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AB-762 Public health: fish and shellfish: health advisories. (2019-2020)

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Assembly Bill No. 762

CHAPTER 538

An act to add Article 7 (commencing with Section 116090.6) to Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, and to amend Section 13177.5 of the Water Code, relating to food health advisories.

[Approved by Governor October 07, 2019. Filed with Secretary of State October 07, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 762, Quirk. Public health: fish and shellfish: health advisories.

Existing law generally authorizes the Office of Environmental Health Hazard Assessment to advise all local health authorities and requires the office to control and regulate their actions when, in the office's judgment, the public health is menaced by matters within its jurisdiction. Existing law requires the State Water Resources Control Board, in consultation with the office, to develop the Coastal Fish Contamination Program to identify and monitor chemical contamination in coastal fish and shellfish and assess the health risks of consuming sport fish and shellfish caught by consumers. Existing law requires the office, under that program, to issue health advisories when the office determines that consuming certain fish or shellfish presents a significant health risk. Existing law requires the office to notify the appropriate county health officers and specified state agencies before the issuance of a health advisory. In addition, existing law requires the office to urge county health officers, pursuant to the issuance of a health advisory, to conspicuously post health warnings in areas where contaminated fish or shellfish may be caught, including piers, commercial passenger fishing vessels, and shore areas where fishing occurs.

This bill would instead require local health officers, as defined, to be notified of a health advisory under that program, and would additionally require the State Water Resources Control Board and the appropriate regional water quality control board to be notified of the health advisory under that program. The bill would require, to the extent provided, local health officers, as defined, to conspicuously post health warnings upon the issuance of a site-specific fish or shellfish health advisory, as defined, under the program or pursuant to the office's general authority to advise local health authorities. The bill would require the local health officer to coordinate with the office, the State Department of Public Health, the Department of Fish and Wildlife, and the appropriate regional water quality control board to identify appropriate posting locations and signage. Upon an appropriation, the bill would require the State Water Resources Control Board to award grants to local agencies, or to qualified nonprofit organizations to distribute to local agencies, to post required warnings. The bill would require a local health officer to post those warnings within 180 days of receiving grant funding to post the warnings or, if the local health officer did not request grant funding, within 180 days of the deadline for requesting grant funding for that fiscal year. By imposing additional duties on local officials, this bill would impose a state-mandated local program.

The bill would require the Office of Environmental Health Hazard Assessment to make available on its internet website digital posters of health warnings for each site-specific fish or shellfish health advisory issued pursuant to these provisions, as specified. The bill would require the State Water Resources Control Board to submit a report to the Legislature on or before December 31, 2022, containing specified information relating to the implementation of the above provisions.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Article 7 (commencing with Section 116090.6) is added to Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, to read:

Article 7. Fish and Shellfish Consumption Advisories

116090.6. For purposes of this article, the following terms have the following meanings:

(a) "Local health officer" means the legally appointed health officer or director of environmental health of the city, county, or city and county, having jurisdiction over the area in which a publicly accessible body of water is located, which may include a coastal area.

(b) "Office" means the Office of Environmental Health Hazard Assessment.

(c) "Site-specific fish or shellfish health advisory" means a consumption advisory regarding fish or shellfish in a specified body of water or area of that body of water, which may include a specified area of coastal waters.

116090.7. (a) Upon issuance by the office of a site-specific fish or shellfish health advisory pursuant to Section 59011 of this code or Section 13177.5 of the Water Code, a local health officer shall conspicuously post health warnings at public access points to locations where contaminated fish or shellfish may be caught, including piers, jetties, lakes, reservoirs, and other areas where recreational or subsistence fishing is known to occur, consistent with any program guidelines adopted by the State Water Resources Control Board pursuant to paragraph (2) of subdivision (e). The local health officer shall coordinate with the office, the State Department of Public Health, the Department of Fish and Wildlife, and the appropriate regional water quality control board to identify appropriate posting locations and signage. The local health officer shall be responsible for maintaining the signage until the office rescinds or revises the relevant site-specific fish or shellfish health advisory.

(b) (1) A local health officer shall post health warnings pursuant to this section within 180 days of receiving grant funding for posting those warnings awarded pursuant to paragraph (1) of subdivision (e). If a local health officer does not request grant funding for a fiscal year pursuant to paragraph (1) of subdivision (e), the local health officer shall post health warnings pursuant to this section within 180 days of the deadline for requesting grant funding for that fiscal year.

(2) At a minimum, the health warnings shall contain information on contaminants of concern and consumption guidelines issued by the office.

(c) (1) The office shall make available on its internet website digital posters of health warnings for each site-specific fish or shellfish health advisory issued pursuant to this article that local health officers may use in meeting their responsibilities under this article.

(2) The office shall make the digital posters available in English, Spanish, and other languages that persons who commonly fish in the area will understand, as determined by the office in consultation with the local health officer.

(d) If a local health officer has requested grant funding awarded pursuant to paragraph (1) of subdivision (e), the duties imposed on the local health officer's local agency pursuant to this section are mandatory only to the extent that the local health officer has received grant funding to cover a local agency's costs associated with the performance of the duties imposed by this section. If a local health officer does not request grant funding for a fiscal year awarded pursuant to paragraph (1) of subdivision (e), the duties imposed on the local health officer's local agency pursuant to this section are mandatory for that fiscal year.

(e) (1) Upon an appropriation for this purpose in the annual Budget Act or another statute, the State Water Resources Control Board shall award grants to local agencies, or to qualified nonprofit organizations to distribute to local agencies, to meet the requirements of this section.

(2) The State Water Resources Control Board may adopt program guidelines and procedures to administer appropriated funds. The State Water Resources Control Board shall consult with the office, the State Department of Public Health, the Department of Fish and Wildlife, and the regional water quality control boards, and shall hold a public workshop before the adoption of any

program guidelines and procedures. The adoption of program guidelines and procedures is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Of the funds appropriated for the purposes of this section, the State Water Resources Control Board may use not more than 5 percent of the amount appropriated for its administrative costs.

(4) (A) On or before December 31, 2022, the State Water Resources Control Board shall submit a report to the Legislature summarizing whether or not the funds appropriated for local health officers to implement this section are sufficient.

(B) The report shall include, but is not limited to, all of the following information:

(i) A list of where the health advisories have been posted in accordance with this article. The list shall identify the health advisory postings funded by an appropriation in the annual Budget Act or another statute for this purpose.

(ii) A list of local agencies that have posted health advisories in accordance with this article. The list shall identify the local agencies that received a grant funded by an appropriation in the annual Budget Act or another statute for this purpose.

(iii) A summary of the bodies of water for which the office has issued health advisories pursuant to Section 59011 of this code or Section 13177.5 of the Water Code, but for which health advisories have not been posted in accordance with this article.

(iv) A cost estimate of the appropriation amount necessary to ensure full funding for implementation of this article.

(C) The report shall be submitted in compliance with Section 9795 of the Government Code.

(D) Pursuant to Section 10231.5 of the Government Code, this paragraph is inoperative on December 31, 2026.

SEC. 2. Section 13177.5 of the Water Code is amended to read:

13177.5. (a) The state board, in consultation with the Office of Environmental Health Hazard Assessment, shall develop a comprehensive coastal monitoring and assessment program for sport fish and shellfish, to be known as the Coastal Fish Contamination Program. The program shall identify and monitor chemical contamination in coastal fish and shellfish and assess the health risks of consumption of sport fish and shellfish caught by consumers.

(b) The state board shall consult with the Department of Fish and Wildlife, the Office of Environmental Health Hazard Assessment, and regional water quality control boards with jurisdiction over territory along the coast, to determine chemicals, sampling locations, and the species to be collected under the program. The program developed by the state board shall include all of the following:

(1) Screening studies to identify coastal fishing areas where fish species have the potential for accumulating chemicals that pose significant health risks to human consumers of sport fish and shellfish.

(2) The assessment of at least 60 screening study monitoring sites and 120 samples in the first five years of the program and an assessment of additional screening study sites as time and resources permit.

(3) Comprehensive monitoring and assessment of fishing areas determined through screening studies to have a potential for significant human health risk and a reassessment of these areas every five years.

(c) Based on existing fish contamination data, the state board shall designate a minimum of 40 sites as fixed sampling locations for the ongoing monitoring effort.

(d) The state board shall contract with the Office of Environmental Health Hazard Assessment to prepare comprehensive health risk assessments for sport fish and shellfish monitored in the program. The assessments shall be based on the data collected by the program and information on fish consumption and food preparation. The Office of Environmental Health Hazard Assessment, within 18 months of the completion of a comprehensive study for each area by the state board, shall submit to the board a draft health risk assessment report for that area. Those health risk assessments shall be updated following the reassessment of areas by the board.

(e) The Office of Environmental Health Hazard Assessment shall issue health advisories when the office determines that consuming certain fish or shellfish presents a significant health risk. The advisories shall contain information for the public, and particularly the population at risk, concerning health risks from the consumption of the fish or shellfish. The office shall notify the appropriate local health officers, as defined for the purposes of Article 7 (commencing with Section 116090.6) of Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, the State Department of Public Health, the state board, the appropriate regional board, and the Department of Fish and Wildlife before the issuance of a health advisory. The notification shall provide sufficient

information for the purpose of posting signage. The Department of Fish and Wildlife shall publish the office's health warnings in its Sport Fishing Regulations Booklet.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.