



- Board of Directors  
*Communications and Legislation Committee*

3/12/2019 Board Meeting

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8-7

## Subject

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Express support to SB 669 (Caballero, D-Salinas): Water Quality: Safe Drinking Water Fund; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

## Executive Summary

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Senate Bill (SB) 669 creates an irrevocable Safe Drinking Water Trust (Trust) to provide a perpetual source of funding for a newly created Safe Drinking Water Fund (SDW). The bill is sponsored by the Association of California Water Agencies (ACWA) and the California Municipal Utilities Association (CMUA). The Safe Drinking Water Fund will assist chronically noncompliant community water systems in disadvantaged communities gain access to safe drinking water. The Trust's principal would be initially funded with General Fund (GF) dollars during one or more years when the state budget is in surplus. Subsequently, net income from the principal in the Trust would be transferred to the SDW and continuously appropriated.

SB 669 offers an alternative solution to the statewide water tax proposed by the 2019 budget trailer bill and seeks to address the pressing public health concerns in communities that rely on failed or noncompliant water systems.

## Details

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### Background

Community water systems serving disadvantaged communities face several systemic challenges. First, irrespective of the size, these community water systems are subject to the same health-based standards and laws as large water systems. However, due to their small and disadvantaged rate base, these systems may lack the economies of scale and ability to cover the costs of treatment upgrades and infrastructure repairs particularly as new and more stringent standards are adopted. Consequently, these systems often fail to meet the state and federal drinking water standards. Second, disadvantaged communities have fewer financial options to pay for treatment upgrades and ongoing operation and maintenance (O&M) cost. Current state and federal drinking water funding programs do not provide funds to cover O&M costs.

A funding gap exists for community water systems that have water quality issues and are struggling with ongoing O&M costs. Beyond funding, the disparate governance structures of these systems can impede consolidations with other systems to improve service. Since 2017, there have been various proposals from the Brown and Newsom administrations, the Legislature, water agencies, and advocacy groups and trade associations to address the consolidation, governance, and O&M funding needs. These proposals are described in detail in the Safe and Affordable Drinking Water Board information letter provided to the Board this month.

### Proposed Bill

SB 669 (**Attachment 1**) aims to bridge the O&M funding gap and improve access to safe drinking water by assisting community water system to address contaminants that exceed safe levels. To do so, the bill would:

- Establish the SDW, administered by the State Water Resources Control Board (State Water Board) to assist community water systems in disadvantaged communities that are chronically noncompliant and do not have the financial capacity to pay for O&M costs.
- Establish the Trust, administered by the Safe Drinking Water Trust Commission comprised of the Lieutenant Governor, State Treasurer, and State Controller.

- Require the State Water Board in consultation with the Legislative Analyst's office to conduct a public review and assessment of the SDW every five years.

The proposed Trust will provide a perpetual source of funding every year to the SDW. Money from the SDW could be used for O&M costs, to provide replacement water, to cover consolidation costs, and to help chronically noncompliant systems become self-sufficient. The Trust will be funded from the GF for one or more years when there is a budget surplus and will be deemed as an irrevocable charitable trust subject to the supervision of the State Attorney General. Money from the Trust will not revert to the GF at the end of the fiscal year and is not available for appropriation or loan for other purposes.

### **Policy Analysis**

In April 12, 2005, Metropolitan Board adopted the Drinking Water Quality policy that supports legislative efforts to improve the quality of drinking water for protection of public health. In addition, on March 13, 2018, the Board expressed support for AB 2050 that proposed to consolidate chronically noncompliant small water systems to take advantage of economies of scale and streamline managerial functions.

SB 669 establishes the Trust and SDW to provide a dedicated funding source to the most impacted disadvantaged communities to build operate and maintain sustainable water infrastructure. Importantly, this bill proposes expenditures from the GF rather than directly from customers of compliant water systems. The bill intends to make these chronically noncompliant systems sustainable within 10 years by ensuring the system is self-sufficient and meets drinking water standards.

According to the State Water Board's compliance data as of February 2019, there are 285 public water systems that are out of compliance. The vast majority (91 percent) serve fewer than 10,000 consumers. Some of these systems lack financial, managerial and technical resources to efficiently operate and maintain the infrastructure. A financial solution is needed to consolidate these systems and pay for ongoing O&M costs to make the system self-sufficient and sustainable. Merging noncompliant community water systems into a larger, more robust public water system provides economies of scale and access to improved technical, managerial and financial capacities associated with large water systems. In addition to providing funding for O&M costs, SB 669 provides funding for consolidation of community water systems.

Furthermore, the proposed funding mechanism in SB 669 to fund the SDW is progressive in that it uses GF dollars only in surplus years to fund the Trust. Similar to Medi-Cal and CalFresh programs that address social and economic inequities, this funding does not burden lower-income water ratepayers. This funding mechanism is a better alternative to the regressive tax proposed in the 2019 budget trailer bill that adds administrative and economic burdens on water systems and their ratepayers. Metropolitan opposes the imposition of a permanent tax on ratepayers of public water systems and supports alternatives to a water tax. The current GF budget surplus would allow a Trust to begin being funded to solve drinking water problems facing disadvantaged communities.

Staff recommends that Metropolitan support the bill and work proactively to ensure its passage.

### **Policy**

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By Minute Item 51418, dated December 11, 2018, the Board adopted State Legislative Priorities and Principles for 2019

By Minute Item 51135, dated March 13, 2018, the Board expressed support for alternatives to a water tax as advanced by AB 2050 (Caballero, D-Salinas) from 2018

By Minute Item 49165, dated August 9, 2012, the Board adopted Source Water Quality Protection Policy Principles, as amended

By Minute Item 46191, dated April 12, 2005 – Drinking Water Quality

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

**California Environmental Quality Act (CEQA)**

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**CEQA determination for Option #1:**

The proposed action is not defined as a project under CEQA because it involves legislative proposals that do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Public Resources Code Section 21065 and Section 15378(b)(1) of the State CEQA Guidelines).

**CEQA determination for Option #2:**

None required.

**Board Options**

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**Option #1**

Authorize the General Manager to express support to SB 669 (Caballero).

**Fiscal Impact:** Unknown

Business Analysis: Expressing support for SB 669 would allow Metropolitan to advocate for the new funding mechanism and process that may help reduce chronically noncompliant water systems.

**Option #2**

Take no action.

**Fiscal Impact:** Unknown

Business Analysis: If Metropolitan does not take a position on SB 669, it cannot advocate for the new funding mechanism and process that may help reduce chronically noncompliant water service.

**Staff Recommendation**

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Option #1

  
\_\_\_\_\_  
Susan Sims  
Manager, External Affairs

3/6/2019  
Date

  
\_\_\_\_\_  
Jeffrey Lightlinger  
General Manager

3/6/2019  
Date

**Attachment 1 – Senate Bill 669, as introduced 02/22/2019**

Ref# ea12665022

**SENATE BILL****No. 669**

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**Introduced by Senator Caballero**February 22, 2019

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An act to add Chapter 4.6 (commencing with Section 116765) and Chapter 4.7 (commencing with Section 116771) to, Part 12 of Division 104 of the Health and Safety Code, relating to water, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 669, as introduced, Caballero. Water quality: Safe Drinking Water Fund.

(1) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. 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.

This bill would establish the Safe Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the state board. The bill would require the state board to administer the fund to assist community water systems in disadvantaged communities that are chronically noncompliant relative to the federal and state drinking water standards and do not have the financial capacity to pay for operation and maintenance costs to comply with those standards, as specified. The bill would authorize the state board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, and bequests, transfers by the Legislature from the General Fund and the Greenhouse Gas Reduction Fund, funding from authorized general obligation bond acts, and net revenue from the Safe Drinking Water Trust that this bill would create.

## 2

The bill would require the state board to expend moneys in the fund for grants, loans, contracts, or services to assist eligible applicants. The bill by July 1, 2021, and by July 1 of each year thereafter, would require the state board to adopt, working with a multistakeholder advisory group, after a public workshop and a public hearing, an annual fund implementation plan. The bill would require the state board annually to prepare and make publicly available a report of expenditures of the fund and to adopt annually, after a public hearing, an annual update to a specified needs analysis. By creating a new continuously appropriated fund, this bill would make an appropriation.

(2) Existing law requires a trustee to administer a trust with reasonable care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity would use, as specified. The existing Uniform Prudent Investor Act requires a trustee to invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust.

This bill would create in the State Treasury the Safe Drinking Water Trust Fund, to hold the trust property of the Safe Drinking Water Trust. The bill would create the Safe Drinking Water Trust Commission, consisting of 3 members, to serve as the trustee of the trust and would require the trustee to abide by the act and have all of the fiduciary duties, responsibilities, and obligations consistent with serving as a trustee of a trust. The bill would require the trustee to transfer the net income from the trust fund to the Safe Drinking Water Fund for expenditure, as prescribed. The bill would authorize funding of the trust principal, subject to transfer by the Legislature. The bill would require the trustee to accept donations that shall be deemed trust property and increase the principal of the trust. The bill would require the trustee to meet, not less than quarterly, to review the investment of the trust principal and administer the trust. The bill would require the trustee to provide the state board annually with an accounting of the investments and a forecast of the projected income to be distributed from the funds in future fiscal years. The bill would require the trust to be deemed a charitable trust subject to the supervision of the Attorney General.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Chapter 4.6 (commencing with Section 116765)  
2 is added to Part 12 of Division 104 of the Health and Safety Code,  
3 to read:

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CHAPTER 4.6. SAFE DRINKING WATER

6

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Article 1. Legislative Findings and Declarations

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116765. The Legislature finds and declares all of the following:

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(a) Section 106.3 of the Water Code declares that it is the policy  
11 of the state that every human being has the right to safe, clean,  
12 affordable, and accessible water adequate for human consumption,  
13 cooking, and sanitary purposes.

14

(b) For all community water systems, the operation and  
15 maintenance costs to supply, treat, and distribute potable water  
16 that complies with federal and state drinking water standards on  
17 a routine and consistent basis may be significant.

18

(c) Some community water systems in disadvantaged  
19 communities that do not have access to safe drinking water do not  
20 have the technical, managerial, or financial capacity that is needed  
21 to comply with the federal and state drinking water standards on  
22 a routine and consistent basis.

23

(d) Some state or federal drinking water project funding sources  
24 prohibit the use of that funding for operation and maintenance  
25 costs. If a community water system does not have the financial  
26 capacity to fund operations and maintenance costs, the community  
27 water system may not be able to access funding for capital costs  
28 to comply with the federal and state drinking water standards on  
29 a routine and consistent basis.

30

(e) Hundreds of thousands of Californians, particularly those  
31 living in small disadvantaged communities, rely on unsafe drinking  
32 water from a chronically noncompliant community water system,  
33 which impacts human health, household costs, and community  
34 economic development.

35

(f) It is important that new permitted public water systems are  
36 sustainable.

37

(g) Chapter 843 of the Statutes of 2016 added Section 116527  
38 to and amended Section 116540 of the Health and Safety Code

1 and added Section 106.4 to the Water Code to authorize the State  
2 Water Resources Control Board to prevent the permitting of new,  
3 unsustainable public water systems.

4 (h) It is in the interest of the state to identify, help develop, and  
5 help implement solutions for those chronically noncompliant  
6 community water systems in disadvantaged communities that do  
7 not have the technical, managerial, or financial capacity to comply  
8 with the federal and state drinking water standards, and as a result,  
9 have ongoing violations.

10 (i) To assist chronically noncompliant community water systems  
11 in disadvantaged communities to come into compliance with the  
12 federal and state drinking water standards and become  
13 self-sufficient, the net revenue from a safe drinking water trust is  
14 a reasonable and sustainable way to provide state funding  
15 assistance for operation and maintenance costs and consolidation  
16 costs where financial assistance is needed.

17 (j) Funding of the trust with General Fund dollars during one  
18 or more years of state budget surplus is an appropriate priority for  
19 the state because the lack of access to safe drinking water in some  
20 disadvantaged communities is a social and public health issue for  
21 the state. Once the trust is funded, the revenue from the trust will  
22 be a long-term durable solution to assist chronically noncompliant  
23 community water systems in disadvantaged communities in  
24 becoming self-sufficient relative to safe drinking water.

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27

#### Article 2. Definitions

28 116766. For the purposes of this chapter:

29 (a) "Administrator" has the same meaning as defined in Section  
30 116686.

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

32 (c) "Community water system" has the same meaning as defined  
33 in Section 116275.

34 (d) "Disadvantaged community" has the same meaning as  
35 defined in Section 116275.

36 (e) "Eligible applicant" means a public agency, a local  
37 educational agency, a nonprofit organization, a public utility, a  
38 federally recognized Indian tribe, a state Indian tribe listed on the  
39 Native American Heritage Commission's California Tribal  
40 Consultation List, a mutual water company, and an administrator.

1 (f) "Fund" means the Safe Drinking Water Fund established  
2 pursuant to Section 116767.

3 (g) "Public water system" has the same meaning as defined in  
4 Section 116275.

5 (h) "Replacement water" means bottled water, vended water,  
6 or point-of-use or point-of-entry treatment units.

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### Article 3. Safe Drinking Water Fund

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10 116767. The Safe Drinking Water Fund is hereby established  
11 in the State Treasury. Notwithstanding Section 13340 of the  
12 Government Code, all moneys in the fund are continuously  
13 appropriated to the board, without regard to fiscal years, in  
14 accordance with this chapter. Moneys in the fund at the close of  
15 the fiscal year shall remain in the fund and shall not revert to the  
16 General Fund. Moneys in the fund shall not be available for  
17 appropriation or borrowed for use for any purpose not established  
18 in this chapter unless that use of the moneys is authorized by statute  
19 that receives an affirmative vote of two-thirds of the membership  
20 in each house of the Legislature.

21 116768. (a) The board shall administer the fund to assist  
22 community water systems in disadvantaged communities that are  
23 chronically noncompliant relative to the federal and state drinking  
24 water standards and do not have the financial capacity to pay for  
25 operation and maintenance costs to comply with those standards  
26 by providing assistance for all of the following:

27 (1) Operation and maintenance costs to both help bring the  
28 systems into compliance with those standards and help the systems  
29 become self-sufficient relative to safe drinking water.

30 (2) Consolidation costs for the community water systems.

31 (3) Replacement water to provide the systems with safe drinking  
32 water as a short-term solution.

33 (4) The provision of administrative and managerial services  
34 under Section 116686 for purposes of helping the systems become  
35 self-sufficient in the long term.

36 (b) Consistent with subdivision (a), the board shall expend  
37 moneys in the fund for grants, loans, contracts, or services to assist  
38 eligible applicants.

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- 1 (c) Consistent with subdivision (a), the goals for implementation  
2 of this fund are that community water systems benefitting from  
3 the funding both:
- 4 (1) Will become compliant relative to the federal and state  
5 drinking water standards.
- 6 (2) Will become self-sufficient and will need assistance for no  
7 longer than 10 years.
- 8 (d) The board may undertake any of the following actions to  
9 implement the fund:
- 10 (1) Provide for the deposit of all of the following moneys into  
11 the fund:
- 12 (A) Federal funding.
- 13 (B) Transfers by the Legislature from the General Fund.
- 14 (C) Net revenue from the Safe Drinking Water Trust.
- 15 (D) Funding from a general obligation bond act that authorizes  
16 the deposit of bond moneys into the fund.
- 17 (E) Transfers by the Legislature from the Greenhouse Gas  
18 Reduction Fund.
- 19 (F) Voluntary contributions, gifts, grants, or bequests.
- 20 (2) Enter into agreements for contributions to the fund from the  
21 federal government, local or state agencies, private corporations,  
22 or nonprofit organizations.
- 23 (3) Direct portions of the fund to a subset of eligible applicants  
24 as required or appropriate based on funding source and consistent  
25 with the annual fund implementation plan.
- 26 (e) The board may expend moneys from the fund for reasonable  
27 costs associated with administration of the fund, including outreach  
28 regarding the availability of the funding. The board may expend  
29 no more than 5 percent of the annual revenue from the fund for  
30 reasonable costs associated with the administration of the fund.
- 31 (f) The board shall provide for appropriate audit, accounting,  
32 and fiscal management services, plans, and reports relative to the  
33 fund.
- 34 (g) At least every five years, the board, in consultation with the  
35 Legislative Analyst's Office, shall conduct a public review and  
36 assessment of the fund that evaluates and reports on all of the  
37 following:
- 38 (1) The effectiveness of expending moneys from the fund in  
39 terms of both helping bring chronically noncompliant community  
40 water systems in disadvantaged communities into compliance with

1 the federal and state safe drinking water standards and helping  
2 chronically noncompliant community water systems in  
3 disadvantaged communities become self-sufficient.

4 (2) The sources of funding and the amount of funding from each  
5 source that went into the fund during the time period that is being  
6 reviewed and assessed.

7 (3) The community water systems for which self-sufficiency  
8 has been achieved and for which funding from the fund is no longer  
9 necessary.

10 (4) The community water systems that have received funding  
11 for 10 years or more and for which self-sufficiency has not been  
12 achieved, the actions that have been taken, the reasons why  
13 self-sufficiency has not been achieved, and, where appropriate,  
14 the reasons why continued funding from the fund is necessary.

15 (h) The board shall make a report of the public review and  
16 assessment described in subdivision (g) available on the board's  
17 internet website.

18 (i) The board, an employee of the board, or any authorized  
19 person shall not be deemed to have incurred or be required to incur  
20 any obligation to provide additional funding or undertake additional  
21 action solely as a result of having undertaken an action pursuant  
22 to this chapter.

23 116769. By July 1, 2021, and by July 1 of each year thereafter,  
24 the board shall do all of the following:

25 (a) Prepare and make publicly available a report of expenditures  
26 from the fund.

27 (b) Adopt, after a public hearing, an annual update to the needs  
28 analysis of drinking water systems first directed by the Legislature  
29 in Item 3940-002-0001 of Section 2.00 of the Budget Act of 2018.

30 (c) Work with a multistakeholder advisory group to obtain input  
31 regarding priorities for the fund that can reasonably be  
32 accomplished in the next year and development of the annual fund  
33 implementation plan.

34 (d) Adopt, after a public workshop and a public hearing, an  
35 annual fund implementation plan.

36 SEC. 2. Chapter 4.7 (commencing with Section 116771) is  
37 added to Part 12 of Division 104 of the Health and Safety Code,  
38 to read:

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## 1 CHAPTER 4.7. SAFE DRINKING WATER TRUST ACT OF 2019

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## Article 1. Short Title

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116771. This chapter shall be known, and may be cited, as the  
6 Safe Drinking Water Trust Act of 2019.

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Article 2. Legislative Findings of Necessity and Cause for  
9 Action

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116772. (a) Because Section 106.3 of the Water Code  
12 establishes the policy of the state that every human being has the  
13 right to safe, clean, affordable, and accessible water adequate for  
14 human consumption, cooking, and sanitary purposes, it is in the  
15 interest of the people of the state to enact this chapter to establish  
16 a trust fund for the governmental purpose of providing a perpetual  
17 source of funding to assist community water systems in  
18 disadvantaged communities that are chronically noncompliant  
19 relative to the federal and state drinking water standards and do  
20 not have the financial capability to pay for operation and  
21 maintenance costs to comply with those standards by providing  
22 funding assistance for all of the following:

23

(1) Operation and maintenance costs to both help bring the  
24 systems into compliance with those standards and help the systems  
25 to become self-sufficient.

26

(2) Consolidation costs for the systems.

27

(3) Replacement water to provide the systems with safe drinking  
28 water as a short-term solution.

29

(4) The provision of administrative and managerial services  
30 pursuant to Section 116686 for purposes of helping the systems  
31 become self-sufficient in the long term.

32

(b) The primary purpose of the Safe Drinking Water Trust, a  
33 charitable trust established pursuant to this chapter, shall be to  
34 provide a perpetual source of funding each year to the Safe  
35 Drinking Water Fund established pursuant to Section 116767 in  
36 furtherance of the trust fund purposes in subdivision (a).

37

(c) It is the intent of the Legislature that the funding for the trust  
38 be from General Fund dollars transferred to the trust by the  
39 Legislature during one or more years of state budget surplus.

1 Article 3. Safe Drinking Water Trust

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116773. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

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(a) "Board" means the State Water Resources Control Board.

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(b) "Beneficiary" means the people of the state, as represented by the board in its implementation of the provisions of Chapter 4.6 (commencing with Section 116765) and its administration of the Safe Drinking Water Fund established pursuant to Section 116767. The beneficiary's interest in the trust shall only be to the net income generated from the trust principal.

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(c) "Income" means the money, enhanced value, or other income the trust receives as current return from the investment of the trust principal.

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(d) "Net income" means the trust income earned July 1 to June 30, inclusive, of the previous year minus all of the necessary and reasonable expenses incident to the administration of the trust during that same period.

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(e) "Principal" means the trust property, inclusive of any increase designated as part of the trust principal by the trustee as a result of a higher than anticipated return on the investment pursuant to paragraph (2) of subdivision (b) of Section 116773.6 that is held in trust for the beneficiary and to accomplish the purposes described in Section 116772.

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(f) "Trust" means the Safe Drinking Water Trust.

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(g) "Trust fund" means the account established pursuant to subdivision (a) of Section 116773.2 to hold the trust property.

26

27

(h) "Trust property" means the money transferred to the trust fund pursuant to subdivision (d) of Section 116773.6 and any donation to the trust fund received and accepted by the trustee after January 1, 2020.

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31

(i) "Trustee" means the Safe Drinking Water Trust Commission.

32

116773.2. (a) There is hereby created in the State Treasury the Safe Drinking Water Trust Fund for holding the trust property of the Safe Drinking Water Trust and for the purpose of implementing the public and governmental purposes of this chapter. Net income distributed by the trustee from the trust fund is hereby transferred to the board for deposit in and expenditure from the Safe Drinking Water Fund in accordance with Chapter 4.6 (commencing with Section 116765).

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1 (b) Moneys in the trust fund, including the trust principal and  
2 trust income, shall not be available for appropriation or be  
3 borrowed for use for any purpose not established in this chapter.

4 (c) Funding of the trust principal is hereby authorized and is  
5 subject to transfer by the Legislature. All transfers to the trust are  
6 hereby irrevocably transferred from the General Fund during  
7 budget surplus years to the trustee for deposit in the Safe Drinking  
8 Water Trust Fund for investment to accomplish the purposes of  
9 this chapter and on the conditions prescribed in Section 116773.6.

10 (d) Notwithstanding any other law, moneys deposited into the  
11 Safe Drinking Water Trust Fund or to fund the trust shall not be  
12 transferred to the General Fund.

13 116773.4. (a) There is hereby created the Safe Drinking Water  
14 Trust Commission, consisting of three members, selected as  
15 follows:

16 (1) The Treasurer, or the Treasurer's designee.

17 (2) The Lieutenant Governor, or the Lieutenant Governor's  
18 designee.

19 (3) The Controller, or the Controller's designee.

20 (b) The Safe Drinking Water Trust Commission shall serve as  
21 the trustee of the trust having all of the fiduciary duties,  
22 responsibilities, and obligations consistent with serving as a trustee  
23 of a trust.

24 (c) The Treasurer shall serve as chairperson of the Safe Drinking  
25 Water Trust Commission. The commission shall annually elect  
26 from its members a vice chairperson and a secretary who shall  
27 hold office until December 31 and shall continue to serve until  
28 their respective successors are elected.

29 (d) The trustee shall do all of the following:

30 (1) Meet not less than quarterly to review the investment of the  
31 trust principal and administer the trust.

32 (2) Meet on the call of the chairperson, at the request of a  
33 majority of the members, or at the request of the Governor.

34 (3) Adopt bylaws or other governing documents it deems  
35 necessary for the regulation of its affairs and the conduct of its  
36 business.

37 (e) Notwithstanding Section 10231.5 of the Government Code,  
38 the Safe Drinking Water Trust Commission annually shall provide  
39 the board with an accounting of the investments and a forecast of  
40 the projected income to be distributed from the fund in future fiscal

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1 years. The board shall include the information in the fund  
2 implementation plan prepared by subdivision (c) of Section  
3 116769.

4 116773.6. (a) The trustee of the Safe Drinking Water Trust  
5 shall hold the trust property for the primary benefit of the trust's  
6 beneficiary and shall hold, manage, and invest the trust principal  
7 with the obligation of providing a perpetual source of annual  
8 funding to the Safe Drinking Water Fund established in Section  
9 116767. The trustee shall not invade the trust principal.

10 (b) The trustee shall collect, receive, and monetize, if prudent,  
11 the income from the trust, and shall transfer the trust's net income  
12 annually as follows:

13 (1) If the net income earned by the trust during the previous  
14 fiscal year is less than or equal to \_\_\_\_ dollars (\$\_\_\_\_), the trustee  
15 shall deposit the entire value of the net income into the Safe  
16 Drinking Water Fund for the benefit of the trust's beneficiary.

17 (2) If the net income earned by the trust during the previous  
18 fiscal year is greater than \_\_\_\_ dollars (\$\_\_\_\_), the trustee shall  
19 deposit at least \_\_\_\_ dollars (\$\_\_\_\_) into the Safe Drinking Water  
20 Fund for the benefit of the trust's beneficiary and shall determine  
21 if any additional portion of the net income should be deposited  
22 into the Safe Drinking Water Fund that year. Any portion of the  
23 net income not deposited in the Safe Drinking Water Fund shall  
24 be deemed a part of the trust principal by the trustee as a result of  
25 a higher than anticipated return on the investment on the trust  
26 principal in the previous fiscal year.

27 (3) Notwithstanding any other law, the trustee, and any  
28 employee or agent of the trustee, shall not sell, purchase, exchange,  
29 or otherwise deal with or dispose of all or any parts of the principal  
30 of the trust.

31 (c) The trustee shall exercise its administration of the trust as a  
32 fiduciary to the beneficiary. The trustee, in its administration of  
33 the trust, shall abide by the Uniform Prudent Investor Act (Article  
34 2.5 (commencing with Section 16045) of Chapter 1 of Part 4 of  
35 Division 9 of the Probate Code). The trustee shall have the powers,  
36 obligations, and responsibilities of a trustee prescribed in Part 4  
37 (commencing with Section 16000) of Division 9 of the Probate  
38 Code that are not inconsistent with the purposes and provisions of  
39 this chapter.

40 (d) The trust shall have both of the following powers:

**12**

- 1 (1) To accept donations that shall be deemed trust property and  
2 increase the principal of the trust.
- 3 (2) Use no more than 1 percent of the trust income earned July  
4 1 to June 30, inclusive, of each year to pay for the necessary and  
5 reasonable expenses incident to the administration of the trust  
6 during that same period.
- 7 (e) The trust shall be deemed a charitable trust subject to the  
8 supervision of the Attorney General.