating a significant source of PFAS in the state.

With regard to anticipated costs and benefits to EBMUD and its ratepayers, benefits are anticipated in terms of improved public health benefit that would accrue from eliminating a major source of PFAS in drinking water. Additional costs are not anticipated to accrue as a result of SB 1044.

SB 1044’s approach is consistent with EBMUD’s own efforts to address pollution at its source. Most notably, in 2006 EBMUD sponsored the landmark “Get the Lead Out” legislation, AB 1953 (Chan), which essentially eliminated the use of lead in drinking water plumbing. AB 1953 was signed into law (Chapter 853 of 2006) and as a direct result of EBMUD’s efforts, California’s safer lead standard was adopted nationally.

The official support and opposition to SB 1044 is shown below.

Support

5 Gyres Institute, the
7th Generation Advisors
Association of California Water Agencies
(ACWA)
Breast Cancer Action
Breast Cancer Prevention Partners
California Coastkeeper Alliance
California Fire Chiefs Association
California Healthy Nail Salon Collaborative
California Indian Environmental Alliance
California League of Conservation Voters
California Municipal Utilities Association
California Product Stewardship Council
California Professional Firefighters
California Public Interest Research Group
Education Fund
California Special Districts Association
California State Firefighters' Association
California Water Service
Calpirg
Center for Environmental Health
Center for Oceanic Awareness, Research,
and Education, the
Center for Public Environmental Oversight
Citizens for Choice
Clean Water Action
Community Water Center

Defenders of Wildlife
Environmental Working Group
Friends Committee on Legislation of
California
Green Science Policy Institute
Leadership Council for Justice and
Accountability
Metropolitan Water District of Southern
California
National Resources Defense Council
National Stewardship Action Council
Natural Resources Defense Council (NRDC)
Oregon Environmental Council
Physicians for Social Responsibility - San
Francisco Bay Area Chapter
Plastic Pollution Coalition
Safer States
San Francisco Baykeeper
Sanitation Districts of Los Angeles County
Santa Clara Valley Water District
Save Our Shores
Seventh Generation Advisors
Sierra Club California
The Center for Environmental Health
The Center for Oceanic Awareness,
Research, and Education
Wholly H2o
Women's Voices for The Earth

Opposition

American Chemistry Council
California Chamber of Commerce
California Manufacturers & Technology Association
Chemical Industry Council of California
Fire Fighting Foam Coalition
Industrial Environmental Association
Western Independent Refiners Association
Western States Petroleum Association

**STATE AND FEDERAL GOVERNMENT ACTIONS
RELATED TO THE CORONAVIRUS DISEASE 2019
(COVID-19)**

INFORMATION

An overview of key state and federal actions taken in response to the COVID-19 pandemic since Legislative Report No. 03-20, is provided below.

State Government Actions

Executive Orders

Subsequent to the writing of Legislative Report No. 03-20, five additional executive orders have been issued. Information on those executive orders of direct interest to EBMUD is provided below.

May 7, 2020; Executive Order N-63-20; Omnibus

This order was issued to address various deadline extensions related to public school project inspectors, certified access specialists who ensure disability access, the State Fire Marshal posting lists of fire resistant building materials and flame retardant materials, extension of notary public certifications, and allowing retired public safety officers to be reemployed for up to a year. In addition, of particular interest to EBMUD, the executive order included employment-related provisions including:

- Extending by 60 days various workers' compensation deadlines.
- Extending by 60 days the deadline to file complaints with the state's Department of Labor Standards Enforcement.
- Extending by 60 days various deadlines related to occupational safety and health.
- Extending the deadline by 30 days for an employee organization to request fact-finding.
- Suspending requirements to post employment-related information on bulletin boards and instead post such notices through email to employees.
- Allowing electronic means for participation in adjudicative hearings.

Staff is evaluating these provisions in the context of EBMUD operations.

May 19, 2020; Executive Order N-65-20; Omnibus

This order was issued to address issues related to domestic violence services, grade point average verification for financial aid, and California Energy Commission program deadlines. In addition, of particular interest to EBMUD, the executive order also extends the timeframe, by 60 days from the date of the order, for local governments to submit claims for reimbursement to the California State Controller's Office. EBMUD staff is evaluating this provision in the context of EBMUD operations.

May 29, 2020; Executive Order N-66-20; Omnibus, Childcare for Essential Workers

This order was issued to address various issues related to extending Department of Motor Vehicles waivers, teacher credentialing requirements, and the Department of Housing and

Community Development. Of particular interest to EBMUD, the order extends the timeframe during which the state is allowing expanded access to child care for essential and critical infrastructure workers to either June 30, 2020, or 60 days from the time a child was enrolled in the care, whichever is longer.

Legislative Actions

Since returning from its COVID-19 recess in May the assembly and senate have held policy committee hearings on a compressed schedule and have resumed budget discussions. Subsequent to the May 14 release of Governor Newsom's May Revise budget, the senate and assembly have held several budget-related hearings as they work toward meeting the June 15 constitutional deadline for completing the budget. Emblematic of the unusual circumstances caused by the COVID-19 pandemic and the need to meet this deadline, the assembly convened the "Committee of the Whole" to allow the entire assembly to meet at the same time to discuss, but not act on, the budget. This marks the first time in over two decades that a "Committee of the Whole" has been called. Though the legislature's work is continuing, the recent civil unrest has resulted in further compression of the legislature's schedule.

Federal Government Actions

Congress continues to discuss additional COVID-19-related economic stimulus and relief, including H.R. 6800, the HEROES Act, on the heels of the four other COVID-19 relief bills that have been signed into law: H.R. 266 (McCollum), H.R. 6074 (Lowey), H.R. 6201 (Lowey), and H.R. 748 (Courtney). The HEROES Act passed the House on May 15, 2020, and is currently pending in the Senate.

Staff has been actively engaged in communicating requests to Congress for federal COVID-19 assistance specific to public water and wastewater agencies that are special districts. These requests ask Congress to:

- 1) Include substantive ratepayer assistance to states specifically for drinking water and wastewater treatment services and ensure equitable distribution for all regions in California based on the percentage of low-income households in each agency's service territory;
- 2) Remove the explicit prohibition for governmental employers, like public water agencies, from receiving payroll tax credit for both the required paid sick leave and the required paid family leave, similar to what was already granted to the private sector in H.R. 6201;
- 3) Provide funding for any enhanced benefits for essential frontline workers and include public water and wastewater utility workers as eligible essential frontline workers; and
- 4) Include eligibility for special districts that provide drinking water and wastewater treatment services in any additional Coronavirus relief funds.

Congress is expected to consider a stimulus effort related to infrastructure at a later date.

NEXT STEPS

Staff is continuing to pursue funding eligibility for EBMUD under federal COVID-19 relief packages and is engaged in discussions regarding future federal stimulus efforts. Staff will continue to monitor state and federal government actions in response to COVID-19 and engage as warranted. Staff will continue to provide updates to the Board, as appropriate.

ARC:MD:DM/JW

Attachments

I:\SEC\2020 Board Related Items\LegHRCmtc and Regular Mtg\060920 BoardItems\OGM - Legislative Report No. 04-20.doc

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ASSEMBLY BILL

No. 2178

Introduced by Assembly Member Levine

February 11, 2020

An act to amend Sections 8557 and 8558 of the Government Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2178, as introduced, Levine. Emergency services.

Existing law, the California Emergency Services Act, authorizes the Governor to proclaim a state of emergency, and local officials and local governments to proclaim a local emergency, when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the Governor or the appropriate local government to exercise certain powers in response to that emergency. Existing law defines the terms “state of emergency” and “local emergency” to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by, among other things, fire, storm, or riot.

This bill would additionally include a deenergization, defined as a planned public safety power shutoff, as specified, within those conditions constituting a state of emergency and a local emergency.

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 8557 of the Government Code is amended
2 to read:

1 8557. (a) “State agency” means any department, division,
2 independent establishment, or agency of the executive branch of
3 the state government.

4 (b) “Political subdivision” includes any city, city and county,
5 county, district, or other local governmental agency or public
6 agency authorized by law.

7 (c) “Governing body” means the legislative body, trustees, or
8 directors of a political subdivision.

9 (d) “Chief executive” means that individual authorized by law
10 to act for the governing body of a political subdivision.

11 (e) “Disaster council” and “disaster service worker” have the
12 meaning prescribed in Chapter 1 (commencing with Section 3201)
13 of Part 1 of Division 4 of the Labor Code.

14 (f) “Public facility” means any facility of the state or a political
15 subdivision, which facility is owned, operated, or maintained, or
16 any combination thereof, through moneys derived by taxation or
17 assessment.

18 (g) “Sudden and severe energy shortage” means a rapid,
19 unforeseen shortage of energy, resulting from, but not limited to,
20 events such as an embargo, sabotage, or natural disasters, and
21 which has statewide, regional, or local impact.

22 (h) *“Deenergization” means a planned public safety power*
23 *shutoff that is consistent with the requirements of subdivision (a)*
24 *of Section 399.2 of, and of Section 451 of, the Public Utilities Code.*

25 SEC. 2. Section 8558 of the Government Code is amended to
26 read:

27 8558. Three conditions or degrees of emergency are established
28 by this chapter:

29 (a) “State of war emergency” means the condition that exists
30 immediately, with or without a proclamation thereof by the
31 Governor, whenever this state or nation is attacked by an enemy
32 of the United States, or upon receipt by the state of a warning from
33 the federal government indicating that such an enemy attack is
34 probable or imminent.

35 (b) “State of emergency” means the duly proclaimed existence
36 of conditions of disaster or of extreme peril to the safety of persons
37 and property within the state caused by conditions such as air
38 pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism,
39 sudden and severe energy shortage, plant or animal infestation or
40 disease, the Governor’s warning of an earthquake or volcanic

1 prediction, or an earthquake, or other conditions, other than
2 conditions resulting from a labor controversy or conditions causing
3 a “state of war emergency,” which, by reason of their magnitude,
4 are or are likely to be beyond the control of the services, personnel,
5 equipment, and facilities of any single county, city and county, or
6 city and require the combined forces of a mutual aid region or
7 regions to combat, or with respect to regulated energy utilities, *a*
8 *deenergization* or a sudden and severe energy shortage *that* requires
9 extraordinary measures beyond the authority vested in the
10 California Public Utilities Commission.

11 (c) “Local emergency” means the duly proclaimed existence of
12 conditions of disaster or of extreme peril to the safety of persons
13 and property within the territorial limits of a county, city and
14 county, or city, caused by conditions such as air pollution, fire,
15 flood, storm, epidemic, riot, drought, cyberterrorism, sudden and
16 severe energy shortage, plant or animal infestation or disease, the
17 Governor’s warning of an earthquake or volcanic prediction, or
18 an earthquake, or other conditions, other than conditions resulting
19 from a labor controversy, which are or are likely to be beyond the
20 control of the services, personnel, equipment, and facilities of that
21 political subdivision and require the combined forces of other
22 political subdivisions to combat, or with respect to regulated energy
23 utilities, *a deenergization* or a sudden and severe energy shortage
24 *that* requires extraordinary measures beyond the authority vested
25 in the California Public Utilities Commission.

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AMENDED IN ASSEMBLY MAY 12, 2020

AMENDED IN ASSEMBLY MAY 6, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2560

**Introduced by Assembly Member Quirk
(Coauthors: Assembly Members Daly and Petrie-Norris)**

February 19, 2020

An act to add Section 116456 to the Health and Safety Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2560, as amended, Quirk. Water quality: notification and response levels: procedures.

The California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board various duties and responsibilities for the regulation and control of drinking water in the state. The act requires the state board to adopt drinking water standards for contaminants in drinking water based upon specified criteria and requires any person who owns a public water system to ensure that the system, among other things, complies with those drinking water standards.

The act requires a public water system to provide prescribed notices within 30 days after it is first informed of a confirmed detection of a contaminant found in drinking water delivered by the public water system for human consumption that is in excess of a maximum contaminant level, a notification level, or a response level established by the state board.

This bill would require the state board to comply with specified public notice and comment procedures when establishing or revising notification or response levels.

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 116456 is added to the Health and Safety
- 2 Code, to read:
- 3 116456. When establishing or revising notification or response
- 4 levels, the state board shall do all of the following:
- 5 (a) Electronically post on its internet website and distribute
- 6 through email a notice informing interested persons that the state
- 7 board has initiated the development of a notification or response
- 8 level.
- 9 (b) Electronically post on its internet website and distribute
- 10 through email a notice that a draft notification or response level
- 11 is available. The notice shall include an electronic link to an
- 12 internet webpage where the draft level can be viewed electronically
- 13 along with the complete study or studies and ~~assumptions~~ *the*
- 14 *notification level recommendations document* provided to the state
- 15 board by the Office of Environmental Health Hazard ~~Assessment~~
- 16 *Assessment, if applicable*, that were used to establish the level.
- 17 The notice shall indicate whether the study or studies were peer
- 18 reviewed and whether only one study was used. Notice and
- 19 document availability shall occur at least 30 days before the
- 20 meeting required pursuant to subdivision (c).
- 21 (c) Before a draft notification or response level is finalized,
- 22 include, as an informational item, the draft notification or response
- 23 level at a regularly noticed meeting of the state board.

AMENDED IN SENATE MAY 20, 2020

AMENDED IN SENATE MARCH 5, 2020

SENATE BILL

No. 862

Introduced by Senator Dodd

January 16, 2020

An act to amend Section 8557 of the Government Code, and to amend Section 8386 of, and to add Section 768.9 to, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 862, as amended, Dodd. Planned power outage: public safety.

Existing law, the California Emergency Services Act, authorizes the Governor to proclaim a state of emergency, and local officials and local governments to proclaim a local emergency, when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the Governor or the appropriate local government to exercise certain powers in response to that emergency. Existing law defines the terms "state of emergency" and "local emergency" to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by, among other things, fire, storm, or riot.

This bill would additionally include a deenergization event, as defined, within a sudden and severe energy shortage constituting a state of emergency and a local emergency.

Existing law requires each electrical corporation to annually prepare a wildfire mitigation plan and to submit its plan to the ~~commission~~ *Public Utilities Commission* for review and approval, as specified. Following approval, the commission is required to oversee compliance with the plan. Existing law requires a wildfire mitigation plan of an

electrical corporation to include, among other things, protocols for deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, and protocols related to mitigating the public safety impacts of those protocols, including impacts on customers who receive medical baseline allowances.

This bill would require an electrical corporation, as a part of its public safety mitigation protocols, to include protocols that deal specifically with access and functional ~~need~~ *needs* individuals, ~~as defined, including those individuals who are enrolled in the California Alternative Rates for Energy program, as specified.~~ *defined.*

The bill would require an electrical corporation to coordinate with local governments in its service territory to identify sites within those jurisdictions where community resource centers can be established and operated during a deenergization event and the level of services that will be available at those centers, as those terms are defined. The bill would require the electrical corporation to perform additional duties in coordination with local governments, including performing any necessary electrical upgrades to ensure that a mobile backup generator can be located at, and provide the necessary electricity for, the community resource center during a deenergization event.

~~Existing law authorizes an electrical corporation to deploy backup electrical resources or provide financial assistance for backup electrical resources to a customer receiving a medical baseline allowance who meets specified requirements, including that the customer is not eligible for backup electrical resources provided through medical services, medical insurance, or community resources.~~

~~This bill would recast those provisions to authorize the electrical corporation to deploy backup resources to a customer, including an individual with an access of functional need, as defined, and would delete the requirement that the customer not be eligible for backup electrical resources from the other providers.~~

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because a violation of the public utilities provisions this bill would add additional requirements to an electrical corporation's wildfire mitigation plan that would be approved and overseen by the commission and because a violation by an electrical corporation of an order or decision of the commission implementing these requirements would be a crime, this bill would impose a state-mandated local program.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 8557 of the Government Code is amended
2 to read:

3 8557. (a) “State agency” means any department, division,
4 independent establishment, or agency of the executive branch of
5 the state government.

6 (b) “Political subdivision” includes any city, city and county,
7 county, district, or other local governmental agency or public
8 agency authorized by law.

9 (c) “Governing body” means the legislative body, trustees, or
10 directors of a political subdivision.

11 (d) “Chief executive” means that individual authorized by law
12 to act for the governing body of a political subdivision.

13 (e) “Disaster council” and “disaster service worker” have the
14 meaning prescribed in Chapter 1 (commencing with Section 3201)
15 of Part 1 of Division 4 of the Labor Code.

16 (f) “Public facility” means any facility of the state or a political
17 subdivision, which facility is owned, operated, or maintained, or
18 any combination thereof, through moneys derived by taxation or
19 assessment.

20 (g) “Sudden and severe energy shortage” means either of the
21 following:

22 (1) A rapid, unforeseen shortage of energy, resulting from, but
23 not limited to, events such as an embargo, sabotage, or natural
24 disasters, and which has statewide, regional, or local impact.

25 (2) A deenergization event.

26 (h) For purposes of this section, a “deenergization event” means
27 a planned power outage, undertaken by an electrical corporation,
28 as defined in Section 218 of the Public Utilities Code, to reduce
29 the risk of wildfires caused by utility equipment, pursuant to Public
30 Utilities Commission Resolution ESRB-8 and any decisions issued

1 by the commission, the Wildfire Safety Division, as set forth in
2 Section 326 of the Public Utilities Code, the Office of Energy
3 Infrastructure Safety, or any other agency with authority over
4 electrical corporations. A deenergization event commences when
5 an electrical corporation provides notice to any state agency or
6 political subdivision of the potential need to initiate a planned
7 deenergization of the electrical grid, and ceases when the electrical
8 corporation restores electrical services to all deenergized customers,
9 or at such time as the electrical corporation cancels the power
10 outage for some or all of its affected customers, and rescinds the
11 notice of the potential need to initiate the deenergization event.

12 SEC. 2. Section 768.9 is added to the Public Utilities Code, to
13 read:

14 768.9. (a) For purposes of this section, all of the following
15 definitions shall apply:

16 (1) "Community resource center" means a facility that is jointly
17 identified by an electrical corporation and a local government as
18 being capable of providing resources and services to individuals
19 during a deenergization event. With the agreement of the property
20 owner or lessee of the facility, a community resource center may
21 include, but not be limited to a library, senior center, sports center,
22 community center, convention center, fairground, or school
23 cafeteria or gymnasium.

24 (2) "Local government" means a city, county, or city and county.

25 (3) "Deenergization event" has the same meaning as set forth
26 in subdivision (h) of Section 8557 of the Government Code.

27 (b) (1) (A) An electrical corporation shall coordinate with local
28 governments in its service territory to identify sites within those
29 jurisdictions where community resource centers can be established
30 and operated during a deenergization event and the level of services
31 that will be available at those centers.

32 (B) The electrical corporation shall perform any necessary
33 electrical upgrades to ensure that a mobile backup generator can
34 be located at, and provide the necessary electricity for, the site
35 during a deenergization event. The electrical corporation shall
36 provide a mobile backup generator at the beginning of a
37 deenergization event if ~~the~~ *both of the following conditions are*
38 *met:*

39 (i) *The* community resource center is not otherwise equipped
40 with a backup generator.

1 (ii) *The electrical corporation determines that a deenergization*
2 *event is expected to result in loss of electricity at the community*
3 *resource center.*

4 (2) An electrical corporation shall site community resource
5 centers, to the maximum extent practicable, at existing facilities
6 that have adequate capacity to meet the community needs identified
7 by the applicable local~~—government.~~ *government, within the*
8 *guidelines as adopted by the commission.* A community resource
9 center shall be located within a reasonable distance of the
10 communities it is intended to serve.

11 (3) An electrical corporation shall enter into agreements with
12 the owners of those facilities identified as community resource
13 centers to ensure that community resource centers can be opened
14 upon initiation of a deenergization event in that jurisdiction.

15 (4) A community resource center shall be open and accessible
16 24 hours per~~day~~ *day, if the county emergency services officer*
17 *determines those hours are necessary. The community resource*
18 *center shall remain in operation on a daily basis* from the time a
19 deenergization event is initiated until service restoration is
20 completed in the jurisdiction, or at such time as a county emergency
21 services officer determines there is no further need for the
22 community resource center to remain in operation.

23 SEC. 3. Section 8386 of the Public Utilities Code is amended
24 to read:

25 8386. (a) Each electrical corporation shall construct, maintain,
26 and operate its electrical lines and equipment in a manner that will
27 minimize the risk of catastrophic wildfire posed by those electrical
28 lines and equipment.

29 (b) Each electrical corporation shall annually prepare and submit
30 a wildfire mitigation plan to the Wildfire Safety Division for review
31 and approval. In calendar year 2020, and thereafter, the plan shall
32 cover at least a three-year period. The division shall establish a
33 schedule for the submission of subsequent comprehensive wildfire
34 mitigation plans, which may allow for the staggering of compliance
35 periods for each electrical corporation. In its discretion, the division
36 may allow the annual submissions to be updates to the last
37 approved comprehensive wildfire mitigation plan; provided, that
38 each electrical corporation shall submit a comprehensive wildfire
39 mitigation plan at least once every three years.

(c) The wildfire mitigation plan shall include all of the following:

(1) An accounting of the responsibilities of persons responsible for executing the plan.

(2) The objectives of the plan.

(3) A description of the preventive strategies and programs to be adopted by the electrical corporation to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.

(4) A description of the metrics the electrical corporation plans to use to evaluate the plan's performance and the assumptions that underlie the use of those metrics.

(5) A discussion of how the application of previously identified metrics to previous plan performances has informed the plan.

(6) Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety. As part of these protocols, each electrical corporation shall include protocols related to mitigating the public safety impacts of disabling reclosers and deenergizing portions of the electrical distribution system that consider the impacts on all of the following:

(A) Critical first responders.

(B) Health and communication infrastructure.

~~(C) Access and functional needs individuals as defined in subdivision (b) of Section 8593.3 of the Government Code, and customers~~(i) *Customers* who receive medical baseline allowances pursuant to subdivision (c) of Section 739. The electrical corporation may deploy backup electrical resources or provide financial assistance for backup electrical resources to ~~an access and functional needs individual~~ and a customer receiving a medical baseline allowance ~~when the individual or customer demonstrates financial need, including, but not limited to, enrollment in the California Alternative Rates for Energy program created pursuant to Section 739.1 and meets either~~ *for a customer who meets all of* the following requirements:

~~(i)~~

~~(I)~~ *The individual or customer relies on life support equipment that operates on electricity to sustain life.*

~~(ii) The individual or customer is a person with a disability or an access and functional need.~~

1 ~~(II) The customer demonstrates financial need, including~~
2 ~~through enrollment in the California Alternate Rates for Energy~~
3 ~~program created pursuant to Section 739.1.~~

4 ~~(III) The customer is not eligible for backup electrical resources~~
5 ~~provided through medical services, medical insurance, or~~
6 ~~community resources.~~

7 ~~(D) Subparagraph (C)~~

8 ~~(ii) Clause (i) shall not be construed as preventing an electrical~~
9 ~~corporation from deploying backup electrical resources or~~
10 ~~providing financial assistance for backup electrical resources under~~
11 ~~any other authority.~~

12 ~~(D) Access and functional needs individuals, as defined in~~
13 ~~subdivision (b) of Section 8593.3 of Government Code. The~~
14 ~~electrical corporation shall work with stakeholders and local~~
15 ~~governments to develop protocols which shall include, but not be~~
16 ~~limited to, improved outreach to individuals with access and~~
17 ~~functional needs in order to prepare for deenergization events,~~
18 ~~including information about available resources that may provide~~
19 ~~backup power or financial assistance for backup power; and~~
20 ~~information pertaining to the location of, access to, and services~~
21 ~~provided at, community resource centers, as defined in Section~~
22 ~~768.9.~~

23 (7) Appropriate and feasible procedures for notifying a customer
24 who may be impacted by the deenergizing of electrical lines,
25 including procedures for access and functional needs individuals
26 and customers and those customers receiving a medical baseline
27 allowance as described in paragraph (6). The procedures shall
28 direct notification to all public safety offices, critical first
29 responders, health care facilities, and operators of
30 telecommunications infrastructure with premises within the
31 footprint of potential deenergization for a given event.

32 (8) Plans for vegetation management.

33 (9) Plans for inspections of the electrical corporation's electrical
34 infrastructure.

35 (10) Protocols for the deenergization of the electrical
36 corporation's transmission infrastructure, for instances when the
37 deenergization may impact customers who, or entities that, are
38 dependent upon the infrastructure.

39 (11) A list that identifies, describes, and prioritizes all wildfire
40 risks, and drivers for those risks, throughout the electrical

1 corporation's service territory, including all relevant wildfire risk
2 and risk mitigation information that is part of the Safety Model
3 Assessment Proceeding and the Risk Assessment Mitigation Phase
4 filings. The list shall include, but not be limited to, both of the
5 following:

6 (A) Risks and risk drivers associated with design, construction,
7 operations, and maintenance of the electrical corporation's
8 equipment and facilities.

9 (B) Particular risks and risk drivers associated with topographic
10 and climatological risk factors throughout the different parts of
11 the electrical corporation's service territory.

12 (12) A description of how the plan accounts for the wildfire risk
13 identified in the electrical corporation's Risk Assessment
14 Mitigation Phase filing.

15 (13) A description of the actions the electrical corporation will
16 take to ensure its system will achieve the highest level of safety,
17 reliability, and resiliency, and to ensure that its system is prepared
18 for a major event, including hardening and modernizing its
19 infrastructure with improved engineering, system design, standards,
20 equipment, and facilities, such as undergrounding, insulation of
21 distribution wires, and pole replacement.

22 (14) A description of where and how the electrical corporation
23 considered undergrounding electrical distribution lines within those
24 areas of its service territory identified to have the highest wildfire
25 risk in a commission fire threat map.

26 (15) A showing that the electrical corporation has an adequately
27 sized and trained workforce to promptly restore service after a
28 major event, taking into account employees of other utilities
29 pursuant to mutual aid agreements and employees of entities that
30 have entered into contracts with the electrical corporation.

31 (16) Identification of any geographic area in the electrical
32 corporation's service territory that is a higher wildfire threat than
33 is currently identified in a commission fire threat map, and where
34 the commission should consider expanding the high fire threat
35 district based on new information or changes in the environment.

36 (17) A methodology for identifying and presenting
37 enterprisewide safety risk and wildfire-related risk that is consistent
38 with the methodology used by other electrical corporations unless
39 the commission determines otherwise.

1 (18) A description of how the plan is consistent with the
2 electrical corporation's disaster and emergency preparedness plan
3 prepared pursuant to Section 768.6, including both of the following:

4 (A) Plans to prepare for, and to restore service after, a wildfire,
5 including workforce mobilization and prepositioning equipment
6 and employees.

7 (B) Plans for community outreach and public awareness before,
8 during, and after a wildfire, including language notification in
9 English, Spanish, and the top three primary languages used in the
10 state other than English or Spanish, as determined by the
11 commission based on the United States Census data.

12 (19) A statement of how the electrical corporation will restore
13 service after a wildfire.

14 (20) Protocols for compliance with requirements adopted by
15 the commission regarding activities to support customers during
16 and after a wildfire, outage reporting, support for low-income
17 customers, billing adjustments, deposit waivers, extended payment
18 plans, suspension of disconnection and nonpayment fees, repair
19 processing and timing, access to electrical corporation
20 representatives, and emergency communications.

21 (21) A description of the processes and procedures the electrical
22 corporation will use to do all of the following:

23 (A) Monitor and audit the implementation of the plan.

24 (B) Identify any deficiencies in the plan or the plan's
25 implementation and correct those deficiencies.

26 (C) Monitor and audit the effectiveness of electrical line and
27 equipment inspections, including inspections performed by
28 contractors, carried out under the plan and other applicable statutes
29 and commission rules.

30 (22) Any other information that the Wildfire Safety Division
31 may require.

32 (d) The Wildfire Safety Division shall post all wildfire
33 mitigation plans and annual updates on the commission's internet
34 website for no less than two months before the division's decision
35 regarding approval of the plan. The division shall accept comments
36 on each plan from the public, other local and state agencies, and
37 interested parties, and verify that the plan complies with all
38 applicable rules, regulations, and standards, as appropriate.

39 SEC. 4. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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AMENDED IN SENATE MAY 18, 2020

SENATE BILL

No. 1044

Introduced by Senator Allen

February 18, 2020

An act to add Sections 13029, 13061, and 13062 to the Health and Safety Code, relating to fire protection.

LEGISLATIVE COUNSEL'S DIGEST

SB 1044, as amended, Allen. Firefighting equipment and foam: PFAS chemicals.

Existing law authorizes the State Fire Marshal to make such changes as may be necessary to standardize all existing fire protective equipment throughout the state and requires the State Fire Marshal to notify industrial establishments and property owners having equipment for fire protective purposes of the changes necessary to bring their equipment into conformity with standard requirements.

This bill, commencing January 1, 2022, would require any person, including a manufacturer, as defined, that sells firefighter personal protective equipment to any person or public entity to provide a written notice to the purchaser at the time of sale if the firefighter personal protective equipment contains perfluoroalkyl and polyfluoroalkyl substances (PFAS), and would provide that a violation of this requirement is punishable by a specified civil penalty. The bill would require the seller and the purchaser to retain the notice on file for at least 3 years and to furnish the notice and associated sales documentation to the State Fire Marshal within 60 days upon request, as provided. The bill would authorize the State Fire Marshal to request from a ~~manufacturer~~ *manufacturer, and the bill would require the manufacturer to provide*, a certificate of compliance that certifies that the manufacturer

is in compliance with these provisions. *The bill would provide that a violation of this requirement by a manufacturer would be punishable by a specified civil penalty.*

The bill, commencing January 1, 2022, would ~~prohibit~~ *prohibit, except as provided*, a manufacturer of class B firefighting foam from manufacturing, or knowingly selling, offering for sale, distributing for sale, or distributing for use in this ~~state~~ *state, and would prohibit a person from using in this state*, class B firefighting foam to which PFAS chemicals have been intentionally ~~added, and would provide that a violation of this prohibition is punishable by a specified civil penalty.~~ *added.* The bill would require a manufacturer to provide a specified notice to persons that sell the manufacturer's products in the state and to recall prohibited products, as provided. *The bill would provide that a violation of these provisions is punishable by a specified civil penalty.* The bill would require the State Fire Marshal to ~~develop guidance, provide information, and offer resources relating to this prohibition to assist public entities, as provided.~~ *inform public entities that provide firefighting services of the above prohibition.* The bill, commencing January 1, 2022, would prohibit a ~~person or public entity~~ *person, including a public entity*, from discharging or otherwise using for training purposes class B firefighting foam that contains intentionally added PFAS chemicals, and would provide that a violation of this prohibition is punishable by a specified civil penalty.

This bill would state that its provisions are severable.

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 13029 is added to the Health and Safety
- 2 Code, to read:
- 3 13029. (a) For purposes of this section, the following
- 4 definitions apply:
- 5 (1) "Firefighter personal protective equipment" means personal
- 6 protective equipment covered by the general industry safety orders
- 7 in Sections 3403 to 3411, inclusive, of Title 8 of the California
- 8 Code of Regulations.
- 9 (2) "Manufacturer" means a person, firm, association,
- 10 partnership, corporation, organization, or joint venture that

1 manufactures, imports, or distributes domestically firefighter
2 personal protective equipment.

3 (3) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS”
4 means a class of fluorinated organic chemicals containing at least
5 one fully fluorinated carbon atom.

6 (4) “Public entity” has the same meaning specified in Section
7 13050.1.

8 (b) (1) Commencing January 1, 2022, any person, including a
9 manufacturer, that sells firefighter personal protective equipment
10 to any person or public entity shall provide a written notice to the
11 purchaser at the time of sale if the firefighter personal protective
12 equipment contains PFAS chemicals. The written notice shall
13 include a statement that the firefighter personal protective
14 equipment contains PFAS chemicals and the reason that PFAS
15 chemicals are added to the equipment.

16 (2) The person selling firefighter personal protective equipment
17 and the purchaser of the equipment shall retain the written notice
18 on file for at least three years from the date of the transaction.
19 Within 60 days of a request by the State Fire Marshal, the seller
20 or purchaser of firefighter personal protective equipment shall
21 furnish to the State Fire Marshal the written notice, or a copy of
22 the written notice, and associated sales documentation.

23 (c) The State Fire Marshal may request from a ~~manufacturer~~
24 *manufacturer, and a manufacturer shall provide*, a certificate of
25 compliance that certifies that the manufacturer is in compliance
26 with subdivisions (a) and (b) for that manufacturer’s firefighter
27 personal protective equipment.

28 (d) (1) Except as provided in paragraph (2), a ~~person or public~~
29 *entity person, including a manufacturer*, that violates subdivision
30 (b) *or (c)* shall ~~pay to the State Fire Marshal~~ *be liable for* a civil
31 penalty not to exceed five thousand dollars (\$5,000) for a first
32 violation, and not to exceed ten thousand dollars (\$10,000) for
33 each subsequent violation.

34 (2) An individual firefighter shall not be personally liable for
35 payment of the civil penalty imposed pursuant to paragraph (1).

36 SEC. 2. Section 13061 is added to the Health and Safety Code,
37 to read:

38 13061. (a) For purposes of this section, the following
39 definitions apply:

(1) “Class B firefighting foam” means foam designed to prevent or extinguish ~~flammable liquid fires~~; *a fire in flammable liquids, combustible liquids, petroleum greases, tars, oils, oil-based paints, solvents, lacquers, alcohols, and flammable gases.*

(2) “Large atmospheric storage tank” means *an open top floating roof storage tank for flammable liquids that is greater than 40 meters in diameter.*

~~(2)~~

(3) “Manufacturer” means a person, firm, association, partnership, corporation, organization, or joint venture that manufactures, imports, or distributes class B firefighting foam.

~~(3)~~

(4) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

~~(4)~~

(5) “Public entity” has the same meaning specified in Section 13050.1.

(6) “Terminal” means *a fuel storage and distribution facility that has been assigned a terminal control number by the United States Internal Revenue Service.*

~~(b) (1) Commencing~~ *Except as provided in paragraphs (2) and (3), commencing January 1, 2022, a manufacturer of class B firefighting foam shall not manufacture, or knowingly sell, offer for sale, distribute for sale, or distribute for use in this state, and no person shall use in this state, class B firefighting foam to which PFAS chemicals have been intentionally added.*

(2) Paragraph (1) does not apply until January 1, 2024, to any manufacture, sale, or distribution of class B firefighting foam to, or to use by, a person exclusively for use on a large atmospheric storage tank at a terminal operated by the person, a chemical plant operated by the person, or an oil refinery operated by the person.

~~(2) Paragraph (1)~~

(3) This subdivision does not apply to any manufacture, sale, or distribution of class B firefighting foam for which the inclusion of PFAS chemicals are is required by federal law, including, but not limited to, Section 139.317 of Title 14 of the Code of Federal Regulations.

(c) No later than July 1, 2021, a manufacturer of class B firefighting foam shall notify, in writing, persons that sell the

1 manufacturer's products in the state about the provisions of this
2 section.

3 (d) A manufacturer that manufactures, sells, or distributes a
4 class B firefighting foam prohibited pursuant to subdivision (b)
5 shall recall the product by January 1, 2022, *pursuant to paragraph*
6 *(1) of subdivision (b), and January 1, 2024, pursuant to paragraph*
7 *(2) of subdivision (b), and reimburse the retailer or any other*
8 *purchaser for the product. A recall of the product shall include*
9 *safe transport and storage and documentation of the amount and*
10 *storage location of the PFAS containing firefighting foam, unless*
11 *and until the California Environmental Protection Agency formally*
12 *identifies a safe disposal technology. The manufacturer shall*
13 *provide this documentation to the State Fire Marshal upon request.*

14 (e) ~~The Prior to January 1, 2022, the State Fire Marshal shall~~
15 ~~develop guidance to assist inform public entities that provide~~
16 ~~firefighting services, inform them services of the upcoming ban,~~
17 ~~and offer resources to help those public entities convert their~~
18 ~~equipment. prohibitions of this section.~~

19 (f) The State Fire Marshal may request from a ~~manufacturer~~
20 ~~manufacturer, and a manufacturer shall provide,~~ a certificate of
21 compliance that certifies that the manufacturer is in compliance
22 with this section for that manufacturer's class B firefighting foam.

23 (g) (1) Except as provided in paragraph (2), ~~a person or public~~
24 ~~entity person, including a manufacturer that violates subdivision~~
25 ~~(b) (b), (c), (d), or (f) shall pay to the State Fire Marshal be liable~~
26 ~~for a civil penalty not to exceed five thousand dollars (\$5,000) for~~
27 ~~a first violation, and not to exceed ten thousand dollars (\$10,000)~~
28 ~~for each subsequent violation.~~

29 (2) An individual firefighter shall not be personally liable for
30 payment of the civil penalty imposed pursuant to paragraph (1).

31 SEC. 3. Section 13062 is added to the Health and Safety Code,
32 to read:

33 13062. (a) Commencing January 1, 2022, ~~a person or public~~
34 ~~entity person, including a public entity,~~ shall not discharge or
35 otherwise use for training purposes class B firefighting foam that
36 contains intentionally added PFAS chemicals.

37 (b) (1) Except as provided in paragraph (2), ~~a person or public~~
38 ~~entity person, including a public entity,~~ that violates subdivision
39 (a) ~~shall pay to the State Fire Marshal be liable for a civil penalty~~
40 ~~not to exceed five thousand dollars (\$5,000) for a first violation,~~

1 and not to exceed ten thousand dollars (\$10,000) for each
2 subsequent violation.

3 (2) An individual firefighter shall not be personally liable for
4 payment of the civil penalty imposed pursuant to paragraph (1).

5 *SEC. 4. The provisions of this act are severable. If any*
6 *provision of this act or its application is held invalid, that invalidity*
7 *shall not affect other provisions or applications that can be given*
8 *effect without the invalid provision or application.*