

AMENDED IN SENATE APRIL 29, 2009

**SENATE BILL**

**No. 310**

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**Introduced by Senator Ducheny**

February 25, 2009

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An act to add Chapter 27 (commencing with Section 16100) to Division 7 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 310, as amended, Ducheny. Water quality: stormwater and other runoff.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the federal national pollutant discharge elimination system (NPDES) permit program pursuant to the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Various programs finance regional water management planning.

This bill would authorize a county, city, or special district that is a permittee or copermitttee under an NPDES permit for a municipal separate storm sewer system to develop a watershed improvement plan that addresses major sources of pollutants in receiving water, stormwater, urban runoff, or other surface runoff pollution within the watershed or subwatershed to which the plan applies. The regional boards would be authorized to participate in the preparation of the watershed improvement plan. The bill would authorize a county, city, or special district, or combination thereof, to impose fees on activities that generate or contribute to runoff, stormwater, or surface runoff pollution to pay the costs of the preparation of a watershed improvement plan or the implementation of a plan that is approved by a regional

board if the plan will facilitate compliance with one or more water quality requirements. The bill would authorize a county, city, or special district, or combination thereof, to plan, design, implement, construct, operate, and maintain controls and facilities to improve water quality.

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 hereby finds and declares all of~~  
2     ~~the following:~~  
3     ~~(a) Uncontrolled pollutants in urban runoff, stormwater, and~~  
4     ~~other forms of runoff and nonpoint source pollution present a~~  
5     ~~significant water quality problem and challenge to the State of~~  
6     ~~California, and can affect adversely surface waters, water supplies,~~  
7     ~~public health, recreation, and ecology.~~  
8     ~~(b) In 2008, the National Research Council’s Committee on~~  
9     ~~Reducing Stormwater Discharge Contributions to Water Pollution~~  
10    ~~published a report entitled Urban Stormwater Management in the~~  
11    ~~United States. The report examined the effectiveness of existing~~  
12    ~~regulatory programs and found that significant changes are needed~~  
13    ~~if they are to improve the quality of the nation’s waters. A principal~~  
14    ~~conclusion of the report is that stormwater cannot be adequately~~  
15    ~~managed on a piecemeal basis due to the complexity of both the~~  
16    ~~hydrologic and pollutant processes and their effect on habitat and~~  
17    ~~stream quality. The report recommends that stormwater and other~~  
18    ~~forms of runoff are best addressed through a watershed-based~~  
19    ~~approach.~~  
20    ~~(c) This act will encourage the development of watershed-based~~  
21    ~~solutions through the development, adoption, and implementation~~  
22    ~~of watershed improvement plans. As provided in this act, watershed~~  
23    ~~improvement plans will enable counties, cities, and special districts,~~  
24    ~~in cooperation with regional water quality control boards and~~  
25    ~~stakeholder groups, to finance, construct, implement, operate, and~~  
26    ~~maintain pollution controls and facilities necessary to improve~~  
27    ~~water quality. By doing so, this act encourages local agencies to~~  
28    ~~develop and implement their own long-term, locally based projects~~  
29    ~~to remedy water pollution. Cities, counties, and special districts~~  
30    ~~throughout California are increasingly implementing successful~~  
31    ~~and cooperative drainage area, stormwater, and dry weather runoff~~

1 ~~detention, capture, natural treatment, manmade wetland, and~~  
2 ~~infiltration projects on a more regional scale.~~

3 ~~(d) Planning, designing, constructing, maintaining, operating,~~  
4 ~~and financing of facilities and systems for diversion, interception,~~  
5 ~~or collection of urban runoff, stormwater subject to waste discharge~~  
6 ~~requirements, and nonpoint source pollution, the treatment of these~~  
7 ~~waters and pollutants, the return of diverted waters to receiving~~  
8 ~~water bodies, the enhancement of beneficial uses of waters of the~~  
9 ~~state, and the beneficial use or reuse of diverted waters are an~~  
10 ~~essential part of providing effective sewer, water, and refuse~~  
11 ~~collection services, and are necessary for compliance with water~~  
12 ~~quality laws and regulations, attainment of water quality standards,~~  
13 ~~as well as the maintenance of public health.~~

14 ~~(e) The presence of refuse and other pollutants in runoff is a~~  
15 ~~serious problem, as indicated by the adoption of trash total~~  
16 ~~maximum daily loads and water quality standards relating to trash~~  
17 ~~and other constituents of runoff. The planning, financing,~~  
18 ~~implementation, construction, operation, and maintenance of~~  
19 ~~facilities to manage urban runoff, stormwater, and nonpoint source~~  
20 ~~pollution are therefore necessary for, and constitute an integral~~  
21 ~~part of, refuse collection services and services dedicated to~~  
22 ~~supplying clean water for human use, and are a necessary response~~  
23 ~~to the scheme of water quality regulation and to the maintenance~~  
24 ~~of public health.~~

25 ~~(f) During heavy rains, stormwater and urban runoff can~~  
26 ~~overwhelm sewer systems, causing sewage to mix with stormwater~~  
27 ~~and urban runoff. Leaks from sanitary sewers allow sewage to~~  
28 ~~pollute runoff water. These water-borne sources of sewage can~~  
29 ~~make their way to the coastal zone, resulting in beach closures and~~  
30 ~~related public health problems. Also, diffuse sources of bacteria~~  
31 ~~affect the quality of urban runoff and stormwater, contributing to~~  
32 ~~reduced coastal water quality. Providing for the financing,~~  
33 ~~planning, designing, constructing, and operating of facilities to~~  
34 ~~manage urban runoff, stormwater, and nonpoint source pollution~~  
35 ~~is therefore necessary for, and constitutes an integral part of,~~  
36 ~~effective sewer systems, and is a necessary response to the scheme~~  
37 ~~of water quality regulation, and to the maintenance of public health.~~

38 ~~(g) The control of pollution in urban runoff, stormwater, other~~  
39 ~~forms of runoff, and nonpoint source pollution is not part of flood~~  
40 ~~control, and facilities for these purposes, even if combined with~~

1 and useful for flood control as well as water quality, are not  
2 drainage systems.

3 ~~SEC. 2.~~

4 SECTION 1. Chapter 27 (commencing with Section 16100) is  
5 added to Division 7 of the Water Code, to read:

6  
7 CHAPTER 27. CALIFORNIA WATERSHED IMPROVEMENT ACT OF  
8 2009  
9

10 16100. This chapter shall be known and may be cited as the  
11 California Watershed Improvement Act of 2009.

12 16101. (a) Each county, city, or special district that is a  
13 permittee or copermitttee under a national pollutant discharge  
14 elimination system (NPDES) permit for municipal separate storm  
15 sewer systems may develop, either individually or jointly with one  
16 or more permittees or copermitttees, a watershed improvement plan  
17 that addresses major sources of pollutants in receiving water,  
18 stormwater, urban runoff, or other surface runoff pollution within  
19 the watershed or subwatershed to which the plan applies. The  
20 principal purpose of a watershed improvement plan is to implement  
21 existing and future water quality requirements and regulations by,  
22 among other things, *where appropriate*, identifying opportunities  
23 for stormwater detention, *infiltration*, use of natural treatment  
24 systems, water recycling, reuse, and supply augmentation; and  
25 providing programs and measures designed to promote, maintain,  
26 or achieve compliance with water quality laws and regulations,  
27 including water quality standards and other requirements of  
28 statewide plans, regional water quality control plans, total  
29 maximum daily loads, and NPDES permits.

30 (b) The process of developing a watershed improvement plan  
31 shall be open and transparent, and ~~a shall be conducted consistent~~  
32 ~~with all applicable open meeting laws.~~ A county, city, special  
33 district, or combination thereof, shall, ~~to the extent feasible and~~  
34 ~~appropriate~~, solicit input from entities representing resource  
35 agencies, water agencies, sanitation districts, the environmental  
36 community, landowners, home builders, agricultural interests, and  
37 business and industry representatives.

38 (c) Each county, city, special district, or combination thereof  
39 shall notify the appropriate regional board of its intention to  
40 develop a watershed improvement plan. The regional board may,

1 in its discretion, participate in the preparation of the plan. A  
2 watershed improvement plan shall be consistent with the regional  
3 board's water quality control plan.

4 (d) A watershed improvement plan shall include all of the  
5 following elements relevant to the waters within the watershed or  
6 subwatershed to which the plan applies:

7 (1) A description of the watershed or subwatershed improvement  
8 plan area, the rivers, streams, or manmade drainage channels within  
9 the plan area, the agencies with regulatory jurisdiction over matters  
10 to be addressed in the plan, the relevant receiving waters within  
11 or downstream from the plan area, and the county, city, special  
12 district, or combination thereof, participating in the plan.

13 (2) A description of the proposed facilities and actions that will  
14 improve the protection and enhancement of water quality and the  
15 designated beneficial uses of waters of the state, consistent with  
16 water quality laws and regulations.

17 (3) Recommendations for appropriate action by any entity,  
18 public or private, to facilitate achievement of, or consistency with,  
19 water quality objectives, standards, total maximum daily loads, or  
20 other water quality laws, regulations, standards, or requirements,  
21 a time schedule for the actions to be taken, and a description of  
22 appropriate measurement and monitoring to be undertaken to  
23 determine improvement in water quality.

24 (4) A coordinated economic analysis and financing plan that  
25 identifies the costs, effectiveness, and benefits of water quality  
26 improvements specified in the watershed improvement plan, and,  
27 where feasible, incorporates user-based and cost recovery  
28 approaches to financing, which place the cost of managing and  
29 treating surface runoff pollution on the generators of the pollutants.

30 (5) To the extent applicable, a description of regional best  
31 management practices, watershed-based natural treatment systems,  
32 low-flow diversion systems, stormwater capture, urban runoff  
33 capture, other measures constituting structural treatment best  
34 management practices, pollution prevention measures, low-impact  
35 development strategies, and site design, source control, and  
36 treatment control best management practices to promote improved  
37 water quality.

38 (6) A description of the proposed structure, operations, powers,  
39 and duties of the implementing entity for the watershed  
40 improvement plan.

1 16102. A regional board may, if it deems appropriate, utilize  
2 provisions of approved watershed improvement plans to promote  
3 compliance with one or more of the regional board’s regulatory  
4 plans or programs.

5 16103. (a) In addition to making use of other financing  
6 mechanisms that are available to local agencies to fund watershed  
7 improvement plans and plan measures and facilities, a county,  
8 city, special district, or combination thereof may impose fees on  
9 activities that generate or contribute to runoff, stormwater, or  
10 surface runoff pollution, to pay the costs of the preparation of a  
11 watershed improvement plan, and the implementation of a  
12 watershed improvement plan that is approved by a regional board,  
13 if the plan will facilitate compliance with one or more water quality  
14 requirements. Fees imposed pursuant to this section shall be  
15 reasonably related to the actual or anticipated past, present, or  
16 future adverse effects of the feepayer’s activities. “Activities,” for  
17 purposes of this subdivision, ~~include all the activities, operations,~~  
18 *means the operations* and existing structures and improvements  
19 subject to regulation under an NPDES permit for municipal  
20 separate storm sewer systems.

21 (b) A county, city, special district, or combination thereof may  
22 plan, design, implement, construct, operate, and maintain controls  
23 and facilities to improve water quality, including controls and  
24 facilities related to the ~~diversion, interception~~ *infiltration, retention*  
25 *and reuse, diversion, interception, filtration,* or collection of surface  
26 runoff, including urban runoff, stormwater, and other forms of  
27 runoff, the treatment of pollutants in runoff or other waters subject  
28 to water quality regulatory requirements, the return of diverted  
29 and treated waters to receiving water bodies, the enhancement of  
30 beneficial uses of waters of the state, or the beneficial use or reuse  
31 of diverted waters.

32 (c) The fees authorized under subdivision (a) may be imposed  
33 as user-based or regulatory fees consistent with this chapter.

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