Date of Hearing: June 2, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 2296 (Quirk) – As Amended May 5, 2020

Policy Committee: Environmental Safety and Toxic Materials Vote: 6 - 1

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill authorizes Local Primacy Agency (LPA) counties to elect to participate in a funding stabilization program, administered by the State Water Resources Control Board (State Water Board), to fund regulatory oversight of small public drinking water systems.

FISCAL EFFECT:

1) If all LPA's participate in the new program, there will be estimated increased costs of $13 million to meet the drinking water needs of the counties (special funds).

2) Annual State Water Board costs of $200,000 (1 PY) to negotiate with LPAs, oversee the program and extend the board's regulatory fee program, including billing and collections, to include the small water systems regulated by participating LPAs (special fund).

   This bill limits the LPAs that can participate in the program to those where the county board of supervisors make a finding that the local health officer does not have a sufficient fee base to fully fund the oversight activities described in the local primacy agency delegation agreement. As a result, it is certain that not all LPAs will choose to participate in the program authorized by the bill, because not all LPAs will be able to meet this criteria.

   The State Water Board, however, is unable to determine at this time which LPAs would choose to participate in the program and accordingly, is unable to develop a specific cost estimate. The costs, however, are likely to be in the millions of dollars.

   It is important to note that under current law, any LPA can choose to discontinue their regulation of state small drinking water systems at any time and to return the program to the State. When this occurs, the State Water Board is required to hire staff and increase fees to pay for the costs of assuming this regulatory responsibility

   This bill will help fund the LPAs to administer the program and will result in increased state costs and fee increases. Without this bill, many LPAs will relinquish the program and turn it back to the State Water Board, and the State Water Board will be required to hire staff and increase fees to pay for the costs of assuming this regulatory responsibility. Either way, more staff and funding will be required to ensure community water systems are delivering safe clean drinking water.

COMMENTS:

1) **Background and Purpose.** The State Water Board has regulatory oversight of approximately 7,500 public drinking water systems in California. The State Water Board is authorized to delegate the primary responsibility for the administration and enforcement of drinking water standards to local health officers in counties with public water systems serving less than 200 service connections through LPAs.

   Thirty of California's 58 counties have LPA delegation agreements with the State Water Board and, therefore, have primary responsibility of regulatory oversight of the public drinking water systems in their counties.

   LPA counties regulate a total of approximately 4,500 public drinking water systems, which consist of community water systems with more than 14 and less than 200 connections, non-community non-transient systems (i.e. schools and business that provide water to people that do not live there), and non-community transient systems (i.e. businesses and parks that provide their own potable water) .

   According to the State Water Board's "2015 Safe Drinking Water Plan," In recent years, more LPAs have returned oversight to the State Water Board because the LPA's funding is inadequate to effectively administer the program. Between 2007 and 2014, Fresno, Marin, Tuolumne, San Mateo, Tulare and Merced counties have returned oversight authority to the State Water Board.

   The State Water Board recommended in 2015 that the legislature address the need for funding of activities that provide greater oversight of and technical assistance to small public water systems, particularly those that serve disadvantaged communities.

   This bill provides the intent of the Legislature to consider funding sources from the General Fund, the Drinking Water Account, including regulatory fees on public water systems, or other appropriate sources. LPAs would be required to remit all penalties, fines, and reimbursement of costs to the State Water Board for deposit into the Safe Drinking Water Account.

   This bill attempts to resolve the challenge of funding oversight of small public water systems in various ways. The bill includes additional requirements for the State Water Board to approve an application for the funding stabilization program, providing that the board of supervisors of the LPA applicant will make a determination that the LPA has a need for state fund augmentation.

   The determination of need must be based on a finding that the local health officer does not have a sufficient fee base to fully fund the oversight activities described in the local primacy agency delegation agreement. The funding stabilization program would continue annually until either the LPA terminates participation or the State Water Board determines the LPA is no longer in compliance with the delegation agreement or the board of supervisors determines the LPA does not have a need for state funding augmentation.

According to the author:

> "California recognizes that all individuals have a human right to safe, clean, affordable, and accessible water, including disadvantaged groups and communities in rural areas. The State seeks to protect these rights by enforcing the Safe Drinking Water Act. LPA delegation agreements help ensure that small water systems deliver adequate and safe drinking water. Compared to larger systems, small water systems often require more resources per consumer to ensure compliance with state requirements, but also generate less regulatory fee revenue. However, increasing regulatory fees to match program cost is difficult, especially when the communities served are also disadvantaged. LPAs currently regulate more than half of all public drinking water systems, but are at risk of relinquishing oversight authority to the state without a continuous source of funding. It is in the state's interest to ensure that LPAs can continue to provide oversight to ensure that the systems they regulate deliver adequate and safe drinking water."

2) **Drinking Water Surveillance Program Grants.** To the extent funds are available in the Safe Drinking Water Account, the State Water Board is required to provide annual grants to LPAs to cover the costs of conducting inspections, monitoring, surveillance and water quality activities specified in the LPA agreement not to exceed the amount the State Water Board would spend on the same activities. This bill expands the activities covered in the grants to include enforcement.

   The last time grants were provided to LPAs was 2006.

3) **Safe Drinking Water Fund.** In addition to the potential need for additional revenue and an increase in the statutory cap on drinking water fees, the Safe Drinking Water Fund is also hindered by a 5% cap on administrative costs. This cap was established when the program was transferred from the California Department of Public Health to the State Water Board. As the State Water Board assumes new administrative and oversight duties, it may make sense to revisit the cap and its application to all programs paid for by the fund.

4) **The Safe and Affordable Drinking Water Fun.**: SB 200 (Monning), Chapter 120, Statutes of 2019, established the Safe and Affordable Drinking Water Fund to address longstanding issues with water supply, infrastructure and operations. The fund provides $130 million annually from AB 32 cap-and-trade revenues (Greenhouse Gas Reduction Fund- GGRF) for the State Water Board to support operations and maintenance for small community water systems unable to meet safe drinking water standards.

   The May 2020 cap-and-trade auction revenue fell far short of average raising $25 million compared to typical auction proceeds of $700 million, which may result in budget cuts for all GGRF expenditures.

Analysis Prepared by: Jennifer Galehouse / APPR. / (916) 319-2081