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## SB-230 State Water Resources Control Board: Constituents of Emerging Concern in Drinking Water Program. (2021-2022)

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### Senate Bill No. 230

#### CHAPTER 676

An act to add Article 3.6 (commencing with Section 116416) to Chapter 4 of Part 12 of Division 104 of the Health and Safety Code, relating to drinking water.

[ Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022. ]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 230, Portantino. State Water Resources Control Board: Constituents of Emerging Concern in Drinking Water Program.

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. The state board's duties include, but are not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable and safe supply of drinking water, enforcing the federal Safe Drinking Water Act, and adopting and enforcing regulations.

This bill would require the state board to build upon its existing work dealing with, and work to improve its knowledge of, constituents of emerging concern (CEC) in waters of the state and drinking water. The bill would require, as part of this work, the deputy director appointed by the state board, to work to improve the knowledge of CECs in drinking water by assessing the state of information, as specified. The bill would authorize the state board to establish, maintain, and direct a dedicated program called the Constituents of Emerging Concern in Drinking Water Program. The bill would authorize the deputy director to convene a Science Advisory Panel for CECs in drinking water with members that are experts in specified fields and would prescribe the duties of the panel. The bill would require the deputy director to post a report to the state board's internet website 3 years after the panel is convened on the work conducted by the panel.

The bill would establish in the State Treasury the CEC Action Fund and would authorize moneys in the fund to be used, upon appropriation by the Legislature, for costs associated with the state board's CEC efforts and implementing and administering the program, as specified.

The bill would authorize the state board, upon appropriation by the Legislature, to provide financial assistance to certain community water systems if the state board imposes CEC monitoring requirements.

The bill would authorize the state board to take specified actions in connection with the program, including, among others, maintaining a program internet website and making relevant research, reports, and data available to the public.

The bill would make implementation of its provisions contingent upon an appropriation by the Legislature for purposes of the bill in the annual Budget Act or another statute.

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

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

**SECTION 1.** The Legislature finds and declares all of the following:

- (a) The United States Environmental Protection Agency identifies potential contaminants through the federal Unregulated Contaminant Monitoring Rule program.
- (b) California implements federally required monitoring from the federal Unregulated Contaminant Monitoring Rule program, and can also develop regulations for unregulated contaminant monitoring under the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code).
- (c) California establishes drinking water standards through the State Water Resources Control Board, after the Office of Environmental Health Hazard Assessment establishes a public health goal.
- (d) California administratively establishes notification levels and response levels as precautionary measures for contaminants that have not yet undergone or completed the regulatory standard setting process.
- (e) The process to identify, monitor, and consider a contaminant for regulation may take many years.
- (f) Analytical methods and technologies continue to advance and allow detection of compounds at increasingly lower levels and across a broad spectrum of constituents of emerging concern (CECs).
- (g) The public's concern and engagement with CECs has increased in recent years.
- (h) The Legislature has implemented separate requirements for certain chemicals.
- (i) A unified, consistent, and science-based framework is desired to more rapidly assess the public and ecological health and drinking water consequences of a broad spectrum of CECs.
- (j) Proactive measures to support existing regulatory processes are needed without interfering with or duplicating other state efforts on CECs.
- (k) Paragraph (1) of subdivision (b) of Section 116350 of the Health and Safety Code gives the State Water Resources Control Board the responsibility to conduct research relating to the provision of a dependable, safe supply of drinking water.
- (l) A Constituents of Emerging Concern Action Fund should support the existing CEC program to improve the timeliness of understanding the occurrence and public and ecological health effects of CECs in waters of the state and drinking water and to support science advisory panels as needed to assist the State Water Resources Control Board's drinking water program in the program's considerations for evaluating health effects and prioritizing regulatory determinations for CECs in drinking water.

**SEC. 2.** Article 3.6 (commencing with Section 116416) is added to Chapter 4 of Part 12 of Division 104 of the Health and Safety Code, to read:

**Article 3.6. Constituents of Emerging Concern Action Fund**

**116416.** For purposes of this article, the following definitions apply:

- (a) "CEC" means a constituent of emerging concern.
- (b) "Panel" means the Science Advisory Panel for CECs in drinking water specified in Section 116418.
- (c) "Program" means the Constituents of Emerging Concern in Drinking Water Program specified in Section 116417.

**116417.** (a) The state board shall build upon its existing work dealing with, and work to improve its knowledge of, CECs in waters of the state and drinking water. As part of the state board's work on CECs, the deputy director shall work to improve the knowledge of CECs in drinking water by assessing the state of information, and may recommend areas for further studies, such as the following:

- (1) The occurrence of CECs in drinking water.
- (2) Fate, transport, and biodegradation of CECs.
- (3) Water treatment and laboratory analyses.
- (4) The potential effects on public health of CECs in drinking water.

(b) The state board may establish, maintain, and direct a dedicated program called the Constituents of Emerging Concern in Drinking Water Program.

(c) Nothing in this article limits the state board's existing authority to act on CECs.

(d) Nothing in this article changes or interferes with the state board's ongoing activities on CECs.

**116418.** (a) The deputy director may convene a Science Advisory Panel for CECs in drinking water.

(b) (1) The panel may include at least nine members comprised of the following:

(A) Seven experts appointed by the deputy director from the following fields:

(i) Public health sciences.

(ii) Water and wastewater, including water treatment, engineering.

(iii) Toxicology.

(iv) Epidemiology.

(v) Chemical sciences.

(vi) Biological sciences, including pathogens.

(vii) Human health risk assessment.

(B) One expert in public health who has expertise in water contamination, appointed by the Speaker of the Assembly within 60 days of the deputy director calling for the formation of the panel.

(C) One expert in public health who has expertise in water contamination, appointed by the President pro Tempore of the Senate within 60 days of the deputy director calling for the formation of the panel.

(2) Panel members shall not have financial conflicts of interest.

(c) The deputy director may adjust panel membership numbers and composition, as necessary.

(d) Any science advisory panel convened pursuant to this section shall hold at least one open public session to take public comment before releasing any final reports or findings.

**116419.** (a) The panel shall serve at the direction of the deputy director. At the deputy director's request, the panel's duties may include, but are not limited to, any of the following activities in consultation with the Office of Environmental Health Hazard Assessment and, as needed, the Department of Toxic Substances Control:

(1) Review existing data, including, but not limited to, occurrence and toxicity data, for CECs collected by the state board and nationwide by the United States Environmental Protection Agency's Unregulated Contaminant Monitoring Rule program and recommend to the deputy director further actions based on state-specific conditions and the state's CEC initiatives.

(2) Identify CEC candidates based on potential public health effects.

(3) Incorporate recommendations from other ongoing efforts evaluating CECs both within California and throughout the United States, as applicable.

(4) Review the existing CEC risk-based framework in aquatic and recycled water systems to see if the framework is applicable to drinking water.

(5) Recommend a framework for a risk-based screening program for CECs and appropriate indicators and surrogates that consider their occurrence in drinking water, contribution and fate in the environment, and potential for human exposure.

(6) Review the results of any screening program, which may include screening programs within California and throughout the United States, and provide recommendations to assist the deputy director in prioritizing, monitoring, evaluating health impacts, and informing regulatory determinations for CECs.

(7) Address the United States Environmental Protection Agency's Contaminant Candidate List and not create any impediments to complying with federal law or duplicative monitoring.

(b) Nothing in this section or Section 116418 shall duplicate, change, or interfere with the state board's or the deputy director's ongoing efforts on perfluoroalkyl and polyfluoroalkyl substances and CECs.

**116420.** (a) If the state board imposes CEC monitoring requirements pursuant to Section 116375, the state board may provide financial assistance, upon appropriation by the Legislature for this purpose, to eligible recipients. Eligible recipients of these funds shall be community water systems serving fewer than 10,000 individuals and located in disadvantaged communities. The state board may also provide funding to technical assistance providers that assist eligible recipients in complying with CEC monitoring imposed by the state board.

(b) For purposes of this section,

"technical assistance provider" has the same meaning as defined in Section 116767.

**116421.** The Legislature finds and declares that the program is intended to help inform the deputy director in recommending regulatory determinations for CECs and is not intended to supersede any requirements related to setting drinking water standards or a public health goal as prescribed in Section 116365 or a notification level or a response level as prescribed in Section 116455.

**116422.** (a) The CEC Action Fund is hereby established in the State Treasury. The state board shall administer the CEC Action Fund.

(b) All moneys deposited in the CEC Action Fund may be used, upon appropriation by the Legislature, in support of, but not limited to, all of the following:

- (1) Costs associated with developing, maintaining, implementing, and administering the state board's CEC efforts.
- (2) Costs associated with establishing and maintaining the panel, developing a risk-based screening program, collecting occurrence data, and reporting on those activities.
- (3) Costs associated with developing standardized analytical methods internally by the state board or through external contracts, direct expenditures, or grants.
- (4) Costs associated with contracts, direct expenditures, or grants to public or private external research organizations to fill research gaps.
- (5) Public participation and outreach efforts pursuant to Section 116423.
- (6) Other state board costs associated with implementing and administering the program, including monitoring pursuant to Section 116375 and administrative costs.
- (7) Costs associated with financial assistance provided to community water systems for monitoring CECs pursuant to Section 116420.
- (8) Costs associated with the state board's research and scientific investigations related to perfluoroalkyl and polyfluoroalkyl substances.

(c) (1) The state board may provide for the deposit into the CEC Action Fund of federal contributions, voluntary contributions, gifts, grants, bequests, transfers by the Legislature from the General Fund, and funding from authorized general obligation bond acts. All moneys remitted to the state board pursuant to this section shall be deposited in the CEC Action Fund.

- (2) Any federal contributions shall be subject to federal requirements and shall be used only for the permissible purposes allowed by the federal law or a federal grant deposited in the fund, to the extent authorized and funded by that grant.

(d) Contracts entered into 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.

(e) Actions taken to implement, interpret, or make specific this section, including, but not limited to, the adoption of any plan, handbook, or map, are not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(f) The state board may, upon appropriation by the Legislature, expend moneys from the CEC Action Fund for reasonable costs associated with the administration of this article.

**116423.** (a) The program shall provide opportunities for public participation. Public participation may include, but is not limited to, conducting periodic stakeholder meetings and workshops to solicit relevant information, data, suggestions, and feedback for the development and implementation of the program.

(b) The state board may maintain a program internet website and make relevant research, reports, and data available to the public.

(c) The state board may provide an annual program update, as an informational item, at a regularly noticed meeting of the state board.

(d) (1) If the deputy director convenes a panel pursuant to this article, the deputy director shall, three years after the panel is convened, post a report to the state board's internet website on the work conducted by the panel.

(2) The requirement for posting a report imposed under paragraph (1) is inoperative on June 1, 2030.

**116424.** Implementation of this article is contingent upon an appropriation by the Legislature for purposes of this article in the annual Budget Act or another statute.