

Senate Bill No. 1070

CHAPTER 750

An act to amend Section 13167 of, and to repeal and add Section 13181 to, the Water Code, relating to water.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1070, Kehoe. Water quality information.

(1) Existing law, the Porter-Cologne Water Quality Control Act, requires the State Water Resources Control Board, in conjunction with the California regional water quality control boards, to implement a public information program on matters involving water quality and to maintain an information file on water quality research and other pertinent matters.

This bill would require the state board, with the assistance of the regional boards, to implement a public information program on water quality matters and to place and maintain on its Internet Web site a public information file on water quality monitoring, assessment, research, standards, regulation, enforcement, and other pertinent matters, as prescribed.

(2) The act requires the state board and the regional boards to carry out various monitoring functions. The act requires the state board, to the extent that funds are available, to prepare and complete, on or before January 1, 2000, an inventory of existing water quality monitoring activities within state coastal watersheds, bays, estuaries, and coastal waters. The federal Clean Water Act prohibits the Environmental Protection Agency from approving certain grants for state pollution control programs in the absence of a determination that the state has provided or is carrying out an appropriate monitoring and reporting program, as specified.

This bill would repeal the provision relating to the preparation of an inventory and would require the California Environmental Protection Agency and the Resources Agency, on or before December 1, 2007, to enter into a memorandum of understanding for the purposes of establishing the California Water Quality Monitoring Council, which the state board would be required to administer. The bill would require the monitoring council to review existing water quality monitoring, assessment, and reporting efforts and to recommend specific actions and funding needs necessary to coordinate and enhance those efforts. The bill would require the memorandum of understanding to describe the means by which the monitoring council shall formulate recommendations to (a) reduce redundancies, inefficiencies, and inadequacies in existing water quality monitoring and data management programs and (b) ensure that

water quality improvement projects financed by the state provide specific information necessary to track project effectiveness with regard to achieving clean water and healthy ecosystems. The bill would require the monitoring council to undertake various actions relating to water quality data collection. The bill would require the Secretary of the California Environmental Protection Agency, commencing December 1, 2008, to conduct a triennial audit of the effectiveness of a comprehensive monitoring program strategy, which the state board would be required to develop in accordance with the Clean Water Act.

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

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

(a) The Legislative Analyst's Office has concluded that ambient water quality monitoring is the foundation for much of the work of the State Water Resources Control Board, including basin planning, standards setting, and permitting.

(b) The Government Accounting Office has determined that the United States Environmental Protection Agency (EPA) and the states need comprehensive water quality monitoring and assessment information on environmental changes and conditions over time and that, in the absence of this information, it is difficult for the EPA and the states to establish priorities, evaluate the success of programs and activities, and report on accomplishments.

(c) The National Research Council has similarly recommended the development of a uniform, consistent approach to ambient water quality monitoring and data collection, increased resources for water monitoring, and improved coordination of monitoring.

(d) According to California's 2002 biennial monitoring report to the EPA, the state can only report on the health of 22 percent of its coastal shoreline, 34 percent of its lakes and reservoirs, and 15 percent of its rivers and streams due to a lack of monitoring data. There is no single place where the public can go to get a specific look at the health of water bodies in its own backyard, or even to get an overall picture of the health of the state's waters.

(e) State water board funding for ambient surface water monitoring has fluctuated significantly over the years, and is inadequate to ensure the assessment of all waters. The monitoring efforts that are underway could be enhanced significantly with increased coordination of the many separate monitoring activities that are going on at the local, state, and federal levels. Historically, the use of different protocols and data management systems have typically precluded the full and effective use of available water quality monitoring data.

(f) The development of new programs to control agricultural and timber pollution, and the implementation of hundreds of new projects financed by bond funds to improve water quality, may produce water quality

improvements that should be documented. The State of California cannot afford to waste the opportunities provided by these and other water quality improvement programs.

(g) Numerous water monitoring efforts are conducted by local, state, and federal agencies, regulated entities, and citizen monitoring groups. Many of these efforts are uncoordinated, and as a result funds and information are not being used as effectively as they could be. In addition, redundant monitoring activities can occur because of a lack of basic information relative to the scope of monitoring activities throughout the state. For example, there are 100 water quality monitoring efforts underway in the central valley alone, and coordination is minimal.

(h) Better coordination of ongoing monitoring efforts, and more targeted identification of specific monitoring needs, would place California in a better position to obtain additional needed monitoring funding, particularly federal funding. Additional support can be found through the savings provided by increased coordination and integration of existing monitoring efforts.

(i) Californians should be able to readily access basic information that already exists about the state's waters and how those waters are protected and restored. By their recent approval of a constitutional amendment (Proposition 59), California voters have indicated their strong support for open and transparent government. The "government" of state waters should be carried out in a similarly open manner. At a minimum, all information that is currently available to agencies should be made readily available to the public via the Internet.

SEC. 2. Section 13167 of the Water Code is amended to read:

13167. (a) The state board shall implement, with the assistance of the regional boards, a public information program on matters involving water quality, and shall place and maintain on its Internet Web site, in a format accessible to the general public, an information file on water quality monitoring, assessment, research, standards, regulation, enforcement, and other pertinent matters.

(b) The information file described in subdivision (a) shall include, but need not be limited to, copies of permits, waste discharge requirements, waivers, enforcement actions, and petitions for review of these actions pursuant to this division. The file shall include copies of water quality control plans and policies, including any relevant management agency agreements pursuant to this chapter and Chapter 4 (commencing with Section 13200), and monitoring data and assessment information, or shall identify Internet links to that information. The state board, in consultation with the regional boards, shall ensure that the information is available in single locations, rather than separately by region, and that the information is presented in a manner easily understandable by the general public.

SEC. 3. Section 13181 of the Water Code is repealed.

SEC. 4. Section 13181 is added to the Water Code, to read:

13181. (a) (1) On or before December 1, 2007, the California Environmental Protection Agency and the Resources Agency shall enter

into a memorandum of understanding for the purposes of establishing the California Water Quality Monitoring Council, which shall be administered by the state board.

(2) As used in this section, “monitoring council” means the California Water Quality Monitoring Council established pursuant to this section.

(3) The monitoring council may include representatives from state entities and nonstate entities. The representatives from nonstate entities may include, but need not be limited to, representatives from federal and local government, institutions of higher education, the regulated community, citizen monitoring groups, and other interested parties.

(4) The monitoring council shall review existing water quality monitoring, assessment, and reporting efforts, and shall recommend specific actions and funding needs necessary to coordinate and enhance those efforts.

(5) (A) The recommendations shall be prepared for the ultimate development of a cost-effective, coordinated, integrated, and comprehensive statewide network for collecting and disseminating water quality information and ongoing assessments of the health of the state’s waters and the effectiveness of programs to protect and improve the quality of those waters.

(B) For purposes of developing recommendations pursuant to this section, the monitoring council shall initially focus on the water quality monitoring efforts of state agencies, including, but not limited to, the state board, the regional boards, the department, the Department of Fish and Game, the California Coastal Commission, the State Lands Commission, the Department of Parks and Recreation, the Department of Forestry and Fire Protection, the Department of Pesticide Regulation, and the State Department of Health Services.

(C) In developing the recommendations, the monitoring council shall seek to build upon existing programs rather than create new programs.

(6) Among other things, the memorandum of understanding shall describe the means by which the monitoring council shall formulate recommendations to accomplish both of the following:

(A) Reduce redundancies, inefficiencies, and inadequacies in existing water quality monitoring and data management programs in order to improve the effective delivery of sound, comprehensive water quality information to the public and decisionmakers.

(B) Ensure that water quality improvement projects financed by the state provide specific information necessary to track project effectiveness with regard to achieving clean water and healthy ecosystems.

(b) The monitoring council shall report, on or before December 1, 2008, to the California Environmental Protection Agency and the Resources Agency with regard to its recommendations for maximizing the efficiency and effectiveness of existing water quality data collection and dissemination, and for ensuring that collected data are maintained and available for use by decisionmakers and the public. The monitoring council shall consult with the United States Environmental Protection

Agency in preparing these recommendations. The monitoring council's recommendations, and any responses submitted by the California Environmental Protection Agency or the Resources Agency to those recommendations, shall be made available to decisionmakers and the public by means of the Internet.

(c) The monitoring council shall undertake and complete, on or before April 1, 2008, a survey of its members to develop an inventory of their existing water quality monitoring and data collection efforts statewide and shall make that information available to the public.

(d) All state agencies, including institutions of higher education to the extent permitted by law, that collect water quality data or information shall cooperate with the California Environmental Protection Agency and the Resources Agency in achieving the goals of the monitoring council as described in this section.

(e) In accordance with the requirements of the Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and implementing guidance, the state board shall develop, in coordination with the monitoring council, all of the following:

(1) A comprehensive monitoring program strategy that utilizes and expands upon the state's existing statewide, regional, and other monitoring capabilities and describes how the state will develop an integrated monitoring program that will serve all of the state's water quality monitoring needs and address all of the state's waters over time. The strategy shall include a timeline not to exceed 10 years to complete implementation. The strategy shall be comprehensive in scope and identify specific technical, integration, and resource needs, and shall recommend solutions for those needs so that the strategy may be implemented within the 10-year timeframe.

(2) Agreement, including agreement on a schedule, with regard to the comprehensive monitoring of statewide water quality protection indicators that provide a basic minimum understanding of the health of the state's waters. Indicators already developed pursuant to environmental protection indicators for statewide initiatives shall be given high priority as core indicators for purposes of the network described in subdivision (a).

(3) Quality management plans and quality assurance plans that ensure the validity and utility of the data collected.

(4) Methodology for compiling, analyzing, and integrating readily available information, to the maximum extent feasible, including, but not limited to, data acquired from discharge reports, volunteer monitoring groups, local, state, and federal agencies, and recipients of state-funded or federally funded water quality improvement or restoration projects.

(5) An accessible and user-friendly electronic data system with timely data entry and ready public access via the Internet. To the maximum extent possible, the geographic location of the areas monitored shall be included in the data system.

(6) Production of timely and complete water quality reports and lists that are required under Sections 303(d), 305(b), 314, and 319 of the Clean Water Act and Section 406 of the Beaches Environmental Assessment and

Coastal Health Act of 2000, that include all available information from discharge reports, volunteer monitoring groups, and local, state, and federal agencies.

(7) An update of the state board's surface water ambient monitoring program needs assessment in light of the benefits of increased coordination and integration of information from other agencies and information sources. This update shall include identification of current and future resource needs required to fully implement the coordinated, comprehensive monitoring network, including, but not limited to, funding, staff, training, laboratory and other resources, and projected improvements in the network.

(f) The state board shall identify the full costs of implementation of the comprehensive monitoring program strategy developed pursuant to subdivision (e), and shall identify proposed sources of funding for the implementation of the strategy, including federal funds that may be expended for this purpose. Fees collected pursuant to paragraph (1) of subdivision (d) of Section 13260 may be used as a funding source for implementation of the strategy to the extent that the funding is consistent with subparagraph (B) of paragraph (1) of subdivision (d) of Section 13260.

(g) Data, summary information, and reports prepared pursuant to this section shall be made available to appropriate public agencies and the public by means of the Internet.

(h) (1) Commencing December 1, 2008, the Secretary of the California Environmental Protection Agency shall conduct a triennial audit of the effectiveness of the monitoring program strategy developed pursuant to subdivision (e). The audit shall include, but need not be limited to, an assessment of the following matters:

(A) The extent to which the strategy has been implemented.

(B) The effectiveness of the monitoring and assessment program and the monitoring council with regard to both of the following:

(i) Tracking improvements in water quality.

(ii) Evaluating the overall effectiveness of programs administered by the state board or a regional board and of state and federally funded water quality improvement projects.

(2) The Secretary of the California Environmental Protection Agency shall consult with the Secretary of the Resources Agency in preparing the audit, consistent with the memorandum of understanding entered into pursuant to subdivision (a).

(i) The state board shall prioritize the use of federal funding that may be applied to monitoring, including, but not limited to, funding under Section 106 of the Federal Water Pollution Control Act, for the purpose of implementing this section.

(j) The state board shall not use more than 5 percent of the funds made available to implement this section for the administrative costs of any contracts entered into for the purpose of implementing this section.