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AB-1328 Oil and gas: water quality. (2017-2018)

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Assembly Bill No. 1328

CHAPTER 758

An act to amend Section 13268 of, and to add Section 13267.5 to, the Water Code, relating to oil and gas.

[Approved by Governor October 13, 2017. Filed with Secretary of State October 13, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1328, Limón. Oil and gas: water quality.

Under existing law, the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board (state board) and the California regional water quality control boards (regional boards) are the principal state agencies with primary authority over water quality matters. The act authorizes a regional board to investigate the quality of state waters, and grants to a regional board certain authority in connection with those investigative functions, including the authority, in connection with the discharge or suspected discharge of waste by a person or entity, as specified, to require that the person or entity furnish technical or monitoring program reports to the regional board. The act provides certain protections for trade secrets that are disclosed to the regional board, upon request by the person or entity. The act authorizes the state board to carry out the above provisions if, after consulting with the appropriate regional board, the state board determines that it will not duplicate the efforts of the regional board. The act declares that a person failing or refusing to furnish technical or monitoring program reports, or falsifying any information set forth in those reports, is guilty of a misdemeanor and may be civilly liable in accordance with certain provisions of law.

Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. Existing law requires the owner of any well to file with the State Oil and Gas Supervisor a monthly statement that provides certain information relating to the well, including the amount of water produced from each well, the disposition of the water produced from an oil or gas field, the amount of fluid injected into a well used for enhanced recovery, and information relating to wastewater disposal.

This bill would provide that, in conducting an investigation of the quality of state waters that includes collection of information about discharge of wastewater produced from an oil or gas field, a regional board or the state board may also require the person or entity, or its supplier, as specified, to furnish information to that board relating to all chemicals in the discharged wastewater. The bill would provide for the trade secret protections described above to apply to information disclosed pursuant to this requirement, when requested by a person or entity, or a supplier. The bill would require the information collected pursuant to this requirement to be made available to the public on the Internet Web site of the regional board or the state board. The bill would authorize a regional board or the state board, in collecting the above-described information, to consult with the Division of Oil, Gas, and Geothermal Resources regarding information collected by the division, pursuant to other disclosure requirements, that may be useful to the investigation. Because a violation of a requirement to disclose information to the state board or the appropriate regional board under these provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13267.5 is added to the Water Code, to read:

13267.5. (a) In conducting an investigation pursuant to Section 13267 that includes collection of information about discharge of wastewater produced from an oil or gas field, a regional board or the state board may require that the applicable person or entity shall furnish to that board information relating to all chemicals in the discharged wastewater pursuant to the procedures set forth in subdivision (b) of Section 13267.

(b) If a person or entity subject to the disclosure requirement in subdivision (a) is unable to obtain information about a chemical from the chemical's supplier for any reason, including, but not limited to, assertion by the supplier of trade secret protections, the regional board or state board may require that the supplier shall furnish that information to that board pursuant to the procedures set forth in subdivision (b) of Section 13267.

(c) The trade secret protections of subdivision (b) of Section 13267 shall apply to information disclosed pursuant to subdivision (a) or (b) when requested by a person or entity or a supplier, as applicable.

(d) Except as provided in subdivision (c), the information collected by a regional board or the state board pursuant to this section shall be made available to the public on the Internet Web site of the regional board or the state board.

(e) In collecting information described in this section, a regional board or the state board may consult with the Division of Oil, Gas, and Geothermal Resources regarding information collected by the division, pursuant to other disclosure requirements, that may be useful to the investigation.

SEC. 2. Section 13268 of the Water Code is amended to read:

13268. (a) (1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, failing or refusing to furnish information as required by subdivision (a) or (b) of Section 13267.5, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in accordance with subdivision (b).

(2) Any person who knowingly commits any violation described in paragraph (1) is subject to criminal penalties pursuant to subdivision (e).

(b) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(c) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, who knowingly fails or refuses to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or who knowingly falsifies any information provided in those technical or monitoring program reports, is guilty of a misdemeanor, may be civilly liable in accordance with subdivision (d), and is subject to criminal penalties pursuant to subdivision (e).

(d) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

(e) (1) Subject to paragraph (2), any person who knowingly commits any of the violations set forth in subdivision (a) or (c) shall be punished by a fine that does not exceed twenty-five thousand dollars (\$25,000).

(2) Any person who knowingly commits any of the violations set forth in subdivision (a) or (c) after a prior conviction for a violation set forth in subdivision (a) or (c) shall be punished by a fine that does not exceed twenty-five thousand dollars (\$25,000) for each day of the violation.

(f) (1) Notwithstanding any other provision of law, fines collected pursuant to subdivision (e) shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(2) The funds described in paragraph (1) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste, or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state or for the purposes authorized in Section 13443.

(g) The state board may carry out the authority granted to a regional board pursuant to this section if, after consulting with the regional board, the state board determines that it will not duplicate the efforts of the regional board.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.