

SAFER DRINKING WATER PROGRAM ADVISORY GROUP MEETING

Safe and Affordable Funding for Equity and Resilience Advisory Group

December 7, 2023

Meeting Materials Packet

Please review this packet before the meeting.

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Topic #1 - SAFER Program Overview: 2023 Accomplishments and the Project Status Tool

SAFER ACCOMPLISHMENTS

Since the passage of Senate Bill 200 in 2019, \$620 million has been granted to small, disadvantaged communities benefiting 1,3 million people who now have access to safe drinking water (figure 1).

Figure 1. SAFER Program Highlights (7/1/2019 – 6/30/2023)

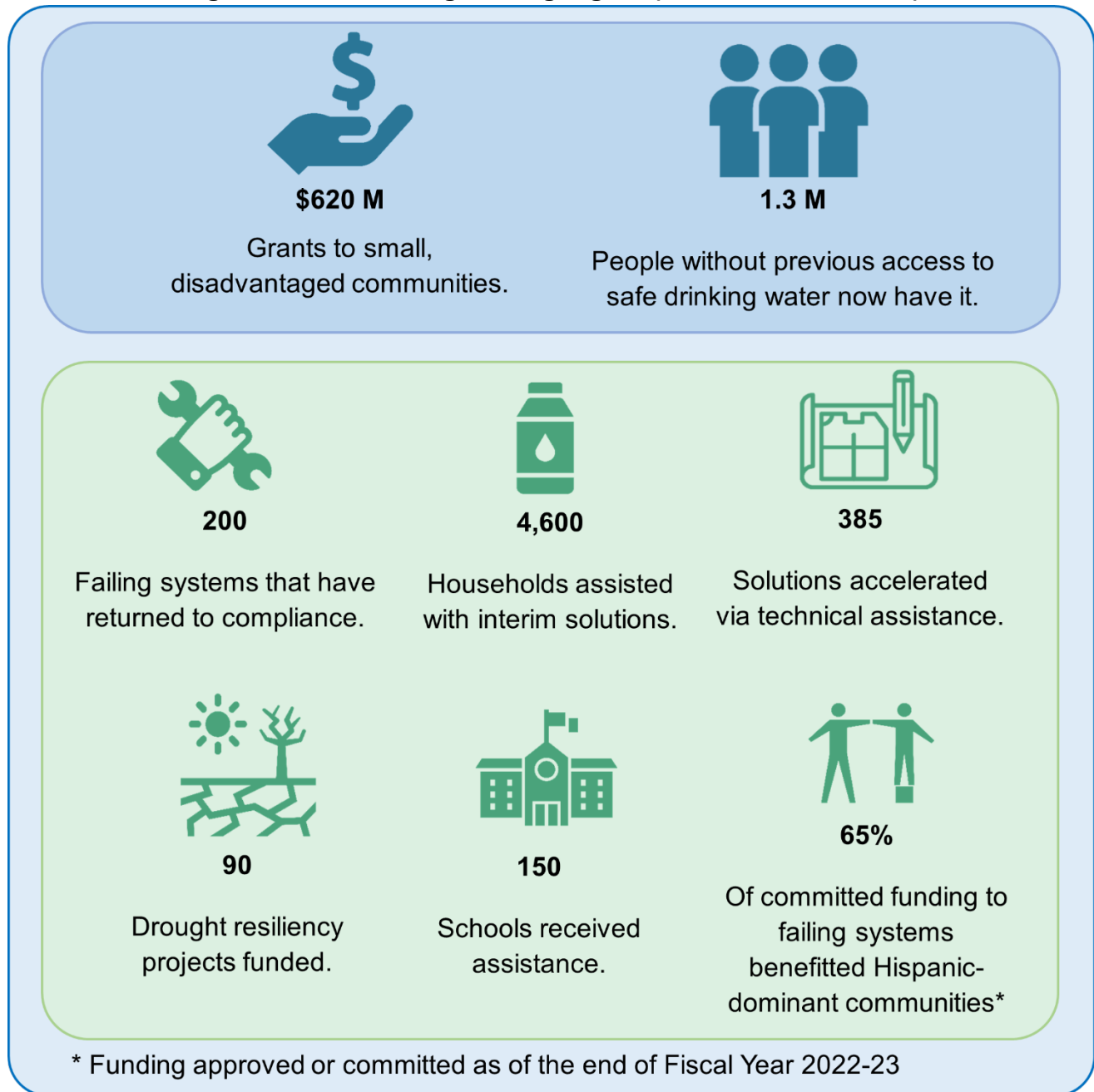
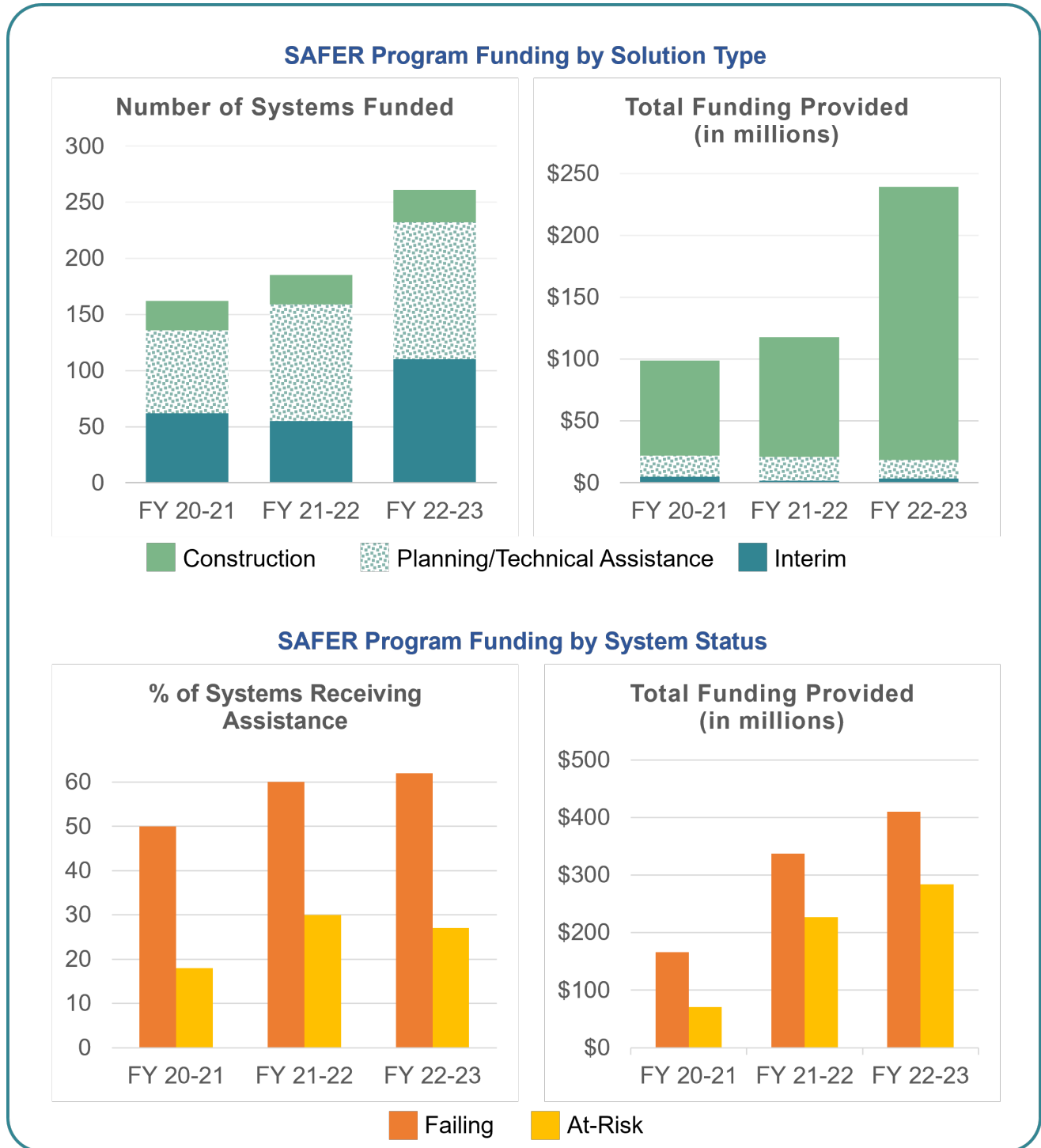


Figure 2 illustrates SAFER program trends over the past three fiscal years. The chart of total funding by solution type (top) shows the funding executed during Fiscal Year (FY) 2022-23. The chart at the bottom displays the total funding by system status, reflecting all active funding projects approved and executed at the end of each fiscal year. These projects are included in each fiscal year's Fund Expenditure Plan's (FEP) Funding Solution Lists for both Failing and At-Risk Systems (e.g., Appendices C and D of each FY's FEP).

Figure 2. SAFER Program Trends (FY 2020-21 through FY 2022-23)



PROJECT STATUS TOOL

The SAFER Advisory Group and others interested parties requested a more accessible way to view the funding and engagement status of failing water systems. In response, the project status tool was created with data from both the SAFER Clearinghouse and the Loans and Grants Tracking System (LGTS) database. The data is manually pulled from these databases on a quarterly basis, but there are plans for having automatic updates in the future. The tool displays the following:

- Basic data about the water system
- A summary of the engagement with the water system
- A summary of the funding resources provided through the Water Board.

There is a simple look-up function at the top left of the report that allows users to identify the status of any failing water system.

The tool can be found on the [SAFER Engagement Unit](#) webpage by scrolling down to the bottom of the page.

DISCUSSION GUIDING QUESTIONS

- What are the ways you can use the project status tool?
- Which elements of the tool are the most useful?
- Are there ways we can improve this tool?

Topic #2 - Proposed Updates for the 2024 Drinking Water Needs Assessment

The State Water Board is proposing a few modifications and enhancements for the 2024 Drinking Water Needs Assessment. Below is a summary and links to relevant resources.

FAILING LIST

The State Water Board is proposing to expand the Failing water system list criteria to include water shortage and water outage violations. This expansion will now include on the Failing list water systems that are either unable or consistently fail to adequately supply drinking water to their customers. A public webinar workshop is planned for December 2023 to discuss.

COST ASSESSMENT

The State Water Board has hosted a series of public webinar workshops over the last two years to solicit feedback on updating the Cost Assessment Model. The Cost Assessment Model estimates the cost of implementing interim and long-term solutions for Failing water systems, At-risk water systems, state small water systems, and domestic wells.

August 4, 2022: *Proposed Changes for the Cost Assessment*

- [White Paper](#)
- [Presentation](#)

July 14, 2023: *Proposed Updates to the Drinking Water Cost Assessment Model: Physical Consolidation Analysis*

- [White Paper](#)
- [Presentation](#)

October 5, 2023: *Public Webinar on Proposed Updates to the Cost Assessment Model: Modeled Treatment Analysis*

- [White Paper](#)
- [Presentation](#)

NEEDS ASSESSMENT INVENTORY ALIGNMENT

The State Water Board is proposing to align the inventory of public water systems assessed across the Failing list, Risk Assessment, and Affordability Assessment to include all community water systems and non-community schools. This modification will improve state-wide understanding of needs and help improve communication of the results of the Needs Assessment components.

Currently the Needs Assessment components assess different groups of systems. This has led to some confusion among internal and external interested parties when analyzing the SAFER Status (whether the system is Failing, At-Risk, or Not At-Risk) and the data associated with the Needs Assessment. For example, a large public water system may have the status of “Not Assessed” for the Risk Assessment but be a Failing system in the SAFER Dashboard. Additionally, when communicating or analyzing performance of systems over

time, it can be difficult to explain how the numbers change between the different assessments. A public webinar workshop is planned for December 2023 to discuss.

DISCUSSION GUIDING QUESTION

- How do you want the cost assessment to be broken down? (ex. by connection, county, Disadvantaged Community, contaminant, etc.)
- What would be most helpful for the SAFER Advisory Group Members to inform the Fund Expenditure Plan?
- Suggestions for enhancements for 2025? Where should we be focusing our resources?

SAFER Advisory Group Updates

This document serves as a written update for SAFER Advisory Group members on topics related to the SAFER program.

ADOPTION OF THE FISCAL YEAR 2023-24 FUND EXPENDITURE PLAN FOR THE SAFE AND AFFORDABLE DRINKING WATER FUND

The timeline for adopting the Fiscal Year (FY) 2023-24 Fund Expenditure Plan (FEP) for the Safe and Affordable Drinking Water Fund (SADW Fund) included:

1. **July 31, 2023:** The draft FY 2023-24 FEP was released for a 30-day public comment period.
2. **August 11, 2023:** Discussion of the draft FY 2023-24 FEP with the SAFER Advisory Group
3. **August 16, 2023:** State Water Board Workshop on the draft FY 2023-24 FEP.
4. **September 2023:** Review of four comment letters, one being specific to the Direct Operation and Maintenance Funding Program Guidelines (Appendix L).
5. **October 3, 2023:** Adoption of the FY 2023-24 FEP by the State Water Board

The FEP discusses the following:

- Funding approach and targeted distribution of funds (\$130 M from the SADW Fund for FY 2023-24)
- Prioritization of funding for interim solutions and emergencies, technical assistance (TA), administrators, planning, operation and maintenance (O&M), and construction.
- Funding for households served by state small water systems or domestic wells.
- Other related efforts including pilot projects, community engagement, and workforce development.
- Program metrics and performance
- Funding process and programmatic requirements.

Key highlights include:

- Some updates to SAFER program priorities (noted below) with continued focus on small, disadvantaged communities (DACs) and low-income households.
 - Added water systems relying on bottled or hauled water in the past three years.
 - Added some specificity to the consolidation priority to include state smalls and domestic wells located near water system boundaries.
- Significant investments planned to help address the large numbers of state smalls and domestic wells considered to be At-Risk for either water quality or drought impacts via county wide and regional programs to provide interim water supplies (e.g., bottled and hauled water) as well as long-term solutions.
- \$20 million will be allocated for direct O&M assistance, benefiting up to 30 systems. Using a streamlined approach, the focus will be on small DAC water systems with water rates higher than 2.5% of the community's median household income (MHI) and facing significant affordability challenges, as determined by the 2023 Affordability Assessment.

- Metrics and Performance section updated to better align with how we track the SAFER program, and the addition of a new metric category on tribal coordination on drinking water projects, as required by AB 2877. A new section was added to show key cumulative metric highlights and trends over the past three fiscal years.

SAFER TIMELINE

The following are tentative dates for SAFER related events:

2023-2024	Topic
Oct. 3, 2023	Board adoption of FY 2023-24 Fund Expenditure Plan
Oct. 5, 2023	Public Webinar on the Proposed Updates to the Cost Assessment Model: Modeled Treatment Analysis
Dec. 7, 2023	SAFER Advisory Group Meeting #4 & Tour – Coachella, CA
Dec. 7, 2023	New SAFER Advisory Group members announced
Dec. 12, 2023	Public Webinar on the Cost Assessment Model: Other Infrastructure, Admin needs, and Interim Solutions
Dec. 13, 2023	Needs Assessment Update workshop
Jan. 24, 2024	SAFER Advisory Group Onboarding Session – Sacramento, CA
Mar. 7, 2024	SAFER Advisory Group meeting #1
May 16, 2024	SAFER Advisory Group meeting #2
Summer 2024	Draft FY 2024-25 Fund Expenditure Plan release for public comment
Aug. 8, 2024	SAFER Advisory Group meeting #3
Fall 2024	Board considers adoption of FY 2024-25 Fund Expenditure Plan
Dec. 5, 2024	SAFER Advisory Group meeting #4

2023 Legislation Related to the SAFER Program

The 2023 legislative session ended on September 14th, 2023, and the Legislature will reconvene on January 3, 2024. The following is a summary of the final disposition of bills with potential impacts to the SAFER program that moved through the Legislature in 2023 and which have been acted upon by the Governor. Of the 24 bills listed below, 13 failed to advance out of the Legislature; 8 were signed into law by the Governor; and 3 were vetoed.

Notable examples of bills signed by the Governor include the following:

- [AB 664 \(Lee\)](#): further incentivizes landlords who provide water to their tenants via domestic wells to participate in a water system consolidation that is ordered or facilitated by the State Water Board, and requires certain testing and notice requirements if a landlord does not consent to such a consolidation.
- [SB 3 \(Dodd\)](#): expands the protections of the Water Shutoff Protection Act ([SB 998, Dodd, 2018](#)) to include customers of water systems with 200 or fewer service connections.
- [SB 544 \(Laird\)](#): modifies some requirements under the Bagley-Keene Open Meeting Act regarding teleconferencing, and sunsets those provisions on January 1, 2026.

More information about these and other bills can be found below, including specific links to bill texts and author websites. Please note that bills that were signed by the Governor will take effect on January 1, 2024, unless otherwise noted in the bill.

ADMINISTRATIVE

[SB 544 \(Laird\)](#) Bagley-Keene Open Meeting Act: teleconferencing.

This bill would modify the requirements of the Bagley-Keene Act to allow a state agency to host teleconference or hybrid meetings without posting the agenda at all teleconference locations, provided certain conditions are met to protect the public's right to participate. The bill would be sunset on January 1, 2026.

NOTE: SIGNED BY THE GOVERNOR, chaptered by the Secretary of State as Chapter 216, Statutes of 2023.

[AB 1495 \(Stephanie Nguyen\)](#) Office of Tribal Affairs.

This bill would establish an Office of Tribal Affairs in the Governor's office, which would be headed by the Secretary of the Office of Tribal Affairs. The Office would manage the state's tribal programs and would help tribes connect with state officers' tribal leads. The bill would also establish:

- A Deputy of Tribal Affairs in every state agency and in every constitutional office.
- A Tribal Advisor in every state agency executive office.

NOTE: This bill did not meet legislative policy committee deadlines in 2023 and will not be proceeding.

DRINKING WATER

[SB 3 \(Dodd\)](#) Discontinuation of residential water service: community water system.

The Water Shutoff Protection Act ([SB 998, Dodd](#); Chapter 891, Statutes of 2018) currently requires public water systems with more than 200 service connections to take certain actions related to the discontinuation of water service due to nonpayment, including:

- Adopting a written policy on discontinuation.
- Posting that policy on their website.
- Waiting at least 60 days before shutting off a customer's water.
- Following certain procedures, such as advanced notice, offering an appeals process, and arranging means of alternate payments.
- Refraining from shutting off water in certain circumstances.

This bill would expand these requirements to water systems with fewer than 200 service connections. The bill would also require the State Water Board to provide training statewide to those smaller community water systems to meet compliance with the Water Shutoff Protection Act.

NOTE: SIGNED BY THE GOVERNOR, chaptered by the Secretary of State as Chapter 855, Statutes of 2023.

[SB 28 \(Glazer\)](#) Education finance: school facilities: Public Preschool, K-12, and College Health and Safety Bond Act of 2024.

This bill would put before the voters the Public Preschool, K-12, and College Health and Safety Bond Act of 2024 ('Bond Act'). Among other things, the Bond Act would allocate \$150 million to help address lead in school drinking water. Schools built before January 1, 2010, would be able to apply:

- To the State Allocation Board for grants to test water outlets for lead; and
- For subsequent grants to replace water outlets if test results show lead levels above 15 parts per billion.

NOTE: This bill has been made a 2-year bill by the Assembly Appropriations Committee.

[SB 57 \(Gonzalez\)](#) Utilities: disconnection of residential service.

This bill would require certain utilities, including water corporations and local agencies that own public water systems, to postpone service disconnections for delinquent accounts within 24 hours of the temperature being either below 32, or above 95 degrees Fahrenheit. Utilities would be required to notify their residential ratepayers of that requirement and, if they have an internet website, to create an online tool for reporting illegal disconnections. The State Water Resources Control Board would be authorized to enforce these requirements against those water systems.

NOTE: This bill did not meet policy committee deadlines in 2023 and will not be proceeding.

[AB 247 \(Muratsuchi\)](#) Education Finance: School Facilities: Transitional Kindergarten Through Community College Public Education Facilities Bond Act of 2024.

This bill would put before the voters the Transitional Kindergarten Through Community College Public Education Facilities Bond Act of 2024 ('Bond Act'). Among other things, the Bond Act would allocate an unspecified amount of funds to help address lead in school drinking water. Schools built before January 1, 2010, would be able to apply:

- To the State Allocation Board for grants to test water outlets for lead; and
- For subsequent grants to replace water outlets if test results show lead levels above 15 parts per billion.

NOTE: This bill has been made a 2-year bill by the Senate Appropriations Committee.

AB 249 (Holden) Water: school sites: lead testing.

This bill would require community water systems that serve school sites with buildings constructed before January 1, 2010, to test for lead at each of those school sites' potable water system outlets, on or before January 1, 2027. Local educational agencies and schools must take certain action if lead levels exceed 5 parts per billion, such as notifying parents and guardians, shutting down affected faucets and outlets, and ensuring the availability of a potable source of drinking water. The State Water Board would be required to collect and publicly post the data this program generates.

NOTE: VETOED BY THE GOVERNOR. You can find a veto message [here](#).

AB 541 (Wood) California Safe Drinking Water Act: wildfire aftermath: benzene testing.

This bill would direct the State Water Board to require a public water system that has experienced a wildfire event of 300 acres or more to perform sample collection and analysis of its source waters, treatment facilities, conveyance facilities, distribution systems, or a combination thereof, for the presence of benzene, as soon as it is safe to do so. This bill would also clarify the State Water Board's authority to direct a public water system's post-wildfire response if benzene contamination is detected.

NOTE: SIGNED BY THE GOVERNOR, chaptered by the Secretary of State as Chapter 530, Statutes of 2023.

AB 664 (Lee) California Safe Drinking Water Act: domestic wells.

This bill would require that property owners who do not consent to participate in a consolidation or extension of service ordered or encouraged by the State Water Board, must ensure that tenants of rental properties served solely by domestic wells have access to safe drinking water until consent for consolidation is provided. Rental property owners who do not consent to consolidation would be required to test their domestic well water, provide test results to tenants, and provide or pay for uninterrupted replacement water service if contaminants are identified. Property owners would be prohibited from imposing charges or increasing fees or rent solely as a result of the requirements to test and provide results to tenants.

NOTE: SIGNED BY THE GOVERNOR, chaptered by the Secretary of State as Chapter 810, Statutes of 2023.

AB 805 (Arambula) Drinking water consolidation: sewer service.

This bill would authorize the State Water Board, if sufficient funds are available, to order consolidation of sewer service along with a consolidation order for drinking water systems when both the receiving and subsumed water systems provide sewer service. Before ordering a sewer service consolidation, the State Water Board would need to:

- Consult with the relevant regional water quality control board.
- Consult with the receiving water system.

- Conduct outreach to ratepayers and residents, including community groups.

Finally, this bill would authorize the State Water Board to require an appointed administrator, in addition to providing technical, managerial, and financial (TMF) assistance to a designated water system's drinking water service, to also provide TMF assistance to any sewer service provided by that designated water system.

NOTE: This bill has been made a 2-year bill at the request of the author.

BONDS/FUNDING/FINANCIAL ASSISTANCE

SB 336 (Umberg) State grant programs: negotiated indirect cost rates.

This bill would require state agencies or other state entities administering a grant program to reimburse a grantee's indirect costs at specified rates as requested by the grantee if the grantee disclosed the requested rate amount in their grant program application. The bill would also authorize grant applicants to request such reimbursement when they apply for the grant. These provisions would apply to any such grant program, regardless of whether the grant source is state or federal funds.

NOTE: This bill has been made a 2-year bill at the request of the author.

AB 590 (Hart) State-funded assistance grants and contracts: advance payments.

The bill would authorize an administering state agency to provide advance payment to an eligible recipient entity, with a priority for recipient entities and projects serving disadvantaged, low-income, and under-resourced communities.

NOTE: SIGNED BY THE GOVERNOR, chaptered by the Secretary of State as Chapter 535, Statutes of 2023.

AB 619 (Vince Fong) State government: emergency services: nonprofit service providers.

This bill would authorize a nonprofit entity that provides services pursuant to a contract with a state agency to request that the state agency allow the nonprofit to modify how it provides those services during a state emergency. Additionally, if a state of emergency is not declared but a disruption still occurs, this bill would allow a nonprofit entity to request flexibility in how it carries out its contract.

NOTE: This bill did not move out of the Senate appropriations committee and will not be proceeding.

AB 682 (Mathis) State Water Resources Control Board: online search tool: funding applications.

This bill would require the State Water Board to update its online search tool for funding applications to include the following information related to funding application status:

- A description of the additional information the board requires from a water system to continue processing the water system's application.
- The date the board requested the water system to provide additional information.
- The cause of any prolonged delays in the application process.
- A description of the typical steps that must be completed before a funding agreement can be executed after receipt of a complete application.

NOTE: SIGNED BY THE GOVERNOR, chaptered by the Secretary of State as Chapter 340, Statutes of 2023.

AB 838 (Connolly) California Water Affordability and Infrastructure Transparency Act of 2023

Beginning January 1, 2025, this bill would require public water systems to report information about customer billing and planned infrastructure improvements to the State Water Board. Such report would include:

- Information related to the average water bill paid by customers, such as the median dollar and total dollar amounts billed to customers the previous calendar year.
- Information and data related to completed and planned efforts to replace aging infrastructure, including the total cost of infrastructure improvements in the prior calendar year, and the percentage of water mains replaced in the prior calendar year.

NOTE: This bill did not move out of Assembly appropriations committee and will not be proceeding.

AB 885 (Luz Rivas) Public contracts: nonprofit organizations.

This bill would establish the California Nonprofit Fairness in Contracting Act. Among other things, this Act would require the following:

- Require state and local agencies who contract with nonprofit organizations to establish a preference for contracts that last longer than one year.
- Contracts that last longer than one year would be required to include automatic cost of business increases.
- State or local agencies must promptly renew a contract with a nonprofit organization that is meeting the performance objectives identified in the contract.

The bill would also include employee compensation requirements for contractors.

NOTE: This bill did not meet legislative policy committee deadlines in 2023 and will not be proceeding.

AB 1211 (Mathis) Safe Drinking Water State Revolving Fund: internet website information: updates.

This bill would require the State Water Board to post updates regarding implementation of the Safe Drinking Water State Revolving Fund Law and expenditures from the Safe Drinking Water State Revolving Fund at least annually, rather than once every two years.

NOTE: This bill did not meet legislative policy committee deadlines in 2023 and will not be proceeding.

AB 1567 (Garcia) Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2023.

This bill would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2023, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$15,105,000,000 to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

NOTE: This bill did not meet legislative policy committee deadlines in 2023 and will not be proceeding.

WATER QUALITY

[AB 753 \(Papan\)](#) State Water Pollution Cleanup and Abatement Account: annual proceed transfers.

This bill would create the “Waterway Recovery Account” within the Waste Discharge Permit Fund. The bill would require the State Water Board to allocate the Waterway Recovery Account moneys to each regional board on a proportional basis, based on moneys generated in each region, and would require the regional boards to allocate those moneys to third parties for restoration projects, including supplemental environmental projects, to improve water quality. Priority shall be given to third parties that will undertake projects with multiple benefits that provide greenspace within disadvantaged communities, as provided.

NOTE: VETOED BY THE GOVERNOR. You can find the veto message [here](#).

[AB 1115 \(Papan\)](#) Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989: brownfields remediation and redevelopment.

Existing law establishes the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 (the Act), which requires owners of underground storage tanks to pay fees into the Underground Storage Tank Cleanup Fund. The Act authorizes the State Water Board to use those funds to pay for cleanup and remediation activities related to unauthorized releases from underground storage tanks. Existing law sunsets key provisions of the Act on January 1, 2026.

This bill would extend the sunset date on the Underground Storage Tank Cleanup Fund, and its associated subaccounts and programs, through January 1, 2036.

NOTE: SIGNED BY THE GOVERNOR, chaptered by the Secretary of State as Chapter 561, Statutes of 2023.

WATER RIGHTS

[SB 389 \(Allen\)](#) State Water Resources Control Board: investigation of water right.

This bill would authorize the State Water Board to investigate and ascertain whether the basis of a water right claim is valid. The State Water Board may issue an information order in furtherance of an investigation, as executed by the executive director of the board, to a water right holder or claimant, diverter, or user to provide the information related to a diversion and use of water, as specified. The bill would authorize that a diversion or use of water ascertained to be unauthorized be enforced as a trespass, as specified.

NOTE: SIGNED BY THE GOVERNOR, chaptered by the Secretary of State as Chapter 486, Statutes of 2023.

[AB 460 \(Bauer-Kahan\)](#) State Water Resources Control Board: water rights and usage: interim relief: procedures.

This bill would authorize the State Water Board to issue an interim relief order to implement or enforce certain water-related state policies, including the reasonable and beneficial use of

water, the public trust doctrine, water quality objectives or principals and guidelines, sufficient water flows through dams, and other specified provisions.

This bill would also authorize the State Water Board to obtain inspection warrants, adjust State Water Board civil liabilities due to inflation, require plaintiffs to exhaust their administrative remedies before suing the State Water Board in court, and increase other water rights-related civil penalties.

NOTE: This bill has been made a 2-year bill at the request of the author.

AB 676 (Bennett) Water: general state policy.

State law currently provides that the use of water for domestic purposes is the highest use of water in the state. This bill would provide additional specifics as to what types of uses would qualify as domestic, such as:

- Human consumption, cooking, or sanitary purposes.
- The care of household livestock and animals.
- The care of household gardens.
- Deliveries of water by community water systems, other public, municipal, and industrial water agencies, and water corporations regulated by the Public Utilities Commission.
- Fire suppression and other safety purposes.
- A purpose determined to be a domestic purpose as established by the common law.

NOTE: VETOED BY THE GOVERNOR. You can find the veto message [here](#).

AB 1337 (Wicks) State Water Resources Control Board: water diversion curtailment.

This bill would authorize the State Water Board to issue:

- A curtailment order for any diversion, regardless of basis of right, when water is not available under the diverter's priority of right.
- Regulations to implement curtailments under this measure.
- A cease-and-desist order when a water right holder fails to curtail diversions when water is unavailable under the water right holder's priority of right.

NOTE: This bill has been made a 2-year bill at the request of the author.