SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 836		
Author:	Wicks		
Version:	5/20/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Eric Walters		

SUBJECT: Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Program

DIGEST: This bill creates the Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Program, under the administration of the state Air Resources Board, which would award grants to retrofit smoke-protective filtration systems on existing public facilities.

ANALYSIS:

Existing federal law under Title I of the Elementary and Secondary Education Act of 1965, identifies schools for higher distribution of funding wherein at least 40% of a school's students are from low-income families who qualify under the United States Census's definition of low-income. (20 U.S.C § 6301)

Existing state law:

1) Establishes the Air Resources Board (ARB) as the air pollution control agency in California and requires ARB, among other things, to control emissions from a wide array of mobile sources and coordinate, encourage, and review the efforts of all levels of government as they affect air quality. (Health and Safety Code (HSC) §39500 et seq.)

2) Under the Protect California Air Act of 2003, sets air pollution stringencies and states the goal to protect public health and welfare from any actual or potential adverse effect which reasonably may be anticipated to occur from air pollution. (HSC § 42503)

This bill:

1) Establishes the Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Program ("the Program") under the administration of the California Air Resources Board, to be funded upon appropriation by the Legislature.

2) Provides a non-exhaustive list of facilities which may apply for grants to retrofit their ventilation systems with adequate filtration to provide smoke relief to the public.

3) Tasks ARB with, alongside local stakeholders, developing guidelines to evaluate applicants' facilities' location, size, and potential beneficial ventilation characteristics.

4) Specifies that ARB prioritize applications from facilities in areas with high cumulative smoke exposure, and from schools serving at least 40% children from low-income families.

Background

1) *Climate change and wildfires*. Science can now conclusively (1) attribute individual extreme events to climate change and (2) determine what types of events are made worse by climate change. Extreme events like the record-breaking wildfires in California are a symptom of climate change. Both the frequency and intensity of wildfires are worsened by dry conditions, low precipitation, and increased temperatures. Even as California and the rest of world work to curb global warming, it is important to adapt services to protect people from the present and future impacts.

2) *Health effects of smoke exposure*. According to ARB, particulate matter exposure is the principal public health threat from short-term exposures to wildfire smoke. The effects of smoke range from eye and respiratory tract irritation to more serious disorders, including reduced lung function, bronchitis, exacerbation of asthma and heart failure, and premature death. Most of our understanding on the health effects of wildfire smoke are derived from studies of urban particulate matter, specifically fine particulate matter. These studies have found that short-term exposures (i.e., days to weeks) to fine particles, a major component of smoke, are linked with increased premature mortality and aggravation of pre-existing respiratory and cardiovascular disease. Children, pregnant women, and elderly are also especially vulnerable to smoke exposure.

3) *Filtration technology*. The most common industry standard for filter efficiency is the Minimum Efficiency Reporting Value, or "MERV rating." The MERV scale for residential filters ranges from 1 through 20. The higher the MERV rating the more particles are captured as the air passes through the filter. Higher MERV (higher efficiency) filters are especially effective at capturing very small particles that can most affect health. Filters with a High Efficiency Particulate Air (HEPA) rating, (or MERV 17-20) are the most efficient. For the

most health-harmful smoke particles—those less than 2.5 microns (PM2.5)—a MERV value of 16 or greater captures over 95% of them.

Electrostatic precipitators (ESPs) are another technology to remove particulate matter from air. An ESP removes fine particles, like dust and smoke, from a flowing gas using static electricity. They must be cleaned regularly, but can capture 90% of fine particles in the air. A 1999 study by the Canada Mortgage and Housing Corporation testing a variety of forced-air furnace filters found that ESP filters provided the best, most efficient means of cleaning air using a forced-air system.

The program established by this bill would provide grants to facilities to retrofit their ventilation systems with an appropriate filtration system. According to the Centers for Disease Control, initial costs, operating costs, and replacement costs are all important considerations when designing whole-building ventilation systems. A standard HEPA filter (0.61 by 0.61 m [2 by 2 ft]) costs approximately $100 to $250. Depending on the filter material, its service life may range from 6 months to 5 years. Cost-efficiency considerations will have to be an important consideration in disbursing grant moneys under this program.

4) *Sensitive populations*. Most healthy adults and children will recover quickly from smoke exposure and will not suffer long-term health consequences. However, certain sensitive populations may experience more severe, acute, and chronic symptoms. Key risk factors that individually and collectively shape a population's vulnerability to health impacts from extreme events include age, health status, socioeconomic status, race/ethnicity, and occupation.

   Although a variety of individual indicators have been used as a proxy for socioeconomic status (SES), it is well recognized that SES is a composite measure that encompasses a number of individual indicators along with other factors. Epidemiologic studies of particulate matter using indicators of SES have provided initial evidence that individuals of low SES are at increased risk of mortality due to short-term exposures. With respect to wildfire smoke the evidence is much more limited, but Rappold et al. (2012) demonstrated that counties classified as having the lowest SES were at the greatest risk of health effects attributed to wildfire smoke.

Comments

1) *Purpose of Bill.* According to the author, "In the past few years, wildfires in California have burned over 1.5 million acres of public and private forest land and destroyed over 24,000 homes.

"The 2017 and 2018 wildfires demonstrated how catastrophic wildfire events impact the quality of air for residents, even those who live hundreds of miles away from the burned area. This toxic air often contains elevated levels of wood smoke and contaminants from burned structures, vehicles, and consumer products and can travel the length of the state, causing negative health impacts to children, elderly, and individuals with existing respiratory problems.

"The health impact of such wildfire smoke can be devastating. To alleviate some of these public health concerns from contaminated air and pollution, identified clean air centers would provide healthier indoor environments during the emergency air quality events.

"AB 836 will create a state program that would identify ventilated spaces that would be accessible to the public and establish an incentive program that provides funding for identified facilities to improve their air filtration systems to become clean air centers. This bill aims to address the lack of response plans and create a network of facilities where the public can access in events of an emergency air quality situation."

2) *A chance for relief.* The most common advisory issued during a smoke episode is to stay indoors. The usefulness of this strategy depends on how well the building limits smoke from coming in from outdoors and on minimizing indoor pollution sources. In the case of many of the sensitive populations described above, they may not have suitably protective homes nor the ability to improve their home's smoke defenses.

The examples of facilities described in this bill (schools, community centers, senior centers, sports centers, and libraries) represent publicly-accessible places that these sensitive populations could find reprieve from smoke events. The population-level benefits these facilities could provide can be meaningful, though the extent and focus of these effects depends heavily upon the appropriation the program will receive, and the evaluation guidelines developed by ARB and stakeholders.

Providing wildfire smoke relief by retrofitting public buildings has advantages over alternatives like N95 masks. These masks are rated to remove 95% of all

particles at least 0.3 microns or greater – this encompasses many of the harmful <2.5 micron particles that comprise PM2.5 pollution. While N95 masks may be protective if worn properly, their distribution, availability, and lack of knowledge about appropriate use all reduce the number of people protected. *Given the impacts of wildfire smoke on public health and the valuable impact of smoke-safe public spaces, the committee may wish to consider supporting this measure.*

Related/Prior Legislation

AB 661 (McCarty, 2019) Requires the Sacramento Metropolitan Air Quality Management District to prepare a wildfire smoke air pollution emergency plan to serve as an informational source for local agencies and the public during an air pollution emergency caused by wildfire smoke. AB 661 was heard in this committee June 19, 2019 and passed out of committee with a vote of 7-0.

SOURCE: Author

SUPPORT:

Bay Area Air Quality Management District (sponsor)
350 Silicon Valley
Alliance of Nurses for Healthy Environments
American Academy of Pediatrics, CA Chapter
American Heart Association
American Lung Association in California
Asian Pacific Environmental Network
American Lung Association Coalition
Bay Area Regional Health Inequities Initiative
Butte County Air Quality Management District
California Air Pollution Control Officers Association
California Health Care Climate Alliance
California League of Conservation Voters
California Thoracic Society
Center for Climate Change and Health
Coalition for Clean Air
County of San Diego
Environmental Working Group
Feather River Air Quality Management District
BREATHE California
Regional Asthma Management and Prevention (RAMP)
Sierra Club California

TreePeople
Union of Concerned Scientists

OPPOSITION:

None received

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 912		
Author:	Muratsuchi		
Version:	6/26/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Gabrielle Meindl		

SUBJECT: Marine invasive species: ballast water and biofouling management requirements

DIGEST: This bill would revise state law applicable to ballast water discharge performance standards to conform to federal regulation, the best standard currently available, and delay the implementation of existing state interim and final ballast water discharge performance standards, among other things.

ANALYSIS:

Existing law:

Under federal regulation:

1) Requires vessels employing a United States (U.S.) Coast Guard-approved ballast water management system to meet ballast water discharge standards, outlined in regulation, by specified dates. (33 CFR § 151.2030)

2) Requires, in order to discharge ballast water into waters of the United States, the master, owner, operator, agent, or person in charge of a vessel, as specified, to either ensure that the ballast water meets the ballast water discharge standard, as defined in regulation, or use an alternative management system, as described in regulation, or ballast exclusively with water from a U.S. public water system, as specified, according to the schedule outlined in regulation. (33 CFR § 151.2035)

3) Authorizes the U.S. Coast Guard to grant an extension to the ballast water discharge standard implementation schedule only in those cases where the master, owner, operator, agent, or person in charge of a vessel can document that, despite all efforts, compliance with the ballast water requirement is not possible. (33 CFR § 151.2036)

Under state law:

1) Defines "Pacific Coast Region" as all coastal waters on the Pacific Coast of North America east of 154 degrees W longitude and north of 25 degrees N latitude, exclusive of the Gulf of California. Authorizes the SLC to modify these boundaries through regulation if the proponent for the boundary modification presents substantial scientific evidence that the proposed modification is equally or more effective at preventing the introduction of nonindigenous species through vessel vectors as the boundaries described in statute. (Public Resources Code (PRC) § 71200 (k))

2) Requires the master, owner, operator, or person in charge of a vessel carrying, or capable of carrying, ballast water, that operates in the waters of the state to take specified actions to minimize the uptake and release of nonindigenous species. (PRC § 71203, et seq.)

3) Requires the State Lands Commission (SLC) to adopt regulations governing ballast water management practices for vessels arriving at a California port from a port outside of the Pacific Coast Region. (PRC § 71204.3 (a))

4) Requires the SLC to, on or before January 1, 2005, adopt regulations governing ballast water management practices for vessels arriving at a California port or place from a port or place within the Pacific Coast Region. (PRC § 71204.5)

5) Requires the SLC, on or before January 31, 2006, to submit to the legislature and make available to the public a report that recommends specific performance standards for the discharge of ballast water into the waters of the state, or into waters that may impact waters of the state. Requires the performance standards to be based on the best available technology economically achievable and to be designed to protect the beneficial uses of affected, and potentially affected, waters. (PRC § 71204.9 (a) (1))

6) Requires the SLC to adopt regulations that require an owner or operator of a vessel capable of carrying ballast water that operates in the waters of the state to implement the interim performance standards for the discharge of ballast water recommended in accordance with Table x-1 of the SLC *Report on Performance Standards for Ballast Water Discharges in California Waters*, as approved by the SLC on January 26, 2006. (PRC § 71205.3 (a)(1))

7) Requires the SLC to adopt regulations that require an owner or operator of a vessel capable of carrying ballast water that operates in the waters of the state to comply with the interim performance standards by the applicable following dates:

a) Upon first arrival at a California port for new vessels constructed on or after January 1, 2020; or,
b) As of the first scheduled drydocking on or after January 1, 2020, for all other vessels. (PRC § 71205.3 (a)(2))

8) Requires the SLC to adopt regulations that require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to meet the final performance standard for the discharge of ballast water of zero detectable living organisms for all organism size classes by January 1, 2030. (PRC § 71205.3 (a)(3))

9) Requires the SLC, not less than 18 months prior to January 1, 2020, and January 1, 2030, to, in consultation with the State Water Resources Control Board (State Water Board), the U.S. Coast Guard, and the specified advisory panel, to prepare, or update, and submit to the Legislature a review of the efficacy, availability, and environmental impacts, including the effect on water quality, of currently available technologies for ballast water treatment systems. Provides that if technologies to meet the performance standards are determined in a review to be unavailable, the SLC shall include in that review an assessment of why the technologies are unavailable. (PRC § 71205.3(b)(1))

10) Requires the SLC, on or before January 31, 2005, and updated biennially, in consultation with the State Water Board, the Department of Fish and Wildlife, and the U.S. Coast Guard, to submit to the legislature, and make available to the public, a report about ballast discharge management. (PRC § 71212)

This bill:

1) Makes the following findings:

a) The federal Vessel Incidental Discharge Act, which was enacted on December 4, 2018, preserves the rights of States to petition the federal government to review any standard of performance, regulation, or policy if new information exists that could result in a change to that standard, regulation, or policy.

b) Nothing restricts the authority of California to respond to an aquatic invasive species emergency in its waters using California's police powers.

c) The Legislature strongly and unequivocally objects to any loss of state authority to regulate vessel discharges in California waters.

2) Defines "land" as the material of the earth, whether soil, rock, or other substances, that sits landward of, or at an elevation higher than, the mean high-tide line of the ocean, including any rock outcroppings or islands located offshore.

3) Updates the definition of "Pacific Coast Region" to mean all coastal waters on the Pacific Coast of North America east of 154 degrees W longitude and north of *20* degrees N latitude, *inclusive,* of the Gulf of California.

4) Deletes statutory provisions that authorize the SLC to modify the boundaries of the Pacific Coast Region through regulation.

5) Deletes past statutory requirements and deadlines relating to the management of nonindigenous species, including the following requirements:

   a) That, by July 1, 2005, the SLC adopt regulations governing the evaluation and approval of shipboard experimental ballast water treatment systems;
   b) That, by January 31, 2006, the SLC submit to the Legislature a report that recommends specific performance standards for the discharge of ballast water into the waters of the state; and,
   c) That, before July 1, 2005, a statutorily required advisory panel make recommendations regarding the content, issuance, and implementation of the performance standards to the SLC.

6) Requires the SLC to adopt regulations that do both of the following:

   a) Require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to *implement* the ballast water discharge performance standards set forth in federal regulations, or as that regulation may be amended, as specified.
   b) Require an owner or operator of a vessel carrying or capable of carrying, ballast water that operates in the waters of the state to *comply* with, as specified, the performance standards set forth in federal regulation, unless it is extended, or as that regulation may be amended, as specified.

7) Delays, from to January 1, 2020 to January 1, 2030, for all vessels, the requirement for an owner or operator of a vessel capable of carrying ballast water to implement the interim performance standards for the discharge of ballast water.

8) Delays, from January 1, 2030 to January 1, 2040, the requirement for an owner or operator of a vessel capable of carrying ballast water to meet the final performance standard for the discharge of ballast water of zero detectable living organisms for all organism size classes, or as soon as practicable based

on a review of ballast water treatment technologies submitted in a report to the Legislature in conformance with the provisions this bill. If achievement of the final performance standard becomes practicable sooner than January 1, 2040, requires the Commission to establish a sooner effective date through regulation.

9) Delays, from not less than 18 months prior to January 1, 2020 and January 1, 2030, to from not less than 18 months before January 1, 2030 and January 1, 2040, the requirement for the SLC, in consultation with specified entities, to prepare, or update, and submit to the legislature a report of the efficacy, availability, and environmental impacts of currently available technologies for ballast water treatment systems.

10) Specifies that an advisory panel, including representatives from the state regional water quality control boards, the Department of Fish and Wildlife, the Air Resources Board, the US Coast Guard, the US EPA, and other persons representing shipping, port, conservation, fish, aquaculture, agriculture, and public water agency interests, shall make recommendations regarding the content and issuance of the report and implementation of the performance standards to SLC.

11) Provides that the advisory panel's meetings shall be open to the public and notice of the meetings be given to any person requesting that notice, as well as on SLC's website.

12) Delays the sunset, from January 1, 2024 to January 1, 2034, for the requirement for submitting a report on the interim performance standard, and from January 1, 2034 to January 1, 2044, for the requirement for submitting a report on the final performance standard.

13) Adds the United States Environmental Protection Agency (U.S. EPA) to those entities that the SLC must consult with when sponsoring pilot programs for the purpose of evaluating alternatives for treating and otherwise managing ballast water and biofouling.

14) Provides that a goal of establishing pilot programs is the meaningful participation of the State of California in federal rulemaking actions.

15) Authorizes the SLC to take samples of ballast water, sediment, and biofouling from arriving vessels for research purposes.

16) Makes other clarifying and conforming revisions to existing statute.

Background

1) *Nonindigenous species in California's waters.* Nonindigenous aquatic plant and animal species can be transported, both intentionally and unintentionally, to new ecosystems and regions through human activities. According to the SLC, shipping is the most significant vector for the transport and introduction of aquatic nonindigenous species, contributing 79.5% of established aquatic nonindigenous species in North America and 74.1% across the globe. Once a nonindigenous species is moved, becomes established in a new geographic location, and causes impacts, it is considered an invasive species. Invasive species cause ecological, economic, and human health harm in the receiving environment. Impacts of these species include disrupting agriculture, shipping, water delivery, and recreational and commercial fishing; undermining levees, docks and environmental restoration activities; impeding navigation and enjoyment of the state's waterways; and damaging native habitats and the species that depend on them. Nonindigenous species are believed to account for up to $120 billion per year in losses across the United States. California has more documented aquatic invasive species than any other state.

   Commercial ships transport organisms through two primary vectors: vessel biofouling and ballast water. Vessel biofouling occurs when organisms, such as barnacles, algae, mussels, worms, crabs, and other invertebrates, attach to, or are associated with, the hard surfaces of the vessel, then are transported to new environments that the vessel enters. Ballast water is sea water taken on, redistributed on, and discharged from large oceangoing vessels for functions related to stability, balance, and trim. Ballast water can contain millions of microscopic aquatic plants, animals, bacteria, and viruses. Each ballast water discharge has the potential to release over 21.2 million individual free-floating organisms. Prior to the implementation of ballast water management practices in the early 2000s, it was estimated that more than 7000 species were moved around the world on a daily basis in ships' ballast water.

   The prevention of species introduction through the management of human activities, such as requirements related to biofouling and ballast water management, is considered the most protective and cost-effective way to address the dispersal of nonindigenous species.

2) *California's ballast water management program.* In order to address the threat of the introduction of aquatic nonindigenous species, the legislature enacted the Ballast Water Management for Control of Nonindigenous Species Act of 1999, AB 703 (Lempert, Chapter 849, Statutes of 1999), which established initial requirements for vessels to manage ballast water prior to discharge in

California waters. The legislature reauthorized and expanded the program through the Marine Invasive Species Act of 2003, AB 433 (Nation, Chapter 491, Statutes of 2003), which mandated moving, "the state expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state or into waters that may impact the waters of the state, based on the best available technology economically achievable." In 2006, the legislature established interim and final performance standards for the discharge of ballast water from large commercial ships through enactment of the Coastal Ecosystems Protection Act, SB 497 (Simitian, Chapter 292, Statutes of 2006).

3) *California's ballast water performance standards*: Among its provisions, SB 497 required the SLC, on or before January 1, 2008, to adopt regulations that require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to implement interim and final (zero detectable living organisms for all organism size classes) performance standards for eradicating organisms in ballast water before it is discharged. The SLC established California performance standards that were to be phased-in between 2009 and 2016 in order to allow for, and encourage, the development of technologies that would enable vessels to meet the standards.

   SB 497 also requires the SLC, prior to implementing performance standards, to report to the legislature on the efficacy, availability, and environmental impacts, including the effect on water quality, of currently available technologies for ballast water treatment. SB 497 additionally requires the SLC, if it determines that technologies to meet the performance standards are unavailable, to include in the report an assessment of why the technologies are unavailable. In response to these reporting requirements, between 2007 and 2014, the SLC produced five reports (2007, 2009, 2010, 2013, and 2014) for the legislature, all of which indicated that ballast water treatment technologies were not available, at the time, to enable vessels to comply with the then existing performance standards. Therefore, the legislature updated and delayed implementation of the performance standards several times (SB 1781 (2008), SB 814 (2013), AB 1312 (2015)). The current implementation dates for the ballast water discharge performance standards, as enacted by AB 1312, are as follows:

   a) Interim standards:
      i) Newly built vessels constructed on or after January 1, 2020: first arrival at a California port on or after January 1, 2020
      ii) Existing vessels constructed prior to January 1, 2020: first scheduled drydocking on or after January 1, 2020

b) Final standards:
   i) All vessels: January 1, 2030

In its December 2018 report, 2018 Assessment of the Efficacy, Availability, and Environmental Impacts of Ballast Water Treatment Technologies for Use in California Waters, the SLC reports, once again, that based on all available data, there are currently no ballast water treatment technologies available to enable vessels to meet the interim California performance standards.

AB 912 would further delay the implementation date for interim ballast water discharge standards to January 1, 2030 for all vessels, and delay the date for implementation for final ballast water discharge standards to January 1, 2040.

While California has endeavored to address its invasive species threat by leading the nation with stringent ballast water discharge standards, unfortunately, over the years the statutory standards and state regulations have not driven the development of ballast water treatment technology as the state had hoped.

4) *Federal ballast water performance standards*. According to the SLC, for many years, the shipping industry has advocated for enactment of one uniform national standard for ballast water discharge to replace the perceived patchwork of state and federal ballast water management requirements. The legislation it sought, the federal Vessel Incidental Discharge Act (VIDA), failed repeatedly in recent years. The SLC opposed VIDA, as did other states, state attorneys general, and environmental groups, arguing that a one-size-fits-all federal approach to vessel discharge management ignores the unique environmental concerns in each state, usurps state authority, and weakens environmental protection. Nevertheless, in December 2018, President Trump signed VIDA into law. The SLC notes that VIDA, regrettably, will preempt California's authority to establish or implement state-specific ballast water management requirements once implementing federal regulations are adopted.

Under VIDA, the U.S. EPA is responsible for establishing a uniform national standard for ballast water discharge. The U.S. EPA has two years to adopt vessel discharge regulations, and the U.S. Coast Guard, the entity charged with implementing and enforcing the discharge standards established by the U.S. EPA, has two additional years to adopt implementation and enforcement regulations. State laws remain effective until the U.S. Coast Guard promulgates regulations establishing enforcement protocols. States, including California, may enforce the federal standard, inspect vessels, and collect fees and ballast water management reporting forms from vessels arriving at ports.

AB 912 requires the SLC to adopt regulations that require vessels employing an U.S. Coast Guard-approved ballast water management system to meet ballast water discharge standards, outlined in federal regulation, by specified dates. The bill also requires the SLC to adopt regulations that require, in order to discharge ballast water into waters of the United States, the master, owner, operator, agent, or person in charge of a vessel to either ensure that the ballast water meets the federal ballast water discharge standard, use an alternative management system, or ballast exclusively with water from a U.S. public water system.

According to the SLC, the state's adoption of the federal standards would enable the SLC to assess vessel compliance to the federal discharge standard and hold non-compliant vessels accountable for violations.

AB 912 also authorizes the SLC to collect valuable real-world data on the operation of ballast water management systems that could inform implementation of California standards in the future.

Comments

1) *Purpose of Bill.* According to the author, the purpose of the bill is, "to change the implementation date of California's ballast water discharge performance standards owing to a lack of available technology that vessels can use to meet them, and to address impending federal preemption of California's standards. The purpose is also to authorize the [SLC] to sample ballast water and biofouling for research (the [SLC] currently only has authority to sample for compliance purposes). The bill will better position California to implement ballast water discharge standards to protect California waters from invasive species introductions, update the definition of Pacific Coast Region, and make technical changes to the Marine Invasive Species Act."

DOUBLE REFERRAL:

This measure was heard in Senate Natural Resources and Water Committee on June 25, 2019, and passed out of committee with a vote of 9-0.

Related/Prior Legislation

SB 69 (Wiener, 2019) would have required the State Water Board, instead of the SLC, to adopt ballast water discharge regulations that require an owner or operator of a vessel carrying ballast water to implement and comply with an interim performance standard and then the final performance standard of zero detectable living organisms by January 1, 2030. These provisions were deleted from the bill in Senate Appropriations Committee. This bill is pending in the Assembly Water Parks and Wildlife Committee.

AB 3116 (Cooley, 2018). Would have required the person in charge of vessels to minimize the uptake and release of nonindigenous species, including minimizing the uptake of ballast water in areas designated by the SLC. The hearing for this bill in the Assembly Committee on Environmental Safety and Toxic Materials was canceled at the request of author and the bill subsequently died on file.

AB 1312 (O'Donnell, Chapter 644, Statutes of 2015). Delayed the implementation of interim and final performance standards for eliminating living organisms in ships' discharged ballast water from 2016/ 2018 (interim standard) to 2020 and from 2020 to 2030 (final standard).

SB 814 (Committee on Natural Resources and Water, Chapter 472, Statutes of 2013). Delayed implementation of ballast water performance standards for vessels that carry, or are capable of carrying, ballast water into the state by two to six years, depending on when the ship was constructed and the vessel's ballast water capacity.

SB 935 (Committee on Environmental Quality, Chapter 550, Statutes of 2012). Delayed the date by which the SLC must approve a vessel operator's application to install an experimental ballast water treatment from January 2008 to January 2016.

SB 1781 (Committee on Environmental Quality, Chapter 696, Statutes of 2008). Delayed implementation of ballast water performance standards for new vessels with ballast water capacity less than 5000 metric tons from January 1, 2009, to January 1, 2010.

SB 497 (Simitian, Chapter 292, Statutes of 2006). Enacted the Coastal Ecosystems Protection Act, which established interim and final performance standards for the discharge of ballast water from large commercial ships. Required interim standards, which identified a range of thresholds for living organisms by class size, to begin to take effect January 1, 2009. Required the final standards, a "zero detectable living organisms" standard for all organism size classes, to take effect January 1, 2020.

AB 433 (Nation, Chapter 491, Statutes of 2003). Consolidated law related to the management of ballast water into the Marine Invasive Species Act, and revised various requirements for ballast water management practices to minimize the release of nonindigenous species.

AB 703 (Lempert, Chapter 849, Statutes of 1999). Enacted the Ballast Water Management for Control of Nonindigenous Species Act, which established initial requirements for vessels to manage ballast water prior to discharge in California waters.

SOURCE: California State Lands Commission

SUPPORT:

California State Lands Commission

OPPOSITION:

None received

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 936		
Author:	Robert Rivas		
Version:	6/26/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Paul Jacobs		

SUBJECT: Oil spills: response and contingency planning.

DIGEST: This bill would revise the oil spill response laws and the duties of the Administrator of the Office of Spill Prevention and Response (OSPR) to specifically address nonfloating oils.

ANALYSIS:

Existing law:

1) Requires the Administrator of OSPR to submit to the Governor and the Legislature an amended California Oil Spill Contingency Plan that addresses marine and inland oil spills.

2) Pursuant to the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act):

   a) Requires OSPR, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and clean up.

   b) Imposes various requirements relating to oil spill contingency planning, prevention, response, containment, and cleanup, including the obligation that a vessel operator or marine facility prepare and implement an oil spill contingency plan (C-Plan).

   c) Requires operators of specified vessels and facilities to submit to OSPR a C-Plan. Requires OSPR to determine whether the plan meets applicable requirements.

   d) Requires OSPR to periodically evaluate the feasibility of requiring new technologies to aid prevention, response, containment, cleanup, and wildlife rehabilitation.

e) Requires OSPR, taking into consideration the facility or vessel contingency plan requirements of the State Lands Commission, the Office of the State Fire Marshal, the Coastal Commission, and other state and federal agencies, to adopt regulations governing the adequacy of C-Plans. Requires regulations to be developed in consultation with the Oil Spill Technical Advisory Committee, and not in conflict with the National Contingency Plan. Requires regulations to provide for the best achievable protection of waters and natural resources of the state, including standards set for response, containment, and cleanup equipment, and that operations are maintained and regularly improved to protect the resources of the state.

f) Defines an oil spill response organization (OSRO) as an individual, organization, association, cooperative, or other entity that provides, or intends to provide, equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

g) Requires operators in their C-Plans to identify at least one rated OSRO for each rating level. Requires each identified OSRO to be directly responsible by contract, agreement, or other approved means to provide oil spill response activities pursuant to C-Plans.

h) Requires OSPR to establish rating levels to classify OSRO. Requires OSPR to review the application and rate OSRO based on the following elements:

   i) Geographic region or regions of the state where the OSRO intends to operate;

   ii) Timeframes for having response resources on-scene and deployed;

   iii) Type of equipment that the OSRO will use and the location of the stored equipment; and,

   iv) Volume of oil that the OSRO is capable of recovering and containing.

i) Prohibits OSPR from issuing a rating until it completes an unannounced drill. Prohibits OSPR from issuing a rating if the OSRO fails the drill.

j) Requires OSPR to review the rating of each rated OSRO at least every three years. Requires the OSRO to complete at least one unannounced drill

every three years after receiving its rating.

This bill:

1) Defines "nonfloating oil" to mean either:

   a) A refined petroleum product that is sold commercially and sinks in distilled water when both the water and the petroleum product are at a temperature of 15 degrees Celsius; or,

   b) An unrefined form of petroleum product that sinks in distilled water when both the water and the petroleum product are at a temperature of 15 degrees Celsius, including an unrefined form of petroleum product that would satisfy the sinking criteria before dilution with a hydrocarbon mixture having a density of 770 kilograms per cubic meter or less at a temperature of 15 degrees Celsius.

2) Requires, on or before January 1, 2022, the Administrator to hold a technology workshop devoted solely to the topic of technology for addressing nonfloating oil spills, and shall conduct and publish a review of scientific and technical literature concerning that technology.

3) Requires the Administrator to include in the revised California Oil Spill Contingency Plan due on or before January 1, 2023 provisions addressing nonfloating oil reflecting findings made following the technology workshop and review of scientific and technical literature.

4) Requires, contingent upon an appropriation by the Legislature, the Administrator to conduct testing of new products for use in nonfloating oil spill cleanup, and to provide grants or conduct technology competitions to facilitate the development of those products.

5) Requires, on or before January 1, 2024, and every two years thereafter, the Administrator to adopt and revise regulatory requirements pertaining to nonfloating oil.

6) Requires, on January 1, 2022, a C-plan holder to identify at least one oil spill response organization (OSRO) capable of oil spill response activities related to that nonfloating oil if nonfloating oil is present. Requires the criteria the Administrator rates OSROs to include the type of oil, including nonfloating oil the OSRO is capable of recovering and containing.

7) Requires, on or before January 1, 2021, the Administrator to establish a separate rating level for OSROs capable of addressing nonfloating oil including that the OSRO can demonstrate that it can provide its equipment on the scene of an oil spill no more than twelve hours of spill notification.

Background

1) *OSPR.* In 1990, the *American Trader* spilled over 400,000 gallons of crude oil off of Huntington Beach in Southern California. These events inspired the California Legislature to enact the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act in 1990. The Act addresses aspects of marine oil spill prevention and response specific to California. It created OSPR in the Department of Fish and Wildlife and established an Administrator, appointed by the Governor, to lead OSPR. OSPR is required to implement activities related to oil spill response, including emergency drills and preparedness, oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. OSPR is also required to develop a California oil spill contingency plan that complements the National Contingency Plan, and to regulate and approve C-plans required of and submitted by owners and operators of oil-related facilities and vessels.

2) *Oil spill response organizations.* OSROs provide equipment and personnel to respond to and clean up an oil spill for water, shoreline, and inland environments. Vessel and facilities plan holders doing business within California must contract with a rated OSRO to satisfy the plan holder's response equipment requirements or supplement the plan holder's own equipment. Equipment can include booms, skimmers, boats, sorbents, temporary storage, terrestrial land-moving equipment, etc. Currently OSPR regulations require not only the equipment, but a "system" of equipment and personnel to ensure proper and timely deployment. OSPR regulates OSROs directly through a rating program. This program has been very successful in ensuring that OSROs are prepared to meet C-Plan requirements, which has eliminated redundancy of calling multiple unannounced drills on the same OSROs for all of the C-Plans it is identified in.

3) *Nonfloating oil.* Natural and synthetic crude oils vary widely in composition, although the primary components are hydrocarbons. Due to this variation in composition, the different hydrocarbon fractions in a crude oil from any given source may have widely varying chemical and physical properties. Lighter fractions may spread rapidly, float on the surface of the water, and evaporate to the atmosphere quickly. In contrast, heavier fractions may be denser than water, and can sink or become suspended in the water column beneath the

surface due to various processes. These processes are collectively known as "weathering," and the important point is that the properties of the spilled oil can change during spill response.

Federal regulations separate oils by groups. Group 5 is considered the heaviest. However, refined oils may also be a mix of light and heavy hydrocarbon fractions. Of particular relevance, the development of Canadian tar sands as a source of oil has raised concerns regarding spill response. The heavy bitumen from the tar sands is diluted with lighter hydrocarbons to facilitate transport. Diluted or blended oil may not be considered a Group 5 oil, but portions of the oil once spilled will separate and sink. It is important to note, however, that much of the crude oil produced in this state is also considered to be relatively heavy. Following the oil spill at Refugio Beach in May 2015, heavier fractions of the spilled oil were found suspended in the water column beneath the surface, presenting significant recovery issues.

In 2016, the US Coast Guard (USCG) released its latest guidelines for OSROs that added a new classification for nonfloating oils. In those guidelines, the USCG recognized that nonfloating oils are broader than just Group 5 oils and include other heavy oils that show characteristics that may cause the oils to submerge or sink. According to the USCG, the oil spill response capabilities required to detect and recover nonfloating oil differs significantly depending on the operating area, environmental conditions, and the type of oil spilled. Standard response methods – designed for floating oils – are inadequate and difficult to apply when most of the oil is submerged or has sunk to the bottom. OSPR's regulations allow OSRO's to voluntarily comply with the nonfloating oils classification.

Comments

1) *Purpose of Bill.* According to the author, "AB 936 will enhance oil transportation safety in California by providing information on nonfloating oil movements within the state to emergency responders. This bill responsibly seeks to update and strengthen California's tools for planning and preparing for future oil spills. AB 936 is crucial to the safety of our natural resources. Nonfloating oil presents a unique and serious risk to our environment because it can sink and suspend into the water column, and result in the release of volatile and toxic diluent. It is therefore essential that nonfloating oil spills be addressed quickly, using state of the art techniques designed to address the particular character and behavior of such spills; and that first responders and communities be aware of the unique risk that attend nonfloating oil so they can prepare for them. This legislation facilitates proper preparedness by ensuring

that OSPR has the necessary plans in place—and that response organizations and first responders have best technology available—to respond appropriately to a spill of nonfloating oil. California's bays, rivers, and coastline are some of the most stunning natural resources in the world, and central to the state's economy, and the Legislature needs to be vigilant in safeguarding those resources from destructive oil spills."

2) *Nonfloating oil definition.* This bill's definition of nonfloating oil is intended to incorporate all types of nonfloating oil. According to OSPR, the definition used by OSROs currently covers around 99 percent of nonfloating oils. While the new definition of nonfloating oil in this bill is intended capture the remaining 1 percent of nonfloating oil, the definition appears to be highly technical, which could unintentionally lead to confusion and misunderstanding when regulating and planning for oil spills. In contrast, SB 709 (Wiener, 2017) defined nonfloating oil as "a hydrocarbon-based oil or any fraction or residue therefrom that does not float on the surface of water either immediately following the spill or at any subsequent time." It is unclear if the more technical definition in this bill is needed to capture all types of nonfloating oil.

Related/Prior Legislation

SB 709 (Wiener, 2017) would have required OSPR to revise the state's existing oil spill plan and response statutes to explicitly incorporate nonfloating and potentially nonfloating oils. This bill was held on the suspense file in the Senate Appropriations Committee.

DOUBLE REFERRAL:

This measure was heard in Senate Natural Resources and Water Committee on June 25, 2019, and passed out of committee with a vote of 7-1.

SOURCE: Natural Resource Defense Council and San Francisco Baykeeper

SUPPORT:

Natural Resource Defense Council (co-sponsor)
San Francisco Baykeeper (co-sponsor)
350 Bay Area Action
Azul
Benicians for a Safe and Healthy Community
Buena Onda Empanadas
California Coastkeeper Alliance

California League of Conservation Voters
Clean Water Action
Climate Lobby
Communities for a Better Environment
Crockett-Rodeo United to Defend the Environment
Environment California
Environmental Defense Center
Friends of the Earth
Good Neighbor Steering Committee of Benicia
Half Moon Bay Kayak Company
Heal the Bay
Institute For Fisheries Resources
MIGNOGNA CONSULTING
Nextgen California
Pacific Coast Federation of Fishermen's Associations
Sea Hugger, Half Moon Bay
Sierra Club California
Surf School, Half Moon Bay
Surfrider Foundation
SweetLife Co./SweetLife Entrepreneur Podcast
The Bay Institute
160 Individuals

OPPOSITION:

California Independent Petroleum Association (CIPA)

ARGUMENTS IN SUPPORT: According to the Natural Resource Defense Council, a discharge of nonfloating oil – be it diluted bitumen from Canada, heavy crude oil from Venezuela, fuel oils, or any other variant - would be disastrous for California's coastline. At best, these oils are catastrophically expensive to clean up. At worst, the oil cannot be cleaned up at all, and would persist for decades fouling California's beaches and fragile underwater environments. The Natural Resource Defense Council, in support of the bill, emphasizes this bill takes common sense steps to reduce the likelihood of a spill, and to ensure that the state has the resources to address such a spill if it occurs.

ARGUMENTS IN OPPOSITION: The California Independent Petroleum Association states, "What is AB 936 attempting to solve? There have been a number of bills that industry has worked with past authors on to address oil response and contingency planning. The SB 861 (Committee on Budget and Fiscal Reviews), Chapter 35, Statues of 2014, regs took effect on January 1, 2019. By

reference, they incorporate ALL types of petroleum. To differentiate 'nonfloating' oil is a solution in search of a problem. It may prove to be a worthy concept but only when OSPR reports progress in 1-2 years but not at this point. As the regulations are made public over the next few years, if non-floating oils are not properly addressed, they will be. This bill adds confusion to an already complicated process."

-- END --

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 970		
Author:	Salas		
Version:	4/12/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Paul Jacobs		

SUBJECT: California Department of Aging: grants: transportation.

DIGEST: This bill would require the California Department of Aging (CDA) to administer a grant program to fund transportation to and from nonemergency medical services for older individuals and persons with a disability for the purpose of reducing greenhouse gas (GHG) emissions.

ANALYSIS:

Existing law:

1) Requires the California Air Resources Board (ARB), pursuant to California Global Warming Solutions Act of 2006 (AB 32 Núñez, Chapter 488, Statutes of 2006), to adopt a GHG emissions limit equivalent to 1990 levels by 2020 and to use market-based mechanisms (cap-and-trade) to achieve compliance with these regulations.

2) Requires, pursuant to SB 32 (Pavley Chapter 249, Statutes of 2016), that ARB ensure that statewide GHG emissions are reduced to at least 40% below 1990 levels by 2030.

3) Establishes the Greenhouse Gas Reduction Fund (GGRF) in the State Treasury, requires all moneys, except for fines and penalties, collected pursuant to cap-and-trade be deposited in the fund and requires the Department of Finance, in consultation with ARB and any other relevant state agency, to develop, as specified, an investment plan for the moneys deposited in the GGRF, and makes the GGRF funds available for appropriation by the Legislature.

4) Requires CDA to designate various private nonprofit or public agencies as Area Agencies on Aging (AAAs) to work for the interests of older Californians within a planning and service area and provide a broad array of social and nutritional services.

5) States that the mission of CDA is to provide leadership to the AAAs in developing systems of home-and community-based services that maintain individuals in their own homes or the least restrictive homelike environments.

6) Establishes the Medi-Cal program under which qualified low-income persons receive health care benefits and, in part, governed and funded by federal Medicaid program provisions.

7) Defines non-emergency transportation services, for purposes of the Medi-Cal Progam, to include, at a minimum, round trip transportation for a beneficiary to obtain covered Medi-Cal services by passenger car, taxicab, or any other form of public or private conveyance, and mileage reimbursement when conveyance is in a private vehicle arranged by the beneficiary and not through a transportation broker, bus passes, taxi vouchers, or train tickets.

8) Establishes the Charge Ahead California Initiative pursuant to SB 1275 (de León), Chapter 530, Statutes of 2014, that, among other things, includes the goal of placing at least one million zero-emission vehicles (ZEVs) and near-zero-emission vehicles (NZEVs) into service by January 1, 2023, and increasing access to these vehicles for disadvantaged, low-and- moderate-income communities and consumers.

This bill:

1) Requires CDA, in coordination with ARB and the Department of Healthcare Services, to administer a grant program for the purchase, lease, operation or maintenance of ZEVs and NZEVs to provide seniors and the disabled with non-emergency transportation services.

2) Requires grant recipients to provide seniors and the disabled with non-emergency transportation services using these vehicles in order to reduce GHG emissions.

3) Authorizes, but does not limit, eligibility to the following entities:

   a) Local or regional transportation agencies that provide transportation services to seniors and person with disabilities;

   b) AAAs;

   c) Counties;

d) Public transit operators.

4) Requires grant recipients to provide transportation services using the purchase, lease, operation or maintenance of ZEVs or NZEVs with a capacity for seven, 12 or 15 passengers.

5) Authorizes moneys from the GGRF to be used to fund the grant program, upon appropriation by the Legislature.

Background

1) *California Department of Aging.* CDA administers programs that serve older adults, adults with disabilities, family caregivers, and residents in long-term care facilities throughout the state. CDA administers funds allocated under the federal Older Americans Act (OAA), the Older Californians Act, and through the Medi-Cal program. CDA does not currently operate transportation-related programs explicitly analogous to those specified in this bill. However, it does work with the state's 33 AAAs to assist them in leveraging federal OAA Title IIIB Supportive Services Program resources that can be used by the AAAs to provide a variety of transportation services for eligible older adults.

2) *Medi-Cal.* The federal government authorizes the Medi-Cal program (which may provide service for the elderly and disabled) to specifically cover non-emergency medical transportation services. To clarify and align the state with this authorization, AB 2394 (E. Garcia Chapter 615, Statutes of 2016), required Medi-Cal to cover non-medical transportation for a beneficiary to obtain covered Medi-Cal services. Non-emergency medical transportation is provided when necessary to obtain program covered medical services and when the beneficiary's medical and physical condition is such that transport by ordinary means of private or public conveyance is not feasible.

Comments

1) *Purpose of Bill.* According to the author, "California has many seniors and people with disabilities who suffer from chronic, serious illnesses that limit their mobility in communities throughout the state. Resources for non-emergency medical transportation are limited in many communities, and, where they are available, the vehicles used in those communities use fuels that contribute to air pollution. Significantly, these disadvantages that contribute to a lack of access to health care result in higher morbidity and mortality rates. Addressing geographic distance and transportation difficulties for elderly and disabled patients is a cost-effective way of improving the quality of life and

health outcomes for vulnerable populations, while utilizing zero-emission or near-zero emission vehicles to reduce transportation barriers provides the important co-benefit of improving local air quality and reducing emissions."

2) *Optimal investment for reducing GHGs?* According to a study entitled Traveling Towards Disease: Transportation Barriers to Health Care Access, it was noted that "Millions of Americans face transportation barriers...Transportation barriers lead to rescheduled or missed appointments, delayed care, and missed or delayed medication use. These consequences may lead to poorer management of chronic illness and thus poorer health outcomes."

   While it is a laudable goal to provide seniors and people with disabilities with sufficient transportation services to meet their needs, it is unclear whether investing in the types of vehicles targeted in this bill is the optimal use of funds intended to reduce GHGs and reach the state's ambitious climate goals. ZEV incentive programs should try to optimize GHG reductions from the highest polluting sources, while also targeting new technologies that have the highest potential for market penetration. In practice, this might mean the most cost-effective public investment for reducing GHGs would be to target the replacement of heavy, high mileage, high-volume diesel vehicles. It is unclear if the vehicles targeted in this bill meet this criteria.

3) *Existing ZEV and NZEV incentive programs.* Currently, there are several programs that provide funding for ZEVs and NZEVs. These programs include:

   a) *ARB's Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP).* For commercial vehicles, ARB provides grants of up to $300,000 for the purchase or lease of a zero-emission truck or bus and up to $9,000 for eligible hybrid trucks and buses. A variety of buses are available for HVIP vouchers, including school buses, transit buses, commercial buses, and shuttle buses. According to ARB, 160 vouchers have been requested from HVIP totaling over $13 million for ZEV shuttle buses.

   b) *ARB's Clean Mobility Options for Disadvantaged Communities (DAC) Program.* Provides funding for government entities or non-profit organizations to start or expand car share and mobility programs for residents of DACs. The Lift Line Paratransit Dial-a-Ride Program under this program funds ZEVs for nonemergency medical services (medical appointments) and meal site transportation for elderly and disabled individuals. According to ARB, two 16-seat ZEV shuttles (including ADA

Wheelchair lifts) for Lift Line service have already been funded from this program.

c) *ARB's Clean Vehicle Rebate Program (CVRP).* Provides up to $7,000 to California residents who purchase or lease a new NZEV or ZEV. Private and public entities can access rebates through the CVRP and public fleets are eligible to receive up to 30 rebates per calendar year.

d) ARB's Enhanced Fleet Modernization Program (EFMP)/Clean Cars 4 All Program. Incentives for disadvantaged communities to purchase a new or used hybrid, plug-in hybrid, or ZEV.

e) *ARB's Financing Assistance for Lower-Income Consumers.* Provides low-interest loans and vehicle price buy-downs to consumers for the purchase of plug-in hybrid and battery electric vehicles. Also includes a loan loss reserve to encourage lender participation.

f) The California Energy Commission's (CEC) Alternative and Renewable Fuels and Vehicle Technology Program. Invests in the adoption of advanced technology vehicles, including ZEV and NZEV medium- and heavy-duty vehicles.

g) *Strategic Growth Council's Transformative Climate Communities.* This program could include funding for ZEVs if these vehicles were part of a targeted community strategy or project to reduce GHGs and local air pollution.

h) Caltrans' Low Carbon Transit Operations Program. Provides operating and capital assistance for transit agencies to reduce GHG emissions and improve mobility, with a priority on serving disadvantaged communities.

4) *Challenges with program duplication.* The Legislative Analyst's Office's (LAO) December 2018 report "*Assessing California's Climate Policies—Transportation*" highlighted how program duplication and overlap can lead to inefficiencies. Specifically, the LAO report mentioned program duplication can lead to the following challenges:

a) *Difficulty in evaluating programs*. Interactions between overlapping programs make it difficult to evaluate the effectiveness of each individual program.

b) *Lack of coordination.* The existence of multiple programs and administering agencies can make state coordination difficult.

c) *Reduced effectiveness from consumer confusion.* Multiple programs could create confusion among potential program recipients, leading to reduced program utilization and effectiveness.

d) *Increased administrative costs.* More programs tends to increase administrative overhead costs.

5) *Avoid program duplication.* Creating another new ZEV incentive program could potentially exasperate the program duplication challenges mentioned previously. Rather than creating a new program, it might be more administratively efficient and effective to embed the proposed program into an existing program that already provides funding for the vehicles targeted in this bill.

Rather than creating another new ZEV incentive program, the Committee may instead wish to amend the bill to embed the proposed program into ARB's existing Clean Mobility Options for DACs Program.

6) *Prioritize ZEVs.* SB 1275 established a statutory goal of placing at least one million ZEVs and NZEVs into service by January 1, 2023. However, when feasible, prioritizing ZEVs for public investment will likely result in greater public benefits.

The Committee may wish to amend the bill to only allow funding for NZEVs when ZEV options are not available.

7) *Public workshop would be beneficial.* This bill is attempting to achieve two goals; (1) meet transportation needs, and (2) do so with clean vehicles that also reduce emissions. A lack of funding appears to be a major challenge to providing the transportation needs identified in this bill. However, it is unclear what the required funding level is to meet these needs, and what funding sources are currently available for these purposes. To provide more insight into the scope of the challenge, as well as available solutions, convening a coordinated public workshop would likely be effective. Some helpful topics that could be discussed in the workshop include:

a) What are the challenges to providing older individuals and persons with a disability transportation to and from nonemergency medical services? What are the required funding levels needed to address this challenge?

b) Which existing programs are the vehicles targeted in this bill already eligible to receive funding from?

c) What educational outreach strategies could be used to promote better utilization of existing funding sources for these types of vehicles?

d) Which existing programs could be modified to allow funding for these types of vehicles?

The Committee may wish to amend the bill to require DOA to hold a public workshop to explore challenges, solutions, and existing funding sources to strategically and effectively meet the transportation needs targeted in the bill.

Related/Prior Legislation

AB 2877 (Mathis of 2018) would have required ARB to provide grants to rural counties for the purchase, operation and maintenance of NZEVs and ZEVs and required these counties to provide seniors and the disabled with non-emergency transportation services using these vehicles. AB 2877 was held on the suspense file of the Assembly Appropriations Committee.

AB 398 (E. Garcia Chapter 135, Statutes of 2017) among other things, extended cap-and-trade provisions until December 31, 2030.

AB 2394 (E. Garcia Chapter 615, Statutes of 2016) required the Medi-Cal program to cover non-emergency medical transportation for a beneficiary to obtain covered Medi-Cal services.

SB 1275 (de León Chapter 530, Statutes of 2014) established the Charge Ahead Initiative, to provide incentives to increase the availability of ZEVs and NZEVs, particularly to low-income and moderate-income consumers and disadvantaged communities.

AB 32 (Núñez Chapter 488, Statutes of 2006) required ARB to develop a plan of how to reduce emissions to 1990 levels by the year 2020, authorized cap-and-trade and also required ARB to ensure that, to the extent feasible, GHGs reduction requirement and programs direct public and private investment toward the most disadvantaged communities.

DOUBLE REFERRAL:

This measure was heard in Senate Human Services Committee on June 10, 2019, and passed out of committee with a vote of 4-0.

SOURCE: California Senior Legislature

SUPPORT:

California Commission on Aging
California Senior Legislature
Contra Costa County Board of Supervisors
Imperial County Area Agency on Aging and Public Administration

OPPOSITION:

Sierra Club

ARGUMENTS IN SUPPORT: According to the California Commission on Aging, "AB 970 makes GGRF funds available to help expand local use of low-emission vehicles in one of the most needed transit areas – non-medical transportation for the elderly and persons with disabilities. Using these dollars this way will help the growing population of older adults and persons with disabilities remain independent while also protecting the environment in the communities where they live."

ARGUMENTS IN OPPOSITION: According to the Sierra Club, "AB 970 would provide clean transportation assistance for seniors and those living with disabilities, which we agree is very important. However, the legislation currently states that the CDA would receive GGRF appropriations for ZEVs and NZEVs. Only ZEVs should be eligible for the GGRF appropriations. We would remove our opposition if the reference to NZEVs was omitted."

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 975		
Author:	Calderon		
Version:	6/26/2019	**Hearing Date:**	7/3/19
Urgency:	No	**Fiscal:**	Yes
Consultant:	Eric Walters		

SUBJECT: Environmental protection: California Adaptation Leadership and Coordination Act of 2019

DIGEST: Requires the secretary of the California Natural Resources Agency (CNRA), in collaboration with the Director of State Planning and Research and others, to communicate with other countries, states, regional collaboratives, and subnational governments to support and promote the state's goals and policies relating to ocean, coastal, and terrestrial adaptation, as specified; allows the secretary to direct any board, department, or office within CNRA to support these efforts, and; requires the secretary to prepare and submit to the appropriate legislative committees an annual report on the progress made during the preceding year on these efforts.

ANALYSIS:

Existing law:

1) Establishes the California Natural Resources Agency (CNRA) as the agency-level lead on the state's adaptation policy, and mandates that the CNRA update the state's Climate Adaptation Strategy, known as the "Safeguarding California Plan" (Plan), every three years in coordination with other state agencies. As part of this coordination, CNRA is required to identify a lead agency or group of agencies to lead adaptation efforts in each sector. Updates to the Plan are required to include:
   a) Vulnerabilities to climate change by sector, as identified by the lead agency or group of agencies, and regions. (Public Resources Code (PRC) §71153(a))
   b) Priority actions needed to reduce risk in those sectors, as identified by the lead agency or group of agencies. (PRC §71153(b))

   The most recent climate adaptation strategy, the "Safeguarding California Plan: 2018 Update" summarizes climate change impacts and recommends adaptation goals.

2) Requires the Office of Planning and Research (OPR) to serve the Governor and Cabinet as staff for long-range planning and research, constituting the comprehensive state planning agency, with a focus on factors influencing the quality of the state's environment. (Government Code (GOV) §65040)

3) Requires the Director of OPR to administer a program to coordinate regional and local efforts with state climate adaptation strategies to adapt to the impacts of climate change with, to the extent feasible, an emphasis on climate equity considerations across sectors and regions and strategies that benefit both greenhouse gas (GHG) emissions reductions and adaptation efforts, in order to facilitate the development of holistic, complimentary strategies for adapting to climate change impacts. (PRC §71354). Requires the program to include:

   a) Working with and coordinating local and regional adaptation efforts, including developing tools and guidance, promoting and coordinating state agency support, and informing state-led programs, planning processes, grant programs, and guidelines development through regular coordination among state agencies, the Climate Action Team (CAT) established by Executive Order S-3-05, and the SGC.

   b) Assisting the Office of Emergency Services (OES) and other relevant agencies with coordinating regular reviews and updates to the Adaptation Planning Guide (APG).

   c) Coordinating and maintaining the state's clearinghouse for climate adaptation information.

   d) Conducting regular meetings with the advisory council as established.

4) Establishes an advisory council to support OPR by providing scientific and technical support and to facilitate coordination among state, regional, and local agency efforts to adapt to the impacts of climate change. (PRC §71358)

This bill:

1) Requires the secretary of CNRA, in coordination with the Director of State Planning and Research, and other entities as described in the Safeguarding California Plan, to:

   a) Communicate with other countries, states, regional collaboratives, and subnational governments to support and promote the state's goals and

policies relating to ocean, coastal, and near-shore terrestrial adaptation;

b) Use quantified risk assessments of the impacts of climate change to establish priorities;

c) Allows the secretary to appoint a designee or direct any board, department, or office within CNRA to support these efforts, and;

d) Requires the secretary to prepare and submit to the relevant legislative committees an annual report on the progress made during the preceding year on these efforts.

2) Requires the secretary in collaboration with the director of OPR to take all action necessary when collaborating with other countries, states, regional collaboratives, and subnational governments to do, among other things, the following:

a) Communicate, coordinate, and share information on best management practices relating to adaptation policy, planning, projects, and funding.

b) Collaborate with respect to efforts to protect coastal and marine habitat, including sustainable fisheries, ocean acidification, coral reef conversion, ocean monitoring, offshore drilling, and the impacts of manmade pollution.

c) Encourage the protection of our oceans, natural resources, and communities from the impacts of climate change.

d) Promote research and compile information on vulnerable communities and industries disproportionately impacted by climate change.

e) Promote adaptation policies that support sustainable, resilient, and thriving places to live, work, and start and grow businesses in the state.

Background

1) *Legislative Hearings on Climate Adaptation.* In 2015, the Senate Environmental Quality Committee conducted four informational and oversight hearings on climate adaptation in California. The first hearing was focused mainly on state efforts to adapt to climate change impacts. Subsequent hearings focused on regional climate adaptation efforts, with hearings being held in the bay area, central valley, and southern California.

Testimony also underscored the current and worsening impacts from climate change and the need for coordinating knowledge, tools, and funding so that adaptation is approached efficiently and holistically across government levels and regions.

Taken together, these hearings highlighted the broad, cross-sector nature of climate change, which has been called a "threat multiplier," exacerbating existing public health and environmental quality concerns, particularly for already socially and economically disadvantaged communities. Earlier policy conversations about climate adaptation had been largely limited to natural resources and infrastructure issues rather than environmental quality or public health issues.

2) *California's Adaptation Documents*. The 2009 California Climate Adaptation Strategy is a statewide strategy that includes a summary of impacts from climate change, provides recommendations for adaptation strategies in seven sectors, and provides guidance for establishing adaptation and resiliency actions for the state.

   The 2012 California Adaptation Planning Guide, prepared and promoted by OPR, the CNRA, and OES, was designed to provide guidance and support for local governments and regional collaborations in addressing the impacts of climate change. The guide consists of an overview document and three companion documents for use in defining local and regional impacts, understanding regional characteristics, and identifying adaptation strategies. The guide is meant to allow for flexibility in time, money, and effort available for adaptation across communities.

   The 2014 Safeguarding California Plan is an update that augments adaptation strategies based on new climate science and risk management options.

3) *Office of Planning and Research (OPR)*. OPR serves the governor and the administration as staff for long-range planning, research, policy development and legislative analysis. The office formulates plans regarding land use, climate change, urban expansion, infrastructure development and resource protection while acting as a liaison to local governments, small businesses, and the military.

   The director of OPR is responsible to administer a program (the Integrated Climate Adaptation and Resiliency Program or ICARP) to coordinate regional and local efforts with state climate adaptation strategies to adapt to the impacts of climate change with, to the extent feasible, an emphasis on climate equity

considerations across sectors and regions and strategies that benefit both GHG emissions reductions and adaptation efforts, in order to facilitate the development of holistic, complimentary strategies for adapting to climate change impacts.

4) *Integrated Climate Adaptation and Resiliency Program (ICARP).* Governor Brown signed Senate Bill 246 (Wieckowski, Chapter 606, Statutes of 2015) in 2015, which directs OPR to form ICARP. ICARP is designed to develop a cohesive and coordinated response to the impacts of climate change across the state. Through its activities, ICARP will develop holistic strategies to coordinate climate activities at the state, regional and local levels, while advancing social equity.

   ICARP has two components: the State Adaptation Clearinghouse and the Technical Advisory Council (TAC). The State Adaptation Clearinghouse is a centralized source of information and resources to assist decision makers at the state, regional, and local levels when planning for and implementing climate adaptation projects to promote resiliency across California.

   The TAC brings together local government, practitioners, scientists, and community leaders to help coordinate activities that better prepare California for the impacts of a changing climate. TAC members bring expertise in the intersection of climate change and the following sector-based areas: public health, environmental quality, environmental justice, agriculture, transportation and housing, energy, natural resources and water, planning, recycling and waste management, local or regional government, tribal issues, and emergency services and public safety.

   The TAC supports OPR in its goal to facilitate coordination among state, regional and local adaptation and resiliency efforts, with a focus on opportunities to support local implementation actions that improve the quality of life for present and future generations.

   ICARP will engage ongoing State-led climate activities, including the Climate Action Team and Safeguarding California, to achieve its goals.

Comments

1) *Purpose of Bill.* According to the author, "As an avid surfer, I have spent a great deal of time in the water and have been aware of the changing climate and pollution that is endangering the ocean. The problem within the ocean is beyond what most coastal states can handle.

"In past years, California has made many efforts to combat climate change through greenhouse gas reduction, boosting innovative technology to stop our reliance on fossil fuels and coals, while working to reduce our solid waste problem. However, none of those efforts addresses total ocean protection.

"The Natural Resources Agency oversees ocean protection through its Ocean Protection Council and collaborates with the OPC Science Advisory Team and the West Coast Ocean Partnership and Regional Planning Body. These collaboration efforts are strictly done within California's coast and ocean, along with efforts made with the states of Oregon and Washington.

"The ocean is vast, which far exceeds the efforts of the western states. In an effort to better understand best management practices needed to save the ocean, global leaders need to work and act together to ensure a healthy ocean."

2) *Senate Natural Resources and Water Committee amendments*. AB 975 was heard in the Senate Natural Resources and Water Committee on 6/25/19. The author agreed to amendments in that committee which, briefly, (1) required that the Secretary of CNRA collaborate with the Director of OPR to fulfill the commitments of the bill, (2) permitted the Secretary of CNRA to appoint a designee to carry out specified tasks, (3) dictated that quantified risk assessments of climate change impacts be used to determine priorities, (4) specified the medium and recipients of the Secretary of CNRA's annual report, and (5) made other minor clarifying technical changes.

   The Senate Natural Resources and Water Committee amendments make considerable progress towards an integrated plan for interagency consideration of natural resources and long-term land use/expansion planning. *However, with respect to Senator Wieckowski's SB 168, which this committee approved of previously, the committee may wish to request the two bills' authors discuss conformity. The two authors may wish to determine the extent to which the Chief Climate Resilience Officer established pursuant to SB 168 may fulfill that role as the designee specified in section 71362 (a)(2) and make any changes necessary to enable conformity while minimizing overlap and inefficiencies.*

Related/Prior Legislation

AB 839 (Mullin, 2019) would designate the Secretary of the Natural Resources Agency as the lead on the state's climate adaptation strategy, and would require the Secretary of the Natural Resources Agency to review the Safeguarding California Plan and develop a strategic resiliency framework, as specified. AB 839 was heard

6/25/19 in the Senate Natural Resources and Water Committee.

SB 168 (Wieckowski, 2019) would establish the Chief Climate Resilience Officer in the Governor's Office of Planning and Research (OPR) (1) to be appointed by, and serve at the pleasure of, the Governor, subject to Senate confirmation, and (2) with the responsibility to serve as the statewide lead for the planning and coordination of climate adaptation policy implementation in California with duties, as specified. AB 168 was heard 6/24/19 in the Assembly Natural Resources Committee.

SB 262 (Wieckowski, 2017) would have created the California Council for Adaptation and Resiliency (CCAR) within the Office of Planning and Research (OPR) to oversee the Integrated Climate Adaptation and Resiliency Program (ICARP), require staggered four-year terms for council members, and specify the duties of the CCAR. SB 262 died in the Assembly Appropriations Committee.

SB 246 (Wieckowski, Chapter 606, Statutes of 2015) established the Climate Advisory Council, with a range of experience, to support OPR by providing scientific and technical support and to facilitate coordination among state, regional, and local agency efforts to adapt to the impacts of climate change.

AB 1482 (Gordon, Ch. 603, Statutes of 2015) required state agencies to maximize specified objectives, including, among others, promoting the use of the climate adaptation strategy to inform planning decisions and ensure that state investments consider climate change impacts, as well as promote the use of natural systems and natural infrastructure, as defined, when developing physical infrastructure to address adaptation. AB 1482 also expanded the duties of the SGC to include identifying and reviewing the activities and funding programs of all state agencies, instead of only the state agencies that are members of the council, to coordinate specified state objectives, including, among others, meeting the goals of the state's climate adaptation strategy.

DOUBLE REFERRAL:

This measure was heard in Senate Natural Resources and Water Committee on June 25, 2019, and passed out of committee with a vote of 7-1.

SOURCE: Author

SUPPORT:

California Coastkeeper Alliance

Endangered Habitats League
League of Women Voters
Ocean Conservancy
Save the Redwoods League
Surfrider Foundation

OPPOSITION:

None received

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 1046		
Author:	Ting		
Version:	6/20/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Paul Jacobs		

SUBJECT: Air Quality Improvement Program: California Electric Vehicle Initiative.

DIGEST: This bill would establish the California Electric Vehicle Initiative (CEVI) to be administered by the California Air Resources Board (ARB) to provide financial incentives to the market to achieve a statewide deployment of 5 million electric vehicles by December 2030. The bill would require ARB to develop a plan to provide for the continuous funding of CEVI. The bill would authorize the Treasurer to securitize revenues for which ARB has existing authority to establish a continuous funding source for CEVI.

ANALYSIS:

Existing law:

1) Establishes the Global Warming Solutions Act of 2006, (AB 32 Núñez, Chapter 244, Statutes of 2006) that requires ARB to establish programs to reduce greenhouse gas (GHG) emissions to 1990 levels by 2020.

2) Requires, pursuant to SB 32 (Pavley, Chapter 249, Statutes of 2016), that ARB ensure that statewide GHG emissions are reduced to at least 40 percent below 1990 levels by 2030.

3) Establishes the Air Quality Improvement Program (AQIP), administered by ARB, to fund programs that support the production, distribution, and sale of alternative fuels and vehicle technologies, as well as air emissions reduction efforts. One primary program adopted by ARB pursuant to the AQIP is the Clean Vehicle Rebate Project (CVRP).

4) Establishes the Charge Ahead California Initiative pursuant to SB 1275 (de León, Chapter 530, Statutes of 2014), that, among other things, includes the goal of placing at least one million zero-emission vehicles (ZEVs) and near-zero-emission vehicles (NZEVs) into service by January 1, 2023, and increasing access to these vehicles for disadvantaged, low-and- moderate-

income communities and consumers.

This bill:

1) Establishes CEVI as part of AQIP to be administered by ARB to provide financial incentives to the market to achieve a statewide deployment of 5 million electric vehicles by December 2030.

2) Requires ARB to develop a plan to provide for the continuous funding of CEVI.

3) Prohibits the continuous funding plan to include electrical or gas ratepayer funds.

4) Authorizes the Treasurer, upon request by ARB and following approval from the Director of Finance, to securitize revenues for which ARB has existing authority to establish a continuous funding source for CEVI. Prior to approval, ARB is required to provide the Director of Finance all of the following:

   a) A rebate structure, which shall include a plan that gradually reduces the rebate dollar levels, designed to achieve the deployment of 5 million ZEVs in the state by December 2030.

   b) A starting rebate level for all battery electric vehicles and hydrogen fuel cell vehicles, designated as the benchmark rebate level, in an amount that does not exceed seven thousand five hundred dollars ($7,500) per vehicle.

   c) Rebate levels, if any, for plug-in hybrid electric vehicles that reflect, relative to the benchmark rebate level, those vehicles' contribution to achieving the state's GHG and air pollution emissions reduction goals.

   d) An estimate of the total amount of money to be paid as rebates between July 1, 2020, and the date at which 5 million ZEVs have been deployed.

5) Requires the Department of Finance to specify a funding plan to maintain funding levels for any program impacted by CEVI.

6) Declares this bill does not provide ARB new authority to establish new revenue sources.

Background

1) *CVRP.* Over the years, California has established a number of policies, goals, and programs to improve air quality and reduce GHG emissions. Most notably, AB 32 established the goal of reducing GHG emissions to 1990 levels by the year 2020 and, more recently, SB 32 established the more aggressive goal of reducing emissions 40% below 1990 levels by 2030. One of the plethora of programs established to try and accomplish these goals is the AQIP, which funds programs that support the production, distribution, and sale of alternative fuels and vehicle technologies, as well as air emissions reduction efforts.

   CVRP is part of AQIP and provides rebates to consumers in order to promote the production and use of ZEVs and NZEVs, specifically for new plug-in hybrid electric vehicles (PHEV), battery electric vehicles (BEV), or fuel-cell electric vehicles (FCEV). CVRP provides higher rebate levels for lower-income consumers according to the following table:

Income Category	PHEV	BEV	FCEV
Standard Rebate	$1,500	$2,500	$5,000
Rebate for Lower-Income Consumers	$3,500	$4,500	$7,000

Source: California Air Resources Board

   There is no cap on the number of rebates that may be issued, but rebates are subject to funding availability and the program has more than once been forced to stop issuing rebates and create a waiting list due to funds running out. CVRP has invested over $850 million cumulatively through fiscal year 2018-19 to promote the production and use of ZEVs and NZEVs.

2) *Enhanced Fleet Modernization Program (EFMP) and EFMP Plus-Up.* EFMP is an incentive program funded through a $1 surcharge on vehicle registration, totaling approximately $30 million annually. EFMP is designed to encourage low-income drivers to retire their older, high emitting vehicles and replace them with newer, cleaner, more fuel efficient vehicles. EFMP was established by AB 118 (Núñez, Chapter 750, Statutes of 2007) and comprises two components: retirement-only and retirement and replacement. These are sometimes referred to as the EFMP base program. Under the retirement only component, eligible applicants can receive $1,000 to $1,500, depending on income, for retiring an eligible vehicle through the EFMP portion of the car scrap program administered by the Bureau of Automotive Repair's Consumer Assistance Program. This element of the program is offered statewide.

The second component of the EFMP base program, the retire and replacement component, is offered only in the South Coast and San Joaquin Valley air districts, and only to low-income drivers of eligible vehicles. EFMP retirement and replacement provides up to $4,500 to low-income drivers who purchase a vehicle eight years old or newer. The exact incentive amount varies, depending on household income, and can be used toward the purchase of a new or used clean replacement vehicle or an alternate mode of transportation, such as a transit pass.

The Plus-Up pilot project is a complementary incentive program and augments the EFMP base program by adding up to an additional $5,000 in incentives for the subset of participants living in or near a disadvantaged community census tract and who choose an advanced technology replacement vehicle (e.g. PHEVs and BEVs). The actual amount of the additional Plus Up incentive depends on income and choice of replacement vehicle.

3) *ZEV Regulation.* The ZEV Regulation requires large volume and intermediate volume vehicle manufacturers that sell cars in California to produce ZEVs and NZEVs. In general, the ZEV regulation requires that 15 perfect of new car sales be ZEVs by 2025. This target is intended to achieve 1.5 million ZEVs on the road by 2025 as directed under Governor Brown's Executive Order B-16-2012.

4) *ZEV Action Plan.* In 2012, the Governor signed Executive Order B-16-2012 that established the goal of 1.5 million ZEVs on the road by 2025. To implement this order, the Governor created an interagency working group on ZEVs to develop an action plan to meet these goals. The working group was spearheaded by the Governor's Office of Business and Economic Development (GO-Biz), and in 2013, the first ZEV Action Plan was released. It laid out progress to-date, challenges, and four high-level goals with a series of actions for state agencies to take that could accelerate ZEV adoption.

   In 2016, the ZEV Action Plan was updated, detailing more than 200 actions across six key target areas to provide a pathway in order to meet the 2025 ZEVs goal. The target areas include consumer awareness, affordability, infrastructure, economics and jobs, market growth outside of California, and leading by example by integrating ZEVs into state government.

   In January 2018, Governor Brown signed Executive Order B-48-18, setting ambitious targets of 200 hydrogen fueling stations and 250,000 electric vehicle chargers to support 1.5 million ZEVs on California roads by 2025, on the path to 5 million ZEVs by 2030. To support and complement the targets in the

Executive Order, the Governor directed the ZEV working group to "update the 2016 ZEV Action Plan to help expand private investment in ZEV infrastructure, particularly in low income and disadvantaged communities." In 2018, the ZEV working group published a "Priorities Update" to the 2016 ZEV Action Plan. Key action items detailed in the priorities update are related to achieving consumer awareness, making ZEVs affordable and attractive, and ensuring convenient charging and fueling infrastructure, among others.

5) *ZEV Market Growth.* According to the September 2018 update to the 2016 ZEV Action Plan, as of July 2018 over 410,000 ZEVs have been sold in California, 150,000 of which were sold since 2016. In 2017, ZEVs constituted 5 percent of new car sales in California, up from 3.8 percent in 2016.

Comments

1) *Purpose of Bill.* According to the author, "California must accelerate the deployment of zero-emission vehicles (ZEV) to meet its clean air and emissions reduction goals. As of early 2019, there are an estimated 550,000 ZEVs on the state's roadways, but the state has a long way to go before reaching Governor Brown-era Executive Orders that call for 1.5 million ZEVs by 2025 and 5 million ZEVs by 2030. In order to facilitate a self-sustaining market for ZEVs, the California's ZEV incentive program needs to be responsive to market changes and provide meaningful rebates to consumers. This bill tasks the Air Resources Board and the Department of Finance with identifying a sustainable funding solution for ZEV rebates to achieve the 5 million ZEV goal by 2030."

2) *Continuous appropriation.* By authorizing the Treasurer to securitize revenues to establish a continuous funding source for CEVI, this bill could potentially create a continuous appropriation. However, continuous appropriations surrender the Legislature's Constitutional authority and responsibility to oversee state spending and limits the Legislature's ability to provide oversight and ensure that the Legislature's priorities are fully funded.

3) *Cost pressures.* While the 5 million ZEVs goal by 2030 in this bill is just a goal and not a mandate, the bill does require ARB to develop a plan to provide for the continuous funding necessary to facilitate reaching the goal. In addition, the bill authorizes the Treasurer to securitize revenues for which ARB has existing authority to establish a continuous funding source for CEVI. These aspects of the bill will create significant cost pressures for the Legislature to fund this level of rebate investment to reach the goal, and raises serious questions as to where the funding will come from. It appears unlikely there are sufficient

existing sources of revenue to provide the level of funding required to reach the goals in this bill without having significant deleterious impacts and trade-offs to other programs.

4) *Comprehensive strategies needed to achieve the 5 million ZEV goal.* There are numerous challenges in reaching the goal of placing 5 million ZEVs and NZEVs in service by 2030 as proposed in this bill. Some of these challenges include costs, battery range, consumer preferences, and charging convenience, among others. According to the September 2018 update to the 2016 ZEV Action Plan, reaching the 5 million ZEVs goal means about 40 percent of all new car purchases need to be ZEVs by 2030, up from approximately 5 percent as of 2017. *This bill places the entire burden of achieving the goal on rebates provided by ARB.*

   If reaching 5 million ZEVs by 2030 becomes a Legislative goal rather than an administrative one, the Legislature might want to take a more proactive role in supporting a comprehensive and cost-effective pathway to reach the goal. The Legislature can accomplish this in an administratively feasible manner by building on the work already done by the Governor's interagency ZEV working group, but also by assessing, clarifying, and expanding that work to ensure the priorities of the Legislature are met. A more comprehensive approach to supporting an efficient and cost-effective pathway for reaching the goal of CEVI might entail the following:

   a) *Conduct a progress assessment.* Billions of dollars of public funds have already been invested to achieve greater ZEV market penetration through vehicle rebates and infrastructure support. Numerous state agencies are currently administering numerous incentive programs for these purposes. This has led to concerns regarding inefficiencies through program overlap. According to The Legislative Analyst's Office's (LAO) December 2018 report "Assessing California's Climate Policies—Transportation" program duplication and overlap can lead to inefficiencies such as difficulty in evaluating programs, lack of coordination, reduced effectiveness from grant recipient confusion, and increased administrative costs. The LAO report specifically identified electric vehicle infrastructure programs as an area with potentially significant overlap.

   b) *Optimizing investment strategies.* Looking forward, the Legislature may want to think more holistically about public investments to support the CEVI goal in this bill. Some investment areas the Legislature may require more analysis and information on include:

i) *Consumer awareness.* Consumer awareness of ZEV options was identified as the highest priority in the 2016 ZEV Action Plan. However, research shows that most consumers have not considered ZEVs for purchase or lease. Strategies to address this issue might require public investments in ZEV education and marketing.

ii) *ZEV infrastructure.* According to the 2016 ZEV Action Plan, the consumer confidence needed to adopt ZEVs relies in large part on adequate charging and fueling infrastructure. Therefore, investment in a massive scale up of charging and fueling stations is likely needed.

iii) *Rebate levels.* As this bill identifies, rebates for new ZEV purchases is a critical part of stimulating the ZEV market by making them an affordable and attractive option for California drivers. In theory, as the ZEV market grows enough to be self-sustaining, rebate levels should gradually decrease. This bill intends to provide information on how and when this will happen.

iv) *Technology development.* In order to overcome fundamental ZEV challenges presented by limited battery ranges and associated costs, technology development investments might be necessary to facilitate innovative breakthroughs. A recent review by the Senate Office of Research (SOR) titled "State Investments in Clean Energy and Transportation Technology" found that investment in early technology for clean transportation is minimal and much less than that for clean energy. The report states that "overinvestment in massive commercial deployment of inefficient technologies could lead to very expensive pathways to achieving environmental and climate change goals."

5) *Narrowing and focusing scope of the bill.* In lieu of developing a comprehensive strategy to meet the goal of CEVI, this bill might need to be narrowed and focused by making it specific to an individual program, removing the Legislative goal of achieving 5 million ZEVs by 2030, and clarifying the implication that ARB and rebates are the sole responsibility for achieving the goal.

The Committee may wish to amend the bill to do the following:

a) Apply the continuous funding plan requirements in this bill for CVRP only.

b) Remove CEVI and instead make the 5 million ZEVs by 2030 only a planning goal for CVRP.

c) Clarify that funding levels for CVRP shall be considered in conjunction with other ZEV-related state investments and programs and is not solely responsible for reaching 5 million ZEVs.

Related/Prior Legislation

AB 1184 (Ting, 2017). This bill would have established the CEVI, which would be administered by ARB to provide market incentives to achieve a statewide deployment of 1.5 million electric vehicles by 2025. The bill would have required ARB to establish a portfolio of funding resources and to develop a funding plan for the expenditure of up to $3 billion in existing revenues over 12 years for the continuous funding of point-of-sale rebates and other incentives that would decline over time as market penetration targets are met. The contents of this bill were stricken and amended into a different subject matter.

SB 32 (Pavley, Chapter 249, Statutes of 2016), required ARB to ensure that statewide GHG emissions are reduced at least 40% below 1990 levels by 2030.

SB 1275 (de León, Chapter 530, Statutes of 2014), established the Charge Ahead California Initiative, to place in service at least 1 million ZEVs and NZEVs by January 1, 2023, with a focus on disadvantaged and low-and-moderate-income communities.

AB 118 (Núñez, Chapter 750, Statutes of 2007), established EFMP and AQIP.

AB 32 (Núñez, Chapter 488, Statutes of 2006), required ARB to develop a plan of how to reduce emissions to 1990 levels by the year 2020.

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass as amended motion must include the action to re-refer the bill to the Senate Transportation Committee.

SOURCE: Author

SUPPORT:

350 Bay Area Action
Advanced Energy Economy
Breathe California
California Electric Transportation Coalition
California Municipal Utilities Association
Community Action to Fight Asthma
Electric Vehicle Charging Association
Environment California
Indivisible Marin
NextGen California
Orinda Progressive Action Alliance
Tesla

OPPOSITION:

Alliance of Automobile Manufacturers
California Chamber of Commerce

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 1080		
Author:	Gonzalez, et al.		
Version:	6/20/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Genevieve M. Wong		

SUBJECT: California Circular Economy and Plastic Pollution Reduction Act

DIGEST: Requires CalRecycle, after developing a scoping plan, to adopt regulations that would (1) require covered entities, as defined, to source reduce single-use packaging and priority single-use plastic products and to ensure that, by 2030, those products are recyclable or compostable; and (2) achieve a 75% reduction by 2030 of waste generated from single-use packaging and priority single-use plastic products in the state. Commencing in 2024, requires covered entities to demonstrate, as a condition of sale, specified progressing recycling rates for single-use plastic packaging or priority single-use products.

ANALYSIS:

Existing law:

1) Establishes, under the Integrated Waste Management Act of 1989 (IWMA), a state recycling goal of 75% of solid waste generated to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. Requires each state agency and each large state facility to divert at least 50% of all solid waste through source reduction, recycling, and composting activities. IWMA also requires a state agency and large stage facility, for each office building of the state agency or large state facility, to provide adequate receptacles, signage, education, and staffing, and arrange for recycling services, as specified (PRC §§ 41780.01, 42921, 42924.5).

2) Prohibits a person from selling a plastic bag or a plastic food or beverage container that is labeled as "compostable" or "marine degradable" unless that plastic bag or container meets American Society for Testing and Materials standards or a standard adopted by CalRecycle (PRC §§ 42357, 42359.6).

3) Prohibits a state food service facility from dispensing prepared food using a type of food service packaging unless the packaging is on a specified list maintained by CalRecycle and has been determined to be reusable, recyclable, or compostable (PRC §§ 42370 et seq.).

This bill:

1) Enacts the California Circular Economy and Plastic Pollution Reduction Act.

2) Requires CalRecycle, by January 1, 2024, and in consultation with relevant state agencies with jurisdiction over sources of waste in California and local jurisdictions and regional agencies charged with meeting waste diversion goals, to adopt regulations that would do the following:

   a) Require covered entities to source reduce single-use packaging to the maximum extent feasible and to ensure that by 2030 all single-use packaging in the California market is recyclable or compostable.
   b) Require covered entities to source reduce priority single-use plastic products to the maximum extent feasible and to ensure that by 2030 those products are recyclable or compostable.

      i) Defines "covered entity" as any of the following:

         a) The person or company that manufactures the single-use packaging or single-use product that is sold into the state.
         b) If no person or company meets (a), the covered entity is the person or company that imports the single-use packaging or single-use product into the state for sale or distribution.
         c) If no person or company meets (a) or (b), the covered entity is the person or company that sells, offers for sale, or distributes the single-use packaging or single-use product in the state.

      ii) Defines "single-use packaging" as the packaging of a product when the packaging is routinely disposed of after its contents have been used or unpackaged, and typically not refilled.

         a) Excludes -
            (1) Packaging that is durable or washable, and routinely used for its original purpose multiple times before disposal.
            (2) Packaging containing toxic or hazardous products regulated by the Federal Insecticide Fungicide, and Rodenticide Act.

      iii) Defines "priority single-use plastic product" as the 10 single-use plastic products, or categories of products, that are the most littered

in California, as determined by CalRecycle.

c) Achieve a 75% reduction by 2030 of the waste generated from single-use packaging and priority single-use plastic products through source reduction, recycling, or composting.

3) Authorizes CalRecycle to identify single-use packaging or priority single-use plastic products that present unique challenges in complying with these requirements and requires CalRecycle to develop a plan to phase those packaging and products into the regulations.

4) Before adopting the regulations, requires CalRecycle to develop a scoping plan to achieve those recycling requirements and, as a part of the scoping plan, to conduct extensive outreach to stakeholders, as specified, and to evaluate the feasibility of employing specified regulatory measures.

5) Requires a covered entity to annually report certain information to the department on the quantity, weight, volume, and type of single-use packaging and priority single-use products sold by the covered entity and the quantity, weight, volume, and type of material source reduced by the covered entity.

a) Authorizes CalRecycle to audit reports submitted to ensure compliance with the Act.

6) Requires the regulations to include the following:

a) A mechanism for accounting the total statewide generation of single-use packaging and priority single-use plastic products to set a baseline amount for waste generation from these sources.
b) Direct source reduction measures of single-use packaging and priority single-use plastic products, as specified.

7) Authorizes CalRecycle to allow covered entities to comply with the regulations through alternative methods and requires CalRecycle to provide technical guidance and outreach.

8) Requires CalRecycle to ensure that any regulations adopted account for health and safety as required by the U.S. Food and Drug Administration.

9) Requires CalRecycle to develop criteria to determine which types of single-use packaging or priority single-use plastic products are reusable, recyclable, or

compostable.

10) Requires a covered entity to demonstrate specified recycling rates that gradually increase to 75% by 2030 and authorizes a covered entity to comply with the specified recycling rates by submitting to CalRecycle evidence that a particular type of single-use plastic packaging or priority single-use plastic product meets the applicable recycling rate threshold by referencing a recycling rate on a list maintained by CalRecycle.

    a) Requires CalRecycle, at least every 3 years, to evaluate the list of recycling rates to determine accuracy, after which CalRecycle may amend and update the list to remove, add, or change recycling rates.

Background

1) *Solid waste in California.* For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the IWMA. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal by 2020 and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills. According to CalRecycle's State of Disposal and Recycling in California 2017 Update, 42.7 million tons of material were disposed into landfills in 2016.

2) *Market challenges for recyclable materials.* The U.S. has not developed significant markets for recycled content materials, including plastic and mixed paper. Historically, China has been the largest importer of recycled materials. According to the International Solid Waste Association, China accepted 56% by weight of global recycled plastic exports. In California, approximately onethird of recycled material is exported; and, until recently, 85% of the state's recycled mixed paper has been exported to China.

    In an effort to improve the quality of the materials it accepts and to combat the country's significant environmental challenges, China enacted Operation Green Fence in 2013, under which it increased inspections of imported bales of recyclables and returned bales that did not meet specified requirements at the exporters' expense. In 2017, China established Operation National Sword, which included additional inspections of imported recycled materials and a filing with the World Trade Organization indicating its intent to ban the import of 24 types of scrap, including mixed paper and paperboard, polyethylene terephthalate (PET), polyethylene (PE), polyvinyl chloride, and polystyrene (PS) beginning January 1, 2018. In November 2017, China announced that

imports of recycled materials that are not banned will be required to include no more than 0.5% contamination.

In January of this year, China announced that it would be expanding its ban even further – to encompass 32 types of scraps for recycling and reuse, including post-consumer plastics such as shampoo and soda bottles. Many other Southeast Asian counties that the US has historically exported to have started to follow China's lead and implement their own ban on importing certain materials.

3) *Plastic pollution.* Plastics are estimated to comprise 60-80% of all marine debris and 90% of all floating debris. According to the California Coastal Commission (Commission), the primary source of marine debris is urban runoff (i.e., litter). By 2050, by weight there will be more plastic than fish in the ocean if we keep producing (and failing to properly manage) plastics at predicted rates, according to "The New Plastics Economy: Rethinking the Future of Plastics", a January 2016 report by the World Economic Forum.

   Due to the interplay of ocean currents, marine debris preferentially accumulates in certain areas throughout the ocean. According to Eriksen et al. (2014), 24 expeditions from 2007-2013 estimated that there are approximately 96,400 metric tons of floating plastic in the Northern Pacific Ocean. The North Pacific Central Gyre is the ultimate destination for much of the marine debris originating from the California coast. A study by the Algalita Marine Research Foundation found an average of more than 300,000 plastic pieces per square mile of the Gyre and that the mass of plastic was six times greater than zooplankton floating on the water's surface.

   Most plastic marine debris exists as small plastic particles due to excessive ultraviolet radiation exposure and subsequent photo-degradation. These plastic pieces are confused with small fish, plankton, or krill and ingested by birds and marine animals. Over 600 marine animal species have been negatively affected by ingesting plastic worldwide. Last year, scientists at the Australian Research Council Centre of Excellence for Coral Reef Studies at James Cook University found that corals are also ingesting small plastic particles, which remain in their small stomach cavities and impede their ability to consume and digest normal food.

   California Coastal Cleanup Day was first organized by the Commission in 1985. The Commission continues to organize the event annually and track the items collected. According to the Commission, the top 10 items collected since 1984 are cigarette butts; food wrappers and containers; caps and lids; bags;

cups, plates, and utensils; straws; glass bottles; plastic bottles; cans; and, construction material. Food wrappers and containers account for just over 10% of the material cleaned up.

In 2007, the Ocean Protection Council (OPC) adopted a resolution on "reducing and preventing marine debris." A year later, OPC released the Implementation Strategy for the [OPC] Resolution to Reduce and Prevent Ocean Litter, which established four broad objectives to reduce marine debris: 1) Reduce single-use packaging and promote sustainable alternatives; 2) Prevent and control litter and plastic debris; 3) Clean up and remove ocean litter; and, 4) Coordinate with other jurisdictions in the Pacific region.

In 2016, OPC, in partnership with the National Oceanic and Atmospheric Administration (NOAA) Marine Debris program, began updating its 2008 initiative, and on April 24, 2018, adopted the California Ocean Litter Prevention Strategy: Addressing Marine Debris from Source to Sea. The updated Strategy includes several actions that are carryover items from the 2008 effort and includes a producer take-back program for convenience food packaging (the second largest source of ocean litter behind cigarette butts), expanding the local bans on polystyrene food packaging, and supporting local efforts to impose fees on littering. The plan also focuses on three main priorities: land-based ocean litter, microplastics, and fishing and aquaculture gear. Source reduction is an important component in these goals and action items and is considered the most preferred way to reduce ocean litter because it decreases the amount of trash there is to control, clean up, and dispose.

4) *Economic impacts to California.* An NOAA Marine Debris Program economic study published in 2014 examined the costs of marine debris to Californians. The study focused on Orange County, and found that residents lose millions of dollars each year avoiding littered, local beaches in favor of choosing cleaner beaches that are farther away and more costly to reach. In one scenario, the study found that reducing marine debris by just 25% would save Orange County residents $32 million in June-August; eliminating marine debris entirely would save an estimated $148 million.

   A 2013 report produced for the Natural Resources Defense Council by Keir Associates estimates that Californians are shouldering $428 million annually to try to prevent litter from becoming marine debris that damages the environment, tourism, and other economic activities.

Comments

1) *Purpose of Bill.* According to the author, "Every day, single-use packaging and single-use plastic products in California generate tons of non-recyclable and non-compostable waste impacting our health, natural environment, and local governments.

"Plastic pollution states with fossil fuel extraction to create plastic and affects individuals, communities, and ecosystems all along the supply chain – from when the products are manufactured, transported, and used to when they degrade and emit greenhouse gases or impact the environment as litter. Oil refineries, plastic manufacturers and incinerators tend to be located in disadvantaged communities, which then must bear the brunt of the associated health impacts from industry, such as higher asthma rates. With a planned 40-percent increase in plastic production over the decade, plastic production will account for 20 percent of global fossil fuel consumption unless we make major policy changes to significantly counter this.

"Unlike natural materials that decompose, nearly every piece of plastic ever produced still exists in our landfills or in the environment, As these items fragment into smaller particles, known as microplastics, they concentrate toxic chemicals and contaminate our food and drinking water sources. Exposure to these plastic and associated toxins has been linked to cancers, birth defects, impaired immunity, endocrine disruption, and other serious health problems.

"One way to reduce the production of plastics is to focus on its use in packaging. Packaging products are typically designed to be used just once and then discarded. They account for 42 percent of all non-fiber plastic produced.

"While the state and local communities in California have tried to reduce the burden from single-use packaging since the 1980s, taxpayers and local governments still spend over $420 million annually in ongoing efforts to clean up and prevent litter in streets, storm drains, parks, and waterways. Not only is cleanup expensive, but it cannot keep pace with the production of single-use disposable items, which continues to grow exponentially.

"Existing recycling infrastructure can't keep pace either, without new demand for the recycled content. Only 9 percent of plastic is recycled, and that percentage is dropping since the implementation of China's National Sword and policies in other counties, which severely restricted the amount of foreign waste these countries accept. These materials are now either piling up in recycling centers, being landfilled, or sent to illegal facilities in Southeast Asia where they are incinerated, or simply dumped in impoverished areas where it is never mitigated. California must reduce its amount of plastic waste as a result

of these realities, and ensure what we do use has a recycling market.

"AB 1080 would establish a comprehensive framework to address the pollution and waste crisis. Specifically, the bill would require single-use packaging and priority plastic products sold or distributed in California to be reduced, recycled, or composted by 75% by 2030, and require all single-use packaging and products to be recyclable or compostable on and after 2030.

"Eliminating non-reusable, non-recyclable and non-compostable products and reducing packaging is by far the most effective, and least expensive way to protect the health of young people, wildlife, and the environment."

2) *The effect of National Sword on California recycling.* The shift in policy of the international markets have resulted in a major disruption in recycling commodities markets, a sign that California can no longer be primarily reliant on exports to manage its recyclable materials. As a result of these policies, more material is being stockpiled at solid waste facilities and recycling centers or disposed of in landfills. Because California has historically relied on being able to export a significant percentage of these materials, the state now has to figure out a new plan to manage these materials. Recycling requires markets to create new products for this material to close the loop. The new policies of other jurisdictions provide California with the opportunity to reduce waste, build infrastructure for the manufacture of recycled materials, and build domestic markets to successfully and responsibly manage its own recyclable materials.

3) *A comprehensive plan.* In recent years, the Legislature has addressed single-use plastic products, and its resulting waste, in piecemeal fashion. While this has proven successful in the past, with the decrease in the use of single-use plastic carryout bags, AB 1080 instead chooses a more holistic approach. The bill directs CalRecycle to examine single-use packaging and priority single-use plastic products across-the-board and develop an approach that would not only aid the state in meeting its 75 percent diversion goal but also result in the reduction of waste, a decrease in pollution; and its associated environmental impacts (like greenhouse gas emissions), and the creation of domestic markets for recyclable materials that will support the development of instate recycling infrastructure. More specifically, it requires CalRecycle to adopt regulations that would (1) require single-use packaging and priority single-use plastic products be source reduced to the maximum extent possible and require, by 2030, that all single-use packaging and priority single-use plastic products be recyclable or compostable; (2) achieve, by 2030, a 75% reduction of waste generated by each of single-use packaging and priority single-use plastic

products. The bill provides CalRecycle with a variety of tools to achieve these goals.

4) *What would this apply to?* AB 1080 applies to "covered entities" (those that bring "priority single-use plastic products" or single-use packaging of products into the state). "Priority single-use plastic products" are the 10 single-use plastic products, or categories of products, that are most littered in California, as determined by CalRecycle. "Single-use packaging" is the packaging of a product when the packaging is routinely disposed of after its contents have been unpackaged, and typically not refilled; and could potentially include packaging such as toiletry and personal hygiene packaging, large delivery boxes, food packaging, packages from online purchases, shipment packaging, packaging intended to group together identical products for sale as a single purchase, packaging intended to protect products during transit, etc. The scope of AB 1080 is big, but that is the author's point – to attack California's solid waste problem from the top down and in an all-inclusive manner.

5) *Okay, but will it work?* AB 1080 is an ambitious bill. Opposition to the bill has questioned whether the holistic approach taken by AB 1080 is even feasible, calling the 75% reduction mandates unrealistic and overly-broad. Under AB 1080, CalRecycle will be required to develop a baseline for each covered entity (either the manufacturer, importer, or retailer depending on which entity first brings the covered product into the state), based on information reported from each covered entity, to track the amount of source reduction that will be required by regulations. The regulations will be based on the scoping plan developed by CalRecycle beforehand. Does CalRecycle have the means to be able to track, for each covered entity, the different types of packaging and the materials that make up that packaging? CalRecycle is already responsible for implementing and maintaining reports for many of the state's waste programs, including the Rigid Plastic Packaging Container Program. For the Act to be successful, CalRecycle will have to develop a very thoughtful and precise process of gathering, processing, organizing, and maintaining the required reported information under the Act.

6) *More guidance for CalRecycle needed.* AB 1080 gives CalRecycle broad authority to implement its ambitious goals. The intent is to provide the department with as much flexibility as possible to achieve the Act's purposes. There are some areas, such as the examples listed below, where CalRecycle would likely benefit from additional parameters; giving the department a clear sense of its statutory authority:

- Under what circumstances CalRecycle can determine that a covered entity has demonstrated "department satisfaction" that the entity reduced single-use packaging or priority single-use plastic products consistent with the Act when CalRecycle is considering reductions achieved before the adoption of regulations
- At what point is waste considered to be "generated" for purposes of accounting the statewide generation – whether it is when the end-user disposes of the product or packaging, or when the product or packaging is first brought into the state. If the intent is to give CalRecycle flexibility in determining this, the language should specifically reflect that.
- Guidance and parameters for "alternative compliance options."

The author should continue to work closely with CalRecycle to ensure that the department has all of the necessary statutory authority to implement the Act.

7) *Enforcement.* As a general matter, AB 1080 is missing essential enforcement mechanisms to ensure the effectiveness to achieve its intended purpose. There are no consequences for inaccurate reporting (although CalRecycle may audit the reports), noncompliance with CalRecycle regulations, noncompliance with the requirement that single-use packaging or priority single-use products be compostable or recyclable, or failure to meet the 75% reduction mandate. While there are serious consequences for an entity whose plastic single-use products or plastic single-use packaging does not meet certain graduating recycling rates by specified dates – which is the condition the sale of the packaging or products in the state on meeting the mandated recycling rates (see below to Comment #8 for further detail) - that is limited to priority single-use plastic products and single-use plastic packaging. In order for the Act to be successful, the author will need to continue to work on incorporating appropriate enforcement mechanisms.

8) *Recyclability depends on a variety of factors.* Opposition to the bill has expressed concern over the provision that would require the covered entities to demonstrate certain recycling rates as a condition of sale of the covered entities' priority single-use plastic product or single-use plastic packaging. Opposition has argued that there are many variables that affect the recycling rate, including end-markets and consumer behavior. Recycling rates cannot go up if there are no end-markets for the recyclable materials. To put the responsibility on the covered entities who, the opposition argues, have no control over recycling rates of their products is inappropriate.

If properly implemented, AB 1080 will help to develop those end-markets and result in the more sustainable manufacturing of products and packaging. The regulations adopted by CalRecyle, based on its scoping plan, will create a closed-loop system of products made out of recyclable material.

AB 1080's comprehensive approach also factors in consumer behavior, addressed in CalRecycle's scoping plan and regulations. For example, in the scoping plan, CalRecycle is required to evaluate the feasibility of discouraging the litter or improper disposal of single-use packaging, products, or other materials likely to harm the environment or public health; and establish labeling requirements that would help consumers adequately sort and recycle the end of life products.

9) Committee amendments. The committee may wish to amend the bill as follows:

   a) Require CalRecycle to report to the Legislature every two years its progress in implementing the Act.
   b) Instead of requiring CalRecycle to avoid incentivizing *regrettable substitutions* when establishing the source reduction measures, CalRecycle should be required to avoid incentivizing substitutions that may have a more substantial negative impact on the environment.

10) Technical amendments. The committee may wish to make the following technical amendments to the bill:
   a) On page 6, lines 32 – 35, specify that the 75% reduction is to achieved by single-use packaging and priority single-use plastic products, each.
   b) On page 8, line 39, after "sold" insert "or distributed" to clarify what covered entities are to report the required information for packaging and products that are sold or distributed into the state.
   c) On Page 10, line 22, specify that CalRecycle provides technical assistance and outreach to help entities achieve the requirements of the alternative methods.

Related/Prior Legislation

SB 54 (Allen) is identical to this bill and has been referred to the Assembly Natural Resources Committee.

SB 1335 (Allen, Chapter 610, Statutes of 2018) prohibits a state food service facility from dispensing prepared food using type of food service packaging unless the packaging is on a specified list maintained by CalRecycle and has been determined to be reusable, recyclable, or compostable.

AB 2921 (Low, 2017) would enact the Expanded Polystyrene Food Service Packaging Recovery and Recycling Act, which would create an extended producer responsibility program for expanded polystyrene food service packaging manufacturers and polystyrene resin producers. AB 2921 was held in the Assembly Committee on Natural Resources.

SB 705 (Dodd, 2017) would have banned certain food providers, by January 1, 2020, and all food vendors by January 1, 2022, from dispensing prepared food in expanded polystyrene food service containers. SB 705 proposed to authorize a city or county to grant exemptions to this prohibition due to economic hardship and to authorize a city or county to impose civil liability if an entity knowingly violated the prohibition. SB 705 failed on the Senate floor.

SOURCE: Author

SUPPORT:

350 Bay Area Action
350 Sacramento
350 Silicon Valley
The 5 Gyres Institute
Algalita Marine Research And Education
Alvarado Street Brewery
American Sustainable Business Council
Anna Kauffman, Inc.
As You Sow
Audubon California
Azul
Ban Single Use Plastic (SUP)
Bay Area Physicians for Social Responsibility
Blue Plate
Bon Appetit Management Company
Breast Cancer Prevention Partners
Brent Allen Outside
Bren School of Environmental Science & Management, University of California, Santa Barbara
California Association of Environmental Health Administrators
California Coastal Commission
California Coastal Protection Network
California Coastkeeper Alliance
California Compost Coalition
California Interfaith Power & Light

California League Of Conservation Voters
California Product Stewardship Council
California Releaf
California Resource Recovery Association
California State Association of Counties
California State Parks Foundation
California Teamsters Public Affairs Council
Californians Against Waste
CALPIRG, California Public Interest Research Group
Center For Biological Diversity
Center For Climate Change And Health
Center For Environmental Health
Center for Marine Biodiversity and Conservation, Scripps Institution of Oceanography
Center For Oceanic Awareness, Research, And Education
Chicobag Company/To-Go Ware
Cigarette Butt Pollution Project
City of Alameda
City Of Arcata
City Of Cloverdale
City Of Concord
City Of Dana Point
City Of Danville
City Of Dana Point
City Of Del Mar
City Of El Cerrito
City Of Half Moon Bay
City Of Hesperia
City Of Imperial Beach
City Of Inglewood
City Of Lakeport
City Of Livermore
City Of Orinda
City of Long Beach
City Of Placentia
City Of San Diego
City Of San Luis Obispo
City of San Diego
City Of Santa Monica
City Of Thousand Oaks
Clean Water Action
Coastodian
Colorado Medical Waste, Inc.
Communications Workers of America District 9, AFL-CIO

Communications4Good
Communitas Financial Planning
Communities For Sustainable Monterey County
Community Environmental Council
Conscious Container
Defenders Of Wildlife
Democrats of Pasadena Foothills
Department of Ecology and Evolutionary Biology, University of Toronto, St. George
Dillon Beach Resort
Distance Learning Consulting
Dr. Bronner's
East Yard Communities For Environmental Justice
Dynamics of Inclusive Prosperity Initiative, Erasmus University, Rotterdam
Earthjustice
Eco Imprints
Ecology Center, Berkeley
Environment California
Environmental Defense Center
Environmental Justice Coalition For Water
Environmental Working Group
Eco-pliant
Environmental Health Department of Calaveras County
Feminists in Action Los Angeles
Friends Committee On Legislation Of California
Friends Of The Earth U.S.
Friends Of The LA River
Full Circle Environmental, Inc.
GAIA
Global Eclipse
GoodLight Natural Candles
Green Retirement, Inc.
Green Valley Community Farm
Greenpeace USA
Guitarfish Music Festival
Harley Laguna Beach
Heal The Bay
Heirs To Our Oceans
Indivisible Alta-Pasadena
Indivisible California Green Team
Indivisible Eagle Rock
Indivisible Media City-Burbank
Indivisible Ventura

Inland Empire Disposal Association
Inland Ocean Coalition
Joshua Tree Music Festival
Institute for Integrated Research in Materials, Environments and Society, California State University, Long Beach
Kasperorganics
Kite Music Productions/Flying Kite Motion Pictures
La Cooperativa Campesina De California
LA Hauler
Leadership & Strategy for Sustainable Systems
League of California Cities
League Of Women Voters Of California
League To Save Lake Tahoe
Long Beach Environmental Alliance
Long Beach Gray Panthers
Los Angeles Waterkeeper
Lutheran Office Of Public Policy, California
Lydia's Kind Foods, Inc.
Los Angeles Alliance for a New Economy (LAANE)
Latinos In Action
Los Angeles City Council
Los Angeles County Board of Supervisors, Faith Conley
MD Global
Moneyvoice
Microbiology and Environmental Toxicology Department, University of California, Santa Cruz
Monterey Bay Aquarium
Monterey Regional Waste Management District
Napa Recycling and Waste Services
National Parks Conservation Association
National Stewardship Action Council
Natural Resources Defense Council
Northcoast Environmental Center
Ocean Analytics
Ocean Conservancy
Oceana
Outdoor Outreach
Owl Post Calligraphy
Pacific Forest Trust
Pacoima Beautiful
Penn State Behrend
Pharmacists Planning Services, Inc.
Physicians for Social Responsibility, Los Angeles
Pier 23 Cafe Restaurant & Bar

Plastic Pollution Coalition
Ponce's Mexican Restaurant
Project Coyote
R3 Consulting Group, Inc.
Recology
Refill Madness, LLC
Republic Services - Western Region
Repurpose
ReThink Waste
Robin's Restaurants
Rooted In Resistance
Rural County Representatives Of California
San Diego 350
San Francisco Bay Keeper
San Francisco Department Of The Environment
San Francisco Wildlife Rescue and Yggdrasil Urban Wildlife Rescue of Oakland
Save Our Shores
Save the Bay
Sea Hugger
SEIU California
Seventh Generation Advisors
Shafir Environmental
Shark Lock Bags
Tataki Restaurant Group
SIC Productions, Inc.
Sierra Club California
Sierra Leadership
Smart Planet Technologies
SoCal 350
St. Francis Center
Steelys Drinkware
Stopwaste (ACWMA)
Surfrider Foundation
Sustain LA
Sustainable Coastlines Hawaii
Sustainable Environment Management Co.
Symbiosis Gathering
TDC Environmental, LLC
Teamsters Local Union No. 396
The 5 Gyres Institute
The Last Plastic Straw
The Little Chihuahua Mexican Restaurants
The Nature Conservancy
The River Project

The Story Of Stuff Project
The Trust For Public Land
The Watershed Project
Tomra Systems ASA
Tonic Nightlife Group
Tree People
Tri-CED Community Recycling
Turtle Island Restoration Network
UPSTREAM
Valley Improvement Projects
Waste Busters, Inc.
Wholly H2O
WILDCOAST
Wishtoyo Chumash Foundation
Women's Voices For The Earth
Zero Waste Sonoma
Zero Waste USA
135 Individuals

OPPOSITION:

Agricultural Council of California
American Bakers Association
American Beverage Association
American Chemistry Council
American Cleaning Institute
American Fuel & Petrochemical Manufacturers
AMERIPEN
Association of Home Appliance Manufacturers
California Association of Wine Grape Growers
California Chamber of Commerce
California Food Producers
California Grocers Association
California Manufacturers & Technology Association
California Restaurant Association
California Retailers Association
Center for Baby and Adult Hygiene Products
Chemical Industry Council of California
Chino Valley Chamber of Commerce
CompTIA
Consumer Healthcare Products Association
Consumer Technology Association

Council for Responsible Nutrition
Distilled Spirits Council
EPS Industry Alliance
Flexible Packaging Association
Foodservice Packaging Institute
Greater Coachella Valley Chamber of Commerce
Greater Ontario Business Council
Grocery Manufacturers Association
Grocery Manufacturers Association
Hesperia Chamber of Commerce
Household & Commercial Products Association
INDA – Association of the Nonwoven Fabrics Industry
Inland Empire Economic Partnership
International Bottled Water Association
ISSA—The Worldwide Cleaning Industry Association
Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force
Moreno Valley Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
National Aerosol Association
National Confectioners Association
National Electrical Manufacturers Association
National Marine Manufacturers Association
Personal Care Products Council
Plastic Shipping Container Institute
Plastics Industry Association
Plumbing Manufacturers International
Rancho Cucamonga Chamber of Commerce
Redlands Chamber of Commerce
SNAC International
Southwest California Legislative Council
Styrene Information & Research Center
TechNet
The Toy Association
Victor Valley Chamber of Commerce
Western Aerosol Information Bureau, Inc.
Western Plastics Association
Western States Petroleum Association
Wine Institute

ARGUMENTS IN SUPPORT: According to a coalition letter, which included entities such as Natural Resources Defense Council, Sierra Club California, and SEIU California, "Though the state and communities in California have been focusing efforts on reducing the burden from single-use packaging since the 1980s, these items are consistently the most littered. Moreover, taxpayers and local governments spend over $420 million annually in ongoing efforts to clean up and prevent litter in streets, storm drains, parks and waterways. Not only is cleanup expensive, but it cannot keep pace with the production of single-use disposable items which continues to grow exponentially.

"Existing recycling infrastructure can't keep pace either. Less than 9 percent of plastic is recycled, and that percentage has been dropping since the implementation of China's National Sword policy, which severely restricts the amount of foreign waste China accepts. The cost of recycling exceeds the scrap value of the plastic material so the markets for plastic packaging that were previously considered recyclable have been lost. These materials are not either piling up in recycling centers, being landfilled, or sent to illegal facilities in Southeast Asia where they are being incinerated or illegally dumped. California must close the loop, and as part of a shift towards a more circular economy, the bills also develop incentives and policies to encourage in-state manufacturing using recycled material generated in California."

ARGUMENTS IN OPPOSITION: According to the Southwest California Legislative Council, "AB 1080 mandates industry-wide recycling rates for single-use plastic packaging and goods sold in California without articulating a mechanism for how companies would comply. Under the plain language of the bill, companies would have to track their individual products through the entire waste stream in order to demonstrate that their products are recycled at a rate of 75% over a three-year rolling period. Simply put, tracking individual products from cradle to grave would be a logistical nightmare – if not impossible – and would substantially increase the cost of goods. Moreover, even if a company could track its own products, companies have no way of forcing their customers to actually recycle those products. In other words, recycling rate mandates on individual manufacturers do not change consumer behavior. AB 1080 will substantially increase the costs on manufacturers and punish them if they fall short of the mandated recycling rate due to consumer behavior for which they have no control.

"Moreover, AB 1080 ignores a critical participant in California's pollution problem – the consumer. While we appreciate the recent amendments attempting to clarify the scope of the bill, it is not clear why "priority single-use plastic products" should be defined as the 10 single-use plastic products that are the most

littered in California. Whether a product is recyclable or compostable has little bearing on whether a consumer disposes of the product properly – a problem which the bill is entirely silent on. Consumer education should be a critical component of any recycling program."

-- END --

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 1328		
Author:	Holden		
Version:	6/13/2019	**Hearing Date:**	7/3/19
Urgency:	No	**Fiscal:**	Yes
Consultant:	Eric Walters		

SUBJECT: Oil and gas: notice of intention to abandon well: study of fugitive emissions from idle, idle-deserted, and abandoned wells

DIGEST: This bill tasks the Division of Oil, Gas, and Geothermal Resources (DOGGR), in consultation with the State Air Resources Board (ARB), to study idle, idle-deserted, and abandoned wells in California to better understand their emissions; makes stipulations regarding the scope and execution of that study; and increases the time permitted between announcing the intent to abandon a well and cancellation of that announcement from 12 to 24 months.

ANALYSIS:

Existing law:

1) Establishes the Division of Oil, Gas, and Geothermal Resources (DOGGR) in the Department on Conservation as the state's oil and gas well regulator, under the leadership of the State Oil and Gas Supervisor (supervisor). (Public Resources Code (PRC) §3000 et seq.)

2) Establishes the Air Resources Board (ARB) as the air pollution control agency in California and requires ARB, among other things, to control emissions from a wide array of mobile sources and coordinate, encourage, and review the efforts of all levels of government as they affect air quality. (Health and Safety Code (HSC) §39500 et seq.)

3) States that the supervisor shall supervise the drilling, operation, maintenance, and abandonment of wells so as to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy, and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances. (PRC §3106)

4) Requires the operator of any idle well to (1) pay an annual fee which increases over the duration of the well being left idle, (2) file a plan to manage and eliminate long-term idle wells, and (3) develop and comply with the management plan. (PRC §3206)

5) Defines a properly abandoned well as one where it has been shown, to the satisfaction of the supervisor, that all proper steps have been taken to isolate all oil-bearing or gas-bearing strata encountered in the well, and to protect underground or surface water suitable for irrigation or farm or domestic purposes from the infiltration or addition of any detrimental substance and to prevent subsequent damage to life, health, property, and other resources. (PRC §3208)

6) Allows, in the case of deserted wells, for the supervisor to order the plugging and abandonment of a well whether or not damage is occurring or threatened. (PRC §3237)

7) Establishes greenhouse gas (GHG) emission standards for crude oil and natural gas facilities, which require regulated entities to take actions to limit intentional (vented) and unintentional (leaked or fugitive) emissions from equipment and operations. (17 CCR §95665 et seq.)

8) Requires ARB to implement a comprehensive strategy to reduce emissions of short-lived climate pollutants to achieve a reduction in methane by 40%, among other pollutants. (HSC §39730 et seq.)

9) Requires ARB to establish Community Emissions Reductions Programs for the purposes of reducing emissions of toxic air contaminants and criteria air pollutants, as specified. (HSC §44391.2)

This bill:

1) Makes findings and declarations regarding the concerns and goals California has regarding idle wells, specifically their impacts on air pollution.

2) Tasks DOGGR, in consultation with ARB, to study idle, idle-deserted, and abandoned wells in California to better understand their emissions.

3) Makes specifications regarding the above study, including:

a) The permitted scope of the study, including maximum number of wells (500), cost of the study, and qualifications of experts to be consulted.

b) A requirement that DOGGR minimize costs and interruptions to well operations in the course of the study.

c) That all testing results be posted on the Department of Conservation's website, followed by an executive summary written by the independent experts who conduct the study.

4) States that if, in the course of the above study, a leaking well is found it will be further measured, as specified, before being plugged.

5) Requires well operators make reasonable efforts to permit access to the wells for the study, and dictates that operators shall not take any actions within 72 hours before measurements being taken to alter the readings.

6) Increases the time between when a well abandonment is proposed to when that notice is deemed cancelled if not acted upon from 12 to 24 months.

Background

1) *Idle and plugged wells in California.* As the fourth largest producer of oil in the nation, California is home to approximately 250,000 oil and gas wells. This figure includes approximately 30,000 idle wells, many of which have been idle for over fifteen years and are at risk for desertion. Costs associated with plugging and abandoning of deserted wells and decommissioning the deserted facilities attendant to oil and gas production can be significant. For example, DOGGR plugged and abandoned two wells in the Echo Park neighborhood of Los Angeles at a cost of over $1 million. Deserted and orphaned wells represent a liability to the state, and it is important that DOGGR better understand the scope of that liability and steps that could be taken to mitigate that liability from escalating even further.

   Even among wells that have been plugged, wells plugged prior to 1953 are not considered effective by industry standards. Prior to 1950, wells either were orphaned or plugged and abandoned with very little cement. Plugging was focused on protecting the oil reservoirs from rain infiltration rather than to confine oil, gas and water in the strata in which they are found and prevent them from escaping into other strata. Of the wells with drilling dates in the regulatory data, 30% are listed as having been drilled prior to the use of cement in well plugging.

With a total of over 245,000 wells in the state database, and considering the lack of monitoring prior to 1950, some estimates predict there are over 80,000 improperly plugged and unplugged wells in California.

2) *Environmental impacts of improperly plugged wells.* Studies by Kang et al. 2014, Kang et al 2016, Boothroyd et al 2016, and Townsend-Small et al. 2016 have all measured methane emissions from abandoned wells. Both properly plugged and improperly abandoned wells have been shown to leak methane and other VOCs to the atmosphere as well as into the surrounding groundwater, soil, and surface waters. Leaks were shown to begin just 10 years after operators plugged the wells.

   In a 2014 report, the U.S. Geological Service warned the California State Water Resources Control Board that the integrity of abandoned wells is a serious threat to groundwater sources, stating, "Even a small percentage of compromised well bores could correspond to a large number of transport pathways."

Comments

1) *Purpose of Bill.* According to the author, "Pursuant to recent legislation AB 2729 (Williams, Chapter 272, Statutes of 2016), and SB724 (Lara, Chapter 652, Statutes of 2017), California is embarking on an ambitious effort to reduce the number of non-operating idle and abandoned oil and gas wells in the state. This effort involves new standards that require operators to create plans to reduce the number of these wells under their control. In addition, DOGGR is remediating abandoned and hazardous oil and gas wells, wells where no owner can be identified. In addition, ARB passed a regulation in March 2017 to improve management of oil and gas production sites in California. This regulation requires quarterly inspection of active and idle oil and gas production sites.

   "Currently there exist no requirements for operators or DOGGR to test for emissions of greenhouse gases and other air pollutants from wells being remediated.

   "Some peer-reviewed research is available on the amount of emissions from idle and abandoned wells, but current research is limited at best – meaning California is unable to accurately quantify the public health, air quality and climate benefits from its remediation actions. Furthermore, the state continues

to lack data on the types and locations of wells that represent the most emissions and thus prioritize these wells to be plugged first.

"AB 1328 would make potential emissions data from idle wells publically available- creating a body of information that is important to knowing the size and scope of the emissions from idle and deserted wells. Information collected under AB 1328 can be used to create a better understanding of the emissions from California's oil and gas wells."

2) *Known unknowns in air quality.* It is well known that short and long-term exposure to air pollutants can contribute to negative health outcomes, including asthma, cardiovascular disease, and in some cases, cancer. Limited information exists, however, on how oil and gas extraction facilities affect air quality in neighboring communities.

   While ARB programs such as The Study of Neighborhood Air near Petroleum Sources (SNAPS) program were established to help fill the gap using a focused community-level approach, these are focused on active production sites.

   The pollutants released by oil and gas operations include methane, VOCs, metals, and other criteria pollutants. Methane in particular has recently been found in other contexts to be severely underestimated. For example, ammonia fertilizer plants were found in a Cornell & Environmental Defense Fund study to emit 100 times greater amounts of methane than their self-reported estimates. Methane is a shorter-lived, but considerably more-warming GHG than carbon dioxide, and has a severe impact on atmospheric warming.

   Given the likelihood that methane emissions from idle and abandoned wells may be higher than estimated, as well as that other air pollutants are likely impacting many fenceline communities, the committee may wish to consider supporting this measure to better understand the emissions associated with idle, idle-deserted, and abandoned wells.

Related/Prior Legislation

AB 3146 (Holden, 2018) would have required operators and the division to test certain oil and gas wells for emissions, as specified. *This bill failed passage on the Assembly floor.*

AB 2729 (Williams, Chapter 272, Statutes of 2016) revised idle well requirements, and required individual indemnity bonds for oil and gas wells – or a blanket bond

for multiple wells, as specified – remain in place so long as the well is not properly plugged and abandoned.

SB 724 (Lara), Chapter 652, Statutes of 2017 revised DOGGR's processes for addressing hazardous and deserted wells and facilities, and temporarily increased the annual cap on expenditures for plugging and abandoning wells to $3 million.

DOUBLE REFERRAL:

This measure was heard in Senate Natural Resources & Water Committee on June 25th, 2019, and passed out of committee with a vote of 7-1.

SOURCE: Environmental Defense Fund

SUPPORT:

Clean Water Action
Coalition for Clean Air
Environmental Defense Fund
Grassroots Coalition
Natural Resources Defense Council
Sierra Club California

OPPOSITION:

None received

-- END --

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 1357		
Author:	Quirk		
Version:	2/22/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Gabrielle Meindl		

SUBJECT: Department of Toxic Substances Control: public meetings

DIGEST: Requires the Department of Toxic Substances Control (DTSC) to hold at least four public meetings each year and present on recent and upcoming decisions or actions relating to permitted hazardous waste facilities and cleanup sites.

ANALYSIS:

Existing law:

1) Authorizes DTSC to issue permits for the use and operation of one or more hazardous waste management units at a facility that meets the standards adopted pursuant to the Hazardous Waste Control Law (HWCL). (Health and Safety Code (HSC) § 25200 (a))

2) Requires DTSC to impose conditions on each permit specifying the types of hazardous wastes that may be accepted for transfer, storage, treatment, or disposal. (HSC § 25200 (a))

3) Establishes, pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act (HSAA), a program to provide for response authority for releases of hazardous substances, including spills and hazardous waste disposal sites that pose a threat to the public health or the environment. (HSC § 25300 et seq.)

4) Creates, under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a Federal "Superfund" to clean up uncontrolled or abandoned hazardous waste sites, as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Provides the United States Environmental Protection Agency (US EPA) with the authority to seek out those parties responsible for any release and assure their cooperation in the cleanup. (42 United States Code (U.S.C.) § 9601 et seq.)

This bill:

1) Requires DTSC to hold at least four public meetings each year and present on recent and upcoming decisions or actions relating to permitted hazardous waste facilities, hazardous waste cleanup sites, and enforcement.

2) Requires the DTSC director or his or her designee to be present and run the meetings. Specifies that the department provide time at each meeting for public testimony.

Background

1) DTSC Hazardous Waste Management. DTSC is responsible for protecting public health and the environment by overseeing the state's response to releases of hazardous substances and disposal of hazardous waste. DTSC investigates, removes and remediates contamination as part of that mission. The Hazardous Waste Management Program is one of DTSC's four major divisions.

This program is responsible for issuing permit decisions for proposed new hazardous waste facilities and the approximately 120 existing hazardous waste facilities in California that treat, store, and dispose of hazardous waste. The program's staff conducts inspections and takes enforcement actions to ensure compliance with hazardous waste laws and regulations. This program oversees the hazardous waste generator program. In addition, it provides hazardous waste management-related policy support, regulatory and statutory interpretation, financial assurance, and data management support for internal and external stakeholders. The program also provides emergency response support for hazardous materials-related emergencies throughout California.

2) Recent criticism of DTSC. Over the past decade or so, DTSC has received complaints from the public about its permitting program and held meetings with the public, the regulated community, and stakeholders to identify and understand concerns about its permitting program. Community groups that live near hazardous waste facilities are concerned that DTSC is not properly enforcing state and federal law and allowing facilities to operate with an expired permit or have numerous violations of state law and regulation. Additionally, the regulated community is concerned about the length of time it takes DTSC to process a permit, with processing a permit extending years beyond the expiration date of their permit, as well as the costs associated with processing a permit.

Currently, the only time the public is involved in the permit process is when there is a draft permit decision released by DTSC. If a permit application takes 10 years to review, that means it could have been 20 years since the public has been provided information about the permit for the hazardous waste facility in their community. For example, the permit for the facility Phibro-Tech located in Santa Fe Springs was issued in 1991 and expired in 1996, a permit decision has not yet been made, and the last public meeting regarding the permit was over 23 years ago.

3) *Legislative Oversight*: Specific incidents across California have exposed and continue to expose glaring failings in DTSC's implementation of its core programs as well as its support programs. The mishandling of the hazardous waste facility permitting and enforcement of the Exide and the Quemetco battery recycling facilities; neglected cost recovery efforts for cleanups across the state leading to an accumulation of 1,661 projects totaling almost $194 million in uncollected cleanup costs dating back 26 years; a growing backlog of applications to renew hazardous waste permits; delayed site remediation; failed public participation and transparency activities; and, personnel issues have all led to decreased stakeholder confidence and public trust in DTSC's ability to meet its mandate to protect public health and the environment.

   Over the last five years, the Legislature has conducted numerous hearings on DTSC's internal controls, its business practices, and its basic statutory obligations. In those hearings, the budget and policy committees have evaluated the following four main areas: (1) reviewing and monitoring the department's strategic plan and reorganization; (2) auditing cost recovery at the department; (3) providing staffing to improve permit backlogs and business operations; and, (4) improving enforcement at the department.

   Numerous statutory changes have been made to clarify and strengthen DTSC's statutes to help DTSC better achieve its mandates, and budget augmentations have been made to give DTSC resources to reduce backlogs and address outstanding programmatic failings. However, many of the underlying concerns about transparency, accountability, and long-term stability of DTSC programs remain.

4) *DTSC Independent Review Panel (IRP):* In 2015, the Legislature passed and the Governor signed SB 83 (Budget Committee, Chapter 24, Statutes of 2015), which established within DTSC a three-member IRP to review and make recommendations regarding improvements to DTSC's permitting, enforcement, public outreach, and fiscal management. The statute stipulates that IRP membership shall be comprised of a community representative, a person with

scientific experience related to toxic materials, and a local government management expert. Pursuant to SB 83, the IRP was authorized until January 1, 2018. Over the course of its term, the IRP conducted 24 public meetings and released 11 progress and annual reports. On January 8, 2018 the IRP released its final report and recommendations concluding: "The Department has implemented, or is working on, most of the IRP's recommendations and has achieved, or partially achieved, many of the IRP's suggested performance metrics. However, there is more work to be done. In the absence of the IRP, the Governor and the Legislature should consider a DTSC governing board or other structural change to enhance transparency and accountability and regularly monitor the status of the IRP-suggested recommendations and performance metrics, as well as DTSC's ongoing initiatives and decision-making."

AB 1357 builds upon the oversight work done by the Legislature by bringing some transparency to DTSC's decision-making process. Holding public meetings to discuss regulatory work, the status of cleanup sites, or why a permit decision has been delayed for a decade or longer will at least provide stakeholders with access to information they otherwise would not have.

Comments

1) *Purpose of Bill.* According to the author, "Over the last five years the Legislature has held numerous oversight hearings over DTSC and one of the most common criticisms of DTSC is that there is not any transparency in DTSC's decision-making process. AB 1357 solves this problem by requiring DTSC to hold public meetings at least four times a year and provide public updates, including decisions on permits, cleanup sites, enforcement actions and regulations."

Related/Prior Legislation

AB 2094 (Kalra, 2018) Hazardous waste facilities: inspections. Would have required DTSC to, on or before January 1, 2021, adopt regulations establishing inspection frequencies for permitted hazardous waste treatment, storage, and disposal facilities; hazardous waste generators; and, transporters. This bill was held in the Senate Appropriations Committee.

AB 2345 (Reyes, 2018) Hazardous waste: facilities: permits. As it was heard before the ESTM Committee, would have made statutory changes to improve the

process for the permitting of hazardous waste facilities. This bill was later amended to require the California Energy Commission to require each large electrical corporation to establish a tariff or tariffs that provide for bill credits for electricity generated by eligible renewable generating facilities and exported to the electrical grid. This bill was held in Senate the Rules Committee.

AB 2606 (Fong, 2018) Hazardous waste: facilities: permits: renewals. Would have required DTSC to process a hazardous waste facility renewal permit in an expedited manner if DTSC determines certain conditions apply. This bill was held in the Senate Appropriations Committee.

AB 248 (Reyes, 2017) Hazardous waste: facilities: permits. Would have made statutory changes to improve the permitting process for hazardous waste facilities. This bill was vetoed by the Governor.

AB 1179 (Kalra, 2017) Hazardous waste facilities: inspections. Would have required DTSC to, on or before January 1, 2020, adopt regulations establishing inspection frequencies for permitted hazardous waste treatment, storage, and disposal facilities, and for hazardous waste generators and transporters. This bill was vetoed by the Governor.

SB 774 (Leyva, 2017) Hazardous substances: California Toxic Substances Board. As it was heard before the ESTM Committee, would have created the California Toxic Substances Board within DTSC to provide oversight of California's hazardous waste management and the remediation of contaminated sites. This bill was later amended to require the California State University Trustees to oversee a competitive process to award funds to the Wildland and Wildland Urban Interface Wildfire Research Grant Program and appropriate $5 million from the General Fund to the Trustees in order to oversee the program. This bill was vetoed by the Governor.

SB 812 (De León, 2014) Hazardous waste. Would have modified the permitting process and public participation requirements for hazardous waste facilities. Would have established a Bureau of Internal Affairs to oversee DTSC and investigate departmental misconduct and a DTSC Citizen Oversight Committee to receive and review allegations of misconduct. This bill was vetoed by the Governor.

SOURCE: Author

SUPPORT:

None received

OPPOSITION:

None received

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 1500		
Author:	Carrillo		
Version:	6/21/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Gabrielle Meindl		

SUBJECT: Hazardous substances

DIGEST: This bill authorizes a Unified Program Agency (UPA) to temporarily suspend a facilities permit, including shutting down a facility, if conditions at the facility pose an imminent or substantial threat to public health and safety. Authorizes a local health officer to take necessary protective action to protect public health and safety from specified releases of hazardous substances that pose an imminent or substantial endangerment to the public, in accordance with prescribed due process.

ANALYSIS:

Existing law:

1) Authorizes the Department of Toxic Substances Control (DTSC) to temporarily suspend any permit, registration, or certificate issued by DTSC prior to any hearing if DTSC determines that conditions may present an imminent and substantial endangerment to the public health or safety or the environment. (Health and Safety Code (HSC) § 25186.2)

2) Defines "Certified Unified Program Agency" or "CUPA" as the agency certified by the Secretary of the California Environmental Protection Agency (CalEPA) to implement the unified program within a jurisdiction. (HSC § 25404 (a)(1)(A))

3) Defines "Unified Program Agency" or "UPA" as the CUPA to implement or enforce a particular Unified Program element. The UPAs have the responsibility and authority to implement and enforce the unified program requirements and the regulations adopted to implement those. (HSC § 25404 (a)(1)(C))

4) Defines a "unified program facility permit" as a permit issued pursuant to the unified program. (HSC § 25404 (a)(6))

5) Requires the Secretary of CalEPA to adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, which shall be known as the unified program. (HSC § 25404 (b)

6) Authorizes the Director of Public Health (Director) to declare a health emergency or local health officer to declare a local health emergency in the jurisdiction or any area thereof affected by the threat to the public health, if a release, spill, escape, or entry of waste occurs and the Director or the local health officer reasonably determines that the waste is a hazardous waste or medical waste, or that it may become a hazardous waste or medical waste because of a combination or reaction with other substances or materials, and the Director or local health officer reasonably determines that the release or escape is an immediate threat to the public health, or whenever there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent. (HSC § 101080)

7) Requires each County Board of Supervisors to appoint a county health officer. (HSC §101000)

This bill:

1) Authorizes the UPA to withhold issuance of the permit if a permittee does not comply with a written notice from the UPA to make specified payments by the required date, in addition to suspending or revoking the permit or permit element.

2) Requires a unified program facility, if it does not have a valid permit or the permit is suspended or revoked, to immediately discontinue operating that facility until the permit is issued, reinstated, or reissued. Specifies that these provisions do not apply if the owner or operator of a facility timely submitted an application for a unified program facility permit, or for renewal of such permit, and the facility is in compliance, but has not yet received a permit, or a renewed permit, from the UPA.

3) Authorizes a UPA to suspend, revoke, or withhold issuance of a unified program facility permit if conditions exist at the facility that the UPA determines an imminent or substantial endangerment to public health, safety, or the environment.

4) Requires the unified program facility to immediately discontinue operating that facility or function of the facility to which the permit applies until the endangerment is abated and the permit is issued, reinstated, or reissued.

5) Authorizes a UPA to suspend, revoke, or withhold issuance of any unified program facility if the permittee of facility, or owner or operator, fails to take appropriate action to abate the threat.

6) Requires the UPAs to develop specific criteria or factors to be taken into consideration before a release of a hazardous substance may be found to present an imminent or substantial endangerment to public health, safety, or the environment. Stipulates that the process convened by the UPAs to develop such criteria be open to interested members of the public, any draft criteria be made available to all interested stakeholders for review and comment, and that final criteria and factors selected by the UPAs be posted online.

7) Requires that any action taken by a UPA be consistent with the findings developed above and be supported by written findings. Specifies that any order issued pursuant to these provisions, except administrative penalties, shall take effect upon the issuance of the specified criteria by the UPA.

8) Specifies that these provisions do not restrict or limit in any way the authority of an air district.

9) Requires the owner or operator of a unified program facility to be liable for a civil or administrative penalty of not less than $500 or more than $5,000 per day for failure to obtain or keep a permit as required pursuant to the provisions governing the unified program. Specifies that these penalties do not apply to the owner or operator of a facility who timely submitted an application for a unified program facility permit, or for renewal of such permit, and that facility is in compliance, but has not yet received a permit, or a renewed permit, from the UPA.

10) Specifies that the provisions authorizing a UPA to issue an administrative enforcement order, withhold issuance, suspend or revoke a permit do not prevent the UPA from issuing an administrative enforcement order for the release of a hazardous substance, as defined, for any violation of specified provisions relating to, among other things, business and area plans and risk management plans.

11) Requires the reporting of the release or threatened release to the UPA and OES as provided.

12) Requires the handler, employee, authorized representative, agent, or their designee to provide the state, city, or county fire or public health or safety personnel and emergency response personnel with access to the handler's facility if there is a release or threatened release at the facility.

13) Authorizes the director or local health officer to take specified actions, without declaring a local public health emergency, if a release, spill, escape, or entry of hazardous waste or of a hazardous substance occurs, which the director or local health officer reasonably determines poses an imminent or substantial endangerment to public health due to specified factors. Requires that such actions be taken in consultation with certain state or local regulatory agencies, to protect the health and safety of the public, including, among others, issuing an order to the responsible party to immediately suspend or discontinue the activity causing or contributing to the release, spill, escape, or entry of the hazardous waste or hazardous substance.

14) Requires a responsible party to be liable for the costs incurred by the local health officer pursuant to these provisions.

Background

1) *Certified Unified Program Agencies (CUPAs).* The Secretary of the CalEPA oversees the "unified hazardous waste and hazardous materials management" regulatory program (Unified Program). Currently, there are 81 CUPAs in California. The Unified Program coordinates the following six existing programs:
   a) Hazardous Materials Release Response Plans and Inventories (Business Plans);
   b) California Accidental Release Prevention (CalARP) Program;
   c) Underground Storage Tank Program (USTP);
   d) Aboveground Petroleum Storage Act (APSA);
   e) Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs; and,
   f) California Uniform Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements.

   State agencies involved in the implementation of the Unified Program are responsible for setting program element standards, working with CalEPA to ensure program consistency, and providing technical assistance to the CUPAs. The following state agencies are involved with the Unified Program:

a) CalEPA: The Secretary of the CalEPA is directly responsible for coordinating and evaluating the administration of the Unified Program and certifying UPAs. CUPAs are accountable for carrying out responsibilities previously handled by approximately 1,300 different state and local agencies.
b) Governor's Office of Emergency Services (OES): The OES evaluates and provides technical assistance for the Hazardous Material Release Response Plan (Business Plan) and the Area Plans for Hazardous Materials Emergencies.
c) Office of the State Fire Marshal (Office): The Office evaluates and provides technical assistance for the APSA Program.
d) State Water Resources Control Board (State Water Board): The State Water Board evaluates and provides technical assistance for the USTP under the USTA.
e) Department of Toxic Substances Control (DTSC): The Department of Toxic Substances Control evaluates and provides technical assistance for the Hazardous Waste Generator Program, including Onsite Treatment (Tiered Permitting).

Hazardous Materials Business Plan (Business Plan) program: The Business Plan program was enacted in 1986. Its purpose is to prevent or minimize the damage to public health and safety and the environment from a release or threatened release of hazardous materials. It also satisfies community right-to-know laws. This is accomplished by requiring businesses that handle hazardous materials to inventory their hazardous materials, develop a site map, develop an emergency plan, and implement a training program for employees.

California Accidental Release Prevention (CalARP) program: CalARP was implemented on January 1, 1997 and replaced the California Risk Management and Prevention Program (RMPP). The purpose of the CalARP program is to prevent accidental releases of substances that can cause serious harm to the public and the environment, to minimize the damage if releases do occur, and to satisfy community right-to-know laws. This is accomplished by requiring businesses that handle more than a threshold quantity of a regulated substance listed in the regulations to develop a risk management plan (RMP). An RMP is a detailed engineering analysis of the potential accident factors present at a business and the mitigation measures that can be implemented to reduce this accident potential. The RMP contains safety information, a hazard review, operating procedures, training requirements, maintenance requirements, compliance audits, and incident investigation procedures.

The CalARP program is implemented at the local government level by CUPAs and is designed so that the CUPAs work directly with the regulated businesses. The CUPAs determine the level of detail in the RMPs, review the RMPs, conduct facility inspections, and provide public access to most of the information. Confidential or trade secret information may be restricted.

Underground Storage Tank Program: The State Water Board has established regulations governing the prevention of leaks from USTs. There are standards and requirements for installation, tank construction, tank testing, leak detection, spill containment, and overfill protection. California USTA and regulations give local agencies (counties, cities, or other local agencies) authority throughout the state to issue permits for tank operation and to enforce tank testing requirements within their jurisdiction.

The purpose of the USTP is to protect public health and safety and the environment from releases of petroleum and other hazardous substances from tanks. Leaking underground storage tanks are a significant source of petroleum impacts to groundwater and may pose the following potential threats to health and safety: exposure from impacts to soil and/or groundwater, contamination of drinking water aquifers, contamination of public or private drinking water wells, and inhalation of vapors.

Aboveground Storage Tank Program: The Office is responsible for the implementation of the APSA program. APSA regulates facilities with aggregate aboveground petroleum storage capacities of 1,320 gallons or greater, which include aboveground storage containers or tanks with petroleum storage capacities of 55 gallons or greater. These facilities typically include large petroleum tank facilities, aboveground fuel tank stations, and vehicle repair shops with aboveground petroleum storage tanks. The APSA does not regulate non-petroleum products. Facilities with total petroleum storage quantities at or in exceedance of 10,000 gallons are inspected at least once every three years and have reporting and fee requirements, while facilities with petroleum storage quantities equal to or greater than 1,320 gallons but less than 10,000 gallons have reporting and fee requirements only.

Comments

1) *Purpose of Bill.* According to the author, "In California, multiple regulatory authorities have jurisdiction over businesses that handle or generate hazardous waste and materials that pose a risk to public health and safety. This includes, for example, the South Coast Air Quality Management District (SCAQMD)

and the California Department of Toxic Substances Control. Locally, a certified Unified Program Agency (CUPA) is responsible for implementing and enforcing hazardous materials and waste laws, and the Local Health Officer has general authority to protect the public's health and expanded authority in cases of a declared emergency.

"Currently, some facilities that emit hazardous substances that pose a substantial endangerment to public health and safety can continue to operate because they do not meet regulatory minimum standards to cease operations immediately.

"In August 2017, the SCAQMD air monitoring stations registered elevated levels of Chromium 6 emissions, a known carcinogen, in the City of Paramount. The SCAQMD determined that the elevated levels were high enough to cause long-term health risks, but since it did not pose an immediate risk to life and health, it did not direct the businesses to cease operations.

"Since Chromium 6 is one of a very few chemicals that is scientifically proven to cause human cancer, Los Angeles County's Local Health Officer issued several public health directives to metal working facilities in the City of Paramount. Additionally, Los Angeles County's CUPA, which is responsible for implementing and enforcing hazardous materials and waste laws, issued notices of violation to certain business that contributed to the high Chromium 6 levels.

"Despite this, neither the Local Health Officer nor the CUPA had the direct authority to direct the offending businesses to cease operations."

2) *Needed authority to protect the public from harmful hazardous releases.* UPAs regulate thousands of businesses and respond to a variety of urgent and emergency situations dealing with hazardous substances and chemicals that pose an immediate risk to human health and safety. UPAs have the authority to issue an administrative enforcement order to require businesses to comply with regulations, make corrective actions and quarantine waste, among other actions. However, UPAs do not have the enforcement authority to require businesses to immediately discontinue or close facilities or portions of facilities when that business operates outside the regulatory framework by failing to obtain, renew or pay for their unified program permits and even if they know the facility poses an imminent danger to public health and safety.

Current law only authorizes LHOs to take *any* preventive measure that may be necessary to protect the public from any health hazard during a declared state

of emergency. However, in the absence of a declared emergency, LHOs do not have the statutory authority to enforce public health directives against violators and require those violators to take immediate action to stop the release of hazardous substances that threaten public health. This is not aligned with LHOs current authority to immediately order a temporary closure of a restaurant for confirmed or even suspected case of food-borne illness or any other violation of restaurant codes that may put the public's health at risk.

AB 1500 provides UPAs and LHOs with authority similar to other agencies with similar responsibilities, such as DTSC. Absent this authority, an UPA or LHO would need to persuade a local district attorney to go to court to seek an injunction against the offending business, even while the dangerous conditions persist. This bill also contains a number of provisions to ensure due process, including: directing UPAs to establish uniform criteria to be taken into consideration before exercising this new authority; ensuring that those in process of applying for a UPA facility permit are not penalized; and requiring that actions taken by UPAs be supported by written findings. AB 1500 takes a reasonable approach to ensuring that public health is adequately protected.

Related/Prior Legislation

AB 1646 (Muratsuchi, Chapter 588, Statutes of 2017). Requires an implementing agency to, in coordination with local emergency management agencies, unified program agencies, local first response agencies, and the public, develop an integrated alerting and notification system to be used to notify the community surrounding a petroleum refinery in the event of an incident at the refinery.

AB 1689 (ESTM Committee, Chapter 159, Statutes of 2017). Adds combustible metals and metal alloys to the list of materials a business must include in its hazardous materials business plan.

AB 2902 (ESTM Committee, Chapter 721, Statutes of 2018). Makes technical changes to the Aboveground Petroleum Storage Tank Act, the Underground Storage Tank Act, and the Hazardous Materials Business Plan Program.

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Judiciary Committee.

SOURCE: California Association of Environmental Health Administrators
County of Los Angeles

SUPPORT:

California Fire Chiefs Association
California State Association of Counties
City of Torrance
Coalition for Clean Air
Congresswoman Grace Napolitano
County Health Executives Association of California (CHEAC)
Fire Districts Association of California
South Coast Air Quality Management District

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to California Association of Environmental Health Administrators, "This measure will: Close a gap in existing law which makes it unreasonably difficult for CUPAs to cause an unpermitted facility or a facility that has failed to pay its permit fee to cease and desist; Clarify that the CUPA may suspend, revoke or withhold issuance of a CUPA permit if any facility poses an imminent or substantial threat to public health, safety or the environment; and Authorizes a local health officer to take necessary protective action to protect public health and safety from specified releases of hazardous substances that pose an imminent or substantial endangerment to the public.

"While California has established a robust hazardous materials and waste regulatory system, we have experienced numerous incidences over the past decade that warrant this additional public health protection. These include releases of hexavalent chrome in Paramount and Long Beach; a large fire and magnesium releases in Maywood; releases from a chemical facility in Richmond."

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 1583		
Author:	Eggman		
Version:	5/20/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Genevieve M. Wong		

SUBJECT: The California Recycling Market Development Act

DIGEST: Establishes the California Recycling Market Development Act. Extends the sunset for the Recycling Market Development Zone Program and the California Alternative Energy and Advanced Transportation Financing Authority advanced manufacturing program by 10 years, to 2031.

ANALYSIS:

Existing law:

1) Establishes a state recycling goal of 75% of solid waste generated be diverted from landfill disposal by 2020 through source reduction, recycling, and composting (Public Resources Code (PRC) § 41780.01).

2) Requires that all rigid plastic bottles and rigid plastic containers sold in California be labeled with the resin code inside a triangle formed by three "chasing arrows" (PRC §18015). The resin codes are:

   a) 1 for polyethylene terephthalate (PET);
   b) 2 for high density polyethylene (HDPE);
   c) 3 for vinyl (V);
   d) 4 for low density polyethylene (LDPE);
   e) 5 for polypropylene (PP);
   f) 6 for polystyrene (PS); and,
   g) 7 for all other types of resins, including multilayer.

3) Establishes the Recycling Market Development Revolving Loan Program, administered by CalRecycle, to encourage California-based recycling businesses located within California financing businesses that prevent, reduce, or recycle recovered waste materials through value-added processing or manufacturing. Facilities must be located within a CalRecycle designated Recycled Market Development Zone (RMDZ) and use postconsumer or secondary recovered waste feedstock generated in California. Sunsets these

provisions July 1, 2021 (PRC §§42010, et. seq.).

4) Establishes the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) in the Office of State Treasurer, which provides financing through conduit or revenue bonds, loan guarantees, loan loss reserves, and a state and local sales and use tax exemption for facilities that use alternative energy sources and technologies or engage in advanced manufacturing (PRC §§26000, et. seq.).

5) Directs CAEATFA to administer a state and local sales and use tax exemption for renewable technology projects, including tangible personal property where at least 50% of its use is to process recycled feedstock intended to be reused in the production of another project, or using recycled feedstock in the production of another product or soil amendment, subject to an application and evaluation process, and board approval, and to administer a similar state and local sales and use tax for advanced manufacturing. Sunsets these provisions on January 1, 2021 (PRC §26011.8).

6) Allows CAEATFA to allocate exemptions to successful applicants for programs up to $100 million annually; however, CAEATFA must evaluate all applicants to determine whether the net environmental and economic benefits received by the state will outweigh forgone sales and use tax revenue, and can only allocate exemptions to projects that demonstrate such a benefit (PRC §26011.8(h), (i)).

This bill:

1) States that it shall be known as the California Recycling Market Development Act.

2) Specifies that the resin code labels on rigid plastic bottles and rigid plastic containers do not have to include the "chasing arrows" recycling symbol.

3) Extends the sunset on the following recycling incentive programs to January 1, 2031:

    a) CAEATFA financial assistance to projects that promote the use of advanced manufacturing, including tangible personal property that primarily processes or uses recycled feedstock, in the form of a sales and use tax (SUT) exclusion.
    b) CalRecycle's Recycling Market Development Zone (RMDZ) Loan Program to encourage California-based recycling businesses located within

California financing businesses that prevent, reduce, or recycle recovered waste materials through value-added processing or manufacturing.

4) By July 1, 2020, requires CalRecycle to convene a Statewide Commission on Recycling Markets and Curbside Recycling (Commission) consisting of representatives of public agencies, private solid waste enterprises, and environmental organizations with expertise in recycling. By January 1, 2021, requires the Commission to:

   a) Issue policy recommendations to achieve specified recycled market development goals, the state's 75% recycling policy goal, and the state's organic waste recycling policy goals; and,
   b) Identify products that are recyclable or compostable, as specified, and regularly collected in curbside recycling programs.

5) Requires the Commission to update the recommendations at least annually and to provide regular feedback to CalRecycle on public messaging designed to encourage proper recycling and to minimize contamination in curbside recycling programs.

Background

1) *Solid waste in California.* For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through the IWMA. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal by 2020 and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills. According to CalRecycle's *State of Disposal and Recycling in California 2017 Update*, 42.7 million tons of material were disposed of into landfills in 2016.

   An estimated 35 million tons of waste are disposed of in California's landfills annually, of which 32% is compostable organic materials, 29% is construction and demolition debris, and 17% is paper. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires

generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep it out of the landfill.

SB 1383 (Lara), Chapter 395, Statutes of 2016 required ARB to approve and implement a comprehensive short-lived climate pollutant strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon, by 2030. In order to accomplish these goals, the bill specified that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste 50% by 2020 and 75% by 2025 from the 2014 level.

2) *Recycling Market Development Zone Program.* The RMDZ program was established by Senate Bill 1322 (Bergeson, Chapter 1096, Statutes of 1989) to further the establishment of local and regional markets for the increased materials being collected by local jurisdictions. RMDZ program combines recycling with economic development to fuel new businesses, expand existing ones, create jobs, and divert waste from landfills. The program provides a combination of technical and financial incentives and resources to attract and retain recycling manufacturers that are located within a designated zone. Cumulatively, the zones cover roughly 88,000 square miles of California, from the Oregon border to San Diego.

3) *CAEATFA.* Housed in the office of the State Treasurer, the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) provides financing through conduit or revenue bonds, loan guarantees, loan loss reserves and a sales and use tax exemption for facilities that use alternative energy sources and technologies or engage in advanced manufacturing. CAEATFA's sales and use tax exemption also applies to tangible personal property where at least 50% of its use is to process recycled feedstock that is intended to be reused in the production of another project, or using recycled feedstock in the production of another product or soil amendment.

Comments

1) *Purpose of Bill.* According to the author, "In 2016, the Legislature enacted SB 1383 (Lara), which sought to reduce statewide methane emissions, along with other Short Lived Climate Pollutants. This bill mandated a 75% reduction in the disposal of organic waste by 2025, an ambitious goal that will require the establishment of a statewide organics recycling infrastructure. The need for such a significant investment has been exacerbated by China's new recycling policy, "National Sword."

"Prior to 2018, China was one of the largest exporters of California recycled material. As a result of National Sword, much of the recycled material California once exported to China now sits in landfills posing serious fire risks and increasing emissions. While some have argued that this means that we should give up on recycling or start burning our trash, AB 1583 seizes the opportunity to reinvest in California recycling.

"AB 1583 extends the sunsets on two of our most effective programs for expanding recycling markets: the Recycling Market Development Zone Program (a low interest revolving loan program) and the California Alternative Energy Advanced Transportation Financing Authority (CAEATFA) program [which provides a Sales Tax Exemption for recycling equipment, along with other sustainable manufacturing]. The bill also helps the state develop a Commission of private and public sector recyclers to develop strategies for education and to promote product design for recyclability. Additionally, the bill eliminates a confusing requirement to use the "Chasing Arrows" on all plastic products, whether or not they are recyclable."

2) *Market challenges.* The United States has not developed significant markets for recycled content materials, including plastic and mixed paper. Historically, China has been the largest importer of recycled materials. According to the International Solid Waste Association, China accepted 56% by weight of global recycled plastic exports. In California, approximately one-third of recycled material is exported; 85% of the state's recycled mixed paper has been exported to China in recent years.

   In an effort to improve the quality of the materials it accepts and to combat the country's significant environmental challenges, China enacted Operation Green Fence in 2013, under which it increased inspections of imported bales of recyclables and returned bales that did not meet specified requirements at the exporters' expense. In 2017, China established Operation National Sword, which included additional inspections of imported recycled materials and a filing with the World Trade Organization indicating its intent to ban the import of 24 types of scrap, including mixed paper and paperboard, polyethylene terephthalate (PET), polyethylene (PE), polyvinyl chloride (PVC), and polystyrene (PS) beginning January 1, 2018. In November 2017, China announced that imports of recycled materials that are not banned will be required to include no more than 0.5% contamination. Some market experts are hopeful that cleaner plastic materials, including those included in the ban, may be allowed in the future.

Following China's actions, other Southeast Asian countries have enacted policies limiting or banning the importation of recycled materials, primarily plastic and mixed paper. Last year, Malaysia and Vietnam implemented import restrictions. Earlier this year, India announced that it will ban scrap plastic imports. Thailand has announced a ban that will go into effect in 2021. These policies create serious challenges for recyclers. Recycling requires markets to create new products and close the loop. This challenge also provides an opportunity for California to improve its efforts to reduce the amount of waste it generates and expand its efforts to develop recycling manufacturing infrastructure, which has been shown to provide jobs, economic, and environmental benefits.

In addition to the RMDZ program, CalRecycle had indicated that it intends to continue to build and support recycling markets and infrastructure within California to reduce the state's need to export recycled material. CalRecycle's Greenhouse Gas Reduction Grant and Loan Program, funded by the Greenhouse Gas Reduction Fund, provides financial incentives for capital investments in infrastructure for composting, anaerobic digestion, and recycling and manufacturing facilities that reduce greenhouse gas emissions. Additionally, CalRecycle continues to pursue options to reduce waste and increase the recyclability of packaging through its packaging reform process and to reduce the contamination levels in all recycling streams.

Related/Prior Legislation

SB 162 (Galgiani) extends the CAEATFA Sales and Use Tax Exclusion Program until January 1, 2030. SB 162 has been referred to the Assembly Revenue and Taxation Committee.

DOUBLE REFERRAL

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Governance and Finance Committee.

SOURCE: Californians Against Waste & Republic Services (co-sponsors)

SUPPORT:

Californians Against Waste (co-sponsor)
Republic Services (co-sponsor)*
California League of Conservation Voters

California State Associations of Counties
City of Huntington Beach
Coalition of Renewable Natural Gas
Fiona Ma, California State Treasurer
Heal the Bay
Los Angeles Alliance for a New Economy
Lutheran Office of Public Policy - California
Mojave Desert and Mountain Recycling Authority
Plastic Pollution Coalition
Republic Services
Roots of Change
Rural County Representatives of California
Save Our Shores
Seventh Generation Advisors
Sierra Club California
StopWaste
Surfrider Foundation
The 5 Gyres Institute
The Center for Oceanic Awareness, Research, and Education (COARE)
The Story of Stuff Project
Trust for Public Land
Wishtoyo Chumash Foundation
Zero Waste USA

OPPOSITION:

None received

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SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Allen, Chair
2019 - 2020 Regular

Bill No:	AB 1751		
Author:	Chiu		
Version:	6/26/2019	**Hearing Date:**	7/3/2019
Urgency:	No	**Fiscal:**	Yes
Consultant:	Gabrielle Meindl		

SUBJECT: Water and sewer system corporations: consolidation of service

DIGEST: This bill establishes timeframes by which the Public Utilities Commission (PUC) is required to take action on a request for water system consolidation.

ANALYSIS:

Existing law:

1) Requires the SWRCB, in administering Safe Drinking Water Act (SDWA) programs, to fund improvements and expansions of small community water systems, to encourage the consolidation of small community water systems that serve disadvantaged communities, and prioritize funding for construction projects that involve the physical restructuring of two or more community water systems, at least one of which is a small community water system that serves a disadvantaged community, into a single, consolidated system. (Health & Safety Code (HSC) § 116326)

2) Authorizes the SWRCB, where a public water system or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, to order consolidation with a receiving water system. Provides that the consolidation may be physical or operational. (HSC § 116682 (a))

3) Makes legislative findings that regional solutions to water contamination problems are often more effective, efficient, and economical than solutions designed to address solely the problems of a single small public water system, and that it is in the interest of the people of the State of California to encourage the consolidation of the management and the facilities of small water systems to enable those systems to better address their water contamination problems. (HSC § 116760.10 (h))

4) States that no person or corporation shall merge, acquire, or control either directly or indirectly any public utility organized and doing business in this state without first securing authorization to do so from the PUC. Provides that any merger, acquisition, or control without that prior authorization from the PUC shall be void and of no effect. (Public Utilities Code (PUC) § 854)

5) States the intent of the Legislature is that transactions with monetary values that materially impact a public utility's rate base should not qualify for expedited advice letter treatment. (PUC § 853 (d))

6) Defines "public water system" as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. (HSC § 116275 (h))

7) Defines "state small water system" as a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year. (HSC 116275 § (n))

8) Defines "disadvantaged community" as a community with an annual median household income that is less than 80 percent of the statewide annual median household income. (Water Code (WC) § 79505.5(a))

9) Declares that it is the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (WC § 106.3)

This bill:

1) Establishes the Consolidation for Safe Drinking Water Act of 2019.

2) Makes findings and declarations regarding the needs for facilitating consolidation of public water systems and state small water systems that consistently fail to provide an adequate supply of safe drinking water.

3) States the intent of the Legislature is to promote timely consolidation of water systems to provide an adequate supply of safe drinking water for all residents of California.

4) Defines "consolidate" as joining two or more public water systems, state small water systems, or affected residences not served by a public water system into a single public water system.

5) Defines "subsumed water system" as the public water system or state small water system consolidated into the water or sewer system corporation.

6) Authorizes a water or sewer system corporation to file an application and obtain approval from the PUC through an order authorizing that corporation to consolidate with a public water system or state small water system with fewer than 3,300 service connections and serving a disadvantaged community, or to implement rates for the subsumed water system. Requires the PUC to prioritize cases where a water or sewer system corporation consolidates with a public water system or a state small water system that is: subject to a compliance order for failure to meet primary or secondary drinking water standards or the sale or transfer has been previously approved by voters, as specified.

7) Requires the PUC to approve or deny an application within eight months of its filing, unless the administrative law judge (ALJ) makes a written determination that the deadline cannot be met, including findings as to the reason, and issues an order extending the deadline by up to an additional eight months. Authorizes the ALJ to grant additional extensions of eight months or less consistent with this paragraph.

8) Requires the water and sewer system corporation seeking to purchase the subsumed system to give adequate public notice and provide adequate opportunities for public participation, as determined by the PUC.

9) Authorizes a water or sewer system corporation to file an advice letter and obtain approval from the PUC through a resolution authorizing that water or sewer system corporation to consolidate with a public water system or state small water system, or to implement rates for the subsumed water system, with fewer than 3,300 service connections and serving a disadvantaged community. Requires the PUC to prioritize cases where a water or sewer system corporation consolidates with a public water system or a state small water system that is: subject to a compliance order for failure to meet primary or secondary drinking water standards or the sale or transfer has been previously approved by voters, as specified.

10) Authorizes approval by the executive director of the PUC or the director of the division of the Commission having regulatory jurisdiction over the water or sewer system corporation if a filed advice letter is uncontested.

11) Requires the PUC, absent incomplete documentation, to approve or deny the advice letter within 120 months of its filing by the applicant water or sewer system corporation unless the executive director of the PUC makes a written determination that the deadline cannot be met, including findings as to the reason, and issues a response extending the deadline by up to an additional four months. Authorizes the executive director of the PUC to grant an additional extension of four months or less consistent with the provisions of this paragraph.

12) Authorizes the PUC, for any consolidation that meets the criteria described above, to designate a different procedure if it determines that the consolidation warrants a more comprehensive review than the advice letter procedure provides.

13) Provides that nothing in this bill shall be construed to require a public water system or state small water system that is not subject to the jurisdiction, control, and regulation of the PUC to obtain authorization from the PUC before consolidating with a public water system or state small water system.

Background

1) Drinking water regulation. The SWRCB regulates public water systems that provide water for human consumption and have 15 or more service connections, or regularly serve at least 25 individuals daily at least 60 days out of the year. A "service connection" is usually the point of access between a water system's service pipe and a user's piping. The state does not regulate water systems with less than 15 connections; county health officers oversee them. At the local level, 30 of the 58 county environmental health departments have been delegated primacy—known as Local Primacy Agencies (LPAs)—by the SWRCB to also regulate systems with between 15 and 200 connections within their jurisdiction. *For investor-owned water utilities under the jurisdiction of the PUC, which is about 15% of the water systems statewide, the SWRCB or LPAs share water quality regulatory authority with PUC.*

The SWRCB regulates approximately 7,500 water systems. About one-third of these systems have between 15 and 200 service connections. The number of systems with 14 or fewer connections is unknown, but estimated to be in the thousands.

2) The Legislative Analyst's Office provides a succinct background on the general topic of Safe and Affordable Drinking Water in their Analysis of the 2018-19 Governor's Budget, as follows:

"Multiple Causes of Unsafe Drinking Water. The causes of unsafe drinking water can generally be separated into two categories (1) contamination caused by human action and (2) naturally occurring contaminants. In some areas, there are both human caused and natural contaminants in the drinking water.

"Three of the most commonly detected pollutants in contaminated water are arsenic, perchlorate, and nitrates. While arsenic is naturally occurring, perchlorate contamination is generally a result of military and industrial uses. High concentrations of nitrate in groundwater are primarily caused by human activities, including fertilizer application (synthetic and manure), animal operations, industrial sources (wastewater treatment and food processing facilities), and septic systems. Agricultural fertilizers and animal wastes applied to cropland are by far the largest regional sources of nitrate in groundwater, although other sources can be important in certain areas.

"Unsafe Drinking Water a Statewide Problem. The SWRCB has identified a total of 331 water systems that it or LPAs regulate that are in violation of water quality standards. These water systems serve an estimated 500,000 people throughout the state. The number of water systems with 14 or fewer connections that are currently in violation of water quality standards is unknown, but estimated to be in the thousands by the SWRCB. Of the 331 systems identified by the SWRCB, 68 have violations associated with nitrates (and in some cases, additional contaminants). In some of these water systems, unsafe contamination levels persist over time because the local agency cannot generate sufficient revenue from its customer base to implement, operate, or maintain the improvements necessary to address the problem. The challenge in these systems is often a product of a combination of factors, including the high costs of the investments required, low income of the customers, and the small number of customers across whom the costs would need to be spread."

3) *Consolidation of Public Water Systems.* SB 88 (Budget Committee, Chapter 27 Statutes of 2015) authorizes SWRCB to require water systems that are serving disadvantaged communities with unreliable and unsafe drinking water to consolidate with or receive service from public water systems with safe, reliable, and adequate drinking water. SB 552 (Wolk, Chapter 773, Statutes of 2016) authorizes the SWRCB to identify public water systems that are consistently unable to provide an adequate and affordable supply of safe drinking water and, once funding is available, to then contract with a

competent administrator to provide managerial and technical expertise to that system.

Consolidating public water systems and extending service from existing public water systems to communities and areas, which currently rely on under-performing or failing small water systems, as well as private wells, reduces costs and improves reliability. Consolidating or extending service from a public water system to a community otherwise served by unreliable systems or unregulated private wells advances the goal of a reliable, accessible supply of safe drinking water for all California residents.

The SWRCB currently posts information on its website about ordered consolidations. It also tracks and has information on voluntary consolidations. Currently, 60 consolidations are being funded by SWRCB. Fifteen mandatory consolidations are currently proceeding, although 5 of those have decided to pursue voluntary consolidation. Only one mandatory consolidation has been completed so far. In 2017-18, there were 90 voluntary physical consolidations and 6 voluntary managerial consolidations. Physical consolidations are for systems that are close enough to be connected by new pipelines. In managerial or operational consolidation, the systems remain physically separate, but are managed by the same entity.

4) *Public Water System and Consolidation Act of 1997.* As it relates to public water utilities, state law requires these systems to obtain PUC approval to merge with or buy another public utility or to sell useful utility property. Water system consolidations under the jurisdiction of the PUC are semantically considered acquisitions and mergers, and the approval of those transactions differ from those at the SWRCB.

   The Legislature enacted the Public Water System Investment and Consolidation Act of 1997 (Act) to provide water corporations with an incentive to acquire public water systems needing improved infrastructure to meet increasingly stringent safe drinking water laws and regulations. The Act does this by requiring the PUC to use the standard of fair market value when establishing the rate base value for the distribution system of a public water system acquired by a water corporation, and to use this value for rate setting.

   The PUC conducts proceedings to consider applications for authority to merge with or acquire another public utility or to sell a public utility water system, to operate an acquired water system, to include acquired water systems in rate base, to establish tariffs for an acquired water system, and to make other related requests.

The PUC uses two methods for approving PUC-regulated water system consolidations:

a) Applications – where the consolidation involves the acquisition of a PUC-regulated public water system by another PUC-regulated public water system; and,
b) Advice Letters – where the consolidation involves the acquisition of a public water system not regulated by the PUC and where certain conditions are met.

From 1998 (when the Act became effective) through 2016, covered water corporations sought approval to acquire 19 water systems. Thirteen of these requests were made by application, while six were made via Advice Letter.

Currently, applications undergo a formal legal process with an ALJ and start with an 18-month time line (although the ALJ or the Assigned Commissioner can extend this deadline indefinitely). Applicable Advice Letters can be processed and approved by the PUC in much less time – sometimes less than four months. The PUC can and has granted requests to require that water utilities file applications for acquisitions of municipal water systems instead of Advice Letters, particularly if there may be rate impacts for either the existing system's customers or the acquired system's customers.

5) *Consolidation of small water systems with health and safety violations.* Current statute provides a process to help expedite the consolidation of small water utilities that have failing water systems, referred to as "Inadequately Maintained and Operated Small Water Systems (IMOSWS)." Per a PUC decision to implement the Public Water System Investment and Consolidation Act of 1997, an advice letter process can be used to transfer assets of IMOSWS. The IMOSWS is defined as any water system serving fewer than 2,000 customers that is subject to compliance order or citation related to drinking water standards. According to the PUC, this process has been utilized as recently as this year with the consolidation of the Rolling Hills Water System with the Bakman Water Company in Madera.

6) *Office of Public Advocates.* The Public Advocates Office (Office) is an independent organization within the PUC that advocates solely on behalf of utility ratepayers. The Office represents the public interest and benefits of utility customers in water utility acquisition and other PUC proceedings. The Office is often the only party in these proceedings other than the buyer and seller.

The Office has a very important role in overseeing these consolidations. However, the Office is currently understaffed with only one staff person primarily dedicated to supporting its participation in water utility acquisition proceedings. All other Office staff in the Water Branch are fully dedicated to supporting advocacy in water general rate case proceedings. According to the Office, staff spends an average of 985 hours per year advocating in each water utility acquisition proceeding. With current resources, the Office can only effectively participate in two water system acquisition proceedings at any given time. This contributes to delays in approving water utility consolidations.

Comments

1) *Purpose of Bill.* According to the author, "There are communities in California that lack access to clean drinking water. This is unacceptable. In many areas in the state, there are water systems that cannot afford – and are either unwilling or unable to raise rates sufficiently to make – the improvements necessary to provide drinking water to residents ... The [PUC] must approve all water system consolidations that involve PUC-regulated utilities .. but the process is inconsistent and sometimes time-consuming ... Accordingly, this bill will create a waiver for the current 18-month established time frame for applications and set deadlines for the completion of small water system voluntary consolidations that require PUC approval."

2) *PUC approval delays.* The PUC's process for reviewing voluntary system consolidations is often time consuming. It is not unusual for the approval process to take as long as 24-months. Many factors are impeding faster approval times. The volume of work on the PUC, limited staff resources dedicated to water utility issues, the workload of the ALJs, as well as the nuances of individual consolidation cases, can impact approval time.

   Since 2013, thirteen PUC-regulated water systems have requested consolidation from the PUC. The average amount of time to approve a request is 314 days – nearly a year from when the application or Advice Letter was submitted. Six of those thirteen are still pending.

   AB 1715 would require the PUC to approve or deny a PUC-regulated water system consolidation application within eight months of its filing, and would also require the PUC, absent incomplete documentation, to approve or deny an advice letter within four months of its filing by the applicant water or sewer system corporation.

If those timeframes do not suffice for the work of the Office, or for any other reason, the bill allows for an additional eight and four month time extension, respectively, pursuant to the overseeing judge's discretion. It seems reasonable for the state to ensure residents in disadvantaged communities who are served by failing water systems receive resolution to a consolidation request within a reasonable timeframe.

3) *Voter Approval.* The bill uses voter approval as a qualifying criterion for application to be reviewed as an advice letter. The concern with this criterion does not stem from disagreement with the will of voters selling their municipal utility, but rather out of concern for the ratepayers of the water utility that is seeking to purchase a municipal system.

   The policy critique boils down to this – although the citizens of a city may approve by public vote the sale of their system for whatever price they see fit, the ratepayers of the water utility that is purchasing the system (existing ratepayers) will never have an opportunity to vote on the sale or the sale price. Existing ratepayers rely on the Commission, especially the Public Advocates Office (PAO), to do a thorough vetting of the sale including the purchase price and other terms of the agreement. If these sales are permitted to be approved through an advice letter there is significantly less time and opportunity for Water Division staff and PAO to do a full review of the sale.

   An expedited advice letter review might be favorable when there are water quality issues present because of the public health concerns, but if there are no public health concern such a change may only serve the utility's bottom line potentially at the expense of ratepayers.

   The Committee may wish to consider deleting the use of voter approval as a qualifying criterion for application to be reviewed as an advice letter.

4) *Technical issue.* The SWRCB has two remedies for public water systems that violate drinking water standards – it can issue a citation or a compliance order. AB 1751 directs the PUC to prioritize the consolidation of drinking water systems subject to a compliance order.

   The Committee may also wish to consider adding systems subject to drinking water citations as a criteria for PUC consolidation prioritization.

Related/Prior Legislation

AB 508 (Chu). This bill would further implement the provisions from AB 2501 regarding domestic wells and fees imposed on new and existing customers for increase groundwater use following a consolidation or extension of service. It will be heard in the Senate Environmental Quality Committee on July 3, 2019.

AB 2339 (Gipson, Chapter 866, Statues of 2018). This bill authorizes the City of El Monte, the City of Montebello, and the City of Willows to sell its public water utility through an alternative simplified procedure for the purpose of consolidating with another public water system.

AB 2501 (Chu, Chapter 871, Statutes of 2018). This bill provides additional authority to the SWRCB to order consolidations.

SB 552 (Wolk, Chapter 773, Statutes of 2016). This bill expands the SWRCB's authority by enabling it to, in order to provide affordable, safe drinking water to disadvantaged communities and to prevent fraud, waste, and abuse, contract with a competent administrator to provide managerial and technical expertise to that system, if sufficient funding is available. SB 552 also authorizes the SWRCB to order the designated public water system to accept administrative and managerial services, including full management and control, from an administrator selected by the SWRCB.

SB 88 (Senate Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2015). This bill authorizes the SWRCB, when a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, to order that system (referred to as a subsumed water system) to consolidate with, or receive an extension of service from, a compliant public water system (referred to as the receiving system).

DOUBLE REFERRAL:

This measure was heard in Senate Energy, Utilities & Communication Committee on June 18, 2019, and passed out of committee with a vote of 13-0.

SOURCE: Author

SUPPORT:

California American Water Company
California Water Association
City of Bellflower
City of Perris

Liberty Utilities
Sierra Club

OPPOSITION:

Public Advocates Office

-- END --