

AMENDED IN ASSEMBLY MARCH 28, 2019

AMENDED IN ASSEMBLY MARCH 19, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 217

Introduced by Assembly Member Eduardo Garcia

(Principal coauthor: Assembly Member Blanca Rubio)

(Coauthors: Assembly Members Bonta, Bloom, Carrillo, Chau, Chiu, Gipson, Holden, Quirk, Robert Rivas, Mark Stone, and Wicks)

(Coauthor: Senator Monning)

January 16, 2019

An act to add Article 10.5 (commencing with Section 595) to Chapter 3 of Part 1 of Division 1 of, to add Article 6.5 (commencing with Section 14615) to Chapter 5 of Division 7 of, and to add Article 14.5 (commencing with Section 62215) to Chapter 2 of Part 3 of Division 21 of, the Food and Agricultural Code, and to add Chapter 4.6 (commencing with Section 116765) to Part 12 of Division 104 of, to add Chapter 4.7 (commencing with Section 116774) to Part 12 of Division 104 of, and to repeal Article 5 (commencing with Section 116771) of Chapter 4.6 of Part 12 of Division 104 of, the Health and Safety Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 217, as amended, Eduardo Garcia. Safe Drinking Water for All Act.

(1) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health.

Existing law declares it to be 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.

This bill would enact the Safe Drinking Water for All Act and would establish the Safe and Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the board to provide a source of funding to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure. The bill would authorize the board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, and bequests. The bill would require the board to expend moneys in the fund for grants, loans, contracts, or services to assist eligible applicants with certain projects. The bill would require the board, working with a multistakeholder advisory group, to adopt a fund implementation plan and policy handbook with priorities and guidelines for expenditures of the fund. The bill would require the board annually to prepare and make available a report of expenditures from the fund. The bill would require the board to adopt annually, after a public hearing, an assessment of funding need that estimates the anticipated funding needed for the next fiscal year to achieve the purposes of the fund. The bill would authorize the board to distribute the funds through its drinking water regional offices in an unspecified manner and would prohibit the board from distributing more than 20% of the annual expenditures from the fund in this manner. By creating a new continuously appropriated fund, this bill would make an appropriation.

~~This bill would require the board to adopt a schedule of fees, as prescribed, not to exceed an unspecified amount. establish a safe and affordable drinking water fee in the amount of \$0.50 per service connection on all public water systems. The bill would require each public water system to remit to the board the amount of the fee for their public water system on July 1, 2020, and by July 1 annually thereafter.~~ The bill would require these fees to be deposited into the fund. The bill would require the Legislative Analyst to report to the Legislature and the board if the Legislative Analyst determines, on or before January 1, 2023, that at least \$3,000,000,000 has been made available in an interest bearing account in the State Treasury with a goal of at least \$100,000,000 in interest revenues per year available for the purposes of the Safe and Affordable Drinking Water Fund. The bill would make this reporting requirement and the requirement for the board to adopt

fees inoperative upon the Legislative Analyst submitting the report, and would repeal them as of January 1, of the year following that determination.

The bill would establish the Safe and Affordable Drinking Water Trust Fund and would require moneys held in the trust fund to be invested by the Treasurer, in consultation with the Director of Finance and the controller, as specified. The bill would transfer the investment income derived from the trust fund on January 1 of each year to the Safe and Affordable Drinking Water Fund. The bill would state that a transfer of \$200,000,000 is to be made by the Legislature each year for 5 years for the purpose of establishing a \$1,000,000,000 trust account to derive interest revenues to fund the Safe and Affordable Drinking Water Fund.

The bill would require, by January 1, 2021, the board, in consultation with local health officers and other relevant stakeholders, to make available a map of aquifers that are used or likely to be used as a source of drinking water that are at high risk of containing contaminants. For purposes of the map, the bill would require local health officers and other relevant local agencies to provide all results of, and data associated with, water quality testing performed by certified laboratories to the board, as specified. By imposing additional duties on local health officers and local agencies, the bill would impose a state-mandated local program.

(2) Existing law requires every person who manufactures or distributes fertilizing materials to be licensed by the Secretary of Food and Agriculture and to pay a license fee that does not exceed \$300. Existing law requires every lot, parcel, or package of fertilizing material to have a label attached to it, as required by the secretary. Existing law requires a licensee who sells or distributes bulk fertilizing materials to pay to the secretary an assessment not to exceed \$0.002 per dollar of sales for all sales of fertilizing materials, as prescribed, for the purposes of the administration and enforcement of provisions relating to fertilizing materials. In addition to that assessment, existing law authorizes the secretary to impose an assessment in an amount not to exceed \$0.001 per dollar of sales for all sales of fertilizing materials for the purpose of providing funding for research and education regarding the use of fertilizing materials. Existing law specifies that a violation of the fertilizing material laws or the regulations adopted pursuant to those laws is a misdemeanor.

This bill would require a licensee whose name appears on the label of bulk or packaged fertilizing ~~materials~~ *materials, excluding compost*, to pay to the secretary a fertilizer safe drinking water fee of \$0.006 per \$1.00 of sales for all sales of fertilizing materials. The bill would require these moneys to be deposited into the Safe and Affordable Drinking Water Fund. The bill would authorize the secretary to adopt regulations relating to the administration and enforcement of these provisions. Because a violation of these provisions or regulations adopted pursuant to these provisions would be a crime, the bill would impose a state-mandated local program.

(3) Existing law regulates the production, handling, and marketing of milk and dairy products and requires every milk handler subject to that regulatory scheme to pay specified assessments and fees to the Secretary of Food and Agriculture to cover the costs of regulating milk. Existing law governing milk defines “handler” as any person who, either directly or indirectly, receives, purchases, or otherwise acquires ownership, possession, or control of market milk from a producer, a producer-handler, or another handler for the purpose of manufacture, processing, sale, or other handling. Existing law defines “market milk” as milk conforming to specified standards and “manufacturing milk” as milk that does not conform to the requirements of market milk. Existing law provides that a violation of that regulatory scheme or a regulation adopted pursuant to that regulatory scheme is a misdemeanor.

This bill would require, beginning January 1, 2022, each handler to deduct from payments made to producers for market and manufacturing milk the sum of \$0.01355 per hundredweight of milk as a dairy safe drinking water fee. The bill would require the secretary to deposit these moneys into the Safe and Affordable Drinking Water Fund. The bill would authorize the secretary to take specified enforcement actions and would require the secretary to adopt regulations for the administration and enforcement of these provisions. Because a violation of these provisions or regulations adopted pursuant to these provisions would be a crime, the bill would impose a state-mandated local program.

(4) Existing law requires the Secretary of Food and Agriculture to enforce provisions governing livestock operations. Existing law generally provides that a violation of a provision of the Food and Agricultural Code is a misdemeanor.

This bill would require each producer owning a nondairy confined animal facility, as defined, beginning the 2021 calendar year to pay annually to the secretary a safe drinking water fee of \$1,000 for the first

facility and \$750 per each facility thereafter owned by the same producer, not to exceed \$12,000. The bill would require these moneys to be deposited into the Safe and Affordable Drinking Water Fund. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Safe Drinking Water for All Act.

3 SEC. 2. Article 10.5 (commencing with Section 595) is added
4 to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural
5 Code, to read:

6
7 Article 10.5. Safe Drinking Water Fee for Nondairy Confined
8 Animal Facilities
9

10 595. For purposes of this article, the following definitions
11 apply:

12 (a) "Fee" means the safe drinking water fee for nondairy
13 confined animal facilities.

14 (b) "Fund" means the Safe and Affordable Drinking Water Fund
15 established by Section 116767 of the Health and Safety Code.

16 (c) (1) "Nondairy confined animal facilities" means bovine
17 operations, poultry operations, swine operations, and other
18 livestock operations, excluding dairies, where all of the following
19 apply:

20 (A) Operations are designed to corral, pen, or otherwise enclose
21 or hold domestic livestock.

1 (B) Feeding is exclusively by means other than grazing.
 2 (C) Facilities are subject to annual fees for confined animal
 3 facilities adopted in accordance with Section 13260 of the Water
 4 Code.

5 (2) “Nondairy confined animal facilities” does not include
 6 facilities subject to Article 14.5 (commencing with Section 62215)
 7 of Chapter 2 of Part 3 of Division 21.

8 596. (a) Beginning in the 2021 calendar year, each producer
 9 owning a nondairy confined animal facility shall pay annually to
 10 the secretary a safe drinking water fee. The amount of the fee paid
 11 annually to the secretary shall equal one thousand dollars (\$1,000)
 12 for a producer that owns a single nondairy confined animal facility.
 13 For a producer that owns more than one nondairy confined animal
 14 facility, the amount of the fee paid annually to the secretary shall
 15 equal one thousand dollars (\$1,000) for the first facility and seven
 16 hundred fifty dollars (\$750) per each facility thereafter owned by
 17 the same producer.

18 (b) Notwithstanding subdivision (a), the amount of the fee paid
 19 annually to the secretary by a producer that owns more than one
 20 nondairy confined animal facility shall not exceed twelve thousand
 21 dollars (\$12,000) per year.

22 (c) The secretary may prescribe, adopt, and enforce regulations
 23 relating to the administration and enforcement of this article.

24 597. The secretary shall deposit all moneys received under this
 25 article into the fund.

26 SEC. 3. Article 6.5 (commencing with Section 14615) is added
 27 to Chapter 5 of Division 7 of the Food and Agricultural Code, to
 28 read:

29
 30 Article 6.5. Fertilizer Safe Drinking Water Fee

31
 32 14615. (a) It is the intent of the Legislature to require licensees
 33 of bulk fertilizing materials, and to authorize licensees of packaged
 34 fertilizing materials, to pass the fertilizer safe drinking water fee
 35 described in Section 14616 on to the end user of the fertilizer.

36 (b) For purposes of this article, the following definitions apply:

37 (1) “Bulk fertilizing material” has the same meaning as applies
 38 to “bulk material” in Section 14517.

39 (2) “Compost” has the same meaning as defined in Section
 40 14525.

1 ~~(2)~~
2 (3) “Fertilizing material” has the same meaning as defined in
3 Section 14533.

4 ~~(3)~~
5 (4) “Fund” means the Safe and Affordable Drinking Water Fund
6 established by Section 116767 of the Health and Safety Code.

7 ~~(4)~~
8 (5) “Packaged” has the same meaning as defined in Section
9 14551.

10 14616. In addition to the assessments provided in Section
11 14611, a licensee whose name appears on the label of bulk or
12 packaged fertilizing ~~materials~~ *materials, not including compost*,
13 shall pay to the secretary a fertilizer safe drinking water fee of six
14 mills (\$0.006) per dollar of sales for all sales of fertilizing
15 materials.

16 14617. (a) (1) A licensee whose name appears on the label
17 who sells or distributes bulk fertilizing materials shall charge an
18 unlicensed purchaser the fertilizer safe drinking water fee as a
19 charge that is separate from, and not included in, any other fee,
20 charge, or other amount paid by the purchaser. This fee shall be
21 included on the bill of sale as a separate line item.

22 (2) (A) A licensee whose name appears on the label of packaged
23 fertilizing materials may include the fertilizer safe drinking water
24 fee as a charge that is separate from, and not included in, any other
25 fee, charge, or other amount paid by the purchaser or may include
26 the charge with the assessment collected pursuant to Section 14611
27 as a separate line item on the bill of sale and identified as the
28 California Regulatory and Safe Drinking Water Assessment.

29 (B) Notwithstanding paragraph (1), a licensee whose name
30 appears on the label who sells or distributes bulk fertilizing material
31 may include the fertilizer safe drinking water fee with the
32 assessment collected pursuant to Section 14611 as a separate line
33 item on the bill of sale and identified as the California Regulatory
34 and Safe Drinking Water Assessment.

35 (b) The secretary may prescribe, adopt, and enforce regulations
36 relating to the administration and enforcement of this article.

37 (c) (1) Except as provided in paragraph (2), the secretary may
38 retain up to 4 percent of the moneys collected pursuant to this
39 article for reasonable costs associated with the implementation
40 and enforcement of this article.

1 (2) Beginning July 1, 2022, the secretary may retain up to 2
2 percent of the moneys collected pursuant to this article for
3 reasonable costs associated with the implementation and
4 enforcement of this article.

5 14618. The secretary shall deposit all moneys received under
6 this article into the fund.

7 SEC. 4. Article 14.5 (commencing with Section 62215) is
8 added to Chapter 2 of Part 3 of Division 21 of the Food and
9 Agricultural Code, to read:

10
11 Article 14.5. Dairy Safe Drinking Water Fee
12

13 62215. (a) It is the intent of the Legislature that the dairy safe
14 drinking water fee described in Section 62216 be paid for all milk
15 produced in the state, regardless of grade.

16 (b) For purposes of this article, the following definitions apply:

- 17 (1) "Fee" means the dairy safe drinking water fee.
- 18 (2) "Fund" means the Safe and Affordable Drinking Water Fund
19 established by Section 116767 of the Health and Safety Code.
- 20 (3) "Manufacturing milk" has the same meaning as defined in
21 Section 32509.
- 22 (4) "Market milk" has the same meaning as defined in Section
23 32510.
- 24 (5) "Milk" includes market milk and manufacturing milk.

25 62216. (a) Beginning January 1, 2022, each handler, including
26 a producer-handler, shall deduct the sum of one cent and three
27 hundred fifty-five mills (\$0.01355) per hundredweight of milk
28 from payments made to producers for milk, including the handler's
29 own production, as a dairy safe drinking water fee.

30 (b) The secretary shall adopt regulations necessary for the proper
31 administration and enforcement of this section by January 1, 2022.

32 62217. (a) A handler shall pay the dairy safe drinking water
33 fee to the secretary on or before the 45th day following the last
34 day of the month in which the milk was received.

35 (b) The secretary shall deposit all moneys received under this
36 article into the fund.

37 (c) (1) Except as provided in paragraph (2), the secretary may
38 retain up to 4 percent of the total amount that is paid to the
39 secretary pursuant to this article for reasonable costs of the

1 secretary associated with the implementation and enforcement of
2 this article.

3 (2) Beginning July 1, 2022, the secretary may retain up to 2
4 percent of the moneys collected pursuant to this article for
5 reasonable costs of the secretary associated with the
6 implementation and enforcement of this article.

7 (d) The secretary may require handlers, including cooperative
8 associations acting as handlers, to make reports at any intervals
9 and in any detail that the secretary finds necessary for the accurate
10 collection of the fee.

11 (e) For the purposes of enforcing this article, the secretary,
12 through the secretary’s duly authorized representatives and agents,
13 shall have access to the records of every producer and handler.
14 The secretary shall have at all times free and unimpeded access to
15 any building, yard, warehouse, store, manufacturing facility, or
16 transportation facility in which any milk or milk product is
17 produced, bought, sold, stored, bottled, handled, or manufactured.

18 (f) Any books, papers, records, documents, or reports made to,
19 acquired by, prepared by, or maintained by the secretary pursuant
20 to this article that would disclose any information about finances,
21 financial status, financial worth, composition, market share, or
22 business operations of any producer or handler, excluding
23 information that solely reflects transfers of production base and
24 pool quota among producers, is confidential and shall not be
25 disclosed to any person other than the person from whom the
26 information was received, except pursuant to the final order of a
27 court with jurisdiction, or as necessary for the proper determination
28 of any proceeding before the secretary.

29 SEC. 5. Chapter 4.6 (commencing with Section 116765) is
30 added to Part 12 of Division 104 of the Health and Safety Code,
31 to read:

32

33 CHAPTER 4.6. SAFE AND AFFORDABLE DRINKING WATER

34

35 Article 1. Legislative Findings and Declarations

36

37 116765. The Legislature finds and declares all of the following:

38 (a) Section 106.3 of the Water Code declares that it is the policy
39 of the state that every human being has the right to safe, clean,

1 affordable, and accessible water adequate for human consumption,
2 cooking, and sanitary purposes.

3 (b) For all public water systems, the operation and maintenance
4 costs to supply, treat, and distribute potable water that complies
5 with federal and state drinking water standards on a routine and
6 consistent basis may be significant.

7 (c) All community water systems are currently required to set,
8 establish, and charge a schedule of rates and fees that are sufficient
9 to recover the operation and maintenance costs required to supply,
10 treat, and distribute potable water that complies with federal and
11 state drinking water standards on a routine and consistent basis.

12 (d) Hundreds of community water systems in the state cannot
13 charge rates and fees that are affordable and sufficient to recover
14 the full operation and maintenance costs required to supply, treat,
15 and distribute potable water that complies with federal and state
16 drinking water standards on a routine and consistent basis due to
17 a combination of low income levels of customers, high treatment
18 costs for contaminated water sources, and a lack of economies of
19 scale that result in high unit costs for water service. Many schools
20 that serve as their own regulated public water systems and have
21 contaminated water sources cannot afford the full operation and
22 maintenance costs required to provide water that meets federal
23 and state drinking water standards.

24 (e) Nearly all state or federal drinking water project funding
25 sources prohibit the use of that funding for operation and
26 maintenance costs, and as a result, those systems that cannot afford
27 required operation and maintenance costs are unable to access
28 funding for capital projects to meet federal and state drinking water
29 standards.

30 (f) As a result, hundreds of thousands of Californians,
31 particularly those living in small disadvantaged communities, may
32 be exposed to unsafe drinking water in their homes and schools,
33 which impacts human health, household costs, and community
34 economic development.

35 (g) A significant number of California residents rely on state
36 small water systems and domestic wells to provide their drinking
37 water.

38 (h) The state small water systems and individual domestic wells
39 face a serious threat of contamination because they often draw

1 their water from shallow groundwater sources and have fewer or
2 no chemical monitoring requirements.

3 (i) To ensure that the right of every Californian to safe, clean,
4 affordable, and accessible water adequate for human consumption,
5 cooking, and sanitary purposes is protected, it is in the interest of
6 the State of California to identify where Californians are at high
7 risk of lacking reliable access to safe drinking water or are known
8 to lack reliable access to safe drinking water, whether they rely on
9 a public water system, state small water system, or domestic well
10 for their potable water supply.

11 (j) Long-term sustainability of drinking water infrastructure and
12 service provision is necessary to secure safe drinking water for all
13 Californians and therefore it is in the interest of the state to
14 discourage the proliferation of new, unsustainable public water
15 systems and state small water systems, to prevent waste, and to
16 encourage consolidation and service extension when feasible.

17 (k) It is in the interest of all Californians to establish a fund with
18 a stable source of revenue to provide financial support, particularly
19 for operation and maintenance, necessary to secure access to safe
20 drinking water for all Californians, while also ensuring the
21 long-term sustainability of drinking water service and
22 infrastructure.

23 (l) It is in the interest of all Californians that when funding is
24 available from other sources, including the General Fund, the fees
25 necessary to enact this statute be reduced.

26 116765.5. It is the intent of the Legislature that any interest
27 revenues from the Safe and Affordable Drinking Water Trust Fund
28 as well as revenue from fees deposited in the Safe and Affordable
29 Drinking Water Fund be available annually for the purposes of
30 this chapter.

31

32

Article 2. Definitions

33

34 116766. For the purposes of this chapter:

35 (a) “Administrator” has the same meaning as defined in Section
36 116686.

37 (b) “Board” means the State Water Resources Control Board.

38 (c) “Community water system” has the same meaning as defined
39 in Section 116275.

1 (d) “Disadvantaged community” has the same meaning as
2 defined in Section 116275.

3 (e) “Domestic well” means a groundwater well used to supply
4 water for the domestic needs of an individual residence or water
5 systems that are not public water systems and that have no more
6 than four service connections.

7 (f) “Eligible applicant” means a public water system, including,
8 but not limited to, a mutual water company; a public utility; a
9 public agency, including, but not limited to, a local educational
10 agency that owns or operates a public water system; a nonprofit
11 organization; a federally recognized Indian tribe; a state Indian
12 tribe listed on the Native American Heritage Commission’s
13 California Tribal Consultation List; an administrator; or a
14 groundwater sustainability agency.

15 (g) “Fund” means the Safe and Affordable Drinking Water Fund
16 established pursuant to Section 116767.

17 (h) “Fund implementation plan” means the fund implementation
18 plan adopted pursuant to Section 116769.

19 (i) “Groundwater sustainability agency” has the same meaning
20 as defined in Section 10721 of the Water Code.

21 (j) “Low-income household” means a household with an income
22 that is less than 80 percent of the statewide median household
23 income.

24 (k) “Public water system” has the same meaning as defined in
25 Section 116275.

26 (l) “Replacement water” includes, but is not limited to, bottled
27 water, vended water, point-of-use, or point-of-entry treatment
28 units.

29 (m) “Safe drinking water” has the same meaning as defined in
30 Section 116681.

31 (n) “Service connection” has the same meaning as defined in
32 Section 116275.

33 (o) “State small water system” has the same meaning as defined
34 in Section 116275.

35 (p) “Vended water” has the same meaning as defined in Section
36 111070.

1 Article 3. Safe and Affordable Drinking Water Fund

2
3 116767. (a) The Safe and Affordable Drinking Water Fund is
4 hereby established in the State Treasury. Notwithstanding Section
5 13340 of the Government Code, all moneys in the fund are
6 continuously appropriated to the board without regard to fiscal
7 years, in accordance with this chapter. Moneys in the fund at the
8 close of the fiscal year shall remain in the fund and shall not revert
9 to the General Fund. Moneys in the fund shall not be available for
10 appropriation or borrowed for use for any purpose not established
11 in this chapter unless that use of the moneys receives an affirmative
12 vote of two-thirds of the membership in each house of the
13 Legislature.

14 (b) The board shall report annually in the Governor’s budget
15 fund revenues, including interest revenues, expenditures, and fund
16 balances.

17 116768. (a) The board shall administer the fund for the
18 purposes of this chapter to provide a source of funding to secure
19 access to safe drinking water for all Californians, while also
20 ensuring the long-term sustainability of drinking water service and
21 infrastructure. The board shall prioritize the use of this funding to
22 assist disadvantaged communities and low-income households
23 served by a state small water system or a domestic well. In order
24 to maximize the use of other funding sources for capital
25 construction projects when available, the board shall prioritize use
26 of this funding for costs other than those related to capital
27 construction costs, except for capital construction costs associated
28 with consolidation and service extension to reduce the ongoing
29 unit cost of service and to increase sustainability of drinking water
30 infrastructure and service delivery. Beginning January 1, 2020, an
31 expenditure from the fund shall be consistent with the annual fund
32 implementation plan.

33 (b) In accordance with subdivision (a), the board shall expend
34 moneys in the fund for grants, loans, contracts, or services to assist
35 eligible applicants with any of the following:

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

38 (2) The development, implementation, and sustainability of
39 long-term drinking water solutions that include, but are not limited
40 to, the following:

1 (A) Technical assistance, planning, construction, repair, and
2 operation and maintenance costs associated with replacing,
3 blending, or treating contaminated drinking water or with fixing
4 failing water systems, pipes, or fixtures. Technical assistance and
5 planning costs may include, but are not limited to, analyses to
6 identify, and efforts to further, opportunities to reduce the unit cost
7 of providing drinking water through organizational and operational
8 efficiency improvements, system consolidation and service
9 extension, implementation of new technology, and other options
10 and approaches to reduce costs.

11 (B) Operations and maintenance costs associated with
12 consolidated water systems, extended drinking water services, or
13 reliance on a substituted drinking water source.

14 (C) Creating and maintaining natural means and green
15 infrastructure solutions that contribute to sustainable drinking
16 water.

17 (D) Consolidating water systems.

18 (E) Extending drinking water services to other public water
19 systems, domestic wells, or state small water systems.

20 (F) The satisfaction of outstanding long-term debt obligations
21 of public water systems where the board determines that a system's
22 lack of access to capital markets renders this solution the most cost
23 effective for removing a financial barrier to the system's
24 sustainable, long-term provision of drinking water.

25 (3) Identifying and providing outreach to Californians who are
26 eligible to receive assistance from the fund.

27 (4) Testing the drinking water quality of domestic wells serving
28 low-income households in high-risk areas identified pursuant to
29 Article 4 (commencing with Section 116770).

30 (5) The provision of administrative and managerial services
31 under Section 116686.

32 (6) Provision of wastewater treatment plant operations and
33 maintenance for areas in which polluted water originates from
34 outside the state.

35 (c) The board may expend moneys from the fund for reasonable
36 costs associated with administration of the fund. Beginning July
37 1, 2022, the board may expend no more than 5 percent of the
38 annual revenues from the fund for reasonable costs associated with
39 administration of the fund.

1 (d) The board may undertake any of the following actions to
2 implement the fund:

3 (1) Provide for the deposit of any of the following moneys into
4 the fund:

5 (A) Federal contributions.

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

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

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

12 (4) Direct portions of the fund to a subset of eligible applicants
13 as required or appropriate based on funding source and consistent
14 with the annual fund implementation plan.

15 (5) Direct moneys deposited into the fund described in
16 subparagraph (B) of paragraph (1) towards a specific project,
17 program, or study.

18 (6) Take additional action as may be appropriate for adequate
19 administration and operation of the fund.

20 (e) In administering the fund, the board shall make reasonable
21 efforts to ensure both of the following:

22 (1) That funds are used to secure the long-term sustainability
23 of drinking water service and infrastructure, including, but not
24 limited to, requiring adequate technical, managerial, and financial
25 capacity of eligible applicants as part of funding agreement
26 outcomes. Funding shall be prioritized to implement consolidations
27 and service extensions when feasible, and administrative and
28 managerial contracts or grants entered into pursuant to Section
29 116686 where applicable. Funds shall not be used to delay, prevent,
30 or avoid the consolidation or extension of service to public water
31 systems where it is feasible and the least-cost alternative. The
32 board may set appropriate requirements as a condition of funding,
33 including, but not limited to, a system technical, managerial, or
34 financial capacity audit, improvements to reduce costs and increase
35 efficiencies, an evaluation of alternative treatment technologies,
36 and a consolidation or service extension feasibility study. As a
37 condition of funding, the board may require a domestic well with
38 nitrate contamination where ongoing septic system failure may be
39 causing or contributing to contamination of a drinking water source

1 to conduct an investigation and project to address the septic system
2 failure if adequate funding sources are identified and accessible.

3 (2) That funds are not used to subsidize large-scale nonpotable
4 use.

5 (f) In administering the fund, the board shall ensure that all
6 moneys deposited into the fund from the safe drinking water fee
7 for nondairy confined animal facilities pursuant to Article 10.5
8 (commencing with Section 595) of Chapter 3 of Part 1 of Division
9 1 of the Food and Agricultural Code, the fertilizer safe drinking
10 water fee pursuant to Article 6.5 (commencing with Section 14615)
11 of Chapter 5 of Division 7 of the Food and Agricultural Code, and
12 the dairy safe drinking water fee pursuant to Article 14.5
13 (commencing with Section 62215) of Chapter 2 of Part 3 of
14 Division 21 of the Food and Agricultural Code shall be used to
15 address nitrate-related contamination issues.

16 (g) At least once every 10 years, the board shall conduct a public
17 review and assessment of the fund to determine all of the following:

18 (1) The effectiveness of the fund in securing access to safe
19 drinking water for all Californians, while also ensuring the
20 long-term sustainability of drinking water service and
21 infrastructure.

22 (2) If the fees deposited into the fund have been appropriately
23 expended.

24 (3) For community water systems that have received funding
25 for 10 years or more and for which self-sufficiency has not been
26 achieved, the actions that have been taken, the reasons why
27 self-sufficiency has not been achieved, and, if available, ways in
28 which the community water system may become self-sufficient.

29 (4) What other actions are necessary to carry out the purposes
30 of this chapter.

31 (h) Neither the board nor any employee of the board may be
32 held liable for any act that is necessary to carry out the purposes
33 of this chapter. The board or any authorized person shall not be
34 deemed to have incurred or to be required to incur any obligation
35 to provide additional funding or undertake additional action solely
36 as a result of having undertaken an action pursuant to this chapter.

37 (i) (1) The board shall convene an environmental justice
38 advisory committee, for the purposes of this section, consisting of
39 at least three members, to advise it in conducting the public review
40 and assessment pursuant to subdivision (g) and any other pertinent

1 matter in implementing this chapter. The advisory committee shall
2 be comprised of representatives from communities in the state
3 with the most significant exposure to water pollution, including,
4 but not limited to, communities with minority populations or
5 low-income populations, or both.

6 (2) The board shall appoint committee members to the
7 environmental justice advisory committee from nominations
8 received from environmental justice organizations and community
9 groups.

10 (3) The board shall provide reasonable per diem for attendance
11 at environmental justice advisory committee meetings by
12 committee members from nonprofit organizations.

13 116769. By July 1 of each year, the board shall do all of the
14 following:

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

17 (b) Adopt, after a public hearing, an assessment of funding need,
18 based on available data, that includes all of the following:

19 (1) Identification of systems and populations potentially in need
20 of assistance, including, but not limited to, all of the following:

21 (A) A list of systems that consistently fail to provide an adequate
22 supply of safe drinking water. The list shall include all of the
23 following:

24 (i) Any public water system that consistently fails to provide
25 an adequate supply of safe drinking water.

26 (ii) Any community water system that serves a disadvantaged
27 community that must charge fees that exceed the affordability
28 threshold established in the board's Safe Drinking Water State
29 Revolving Fund Intended Use Plan in order to supply, treat, and
30 distribute potable water that complies with federal and state
31 drinking water standards.

32 (iii) Any state small water system that consistently fails to
33 provide an adequate supply of safe drinking water.

34 (B) A list of programs that assist, or that will assist, households
35 supplied by a domestic well that consistently fails to provide an
36 adequate supply of safe drinking water. This list shall include the
37 number and approximate location of households served by each
38 program without identifying exact addresses or other personal
39 information.

1 (C) A list of public water systems and state small water systems
2 that may be at risk of failing to provide an adequate supply of safe
3 drinking water.

4 (D) An estimate of the number of households that are served
5 by domestic wells or state small water systems in high-risk areas
6 identified pursuant to Article 4 (commencing with Section 116770).
7 The estimate shall identify approximate locations of households,
8 without identifying exact addresses or other personal information,
9 in order to identify potential target areas for outreach and assistance
10 programs.

11 (2) An analysis of anticipated funding, per contaminant, needed
12 for known projects, services, or programs by eligible applicants,
13 consistent with the fund implementation plan, including any
14 funding needed for existing long-term funding commitments from
15 the fund. The board shall identify and consider other existing
16 funding sources able to support any projects, services, or programs
17 identified, including, but not limited to, local funding capacity,
18 state or federal funding sources for capital projects, funding from
19 responsible parties, and specialized funding sources contributing
20 to the fund.

21 (3) An estimate of the funding needed for the next fiscal year
22 based on the amount available in the fund, anticipated funding
23 needs, other existing funding sources, and other relevant data and
24 information.

25 (c) (1) Adopt, after a public hearing, a fund implementation
26 plan and policy handbook with priorities and guidelines for
27 expenditures of the fund.

28 (2) The board shall work with a multistakeholder advisory group
29 to establish priorities and guidelines for the fund implementation
30 plan and policy handbook. The multistakeholder advisory group
31 shall be open to participation by all of the following:

32 (A) Representatives of entities paying into the fund.

33 (B) Public water systems.

34 (C) Technical assistance providers.

35 (D) Local agencies.

36 (E) Nongovernmental organizations.

37 (F) Residents served by community water systems in
38 disadvantaged communities, state small water systems, and
39 domestic wells.

40 (G) The public.

1 (3) The adoption of a fund implementation plan and policy
2 handbook and the implementation of the fund pursuant to the policy
3 handbook are not subject to the Administrative Procedure Act
4 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
5 Division 3 of Title 2 of the Government Code).

6
7 Article 4. Information on High-risk Areas
8

9 116770. (a) (1) By January 1, 2021, the board, in consultation
10 with local health officers and other relevant stakeholders, shall use
11 available data to make available a map of aquifers that are at high
12 risk of containing contaminants and that exceed primary federal
13 and state drinking water standards that are used or likely to be used
14 as a source of drinking water for a state small water system or a
15 domestic well. The board shall update the map at least annually
16 based on any newly available data.

17 (2) The board shall make the map of high-risk areas, as well as
18 the data used to make the map, publicly accessible on its internet
19 website in a manner that does not identify exact addresses or other
20 personal information and that complies with the Information
21 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
22 of Title 1.8 of Part 4 of Division 3 of the Civil Code). The board
23 shall notify local health officers and county planning agencies of
24 high-risk areas within their jurisdictions.

25 (b) (1) By January 1, 2021, a local health officer or other
26 relevant local agency shall provide to the board all results of, and
27 data associated with, water quality testing performed by certified
28 laboratories for a state small water system or domestic well that
29 was collected after January 1, 2015, and that is in the possession
30 of the local health officer or other relevant local agency.

31 (2) By January 1, 2022, and by January 1 of each year thereafter,
32 all results of, and data associated with, water quality testing
33 performed by a certified laboratory for a state small water system
34 or domestic well that is submitted to a local health officer or other
35 relevant local agency shall also be submitted directly to the board
36 in electronic format.

37 (c) A map of high-risk areas developed pursuant to this article
38 is not subject to the Administrative Procedure Act (Chapter 3.5
39 (commencing with Section 11340) of Part 1 of Division 3 of Title
40 2 of the Government Code).

1 Article 5. Safe and Affordable Drinking Water Fee

2
3 ~~116771. (a) The board shall adopt, by regulation, a schedule~~
4 ~~of fees as authorized by this section. Fees adopted shall not exceed~~
5 ~~_____.~~ ~~The regulations may include provisions concerning the~~
6 ~~administration and collection of the fees.~~

7 *116771. (a) There is hereby imposed a safe and affordable*
8 *drinking water fee of fifty cents (\$0.50) per service connection on*
9 *all public water systems.*

10 *(b) By July 1, 2020, and annually by each July 1 thereafter,*
11 *each public water system shall remit to the board the amount of*
12 *the fee imposed pursuant to subdivision (a) for their public water*
13 *system.*

14 *(c) (1) The board may adopt regulations to implement and*
15 *enforce this article.*

16 ~~(b) (1) Except as provided in paragraph (2), the~~
17 ~~(2) The regulations adopted pursuant to this section, or any~~
18 ~~amendment to these regulations, or subsequent adjustments to the~~
19 ~~annual fees; the board shall adopt as emergency regulations in~~
20 ~~accordance with Chapter 3.5 (commencing with Section 11340)~~
21 ~~of Part 1 of Division 3 of Title 2 of the Government Code. The~~
22 ~~adoption of these regulations is an emergency and the Office of~~
23 ~~Administrative Law shall consider the adoption of the regulations~~
24 ~~as necessary for the immediate preservation of the public peace,~~
25 ~~health, safety, and general welfare.~~

26 ~~(2)~~
27 ~~(3) The board shall adopt the initial regulations to implement~~
28 ~~this section in accordance with Chapter 3.5 (commencing with~~
29 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
30 ~~Code and may not rely on the statutory declaration of emergency~~
31 ~~in paragraph (1). (2).~~

32 ~~(3)~~
33 ~~(4) Any emergency regulations adopted by the board or~~
34 ~~adjustments to the fees made by the board pursuant to this section~~
35 ~~shall not be subject to review by the Office of Administrative Law~~
36 ~~and shall remain in effect until revised by the board.~~

37 ~~(e) Fees collected~~
38 ~~(d) The executive director of the board shall deposit all moneys~~
39 ~~received pursuant to this section shall be deposited in the fund.~~

1 *The board may expend moneys from the fund for reasonable costs*
2 *associated with the implementation and enforcement of this section.*

3 116772. (a) The Legislative Analyst shall report to the
4 Legislature and the board if the Legislative Analyst determines,
5 on or before January 1, 2023, that at least three billion dollars
6 (\$3,000,000,000) has been made available in an interest bearing
7 account in the State Treasury with a goal of at least one hundred
8 million dollars (\$100,000,000) in interest revenues per year
9 available for the purposes of the fund.

10 (b) (1) A report to be submitted pursuant to subdivision (a)
11 shall be submitted in compliance with Section 9795 of the
12 Government Code.

13 (2) Pursuant to Section 10231.5 of the Government Code, this
14 section is repealed on January 1, 2027.

15 (c) This article shall become inoperative upon the Legislative
16 Analyst submitting a report pursuant to subdivision (a), and, as of
17 January 1, of the year following that determination, is repealed.

18

19

Article 6. Regional Distribution

20

21 116773. (a) The Legislature finds and declares as follows:

22 (1) Water quality problems occur in all areas of the state,
23 including rural and urban areas.

24 (2) In particular, aging school infrastructure, including lead
25 pipes, puts at risk thousands of children per year.

26 (b) It is the intent of the Legislature to establish a region specific
27 program to address the purposes of this chapter.

28 (c) The board may distribute funds for any purpose of this
29 chapter through its drinking water regional offices, as follows:

30 (1) _____.

31 (d) The board shall not distribute more than 20 percent of the
32 annual expenditures from the fund pursuant to subdivision (c).

33 SEC. 6. Chapter 4.7 (commencing with Section 116774) is
34 added to Part 12 of Division 104 of the Health and Safety Code,
35 to read:

1 CHAPTER 4.7. SAFE AND AFFORDABLE DRINKING WATER TRUST
2 FUND

3
4 116774. (a) The Safe and Affordable Drinking Water Trust
5 Fund is hereby established within the State Treasury. It is the intent
6 of the Legislature that moneys in the trust fund remain for the
7 purposes of the trust in perpetuity.

8 (b) Moneys held in the trust fund shall be invested by the
9 Treasurer, in consultation with the Director of Finance and the
10 Controller, in investments authorized by Section 16430 of the
11 Government Code.

12 (c) Investment income derived from the trust fund is hereby
13 transferred on January 1 of each year to the Safe and Affordable
14 Drinking Water Fund, established by Section 116767 for the
15 purposes of Chapter 4.6 (commencing with Section 116765).

16 116774.1. The sum of two hundred million dollars
17 (\$200,000,000) shall be transferred to the trust fund by the
18 Legislature each year for five years for the purpose of establishing
19 a one-billion-dollar (\$1,000,000,000) trust fund to derive interest
20 revenues to fund Chapter 4.6 (commencing with Section 116765).

21 SEC. 7. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution for certain
23 costs that may be incurred by a local agency or school district
24 because, in that regard, this act creates a new crime or infraction,
25 eliminates a crime or infraction, or changes the penalty for a crime
26 or infraction, within the meaning of Section 17556 of the
27 Government Code, or changes the definition of a crime within the
28 meaning of Section 6 of Article XIII B of the California
29 Constitution.

30 However, if the Commission on State Mandates determines that
31 this act contains other costs mandated by the state, reimbursement
32 to local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code.