

City of Sacramento
State Legislature

5

BILL REFERRAL

DATE: 6/1/93 COMMITTEE ACTION: _____

TO: _____ DATE: _____

FROM: KENNETH EMANUELS, LEGISLATIVE ADVOCATE

REPLY NO LATER THAN: _____

A.B. 898 As Amended _____ * Author: Costa

S.B. _____, As Amended _____ * Author: _____

*Date of introduction or latest amendment.

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact Ken Emanuels at 444-6789, FAX 444-0303 (1400 K Street, Suite 306, Sacramento, CA 95814). This questionnaire should be returned to the City Attorney's office for presentation to the Council Committee on Law and Legislation. PLEASE LEAVE THE BILL ATTACHED TO THIS FORM.

NO RECOMMENDATION. If you think no Committee action on this bill should be taken, either because the bill is not of sufficient importance to the City or for any other reason, please mark here, do not fill out the rest of the form, and return this form to the City Attorney's Office. _____

PLEASE TYPE YOUR RESPONSE

1. Briefly describe the provisions of the bill (attach additional sheets if necessary).

This bill exempts a local public entity which, like the City, owns and operates a sewer system, from cleanup liability under State law for soil and groundwater pollution caused by another party's introduction of pollutants into the sewer. In order to take advantage of this exemption, the City must be in compliance with its national pollutant discharge elimination system (NPDES) permit for the sewer system, and must not be itself connected with the discharge.

2. This measure should be: (Please circle desired position.)

Supported

Opposed

Supported if amended

Placed on Watch List

Other (explain)

3. Please explain your reasons for the above determination, including how this measure affects your Department and the fiscal impact of this measure on the City. Please make your comments in a format that can be used in a letter to State officials. (Continue on next page or attach additional sheets if necessary.)

Recently the City of Turlock was charged by the Regional Water Quality Control Board with cleanup liability for contaminants dumped into its sewer lines by dry cleaning establishments. The chemicals leaked through the pipes into the soil and groundwater. The Regional Board staff asserted that the city was, under these facts, a "discharger."

The City of Sacramento could face similar charges, and should support the exemption provided by this bill.

4. Specify the City's legislative policy guideline(s) applicable to this measure (if any).

N/A

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose?

N/A

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known. League of California Cities position:

Support: League of California Cities

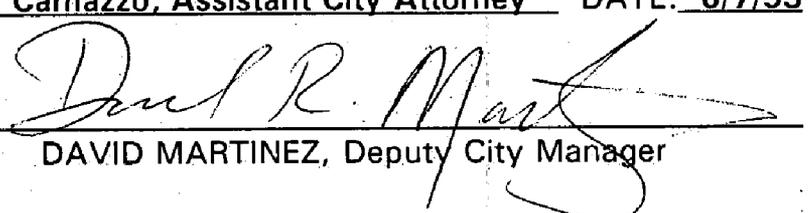
7. Does this bill involve a State-mandated local program? If so, does the bill contain a State-mandated waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

No mandated program.

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento? 8

FORM COMPLETED BY: William P. Carnazzo, Assistant City Attorney DATE: 6/7/93

RECOMMENDATION APPROVED:


DAVID MARTINEZ, Deputy City Manager

AMENDED IN ASSEMBLY APRIL 28, 1993

AMENDED IN ASSEMBLY APRIL 12, 1993

CALIFORNIA LEGISLATURE—1993-94 REGULAR SESSION

ASSEMBLY BILL

No. 898

Introduced by Assembly Member Costa

March 1, 1993

An act to add Section 13304.5 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 898, as amended, Costa. Water quality.

The Porter-Cologne Water Quality Control Act authorizes the issuance of various enforcement orders for prescribed violations of that act.

This bill would prohibit, under certain circumstances, the issuance of those orders to a local public entity that owns or operates, pursuant to a national pollutant discharge elimination system (NPDES) permit, any waste treatment works or collection system. *The bill would provide that a California regional water quality control board may issue a prescribed cease and desist order or cleanup and abatement order to a discharger who is discharging, or has discharged, waste into a waste treatment works or collection system.*

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

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

1 SECTION 1. Section 13304.5 is added to the Water
2 Code, to read:

3 13304.5. (a) Notwithstanding any other provision of
4 law, a local public entity that owns or operates, pursuant
5 to a national pollutant discharge elimination system
6 (NPDES) permit, any waste treatment works or
7 collection system shall not be the subject of an
8 enforcement order issued pursuant to this division, if
9 both of the following conditions are met:

10 (1) The works or system into or from which the waste
11 was released or otherwise escaped was, at the time of the
12 release, operating in compliance with the NPDES
13 permit.

14 (2) The waste was discharged into the works or system
15 by a third party or parties acting independently of the
16 owner or operator of the works or system.

17 (b) For purposes of this section, "operating in
18 compliance" means that neither the regional board nor
19 the state board has issued an enforcement order which
20 has become final without appeal, or, if appealed, has been
21 upheld by a court, to the local public entity within the
22 previous 12 months, that involves a pollutant or
23 pollutants that are also the subject of the contemplated
24 enforcement action.

25 (c) *Notwithstanding any other provision of law, a*
26 *regional board may issue a cease and desist order*
27 *pursuant to Section 13301 or a cleanup and abatement*
28 *order pursuant to Section 13304 to a discharger who is*
29 *discharging, or has discharged, waste into a waste*
30 *treatment works or collection system, in order to do*
31 *either of the following:*

32 (1) *Prevent the discharge of a waste to the works or*
33 *system that may be released or otherwise escape from the*
34 *works or system.*

35 (2) *Require the cleanup of released or escaped waste,*
36 *the abatement of the effects thereof, or the taking of*
37 *other necessary remedial action.*