



1.2

DEPARTMENT  
OF UTILITIES

ENGINEERING  
SERVICES DIVISION

CITY OF SACRAMENTO  
CALIFORNIA

1395 35<sup>th</sup> AVENUE  
SACRAMENTO, CA  
95822-2911

PH 916-264-1400  
FAX 916-264-1497/1498

July 17, 2001

Law and Legislation Committee  
Sacramento, California

Honorable Members in Session:

**SUBJECT: OPPOSITION TO SENATE BILL 463 - DRINKING WATER STANDARDS: ARSENIC**

**LOCATION AND COUNCIL DISTRICT:** Citywide

**RECOMMENDATION:**

The staff recommends that the Law and Legislation Committee oppose the bill.

**CONTACT PERSON:** Gary Reents, Engineering Services Division Manager, 264-1433  
Elissa Callman, Associate Civil Engineer, 264-1424

**FOR COMMITTEE MEETING OF:** July 24, 2001

**SUMMARY:**

This report provides information on the policy and implications to the City of Sacramento of a bill now active before the California State Legislature, Senate Bill 463 (SB 463)(Attachment A). If passed and approved by the Governor, this bill would require the California Department of Health Services (DHS) to establish a primary drinking water standard for arsenic by January 1, 2003. The bill would also require that, by March 1, 2002, the Office of Environmental Health Hazard Assessment (OEHHA) develop a public health goal (PHG) and health effects language for arsenic in drinking water and that this language be printed in the annual Consumer Confidence Report (CCR) by any agency with detectable levels of arsenic in its finished water. These measures may result in premature development of a state arsenic standard and therefore may incur unnecessary expense and public concern.

**COMMITTEE/COMMISSION ACTION:**

None.



CITY OF SACRAMENTO  
DEPARTMENT  
OF UTILITIES

*Making a Difference in Your Neighborhood*

## **BACKGROUND:**

On June 28, 2001, staff was informed of a bill sponsored by Senator Don Perata that would require DHS to establish a primary drinking water standard for arsenic by January 1, 2003. The bill would also require that, by March 1, 2002, OEHHA develop a PHG and health effects language for arsenic in drinking water and that this language be printed in the annual CCR by any agency with detectable levels of arsenic in its finished water. The U.S. Environmental Protection Agency (EPA) is currently developing a federal arsenic standard that will be proposed in early 2002. DHS is then required to develop an appropriate standard for California. This bill would require premature development of a state arsenic standard by not allowing the time necessary for DHS to best utilize the results of EPA's evaluation.

The bill was heard and passed by the Assembly Environmental Safety & Toxic Materials Committee on July 10, 2001. The City of Sacramento Department of Utilities provided comments to Assembly Members Darrell Steinberg and Dave Cox (Attachment B), as well as the members of the Assembly Environmental Safety & Toxic Materials Committee (Attachment C) to encourage their opposition to this bill. The bill will next be heard by the Committee on Appropriations by late August and then be referred to the Assembly Floor.

## **DISCUSSION:**

SB 463 is unnecessary and requires DHS to develop a state drinking water standard for arsenic in advance of the normal process. The measures included in this bill may result in premature development of a state arsenic standard and therefore may incur unnecessary expense and public concern.

The bill overlooks the years of critical research and analysis nearly completed by EPA. EPA is in the process of promulgating a new arsenic regulation and is expected to finalize its review and re-propose a national standard in early 2002. This new standard is required by the 1996 amendments to the Safe Drinking Water Act and has been carefully studied and developed for no less than 10 years. California must then adopt a primary drinking water standard as or more stringent than the federal standard. The scientific information that comes out of the federal review on health effects, treatment costs and benefits is extremely important to California in their process of setting a standard.

OEHHA is already required, pursuant to the California Safe Drinking Water Act, to develop PHGs, including health effects language, for all existing drinking water standards. Since there is an existing standard for arsenic, OEHHA has already begun work on a PHG for arsenic that is scheduled for completion in October 2002.

The deadlines in the bill for setting a California standard do not allow adequate time for OEHHA to properly develop the requisite PHG or for DHS to evaluate the costs and benefits in order to set an appropriate standard, the maximum contaminant level (MCL). This bill may also cause unnecessary public concern about drinking water quality, because it requires that language on health effects be included in annual CCRs by any agency with detectable levels of arsenic in its finished water; this would be required even if the water quality surpasses state and federal standards. Consequently, the City's CCR would need to include the health effects language for several wells that have arsenic levels lower than the current state MCL.

#### **FINANCIAL CONSIDERATIONS:**

The regulation of arsenic in drinking water will be the most expensive drinking water regulation ever promulgated. SB 463 could add even more costs to consumers if the state standard is not in harmony with the final federal rule. According to studies commissioned by the Association of California Water Agencies (ACWA), lowering the arsenic standard from the current 50 parts per billion (ppb) to 10 ppb will cost California \$750 million. But lowering the standard from 10 ppb to 5 ppb will cost an additional \$1.5 billion. Here in the City of Sacramento, a standard of 5 ppb would cost approximately \$2.4 million initial construction cost with additional O & M cost of \$100,000 per year for treatment of one groundwater well (per estimates in a 2000 American Water Works Association Research Foundation Study). This cost is approximately 7% of the City's water utility revenues. If a lower standard is set, expenses to the City would be higher.

#### **ENVIRONMENTAL CONSIDERATIONS:**

The actions recommended in this report are exempt from the California Environmental Quality Act according to CEQA guidelines Section 15378, in that these actions do not have the "potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment".

#### **POLICY CONSIDERATIONS:**

This bill bypasses the extensive federal effort to develop an appropriate national drinking water standard for arsenic standard and forces generation of an expedited state standard, which may result in unnecessary water treatment costs for the City. The City will address all new regulations to ensure that our drinking water meets or exceeds all state and federal water standards and our residents enjoy a reliable supply of quality drinking water.

Law and Legislation Committee

July 17, 2001

Opposition to Senate Bill 463 - Drinking Water Standards: Arsenic

**ESBD CONSIDERATIONS:**

None. No goods or services are being purchased.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "GAReents".

Gary A. Reents

Engineering Services Division Manager

RECOMMENDATION APPROVED:

Approved:

A handwritten signature in black ink, appearing to read "Betty Masuoka".

Betty Masuoka

Assistant City Manager

A handwritten signature in black ink, appearing to read "Jim Sequeira".

Jim Sequeira

Director of Utilities

AMENDED IN ASSEMBLY JULY 17, 2001

AMENDED IN SENATE MAY 10, 2001

AMENDED IN SENATE APRIL 26, 2001

**SENATE BILL**

**No. 463**

**Introduced by Senator Perata**

February 22, 2001

---

An act to add Section 116361 to the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 463, as amended, Perata. Drinking water standards: arsenic.

Existing law, commonly referred to as the California Safe Drinking Water Act, is administered by the State Department of Health Services and, among other things, requires the department to establish recommended public health levels for contaminants in drinking water.

This bill would require the department to ~~conduct a feasibility analysis and, on or before January 1, 2003, to adopt a primary drinking water standard for arsenic. It would further require the department to consider emerging technologies in the feasibility analysis~~ *place a priority on the development of a public health goal for arsenic in drinking water, sufficient to allow it to adopt the goal no later than March 31, 2002.*

The bill would require the Office of Environmental Health Hazard Assessment, on or before March 1, 2002, to develop language regarding the health effects associated with the ingestion of arsenic in drinking water for inclusion in consumer confidence reports, and would require this language, on and after July 1, 2002, to be included in the consumer

confidence reports mailed or delivered to customers by specified water systems.

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. *The Legislature finds and declares all of the*  
2 *following:*

3 (a) *The current federal maximum contaminant level (MCL) for*  
4 *arsenic in drinking water, 50 parts per billion (ppb), was*  
5 *established by the United States Public Health Service in 1942,*  
6 *before arsenic was known to cause cancer. California also has*  
7 *adopted a 50 ppb MCL for arsenic in drinking water.*

8 (b) *In 1999, after eight years of study, a National Academy of*  
9 *Sciences panel unanimously concluded that the current arsenic*  
10 *drinking water standard does not protect public health and should*  
11 *be lowered as "promptly as possible." The panel also found*  
12 *sufficient evidence from epidemiological studies that chronic*  
13 *ingestion of arsenic causes lung, bladder, and skin cancer.*  
14 *According to the academy, the lifetime risk of dying of cancer from*  
15 *arsenic in tap water at the current allowable level of 50 ppb is one*  
16 *in 100, up to 10,000 times higher than the generally accepted*  
17 *excess cancer rate.*

18 (c) *A recent study conducted for the Association of California*  
19 *Water Agencies found the average concentration of arsenic in*  
20 *California groundwater to be 9.8 ppb, resulting in an excess*  
21 *cancer risk of one in 500, far exceeding acceptable public health*  
22 *levels.*

23 (d) *The United States Environmental Protection Agency*  
24 *(USEPA) has determined that cost-effective treatment strategies*  
25 *are available to remove at least 80 percent of arsenic from drinking*  
26 *water, and that for water systems that serve more than 10,000*  
27 *people, the annual household cost of treatment will be from*  
28 *eighty-six cents (\$0.86) to thirty-two dollars (\$32).*

29 (e) *Notwithstanding the serious and unacceptable health threat*  
30 *posed by the current MCL for arsenic in drinking water and the*  
31 *availability of cost-effective treatment technologies, the USEPA*  
32 *suspended adoption of its proposed 10 ppb standard for arsenic in*

1 drinking water, and violated the June 22, 2001, statutory deadline  
2 for adoption of a new standard.

3 (f) To reestablish a reasonable assurance that Californians will  
4 be protected from excessive risk of cancer resulting from ingestion  
5 of arsenic in drinking water, it is necessary for the state to adopt  
6 an MCL for arsenic that protects public health and to ensure that  
7 water consumers are notified when levels of arsenic in drinking  
8 water exceed the public health goal established by the state.

9 SEC. 2. Section 116361 is added to the Health and Safety  
10 Code, to read:

11 ~~116361. (a) The department shall conduct a feasibility~~  
12 ~~analysis and, on or before January 1, 2003, shall adopt a primary~~  
13 ~~drinking water standard for arsenic. The department shall consider~~  
14 ~~emerging technologies in the feasibility analysis.~~

15 ~~(b) On or before March 1, 2002, the Office of Environmental~~  
16 ~~116361. (a) The Office of Environmental Health Hazard~~  
17 ~~Assessment shall place a priority on the development of a public~~  
18 ~~health goal for arsenic in drinking water, pursuant to subdivision~~  
19 ~~(c) of Section 116365, sufficient to allow it to adopt the goal no~~  
20 ~~later than March 31, 2002.~~

21 (b) Commencing January 1, 2002, the department shall  
22 commence the process for revising the existing primary drinking  
23 water standard for arsenic, and shall adopt a revised standard for  
24 arsenic not later than January 1, 2003. In considering the  
25 technological and economic feasibility of compliance with the  
26 proposed standard pursuant to paragraph (3) of subdivision (b) of  
27 Section 116365, the department shall consider emerging  
28 technologies that may cost-effectively reduce exposure to arsenic  
29 in drinking water.

30 (c) On or before March 31, 2002, the Office of Environmental  
31 Health Hazard Assessment shall develop language regarding the  
32 health effects associated with the ingestion of arsenic in drinking  
33 water for inclusion in consumer confidence reports pursuant to  
34 Section 116470. On and after July 1, 2002, this language shall be  
35 included in the consumer confidence reports mailed or delivered  
36 to customers by each water system that measures arsenic in ~~source~~  
37 ~~water at levels equal to or greater than three parts per billion.~~  
38 ~~delivered water at levels equal to or exceeding the level of~~  
39 ~~detection, or the applicable public health goal, whichever is less~~  
40 ~~stringent.~~

- 1     *(d) The language developed for the description of health effects*
- 2     *associated with the ingestion of arsenic, as specified in subdivision*
- 3     *(c), shall be crafted so as to be usable for state and federal reports*
- 4     *required pursuant to subdivisions (a) and (b) of Section 116470.*





Attachment B

Department of Utilities  
Office of the Director

CITY OF SACRAMENTO  
CALIFORNIA

1395 35<sup>th</sup> Avenue  
Sacramento, CA 95822-2911  
phone (916) 264-1400  
fax (916) 264-1497/1498

July 3, 2001  
010353:EC

The Honorable Darrell Steinberg, District 9  
State of California Assembly Member  
State Capitol  
Sacramento, CA 95814

**RE: Senate Bill No. 463 - Oppose**

Dear Assembly Member Steinberg:

I am writing on behalf of the City of Sacramento's Department of Utilities to inform you of our opposition to SB 463 (Perata), relating to drinking water standards for arsenic. Senate Bill 463 (Perata) is set for hearing at the Assembly Environmental Safety and Toxic Materials Committee meeting on July 10, 2001.

SB 463 would require the California Department of Health Services (DHS) to establish a drinking water standard for arsenic by January 1, 2003. The bill would also require that, by March 1, 2002, the Office of Environmental Health Hazard Assessment (OEHHA) develop health effects language for arsenic in drinking water and that this language be printed in the annual Consumer Confidence Report (CCR) by any agency whose arsenic levels in source water exceed 3 parts per billion (ppb).

As you may be aware, the U.S. Environmental Protection Agency (EPA) is in the process of promulgating a new arsenic regulation at the time of this writing. This new standard is required by the 1996 amendments to the Safe Drinking Water Act and has been carefully studied and developed for no less than 10 years. A new regulation was proposed by the Clinton administration in January 2001 and the new EPA administration is currently reviewing this proposal. A final decision on this regulation will be made by February 2002.

The City of Sacramento's Department of Utilities opposes SB 463 for the following reasons:

1. As part of its primacy requirements, California will already be establishing a new arsenic standard based on the federal regulation, making this bill unnecessary.



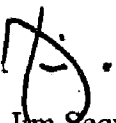
CITY OF SACRAMENTO  
DEPARTMENT  
OF UTILITIES

2. The timelines set forth in SB 463 are unrealistically short and do not coincide with the federal schedule for adopting a new arsenic standard. Since the new standard for arsenic will be the most expensive drinking water regulation to date, California cannot afford to bypass the intensive federal effort and set its own standard prematurely.
3. OEHHA is already required, pursuant to the California Safe Drinking Water Act, to develop Public Health Goals (PHGs), including health effects language, for all existing drinking water standards. Since there is an existing standard for arsenic, OEHHA has already begun work on a PHG for arsenic that is scheduled for completion in October 2002, again making this bill unnecessary.

According to studies commissioned by the Association of California Water Agencies (ACWA), lowering the arsenic standard from the current 50 ppb to 10 ppb will cost California \$750 million. But lowering the standard from 10 ppb to 5 ppb will cost an additional \$1.5 billion. Here in Sacramento this legislation would cost approximately \$2.4 million initial construction cost with additional O & M cost of \$100,000 per year. The margin for error at these low levels is very narrow and any misstep would have a disproportionate impact on small communities.

SB 463 ignores years of critical research and analysis nearly completed by U.S. EPA and could add even more costs to consumers if the state standard is not in harmony with the final federal rule. Please do not hesitate to contact me at (916) 264-1407 if you have any questions. Thank you for your time and consideration.

Sincerely,



Jim Sequeira  
Director

Cc: Heather Fargo, Mayor  
Ray Tretheway, Councilmember District One  
Sandy Sheedy, Councilmember District Two  
Steve Cohn, Councilmember District Three  
Jimmie Yee, Councilmember District Four  
Lauren Hammond, Councilmember District Five  
Dave Jones, Councilmember District Six  
Robbie Waters, Councilmember District Seven  
Bonnie Pannell, Councilmember District Eight  
Robert Thomas, City Manager



Attachment C

Department of Utilities  
Office of the Director

CITY OF SACRAMENTO  
CALIFORNIA

1395 35<sup>th</sup> Avenue  
Sacramento, CA 95822-2911  
phone (916) 264-1400  
fax (916) 264-1497/1498

July 3, 2001  
010353:EC

The Honorable Hannah-Beth Jackson, (D-Santa Barbara)  
Chair, Assembly Environmental Safety  
and Toxic Materials Committee  
State Capitol  
Sacramento, CA 95814

**RE: Senate Bill No. 463 - Oppose**

Dear Assembly Member Jackson:

I am writing on behalf of the City of Sacramento's Department of Utilities to inform you of our opposition to SB 463 (Perata), relating to drinking water standards for arsenic.

SB 463 would require the California Department of Health Services (DHS) to establish a drinking water standard for arsenic by January 1, 2003. The bill would also require that, by March 1, 2002, the Office of Environmental Health Hazard Assessment (OEHHA) develop health effects language for arsenic in drinking water and that this language be printed in the annual Consumer Confidence Report (CCR) by any agency whose arsenic levels in source water exceed 3 parts per billion (ppb).

As you may be aware, the U.S. Environmental Protection Agency (EPA) is in the process of promulgating a new arsenic regulation at the time of this writing. This new standard is required by the 1996 amendments to the Safe Drinking Water Act and has been carefully studied and developed for no less than 10 years. A new regulation was proposed by the Clinton administration in January 2001 and the new EPA administration is currently reviewing this proposal. A final decision on this regulation will be made by February 2002.

The City of Sacramento's Department of Utilities opposes SB 463 for the following reasons:

1. As part of its primacy requirements, California will already be establishing a new arsenic standard based on the federal regulation, making this bill unnecessary.
2. The timelines set forth in SB 463 are unrealistically short and do not coincide with the federal schedule for adopting a new arsenic standard. Since the new



CITY OF SACRAMENTO  
DEPARTMENT  
OF UTILITIES

11

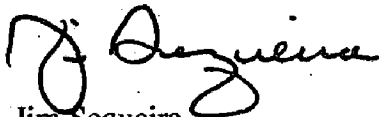
standard for arsenic will be the most expensive drinking water regulation to date, California cannot afford to bypass the intensive federal effort and set its own standard prematurely.

3. OEHHA is already required, pursuant to the California Safe Drinking Water Act, to develop Public Health Goals (PHGs), including health effects language, for all existing drinking water standards. Since there is an existing standard for arsenic, OEHHA has already begun work on a PHG for arsenic that is scheduled for completion in October 2002, again making this bill unnecessary.

According to studies commissioned by the Association of California Water Agencies (ACWA), lowering the arsenic standard from the current 50 ppb to 10 ppb will cost California \$750 million. But lowering the standard from 10 ppb to 5 ppb will cost an additional \$1.5 billion. Here in Sacramento this legislation would cost approximately \$2.4 million initial construction cost with additional O & M cost of \$100,000 per year. The margin for error at these low levels is very narrow and any misstep would have a disproportionate impact on small communities.

SB 463 ignores years of critical research and analysis nearly completed by U.S. EPA and could add even more costs to consumers if the state standard is not in harmony with the final federal rule. The City of Sacramento's Department of Utilities respectfully urges you to vote "NO" on SB 463. Thank you for your time and consideration.

Sincerely,



Jim Sequeira  
Director

Cc: Heather Fargo, Mayor  
Ray Tretheway, Councilmember District One  
Sandy Sheedy, Councilmember District Two  
Steve Cohn, Councilmember District Three  
Jimmie Yee, Councilmember District Four  
Lauren Hammond, Councilmember District Five  
Dave Jones, Councilmember District Six  
Robbie Waters, Councilmember District Seven  
Bonnie Pannell, Councilmember District Eight  
Robert Thomas, City Manager