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SB-1304 Underground injection control: aquifer exemption. (2023-2024)

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Senate Bill No. 1304

CHAPTER 467

An act to amend Section 3131 of the Public Resources Code, relating to oil and gas.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1304, Limón. Underground injection control: aquifer exemption.

The federal Safe Drinking Water Act regulates certain wells as Class II wells, as defined. Under existing federal law, the authority to regulate Class II wells in California is delegated to the Geologic Energy Management Division in the Department of Conservation. Under existing law, the division implements the Underground Injection Control Program pursuant to this federal delegation. The federal act prohibits certain well activities that affect underground sources of drinking water, unless those sources are located in an exempted aquifer. Existing federal law authorizes a state delegated with the responsibility of regulating Class II wells to propose that an aquifer or a portion of an aquifer be an exempted aquifer and authorizes the United States Environmental Protection Agency (USEPA) to approve the proposal if the aquifer or a portion of the aquifer meets certain criteria. Existing law requires the division, before proposing an aquifer or a portion of an aquifer for exemption, to consult with the State Water Resources Control Board and the appropriate regional water quality control board concerning conformity of the proposal with certain requirements. If the division and the state board concur that the exemption proposal may merit consideration by the USEPA, existing law requires those agencies to provide a public comment period on the proposal and to jointly conduct a public hearing. If, after the review of public comments, those agencies concur that the exemption proposal merits consideration by the USEPA, existing law requires the division to submit the exemption proposal to the USEPA.

This bill would instead require, based on the consultation between the division and the appropriate regional water quality control board and the state board, if the division and the staff of the state board preliminarily concur that the exemption proposal may merit consideration by the USEPA, the division and the staff of the state board to provide a public comment period on the proposal and to jointly conduct the public hearing. The bill would require, following the review of the public comments and only if the division and the staff of the state board concur that the exemption proposal merits consideration for exemption, the staff of the state board to submit a report to the state board evaluating the exemption proposal's consistency with the criteria specified in existing law, including an analysis of all potential conduits. The bill would require the report to be made available to the public no fewer than 60 days prior to a meeting before the state board and would provide for a 45-day public comment period. The bill would require the state board to consider, in a public meeting, the report and to determine whether it concurs that the exemption proposal, with any appropriate modifications, complies with legal requirements and merits consideration for exemption. If the state board concurs, the bill would require the division to submit the exemption proposal to the USEPA.

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

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

SECTION 1. Section 3131 of the Public Resources Code is amended to read:

3131. (a) To ensure the appropriateness of a proposal by the state for an exempted aquifer determination subject to any conditions on the subsequent injection of fluids, and before proposing to the United States Environmental Protection Agency that it exempt an aquifer or portion of an aquifer pursuant to Section 144.7 of Title 40 of the Code of Federal Regulations, the division shall consult with the appropriate regional water quality control board and the state board concerning the conformity of the proposal with all of the following:

- (1) The criteria set forth in Section 146.4 of Title 40 of the Code of Federal Regulations.
- (2) The injection of fluids will not affect the quality of water that is, or may reasonably be, used for any beneficial use.
- (3) The injected fluid will remain in the aquifer or portion of the aquifer that would be exempted.

(b) Based on the consultation pursuant to subdivision (a), if the division and the staff of the state board preliminarily concur that an aquifer or portion of an aquifer may merit consideration for exemption by the United States Environmental Protection Agency, the division and the staff of the state board shall provide a public comment period and, with a minimum of 30 days' public notice, and shall jointly conduct a public hearing.

(c) Following review of the public comments pursuant to subdivision (b) and only if the division and the staff of the state board concur that the exemption proposal merits consideration for exemption, the staff of the state board shall submit a report to the state board evaluating the exemption proposal's consistency with the criteria set forth in subdivision (a), including an analysis of all potential conduits, that shall be made available to the public no fewer than 60 days prior to a meeting before the state board and subject to a 45-day public comment period.

(d) The state board shall consider, in a public meeting, the report submitted pursuant to subdivision (c) and shall determine whether it concurs that the exemption proposal, with any appropriate modifications, complies with the requirements specified in subdivision (a) and merits consideration for exemption.

(e) If the state board concurs pursuant to subdivision (d), the division shall submit the aquifer exemption proposal to the United States Environmental Protection Agency.