

## Assembly Bill No. 285

### CHAPTER 498

An act to amend Sections 5412 and 5413 of the Health and Safety Code, and to amend Section 13271 of, and to add Section 13193 to, the Water Code, relating to water.

[Approved by Governor October 4, 2001. Filed with  
Secretary of State October 4, 2001.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 285, Wayne. Sewage system overflows: reporting.

(1) Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies that regulate water quality.

This bill would require the state board, on or before January 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, and in consultation with specified entities, to develop report forms for spills or overflows from a sanitary sewer system. The bill would require a collection system owner or operator, as defined, commencing on July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, to use those report forms to report certain spills or overflows from a sanitary sewer system. The bill would require, commencing on July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, and in the event of a spill or overflow from a sanitary sewer system that is not subject to specified reporting requirements, if certain conditions are determined to exist, the particular agency making that determination to submit a prescribed report to the appropriate regional board. To the extent that this would increase the level of services imposed on local health officers, this bill would create a state-mandated local program. The bill would require the state board, before January 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, and in consultation with specified entities, to develop and maintain a sanitary sewer system overflow database.

The bill would require, commencing on July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, each regional board to coordinate with collection system owners or operators, the State Department of Health Services, and local health officers to compile the reports submitted pursuant to the bill and report that information to the state board on a quarterly basis, to be included in the



sanitary sewer system overflow database. The bill would require the state board to make available to the public, information that is generated pursuant to the bill. The bill would require the state board, in a year in which the Legislature has appropriated sufficient funds for the purposes described in this sentence, to prepare a summary report of the information collected in the sanitary sewer system overflow database, and make it available to the general public. The bill would make conforming changes and related legislative findings and declarations.

(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, 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 people of the State of California do enact as follows:*

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

(a) The protection of our state's water quality is a top priority in order to ensure the health of all the state's citizens, the protection of species and valuable ecosystems, and the continued and growing success of our state's coastal economy.

(b) Sanitary sewer system overflows, in which overflowing sewer pipes can result in raw sewage reaching the waters of the state, may impact aquatic life, human health, and lead to beach closures due to high bacteria counts caused by those overflows, adversely affecting the state's coastal tourism economy, which contributes over \$10 billion annually to the state's economy.

(c) Existing reporting on the volumes and causes of overflows varies in content and reporting format, hampering effective regional and statewide use of the collected data.

(d) A comprehensive database, coupled with uniform reporting standards throughout the state, should be developed in order to assist local, regional, and state agencies charged with public health and water quality protection in preventing and minimizing these overflows in a cost-effective manner.

(e) Information on sanitary sewer system overflows should be made available to the general public so that informed decisions can be made about needed infrastructure improvements.



SEC. 2. Section 5412 of the Health and Safety Code is amended to read:

5412. Whenever the state department or any local health officer finds that a contamination exists, the state department or officer shall order the contamination abated, as provided in this chapter, and, commencing July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, shall submit any report required pursuant to subdivision (d) of Section 13193 of the Water Code.

SEC. 3. Section 5413 of the Health and Safety Code is amended to read:

5413. Whenever the state department finds that a pollution or nuisance does, in fact, exist, that condition shall be immediately referred by the state department to the proper regional board for action, together with any recommendations for correction, and, commencing July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, the state department shall submit any report required pursuant to subdivision (d) of Section 13193 of the Water Code. Upon request of a regional board, the state department shall inspect and report to the board on any technical factors involved in any condition of pollution or nuisance.

SEC. 4. Section 13193 is added to the Water Code, to read:

13193. (a) As used in this section, the following terms have the following meanings:

(1) “Collection system owner or operator” means the public or private entity having legal authority over the operation and maintenance of, or capital improvements to, the sewer collection system.

(2) “GIS” means Geographic Information System.

(b) On or before January 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, the state board, in consultation with representatives of cities, counties, cities and counties, special districts, public interest groups, the State Department of Health Services, and the regional boards shall develop a uniform overflow event report form to be used for reporting of sanitary sewer system overflows as required in subdivision (c). This event report form shall include, but not be limited to, all of the following:

(1) The cause of the overflow. The cause shall be specifically identified, unless there is an ongoing investigation, in which case it shall be identified immediately after completion of the investigation. The cause shall be identified, at a minimum, as blockage, infrastructure failure, pump station failure, significant wet weather event, natural disaster, or other cause, which shall be specifically identified. If the cause is identified as a blockage, the type of blockage shall be identified, at a minimum, as roots, grease, debris, vandalism, or multiple causes of



which each should be identified. If the cause is identified as infrastructure, it shall be determined, at a minimum, whether the infrastructure failure was due to leaks, damage to, or breakage of, collection system piping or insufficient capacity. If the cause is identified as a significant wet weather event or natural disaster, the report shall describe both the event and how it resulted in the overflow. If the precise cause cannot be identified after investigation, the report shall include a narrative explanation describing the investigation conducted and providing the information known about the possible causes of the overflow.

(2) An estimate of the volume of the overflow event.

(3) Location of the overflow event. Sufficient information shall be provided to determine location for purposes of GIS mapping, such as specific street address or the latitude and longitude of the event.

(4) Date, time, and duration of the overflow event.

(5) Whether or not the overflow reached or may have reached waters of the state.

(6) Whether or not a beach closure occurred or may have occurred as a result of the overflow.

(7) The response and corrective action taken.

(8) Whether or not there is an ongoing investigation, the reasons for it and expected date of completion.

(9) The name, address, and telephone number of the reporting collection system owner or operator and a specific contact name.

(c) Commencing on July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, in the event of a spill or overflow from a sanitary sewer system that is subject to the notification requirements set forth in Section 13271, the applicable collection system owner or operator, in addition to immediate reporting duties pursuant to Section 13271, shall submit to the appropriate regional board, within 30 days of the date of becoming aware of the overflow event, a report using the form described in subdivision (b). The report shall be filed electronically, if possible, or by fax or mail if electronic submission is not possible.

(d) (1) Commencing on July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, in the event of a spill or overflow from a sanitary sewer system that is not subject to the reporting requirements set forth in Section 13271 that is either found by the State Department of Health Services or any local health officer to result in contamination pursuant to Section 5412 of the Health and Safety Code, or is found by the State Department of Health Services to result in pollution or nuisance pursuant to Section 5413 of the Health and Safety Code, the agency making the determination shall submit to the



appropriate regional board, within 30 days of making the determination, a report that shall include, at a minimum, the following information:

- (A) Date, time, and approximate duration of the overflow event.
- (B) An estimate of the volume of the overflow event.
- (C) Location of the overflow event.
- (D) A description of the response or corrective action taken by the agency making the determination.
- (E) The name, address, and telephone number of the reporting collection system owner or operator, and a specific contact name.

(2) The report shall be filed electronically, if possible, or by fax or mail if electronic submission is not possible.

(e) Before January 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, the state board, in consultation with representatives of cities, counties, cities and counties, and special districts, public interest groups, the State Department of Health Services, and regional boards, shall develop and maintain a sanitary sewer system overflow database that, at a minimum, contains the parameters described in subdivisions (b) and (d).

(f) Commencing on July 1 of a year in which the Legislature has appropriated sufficient funds for this purpose, each regional board shall coordinate with collection system owners or operators, the State Department of Health Services, and local health officers to compile the reports submitted pursuant to subdivisions (c) and (d). Each regional board shall report that information to the state board on a quarterly basis, to be included in the sanitary sewer system overflow database.

(g) The state board shall make available to the public, by Internet and other cost-effective means, as determined by the state board, information that is generated pursuant to this section. In a year in which the Legislature has appropriated sufficient funds for the purposes described in this subdivision, the state board shall prepare a summary report of the information collected in the sanitary sewer system overflow database, and make it available to the general public through the Internet and other cost-effective means, as determined by the state board. To the extent resources and the data allow, this report shall include GIS maps compiling coastal overflow events.

SEC. 5. Section 13271 of the Water Code is amended to read:

13271. (a) (1) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup



or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(2) The Office of Emergency Services shall immediately notify the appropriate regional board and the local health officer and administrator of environmental health of the discharge. The regional board shall notify the state board as appropriate.

(3) Upon receiving notification of a discharge pursuant to paragraph (2), the local health officer and administrator of environmental health shall immediately determine whether notification of the public is required to safeguard public health and safety. If so, the local health officer and administrator of environmental health shall immediately notify the public of the discharge by posting notices or other appropriate means. The notification shall describe measures to be taken by the public to protect the public health.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars (\$20,000) or imprisonment for not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) For substances listed as hazardous wastes or hazardous material pursuant to Section 25140 of the Health and Safety Code, the state board, in consultation with the Department of Toxic Substances Control, shall by regulation establish reportable quantities for purposes of this section. The regulations shall be based on what quantities should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations need not set reportable quantities on all listed substances at the same time. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division, and shall not supersede or affect in any way the list, criteria, and guidelines for the identification of hazardous wastes and extremely



hazardous wastes adopted by the Department of Toxic Substances Control pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The regulations of the Environmental Protection Agency for reportable quantities of hazardous substances for purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.) shall be in effect for purposes of the enforcement of this section until the time that the regulations required by this subdivision are adopted.

(f) (1) The state board shall adopt regulations establishing reportable quantities of sewage for purposes of this section. The regulations shall be based on the quantities that should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division. For purposes of this section, “sewage” means the effluent of a municipal wastewater treatment plant or a private utility wastewater treatment plant, as those terms are defined in Section 13625, except that sewage does not include recycled water, as defined in subdivisions (c) and (d) of Section 13529.2.

(2) A collection system owner or operator, as defined in paragraph (1) of subdivision (a) of Section 13193, in addition to the reporting requirements set forth in this section, shall submit a report pursuant to subdivision (c) of Section 13193.

(g) Except as otherwise provided in this section and Section 8589.7 of the Government Code, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency. When notifying the Office of Emergency Services, the person shall include all of the notification information required in the permit.

SEC. 6. 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.

