

**Vice-Chair**  
Smith, Thurston "Smitty"

**Members**  
Arambula, Joaquin  
Bauer-Kahan, Rebecca  
Dahle, Megan  
Garcia, Cristina  
Holden, Chris R.  
Mathis, Devon J.  
Muratsuchi, Al

# California State Assembly

## ENVIRONMENTAL SAFETY AND TOXIC MATERIALS



**BILL QUIRK**  
CHAIR

### AGENDA

Wednesday, June 16, 2021  
9 a.m. -- State Capitol, Room 4202

**Chief Consultant**  
Josh Tooker

**Senior Consultant**  
Paige Brokaw  
Shannon McKinney

**Consultant**  
Marika Nell

**Committee Secretary**  
Pia Estrada

### BILLS HEARD IN FILE ORDER

- |    |          |        |   |
|----|----------|--------|---|
| 1. | Cortese  | SB 37  | Contaminated Site Cleanup and Safety Act. |
| 2. | Dodd     | SB 222 | Water Rate Assistance Program.            |
| 3. | Gonzalez | SB 403 | Drinking water: consolidation.            |

### PROPOSED CONSENT

- |    |           |        |   |
|----|-----------|--------|---|
| 4. | Archuleta | SB 244 | Lithium-ion batteries: illegal disposal: fire prevention. |
|----|-----------|--------|---|

Date of Hearing: June 16, 2021

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS  
Bill Quirk, Chair  
SB 37 (Cortese) – As Amended April 13, 2021

**SENATE VOTE:** 39-0

**SUBJECT:** Contaminated Site Cleanup and Safety Act

**SUMMARY:** Updates and recasts the statutory provisions dealing with a consolidated list of hazardous waste sites and hazardous substances sites (Cortese List) compiled by the Secretary of the Environmental Protection Agency (Secretary). Additionally, prohibits a project from using the "common sense" exemption under the California Environmental Quality Act (CEQA) for a project at any site on the Cortese List.

**EXISTING LAW:**

- 1) Requires the Department of Toxic Substances Control (DTSC) to compile and update, at least annually, and submit to the Secretary, a list of the following: all hazardous waste facilities subject to corrective action; all land designated as hazardous waste property or border zone property; all information received by DTSC on hazardous waste disposal on public land; and, all sites included in the Abandoned Site Assessment Program. (Government Code (GC) § 65962.5 (a))
- 2) Requires the State Department of Health Services (DHS) to compile and update, at least annually, and submit to the Secretary a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis. (GC § 6596235 (b))
- 3) Requires the State Water Resources Control Board (State Water Board) to compile and update, at least annually, and submit to the Secretary a list of all of the following: all underground storage tanks for which an unauthorized release report is filed; all solid waste disposal facilities from which there is a migration of hazardous waste and for which a Regional Water Quality Control Board has notified DTSC; and, all cease and desist orders issued after January 1, 1986 and all cleanup or abatement orders issued after January 1, 1986, that concern the discharge of wastes that are hazardous materials. (GC § 65962.5 (c))
- 4) Requires the local enforcement agency (LEA) to compile and update, at least annually, and submit to the California Integrated Waste Management Board (Waste Board), a list of all solid waste disposal facilities from which there is a known migration of hazardous waste. The Board shall compile the list from the LEA's into a statewide list and shall submit it to the Secretary. (GC § 65962.5 (d))
- 5) Requires the Secretary to consolidate the lists submitted to it by DTSC, the State Water Board, DHS, and the Waste Board and distribute the consolidated list in a timely fashion to each city and county in which sites on the consolidated list are located. Requires the Secretary to distribute the consolidated list to any other person upon request. (GC § 65962.5 (e))

- 6) Authorizes a responsible party, whenever a release of waste occurs and remedial action is required, to request a local officer to supervise the remedial action. Authorizes the local officer to supervise the remedial action if the local officer determine that adequate staff resources and the requisite technical expertise and capabilities are available to supervise the remedial action. (Health & Safety Code (HSC) § 101480 (b))
- 7) Requires a local officer to provide written notice with specified information to DTSC and the appropriate regional water board at least 10 working days prior to entering into an agreement with a responsible party. (HSC § 101487)
- 8) Authorizes the State Water Board to certify local agencies as qualified to clean up or oversee a responsible party to clean up soil and groundwater contamination from leaking underground storage tanks. Prohibits local agencies from overseeing the cleanup of leaking underground storage tank sites unless they have been certified by the State Water Board. (HSC § 25297.01)

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

*Need for the bill:* According to the author, "The Cortese List law must be updated to reflect our current priorities regarding the preservation of public health while also upholding the integrity of the law as it was written. We cannot continue to allow projects to bypass integral CEQA requirements and pose serious health risks to those involved, whether it be laborers on the construction site or tenants moving into a property. SB 37 achieves this goal by making a technical fix that prohibits local agencies from granting common sense exemptions to projects impacting Cortese List sites, thereby promoting increased public awareness and safeguarding public health."

*Remedial actions for waste releases:* There are currently thousands of contaminated sites across the state and the unauthorized releases of pollutants pose a risk to public health and the environment. These sites are complex and vary widely. They can include pesticide manufacturing facilities, rail yards, ports, dry cleaners, and refineries where pollutants were released to the soil, groundwater, surface water, and/or sediment. The types of pollutants encountered at these sites are plentiful and diverse and can include solvents, heavy metals, and petroleum. Some of these pollutants can persist in the environment, meaning that today's contaminated sites may be due to historical or recent unauthorized releases of pollutants.

The State Water Board and DTSC both have authority to do hazardous waste cleanup, but have different jurisdictions. The State Water Board oversees remediation where hazardous waste impacts surface or ground waters of the state, as well as underground storage tank contamination. There are nine regional water boards that exercise rulemaking and regulatory activities in regions defined by watersheds. DTSC oversees all other hazardous waste release cleanup.

The regional water boards and DTSC are charged with identifying parties that are responsible for the contamination, setting cleanup standards and requirements, and overseeing the cleanup of contaminated sites to ensure that they are properly remediated and do not continue to pose a threat to public health and the environment. State law specifies requirements for cleaning up contaminated sites, and the regional water boards and DTSC have developed extensive policies

and procedures for determining the extent and type of contamination, and processes and standards for the proper remediation of contaminated sites.

*Local oversight of hazardous waste cleanup:* Historically, the California Legislature has acknowledged that local agencies, when provided sufficient resources and information, can help the state address, through oversight or abatement efforts, the sites that require cleanup. AB 3193 (Polanco, Chapter 1113, Statutes of 1990), the Polanco Redevelopment Act, was enacted as part of the Community Redevelopment Act to assist redevelopment agencies in responding to brownfield properties (properties that are contaminated, or thought to be contaminated, and are underutilized due to perceived remediation cost and liability concerns) in their redevelopment areas. (HSC § 33459-33459.8) Under the law, redevelopment agencies could take action to remediate releases of hazardous substances on a property that was part of a redevelopment project. The redevelopment agencies were granted qualified immunity from liability under state or local law, provided that the cleanup was conducted in accordance with a remedial action plan approved by DTSC or a regional water board. (HSC § 33459.3)

The Site Designation Process was enacted by AB 2061 (Umberg, Chapter 1184, Statutes of 1993) to allow a responsible party to request CalEPA to designate a local agency to oversee the cleanup action. AB 1248 (O'Connell, Chapter 671, Statutes of 1995) authorizes a responsible party, whenever a release of waste occurs and remedial action is required, to request the local health officer to supervise the remedial action. The law authorizes the local health officer to supervise the remedial action if the officer determines adequate staff resources and the requisite technical expertise and capabilities are available to supervise the remedial action. In 2001, the California Land Environmental Restoration & Reuse Act (SB 32, Escutia, Chapter 764, Statutes of 2001) established a new hazardous materials investigation and cleanup program to be administered by local agencies with oversight from DTSC or the regional water board and would provide cost reimbursement.

Under the State Water Board's Local Oversight Program (LOP), the State Water Board certifies local agencies (regardless of whether they are local health agencies) as qualified to clean up or oversee a responsible party cleanup of soil and groundwater contamination from leaking underground storage tanks. (HSC § 25297.1) Local agencies are prohibited from overseeing the cleanup of leaking underground storage tank cleanup sites unless they have been certified by the State Water Board.

*Hazardous Waste and Hazardous Substances Site List (Cortese List):* The Cortese List (named after the legislator who authored the legislation that enacted it) is a planning document used by the state, local agencies, and developers to comply with CEQA requirements by providing information about the location of hazardous materials release sites. Government Code § 65962.5 requires the Secretary to develop at least annually an updated Cortese List.

Because this statute was enacted more than twenty years ago, some of the provisions refer to agency activities that were conducted many years ago and are no longer being implemented and, in some cases, the information to be included in the Cortese List does not exist. Government Code § 65962.5 makes reference to the preparation of a "list," many changes have occurred related to web-based information access since 1992 and this information is now largely available on the Internet sites of the responsible departments and boards. Those requesting a copy of the Cortese "list" are now referred directly to the appropriate information resources contained on the Internet web sites of the boards or departments that are referenced in the statute.

*This bill:* SB 37 makes some important, yet technical updates to the Cortese list. First, it updates the names of the correct state agencies that are responsible for compiling the list of hazardous waste sites and hazardous substances sites. Second, it acknowledges that the lists provided by the state departments and boards are not paper lists but are provided on their internet website. Additionally, the bill changes the placement of the statute from a general code section in the Government Code to the Health and Safety Code to be more consistent with where the statutes are for DTSC and the State Water Board. SB 37 also prohibits a project on the Cortese List from utilizing the "common sense" exemption under CEQA. It is important to note that changes to CEQA are heard in the Assembly Natural Resources Committee.

*Issues for the future:* While this bill is making technical changes as it relates to the Cortese List (except for the change dealing with CEQA), it does highlight the fact that this statute was enacted originally in the 1980's and the major update to it was in the 1990's. The world, including from a technology standpoint, has changed a lot in the last 30-40 years and the committee may wish to work with the Secretary in the future to look at all of the lists contained within the Cortese List to see what is still appropriate to be included, if anything should be added or subtracted from the Cortese List, and if there should be a mechanism for a site to be removed from the Cortese List.

*Arguments in Support:* According to the California State Council of Laborer's, "SB 37 seeks to update the Hazardous Waste and Substance Site List that was created by then Assemblymember Dominic Cortese. Conducting work on projects that are on Cortese List sites without hazardous substance mitigation is dangerous. It poses health risks not only to those who work on these projects in the construction industry—including our members—but also to the nearby community. SB 37 will clarify the Public Resources Code to state that all types of exemptions, including "common sense" exemptions, cannot be granted to projects that are included on the consolidated list created, distributed, and posted online by the Secretary. SB 37 will increase safety for those who work in the construction industry directly or indirectly, as well as the safety of the future occupants of these developments."

*Arguments in Opposition:* According to the Rural County Representatives of California (RCRC), "I am writing to respectfully express our opposition to your Senate Bill 37 regarding the California Environmental Quality Act (CEQA). SB 37 prohibits use of CEQA's "common sense" exemption for projects on sites listed on the state's Cortese List. The Cortese List is a compendium of sites contaminated by the improper disposal or discharge of hazardous wastes or materials, including sites subject to corrective action and where a leaking underground storage tank has caused pollution. While the Cortese List includes contaminated sites where remediation is active or has not yet occurred, it also includes tens of thousands of sites that have already been remediated and whose cases are closed. Finally, it is not clear how (or if) sites can be removed from the Cortese List after the remediation has been completed. There are thousands of sites listed because of leaking underground storage tanks but where the remediation action has already been completed. It makes no sense to preclude use of the "common sense exemption" for projects at local agency sites that have already been remediated. In conclusion, we are concerned that SB 37 is overly broad and will impose additional costs and delays for minor projects at thousands of sites owned and operated by local governments."

*Double Referral:* Should this bill be approved by this committee, it will be re-referred to the Assembly Natural Resources Committee.

*Related Legislation:*

- 1) AB 304 (Quirk). Provides state oversight and sets requirements for local officers overseeing remedial action at sites with released hazardous waste. This bill is pending action in the Senate Environmental Quality Committee.
- 2) AB 2333 (Quirk, 2020). Would require local health officers who oversee contaminated sites to provide DTSC and the State Water Board with written notice detailing the technical and fiscal resources available for the cleanup. This bill was held in the Senate Environmental Quality Committee due to the COVID-19 pandemic.
- 3) AB 432 (Quirk, 2019). Would require the State Water Board and DTSC to develop and implement a certification program for local health officers who enter into remedial action agreements. This bill was held on suspense in the Assembly Appropriations Committee.
- 4) AB 440 (Gatto, Chapter 588, Statutes of 2013). Authorizes a local agency to take any action, similar to that under the Polanco Redevelopment Act, to remedy or remove a release of hazardous material on or under a "blighted property" within a "blighted area."
- 5) AB 1701 (Wieckowski, Chapter 536, Statutes of 2012). Requires the State Water Board to establish a program for certifying cities and counties to oversee the cleanup of leaking underground storage tanks and prohibits cities and counties from overseeing the cleanup unless they have been certified by the State Water Board.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California State Council of Laborers (Sponsor)  
California Environmental Justice Alliance  
California Labor Federation, AFL-CIO  
California League of Conservation Voters  
Center on Race, Poverty & the Environment  
Communities for A Better Environment  
International Union of Operating Engineers, Cal-Nevada Conference  
Leadership Counsel for Justice & Accountability  
Natural Resources Defense Council  
PODER  
San Diego Green Building Council

**Opposition**

Mayor of City & County of San Francisco London Breed  
Rural County Representatives of California

**Analysis Prepared by:** Josh Tooker / E.S. & T.M. /



Date of Hearing: June 16, 2021

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS  
Bill Quirk, Chair  
SB 222 (Dodd) – As Amended May 20, 2021

**SENATE VOTE:** 31-7

**SUBJECT:** Water Rate Assistance Program

**SUMMARY:** Requires the Department of Community Services and Development (CSD) to develop and administer the Water Rate Assistance Program to provide water affordability assistance for both drinking water and wastewater services to low-income ratepayers.

Specifically, **this bill:**

- 1) Requires the Department of Community Services and Development (CSD) to develop and administer the Water Rate Assistance Program and expend money appropriated by the Legislature for purposes of the program.
- 2) Establishes the Water Rate Assistance Fund (Fund) in the State Treasury to provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. The Fund shall be available, upon appropriation by the Legislature to CSD, in consultation with the State Water Resources Control Board (State Water Board) for all of the following: direct water bill assistance; water bill credits to renters and individuals or households for residential water or wastewater service; and, water crisis assistance.
- 3) Requires CSD, in administering the Fund, to do all of the following: track and manage revenue in the Fund separately from all other revenue; develop and implement a process for disbursing program funds to public water systems or third-party providers for direct payments to community water systems; manage and maintain fund balances in conjunction with the Controller, the Treasurer, the California State Auditor's Office and the Department of Finance; and, expend, upon appropriation by the Legislature, money in the Fund for grants, contracts, direct monetary assistance, or services to assist eligible recipients.
- 4) Requires CSD, in consultation with the State Water Resources Control Board (State Water Board), by January 1, 2023, to develop guidelines and fund oversight procedures for implementation of the program. In developing the guidelines, CSD shall consult with an advisory group that includes representatives of the following: public water systems; technical assistance providers, including organizations that support federal Low-Income Home Energy Assistance Program; local agencies; nongovernmental organizations that work with residents of disadvantaged communities; and, representatives from the public, including but not limited to, low-income residents, low-income residents who live in multifamily housing, and residents served by tribal water systems.
- 5) Requires CSD and the State Water Board, in consultation with the advisory group established by this bill, and after a public hearing, adopt an annual fund expenditure plan.
- 6) Requires, by July 1, 2022, the Public Utilities Commission (PUC) to establish a mechanism for electrical corporations and gas corporations to regularly share data with the CSD



regarding the utility customers enrolled in, or eligible to be enrolled in, the California Alternate Rates for Energy (CARE) program and the Family Electric Rate Assistance program.

- 7) Provides that the Water Rate Assistance program, established by this bill, is contingent on an appropriation in the annual Budget Act or another statute.
- 8) Authorizes CSD, in consultation with the State Water Board, if money is deposited into the Fund before the adoption of an annual fund expenditure plan, to, upon appropriation by the Legislature, expend those moneys from the Fund to provide water crisis assistance to low-income households. Authorizes CSD to adopt emergency regulations to provide details on how it will provide water crisis assistance to low-income households.
- 9) Requires CSD to do all of the following in administering the water rate assistance program: coordinate with the PUC regarding existing rate assistance programs for investor-owned utilities; for a public water system that is not regulated by the PUC, consult with the State Water Board on options to provide oversight of the public water system's implementation of the water rate assistance program; in consultation with the State Water Board and the PUC develop and publish performance metrics for the water rate assistance program; coordinate with other state agencies and resolve disputes as necessary; and, identify alternative entities to distribute and track benefits if a public water system is unwilling to do so or if CSD has determined a public water system is incapable of administering the water rate assistance program.

**EXISTING LAW:**

- 1) Vests the State Water Board with all of the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Public Health (CDPH) and its predecessor to enforce the State Drinking Water Act (SDWA). (Health and Safety Code (HSC) § 116271)
- 2) Defines a "public water system" as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. (HSC § 116275)
- 3) Defines "Community water system" as a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system. (HSC § 116275(i))
- 4) Defines "Resident" as a person who physically occupies, whether by ownership, rental, lease, or other means, the same dwelling for at least 60 days of the year. (HSC § 116275(t))
- 5) Declares to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking and sanitary purposes. (Water Code § 106.3)

- 6) Defines a "water corporation" to include every corporation or person owning, controlling, operating, or managing any water system for compensation within this state. (Public Utilities Code (PUC) § 241)
- 7) Defines a "public utility" to include every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public. (PUC § 216 (a))
- 8) Provides that when any public utility performs a service for, or delivers a commodity to, the public for which any compensation or payment is received, it is subject to the jurisdiction, control, and regulation of the CPUC. (PUC § 216(b))

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

*Need for the bill:* According to the author, "Water is the most basic form of PPE, yet millions of Californians face a looming threat of water shutoffs because of water unaffordability and the pandemic-induced economic recession. Currently, Californians are carrying \$1 billion in water debt affecting 1.6 million Californian households and 5 million Californians. Moreover, California has effective affordability programs in place for nearly all other basic utilities, including electricity, heat/gas, and even cell phones — but not for water. Recognizing this gap, in 2015, the California Legislature passed AB 401 (Dodd), which required the State Water Board to create a plan for a statewide water affordability program. That plan was released in early 2020 and helped inform this legislation. SB 222 would establish a long-needed framework for a statewide water affordability assistance program. The pandemic has dramatically increased attention to this lack of a statewide water affordability program and the real urgency to address it. Access to affordable water is a racial justice and equity issue, and we must ensure equitable access for all Californians to realize the Human Right to Water (AB 685, 2012). The need for water affordability assistance will not magically disappear — it has been a major challenge and gap in our utility safety net for decades, and water affordability challenges will only continue to increase due to the rising cost of water. It is appropriate for the Legislature to develop a policy framework and provide directives, including regarding how to implement future sources of water affordability funding, to the relevant state agency (the State Water Board) in order to respond to the important ongoing challenge of access to affordable water."

*California's drinking water program:* Senate Bill 861 (Committee on Budget and Fiscal Review, Chapter 35, Statutes of 2014) transferred the drinking water program from the California Department of Public Health (CDPH) to the State Water Board effective July 1, 2014, creating the new Division of Drinking Water within the State Water Board and made other statutory changes to create efficiencies and adoption and administration of the drinking water program.

The State Water Board directly enforces the federal Safe Drinking Water Act (SDWA) for all large water systems (those with 200 or more service connections), including those water systems regulated under the California Public Utilities Commission (CPUC), Division of Corporations (DOC), or Department of Housing and Community Development (DHCD). For small water systems (those with less than 200 connections), local health departments can be delegated to

have regulatory authority as the local primacy agency. Along with the regulation of drinking water, the State Water Board and the Regional Water Quality Control Boards (Regional Water Boards) are responsible for protecting the waters of the state, including drinking water sources, both surface water and groundwater supplies.

According to the State Drinking Water Plan for California, June 2015, "Over the last two decades, water costs have, on average, increased about 45 percent within all size groups of water systems (range of 42 to 47 percent). Average water costs remain highest in the San Francisco Bay Area, Central Coast, and Southern California, and lowest in the Central Valley/Agricultural (including Imperial County), Foothill, and Mountain/Desert regions. On average, customers of small water systems (serving less than 200 service connections) pay approximately 20 percent more for water than those customers served by larger systems. Many disadvantaged communities are served by small water systems. As a result, water affordability has become a significant issue among residents in these communities."

*What is a public water system?* A public water system is defined as a system that provides water for human consumption to 15 or more connections or regularly serves 25 or more people daily for at least 60 days out of the year. Many people think of public water systems as large city or regional water suppliers, but they also include small housing communities, businesses, and even schools and restaurants that provide water. A public water system is not necessarily a public entity, and most public water systems are privately owned. There are three legal distinctions between the types of public water systems: community, non-transient non-community, and transient. The type of water system is based on how often people consume the water. Drinking water regulations impose the most stringent monitoring requirements on community and non-transient non-community water systems because the people they serve obtain all or much of their water from that system each day. Community water systems are city, county, regulated utilities, regional water systems, and even small water companies and districts where people live. Non-community non-transient water systems are places like schools and businesses that provide their own water. Transient water systems include entities like rural gas stations, restaurants, and State and National parks that provide their own potable water.

*States agencies involved in the regulation of public water systems:* The regulation of water supply, water quality, and the various types of water systems that serve drinking water is shared among several agencies, including local agencies, in California. The State Water Board has primary responsibility for regulating all public water systems. There are three other state agencies that also regulate certain aspects of specific classes of water systems including: (1) the California Public Utilities Commission (CPUC) for investor-owned systems, (2) the Division of Corporations (DOC) for mutual water companies, and (3) the Department of Housing and Community Development (DHCD) for mobile home parks.

*California Public Utilities Commission (CPUC) role in water system regulation:* The CPUC regulates investor-owned water utilities with particular attention to rates and quality of service. These utilities are owned by investors expecting a return on investments. Small utilities are generally owned by a single individual, corporation, or a partnership. Owners of large utilities are generally investors holding financial interest in the utility or its parent company. There are several large investor-owned utilities in California that own and operate multiple water systems across a region or across the state. The CPUC ensures that customers of regulated water utilities receive safe and reliable water service while allowing the utility a fair opportunity to earn a reasonable return on its investment.

*Division of Corporations (DOC) role in regulating water systems:* The DOC within the Department of Business Oversight has responsibility under the Corporate Securities Law of 1968 to approve and register the security offering of mutual water companies. Mutual water companies are privately owned water companies in which each lot owner is entitled to one share per lot that they own. They are managed and operated in accordance with Articles of Incorporation and bylaws approved by the DOC and filed with the Secretary of State. Existing regulations set forth the standards governing the regulation of mutual water companies. These regulations do not deal with the quality of the drinking water served.

*Department of Housing and Community Development (DHCD) role in regulating water systems:* DHCD is responsible for the regulation of the construction and maintenance of mobile home parks (MHPs) and employee housing facilities, such as labor camps, many of which have independent water systems.

*Department of Community Services and Development (CSD):* The history of the CSD began with the State Office of Economic Opportunity (OEO) in 1964. The state OEO was created following the passage of federal Economic Opportunity Act of 1964. In 1996, the California Legislature renamed the OEO to more accurately reflect its purpose as the CSD.

CSD works to reduce poverty for Californians by leading the development and coordination of effective and innovative programs for low-income Californians. CSD administers local community services and energy programs through a network of local providers and regional administrators to deliver services to low-income families, individuals, and communities. The services and programs administered by CSD help low-income Californians achieve and maintain economic security, meet their home energy needs, and reduce their utility costs through energy efficiency upgrades and access to clean renewable energy.

One of the programs that CSD administers is the Low Income Home Energy Assistance Program (LIHEAP). The LIHEAP is a federally funded program that provides assistance to eligible low-income households with the goal of managing and meeting their energy costs and immediate home heating and/or cooling needs. The water rate assistance program envisioned within SB 222 is similar to the LIHEAP program.

*Human right to water:* In 2012, California became the first state to enact a Human Right to Water law, AB 685 (Eng, Chapter 524, Statutes of 2012). Public policy continues to be focused on the right of every human being to have safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation. Water supply, contaminants, costs of treatment and distribution systems, the number and nature of small public water systems, especially in disadvantaged communities, and many other factors will continue to challenge progress in addressing the Human Right to Water.

*State Water Board survey of COVID-19 impacts on water systems:* In January, 2021, the State Water Board released a survey of water systems detailing impacts from COVID-19. The survey found, "Public water systems throughout California are facing heightened financial challenges during the COVID-19 pandemic, as about 1.6 million residential water customers, or 12% of all households, have been unable to pay their bills. The data received from these systems were used to estimate statewide impacts and offer the first detailed assessment of the pandemic's impact on California water systems and their customers, revealing that many households were carrying an

average of \$500 in water debt by the end of October 2020. Many low-income Californians face high levels of water bill debt, with over 155,000 households owing over \$1,000. High debt levels are concentrated in ZIP codes with lower household incomes and higher proportions of Black and Latinx residents. The top-10 ZIP codes with the highest levels of water debt are in Los Angeles, Santa Maria, Rancho Cordova, Colton, Bell Gardens, Norwalk, and Cypress. The survey data indicate that total household debt statewide is currently \$1 billion. Since some water systems also collect payment for wastewater, stormwater and energy on their water bills, the State Water Board estimates \$600 million of that debt is specifically for drinking water. The water systems sampled provide service to 70% of Californians (28 million people). The response rate was high: 84% (428) of small/medium and 87% (131) of large systems contacted by the State Water Board responded to the survey."

*Recommendations for implementation of a statewide low-income water rate assistance program February 2020:* In February 2020, the State Water Board released a report, to develop plan for funding and implementing a low-income water rate assistance program (W-LIRA). This report was required by AB 401(Dodd, Chapter 662, Statutes of 2015). In the report, the State Water Board recommends components for developing a successful program to help low-income households afford their drinking water. Specifically, this report identifies potential program recipients, different mechanisms for delivering assistance to low-income households, and possible funding sources to implement such a W-LIRA program. The recommendations outlined within the report reflect discussions with public interest groups and stakeholders. According to the report,

"While AB 401 specifically focuses on assisting low-income households in affording their drinking water, the State Water Board is committed to achieving the Human Right to Water in full. While the state continues to develop these comprehensive solutions, creating a W-LIRA program will provide a safety net for low-income residents statewide.

The Growing Water Affordability Challenge Drinking water is a basic human need. California households, however, find it increasingly difficult to satisfy this need as the retail cost of water has risen substantially over the last decade and is expected to rise significantly over the coming years. The burden of rapidly rising drinking water costs falls disproportionately on the 13 million Californians living in low-income households, many of whom have seen their incomes stagnate during the same period. The high and rising costs of other basic needs for California residents, including housing, food, and other utility services, means that cost increases for any single need, such as water, can force families to make difficult and risky tradeoffs which could harm their health and welfare. Expenditures to meet basic water needs are expected to continue to rise rapidly due to the need for water systems to replace aging infrastructure, meet treatment standards, diversify supplies, and maintain a well-trained workforce.

Only about half of California's population is served by a community water system (CWS) offering some form of rate assistance program, and most of these existing programs have low levels of enrollment and limited financial resources. As a result, less than 20% of the state's low-income population served by CWSs currently receives benefits from a low-income rate assistance program.

There are financial obstacles to providing a rate assistance program to water users at the system level. Many of the approximately 2,900 individual CWS cannot operate standalone

rate assistance programs because they lack an adequate rate base to support benefit expenditures. The problem is even more extreme for many smaller systems. To operate individual low-income rate assistance programs, these systems would likely have to impose outsized burdens on higher-income households.

A range of options to finance the W-LIRA were considered, including taxes on high personal income earners or businesses via the state income tax system, bottled water taxes, surcharges on non-eligible households' water bills, a soda tax, and other revenue sources. The State Water Board recommends that revenue sources be progressive to avoid imposing additional financial burdens on low-income households. The State Water Board also recommends that revenue sources have a nexus to water use and support consumption of tap water. Taxes on bottled water or soda would fulfill these criteria and provide additional public and environmental health benefits from reduced consumption of sugar and plastic. A water use surcharge would be consistent with the bill surcharges used to fund low-income rate assistance for electricity and gas. Passing any new tax or surcharge as described would require a supermajority (2/3) vote in the Legislature or potentially a ballot initiative.

Rising drinking water costs have been outpacing inflation and the multitude of upward cost drivers are likely to intensify, leading to even greater future water rate increases across the state. These rate increases will reduce affordability for low-income households already struggling with numerous rising expenses for housing, food, utilities, and other basic needs. This report offers a set of recommendations for rate assistance programs with statewide coverage and meaningful benefit levels. These recommendations have a significant cost, but these are costs that California should support given the clear need and our already existing financial assistance to low-income households for other basic needs."

*This bill:* SB 222 proposes a program to provide water affordability assistance for low-income ratepayers for both drinking water and wastewater. There does not seem to be any debate over the need for such a program, but rather concerns on how it would be funded and on ensuring that it is implemented in an efficient and cost-effective manner so that it helps those who really need the help. As far as the funding goes, the bill is leaving that debate for a future budget action, which is exactly where the funding will come from; either by a future proposal by the Administration or a proposal by the Legislature via the budget process. This bill is focused on the programmatic side of implementing a water rate affordability program. Given the complexities of such a program and the need to get it right, it is very likely that there may be further improvements to the bill, as discussions with the Administration and stakeholders continue. However, these potential changes would likely be consistent with the current bill and would be designed to ensure effective implementation of this program.

*Arguments in Support:* According to a number of organizations, including Clean Water Action, the Community Water Center, the Dolores Huerta Foundation for Community Organizing, and the Western Center on Law and Poverty, "SB 222 would establish a long-needed framework for a statewide water affordability assistance program. No one should ever have their water shut off due to inability to pay, but Californians struggled with water affordability issues and experienced high numbers of water shutoffs even before the pandemic. Around 500,000 Californians were impacted by water shutoffs in 2019 according to State Water Board data. The water sector has long lacked a universal affordability state program and adequate shutoff and bill repayment protections for low-income households. The average Californian household paid around 45% more per month for drinking water service in 2015 than in 2007. No less importantly, the need

for water affordability assistance is not going away — it has been a major challenge and gap in our utility safety net for decades and water affordability challenges will only continue to increase due to the rising cost of water. The pandemic has dramatically increased attention to the lack of a statewide water affordability program and there is real urgency to address it. Access to affordable water is a racial justice and equity issue -- and without action, our water debt and water shutoffs crisis will prevent California from achieving an equitable COVID-19 pandemic recovery."

*Arguments in Opposition:* According to the Association of California Water Agencies (ACWA), "ACWA has an oppose-unless-amended position on SB 222, a bill that would create a water rate assistance program. SB 222 does not propose a funding source for a program that is estimated to cost over \$600 million per year; the implementing agency - the Department of Community Services and Development (Department) – should be charged with approving the funding plan – as opposed to having two State agencies approve it; instead of creating a needs analysis and having three state agencies develop affordability challenge metrics, ACWA suggests that the part of the funding that would have gone to that work go to assisting to low-income households; the proposal for the California Public Utilities Commission to establish a mechanism for electrical and gas corporations to share their customer data with the Department for the corporations' energy customers who are enrolled in, or eligible to be enrolled in, the California Alternate Rates for Energy (CARE) program and the Family Electric Rate Assistance (FERA) program is unnecessary; and, SB 222 proposes a cap on state administration costs but does not propose a cap on state implementation costs."

*Double-Referral:* Should this bill pass out of the Assembly Environmental Safety and Toxic Materials Committee, it will be re-referred to the Assembly Utilities and Energy Committee.

*Related Legislation:*

- 1) SB 998 (Dodd, Chapter 891, Statutes of 2018). Requires all public water systems (with more than 200 connections) to have a written policy on discontinuation of residential water service, provide that policy in multiple languages, include provisions for not shutting off water for certain customers that meet specified criteria, prohibit the shutoff of water service until the bill has been delinquent for 60 days, and caps the reconnection fees for restoring water service.
- 2) AB 401 (Dodd, Chapter 662, Statutes of 2015). Requires the State Water Board, in collaboration with the State Board of Equalization and relevant stakeholders, to develop a plan for funding and implementing a Low-Income Water Rate Assistance Program.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Clean Water Action (Sponsor)  
Alliance of Nurses for Healthy Environments  
American Academy of Pediatrics, California  
Asian Americans Advancing Justice - California  
Avocado Green Brands  
Burton Snowboard

California Apartment Association  
California Coastkeeper Alliance  
California League of Conservation Voters  
Campesinos Unidos  
Center for Community Action and Environmental Justice  
Central California Environmental Justice Network  
Central Coast Energy Services  
Ceres  
City of Thousand Oaks  
Coachella Valley Waterkeeper  
Communify  
Community Action Marin  
Community Action Partnership of Del Norte  
Community Action Partnership of San Bernardino County  
Community Resource Project, INC.  
Community Water Center  
Courage California  
Defenders of Wildlife  
Dignity Health  
Dolores Huerta Foundation  
Ecos  
Ella Baker Center for Human Rights  
Environmental Defense Fund  
Environmental Working Group  
Friends Committee on Legislation of California  
Gap, INC.  
Humboldt Baykeeper  
Impossible Foods  
Inland Empire Waterkeeper  
LA Alliance for A New Economy  
Latino Coalition for A Healthy California  
Leadership Counsel for Justice and Accountability  
League of Women Voters of California  
Local Government Commission  
Long Beach Community Action Partnership  
Los Angeles Waterkeeper  
Monterey Coastkeeper  
National Association of Social Workers, California Chapter  
Natural Resources Defense Council  
Nextgen California  
Numi Organic Tea  
Orange County Coastkeeper  
Physicians for Social Responsibility - Los Angeles  
Planning and Conservation League  
Policy Link  
Redwood Community Action Agency  
Russian Riverkeeper  
San Diego Coastkeeper  
San Francisco Public Utilities Commission



Santa Barbara Channelkeeper  
Sierra Club California  
Sierra Nevada Brewing Company  
Spectrum Community Services  
The Nature Conservancy  
Tulare County Board of Supervisors  
Tulare; County of  
Union of Concerned Scientists  
Western Center on Law and Poverty  
Yuba River Waterkeeper

**Opposition**

Amador Water Agency  
Association of California Water Agencies (ACWA)  
Brooktrails Township Community Services District  
California Special Districts Association  
City of Oceanside  
City of Roseville  
City of Shasta Lake  
Cucamonga Valley Water District  
East Valley Water District  
Elsinore Valley Municipal Water District  
Hidden Valley Lake Community Services District  
Irvine Ranch Water District  
Mesa Water District  
Mid-Peninsula Water District  
North Coast County Water District  
Padre Dam Municipal Water District  
Palmdale Water District  
Panoche Water District  
Rancho California Water District  
Regional Water Authority  
Rio Alto Water District  
San Juan Water District  
Santa Margarita Water District  
Scotts Valley Water District  
Tahoe City Public Utility District  
Tuolumne Utilities District  
Valley Center Municipal Water District  
Vista Irrigation District  
Walnut Valley Water District

**Analysis Prepared by:** Josh Tooker / E.S. & T.M. /

Date of Hearing: June 16, 2021

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Bill Quirk, Chair

SB 403 (Gonzalez) – As Amended June 8, 2021

**SENATE VOTE:** 27-7

**SUBJECT:** Drinking water: consolidation

**SUMMARY:** Authorizes the State Water Resources Control Board (State Water Board) to order the consolidation of at-risk water systems and at-risk domestic wells. Specifically, **this bill:**

- 1) Defines "at-risk domestic wells" as domestic wells that serve a disadvantaged community and are at risk of consistently failing to provide an adequate supply of safe drinking water as determined by the State Water Board pursuant to the methodology established in the 2021 Drinking Water Needs Assessment, or a substantially similar methodology adopted by the State Water Board in an update to the Drinking Water Needs Assessment.
- 2) Defines "at-risk water system" as a water system that meets all the following conditions:
  - a) The water system is either a public water system with 3,300 or fewer connections or a state small water system;
  - b) The system serves a disadvantaged community; and,
  - c) The system is at risk of consistently failing to provide an adequate supply of safe drinking water, as determined by the State Water Board pursuant to the methodology established in the 2021 Drinking Water Needs Assessment, or a substantially similar methodology adopted by the State Water Board in an update to the Drinking Water Needs Assessment.
- 3) Adds at-risk water systems and at-risk domestic wells to those systems eligible for ordered (mandated) consolidation by the State Water Board. (Current statute limits this eligibility to public water systems, state small water systems, and domestic wells that consistently *fail* to provide an adequate supply of safe drinking water and that serve a disadvantaged community).
- 4) Requires the State Water Board, when ordering consolidation with a receiving water system, to consult with, and fully consider input from, any groundwater sustainability agency in a basin that provides groundwater supply, in whole or in part, to the affected area.
- 5) Requires the State Water Board, if the potentially subsumed water system to be consolidated into the receiving water system is an at-risk water system, to do all of the following:
  - a) Conduct outreach to ratepayers and residents served by the at-risk water system, including identifiable local community groups, in order to gauge community support for the consolidation of the at-risk water system;
  - b) Consider the results of the outreach when deciding whether to order consolidation of the at-risk water system;
  - c) Consider any petition submitted by members of a disadvantaged community served by the at-risk water system;

- d) Consider during a public meeting, if the potentially subsumed water system contends during the initial written comment period that it is not an at-risk water system, any information provided by the potentially subsumed water system in support of its contention that it is not an at-risk water system; and,
  - e) Make reasonable efforts to provide a 30-day notice of the public meeting to the ratepayers, renters, and property owners to receive water service through service extension, or those in the area of the subsumed water system, and all affected local government agencies and drinking water service providers.
- 6) Requires the State Water Board, before ordering consolidation or extension of service, to find that the potentially subsumed water system is at risk of consistently failing to provide an adequate supply of safe drinking water, as determined by the State Water Board.
  - 7) Requires that a finding that a disadvantaged community, in whole or in part, is substantially reliant on at-risk domestic wells to be based on the maps created pursuant to existing statute and inspection or testing of the domestic wells. (The maps are of aquifers that are at high risk of containing contaminants that exceed safe drinking water standards and that are used or likely to be used as a source of drinking water for a state small water system or a domestic well).
  - 8) Authorizes the State Water Board to prioritize consolidation of an at-risk water system that has historically been overburdened by pollution and industrial development or faced other environmental justice hurdles.

#### **EXISTING LAW:**

- 1) Pursuant to the federal Safe Drinking Water Act (SDWA), authorizes the United States Environmental Protection Agency (US EPA) to set standards for drinking water quality and to oversee the states, localities, and water suppliers who implement those standards. (42 United States Code § 300 (f) et seq.)
- 2) Declares that it is the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Water Code § 106.3)
- 3) Requires, pursuant to the California SDWA, the State Water Board to regulate drinking water and to enforce the federal SDWA and other regulations. (Health and Safety Code (HSC) § 116275 et seq.)
- 4) Defines "public water system" as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. (HSC § 116275(h))
- 5) Defines "state small water system" as a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year. (HSC § 116275 (n))

- 6) Defines "domestic well" as a groundwater well used to supply water for the domestic needs of an individual residence or a water system that is not a public water system and that has no more than four service connections. (HSC § 116681 (g))
- 7) Requires the State Water Board, in administering SDWA programs to fund improvements and expansions of small community water systems, to encourage the consolidation of small community water systems that serve disadvantaged communities; and, to prioritize funding for construction projects that involve the physical restructuring of two or more community water systems, at least one of which is a small community water system that serves a disadvantaged community, into a single, consolidated system. (HSC § 116326)
- 8) Authorizes the State Water Board, where a public water system or a state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water or where a disadvantaged community is reliant on a domestic well that consistently fails to provide an adequate supply of safe drinking water, to order consolidation, either physical or operational, with a receiving water system. (HSC § 116682 (a)(1))
- 9) Requires the State Water Board to develop and adopt a policy that provides a process by which members of a disadvantaged community may petition the State Water Board to consider ordering consolidation. (HSC § 116682 (a)(2))
- 10) Requires the State Water Board, before ordering consolidation or extension of service, to perform a series of activities, including, encouraging voluntary consolidation or extension of service; considering other enforcement remedies; consulting with the relevant local agency formation commission; notifying the potentially receiving water system and the potentially subsumed water systems; holding at least one public meeting at the initiation of this process in a place as close as feasible to the affected areas; and, providing the opportunity for public comment. (HSC § 116682 (b))
- 11) Requires the State Water Board, before ordering consolidation or extension of service, to make seven findings, including that the potentially subsumed water system has consistently failed to provide an adequate supply of safe drinking water; that all reasonable efforts to negotiate consolidation or extension of service were made; and, that consolidation of the receiving water system and subsumed water system or extension of service is appropriate and technically and economically feasible. (HSC § 116682 (d))
- 12) Authorizes the State Water Board, in order to provide an adequate supply of affordable, safe drinking water to disadvantaged communities and to prevent fraud, waste, and abuse, to, if sufficient funding is available, contract with, or provide a grant to, an administrator to provide administrative, technical, operational, or managerial services, or any combination of those services, to a designated water system to assist the designated water system with the provision of an adequate supply of affordable, safe drinking water. (HSC § 116686 (a)(1)(A)(i))
- 13) Authorizes the State Water Board to order the designated water system to accept administrative, technical, operational, or managerial services from an administrator appointed by the State Water Board for full oversight of construction or development projects related to a consolidation or extension of service, including, but not limited to, accepting loans and

grants and entering into contracts on behalf of the designated water system. (HSC § 116686 (a)(1)(C))

- 14) Makes legislative findings that regional solutions to water contamination problems are often more effective, efficient, and economical than solutions designed to address solely the problems of a single small public water system, and that it is in the interest of the people of the State of California to encourage the consolidation of the management and the facilities of small water systems to enable those systems to better address their water contamination problems. (HSC § 116760.10 (h))

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

*Need for the bill:* According to the author,

"Many disadvantaged communities throughout California are saddled with a legacy of environmental justice challenges, including hundreds of communities that lack reliable access to safe, clean, and affordable drinking water. Whether it be manganese and lead in the drinking water of the communities of South East Los Angeles or the arsenic, nitrates, and Chromium-6 that plague the taps of communities in the Central Valley, these Californians deserve to have the human right to safe drinking water finally realized.

Consolidation of water systems and the extension of service to at-risk domestic wells is an important and effective tool to improve access to safe and affordable drinking water, because larger consolidated systems are generally more reliable, safe, and efficient. State water authorities, however, are restricted to using consolidation as a tool only after a water system has already failed and is providing unsafe drinking water to its residents. Waiting until a system fails before taking actions makes no sense.

SB 403 provides a proactive and preventative solution that will allow the State Water Board to pursue consolidation for a water system that serves a disadvantaged system and that is "at-risk" of failing. The bill would additionally require the State Water Board to follow the existing SB 88 consolidation process to seek and consider community input through public hearings before ordering consolidation, and to consider whether the residents served by the at-risk water system have filed a petition for mandatory consolidation. SB 403 is especially important in light of the ongoing COVID-19 pandemic, as far too many Californians continue to struggle with unsafe tap water while sheltering in place."

*Human right to water:* In 2012, by enacting Assembly Bill (AB) 685 (Eng, Chapter 524, Statutes of 2012), California became the first state with a Human Right to Water law. AB 685 established state policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation. Water supply issues, contaminants, costs of treatment and distribution systems, climate change, the number and nature of small public water systems, especially in disadvantaged communities, and many other factors continue to challenge progress in implementing the Human Right to Water.

*Drinking water contamination:* While most drinking water in California meets requirements for health and safety, surface waters and aquifers used for drinking water can be contaminated by

various chemicals, microbes, and radionuclides. According to the US EPA, common sources of drinking water contaminants include:

- *Industry and agriculture.* Organic solvents, petroleum products, and heavy metals from disposal sites or storage facilities can migrate into aquifers. Pesticides and fertilizers can be carried into lakes and streams by rainfall runoff or snowmelt, or can percolate into aquifers.
- *Human and animal waste.* Human wastes from sewage and septic systems can carry harmful microbes into drinking water sources, as can wastes from animal feedlots and wildlife. Major contaminants resulting from human and animal waste include Giardia, Cryptosporidium, and E. coli.
- *Treatment and distribution.* While treatment can remove many contaminants, it can also leave behind byproducts (such as trihalomethanes) that may themselves be harmful. Water can also become contaminated after it enters the distribution system, from a breach in the piping system or from corrosion of plumbing materials made from lead or copper.
- *Natural sources.* Some ground water is unsuitable or challenging to use for drinking because the local underground conditions include high levels of certain contaminants. For example, as ground water travels through rock and soil, it can pick up naturally occurring arsenic, other heavy metals, or radionuclides.

According to the Office of the Environmental Health Hazard Assessment, disadvantaged communities and people in rural areas are exposed to contaminants in their drinking water more often than people in other parts of the state. The State Water Board notes that one million Californians lack access to water that is reliably safe for drinking because smaller, poorly maintained older water systems and private wells located in disadvantaged communities around the state contain contaminants such as arsenic, nitrates and 1,2,3-TCP.

*Health effects of drinking water contaminants:* The US EPA reports that there is a broad range of health effects associated with exposure to drinking water contaminants. Ingestion or exposure to pathogens at sufficient doses can result in gastrointestinal illness with symptoms, such as diarrhea, nausea, stomach cramps, and vomiting. Exposure to higher doses of chemicals, metals, or radionuclides through drinking water can produce biological responses, toxicological effects, and more severe health impacts including cancer, developmental or reproductive effects, neurological effects, and organ damage.

*Providing safe, affordable drinking water to disadvantaged communities:* According to the State Water Board, for common sources of drinking water contamination, such as arsenic and nitrates, expensive systems must be installed and operated to treat the water to meet drinking water standards. In many cases, technological advances have not yet been sufficient to make such treatment systems affordable, especially to small, disadvantaged communities. In addition, many small, disadvantaged communities do not have the technical, managerial, or financial capability to maintain and operate what are sometimes complex drinking water systems.

*Consolidation of water systems:* Consolidation is the physical or managerial joining of two or more water systems, which often consists of a smaller water system being absorbed into a larger water system. Physical consolidation involves the merging or sharing of physical infrastructure, such as distribution pipelines or water treatment facilities. Managerial, or operational, consolidation involves sharing financial, managerial or technical capacity. In this case, usually a small water system becomes part of a larger water system for all managerial purposes, but continues to use their original water supply and distribution system. The larger water system can

legally take over water system functions such as regulatory reporting, billing, operations, etc., but can still use the smaller system's existing infrastructure. The smaller water system dissolves and is no longer legally responsible for water service.

According to the US EPA, restructuring can be an effective means to help small water systems achieve and maintain technical, managerial, and financial capacity, and to reduce the oversight and resources that states need to devote to these systems. The State Water Board maintains that consolidating public water systems and extending service from existing public water systems to communities and areas that currently rely on under-performing or failing small water systems, as well as private wells, reduces costs and improves reliability. Consolidation does this by extending costs to a larger pool of ratepayers.

*Evolution of consolidation authority in California:* California has recognized the benefits of consolidation for decades. SB 1307 (Costa and Thompson, Chapter 734, Statutes of 1997) established the state's Drinking Water State Revolving Fund (DWSRF) and declared that, "It is in the interest of the people of the State of California to encourage the consolidation of the management and the facilities of small water systems to enable those systems to better address their water contamination problems."

After the enactment of SB 1307, and in order to promote consolidation, the California Department of Public Health (CDPH), which managed that state's drinking water program at the time, established the Consolidation Incentive Program, which provided an incentive for larger, compliant water systems to consolidate with nearby noncompliant systems. Previously, CDPH only invited drinking water systems that were out of compliance with drinking water standards to submit applications for DWSRF funding. However, through this new program, compliant systems that agreed to consolidate with a neighboring noncompliant system became eligible for DWSRF funding.

AB 783 (Arambula, Chapter 614, Statutes of 2007) provided further support and direction for the state's consolidation efforts by directing CDPH to encourage, provide funds for and studies on, and prioritize funding for projects that consolidate small public water systems in certain situations.

In 2014, SB 861 (Committee on Budget and Fiscal Review, Chapter 35, Statutes of 2014) transferred the Drinking Water Program from CDPH to the State Water Board effective July 1, 2014, creating the new Division of Drinking Water within the State Water Board. Since the transfer, the consolidation of failing drinking water systems in order to supply safe, affordable, and reliable drinking water has been a priority for the state.

*Authority to require consolidation:* Enacted June 24, 2015, SB 88 (Senate Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2015) authorized the State Water Board, when a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, to order (mandate) that system (referred to as a subsumed water system) to consolidate with, or receive an extension of service from, a compliant public water system (referred to as the receiving system).

SB 88 set up the existing structure for current ordered consolidation law. First, it requires the State Water Board, *before ordering* consolidation or extension of service, to complete several tasks, such as encouraging voluntary consolidation, notifying the water systems, consulting with

various entities, holding at least one public meeting, providing opportunities for public comment, and providing technical expertise to both water systems. Next, it requires the State Water Board, *before ordering* consolidation or extension of service, to make certain findings, such as that all reasonable efforts to negotiate consolidation or extension of service were made and that consolidation of the receiving water system and subsumed water system or extension of service is appropriate and technically and economically feasible. Finally, it requires the State Water Board, *upon ordering* consolidation or extension of service, to complete certain tasks, such as making funds available to the receiving water system for the costs of completing the consolidation and compensating the owners of a privately owned subsumed water system for the fair market value of the system.

While for many years the state's drinking water program had *encouraged* voluntary consolidation of public water systems, SB 88 authorizes the state to *mandate* the consolidation of water systems, where appropriate.

*Additional consolidation authority:* SB 552 (Wolk, Chapter 773, Statutes of 2016) expanded the State Water Board's authority to order consolidation by enabling it to contract with a competent administrator to provide managerial and technical expertise for public water systems that are consistently unable to provide an adequate and affordable supply of safe drinking water. AB 2501 (Chu, Chapter 871, Statutes of 2018) authorized the State Water Board to also order consolidation or extension of service to a disadvantaged community that is reliant on a domestic well that consistently fails to provide an adequate supply of safe drinking water.

To date, the State Water Board has completed two mandatory consolidations and initiated an additional 17 mandatory consolidations, including eight that are now pursuing consolidations voluntarily and two for which the State Water Board halted the consolidation. The State Water Board has also issued numerous informal consolidation letters indicating its intent to initiate consolidation, which has encouraged additional voluntary consolidations.

*This bill:* SB 403 builds upon the State Water Board's authority to order the consolidation of water systems and domestic wells. Current statute authorizes the State Water Board to order consolidation only in cases in which a disadvantaged community is served by a specified water system (a public water system, a state small water system, or a domestic well) that consistently *fails* to provide an adequate supply of safe drinking water. This bill expands the State Water Board's authority to include ordering consolidation in cases in which the water system or domestic well serving the disadvantaged community hasn't yet failed, but is *at risk* of doing so.

SB 403, in cases of requiring consolidation for at-risk systems, also adds several steps to the State Water Board's existing statutorily required tasks and processes for ordered consolidation (see above section on the "authority to require consolidation" for a summary of existing law). SB 403 requires the State Water Board, if the potentially subsumed water system is an at-risk water system, to complete these activities, among others, in addition to those already required by current law: conduct outreach in order to gauge community support for the consolidation of the at-risk water system; consider the results of the outreach when deciding whether to order consolidation of the at-risk water system; consider any petition submitted by members of a disadvantaged community served by the at-risk water system; consider during a public meeting, if the potentially subsumed water system contends during the initial written comment period that it is not an at-risk water system, any information provided by the potentially subsumed water system in support of its contention that it is not an at-risk water system; and, make reasonable



efforts to provide a 30-day notice of the public meeting to those impacted by the subsumed water system, including all affected local government agencies and drinking water service providers. These provisions provide additional outreach to the community and an opportunity for the at risk water system to contest the State Water Board's movement toward ordering its consolidation. These provisions also increase the burden on the State Water Board in cases where the consolidated system is at risk of failing, more so than in cases where the water system is failing.

*2021 Drinking Water Needs Assessment:* In 2019, to advance the goals of the Human Right to Water, the Legislature enacted SB 200 (Monning, Chapter 120, Statutes of 2019), which enabled the State Water Board to establish the Safe and Affordable Funding for Equity and Resilience (SAFER) Program and created the Safe and Affordable Drinking Water Fund (Fund) to support the SAFER Program. SB 200 requires the annual transfer of five percent of the Greenhouse Gas Reduction Fund (up to \$130 million) into the Fund through 2030 so that the State Water Board can develop and implement sustainable solutions for small water systems with drinking water standards violations. Solutions include consolidation with larger water systems, operations and maintenance costs, building local technical and managerial capacity, providing interim replacement water, and administrators to run the small systems.

Funding priorities for the Fund are identified through the Safe and Affordable Drinking Water Fund Expenditure Plan (Plan), which is adopted annually by the State Water Board and is based on an annual Drinking Water Needs Assessment (Needs Assessment). The Needs Assessment provides foundational information and recommendations to guide the SAFER Program's work. Four different water system types: public water systems, tribal water systems, state small water systems and domestic wells, are analyzed within the Needs Assessment.

The 2021 Needs Assessment was released in April 2021, the results of which, according to the State Water Board, illustrate the breadth and depth of challenges to safe and affordable water supply provision across system types in California for the first time. The 2021 Needs Assessment found that approximately 620 public water systems are at risk of failing to sustainably provide a sufficient amount of safe and affordable drinking water. Approximately 47 new water systems are added to the at-risk system list each year. In addition, approximately 610 state small water systems and 80,000 domestic wells were assessed via modelling and determined to be at high risk of exceeding health-based drinking water standards due to their location in aquifers with high risk of groundwater contaminants. The State Water Board notes that further sampling and investigation will be needed to assess the actual water quality concerns for these state small water systems and domestic wells. The State Water Board contends that supporting these at-risk systems, to proactively address identified risks, will reduce the probability of these issues resulting in violations or other public health concerns.

*This bill:* The definitions and determinations of at-risk domestic wells and at-risk water systems in this bill are based upon the definitions and methodology established in the 2021 Needs Assessment. SB 403 specifies that any changes to the definitions or determinations must be based on substantially similar methodology adopted by the State Water Board in an update to the Drinking Water Needs Assessment.

*Arguments in support:* According to a coalition of supporters that includes Physicians for Social Responsibility, Western Center on Law and Poverty, the Natural Resources Defense Council, Clean Water Action, Leadership Council for Justice and Accountability, Environmental Working

Group, Sierra Club California, and the Alliance of Nurses for Healthy Environments, among others,

"...hundreds of thousands Californians still lack access to safe and affordable tap water. Their water is tainted with arsenic, nitrate, uranium, 1,2,3 TCP, and other dangerous contaminants. More must be done.

SB 403 builds on SB 88 (2015) by allowing the State Water Board to mandate consolidation where domestic wells or a water system with 3,300 or fewer connections that serves a disadvantaged community is "at risk" of failure, as defined. Current law does not allow the State Water Board to act proactively to prevent water systems from failing. The bill would allow the State Water Board to act to prevent public health emergencies and ensure efficient use of local and state resources.

By extending the State Water Board's authority to mandate and facilitate consolidation of at-risk systems serving disadvantaged communities, the bill would improve water system sustainability, drinking water quality, affordability, and trust in tap water. Water system consolidation is an important and effective tool to improve access to safe and affordable water because larger consolidated systems are generally more reliable, safe, and efficient. Small water systems are far more likely to have water quality violations and higher water rates than larger systems.

SB 403 would require that the State Water Board seeks and meaningfully considers community input before ordering consolidation. It also requires the State Water Board to consider any petition for mandatory consolidation submitted by members of the disadvantaged community served by the at-risk water system, and allows the small water system the opportunity to provide evidence at a public meeting before the State Water Board if its governing body does not believe it is at risk of failure."

*Arguments in opposition:* According to the California Special Districts Association (CSDA),

"While we applaud the intent of the measure and share the goal of reliable, safe drinking water for all Californians, SB 403 has deficiencies that must be addressed. The vast majority, **1,074 out of 1,152**, of the at-risk and potentially at-risk water systems identified by the SWRCB are *not* water districts, rather they are privately owned water systems. Unlike privately owned water systems, water districts are public agencies with elected boards that must follow the Brown Act, Public Records Act, public bidding, prevailing wage, and other transparency and accountability requirements. The residents served by water districts are the ones who established the district and who own the district infrastructure and water rights. Local voters elected the water district's board members to govern their district. These board members pay the same rates and drink the same water as the people they represent.

In the case of public agencies with elected boards, a democratic process exists through the Cortese-Knox-Hertzberg Act to address their challenges in a way that respects the rights of local voters. This process involves working through the open and transparent Local Agency Formation Commission (LAFCO), which has authority over the organization of public agencies. While LAFCO's do not have authority over public water systems that are privately held, they can re-organize those that are public and accountable to the voter. Using this existing process, we ask the State to help empower the community to maintain ownership

and governance of its water system, not to take it away through an unelected state bureaucracy and potentially transfer it to an investor-owned corporation, as could happen under SB 403...

To avoid the disenfranchisement of local voters, we oppose the current provisions of the bill unless amended to specifically focus the expanded authority on water systems without elected boards. Particularly for our most disadvantaged communities, we believe that the better approach is to honor the local voters and seek solutions to help a community overcome the challenges that put it at risk."

*Double referral:* SB 403 has been double-referred. Should this bill pass the Assembly Committee on Environmental Safety and Toxic Materials, it will be referred to the Assembly Committee on Local Government.

*Related legislation:*

- 1) SB 1280 (Monning, 2020). Would have authorized the State Water Board to order consolidation between a receiving water system and an at-risk water system, as defined, under specified circumstances. This bill was held in the Senate Environmental Quality Committee.
- 2) AB 508 (Chu, Chapter 352, Statutes of 2019). Makes changes to statute related to the State Water Board's authority to order the consolidation of drinking water systems, including setting a deadline of July 1, 2020, as the date by which the State Water Board must develop a policy that provides a process for members of a disadvantaged community to petition for consolidation; and, deleting statute that required the State Water Board, before ordering consolidation or extension of service, to obtain written consent to the project from a domestic well owner.
- 3) SB 200 (Monning, Chapter 120, Statutes of 2019). Established the Safe and Affordable Drinking Water Fund (Fund) to help water systems provide an adequate and affordable supply of safe drinking water in both the near and the long terms. Transfers annually, beginning in fiscal year 2020-21 and until June 30, 2030, to the Fund five percent of the proceeds of the Greenhouse Gas Reduction Fund up to \$130 million. Requires the State Water Board to adopt a fund expenditure plan.
- 4) AB 2501 (Chu, Chapter 871, Statutes of 2018). Authorizes the State Water Board to order consolidation with a receiving water system when a disadvantaged community is reliant on a domestic well that consistently fails to provide an adequate supply of safe drinking water; prohibits, for an ordered consolidation, the receiving water system from charging specified fees or imposing specified conditions on customers of the subsumed water system that it would not otherwise charge or impose; and, makes other changes to ordered consolidation law.
- 5) SB 623 (Monning, 2017). Would have created the Safe and Affordable Drinking Water Fund, administered by the State Water Board, to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards. This bill was held in the Assembly Rules Committee.

- 6) SB 778 (Hertzberg, 2017). Would have required the State Water Board to report on public water system consolidations to date, and their success or failure. This bill was held in the Assembly Appropriations Committee.
- 7) SB 552 (Wolk, Chapter 773, Statutes of 2016). Authorizes the State Water Board to contract with an administrator to provide administrative and managerial services to a designated public water system to assist with the provision of an adequate and affordable supply of safe drinking water.
- 8) SB 88 (Budget Committee, Chapter 27 Statutes of 2015). Authorizes the State Water Board to require water systems that are serving disadvantaged communities with unreliable and unsafe drinking water to consolidate with, or receive service from, public water systems with safe, reliable, and adequate drinking water.
- 9) AB 685 (Eng, Chapter 524, Statutes of 2012). Declares that it is the established policy of the state that every human being has the right to clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes and requires that relevant state agencies, including the Department of Water Resources, the State Water Board, and the State Department of Public Health consider this state policy when revising, adopting, or establishing policies, regulations, and grant criteria pertinent to the human uses of water.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Alliance of Nurses for Healthy Environments  
American Rivers  
California Catholic Conference  
California Coastkeeper Alliance  
California League of Conservation Voters  
Carbon Cycle Institute  
Ceres  
Clean Water Action  
Community Water Center  
Environmental Law Foundation  
Environmental Working Group  
Friends Committee on Legislation of California  
Leadership Counsel for Justice and Accountability  
Martin Luther King Jr. Freedom Center  
Natural Resources Defense Council (NRDC)  
Nextgen California  
Physicians for Social Responsibility - San Francisco Bay Area Chapter  
Pueblo Unido CDC  
Sierra Club California  
Western Center on Law & Poverty

**Opposition**

Association of California Water Agencies (ACWA)  
California Special Districts Association

**Analysis Prepared by:** Shannon McKinney / E.S. & T.M. /

Date of Hearing: June 16, 2021

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Bill Quirk, Chair

SB 244(Archuleta) – As Introduced January 21, 2021

**SENATE VOTE:** 39-0

**SUBJECT:** Lithium-ion batteries: illegal disposal: fire prevention

**SUMMARY:** Requires the state to provide guidance on lithium-ion (Li-ion) battery handling and disposal. Specifically, **this bill:**

- 1) Finds and declares that more must be done to better educate the public about, and bring awareness to, the risks presented by the illegal disposal of Li-ion batteries and products that contain lithium-ion batteries and to discourage that behavior.
- 2) States the intent of the Legislature to address the issue of illegally discarded Li-ion batteries and products that contain Li-ion batteries.
- 3) Requires, on or before January 1, 2023, the Department of Forestry and Fire Protection (CalFire), in consultation with relevant state agencies and stakeholders, including, but not limited to, the Department of Toxic Substances Control (DTSC), the Department of the California Highway Patrol, and representatives from the solid waste industry, including local governments that also operate solid waste or recycling collection fleets or that own or operate a transfer or processing station or disposal facility to develop a model protocol and training that identifies best practices for the detection, safe handling, and suppression of fires that originate from discarded Li-ion batteries or products that contain Li-ion batteries on or in solid waste or recycling collection vehicles, transfer or processing stations, or disposal facilities.
- 4) Requires CalFire Protection to post the model protocol on its internet website.
- 5) Requires, on or before July 1, 2023, a solid waste enterprise, after consulting with the county fire marshal of every county in which the solid waste enterprise conducts solid waste collection operations, to adopt, or update if necessary, a protocol and arrange any necessary training for relevant employees that identifies procedures to follow for the detection, safe handling, and suppression of fires that originate from discarded Li-ion batteries or products that contain Li-ion batteries on or in solid waste or recycling collection vehicles, transfer or processing stations, or disposal facilities.
- 6) Requires, on or before July 1, 2024, the Department of Resources Recycling and Recovery (CalRecycle), in consultation with DTSC, to develop a guidance document for use by local governments to better inform, educate, and increase public awareness as to the proper handling of, and the risk of fire due to the mishandling or improper disposal of, Li-ion batteries and products that contain Li-ion batteries, and to reduce the likelihood of illegal disposal.
- 7) Authorizes CalRecycle to solicit and use any expertise available in other state agencies.

- 8) Authorizes CalRecycle to prepare, publish on its internet website, or issue any materials that it determines necessary for disseminating information, including existing or updated guidance developed by DTSC pursuant to the universal waste provisions law, and implementing regulations, or pursuant to the Rechargeable Battery Recycling Act of 2006 or any other relevant guidance.
- 9) Authorizes CalRecycle to convene a working group composed of representatives from the solid waste industry and local governments to advise it on the content, development, and promotion of the guidance document.
- 10) Prohibits a person from knowingly disposing of a Li-ion battery by depositing it in a container or receptacle that is intended for the collection of solid waste or recyclable materials, unless the container or receptacle is designated for the collection of batteries for recycling pursuant to the universal waste law and implementing regulations. Declares that nothing in this section precludes the enforcement of any state law or federal hazardous waste law with respect to waste batteries, including Li-ion batteries.
- 11) Requires reimbursement to local agencies and school districts for any incurred costs if the Commission on State Mandates determines that the provisions of this bill contain costs mandated by the state.

**EXISTING LAW:**

- 1) Prohibits the disposal of a lead-acid battery at a solid waste facility, or on or in any land, surface waters, watercourses, or marine waters. (Health & Safety Code (HSC) § 25215.2)
- 2) Establishes the Lead-Acid Battery Recycling Act of 2016 (Act) to impose fees on lead-acid batteries to fund lead contamination cleanup. (HSC § 25215)
- 3) Establishes the California Rechargeable Battery Recycling Act to require retailers to have a mechanism to accept all non-vehicular rechargeable batteries from consumers for recycling. (Public Resources Code (PRC) § 42451)
- 4) Requires the Secretary for Environmental Protection (Secretary) to convene the Lithium-Ion Car Battery Recycling Advisory Group to review and advise the Legislature on policies pertaining to the recovery and recycling of lithium-ion batteries sold with motor vehicles in the state, and requires the Secretary to appoint members to the group from specified departments, vocations, and organizations. (PRC § 42450.5)

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

*Need for the bill:* According to the author, "The proliferation of lithium-ion batteries and the improper disposal of these batteries has led to numerous fires at waste facilities and operations. California needs to do more to increase awareness with the public about the need to properly recycle these batteries. At the same time, California needs to implement protocols for both consumers and industry to follow in regards to the disposal of these batteries. My bill, SB 244

looks to do just that by tasking multiple California state agencies to come up with a protocol for the proper disposal of these lithium-ion batteries."

*Li-ion batteries:* Li-ion batteries, widely used in portable electronics like laptops, smart phones, digital cameras, game consoles, and cordless power tools, are also widely used as vehicle batteries in zero emission vehicles (ZEVs).

The traditional Li-ion chemistry involves a lithium cobalt oxide cathode and a graphite anode. Li-ion batteries are efficient at holding charges and recharging to power a car, and traditional Li-ion batteries can have hundreds to a few thousand charge cycles through their lives. The life-span of Li-ion battery is anywhere between 10-20 years.

*Li-ion batteries are hazardous waste:* Hazardous waste regulations designate a category of hazardous wastes called "universal waste" (u-waste). DTSC regulation recognizes all batteries that exhibit a characteristic of a hazardous waste as u-waste. All batteries are considered hazardous waste in California when they are discarded because of the metals and/or other toxic or corrosive materials contained within.

All batteries in California that are intended for disposal must be recycled, or taken to a household hazardous waste disposal facility, a universal waste handler (e.g. storage facility or broker), or an authorized recycling facility.

While the state's u-waste regulations prohibit batteries from solid waste disposal, current law only specifically prohibits lead-acid batteries from being disposed at a solid waste facility.

This bill would further specifically prohibit a person from knowingly disposing of a Li-ion battery in a container or receptacle that is intended for the collection of solid waste or recyclable materials, unless the container or receptacle is designated for the collection of batteries for recycling pursuant to the universal waste provisions within the state law.

*Li-ion battery waste:* According to CalRecycle's 2014 Waste Characterization Study, batteries, which includes include car, flashlight, small appliance, watch, and hearing aid batteries, represented 11,887 tons (0.003%) of California's overall disposed waste stream. However, this figure does not distinguish between single-use and rechargeable batteries.

According to a presentation to DTSC from Occupational Knowledge International, by 2028, roughly eight million kilotons of waste Li-ion batteries from ZEVs are expected to be generated; by 2038, the estimate is 55 million kilotons. Though that number does not include non-automotive Li-ion batteries, it can reasonably be expected that there are and will continue to be significant amounts of spent Li-ion batteries that need to be managed for disposal due to the proliferation of consumer products that contain or use Li-ion batteries.

*Fire risks:* Because Li-ion batteries contain hazardous and corrosive materials, they also pose a fire risk if not stored or disposed of properly. Unfortunately, California currently lacks a streamlined and convenient collection and recycling system for most batteries and batteries embedded in products, which leads to batteries continuously ending up at waste management facilities and posing fire, health, and safety hazards.



According to the California Product Stewardship Council (CPSC) March 2021 *Battery Fire Report*, once batteries end up in waste management facilities, they are often exposed to conditions that are ideal for battery ignition. Collection trucks dump loads onto concrete "tipping floors," where damaged batteries are then exposed to oxygen.

According to a study published by the Multidisciplinary Digital Publishing Institute, "no other substance or material has ever comparably endangered the whole waste industry" than batteries.

In 2018, CPSC surveyed waste facilities across California and found that 83% of the 26 respondents experienced a fire in the last two years, with 65% of fires caused by batteries. At one California facility, 11 batteries were found in the waste stream on average each hour. Later that same year, 2018, CalRecycle hosted a workshop to discuss the increased prevalence of battery related fires at waste management facilities, hear the impacts to recycling and material recovery facilities in California, and discuss existing tools and potential solutions. In a follow-up report, CalRecycle noted that "Researchers estimate that 65% of California's waste fires were started by [Li-ion] batteries."

In 2020 alone, Fire Rover, a thermal camera surveillance system company, estimated that waste management facilities in the U.S. and Canada experienced 2,620 total fires, nearly seven times the number of fires reported to officials. That same year, 18 states saw an increase in reported facility fires and experts expect that trend to continue. At a Portland facility, a fire started when volatile chemicals interacted from a broken battery, likely from a battery-operated drill or similar power tool.

In November 2020, the U.S. Coast Guard announced it was looking into Li-ion batteries as the culprit of the Conception dive boat fire, which killed 34 people and sank the ship off the coast of Santa Barbara the previous year.

*Current Li-ion battery management:* According to the U.S. Geological Survey, historically, lithium recycling has been insignificant, but has increased over time owing to the growth in consumption of lithium batteries. One U.S. company has recycled lithium metal and Li-ion batteries since 1992 at its facility in British Columbia, Canada. In 2009, the U.S. Department of Energy awarded the company \$9.5 million to construct the first U.S. recycling facility for Li-ion batteries, which was still under construction in 2014.

In California, because Li-ion batteries are considered a hazardous or universal waste, any facility that accepts them for collection, storage, waste management, or recycling would have to be permitted by DTSC for managing hazardous waste.

It is unknown how many facilities are permitted by DTSC to accept Li-ion batteries for management or recycling.

*California Rechargeable Battery Recycling Act:* In 2005, to help promote proper disposal of rechargeable batteries by the public, the Governor signed the California Rechargeable Recycling Act (AB 1125, Pavley, Chapter 572, Statutes of 2005), which requires retailers to have a mechanism to accept all rechargeable batteries from consumers for recycling.

To track how effective this program is, the law requires DTSC to survey battery handling and/or recycling facilities and post on its website the amount of each type of rechargeable battery

returned for recycling in California during the previous calendar year. According to DTSC's website, the following are approximate quantities of rechargeable batteries collected for recycling in California in 2017: 400,000 pounds of nickel cadmium batteries; 500,000 pounds of Li-ion batteries; 1,100,000 pounds of nickel metal hydride batteries; and, 2,300,000 pounds of small lead acid batteries.

It is difficult to accurately estimate the rechargeable batteries collected for recycling in California because some battery handlers and recyclers do not track the product from which batteries are collected; batteries contained within electronic devices that are recycled (e.g., cell phones and laptop computers) are not counted separately but may represent a significant portion of the total quantity; there may be duplicate data as some battery handlers collect batteries from other collection points; and, California law does not require battery handlers or recyclers to report the number or weight of batteries collected for recycling.

*This bill:* The Li-ion battery market is expected to reach \$98 billion by 2025, and as more battery types and battery-embedded products enter the waste stream, waste management facilities and collection trucks across the United States expect to experience an increase in fires, most of them caused by batteries.

SB 244 would require CalRecycle, on or before July 1, 2024, and in consultation with DTSC, to develop a guidance document for use by local governments to better inform, educate, and increase public awareness as to the proper handling of, and the risk of fire due to the mishandling or improper disposal of, Li-ion batteries and products that contain Li-ion batteries, and to reduce the likelihood of illegal disposal.

The bill further requires CalFire, before January 1, 2023, in consultation with relevant state agencies and stakeholders, to develop a model protocol and training that identifies best practices for the detection, safe handling, and suppression of fires that originate from discarded Li-ion batteries or products that contain lithium-ion batteries on or in solid waste or recycling collection vehicles, transfer or processing stations, or disposal facilities, as provided.

*Double Referral:* Should this bill be approved by this committee, it will be re-referred to the Assembly Natural Resources Committee.

*Related legislation:*

- 1) SB 1156 (Archuleta, 2020). Would have required CalFire to develop a model protocol and training to identify best practices for managing fires that originate from discarded Li-ion batteries within the solid waste management system, and would have required CalRecycle to develop guidance to better inform and educate the public on the proper handling and potential fire risk due to mishandling of Li-ion batteries. SB 1156 died on the Senate Inactive File.
- 2) AB 1509 (Mullin, 2019). Would have established the Lithium-Ion Battery Recycling Program within CalRecycle that would require manufacturers of Li-ion batteries to provide convenient collection, transportation, and disposal of Li-ion batteries. AB 1509 died in the Senate Environmental Quality Committee.

- 3) AB 2407 (Ting, 2018). Would have required the Secretary for Environmental Protection to convene an advisory group to review, and advise the Legislature on, policies pertaining to the recovery and recycling of Li-ion batteries sold with motor vehicles in the state. The advisory group would have also been required to submit policy recommendations to the Legislature aimed at ensuring that 90% of end-of-life Li-ion batteries discarded in the state are recycled in a safe and cost-effective manner in the state. SB 2407 died in the Senate Environmental Quality Committee.
- 4) AB 2832 (Dahle, Chapter 822, Statutes of 2018). Requires the Secretary for Environmental Protection to convene a research group to review and advise the Legislature on policies pertaining to the recovery and recycling of Li-ion vehicle batteries sold with motor vehicles in the state.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Waste Haulers Council (Sponsor)  
Alameda County Board of Supervisors  
American Forest & Paper Association  
Athens Services  
Burrtec Waste Industries, INC.  
Cal Chamber  
California Product Stewardship Council  
California Retailers Association  
California Retailers Association  
Californians Against Waste  
City of Paramount  
City of Sunnyvale  
City of Thousand Oaks  
CR&R Environmental Services  
EDCO  
Industrial Environmental Association  
Los Angeles County Solid Waste Management Committee/integrated Waste Management Task Force  
Mendo Recycle  
National Electrical Manufacturers Association (NEMA)  
Palm Springs Disposal Services  
Recology  
Recyclesmart  
Republic Services - Western Region  
Resource Recovery Coalition of California  
Rethinkwaste  
Rural County Representatives of California  
Sanitation Districts of Los Angeles County  
Varner Bros., INC.  
Waste Management  
Zero Waste Sonoma

**Opposition**

None on file.

**Analysis Prepared by:** Paige Brokaw / E.S. & T.M. /

