



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

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375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

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**Notice of Time Change**

**LEGISLATIVE/HUMAN RESOURCES  
COMMITTEE MEETING**

**10:00 a.m.**

**Tuesday, August 8, 2017**

Notice is hereby given that on Tuesday, August 8, 2017 the Legislative/Human Resources Committee Meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 10:00 a.m. The meeting will be held in the Training Resource Center of the Administration Building, 375 - 11th Street, Oakland, California.

Dated: August 3, 2017

A handwritten signature in blue ink, reading 'Rischa S. Cole', is written over a horizontal line.

Rischa S. Cole  
Secretary of the District

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

375 – 11<sup>th</sup> Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

## **AGENDA**

### **Legislative/Human Resources Committee**

**Tuesday, August 8, 2017**

**10:00 a.m.**

**Training Resource Center**

**(Committee Members: Directors Coleman {Chair}, Patterson and Young)**

#### **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. Update on District Values and Organizational Improvements Programs (Brunson)
2. EBMUD and Peralta College Partnership for Workforce Development (Brunson)
3. Maintenance and Construction Organization Changes (Chan)
4. Legislative Update: (Dumaine)
  - Receive Legislative Report No. 09-17 and consider positions on the following bills: SB 606 (Skinner) Water Conservation; H.R. 1071 (Tonko) Assistance, Quality and Affordability Act of 2017; H.R. 2510 (DeFazio) Water Quality Protection and Job Creation Act of 2017; and S. 1464 (Feinstein) Water Conservation Tax Parity Act; receive information on H.R. 2862 (Simpson) Wildfire Disaster Funding Act; discuss and consider SB 623 (Monning) Water Quality: Safe and Affordable Drinking Water Fund
  - 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](http://www.ebmud.com).*



## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: August 3, 2017

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *Ami*

FROM: Laura A. Brunson, Manager of Human Resources *Laura*

SUBJECT: Update on District Values and Organizational Improvements Programs

### INTRODUCTION

This memo provides an update on the District's Values and Organizational Improvement efforts. It summarizes progress since the February 2017 update, key strategic initiatives, and next steps. This information will be discussed at the August 8, 2017 Legislative/Human Resources Committee meeting.

### BACKGROUND

In December 2016, staff discussed next steps for the District's Values and Organizational Improvements effort. The discussions clarified the project goal, "to achieve an improved organizational culture through collaborative problem-solving and values-based behaviors." This goal is best summarized as "working better together." With this updated goal, the Values and Organizational Improvement teams have now refocused their efforts on a series of refined initiatives detailed below.

### DISCUSSION

The Values and Organizational Improvement teams are now engaged in five key initiatives to help the District 'work better together':

- Implementation of the Employee Recognition Program
- Launching of a Values Advocate Program
- Updating of the New Employee Onboarding process
- Delivery of the 2017 State of the District Address

#### Implementation of the Updated Employee Recognition Program

In February 2017, the Employee Recognition Team presented an update of the Employee Recognition Program to the Legislative/Human Resources Committee. The updated program was launched in July and features four components:

- Longevity/Service Award – An updated service award program with a new vendor, expanded options, and the restoration of the 20-year service water drop award.
- Peer-Recognition Program – A mechanism for every employee and employee team to be recognized by any other employee.
- Employee Appreciation Month (July) – A Districtwide defined timeframe for leaders to say thank you.
- Local celebrations for departments – Clarification and funding to support camaraderie and recognition of employee achievements at the workgroup level during the year.

In July 2017, Employee Appreciation Month celebrated employee longevity through the launching of the updated Employee Recognition Program, including the new Service Award Program and distribution of new hand-crafted 20-year service water drop awards.

#### Values Advocates Program

In developing initiatives to highlight our values of Stewardship, Integrity, Respect and Teamwork, and ‘working better together’, the Values Embedding Team created and launched a Values Advocates Program. The program launched with 28 new Values Advocates (“Advocates”) attending an initial training in June.

The goal of the Values Advocates Program is to further embed the values in a sustainable, “grassroots” way and to provide a formal framework for helping to build the informal community and mentoring networks that have become vulnerable due to the significant number of retirements. At the local work unit level, the Advocate acts as a Values resource. The Advocate also helps with communications and outreach; assisting in both formal and informal communication of information about the Values or Employee Recognition related programs. Conversely, they can also communicate feedback from the employees back to the core Values and Organizational Improvements Team.

#### New Employee Onboarding

As a new approach to “collaborative problem-solving” and teamwork, an internal group of subject matter experts and stakeholders participated in an 8-week “sprint project” to achieve the following:

- Assess the current onboarding process
- Identify potential updates and modifications
- Make recommendations and develop a project plan for implementation

The team met according to an identified schedule and presented their recommendations in June. Members of the team and staff identified as key stakeholders will begin implementing the recommendations and documenting lessons learned from the process for potential integration into future teamwork projects.

### 2017 State of the District Address

The 2017 State of the District Address (“Address”) series began on Wednesday, July 12, 2017 at the Wastewater Administration Building. In total, 10 presentations will be held at 8 District locations. Based on employee feedback, the Address is designed to provide a summary of achievements and a look forward to where the District is going organizationally.

This year’s Address highlighted Employee Recognition and the launch of the updated Employee Recognition Program, including the launch of the hand-crafted 20-year service water drop award. To recognize employees who, due to the budgetary suspension of the previous water drop program, did not receive a 20-year water drop, staff hand-crafted 367 awards which will be distributed in the coming weeks.

### Creating a Culture of Engagement

In addition to the work of the Values and Organizational Improvement Teams described above, the District has launched a number of training workshops for management staff called “Creating a Culture of Engagement.” This one-day intensive workshop, customized for our Management Team, aims to help us define and agree on expectations for how leaders, managers and employees will execute Values and organizational improvement strategies. Specifically, the workshop focuses on five elements of engagement as a way to develop a tangible action plan:

- **Opportunity:** All team members feel they are part of something important;
- **Personal Accountability:** All team members are expected to give their best and are held accountable for doing so;
- **Inclusion:** All team members are well informed and involved, and have an opportunity to express their thoughts and feelings;
- **Validation:** All team members feel that they matter – that they have a valued place in the organization; and
- **Connectedness:** All team members feel connected, have the support of their colleagues, and share responsibility.

### **NEXT STEPS**

Staff remains committed to moving the key initiatives of this project forward and will bring further updates on to this Committee in the third quarter of Fiscal Year 2018.

ARC:LB:rdw





## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: August 3, 2017

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *Amc*

FROM: Laura A. Brunson, Manager of Human Resources *Lauren*

SUBJECT: EBMUD and Peralta College Partnership for Workforce Development

### SUMMARY

At the January 10, 2017 Legislative/Human Resources Committee, District staff and representatives from Peralta Community College District (Peralta) presented a proposed educational partnership to address the workforce development goals of both organizations. The District's 2016 Strategic Plan Workforce Planning goal of "creating an environment that attracts, retains, and engages a high performing diverse workforce," includes the strategy "continue to develop employees to meet workforce demands." In line with this strategy, the joint District and Peralta team has developed a continuing education pilot program in which current District employees may earn 21 units of college credit from Laney College. This information will be discussed at the August 8, 2017 Legislative/Human Resources Committee meeting.

### DISCUSSION

The uniquely designed program brings Laney College courses to District facilities and brings approximately 25 students together as a learning cohort. In addition to classroom instruction, the program provides three key support opportunities to ensure student success:

- No Interest Tuition Loan Program
- Summer Prep Courses
- Pre-Class Roundtable Discussions

In the planning process, District staff and Laney College administrators agreed to an interdisciplinary curriculum with courses from the Business and Construction Management departments. The student cohort will complete six courses for a total of 21 transferable college units in four semesters. Students will have opportunities to gain additional units through an occupational work experience program. A certificate of completion will be awarded upon successful completion of the program, and students will be eligible to participate in the Laney College graduation ceremony. Students will also be eligible to pursue further study, including completion of an associate degree or transfer to the California State University or University of California systems. The official launch date for the program is August 23, 2017.

Participants in the cohort may also participate in a No Interest Tuition Loan Program administered in tandem with the District's existing Tuition Reimbursement Program. The program is patterned after two existing employee loan programs (Computer Purchase and Emergency Readiness), and will allow students to participate in the cohort without out-of-pocket expenditure. Participating employees will agree to pay back all funds loaned with funds returned to them through the existing Tuition Reimbursement Program. In the event the employee does not satisfactorily complete their educational program with a grade "C" or better, the tuition loan would be repaid through payroll deduction. Student costs for the program will include tuition, required campus fees, books/materials, and student support fees.

The Leadership Roundtable is a student support feature lead by District staff to enhance the professional development and business acumen of the cohort. District employees from a variety of disciplines will be invited to discuss current or completed projects to provide context to the learning process and to expand the cohort's understanding of the work of the District.

To equip students for the first semester of classes, the District provided two workshop-style courses for the cohort, Effective Business Writing and Basic Computer Applications. The courses were held in July at the Adeline Maintenance Center Training Resource Center. These courses were optional to students based on their Laney College assessment results.

## **FISCAL IMPACT**

The total cost of the program is based on four cost factors: standard per-unit fees (\$46), standard student fees, books and materials, and three sets of program fees paid to Peralta (Student Support, Curriculum Development, and Administrative Support). Program costs will be approximately \$1,250 per student, per semester, with a total program cost of \$62,500 per fiscal year.

## **NEXT STEPS**

The program will begin on August 23, 2017 and the District will gather data to gauge effectiveness. During fiscal year 2018, the District and Peralta will evaluate approaches to expand the diversity of future District applicant pools and also evaluate existing District learning programs for potential certification to receive college credit.

ARC:LB:rdw

## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: August 3, 2017

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *mc*

FROM: Clifford C. Chan, Manager of Maintenance and Construction *CC*

SUBJECT: Maintenance and Construction Organization Changes

### INTRODUCTION

The Maintenance and Construction Department (MCD) in the Operations and Maintenance Department (OMD) is the largest department at the District. There are four divisions in MCD including Distribution Maintenance and Construction (DMC), Facilities Maintenance and Construction (FMC), Pipeline Construction and Equipment (PCE), and Meter Reading and Maintenance (MRM). In FY18, organizational changes will be made in MCD to balance resources, plan for future growth, and improve operations. The MRM Division will be renamed Maintenance Support Division (MSD). The Manager of Maintenance Support position was approved by the Board in the FY18/19 Position Resolution. This item will be discussed at the August 8, 2017 Legislative/Human Resources Committee meeting.

### SUMMARY

The MCD has 698 budgeted positions across four divisions. Between FY14 and FY15, 30 positions were added to the PCE Division as the District increased its pipeline replacement goal from 10 to 15 miles. Staffing in PCE is expected to grow as the pipeline replacement goal increases. In FY17, staffing in the MCD divisions ranged from 65 positions in MRM to 217 positions in PCE. The reorganization will balance resources across all divisions, assist staff with planning for the increase in pipeline replacement, and address the competing priorities between capital and maintenance activities. Changes in FY18 include renaming the MRM Division to MSD and moving the District's Fleet and Equipment Support sections from PCE to MSD.

### DISCUSSION

In FY15, staffing in PCE increased from 187 to 217 positions as the pipeline replacement goal increased from 10 miles to 15 miles per year. In FY20, an additional 30 positions are anticipated to be needed in PCE as the pipeline replacement goal is increased from 15 to 20 miles per year and staffing in PCE is expected to continue to increase as the pipeline replacement goal is increased to 40 miles per year.

In FY18, the following organizational changes will be made:

- Renaming the Meter Reading and Maintenance (MRM) Division to the Maintenance Support Division (MSD). The new division will support staff across OMD; the division will support meter reading and maintenance and will manage the fleet operations and equipment support function, which were in the PCE Division. This change will increase the division's staffing from 65 to 135 positions.
- Appointing a new Manager of Maintenance Support. The Manager of Maintenance Support position was included in the FY18/19 Position Resolution adopted by the Board on July 11, 2017. This position will be recommended for appointment at the August 8, 2017 Regular Board meeting.
- Supporting Pipeline Rebuild. The Pipeline Rebuild Team continues to test new methods to improve the efficiency of pipeline replacement. Some proposals including having cross-functional staff report from DMC to PCE, and possibly shifting staff between those divisions to better support capital and maintenance activities.

## **FISCAL IMPACT**

The Manager of Maintenance Support was approved in the FY18/19 Position Resolution and the position is funded in the FY18/19 budget.

## **NEXT STEPS**

The Fleet and Equipment Support sections were moved from PCE to MSD at the start of FY18. The transition of the MRM Division to MSD will be completed by September 2017, and additional changes to improve operational efficiency in MCD will be evaluated in FY18 and FY19.

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## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: August 3, 2017

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager

*ARC*

SUBJECT: Legislative Report No. 09-17

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.

### RECOMMENDED ACTION

Approve positions on the following bills: 1) Support if Amended SB 606 (Skinner) Water Conservation; 2) Support H.R. 1071 (Tonko) Assistance, Quality, and Affordability Act of 2017; 3) Support H.R. 2510 (DeFazio) Water Quality Protection and Job Creation Act of 2017; 4) Support S. 1464 (Feinstein) Water Conservation Tax Parity Act; receive information on H.R. 2862 (Simpson) Wildfire Disaster Funding Act; and discuss and consider SB 623 (Monning) Water Quality: Safe and Affordable Drinking Water Fund.

### STATE LEGISLATION

### RECOMMENDED POSITION

**SB 606            WATER CONSERVATION  
(Skinner)**

**SUPPORT IF  
AMENDED**

At the May 9<sup>th</sup> meeting, the Board adopted positions on five pieces of legislation relative to drought planning and long-term water conservation. The Board adopted “support if amended” positions on AB 968 (Rubio) and AB 1669 (Friedman), both of which addressed the topic of long-term water use targets. The Board also adopted “support if amended” positions on AB 1654 (Rubio) and AB 1668 (Friedman), both of which addressed the topic of drought response and urban water management planning. The Board adopted an “oppose unless amended” position on draft Budget Trailer Bill 810, which contains substantially similar language as AB 1668 and AB 1669, on the basis that the policy should be considered in the regular legislative process rather than the budget trailer bill process.

The legislature is currently considering the policy proposed by these bills and has identified three measures as potential vehicles, AB 1654, AB 1668 and SB 606 (Skinner), as amended on July 13. All three bills have been amended to include only intent language, with each bill stating that it is the intent of the legislature to enact legislation necessary to help make water conservation a California way of life.

To be consistent with EBMUD's position on the other policy bills, staff is requesting a "support if amended" position on SB 606. Staff will continue to work with the authors, the legislature, and other stakeholders in an effort to reach an acceptable approach.

## **FEDERAL LEGISLATION**

### **H.R. 1071      ASSISTANCE, QUALITY, AND AFFORDABILITY      SUPPORT (Tonko)      ACT OF 2017**

The Drinking Water State Revolving Fund (DWSRF) program was created in 1996 as a federal-state partnership to help ensure safe drinking water by providing federal funding to drinking water infrastructure projects. The United States Environmental Protection Agency (U.S. EPA), after funds are appropriated by Congress, provides grants to states to fund DWSRF loan programs. States contribute a 20-percent match and provide various types of assistance for drinking water infrastructure projects including grants, loans, refinancing, and loan guarantees.

In addition, the Safe Drinking Water Act requires public water systems to take specified actions to test for and remediate certain contaminants in drinking water, including lead and copper. Existing law prohibits the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead-free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption.

H.R. 1071 (Tonko), is known as the Assistance, Quality, and Affordability Act of 2017 (AQUA Act) and is co-sponsored by Representative Jerry McNerney. Substantially similar to H.R. 4653 (Tonko) from 2016, which EBMUD supported, the AQUA Act is intended to provide increased funding authorizations for water infrastructure projects. The measure would primarily do two things: 1) authorize approximately \$21 billion to support the DWSRF over five years, 2018 through 2022; and 2) increase funding for a grant program established by last year's S. 612 (Cornyn), known as the Water Infrastructure Improvements for the Nation (WIIN) Act, to assist with removal of lead service lines from public water systems. The AQUA Act includes additional provisions making changes to the administration of the DWSRF, including, additional assistance for disadvantaged communities, as well as provisions for drought mitigation and response planning and evaluating impacts of pharmaceuticals and personal care products in sources of drinking water.

### **DWSRF**

With regard to the DWSRF, a long-term authorization of the DWSRF has not occurred since its initial authorization expired in 2003. Without a long-term authorization, funding for this important water infrastructure assistance program is dependent on being included in annual budget and appropriation measures. The AQUA Act would authorize the DWSRF for five years at higher funding levels than the program has received in the past, beginning with \$3.13 billion in fiscal year 2018 and increasing by 15 percent annually thereafter to provide \$5.5 billion in fiscal year 2022.

Historically, EBMUD has been supportive of efforts to continue funding the State Revolving Fund (SRF) programs. Most recently, in 2016, in addition to supporting H.R. 4653, EBMUD requested that Representative Barbara Lee support an appropriation for the SRF. By providing a long-term authorization, the AQUA Act would allow congress to increase the SRF appropriations over the longer term. Increased DWSRF funding levels could benefit EBMUD as EBMUD is currently seeking DWSRF funding for various infrastructure projects, including the South Reservoir and the MacArthur-Davenport Pipeline Replacement Projects.

#### Removal of lead service lines

The WIIN Act, enacted last year, included provisions intended to protect drinking water by establishing a grant program and authorizing \$300 million in funding, over five years, to facilitate the removal of lead service lines. The AQUA Act would increase this funding to \$500 million over five years, \$100 million annually for fiscal years 2018 through 2022, for the grant program to remove lead service lines from public water systems.

With regard to EBMUD, in compliance with federal regulations adopted in the 1990s, EBMUD has replaced known lead service lines in its system, has developed and implemented a corrosion control plan, and has been monitoring lead levels at customer home fixtures since 1992. EBMUD is also completing an inventory of its service line material and is replacing any lead service lines as they are identified. In addition, EBMUD has been a leader in efforts to promote the protection of public health by reducing lead exposure in drinking water. EBMUD was a strong proponent of federal legislation, S. 3874 (Boxer) in 2010 which was signed into law, modeled after California's landmark "Get the Lead Out" legislation sponsored by EBMUD, to essentially adopt a "lead-free" standard for pipes and plumbing fixtures nationwide.

#### Other provisions

The AQUA Act includes other provisions intended to provide additional DWSRF funding assistance to public water systems serving disadvantaged communities; require the U.S. EPA to develop a strategic plan for assessing and managing the risk of drought to drinking water; require the U.S. EPA to study the presence of pharmaceuticals and personal care products in sources of drinking water to identify the source of such products in drinking water, the effects on humans, the environment, and the safety of drinking water, and methods to control, limit, treat or prevent the presence of such products.

The AQUA Act would provide funding assistance for overall water infrastructure projects as well as infrastructure projects intended to reduce lead exposure in drinking water. In addition, the AQUA Act could provide potential funding eligibility for various EBMUD infrastructure projects.

Overall, support of H.R. 1071 is consistent with support of EBMUD's support for H.R. 4653 in 2016, EBMUD's 2017 federal legislative initiatives to seek federal funding opportunities, as well as EBMUD's efforts to reduce lead exposure in drinking water, including EBMUD's support of

S. 3874 (Boxer) in 2010. S. 3874, which was signed into law, reduced the allowable lead content in pipes and plumbing fixtures to a level that virtually eliminates lead contamination in faucets and drinking water.

**H.R. 2510      WATER QUALITY PROTECTION AND JOB      SUPPORT  
(DeFazio)      CREATION ACT OF 2017**

The Clean Water State Revolving Fund (CWSRF) program was created in 1987 as federal-state partnership to help protect water quality by providing federal funding to water quality infrastructure projects. Eligible projects include, but are not limited to, construction of municipal wastewater facilities, water conservation, water reuse, and controlling nonpoint sources of pollution. The United States Environmental Protection Agency, after funds are appropriated by Congress, provides grants to states to fund CWSRF loan programs. States contribute a 20-percent match and provide various types of assistance for drinking water infrastructure projects including grants, loans, refinancing, and loan guarantees.

H.R. 2510 (DeFazio) is known as the Water Quality Protection and Job Creation Act of 2017 and is co-sponsored by Representatives Grace Napolitano, Mark DeSaulnier, John Garamendi, and Jared Huffman. H.R. 2510 is intended to address the need to bolster aging wastewater infrastructure and address local water quality changes by providing approximately \$25 billion in increased infrastructure investment over the next five years.

The measure would primarily do four things: 1) authorize \$20 billion to support the CWSRF over five years, 2018 through 2022; 2) authorize \$600 million over five years, 2018 through 2022, for Clean Water pilot programs; 3) authorize \$2.5 billion over five years, 2018 through 2022, for sewer overflow and stormwater grants; and 4) authorize \$375 million in grants over five years, 2018 through 2022, for alternative water source projects, including projects that reuse wastewater and stormwater. H.R. 2510 includes additional provisions to authorize \$1.5 billion in funds to assist states with implementing water pollution control programs; authorize technical assistance to rural, small, and tribal communities; and for states to update their list of projects for which CWSRF funding will be sought.

CWSRF

With regard to the CWSRF, the authorization for appropriations expired in 1993. Without a long-term authorization, funding for this important water quality infrastructure assistance program is dependent on being included in annual budget and appropriation measures. H.R. 2510 would authorize the CWSRF for five years, at a higher funding level, of \$4 billion annually, than the program has received in the past.

Historically, EBMUD has been supportive of efforts to continue funding the State Revolving Fund (SRF) programs. Most recently, in 2016, EBMUD requested that Representative Barbara Lee support an appropriation for the SRF. EBMUD also supported H.R. 4653 (Tonko) in 2016



which would have provided a long-term authorization for the Drinking Water State Revolving Fund. Increased funding levels could benefit EBMUD, if EBMUD chose to pursue CWSRF funding in the future.

#### Clean water pilot programs

H.R. 2510 would authorize \$600 million over five years, \$120 million annually for each of the fiscal years 2018 through 2022, for Clean Water Pilot programs. This would include watershed-based or system-wide efforts to address wet weather discharges or to promote stormwater best management practices. EBMUD would potentially be eligible to compete for funding under these provisions.

#### Sewer overflow and stormwater grants

The measure would authorize \$2.5 billion over five years, \$500 million for each of the fiscal years 2018 through 2022, for grants for “planning, design, and construction of treatment works to intercept, transport, control, treat, or reuse municipal combined sewer overflows, sanitary sewer overflows, or stormwater. EBMUD would potentially be eligible to compete for funding under these provisions.

#### Alternative water source projects

H.R. 2510 would authorize \$375 million in grants over five years, \$75 million for each of the fiscal years 2018 through 2022, for alternative source water source projects, including projects that reuse wastewater and stormwater to augment the existing sources of water. EBMUD would potentially be eligible to compete for funding for recycled water projects under these provisions.

#### Other provisions

H.R. 2510 includes additional provisions intended to assist with wastewater and water quality projects. The measure would authorize \$1.5 billion over five years, 2018 through 2022, for grants for state water pollution control agencies to implement state water pollution control programs; authorize technical assistance to rural, small, and tribal communities to help them gain access to wastewater infrastructure financing; and for states to update their list of projects for which CWSRF funding will be sought.

H.R. 2510 would provide a long-term authorization for the CWSRF and provide funding assistance for overall wastewater infrastructure and water quality projects. In addition, the measure could provide potential funding eligibility for EBMUD projects, such as efforts to reduce wet weather flows to the Main Wastewater Treatment Plant during storm events and water recycling projects.

Overall, support of H.R. 2510 is consistent with EBMUD’s 2017 federal legislative initiatives to seek federal funding opportunities, as well as EBMUD’s efforts to support SRF funding, including support of H.R. 4653 (Tonko) in 2016 which would have provided a long-term authorization for the Drinking Water State Revolving Fund loan program. H.R. 4653 did not advance out of Congress.

**S. 1464  
(Feinstein)**

**WATER CONSERVATION TAX  
PARITY ACT**

**SUPPORT**

The Comprehensive National Energy Policy Act (Act) of 1992 provides that public utility subsidies, or rebates, paid to residential customers for energy conservation measures are exempt from federal income tax. The Act defines energy conservation measure as “any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit.”

S. 1464 (Feinstein), is a companion measure to H.R. 448 (Huffman), which EBMUD supports, and would ensure that rebates for water conservation improvements are exempt from federal taxes, similar to energy conservation rebates. Specifically, S. 1464 would amend the Internal Revenue Code to exempt from federal taxes rebates provided to public utility customers for the purchase or installation of any water conservation or stormwater management measure.

Rebate programs for participation in water conservation measures can incentivize private investment to reduce water use. These rebates are not intended to be considered income, but rather are an effort to defray upfront consumer costs. Encouraging residents to reduce water usage through the use of rebates can help reduce water consumption. However, some water conservation improvements can be too expensive for property owners to install without a financial incentive. Many water utilities have established rebate programs to encourage the installation of water conservation improvements. S. 1464 would ensure that rebates for these improvements are not subject to federal taxes.

EBMUD provides rebates to its residential customers for the installation of water conservation improvements, such as lawn conversion and irrigation equipment upgrades. S. 1464 would promote water conservation by clarifying that water conservation rebates provided by a public utility, such as the rebates provided by EBMUD, are not subject to federal taxes.

EBMUD has previously supported legislation to encourage water conservation efforts. As mentioned above, earlier this year, the Board adopted a “support” position on H.R. 448 (Huffman), which is substantially similar to S. 1464. In 2015, EBMUD supported S. 176 (Boxer) and H.R. 291 (Napolitano), identical companion measures known as the Water in the 21<sup>st</sup> Century Act, that among other things would have provided funding for the WaterSense program. The WaterSense program is a voluntary labeling program to recognize water-using products that are 20 percent more water-efficient and perform as well or better than standard products. The measures did not advance out of Congress.

**H.R. 2862**                      **WILDFIRE DISASTER FUNDING ACT**                      **INFORMATION**  
**(Simpson)**

Current practice with regard to funding wildfire suppression has been to appropriate money through an Interior and Environment Appropriations bill based on the average cost of fighting wildfires over the past ten years, known as the “ten-year average.” When wildfire costs exceed the budgeted amount, agencies are forced to borrow from other non-fire accounts to pay for fire suppression. When this occurs, less funding is available for land management activities, including hazardous fuels removal.

H.R. 2862 (Simpson), known as the Wildfire Disaster Funding Act, is co-sponsored by Representatives John Garamendi, Jared Huffman, and Mike Thompson. H.R. 2862 is intended to end the need to borrow wildfire suppression funds from other non-fire accounts by treating wildfires like other natural disasters when wildfire suppression funds are exhausted. Under H.R. 2862, wildfire suppression costs would be funded at the ten-year average, as of 2015, and if wildfire suppression costs exceed the budgeted amount, instead of borrowing from non-fire accounts, federal agencies, such as the United States Forest Service (USFS), would be able to fund the additional wildfire suppression costs through disaster relief funding, similar to how costs are funded for other natural disasters.

Wildfire suppression costs have increased substantially over the past 20 years. According to the USFS, only 16 percent of the total USFS budget was spent fighting wildfires in 1995. In 2016, wildfire costs had increased to 56 percent of the total USFS budget. In eight of the past ten years, funding has been borrowed from non-fire accounts to cover these increased wildfire suppression costs. H.R. 2862 is intended to end the practice of borrowing from non-fire accounts to pay for wildfire suppression in order to ensure federal agencies, including the USFS, have the resources necessary for land management activities, such as wildfire preparedness and forest management.

In accordance with EBMUD’s 2017 federal legislative initiatives to investigate federal efforts to promote healthy forests and to identify opportunities for EBMUD to engage in federal legislation on this topic, particularly through its role in the Upper Mokelumne River Watershed Authority (UMRWA), staff is recommending that H.R. 2862 be considered by UMRWA. After consideration by UMRWA, staff will bring back H.R. 2862 for consideration by the Board, as appropriate.

**DISCUSS AND CONSIDER**

**EBMUD  
POSITION**

**SB 623**  
**(Monning)**

**WATER QUALITY: SAFE AND  
AFFORDABLE DRINKING WATER  
FUND**

**SUPPORT IF  
AMENDED  
(AS PROPOSED  
TO BE AMENDED)**

Staff was asked to provide an update on SB 623 (Monning) to the Board for discussion and consideration. A summary of the activities that have occurred since July 25<sup>th</sup> is provided below. For reference, the bill write-up from the July 25<sup>th</sup> Board meeting is also provided.

### **Update**

At the July 25<sup>th</sup> meeting, EBMUD's Board adopted a "support if amended" position on SB 623, as it is proposed to be amended to include a retail water-user tax. At that time the Board directed staff to seek language to address the five issues listed below.

- Flexibility to enable local agencies to impose a volumetric charge;
- Limit water agencies' exposure to other charges;
- Exemption for low income ratepayers;
- Minimize the income eligibility verification administrative burden on water agencies;
- Ensure agriculture is held fully accountable for its share so that urban water agencies are not disproportionately burdened.

Staff communicated the Board's position via an initial meeting with the senator's staff and a July 27<sup>th</sup> position letter to the senator that included the five areas of concern listed above. At that time, staff indicated additional detail on each area of concern would be forthcoming in a subsequent letter.

Additional information on the retail water user tax and agricultural tax provisions was obtained from proponents at the July 25<sup>th</sup> Board meeting and via a July 25<sup>th</sup> presentation made by Senator Monning to the Bay Area Council. This information is provided below.

### **Retail water user tax**

- A flat tax on residential water bills that will not exceed \$1 per month.
- A tax of up to \$10 per month for commercial, institutional, and industrial accounts.
- An exemption for low-income customers.
- Expected to yield \$90 - \$110 million annually to the Safe and Affordable Drinking Water Fund on an indefinite basis.

### **Agricultural tax**

- Expected to yield about \$30 million annually, that is in addition to the monies collected by the retail water user tax.
- Would be imposed at the full rate for a period of 15 years.
- After 15 years, the agricultural tax would be reduced by two-thirds such that \$10 million in agricultural tax revenue would then be collected annually.

This information helped inform the additional detail and language request for each of the five areas of concern that was communicated to Senator Monning in a July 31<sup>st</sup> letter. The language requests provided to Senator Monning for each of the five areas of concern are provided below.

Staff also communicated that further language requests may be forthcoming pending additional discussion by the Board.

1. Flexibility to enable local agencies to impose a volumetric charge

Language is needed to provide local water agencies the discretion and flexibility to impose a volumetric tax in lieu of a flat tax on its retail customers. The bill should provide the specific volumetric and flat tax rates that a retail water agency could choose between when imposing the tax on its ratepayers.

2. Limit water agencies' exposure to other charges

EBMUD understands and agrees with the stated intent of SB 623 to limit the expenditure of the funds to the purposes specified in SB 623 - "to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards, the treatment of which would otherwise make the cost of water service unaffordable." Language should be included that strictly limits the use of the fund for this stated purpose. Language should also be included that explicitly states the fund shall not be expanded to meet other needs, including affordability.

3. Exemption for low income ratepayers

EBMUD understands and agrees with the author's intention to exempt low-income customers from the residential retail water tax. Language should be included to provide this exemption.

4. Minimize the administrative burden on water agencies for income eligibility verification

Language is needed to direct the state to take responsibility for income eligibility verification at regular intervals and provide that information to retail water agencies for the purpose of low-income exemptions. Retail water agencies do not have the capacity or authority to access income records to verify eligibility for taxation purposes.

5. Ensure agriculture is held fully accountable for its share so that urban water agencies are not disproportionately burdened

Language is needed to provide some level of parity between the tax burdens to be borne by agriculture and retail water agencies. The agriculture provisions include a 15-year time limit on the full tax rate with a two-thirds reduction after 15 years. For the first 15 years, urban retail water users would bear a funding burden about three times greater than the funding burden imposed on agriculture. After 15 years, the relative burden on retail water users would jump to ten times greater than the burden imposed on agriculture, with retail water users supplying about 90 percent of the fund. This disparity is not justified. To ensure proportionate treatment, language should be included to provide retail water users with the same 15-year time limit on the imposition of full rate of the retail water tax and the same two-thirds reduction in that tax after 15 years.

### **SB 623 - July 20, 2017 Legislative Report Write-up**

Existing law establishes the state policy that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.” In addition, the California Safe Drinking Water Act requires the State Water Resources Control Board (SWRCB) to administer provisions relating to the regulation of drinking water to protect public health. Existing law also establishes the Office of Sustainable Water Solutions within the SWRCB with the purpose of promoting permanent and sustainable drinking water and wastewater treatment solutions to ensure the effective and efficient provision of safe, clean, affordable, and reliable drinking water and wastewater treatment services.

SB 623 (Monning), as amended on July 3, 2017, is intended to address the issue of access to safe drinking water by assisting communities and domestic well owners in addressing contaminants in drinking water that exceed safe drinking water standards. To do this, SB 623 would do two primary things: 1) establish the Safe and Affordable Drinking Water Fund (Fund), administered by the SWRCB, to provide grants and loans to assist communities and individual domestic well owners that rely on contaminated drinking water, though the bill does not yet include a specific funding source; and 2) require the SWRCB to annually adopt an assessment of funding needed to ensure all Californians have access to safe drinking water, adopt an implementation plan to guide expenditures from the Fund, and prepare a report of expenditures from the Fund.

Under SB 623, moneys from the Fund could be used to provide replacement water on a short-term basis; to develop and implement long-term solutions, including, capital costs and operations and maintenance costs; to identify and provide outreach to Californians without access to safe drinking water who are eligible to receive funding; and, to test drinking water quality of individual domestic wells serving low-income households. SB 623 also includes agriculture-related provisions intended to provide enforcement relief for nitrate exceedances in groundwater if specific conditions are met and a yet-to-be determined assessment is paid by the agricultural operator to the Fund.

In addition, the author intends to amend SB 623 in the near future to include a “ratepayer assessment” on retail water customers, also referred to as a retail water tax, public goods charge, or retail water use fee, as a significant funding source for the Fund. This new language would be directly contrary to EBMUD’s existing policy position opposing the imposition of retail water use fees.

### **Public Goods Charge**

On May 26, 2015, EBMUD’s Board adopted a policy position opposing the imposition of state retail water use fees or surcharges on customer water bills on the basis of equity, affordability, and accountability. The policy position notes that retail water use fees added to customer bills would not be related to the cost of water service and would increase the payment amount, directly affecting the affordability for ratepayers. Imposing a retail water use fee would also effectively redirect ratepayer dollars to the state and displace critical investments in local infrastructure.

While the goal of SB 623 is laudable, the bill, as proposed to be amended, is contrary to EBMUD's policy position and would establish the precedent of requiring a local water agency to impose a retail water use fee on its ratepayers in order to fund a state-level responsibility. Establishing the mechanism for such a fee would provide an opening for other unfunded "public goods" to be funded under the same mechanism, most notably affordability, which is not intended to be covered under SB 623. A public goods charge, or retail water use fee, has been formally discussed as a potential funding mechanism for the SWRCB's implementation of a statewide low-income rate assistance program.

To put this in perspective, the SWRCB estimates about \$45 million is needed annually to assist public water systems with operations and maintenance for the access to safe drinking water. In order to pay for this, SB 623 will propose an average charge of about \$1 per month on retail water accounts. For EBMUD customers this would equate to on average a 2 percent rate increase, and as high as 3 percent for low water users. However, once established a public goods charge would likely be used for other purposes.

For example, the SWRCB estimates approximately \$600 million annually is needed to address low income rate assistance and has also proposed a public goods charge to fund low income rate assistance. This estimate is about 13 times greater than the access to safe drinking water estimate. A public goods charge to address the combined needs for access to safe drinking water and low income rate assistance would likely result in a charge of no less than \$13 per month, per bill on retail water accounts. This rough estimate does not take into account that the SWRCB estimates about 34 percent of retail water ratepayers would be eligible for assistance and therefore would not contribute to a public goods charge or any administrative charges, thereby shifting even more costs to other ratepayers. For EBMUD customers, the combined charge, as estimated, would equate to a rate increase on the average of 27 percent, and as high as 39 percent on lower water users. These estimates in no way represent a ceiling as a public goods charge has also been discussed to fund other items in addition to access to safe drinking water and low income rate assistance, such as stormwater management and watershed protection.

The imposition of a public goods charge, or retail water use fee, raises four primary policy concerns: 1) the cost would be borne by retail water ratepayers and impair the ability of local agencies, including EBMUD, to raise rates needed to fund critical infrastructure; 2) it places the burden of statewide issues properly managed at the state level on local agencies, requiring local agencies to collect what amounts to a tax, which local agencies are not equipped to do; 3) it places a significant administrative cost burden on local agencies in addition to the cost of the public goods charge; and, 4) local agencies are not equipped to assess eligibility based on incomes in reference to state mandated programs and criteria to determine which ratepayers would and would not be assessed the public goods charge.

### Other policy concerns

In addition to the use of a public goods charge as a funding source, SB 623 also raises other policy questions as described below.

It is not clear what the funding need is for all of the items included in SB 623. While the SWRCB estimates that \$45 million is needed annually for public water system operations and maintenance needs associated with access to safe drinking water, SB 623 is also intended to fund capital costs, as well as testing and assistance for domestic wells and state small systems. To date, the state has indicated it does not have cost estimates for these additional items. In the absence of cost estimates, it is unclear how the state will determine the total amount of need that should be funded by this Fund. However, capital costs are already eligible for other funding sources, including bonds, such as Proposition 1, and the Safe Drinking Water Revolving Fund, while operations and maintenance costs cannot be covered by those sources. It is unclear how SB 623 would ensure other funding sources are exhausted prior to using the Fund to cover capital costs. Finally, while SB 623 would give funding preference to low income communities it would be preferable to limit the funding eligibility to only low income communities.

### Conclusion

Though EBMUD agrees with the goal of SB 623, to provide assistance to communities that do not have access to safe drinking water, staff is recommending an “oppose unless amended” position on SB 623, as proposed to be amended. At a minimum, a funding source other than a public goods charge, such as the general fund, should be identified.

This approach is consistent with the policy position adopted by EBMUD’s Board opposing the imposition of state retail water use fees or surcharges on customer water bills, and EBMUD’s 2017 State Legislative Initiative to advance EBMUD’s interests in any efforts to impose a statewide surcharge or public goods charge on water and advocate for a balanced approach.

An official list of support and opposition to SB 623 as proposed to be amended is not available. The official list of support and opposition to the current version of the bill is shown below.

### Support

Alliance of Child and Family Services  
American Heart Association  
American Rivers  
American Stroke Association  
Arvin Community Services District  
Asian Pacific Environmental Network  
Asociacion de Gente Unida por el Agua  
Black Women for Wellness  
California Audubon  
California Bicycle Coalition  
California Environmental Justice Alliance

California Food Policy Advocates  
California League of Conservation Voters  
California Rural Legal Assistance  
Foundation  
California Pan-Ethnic Health Network  
California Water Service  
Catholic Charities, Diocese of Stockton  
Central California Environmental Network  
Center for Race Poverty and the  
Environment  
City of Arvin



City of Porterville  
Clean Water Action  
Comité Civico del Valle  
Community Alliance for Agroecology  
Community Water Center  
Council for a Strong America  
County of Tulare  
Cultiva la Salud  
Dolores Huerta Foundation  
El Quinto Sol de America  
Environmental Defense Fund  
Esperanza Community Housing Corporation  
Faith in the Valley  
Friends Committee on Legislation in California  
Friends of Calwa  
Fresno Building Healthy Communities  
Latino Coalition for a Healthy California  
Leadership Counsel for Justice and Accountability  
League of Women Voters  
Lutheran Office of Public Policy  
Mission: Readiness

Opposition

Alameda County Water District  
American Water Works Association,  
California-Nevada Section  
Association of California Water Agencies  
Bella Vista Water District  
California Sportfishing Protection Alliance  
California Water Impact Network  
Calleguas Municipal Water District  
City of Fairfield  
City of Indio  
City of Roseville  
Cucamonga Valley Water District  
Desert Water Agency  
East Valley Water District  
Eastern Municipal Water District  
Elsinore Valley Municipal Water District  
El Dorado Irrigation District  
Foresthill Public Utility District

Pacific Institute  
Pacific Water Quality Association  
Physicians for Social Responsibility Los Angeles  
Planning and Conservation League  
PolicyLink  
Public Health Advocates  
Pueblo Unido CDC  
Self-Help Enterprises  
Service Employees International Union (SEIU)  
Strategic Actions for a Just Economy  
Strategic Concepts in Organizing & Policy Education  
Sunflower Alliance  
RCAC  
The Nature Conservancy  
TransForm  
Water Quality Association  
Western Center on Law & Poverty  
Western Growers Association  
Wholly H2O

Humboldt Baykeeper  
Humboldt Bay Municipal Water District  
Indian Wells Valley Water District  
Indio Water Authority  
Inland Empire Waterkeeper  
Kern County Water Agency  
La Canada Irrigation District  
Las Virgenes Municipal Water District  
Mesa Water District  
Monte Vista Water District  
Monterey Coastkeeper  
Pacific Coast Federation of Fishermen's Association  
Padre Dam Municipal Water District  
Placer County Water Agency  
Regional Water Authority  
Rincon del Diablo Municipal Water District  
Rowland Water District

Russian Riverkeeper  
San Gabriel County Water District  
San Juan Water District  
Santa Barbara Channelkeeper  
Santa Margarita Water District  
Southern California Water Committee  
The Otter Project  
Three Valleys Municipal Water District  
Valley Center Municipal Water District  
Vista Irrigation District  
Western Municipal Water District  
Yorba Linda Water District

ARC:MD:JW

AMENDED IN ASSEMBLY JULY 13, 2017

AMENDED IN ASSEMBLY JUNE 22, 2017

AMENDED IN SENATE APRIL 6, 2017

**SENATE BILL**

**No. 606**

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**Introduced by Senators ~~Hertzberg, Lara, and Mitchell Skinner and~~  
*Hertzberg***  
(Principal coauthor: ~~Assembly Member Jones-Sawyer~~)

February 17, 2017

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~~An act to add Section 201.8 to the Revenue and Taxation Code,  
relating to taxation. An act relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 606, as amended, ~~Hertzberg Skinner. Property taxation:  
exemption: Los Angeles Memorial Coliseum. Water conservation.~~

*Existing law requires the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. Existing law requires agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and to update those plans on or before December 31, 2015, and on or before December 31 every 5 years thereafter. Existing law sets forth various findings and declarations related to water conservation.*

*This bill would state the intent of the Legislature to enact legislation necessary to help make water conservation a California way of life.*

~~Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests subject to tax. The California Constitution~~

~~exempts certain property from property taxation, including property owned by the state or a local government.~~

~~This bill would require a nonprofit corporation that has contracted with a qualified governmental entity, as defined, for the conduct of activities and events at, and for the improvement, restoration, and maintenance of, the Los Angeles Memorial Coliseum and related properties, to be deemed an agent of the qualified governmental entity on or after July 29, 2013, for purposes of property taxation, and would provide that the Los Angeles Memorial Coliseum, and related properties, including only interests in those properties, that are used or possessed by the nonprofit corporation for the conduct of activities and events and that are improved, restored, and maintained by the nonprofit corporation, are exempt from taxation as governmental property.~~

~~By imposing new duties upon local officials with respect to property taxation, this bill would impose a state-mandated local program.~~

~~This bill would make legislative findings and declarations regarding the public purpose served by the bill.~~

~~This bill would make legislative findings and declarations as to the necessity of a special statute for the Los Angeles Memorial Coliseum.~~

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~Existing law requires the state to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.~~

~~This bill would provide that, notwithstanding those provisions, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.~~

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

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

- 1 *SECTION 1. It is the intent of the Legislature to enact*
- 2 *legislation necessary to help make water conservation a California*
- 3 *way of life.*

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

3     ~~(a) The Los Angeles Memorial Coliseum (hereafter coliseum)~~  
4     ~~is one of the world's most famous stadiums, having hosted~~  
5     ~~countless iconic sporting events, including two Summer Olympic~~  
6     ~~Games, two Super Bowls (Super Bowl I and Super Bowl VII), the~~  
7     ~~World Series, including the largest crowd ever to see a baseball~~  
8     ~~game, and scores of professional and college football games.~~

9     ~~(b) The coliseum has also served as an important part of the~~  
10    ~~social, cultural, and community fabric for all Californians, hosting~~  
11    ~~a Papal Mass and visits by three United States Presidents, and also~~  
12    ~~providing an event and gathering place for charitable organizations;~~  
13    ~~religious organizations, concert events, and other community~~  
14    ~~events.~~

15    ~~(c) The Los Angeles Memorial Coliseum Commission (hereafter~~  
16    ~~coliseum commission) is a governmental entity that was established~~  
17    ~~in 1945 under a joint powers authority agreement between the City~~  
18    ~~of Los Angeles (hereafter city), the County of Los Angeles~~  
19    ~~(hereafter county), and the Sixth District Agricultural Association~~  
20    ~~(hereafter state), referred to as the California Science Center, an~~  
21    ~~institution of the State of California.~~

22    ~~(d) In 1956, the coliseum commission leased the coliseum and~~  
23    ~~related properties from the state, under the public benefit restriction~~  
24    ~~that the property be used only for competitive sports; athletics;~~  
25    ~~games; pageants; public recreations; motion picture production or~~  
26    ~~displays; public gatherings; festivals; exhibits; industrial, trade,~~  
27    ~~horticultural, or agricultural shows; conventions; and exhibitions~~  
28    ~~and productions of a local, regional, national, or international~~  
29    ~~character; and for purposes related or incidental to any or all of~~  
30    ~~the foregoing, primarily to the end that the citizens and public~~  
31    ~~generally may enjoy and receive the greatest benefit possible from~~  
32    ~~the coliseum or stadium and that the city, the county, and the state~~  
33    ~~may more effectively demonstrate and exploit their climatic,~~  
34    ~~geographic, recreational, cultural, and commercial resources and~~  
35    ~~advantages. This public benefit restriction was incorporated into~~  
36    ~~other agreements concerning the coliseum and related properties~~  
37    ~~between the coliseum commission, the city, the county, and the~~  
38    ~~state.~~

39    ~~(e) Under a July 2013 agreement, the coliseum commission~~  
40    ~~entrusted the University of Southern California (hereafter USC);~~

~~1 a California nonprofit public benefit corporation, with the  
2 maintenance, repair, and operation of the coliseum and related  
3 properties, thus transferring the day-to-day management and  
4 operational role over the coliseum and related properties previously  
5 done by the coliseum commission and relieving the coliseum  
6 commission from significant ongoing and future costs with respect  
7 to the coliseum.~~

~~8 (f) The July 2013 agreement imposes on USC the same public  
9 benefit use limitations and requirements over the coliseum and  
10 related properties that were previously set forth in the 1956 lease  
11 agreement and the other agreements between the coliseum  
12 commission, the city, the county, and the state. In facilitating these  
13 uses, USC is supporting the public benefit goals and duties of the  
14 coliseum commission. The use of the coliseum is further limited  
15 to 25 major events in a calendar year, and the coliseum commission  
16 has the independent right to designate eight public interest events  
17 to be held rent free. The coliseum commission continues to have  
18 control via approval rights over capital improvements to, or  
19 alterations of, the coliseum and related properties, and the use of  
20 trademarks incorporating the coliseum, as well as the right to enter  
21 and inspect the coliseum and related properties. The July 2013  
22 agreement also directs USC to cooperate with any request by the  
23 city, the county, or the state for the use of the coliseum by a  
24 National Football League team on a temporary basis, and to make  
25 the coliseum available for events related to the 2015 International  
26 Special Olympics and any Olympics hosted in the county.~~

~~27 (g) Prior to the July 2013 agreement, the coliseum commission  
28 had been historically operating under annual financial deficits, and  
29 routine maintenance and repairs, as well as capital improvements,  
30 had been deferred.~~

~~31 (h) All revenues that USC receives from outside third-party  
32 event users of the coliseum are budgeted for the care, maintenance,  
33 operation, administration, improvement, or development of the  
34 coliseum. In addition, USC plans to support the care, maintenance,  
35 operation, administration, improvement, and development of the  
36 coliseum by funding more than \$270,000,000 towards the  
37 renovation of the coliseum, as well as contributing in-kind services  
38 and directing other funds USC independently raises from outside  
39 donors for the maintenance and upkeep of the coliseum.~~

1 ~~(i) USC now directly supports the operations of the coliseum~~  
2 ~~commission by paying the annual rent due to the state for the lease~~  
3 ~~of the coliseum and related properties by the coliseum commission,~~  
4 ~~funding the annual operating budget of the coliseum commission,~~  
5 ~~and paying for the retiree health care premiums of coliseum~~  
6 ~~commission employees. The state and other governmental entities~~  
7 ~~who own parking areas near the coliseum are also benefited as~~  
8 ~~they receive parking revenue from coliseum events.~~

9 ~~(j) In addition, USC is obligated to cover the general liability~~  
10 ~~insurance and directors and officers insurance for the coliseum~~  
11 ~~commission and is required to provide semiannual financial and~~  
12 ~~operational reports to the coliseum commission regarding the~~  
13 ~~operations of the coliseum and related properties.~~

14 ~~SEC. 2. Section 201.8 is added to the Revenue and Taxation~~  
15 ~~Code, to read:~~

16 ~~201.8. (a) A nonprofit corporation that has contracted with a~~  
17 ~~qualified governmental entity for the conduct of activities and~~  
18 ~~events at, and for the improvement, restoration, and maintenance~~  
19 ~~of, the Los Angeles Memorial Coliseum and related properties~~  
20 ~~shall be deemed to be an agent of the qualified governmental entity~~  
21 ~~on or after July 29, 2013, for purposes of this division and for no~~  
22 ~~other purpose, and the Los Angeles Memorial Coliseum, and~~  
23 ~~related properties, including only interests in those properties, that~~  
24 ~~are used or possessed by the nonprofit corporation for the conduct~~  
25 ~~of activities and events and that are improved, restored, and~~  
26 ~~maintained by the nonprofit corporation, are exempt from taxation~~  
27 ~~under subdivision (a) or (b) of Section 3 of Article XIII of the~~  
28 ~~California Constitution.~~

29 ~~(b) This section shall not be construed to exempt any~~  
30 ~~profit-making organization or concessionaire from any property~~  
31 ~~tax, including a property tax on a possessory interest, for the~~  
32 ~~conduct of activities and events at the Los Angeles Memorial~~  
33 ~~Coliseum and related properties.~~

34 ~~(c) For purposes of this section, both of the following definitions~~  
35 ~~shall apply:~~

36 ~~(1) "Los Angeles Memorial Coliseum Commission" means a~~  
37 ~~joint powers authority consisting of the City of Los Angeles, the~~  
38 ~~County of Los Angeles, and the Sixth District Agricultural~~  
39 ~~Association known and designated as the California Science~~  
40 ~~Center.~~

1     ~~(2) “Qualified governmental entity” means the Los Angeles~~  
2     ~~Memorial Coliseum Commission or the state.~~

3     ~~SEC. 3. The Legislature finds and declares that the addition of~~  
4     ~~Section 201.8 to the Revenue and Taxation Code by this act serves~~  
5     ~~a public purpose, as described in Section 1 of this act, and does~~  
6     ~~not constitute a gift of public funds within the meaning of Section~~  
7     ~~6 of Article XVI of the California Constitution.~~

8     ~~SEC. 4. The Legislature finds and declares that a special statute~~  
9     ~~is necessary and that a general statute cannot be made applicable~~  
10    ~~within the meaning of Section 16 of Article IV of the California~~  
11    ~~Constitution because of the unique circumstances relating to the~~  
12    ~~Los Angeles Memorial Coliseum and related properties.~~

13    ~~SEC. 5. If the Commission on State Mandates determines that~~  
14    ~~this act contains costs mandated by the state, reimbursement to~~  
15    ~~local agencies and school districts for those costs shall be made~~  
16    ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
17    ~~4 of Title 2 of the Government Code.~~

18    ~~SEC. 6. Notwithstanding Section 2229 of the Revenue and~~  
19    ~~Taxation Code, no appropriation is made by this act and the state~~  
20    ~~shall not reimburse any local agency for any property tax revenues~~  
21    ~~lost by it pursuant to this act.~~



115TH CONGRESS  
1ST SESSION

# H. R. 1071

To amend the Safe Drinking Water Act to increase assistance for States, water systems, and disadvantaged communities; to encourage good financial and environmental management of water systems; and to strengthen the Environmental Protection Agency's ability to enforce the requirements of the Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2017

Mr. TONKO (for himself, Mr. PALLONE, Ms. MATSUI, Ms. NORTON, Mr. BLUMENAUER, Mr. CÁRDENAS, Mr. SARBANES, Mrs. DINGELL, Mr. MCNERNEY, Ms. ESHOO, Mr. GENE GREEN of Texas, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. SCHAKOWSKY, Mr. PETERS, Mr. WELCH, Ms. DEGETTE, and Ms. CASTOR of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Safe Drinking Water Act to increase assistance for States, water systems, and disadvantaged communities; to encourage good financial and environmental management of water systems; and to strengthen the Environmental Protection Agency's ability to enforce the requirements of the Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Assistance, Quality, and Affordability Act of 2017”.

4 (b) TABLE OF CONTENTS.—The table of contents of  
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Prevailing wages.
- Sec. 3. Use of funds.
- Sec. 4. Requirements for use of American materials.
- Sec. 5. Data on variances, exemptions, and persistent violations.
- Sec. 6. Assistance for restructuring.
- Sec. 7. Priority and weight of applications.
- Sec. 8. Disadvantaged communities.
- Sec. 9. Administration of State loan funds.
- Sec. 10. State revolving loan funds for American Samoa, Northern Mariana Islands, Guam, and the Virgin Islands.
- Sec. 11. Authorization of appropriations.
- Sec. 12. Affordability of new standards.
- Sec. 13. Focus on lifecycle costs.
- Sec. 14. Streamlining reporting and enforcement.
- Sec. 15. Presence of pharmaceuticals and personal care products in sources of drinking water.
- Sec. 16. Best practices for administration of State revolving loan fund programs.
- Sec. 17. Water loss and leak control technology.
- Sec. 18. Risks of drought to drinking water.
- Sec. 19. Reducing lead in drinking water.

6 **SEC. 2. PREVAILING WAGES.**

7 Subsection (e) of section 1450 of the Safe Drinking  
8 Water Act (42 U.S.C. 300j–9) is amended to read as fol-  
9 lows:

10 “(e) LABOR STANDARDS.—

11 “(1) IN GENERAL.—The Administrator shall  
12 take such action as the Administrator determines to  
13 be necessary to ensure that each laborer and me-  
14 chanic employed by a contractor or subcontractor in  
15 connection with a construction project financed, in

1 whole or in part, by a grant, loan, loan guarantee,  
2 refinancing, or any other form of financial assistance  
3 provided under this title (including assistance pro-  
4 vided by a State loan fund established under section  
5 1452) is paid wages at a rate of not less than the  
6 prevailing wages for the same type of work on simi-  
7 lar construction in the immediate locality, as deter-  
8 mined by the Secretary of Labor in accordance with  
9 subchapter IV of chapter 31 of title 40, United  
10 States Code.

11 “(2) AUTHORITY OF SECRETARY OF LABOR.—

12 With respect to the labor standards specified in this  
13 subsection, the Secretary of Labor shall have the au-  
14 thority and functions established in Reorganization  
15 Plan Numbered 14 of 1950 (5 U.S.C. App.) and sec-  
16 tion 3145 of title 40, United States Code.”.

17 **SEC. 3. USE OF FUNDS.**

18 Section 1452(a)(2)(B) of the Safe Drinking Water  
19 Act (42 U.S.C. 300j–12(a)(2)(B)) is amended by striking  
20 “(including expenditures for planning, design, and associ-  
21 ated preconstruction activities, including activities relating  
22 to the siting of the facility, but not” and inserting “(in-  
23 cluding expenditures for planning, design, siting, and as-  
24 sociated preconstruction activities, for replacing or reha-  
25 bilitating aging treatment, storage, or distribution facili-

1 ties of public water systems, or for producing or capturing  
 2 sustainable energy on site or through the transportation  
 3 of water through the public water system, but not”.

4 **SEC. 4. REQUIREMENTS FOR USE OF AMERICAN MATE-**  
 5 **RIALS.**

6 Section 1452(a)(4) of the Safe Drinking Water Act  
 7 (42 U.S.C. 300j–12(a)(4)) is amended—

8 (1) in subparagraph (A), by striking “During  
 9 fiscal year 2017, funds” and inserting “Funds”; and

10 (2) by striking subparagraph (G).

11 **SEC. 5. DATA ON VARIANCES, EXEMPTIONS, AND PER-**  
 12 **SISTENT VIOLATIONS.**

13 Section 1452(b)(2) of the Safe Drinking Water Act  
 14 (42 U.S.C. 300j–12(b)(2)) is amended—

15 (1) in subparagraph (B), by striking “and” at  
 16 the end;

17 (2) in subparagraph (C), by striking the period  
 18 at the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(D) a list of all public water systems  
 21 within the State that have in effect an exemp-  
 22 tion or variance for any national primary drink-  
 23 ing water regulation or that are in persistent  
 24 violation of the requirements for any maximum  
 25 contaminant level or treatment technique under

1 a national primary drinking water regulation,  
2 including identification of—

3 “(i) the national primary drinking  
4 water regulation in question for each such  
5 exemption, variance, or violation; and

6 “(ii) the date on which the exemption  
7 or variance came into effect or the viola-  
8 tion began.”.

9 **SEC. 6. ASSISTANCE FOR RESTRUCTURING.**

10 (a) **DEFINITION.**—Section 1401 of the Safe Drinking  
11 Water Act (42 U.S.C. 300f) is amended by adding at the  
12 end the following:

13 “(17) **RESTRUCTURING.**—The term ‘restruc-  
14 turing’ means changes in operations (including own-  
15 ership, management, cooperative partnerships, joint  
16 purchasing arrangements, consolidation, and alter-  
17 native water supply).”.

18 (b) **RESTRUCTURING.**—Clause (ii) of section  
19 1452(a)(3)(B) (42 U.S.C. 300j–12(a)(3)(B)) is amended  
20 by striking “changes in operations (including ownership,  
21 management, accounting, rates, maintenance, consolida-  
22 tion, alternative water supply, or other procedures)” and  
23 inserting “restructuring”.

1 **SEC. 7. PRIORITY AND WEIGHT OF APPLICATIONS.**

2 (a) PRIORITY.—Section 1452(b)(3) of the Safe  
3 Drinking Water Act (42 U.S.C. 300j–12(b)(3)) is amend-  
4 ed—

5 (1) in subparagraph (A)—

6 (A) in clause (ii), by striking “and” at the  
7 end;

8 (B) in clause (iii), by striking the period at  
9 the end and inserting “; and”; and

10 (C) by adding at the end the following:

11 “(iv) improve the ability of public  
12 water systems to protect human health and  
13 comply with the requirements of this title  
14 affordably in the future.”;

15 (2) by redesignating subparagraph (B) as sub-  
16 paragraph (D);

17 (3) by inserting after subparagraph (A) the fol-  
18 lowing:

19 “(B) AFFORDABILITY OF NEW STAND-  
20 ARDS.—For any year in which enforcement be-  
21 gins for a new national primary drinking water  
22 regulation, each State that has entered into a  
23 capitalization agreement pursuant to this sec-  
24 tion shall evaluate whether capital improve-  
25 ments required to meet the standard are afford-  
26 able for disadvantaged communities (as defined

1 in subsection (d)(3)) in the State. If the State  
2 finds that such capital improvements do not  
3 meet affordability criteria for disadvantaged  
4 communities in the State, the State's intended  
5 use plan shall provide that priority for the use  
6 of funds for such year be given to public water  
7 systems affected by the standard and serving  
8 disadvantaged communities.

9 “(C) WEIGHT GIVEN TO APPLICATIONS.—  
10 After determining priority under subparagraphs  
11 (A) and (B), an intended use plan shall provide  
12 that the State will give greater weight to an ap-  
13 plication for assistance if the application con-  
14 tains—

15 “(i) a description of measures under-  
16 taken by the public water system to im-  
17 prove the management and financial sta-  
18 bility of the public water system, which  
19 may include—

20 “(I) an inventory of assets, in-  
21 cluding a description of the condition  
22 of the assets;

23 “(II) a schedule for replacement  
24 of assets;

25 “(III) an audit of water losses;

1 “(IV) a financing plan that fac-  
2 tors in all lifecycle costs indicating  
3 sources of revenue from ratepayers,  
4 grants, bonds, other loans, and other  
5 sources to meet the costs; and

6 “(V) a review of options for re-  
7 structuring;

8 “(ii) a demonstration of consistency  
9 with State, regional, and municipal water-  
10 shed plans;

11 “(iii) a water conservation plan con-  
12 sistent with guidelines developed for such  
13 plans by the Administrator under section  
14 1455(a); and

15 “(iv) a description of measures under-  
16 taken by the public water system to im-  
17 prove the efficiency of the public water sys-  
18 tem or reduce the public water system’s  
19 environmental impact, which may in-  
20 clude—

21 “(I) water efficiency or conserva-  
22 tion, including the rehabilitation or re-  
23 placement of existing leaking pipes;

24 “(II) use of reclaimed water;



1 “(III) actions to increase energy  
2 efficiency;

3 “(IV) actions to generate or cap-  
4 ture sustainable energy on site or  
5 through the transportation of water  
6 through the public water system;

7 “(V) actions to protect source  
8 water;

9 “(VI) actions to mitigate or pre-  
10 vent corrosion, including design, selec-  
11 tion of materials, selection of coating,  
12 and cathodic protection; and

13 “(VII) actions to reduce disinfec-  
14 tion byproducts.”; and

15 (4) in subparagraph (D) (as redesignated by  
16 paragraph (2)) by striking “periodically” and insert-  
17 ing “at least biennially”.

18 (b) GUIDANCE.—Section 1452 of the Safe Drinking  
19 Water Act (42 U.S.C. 300j–12) is amended—

20 (1) by redesignating subsection (r) as sub-  
21 section (t); and

22 (2) by inserting after subsection (q) the fol-  
23 lowing:

24 “(r) SMALL SYSTEM GUIDANCE.—The Administrator  
25 may provide guidance and, as appropriate, tools, meth-

1 odologies, or computer software, to assist small public  
 2 water systems in undertaking measures to improve the  
 3 management, financial stability, and efficiency of the pub-  
 4 lic water system or reduce the public water system's envi-  
 5 ronmental impact.”.

6 **SEC. 8. DISADVANTAGED COMMUNITIES.**

7 (a) ASSISTANCE TO INCREASE COMPLIANCE.—Sec-  
 8 tion 1452(b)(3) of the Safe Drinking Water Act (42  
 9 U.S.C. 300j–12(b)(3)), as amended, is further amended  
 10 by adding at the end the following:

11 “(E) ASSISTANCE TO INCREASE COMPLI-  
 12 ANCE.—A State’s intended use plan shall pro-  
 13 vide that, of the funds received by the State  
 14 through a capitalization grant under this sec-  
 15 tion for a fiscal year, the State will, to the ex-  
 16 tent that there are sufficient eligible project ap-  
 17 plications, reserve not less than 6 percent to be  
 18 spent on assistance under subsection (d) to  
 19 public water systems included in the State’s  
 20 most recent list under paragraph (2)(D).”.

21 (b) ASSISTANCE FOR DISADVANTAGED COMMU-  
 22 NITIES.—Section 1452(d) of the Safe Drinking Water Act  
 23 (42 U.S.C. 300j–12(d)) is amended—

1 (1) in paragraph (1), by adding at the end the  
2 following: “Such additional subsidization shall di-  
3 rectly and primarily benefit such community.”; and

4 (2) in paragraph (3), by inserting “, or portion  
5 of a service area,” after “service area”.

6 (c) AFFORDABILITY CRITERIA.—Section 1452(d)(3)  
7 of the Safe Drinking Water Act (42 U.S.C. 300j-  
8 12(d)(3)) is amended by adding at the end: “Each State  
9 that has entered into a capitalization agreement pursuant  
10 to this section shall, in establishing affordability criteria,  
11 consider, solicit public comment on, and include as appro-  
12 priate—

13 “(A) the methods or criteria that the State  
14 will use to identify disadvantaged communities;

15 “(B) a description of the institutional, reg-  
16 ulatory, financial, tax, or legal factors at the  
17 Federal, State, or local level that affect identi-  
18 fied affordability criteria; and

19 “(C) a description of how the State will  
20 use the authorities and resources under this  
21 subsection to assist communities meeting the  
22 identified criteria.”.

1 **SEC. 9. ADMINISTRATION OF STATE LOAN FUNDS.**

2 Section 1452(g) of the Safe Drinking Water Act (42  
3 U.S.C. 300j-12(g)) is amended by adding at the end the  
4 following new paragraph:

5 “(5) TRANSFER OF FUNDS.—

6 “(A) IN GENERAL.—The Governor of a  
7 State may—

8 “(i) reserve for any fiscal year not  
9 more than the lesser of—

10 “(I) 33 percent of a capitaliza-  
11 tion grant made under this section; or

12 “(II) 33 percent of a capitaliza-  
13 tion grant made under section 601 of  
14 the Federal Water Pollution Control  
15 Act; and

16 “(ii) add the funds so reserved to any  
17 funds provided to the State under this sec-  
18 tion or section 601 of the Federal Water  
19 Pollution Control Act.

20 “(B) STATE MATCHING FUNDS.—Funds  
21 reserved under this paragraph shall not be con-  
22 sidered for purposes of calculating the amount  
23 of a State contribution required by subsection  
24 (e) of this section or section 602(b) of the Fed-  
25 eral Water Pollution Control Act.”.

1 **SEC. 10. STATE REVOLVING LOAN FUNDS FOR AMERICAN**  
2 **SAMOA, NORTHERN MARIANA ISLANDS,**  
3 **GUAM, AND THE VIRGIN ISLANDS.**

4 Section 1452(j) of the Safe Drinking Water Act (42  
5 U.S.C. 300j–12(j)) is amended by striking “0.33 percent”  
6 and inserting “1.5 percent”.

7 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

8 Subsection (m) of section 1452 of the Safe Drinking  
9 Water Act (42 U.S.C. 300j–12) is amended to read as  
10 follows:

11 “(m) AUTHORIZATION OF APPROPRIATIONS.—

12 “(1) IN GENERAL.—There are authorized to be  
13 appropriated to carry out this section—

14 “(A) \$3,130,000,000 for fiscal year 2018;

15 “(B) \$3,600,000,000 for fiscal year 2019;

16 “(C) \$4,140,000,000 for fiscal year 2020;

17 “(D) \$4,800,000,000 for fiscal year 2021;

18 and

19 “(E) \$5,500,000,000 for fiscal year 2022.

20 “(2) AVAILABILITY.—Amounts made available  
21 pursuant to this subsection shall remain available  
22 until expended.

23 “(3) RESERVATION FOR NEEDS SURVEYS.—Of  
24 the amount made available under paragraph (1) to  
25 carry out this section for a fiscal year, the Adminis-  
26 trator may reserve not more than \$1,000,000 per

1 year to pay the costs of conducting needs surveys  
 2 under subsection (h).”.

3 **SEC. 12. AFFORDABILITY OF NEW STANDARDS.**

4 (a) TREATMENT TECHNOLOGIES FOR SMALL PUBLIC  
 5 WATER SYSTEMS.—Clause (ii) of section 1412(b)(4)(E)  
 6 of the Safe Drinking Water Act (42 U.S.C. 300g–  
 7 1(b)(4)(E)) is amended by adding at the end the following:  
 8 “If no technology, treatment technique, or other means  
 9 is included in a list under this subparagraph for a category  
 10 of small public water systems, the Administrator shall pe-  
 11 riodically review the list and supplement it when new tech-  
 12 nology becomes available.”.

13 (b) ASSISTANCE FOR DISADVANTAGED COMMU-  
 14 NITIES.—

15 (1) IN GENERAL.—Subparagraph (E) of section  
 16 1452(a)(1) of the Safe Drinking Water Act (42  
 17 U.S.C. 300j–12(a)(1)) is amended—

18 (A) by striking “except that the Adminis-  
 19 trator may reserve” and inserting “except  
 20 that—

21 “(i) in any year in which enforcement  
 22 of a new national primary drinking water  
 23 regulation begins, the Administrator may  
 24 use the remaining amount to make grants  
 25 to States whose public water systems are

disproportionately affected by the new regulation for the provision of assistance under subsection (d) to such public water systems;

“(ii) the Administrator may reserve”;

and

(B) by striking “and none of the funds reallotted” and inserting “; and

“(iii) none of the funds reallotted”.

(2) ELIMINATION OF CERTAIN PROVISIONS.—

(A) Section 1412(b) (42 U.S.C. 300g–1(b)) of the Safe Drinking Water Act is amended by striking paragraph (15).

(B) Section 1415 (42 U.S.C. 300g–4) of the Safe Drinking Water Act is amended by striking subsection (e).

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 1414(c)(1) of the Safe Drinking Water Act (42 U.S.C. 300g–3(c)(1)(B)) is amended by striking “, (a)(2), or (e)” and inserting “or (a)(2)”.

(B) Section 1416(b)(2) of the Safe Drinking Water Act (42 U.S.C. 300g–5(b)(2)) is amended by striking subparagraph (D).

1 (C) Section 1445(h) of the Safe Drinking  
2 Water Act (42 U.S.C. 300j-4(h)) is amended—

3 (i) by striking “sections  
4 1412(b)(4)(E) and 1415(e) (relating to  
5 small system variance program” and in-  
6 serting “section 1412(b)(4)(E)”; and

7 (ii) by striking “guidance under sec-  
8 tions 1412(b)(4)(E) and 1415(e)” and in-  
9 serting “guidance under section  
10 1412(b)(4)(E)”.

11 **SEC. 13. FOCUS ON LIFECYCLE COSTS.**

12 Section 1412(b)(4) of the Safe Drinking Water Act  
13 (42 U.S.C. 300g-1(b)(4)) is amended—

14 (1) in subparagraph (D), by striking “taking  
15 cost into consideration” and inserting “taking  
16 lifecycle costs, including maintenance, replacement,  
17 and avoided costs, into consideration”; and

18 (2) in subparagraph (E)(ii), in the matter pre-  
19 ceding subclause (I), by inserting “taking lifecycle  
20 costs, including maintenance, replacement, and  
21 avoided costs, into consideration,” after “as deter-  
22 mined by the Administrator in consultation with the  
23 States,”.

24 **SEC. 14. STREAMLINING REPORTING AND ENFORCEMENT.**

25 (a) ENFORCEMENT.—



1 (1) ADVICE AND TECHNICAL ASSISTANCE.—

2 Section 1414(a)(1) of the Safe Drinking Water Act

3 (42 U.S.C. 300g-3(a)(1)) is amended—

4 (A) in subparagraph (A), in the matter fol-

5 lowing clause (ii), by striking “and provide such

6 advice and technical assistance to such State

7 and public water system as may be appropriate

8 to bring the system into compliance with the re-

9 quirement by the earliest feasible time”; and

10 (B) by adding at the end the following:

11 “(C) At any time after providing notice of a violation

12 to a State and public water system under subparagraph

13 (A), the Administrator may provide such advice and tech-

14 nical assistance to such State and public water system as

15 may be appropriate to bring the system into compliance

16 with the requirement by the earliest feasible time. In de-

17 ciding whether the provision of advice or technical assist-

18 ance is appropriate, the Administrator may consider the

19 potential for the violation to result in serious adverse ef-

20 fects to human health, whether the violation has occurred

21 continuously or frequently, and the effectiveness of past

22 technical assistance efforts.”.

23 (2) ADDITIONAL INSPECTIONS.—

1 (A) IN GENERAL.—Section 1414 of the  
2 Safe Drinking Water Act (42 U.S.C. 300g–3) is  
3 amended—

4 (i) by redesignating subsections (d)  
5 through (i) as subsections (e) through (j),  
6 respectively; and

7 (ii) by inserting after subsection (c)  
8 the following:

9 “(d) ADDITIONAL INSPECTIONS FOLLOWING VIOLA-  
10 TIONS.—

11 “(1) IN GENERAL.—The Administrator shall,  
12 by regulation, and after consultation with the States,  
13 prescribe the number, frequency, and type of addi-  
14 tional inspections to follow any violation requiring  
15 notice under subsection (c). Regulations under this  
16 subsection shall—

17 “(A) take into account—

18 “(i) differences between violations  
19 that are intermittent or infrequent and vio-  
20 lations that are continuous or frequent;

21 “(ii) the seriousness of any potential  
22 adverse health effects that may be in-  
23 volved; and

24 “(iii) the number and severity of past  
25 violations by the public water system; and

1 “(B) specify procedures for inspections fol-  
 2 lowing a violation by a public water system that  
 3 has the potential to have serious adverse effects  
 4 on human health as a result of short-term expo-  
 5 sure.

6 “(2) STATE PRIMARY ENFORCEMENT RESPONSI-  
 7 BILITY.—Nothing in this subsection shall be con-  
 8 strued or applied to modify the requirements of sec-  
 9 tion 1413.”.

10 (B) CONFORMING AMENDMENTS.—

11 (i) Subsections (a)(1)(B), (a)(2)(A),  
 12 and (b) of section 1414 of the Safe Drink-  
 13 ing Water Act (42 U.S.C. 300g–3) are  
 14 amended by striking “subsection (g)” each  
 15 place it appears and inserting “subsection  
 16 (h)”.

17 (ii) Section 1448(a) of the Safe  
 18 Drinking Water Act (42 U.S.C. 300j–7(a))  
 19 is amended by striking “1414(g)(3)(B)”  
 20 and inserting “1414(h)(3)(B)”.

21 (b) ELECTRONIC REPORTING OF COMPLIANCE MONI-  
 22 TORING DATA TO THE ADMINISTRATOR.—

23 (1) REQUIREMENT.—Section 1414 of the Safe  
 24 Drinking Water Act (42 U.S.C. 300g–3), as amend-

1 ed, is further amended by adding at the end the fol-  
2 lowing:

3 “(k) ELECTRONIC REPORTING OF COMPLIANCE  
4 MONITORING DATA TO THE ADMINISTRATOR.—The Ad-  
5 ministrator shall by rule establish requirements for—

6 “(1) electronic submission by public water sys-  
7 tems of all compliance monitoring data—

8 “(A) to the Administrator; or

9 “(B) with respect to public water systems  
10 in a State which has primary enforcement re-  
11 sponsibility under section 1413, to such State;  
12 and

13 “(2) electronic submission to the Administrator  
14 by each State which has primary enforcement re-  
15 sponsibility under section 1413 of all compliance  
16 monitoring data submitted to such State by public  
17 water systems pursuant to paragraph (1)(B).”.

18 (2) FINAL RULE.—Not later than 12 months  
19 after the date of the enactment of this Act, the Ad-  
20 ministrator of the Environmental Protection Agency  
21 shall issue a final rule to carry out section 1414(k)  
22 of the Safe Drinking Water Act, as added by para-  
23 graph (1).

1 **SEC. 15. PRESENCE OF PHARMACEUTICALS AND PERSONAL**  
2 **CARE PRODUCTS IN SOURCES OF DRINKING**  
3 **WATER.**

4 Subsection (a) of section 1442 of the Safe Drinking  
5 Water Act (42 U.S.C. 300j-1) is amended by adding at  
6 the end the following:

7 “(11) PRESENCE OF PHARMACEUTICALS AND PER-  
8 SONAL CARE PRODUCTS IN SOURCES OF DRINKING  
9 WATER.—

10 “(A) STUDY.—The Administrator shall carry  
11 out a study on the presence of pharmaceuticals and  
12 personal care products in sources of drinking water,  
13 which shall—

14 “(i) identify pharmaceuticals and personal  
15 care products that have been detected in  
16 sources of drinking water and the levels at  
17 which such pharmaceuticals and personal care  
18 products have been detected;

19 “(ii) identify the sources of pharma-  
20 ceuticals and personal care products in sources  
21 of drinking water, including point sources and  
22 nonpoint sources of pharmaceutical and per-  
23 sonal care products;

24 “(iii) identify the effects of such pharma-  
25 ceuticals and personal care products on hu-

1           mans, the environment, and the safety of drink-  
2           ing water; and

3                 “(iv) identify methods to control, limit,  
4           treat, or prevent the presence of such personal  
5           care pharmaceuticals and products.

6                 “(B) CONSULTATION.—The Administrator shall  
7           conduct the study described in subparagraph (A) in  
8           consultation with the Secretary of Health and  
9           Human Services (acting through the Commissioner  
10          of Food and Drugs), the Director of the United  
11          States Geological Survey, the heads of other appro-  
12          priate Federal agencies (including the National In-  
13          stitute of Environmental Health Sciences), and other  
14          interested stakeholders (including manufacturers of  
15          pharmaceuticals and personal care products and  
16          consumer groups and advocates).

17                “(C) REPORT.—Not later than 4 years after  
18          the date of the enactment of this paragraph, the Ad-  
19          ministrator shall submit to the Congress a report on  
20          the results of the study carried out under this para-  
21          graph.

22                “(D) DEFINITIONS.—In this paragraph:

23                       “(i) The term ‘personal care product’ has  
24          the meaning given the term ‘cosmetic’ in section

1           201 of the Federal Food, Drug, and Cosmetic  
2           Act.

3           “(ii) The term ‘pharmaceutical’ has the  
4           meaning given the term ‘drug’ in section 201 of  
5           the Federal Food, Drug, and Cosmetic Act.”.

6   **SEC. 16. BEST PRACTICES FOR ADMINISTRATION OF STATE**  
7           **REVOLVING LOAN FUND PROGRAMS.**

8           Section 1452 of the Safe Drinking Water Act (42  
9   U.S.C. 300j–12) is amended by inserting after subsection  
10   (r), as added by section 7(b), the following:

11          “(s) BEST PRACTICES FOR PROGRAM ADMINISTRA-  
12   TION.—The Administrator shall—

13           “(1) collect information from States on admin-  
14   istration of State programs with respect to State  
15   loan funds, including—

16           “(A) efforts to streamline the process for  
17   applying for assistance through such programs;

18           “(B) programs in place to assist with the  
19   completion of application forms;

20           “(C) incentives provided to systems that  
21   partner with small public water systems for the  
22   application process; and

23           “(D) techniques to ensure that obligated  
24   balances are liquidated in a timely fashion;

1 “(2) not later than 3 years after the date of en-  
2 actment of the Assistance, Quality, and Affordability  
3 Act of 2017, disseminate to the States best practices  
4 for administration of such programs, based on the  
5 information collected pursuant to this subsection;  
6 and

7 “(3) periodically update such best practices, as  
8 appropriate.”.

9 **SEC. 17. WATER LOSS AND LEAK CONTROL TECHNOLOGY.**

10 Part E of the Safe Drinking Water Act (42 U.S.C.  
11 300j et seq.) is amended by adding at the end the fol-  
12 lowing:

13 **“SEC. 1459C. WATER LOSS AND LEAK CONTROL TECH-**  
14 **NOLOGY.**

15 “The Administrator shall—

16 “(1) not later than 5 years after the date of en-  
17 actment of this section, develop criteria for effective  
18 water loss and leak control technology to be used by  
19 public water systems; and

20 “(2) implement a program through which a  
21 manufacturer of such technology may apply, on a  
22 voluntary basis, for certification of compliance with  
23 such criteria.”.



1 **SEC. 18. RISKS OF DROUGHT TO DRINKING WATER.**

2 Part E of the Safe Drinking Water Act (42 U.S.C.  
3 300j et seq.) is further amended by adding at the end the  
4 following new section:

5 **“SEC. 1459D. DROUGHT RISK ASSESSMENT AND MANAGE-**  
6 **MENT.**

7 “(a) STRATEGIC PLAN.—

8 “(1) DEVELOPMENT.—Not later than 90 days  
9 after the date of enactment of this section, the Ad-  
10 ministrator shall develop and submit to Congress a  
11 strategic plan for assessing and managing the risks  
12 of drought to drinking water provided by public  
13 water systems. The strategic plan shall include steps  
14 and timelines to—

15 “(A) evaluate the risks posed by drought  
16 to drinking water provided by public water sys-  
17 tems;

18 “(B) compile a comprehensive list of the  
19 effects of drought on drinking water provided  
20 by public water systems which the Adminis-  
21 trator determines may have an adverse effect  
22 on human health;

23 “(C) summarize—

24 “(i) the known adverse human health  
25 effects resulting from the effects of

drought on drinking water included on the list established under subparagraph (B);

“(ii) factors that cause drought; and

“(iii) factors that exacerbate the effects of drought on drinking water provided by public water systems;

“(D) with respect to the effects of drought on drinking water included on the list compiled under subparagraph (B), determine whether to—

“(i) establish guidance regarding feasible analytical methods to quantify such effects; and

“(ii) establish guidance regarding the frequency of monitoring necessary to detect such effects;

“(E) recommend feasible treatment options, including procedures, equipment, and source water protection practices, to mitigate such effects; and

“(F) enter into cooperative agreements with, and provide technical assistance to, affected States and public water systems, as identified by the Administrator, for the purpose of

1 managing risks associated with the effects of  
2 drought on drinking water.

3 “(2) UPDATES.—The Administrator shall, as  
4 appropriate, update and submit to Congress the  
5 strategic plan developed under paragraph (1).

6 “(b) INFORMATION COORDINATION.—In carrying out  
7 this section the Administrator shall—

8 “(1) identify gaps in the Agency’s under-  
9 standing of the effects of drought on drinking water  
10 provided by public water systems, including—

11 “(A) the human health effects of drought;  
12 and

13 “(B) methods and means of testing and  
14 monitoring for the effects of drought on source  
15 water of, or drinking water provided by, public  
16 water systems;

17 “(2) as appropriate, consult with—

18 “(A) other Federal agencies that—

19 “(i) examine or analyze drought; or

20 “(ii) address public health concerns  
21 related to drought;

22 “(B) States;

23 “(C) operators of public water systems;

24 “(D) multinational agencies;

25 “(E) foreign governments;

1           “(F) research and academic institutions;  
2           and

3           “(G) companies that provide relevant  
4           drinking water treatment options; and

5           “(3) assemble and publish information from  
6           each Federal agency that has—

7           “(A) examined or analyzed drought; or

8           “(B) addressed public health concerns re-  
9           lated to drought.

10          “(c) FEASIBLE.—For purposes of this section, the  
11          term ‘feasible’ has the meaning given such term in section  
12          1412(b)(4)(D).”.

13       **SEC. 19. REDUCING LEAD IN DRINKING WATER.**

14          Section 1459B(d) of the Safe Drinking Water Act  
15          (42 U.S.C. 300j–19b(d)) is amended by striking  
16          “\$60,000,000 for each of fiscal years 2017 through 2021”  
17          and inserting “\$100,000,000 for each of fiscal years 2018  
18          through 2022”.

○

115TH CONGRESS  
1ST SESSION

# H. R. 2510

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2017

Mr. DEFazio (for himself, Mr. DUNCAN of Tennessee, and Mrs. NAPOLITANO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

## A BILL

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Water Quality Protection and Job Creation Act of  
6 2017”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of Federal Water Pollution Control Act.

# TITLE I—WATER QUALITY FINANCING

## Subtitle A—Technical and Management Assistance

- Sec. 101. Technical assistance.
- Sec. 102. State management assistance.
- Sec. 103. Watershed pilot projects.
- Sec. 104. Nonpoint source management programs.

## Subtitle B—State Water Pollution Control Revolving Funds

- Sec. 121. Capitalization grant agreements.
- Sec. 122. Water pollution control revolving loan funds.
- Sec. 123. State planning assistance.
- Sec. 124. Intended use plan.
- Sec. 125. Technical assistance.
- Sec. 126. Authorization of appropriations.

# TITLE II—ALTERNATIVE WATER SOURCE AND SEWER OVERFLOW AND STORMWATER GRANTS

- Sec. 201. Pilot program for alternative water source projects.
- Sec. 202. Sewer overflow control grants.

## 1 **SEC. 2. AMENDMENT OF FEDERAL WATER POLLUTION CON-** 2 **TROL ACT.**

3       Except as otherwise expressly provided, whenever in  
4 this Act an amendment or repeal is expressed in terms  
5 of an amendment to, or repeal of, a section or other provi-  
6 sion, the reference shall be considered to be made to a  
7 section or other provision of the Federal Water Pollution  
8 Control Act (33 U.S.C. 1251 et seq.).

**TITLE I—WATER QUALITY  
FINANCING  
Subtitle A—Technical and  
Management Assistance**

**SEC. 101. TECHNICAL ASSISTANCE.**

(a) TECHNICAL ASSISTANCE FOR RURAL AND SMALL  
TREATMENT WORKS.—Section 104(b) (33 U.S.C.  
1254(b)) is amended—

(1) by striking “and” at the end of paragraph  
(6);

(2) by striking the period at the end of para-  
graph (7) and inserting “; and”; and

(3) by adding at the end the following:

“(8) make grants to nonprofit organizations—

“(A) to provide technical assistance to  
rural, small, and tribal municipalities for the  
purpose of assisting, in consultation with the  
State in which the assistance is provided, such  
municipalities and tribal governments in the  
planning, developing, and acquisition of financ-  
ing for eligible projects described in section  
603(c);

“(B) to provide technical assistance and  
training for rural, small, and tribal publicly  
owned treatment works and decentralized

1 wastewater treatment systems to enable such  
2 treatment works and systems to protect water  
3 quality and achieve and maintain compliance  
4 with the requirements of this Act; and

5 “(C) to disseminate information to rural,  
6 small, and tribal municipalities and municipali-  
7 ties that meet the affordability criteria estab-  
8 lished under section 603(i)(2) by the State in  
9 which the municipality is located with respect to  
10 planning, design, construction, and operation of  
11 publicly owned treatment works and decentral-  
12 ized wastewater treatment systems.”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
14 104(u) (33 U.S.C. 1254(u)) is amended—

15 (1) by striking “and (6)” and inserting “(6)”;

16 and

17 (2) by inserting before the period at the end the  
18 following: “; and (7) not to exceed \$100,000,000 for  
19 each of fiscal years 2018 through 2022 for carrying  
20 out subsections (b)(3), (b)(8), and (g), except that  
21 not less than 20 percent of the amounts appro-  
22 priated pursuant to this paragraph in a fiscal year  
23 shall be used for carrying out subsection (b)(8)”.



1 **SEC. 102. STATE MANAGEMENT ASSISTANCE.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—Section  
3 106(a) (33 U.S.C. 1256(a)) is amended—

4 (1) by striking “and” at the end of paragraph  
5 (1);

6 (2) by striking the semicolon at the end of  
7 paragraph (2) and inserting “; and”; and

8 (3) by inserting after paragraph (2) the fol-  
9 lowing:

10 “(3) such sums as may be necessary for each  
11 of fiscal years 1991 through 2017, and  
12 \$300,000,000 for each of fiscal years 2018 through  
13 2022;”.

14 (b) TECHNICAL AMENDMENT.—Section 106(e) (33  
15 U.S.C. 1256(e)) is amended by striking “Beginning in fis-  
16 cal year 1974 the” and inserting “The”.

17 **SEC. 103. WATERSHED PILOT PROJECTS.**

18 Section 122(c) is amended to read as follows:

19 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
20 is authorized to be appropriated to carry out this section  
21 \$120,000,000 for each of fiscal years 2018 through  
22 2022.”.

23 **SEC. 104. NONPOINT SOURCE MANAGEMENT PROGRAMS.**

24 Section 319(j) (33 U.S.C. 1329(j)) is amended by  
25 striking “\$70,000,000” and all that follows through “fis-

1 cal year 1991” and inserting “\$200,000,000 for each of  
2 fiscal years 2018 through 2022”.

3 **Subtitle B—State Water Pollution**  
4 **Control Revolving Funds**

5 **SEC. 121. CAPITALIZATION GRANT AGREEMENTS.**

6 Section 602(b) (33 U.S.C. 1382(b)) is amended—

7 (1) in paragraph (13)(B)(iii), by striking “;  
8 and” and inserting a semicolon;

9 (2) in paragraph (14), by striking the period at  
10 the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(15) the State will use at least 15 percent of  
13 the amount of each capitalization grant received by  
14 the State under this title after September 30, 2017,  
15 to provide assistance to municipalities of fewer than  
16 10,000 individuals that meet the affordability cri-  
17 teria established by the State under section  
18 603(i)(2) for projects or activities included on the  
19 State’s priority list under section 603(g), to the ex-  
20 tent that there are sufficient applications for such  
21 assistance.”.

22 **SEC. 122. WATER POLLUTION CONTROL REVOLVING LOAN**  
23 **FUNDS.**

24 Section 603(d) (33 U.S.C. 1383(d)) is amended—

1 (1) by striking “and” at the end of paragraph  
2 (6);

3 (2) by striking the period at the end of para-  
4 graph (7) and inserting a semicolon; and

5 (3) by adding at the end the following:

6 “(8) to provide grants to owners and operators  
7 of treatment works that serve a population of  
8 10,000 or fewer for obtaining technical and planning  
9 assistance and assistance in financial management,  
10 user fee analysis, budgeting, capital improvement  
11 planning, facility operation and maintenance, equip-  
12 ment replacement, and other activities to improve  
13 wastewater treatment plant management and oper-  
14 ations, except that the total amount provided by the  
15 State in grants under this paragraph for a fiscal  
16 year may not exceed one percent of the total amount  
17 of assistance provided by the State from the fund in  
18 the preceding fiscal year, or 2 percent of the total  
19 amount received by the State in capitalization grants  
20 under this title in the preceding fiscal year, which-  
21 ever amount is greatest; and

22 “(9) to provide grants to owners and operators  
23 of treatment works for conducting an assessment of  
24 the energy and water consumption of the treatment  
25 works, and evaluating potential opportunities for en-

1       energy and water conservation through facility oper-  
2       ation and maintenance, equipment replacement, and  
3       projects or activities that promote the efficient use  
4       of energy and water by the treatment works, except  
5       that the total amount provided by the State in  
6       grants under this paragraph for a fiscal year may  
7       not exceed one percent of the total amount of assist-  
8       ance provided by the State from the fund in the pre-  
9       ceding fiscal year, or 2 percent of the total amount  
10      received by the State in capitalization grants under  
11      this title in the preceding fiscal year, whichever  
12      amount is greatest.”.

13   **SEC. 123. STATE PLANNING ASSISTANCE.**

14       Section 604(b) (33 U.S.C. 1384(b)) is amended by  
15   striking “1 percent” and inserting “2 percent”.

16   **SEC. 124. INTENDED USE PLAN.**

17       (a) INTEGRATED PRIORITY LIST.—Section 603(g)  
18   (33 U.S.C. 1383(g)) is amended to read as follows:

19       “(g) PRIORITY LIST.—

20           “(1) IN GENERAL.—For fiscal year 2019 and  
21       each fiscal year thereafter, a State shall establish or  
22       update a list of projects and activities for which as-  
23       sistance is sought from the State’s water pollution  
24       control revolving fund. Such projects and activities  
25       shall be listed in priority order based on the method-

1 ology established under paragraph (2). The State  
2 may provide financial assistance from the State's  
3 water pollution control revolving fund only with re-  
4 spect to a project or activity included on such list.  
5 In the case of projects and activities eligible for as-  
6 sistance under subsection (c)(2), the State may in-  
7 clude on such list a category or subcategory of  
8 nonpoint sources of pollution to be addressed.

9 “(2) METHODOLOGY.—

10 “(A) IN GENERAL.—Not later than 1 year  
11 after the date of enactment of this paragraph,  
12 and after providing notice and opportunity for  
13 public comment, each State shall establish a  
14 methodology for developing a priority list under  
15 paragraph (1).

16 “(B) PRIORITY FOR PROJECTS AND AC-  
17 TIVITIES THAT ACHIEVE GREATEST WATER  
18 QUALITY IMPROVEMENT.—In developing the  
19 methodology, the State shall seek to achieve the  
20 greatest degree of water quality improvement,  
21 taking into consideration—

22 “(i) the requirements of section  
23 602(b)(5);

1           “(ii) whether such water quality im-  
2           provements would be realized without as-  
3           sistance under this title; and

4           “(iii) whether the proposed projects  
5           and activities would address water quality  
6           impairments associated with existing treat-  
7           ment works.

8           “(C) CONSIDERATIONS IN SELECTING  
9           PROJECTS AND ACTIVITIES.—In determining  
10          which projects and activities will achieve the  
11          greatest degree of water quality improvement,  
12          the State shall consider—

13           “(i) information developed by the  
14           State under sections 303(d) and 305(b);

15           “(ii) the State’s continuing planning  
16           process developed under sections 205(j)  
17           and 303(e);

18           “(iii) whether such project or activity  
19           may have a beneficial impact related to the  
20           purposes identified under section 302(a);

21           “(iv) the State’s management pro-  
22           gram developed under section 319; and

23           “(v) conservation and management  
24           plans developed under section 320 with re-

1           spect to an estuary lying in whole or in  
2           part within the State.

3           “(D) NONPOINT SOURCES.—For categories  
4           or subcategories of nonpoint sources of pollu-  
5           tion that a State may include on its priority list  
6           under paragraph (1), the State shall consider  
7           the cumulative water quality improvements as-  
8           sociated with projects or activities carried out  
9           pursuant to the listing of such categories or  
10          subcategories.

11          “(E) EXISTING METHODOLOGIES.—If a  
12          State has previously developed, after providing  
13          notice and an opportunity for public comment,  
14          a methodology that meets the requirements of  
15          this paragraph, the State may use the method-  
16          ology for the purposes of this subsection.”.

17          (b) INTENDED USE PLAN.—Section 606(c) (33  
18 U.S.C. 1386(c)) is amended—

19           (1) in the matter preceding paragraph (1) by  
20           inserting “and publish” after “each State shall an-  
21           nually prepare”;

22           (2) by striking paragraph (1) and inserting the  
23           following:

24           “(1) the State’s priority list developed under  
25           section 603(g);”;

1           (3) in paragraph (4), by striking “and” at the  
2     end;

3           (4) by striking the period at the end of para-  
4     graph (5) and inserting “; and”; and

5           (5) by adding at the end the following:

6           “(6) if the State does not fund projects and ac-  
7     tivities in the order of the priority established under  
8     section 603(g), an explanation of why such a change  
9     in order is appropriate.”.

10       (c) **TRANSITIONAL PROVISION.**—Before completion  
11     of a priority list based on a methodology established under  
12     section 603(g) of the Federal Water Pollution Control Act  
13     (as amended by this section), a State shall continue to  
14     comply with the requirements of sections 603(g) and  
15     606(c) of such Act, as in effect on the day before the date  
16     of enactment of this Act.

17     **SEC. 125. TECHNICAL ASSISTANCE.**

18       Section 607 is amended to read as follows:

19     **“SEC. 607. TECHNICAL ASSISTANCE.**

20       “(a) **SIMPLIFIED PROCEDURES.**—Not later than 1  
21     year after the date of enactment of this section, the Ad-  
22     ministrator shall assist the States in establishing sim-  
23     plified procedures for treatment works to obtain assistance  
24     under this title.



1 “(b) PUBLICATION OF MANUAL.—Not later than 2  
 2 years after the date of the enactment of this section, and  
 3 after providing notice and opportunity for public comment,  
 4 the Administrator shall publish a manual to assist treat-  
 5 ment works in obtaining assistance under this title and  
 6 publish in the Federal Register notice of the availability  
 7 of the manual.”.

8 **SEC. 126. AUTHORIZATION OF APPROPRIATIONS.**

9 Title VI (33 U.S.C. 1381 et seq.) is amended by add-  
 10 ing at the end the following:

11 **“SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

12 “There is authorized to be appropriated to carry out  
 13 the purposes of this title \$4,000,000,000 for each of fiscal  
 14 years fiscal year 2018 through 2022.”.

15 **TITLE II—ALTERNATIVE WATER**  
 16 **SOURCE AND SEWER OVER-**  
 17 **FLOW AND STORMWATER**  
 18 **GRANTS**

19 **SEC. 201. PILOT PROGRAM FOR ALTERNATIVE WATER**  
 20 **SOURCE PROJECTS.**

21 (a) SELECTION OF PROJECTS.—Section 220(d) (33  
 22 U.S.C. 1300(d)) is amended by striking paragraph (2) and  
 23 redesignating paragraph (3) as paragraph (2).

24 (b) COMMITTEE RESOLUTION PROCEDURE.—Section  
 25 220 (33 U.S.C. 1300(e)) is amended by striking sub-

1 section (e) and redesignating subsections (f) through (j)  
2 as subsections (e) through (i), respectively.

3 (c) DEFINITIONS.—Section 220(h)(1) (as redesignig-  
4 nated by subsection (c) of this section) is amended by  
5 striking “or wastewater or by treating wastewater” and  
6 inserting “, wastewater, or stormwater or by treating  
7 wastewater or stormwater”.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—Section  
9 220(i) (as redesignated by subsection (c) of this section)  
10 is amended by striking “\$75,000,000 for fiscal years 2002  
11 through 2004” and inserting “\$75,000,000 for each of fis-  
12 cal years 2018 through 2022”.

13 **SEC. 202. SEWER OVERFLOW CONTROL GRANTS.**

14 Section 221 (33 U.S.C. 1301) is amended—

15 (1) by amending the section heading to read as  
16 follows: “**SEWER OVERFLOW AND STORMWATER**  
17 **REUSE MUNICIPAL GRANTS**”;

18 (2) by amending subsection (a) to read as fol-  
19 lows:

20 “(a) IN GENERAL.—

21 “(1) GRANTS TO STATES.—The Administrator  
22 may make grants to States for the purpose of pro-  
23 viding grants to a municipality or municipal entity  
24 for planning, design, and construction of treatment  
25 works to intercept, transport, control, treat, or reuse

1       municipal combined sewer overflows, sanitary sewer  
2       overflows, or stormwater.

3           “(2) DIRECT MUNICIPAL GRANTS.—Subject to  
4       subsection (g), the Administrator may make a direct  
5       grant to a municipality or municipal entity for the  
6       purposes described in paragraph (1).”;

7           (3) by amending subsection (e) to read as fol-  
8       lows:

9           “(e) ADMINISTRATIVE REQUIREMENTS.—A project  
10      that receives assistance under this section shall be carried  
11      out subject to the same requirements as a project that  
12      receives assistance from a State water pollution control  
13      revolving fund under title VI, except to the extent that  
14      the Governor of the State in which the project is located  
15      determines that a requirement of title VI is inconsistent  
16      with the purposes of this section. For the purposes of this  
17      subsection, a Governor may not determine that the re-  
18      quirements of title VI relating to the application of section  
19      513 are inconsistent with the purposes of this section.”;

20           (4) by amending subsection (f) to read as fol-  
21      lows:

22           “(f) AUTHORIZATION OF APPROPRIATIONS.—

23           “(1) IN GENERAL.—There is authorized to be  
24      appropriated to carry out this section \$500,000,000  
25      for each of fiscal years 2018 through 2022.

1           “(2) MINIMUM ALLOCATIONS.—To the extent  
2       there are sufficient eligible project applications, the  
3       Administrator shall ensure that a State uses not less  
4       than 20 percent of the amount of the grants made  
5       to the State under subsection (a) in a fiscal year to  
6       carry out projects to intercept, transport, control,  
7       treat, or reuse municipal combined sewer overflows,  
8       sanitary sewer overflows, or stormwater through the  
9       use of green infrastructure, water and energy effi-  
10      ciency improvements, and other environmentally in-  
11      novative activities.”; and

12           (5) by amending subsection (g) to read as fol-  
13      lows:

14      “(g) ALLOCATION OF FUNDS.—

15           “(1) FISCAL YEAR 2018.—Subject to subsection  
16      (h), the Administrator shall use the amounts appro-  
17      priated to carry out this section for fiscal year 2018  
18      for making grants to municipalities and municipal  
19      entities under subsection (a)(2) in accordance with  
20      the criteria set forth in subsection (b).

21           “(2) FISCAL YEAR 2019 AND THEREAFTER.—  
22      Subject to subsection (h), the Administrator shall  
23      use the amounts appropriated to carry out this sec-  
24      tion for fiscal year 2019 and each fiscal year there-  
25      after for making grants to States under subsection

1 (a)(1) in accordance with a formula to be established  
2 by the Administrator, after providing notice and an  
3 opportunity for public comment, that allocates to  
4 each State a proportional share of such amounts  
5 based on the total needs of the State for municipal  
6 combined sewer overflow controls, sanitary sewer  
7 overflow controls, and stormwater identified in the  
8 most recent survey conducted pursuant to section  
9 516 and any other information the Administrator  
10 considers appropriate.”.

○



115TH CONGRESS  
1ST SESSION

# S. 1464

To amend the Internal Revenue Code of 1986 to expand the exclusion for energy conservation subsidies provided by public utilities to include subsidies provided by public utilities and State and local governments for water conservation and storm water management.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 28, 2017

Mrs. FEINSTEIN (for herself, Mr. HELLER, Mr. BENNET, and Mr. GARDNER) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code of 1986 to expand the exclusion for energy conservation subsidies provided by public utilities to include subsidies provided by public utilities and State and local governments for water conservation and storm water management.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Conservation  
5 Tax Parity Act”.

1 **SEC. 2. MODIFICATIONS TO INCOME EXCLUSION FOR CON-**  
2 **SERVATION SUBSIDIES.**

3 (a) IN GENERAL.—Subsection (a) of section 136 of  
4 the Internal Revenue Code of 1986 is amended—

5 (1) by striking “any subsidy provided” and in-  
6 serting “any subsidy—

7 “(1) provided”;

8 (2) by striking the period at the end and insert-  
9 ing a comma; and

10 (3) by adding at the end the following new  
11 paragraphs:

12 “(2) provided (directly or indirectly) by a public  
13 utility to a customer, or by a State or local govern-  
14 ment to a resident of such State or locality, for the  
15 purchase or installation of any water conservation  
16 measure, or

17 “(3) provided (directly or indirectly) by a storm  
18 water management provider to a customer, or by a  
19 State or local government to a resident of such State  
20 or locality, for the purchase or installation of any  
21 storm water management measure.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) DEFINITION OF WATER CONSERVATION  
24 MEASURE AND STORM WATER MANAGEMENT MEAS-  
25 URE.—Section 136(c) of the Internal Revenue Code  
26 of 1986 is amended—



(A) by striking “ENERGY CONSERVATION MEASURE” in the heading thereof and inserting “DEFINITIONS”;

(B) by striking “IN GENERAL” in the heading of paragraph (1) and inserting “ENERGY CONSERVATION MEASURE”; and

(C) by redesignating paragraph (2) as paragraph (4) and by inserting after paragraph (1) the following:

“(2) WATER CONSERVATION MEASURE.—For purposes of this section, the term ‘water conservation measure’ means any installation or modification primarily designed to reduce consumption of water or to improve the management of water demand with respect to a dwelling unit.

“(3) STORM WATER MANAGEMENT MEASURE.—For purposes of this section, the term ‘storm water management measure’ means any installation or modification of property primarily designed to reduce or manage amounts of storm water with respect to a dwelling unit.”.

(2) DEFINITION OF PUBLIC UTILITY.—Section 136(c)(4) of such Code (as redesignated by paragraph (1)(C)) is amended by striking subparagraph (B) and inserting the following:

1           “(B) PUBLIC UTILITY.—The term ‘public  
2           utility’ means a person engaged in the sale of  
3           electricity, natural gas, or water to residential,  
4           commercial, or industrial customers for use by  
5           such customers.

6           “(C) STORM WATER MANAGEMENT PRO-  
7           VIDER.—The term ‘storm water management  
8           provider’ means a person engaged in the provi-  
9           sion of storm water management measures to  
10          the public.

11          “(D) PERSON.—For purposes of subpara-  
12          graphs (B) and (C), the term ‘person’ includes  
13          the Federal Government, a State or local gov-  
14          ernment or any political subdivision thereof, or  
15          any instrumentality of any of the foregoing.”.

16          (3) CLERICAL AMENDMENTS.—

17                (A) The heading of section 136 of such  
18          Code is amended—

19                   (i) by inserting “**AND WATER**” after  
20                   “**ENERGY**”; and

21                   (ii) by striking “**PROVIDED BY PUB-**  
22                   **LIC UTILITIES**”.

23                (B) The item relating to section 136 in the  
24          table of sections of part III of subchapter B of  
25          chapter 1 of such Code is amended—

1 (i) by inserting “and water” after  
2 “energy”; and

3 (ii) by striking “provided by public  
4 utilities”.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to amounts received after January  
7 1, 2015.

8 (d) NO INFERENCE.—Nothing in this Act or the  
9 amendments made by this Act shall be construed to create  
10 any inference with respect to the proper tax treatment of  
11 any subsidy received directly or indirectly from a public  
12 utility, a storm water management provider, or a State  
13 or local government for any water conservation measure  
14 or storm water management measure before January 1,  
15 2015.

○



115TH CONGRESS  
1ST SESSION

# H. R. 2862

To provide for wildfire suppression operations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2017

Mr. SIMPSON (for himself, Mr. SCHRADER, Mrs. McMORRIS RODGERS, Mr. DEFazio, Mr. CALVERT, Ms. MCCOLLUM, Mr. WALDEN, Ms. BONAMICI, Mr. AMODEI, Mr. COSTA, Mr. LABRADOR, Ms. KAPTUR, Mr. NEWHOUSE, Mr. KILMER, Mr. TIPTON, Mr. POLIS, Ms. SINEMA, and Mr. STIVERS) introduced the following bill; which was referred to the Committee on the Budget, and in addition to the Committees on Agriculture, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for wildfire suppression operations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wildfire Disaster  
5 Funding Act”.

1 **SEC. 2. WILDFIRE DISASTER FUNDING AUTHORITY.**

2 (a) **DISASTER FUNDING.**—Section 251(b)(2)(D) of  
3 the Balanced Budget and Emergency Deficit Control Act  
4 of 1985 (2 U.S.C. 901(b)(2)(D)) is amended—

5 (1) in clause (i)—

6 (A) in the matter preceding subclause (I),  
7 by striking “the total of—” and inserting “an  
8 amount equal to the difference between—”;

9 (B) by redesignating subclauses (I) and  
10 (II) as items (aa) and (bb), respectively, and in-  
11 denting the items appropriately;

12 (C) by inserting before item (aa) (as so re-  
13 designated) the following:

14 “(I) the sum obtained by add-  
15 ing—”;

16 (D) in item (bb) of subclause (I) (as so re-  
17 designated)—

18 (i) by striking “subclause (I)” and in-  
19 serting “item (aa)”; and

20 (ii) by striking the period at the end  
21 and inserting “; and”; and

22 (E) by adding at the end the following:

23 “(II) the additional new budget  
24 authority provided in an appropria-  
25 tions Act for wildfire suppression op-  
26 erations pursuant to subparagraph

1 (E) for the preceding fiscal year.”;

2 and

3 (2) by adding at the end the following:

4 “(v) Beginning in fiscal year 2018

5 and for each fiscal year thereafter, the cal-

6 culation of the ‘average funding provided

7 for disaster relief over the previous 10

8 years’ shall include, for each fiscal year

9 during that period, the additional new

10 budget authority provided in an appropria-

11 tions Act for wildfire suppression oper-

12 ations pursuant to subparagraph (E) for

13 the preceding fiscal year.”.

14 (b) WILDFIRE SUPPRESSION.—Section 251(b)(2) of

15 the Balanced Budget and Emergency Deficit Control Act

16 of 1985 (2 U.S.C. 901(b)(2)) is amended by adding at

17 the end the following:

18 “(E) WILDFIRE SUPPRESSION.—

19 “(i) DEFINITIONS.—In this subpara-

20 graph:

21 “(I) ADDITIONAL NEW BUDGET

22 AUTHORITY.—The term ‘additional

23 new budget authority’ means the

24 amount provided for a fiscal year in

25 an appropriations Act that is—

1 “(aa) in excess of the 10-  
2 year average of the costs for  
3 wildfire suppression operations,  
4 as calculated for fiscal year 2015;  
5 and

6 “(bb) specified to pay for  
7 the costs of wildfire suppression  
8 operations.

9 “(II) WILDFIRE SUPPRESSION  
10 OPERATIONS.—The term ‘wildfire sup-  
11 pression operations’ means the emer-  
12 gency and unpredictable aspects of  
13 wildland firefighting including—

14 “(aa) support, response, and  
15 emergency stabilization activities;

16 “(bb) other emergency man-  
17 agement activities; and

18 “(cc) the funds necessary to  
19 repay any transfers needed for  
20 the costs of wildfire suppression  
21 operations.

22 “(ii) ADDITIONAL NEW BUDGET AU-  
23 THORITY.—If a bill or joint resolution  
24 making appropriations for a fiscal year is  
25 enacted that specifies an amount for wild-



1 fire suppression operations in the Wildland  
2 Fire Management accounts at the Depart-  
3 ment of Agriculture or the Department of  
4 the Interior, the adjustments for that fiscal  
5 year shall be the amount of additional new  
6 budget authority provided in that Act for  
7 wildfire suppression operations for that fis-  
8 cal year, but shall not exceed—

9 “(I) for fiscal year 2017,  
10 \$1,410,000,000 in additional new  
11 budget authority;

12 “(II) for fiscal year 2018,  
13 \$1,460,000,000 in additional new  
14 budget authority;

15 “(III) for fiscal year 2019,  
16 \$1,560,000,000 in additional new  
17 budget authority;

18 “(IV) for fiscal year 2020,  
19 \$1,780,000,000 in additional new  
20 budget authority;

21 “(V) for fiscal year 2021,  
22 \$2,030,000,000 in additional new  
23 budget authority;

1 “(VI) for fiscal year 2022,  
2 \$2,320,000,000 in additional new  
3 budget authority;

4 “(VII) for fiscal year 2023,  
5 \$2,650,000,000 in additional new  
6 budget authority;

7 “(VIII) for fiscal year 2024,  
8 \$2,690,000,000 in additional new  
9 budget authority;

10 “(IX) for fiscal year 2025,  
11 \$2,690,000,000 in additional new  
12 budget authority; and

13 “(X) for fiscal year 2026,  
14 \$2,690,000,000 in additional new  
15 budget authority.

16 “(iii) AVERAGE COST AND OUTYEAR  
17 CALCULATIONS.—The 10-year average of  
18 the costs for wildfire suppression oper-  
19 ations and the outyear forecasts of the  
20 costs for wildfire suppression operations  
21 shall be—

22 “(I) calculated annually; and

23 “(II) reported in the budget of  
24 the President submitted under section

1 1105(a) of title 31, United States  
2 Code, for each fiscal year.”.

3 (c) REPORTING REQUIREMENTS.—If the Secretary of  
4 the Interior or the Secretary of Agriculture determines  
5 that supplemental appropriations are necessary for a fiscal  
6 year for wildfire suppression operations (as defined in sub-  
7 paragraph (E)(i) of section 251(b)(2) of the Balanced  
8 Budget and Emergency Deficit Control Act of 1985 (2  
9 U.S.C. 901(b)(2))), the Secretary of the Interior or the  
10 Secretary of Agriculture, as applicable, shall—

11 (1) promptly submit to Congress a request for  
12 the supplemental appropriations; and

13 (2) not later than 30 days after the date on  
14 which the supplemental appropriations are made  
15 available, submit to Congress a plan describing the  
16 manner in which the Secretary of the Interior or the  
17 Secretary of Agriculture, as applicable, intends to  
18 obligate the supplemental appropriations.

○



AMENDED IN ASSEMBLY JULY 3, 2017

AMENDED IN ASSEMBLY JUNE 26, 2017

AMENDED IN SENATE APRIL 26, 2017

AMENDED IN SENATE MARCH 30, 2017

**SENATE BILL**

**No. 623**

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**Introduced by Senator Monning  
(Principal coauthors: Senators De León and Hertzberg)  
(Coauthor: Senator Stone)**

February 17, 2017

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An act to amend Section 116395 of, and to add Chapter 4.6 (commencing with Section 116765) to Part 12 of Division 104 of, the Health and Safety Code, and to amend Section 13050 of, and to add ~~and repeal~~ Article 4.5 (commencing with Section 13278) of Chapter 4 of Division 7 of, the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 623, as amended, Monning. Water quality: Safe and Affordable Drinking Water Fund.

(1) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law establishes the Office of Sustainable Water Solutions within the State Water Resources Control Board with the purpose of promoting permanent and sustainable drinking water and wastewater treatment solutions to ensure the effective and efficient provision of safe, clean, affordable, and reliable drinking water and wastewater treatment services.

This bill would establish the Safe and Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the office. The bill would require the board to administer the fund to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards, as specified. The bill would authorize the board to provide for the deposit of federal contributions and voluntary contributions, gifts, grants, or bequests. The bill would require the board to expend moneys in the fund for grants, loans, contracts, or services to assist those communities and individual domestic well owners that rely on contaminated drinking water to have access to safe and affordable drinking water consistent with a fund implementation plan adopted annually by the board, as prescribed. The bill would require the board annually to prepare and make available a report of expenditures of the fund and to adopt annually, after a public hearing, an assessment of funding needed to ensure all Californians have access to safe drinking water. By creating a new continuously appropriated fund, this bill would make an appropriation.

The bill would state the intent of the Legislature to subsequently amend the bill to seek specific funding from agricultural operations to assist in providing emergency, interim, and long-term assistance to community water systems and individual domestic well users whose wells are located in agricultural areas.

(2) The act provides for the operation of public water systems and imposes on the state board various duties and responsibilities for the regulation and control of drinking water in the state. The act generally does not apply to state small water systems, except that the act requires the board to adopt regulations specifying minimum requirements for operation of a state small water system, which are authorized to be less stringent than the requirements for public water systems, requires the enforcement of these requirements, and authorizes the reasonable costs of the local health officer to be recovered. The act, within 3 years after September 19, 1985, required the State Department of Public Health to, among other things, conduct training workshops to assist health officers in evaluation of small public water systems, as defined, for organic chemical contamination, and in sampling and testing procedures and required the local health officer, in consultation with the department, to conduct an evaluation of all small public water systems under their jurisdictions to determine the potential for contamination of groundwater sources by organic chemicals and to develop a sampling plan for each

system within their jurisdiction. The act provided that these provisions were operative during any fiscal year only if the Legislature appropriated sufficient funds to pay for all state-mandated costs to be incurred by local agencies during that year due to these provisions.

This bill would require the state board, by January 1, 2019, to promulgate regulations to require state small water systems and individual domestic wells to test their water supply wells for contamination. The bill would require testing to be prioritized based on local water quality conditions and would require the state board to review these regulations at least every 5 years. The bill would exempt these provisions from the above-described inoperative provision.

(3) Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality. The act requires the state board to formulate and adopt state policies for water quality control and requires the regional boards to adopt regional water quality control plans in compliance with the state policies. Under the act, the state board and the regional boards prescribe waste discharge requirements for the discharge of waste that could affect the quality of the waters of the state. The act requires, upon the order of a regional board, a person who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, to clean up the waste or abate the effects of the waste, or in the case of threatened pollution or nuisance, to take other remedial action.

This bill would prohibit the state board or a regional ~~board~~ board, *until January 1, 2028*, from subjecting an agricultural operation, as defined, to specified enforcement for causing or contributing to an exceedance of a water quality objective for nitrate in groundwater or for causing or contributing to a condition of pollution or nuisance *for nitrates in groundwater* if that agricultural operation demonstrates that it has satisfied certain mitigation requirements, including, among other requirements, the timely payment of any applicable fee, assessment, or charge into the fund. *The bill would prohibit the state board or a regional board, beginning January 1, 2028, until January 1, 2033, from subjecting an agricultural operation to specified enforcement for creating or threatening to create a condition of pollution or nuisance for nitrate in groundwater if that agricultural operation demonstrates*

*that it has satisfied the prescribed mitigation requirements.* The bill would require the state board, by January 1, 2027, to conduct a public review of regulatory and basin plan amendment implementation programs to evaluate progress toward achieving water quality objectives with respect to nitrates in groundwater and assess compliance with adopted timelines, monitoring requirements, and implementation of best practicable treatment or control. ~~The bill would repeal these provisions on January 1, 2028.~~

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

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

- 1 SECTION 1. Section 116395 of the Health and Safety Code
- 2 is amended to read:
- 3 116395. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) The large water system testing program has discovered
- 6 chemical contamination of the state's drinking water with
- 7 increasing frequency.
- 8 (2) A significant number of California residents rely on the
- 9 state's small water systems and individual domestic wells to
- 10 provide their water.
- 11 (3) The small systems and individual domestic wells, because
- 12 they tend to be located in outlying rural areas where pesticide use
- 13 is prevalent, and because they draw their water from shallow
- 14 aquifers, face a serious threat of contamination.
- 15 (4) Unchecked water sources that may be contaminated pose a
- 16 potentially serious threat to the health of the citizens of California,
- 17 particularly those living in outlying rural areas.
- 18 (5) It is in the interest of all Californians that a testing program
- 19 for small public water systems and individual domestic wells be
- 20 implemented and carried out as expeditiously as possible.
- 21 (6) Section 106.3 of the Water Code declares that every
- 22 Californian has the right to sufficient clean, safe, affordable, and
- 23 accessible water adequate for human consumption, cooking, and
- 24 sanitary purposes.
- 25 (7) To ensure that the right of every Californian to sufficient
- 26 clean, safe, affordable, and accessible water adequate for human
- 27 consumption, cooking, and sanitary purposes is met, it is in the



1 interest of the State of California to identify water quality threats  
2 in the state's drinking water supply, to the extent feasible, whether  
3 those supplies serve a public water system, state small water  
4 system, or an individual domestic well.

5 (b) (1) For purposes of this section, "small public water system"  
6 means a system with 200 connections or less, and is one of the  
7 following:

8 (A) A community water system that serves at least 15 service  
9 connections used by yearlong residents or regularly serves at least  
10 25 yearlong residents.

11 (B) A state small water system.

12 (C) A noncommunity water system such as a school, labor camp,  
13 institution, or place of employment, as designated by the state  
14 board.

15 (2) For the purposes of this section, "individual domestic well"  
16 means a groundwater well used to supply water for the domestic  
17 needs of an individual residence or systems of four or less service  
18 connections.

19 (c) The state board shall conduct training workshops to assist  
20 health officers in evaluation of small public water systems for  
21 organic chemical contamination, and in sampling and testing  
22 procedures. The state board shall, at a minimum, provide health  
23 officers with guidelines for evaluating systems and instructions  
24 for sampling.

25 (d) The state board shall develop a schedule for conduct of the  
26 programs by the local health officers. The schedule shall establish  
27 a program to address first those systems with the most serious  
28 potential for contamination. The state board shall enter into  
29 agreements with the local health agencies to conduct the necessary  
30 work to be performed pursuant to the schedule. The department  
31 shall begin the program no later than three months after September  
32 19, 1985. All local health officers shall complete the evaluation,  
33 sampling, testing, review of sampling results, and notification to  
34 the public water systems within their jurisdiction in accordance  
35 with the agreements entered into with the state board and within  
36 the schedule established by the state board. All work required by  
37 this subdivision shall be completed within three years after  
38 September 19, 1985.

39 (e) By January 1, 2019, the state board shall promulgate  
40 regulations to require state small water systems and individual

1 domestic wells to test their water supply wells for contamination.  
2 The state board shall prioritize testing based on local water quality  
3 conditions. The state board shall review these regulations at least  
4 every five years.

5 (f) (1) Except as provided in paragraph (2), this section shall  
6 be operative during any fiscal year only if the Legislature  
7 appropriates sufficient funds to pay for all state-mandated costs  
8 to be incurred by local agencies pursuant to this section during  
9 that year.

10 (2) Subdivisions (a), (b), (e), and (f) shall not become  
11 inoperative.

12 SEC. 2. Chapter 4.6 (commencing with Section 116765) is  
13 added to Part 12 of Division 104 of the Health and Safety Code,  
14 to read:

15  
16 CHAPTER 4.6. SAFE AND AFFORDABLE DRINKING WATER  
17

18 116765. For the purposes of this chapter:

19 (a) "Agricultural operations" has the same meaning as defined  
20 in Section 13050 of the Water Code.

21 (b) "Board" means the State Water Resources Control Board.

22 (c) "Community water system" has the same meaning as defined  
23 in Section 116275.

24 (d) "Disadvantaged community" has the same meaning as  
25 defined in Section 116275.

26 (e) "Fund" means the Safe and Affordable Drinking Water Fund  
27 established pursuant to Section 116766.

28 (f) "Nontransient noncommunity water system" has the same  
29 meaning as defined in Section 116275.

30 (g) "Public water system" has the same meaning as defined in  
31 Section 116275.

32 (h) "Replacement water" includes, but is not limited to, bottled  
33 water, point-of-use, or point-of-entry treatment units.

34 (i) "Safe Drinking Water Plan" means the plan prepared pursuant  
35 to Section 116355.

36 116766. The Safe and Affordable Drinking Water Fund is  
37 hereby established in the State Treasury. Notwithstanding Section  
38 13340 of the Government Code, all moneys in the fund are  
39 continuously appropriated to the Office of Sustainable Water  
40 Solutions within the board without regard to fiscal years, in

1 accordance with this chapter. Moneys in the fund at the close of  
2 the fiscal year shall remain in the fund and shall not revert to the  
3 General Fund.

4 116767. (a) The board shall administer the fund for the  
5 purposes of this chapter to provide a stable source of funding to  
6 assist communities and individual domestic well users to address  
7 contaminants in drinking water that exceed safe drinking water  
8 standards, the treatment of which would otherwise make the cost  
9 of water service unaffordable. The board shall prioritize the use  
10 of this funding to assist low-income communities and low-income  
11 individual domestic well users. In addition, the board shall  
12 prioritize the use of this funding for costs other than those related  
13 to capital construction costs. An expenditure from the fund shall  
14 be consistent with the annual fund implementation plan developed  
15 pursuant to Section 116769. On and after January 1, 2020, the total  
16 unencumbered amount in the fund shall not exceed the board's  
17 total estimated need for moneys in the fund over a two-year period.

18 (b) In accordance with subdivision (a), the board shall expend  
19 moneys in the fund for grants, loans, contracts, or services to assist  
20 those communities and individual domestic well owners that rely  
21 on contaminated drinking water to have access to safe and  
22 affordable drinking water with any of the following:

23 (1) The provision of replacement water, as needed, to ensure  
24 immediate protection of health and safety as a short-term solution.

25 (2) The development, implementation, and sustainability of  
26 long-term solutions, including, but not limited to, planning,  
27 construction, and operation and maintenance costs associated with  
28 replacing, blending, or treating contaminated wells and  
29 consolidating water systems.

30 (3) Identifying Californians without access to safe drinking  
31 water who are eligible to receive assistance from the fund and  
32 providing outreach to them.

33 (4) Testing the drinking water quality of individual domestic  
34 wells serving low-income households.

35 (c) Eligible applicants for funding include public agencies,  
36 nonprofit organizations, public utilities, federally recognized Indian  
37 tribes, state Indian tribes listed on the Native American Heritage  
38 Commission's California tribal consultation list, groundwater  
39 sustainability agencies, and mutual water companies.

(d) The board may expend up to 5 percent of the annual expenditures from the fund for reasonable costs associated with administration of the fund.

(e) The board may undertake any of the following actions to implement the fund:

(1) Provide for the deposit of any of the following available and necessary moneys into the fund:

(A) Federal contributions.

(B) Voluntary contributions, gifts, grants, or bequests.

(2) Enter into agreements for contributions to the fund from the federal government, local or state agencies, and private corporations or nonprofit organizations.

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

(4) Take additional incidental action as may be appropriate for adequate administration and operation of the fund.

116768. It is the intent of the Legislature to subsequently amend this section to seek specific funding from agricultural operations to assist in providing emergency, interim, and long-term assistance to community water systems and individual domestic well users whose wells have been impacted by nitrate contamination and whose wells are located in agricultural areas.

116769. Annually, the board shall do all of the following:

(a) Prepare and make available a report of expenditures from the fund.

(b) Adopt, after a public hearing, an assessment of funding needed to ensure all Californians have access to safe drinking water. This annual assessment shall incorporate information contained in the Safe Drinking Water Plan and include a list of community water systems and nontransient noncommunity water systems without access to safe drinking water, as well as identification of small communities and rural populations not served by public water systems that do not have access to safe drinking water.

(c) (1) Adopt, after a public hearing, a fund implementation plan with priorities and guidelines for expenditures of the fund. The board shall work with a multistakeholder advisory group that shall be open to participation by representatives of entities paying into the fund, public water systems, technical assistance providers,

1 local agencies, affected persons, nongovernmental organizations,  
2 and the public, to establish priorities for the plan.

3 (2) The fund implementation plan shall prioritize eligibility for  
4 expenditures of the fund based on the following:

5 (A) A water system's current or projected water rates needed  
6 to ensure safe drinking water exceed or will exceed 1.5 percent of  
7 the median household income for that water system and the water  
8 system qualifies as a disadvantaged community.

9 (B) The costs for providing potable water for an individual  
10 domestic well exceed or will exceed 1.5 percent of the household's  
11 income and the household's income is less than 80 percent of the  
12 statewide household median income.

13 SEC. 3. Section 13050 of the Water Code is amended to read:  
14 13050. As used in this division:

15 (a) "State board" means the State Water Resources Control  
16 Board.

17 (b) "Regional board" means any California regional water  
18 quality control board for a region as specified in Section 13200.

19 (c) "Person" includes any city, county, district, the state, and  
20 the United States, to the extent authorized by federal law.

21 (d) "Waste" includes sewage and any and all other waste  
22 substances, liquid, solid, gaseous, or radioactive, associated with  
23 human habitation, or of human or animal origin, or from any  
24 producing, manufacturing, or processing operation, including waste  
25 placed within containers of whatever nature prior to, and for  
26 purposes of, disposal.

27 (e) "Waters of the state" means any surface water or  
28 groundwater, including saline waters, within the boundaries of the  
29 state.

30 (f) "Beneficial uses" of the waters of the state that may be  
31 protected against quality degradation include, but are not limited  
32 to, domestic, municipal, agricultural and industrial supply; power  
33 generation; recreation; aesthetic enjoyment; navigation; and  
34 preservation and enhancement of fish, wildlife, and other aquatic  
35 resources or preserves.

36 (g) "Quality of the water" refers to chemical, physical,  
37 biological, bacteriological, radiological, and other properties and  
38 characteristics of water which affect its use.

39 (h) "Water quality objectives" means the limits or levels of  
40 water quality constituents or characteristics which are established

1 for the reasonable protection of beneficial uses of water or the  
2 prevention of nuisance within a specific area.

3 (i) "Water quality control" means the regulation of any activity  
4 or factor which may affect the quality of the waters of the state  
5 and includes the prevention and correction of water pollution and  
6 nuisance.

7 (j) "Water quality control plan" consists of a designation or  
8 establishment for the waters within a specified area of all of the  
9 following:

10 (1) Beneficial uses to be protected.

11 (2) Water quality objectives.

12 (3) A program of implementation needed for achieving water  
13 quality objectives.

14 (k) "Contamination" means an impairment of the quality of the  
15 waters of the state by waste to a degree which creates a hazard to  
16 the public health through poisoning or through the spread of  
17 disease. "Contamination" includes any equivalent effect resulting  
18 from the disposal of waste, whether or not waters of the state are  
19 affected.

20 (l) (1) "Pollution" means an alteration of the quality of the  
21 waters of the state by waste to a degree which unreasonably affects  
22 either of the following:

23 (A) The waters for beneficial uses.

24 (B) Facilities which serve these beneficial uses.

25 (2) "Pollution" may include "contamination."

26 (m) "Nuisance" means anything which meets all of the following  
27 requirements:

28 (1) Is injurious to health, or is indecent or offensive to the senses,  
29 or an obstruction to the free use of property, so as to interfere with  
30 the comfortable enjoyment of life or property.

31 (2) Affects at the same time an entire community or  
32 neighborhood, or any considerable number of persons, although  
33 the extent of the annoyance or damage inflicted upon individuals  
34 may be unequal.

35 (3) Occurs during, or as a result of, the treatment or disposal of  
36 wastes.

37 (n) "Recycled water" means water which, as a result of treatment  
38 of waste, is suitable for a direct beneficial use or a controlled use  
39 that would not otherwise occur and is therefor considered a  
40 valuable resource.

1 (o) "Citizen or domiciliary" of the state includes a foreign  
2 corporation having substantial business contacts in the state or  
3 which is subject to service of process in this state.

4 (p) (1) "Hazardous substance" means either of the following:

5 (A) For discharge to surface waters, any substance determined  
6 to be a hazardous substance pursuant to Section 311(b)(2) of the  
7 Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

8 (B) For discharge to groundwater, any substance listed as a  
9 hazardous waste or hazardous material pursuant to Section 25140  
10 of the Health and Safety Code, without regard to whether the  
11 substance is intended to be used, reused, or discarded, except that  
12 "hazardous substance" does not include any substance excluded  
13 from Section 311(b)(2) of the Federal Water Pollution Control Act  
14 because it is within the scope of Section 311(a)(1) of that act.

15 (2) "Hazardous substance" does not include any of the  
16 following:

17 (A) Nontoxic, nonflammable, and noncorrosive stormwater  
18 runoff drained from underground vaults, chambers, or manholes  
19 into gutters or storm sewers.

20 (B) Any pesticide which is applied for agricultural purposes or  
21 is applied in accordance with a cooperative agreement authorized  
22 by Section 116180 of the Health and Safety Code, and is not  
23 discharged accidentally or for purposes of disposal, the application  
24 of which is in compliance with all applicable state and federal laws  
25 and regulations.

26 (C) Any discharge to surface water of a quantity less than a  
27 reportable quantity as determined by regulations issued pursuant  
28 to Section 311(b)(4) of the Federal Water Pollution Control Act.

29 (D) Any discharge to land which results, or probably will result,  
30 in a discharge to groundwater if the amount of the discharge to  
31 land is less than a reportable quantity, as determined by regulations  
32 adopted pursuant to Section 13271, for substances listed as  
33 hazardous pursuant to Section 25140 of the Health and Safety  
34 Code. No discharge shall be deemed a discharge of a reportable  
35 quantity until regulations set a reportable quantity for the substance  
36 discharged.

37 (q) (1) "Mining waste" means all solid, semisolid, and liquid  
38 waste materials from the extraction, beneficiation, and processing  
39 of ores and minerals. Mining waste includes, but is not limited to,  
40 soil, waste rock, and overburden, as defined in Section 2732 of

the Public Resources Code, and tailings, slag, and other processed waste materials, including cementitious materials that are managed at the cement manufacturing facility where the materials were generated.

(2) For the purposes of this subdivision, “cementitious material” means cement, cement kiln dust, clinker, and clinker dust.

(r) “Master recycling permit” means a permit issued to a supplier or a distributor, or both, of recycled water, that includes waste discharge requirements prescribed pursuant to Section 13263 and water recycling requirements prescribed pursuant to Section 13523.1.

(s) (1) “Agricultural operation” means either of the following:

(A) A discharger that satisfies both of the following conditions:

(i) The discharger is an owner, operator, or both, of land that is irrigated to produce crops or pasture for commercial purposes or a nursery.

(ii) The discharger is enrolled or named in an irrigated lands regulatory program order adopted by the state board or a regional board pursuant to Section 13263 or 13269.

(B) A discharger that satisfies both of the following conditions:

(i) The discharger is an owner, operator, or both of a facility that is used for the raising or harvesting of livestock.

(ii) The discharger is enrolled or named in an order adopted by the state board or a regional board pursuant to Section 13263 or 13269 that regulates the discharges of waste from a facility identified in clause (i) to protect ground and surface water.

(2) “Agricultural operation” does not include any of the following:

(A) ~~An off-farm~~ facility that processes crops or livestock.

(B) ~~An off-farm~~ facility that manufactures, synthesizes, stores, or processes fertilizer.

(C) Any portions of land or activities occurring on those portions of land that are not covered by an order adopted by the state board or a regional board ~~pursuant to Section 13263 or 13269~~; identified in clause (ii) of subparagraph (A) or clause (ii) of subparagraph (B) of paragraph (1).

SEC. 4. Article 4.5 (commencing with Section 13278) is added to Chapter 4 of Division 7 of the Water Code, to read:



Article 4.5. Discharges of Nitrate to Groundwater from  
Agricultural Operations

13278. (a) For the purposes of this article, the Legislature finds  
~~and declares~~ all of the following:

(1) Implementation of currently known best management practices for some crops can reduce but not always completely prevent nitrogen in organic and synthetic fertilizers that transform to nitrates from reaching groundwater at concentrations above the water quality objectives established pursuant to this division.

(2) It is acknowledged that discharges of nitrate from agricultural operations could reach groundwater and could cause or contribute to exceedances of drinking water standards for nitrate, *and could* cause conditions of pollution of or nuisance in those waters as defined and applied ~~pursuant to~~ *in accordance with* this division, or both.

(3) *Nitrate contamination of groundwater impacts drinking water sources for hundreds of thousands of Californians and it is necessary to protect current and future drinking water users from the impacts of nitrate contamination.*

~~(3)~~  
(4) Despite ~~substantial~~ progress in controlling discharges of nitrogen that lead to nitrate formation, some groundwater sources of drinking water will continue to be adversely impacted by nitrates and it is important to have in place a program for mitigating these impacts.

~~(4) The Safe and Affordable Drinking Water Fund is established pursuant to Section 116766 of the Health and Safety Code in consideration of and in furtherance of the human right to water that has previously been codified as an established policy of the state.~~

(5) The regional boards will continue to regulate discharges to reduce nitrogen loading and protect beneficial uses of water and groundwater basins; the state board, regional boards, and courts will ensure compliance with those orders; and dischargers will pay for mitigation of ~~past and ongoing~~ pollution by funding replacement water for affected communities.

(b) ~~It is the intent of the~~ *The Legislature declares its intent* in establishing this article to do both of the following:

(1) To subsequently amend this article to establish an agricultural assessment to be paid by agricultural operations for a period of ~~10~~ 15 years to provide funding, as a portion of the Safe and Affordable Drinking Water Fund, to make available alternative supplies of safe drinking water to persons affected by discharges of nitrogen from agricultural operations that may occur in amounts that may cause or contribute to an exceedance of a water quality objective or cause conditions of pollution or nuisance.

(2) To limit ~~certain administrative~~ enforcement actions that a regional board or the state board could otherwise initiate during that ~~10-year~~ 15-year period against an agricultural operation paying the ~~nitrate mitigation~~ agricultural assessment, while maintaining the overall framework of this division to protect beneficial uses, implement water quality objectives in waters of the state, and regulate activities and factors that affect water quality to attain the highest water quality that is reasonable.

13278.1. (a) An agricultural operation shall not be subject to enforcement *undertaken or initiated* by the state board or a regional board under Chapter 5 (commencing with Section 13330) for causing or contributing to an exceedance of a water quality objective for nitrate in groundwater or for causing or contributing to a condition of pollution or nuisance *for nitrates in groundwater* if an agricultural operation that discharges or threatens to discharge, or has discharged or previously threatened to discharge, nitrate to groundwater demonstrates that it has satisfied all of the following mitigation requirements:

(1) The agricultural operation has timely paid any applicable fee, assessment, or charge into the Safe and Affordable Drinking Water Fund or an applicable agricultural assessment is providing funding into the Safe and Affordable Drinking Water Fund. For the purposes of this paragraph, “timely paid” means that an agricultural operation has paid all applicable fees, assessments, or charges, no later than 90 days after their respective due dates, since the application of the fee, assessment, or charge to the agricultural operation.

(2) Except as provided in subdivision (b), the agricultural operation is in compliance with all applicable provisions prescribed by a regional board or the state board in an order adopted pursuant to Section 13263 or 13269, including, but not limited to, the following:

1 (A) Requirements to implement best practicable treatment or  
2 control.

3 (B) Best efforts, monitoring, and reporting requirements.

4 (C) Timelines.

5 (3) The agricultural operation is in compliance with an  
6 applicable program of implementation for achieving groundwater  
7 quality objectives for nitrate that is part of an applicable water  
8 quality control plan adopted by the state board or a regional board  
9 pursuant to Article 3 (commencing with Section 13240).

10 (b) (1) The mitigation requirement contained in paragraph (2)  
11 of subdivision (a) does not include any generalized prohibition  
12 *contained in an order adopted under Section 13263 or 13269* on  
13 causing or contributing, or threatening to cause or contribute, to  
14 an exceedance of a water quality objective for nitrate in  
15 groundwater or a condition of pollution or nuisance for nitrate in  
16 groundwater.

17 (2) (A) An agricultural operation—~~shall not be~~ *is not* in  
18 compliance with the mitigation requirement in paragraph (2) of  
19 subdivision (a) if the agricultural operation has been subject to an  
20 enforcement action under Chapter 5 (commencing with Section  
21 13330) within the preceding 12 months for any violation of an  
22 order adopted under Section 13263 or 13269 authorizing discharges  
23 from agricultural operations.

24 (B) Subparagraph (A) does not apply to an enforcement action  
25 commenced after January 1, 2016, and before January 1, 2018,  
26 inclusive, alleging that ~~discharges~~ *a discharge* from an agricultural  
27 operation caused or contributed, or threatened to cause or  
28 contribute, to an exceedance of a water quality objective for nitrate  
29 in groundwater, conditions of pollution or nuisance for nitrate in  
30 groundwater, or both.

31 (3) An agricultural operation does not qualify for the  
32 enforcement exemption set forth in this subdivision if the operation  
33 fails to continue to make applicable payments into the Safe and  
34 Affordable Drinking Water Fund to the extent that the agricultural  
35 operation maintains a continuance of farming operation.

36 (c) Both of the following apply to a discharge of nitrogen by an  
37 agricultural operation that occurs when the discharger is in full  
38 compliance with the mitigation requirements:

39 (1) The ~~discharge of nitrogen~~ shall not be admissible in a future  
40 enforcement action against the agricultural operation by the state

board or a regional board pursuant to Chapter 5 (commencing with Section 13300) to support a claim that the agricultural operation is causing or contributing, or threatening to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater or a condition of pollution or nuisance for nitrate in groundwater.

(2) The discharge of ~~nitrogen~~ shall not be considered by the state board or a regional board to apportion responsibility and shall not be used by any person to diminish responsibility in any enforcement action initiated pursuant to Chapter 5 (commencing with Section 13300) with respect to discharges of nitrogen, regardless of source, that did not occur in compliance with the mitigation requirements.

(d) Nothing in this section alters the state board's or a regional board's authority to require or conduct investigations, to require reports on or to establish other requirements for best practicable treatment or control, or to require monitoring and reporting requirements to protect water quality.

(e) This section shall not be deemed to change or alter a water quality objective that is part of a water quality control plan adopted by the state board or a regional board pursuant to Article 3 (commencing with Section 13240).

(f) *This section shall remain in effect only until January 1, 2028, and as of that date is repealed.*

13278.2. (a) *An agricultural operation shall not be subject to enforcement undertaken or initiated by the state board or a regional board under Section 13304 for creating or threatening to create a condition of pollution or nuisance for nitrates in groundwater if an agricultural operation that discharges or threatens to discharge, or has discharged or previously threatened to discharge, nitrate to groundwater demonstrates that it has satisfied all of the following mitigation requirements:*

(1) *The agricultural operation has timely paid any applicable fee, assessment, or charge into the Safe and Affordable Drinking Water Fund or an applicable agricultural assessment is providing funding into the Safe and Affordable Drinking Water Fund. For the purposes of this paragraph, "timely paid" means that an agricultural operation has paid all applicable fees, assessments, or charges, no later than 90 days after their respective due dates,*

1 *since the application of the fee, assessment, or charge to the*  
2 *agricultural operation.*

3 *(2) Except as provided in subdivision (b), the agricultural*  
4 *operation is in compliance with all applicable provisions*  
5 *prescribed by a regional board or the state board in an order*  
6 *adopted pursuant to Section 13263 or 13269, including, but not*  
7 *limited to, the following:*

8 *(A) Requirements to implement best practicable treatment or*  
9 *control.*

10 *(B) Best efforts, monitoring, and reporting requirements.*

11 *(C) Timelines.*

12 *(3) The agricultural operation is in compliance with an*  
13 *applicable program of implementation for achieving groundwater*  
14 *quality objectives for nitrate that is part of an applicable water*  
15 *quality control plan adopted by the state board or a regional board*  
16 *pursuant to Article 3 (commencing with Section 13240).*

17 *(b) (1) The mitigation requirement contained in paragraph (2)*  
18 *of subdivision (a) does not include any generalized prohibition*  
19 *contained in an order adopted under Section 13263 or 13269 on*  
20 *causing or contributing, or threatening to cause or contribute, to*  
21 *an exceedance of a water quality objective for nitrate in*  
22 *groundwater or a condition of pollution or nuisance for nitrate in*  
23 *groundwater.*

24 *(2) An agricultural operation is not in compliance with the*  
25 *mitigation requirement in paragraph (2) of subdivision (a) if the*  
26 *agricultural operation has been subject to an enforcement action*  
27 *under Chapter 5 (commencing with Section 13330) within the*  
28 *preceding 12 months for any violation of an order adopted under*  
29 *Section 13263 or 13269 authorizing discharges from agricultural*  
30 *operations.*

31 *(3) An agricultural operation does not qualify for the*  
32 *enforcement exemption set forth in this subdivision if the operation*  
33 *fails to continue to make applicable payments into the Safe and*  
34 *Affordable Drinking Water Fund to the extent that the agricultural*  
35 *operation maintains a continuance of farming operation.*

36 *(c) Both of the following apply to a discharge of nitrogen by an*  
37 *agricultural operation that occurs when the discharger is in full*  
38 *compliance with the mitigation requirements:*

39 *(1) The discharge shall not be admissible in a future enforcement*  
40 *action against the agricultural operation by the state board or a*

1 regional board pursuant to Chapter 5 (commencing with Section  
2 13300) to support a claim that the agricultural operation is causing  
3 or contributing, or threatening to cause or contribute, to an  
4 exceedance of a water quality objective for nitrate in groundwater  
5 or a condition of pollution or nuisance for nitrate in groundwater.

6 (2) The discharge shall not be considered by the state board or  
7 a regional board to apportion responsibility and shall not be used  
8 by any person to diminish responsibility in any enforcement action  
9 initiated pursuant to Chapter 5 (commencing with Section 13300)  
10 with respect to discharges of nitrogen, regardless of source, that  
11 did not occur in compliance with the mitigation requirements.

12 (d) Nothing in this section alters the state board's or a regional  
13 board's authority to require or conduct investigations, to require  
14 reports on or to establish other requirements for best practicable  
15 treatment or control, or to require monitoring and reporting  
16 requirements to protect water quality.

17 (e) This section shall not be deemed to change or alter a water  
18 quality objective that is part of a water quality control plan adopted  
19 by the state board or a regional board pursuant to Article 3  
20 (commencing with Section 13240).

21 (f) (1) This section shall become operative on January 1, 2028.

22 (2) This section shall remain in effect only until January 1, 2033,  
23 and as of that date is repealed, unless a later enacted statute that  
24 is enacted before January 1, 2033, deletes or extends that date.

25 ~~13278.2.~~

26 13278.3. By January 1, 2027, the state board shall conduct a  
27 public review of regulatory and basin plan amendment  
28 implementation programs to evaluate progress toward achieving  
29 water quality objectives with respect to nitrates in groundwater  
30 and assess compliance with adopted timelines, monitoring  
31 requirements, and implementation of best practicable treatment or  
32 control.

33 ~~13278.3.~~

34 13278.4. Nothing in this article limits the liability of a  
35 discharger under any other law, including, but not limited to, Part  
36 3 (commencing with Section 3479) of Division 4 of the Civil Code.

1     ~~13278.4. This article shall remain in effect only until January~~  
2     ~~1, 2028, and as of that date is repealed, unless a later enacted statute~~  
3     ~~that is enacted before January 1, 2028, deletes or extends that date.~~

O

