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SB-875 Public resources. (2017-2018)

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Senate Bill No. 875

CHAPTER 453

An act to amend Sections 5795, 14549.2, and 14581 of the Public Resources Code, and to amend Section 12987.5 of, and to add Section 10609.21 to, the Water Code, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 875, Committee on Budget and Fiscal Review. Public resources.

(1) Existing law provides a process for the establishment of recreation and park districts, which includes certain provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and provides that a recreation and park district may organize, promote, conduct, and advertise programs of community recreation, establish systems of recreation and recreation facilities, and acquire, construct, improve, maintain, and operate recreation facilities. Existing law enumerates the powers and duties of recreation and park districts.

Existing law authorizes the establishment of the Lower Los Angeles River Recreation and Park District, by petition or resolution submitted to the Los Angeles County Local Agency Formation Commission before January 1, 2019, subject to the existing laws governing recreation and park districts, including their formation, except as provided.

This bill would instead require a petition or resolution to be submitted to establish the Lower Los Angeles River Recreation and Park District prior to January 1, 2021.

(2) The California Beverage Container Recycling and Litter Reduction Act, which is administered by the Department of Resources Recycling and Recovery, is established to promote beverage container recycling and provides for the payment, collection, and distribution of certain payments and fees based on minimum refund values established for beverage containers.

The act requires the department to pay a market development payment to a reclaimer, as defined, for empty plastic beverage containers that have been collected for recycling in the state, and that the reclaimer washes and processes into flake, pellet, sheet, or any other form that is then usable as input for the manufacture of new plastic products, as defined, by product manufacturers in the state. The act also requires the department to pay a market development payment to a product manufacturer, as defined, for plastic flake, pellet, sheet, or any other form of plastic purchased from a reclaimer and used by that product manufacturer to manufacture a plastic product in the state.

The act authorizes up to \$5,000,000 to be expended for market development payments to reclaimers or product manufacturers for the activities described above that occurred during the period from January 1, 2018, to June 30, 2018, inclusive.

This bill would require the department to pay market development payments to a reclaimer that uses the services of a third party to process the empty plastic beverage containers into a form usable for the manufacture of new plastic products and to a product manufacturer that uses the services of a third party to process the plastic purchased from a reclaimer in manufacturing the plastic product. The bill would clarify that the moneys described above are not available for market development payments to these additional product manufacturers. By changing the purposes for which continuously appropriated moneys may be expended, this bill would make an appropriation.

(3) Existing law, effective January 1, 2019, requires each urban retail water supplier to calculate its urban water use objective no later than November 1, 2023, and by November 1 every year thereafter, as provided. Existing law authorizes an urban retail water supplier that delivers water from a groundwater basin, reservoir, or other source that is augmented by potable reuse water to adjust its urban water use objective by a bonus incentive calculated based on the volume of its potable reuse delivered to residential water users and certain landscape areas, on an acre-foot basis. Existing law prohibits the bonus incentive from exceeding 15% of the urban retail water supplier's urban water use objective for any potable reuse water produced at an existing facility, or 10% of the urban retail water supplier's urban water use objective for any potable reuse water produced at any other facility. Existing law defines "existing facility" for these purposes.

This bill would provide that "existing facility" also includes the North City Project, phase one of the Pure Water San Diego Program, for those purposes.

(4) Existing law establishes a delta levee maintenance program pursuant to which a local agency may request reimbursement for costs incurred in connection with the maintenance or improvement of defined project or nonproject levees in the Sacramento-San Joaquin Delta. Existing law authorizes the Central Valley Flood Protection Board to provide funds to an eligible local agency under this program in the form of an advance in an amount that does not exceed 75% of the estimated state share. Under existing law, an agreement between a local agency and the board to perform maintenance and approval work is required to provide that no advance is to be made until the applicant has incurred costs averaging \$1,000 per mile of levee. Existing law requires the Department of Water Resources, upon appropriation by the Legislature, to reimburse an eligible local agency for not more than 75% of any costs that are incurred per mile of project or nonproject levee if the entire cost incurred per mile is either more than \$2,500 for a levee in an urban area, as defined, or more than \$1,000 for a levee in a rural area.

This bill would instead require the agreement to provide that no advance is to be made until the applicant has incurred costs consistent with the department's above-described reimbursement criteria.

(5) This bill would make legislative findings and declarations as to the necessity of a special statute for the Lower Los Angeles River Recreation and Park District.

(6) This bill would make legislative findings and declarations as to the necessity of a special statute for the North City Project, phase one of the Pure Water San Diego Program.

(7) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

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

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

SECTION 1. Section 5795 of the Public Resources Code is amended to read:

5795. (a) The Lower Los Angeles River Recreation and Park District may be established subject to this chapter and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(b) A petition or resolution to establish the district pursuant to this article and Article 3 (commencing with Section 5782) may not be submitted to the Los Angeles County Local Agency Formation Commission on or after January 1, 2021.

SEC. 2. Section 14549.2 of the Public Resources Code is amended to read:

14549.2. (a) For purposes of this section, the following definitions shall apply:

(1) "Certified entity" means a recycling center, processor, or dropoff or collection program certified pursuant to this division.

(2) "Plastic product" means a finished plastic product that requires no further thermoforming, shaping, or processing before being sold for its specified use. "Plastic product" does not include plastic flake, pellet, sheet, or any other form that is an output from a reclaimer's processing of empty plastic beverage containers.

(3) "Product manufacturer" means a person who manufactures a plastic product in this state.

(4) "Reclaimer" means a certified entity that purchases empty plastic beverage containers that have been collected for recycling in the state, and that washes and processes, in the state, those empty plastic beverage containers into flake, pellet, sheet, or any other form that is then usable as input for the manufacture of new plastic products by product manufacturers in the state.

(b) In order to develop California markets for empty plastic beverage containers collected for recycling in the state, the department may, consistent with Section 14581 and subject to the availability of funds, pay a market development payment to a reclaimer for empty plastic beverage containers collected and managed pursuant to this section and to a product manufacturer for plastic flake, pellet, sheet, or any other form of plastic purchased from a reclaimer pursuant to this section.

(c) The department shall make a market development payment to a reclaimer or product manufacturer in accordance with this section only if the plastic beverage container is collected, washed, and processed into flake, pellet, sheet, or any other form, and is used in manufacturing, in the state, as follows:

(1) The department shall make a market development payment to a reclaimer for empty plastic beverage containers that are collected, washed, and processed as specified in paragraph (4) of subdivision (a), including to a reclaimer that uses the services of a third party to process the empty plastic beverage containers into a form usable for the manufacture of new plastic products.

(2) The department shall make a market development payment to a product manufacturer for plastic flake, pellet, sheet, or any other form of plastic purchased from a reclaimer and used by that product manufacturer to manufacture a plastic product in the state, including to a product manufacturer that uses the services of a third party to process the plastic purchased from a reclaimer in manufacturing the plastic product.

(3) The department shall determine the amount of the market development payment, which may be set at a different level for a reclaimer and a product manufacturer, but shall not exceed one hundred fifty dollars (\$150) per ton. In setting the amount of the market development payment for both reclaimers and product manufacturers, the department shall consider all of the following:

(A) The minimum funding level needed to encourage in-state washing and processing of empty plastic beverage containers collected for recycling in this state.

(B) The minimum funding level needed to encourage in-state manufacturing that utilizes flake, pellet, sheet, or any other form processed from empty plastic beverage containers collected for recycling in this state.

(C) The total amount of funds projected to be available for plastic market development payments, and the desire to maintain the minimum funding level needed throughout the year.

(4) The department may make a market development payment to both a reclaimer and a product manufacturer for both the empty plastic beverage container and for the flake, pellet, sheet, or any other form processed by the reclaimer from that same empty plastic beverage container.

(d) This section shall become inoperative on July 1, 2022, and, as of January 1, 2023, is repealed.

SEC. 3. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds and in accordance with subdivision (b), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section in the following manner:

(1) For each fiscal year, the department may expend the amount necessary to make the required handling fee payment pursuant to Section 14585.

(2) Fifteen million dollars (\$15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Ten million five hundred thousand dollars (\$10,500,000) may be expended annually for payments of five thousand dollars (\$5,000) to cities and ten thousand dollars (\$10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside recycling programs, neighborhood dropoff recycling programs, public education promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds shall not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the department. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The department shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(4) One million five hundred thousand dollars (\$1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(5) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to Section 14575. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited both of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to Section 14575.

(ii) Funds equal to the difference between the amount in clause (i) and the amount of the processing payments established in subdivision (b) of Section 14575, and adjusted pursuant to paragraph (2) of subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (e) of Section 14575, or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.

(B) Notwithstanding Section 13340 of the Government Code, the moneys in each processing fee account are hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments pursuant to Section 14575.

(6) Up to five million dollars (\$5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

(7) Up to ten million dollars (\$10,000,000) may be expended annually by the department for quality incentive payments for empty glass beverage containers pursuant to Section 14549.1.

(8) (A) (i) For the 2018–19 fiscal year, the department may expend up to fifteen million dollars (\$15,000,000) for market development payments to reclaimers and product manufacturers, pursuant to Section 14549.2.

(ii) Of the total amount authorized for expenditure by this subparagraph, up to five million dollars (\$5,000,000) may be expended for market development payments to reclaimers for the activities described in paragraph (1) of subdivision (c) of Section 14549.2, and to product manufacturers for the activities described in paragraph (2) of subdivision (c) of 14549.2 as that section read on June 30, 2018, that occurred during the period from January 1, 2018, to June 30, 2018, inclusive.

(B) For the 2019–20 fiscal year to the 2021–22 fiscal year, inclusive, the department may expend up to ten million dollars (\$10,000,000) each fiscal year for market development payments to reclaimers and product manufacturers, pursuant to Section 14549.2.

(C) For purposes of this paragraph, the definitions in subdivision (a) of Section 14549.2 apply.

(b) (1) If the department determines, pursuant to a review made pursuant to Section 14556, that there may be inadequate funds to pay the payments required by this division, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(2) On or before 180 days, but not less than 80 days, after the notice is sent pursuant to paragraph (1), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (c).

(c) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(d) Before making an expenditure pursuant to paragraph (6) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

SEC. 4. Section 10609.21 is added to the Water Code, to read:

10609.21. (a) For purposes of Section 10609.20, and notwithstanding paragraph (4) of subdivision (d) of Section 10609.20, "existing facility" also includes the North City Project, phase one of the Pure Water San Diego Program, for which an environmental impact report was certified on April 10, 2018.

(b) This section shall become operative on January 1, 2019.

SEC. 5. Section 12987.5 of the Water Code is amended to read:

12987.5. (a) In an agreement entered into under Section 12987, the board may provide for an advance to the applicant in an amount not to exceed 75 percent of the estimated state share. The agreement shall provide that no advance shall be made until the applicant has incurred costs consistent with the criteria outlined in paragraph (1) of subdivision (a) of Section 12986.

(b) Advances made under subdivision (a) shall be subtracted from amounts to be reimbursed after the work has been performed. If the department finds that work has not been satisfactorily performed or where advances made actually exceed reimbursable costs, the local agency shall promptly remit to the state all amounts advanced in excess of reimbursable costs. If advances are sought, the board may require a bond to be posted to ensure the faithful performance of the work set forth in the agreement.

SEC. 6. In regard to Section 1 of this act, the Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the urgent need for local park space along the Lower Los Angeles River and the communities through which it passes.

SEC. 7. In regard to Section 4 of this act, the Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique water supply circumstances in the City of San Diego.

SEC. 8. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.