

---

**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Allen, Chair**

**2021 - 2022 Regular**

---

**Bill No:** SB 1219  
**Author:** Hurtado and Cortese  
**Version:** 4/6/2022  
**Urgency:** No  
**Consultant:** Gabrielle Meindl

**Hearing Date:** 4/27/2022  
**Fiscal:** Yes

**SUBJECT:** 21st century water laws and agencies: committee

**DIGEST:** Requires the Secretary of the Natural Resources Agency and the Secretary for Environmental Protection to convene a committee to develop and submit to the Governor and to the Legislature a strategic vision, proposed statutes, and recommendations for a modern 21st century set of water laws and regulations and state and local water agencies for the state, as provided, on or before December 31, 2024.

**ANALYSIS:**

Existing law:

- 1) Establishes the State Water Resources Control Board (State Water Board) within the California Environmental Protection Agency (CalEPA) with specified duties relating to, among other things, administering water rights, the Porter-Cologne Water Quality Control Act, and the California Safe Drinking Water Act. (Water Code (WC) §175 et seq.)
- 2) Requires the State Water Board to submit to the Legislature a comprehensive Safe Drinking Water Plan for California every five years. (Health and Safety Code (HSC) § 116355 (a))
- 4) Establishes as the 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)
- 6) Establishes the Department of Water Resources (DWR) within the CNRA and prescribes the jurisdiction and various general administrative authorities and duties of the department regarding, among other things, matters pertaining to water resources and dams in the state. (WC §120 et seq.)

This bill:

- 1) Requires the Secretary of the Natural Resources Agency and the Secretary for Environmental Protection to convene a committee to develop and submit to the Governor and to the Legislature a strategic vision, proposed statutes, and recommendations for a modern 21st century set of water laws and regulations and state and local water agencies for the state, as provided, on or before December 31, 2024.
- 2) Requires the committee consist of the Secretaries for the Natural Resources Agency, Environmental Protection Agency, Department of Food and Agriculture, and the President of the Public Utilities Commission, two members appointed by the Senate Committee on Rules, and two members appointed by the Speaker of the Assembly.
- 3) Requires the strategic vision and draft statutes address all of the following:
  - a) Improving the efficient and effective management of all aspects of water resources, including, but not limited to, all of the following:
    - i) Water supply reliability.
    - ii) Water quality.
    - iii) Water-dependent ecosystems.
    - iv) Flood and stormwater management and safety.
  - b) Achieving regional sustainability, through both of the following:
    - i) Regional water resources planning and decisionmaking.
    - ii) Coordinated land use planning.
  - c) Establishing predictable and efficient regulatory structures for water resources management at the state, regional, and local levels.
  - d) Meeting established water policy objectives, such as the human right to water.
  - e) Removing hurdles to financing water resources investments.
  - f) Improving workforce development, including recruiting, training, and retaining skilled professionals to operate and maintain the state's essential drinking water, wastewater, flood control, hydropower, and delivery and storage facilities.
  - g) Rectifying historic water resources injustices to tribal communities, economically disadvantaged communities, and other marginalized communities.
  - h) Addressing food security concerns arising from drought and cutbacks in agricultural water supplies.
  - i) Reversing the decline in public trust resources resulting from water resource management policies and processes.
  - j) Incorporating climate change considerations in all aspects of water resources management.

- 4) Requires the Governor or the committee to appoint a “blue ribbon” citizen commission or taskforce, a stakeholder advisory committee, and any other group that the Governor or the committee deems necessary or desirable to assist in carrying out these provisions.
- 5) Requires all relevant state agencies, at the request of the committee, to make available staff and resources to assist in the preparation of the strategic vision and proposed statutes.
- 6) Authorizes the committee, its members, and state agencies represented on the committee to contract for consultants to assist in the preparation of the strategic vision and proposed statutes, as specified, and would exempt those contracts from certain public contracting requirements.
- 7) Makes various findings, including:
  - a) The governmental institutions, statutes, and regulations overseeing the development and management of California’s water resources were established in an earlier era, reflecting a different population and different problems.
  - b) Since the establishment of the governmental institutions, statutes, and regulations overseeing the development and management of California’s water resources, there have been many changes, such as the following:
    - i) The population has grown tremendously, nearly doubling over the last 50 years.
    - ii) Most, if not all, of the available water has been claimed by one or more beneficial users.
    - iii) The climate has and continues to change, with projections for more frequent, more severe, and extended periods of drought and flood.
    - iv) Much of the state’s water infrastructure is at or beyond its design life.
  - c) As a result of the changes, governmental institutions, statutes, and regulations overseeing the development and management of California’s water resources no longer serve California well. This has led to:
    - i) Frequent shortages being experienced by, and conflicts among, agricultural, urban, and environmental water interests.
    - ii) Significant concerns about the long-term viability of rural communities, agriculture, and food security.
    - iii) Both urban and rural small communities not being able to provide safe and affordable water to their residents.
  - d) To ensure the state has a modern 21st century set of water laws, regulations, and state and local water agencies, it is important that the state

take a top-to-bottom review of how water resources in the state are managed and identify necessary reforms.

## Background

- 1) *Brief history of water governance structure.* The State Water Board was created in 1967, combining the functions of the State Water Quality Control Board, created in 1949, and the State Water Rights Board, created in 1956 and superseding the State Water Commission, which was created in 1913.

The State Water Board allocates water rights, adjudicates water right disputes, develops statewide water protection plans, establishes water quality standards, and guides the nine Regional Water Quality Control Boards located in the major watersheds of the state. The State Water Board consists of five full-time salaried Members, each filling a different specialty position. Each board member is appointed to a four-year term by the Governor and confirmed by the Senate.

The Regional Water Quality Control Boards were created in 1949 to oversee and enforce the state's pollution abatement program. Each Regional Board makes critical water quality decisions for its region, including setting standards, issuing waste discharge requirements, determining compliance with those requirements, and taking appropriate enforcement actions. The Regional Boards are each comprised of seven part-time Board members appointed by the Governor and confirmed by the Senate.

The Department of Water Resources was created in 1957 out of the Department of Public Works to design, build, and operate the State Water Project (SWP). DWR responsibilities, in addition to those of the SWP, include dam safety, flood planning and management, drought planning, statewide water resources planning, overseeing sustainable groundwater management, and water use efficiency. The director of DWR is appointed by the Governor, and confirmed by the Senate.

Further, many of the state's structures for managing water resources are embodied in statutory and common laws dating to statehood, to a myriad of local governments and investor owned and mutual water companies.

- 2) *General pattern for "Blue Ribbon" processes.* There have been two major "Blue Ribbon Commissions" established by the Legislature to address complex state resource management issues. The first was SB 1574 (Kuehl, 2006) which lead to the creation of the Delta Vision Blue Ribbon Task Force. The second

was AB 2376 (Huffman, 2010) which led to the California Fish and Wildlife Strategic Vision Blue Ribbon Citizen Commission. In both processes, the structure was to create a citizens Blue Ribbon Commission to develop the vision, and a cabinet level committee to turn that vision into a strategic implementation plan. The Blue Ribbon Commission in turn was informed by a stakeholder's advisory committee.

- 3) *Major efforts to address water issues in the state.* Over the past decade, either through statute or Executive Order, the state has undertaken numerous efforts to address the state's many water challenges. Highlights from some of those efforts follow:

*Transfer of the Drinking Water Program to the State Water Board.* To consolidate all major water quality programs into one agency, the administration of the Drinking Water Program was transferred through statute from the Department of Public Health to the State Water Board on July 1, 2014. The transfer was described in a white paper circulated in the summer of 2013 and informed by Legislative hearings, public meetings, and input from the Drinking Water Reorganization Task Force. The Administration's goal was to align the state's water quality programs in an organizational structure that would best position the state to meet the future demands on water resulting from climate change, increasing population, and economic growth.

*The 2014 State Water Action Plan.* Issued at the direction of Governor Brown in January 2014 and updated in 2016, the California Water Action Plan was a comprehensive strategy that set forth 10 priority actions to guide the state's effort to create more resilient, reliable water systems and to restore critical ecosystems. Over the past decade, state agencies and their local, federal and tribal partners have made steady advances on all 10 priority actions and these collaborative efforts are ongoing.

*The 2020 Water Resiliency Portfolio.* Issued at the direction of Governor Newsom in April 2019, the Water Resiliency Portfolio expands California's approach to the challenges of unsafe drinking water, major flood risks that threaten public safety, severely depleted groundwater aquifers, agricultural communities coping with uncertain water supplies and native fish populations threatened with extinction.

California Natural Resources Agency, CalEPA, and the California Department of Food and Agriculture identified and assessed a suite of complementary actions to ensure safe and resilient water supplies, flood protection, and healthy waterways for the state's communities, economy, and environment.

The portfolio contains 142 separate actions to be taken by state agencies, as resources allow. Together, the actions are intended to support California's diverse regions to improve their ability to withstand drought and flood and safeguard reliable water supplies for communities and natural systems.

*The 2020 Safe Drinking Water Plan (2020 Plan).* The 2020 Plan provides a comprehensive analysis of California's drinking water. The 2020 Plan reviews drinking water regulation, the quality of drinking water, and water quality issues affecting water systems. It also assesses treatment technologies, considers funding aspects and financial assistance, and focuses on the challenges faced by small drinking water systems. Additionally, the 2020 Plan contains new topics, including the use of administrators for public water systems (PWS) serving economically disadvantaged communities and consolidation of drinking water systems.

Throughout the 2020 Plan there is an emphasis on equity and the human right to water, sustainability, emergency preparedness and actions that water systems and the State Water Board can take to help provide safe drinking water.

*The Safe and Affordable Funding for Equity and Resilience (SAFER) program.* SB 200 (Monning, Chapter 120, Statutes of 2019) created SAFER and the Safe and Affordable Drinking Water Fund (Fund). The SAFER program supports permanent and sustainable drinking water solutions that ensure all Californians have access to safe, affordable, and reliable drinking water. The Fund was established to address funding gaps and provide solutions to water systems, especially those serving DACs, to address both their short- and long-term drinking water needs.

The Fund will provide \$130 million per year that will be used to develop and implement sustainable solutions for small systems with violations of drinking water standards. Money must be expended consistent with the Expenditure Plan (Plan), which is adopted annually by the State Water Board. The Plan is based on a drinking water needs assessment and will document past and planned expenditures and prioritize projects for funding. Potential options for funding include consolidation with larger water systems, operations and maintenance costs, building local technical and managerial capacity, providing interim replacement water, and administrators to run the small systems. Additionally, SAFER funds will provide short-term operation and maintenance support as a bridge until long-term sustainable solutions are in place, and providing long-term operation and maintenance support when necessary.

*2021 Needs Assessment.* The results from the 2021 Needs Assessment illustrate the breadth and depth of challenges to safe and affordable water supply provision across system types in California for the first time. The Needs Assessment identifies water systems that are failing and those that are at-risk of failing to provide safe and affordable drinking water. The 2021 Risk Assessment was conducted for 2,779 public water systems and evaluated their performance across 19 risk indicators within the following four categories: Water Quality, Accessibility, Affordability, and Technical, Managerial, and Financial (TMF) Capacity. The results identified 326 water systems as failing; 617 water systems at-risk of failing, 552 water systems potentially at-risk of failing, and 1,284 water systems not at-risk of failing.

*Human Right to Water.* In 2012, California became the first state to enact a Human Right to Water law, AB 685 (Eng, Chapter 524, Statutes of 2012). Public policy continues to focus on the right of every human being to have safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation. Yet there are many challenges to addressing the Human Right to Water. These include the need for an adequate supply of water suitable for drinking, the removal of various contaminants, the costs of constructing and maintaining treatment and distribution systems, and the number and nature of small public water systems (especially those in economically disadvantaged communities).

This bill proposes to take a top to bottom review of how the state manages its water resources and identify any necessary reforms.

## Comments

- 1) *Purpose of Bill.* According to the author, “The devastating drought across the state and in the Central Valley has increased the price of agricultural products, affecting the food system as a whole. Many towns across California have faced massive water curtailments, and have seen their wells run dry-- forcing them to jump through hoops and hurdles in order to receive just enough water to live. Safe drinking water and freshwater resources are central to the health of California’s economy and communities, and access to it is a declared human right, according to California State Law.

“As it stands now, the State Water Resources Control Board is failing to manage water adequately for future generations, and in many cases, the State Water Resources Control Board has become a bureaucratic barrier for many Californians in accessing the water they need. As California continues to experience changes in our climate, as the State’s dry years get drier and its hot

years get hotter, it has become clear that there is a need for our water management system to adapt to our 21st Century reality.

“SB 1219 prioritizes the preservation and sustainability of California’s water systems by building a committee to reimagine and modernize water management throughout the State. The bill outlines committee membership, requiring that it include the Secretary of the Natural Resources Agency, and the Secretary for Environmental Protection, the Secretary of Food and Agriculture, the President of the Public Utilities Commission, and the Director of the Office of Planning and Research along with, 2 members appointed by the Senate Committee on Rules, and 2 members appointed by the Speaker of the Assembly to convene and develop recommendations for a modern 21st century set of water laws and regulation.”

### **DOUBLE REFERRAL:**

This measure was heard in Senate Natural Resources and Water Committee on April 5, 2022, and passed out of committee with a vote of 6-0.

### **Related/Prior Legislation**

SB 200 (Monning, Chapter 120, Statutes of 2019). Created SAFER and the Safe and Affordable Drinking Water Fund to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long-term. Requires the State Water Board to develop a fund expenditure plan and provide funding according to that expenditure plan to identify failing water systems and provide safe and affordable drinking water in the short- and long-term to those who rely on drinking water from those failing water systems.

AB 217 (E. Garcia, 2019). Would have created the Safe Drinking Water for All Act, which would have established the Safe and Affordable Drinking Water Fund (Fund) to provide a source of funding for safe drinking water for all Californians, and long-term sustainability of drinking water systems. Would have imposed several fees on agricultural activities and a charge on retail water systems that together would provide the source of revenue to the Fund. This bill was subsequently amended into another subject.

SB 669 (Caballero, 2019). Would have established the Safe Drinking Water Fund to assist community water systems in disadvantaged communities that are chronically noncompliant. Would have created the Safe Drinking Water Trust



Fund to receive funding from the state and provide the fund source to the Safe Drinking Water Fund. This bill was held in the Senate Appropriations Committee.

SB 623 (Monning, 2017). Would have created the Safe and Affordable Drinking Water Fund, administered by the State Water Board, and would have imposed water, fertilizer, and dairy fees to fund safe drinking water programs. This bill was held in the Assembly Rules Committee.

**SOURCE:** Author

**SUPPORT:**

None received

**OPPOSITION:**

California Coastkeeper Alliance  
California Environmental Voters (formerly Clcv)  
Central Delta Water Agency  
Clean Water Action  
Community Water Center  
Defenders of Wildlife  
Friends of The River  
Golden State Salmon Association  
Leadership Counsel for Justice & Accountability  
Natural Resources Defense Council (NRDC)  
Planning and Conservation League  
Restore the Delta  
San Francisco Baykeeper  
Sierra Club California  
South Yuba River Citizens League  
Tuolumne River Trust  
1 individual

**ARGUMENTS IN OPPOSITION:** According to a coalition letter from environmental organizations, “while we agree that California needs to reform our state’s unsustainable and inequitable water management system, we respectfully oppose SB 1219 as amended because the bill creates an unnecessary process, at taxpayer expense, that appears likely to impede, rather than advance, necessary water policy reforms.

“As amended, SB 1219 would authorize the creation of a committee to make recommendations by December 31, 2024 for “a strategic vision, proposed statutes, and recommendations for a modern 21st century set of water laws and regulations and state and local water agencies for the state.” Unfortunately, the committee process under SB 1219 seems likely to impede necessary reforms to California’s water system. First, SB 1219 provides that the Administration would appoint the majority of members to the committee, which is not an approach that is likely to lead to effective collaboration with the legislature toward meaningful reforms. While we recognize that the Newsom Administration has made progress with respect to safe drinking water, unfortunately the Administration has failed numerous opportunities to reform outdated water policies that harm the environment, including the Governor’s veto of SB 1 (Atkins) in 2019 and the backroom negotiation of proposed voluntary agreements that excluded conservation groups, fishing organizations, Delta communities, Native American Tribes, and the public. Second, the multi-year committee process established under the bill could delay legislative action to reform water rights and water policies that favor unsustainable, industrial agriculture over the public interest. And finally, the bill does not direct the committee to address reform of California’s deeply inequitable water rights system, which in many respects is at the heart of the State’s failure to protect the environment and ensure safe and affordable drinking water. California has public processes in place to update our water laws and water rights systems, including the legislative process. The committee proposed by this bill would be a distraction and only delay urgent reforms to protect the environment, safe drinking water, and endangered species.”

-- END --