

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

May 8, 2007 Board Meeting

9-7

Subject

Report on AB 640 (De La Torre, D-South Gate) – Water Replenishment Districts

Description

AB 640 by Assemblyman Hector De La Torre ([Attachment 1](#)) would amend the California Water Code as it pertains to the Water Replenishment District Act. The bill would require separate findings, assessments and charges for replenishment and removal of contaminants from any groundwater basin within the jurisdiction of a water replenishment district as well as for pro rata administrative and program costs of the district. The charges and assessments are to be levied on the production of groundwater from each basin.

Existing law provides for a water replenishment district to make the findings for its entire district and to make uniform charges and assessments across the district service area. Within Metropolitan's service area, this bill is applicable to the Water Replenishment District of Southern California (WRD), and would require separate findings, assessments and charges to be made for each Central and West Coast groundwater basin. There are 43 cities in south Los Angeles County within WRD's boundaries. Affected Metropolitan member agencies include Long Beach, Compton, Central Basin Municipal Water District in Central Basin; Torrance and West Basin Municipal Water District in West Coast Basin; and Los Angeles in both basins.

Background

WRD was formed in 1959 to address issues of recharge and groundwater quality. Since its inception, the replenishment assessment (RA) has been a uniform charge across the two basins. Financial equity between the two basins was discussed in 1959 and was raised again in 1975, 1987, 1992 and 2006.

Southeast Water Coalition (SEWC) Findings. The Southeast Water Coalition, a joint powers authority consisting of 12 cities in the southeast portion of Los Angeles County that overlies the Central Basin, commissioned a Replenishment Assessment Cost Allocation Study dated December 2006. The stated objective of the study prepared by HF&H Consultants of Walnut Creek, California, was to determine whether the uniform RA charged throughout the WRD service area is fair and equitable to groundwater producers in both Central and West Coast Basins. The study concluded that the RA charged uniformly to production in both Central and West Coast Basins results in an annual subsidy of over \$10.7 million by Central Basin to West Coast Basin. The report determined that the Central Basin producers, if limited to paying for services provided directly to Central Basin alone, would be \$83 per acre-foot of produced groundwater. The West Coast Basin RA necessary to cover services and costs within that basin would be increased to \$366 per acre-foot of produced groundwater. WRD's current uniform RA across production in both basins is \$138 per acre-foot.

Water Replenishment District Findings. According to WRD, the Southeast Water Coalition study makes certain assumptions to reach these findings. The most debated of the assumptions relate to the underflow from Central Basin to West Coast Basin through the Newport-Inglewood Uplift. While the study recognizes that there is underflow, it does not appear to address the charge that the amount of underflow has diminished substantially over time due to pumping in Central Basin resulting in greater requirements at the West Coast Basin seawater barrier. The potential for adjudication of the underflow appears to have been a significant factor discouraging prior efforts to create separate replenishment assessments for the two basins. There are additional disagreements with the study assumptions that are also focused at underestimation of interdependencies between the basins and

the inappropriateness of the study’s assignment of the costs and benefits of the basins’ operations. With these uncertainties likely requiring further study, the findings of the Southeast Water Coalition study may be subject to adjustments.

AB 640 would require WRD to now compute its groundwater replenishment assessment on a per basin amount. The author believes that this will help provide more equity in the distribution of costs.

Proponents believe that although the replenishment needs of the West Coast Basin are lower than the Central Basin, the restrictive physical characteristics of the West Basin result in substantially higher replenishment costs that are currently spread evenly across both basins. Proponents also argue that “the current uniform, district-wide replenishment assessment practice puts an undue burden on the Central Basin’s poorest communities, who are now subsidizing the high replenishment costs in the West Coast Basin, especially the groundwater production of several large oil companies with nearly 20,000 acre-feet of adjudicated pumping rights.”

Opponents argue that “one of the factors not taken into consideration by the SEWC report is how over pumping by the Central Basin has resulted in the loss of natural groundwater recharge of the West Coast Basin and an increase in costs to maintain the seawater barrier and that if replenishment assessments for the West Coast Basin increase by more than 165%, public water suppliers will have no practical alternative but to decrease the use of groundwater and increase imported water purchases.”

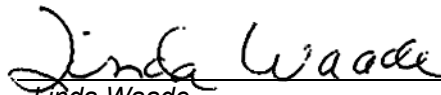
Policy

Policy Principle on Groundwater Management adopted on December 8, 1992 (M.I. 39978) and amended on January 10, 1995 (M.I. 41222)

Principles for implementing groundwater storage programs within Metropolitan’s service area adopted on January 11, 2000 (M. I. 43860)

Fiscal Impact

For information only


Linda Waade
Deputy General Manager, External Affairs

4/30/2007
Date


Jeffrey Kightlinger
General Manager

5/1/2007
Date

Attachment 1 – Assembly Bill 640

BLA #5400

AMENDED IN ASSEMBLY MARCH 28, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 640

Introduced by Assembly Member De La Torre

February 21, 2007

An act to amend ~~Section 13269~~ Sections 60300, 60305, 60306, 60309, 60315, 60316, 60317, 60317.5, and 60325 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 640, as amended, De La Torre. ~~Waste discharge requirements: waiver.~~ *Water replenishment districts.*

(1) The Water Replenishment District Act provides for the formation of water replenishment districts. The act grants authority to a water replenishment district relating to the replenishment, protection, and preservation of groundwater supplies within that district. The act requires the board of directors of a water replenishment district to prepare annually an engineering survey and report that includes information relating to the groundwater supplies within the district. The act requires the board to make certain determinations in connection with a decision to impose a water replenishment assessment to purchase replenishment water or to remove contaminants from the groundwater supplies of the district. The act requires the water replenishment assessment to be fixed at a uniform rate per acre-foot of groundwater produced within the district.

This bill, instead, would require information in that engineering survey and report, and those related determinations, to pertain to the groundwater in each basin within the district. The board of directors of a water replenishment district, upon determining to impose a water

replenishment assessment on the production of groundwater from each groundwater basin, would be required, except as otherwise provided, to impose the assessment in an amount that is calculated to pay for costs that include the actual cost of replenishing the groundwater basin, removing contaminants from the groundwater basin, and the administrative costs of the district. The charge would be required to be fixed at a uniform rate. The bill would make other conforming changes. By establishing these requirements on a water replenishment district, the bill would impose a state-mandated local program.

(2) 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, 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 Porter-Cologne Water Quality Control Act authorizes the State Water Resources Control Board and a California regional water quality control board to waive certain waste discharge requirements, including monitoring requirements, as to a specific discharge or type of discharge if the state board or the regional board makes a specified determination. The state board or a regional board is authorized to waive these monitoring requirements for discharges that it determines do not pose a significant threat to water quality.~~

~~This bill would instead authorize the state board or a regional board to waive these monitoring requirements only if it determines it does not pose a significant threat to water quality.~~

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

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

- 1 SECTION 1. Section 60300 of the Water Code is amended to
- 2 read:
- 3 60300. Not later than the second Tuesday in February of each
- 4 year, the board shall order an engineering survey and report to be
- 5 made regarding the ~~ground water~~ groundwater supplies of the
- 6 district. ~~The same~~ engineering survey and report shall include,

1 among all other information and data ~~which~~ *that* the board may
2 require, the following:

3 (1)

4 (a) Records, data, and other information for the consideration
5 of the board in its determination of the annual overdraft;

6 (2)

7 (b) Records, data, and other information for the consideration
8 of the board in its determination of the accumulated overdraft as
9 of the last day of the preceding water year;

10 (3)

11 (c) A report, with supporting data, as to the total production of
12 ~~ground-water~~ *groundwater* from the ~~ground-water~~ *groundwater*
13 supplies within the replenishment district during the preceding
14 water year;

15 (4)

16 (d) A report, with supporting data, as to the changes during the
17 preceding water year in the pressure levels or piezometric heights
18 of the ~~ground-water~~ *groundwater* contained within pressure-level
19 areas of the replenishment district, and as to the effects thereof
20 upon the ~~ground-water~~ *supplies each groundwater basin* within
21 ~~such~~ *the* replenishment district;

22 (5)

23 (e) An estimate of the annual overdraft for the current water
24 year and for the ensuing water year;

25 (6)

26 (f) An estimate of the accumulated overdraft as of the last day
27 of the current water year;

28 (7)

29 (g) An estimate of the total production of ~~ground-water~~
30 *groundwater* from the ~~ground-water~~ *supplies each groundwater*
31 *basin* within the replenishment district for the current water year
32 and for the ensuing water year;

33 (8)

34 (h) An estimate of the changes during the current water year in
35 the pressure levels or piezometric heights of the ~~ground-water~~
36 *groundwater* contained within pressure-level areas of *each*
37 *groundwater basin within* the replenishment district, and of the
38 effects thereof upon the ~~ground-water~~ *supplies each groundwater*
39 *basin within* ~~such~~ *the* replenishment district;

40 (9)

1 (i) An estimate of the quantity, source, and cost of water
 2 ~~available for needed to replenish the groundwater in each basin~~
 3 ~~within the replenishment of the ground water supplies district~~
 4 during the ensuing water year under the provisions of Section
 5 60315.

6 (j) *An estimate of the total costs, including program and*
 7 *administrative costs, of the district during the ensuing water year.*

8 SEC. 2. Section 60305 of the Water Code is amended to read:

9 60305. (a) On or before the second Tuesday in March of each
 10 year, and provided the *engineering* survey and report ~~called for~~
 11 ~~required~~ by Section 60300 has been made, the board, by resolution,
 12 shall declare whether funds shall be raised to purchase water for
 13 *the replenishment of any groundwater basin within the district*
 14 during the next ensuing fiscal year and whether the funds shall be
 15 raised ~~either by (a) a~~ *by any of the following:*

16 (1) A water charge, as provided in Chapter 2 (commencing with
 17 Section 60245) of Part 5; ~~(b) a~~.

18 (2) A general assessment, as provided in Chapter 3 (commencing
 19 with Section 60250) of Part 5; ~~(c) a~~.

20 (3) A replenishment assessment as provided in this chapter; ~~or~~
 21 ~~(d) a~~.

22 (4) A combination of any two or more of the ~~foregoing charge~~
 23 ~~or assessments described in this subdivision~~, and whether the funds
 24 ~~so~~ to be raised, whether by a water charge, a general assessment,
 25 a replenishment assessment or a combination of those means, will
 26 benefit, directly or indirectly, all of the persons or real property
 27 and improvements ~~within the district overlying the groundwater~~
 28 *basin for which replenishment water is proposed to be purchased.*

29 The

30 (b) The resolution shall also declare whether funds shall be
 31 raised to remove contaminants from *any groundwater-supplies*
 32 *basin within the district* during the next ensuing fiscal year or to
 33 exercise any other power under Section 60224, and whether funds
 34 for that purpose shall be raised by a replenishment assessment as
 35 provided in this chapter, with a ~~like~~ statement of benefit *similar*
 36 *to that set forth in subdivision (a).*

37 SEC. 3. Section 60306 of the Water Code is amended to read:

38 60306. (a) If the board, by resolution, determines that all or a
 39 portion of the funds needed to purchase replenishment water, *for*
 40 *any groundwater basin within the district*, ~~or~~ to remove

1 contaminants from the groundwater supplies of *basin within* the
2 district, or to exercise any other power under Section 60224 *with*
3 *regard to any groundwater basin within the district*, shall be raised
4 by the levy of a replenishment assessment, ~~then~~ the board shall
5 immediately publish a notice that a public hearing will be held on
6 the second Tuesday of April for the purpose of determining whether
7 and to what extent the estimated costs thereof for the ensuing year
8 shall be paid for by a replenishment assessment *imposed upon the*
9 *production of water from the affected groundwater basin*. ~~The~~

10 (b) The notice shall contain a copy of the board's resolution, the
11 time and place of the hearing, and an invitation to all interested
12 parties to attend and be heard in support of or opposition to the
13 proposed assessment, the engineering survey and report, and the
14 board's ~~board's~~ determination, and shall invite inspection of the
15 engineering survey and report upon which the board acted. The
16 notice shall be published in each affected county pursuant to
17 Section 6061 of the Government Code, at least 10 days before the
18 hearing date.

19 *SEC. 4. Section 60309 of the Water Code is amended to read:*

20 60309. All evidence relevant to the engineering survey and
21 report and the board's determination that ~~such~~ a replenishment
22 assessment shall be levied *upon the production of water from a*
23 *groundwater basin within the district* may be introduced.

24 *SEC. 5. Section 60315 of the Water Code is amended to read:*

25 60315. Upon completing the hearing, but no later than the
26 second Tuesday in May, the board shall, by resolution *adopted*
27 *with regard to the replenishment of any groundwater basin within*
28 *the district*, find all of the following:

29 (a) The annual overdraft ~~for~~ *of the groundwater basin* for the
30 preceding water year.

31 (b) The estimated annual overdraft *of the groundwater basin*
32 for the current water year.

33 (c) The estimated annual overdraft *of the groundwater basin*
34 for the ensuing water year.

35 (d) The accumulated overdraft *of the groundwater basin* as of
36 the last day of the preceding water year.

37 (e) The estimated accumulated overdraft *of the groundwater*
38 *basin* as of the last day of the current water year.

- 1 (f) The total production of groundwater from the groundwater
 2 ~~supplies within the district during~~ *basin* for the preceding water
 3 year.
- 4 (g) The estimated total production of groundwater from the
 5 ~~groundwater supplies within the district~~ *basin* for the current water
 6 year.
- 7 (h) The estimated total production of groundwater from the
 8 ~~groundwater supplies within the district~~ *basin* for the ensuing water
 9 year.
- 10 (i) The changes during the preceding water year in the pressure
 11 levels or piezometric heights of the groundwater contained within
 12 ~~pressure-level areas of the district groundwater basin,~~ and the
 13 ~~effects thereof upon the groundwater supplies~~ *water supply* within
 14 ~~the district basin.~~
- 15 (j) The estimated changes during the current water year in the
 16 pressure levels or piezometric heights of the groundwater contained
 17 ~~within pressure-level areas of the district groundwater basin,~~ and
 18 ~~the estimated effects thereof upon the groundwater supplies within~~
 19 ~~the district basin.~~
- 20 (k) The quantity of water that should be purchased for the
 21 ~~replenishment of the groundwater supplies of the district basin~~
 22 during the ensuing water year.
- 23 (l) The source and estimated cost of water available for the
 24 ~~replenishment of the groundwater basin.~~
- 25 (m) The estimated costs of replenishing the groundwater ~~supplies~~
 26 ~~basin~~ with the water ~~so~~ purchased.
- 27 (n) The estimated costs of purchasing, in water years succeeding
 28 the ensuing water year, that portion of the quantity of water which
 29 should be purchased for the replenishment of the groundwater
 30 ~~supplies of the district basin~~ during the ensuing water year, but
 31 which is estimated to be unavailable for purchase during the
 32 ensuing water year; ~~estimated.~~ *Estimated* costs shall be based on
 33 the estimated price of water for replenishment purposes during the
 34 ensuing water year.
- 35 (o) The estimated rate of the replenishment assessment required
 36 to be levied upon the production of groundwater from the
 37 ~~groundwater supplies within the district basin~~ during the ensuing
 38 fiscal year for the purposes of accomplishing the replenishment,
 39 *including the payment of a reasonable, pro rata allocation of the*
 40 *costs, including program and administrative costs, of the district*

1 and providing a reserve fund to purchase in future years, when
2 available, that portion of the quantity of water which should be
3 purchased for the replenishment of the groundwater-supplies of
4 ~~the district~~ *basin* during the ensuing water year, but which is
5 estimated to be unavailable for purchase during that ensuing water
6 year.

7 (p) Whether any contaminants should be removed from *any*
8 groundwater-supplies *basin* during the ensuing fiscal year, and
9 whether any other actions under Section 60224 should be
10 undertaken *with regard to the groundwater basin* during the
11 ensuing fiscal year, the estimated costs thereof, and the estimated
12 additional rate of replenishment assessment required to be levied
13 upon the production of groundwater from the groundwater-supplies
14 ~~within the district~~ *basin* during the ensuing fiscal year for those
15 purposes.

16 (q) Whether any program for removal of contaminants *from the*
17 *groundwater basin* or other actions *taken with regard to the*
18 *groundwater basin* under Section 60224 should be a multiyear
19 program or is a continuation of a previously authorized multiyear
20 program.

21 (r) The amount, if any, by which the estimated reserve funds
22 on hand at the end of the current fiscal year will exceed the annual
23 reserve fund limit determined pursuant to Section 60290.

24 *SEC. 6. Section 60316 of the Water Code is amended to read:*

25 60316. Based on the findings pursuant to Section 60315, the
26 board shall, by resolution, determine all of the following:

27 (a) What portion, if any, of the estimated cost of purchasing
28 water for replenishment *of a groundwater basin within the district*
29 for the ensuing fiscal year shall be paid for by a replenishment
30 assessment *levied upon the production of groundwater from the*
31 *basin*.

32 (b) What portion, not exceeding 25 percent of the above portion,
33 of the estimated cost of purchasing in the future that quantity of
34 water which should be purchased during the ensuing water year
35 *for the replenishment of a groundwater basin within the district,*
36 but which is estimated to be unavailable during that year, shall be
37 raised by a replenishment assessment *levied upon the production*
38 *of groundwater from the basin*.

39 (c) What portion of the estimated costs of removing
40 contaminants from *any groundwater-supplies basin within the*

1 *district and of taking other actions under Section 60224 with regard*
2 *to the groundwater basin during the ensuing fiscal year shall be*
3 *paid for by a replenishment assessment levied upon the production*
4 *of groundwater from the basin.*

5 (d) What portion, if any, of the cost of a capital improvement
6 project for replenishment purposes of a groundwater basin within
7 the district shall be paid for by a replenishment assessment levied
8 upon the production of groundwater from the basin.

9 (e) What portion, if any, of the cost of a capital improvement
10 project undertaken pursuant to Section 60224 with regard to a
11 groundwater basin within the district shall be paid for by a
12 replenishment assessment levied upon the production of
13 groundwater from the basin.

14 SEC. 7. Section 60317 of the Water Code is amended to read:

15 60317. (a) If the board determines that a replenishment
16 assessment shall be levied upon the production of groundwater
17 from groundwater supplies within the district during the ensuing
18 fiscal year, immediately following the making of that determination
19 the board shall levy a replenishment assessment on the production
20 of groundwater from the each groundwater-supplies basin within
21 the district during the fiscal year commencing on July 1st next;
22 and the.

23 (b) (1) The amount of the replenishment assessment shall be
24 ~~fixed by the board at a uniform~~ calculated in an amount to pay for
25 costs that include the actual cost of replenishing the groundwater
26 basin, the actual cost of removing the contaminants from the
27 groundwater basin, including the undertaking of an action under
28 Section 60224 on behalf of the groundwater basin, and the
29 administrative costs of the district. The rate shall be a uniform
30 rate calculated on the basis of the per acre-foot amount of
31 groundwater so produced from the basin. ~~The~~

32 (2) Notwithstanding paragraph (1), the amount of the
33 replenishment assessment calculated for each groundwater basin
34 may not exceed the following amounts in the following years:

- 35 (A) ____ (\$____) for 2008
- 36 (B) ____ (\$____) for 2009.
- 37 (C) ____ (\$____) for 2010.

38 (c) The producers of that groundwater shall pay the
39 replenishment assessment to the district at the times and in the
40 manner provided in this division. That part of the assessment levied

1 pursuant to the determination provided in subdivision (c) of Section
 2 60316, exclusive of any part thereof for district administrative and
 3 overhead expenses, shall not exceed 50 percent of the average
 4 assessment levied for the current and four preceding fiscal years
 5 pursuant to determinations under subdivisions (a) and (b) of Section
 6 60316, exclusive of any part thereof for district administrative and
 7 overhead expenses.

8 *SEC. 8. Section 60317.5 of the Water Code is amended to read:*

9 60317.5. (a) Except as set forth in this section, nothing in this
 10 division prevents the use of district funds from any source for
 11 powers and functions authorized under this division. That part of
 12 a replenishment assessment levied pursuant to determinations
 13 under subdivisions (a) and (b) of Section 60316 shall not be utilized
 14 for the direct costs of prevention and removal of contaminants
 15 under subdivisions (a) and (b) of Section 60224. ~~Any~~

16 (b) Any part of a replenishment assessment levied pursuant to
 17 a determination under subdivision (c) of Section 60316 ~~which that~~
 18 is not expended may be obligated and expended for other uses
 19 authorized by Section 60224 *that benefit the groundwater basin*
 20 *to which the replenishment assessment applies*, after hearing and
 21 findings pursuant to Sections 60306 and 60315. ~~Any~~

22 (c) Any part of a replenishment assessment levied pursuant to
 23 a determination under subdivision (c) of Section 60316 ~~which that~~
 24 remains unexpended and unobligated for five fiscal years after the
 25 last obligation thereof, or any shorter period which the board may
 26 by resolution determine, shall be deemed to have been levied for
 27 other costs and expenses for which a replenishment assessment is
 28 authorized under this division. ~~Funds~~

29 (d) *Funds* from a replenishment assessment, although restricted
 30 as to use, may be loaned for any use ~~for which and~~ *benefiting the*
 31 *groundwater basin to which the replenishment assessment applies*
 32 within the monetary limits for which, such an assessment has been
 33 levied. Any such loan shall be for a period not longer than 18
 34 months and shall bear interest, as nearly as practicable in the
 35 discretion of the board, at the rate which those funds might have
 36 otherwise been invested at the time of the loan.

37 *SEC. 9. Section 60325 of the Water Code is amended to read:*

38 60325. (a) The district, after the levying of the replenishment
 39 assessment, shall give notice thereof to the operators of all
 40 water-producing facilities ~~in the district~~ *overlying the groundwater*

1 basin to which the replenishment assessment applies as disclosed
 2 by the records of ~~such~~ the district, ~~which~~.

3 (b) The notice shall state the rate of replenishment assessment
 4 for each acre-foot of ground water to be produced during the
 5 ensuing fiscal year. The notice may be sent by postal card or by
 6 other first-class mail with postage prepaid by the district.

7 *SEC. 10. If the Commission on State Mandates determines that*
 8 *this act contains costs mandated by the state, reimbursement to*
 9 *local agencies and school districts for those costs shall be made*
 10 *pursuant to Part 7 (commencing with Section 17500) of Division*
 11 *4 of Title 2 of the Government Code.*

12 ~~SECTION 1. Section 13269 of the Water Code is amended to~~
 13 ~~read:~~

14 ~~13269. (a) (1) On and after January 1, 2000, the provisions~~
 15 ~~of subdivisions (a) and (c) of Section 13260, subdivision (a) of~~
 16 ~~Section 13263, or subdivision (a) of Section 13264 may be waived~~
 17 ~~by the state board or a regional board as to a specific discharge or~~
 18 ~~type of discharge if the state board or a regional board determines,~~
 19 ~~after any necessary state board or regional board meeting, that the~~
 20 ~~waiver is consistent with any applicable state or regional water~~
 21 ~~quality control plan and is in the public interest. The state board~~
 22 ~~or a regional board shall give notice of any necessary meeting by~~
 23 ~~publication pursuant to Section 11125 of the Government Code.~~

24 ~~(2) A waiver may not exceed five years in duration, but may be~~
 25 ~~renewed by the state board or a regional board. The waiver shall~~
 26 ~~be conditional and may be terminated at any time by the state board~~
 27 ~~or a regional board. The conditions of the waiver shall include,~~
 28 ~~but need not be limited to, the performance of individual, group,~~
 29 ~~or watershed-based monitoring, except as provided in paragraph~~
 30 ~~(3). Monitoring requirements shall be designed to support the~~
 31 ~~development and implementation of the waiver program, including,~~
 32 ~~but not limited to, verifying the adequacy and effectiveness of the~~
 33 ~~waiver's conditions. In establishing monitoring requirements, the~~
 34 ~~regional board may consider the volume, duration, frequency, and~~
 35 ~~constituents of the discharge; the extent and type of existing~~
 36 ~~monitoring activities, including, but not limited to, existing~~
 37 ~~watershed-based, compliance, and effectiveness monitoring efforts;~~
 38 ~~the size of the project area; and other relevant factors. Monitoring~~
 39 ~~results shall be made available to the public.~~

1 ~~(3) The state board or a regional board may waive the~~
2 ~~monitoring requirements for discharges as described by this~~
3 ~~subdivision only if it determines it does not pose a significant threat~~
4 ~~to water quality.~~

5 ~~(4) (A) The state board or a regional board may include as a~~
6 ~~condition of a waiver the payment of an annual fee established by~~
7 ~~the state board in accordance with subdivision (f) of Section 13260.~~

8 ~~(B) Funds generated by the payment of the fee shall be deposited~~
9 ~~in the Waste Discharge Permit Fund for expenditure, upon~~
10 ~~appropriation by the Legislature, by the state board or appropriate~~
11 ~~regional board for the purpose of carrying out activities limited to~~
12 ~~those necessary to establish and implement the waiver program~~
13 ~~pursuant to this section. The total amount of annual fees collected~~
14 ~~pursuant to this section shall not exceed the costs of those activities~~
15 ~~necessary to establish and implement waivers of waste discharge~~
16 ~~requirements pursuant to this section.~~

17 ~~(C) In establishing the amount of a fee that may be imposed on~~
18 ~~irrigated agriculture operations pursuant to this section, the state~~
19 ~~board shall consider relevant factors, including, but not limited to,~~
20 ~~all of the following:~~

- 21 ~~(i) The size of the operations.~~
- 22 ~~(ii) Any compliance costs borne by the operations pursuant to~~
23 ~~state and federal water quality regulations.~~
- 24 ~~(iii) Any costs associated with water quality monitoring~~
25 ~~performed or funded by the operations.~~
- 26 ~~(iv) Participation in a watershed management program approved~~
27 ~~by the applicable regional board.~~

28 ~~(D) In establishing the amount of a fee that may be imposed on~~
29 ~~silviculture operations pursuant to this section, the state board shall~~
30 ~~consider relevant factors, including, but not limited to, all of the~~
31 ~~following:~~

- 32 ~~(i) The size of the operations.~~
- 33 ~~(ii) Any compliance costs borne by the operations pursuant to~~
34 ~~state and federal water quality regulations.~~
- 35 ~~(iii) Any costs associated with water quality monitoring~~
36 ~~performed or funded by the operations.~~
- 37 ~~(iv) The average annual number of timber harvest plans~~
38 ~~proposed by the operations.~~

1 ~~(5) The state board or a regional board shall give notice of the~~
2 ~~adoption of a waiver by publication within the affected county or~~
3 ~~counties as set forth in Section 6061 of the Government Code.~~

4 ~~(b) (1) A waiver in effect on January 1, 2000, shall remain valid~~
5 ~~until January 1, 2003, unless the regional board terminates that~~
6 ~~waiver prior to that date. All waivers that were valid on January~~
7 ~~1, 2000, and granted an extension until January 1, 2003, and not~~
8 ~~otherwise terminated, may be renewed by a regional board in~~
9 ~~five-year increments.~~

10 ~~(2) Notwithstanding paragraph (1), a waiver for an onsite sewage~~
11 ~~treatment system that is in effect on January 1, 2002, shall remain~~
12 ~~valid until June 30, 2004, unless the regional board terminates the~~
13 ~~waiver prior to that date. Any waiver for onsite sewage treatment~~
14 ~~systems adopted or renewed after June 30, 2004, shall be consistent~~
15 ~~with the applicable regulations or standards for onsite sewage~~
16 ~~treatment systems adopted or retained in accordance with Section~~
17 ~~13291.~~

18 ~~(c) Upon notification of the appropriate regional board of the~~
19 ~~discharge or proposed discharge, except as provided in subdivision~~
20 ~~(d), the provisions of subdivisions (a) and (c) of Section 13260,~~
21 ~~subdivision (a) of Section 13263, and subdivision (a) of Section~~
22 ~~13264 do not apply to a discharge resulting from any of the~~
23 ~~following emergency activities:~~

24 ~~(1) Immediate emergency work necessary to protect life or~~
25 ~~property or immediate emergency repairs to public service facilities~~
26 ~~necessary to maintain service as a result of a disaster in a~~
27 ~~disaster-stricken area in which a state of emergency has been~~
28 ~~proclaimed by the Governor pursuant to Chapter 7 (commencing~~
29 ~~with Section 8550) of Division 1 of Title 2 of the Government~~
30 ~~Code.~~

31 ~~(2) Emergency projects undertaken, carried out, or approved~~
32 ~~by a public agency to maintain, repair, or restore an existing~~
33 ~~highway, as defined in Section 360 of the Vehicle Code, except~~
34 ~~for a highway designated as an official state scenic highway~~
35 ~~pursuant to Section 262 of the Streets and Highways Code, within~~
36 ~~the existing right-of-way of the highway, damaged as a result of~~
37 ~~fire, flood, storm, earthquake, land subsidence, gradual earth~~
38 ~~movement, or landslide within one year of the damage. This~~
39 ~~paragraph does not exempt from this section any project~~
40 ~~undertaken, carried out, or approved by a public agency to expand~~

1 or widen a highway damaged by fire, flood, storm, earthquake,
2 land subsidence, gradual earth movement, or landslide.

3 ~~(d) Subdivision (c) is not a limitation of the authority of a~~
4 ~~regional board under subdivision (a) to determine that any~~
5 ~~provision of this division shall not be waived or to establish~~
6 ~~conditions of a waiver. Subdivision (c) shall not apply to the extent~~
7 ~~that it is inconsistent with any waiver or other order or prohibition~~
8 ~~issued under this division.~~

9 ~~(e) The regional boards and the state board shall require~~
10 ~~compliance with the conditions pursuant to which waivers are~~
11 ~~granted under this section.~~

12 ~~(f) Prior to renewing any waiver for a specific type of discharge~~
13 ~~established under this section, the state board or a regional board~~
14 ~~shall review the terms of the waiver policy at a public hearing. At~~
15 ~~the hearing, the state board or a regional board shall determine~~
16 ~~whether the discharge for which the waiver policy was established~~
17 ~~should be subject to general or individual waste discharge~~
18 ~~requirements.~~