
THIRD READING

Bill No: SB 230
Author: Portantino (D)
Amended: 1/20/22
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 3/15/21
AYES: Allen, Bates, Dahle, Gonzalez, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 1/20/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: State Water Resources Control Board: Constituents of Emerging Concern Program

SOURCE: California Municipal Utilities Association
Metropolitan Water District of Southern California

DIGEST: This bill requires the State Water Resources Control Board (State Water Board) to establish, maintain, and direct a dedicated Constituents of Emerging Concern (CEC) Program to assess the state of information and recommend areas for further study on the occurrence of CECs in drinking water, and establishes the CEC Action Fund.

ANALYSIS:

Existing law:

- 1) Requires, pursuant to the federal Safe Drinking Water Act (SDWA) and California SDWA, drinking water to meet specified standards for contamination (maximum contaminant levels (MCLs)) as set by the United States Environmental Protection Agency (US EPA) or the State Water Board. (Health & Safety Code (HSC) § 116270, et seq.)

- 2) Requires the US EPA to establish criteria for a program to monitor unregulated contaminants and publish a list of up to 30 contaminants to be monitored every five years, known as the federal Unregulated Contaminant Monitoring Rule (UCMR). (42 United States Code § 300(f))
- 3) Establishes 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. (Water Code § 106.3)
- 4) Requires the State Water Board to administer provisions relating to the regulation of drinking water to protect public health, including conducting research, studies, and demonstration projects relating to the provisions of a dependable, safe supply of drinking water. (HSC §116350)

This bill:

- 1) Requires the State Water Board to establish the CEC in Drinking Water Program for five years to assess information on and make recommendations regarding areas for further study related to: the occurrence of CEC in drinking water sources and treated drinking water; the fate, transport, and biodegradation of these constituents; water treatment and laboratory analyses; and the potential public health effects.
- 2) Requires the State Water Board to convene a Science Advisory Panel for CEC in drinking water sources and treated drinking water for three years.
- 3) Specifies that the panel include at least seven members comprised of experts from the fields of public health sciences, water and wastewater engineering, toxicology, epidemiology, chemical sciences, and biological sciences.
- 4) Requires the State Water Board to ensure that panel members do not have conflicts of interest.
- 5) Requires that the panel review and provide recommendations to the State Water Board on CECs for further action, excluding perfluoroalkyl and polyfluoroalkyl substances (PFAS), as specified.
- 6) Specifies that the State Water Board may adjust the panel membership numbers and composition, as necessary.

- 7) Specifies that the panel's advisory duties *may* include all of the following activities, at the State Water Board's request, in consultation, as needed, with the Office of Environmental Health Hazard Assessment (OEHHA) and the Department of Toxic Substances Control (DTSC):
 - a) Review existing data for CEC collected by the State Water Board and nationwide by the United States Environmental Protection Agency's Unregulated Contaminant Monitoring Rule Program and recommend to the State Water Board further actions based on state-specific conditions and the state's constituent of emerging concern initiatives;
 - b) Identify CEC candidates based on potential public health effects;
 - c) Incorporate recommendations from other ongoing state efforts evaluating CEC;
 - d) Evaluate and recommend a framework for standardizing and validating detection methods, new screening methods, monitoring approaches, and reporting procedures for CEC;
 - e) Recommend a framework for a risk-based screening program for CEC and appropriate indicators and surrogates that consider their occurrence in drinking water sources and treated drinking water supplies, contribution and fate in the environment, and potential for human exposure;
 - f) Recommend a process to ensure CEC data is integrated with existing state databases;
 - g) Review the results of any screening program and provide recommendations to assist the State Water Board in prioritizing, monitoring, and making regulatory determinations for CEC; and
 - h) Address the United States Environmental Protection Agency's Contaminant Candidate List and not create any impediments to complying with federal law.
- 8) States that nothing in these provisions duplicates, changes, or interferes with the State Water Board's ongoing efforts on CEC in Recycled Water.
- 9) Specifies that if the State Water Board imposes CEC monitoring requirements based on the recommendations of the panel, the State Water Board may provide financial assistance, upon appropriation by the Legislature for this purpose, to any public water system upon a showing that the costs associated with testing drinking water in compliance with those requirements would impose a financial hardship. Requires these funds be dedicated for use public water systems serving fewer than 10,000 individuals located in disadvantaged communities.

- 10) Makes findings that the program is intended to help inform the State Water Board in making regulatory determinations for CEC and is not intended to supersede any requirements related to setting a maximum contaminant level, public health goal, a notification level, or a response level, as specified.
- 11) Establishes the CEC Action Fund in the State Treasury and directs the State Water Board to administer the Fund.
- 12) Specifies that that monies in the Fund be used, upon appropriation by the Legislature, to support costs associated with:
 - a) Establishing and maintaining the panel, developing standardized methods and a risk-based screening program, collecting occurrence data, and reporting on those activities;
 - b) Developing standardized analytical methods internally by the State Water Board or through external contracts or grants;
 - c) Contracts or grants to public or private external research organizations to fill research gaps; and
 - d) Other State Water Board costs associated with the implementation and administration of the program.
- 13) Requires the State Water Board to provide for the deposit into the CEC Action Fund of federal contributions, voluntary contributions, gifts, grants, bequests, transfers by the Legislature from the General Fund, and funding from authorized general obligation bond acts.
- 14) Requires the program provide opportunities for public participation.
- 15) Requires the State Water Board to maintain a program internet website and make relevant research, reports, and data available to the public.
- 16) Requires the State Water Board to provide an annual program update at a regularly noticed meeting of the State Water Board.
- 17) Requires the State Water Board, by June 1, 2026, to provide a final report to the Legislature in compliance with Section 9795 of the Government Code on the work conducted by the panel. Requires the State Water Board to complete a public review of the final report before submitting the report to the Legislature.
- 18) Sunsets the requirement for submitting a report on June 1, 2030.

- 19) Specifies that the provisions of the bill are contingent upon an appropriation by the Legislature in the annual Budget Act or another statute.

Background

Identifying Contaminants of Emerging Concern. “Constituents of Emerging Concern” or CECs is a term used by water quality professionals to describe pollutants that have been detected in water bodies, that may cause ecological or human health impacts, and typically are not regulated under current environmental laws. CECs can include nanoparticles, pharmaceuticals, personal care products, estrogen-like compounds, flame retardants, detergents, and some industrial chemicals with potential significant impact on human health and aquatic life.

Over the years, CECs have received growing public attention as potential pollutants in drinking water supplies. Yet, the full extent and public health risk of their presence is not well understood.

The federal Safe Drinking Water Act establishes a framework for evaluating *potential* drinking water contaminants. The US EPA uses the Unregulated Contaminant Monitoring Rule (UCMR) to collect data for contaminants suspected to be present in drinking water, but that do not have health-based standards set under the federal Safe Drinking Water Act. California conducts federally required monitoring from the federal UCMR program that can result in California establishing notification levels (NLs) and response levels (RLs) as precautionary measures for contaminants that have not yet undergone or completed the regulatory-standard setting process. When chemicals are found at concentrations greater than their NLs, certain requirements and recommendations apply.

The State Water Board has no standing science advisory bodies to address CECs. Panels are convened as necessary to provide recommendations on specific management questions. To date, the State Water Board has convened four science advisory panels to provide recommendations on CECs in aquatic ecosystems.

Comments

Purpose of bill. According to the author, “Constituents of Emerging Concern (CECs) are a diverse group of chemicals and microorganisms that are not currently regulated in drinking water. They can be detected in very small amounts. CECs have been found in natural water bodies and drinking water, and more are expected to be detected in the future. Over the years, CECs have received growing public attention as potential pollutants in drinking water supplies. Yet, the full extent and public health risk of their presence is not well understood. Senate Bill 230 would

require the State Water Resources Control Board to establish and then maintain an ongoing, dedicated program for CECs to proactively improve the understanding of their occurrence and public health significance in drinking water sources.”

Related/Prior Legislation

SB 996 (Portantino, 2020) would have required the State Water Board to establish a dedicated CEC program to support and conduct research on CEC in drinking water that may pose risks to public health. The measure was held in the Senate Environmental Quality Committee.

SB 1056 (Portantino, 2020) would have required the State Water Board to establish an analytical laboratory method, by January 1, 2022, that can be used as a tool to assess the extent of per- and polyfluoroalkyl substances contamination in drinking water, surface water, groundwater, and wastewater. The measure was held in the Senate Environmental Quality Committee.

AB 756 (C. Garcia, Chapter 162, Statutes of 2019) authorized the State Water Board to order one or more public water systems to monitor for per- and polyfluroalkyl substances and establishes a separate customer notification process as a result of any confirmed detection.

AB 2072 (Quirk, 2018) would have required the State Water Board to establish and maintain a dedicated program to research the potential effects of CEC in water sources on human and ecosystem health. The measure was held in Assembly Appropriations Committee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, enactment of this bill would result in annual costs in the low millions of dollars (General Fund or special fund) for five years for the State Water Board to administer the new CEC in Drinking Water Program, and ongoing cost pressure of the same amount thereafter to continue the program rather than allowing it to sunset. While a fiscal estimate for the most recent version of this bill was not available at the time of this analysis, the State Water Board previously estimated costs for the prior version of \$1 million annually (special fund) to support five positions, and \$450,000-\$650,000 annually (special fund) for contract costs to administer the new CEC program that would be mandated by this bill. This estimate presumes that the State Water Board would be implementing recommendations for the identification, screening, and analysis of new constituents at the recommendation of the science advisory panel, at a rate of

two new CECs per year. Staff anticipates that recent amendments would not have a significant impact on annual costs. However, the new sunset provision would limit direct costs of the bill to a five-year timeframe.

Additionally, the Committee notes unknown but potentially significant cost pressure, possibly in the tens of millions of dollars (General Fund or special fund), for the state to fund research, grants, and other CEC-related financial assistance in future years. Should the Legislature appropriate funding for these purposes, the State Water Board would also incur costs related to administering CEC-related financial assistance as directed by this bill. These costs would be related to traditional State Water Board oversight roles such as adoption of funding guidelines, identification of projects, review of applications for funding, and fraud prevention oversight.

SUPPORT: (Verified 1/20/22)

California Municipal Utilities Association (co-source)
Metropolitan Water District of Southern California (co-source)
Anaheim Public Utilities
Association of California Water Agencies
Bizfed - Los Angeles County
California-Nevada Section, American Water Works Association
Calleguas Municipal Water District
Central Basin Municipal Water District
Central City Association of Los Angeles
City of Glendale Water & Power
City of Pasadena
City of Riverside Public Utilities
City of Santa Ana
Cucamonga Valley Water District
Eastern Municipal Water District
El Monte/South El Monte Chamber of Commerce
El Toro Water District
Elsinore Valley Municipal Water District
Emerald Bay Services District
Foothill Municipal Water District
Garden Grove Chamber of Commerce
Inland Empire Utilities Agency
Jurupa Community Services District
Las Virgenes Municipal Water District
LAX Coastal Chamber of Commerce

Long Beach Area Chamber of Commerce
Long Beach Board of Water Commissioners
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation
Manhattan Beach Chamber of Commerce
Municipal Water District of Orange County
Palos Verdes Peninsula Chamber of Commerce
Pasadena Water and Power
Pomona Chamber of Commerce
Rancho California Water District
Redondo Beach Chamber of Commerce
Regional Water Authority
San Diego County Water Authority
San Gabriel Valley Legislative Coalition of Chambers
Sanitation Districts of Los Angeles County
Santa Margarita Water District
South Bay Association of Chambers of Commerce
Southern California Water Coalition
Three Valleys Municipal Water District
Torrance Area Chamber of Commerce
Upper San Gabriel Valley Municipal Water District
WaterReuse California
Western Municipal Water District
Westside Council of Chambers of Commerce

OPPOSITION: (Verified 1/20/22)

Clean Water Action
Natural Resources Defense Council

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
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