

AMENDED IN SENATE AUGUST 17, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY MARCH 25, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1834

Introduced by Assembly Member Solorio
(Coauthor: Assembly Member Huffman)
(Coauthor: Senator Pavley)

February 12, 2010

An act to amend Section 7027.5 of the Business and Professions Code, and to add Part 2.4 (commencing with Section 10570) to Division 6 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1834, as amended, Solorio. Rainwater Capture Act of 2010.

(1) Under existing law, the State Water Resources Control Board (state board) and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the national pollutant discharge elimination system (NPDES) permit program and the Porter-Cologne Water Quality Control Act. Existing law authorizes a regional water management group, as defined, to adopt an integrated regional water management plan that addresses specified matters. Existing law authorizes a city, county, or special district to develop, jointly or individually, stormwater resource plans that meet certain standards.

~~This bill would enact the Rainwater Capture Act of 2010, which would authorize a landowner to install, maintain, and operate, on the landowner's property, a rainwater capture system meeting specified requirements. The bill would require the state board to initiate a stakeholder process to develop recommendations for policies for state and local agencies to encourage and facilitate the voluntary installation and use of rainwater capture systems, as defined, for specified nonpotable uses, and capture of stormwater by public agencies. The bill would require the state board to publish those recommendations on its Internet Web site by December 31, 2011. The bill would require the state board, if the stakeholder process results in recommendations for building standards, to submit those recommendations to the California Building Standards Commission and the Department of Housing and Community Development by December 31, 2011, and would require the commission and the department to consider the recommendations for building standards for adoption in a specified update of the California Building Standards Code by July 1, 2013. The bill would authorize a public agency to lead a statewide stakeholder process to consider and address issues arising out of expansion of rainwater and stormwater capture. The bill would require participants in the stakeholder process to be responsible for costs incurred as a result of their participation and would require the initiating public agency to be responsible for specified costs.~~

The bill would authorize the state board to adopt policies or guidelines related to voluntary rainwater and stormwater capture if the state board makes a specified finding.

(2) Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensing and regulation of contractors. Existing law authorizes a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a swimming pool, spa, or hot tub, an outdoor cooking center, or an outdoor fireplace, if certain conditions are met. Under existing law, a violation of these provisions and related provisions of existing law is grounds for disciplinary action.

This bill would additionally authorize a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a rainwater capture system, as defined, if the system is ~~part of a~~ *used for* landscape irrigation system ~~that the contractor is supervising~~. The bill would authorize a landscape contractor

holding a specified classification to design and install all exterior components of a rainwater capture system that are not a part of, or attached to, a structure.

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 7027.5 of the Business and Professions
2 Code is amended to read:

3 7027.5. (a) A landscape contractor working within the
4 classification for which the license is issued may design systems
5 or facilities for work to be performed and supervised by that
6 contractor.

7 (b) Notwithstanding any other provision of this chapter, a
8 landscape contractor working within the classification for which
9 the license is issued may enter into a prime contract for the
10 construction of any of the following:

11 (1) A swimming pool, spa, or hot tub, provided that the
12 improvements are included within the landscape project that the
13 landscape contractor is supervising and the construction of any
14 swimming pool, spa, or hot tub is subcontracted to a single licensed
15 contractor holding a Swimming Pool (C-53) classification, as set
16 forth in Section 832.53 of Title 16 of the California Code of
17 Regulations, or performed by the landscape contractor if the
18 landscape contractor also holds a Swimming Pool (C-53)
19 classification. The contractor constructing the swimming pool,
20 spa, or hot tub may subcontract with other appropriately licensed
21 contractors for the completion of individual components of the
22 construction.

23 (2) An outdoor cooking center, provided that the improvements
24 are included within a residential landscape project that the
25 contractor is supervising. For purposes of this subdivision, “outdoor
26 cooking center” means an unenclosed area within a landscape that
27 is used for the cooking or preparation of food or beverages.

28 (3) An outdoor fireplace, provided that it is included within a
29 residential landscape project that the contractor is supervising and
30 is not attached to a dwelling.

31 (4) A rainwater capture system, as defined in Section 10572 of
32 the Water Code, ~~provided that the system is included within a~~

1 ~~landscape irrigation system that the contractor is supervising; used~~
2 ~~for landscape irrigation.~~

3 (c) (1) Work performed in connection with a landscape project
4 specified in paragraph (2), (3), or (4) of subdivision (b) that is
5 outside of the field and scope of activities authorized to be
6 performed under the Landscape Contractor ~~classification (C-27)~~
7 ~~(C-27) classification~~, as set forth in Section 832.27 of Title 16 of
8 the California Code of Regulations, may only be performed by a
9 landscape contractor if the landscape contractor also either holds
10 an appropriate specialty license classification to perform the work
11 or is licensed as a general building contractor. If the landscape
12 contractor neither holds an appropriate specialty license
13 classification to perform the work nor is licensed as a ~~general~~
14 ~~building~~ *General Building* contractor, the work shall be performed
15 by a ~~specialty~~ *Specialty* contractor holding the appropriate license
16 classification or by a ~~general building~~ *General Building* contractor
17 performing work in accordance with the requirements of
18 subdivision (b) of Section 7057.

19 (2) Notwithstanding paragraph (1), a landscape contractor
20 performing work under the Landscape Contractor ~~classification~~
21 ~~(C-27)~~ *(C-27) classification*, as set forth in Section 832.27 of Title
22 16 of the California Code of Regulations, may design and install
23 all exterior components of a rainwater capture system, as defined
24 in Section 10572 of the Water Code, that are not a part of, or
25 attached to, a structure.

26 (d) A violation of this section shall be cause for disciplinary
27 action.

28 SEC. 2. Part 2.4 (commencing with Section 10570) is added
29 to Division 6 of the Water Code, to read:

30
31 PART 2.4. RAINWATER CAPTURE ACT OF 2010
32

33 10570. This part shall be known, and may be cited, as the
34 Rainwater Capture Act of 2010.

35 10571. The Legislature finds and declares all of the following:

36 (a) As California has grown and developed, the amount of
37 stormwater flowing off of buildings, parking lots, roads, and other
38 impervious surfaces into surface water streams and flood channels
39 has increased, thereby reducing water allowed to infiltrate into
40 groundwater aquifers and increasing water and pollution flowing

1 to the ocean. At the same time, recurring droughts and water
2 shortages in California have made water conservation efforts a
3 priority.

4 (b) Historical patterns of precipitation are predicted to change,
5 with two major implications for water supply. First, an increasing
6 amount of California's water is predicted to fall not as snow in the
7 mountains, but as rain in other areas of the state. This will likely
8 have a profound and transforming effect on California's hydrologic
9 cycle and much of that water will no longer be captured by
10 California's reservoirs, many of which are located to capture
11 snowmelt. Second, snowmelt, and runoff resulting from snowmelt,
12 are predicted to occur progressively earlier in the year, and
13 reservoirs operated for flood control purposes must release water
14 early in the season to protect against later storms, thereby reducing
15 the amount of early season snowmelt that can be stored.

16 (c) Rainwater, captured and properly managed, can contribute
17 significantly to local water supplies by percolation into the ground
18 to recharge groundwater aquifers, thereby increasing available
19 supplies of drinking water. In addition, the use of rainwater through
20 onsite storage and use for landscape irrigation significantly reduces
21 the demand for potable water, contributing to the statutory objective
22 of a 20-percent reduction in urban per capita water use in California
23 by December 31, 2020.

24 (d) Expanding reliance on rainwater capture for water supply
25 needs will require efforts at all levels, from individual landowners
26 to state and local agencies and watershed managers.

27 10571.5. Nothing in this part shall be construed to do either of
28 the following:

29 (a) Alter or impair any existing rights.

30 (b) Change existing water rights law.

31 10572. Solely for the purposes of this part, and unless the
32 context otherwise requires, the following definitions govern the
33 construction of this part:

34 (a) "Agricultural lands" has the same meaning as defined
35 pursuant to Section 56016 of the Government Code.

36 (b) "Developed or developing lands" means lands that have one
37 or more of the characteristics described in subparagraphs (A) to
38 (C), inclusive, of paragraph (4) of subdivision (b) of Section
39 56375.3 of the Government Code.

1 (c) “Rainwater” means rain or snowmelt that has not entered
2 an offsite storm drain system or channel, a flood control channel,
3 or any other stream channel, and has not previously been put to
4 beneficial use.

5 (d) “Rainwater capture system” means a facility on developed
6 or developing lands, but not on agricultural lands, designed to
7 capture and retain rainwater flowing off of a building, parking lot,
8 road, or any other manmade, impervious surface, for either
9 subsequent outdoor, nonpotable uses or infiltration into a
10 groundwater aquifer.

11 (e) “Stormwater” means temporary surface water and snowmelt
12 runoff generated by immediately preceding storms. This definition
13 shall be interpreted consistent with the definition of “stormwater”
14 in Section 122.26 of Title 40 of the Code of Federal Regulations,
15 as that section may be amended.

16 10573. (a) A landowner may install, maintain, and operate,
17 on the landowner’s property, a rainwater capture system to supply
18 water for outdoor, nonpotable uses on the property where the
19 rainwater was captured or for groundwater recharge. If a local
20 agency has a program to promote rainwater or stormwater capture
21 and use, the landowner shall comply with applicable requirements
22 of the program, including, but not limited to, a stormwater resource
23 plan adopted pursuant to Part 2.3 (commencing with Section
24 10560).

25 (b) Financing pursuant to Chapter 29 (commencing with Section
26 5898.10) of Part 3 of Division 7 of the Streets and Highways Code
27 shall be available to landowners who install a rainwater capture
28 system, if a local agency authorizes and arranges that financing
29 consistent with the requirements of that chapter.

30 (c) This section shall not be construed to impose a duty on, or
31 impair the authority of, a local agency to establish or implement
32 a program for rainwater capture in its jurisdiction.

33 10574. (a) It is the intent of the Legislature that the use of
34 rainwater for nonpotable uses should not be constrained by drinking
35 water standards in Title 22 of the California Code of Regulations,
36 but shall fully comply with water quality requirements for
37 nonpotable water pursuant to the Porter-Cologne Water Quality
38 Control Act (Division 7 (commencing with Section 13000)).

39 (b) Notwithstanding subdivision (a), this part does not affect
40 any additional state, regional, or local requirements for the

1 protection of groundwater quality from contamination resulting
2 from stormwater drainage.

3 10575. (a) It is the intent of the Legislature to encourage
4 collaboration among state, regional, and local agencies with
5 responsibilities that include, but are not limited to, building
6 standards, flood protection, water supply, or land use to promote
7 greater capture of rainwater and stormwater for water supply
8 purposes.

9 (b) It is the intent of the Legislature that the California Building
10 Standards Code, including the California Green Building Standards
11 Code (Part 11 (commencing with Section 101) of Title 24 of the
12 California Code of Regulations), encourage and provide building
13 standards guidelines for the installation and use of rainwater
14 capture systems for outdoor, nonpotable uses and groundwater
15 recharge.

16 10576. (a) ~~The board shall initiate a stakeholder process~~
17 *Legislature finds and declares that, in order to expand rainwater*
18 *and stormwater capture broadly, many legal, policy, and technical*
19 *issues will need to be addressed and resolved, and the best way*
20 *to address these issues is to develop recommendations for policies*
21 *of state and local agencies that would encourage and facilitate the*
22 *voluntary installation and use of rainwater capture systems for*
23 *outdoor, nonpotable uses and groundwater recharge, and capture*
24 *of stormwater by public agencies.*

25 (b) ~~The board shall develop the recommendations through a~~
26 ~~stakeholder process. The board shall invite~~ *A public agency,*
27 *including, but not limited to, the Metropolitan Water District of*
28 *Southern California or the California State University Water*
29 *Resource and Policy Initiative, may lead a statewide stakeholder*
30 *process to consider and address the issues arising out of the*
31 *expansion of rainwater and stormwater capture. If a stakeholder*
32 *process is initiated, the initiating public agency shall invite all*
33 *stakeholders, and federal, state, and local agencies concerned about*
34 *rainwater and stormwater capture to participate in the process*
35 *described in subdivision (a). The board shall appoint a chairperson*
36 *to oversee the stakeholder process. The Director of Water*
37 *Resources shall appoint a cochair to cofacilitate the stakeholder*
38 *process. The board shall retain responsibility for the final*
39 *recommendations developed through the process.*

~~(c) In developing the recommendations, the board and the stakeholders shall address issues arising out of rainwater capture for nonpotable uses, including, but not limited to, all of the following: participate.~~

(c) A stakeholder process initiated pursuant to this section may consider all of the following issues:

(1) Vector control.

(2) Water supply augmentation.

(3) Water quality, including but not limited to both of the following:

(A) First rain contamination hazards.

(B) Potential changes in the concentration, quantity, or abundance of runoff pollution from increased rainwater collection.

(4) Safe installation, maintenance, and operation of rainwater capture systems.

(5) Water rights.

(6) Vegetation and habitat management in flood control facilities and rainwater or stormwater capture systems.

(7) Effects on downstream, in-stream flow volumes and native fish and wildlife.

(8) Consistency with building standards requirements, including the building drainage requirements of Chapter 11 of the California Plumbing Code (Part 5 (commencing with Section 101.0) of Title 24 of the California Code of Regulations).

(9) Potential for indoor, nonpotable use of captured rainwater for toilets and laundry.

(10) Financial and tax incentives to encourage greater capture of rainwater and stormwater.

(11) Necessary monitoring and reporting of rainwater and stormwater capture programs.

(12) Outcomes of existing programs that promote rainwater or stormwater capture.

~~(d) The board shall publish recommendations developed pursuant to this section on its Internet Web site by December 31, 2011, and shall notify the fiscal committees and the appropriate policy committees of the Legislature when these recommendations become available on the Internet Web site. These recommendations may include recommendations for additional legislation, including amendments to this part, recommendations for building standards~~

1 for the installation and use of rainwater capture systems, or other
2 state agency actions to implement the recommendations.

3 (e) ~~The stakeholder process, including the development of~~
4 ~~recommendations, pursuant to this section, is not subject to the~~
5 ~~rulemaking provisions of the Administrative Procedure Act~~
6 ~~(Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
7 ~~Division 3 of Title 2 of the Government Code).~~

8 ~~10577. (a) (1) If the stakeholder process pursuant to Section~~
9 ~~10576 results in recommendations for building standards for the~~
10 ~~installation and use of rainwater capture systems, the board, on or~~
11 ~~before December 31, 2011, shall submit those recommendations~~
12 ~~to the California Building Standards Commission and the~~
13 ~~Department of Housing and Community Development for approval~~
14 ~~and adoption in the California Green Building Standards Code~~
15 ~~(Part 11 (commencing with Section 101) of Title 24 of the~~
16 ~~California Code of Regulations) or the California Plumbing Code~~
17 ~~(Part 5 (commencing with Section 101.0) of Title 24 of the~~
18 ~~California Code of Regulations).~~

19 ~~(2) In developing recommendations for building standards for~~
20 ~~the installation and use of rainwater capture systems pursuant to~~
21 ~~the stakeholder process, the process shall include consideration,~~
22 ~~and incorporation, if appropriate, of the rainwater capture system~~
23 ~~provisions contained in the 2010 Green Plumbing and Mechanical~~
24 ~~Code Supplement published by the International Association of~~
25 ~~Plumbing and Mechanical Officials and any other proposals that~~
26 ~~the stakeholders deem appropriate.~~

27 ~~(b) On or before July 1, 2013, the California Building Standards~~
28 ~~Commission and the Department of Housing and Community~~
29 ~~Development shall consider any building standards~~
30 ~~recommendations submitted in accordance with subdivision (a)~~
31 ~~for adoption in an annual code update to the California Green~~
32 ~~Building Standards Code (Part 11 (commencing with Section 101)~~
33 ~~of Title 24 of the California Code of Regulations) or the California~~
34 ~~Plumbing Code (Part 5 (commencing with Section 101.0) of Title~~
35 ~~24 of the California Code of Regulations).~~

36 ~~10578. In addition to policies developed pursuant to Section~~
37 ~~10576, the board may adopt its own policies or guidelines related~~
38 ~~to voluntary rainwater and stormwater capture, if the board finds~~
39 ~~that those policies or guidelines would encourage and facilitate~~

1 ~~greater capture of rainwater and stormwater while protecting public~~
2 ~~and environmental health.~~
3 *(13) The financial feasibility of each of the recommendations.*
4 *(d) Participants in the stakeholder process shall be responsible*
5 *for costs incurred as a result of their participation. The public*
6 *agency that initiates the stakeholder process shall be responsible*
7 *for the costs of the meetings and the preparation of any report on*
8 *the conclusions or recommendations of the stakeholder group.*

9
10
11 CORRECTIONS: _____
12 Text—Page 4.
13 _____