

AMENDED IN SENATE JUNE 21, 2018

AMENDED IN SENATE JUNE 14, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1867

Introduced by Assembly Member Reyes

January 12, 2018

An act to add Section 12950.5 to the Government Code, relating to sexual harassment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1867, as amended, Reyes. Employment discrimination: sexual harassment: records.

Existing law, the California Fair Employment and Housing Act, prohibits an employer from taking steps that constitute harassment against an employee, including sexual harassment, as defined. The act also prohibits an employer from failing to take corrective action to remedy harassment in the workplace if the employer knows or should have known of the harassment. The act also prohibits an employer from failing to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

The act requires the Department of Fair Employment and Housing to provide employers with a poster and an information sheet regarding sexual harassment, including, among other components, the internal complaint process of the employer available to the employee and the legal remedies and complaint process available through the department, and requires employers to post the poster in an accessible area of the workplace and either provide each employee with a copy of the information sheet or provide a specified minimum curriculum of sexual

harassment education. The act requires employers with 50 or more employees to provide at least 2 hours of prescribed training and education regarding sexual harassment to all supervisory employees within 6 months of their assumption of a supervisory position and once every 2 years, as specified. The act prohibits failure to maintain and preserve records relating to a verified complaint under the department complaint process until the complaint proceedings, including appeals, are terminated.

This bill would require an employer with 50 or more employees to maintain internal complaint records of employee complaints ~~of alleging~~ sexual harassment for a minimum of 5 years after the ~~date of termination~~ *last day of employment of the accused, complainant or any alleged harasser named in the complaint, whichever is later*. The bill would authorize the department to seek an order requiring an employer that violates this recordkeeping requirement to comply.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12950.5 is added to the Government
- 2 Code, to read:
- 3 12950.5. (a) As used in this section, “employee complaint”
- 4 means a complaint filed through the internal complaint process of
- 5 the employer.
- 6 (b) An employer with 50 or more employees shall maintain
- 7 records of employee complaints ~~of alleging~~ sexual harassment.
- 8 Those records shall be retained for a period of not less than five
- 9 years after the ~~date of termination~~ *last day of employment of the*
- 10 ~~accused, complainant or any alleged harasser named in the~~
- 11 *complaint, whichever is later*.
- 12 (c) If an employer violates this section, the department may
- 13 seek an order requiring the employer to comply.

AMENDED IN SENATE JUNE 11, 2018

AMENDED IN ASSEMBLY APRIL 17, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2501

**Introduced by Assembly Member Chu
(Coauthor: Assembly Member Friedman)**

February 14, 2018

An act to amend Sections 116681 and 116682 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2501, as amended, Chu. Drinking water: consolidation and extension of service.

Existing law declares it 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.

Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems and imposes on the State Water Resources Control Board various responsibilities and duties. The act authorizes the state board to order consolidation with a receiving water system 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. The act also authorizes the state board to order extension of service to an area within a disadvantaged community that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation of consolidation. The act defines “disadvantaged community” for these purposes to mean a disadvantaged

community that is in an unincorporated area, is in a mobilehome park, or is served by a mutual water company or small public water system.

This bill would redefine “disadvantaged community” for these purposes to also include a disadvantaged community that is served by a state small water system or domestic well. The bill would authorize the state board to order consolidation with a receiving water system where a disadvantaged community is reliant on a domestic well that consistently fails to provide an adequate supply of safe drinking water. The bill would authorize the state board to develop and adopt a policy that provides a process by which members of a disadvantaged community may petition the state board to consider ordering consolidation. The bill would require the consolidation to occur within 6 months of the initiation of the extension of service.

Existing law requires the state board, before ordering consolidation or extension of service, to, among other things, hold at least one public meeting at the initiation of the process, as specified, but does not require an initial public meeting for a potentially subsumed area that is served only by domestic wells. Existing law requires the state board, before ordering consolidation or extension of service, to make certain findings, including that the capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving the current customers of the subsumed water system.

This bill would repeal the exception excluding potentially subsumed areas served only by domestic wells from the initial public meeting requirement. The bill would expand the finding of the capacity of the proposed interconnection needed to also include infill sites, as defined, within the community served by the subsumed water system and residents of a disadvantaged community in existence as of the date of consolidation and that are located along the service line connecting the subsumed water system and the receiving water system.

Existing law prohibits fees or charges imposed on a customer of a subsumed water system from exceeding the cost of consolidating the water system with a receiving water system or the extension of service to the area.

This bill would instead prohibit ongoing service fees or charges from exceeding the costs incurred to provide the drinking water service. The bill would prohibit a receiving water system from charging any fees to a customer of the subsumed water system that it does not otherwise charge to other new customers not subject to the consolidation and from imposing any conditions on a subsumed water system or customer of

a subsumed water system that it does not otherwise impose on other water systems or new customers not subject to the consolidation. *Notwithstanding these prohibitions, the bill would authorize the receiving water system to charge fees to customers of the subsumed water system to recover the costs of completing the consolidation or extension of service if those costs are not otherwise recoverable from other sources, as determined by the state board.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 116681 of the Health and Safety Code
2 is amended to read:
3 116681. Except as provided in paragraph (2) of subdivision (j)
4 of Section 116686, the following definitions shall apply to this
5 section and Sections 116682, 116684, and 116686:
6 (a) "Adequate supply" means sufficient water to meet residents'
7 health and safety needs.
8 (b) "Affected residence" means a residence within a
9 disadvantaged community that is reliant on a water supply that is
10 either inadequate or unsafe.
11 (c) "Consistently fails" means a failure to provide an adequate
12 supply of safe drinking water.
13 (d) "Consolidated water system" means the public water system
14 resulting from the consolidation of a public water system with
15 another public water system, state small water system, or affected
16 residences not served by a public water system.
17 (e) "Consolidation" means joining two or more public water
18 systems, state small water systems, or affected residences not
19 served by a public water system, into a single public water system.
20 (f) "Disadvantaged community" means a disadvantaged
21 community, as defined in Section 79505.5 of the Water Code, that
22 is in an unincorporated area, is in a mobilehome park, or is served
23 by a mutual water company, a state small water system, a domestic
24 well, or a small public water system.
25 (g) "Domestic well" means a groundwater well used to supply
26 water for the domestic needs of an individual residence or a water
27 system that is not a public water system and that has no more than
28 four service connections.

1 (h) “Extension of service” means the provision of service
2 through any physical or operational infrastructure arrangement
3 other than consolidation.

4 (i) “Infill site” means a site within the area served by a subsumed
5 water system that, as of the date of consolidation, is adjacent on
6 at least two sides to any of the following, or any combination of
7 the following:

8 (1) A parcel that is developed for qualified urban uses.

9 (2) A navigable body of water.

10 (3) A park.

11 (4) A street or highway or other public right of way.

12 (j) “Qualified urban use” means any residential, commercial,
13 public institutional, industrial, transit or transportation facility, or
14 retail use, or any combination of those uses.

15 (k) “Receiving water system” means the public water system
16 that provides service to a subsumed water system through
17 consolidation or extension of service.

18 (l) “Safe drinking water” means water that meets all primary
19 and secondary drinking water standards.

20 (m) “Small public water system” has the same meaning as
21 provided in subdivision (b) of Section 116395.

22 (n) “Subsumed water system” means the public water system,
23 state small water system, or affected residences not served by a
24 public water system consolidated into or receiving service from
25 the receiving water system.

26 SEC. 2. Section 116682 of the Health and Safety Code is
27 amended to read:

28 116682. (a) (1) The state board, in circumstances described
29 in either subparagraph (A) or (B), may order consolidation with a
30 receiving water system as provided in this section and Section
31 116684. The consolidation may be physical or operational. The
32 state board may also order the extension of service to an area within
33 a disadvantaged community that does not have access to an
34 adequate supply of safe drinking water so long as the extension of
35 service is an interim extension of service in preparation for
36 consolidation. The consolidation shall occur within six months of
37 the initiation of the extension of service. The state board may set
38 timelines and performance measures to facilitate completion of
39 consolidation.

1 (A) A public water system or a state small water system, serving
2 a disadvantaged community, consistently fails to provide an
3 adequate supply of safe drinking water.

4 (B) A disadvantaged community is reliant on a domestic well
5 that consistently fails to provide an adequate supply of safe
6 drinking water.

7 (2) The state board may develop and adopt a policy that provides
8 a process by which members of a disadvantaged community may
9 petition the state board to consider ordering consolidation.

10 (b) Before ordering consolidation or extension of service as
11 provided in this section, the state board shall do all of the
12 following:

13 (1) Encourage voluntary consolidation or extension of service.

14 (2) Consider other enforcement remedies specified in this article.

15 (3) Consult with, and fully consider input from, the relevant
16 local agency formation commission regarding the provision of
17 water service in the affected area, the recommendations for
18 improving service in a municipal service review, and any other
19 relevant information.

20 (4) Consult with, and fully consider input from, the Public
21 Utilities Commission when the consolidation would involve a
22 water corporation subject to the commission's jurisdiction.

23 (5) Consult with, and fully consider input from, the local
24 government with land use planning authority over the affected
25 area, particularly regarding any information in the general plan
26 required by Section 65302.10 of the Government Code.

27 (6) Consult with, and fully consider input from, all public water
28 systems in the chain of distribution of the potentially receiving
29 water systems.

30 (7) (A) Notify the potentially receiving water system and the
31 potentially subsumed water system, if any, and establish a
32 reasonable deadline of no less than six months, unless a shorter
33 period is justified, for the potentially receiving water system and
34 the potentially subsumed water system, if any, to negotiate
35 consolidation or another means of providing an adequate supply
36 of safe drinking water.

37 (B) During this period, the state board shall provide technical
38 assistance and work with the potentially receiving water system
39 and the potentially subsumed water system to develop a financing

1 package that benefits both the receiving water system and the
2 subsumed water system.

3 (C) Upon a showing of good cause, the deadline may be
4 extended by the state board at the request of the potentially
5 receiving water system, potentially subsumed water system, or the
6 local agency formation commission with jurisdiction over the
7 potentially subsumed water system.

8 (8) Obtain written consent from any domestic well owner for
9 consolidation or extension of service. Any domestic well owner
10 within the consolidation or extended service area who does not
11 provide written consent shall be ineligible, until the consent is
12 provided, for any future water-related grant funding from the state
13 other than funding to mitigate a well failure, disaster, or other
14 emergency.

15 (9) Hold at least one public meeting at the initiation of this
16 process in a place as close as feasible to the affected areas. The
17 state board shall make reasonable efforts to provide a 30-day notice
18 of the meeting to the ratepayers, renters, and property owners to
19 receive water service through service extension or in the area of
20 the subsumed water system and all affected local government
21 agencies and drinking water service providers. The meeting shall
22 provide representatives of the potentially subsumed water system,
23 affected ratepayers, renters, property owners, and the potentially
24 receiving water system an opportunity to present testimony. The
25 meeting shall provide an opportunity for public comment.

26 (c) Upon expiration of the deadline set by the state board
27 pursuant to paragraph (7) of subdivision (b), the state board shall
28 do the following:

29 (1) Consult with the potentially receiving water system and the
30 potentially subsumed water system, if any.

31 (2) (A) Conduct a public hearing, in a location as close as
32 feasible to the affected communities.

33 (B) The state board shall make reasonable efforts to provide a
34 30-day notice of the hearing to the ratepayers, renters, and property
35 owners to receive water service through service extension or in
36 the area of the subsumed water system and to all affected local
37 government agencies and drinking water service providers.

38 (C) The hearing shall provide representatives of the potentially
39 subsumed water system, affected ratepayers, renters, property

1 owners, and the potentially receiving water system an opportunity
2 to present testimony.

3 (D) The hearing shall provide an opportunity for public
4 comment.

5 (d) Before ordering consolidation or extension of service, the
6 state board shall find all of the following:

7 (1) The potentially subsumed water system has consistently
8 failed to provide an adequate supply of safe drinking water.

9 (2) All reasonable efforts to negotiate consolidation or extension
10 of service were made.

11 (3) Consolidation of the receiving water system and subsumed
12 water system or extension of service is appropriate and technically
13 and economically feasible.

14 (4) There is no pending local agency formation commission
15 process that is likely to resolve the problem in a reasonable amount
16 of time.

17 (5) Concerns regarding water rights and water contracts of the
18 subsumed and receiving water systems have been adequately
19 addressed.

20 (6) Consolidation or extension of service is the most effective
21 and cost-effective means to provide an adequate supply of safe
22 drinking water.

23 (7) The capacity of the proposed interconnection needed to
24 accomplish the consolidation is limited to serving the current
25 customers of the subsumed water system, infill sites within the
26 community served by the subsumed water systems and residents
27 of disadvantaged communities in existence as of the date of
28 consolidation and that are located along the service line connecting
29 the subsumed water system and the receiving water system.

30 (e) Upon ordering consolidation or extension of service, the
31 state board shall do all of the following:

32 (1) As necessary and appropriate, make funds available, upon
33 appropriation by the Legislature, to the receiving water system for
34 the costs of completing the consolidation or extension of service,
35 including, but not limited to, replacing any capacity lost as a result
36 of the consolidation or extension of service, providing additional
37 capacity needed as a result of the consolidation or extension of
38 service, and legal fees. Funding pursuant to this paragraph is
39 available for the general purpose of providing financial assistance
40 for the infrastructure needed for the consolidation or extension of

1 service and does not need to be specific to each individual
2 consolidation project. The state board shall provide appropriate
3 financial assistance for the infrastructure needed for the
4 consolidation or extension of service. The state board's existing
5 financial assistance guidelines and policies shall be the basis for
6 the financial assistance.

7 (2) Ensure payment of standard local agency formation
8 commission fees caused by state board-ordered consolidation or
9 extension of service.

10 (3) Adequately compensate the owners of a privately owned
11 subsumed water system for the fair market value of the system, as
12 determined by the Public Utilities Commission or the state board.

13 (4) Coordinate with the appropriate local agency formation
14 commission and other relevant local agencies to facilitate the
15 change of organization or reorganization.

16 (f) (1) For the purposes of this section, the consolidated water
17 system shall not increase charges on existing customers of the
18 receiving water system solely as a consequence of the consolidation
19 or extension of service unless the customers receive a
20 corresponding benefit.

21 (2) For purposes of this section, ongoing service fees or charges
22 imposed on a customer of a subsumed water system shall not
23 exceed the costs incurred to provide the drinking water service.

24 (3) For purposes of this section, the receiving water system shall
25 not charge any fees, including, but not limited to, connection fees,
26 capacity fees, or impact fees, to customers of the subsumed water
27 system that it does not otherwise charge to other new customers
28 not subject to the consolidation with the receiving water system
29 and shall not impose any conditions on a subsumed water system
30 or customer of a subsumed water system that it does not otherwise
31 impose on other water systems or new customers not subject to
32 the consolidation with the receiving water system.

33 (4) (A) *Notwithstanding paragraph (2) or (3), for purposes of*
34 *this section, if costs incurred by the receiving water system in*
35 *completing the consolidation or extension of service are not*
36 *otherwise recoverable as provided in subparagraph (B), the*
37 *receiving water system may charge fees to customers of the*
38 *subsumed water system to recover those costs.*

39 (B) *A receiving water system shall not charge a fee pursuant to*
40 *subparagraph (A) for costs that are otherwise recoverable from*

1 *the state, the federal government, programs administered by local*
2 *agencies, parties responsible for causing contamination that the*
3 *consolidation or extension of service is designed to address, or*
4 *other sources, as determined by the state board.*

5 (g) Division 3 (commencing with Section 56000) of Title 5 of
6 the Government Code shall not apply to an action taken by the
7 state board pursuant to this section.

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AMENDED IN SENATE MAY 25, 2018

AMENDED IN ASSEMBLY MARCH 21, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2902

**Introduced by Committee on Environmental Safety and Toxic
Materials (Assembly Members Quirk (Chair), ~~Chen Melendez~~
(Vice Chair), Arambula, Brough, Holden, and Muratsuchi)**

February 16, 2018

An act to amend Sections 25270.2, 25270.3, 25270.4, 25270.4.5, 25281.5, ~~25285~~, 25299.78, and 25510 of the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL’S DIGEST

AB 2902, as amended, Committee on Environmental Safety and Toxic Materials. Hazardous substances.

(1) The Aboveground Petroleum Storage Act generally regulates aboveground storage tanks that contain petroleum and that meet certain requirements. The act defines an “aboveground storage tank” as a tank that has the capacity to store 55 gallons or more of petroleum and that is substantially or totally above the surface of the ground or is a tank in an underground area, as defined, except for certain types of tanks and vessels. A tank containing hazardous waste or extremely hazardous waste is not regulated pursuant to the act if the Department of Toxic Substances Control has issued a hazardous waste facilities permit for the tank to the person owning or operating the tank. The act defines “tank in an underground area” to mean a storage tank that meets certain specifications and requirements, including that the storage tank is located in a structure that is at least 10% below the ground surface, as specified.

This bill would revise the definition of “aboveground storage tank” to include a container that meets those same specifications, and would additionally exempt from that definition a tank containing hazardous waste or extremely hazardous waste if the owner or operator of the storage tank has a permit by rule authorization for the tank from the unified program agency. *specifications*. The bill would revise the definition of “tank in an underground area” to mean a stationary storage tank that meets those same specifications and requirements, and would make other revisions to that definition.

The act provides that a tank facility is subject to the act if the tank facility meets one of 3 descriptions, including if it has a storage capacity of less than 1,320 gallons of petroleum and has one or more tanks in an underground area meeting specified conditions. The act requires the owner or operator of a storage tank at a tank facility subject to the act to prepare a spill prevention control and countermeasure plan and to implement the plan in compliance with a specified federal law.

This bill would authorize the owner or operator of a tank in an underground area that meets that description to use the format adopted by the Office of the State Fire Marshal to prepare the spill prevention control and countermeasure plan. The bill would provide that a tank in an underground area that would otherwise be subject to the act because it meets that description is not subject to the act if it holds hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, or other similar devices, or if it is a heating oil tank.

(2) Existing law defines the term “underground storage tank” for purposes of the provisions regulating the storage of hazardous substances in underground storage tanks, and excludes certain tanks from that definition. Existing law exempts from the requirements imposed upon underground storage tanks a tank located in a below-grade structure that is connected to an emergency generator tank system and meets specified conditions. Existing law defines the term “emergency generator tank system” for purposes of these provisions to mean an underground storage tank system that provides power supply in the event of a commercial power failure, stores diesel fuel, and is used solely in connection with an emergency system, legally required standby system, or optional standby system.

This bill would expand the term “emergency generator tank system” to additionally include an underground storage tank system that provides

power supply in the event of a commercial power failure, stores kerosene, and is used solely in connection with those specified systems.

~~Existing law authorizes a local agency, upon the discovery of a significant violation of any provision regulating the storage of hazardous substances in underground storage tanks that poses an imminent threat to human health or safety or the environment, to affix a red tag, in plain view, to the fill pipe of the noncompliant underground storage tank system to provide notice that delivery of petroleum into the system is prohibited. Existing law prohibits a local agency from issuing or renewing a permit to operate an underground storage tank if the local agency inspects the tank and determines that the tank does not comply with the laws regulating the storage of hazardous substances in underground storage tanks.~~

~~This bill would revise the prohibition on issuing or renewing permits to instead prohibit a local agency from issuing a permit to operate an underground storage tank to, or renewing such a permit of, a person operating an underground storage tank to which a red tag is currently affixed.~~

Existing law requires owners or operators of underground storage tanks to furnish, under penalty of perjury, specified information as the local agency, regional water quality control board, or the State Water Resources Control Board may require.

This bill would expand the scope of the information that any of those entities may require to be provided and would expand to all persons the obligation to furnish the required information under penalty of perjury. Because this provision would expand the scope of a crime, the bill would impose a state-mandated local program.

(3) Existing law requires the immediate report of any release or threatened release of a hazardous material, defined pursuant to the laws regulating the response to the release of hazardous materials, to the unified program agency and to the Office of Emergency Services.

This bill would additionally require the immediate report of an actual release of a hazardous substance, defined pursuant to the laws imposing criminal liability for certain deposits of hazardous substances, as specified. To the extent this provision would increase the duties of unified program agencies, the bill would impose a state-mandated local program.

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25270.2 of the Health and Safety Code
2 is amended to read:

3 25270.2. For purposes of this chapter, the following definitions
4 apply:

5 (a) "Aboveground storage tank" or "storage tank" means a tank
6 or container that has the capacity to store 55 gallons or more of
7 petroleum that is substantially or totally above the surface of the
8 ground, except that, for purposes of this chapter, "aboveground
9 storage tank" or "storage tank" includes a tank in an underground
10 ~~area.~~ *area that has a capacity to store any volume of petroleum.*

11 "Aboveground storage tank" does not include any of the following:

12 (1) A pressure vessel or boiler that is subject to Part 6
13 (commencing with Section 7620) of Division 5 of the Labor Code.

14 (2) A tank containing hazardous waste or extremely hazardous
15 waste, as respectively defined in Sections 25117 and 25115, if the
16 ~~owner or operator of the storage tank has~~ *Department of Toxic*
17 *Substances Control has issued the person owning or operating the*
18 *tank a hazardous waste facilities permit from the Department of*
19 ~~Toxic Substances Control or a permit by rule authorization from~~
20 ~~the unified program agency~~ *for the storage tank.*

21 (3) An aboveground oil production tank that is subject to Section
22 3106 of the Public Resources Code.

23 (4) Oil-filled electrical equipment, including, but not limited
24 to, transformers, circuit breakers, or capacitors, if the oil-filled
25 electrical equipment meets either of the following conditions:

26 (A) The equipment contains less than 10,000 gallons of dielectric
27 fluid.

1 (B) The equipment contains 10,000 gallons or more of dielectric
2 fluid with PCB levels less than 50 parts per million, appropriate
3 containment or diversionary structures or equipment are employed
4 to prevent discharged oil from reaching a navigable water course,
5 and the electrical equipment is visually inspected in accordance
6 with the usual routine maintenance procedures of the owner or
7 operator.

8 (5) A tank regulated as an underground storage tank under
9 Chapter 6.7 (commencing with Section 25280) of this division and
10 Chapter 16 (commencing with Section 2610) of Division 3 of Title
11 23 of the California Code of Regulations and that does not meet
12 the definition of a tank in an underground area.

13 (6) A transportation-related tank facility, subject to the authority
14 and control of the United States Department of Transportation, as
15 defined in the Memorandum of Understanding between the
16 Secretary of Transportation and the Administrator of the United
17 States Environmental Protection Agency, as set forth in Appendix
18 A to Part 112 (commencing with Section 112.1) of Subchapter D
19 of Chapter I of Title 40 of the Code of Federal Regulations.

20 (7) A tank or tank facility located on and operated by a farm
21 that is exempt from the federal spill prevention, control, and
22 countermeasure rule requirements pursuant to Part 112
23 (commencing with Section 112.1) of Subchapter D of Chapter I
24 of Title 40 of the Code of Federal Regulations.

25 (b) "Board" means the State Water Resources Control Board.

26 (c) (1) "Certified unified program agency" or "CUPA" means
27 the agency certified by the Secretary for Environmental Protection
28 to implement the unified program specified in Chapter 6.11
29 (commencing with Section 25404) within a jurisdiction.

30 (2) "Participating agency" or "PA" means an agency that has a
31 written agreement with the CUPA pursuant to subdivision (d) of
32 Section 25404.3, and is approved by the secretary, to implement
33 and enforce the unified program element specified in paragraph
34 (2) of subdivision (c) of Section 25404, in accordance with Sections
35 25404.1 and 25404.2.

36 (3) (A) "Unified program agency" or "UPA" means the CUPA,
37 or its participating agencies to the extent that each PA has been
38 designated by the CUPA, pursuant to a written agreement, to
39 implement and enforce the unified program element specified in
40 paragraph (2) of subdivision (c) of Section 25404. The UPAs have

1 the responsibility and authority, to the extent provided by this
2 chapter and Sections 25404.1 to 25404.2, inclusive, to implement
3 and enforce the requirements of this chapter.

4 (B) After a CUPA has been certified by the secretary, the unified
5 program agency shall be the only agency authorized to enforce the
6 requirements of this chapter.

7 (C) This paragraph does not limit the authority or responsibility
8 granted to the office, the board, and the regional boards by this
9 chapter.

10 (d) "Office" means the Office of the State Fire Marshal.

11 (e) "Operator" means the person responsible for the overall
12 operation of a tank facility.

13 (f) "Owner" means the person who owns the tank facility or
14 part of the tank facility.

15 (g) "Person" means an individual, trust, firm, joint stock
16 company, corporation, including a government corporation,
17 partnership, limited liability company, or association. "Person"
18 also includes any city, county, district, the University of California,
19 the California State University, the state, any department or agency
20 thereof, and the United States, to the extent authorized by federal
21 law.

22 (h) "Petroleum" means crude oil, or a fraction thereof, that is
23 liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per
24 square inch absolute pressure.

25 (i) "Regional board" means a California regional water quality
26 control board.

27 (j) "Release" means any spilling, leaking, pumping, pouring,
28 emitting, emptying, discharging, escaping, leaching, or disposing
29 into the environment.

30 (k) "Secretary" means the Secretary for Environmental
31 Protection.

32 (l) "Storage" or "store" means the containment, handling, or
33 treatment of petroleum, for a period of time, including on a
34 temporary basis.

35 (m) "Storage capacity" means the aggregate capacity of all
36 aboveground storage tanks at a tank facility.

37 (n) "Tank facility" means one or more aboveground storage
38 tanks, including any piping that is integral to the tanks, that contain
39 petroleum and that are used by an owner or operator at a single
40 location or site. For purposes of this chapter, a pipe is integrally

1 related to an aboveground storage tank if the pipe is connected to
2 the tank and meets any of the following:

3 (1) The pipe is within the dike or containment area.

4 (2) The pipe is between the containment area and the first flange
5 or valve outside the containment area.

6 (3) The pipe is connected to the first flange or valve on the
7 exterior of the tank, if state or federal law does not require a
8 containment area.

9 (4) The pipe is connected to a tank in an underground area.

10 (o) (1) "Tank in an underground area" means a stationary
11 storage tank to which all of the following apply:

12 (A) The storage tank is located in a structure that is at least 10
13 percent below the ground surface, including, but not limited to, a
14 basement, cellar, shaft, pit, or vault.

15 (B) The structure in which the storage tank is located, at a
16 minimum, provides for secondary containment of the contents of
17 the tank, piping, and ancillary equipment, until cleanup occurs. A
18 shop-fabricated double-walled storage tank with a mechanical or
19 electronic device used to detect leaks in the interstitial space meets
20 the requirement for secondary containment of the contents of the
21 tank.

22 (C) The storage tank meets one or more of the following
23 conditions:

24 (i) The storage tank contains petroleum to be used or previously
25 used as a lubricant or coolant in a motor engine or transmission,
26 oil-filled operational equipment, or oil-filled manufacturing
27 equipment, is situated on or above the surface of the floor, and the
28 structure in which the tank is located provides enough space for
29 direct viewing of the exterior of the tank except for the part of the
30 tank in contact with the surface of the floor.

31 (ii) The storage tank only contains petroleum that is determined
32 to be a hazardous waste, complies with the hazardous waste tank
33 standards pursuant to Article 10 (commencing with Section
34 66265.190) of Chapter 15 of Division 4.5 of Title 22 of the
35 California Code of Regulations as it may be amended, and the tank
36 facility has been issued a unified program facility permit pursuant
37 to Section 25404.2 for generation, treatment, accumulation, or
38 storage of hazardous waste.

39 (iii) The storage tank contains petroleum and is used solely in
40 connection with a fire pump or an emergency system, legally

1 required standby system, or optional standby system as defined in
2 the most recent version of the California Electrical Code (Section
3 700.2 of Article 700, Section 701.2 of Article 701, and Section
4 702.2 of Article 702, of Chapter 7 of Part 3 of Title 24 of the
5 California Code of Regulations), is situated on or above the surface
6 of the floor, and the structure in which the tank is located provides
7 enough space for direct viewing of the exterior of the tank except
8 for the part of the tank in contact with the surface of the floor.

9 (iv) The storage tank does not meet the conditions in clause (i),
10 (ii), or (iii), but meets all of the following conditions:

11 (I) It contains petroleum.

12 (II) It is situated on or above the surface of the floor.

13 (III) The structure in which the storage tank is located provides
14 enough space for direct viewing of the exterior of the tank, except
15 for the part of the tank in contact with the surface of the floor. ~~If~~
16 ~~the structure in which the tank is located does not provide enough~~
17 ~~space for direct viewing of the exterior of the tank, the containment~~
18 ~~structure shall be monitored to detect a release from the storage~~
19 ~~tank.~~

20 (IV) Except for an emergency vent that is solely designed to
21 relieve excessive internal pressure, all piping connected to the
22 tank, including any portion of a vent line, vapor recovery line, or
23 fill pipe that is beneath the surface of the ground, and all ancillary
24 equipment that is designed and constructed to contain petroleum,
25 can either be visually inspected by direct viewing or has both
26 secondary containment and leak detection that meet the
27 requirements of the regulations adopted by the office pursuant to
28 Section 25270.4.1.

29 ~~(2) For a shop-fabricated double-walled storage tank, direct~~
30 *Direct* viewing of the exterior of the tank is not required under
31 paragraph (1) if inspections of the ~~interstitial space~~ *containment*
32 *structure* are performed or if ~~it~~ *the containment structure* has a
33 mechanical or electronic device that will detect leaks in the
34 ~~interstitial space.~~ *containment structure.*

35 (3) (A) A storage tank in an underground area is not subject to
36 Chapter 6.7 (commencing with Section 25280) if the storage tank
37 meets the definition of a tank in an underground area, as provided
38 in paragraph (1) and, except as specified in subparagraph (B), the
39 regulations that apply to all new and existing tanks in underground

1 areas and buried piping connected to tanks in underground areas
2 have been adopted by the office pursuant to Section 25270.4.1.

3 (B) A storage tank meeting the description of clause (i) of
4 subparagraph (C) of paragraph (1) shall continue to be subject to
5 this chapter, and excluded from the definition of an underground
6 storage tank in Chapter 6.7 (commencing with Section 25280),
7 before and after the date the regulations specific to tanks in
8 underground areas have been adopted by the office.

9 (p) “Viewing” means visual inspection, and “direct viewing”
10 means, in regard to a storage tank, direct visual inspection of the
11 exterior of the tank, except for the part of the tank in contact with
12 the surface of the floor, and, where applicable, the entire length
13 of all piping and ancillary equipment, including all exterior
14 surfaces, by a person or through the use of visual aids, including,
15 but not limited to, mirrors, cameras, or video equipment.

16 SEC. 2. Section 25270.3 of the Health and Safety Code is
17 amended to read:

18 25270.3. A tank facility is subject to this chapter if any of the
19 following apply:

20 (a) The tank facility is subject to the oil pollution prevention
21 regulations specified in Part 112 (commencing with Section 112.1)
22 of Subchapter D of Chapter I of Title 40 of the Code of Federal
23 Regulations.

24 (b) The tank facility has a storage capacity of 1,320 gallons or
25 more of petroleum.

26 (c) (1) Except as provided in paragraph (3), the tank facility
27 has a storage capacity of less than 1,320 gallons of petroleum and
28 has one or more tanks in an underground area meeting the
29 conditions specified in paragraph (1) of subdivision (o) of Section
30 25270.2.

31 (2) If a tank facility is subject to this chapter only pursuant to
32 this subdivision, only those tanks that meet the conditions specified
33 in paragraph (1) of subdivision (o) of Section 25270.2 shall be
34 included as storage tanks and subject to this chapter.

35 (3) A tank in an underground area that would otherwise be
36 subject to this chapter only pursuant to this subdivision is not
37 subject to this chapter if either of the following applies:

38 (A) The tank holds hydraulic fluid for a closed loop mechanical
39 system that uses compressed air or hydraulic fluid to operate lifts,
40 elevators, or other similar devices.

1 (B) The tank is a heating oil tank.

2 SEC. 3. Section 25270.4 of the Health and Safety Code is
3 amended to read:

4 25270.4. This chapter shall be implemented by the unified
5 program agency, in accordance with the regulations adopted by
6 the office pursuant to Section 25270.4.1.

7 SEC. 4. Section 25270.4.5 of the Health and Safety Code is
8 amended to read:

9 25270.4.5. (a) Except as provided in subdivision (b), the owner
10 or operator of a storage tank at a tank facility subject to this chapter
11 shall prepare a spill prevention control and countermeasure plan
12 applying good engineering practices to prevent petroleum releases
13 using the same format required by Part 112 (commencing with
14 Section 112.1) of Subchapter D of Chapter I of Title 40 of the
15 Code of Federal Regulations, including owners and operators of
16 tank facilities not subject to the general provisions in Section 112.1
17 of those regulations. An owner or operator specified in this
18 subdivision shall conduct periodic inspections of the storage tank
19 to ensure compliance with Part 112 (commencing with Section
20 112.1) of Subchapter D of Chapter I of Title 40 of the Code of
21 Federal Regulations. In implementing the spill prevention control
22 and countermeasure plan, an owner or operator specified in this
23 subdivision shall fully comply with the latest version of the
24 regulations contained in Part 112 (commencing with Section 112.1)
25 of Subchapter D of Chapter I of Title 40 of the Code of Federal
26 Regulations.

27 (b) A tank facility located on and operated by a farm, nursery,
28 logging site, or construction site is not subject to subdivision (a)
29 if no storage tank at the location exceeds 20,000 gallons and the
30 cumulative storage capacity of the tank facility does not exceed
31 100,000 gallons. Unless excluded from the definition of an
32 “aboveground storage tank” in Section 25270.2, the owner or
33 operator of a tank facility exempt pursuant to this subdivision shall
34 take the following actions:

35 (1) Conduct a daily visual inspection of any storage tank storing
36 petroleum. For purposes of this section, “daily” means every day
37 that contents are added to or withdrawn from the tank, but no less
38 than five days per week. The number of days may be reduced by
39 the number of state or federal holidays that occur during the week
40 if there is no addition to, or withdrawal from, the tank on the

1 holiday. The UPA may reduce the frequency of inspections to not
2 less than once every three days at a tank facility that is exempt
3 pursuant to this section if the tank facility is not staffed on a regular
4 basis, provided that the inspection is performed every day the
5 facility is staffed.

6 (2) Allow the UPA to conduct a periodic inspection of the tank
7 facility.

8 (3) If the UPA determines installation of secondary containment
9 is necessary for the protection of the waters of the state, install a
10 secondary means of containment for each tank or group of tanks
11 where the secondary containment will, at a minimum, contain the
12 entire contents of the largest tank protected by the secondary
13 containment plus precipitation.

14 (c) The owner or operator of a tank in an underground area that
15 is subject to this chapter pursuant to subdivision (c) of Section
16 25270.3 may use the format adopted by the office to prepare a spill
17 prevention control and countermeasure plan as specified in
18 subdivision (a).

19 SEC. 5. Section 25281.5 of the Health and Safety Code is
20 amended to read:

21 25281.5. (a) Notwithstanding subdivision (m) of Section
22 25281, for purposes of this chapter, "pipe" means all parts of any
23 pipeline or system of pipelines, used in connection with the storage
24 of hazardous substances, including, but not limited to, valves and
25 other appurtenances connected to the pipe, pumping units,
26 fabricated assemblies associated with pumping units, and metering
27 and delivery stations and fabricated assemblies therein, but does
28 not include any of the following:

29 (1) An interstate pipeline subject to Part 195 (commencing with
30 Section 195.0) of Subchapter D of Chapter I of Subtitle B of Title
31 49 of the Code of Federal Regulations.

32 (2) An intrastate pipeline subject to Chapter 5.5 (commencing
33 with Section 51010) of Part 1 of Division 1 of Title 5 of the
34 Government Code.

35 (3) Unburied delivery hoses, vapor recovery hoses, and nozzles
36 that are subject to unobstructed visual inspection for leakage.

37 (4) Vent lines, vapor recovery lines, and fill pipes which are
38 designed to prevent, and do not hold, standing fluid in the pipes
39 or lines.

(b) In addition to the exclusions specified in subdivision (y) of Section 25281, “underground storage tank” does not include any of the following:

(1) Vent lines, vapor recovery lines, and fill pipes that are designed to prevent, and do not hold, standing fluid in the pipes or lines.

(2) Unburied fuel delivery piping at marinas if the owner or operator conducts daily visual inspections of the piping and maintains a log of inspection results for review by the local agency.

The exclusion provided by this paragraph shall not be applicable if the board adopts regulations pursuant to Section 25299.3 that address the design, construction, upgrade, and monitoring of unburied fuel delivery piping at marinas.

(3) Unburied fuel piping connected to an emergency generator tank system, if the owner or operator conducts visual inspections of the piping each time the tank system is operated, but no less than monthly, and maintains a log of inspection results for review by the local agency. The exclusion provided by this paragraph does not apply if the board adopts regulations pursuant to Section 25299.3 that address the design, construction, upgrade, and monitoring of unburied fuel supply and return piping connected to emergency generator tank systems.

(c) For purposes of this chapter, “emergency generator tank system” means an underground storage tank system that provides power supply in the event of a commercial power failure, stores diesel fuel or kerosene, and is used solely in connection with an emergency system, legally required standby system, or optional standby system, as defined in Articles 700, 701, and 702 of the National Electrical Code of the National Fire Protection Association.

~~SEC. 6. Section 25285 of the Health and Safety Code is amended to read:~~

~~25285. (a) Except as provided in Section 25285.1, a permit to operate issued by the local agency pursuant to Section 25284 shall be effective for five years. This subdivision does not apply to unified program facility permits.~~

~~(b) A local agency shall not issue a permit to operate an underground storage tank to, or renew such a permit of, a person operating an underground storage tank while a red tag is affixed in accordance with Section 25292.3.~~

1 ~~(c) Except as provided in Section 25404.5, a local agency shall~~
2 ~~not issue or renew a permit to operate an underground storage tank~~
3 ~~to any person who has not paid the fee and surcharge required by~~
4 ~~Section 25287.~~

5 *SEC. 6. Section 25299.78 of the Health and Safety Code is*
6 *amended to read:*

7 25299.78. (a) To carry out the purposes of this chapter, any
8 authorized representative of the local agency, regional board, or
9 board shall have the authority specified in Section 25185, with
10 respect to any place where underground storage tanks are located,
11 and in Section 25185.5, with respect to any real property which is
12 within 2,000 feet of any place where underground storage tanks
13 are located.

14 ~~(b) An owner or operator~~ A person shall furnish, under penalty
15 of perjury, any information on fees imposed pursuant to Article 5
16 (commencing with Section 25299.40), financial responsibility,
17 unauthorized releases,~~or corrective action~~ *actions, response*
18 *actions, costs related to grants issued under this chapter, or*
19 *requests for reimbursement pursuant to a claim or grant issued*
20 *under this chapter* as the local agency, regional board, or board
21 may require.

22 (c) A person who fails or refuses to furnish information under
23 subdivision (b) or furnishes false information to the fund is subject,
24 in accordance with the requirements of subdivision (d), to civil
25 liability of not more than ten thousand dollars (\$10,000) for each
26 violation of this subdivision.

27 (d) (1) Except as provided in subdivision (2), a claimant shall
28 not be liable under subdivision (c) unless one of the following is
29 established by the court, if the action is brought pursuant to
30 subdivision (e), or the executive director, if the action is brought
31 pursuant to subdivision (f):

32 (A) The alleged violation is knowing, willful, or intentional.

33 (B) The claimant received a material economic benefit from the
34 action which caused the alleged violation.

35 (C) The alleged violation is chronic or that the claimant is a
36 recalcitrant violator, as determined pursuant to subdivision (g) of
37 Section 13399 of the Water Code.

38 (2) If a claimant is in violation of subdivision (c), but does not
39 meet any of the conditions specified in paragraph (1), the claimant
40 may be held liable only if the board or an authorized representative

1 of the board issues a notice to comply pursuant to Chapter 5.8
2 (commencing with Section 13399) of Division 7 of the Water Code
3 before an action is taken pursuant to subdivision (e) or (f).

4 (e) The Attorney General, upon request of the board, shall bring
5 an action in superior court to impose the civil liability specified
6 in subdivision (c).

7 (f) The executive director of the board may impose the civil
8 liability specified in subdivision (c) administratively in the same
9 manner as the executive director of the board is authorized to
10 impose civil liability pursuant to Article 2.5 (commencing with
11 Section 13323) of Chapter 5 of Division 7 of the Water Code.

12 (g) In determining the amount of any civil liability imposed
13 under this section, the executive director of the board, or the court,
14 as the case may be, shall take into account the nature,
15 circumstances, extent, and gravity of the false statement or refusal
16 or failure to furnish information, the person's ability to pay, any
17 prior history by the person of misrepresentations to or
18 noncooperation with the board or local agency, any economic
19 benefits or savings that resulted or would have resulted from the
20 false statement or refusal or failure to furnish information, and
21 other matters as justice may require.

22 (h) Remedies under this section are in addition to, and do not
23 supersede or limit, any other civil, administrative, or criminal
24 remedies.

25 (i) All funds collected pursuant to this section shall be deposited
26 into the fund.

27 SEC. 7. Section 25510 of the Health and Safety Code is
28 amended to read:

29 25510. (a) Except as provided in subdivision (b), the handler
30 or an employee, authorized representative, agent, or designee of
31 a handler, shall, upon discovery, immediately report any release
32 or threatened release of a hazardous material, or an actual release
33 of a hazardous substance, as defined in Section 374.8 of the Penal
34 Code, to the UPA, and to the office, in accordance with the
35 regulations adopted pursuant to this section. The handler or an
36 employee, authorized representative, agent, or designee of the
37 handler shall provide all state, city, or county fire or public health
38 or safety personnel and emergency response personnel with access
39 to the handler's facilities.

(b) Subdivision (a) does not apply to a person engaged in the transportation of a hazardous material on a highway that is subject to, and in compliance with, the requirements of Sections 2453 and 23112.5 of the Vehicle Code.

(c) On or before January 1, 2016, the office shall adopt regulations to implement this section. In developing these regulations, the office shall closely consult with representatives from regulated entities, appropriate trade associations, fire service organizations, federal, state, and local organizations, including unified program agencies, and other interested parties.

(d) The UPA shall maintain one or more nonemergency contact numbers for release reports that do not require immediate agency response. The UPA shall promptly communicate changes to this information to regulated facilities and to the office.

~~SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.~~

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

AMENDED IN ASSEMBLY JUNE 6, 2018

SENATE BILL

No. 914

Introduced by Senator Dodd
(Coauthor: Senator Moorlach)
(Coauthor: Assembly Member Grayson)

January 22, 2018

An act to amend Section 20146 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 914, as amended, Dodd. Local agency ~~contracts~~: *contracts: construction manager at-risk construction contracts*.

Existing law authorizes a county, until January 1, 2023, with approval of the board of supervisors, to utilize construction manager at-risk construction contracts for the erection, construction, alteration, repair, or improvement of any building owned or leased by the county, subject to certain requirements, including that the method may only be used for projects that are in excess of \$1,000,000.

This bill would ~~authorize the use of this method of contracting for the erection, construction, alteration, repair, or improvement of any infrastructure~~, *expand that authorization by authorizing a public entity, of which the members of the county board of supervisors make up the members of the governing body of that public entity, with the approval of its governing body, to utilize construction manager at-risk construction contracts. The bill would also authorize the county or public entity to utilize those contracts for the erection, construction, alteration, repair, or improvement of infrastructure owned or leased by the county or the public entity, as applicable, including, but not limited to, buildings, utility improvements associated with buildings,*

flood control and underground utility improvements, and bridges, but excluding roads.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20146 of the Public Contract Code is
2 amended to read:

3 20146. (a) A county, with approval of the board of supervisors,
4 *or a public entity, with approval of its governing body,* may utilize
5 construction manager at-risk construction contracts for the erection,
6 construction, alteration, repair, or improvement of any
7 infrastructure, excluding roads, *and including, but not limited to,*
8 *buildings, utility improvements associated with buildings, flood*
9 *control and underground utility improvements, and bridges,* owned
10 or leased by the county. A construction manager at-risk
11 construction contract may be used only for projects in the county
12 in excess of one million dollars (\$1,000,000) and may be awarded
13 using either the lowest responsible bidder or best value method to
14 a construction manager at-risk entity that possesses or that obtains
15 sufficient bonding to cover the contract amount for construction
16 services and risk and liability insurance as may be required by the
17 ~~county.~~ *county or public entity.* Any payment or performance bond
18 written for the purposes of this section shall be written using a
19 bond form developed by the ~~county.~~ *county or public entity.*

20 (b) For purposes of this section, the following definitions apply:

21 (1) “Best value” means a value determined by objective criteria
22 related to the experience of the entity and project personnel, project
23 plan, financial strength of the entity, safety record of the entity,
24 and price.

25 (2) “Construction manager at-risk contract” means a
26 competitively procured contract by a county *or public entity* with
27 an individual, partnership, joint venture, corporation, or other
28 recognized legal entity, that is appropriately licensed in this state,
29 including a contractor’s license issued by the Contractors’ State
30 License Board, and that guarantees the cost of a project and
31 furnishes construction management services, including, but not
32 limited to, preparation and coordination of bid packages,

1 scheduling, cost control, value engineering, evaluation,
2 preconstruction services, and construction administration.

3 (3) “Public entity” means a public entity of which the members
4 of the county board of supervisors make up the members of the
5 governing body of that public entity.

6 (c) (1) A construction manager at-risk entity shall not be
7 prequalified or shortlisted or awarded a contract unless ~~the~~ that
8 entity provides an enforceable commitment to the county or public
9 entity that the construction manager at-risk entity and its
10 subcontractors at every tier will use a skilled and trained workforce
11 to perform all work on the project or contract that falls within an
12 apprenticeable occupation in the building and construction trades,
13 in accordance with Chapter 2.9 (commencing with Section 2600)
14 of Part 1.

15 (2) This subdivision shall not apply if any of the following
16 conditions are met:

17 (A) The county or public entity has entered into a project labor
18 agreement that will bind all contractors and subcontractors
19 performing work on the project or contract to use a skilled and
20 trained workforce, and the construction manager at-risk entity
21 agrees to be bound by that project labor agreement.

22 (B) The project or contract is being performed under the
23 extension or renewal of a project labor agreement that was entered
24 into by the county or public entity before January 1, 2018.

25 (C) The construction manager at-risk entity has entered into a
26 project labor agreement that will bind the entity and all its
27 subcontractors at every tier performing the project or contract to
28 use a skilled and trained workforce.

29 (3) For purposes of this subdivision, “project labor agreement”
30 has the same meaning as in paragraph (1) of subdivision (b) of
31 Section 2500.

32 (d) Subcontractors that were not listed by a construction manager
33 at-risk entity as partners, general partners, or association members
34 in a partnership, limited partnership, or association in the entity’s
35 construction manager at-risk bid submission shall be awarded by
36 the construction manager at-risk entity in accordance with the
37 process set forth by the county. All subcontractors bidding on
38 contracts pursuant to this section shall be afforded the protections
39 contained in Chapter 4 (commencing with Section 4100) of Part

1 1. The construction manager at-risk entity shall do both of the
2 following:

3 (1) Provide public notice of the availability of work to be
4 subcontracted in accordance with the publication requirements
5 applicable to the competitive bidding process of the ~~county~~. *county*
6 *or public entity*.

7 (2) Provide a fixed date and time on which the subcontracted
8 work will be awarded in accordance with the procedure established
9 pursuant to this section.

10 (e) A *county or public entity* that elects to proceed under this
11 section and uses a construction manager at-risk contract for a
12 building project shall make a copy of the contract available for
13 public inspection on its Internet Web site and notify the appropriate
14 policy committees of the Legislature with instructions on finding
15 and accessing the stored contract.

16 (f) (1) If the *county or public entity* elects to award a project
17 pursuant to this section, retention proceeds withheld by the *county*
18 *or public entity* from the construction manager at-risk entity shall
19 not exceed 5 percent if a performance and payment bond issued
20 by an admitted surety insurer is required in the solicitation of bids.

21 (2) In a contract between the construction manager at-risk entity
22 and any subcontractor, and in a contract between a subcontractor
23 and any subcontractor thereunder, the percentage of the retention
24 proceeds withheld shall not exceed the percentage specified in the
25 contract between the *county or public entity* and the construction
26 manager at-risk entity. If the construction manager at-risk entity
27 provides written notice to any subcontractor that is not a member
28 of the construction manager at-risk entity, before or at the time the
29 bid is requested, that a bond may be required and the subcontractor
30 subsequently is unable or refuses to furnish a bond to the
31 construction manager at-risk entity, then the construction manager
32 at-risk entity may withhold retention proceeds in excess of the
33 percentage specified in the contract between the *county or public*
34 *entity* and the construction manager at-risk entity from any payment
35 made by the construction manager at-risk entity to the
36 subcontractor.

37 (g) If the *county or public entity* elects to award a project
38 pursuant to this section, the contract between the *county or public*
39 *entity* and the construction manager at-risk entity shall be subject
40 to subdivision (b) of Section 2782 of the Civil Code. Any contract

1 between the construction manager at-risk entity and a contractor
2 or subcontractor shall be subject to Section 2782.05 of the Civil
3 Code.

4 (h) This section shall remain in effect only until January 1, 2023,
5 and as of that date is repealed, unless a later enacted statute, that
6 is enacted before January 1, 2023, deletes or extends that date.

O

AMENDED IN ASSEMBLY JUNE 6, 2018

AMENDED IN SENATE APRIL 24, 2018

AMENDED IN SENATE MARCH 19, 2018

SENATE BILL

No. 1133

Introduced by Senator Portantino

February 13, 2018

An act to add Section 13249 to the Water Code, relating to water quality, and making an appropriation therefor: *quality*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1133, as amended, Portantino. ~~California regional water quality control board: water~~ Water quality control plans: funding.

Existing law, the Porter-Cologne Water Quality Control Act, requires each California regional water quality control board to adopt water quality control plans and to establish water quality objectives in those plans, considering certain factors, to ensure the reasonable protection of beneficial uses and the prevention of nuisance.

This bill would authorize ~~a regional board~~ *the State Water Resources Control Board, on behalf of itself or a regional board*, to accept ~~and spend~~ donations of moneys from a permittee for the purpose of updating a water quality control ~~plan, thereby making an appropriation: plan~~.

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13249 is added to the Water Code, to
2 read:

1 13249. ~~A regional board may~~ *The state board may, on behalf*
2 *of itself or a regional board,* accept and spend donations of moneys
3 from a permittee for the purpose of updating a water quality control
4 plan as consistent with the designated use of the funds.