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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.*)

PART 12. DRINKING WATER [116270 - 117130] (*Part 12 added by Stats. 1995, Ch. 415, Sec. 6.*)

CHAPTER 4.6. Safe and Affordable Drinking Water [116765 - 116772] (*Chapter 4.6 added by Stats. 2019, Ch. 120, Sec. 9.*)

ARTICLE 2. Safe and Affordable Drinking Water Fund [116766- 116766.] (*Article 2 added by Stats. 2019, Ch. 120, Sec. 9.*)

116766. (a) The Safe and Affordable Drinking Water Fund is hereby established 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. Notwithstanding Section 13340 of the Government Code, all moneys deposited in the fund are continuously appropriated to the board to fund all of the following:

(1) Operation and maintenance costs to help deliver an adequate supply of safe drinking water in both the near and long terms.

(2) Consolidating water systems, or extending drinking water services to other public water systems, domestic wells, and state small water systems.

(3) The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.

(4) The provision of services under Section 116686 for purposes of helping the water systems become self-sufficient in the long term.

(5) The development, implementation, and sustainability of long-term drinking water solutions.

(6) Board costs associated with the implementation and administration of programs pursuant to this chapter.

(b) Consistent with subdivision (a), the board shall expend moneys in the fund for grants, loans, contracts, or services to assist eligible recipients.

(c) (1) Eligible recipients of funding under this chapter are public agencies, nonprofit organizations, public utilities, mutual water companies, federally recognized California Native American tribes, nonfederally recognized Native American tribes on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004, administrators, groundwater sustainability agencies, community water systems, and technical assistance providers.

(2) Any waiver of tribal sovereign immunity that is required by the board for a tribe that is an eligible recipient to access funding under this chapter shall be narrowly drafted to serve both the individual needs of the tribe and make the funding agreement enforceable. The waiver of sovereign immunity shall be negotiated with the direct involvement and assistance of the board's tribal liaison or their designee or designees.

(3) In order to facilitate better coordination between the board and tribes that are eligible recipients, the board shall include its designated tribal liaison or their designee or designees in all discussions with eligible recipients, unless those eligible recipients give permission for the tribal liaison or their designee or designees to be absent.

(4) In expending moneys from the fund under this chapter, the board shall consider the extent that funds for safe drinking water projects from the programs administered by the board are distributed to eligible recipients to provide assistance to federally recognized California Native American tribes or nonfederally recognized Native American tribes on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004 and shall make diligent efforts to ensure the distribution of funds to those tribes. The board shall expend those funds, upon appropriation by the Legislature, for grants, loans, contracts, or services to assist those tribes.

(5) The board shall post on its internet website, and update annually, the number of inquiries for funding received from tribes, the number of applications for funding received from tribes, and the total amount of funding granted to tribes each year. If the board is not able to consistently approve funding applications from eligible tribes in a timely manner, the board shall identify barriers to the tribes receiving funding and propose possible solutions in the fund expenditure plan.

(6) To be eligible for funding under this chapter, grants, loans, contracts, or services provided to a public utility that is regulated by the Public Utilities Commission or a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the water system and not the investors.

(7) For purposes of this subdivision, "tribal liaison" means an individual employed by the board as a tribal liaison, or if the tribal liaison is unavailable, a tribal coordinator, the board's chair, the board's executive director, or the board's chief counsel acting in that capacity as a designee or the designees of the tribal liaison.

(d) On and after July 1, 2020, an expenditure from the fund shall be consistent with the fund expenditure plan.

(e) The board may expend moneys from the fund for reasonable costs associated with the administration of this chapter, not to exceed 5 percent of the annual deposits into the fund.

(f) In administering the fund, the board shall make reasonable efforts to ensure that funds are used to secure the long-term sustainability of drinking water service and infrastructure, including, but not limited to, requiring adequate technical, managerial, and financial capacity of eligible applicants as part of funding agreement outcomes.

(g) Beginning in the 2023–24 fiscal year, and each fiscal year thereafter until June 30, 2030, if the annual transfer to the fund pursuant to paragraph (3) of subdivision (b) of Section 39719 is less than one hundred thirty million dollars (\$130,000,000), on an annual basis the Director of Finance shall calculate a sum equivalent to the difference, up to one hundred thirty million dollars (\$130,000,000), and the Controller shall transfer that sum from the General Fund to the fund. This subdivision is operative only while a market-based compliance mechanism adopted pursuant to Section 38562 is operative.

(h) The board may authorize funding up to ten thousand dollars (\$10,000) without a written agreement to address a drinking water emergency.

(i) Notwithstanding Section 11019 of the Government Code, the board may make advance payments, as necessary to implement the purposes of this chapter, except that an advance payment for construction shall not exceed 25 percent of the total amount of construction funding provided by the board for a project.

(j) Contracts pursuant to this section are exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Section 4526 of the Government Code, and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

(Amended by Stats. 2022, Ch. 481, Sec. 1. (AB 2877) Effective January 1, 2023.)