

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Alex Lee, Chair

AB 682 (Mathis) – As Amended March 20, 2023

SUBJECT: State Water Resources Control Board: online search tool: funding applications

SUMMARY: Requires the State Water Resources Control Board (State Water Board) to, by January 1, 2025, update its online search tool for funding applications to include, at a minimum, specified information relating to the status of water systems' funding applications. Specifically, **this bill:**

- 1) Requires the State Water Board to, by January 1, 2025, update its online search tool for funding applications to include, at a minimum, all of the following information:
 - a) A description of the additional information the State Water Board requires from a water system to continue processing the water system's application;
 - b) The date the State Water Board requested the water system to provide additional information;
 - c) The cause of any prolonged delays in the process; and,
 - d) A description of the typical steps that must be completed before a funding agreement can be executed after receipt of a complete application.

EXISTING LAW:

- 1) Authorizes, pursuant to the federal Safe Drinking Water Act (SDWA), the United States Environmental Protection Agency (US EPA) to set standards for drinking water quality and to oversee the states, localities, and water suppliers who implement those standards. (42 United States Code (USC) § 300 (f) et seq.)
- 2) Provides, under federal Drinking Water State Revolving Fund (DWSRF) statute, financial assistance to help water systems and states achieve the health protection objectives of the SDWA. Requires states to establish a drinking water revolving loan fund to be eligible for a federal DWSRF capitalization grant. (42 USC § 300j-12, et seq.)
- 3) Establishes as 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. Requires all relevant state agencies to consider the human right to water state policy when revising, adopting, or establishing policies, regulations, and grant criteria when those policies, regulations, and criteria are pertinent to the uses of water. (Water Code § 106.3)
- 4) Establishes the California SDWA and requires the State Water Board to maintain a drinking water program. (Health and Safety Code (HSC) § 116270, et seq.)

- 5) Defines a "public water system" as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. (HSC § 116275)
- 6) Establishes the state DWSRF to provide financial assistance for the design and construction of projects for public water systems to meet safe drinking water standards. (HSC §116760, et seq.)
- 7) Creates the Safe and Affordable Drinking Water Fund in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. (HSC § 116766.)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author, "AB 682 is a necessary and common-sense measure to modernize and improve the transparency of the water application process. Access to clean and safe water is not a partisan issue, but a human right, and this bill will help infrastructure developments within the state to ensure that every Californian has access to water."

Human right to water: In 2012, by enacting Assembly Bill (AB) 685 (Eng, Chapter 524, Statutes of 2012), California became the first state with a Human Right to Water law. AB 685 establishes as state policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation. Water supply issues, contaminants, costs of treatment and distribution systems, climate change, the number and nature of small public water systems, especially in disadvantaged communities, and many other factors continue to challenge progress in implementing the Human Right to Water goals.

Drinking water systems in California: According to a July 2022 report by the Auditor of the State of California, *State Water Resources Control Board: It Lacks the Urgency Necessary to Ensure That Failing Water Systems Receive Needed Assistance in a Timely Manner*, "California is one of the most prosperous states in the country, and yet, fundamental inequities still exist, including access to safe drinking water. In fact, nearly a million Californians lack access to safe drinking water because they receive water from systems that do not meet water quality standards. The [State Water Board] regulates the operation of roughly 7,400 drinking water systems throughout the State and disburses federal and state assistance to help them improve their water quality. As of December 2021, the State Water Board reported that more than 370 water systems were classified as failing water systems because they exceeded the maximum contaminant levels for safe drinking water. These failing water systems provide water to more than 920,000 people. Nearly 240 of these water systems have been failing for at least three years, and more than 150 have been failing for five years. Further, for 2022, the State Water Board's data show that an additional 432 water systems serving more than 1 million people are at risk of failing."

Health effects of drinking water contaminants: The US EPA reports that there is a broad range of health effects associated with exposure to drinking water contaminants. Ingestion or exposure to pathogens at sufficient doses can result in gastrointestinal illness with symptoms such as

diarrhea, nausea, stomach cramps, and vomiting. Exposure to higher doses of chemicals, metals, or radionuclides through drinking water can produce biological responses, toxicological effects, and more severe health impacts including cancer, developmental or reproductive effects, neurological effects, and organ damage.

California's drinking water program: As outlined in the California State Auditor's July 2022, report, the State Water Board's Division of Drinking Water (DDW) implements and enforces the federal and state Safe Drinking Water Acts, monitors drinking water quality, and issues permits to public water systems throughout the state. The State Water Board establishes maximum contaminant levels (drinking water quality standards, also known as MCLs) for more than 100 substances that are harmful to human health. The DDW's 25 district offices monitor public water systems' compliance with drinking water standards by reviewing and evaluating analytical results of the water samples collected by the water systems. When a water system exceeds MCL standards, the DDW may take enforcement actions, including fines if necessary.

Funding sources for safe drinking water projects: The State Water Board provides funding and other assistance to water systems for drinking water projects that address or prevent public health risks. The State Auditor's report notes that from July 2016 through December 2021, the State Water Board's Division of Financial Assistance awarded about \$1.7 billion in loan and grant funding for water infrastructure projects—such as constructing water sources, distribution systems, and treatment facilities—and for technical assistance to water systems. The State Water Board relies on funding from several sources to make these awards to water systems and support its safe drinking water programs. For fiscal year 2021–22, federal and state funding available for drinking water programs totaled \$1.4 billion. Of that amount, \$650 million, or 46 percent, came from a State General Fund appropriation for water system infrastructure. Another \$330 million, or 23 percent, came from the DWSRF, and \$240 million, or 17 percent, was from state bonds and other special funds. The remainder of its funding is from the Safe and Affordable Drinking Water Fund, established by SB 200 (Monning, Chapter 120, Statutes of 2019), and additional appropriations from the State General Fund.

The State Water Board's loan and grant application process: As described by the State Auditor's report, water systems are often eligible for funding from several sources and for different aspects of projects. They may apply for funding to assist in the planning and design or construction of new infrastructure projects, or for the operation and maintenance of existing infrastructure. Water systems may apply for financial assistance for both the design and the construction phases of their projects.

Applications for funding require water systems to provide the State Water Board with general project information, as well as information about the project's technical and environmental aspects. The application must also include information about the water system's ability to repay the loan for the project.

The State Water Board also provides support and technical assistance to water systems that need assistance with the application process. Once a water system submits an application, a Division of Financial Assistance project manager reviews it for completeness and contacts the applicants to obtain any missing information. Following its reviews of the project submittals, the State Water Board determines the amount and source of funding to award the water system. It then drafts a financing agreement for the projects.

State Auditor's findings: In its July 2022 report, the State Auditor stated that, "Over the last five years, the average amount of time it took for water systems to complete their applications for these funds, and then for the State Water Board to review them and award funding, has nearly doubled from an average of 17 months in 2017 to 33 months in 2021. A key reason for this trend is that in recent years, because of a change in state law, the State Water Board's focus has shifted to helping smaller, potentially less sophisticated, water systems. According to State Water Board staff, working with a greater number of smaller water systems has increased its application processing times. Even so, our survey of water systems and observations from our review of a selection of applications indicate that the State Water Board's cumbersome application process, and its lack of sufficient communication and follow-up with water systems, are also contributing factors to funding delays... The longer the State Water Board takes to fund projects, the more expensive the projects become and, more importantly, the greater the likelihood of negative health outcomes for Californians served by failing water systems."

Recommendations from the State Auditor's report: To increase transparency in the funding process and make its online search tool more useful to water systems applying for funding, the State Auditor's report recommended that by January 2023, the State Water Board update its online search tool for funding applications to include the following:

- 1) A description of the additional information the State Water Board needs from the water system to continue processing its application;
- 2) Any deadlines the State Water Board has issued to the water system to provide additional information;
- 3) The cause of any prolonged delays in the process, including the need for reviews by external parties; and,
- 4) The date the State Water Board expects to complete its reviews and award funding to the water system.

The State Water Board's online funding application search tool: The Division of Financial Assistance at the State Water Board, which assists communities in financing the cost of water infrastructure projects, hosts an online, public-facing funding application search tool. The tool allows users to search the status of drinking water and clean water applications that have been submitted for funding consideration and are under review. Applicants who have received a funding agreement are not included in the search tool.

Through the search tool, a person can search the status of a funding application by applicant, project title, project number, county, district, or region. The search tool denotes whether an application package is incomplete; if a complete application has been received but not reviewed; and, whether complete application packages have been reviewed by staff.

This bill: The goal of AB 682 is to implement the recommendations proposed in the July 2022, State Auditor's report. AB 682 does this by requiring the State Water Board to, by January 1, 2025, update its online search tool for funding applications to include, at a minimum, a description of the additional information the State Water Board requires from a water system to continue processing the water system's application; the date the State Water Board requested the water system to provide additional information; the cause of any prolonged delays in the process; and, a description of the typical steps that must be completed before a funding agreement can be executed after receipt of a complete application.

The State Water Board relays that it is currently working, through its Division of Information Technology staff and their contractors, to update the public-facing funding application search tool to incorporate the features recommended by the State Auditor's Office in their July 2022 report. The State Water Board expects to have its online tool in place by summer 2023.

Related legislation:

AB 1211 (Mathis). Requires the State Water Board to post at least once annually, instead of biennially, information regarding implementation and expenditures from the DWSRF on its internet website and to send a link for the website to the Legislature. This bill is pending before the Assembly Environmental Safety and Toxic Materials Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Municipal Utilities Association

Opposition

None on file.

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