

AGENDA ITEM SUBMITTAL

Meeting Date: August 4, 2021

To: Board of Directors

From: Mike Markus

Staff Contact: G. Ayala/A. Dunkin

Budgeted: No

Budgeted Amount: \$0

Cost Estimate: \$0

Funding Source: N/A

Program/Line-Item No.: N/A

General Counsel Approval: N/A

Engineers/Feasibility Report: N/A

CEQA Compliance: N/A

Subject: OPPOSE AMENDMENT SA 2182

SUMMARY

On August 2, 2021 (after the posting of the Board agenda), Amendment SA 2182 was submitted by United States Senators Kirsten Gillibrand (D-NY), Cory Booker (D-NJ), Dianne Feinstein (D-CA), and Richard Blumenthal (D-CT) that would eliminate the need to perform a cost benefit analysis in the development of a new drinking water standard. Orange County Water District (OCWD, the District) staff and consultants recommend opposing the amendment as it is not consistent with the existing Safe Drinking Water Act that provides a balanced approach to establishing new drinking water standards, which OCWD supports. The amendment is expected to be voted on prior to the next OCWD Board of Directors meeting on August 18, so action from the District is needed expeditiously. (The amendment may be re-filed under another number in the future as it moves through the legislative process)

ATTACHMENTS

Amendment SA 2182

RECOMMENDATION

Authorize Board President to send a letter to United States Senators Feinstein and Padilla and copy the Representatives in OCWD's service area, and send letters to relevant elected officials, associations, and/or committees, to oppose Amendment SA 2182 and engage our media consultant in this effort.

DISCUSSION/ANALYSIS

Under existing law, the EPA ensures that public health benefits of a new drinking water regulation are reasonably balanced with the compliance costs that water system ratepayers will ultimately incur. Amendment 2182 eliminates the current cost-benefit analysis in the development of drinking water standards. Deleting the cost-benefit analysis from the regulation making process will burden ratepayers of all income levels with astronomical costs to comply with drinking water standards that far exceed their public health benefits. OCWD supports preserving the current cost-benefit analysis in

the development of drinking water standards and for this reason staff and consultants recommend opposing Amendment SA 2182.

The concerning section of SA 2182 is the following:

“(D) HEALTH RISK REDUCTION AND COST ANALYSIS.—In meeting the requirements of paragraph (3)(C) with respect to the national primary drinking water regulation for perfluoroalkyl and polyfluoroalkyl substances under subparagraph (A), the Administrator may rely on information available to the Administrator with respect to 1 or more specific perfluoroalkyl or polyfluoroalkyl substances to extrapolate reasoned conclusions with respect to the health risks and effects of a class of perfluoroalkyl or polyfluoroalkyl substances of which the specific perfluoroalkyl or polyfluoroalkyl substances are a part, including by using techniques described in— “(i) the document of the Environmental Protection Agency entitled ‘Generalized Read-Across (GenRA)’ (or a successor document); and “(ii) the Toxicity Estimation Software Tool of the Environmental Protection Agency (or a successor tool).”

Next Steps

As proposed, the vehicle to pass Amendment SA 2182 would be as part of the House-passed INVEST in America Act, H.R. 3684 that is currently being considered by the Senate as part of the ongoing infrastructure bill debate. The Senate is also debating Senators’ amendments to the infrastructure bill and a final Senate vote could happen as early as mid-next week.

The committee of jurisdiction, Environment and Public Works, is reviewing the amendment to determine if they will oppose. If they oppose, the amendment will not move; although, if the committee agrees to allow the amendment to be considered on the Senate floor, it will go forward for a vote. Process wise, the amendment could be brought up at any time assuming the Majority Leader, Senator Chuck Schumer (D-NY), calls for it.