

- **Board of Directors**
Communications, Outreach and Legislation Committee

June 11, 2002 Board Meeting

9-7

Subject

Express support, if amended, for AB 1972 (Frommer) - Consumer Confidence Reports

Description

Assembly Bill 1972 (AB 1972 - Frommer)

Assembly Bill 1972 (Dario Frommer) requires that mandatory health effects language be included in the Consumer Confidence Reports mailed by public water systems to their consumers if any Public Health Goals (PHG) have been exceeded. It is being characterized as a consumer "right to know" about drinking water and the bill is moving rapidly through the Assembly and the Senate. A strategy of amending the bill would provide alternatives that enable consumers to both know and understand the significance of public health goals. It is recommended that Metropolitan take a position on AB 1972 of "support if amended" to incorporate alternative ways to provide consumers with the information about Public Health Goals.

Detailed Report

Assembly Bill 1972 (Dario Frommer) requires that mandatory health effects language be included in the Consumer Confidence Reports mailed annually to consumers if any Public Health Goals (PHG) are exceeded. AB 1972 would require that the Office of Environmental Health Hazard Assessment (OEHHA) develop this language. The intent is to explain the possible health impacts of exceeding PHG as a part of the consumers' "right to know" about their drinking water.

AB 1972 is currently moving through both the State Assembly and the Senate. Some water utilities and organizations are concerned that, if AB 1972 passes, water agencies will be required to incorporate language in the Consumer Confidence Reports that may alarm the public needlessly. However, opposing the bill may result in a lost opportunity to properly inform the public about the real significance of PHGs and to provide a proper contrast and perspective about potential costs and trade-offs of meeting PHGs.

It is proposed that Metropolitan advocate a "support if amended" position on AB 1972. The amendment would be aimed at advocating the consumer's right to know and understand the information about PHG in the Consumer Confidence Reports. To accomplish this, the consumer will need access to even more information than is being prescribed by AB 1972. The bill should be amended to incorporate the following changes:

1. **DHS to Develop Health Effects Language, not OEHHA.** Language for inclusion in the Consumer Confidence Report should be developed by the Department of Health Services (DHS) in consultation with stakeholders such as OEHHA and water agencies. DHS is better able to develop language because they are the state agency that sets enforceable standards and DHS must balance the health benefits of discouraging people from drinking plenty of water with the risk of exceeding Public Health Goals because of its fundamental mission of protecting public health.
2. **Need to Drink Plenty of Water.** The benefits of drinking adequate amounts of water every day must be described so consumers understand that they must drink plenty of water for good health. For example, a new study by Loma Linda University shows that the risk of heart disease can be cut in half by drinking five glasses of water each day (similar to the risk reduction due to stopping smoking or lowering cholesterol).

3. **Relative Risks Comparison.** The relative health risks of PHG must be described so consumers understand the difference in health risks associated with exceeding a PHG versus the risks associated with exceeding a Maximum Contaminant Level and the risks of other common activities in daily life.
4. **Cost of Compliance.** The cost to each family to comply with the PHG must be included so consumers can assess whether they think the cost to comply with PHG is justified by the risks (this language is already a requirement of PHG reports).
5. **Risk of Tap Water Alternatives.** The alternatives to tap water must be described, including how to find out about the relative risk of contaminants present in bottled water, vending machines and water from Point-of-Use systems. In this way, the two out of three consumers in Southern California who choose an alternative to tap water will have an understanding of the relative risks.

The water agency should be given a choice of incorporating all of this information in the combination of a website and a brochure available for free by mail by calling a hotline. This would be an alternative to putting health effects information in the Consumer Confidence Report, which is already difficult for some consumers to understand due to the prescribed components. This information could be made available in alternative languages when appropriate to better serve our diverse communities. This strategy would also emphasize the need to drink plenty of water for good health and provide consumers with information about their choices if they choose to drink an alternative to tap water.

Policy

None

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because the proposed action involves continuing administrative activities such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to the provisions of CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and express support, if amended, for AB 1972.

Fiscal Impact: None

Option #2

Do not express support for AB 1972.

Fiscal Impact: None

Staff Recommendation

Option #1



Adán Ortega, Jr.
Vice President, External Affairs

6/4/2002
Date



Ronald R. Gastelum
Chief Executive Officer

6/4/2002
Date

Attachment 1 – AB 1972 – Consumer Confidence Reports

BLA #1812

**BILL NUMBER: AB 1972 AMENDED
BILL TEXT**

AMENDED IN ASSEMBLY APRIL 29, 2002
AMENDED IN ASSEMBLY APRIL 1, 2002

INTRODUCED BY Assembly Member Frommer

FEBRUARY 14, 2002

An act to amend Section 116470 of, and to add Section 116471 to, the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1972, as amended, Frommer. Drinking water: reports regarding contaminants.

Existing law, the California Safe Drinking Water Act, requires the State Department of Health Services to administer provisions relating to the regulation of drinking water and public water systems and, among other things, to adopt primary drinking water standards for contaminants in drinking water and to monitor regulated and unregulated contaminants.

Existing law requires every public water system to annually prepare a consumer confidence report and to mail or deliver a copy of that report to every consumer, except as provided, as a condition of its operating permit. Existing law requires this report to include specified information. Existing law requires ~~that~~ public water systems serving more than 10,000 service connections and that detect one or more contaminants in drinking water that exceed the public health goal to prepare a brief written report, as specified.

This bill would revise the contents ~~of these~~ required to be in those reports.

Existing law requires the Office of Environmental Health Hazard Assessment to establish recommended public health goals for contaminants in drinking water pursuant to prescribed criteria.

This bill would require the office to prepare, for inclusion in the consumer confidence reports described above, a statement of health concerns, as specified, associated with the ingestion in drinking water of any contaminant for which the office publishes a public health goal, and to review and revise these statements, as specified.

By adding new duties to local agencies operating public water systems, this bill would impose a state-mandated local program.

~~—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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~— This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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.

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

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

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

(a) The Office of Environment Health Hazard Assessment is required to establish public health goals regarding drinking water contaminants, based exclusively on public health considerations. A public health goal is based upon a risk assessment that estimates the level of each contaminant in drinking water that is not anticipated to cause or contribute to adverse health effects, or that does not pose any significant risk to health.

(b) Enforceable primary drinking water standards, called maximum contaminant levels, are set by the State Department of Health Services. Maximum contaminant levels are required to be set as close as feasible to the corresponding public health goal, taking into account the technological feasibility and the economic cost of compliance to public water systems and customers.

(c) Allowable maximum contaminant levels often are set at levels far less protective of public health than the corresponding public health goal.

(d) It is in the interest of the people of the state to be informed of the presence and potential health effects of contaminants in their water supply that exceed a public health goal.

SEC. 2. Section 116470 of the Health and Safety Code is amended to read:

116470. (a) As a condition of its operating permit, every public water system shall annually prepare a consumer confidence report and mail or deliver a copy of that report to each customer, other than an occupant, as defined in Section 799.28 of the Civil Code, of a recreational vehicle park. A public water system in a recreational vehicle park with occupants as defined in Section 799.28 of the Civil Code shall prominently display on a bulletin board at the entrance to or in the office of the park, and make available upon request, a copy of the report. The report shall include all of the following information:

(1) The source of the water purveyed by the public water system.

(2) A brief and plainly worded definition of the terms "maximum contaminant level," "primary drinking water standard," and "public health goal."

(3) If any regulated contaminant, or any unregulated contaminant for which monitoring is required pursuant to state or federal law or regulation, is detected in public drinking water supplied by the system during the past year, the report shall include all of the following information:

(A) The level of the contaminant found in the drinking water, and the corresponding public health goal and primary drinking water standard, if applicable, for that contaminant.

(B) Any exceedances of a public health goal or violations of the primary drinking water standard that have occurred as a result of the presence of the contaminant in the drinking water, and a brief and plainly worded statement of health concerns that resulted in the regulation of that contaminant.

(C) The public water system's address and phone number to enable customers to obtain further information concerning contaminants and potential health effects.

(4) Disclosure of any variances or exemptions from primary drinking water standards granted to the system and the basis therefor.

(b) On or before July 1, 1998, and every three years thereafter, public water systems serving more than 10,000 service connections that detect one or more contaminants in drinking water that exceed the applicable public health goal shall prepare a brief written report in plain language that does all of the following:

(1) Identifies each contaminant detected in drinking water that exceeds the applicable public health goal.

(2) Discloses the numerical public health risk, determined by the office, associated with the maximum contaminant level for each contaminant identified in paragraph (1) and the numerical public health risk determined by the office to be associated with the public health goal for that contaminant.

(3) Identifies, to the extent feasible, all of the following:

(A) The category of risk to public health, including, but not limited to, carcinogenic, mutagenic, teratogenic, and acute toxicity, associated with exposure to the contaminant in drinking water, ~~and~~ including a brief and plainly worded description of these terms.

(B) The potential for endocrine disruption, synergistic effects when combined with other contaminants in water, and adverse health effects on subgroups that comprise a meaningful portion of the general population or other subgroups that are identifiable as being at greater risk of adverse health effects ~~that~~ than the general population when exposed to the contaminant in drinking water.

(4) Describes the best available technology, if any is then available on a commercial basis, to remove the contaminant or reduce the concentration of the contaminant. The public water system may, solely at its own discretion, briefly describe actions that have been taken on its own, or by other entities, to prevent the introduction of the contaminant into drinking water supplies.

(5) Estimates the aggregate cost and the cost per customer of utilizing the technology described in paragraph (4), if any, to reduce the concentration of that contaminant in drinking water to a level at or below the public health goal.

(6) Briefly describes what action, if any, the local water

purveyor intends to take to reduce the concentration of the contaminant in public drinking water supplies and the basis for that decision.

(c) Public water systems required to prepare a report pursuant to subdivision (b) shall hold a public hearing for the purpose of accepting and responding to public comment on the report. Public water systems may hold the public hearing as part of any regularly scheduled meeting.

(d) The department shall not require a public water system to take any action to reduce or eliminate any exceedance of a public health goal.

(e) Enforcement of this section does not require the department to amend a public water system's operating permit.

(f) Pending adoption of a public health goal by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c) of Section 116365, and in lieu thereof, public water systems shall use the national maximum contaminant level goal adopted by the United States Environmental Protection Agency for the corresponding contaminant for purposes of complying with the notice and hearing requirements of this section.

(g) This section is intended to provide an alternative form for the federally required consumer confidence report as authorized by 42 U.S.C. Section 300g-3(c).

SEC. 3. Section 116471 is added to the Health and Safety Code, to read:

116471. The Office of Environmental Health Hazard Assessment shall prepare, for inclusion in consumer confidence reports prepared pursuant to Section 116470, a statement of health concerns associated with the ingestion in drinking water of any contaminant for which the office publishes a public health goal. The statement shall include, to the extent feasible, the information identified pursuant to paragraph (3) of subdivision (b) of Section 116470. For those public health goals published before January 1, 2003, the statement shall be published no later than July 1, 2004. For those public health goals prepared on or after January 1, 2003, the statement shall be prepared at the same time as the public health goal. A statement of health concerns for a public health goal shall be reviewed and, if necessary, revised concurrently with review of the public health goal pursuant to paragraph (1) of subdivision (e) of Section 116365.

~~SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.~~

SEC. 4. 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.