

Date of Hearing: August 23, 2017

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez Fletcher, Chair

SB 623 (Monning) – As Amended August 21, 2017

Policy Committee: Environmental Safety and Toxic Materials Vote: 5 - 1

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill creates the Safe and Affordable Drinking Water Fund, administered by the State Water Resources Control Board (SWRCB), and imposes water, fertilizer and dairy fees to fund safe drinking water programs. Among other provisions, this bill:

- 1) Imposes a Safe and Affordable Drinking Water Fee (water fee) on each customer of a public water system until July 1, 2020 as follows:
 - a) \$0.95 per month for customers with water meters up to one inch or customers without water meters;
 - b) \$4 per month for customers with water meters greater than one and up to two inches;
 - c) \$6 per month for customers with water meters greater than two and up to four inches;
 - d) \$10 per month for customers with water meters greater than four inches.
 - e) Exempts specified low-income customers, fire flow, or nonpotable uses such as recycled water from the water fee. Requires a customer with multiple meters or connections at a single address to pay a single monthly fee based on the largest metered connection.
- 2) Requires, beginning July 1, 2020, each person who purchases water from a public water system to be assessed a water fee established by SWRCB that does not exceed the previous water fee. Requires SWRCB, in consultation with the California Public Utilities Commission to adopt regulations to exempt low-income customers, as specified, by July 1, 2020. Requires SWRCB to periodically update the water fee. Allows SWRCB to adopt all water fee regulations as emergency regulations.
- 3) Requires, beginning July 1, 2022, the water fee schedule to be set an amount that does not result in the total uncommitted amount in the fund exceeding two times the most recent assessment of need, as defined.
- 4) Allows for public water system cost reimbursement and alternative fee calculation methods.
- 5) Imposes a \$0.005 per dollar of sale Fertilizer Safe Drinking Water Fee (fertilizer fee) on all fertilizer materials to be paid by licensees who sell or distribute bulk fertilizer until January 1, 2033 and \$0.002 per dollar of sale after. Authorizes the Secretary of the California

Department of Food and Agriculture (CDFA) to reduce the fee as specified, adopt regulations, and retain up to 2% for implementation and enforcement.

- 6) Imposes a \$0.01355 per hundredweight of milk Dairy Safe Drinking Water Fee (dairy fee) by requiring every milk handler already subject to specified regulatory milk fees from January 1, 2020 through January 1, 2035, to deduct this amount from payments made to producers of milk. Requires the Secretary of CDFA to adopt regulations to implement and enforce dairy fee by January 1, 2020. Imposes a \$0.00678 per hundred weight dairy fee after January 1, 2035. Authorizes the CDFA Secretary to reduce the lower dairy fee as specified, adopt regulations, and retain up to 2% for implementation and enforcement.
- 7) Establishes the Safe and Affordable Drinking Water Fund, requires the revenues (minus any allowed administrative costs) of the water, fertilizer and dairy fee to be deposited in the fund and continuously appropriates moneys in the Fund to SWRCB. Allows for the deposit of federal and voluntary contributions, gifts, settlements, grants and bequests into the fund.
- 8) Requires SWRCB, in consultation with local health officers and other relevant stakeholders, to develop and annually update a map of aquifers at high risk of containing contaminants that exceed state and federal primary drinking water standards.
- 9) Requires local health officers or other relevant local agencies to provide all results of, and data associated with, water quality testing performed by certified laboratories for a state small water system or domestic well that is in the possession of the local health office or other local agency in electronic format to SWRCB by January 1, 2019.
- 10) Prohibits SWRCB or regional water quality boards from specified enforcement actions against agricultural operations for exceeding nitrate groundwater objectives or other groundwater pollution standards as specified if the operation demonstrates certain mitigation requirements are met, including the timely payment of the fertilizer or dairy fee until January 1, 2033.

FISCAL EFFECT:

- 1) Increased ongoing annual revenue of approximately \$100 million resulting from the water fee. Increased SWRCB costs of up to \$6 million per year.
- 2) Increased ongoing revenue of approximately \$17 million per year from 2018 until 2033 and \$6.8 million per year after resulting from the new fertilizer fee. Annual CDFA costs are capped at 2%.
- 3) Increased ongoing revenue of approximately \$5.3 million per year for from 2020 until 2035 and \$2.3 million per year after resulting from the new dairy fee. Annual CDFA administrative costs are capped at 2%.
- 4) Unknown, potentially significant, one-time reimbursable state mandated costs for all local health officers and other agencies to compile data, convert into electronic format, and submit it to SWRCB.

COMMENTS:

- 1) **Purpose.** Although most of the state's residents receive drinking water that meets federal and state drinking water standards, many drinking water systems in the state consistently fail to provide safe drinking water to their customers. Lack of safe drinking water is a problem that disproportionately affects residents of California's disadvantaged communities. More than 300 drinking water systems in disadvantaged communities, serving approximately 200,000 people, are unable to provide safe drinking water. These systems include 30 schools and daycare centers that serve over 12,000 children.

Disadvantaged communities often lack the rate base, as well as the technical, managerial, and financial capacity to show they can afford and effectively manage operations and maintenance costs related to water treatment. Without being able to pay for maintenance, these communities are effectively barred from accessing capital improvement funding. In contrast, larger water systems have the financial capacity both to pay treatment costs and to provide for a well-trained and technically competent workforce of water system operators.

According to the author, "SB 623 seeks to provide an ongoing funding stream to ensure that disadvantaged communities have access to clean, safe, affordable, drinking water."

- 2) **Background.**

The Milk Pooling Branch (Branch) Administers the California Pooling Plan for Market Milk which, together with the Dairy Marketing Branch, promotes, fosters and encourages the intelligent production and orderly marketing of fluid milk. Currently, there are 7 mandatory deductions subtracted from a producer's check to pay for programs and services provided by the State for the benefit of the industry. SB 623 will add an eighth, to this list of mandated deductions. The following are mandated deductions:

- a) Dairy Council of California - (formula, \$0.0065 - \$0.01625 / hundredweight)
- b) National Dairy Promotion - \$0.05 / hundredweight
- c) State Dairy Promotion (CMAB) - \$0.10 / hundredweight
- d) Pool Administration Fee (CDFA) - \$0.012 / hundredweight
- e) Market Milk Administration Fee (CDFA) - \$0.008 / hundredweight
- f) Dairy Inspection Fee (CDFA or County Inspectors) - \$216.90 per month (\$0.135 / hundredweight, on first 482,000 lbs of milk produced each quarter, which almost every dairy exceeds)

This bill adds another mandated deduction for safe drinking water.

The Fertilizing Materials Inspection Program at CDFA is an industry-funded program that ensures consumers receive fertilizing materials that are safe and effective and meet the quality and quantity guaranteed by the manufacturer. The program's three arms include registration, inspection and research. Currently, there is an assessment on fertilizer of 2 mill (\$0.002) for enforcement and one mill (\$0.001) for research and education. This bill adds an additional 5 mill and later 2 mill assessment for the fertilizer fee.

Although over the years a statewide water user fee, or public goods charge, has been contemplated in different arenas to pay for a variety of water infrastructure projects, one has never been charged. This bill proposes the first of its kind water user fee.

- 3) **The Polluter Pays Principle.** In California, many of our environmental laws are guided by the polluter pays principle, which refers to the principle that if pollution occurs, the person or organization that causes it should pay for the consequences and for avoiding it in future.

While this bill requires the Agriculture and Dairy industries to pay towards clean-up through industry assessments, the total contribution of both are likely less than 20% of the total revenue raised by this bill. In exchange for the timely payment of this fee and other activities, the industries receive SWRCB enforcement relief.

The author may wish to consider increasing industries' contributions to better reflect the polluter pays principle.

- 4) **Brand New Bill.** This bill has moved through the legislative process essentially as a placeholder, only containing the creation of the fund, the prohibition on enforcement, and intent to create fees on agriculture. The last set of amendments add the agriculture fees, but also add a fee on public water system customers, a mandate on local health officers, a required map of aquifers and a risk assessment, and the removal of funding eligibility for individual domestic well users. Due to the timing of the recess, this bill will only have been in print for three days at the time of this hearing.

The Committee may wish to consider whether there has been adequate time to for the public to review the provisions of this bill.